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Honorable E.B. Bodron  
Mississippi State Senate  
P.O. Box 1359  
Vicksburg, Mississippi

Dear Senator Bodron:

This is in reference to the annexation to the City of Vicksburg, Mississippi, submitted to the Attorney General for review under Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed by our receipt of supplemental information on August 2, 1976.

Section 5 of the Voting Rights Act requires the Attorney General to examine submitted changes that affect the voting process to determine that a change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." In making this determination on behalf of the Attorney General, we apply the legal principles developed by the courts in the same or analogous situations. The principal cases dealing with the proper approach to an evaluation of annexations under Section 5 are City of Richmond v. United States, 422 U.S. 358 (1975) and City of Petersburg v. United States, 354 F.Supp. 1021 (D.D.C. 1972), aff'd 410 U.S. 962 (1973). Essentially, these cases require an analysis of an annexation submission to examine the impact of the boundary expansion on minority voting rights, both statistically and in the context of the local electoral system, with due consideration to the historic patterns of minority electoral participation. See also Whitcomb v. Chavis, 403 U.S. 124 (1971); White v. Regester, 412 U.S. 755 (1973); and Blacks United for Lasting Leadership, et al. v. City of Shreveport, et al., F.Supp. (Civ. Action No. 74-272 W.D. La., decided July 16, 1976).

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The pertinent factual and statistical information obtained from your submission is as follows: The annexation was finally approved by the Mississippi Supreme Court on October 6, 1975, and since that date the area has been a part of the City of Vicksburg. The population of the City, by race, before and after the annexation, as determined from the submitted data and publications of the Bureau of the Census, are as follows:

	White	Non-white	Total
1960	15,516	13,627 (46.8%)	29,143
1970	12,824	12,654 (49.7%)	25,478
1976 (Post annexation)	15,458	12,685 (45.1%)	28,143

The annexed area is populated by 2675 persons, of whom 2634 (98.5%) are white. The elected municipal government consists of a mayor and two councilmen all of whom are elected at large for four year terms. Mississippi law (Miss. Code Ann. § 21-11-5) requires each voter to vote for a candidate in each race. A majority vote is required in the primary election. In the general election the candidate with the highest number of votes is elected. Black residents of Vicksburg have been candidates in both the Democratic primary and, as independents, in the general election. None of these candidacies have been successful. On December 20, 1965, Warren County, in which Vicksburg is located, was designated for federal examiners under Section 6 of the Voting Rights Act, based on the Attorney General's determination that the appointment of examiners was necessary "to enforce the guarantees of the Fifteenth Amendment."

Applying the legal principles to the above facts, we look first at the issue of discriminatory purpose, since

as the Supreme Court stated in the Richmond case, supra, (422 U.S. at 378):

An official action, whether an annexation or otherwise, taken for the purpose of discriminating against Negroes on account of their race has no legitimacy at all under our Constitution or under the statute.

Our review of all the available facts indicated no evidence of such racial purpose in this annexation. The City has pursued a sound annexation policy supported by proper and legitimate municipal considerations. The present annexation is unquestionably an appropriate one.

The decisions cited above also prescribe our approach to the issue of the racial effect of the annexation. In approving the prior decision in Petersburg, supra, the Supreme Court in City of Richmond v. United States, supra, 422 U.S. at 370, stated:

\*\*\*the annexation of an area with a white majority, combined with at-large councilmanic elections and racial voting, created or enhanced the power of the white majority to exclude Negroes totally from participation in the governing of the city through membership on the city council.

As the statistics set forth above demonstrate, a comparable situation exists in Vicksburg. The black population which had been rising steadily since 1960 and was approaching a majority (49.7% in 1970) was decreased over four percent by this annexation. In the context of a municipal government where all elected officials are elected at-large and where blacks have yet to be represented, we cannot conclude that the kind of dilutive racial effect prohibited by the Act and

described by the Supreme Court does not exist. Accordingly, I must on behalf of the Attorney General enter an objection to implementation of the submitted annexation to the extent that it affects voting in the City of Vicksburg. It is our view that such objection does not under federal law affect the legality or propriety of the annexation itself.

Rather, the objection entered herein may be withdrawn as a result of the City's taking steps to "neutralize to the extent possible any adverse effect upon the political participation of black voters \*\*\*". City of Petersburg v. United States, supra, at p. 1031. As the Supreme Court stated in Richmond, supra, at p. 370,

\*\*\*the consequences would be satisfactorily obviated if at large elections were replaced by a ward system of choosing councilmen.

Material included in your submission indicates that the City does have authority, if it elects, to undertake such a reform.

Of course, as provided by Section 5, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this annexation has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color. In any event, we would be pleased to discuss with you any questions you may have in connection with this matter.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division

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Honorable E. B. Bodron  
Mississippi State Senate  
P. O. Box 1359  
Vicksburg, Mississippi 39180

Dear Senator Bodron:

You requested that we provide you with information on forms of government that have been adopted by municipalities after an objection was interposed by the Attorney General to an annexation or annexations which have enabled us to subsequently withdraw the objection.

A review of our files discloses that every objection to an annexation has been in the context of an at-large election system or some variation thereof and that, for the most part, the remedial change has been to a fairly drawn single-member district system. For instance, following annexation objections Petersburg, Virginia; Richmond, Virginia; and Charleston, South Carolina, all changed from electing their city councils on an at-large basis to election by wards and Section 5 preclearance requirements thereafter were met.

In Charleston, the council had been composed of sixteen members elected at large with two councilmen required to reside in each of the eight city wards. After our objection, the city changed its form of government to twelve councilmen elected from single-member districts, and the objection was withdrawn.

Two jurisdictions implemented a combination at-large and single-member district plan. In Lynchburg, Virginia, the seven-member council had been elected at large. Subsequent to our objection, the city changed its election system to four single-member districts and three members elected at large. The four year terms were staggered so all the district councilmen would be elected at the same time and all the at-large members would be elected at the same time. A plurality was required for election and voters were not required to vote for all offices. Our analysis of this system revealed that blacks had been consulted about the plan and supported it and that the plan provided representation to blacks in reasonable proportion to their percentage of the population after annexation.

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In Grenada, Mississippi, the city council had been composed of two members elected at large and four members elected from single-member districts. After our objection, the city kept the same election system but annexed an area that was majority black and redistricted its wards to provide a black majority in two of the four wards. Again our analysis showed that blacks had participated in the redistricting, supported it, and that the system fairly reflected the black percentage of the population after the annexations.

As the Supreme Court stated in City of Richmond v. United States, 422 U.S. 358, 378 (1975):

\*\*\* an annexation reducing the relative political strength of the minority race in the enlarged city as compared with what it was before the annexation is not a statutory violation as long as the post-annexation electoral system fairly recognizes the minority's political potential.

That is the standard which we use to judge whether the adverse effect of an annexation has been neutralized.

I hope this information will be of help to you. If we can be of any other assistance to you in this matter, please do not hesitate to contact us. Enclosed are copies of the public comments which you requested.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division