JAN 03 1992

Mr. Paul A. Labat
Council Clerk
P. O. Box 2768
Houma, Louisiana   70361

Dear Mr. Labat:

This refers to the 1991 redistricting plan for council districts in Terrebonne Parish, Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your response to our request for additional information on November 4, 1991. Additional information was received on November 15, 1991.

We have considered carefully the information you have provided, as well as comments and information from other interested persons. At the outset, we note that the Terrebonne Parish Council consists of 15 members elected from single-member districts. Currently, two of the districts (Districts A and B) have black population, voting age population, and registration majorities, and have elected black council members in the past decade. The council districts also elect the members of the parish school board, and Districts A and B similarly have elected blacks to that body. The parish's electoral history indicates that elections in Terrebonne Parish are generally characterized by a pattern of racially polarized voting.

We note, also, that from the beginning of the 1991 redistricting process, the black community urged the council to create a third district in which black voters would have an opportunity to elect candidates of their choice by consolidating into one district black communities in the northern part of the parish. There are approximately 4,000 residents in this area.
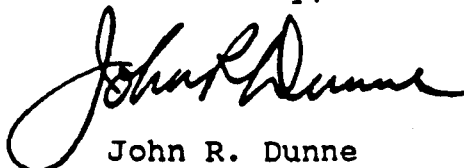
Our analysis indicates that this was readily achievable given the location and size of black population concentrations in the northern part of the parish and, in fact, is the likely result but for the fragmentation of that black community which exists in the proposed plan. Indeed, it appears that just such an alternative (Plan 3) was prepared by the council's consulting firm but was rejected for reasons related to the protection of council incumbents. A similar plan was also developed and submitted by the local NAACP. Although incumbency protection is not, in and of itself, an inappropriate consideration, it may not be accomplished at the expense of minority voting potential. Garza v. County of Los Angeles, 918 F.2d 763, (9th Cir. 1990), cert. denied, 111 S. Ct. 681 (1991); Ketchum v. Byrne, 740 F.2d 1398, 1408-09 (7th Cir. 1984), cert. denied, 471 U.S. 1135 (1985).

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the council redistricting plan.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the council redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Terrebonne Parish plans to take concerning this matter. If you have any questions, you should call Sandra S. Coleman (202-307-3718), Deputy Chief, Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division