



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JUN 5 1992

June 5, 1992

Mr. W. Bernard Welborn  
Town Administrator  
500 Mims Avenue  
Johnston, South Carolina 29832

Dear Mr. Welborn:

This refers to the 1992 redistricting plan for the Town of Johnston in Edgefield County, South Carolina, 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 May 11, 1992, request for additional information on May 28, 1992.

We have considered carefully the information you have provided as well as Census data and comments and information from other interested parties. The existing plan, drawn using 1980 Census data, provided for three out of six town council districts in which black voters could elect candidates of their choice. The most recent Census data reveal that significant demographic changes have occurred since 1980. As of 1990 the black percentage of the town population had risen from 54.6 to 60.5 percent. The proposed redistricting plan includes three districts with black majorities of 94.5, 82.7, and 82.0 percent.

Our analysis indicates that while racial bloc voting appears to characterize elections in the town the black population concentrations in these districts are higher than necessary to assure that black voters have an equal opportunity to elect candidates of their choice.

The effect of this apparent overconcentration is that Ward 6 is proposed to have a black population of 55.7 percent (49.5% black voting age population) and the district does not appear to be one in which black voters have an opportunity to elect candidates of their choice. While a very high black percentage in Ward 1 appears to be dictated by geography, the 80%+ black percentages in Wards 4 and 5 do not appear to be so dictated.

Our analysis of demographic patterns indicates that a plan could easily be drawn that would produce three districts in which black voters in this area of the town would have an equal opportunity to elect candidates of their choice, resulting in a plan which more fairly reflected the town's black majority.

The proposed plan was prepared by state demographers, and its review at the town level appears to have been unusually accelerated. Councilmembers were allowed only ten days in which to examine the proposed plan and make suggestions. The record shows that all three black councilmembers had concerns about the plan and wished to make changes or at least consider alternatives. These views were expressed at the first and only town council meeting held after sufficient time to study the proposed plan. The white members of the council refused to agree to explore other alternatives, although such assistance was available from the state demographer. Moreover, the white members of the council do not appear to have made any substantive response to the concerns raised by the black members. Instead, the council proceeded to vote on the plan which was approved by a four to three vote along racial lines. The town has failed to articulate any legitimate nonracial reason for its actions.

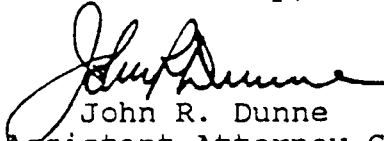
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also, the Procedures for the Administration of Section 5 (28 C.F.R. 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 submitted 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 changes have 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. See 28 C.F.R. 51.11 and 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the proposed redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Town of

Johnston plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne  
Assistant Attorney General  
Civil Rights Division