U.S. Departm of Justice

Civil Rights Division

Washington, D.C. 20530

October 6, 2003

Mr. Carlos Notariano
Chairperson, Parish Council
P.O. Box 215
Amite, Louisiana 70422

Ronald E. Weber, Ph.D.
President, Campaign & Opinion Research Analysts
116 East Cornerview Road
Gonzales, Louisiana 70737

Dear Mr. Notariano and Dr. Weber:

I am writing in reference to Tangipahoa Parish, Louisiana's recent submission to the Attorney General, pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, regarding (i) the parish's 2003 redistricting plan; (ii) its creation, consolidation, and realignment of voting precincts; and (iii) its designation of polling places. After receiving your initial submission on February 24, 2003, the Voting Section of the Civil Rights Division sought additional information on April 23 to complete the requisite analysis. The parish sent these requested materials on August 7 and September 8.

The Civil Rights Division has considered carefully the information you have provided, as well as census data, comments from interested parties, and other information, including the parish's previous submissions. As discussed further below, I cannot conclude that the parish has sustained its burden under Section 5 with regard to the 2003 redistricting plan. Accordingly, on behalf of the Attorney General, I must object to the plan.

According to the 2000 Census, Tangipahoa Parish has a total population of 100,588, of whom 28,489 (28.3%) are black. The census further indicates that there are 72,699 persons of voting age, of whom 18,195 (25.0%) are black. As of January 3, 2003,

there were 59,722 registered voters in the parish, of whom 14,860 (24.9%) were black. Since the 1990 Census, the black share of the parish's total population has remained virtually unchanged from 28.6 percent in 1990, to 28.3 percent in 2000. In addition, the black population in District 3 has steadily increased as a percentage of the total population over the past two decades.

We have carefully examined the circumstances surrounding the proposed reduction in the black population in benchmark District 3 from 62.4 to 54.1 percent, with a corresponding drop in the black voting age population percentage from 58.3 to 49.9 percent. The parish contends that the proposed plan is not retrogressive because the changes do not alter the level of minority voting strength when compared to the benchmark. Respectfully, our analysis precludes us from reaching a similar conclusion.

In the benchmark plan, blacks represent a majority of the total, voting age, and registered voter populations in Districts 3 and 7. Under the proposed plan, however, only District 7 retains a majority of black persons in the voting age population and among registered voters; in District 3, the black majority in each of these categories is eliminated. Analysis of electoral information in the parish indicates that the substantial reduction in the black population in District 3 will result in a plan that does not afford black voters the same ability to exercise the electoral franchise effectively that they have under the benchmark plan.

The parish suggests any retrogression that may have occurred was unavoidable because no alternatives existed to remedy the malapportionment in District 3 without decreasing the black population percentage. Yet the 2000 Census reports that the black population in Tangipahoa Parish has not declined significantly since 1990, but instead has remained steady at just over 28 percent. Moreover, as part of our analysis, we devised an illustrative plan to determine whether the retrogression was, in fact, unavoidable. See Georgia v. Ashcroft, 123 U.S. 2498, 2502 (2003); Guidance Concerning Redistricting and Retrogression Under Section 5 of the Voting Rights Act, 66 Fed. Reg. 5412, at 5413, (Jan. 18, 2001). In so doing, we were able to create a 10-district plan not significantly different from the benchmark plan that met the parish's traditional redistricting criteria and in which the black percentage of the voting age population in District 3 is maintained at or above benchmark levels. (We note, of course, that the purpose of the illustrative plan is only to establish the feasibility of a non-retrogressive plan.)

Our review of the benchmark and proposed plans indicates that the reduction in the black population percentage in District 3 was neither inevitable nor required by any constitutional or legal imperative. Alternative approaches available to the parish

could have avoided reducing black voting strength in District 3 below the benchmark plan levels, while adhering substantially to the parish's redistricting criteria as described in your submission.

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 Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the parish's 2003 redistricting plan.

I would 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 neither has the purpose, nor will have the effect, of denying or abridging the right to vote on account of race, color, or membership in a language minority group. See 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the submitted change continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

The Attorney General will make no determination regarding the submitted voting precinct and polling place changes because they are directly related to the objected-to redistricting plan.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Tangipahoa Parish plans to take concerning this matter. If you have any questions, you should call Mr. Robert Lowell (202-514-3539), an attorney in the Voting Section.

Sincerely,

R. Alexander Acosta
Assistant Attorney General