U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

DEC 16 1991

Mr. E. Kenneth Selle
President, Tri-S Associates, Inc.
P. O. Box 130
Ruston, Louisiana 71270

Dear Mr. Selle:

This refers to the 1991 redistricting plans (adopted on April 25, 1991) for the police jury and board of education of St. Landry 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 October 17, 1991. In addition, this refers to your October 17, 1991, transmission to us of information relating to unofficial modifications to these redistricting plans for the police jury and school board.

With respect to the unofficial plan modifications received on October 17, we have been advised that these changes have not been adopted by the police jury or the school board. Accordingly, they are not ripe for review and the Attorney General is unable to make any determination under Section 5 with respect to these matters. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.22 and 51.35).

With respect to the redistricting plans adopted in April 1991, we note at the outset that both the police jury and the school board elect 13 members from single-member districts, and each body adopted essentially the same plan at their April 25, 1991, joint meeting. Blacks constitute 40 percent of the parish's population, according to the 1990 Census, and the parish's registration data indicate that blacks also form 40 percent of the parish's registered voters. As in the existing

plans, the proposed plans include three districts in which blacks constitute a majority of the voting age population and, in the context of a generally prevalent pattern of polarized voting, it appears that these are the principal districts in which black voters will have an opportunity to elect their preferred candidates. In addition, District 5, with a bare black majority in population and apparently a near black majority in voter registration, also offers black voters some electoral potential.

Overall, however, it would appear that the choices made by the parish in these redistricting plans were calculated to minimize black voting strength. We understand that during the development of the plans, particular note was taken of the high concentration of blacks in existing District 3. That district, as adopted in 1982, was 65 percent black and had afforded black voters with a realistic opportunity to elect candidates of their choice but, by 1990, it had grown to 75 percent black in population and 73 percent black in registration. The suggestion was made that a fairly drawn plan would reduce the black percentage in this district in order to provide a greater electoral opportunity for blacks in adjoining Districts 1 and/or 4, which are 45 and 46 percent black in the proposed plans. The parish's rejection of this approach in favor of maintaining District 3 at an unnecessarily high 74 percent level of black population has not been satisfactorily explained on nonracial grounds.

Of particular significance in this regard is our understanding that the incumbents in Districts 1 and 4 were especially concerned that an increase in the black percentages in their districts might threaten their re-election chances. 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); 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 1991 redistricting plans adopted on April 25, 1991.

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. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 1991 redistricting plans continue 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 the police jury and board of education of St. Landry Parish plan to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), an attorney in the Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division