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MAY 26 1976

Mr. James A. Reichle  
Deputy County Counsel for  
Yuba County  
Courthouse  
215 - 5th Street  
Marysville, California 95901

Dear Mr. Reichle:

This is in reference to your bilingual election program submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed on March 29, 1976.

The Attorney General does not, with the exception of Exhibits Nos. 15A, 15B, 45 and 54, interpose any objection to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Regarding Exhibit No. 45, Absentee Voter's Ballots, and Exhibit No. 54, Official Ballots, we wish to point out that Section 4(f)(4) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973b(f), expressly provides that ballots must be provided in the language of the applicable language minority group, in this case Spanish, as well as in the English language. See also, Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups (41 Fed. Reg. 16774, April 21, 1976, §55.19(c)) and Interim

Guidelines Regarding Language Minority Groups (40 Fed. Reg. 46389, October 3, 1975, §§55.12 and 55.13). It is our understanding that the provision of bilingual ballots for your punch card machines is not physically impossible although it would involve additional expense.

With regard to the candidate qualification statement, this booklet which is prepared by county officials from information supplied by candidates and disseminated by the county along with sample ballots and other materials is subject to the bilingual provisions of §4(f)(4) of the Act. That section requires that "any registration or voting notices, forms, instructions, assistance or other materials or information relating to the electoral process . . . ." to be provided in Spanish in Tuva County (see also 41 Fed. Reg. 16777, April 21, 1976, §51.19(a) and 40 Fed. Reg. 48382, October 3, 1975, §55.12). Under California law as interpreted by the state's highest court, county officials are compelled to prepare and disseminate such booklets regardless of prepayment by candidates, Knoll v. Davidson, 116 Cal. Rptr. 97, 525 P.2d 1273 (1974). Thus the preparation and mailing of these booklets constitute the implementation of a state system of providing voting information to the public. While the California statute extends the option to the candidate to determine if his material should be translated, in our opinion this is inconsistent with the requirements of federal law in jurisdictions covered by the Voting Rights Act and to that extent is superseded by federal law.

Accordingly, we must interpose an objection to use of the materials contained in Exhibits 15A, 15B, 43 and 54 because of their failure to follow the bilingual requirements of the Act. We note that it would be possible to comply with this Spanish-language requirement without blanketing all voters with translations via an effective targeting system as devised for other materials. (See 41 Fed. Reg. 16776, §55.17.)

Finally, with regard to candidate statements, the practice in Yuba County of requiring prepayment also does not seem to conform to the Knoll decision. Without regard to the propriety of such practice under state law, we are of the view that the prepayment requirement does not affect the above analysis under the Voting Rights Act.

Of course, the Attorney General will reconsider his decision should significant new information be brought to his attention regarding the changes objected to. 28 C.F.R. §51.23. However, the burden of proof remains on the submitting authority under Section 5 of the Act and the Attorney General's guidelines. 28 C.F.R. §51.19. See also Georgia v. United States, 411 U.S. 526 (1973).

In view of the imminence of the June 8 elections in California, please advise us within 10 days as to your intended procedures with regard to the changes objected to above.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division

MAY 10 1978

Mr. Walter I. Colby  
County Counsel  
Yuba County  
Courthouse  
215 5th Street  
Marysville, California 95901

Dear Mr. Colby:

This is in reference to your request for reconsideration of our May 26, 1976 objection to Yuba County's use of English-only official ballots. Your request was initially received on August 4, 1977. Your request was completed on April 14, 1978 when we received your response to our letter of September 23, 1977 requesting more information in connection with your request for reconsideration. We have also taken into consideration information which you furnished Mr. MacCoun in your telephone conversation with him of May 1, 1978, the content of which is confirmed herein.

In our letter to Mr. Reichle of May 26, 1977, we noted that our field investigation of Yuba County had revealed that the major problem in regard to its bilingual electoral program was lack of publicity as to its nature and availability. In response to this letter, you requested reconsideration of our objection based on your proposal to remedy the lack of public knowledge of Yuba County's bilingual program through

the posting of public notices and the broadcasting of radio announcements.

In our September 23, 1977 letter requesting more information we asked:

1. Where the bilingual notices which you proposed would be posted;
2. Where the post-card registration forms would be placed and for what periods;
3. Who would translate the notices into Spanish and the qualifications of the translator;
4. Whether minority-group members would be consulted by you;
5. Whether publicity would be given to the availability of deputy registrars in the field and the location of polling places; and
6. Whether any plans exist to monitor the effectiveness of Yuba County's bilingual program.

We also included some revisions of your proposed notices for your consideration, which you apparently did not receive. On May 2, 1978 we forwarded you a copy of our September 23, 1977 letter including our suggested revisions.

From your letter which we received on April 14, 1978 and from your telephone conversation with Mr. MacCoon of May 1, 1978, we understand that the answers to the

above questions are as follows:

1. Notices will be posted at the C.R.L.A. Office; Post Office; Mi Tienditos; Tower Theater; and Welfare Office.
2. The post card registration forms are available at the locations listed in 1 above for 6 weeks prior to the registration deadline.
3. Bilingual notices are translated by the Spanish-language disc jockey at radio station KUEA.
4. The Spanish-language disc jockey referred to in 3 was consulted, as we suggested. No other minority leaders could be identified.
5. While field deputy registrar availability is not publicized, polling places are publicized through bilingual newspaper ads. Field deputy registrars are now of diminished importance due to mail registration.
6. No special monitoring devices are planned to evaluate the effectiveness of Yuba County's bilingual program other than the normal processes of responding to complaints received.

We also understand that you will give consideration to the revisions we have proposed to your notices.

In light of the program which Yuba County proposes to publicize its bilingual registration and voting procedures, as described in your letters of July 29, 1977.

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and April 10, 1978, and your telephone conversation with Mr. MacCoon of May 1, 1978, the Attorney General withdraws the objection interposed on May 26, 1976 to the use of English-only official ballots in Yuba County. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that failure of the Attorney General to object does not bar subsequent judicial action to enjoin the enforcement of a voting change.

Sincerely,

John Huerta  
Acting Assistant Attorney General  
Civil Rights Division