

MAR 11 1976

Mr. L. Holt Magee
Attorney at Law
P. O. Box 1826
Monahans, Texas 79756

Dear Mr. Magee:

This is in reply to your letter of January 8, 1976, in which you submitted to the Attorney General the April 9, 1974 order of the Monahans City Council authorizing the use of numbered posts in city council elections pursuant to Section 5 of the Voting Rights Act of 1965. Your letter and the attached materials were received on January 12, 1976.

After a careful examination of all the available facts and circumstances and information received from interested citizens, we are unable to conclude, as we must under the Voting Rights Act, that the numbered post provision of Ordinance No. 667 (1974), in the context of at-large elections for the Monahans City Council, will not have a discriminatory effect on blacks and Mexican-Americans. Our information indicates that there are adjoining concentrations of blacks and Mexican-Americans in and around the "old town" of Monahans, and that there is a history of racial-ethnic bloc voting. Where these circumstances prevail, the combination of features such as the numbered post requirement with at-large elections tend to be dilutive and thus violative of the voting rights of minorities. White v. Regester, 412 U.S. 755 (1973).

Therefore, for the foregoing reasons, on behalf of the Attorney General I must interpose an objection to the numbered post provision of Ordinance No. 667 (1974). Of course as provided by section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this provision neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race. However, until and unless such a judgment is obtained, the provision objected to is unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

JUN 1 1976

Mr. L. Holt Magee
Attorney at Law
P. O. Box 1826
Monahans, Texas 79756

Dear Mr. Magee:

This is in reply to your letter of March 17, 1976, in which you requested reconsideration by the Attorney General of his March 11, 1976, objection to Ordinance No. 667 (1974) of the City of Monahans instituting numbered posts for city council elections. Your request for reconsideration was received by this Department on March 22, 1976. We are also in receipt of election results of 1968 county commissioner elections and six affidavits which were presented to Mr. Kieckhefer at your conference with him at the Office of the United States Attorney in San Antonio on March 30, 1976.

We have carefully examined the material which you have presented and concluded that the premise upon which we based our original objection, i.e., ethnic bloc voting, does not appear to be as prevalent as we originally determined. While the evidence is not demonstrably clear one way or the other, there appear to be instances where bloc voting did not occur. Accordingly and pursuant to the reconsideration guidelines promulgated for the administration of Section 5, 28 C.F.R. 51.23 through 51.25, the objection interposed to Ordinance No. 667 (1974) in my letter of March 11, 1976, is hereby withdrawn. However, we feel a responsibility to point out that Section 5 of the

- 2 -

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 change.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division