

D.J. 166-012-3
X8210

SEP 20 1976

Mr. John D. Guyton
City Attorney
City of Kosciusko
Post Office Box 633
Kosciusko, Mississippi 39090

Dear Mr. Guyton:

This is in reference to the adoption of an at-large system with numbered posts and majority vote requirement for aldermanic elections of the City of Kosciusko, Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on July 21, 1976.

We have made a careful examination of the submitted information along with that provided by other interested parties. We also have made an analysis of relevant decisions of the federal courts, including the district court's findings in Stewart, et al. v. Waller, et al., No. EC73-42-S (N.D. Miss., July 14, 1975). In this connection we note that one effect of the Stewart decision was to revive the form of government that immediately preceded the 1962 statute outlawed in that litigation. Stewart v. Waller, 404 F. Supp. 206 (N.D. Miss. 1975). It is our understanding that the City of Kosciusko was thus returned by the court order to a single-member ward system of electing its aldermen. The present submission is an effort to reinstate the at-large form of election

In our analysis we have considered the factors enunciated in White v. Regester, 412 U.S. 755 (1973), and the other cases to which it has given rise, including the history of exclusion of minorities from the political process, the degree of responsiveness of

the elected representatives to the needs of the minority community, and the history of governmental discrimination in the area. See also Zimmer v. McKeithen, 485 F.2d 1297 (5th Cir. 1973). However, under the totality of the circumstances, we are unable to conclude, as we must under the Voting Rights Act, that the at-large system with numbered posts and majority vote requirement will not have a racially discriminatory effect. Consequently, I must on behalf of the Attorney General interpose an objection to the change to the at-large system with numbered posts and a majority requirement for aldermanic elections of the City of Kosciusko.

Of course, the Voting Rights Act permits a jurisdiction to seek approval of changes subject to Section 5 by the United States District Court for the District of Columbia irrespective of whether the changes have been submitted to the Attorney General.

It has recently come to my attention that a considerable portion of land was annexed by the City of Kosciusko in 1966. We have no record that this annexation has been submitted to the Attorney General, although such a change affecting voting is subject to the preclearance requirements of Section 5 of the Voting Rights Act.

Please inform me as soon as possible whether the City of Kosciusko intends to submit the 1966 annexation pursuant to Section 5. Should you have any questions regarding this matter or if we can help you in any way, please contact Department Research Analyst John K. Tanner at 202/739-3872. Please refer to file number 18210 in any written response to this letter so that your correspondence may be properly channelled.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division