

OJ Semans
Executive Director
Four Directions Inc.
Post Office Box 194
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August 6, 2013

The Honorable Eric Holder
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington D.C. 20530-0001

Dear Mr. Attorney General,

I am writing today on the 48th anniversary of the signing of the Voting Rights Act of 1965 to bring to your attention the denial by the South Dakota Board of Elections (BOE) and the South Dakota Secretary of State (SOS) Jason Gant to make available Help America Vote Act (HAVA) funds to cover the costs of establishing satellite in person voter registration and absentee ballot locations (referred to hereafter as satellite voting offices) in the Native American communities of Wanbli on the Pine Ridge Indian Reservation, Eagle Butte on the Cheyenne River Indian Reservation, and in Fort Thompson on the Crow Creek Indian Reservation.

My name is Oliver Semans. I am Executive Director of Four Directions, a Native American voting rights organization. We have been working on voting in Indian Country for 10 years. At the request of the Oglala Sioux Tribe, Cheyenne River Sioux Tribe, and the Crow Creek Sioux Tribe, we have been working to establish satellite voting offices in these three communities. We have made requests of Jackson, Dewey, and Buffalo counties, respectively, to establish these offices. The counties have expressed their hesitation to commit to establishing these satellite voting offices outside of the county seats in Kadoka, Timber Lake, and Gann Valley because of funding concerns. Wanbli is a 54 mile round trip from Kadoka, Eagle Butte is a 108 mile round trip from Timber Lake, and Fort Thompson is a 50 mile round trip from Gann Valley. All three counties rank in the poorest 10 counties in the United States. Poverty plus distance makes this situation inherently unequal for Native citizens in their ability to register in person and cast an early absentee vote when compared to the majority Anglo county seats.

The State of South Dakota retains over \$9 million in HAVA funds that are earning hundreds of thousands of dollars annually. In response to a Voting Rights lawsuit brought under Section 2, the SOS made HAVA funds available to Shannon County to establish a satellite office in the community of Pine Ridge to avoid preliminary injunctive relief in Brooks vs Gant. We believed that HAVA funding would be available to establish these satellite offices. Unfortunately, the BOE and SOS declined the request we

made on behalf of Oglala, Cheyenne River, and Crow Creek on July 31, 2013. We have provided to you the following:

Appendix 1 – Complete document set we provided to the South Dakota Board of Elections and SD Secretary of State Jason Gant.

Appendix 2 – Some of the media stories regarding this decision

Appendix 3 – excerpts from depositions of current SOS Gant and former SOS Nelson from the Brooks vs Gant VRA lawsuit.

Appendix 4 – This document has the Statement of Interest filed by your Civil Rights Division in October, 2012 in the Wandering Medicine case in Montana that Four Directions helped bring. The Wandering Medicine case is on point as it deals with in person satellite registration and absentee voting offices on the Northern Cheyenne, Crow, and Fort Belknap Indian Reservations in Montana. In the current denial by Secretary Gant and the South Dakota Board of Elections, all three of the current requests involve distances that are farther than 2 of the 3 Montana satellites and with more extreme poverty. This Appendix also includes the expert report brought in by your Civil Rights Division.

Appendix 5 – This is the current (last revised 2010) SD HAVA plan: From the plan

The State will continue to use Title II Section 251 funds for additional projects to improve federal elections as determined by the Secretary of State. Counties may use Title II funds for specific projects to improve federal elections with the approval of the Secretary of State.

While Secretary Gant and the Board of Elections have denied this request, Secretary Gant claims he does not have the discretion to utilize HAVA funds for this request. However, the SD State HAVA plan clearly gives the Secretary the discretion to make funds available for this request. Further, in the 2012 depositions of Secretary Gant and former Secretary of State Nelson, both men clearly indicate their belief that they had the discretion as they clearly do.

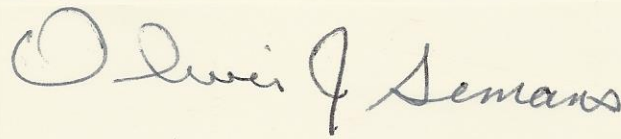
Secretary Gant has chosen to deliberately delay and obfuscate this issue by insisting he must receive an Advisory opinion from a federal agency (Election Assistance Commission) that cannot issue opinions as it is a “zombie” agency with no Commissioners.

Further, it should cause you and anyone who cares about equal access to the ballot box for Native Americans grave concern that this denial is steeped in an intent to discriminate. One of the Board of Elections members (Patty McGee) spoke to the press and commented “We’ve given them several opportunities to vote.” She further noted that “their people” go to courthouses to get drivers’ licenses and WIC payments, so could go to vote as well.

Mr. Attorney General, the Oglala Sioux Tribe, Cheyenne River Sioux Tribe, and Crow Creek Sioux Tribe have asked us to help establish these satellite voting offices. Jackson County, Dewey County, and Buffalo County have expressed a willingness to establish these satellite voting offices if HAVA funds are available to defray costs, it is clear that the South Dakota State HAVA plan provides the Secretary of State and Board of Elections the discretion to make HAVA funds available for this purpose, and the \$9 million of HAVA funds on interest makes clear funds are available.

We ask that you investigate this denial and help establish equality for Native American Indians on the Pine Ridge, Cheyenne River, and Crow Creek Indian Reservations.

Respectfully,

A handwritten signature in cursive script that reads "Oliver J Semans". The signature is written in dark ink on a light-colored rectangular background.

Oliver Semans

Executive Director, Four Directions