

N.D.A.G. Letter to Mahoney (June 10, 1987)

June 10, 1987

Mr. John Mahoney
Center City Attorney
P. O. Box 355
Center, ND 58530

Dear Mr. Mahoney:

Thank you for your letter of May 27, 1987, questioning the ability of a city to determine the time zone it wishes to observe in conducting its business. Your conclusion is that there is no authority for a city to determine what time zone it wishes to follow. With this conclusion I am in agreement.

The question of establishing time zones has been addressed by the United States Congress. Congress has authorized the Secretary of Transportation to define boundaries of the various time zones of the United States "having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce . . ." 15 U.S.C.A. § 261. Pursuant to this congressional authority, the Secretary of Transportation has identified the boundaries of the various standard time zones in 49 C.F.R. § 71 (1970). The specific boundary line between Montana and North Dakota is discussed in detail at 49 C.F.R. § 71.7 (1986). A copy of this particular administrative rule is enclosed for your review.

I am enclosing a copy of an interesting letter written by then Assistant Attorney General VandeWalle in 1970 concerning this issue. This letter indicates that objections were received from persons in the western part of the state as to the boundary between the Mountain and Central time zones. Following a plebiscite vote, the Governor of our state forwarded the results to the Secretary of Transportation who revised the boundaries between the Central and Mountain time zones in western North Dakota. One assumes that those changes are now incorporated in 49 C.F.R. § 71.7 (1986) which I have previously mentioned. However, it is obvious that the Secretary of Transportation is able to further amend those boundaries if the Secretary is willing and if sufficient reasons are provided.

Finally, should the Secretary of Transportation not amend the boundaries between the Central and Mountain time zones as requested by persons in western or central North Dakota, another avenue of relief would be available. It appears that the persons in the plains and panhandle sections of Texas and Oklahoma sought to change the boundaries between the Mountain and Central time zones in their areas. They accomplished this change by legislation. 15 U.S.C. § 265 establishes the boundary between the Mountain and Central time zones for the plains and panhandle sections of Texas and Oklahoma. Concerned individuals who wish to pursue this option should contact North Dakota's

congressional delegation.

Sincerely,

Nicholas J. Spaeth

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