

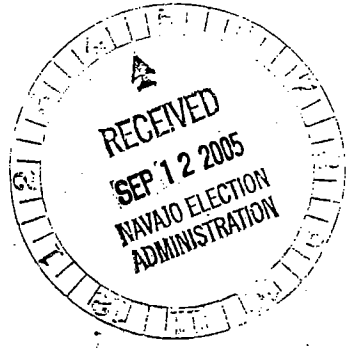
EXHIBIT 5

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
STATE OF ARIZONA,)
et al.,)
)
Defendants.)

CIV 88-1989 PHX EHC



FIRST AMENDED CONSENT DECREE

The United States filed its complaint on December 8, 1988, to enforce Sections 2 and 4(f)(4) of the Voting Rights Act of 1965, as amended, 42 U.S.C. {1973 et seq. Section 2 provides, in pertinent part, that: "[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color...." Section 4(f)(4) is a special provision of the Act which, as it applies to this case, requires that the defendants provide oral instructions, assistance, or other information relating to registration and voting in the Navajo language.

On January 20, 1989, the defendants served their answer to the complaint and also asserted a counterclaim. The parties to this litigation, without in any way derogating from their

1 respective positions as to the merits of the claims asserted,
2 then conferred and agreed that it was in the best interest of all
3 the parties that the controversy should be settled without the
4 necessity and extraordinary expense of a trial. Accordingly, the
5 plaintiff and the defendants agreed to the entry of a Consent
6 Decree, which resolves the plaintiff's claims, and ensures that
7 the defendants' election practices and procedures provide Navajo
8 citizens with an equal opportunity to participate effectively in
9 the electoral process.

10 On May 22, 1989, a Consent Decree was entered establishing
11 the Navajo Language Election Information Program.

12 After a review of the implementation by Apache and Navajo
13 Counties and the State of Arizona of the Consent Decree and an
14 evaluation of the effectiveness of its provisions, the parties
15 have conferred and agree that it is in the best interest of the
16 parties to agree to the entry of this First Amended Consent
17 Decree which provides for the continuation and modification of
18 the bilingual election program to ensure that the election
19 process is fully and effectively accessible to Navajo citizens.

20 Entry of this First Amended Consent Decree shall not be
21 construed as evidence of a violation of the Voting Rights Act in
22 any future litigation. This decree shall not constitute an
23 adjudication or admission by the defendants of any violation of
24 the Voting Rights Act or the Attorney General's regulations
25 implementing that Act.
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1 This Court has jurisdiction over the parties and the subject
2 matter of the plaintiff's complaint. This Decree is final and
3 binding between the parties and their successors regarding the
4 facts, claims, and issues raised in or underlying the plaintiff's
5 complaint and resolved herein.

6 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
7 FOLLOWS:

8 1. The counties have adopted, and the State of Arizona has
9 agreed to subscribe to, the following Navajo Language Election
10 Information Program which the Court hereby provisionally
11 approves, as set forth below.

12 2. Within thirty (30) days of the entry of this First
13 Amended Consent Decree, the defendants will submit the changes in
14 this program to the Attorney General of the United States for
15 review pursuant to the requirements of Section 5 of the Voting
16 Rights Act, 42 U.S.C. {1973c. If the requisite Section 5
17 preclearance is obtained, the parties will promptly notify this
18 Court of such preclearance and the Court will enter an Order
19 granting final approval to this First Amended Consent Decree.
20 Upon entry of such Order, the defendants will amend the ongoing
21 Navajo Language Election Information Program by implementing the
22 changes to which they have agreed in this Decree. This First
23 Amended Consent Decree will then be in effect for the prescribed
24 period of two more years.
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1 I. THE NAVAJO LANGUAGE ELECTION INFORMATION PROGRAM

2 A. Introduction.

3 1. The purpose of the Navajo Language Election Information
4 Program is to ensure the dissemination of election-related
5 information to the Navajo language speaking populations of the
6 counties. This program is intended to be an effort to deal with
7 the deficiencies or to build on the successful programs that are
8 already in place in said counties and to provide a structure by
9 which this program may continue to develop and improve in the
10 future. In developing this program, the parties sought and
11 obtained the assistance of the Navajo Elections Administration,
12 the agency of the Navajo Nation that is responsible for
13 conducting tribal elections on the Navajo Reservation.

14 2. It is the intent of the state and the counties to
15 provide full and complete information as to all election-related
16 matters including, but not limited to, registration, election
17 dates, candidacy information, proposition information, absentee
18 voting information, and registration verification information.
19 Most of all, this program is intended to improve the
20 understanding of the electoral process among the Navajo
21 populations of the counties and to ensure an equal opportunity to
22 participate in the electoral process.
23

1 B. Elections Outreach Workers.

2 1. The counties will each employ at least two full time,
3 bilingual¹, permanent elections outreach workers who will be
4 appointed as deputy registrars for purposes of voter
5 registration. The board of supervisors and recorder's office of
6 the counties, through and with the active advice and
7 recommendations of the election outreach workers, will be
8 responsible for the development and implementation of the Navajo
9 Language Election Information Program. The elections outreach
10 workers will be trained and qualified in election procedures
11 through the state's certification program. The recorder's office
12 and the elections director will coordinate their implementation
13 of this election program and the outreach workers will be cross-
14 trained by each office. During both election years and off-
15 election years, the outreach workers will visit on a regular
16 basis each precinct which includes any part of the Navajo
17 Reservation and chapter houses within those precincts to provide
18 election information in the Navajo language. The counties will
19 continue to maintain a record of the date and purpose of each
20 election-related visit by the outreach worker or other county
21 personnel to any location on the Navajo Reservation or off the
22 reservation if it is related to the Navajo Language Election
23 Information Program.
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27 ¹ Bilingual, as used herein, means fluent in the Navajo and
English languages.

1 be available at one satellite office in each county during
2 regular office hours on work days. The counties shall advertise
3 the dates and times when an outreach worker or other county
4 employee trained in election procedures will be available at the
5 second satellite office in each county.

6 C. Voter Registration and the Appointment and Training of
7 Deputy Registrars.

8 1. The counties will seek to increase voter registration
9 information and opportunities for Navajo citizens by increasing
10 both the number and practical availability of Navajo-speaking
11 deputy registrars. The counties will request Navajo chapter and
12 Navajo tribal officials and staff to become deputy registrars;
13 request assistance from the Navajo Elections Administration in
14 identifying potential deputy registrars; and, subject to state
15 and tribal law, seek to coordinate state voter registration with
16 tribal voter registration through, among other things, reciprocal
17 deputization of registrars for state and tribal elections;
18 inviting school personnel, including each high school principal
19 and each community liaison specialist, to become deputy
20 registrars; and encouraging political parties recognized under
21 Arizona law to recommend additional deputy registrars for
22 reservation precincts.

23 2. The counties will deputize and train all qualified
24 persons who desire to serve as deputy registrars and will attempt
25 to do informal testing throughout their training to ensure the
26 effectiveness of the sessions. A list identifying the names,
27 addresses and telephone numbers (if available) of all deputy
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1 for their particular areas at the time they receive their
2 training, and after such training they will be provided
3 periodically with updated precinct maps and voter registration
4 lists. For Navajo tribal chapters that include portions of both
5 Navajo County and Apache County, the chapter community service
6 coordinators or other designated persons who are residents of
7 either county will be appointed by the appropriate county
8 recorder pursuant to A.R.S. { 16-131(D), if they are willing, as
9 deputy registrars for the purpose of assisting in the
10 distribution of registration forms and in the registration of
11 voters in both counties and to accept completed registration
12 forms for return to the appropriate county recorder pursuant to
13 A.R.S. { 16-134(B).

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15 4. Within thirty days of their agreement to serve, deputy
16 registrars will be appointed and trained at convenient sites and
17 times on the Navajo Reservation and will be given such additional
18 training as from time to time may appear necessary or may be
19 requested.

20 5. Deputy registrars will be requested but not required to
21 undergo additional training about all phases of the election
22 process, including voter registration; candidate qualification
23 procedures and deadlines; election day activities in general; the
24 pertinent differences between state and tribal election
25 regulations and procedures, with the assistance of the Navajo
26 Elections Administration; the voter registration verification
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1 notice, inactive list, reinstatement and cancellation process;
2 and the absentee voting process.

3 6. The training of all deputy registrars will be conducted
4 in Navajo and/or English as requested by the deputy registrars
5 present except that the deputy registrars will be trained in the
6 Navajo translation of all voter registration and absentee voting
7 materials. The training of deputy registrars will utilize
8 appropriate audio visual materials and/or graphics such as audio
9 tapes, slide presentations and/or video tapes, along with posters
10 or graphics of other kinds in order to facilitate their training.
11 The training material will be based on a current registrar
12 training manual approved by the county recorder's office.

13 7. Telephone inquiries to county offices respecting
14 election-related matters will be considered official government
15 business, and the telephone charges may be reversed.

16 8. The counties will adopt recognition programs for deputy
17 registrars to encourage registration activity.

18 9. The county recorder's office will conduct periodic
19 voter registration drives at chapter houses determined by the
20 counties and at meetings that include areas that cover more than
21 one chapter. Such registration drives will be advertised in
22 advance, with notice given to the Navajo Elections
23 Administration, and also include registration drives conducted at
24 fairs, rodeos, supermarkets and other gatherings of a significant
25 population on the Navajo Reservation.
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1 D. Translations

2 1. Any audio tape or video tape translations of election
3 materials or explanations in the Navajo language of election
4 procedures (such as voter registration; deputy registrar
5 training; the registration verification notice, inactive list,
6 reinstatement and cancellation process; absentee voting; sample
7 ballots; and ballot propositions) will be prepared by personnel
8 of the counties, state personnel, or by a qualified person
9 contracted with for that purpose, after consultation with the
10 Navajo Elections Administration. Any unresolvable disputes as to
11 the accuracy of a given translation will be resolved by a
12 mutually agreed upon third party; notice of such disputes and/or
13 their resolution shall be provided to the United States.
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15 Translations shall be available for review prior to public
16 dissemination; however, where a dispute cannot be resolved in a
17 timely fashion or where, after a timely request for consultation
18 has been made, no comments from the Navajo Elections
19 Administration have been received by the defendants, the
20 preparation and dissemination of time-sensitive materials shall
21 not be delayed.

22 ②. The State of Arizona shall coordinate the development of
23 a joint translations committee to develop an English/Navajo
24 language glossary of election terms. The joint translations
25 committee shall be comprised of five members appointed as
26 follows: one by the Arizona Secretary of State, one by Apache
27 County, one by Navajo County, one by the Navajo Board of Election
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1 Supervisors and the Navajo Elections Administration, one by the
2 Navajo Nation Council. Additional members may be appointed as
3 follows: one by any of the other Navajo Reservation counties in
4 Arizona, Utah or New Mexico that wish to participate. The joint
5 translations committee shall meet as soon as possible to review
6 all work that has already occurred on a proposed glossary by an
7 ad hoc committee comprised of outreach workers, NEA officials and
8 other interested parties. The committee shall work with those
9 who have been involved with the proposed glossary to finalize it.
10 This joint committee may also be used to review translations of
11 election material, such as the state publicity pamphlet.

12 3. The translation and review of any election-related
13 material shall be completed promptly. Preparation of
14 translations shall begin as soon as the English language text for
15 an item is determined. Whenever possible, tapes should be
16 available before the date that English language announcements or
17 other publications are made available to the public.

18 E. Dissemination of Election-Related Information.

19 1. The counties will inform and provide reasonable notice
20 to the Navajo Elections Administration of their planned
21 publicity, election-related announcements and materials, and
22 other election information. The Navajo Elections Administration
23 will also be requested to disseminate all such information
24 through public service announcements on the radio stations that
25 broadcast on the Navajo Reservation.
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1 2. The counties, with the advice and recommendations of
2 the outreach workers, will plan and publicize meetings at chapter
3 houses or other sites convenient to voters on the reservation
4 that may cover more than one chapter at which an outreach worker
5 will make an oral presentation in Navajo with appropriate audio-
6 visual aids to be held at the following four times:

7 a. Between April 1 and July 1 prior to each general
8 election in presidential election years to explain the
9 process for voter registration verification notices,
inactive voter lists, reinstatement and cancellation.

10 b. Prior to the deadline for filing candidacy petitions
11 for the primary election to explain voter registration
procedures, including registration cutoff dates, absentee
voting and candidate qualification procedures.

12 c. After the primary election sample ballot is finalized
13 and by the Friday before the primary election to explain
14 election procedures, including absentee voting procedures
and to identify the offices on the ballot and the names of
the candidates for nomination for those offices.

15 d. After the general election sample ballot is finalized
16 and by the Friday before the general election to review the
17 contents of the ballot and to explain election procedures,
18 including absentee voting procedures, to identify the
19 offices on the ballot and the names of the candidates for
those offices and to identify the measures on the ballot by
the descriptive title, "yes/no" phrase and short title
prepared by the Arizona Secretary of State.

20 Presentation by outreach workers must be neutral, not involve any
21 discussions of the merits of any candidates or measures and not
22 advocate the election, passage or defeat of any candidate or
23 measure. The meetings will be planned to cover all precincts on
24 the Navajo Reservation in each county.

25 3. The information described in the preceding paragraph,
26 both oral and in graphic form, will also be made available in any
27 areas containing Navajo population concentrations off the
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1 reservation, including Winslow and Holbrook in Navajo County,
2 Sanders in Apache County, and any other areas of Navajo
3 population concentrations identified by the counties in
4 consultation with the Navajo Elections Administration.

5 (4.) Audio tapes of the sample ballot for primary, general
6 and special elections shall be prepared by the governmental -
7 entity responsible for printing and distributing sample ballots.
8 Such tapes will be provided to each chapter house as soon as
9 possible after the information is available, but no later than
10 when the sample ballots are disseminated in English. These tapes
11 will also be used for purposes of training translators serving on
12 election day.

13 5. Long and short audio tapes will be prepared by the
14 governmental entity responsible for preparing and printing the
15 publicity pamphlet to identify briefly each initiative,
16 referendum, proposed constitutional amendment, or other ballot
17 proposition to be decided. The long audio tape may consist of
18 only the descriptive title, "yes/no" phrase, Legislative Council
19 analysis and any short title together with the number used to
20 designate the proposition on the ballot. The short audio tape
21 may consist of only the proposition's number, the "yes/no" phrase
22 and any short title. These tapes will be provided to the
23 counties for dissemination to chapter houses and for purposes of
24 training translators serving on election day. For the purpose of
25 broadcasting the information as described in paragraph E-9, a
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1 broadcast tape will be prepared identifying each proposition by
2 its number and short title.

3 Such tapes will be provided to each chapter house as soon as
4 possible after the information is available, but no later than by
5 the second week of September prior to the general election so
6 that the chapter officials may review the information contained
7 therein and provide such announcements or training sessions
8 regarding the content thereof as they deem appropriate.

9 Preparation and distribution of these tapes, as described in this
10 numbered paragraph, will fulfill the appropriate governmental
11 entity's obligation to translate and disseminate the publicity
12 pamphlet orally in Navajo.

13 The governmental entity responsible for accepting the filing
14 of publicity pamphlet ballot arguments shall provide to the
15 Navajo Elections Administration the name, address and telephone
16 number of those committees (or their chairmen) filing arguments
17 for or against any ballot proposition so that they may be
18 contacted to provide additional information or answer questions
19 concerning the nature and significance of the proposition. In
20 addition, each such committee shall be provided with the name,
21 address and telephone number of the Navajo Elections
22 Administration Executive Director and notified of the
23 availability of Navajo translators, other than county employees,
24 to translate campaign information concerning the nature and
25 significance of the ballot propositions.

1 6. The counties will establish booths or displays at
2 tribal fairs, functions, shopping centers, and other locations to
3 be identified in consultation with the Navajo Elections
4 Administration. Such booths or displays will be staffed by
5 election outreach workers or trained volunteers when it will
6 further assist the dissemination of election information to
7 Navajo citizens.

8 7. As to only those elections which are the responsibility
9 of the defendants, radio announcements in the Navajo language and
10 English language newspaper announcements will be made of the
11 election information identified in paragraph E-7a through E-7f
12 below. Radio announcements in Navajo County will be conducted
13 over KTNN (Window Rock), and over KAFF (Flagstaff) or an
14 alternate radio station selected by the county to reach the
15 greatest number of Navajo voters in the county. Radio
16 announcements in Apache County will be over KTNN (Window Rock),
17 and over KNDN (Farmington) or an alternate radio station selected
18 by the county to reach the greatest number of Navajo voters in
19 the county. Public service announcements of the same information
20 identified below will be provided as frequently as possible over
21 other radio stations in coordination with and through the Navajo
22 Elections Administration.

23 a. Deadlines for state voter registration, with
24 explanations of any different deadlines for participation in
25 state and federal elections and identification of regularly
26 available registration sites in each chapter house or other
27 location on the reservation. Radio announcements of such
28 information will be made twice a day during the four weeks
preceding the state and federal registration deadlines for
each primary, general, and special election.

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b. Procedures and deadlines for becoming a candidate. Radio announcements of such information will be made twice a day during the two week periods preceding the opening and closing of each candidate filing period for the primary election and general election and on a semi-weekly basis between those dates.

c. Dates of primary elections, general elections, and special elections, a list of the offices to be elected, and the availability of trained translators at the polls and the rights of each voter who requires assistance in casting a ballot to be assisted by a person of his or her choice in accordance with state and federal law. Radio announcements of such information will be made semi-weekly during the six week period prior to each primary, general, and special election.

d. A listing of referenda, initiatives, proposed constitutional amendments, or other ballot propositions, as required by paragraph E-9. Radio announcements of such information will be made semi-weekly beginning with the initial dissemination of the publicity pamphlet in English, and continuing until the election.

e. Procedures for voting by absentee ballot, including an explanation of the standards of eligibility for absentee voting, the availability of absentee ballot request forms at tribal chapter houses, and the availability of absentee voting on the Navajo Reservation pursuant to paragraph F-4. Radio announcements of such information will be made twice a day during the two week periods preceding the opening and closing of absentee voting, and semiweekly between those dates.

f. The voter registration verification process, including a brief explanation of the notice sent to registered voters. Radio announcements of such information will be made semi-weekly between April 1 and July 1 of presidential election years.

Each of the announcements referred to in paragraphs E-7a through E-7f will be published in English on a weekly basis in the Navajo Times and in the Gallup Independent during the publicity periods described above, and English language signs with appropriate graphics will be distributed to each chapter house and other public locations on the reservation with a

1 specific request that the graphics be permanently posted at the
2 beginning of each publicity period and remain posted during the
3 relevant period. Such requests shall emphasize the importance of
4 these announcements to the Navajo voters.

5 8. Audio tapes of other election information, such as
6 voter registration; registration verification notices, inactive
7 lists, reinstatement and cancellation procedures; and absentee
8 voting will be prepared pursuant to the procedures set forth in
9 paragraph D-1 and provided to radio stations identified in
10 paragraph 7.

11 9. Neither the state nor the counties will be required to
12 ensure radio broadcasts of the full text of lengthy election
13 material such as the sample ballots and publicity pamphlet.
14 Rather, the broadcasts may consist of a listing of the offices
15 and the proposition numbers and short titles of the initiatives,
16 referenda, proposed constitutional amendments and other ballot
17 propositions and identify the times and locations including the
18 chapter and other meetings and public gatherings where detailed
19 Navajo language information will be available through county
20 outreach workers or other county officials, or through the Navajo
21 Elections Administration or other Navajo officials. The Navajo
22 language publicity period for the publicity pamphlet and other
23 election materials and the information not specifically
24 referenced herein shall commence with their initial dissemination
25 in English and end with the election itself, or other appropriate
26 ending date.
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1 10. The state and counties will monitor the effectiveness
2 of their publicity programs on an ongoing basis and, to that end,
3 will meet with tribal chapter officials, officials of the Navajo
4 Board of Election Supervisors and the Navajo Elections
5 Administration, and other Navajo citizens and organizations named
6 by officials of the Navajo Nation Council to identify groups or
7 persons who are not being reached or subject matter which is not
8 being explained sufficiently, and shall take such additional
9 steps as are reasonably necessary to cure such deficiencies.
10 These meetings will occur quarterly in odd-numbered years and
11 biannually in even-numbered years. The counties shall continue
12 their efforts to organize joint meetings of the outreach workers,
13 along with the outreach workers of Coconino County, to discuss
14 the bilingual election program.

15 F. Absentee Voting. (Early Voting)

16 1. The counties will supply absentee ballot request forms
17 including forms which may be used to request special election
18 boards pursuant to A.R.S. {16-549 to all deputy registrars,
19 chapter community service coordinators, state and county offices
20 on the reservation, as well as to the Navajo Elections
21 Administration.

22 (2.) Colored posters explaining that anyone may vote
23 absentee and the procedures for absentee voting, including the
24 availability of absentee ballot request forms at tribal chapter
25 houses, how to complete a request form, where the ballot may be
26 sent, and the availability of persons to translate the ballot
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1 will be provided to each chapter house and any other public
2 facility on the reservation within the counties, accompanied by a
3 request that the posters be prominently displayed at such
4 facility. Such request will emphasize the importance of the
5 announcements to the Navajo voters.

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7 3. As previously indicated, the outreach workers will
8 provide absentee ballot request forms and information and
9 encourage absentee voting, and will inform prospective absentee
10 voters of the sites, dates and times that Navajo language
11 translations of the ballot are available upon request and of the
12 availability of special election boards.

13 4. The counties will provide opportunities for casting
14 absentee ballots at sites on the Navajo Reservation by allowing
15 voters to cast absentee ballots at fixed sites, including but not
16 limited to satellite county offices, and by using the outreach
17 workers to visit sites on the reservation on designated dates and
18 times designed to reach the largest number of Navajo voters in
19 the most effective manner. Such absentee voting opportunities
20 shall be publicized prior to and during the period for absentee
21 voting.

22 G. Election Day Procedures.

23 1. The counties will take all reasonable steps to ensure
24 that an adequate number of effectively trained precinct election
25 board officials fluent in Navajo and English are present at the
26 polls on election day for each precinct in which five percent or
27 more of the total population is Navajo, for the purpose of

1 ensuring that election information available to voters in English
2 is available for translation in Navajo for voters with limited
3 English proficiency needing assistance. The precinct election
4 board shall include one clerk who is a duly appointed deputy
5 registrar to assist unregistered persons in filling out the
6 registration form. Such assistance shall not interfere with
7 voting at the polling place. The counties will invite the Navajo
8 Elections Administration and tribal chapter officials to identify
9 bilingual individuals who are qualified under state law to serve
10 as precinct election board officials and willing to work at the
11 polls.

12 a. Navajo County.

13 In addition to the number of precinct election board
14 officials required at each polling place by state law during each
15 election, Navajo County, in accordance with its present policy,
16 will take all reasonable steps to ensure that at least two
17 bilingual translators are present or available at each polling
18 place serving a portion of the Navajo Reservation to further
19 assist Navajo speaking voters. Two poll workers will be fully
20 trained as alternate translators at each polling place.

21 b. Apache County.

22 The county will train all bilingual precinct election board
23 officials to provide Navajo language translations of the ballot
24 and will assign at least two such officials whose primary
25 responsibility will be to provide translation services to Navajo
26 speaking voters. The county will use precinct registration lists
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1 as well as turnout in prior elections to determine whether
2 additional election board workers are necessary beyond the
3 minimum number required by state law.
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5 c. Nothing contained herein shall preclude either county
6 from adopting and implementing in accordance with Section 5 of
7 the Voting Rights Act the policy of the other regarding the
8 assignment of translators to the polls on election day.

9 2. Poll officials and other county employees will monitor
10 the polls during the course of the election to identify and
11 record each instance in which unreasonable delays in voting or
12 translation of the ballot occur. Where such delays occur, the
13 counties will take steps, such as establishing additional voting
14 booths, as are reasonably necessary to ensure that such delays do
15 not recur in future elections.

16 3. The precinct election board officials and translators
17 will be trained in Navajo and/or English as requested by the
18 officials or translators to ensure that they understand polling
19 place procedures, the contents of the ballot, and voter
20 registration verification notices, inactive lists, reinstatement
21 and cancellation procedures. Training in translating the ballot
22 language will be in Navajo and such training will include the use
23 of appropriate audio visual materials including audio and/or
24 video tapes and graphics. Each translator will be provided with
25 a copy of the training tape used. Training sessions for
26 translators shall be completed at least ten days prior to the
27 date of the election, although supplemental training sessions or
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1 makeup sessions may be held after that time. Training sessions
2 shall be followed by oral testing in Navajo to ensure their
3 effectiveness.

4 4. Precinct election board officials will take all
5 reasonable steps without disrupting the orderly and timely
6 casting of ballots to maintain a record of all persons who come
7 to the polls but are not allowed to vote, indicating the reason
8 the person thought she or he was eligible to vote and the reason
9 for not allowing the person to vote.

10 5. The counties will coordinate with the Navajo Elections
11 Administration in the establishment of polling places in
12 locations where the same buildings may be used for tribal and
13 state elections.

14 H. Registration Verification Process.

15 The counties will inform voters of the process for voter
16 registration verification notices, inactive lists, reinstatement
17 and cancellation through radio announcements, chapter
18 presentations and appropriate posters and graphics, as set forth
19 in paragraphs E-2 and E-7.

20 I. Records and Reports.

21 1. The state and counties will maintain copies of all
22 tapes, graphics, and other materials provided for voter
23 information purposes pursuant to this program along with records
24 of how those materials were used and on what dates, and the
25 locations and dates of all training sessions held pursuant to
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1 this program. In addition, the counties will maintain
2 statistical records including but not limited to:

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4 a. Voter Registration

- 5 -- Voter registration for each precinct on a
6 quarterly basis as specified by the schedule set
7 forth in A.R.S. {16-168 (G).
8 -- Number of voters registered during each quarter by-
9 precinct, as specified by the schedule set forth
10 in A.R.S. {16-168 (G).
11 -- Number of voters by precinct who are registered at
12 voter registration drives conducted pursuant to
13 this program.

14 b. Voter Registration Verification

- 15 -- Number of voters placed on the inactive voters
16 list by precinct.
17 -- Number of persons on the inactive voters list who
18 came to the polls on election day, voted and were
19 reinstated to the general register by precinct.

20 c. Absentee Voting

- 21 -- Number of requests for absentee ballots per
22 precinct, with a breakdown of the number of
23 requests received through the mail, the total
24 number of absentee ballot requests made in person
25 at the county recorder's office and at satellite
26 offices, and the total number of absentee votes
27 cast per precinct.
28 -- Number of absentee ballots cast per precinct
before special election boards.
-- Number of absentee ballots cast per precinct in
person at the county courthouse or on the
reservation pursuant to paragraph F-4.
-- Number of absentee ballots cast per precinct by
mail.

d. Publicity

- Records of all paid radio announcements and public
service announcements as those records may be
available and of newspaper publications and

1 posters of election-related information pursuant
2 to this program.

3 2. The state and counties will maintain such other records
4 as may be appropriate to permit review of the effectiveness of
5 the program and to assist the state and counties in further
6 developing the effectiveness of this program. Such records shall
7 be available to the public upon request. Copies of any or all
8 such records shall be forwarded to the United States and to the
9 Navajo Elections Administration upon request.

10 3. On April 1 of each year the counties or each of them
11 will send to the United States and to the Navajo Election
12 Administration a report of the efforts taken pursuant to this
13 Decree during the preceding (12) twelve months. Such report
14 shall include election returns, the records of the election-
15 related visits of the outreach workers, records of publicity, and
16 the following statistics by precinct: (a) the number of
17 registered voters; (b) the number of voters who registered during
18 the preceding year; (c) the number of voters placed on the
19 inactive list; (d) the number of absentee ballots cast in each
20 election; and (e) a brief explanation of any contemplated
21 modifications or changes to the Navajo Language Election
22 Information Program. Because of the detailed nature of this
23 Consent Decree, the data included in the report are not intended
24 to be the measure of compliance with this Consent Decree.

25 J. Consultation With Navajo Representatives

26 Upon preclearance of the changes in this program and final
27 approval of the First Amended Consent Decree from this Court, the
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1 United States and defendants will consult with the Navajo Board
2 of Election Supervisors ("NBOES"), the Navajo Elections
3 Administration ("NEA") and other representatives of the Navajo
4 Nation and will provide to the NEA and such other representatives
5 a list of the provisions in this agreement that contemplate
6 participation by the NEA or any other Navajo Nation entity. The
7 defendants will make good faith efforts to encourage the NEA to
8 work with the counties regarding these provisions, but where the
9 NEA is unable to or determines not to participate, the counties
10 shall not be deemed in noncompliance with the provisions for NEA
11 participation because of a lack of participation. The United
12 States and defendants will also request that the NEA inform the
13 appropriate county ten days in advance of any meeting or activity
14 that the NEA is conducting and in which the NEA would like one or
15 both of the counties to participate.

16 K. Adjustments to the Program.

17 The state and counties will have the authority to eliminate
18 or modify any aspect of this program if shown to be unproductive
19 or inefficient in furthering the goals of the program, subject to
20 the preclearance requirements of Section 5 of the Voting Rights
21 Act, 42 U.S.C. {1973c.

22 II. RETENTION OF JURISDICTION AND COSTS

23 It is the intention of the parties that this First Amended
24 Consent Decree constitutes a complete and full resolution of all
25 claims made in this case. Accordingly, the parties adopt the
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1 following provisions relating to termination of this Decree and
2 continuing Court supervision hereunder:

3 1. This Court shall retain jurisdiction to enter such
4 further relief or other orders as may be necessary to effectuate
5 the terms of this Decree.

6 2. The United States agrees, for a period of two years
7 from preclearance of the changes to this program, not to seek any
8 further or additional relief with respect to the Navajo Language
9 Election Information Program prescribed herein for Apache and
10 Navajo Counties. It is contemplated by the parties that this two
11 year period will be used to implement fully the bilingual
12 election program set out in this Decree, and to make adjustments
13 to that program as necessary in accordance with the provisions of
14 paragraph K above. At the end of such two year period, this
15 Decree will then be terminated and the case will be dismissed.
16 The Navajo Language Election Information Program in effect when
17 this Decree terminates will remain in effect until any
18 modifications to that program constituting voting changes have
19 been precleared in compliance with Section 5 of the Voting Rights
20 Act, 42 U.S.C. { 1973c. The annual report required in paragraph
21 I-3 shall be prepared and sent to the United States and the
22 Navajo Elections Administration through April 1, 1997. After
23 1997, such reports will not be required as part of the Navajo
24 Language Election Information Program.

25 3. Nothing contained herein shall preclude any party from
26 moving to modify any provision of this Decree pursuant to the
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1 provisions of Fed. R. Civ. P. 60(b), nor is any provision of this
2 Decree intended to limit this Court's enforcement authority in
3 any further proceedings between the parties.

4 4. The parties agree to bear their own costs and attorneys
5 fees in this litigation.

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Entered this 27 day of SEPTEMBER, 1993

Earl M. Canale

UNITED STATES DISTRICT JUDGE

Approved as to form
and content:

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