

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D. C. 20530

FEB 10 1988

Russell H. Burdick, Jr., Esq.
Chief Deputy County Attorney
P. O. Box 637
St. Johns, Arizona 85936

Dear Mr. Burdick:

This refers to the Navajo language election procedures for Apache County, Arizona, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on December 16, 1987.

The submitted changes were adopted to address the concerns set forth in our letter of July 17, 1987 in which preclearance of Apache County's language-minority election procedures was withheld because the procedures clearly violated the language-minority requirements of Sections 4(f)(4) and 203(c) of the Voting Rights Act, 42 U.S.C. 1973b(f)(4) and 1973aa-12(c). We have reviewed the language-minority procedures as modified by the Board of Supervisors on December 9, 1987. While these measures reflect a step in the right direction, we remain unpersuaded that the proposed procedures are specific enough in several important particulars to provide for effective access to the electoral process for Navajos, particularly in light of the special electoral problem that attends conversion of the English-language written process into the traditional oral tribal communication system.

The general program outlined in this submission certainly seems oriented toward the goal of effective participation for this language-minority population. However, in order to comply with the requirements of Section 4(f)(4) of the Act and thereby obtain preclearance under Section 5 the county must not only declare a general policy of providing information in usable form to Navajo voters and prospective voters, but establish the specific means which will accomplish such goals. This is especially the case in situations such as that in Apache County where formulation of such procedures has been neglected long after the requirements of federal law became operative and the expressed need of local residents has been clear. The plan's repeated delegation of responsibility for supplying the actual

techniques of administration to officials who have been unable to accomplish this goal in the past offers scant reassurance. While the appointment of an advisory committee is normally an affirmative approach, the one convened in Apache County seems to have produced only proposals that the supervisors could not accept.

Under these circumstances and in light of all the information available to us, I am unable to conclude that the county's procedures for making the electoral process accessible to citizens dependent upon the Navajo's language are sufficiently in compliance with the minority language requirements, Sections 4(f)(4) and 203 of the Voting Rights Act, to allow preclearance under Section 5. Accordingly I must, on behalf of the Attorney General, interpose an objection to the proposed Navajo language procedures.

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 change is in fact entitled to preclearance under the Act. In addition, Section 51.45 of the guidelines (28 C.F.R. 51.45) permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the proposed election procedures legally unenforceable. See 28 C.F.R. 51.10.

At the same time, the county's noncompliance with federal law (which, in our view, extends beyond the issues addressed in this Section 5 submission) has persisted since 1975, and we believe that the matter must be resolved promptly. For that reason, and as explained in the accompanying letter, I have authorized litigation by the United States as a method for obtaining compliance.

We appreciate your cooperation and we look forward to a prompt resolution.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division