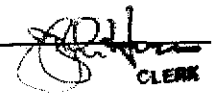**U.S. Department of Justice**

Civil Rights Division

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Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

March 13, 2003

BY TELEFACSIMILE AND FIRST CLASS MAIL

Hon. Karen E. Schreier
United States District Judge
United States Courthouse
515 Ninth Street, Room 318
Rapid City, SD 57701-2626

      Re: Quick Bear Quiver v. Hazeltine
           Civ. 02-5069-KES (D.S.D.)

Dear Judge Schreier:

The United States has been made aware that the Court has set a conference in the above case for March 14, 2003. The United States strongly supports the efforts of the State and Plaintiffs to bring state procedures into compliance with Section 5 of the Voting Rights Act. The United States also shares the parties' common interest in quickly and efficiently completing the review of the State's unprecleared voting changes. In light of the unusual and complex nature of the issues involved in the case, some of which may involve the Parties' interactions with the Department of Justice, we would respectfully apprize the Court that the United States is available to respond to inquiries from the Court during the conference. We may be reached at 202-514-6196.

We are aware that the pleadings filed with the Court include a January 31 letter to the State Attorney General in which the Voting Section discussed some aspects of the remedial issues presently before the Court. That correspondence was in response to a specific question by the State of South Dakota about whether a particular method of grouping Section 5 submissions would be acceptable. We believe that it will be more efficient if the State's forthcoming Section 5 submissions are grouped by subject matter and code chapters, but we want to make clear that Section 5 places the responsibility for making decisions on the merits of complete Section 5 submissions on the Attorney General, regardless of how the changes are grouped.

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We would reiterate the importance of having all related voting changes identified and submitted simultaneously in ensuring that a complete submission is before the Attorney General. See Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, 28 C.F.R. 51.22(b). In this regard, the very large number of unprecleared voting changes at issue here, spanning several decades, will present organizational and analytical difficulties regardless of how the State's submissions are grouped. On balance, our experience suggests that having Section 5 submissions grouped by subject matter and code chapters (rather than chronologically) will provide advantages - by aiding in identifying related submissions, minimizing repeated review of election laws that have been amended over time, and providing the State with the opportunity to bring at least some portions of its election machinery into Section 5 compliance from the outset of the process -- that would outweigh the potential disadvantages.

Finally, we understand that the State has suggested that the Section 5 administrative review process be extended by fifteen days to give Plaintiffs' counsel a greater opportunity to comment on submissions. The Attorney General does not have the authority to extend the time for review for that purpose, see 28 C.F.R. 51.9(a) and 51.9(b) (referring to the exclusive circumstances under which the 60-day review period is or may be extended), and we are unaware of any authority for the proposition that the statutory review period may be extended by court order.

We greatly appreciate the opportunity to address these matters to the Court and look forward to continuing to work with the parties to ensure that the State's Section 5 submissions are complete and capable of review.

Sincerely,

ROBERT A. KENGLE
Deputy Chief

R. TAMAR HAGLER
Attorney, Voting Section
Civil Rights Division

cc: Hon. Diana E. Murphy (by first class mail)
      Hon. Joan Ericksen Lancaster (by first class mail)
      Bryan Sells, Esq. (by telefacsimile and first class mail)
      John P. Guhin, Esq. (by telefacsimile and first class mail)