

# Exhibit K

*Rec'd 8/10/90  
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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLORADO

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

STATE OF COLORADO; NATALIE MEYER,  
SECRETARY OF STATE OF THE STATE  
OF COLORADO;  
Defendants.

90-C-1419

CIVIL ACTION NO. 90-1419

CONSENT DECREE

The United States of America, plaintiff; the State of Colorado; Natalie Meyer, Secretary of State of the State of Colorado, defendants, stipulate and agree that:

1. This action is brought by the Attorney General on behalf of the United States pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff et seq. ("the Act").

2. This Court has jurisdiction of this action pursuant to 42 U.S.C. 1973ff-4 and 28 U.S.C. 1345.

3. The Act provides that United States citizens, both absent uniformed services voters and overseas voters, have the right to register and vote absentee in any federal election in the state in which they last resided. The Act provides that in order to allow these citizens a fair opportunity to vote by absentee ballot in a primary election for federal office, state or local election officials must mail the ballots to the voters on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote, and return the

ballot to the appropriate election official by the state deadline for return of absentee ballots.

4. The Defendant State of Colorado is charged with the responsibility of assuring that Colorado elections laws, as applied, comply with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff et seq.

5. Defendant Natalie Meyer is sued in her official capacity as Secretary of State of the State of Colorado. The Secretary of State is the chief election officer of Colorado, and as such, she is authorized to supervise the conduct of elections in Colorado and to promulgate, publish and distribute rules and regulations necessary for the proper administration and enforcement of election laws in Colorado. Sec. 1-1-106, C.R.S. The principal office of the Secretary of State is in Denver, Colorado.

6. The United States, by this action, seeks injunctive relief to ensure that United States citizens who are abroad, who are qualified to vote in the federal primary election to be held in the State of Colorado on August 14, 1990, and who have filed timely applications for absentee ballots, will be given a reasonable opportunity to execute and return such ballots and thus to have their ballots counted.

7. On August 14, 1990, primary elections for federal offices will be conducted in Colorado. This primary election is part of the process for selecting nominees for the United States Senate and for the United States House of Representatives.

8. County election officials of the State of Colorado have received timely requests for absentee ballots from civilian and uniformed services overseas voters entitled to vote pursuant to the provisions of the Act.

9. Under Colorado law, absentee ballots received after the polls close on the date of the election are not counted. Sec. 1-8-114, C.R.S.

10. In order to allow overseas voters a fair opportunity to vote by absentee ballot, county election officials of Colorado must mail the ballots to the voters on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote, and return the ballot to the appropriate office of the county board of elections by the time the polls close on election day. The United States Postal Service estimates that a period of 10 to 14 days is a reasonable benchmark from the time of posting to the time of delivery of international mail; the United States Department of State makes similar estimates. Thus, under these estimates, ballots must be mailed to the overseas voters at least 20 to 28 days prior to the deadline for their return. The Military Postal Service Agency estimates that 30 to 35 days are necessary for mail to make a complete round trip to and from an overseas locale.

11. In Colorado counties containing a substantial proportion of the population of the state, election officials did not mail absentee ballots to overseas voters (who have filed timely requests) on a date sufficiently in advance of August 14,

1990, to allow many such voters to receive the ballot, cast a vote and return the ballot to election officials by the time the polls close on August 14, 1990. The counties' failure to mail ballots on a date sufficiently in advance of the primary election was caused primarily by reliance on § 1-8-113(1), C.R.S. (1989 Supp.) which permits counties to receive absentee ballots from the printer as late as fifteen days prior to the primary election.

12. The failure to mail absentee ballots to overseas voters on a date sufficiently in advance of August 14, 1990 so as to allow the marking and return of ballots by the time the polls close on that date may deprive United States citizens who are overseas of an opportunity to vote in the August 14, 1990 federal primary election in violation of the Act.

13. To ensure that all citizens abroad, protected under the Act and qualified to vote in Colorado, have a reasonable opportunity to have ballots counted in the August 14, 1990 primary, it is necessary for this Court to enter an order extending by ten days the deadline for receipt of ballots from overseas voters. Under this extension, absentee ballots from overseas voters received by 5 p.m., August 24, 1990, will be accepted and tabulated in the final federal election results.

This consent decree is final and binding as to all issues resolved herein.

WHEREFORE, the parties having freely given their consent, and the terms of the decree being fair, reasonable, and

consistent with the requirements of the Uniformed and Overseas Citizens Absentee Voting Act,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The defendants shall take all steps necessary to ensure that all ballots cast in the August 14, 1990, primary for United States Senate and United States House of Representatives by absent uniformed services voters outside the United States and other overseas voters pursuant to the Uniformed and Overseas Citizens Absentee Voting Act and received by five o'clock p.m., August 24, 1990, by the appropriate election officials, are counted as validly cast ballots, so long as the ballots would have been counted if they had been received by the time the polls close on Tuesday, August 14, 1990. The defendants may extend deadlines set forth in articles 10 and 11 of C.R.S. title 1 by no more than five days, if necessary. The defendants may authorize the canvassing of votes by county boards of canvassers to be done prior to five o'clock p.m., August 24, 1990, so long as all overseas absentee ballots sent out by that county have been received back by the county.

2. The defendants shall notify the Director of the United States Department of Defense's Federal Voting Assistance Program (FVAP) as soon as this decree has been signed and request that the FVAP take such action as is necessary to notify overseas voters of the extension of time for receipt by Colorado election officials of such ballots. The state shall assist the FVAP in whatever way necessary to publicize such extension of time.

3. Within 45 days after August 14, 1990, defendants shall file a report with this Court, with respect to the August 14, 1990, primary election, which sets forth the following information:

(a) the dates on which each county in the State of Colorado began and completed the process of mailing ballots to overseas voters;

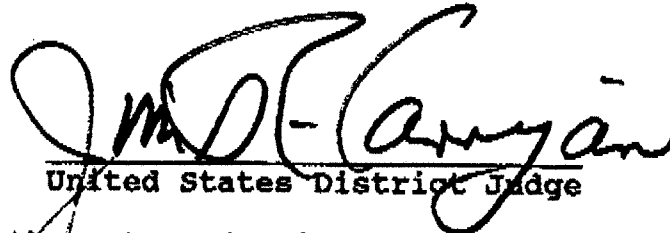
(b) the number of valid absentee ballots, by county, received and counted by the time the polls close on Tuesday, August 14, 1990, from overseas voters;

(c) the number of absentee ballots, by county, received and counted after the polls close on August 14, 1990, but prior 5 p.m., August 24, 1990, from overseas voters; and

(d) the number of absentee ballots, by county, received from overseas voters later than 5 p.m., August 24, 1990, and for that reason not counted.

4. The Court retains jurisdiction of this action for the purpose of enforcing the foregoing provisions.

ORDERED this 10 day of August 1990.

  
United States District Judge

The undersigned agree to the entry of this Decree.

For the Plaintiff  
United States of America:

For the Defendants State of  
Colorado and the Secretary  
of State:





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