

# Exhibit G

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Civil Rights Division  
Department of Justice  
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FILED  
U.S. DISTRICT COURT  
1988 MAY 23 PM 4: 28  
DISTRICT OF IDAHO  
JERRY L. CLAPP, CLERK

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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF IDAHO

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 STATE OF IDAHO; PETE T. )  
 CENARRUSA, SECRETARY OF STATE )  
 OF THE STATE OF IDAHO, )  
 )  
 Defendants. )  
 )

CIVIL ACTION NO. 88-1187

CONSENT DECREE

A. STIPULATION OF THE PARTIES

The United States of America, plaintiff, and the State of Idaho, and Pete T. Cenarrusa, Secretary of State of the State of Idaho, 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.

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

3. The Uniformed and Overseas Citizens Absentee Voting Act provides that United States citizens living abroad, both military and civilian, have the right to register and vote absentee in any federal election in the state in which they last resided.

4. The defendant State of Idaho is charged with the responsibility of assuring that Idaho election 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 Pete T. Cenarrusa, sued in his official capacity as Secretary of State of the State of Idaho, is the chief elections officer of the state and is responsible for assuring that elections in the state be conducted in accordance with the law.

6. The United States, by this action, seeks injunctive relief to remedy the failure of defendants to ensure that United States citizens living abroad, who are qualified to vote in the federal primary election to be held in the State of Idaho on May 24, 1988, 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 May 24, 1988, a primary election for federal offices will be conducted in Idaho. This primary election is part of

the process for selecting nominees for the offices of President and Vice President of the United States and for the United States House of Representatives.

8. Election officials of the State of Idaho have received timely requests for absentee ballots from civilian and military citizens overseas, which persons are entitled to vote pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act.

9. Under Idaho law, absentee ballots received after 8:00 p.m. on the date of the election are rejected. Idaho Code § 34-1005.

10. In order to allow overseas citizens a fair opportunity to vote by absentee ballot, election officials of Idaho 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 office of the election official by 8:00 p.m. 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 no later than 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 counties in Idaho, election officials did not mail absentee ballots to overseas citizens (who have filed timely requests) on a date sufficiently in advance of May 24, 1988, to allow such voters to receive the ballot, cast a vote and return the ballot to election officials by 8:00 p.m., May 24, 1988. Exhibit "A" is a representative sample of the dates on which election officials began to mail ballots to overseas voters from Idaho counties.

12. The failure to mail absentee ballots to overseas citizens on a date sufficiently in advance of May 24, 1988, so as to allow the voting and return of ballots by 8:00 p.m. on that date will deprive United States citizens of an opportunity to vote in the May 24, 1988, federal primary election in violation of the Uniformed and Overseas Citizens Absentee Voting Act.

13. To ensure that all citizens located abroad, protected under the Uniformed and Overseas Citizens Absentee Voting Act and qualified to vote in Idaho, have a reasonable opportunity to have their ballots for the May 24, 1988, primary election counted it is necessary for this Court to enter an order extending by ten days the deadline for receipt of ballots. Under this extension overseas ballots received by the close of business on June 3, 1988, will be accepted and tabulated in the final election results.

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

B. ORDER

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. Without this order, the State of Idaho and the other defendant herein could not have provided American citizens located abroad a reasonable opportunity to exercise their right to vote absentee in the May 24, 1988, federal primary election which would have violated the Uniformed and Overseas Citizens Absentee Voting Act.

2. The defendants shall take all steps necessary to ensure that all ballots cast by citizens located abroad pursuant to the Uniformed and Overseas Citizens Absentee Voting Act and received before the close of business on June 3, 1988, by the appropriate election officials, are counted to the extent required under that act as validly cast ballots, so long as the ballots would have been counted if they had been received by 8:00 p.m., Tuesday, May 24, 1988.

3. 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 Idaho election officials of such ballots. The state shall assist the

EVAP in whatever way necessary to publicize such extension of time.

4. Within 45 days after May 24, 1988, defendants shall file a report with this Court, with respect to the May 24, 1988, primary election, which sets forth the following information:

(a) the dates on which each county in the State of Idaho began and completed the process of mailing ballots to citizens located abroad, whose applications had been received by the close of business April 26, 1988;

(b) the number of valid absentee ballots, by county, received by 8:00 p.m., Tuesday, May 24, 1988, from citizens located abroad;

(c) the number of absentee ballots, by county, counted pursuant to this Consent Decree;

(d) the number of absentee ballots, by county, received after 8:00 p.m., May 24, 1988, but prior to the close of business, June 3, 1988, from citizens located abroad that, because they would not have been counted had they arrived prior to 8:00 p.m., May 24, 1988, were not counted; and

(e) the number of absentee ballots, by county, received from citizens located abroad later than the close of business, June 3, 1988, and for that reason not counted.

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

ORDERED this 21<sup>st</sup> day of May, 1988.

Marion J. Callister  
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  
Idaho and the Secretary of  
State:

Maurice O. Ellsworth  
MAURICE O. ELLSWORTH  
United States Attorney  
District of Idaho

Daniel G. Chadwick  
DANIEL G. CHADWICK  
Deputy Attorney General  
State of Idaho  
Chief, Intergovernmental  
Affairs Division



EXHIBIT A

DISTRIBUTION OF BALLOTS TO MILITARY AND OVERSEAS VOTERS

IDAHO

MAY 24, 1988 PRIMARY ELECTION  
 (Counties of Population 33,000+)

<u>COUNTY</u>	<u>POPULATION</u>	<u>DATE MAILINGS BEGAN</u>	<u>DAYS BEFORE ELECTION (May 24)</u>	<u>NUMBER OF BALLOTS SENT<sup>2</sup></u>
Ada	193,000	May 5	19	308
Canyon	90,000	May 5	19	193
Bonneville	70,600	May 5	19	203
Nez Perce	30,000	May 5	19	80
Twin Falls	55,000	May 6	18	100-150
Bingham	38,300	May 6	18	75
Bannock	68,180	May 9	16	144
Kootenai	67,500	May 13 <sup>1</sup>	12	108

<sup>1</sup>As of May 6, 1988, this county had not received their ballots back from the printer and so the date of mailing is tentative.

<sup>2</sup>These numbers represent absentee ballots sent out on the dates listed and include both military and overseas voters.

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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF IDAHO

UNITED STATES OF AMERICA, )  
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 ) Plaintiff, )  
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 ) v. )  
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 ) STATE OF IDAHO; PETE T. CENARRUSA, )  
 ) SECRETARY OF STATE OF THE STATE OF )  
 ) IDAHO, )  
 )  
 ) Defendants. )  
 )

CIVIL ACTION NO.

**CIV 88 1187**

COMPLAINT

The United States of America, plaintiff herein, alleges:

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. This act provides that United States citizens living abroad, both military and civilian, have the right to register and vote absentee in any federal election in the state in which they last resided. This action is brought to remedy the failure of defendants to take the steps necessary to ensure that United States citizens living

abroad, who are qualified to vote in the federal primary election to be held in the State of Idaho on May 24, 1988, and who have filed timely applications for absentee ballots, will have their ballots counted.

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

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

4. Defendant Pete T. Cenarrusa is sued in his official capacity as Secretary of State of the State of Idaho. The Secretary of State is the chief elections officer of the state and is responsible for assuring that elections in the state be conducted in accordance with the law. As Secretary of State he is empowered to proclaim the results of primaries and elections. The principal office of the Secretary of State is in Boise, Idaho.

5. The Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff-1, provides, in pertinent part, that "[e]ach State shall-- (1) permit absent uniformed services voters and overseas voters . . . to vote by absentee ballot in . . . primary . . . elections for Federal office."

6. On May 24, 1988, a primary election for federal offices will be conducted in Idaho. This primary election is part of the process for selecting nominees for the offices of President and Vice President of the United States and for the United States House of Representatives.

7. Election officials of the State of Idaho have received timely requests for absentee ballots from civilian and military citizens overseas, which persons are entitled to vote pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act.

8. Under Idaho law, absentee ballots received after 8:00 p.m. on the date of the election are rejected.

9. In order to allow overseas citizens a fair opportunity to vote by absentee ballot, election officials of Idaho 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 office of the election official by 8:00 p.m. 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 no later than 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.

10. In many counties in Idaho, election officials did not mail absentee ballots to overseas citizens (who have filed timely requests) on a date sufficiently in advance of May 24, 1988 to allow such voters to receive the ballot, cast a vote and return the ballot to election officials by 8:00 p.m., May 24, 1988. Exhibit A indicates the date on which election officials began to mail ballots to overseas voters in eight counties.

11. The failure to mail absentee ballots to overseas citizens on a date sufficiently in advance of May 24, 1988 so as to allow the voting and return of ballots by 8:00 p.m. on that date will deprive United States citizens of an opportunity to vote in the May 24, 1988 federal primary election in violation of the Uniformed and Overseas Citizens Absentee Voting Act.

12. An order of this Court is necessary requiring the state to take corrective action in order to protect the rights granted by the Uniformed and Overseas Citizens Absentee Voting Act.

WHEREFORE, plaintiff prays that this Court hear this action pursuant to 42 U.S.C. 1973ff-4 and 28 U.S.C. 1345, and thereafter issue a judgment enjoining the defendants, their agents and successors in office, and all persons acting in concert with any of them--


- (1) to take such steps as are necessary to ensure that those ballots cast by persons outside the United States pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff-1, which satisfy the requirements of Idaho law except for the date of their receipt by the appropriate election officials, and which are received by such officials before the close of business on June 3, 1988, are counted, in contests relating to the selection of nominees for federal office, as validly cast ballots; and
- (2) to take such steps as are necessary to afford overseas citizens eligible to participate in the May 24, 1988 Idaho federal primary election a reasonable opportunity to learn of this Court's order.


The United States of America further prays that this Court order such other relief as the interests of justice may require, together with the costs and disbursements of this action.

EDWIN MEESE III  
Attorney General

By:

  
WM. BRADFORD REYNOLDS  
Assistant Attorney General

  
MAURICE O. ELLSWORTH  
United States Attorney

  
GERALD W. JONES  
Attorney, Voting Section  
Civil Rights Division  
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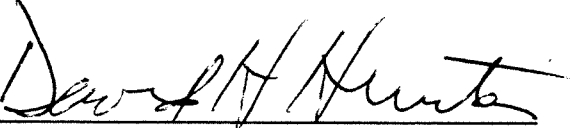
  
PAUL F. HANCOCK  
DAVID H. HUNTER  
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EXHIBIT A

DISTRIBUTION OF BALLOTS TO MILITARY AND OVERSEAS VOTERS

IDAHO

MAY 24, 1988 PRIMARY ELECTION  
 (Counties of Population 33,000+)

<u>COUNTY</u>	<u>POPULATION</u>	<u>DATE MAILINGS BEGAN</u>	<u>DAYS BEFORE ELECTION (May 24)</u>	<u>NUMBER OF BALLOTS SENT<sup>2</sup></u>
Ada	193,000	May 5	19	308
Canyon	90,000	May 5	19	193
Bonneville	70,600	May 5	19	203
Nez Perce	30,000	May 5	19	80
Twin Falls	55,000	May 6	18	100-150
Bingham	38,300	May 6	18	75
Bannock	68,180	May 9	16	144
Kootenai	67,500	May 13 <sup>1</sup>	12	108

<sup>1</sup>As of May 6, 1988, this county had not received their ballots back from the printer and so the date of mailing is tentative.

<sup>2</sup>These numbers represent absentee ballots sent out on the dates listed and include both military and overseas voters.



JIM JONES  
Attorney General  
State of Idaho

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Boise, Idaho 83720  
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ATTORNEYS FOR DEFENDANTS

RECEIVED

JUL 11 1988

U.S. ATTORNEY'S OFFICE

88-0300  
cl 6/11/88

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO. 88-1187
v.	)	
	)	
STATE OF IDAHO; PETE T.	)	
CENARRUSA, SECRETARY OF STATE	)	REPORT TO THE COURT
OF THE STATE OF IDAHO,	)	
	)	
Defendants.	)	
_____	)	

Defendant, Pete T. Cenarrusa, Idaho Secretary of State, by and through the Office of Attorney General, hereby makes his report to the court as ordered by paragraph number "4." of the Court's order dated May 21, 1988. The report is found in Exhibit "A" attached hereto and incorporated by reference herein as if fully set forth and contains the required information as reported to the defendant by all forty-four (44) Idaho counties.

DATED this 7th day of July, 1988.

*Daniel G. Chadwick*

DANIEL G. CHADWICK  
Deputy Attorney General  
State of Idaho

STATE OF IDAHO            )  
                                  ) ss:  
County of Ada             )

PETE T. CENARRUSA, being first duly sworn, deposes and says:

That he is a defendant in the above-entitled action; that he has read the foregoing Report to the Court and knows the contents thereof; that the same is true of his own knowledge or upon information and belief, and as to those matters he believes it to be true.

*Pete T. Cenarrusa*

\_\_\_\_\_  
PETE T. CENARRUSA

SUBSCRIBED AND SWORN TO before me this 7th day of July, 1988.

*Mylene E. Artiack*

\_\_\_\_\_  
Notary Public for Idaho  
Residing at: Boise, Idaho  
My Commission Expires: 4-15-94

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8th day of July, 1988, I served a true and correct copy of the foregoing Report to the Court, by causing to be placed a copy thereof in the United States mail, postage prepaid, addressed to Maurice O. Ellsworth, United States Attorney, District of Idaho, Federal Building, Box 037, 550 W. Fort Street, Boise, Idaho 83724.

*Daniel G. Chadwick*  
Daniel G. Chadwick

CERTIFICATE OF THE SECRETARY OF STATE

FACSIMILE SIGNATURE

I, the undersigned, PETE T. CENARRUSA, the duly qualified and acting Secretary of State of the State of Idaho, do hereby certify that the attached is a full, true and correct copy of the facsimile signature certificate of:

PETE T. CENARRUSA - Secretary of State  
State of Idaho

and that the same appears of record in this office; and that said certificate and signature have been filed for the purpose of complying with the provisions of the Uniform Facsimile Signature of Public Officials Act.

I FURTHER CERTIFY That the annexed was received and filed in this office on the seventh day of September, 1982.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise, Idaho this 7th day of July, 1988.

*Pete T. Cenarrusa*

PETE T. CENARRUSA  
Secretary of State

by

*Miren E. Artiach*

MIREN E. ARTIACH  
Deputy Secretary of State

MANUAL SIGNATURE OF PETE T. CENARRUSA  
Secretary of State of the State of Idaho  
(Title of person filing signature)

Pete T. Cenarrusa  
(Person filing signature should sign on above line)

State of Idaho )

County of Ada )

PETE T. CENARRUSA, of lawful age, being first duly sworn, upon oath, deposes and states: that he/she is the duly elected, qualified and acting:

Secretary of State of the State of Idaho  
(Fill in title of person filing signature)

that the foregoing signature is his/her true, correct, and official signature and that this certificate has been executed and filed in the Office of the Secretary of State of the State of Idaho for the purpose of complying with the provisions of the Uniform Facsimile Signatures of Public Officials Act.

Pete T. Cenarrusa  
(Signature)  
Secretary of State of the State of Idaho  
(Fill in title of person filing signature)

Subscribed and sworn to before the undersigned, a Notary Public, on the 7th day of September, 19 82.

Muriel E. Artick  
Notary Public

My commission expires 4-15-84.

	Dates on which the County began and completed the process of mailing ballots to citizens located abroad whose applications had been received by the close of business 4/26/1988.	Completed	Number of valid absentee ballots, received by 8:00 p.m. Tues., 5/24/1988 from citizens located abroad.	Number of absentee ballots from citizens located abroad counted pursuant to the Consent Decree.	Number of absentee ballots received after 8:00 p.m., 5/24/1988, but prior to the close of business 6/3/1988 from citizens located abroad that were not counted.	Number of absentee ballots received from citizens located abroad later than the close of business 6/3/1988, and for that reason not counted.
Ada	5/2/88	5/2/88	72	8	1	6
Adams	5/4/88	5/4/88	3	0	0	0
Alfalfa	5/10/88	5/10/88	11	14	1	13
Bear Lake	5/9/88	5/9/88	11	3	0	0
Beneva	5/12/88	5/12/88	4	0	0	1
Bingham	5/6/88	5/6/88	10	2	0	0
Blaine	5/11/88	5/11/88	0	1	1	2
Boise	5/7/88	5/7/88	2	0	0	0
Bonner	5/11/88	5/11/88	28	6	0	1
Bonneville	5/5/88	5/5/88	28	2	0	0
Boundary	5/9/88	5/9/88	8	0	0	0
Butte	4/26/88	4/26/88	7	1	1	0
Camas	5/6/88	5/6/88	1	0	0	0
Canyon	5/6/88	5/6/88	41	8	0	1
Caribou	5/10/88	5/10/88	1	2	0	0
Cassia	5/10/88	5/10/88	11	11	1	1
Clark	no requests from citizens abroad		0	0	0	0
Clearwater	5/3/88	5/3/88	8	11	3	0
Custer	5/9/88	5/9/88	1	1	0	0
Elmore	5/3/88	5/3/88	45	2	0	0
Franklin	5/12/88	5/12/88	20	0	0	3
Fremont	5/10/88	5/10/88	3	2	0	0
Gem	5/11/88	5/11/88	11	0	0	0
Gooding	5/9/88	5/9/88	7	13	0	2
Idaho	5/6/88	5/6/88	1	3	0	2
Jefferson	5/10/88	5/10/88	2	2	0	1
Jerome	5/6/88	5/6/88	3	1	0	0
Kootenai	5/12/88	5/12/88	14	10	0	4
Latah	5/10/88	5/10/88	14	6	0	6
Lemhi	5/6/88	5/6/88	3	3	0	0
Lewis	5/5/88	5/5/88	0	0	0	0
Lincoln	5/6/88	5/6/88	6	1	0	0
Madison	5/5/88	5/5/88	1	1	0	0
Minidoka	5/11/88	5/11/88	2	3	0	2

	Dates on which the County began and completed the process of mailing ballots to citizens located abroad whose applications had been received by the close of business 4/26/1988.	Completed Began	Number of valid absentee ballots, received by 8:00 p.m. Tues., 5/24/1988 from citizens located abroad.	Number of absentee ballots from citizens located abroad counted pursuant to the Consent Decree.	Number of absentee ballots received after 8:00 p.m., 5/24/1988, but prior to the close of business 6/3/1988 from citizens located abroad that were not counted.	Number of absentee ballots received from citizens located abroad later than the close of business 6/3/1988, and for that reason not counted.
Rez Perce	5/4/88	5/4/88	16	3	0	2
Oneida	5/18/88	5/18/88	0	3	0	0
Owyhee	5/6/88	5/6/88	2	2	0	0
Payette	5/11/88	5/11/88	9	9	4	0
Power	5/17/88	5/17/88	0	0	3	0
Shoshone	5/6/88	5/6/88	2	0	0	0
Teton	5/5/88	5/5/88	2	2	0	0
Twin Falls	5/12/88	5/12/88	23	7	0	0
Valley	5/6/88	5/6/88	32	0	0	0
Washington	5/6/88	5/6/88	8	0	0	0
TOTAL			473	143	15	46