FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SEP 03 2004

JAMES R. LARSEN, CLERK
DEPUTY
YAKIMA, WASHINGTON

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
YAKIMA DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. YAKIMA COUNTY; CORKY MATTINGLY, Yakima County Auditor; JIM LEWIS, RONALD GAMACHE, and JESSE PALACIOS, County Commissioners. Defendants.	CV-04-3072-LRS CIVIL NO. CONSENT DECREE

I. Background

A. The United States of America initiated this action pursuant to Section 203 of the Voting Rights Act of 1965 ("Section 203"), as amended, 42 U.S.C. § 1973aa-1a, 1973aa-2, and 28 U.S.C. § 2201, alleging that election practices and procedures used by Yakima County, Washington, for Spanish-speaking citizens violate Section 203. The claim under Section 203 must be heard and determined by a court of three judges pursuant to 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284.

B. Yakima County's coverage under Section 203 is based on a determination by the Director of the Census that more than five (5) percent of the citizens of voting age in the County are members of a single language minority group (Spanish heritage) who do not speak or understand English well enough to participate effectively in the English-language election process (hereinafter referred to as Spanish-speaking citizens or voters), and that these persons have an illiteracy rate higher than the national illiteracy rate, 42 U.S.C. 1973aa-1(a) .

C. In 1976 Yakima County was designated by the Director of the Census as a jurisdiction subject to the requirements of Section 203 for persons of Spanish heritage. 41 Fed. Reg. 29,998 (July 20, 1976). In 2002, Yakima County was again so designated by the Director of the Census. 67 Fed. Red. 48,871 (July 26, 2002).

D. The United States alleges in its complaint that Yakima County is not fully compliant with the requirements of Section 203 for Spanish-speaking citizens residing in Yakima County with respect to the need to:

1. Provide complete and accurate Spanish translations of all materials and information produced in English and provided to the public, including but not limited to, ballots, information about voter registration, candidate qualification procedures, voting by mail or absentee, voting at the polls, and voting-related information on the

Yakima County website;

2. Provide effective Spanish language assistance at County offices and polling places regarding election-related issues;

3. Publish Spanish language materials in a timely fashion;

4. Make Spanish language materials, information, and assistance available to Spanish-speaking voters; and

5. Provide Spanish materials to those voters who need them or take steps to notify such Spanish-speaking voters that Spanish materials are available.

E. The named defendant parties (hereinafter "Yakima County") do not admit to the allegations of the complaint. Yakima County, however, does share with the United States a mutual interest to implement procedures that will protect the rights of Spanish-speaking voters to participate fully in the electoral process in compliance with the Voting Rights Act and the United States Constitution, and therefore, Yakima County agrees to implement fully the terms of this consent decree for enforcement of all applicable laws. Accordingly, the United States and Yakima County consent to the entry of this Order, as indicated by the signatures of counsel at the end of this document. The parties waive a hearing and entry of findings of fact and conclusions of law on all issues involved in this matter.

Accordingly, it is hereby **ORDERED, ADJUDGED, AND DECREED** that:

Yakima County, its agents, employees, contractors, successors and all other persons representing the interests of Yakima County are hereby **ENJOINED** from violating Section 203 by failing to provide in Spanish any "registration or voting notices, forms, instructions, assistance or other materials or information" that they provide in English. 42 U.S.C. § 1973aa-1a(c). More specifically, Yakima County shall be required to do the following:

II. Translation of election-related materials

A. All "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots," 42 U.S.C. 1973aa-1a(c), provided by Yakima County shall also be provided by Yakima County in the Spanish language. Yakima County shall ensure that both English and Spanish language election information, materials, and announcements provided by Yakima County are made equally available.

B. Yakima County shall translate into Spanish all election-related documents and information it provides in English. Such translation shall begin as soon as the English text is known and shall be completed so as to allow distribution along with the English text. To ensure the quality of translations, the

1 County shall employ trained translators who are familiar with Spanish language
2 election terminology to produce clear and accurate written translations. The
3 County shall develop and maintain a glossary of Spanish election terminology
4 using Spanish terms understandable to local Latino citizens in concert with
5 bilingual members of local Latino communities.

6 C. All official ballots, including absentee ballots, shall be printed
7 bilingually in both English and Spanish. Any new voting system adopted by the
8 County shall offer bilingual ballots or a readily apparent option of a Spanish
9 ballot, and any audible version of the ballot on such machines shall be available in
10 English and Spanish.

11 III. Dissemination of Spanish language information

12 A. All voter registration and election notices, forms, instructions, and other
13 materials available to voters in English shall also be printed in Spanish and shall
14 be displayed or available in the County Auditor's Office, each polling place, and
15 any other location where the County posts election-related materials on the same
16 basis as English language materials and information.

17 B. Yakima County shall ensure that all Spanish- and English-language
18 election-related information, materials, and announcements are made equally
19 available. Spanish-language information shall be distributed through newspapers,

radio and other media that exclusively or regularly publish or broadcast information in Spanish. Dissemination of these announcements need not be identical in all respects to dissemination of English-language announcements, but shall be in the form, frequency, and media best calculated to achieve notice and understanding equal to that provided to the English-speaking population.

C. Yakima County shall adopt a checklist identifying each Spanish-language and bilingual material that the County makes available to the public at each polling place. The checklist shall include, for each item, an attestation that the poll workers at the polling place posted or made available to voters such Spanish-language or bilingual document, or solicit a detailed written explanation of why individual items were not posted or available. The election inspector for each polling place must complete and sign this document before receiving payment for work in the election, subject to applicable state and federal law. Yakima County shall maintain a record of each failure to complete and sign the checklist.

IV. Spanish Language Assistance

A. Trained bilingual (English/Spanish) election personnel shall be available to answer voting related questions by telephone without cost during normal business hours and while the polls are open on election days.

B. Yakima County shall recruit, hire, and assign sufficient bilingual (Spanish/English) poll workers, who are able to understand, speak, read, and write Spanish fluently, to provide assistance to Spanish-speaking voters at the polls on election days. To assist in the recruitment of bilingual poll workers, the County shall survey its employees to identify personnel who speak Spanish and, to the extent such employees can be made available to provide assistance, allow and encourage such employees to serve at the polls on election day or be available "on call" to address questions or problems that may arise.

C. As part of its obligation to ensure that entities on whose behalf the County conducts elections are fully compliant with Section 203 in their elections, the County shall request that each entity for which it conducts elections perform similar surveys of its employees and shall request from such entities, and maintain copies of, all election-related materials and information created or disseminated by such entities for each election. In addition, the County shall request that each school district or other educational entity for which the County conducts elections implement a program that allows and encourages selected bilingual students (as allowed by state law and as part of an educational program devised by such district) to serve as poll workers on election day for all County elections, including election days that fall on school days, with such students receiving

academic credit appropriate to their service as well as all pay and benefits of poll officials

D. The County shall invite eligible members of the Advisory Group, discussed below, to serve as paid poll workers and to encourage other bilingual voters to do so. The County shall publicize to the Spanish speaking community the option of absentee voting to the same extent it does so for English-speaking voters.

E. Bilingual assistance shall be provided in polling places in accordance with the following:

(1) In polling places where the number of Spanish surnamed registered voters is 150 to 299, there shall be at least one poll worker bilingual in Spanish and English.

(2) In polling places where the number of Spanish surnamed registered voters is 300 to 599, there shall be at least two poll workers bilingual in Spanish and English.

(3) In polling places where the number of Spanish surnamed registered voters is 600 to 999, there shall be at least three poll workers bilingual in Spanish and English.

(4) In polling places where the number of Spanish surnamed

registered voters is over 1,000, there shall be at least four poll workers bilingual in Spanish and English.

(5) When assigning poll workers bilingual in Spanish and English to election boards at various polling places, assignment should be done in a manner that there will be at least one bilingual poll worker on each election board, whenever feasible.

(6) The parties may agree to adjust the standards in this section in light of information that the actual language need in a particular polling place is lesser or greater than that set forth above.

F. Yakima County shall make available and train in Spanish language election terminology sufficient bilingual personnel who shall be on call throughout election day to provide language assistance to Spanish-speaking voters in person at any polling place in which additional language assistance is needed or where no bilingual poll worker is available. Such on-call staff shall be stationed in appropriate areas of the County, including in the City of Yakima and locations in the lower Yakima Valley, so as to minimize any delay for voters while the staff member travels to the polling place.

G. At each training session prior to an election, in addition to any required state or County training, the County shall train all poll workers and other election

1 personnel present at the polls on the requirements of Section 203, including
2 making Spanish language assistance and materials available to voters and being
3 respectful and courteous to all voters regardless of race, color, language abilities,
4 or national origin. In addition to the general training for poll workers and
5 interpreters, the County shall train all bilingual poll workers on Spanish language
6 election terminology and how to interpret into Spanish the ballot(s), voting
7 instructions, and other election-related issues. The County shall maintain a record
8 of which poll workers attend training sessions, including the time, location, and
9 training personnel involved.

10 H. Yakima County shall post signs prominently in both English and
11 Spanish at sites where voting occurs stating that Spanish language assistance is
12 available. Bilingual poll workers shall be identified as such by badges. At sites
13 without bilingual poll workers, signs in both English and Spanish shall be posted
14 that explain how voters can obtain Spanish language assistance.

15 I. Upon receipt of complaints by voters, whether oral or written, Yakima
16 County shall investigate expeditiously any allegations of poll worker hostility
17 toward Spanish-speaking and/or Latino voters in any election. Yakima County
18 shall report the results of each investigation to the United States. Where there is
19 credible evidence that a poll worker(s) have engaged in inappropriate treatment of

Spanish-speaking and/or Latino voters, Yakima County shall remove the poll worker(s).

V. Program Coordinator

A. The County shall employ, on a full time basis, an individual to coordinate the County's Bilingual Election Program ("Program Coordinator") for all elections within the County. The County shall provide that individual with transportation and other support sufficient to meet the goals of the Program. The Program Coordinator shall be able to understand, speak, write, and read fluently both Spanish and English.

B. The Program Coordinator shall work under the supervision of the Yakima County Auditor to implement a bilingual election program. The Program Coordinator's responsibilities shall include coordination of translation of ballots and other election information; development of an election glossary to ensure uniform use of election terminology in Spanish; development and oversight of publicity, including selection of appropriate Spanish-language media for notices and announcements in Spanish and English-language print media that specifically serves Latino communities for announcements in English; recruitment of bilingual poll workers and interpreters, including assessment of their Spanish language proficiency; devising specific steps to provide election information to the Spanish-

speaking community; sending staff to make presentations and answer questions at events and meetings sponsored by Latino community organizations; and managing other aspects of the Program.

VI. Advisory Group:

A. The Program Coordinator shall establish and chair an Advisory Group to assist and inform the Bilingual Election Program and shall invite participation from all organizations listed in Attachment A, as well as other individuals and organizations that work with or serve the Spanish-speaking and Latino communities in Yakima County. Such Advisory Group shall be open to all interested persons.

B. The Advisory Group shall meet at least once a month in 2004, at least every two months during 2005, and as the group determines is necessary in 2006. In these meetings, Yakima County shall solicit information on how most effectively to provide election materials, information, and assistance to Spanish-speaking voters and how to publicize the County's Spanish language election program. The Program Coordinator shall provide notice of all planned meetings to each member, including the date, time, location, and meeting agenda at least 14 days in advance, although members of the Advisory Group may agree to waive or shorten this time period as necessary.

C. Within five days after each meeting, the Program Coordinator shall provide a written summary of the discussion and any decisions reached at the meeting to all members and to the County Auditor. If the County Auditor decides not to implement an Advisory Group suggestion or a consensus cannot be reached respecting such suggestion, the Auditor shall provide to the group through the Program Coordinator and maintain on file a written statement of the reasons for rejecting such suggestion.

D. The County shall transmit to all interested members of the advisory group copies, in English and Spanish, of all election information, announcements, and notices that are provided or made available to the electorate and general public and request that they share such information with their members.

VII. Evaluation of the plan

The parties recognize that regular and ongoing reassessment may be necessary in order to provide the most effective and efficient Spanish language program. Yakima County shall evaluate the Bilingual Election Program after each election cycle (e.g., following 2004 elections) to determine which aspects of the Bilingual Election Program are functioning well; whether any aspects need improvement; and how to make needed improvements. The program may be adjusted at any time upon written agreement of the parties.

1 VIII. Federal Examiners and Observers:

2 A. To monitor compliance with this Decree, the appointment of federal
3 examiners is authorized for Yakima County pursuant to Section 3(a) of the Voting
4 Rights Act, 42 U.S.C. 1973a (a), through December 31, 2006.

5 B. Yakima County acknowledges the authority of federal observers to
6 observe all aspects of voting conducted in the polls on election day, including the
7 observers' authority to view County personnel providing assistance to voters
8 during voting, except where the voter objects.

9 IX. Retention of Documents and Reporting Requirements

10 A. During the duration of this decree, the County shall make and maintain
11 written records of all actions taken pursuant to this Consent Decree. Such
12 documents, lists, and records shall be made available, upon reasonable notice, to
13 the United States for inspection and copying.

14 B. During the duration of this decree, at least ten (10) days before each
15 County-administered election held in the County, Yakima County shall provide to
16 counsel for the United States, the name, address, and precinct designation of each
17 polling place; the name and title of each poll worker appointed and assigned to
18 serve at each polling place; a designation of whether each poll worker is bilingual
19 in English and Spanish; and an electronic copy of the final, official voter

registration list to be used in each such election. Within thirty (30) days after each election, Yakima County shall provide to counsel for the United States any updated report regarding changes in these items as well as information about all complaints the County received at the election regarding language or assistance issues and the voters' registration list used in the election.

X. Duty to Defend Consent Decree

The parties to this Consent Decree shall employ their best efforts to defend this Consent Decree against any legal challenge.

XI. Jurisdiction

The Court shall retain jurisdiction of this case to enter further relief or such other orders as may be necessary for the effectuation of the terms of this agreement and to ensure compliance with Section 203.

XII. Termination of Consent Decree

This agreement is final and binding between the parties and their successors in office regarding the claims raised in this action. This agreement shall remain in effect through December 31, 2006, and the United States may, within 90 days of

that date, move to extend the decree for good cause shown, in the event of a violation of any provision contained herein by the County.

AGREED AND CONSENTED TO:

For Plaintiff:
UNITED STATES OF AMERICA

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For Defendants:

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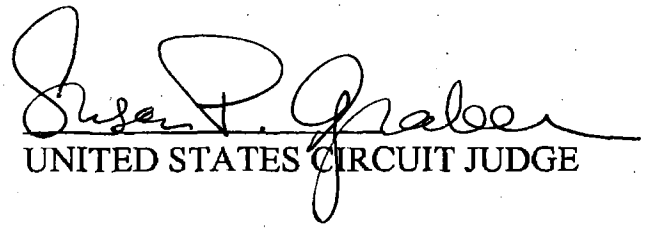
County Counsel, Yakima County
County Court House, Room 329
128 North Second Street
Yakima, Washington 98901

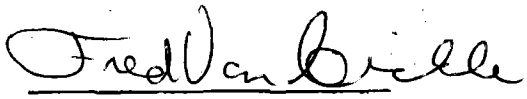
JUDGMENT AND ORDER

This three-judge Court, having been properly empaneled under 28 U.S.C. § 2284 to consider the United States' claim under Section 203 of the Voting Rights Act of 1965 (as amended), 42 U.S.C. § 1973aa-1a (1992), and having determined that it has jurisdiction over this claim, has considered the terms of the Consent Decree, hereby enters the relief set forth above and incorporates those terms herein.

ENTERED and ORDERED this 3rd day of September, 2004.



UNITED STATES CIRCUIT JUDGE



UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT JUDGE

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ATTACHMENT A: Community Contacts/Advisory Committee Members

Name	Address	Phone	E-mail	Fax	Notes
Aguilar, Bengie	529 Dayton Dr, Sunnyside 98944	837-7769	baguilar8@earthlink.net	836-5591	Sunnyside City Council
Aguilar, Juan					
Aguilera, Polo		574-1500			Owner, Petunia Markets
Aguilera-Flemming, Terri	4703 W Prasch Av, Yakima 98908				
Allec, Frank	152101 W County Rte 12, Prosser 99350	786-4532	kzkr@bentonrea.com	786-1181	LaMaquina Musical Radio Statior
Almeida, Raul					Mabton Police Chief
American Assc. for Ret. Peo.		966-6558			
American Civil Liberties Union		206-624-2184			
Americorps		800-880-4183			
Arevalo, Paul	128 Hawthorn Dr, Sunnyside 98944				Bilingual poll worker
Armendariz, Ernesto	P O Bxo 416, Mabton 98935	840-0357			Mabton City Council
Arteaga, Mateo	803 S 30th Av, Yakima 98908				
Baca, Mr.		574-4967			
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Berry, Bob	P O Box 2888, Yakima 98907	457-1000	bob@radiozorro.com	452-0541	Zorro Radio
City University		453-0303			
Community Services Offices		225-6100			Employment Opportunities
Contreras, M. Laura	6 S 2nd St #510, Yakima 98901	575-5593	laura.contreras@columbialegal	575-4404	Columbia Legal Services
Contreras, Myrna	312 N 5th Av, Yakima 98902	453-8888		576-8854	Attorney
Cordova, Rebecca	3171 Lateral A Rd, Wapato 98951	969-2828			Wapato School District Director
de la Cruz, Alex	1203 W Grandview Av, Sunnyside 98944	840-5065			Sunnyside City Council
Diaz, Fred	33 N D St, Toppenish 98948	865-5063			Toppenish City Council
Diaz, Kevin	402 S 17th Av, Yakima 98902				
Escobar, Ted	P O Box 511, Toppenish 98948	865-4055			VIVA
Farias, Jesse	316 Southpark Dr #A, Wapato 98951	877-6169			City of Wapato Mayor
Farm Workers Clin. Yak. Val.		865-5600			Servc. for seasonal & migratory f
Farm Workers Opp. Prog		837-8600			
Flores, Santiago	1012 W Mead Av, Yakima 98902				Bilingual poll worker
Flores, Sylvia	1002 N 16th Av, Yakima 98902	249-6015			DSHS - Dist. Mgr. - Division of C
Franco, Hector	815 N 28th Av, Yakima 98902	307-1183	hfranco@nwinfo.net		Hispanic Chamber of Commerce
Gamboa, Lupe	107 E Riverside Av, Sunnyside 98944				
Garcia, Avelina A.	P O Box 99, Harrah 98933	848-2370			Harrah Town Council
Garcia, Larry J.	P O Box 99, Harrah 98933	848-2370			Mt. Adams School District Directo
Garcia, Ricardo	P O Box 800, Granger 98932	877-6847			KDNA Radio, Manager
Garza, Lorenzo Jr.	314 Peach Av, Sunnyside 98944	837-0906			Sunnyside School District Directo

Gonzalez, Alfredo Jr.	P O Box 1225, Granger 98932	854-6276			Granger Town Council
Gonzalez, Tony	600 Hedrick Pl, Grandview 98930	882-3877			Grandview School District Directo
Guerra, Ernie	P O Box 463, Granger 98932	854-2727			Granger Town Council
Gutierrez, Luz Bazan	1424 S 31st Av, Yakima 98902	952-7860		453-5165	Rural Community Development R
Gutierrez, Ninfa R.		307-1247			VIVA
Guzman, Manuel	1550 Bus Rd, Mabton 98935	894-5204			Mabton School District Director
Guzman, Tony	102 N Central Av, Wapato 98951	877-2986			Wapato City Council
Heritage College		865-2244			
Hernandez, Mary					Project Change/Planned Parenth
Herrera, Velva L.	P O Box 771, Mabton 98935	894-3435			Mabton City Council
Jiminez, Clara	1122 Satus Av, Toppenish 98948	865-4222			Toppenish City Council
Lara, Victor	216 S 32nd Av, Yakima 98902				Attorney
Larez, Thomas A.	131 Washington St, Harrah 98933	848-2047			Harrah Town Council
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Macias, Gonzalo	25 N I St, Toppenish 98948	865-5033			Toppenish School District Directo
Mendoza, Gloria	109 W 2nd St, Grandview 98930	882-2523			GMC Training Institute
Migrant Alternative School		575-3492			
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Morales, Jose	1231 Donald Rd, Wapato 98951	307-0203			
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Olivares, Carlos	116 Park Av, Yakima 98902				
Oppo. Industr. Center		248-6751			Migrant Education Program
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Orosco, Juan					City of Wapato Councilmember
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People for People		248-6726			Adult employment services
Perez, Patrick	1118 Queen Av, Yakima 98902	453-6697			
Perez, Velma	1407 S 20th Av, Yakima 98902	457-4662			Hispanic Chamber of Commerce
Perry Technical Institute		453-0374			
Planned Parenthood		248-3628			

Rodgriguez, Sonja		453-8888			
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Retired Senio Volunt. Prog.		575-4224	Volunteer placement		
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Trejo, Viviana	708 Pine St, Mabton 98935	894-4671			Mabton School District Director
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Villanueva, Janie	Catholic Diocese, 5301 Tieton Dr, 98908				Catholic Diocese - Holy Family
Villanueva, Jose					Community Member
Villanueva, Tomas	140 Youngstown Rd, Toppenish 98948				DSHS
Villarreal, Lilia O.	720 Second Av, Granger 98932	854-2511			Granger Town Council
Volunt. & Car. Ctr of Yak. Cty		457-6850			Career Center seeks to promote v
WorkSource		574-0105			Employment and training services
Yakima ICNE Outreach Prog.		575-2130			
Yakima Interfaith Coalition		457-5058			Outreach Services
Yakima Tribal Council		865-5121			Employment training, education
Yakima Valley Comm. College		575-2427			International Students Program
Yakima Valley Farm Wor. Cl.		865-3054			Education and supportive service
Ybarra, Natalie	221 E St, Granger 98932	854-1801			Granger Town Council
Ybarra, Vickie	708 S 17th Av, Yakima 98902	249-1268	vickiey@yvfwc.org		Yakima Valley Farmworkers Clinic
Zavala, Vera C.	P O Box 614, Mabton 98935	894-4273			Mabton City Council

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