

November 20, 2017

Dear Counsel:

Thank you for your comments of November 15 on my Draft Final Report. The comments are very useful.

Having reviewed the comments, I do not see any reason to request replies on the issues on which Montana and Wyoming clearly disagree—(1) the evidence on which Montana must base call decisions for the Tongue River Reservoir (¶¶ B(2) and B(6) of the Decree), (2) whether the Decree should include appendices of the two states' water rights (¶ G(1)), and (3) whether a state must annually provide information that is publicly available to the other state (¶ G(1)). I fully understand the positions of both parties on both the call requirements and the information exchange.

Both Montana and Wyoming also suggest various changes to the Decree that, at first glance, would appear to improve the clarity of the Decree and/or ensure its consistency with the Compact. These changes include:


- Montana's suggestion that "post-1950 appropriative rights" be changed to "post-January 1, 1950 appropriative rights" in ¶¶ B(7), D(1), and D(2) of the Decree [see pp. A-3 to A-4 of Montana's red-lined copy of the Draft Final Report];
- Montana's suggestion that ¶ G(1) be clarified to refer to "current surface water rights" rather than just "current water rights" [see p. A-5 of Montana's red-lined copy of the Draft Final Report, and p. 1 of Montana's Response to the (Draft) Final Report of the Special Master]; and
- Wyoming's proposed changes to ¶¶ A(1), B(1), B(6), B(7), D(1), E(1), G(2), and G(4) of the Decree [see pp. 2-3 of WY Comments on the (Draft) Final Report of the Special Master].

Please let me know no later than Monday, November 27, if you object to any of these changes suggested by the other party. If you object, please explain.

Finally, Wyoming suggests the elimination of ¶ F(3) (dealing with changes in the operating procedures of reservoirs on the Tongue River and its tributaries). I would appreciate knowing Montana's brief views on this suggestion, again no later than Monday, November 27.

Thank you very much again for your assistance.

Sincerely yours,



Barton Thompson