

**No. 137, Original**

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**In the  
SUPREME COURT OF THE UNITED STATES**

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**STATE OF MONTANA, PLAINTIFF**

**v.**

**STATE OF WYOMING**

**and**

**STATE OF NORTH DAKOTA, DEFENDANTS**

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**OFFICE OF THE SPEICAL MASTER**

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**CASE MANAGEMENT ORDER NO. 1**

**November 25, 2008**

## **CASE MANAGEMENT ORDER NO. 1**

For the purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

### **1. Case Management Orders.**

The Special Master will issue Case Management Orders at such times as he deems appropriate. The Case Management Orders will apply to and bind all parties, will control the course of the proceedings, and may be modified only by order of the Special Master.

### **2. Filing of Papers with the Special Master and Service.**

All documents shall be filed pursuant to the United States Supreme Court rules, except that all pleadings, papers, and documents should be filed with the Special Master on 8 ½ x 11 inch paper. The parties shall make filings with the Special Master and service upon the other parties by PDF files sent by e-mail, with copies of all materials transmitted by e-mail also sent by first-class mail. In the event filings are too bulky, or otherwise unsuitable, for transmission by electronic means, they shall be sent by some means of overnight delivery. Four copies of each document shall be sent to the Special Master. Distribution need be made only to counsel and only in the quantities shown on the Distribution List for Service of Documents, attached as Appendix A. All pleadings, papers, and other documents submitted to the Special Master must indicate, in the certificate of service or elsewhere, the means by which service or transmittal has been accomplished.

### **3. Distribution List for Service of Documents.**

The current Distribution List for Service of Documents is attached as Appendix A to this Order.

### **4. Hearing on State of Wyoming's Motion to Dismiss.**

The Special Master will hear the State of Wyoming's Motion to Dismiss at 10 a.m. on Tuesday, February 3, 2009, in Courtroom 2 of the Byron White U.S. Court House, 1823 Stout Street, Denver, Colorado. The State of Wyoming and the State of Montana will each have 30 minutes for oral argument. The United States of America, as amicus curiae, will have 20 minutes. The Special Master understands that the State of North Dakota does not currently plan to present oral argument on the motion.

### **5. Joint Appendix**

On or before Friday, December 5, 2008, the State of Montana shall file a Joint Appendix with the Special Master. Counsel for the State of Montana will work with counsel for all other parties in developing the Joint Appendix. The Joint Appendix shall

counsel for all other parties in developing the Joint Appendix. The Joint Appendix shall contain all primary documents that either party cites in its brief(s) regarding the Motion to Dismiss, plans to cite in its oral argument, or believes that the Special Master should consult in resolving the motion. The purpose of the Joint Appendix is to provide the Special Master with copies of potentially relevant documents to which he is not otherwise likely to have access. Inclusion of a document in the Joint Appendix does not constitute agreement by the parties that the document is relevant to the motion, but does reflect agreement that the document is authentic. The parties shall work in good faith to agree on the authenticity of documents. The pages of the Joint Appendix shall be numbered consecutively. The Joint Appendix shall be prefaced by a table of contents showing the documents that it contains, in the order in which the documents are set out, with references to the pages of the joint appendix at which each document begins. Maps and other large documents that do not fit easily into the Joint Appendix can be filed separately, if necessary. Omissions in any documents contained in the Joint Appendix shall be clearly indicated. For good cause shown, the Special Master can extend the date on which the Joint Appendix is due. Four copies of the Joint Appendix shall be filed with the Special Master. Copies shall also be served on all parties pursuant to paragraph 2 of this order, and two copies shall be served on the United States as amicus curiae.

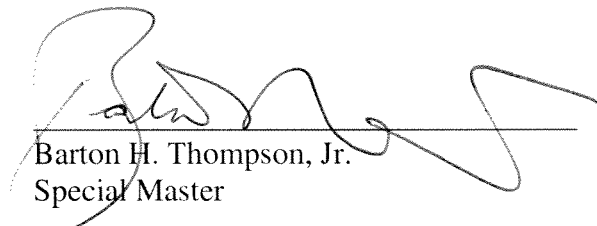
#### **6. Motion of Anadarko Petroleum**

The Motion of Anadarko Petroleum Corporation for Leave to File *Amicus* Brief is granted. Leave for this purpose extends only to the filing of the *Amicus* Brief In Support of Defendant State of Wyoming, filed April 25, 2008 with the Clerk of the United States Supreme Court, on the Motion to Dismiss the Bill of Complaint.

#### **7. Requests for Modification or Supplementation**

Any requests for modification or supplementation of this Case Management Order should be received by the Special Master on or before Wednesday, December 3, 2008.

Date: November 25, 2008



Barton H. Thompson, Jr.  
Special Master

Woods Institute  
Jerry Yang & Akiko Yamazaki Environment  
& Energy Building -- MC 4205  
473 Via Ortega

**Appendix A**  
**Distribution List for Service of Documents**

**NO. 220137 ORG**  
**MONTANA v. WYOMING and NORTH DAKOTA**  
**Docketed February 2, 2007**

**Parties**

<b>Montana</b>	Sarah A. Bond, Counsel of Record Jennifer Anders Montana Attorney General's Office 215 North Sanders P.O. Box 201401 Helena, MT 59620-1401	(406) 444-5894 <a href="mailto:sbond@mt.gov">sbond@mt.gov</a> <a href="mailto:janders@mt.gov">janders@mt.gov</a>  3 copies
	John B. Draper Montgomery & Andrews 325 Paseo de Peralta Santa Fe, NM 87501	(505) 986-2525 <a href="mailto:jdraper@montand.com">jdraper@montand.com</a>  1 copy
<b>Wyoming</b>	Peter Michael, Counsel of Record Jay Jerde David J. Willms Wyoming Attorney General's Office 123 Capitol Building Cheyenne, WY 82002	(307) 777-6196 <a href="mailto:pmicha@state.wy.us">pmicha@state.wy.us</a> <a href="mailto:jjerde@state.wy.us">jjerde@state.wy.us</a> <a href="mailto:dwillm@state.wy.us">dwillm@state.wy.us</a>  4 copies
<b>North Dakota</b>	Todd Adam Sattler, Counsel of Record North Dakota Attorney General's Office 500 North Ninth Street Bismarck, ND 58501	(701) 328-3640 <a href="mailto:tsattler@nd.gov">tsattler@nd.gov</a>  2 copies

**Amicus (For Informational Purposes Only)**

<b>United States</b>	James Dubois U.S. Dept. of Justice Environment and Natural Resources Division Natural Resources Section 1961 Stout Street, 8th Floor Denver, CO 80294	(303) 844-1375 (303) 844-1350 <a href="mailto:james.dubois@usdoj.gov">james.dubois@usdoj.gov</a>
	William M. Jay Solicitor General United States Department of Justice 950 Pennsylvania Avenue, N.W. Washington, DC 20530-0001	(202) 514-8976 (303) 844-1375 <a href="mailto:william.m.jay@usdoj.gov">william.m.jay@usdoj.gov</a>
<b>Anadarko</b>	James Joseph Dragna Michael Wigmore 355 South Grand Avenue Suite 4400 Los Angeles, CA 90071	(213) 680-6436 <a href="mailto:michael.wigmore@bingham.com">michael.wigmore@bingham.com</a>

<b>N. Cheyenne</b>	Jeanne S. Whiteing Whiteing & Smith 1136 Pearl Street, Suite 203 Boulder, CO 80302	303-444-2549 <a href="mailto:jwhiteing@whiteingsmith.com">jwhiteing@whiteingsmith.com</a>
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**Special Master**

<b>Special Master</b>	Barton H. Thompson Jr. Susan Carter, Assistant Jerry Yang and Akiko Yamazaki Environment & Energy Building, MC-4205 473 via Ortega Stanford, CA 94305-4205	(650) 736-8668 (650) 721-1488 <a href="mailto:susan.carter@stanford.edu">susan.carter@stanford.edu</a>
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