



**MONTGOMERY
& ANDREWS**

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U.S. MAIL AND EMAIL

September 3, 2010

Barton H. Thompson, Jr.,
Special Master
Woods Institute
Jerry Yang and Akiko Yamazaki
Environment & Energy Bldg., C-4205
473 via Ortega
Stanford, CA 94305-4205
susan.carter@stanford.edu

**Re: *Montana v. Wyoming & North Dakota*
No. 137, Orig., U.S. Supreme Court
Joint Progress Report**

Dear Special Master Thompson:

This Joint Progress Report is submitted with the approval of the States of Montana, Wyoming and North Dakota.

In accordance with Case Management Order No. 5, the States have met and conferred by telephone to discuss the value, efficiency, and appropriateness of proceeding with select aspects of this case pending the Supreme Court's resolution of Montana's Exception to the First Interim Report of the Special Master. The Joint Progress Report of the States resulting from their discussion is as follows:

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REPLY TO:

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Barton H. Thompson, Jr.

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1. The States believe that they are in a position to draft a proposed Case Management Plan pursuant to the following schedule:

- October 8, 2010: Montana circulates an initial draft to the other States and the Amici;
- October 22, 2010: Wyoming, North Dakota and the Amici provide comments on the draft;
- October 29, 2010: The States and Amici confer by telephone to resolve outstanding issues;
- November 5, 2010: The States jointly submit to the Special Master a proposed Case Management Plan for his review and resolution of any remaining disagreements;

The parties note that they expect to submit a proposed Case Management Plan that lacks specific deadlines for completion of various discovery and disclosure tasks, such specific deadlines to be settled after the Supreme Court rules on Montana's Exception by agreement or by order of the Special Master.

2. The States believe that it is premature at this time to identify the specific legal and factual issues that will need to be resolved in connection with those elements of Montana's Bill of Complaint that are not the direct subject of Montana's Exception, but that a schedule for identifying such issues could be included in the proposed Case Management Plan;

3. The States continue to believe that it is premature at this time to proceed with discovery;

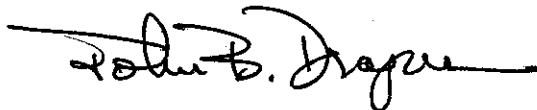
4. Although the States discussed whether there were other actions that might be useful at this stage of the proceeding, they were unable to identify any such actions.

The States look forward to discussing these matters further with you at the telephonic Status Conference scheduled for September 17, 2010, at 9:00 am PDT.

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Best regards from all three States --

Sincerely yours,

A handwritten signature in black ink, appearing to read "John B. Draper". The signature is written in a cursive style with a long horizontal stroke at the end.

John B. Draper

JBD:dlo

cc: (U.S. Mail & Email)
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