

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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Before the Honorable Barton H. Thompson, Jr.  
Special Master

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**MONTANA'S SECOND SET OF INTERROGATORIES AND  
REQUESTS FOR PRODUCTION TO WYOMING**

TIMOTHY C. FOX  
Attorney General of Montana  
CORY J. SWANSON  
Deputy Attorney General  
ANNE YATES  
BRIAN BRAMBLETT  
KEVIN PETERSON  
Special Assistant Attorneys General  
215 North Sanders  
Helena, Montana 59620-1401

JOHN B. DRAPER\*  
JEFFREY J. WECHSLER  
Special Assistant Attorneys General  
MONTGOMERY & ANDREWS, P.A.  
Post Office Box 2307  
Santa Fe, New Mexico 87504-2307  
(505) 982-3873

June 11, 2013

*\*Counsel of Record*

TO: State of Wyoming  
c/o Peter K. Michael, Esq.  
Chief Deputy Attorney General  
123 State Capitol Building  
Cheyenne, WY 82002  
Counsel of Record for Wyoming

Pursuant to Case Management Plan No. 1 (December 20, 2011) ("CMP No. 1"), as modified, Plaintiff the State of Montana hereby propounds its Second Set of Interrogatories and Requests for Production to the State of Wyoming. The State of Wyoming is requested to respond in accordance with Section VIII.C.1 of CMP No. 1.

### **INSTRUCTIONS**

1. In responding to these interrogatories and requests for production, you are required to furnish all information and documents that are available to you or subject to your reasonable inquiry including information in the possession of your attorneys, representatives, and anyone else otherwise subject to your control.

2. In responding to these interrogatories and requests for production, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives, including electronically stored information.

3. If an interrogatory or request for production has subparts, answer each part separately and in full, and do not limit your answer to the interrogatory or request for production as a whole. If these interrogatories or requests for production cannot be answered in full, answer to the extent possible, specify the reason for your inability to answer the remainder, and state whatever information and knowledge you have regarding the unanswered portion.

4. With respect to each interrogatory or request for production, in addition to supplying the information asked for and identifying the specific documents referred to, identify and describe all documents to which you refer in preparing your answers.

5. The interrogatories and requests for production are continuing and the answers thereto must be supplemented as provided in Section VIII.H of CMP No. 1.

6. For information you withhold because of a claim of privilege, state the general nature of the information and set forth the nature of the privileged claim, as to each document over which privilege is claimed, state the date of the document, the author of the document, the person to whom the document is addressed, the general substance of the document and the reason the privilege is claimed.

7. If your answer to any interrogatory or request for admission is that you lack knowledge of the requested information, describe all efforts made by you to obtain the information necessary to answer that interrogatory, request for production or request for admission.

8. If any interrogatory, request for production or request for admission cannot be satisfied in full, satisfy it to the fullest extent possible, specifying the reasons for your inability to respond fully, and identify the date by which you will make a complete response.

#### **DEFINITIONS**

Unless otherwise indicated, the following definitions shall be applicable to the interrogatory, request for production, and request for admission:

- A. "CBM" means coalbed methane production or development.

B. "CBM water" means water produced in connection with coalbed methane production or development.

C. The term "communication" means any formal or informal, written or oral, recorded or unrecorded, exchange of ideas or information.

D. "Compact" means the Yellowstone River Compact.

E. The words "document" and "documents" mean all written, recorded, electronic or graphic matters, however produced or reproduced, whether or not privileged, pertaining in any way to the subject matter of this action. This definition includes, but is not limited to, any and all originals, copies, or drafts of any and all of the following: records; notes; summaries; schedules; contracts or agreements; drawings; sketches; invoices, orders or acknowledgements; diaries, reports, forecasts or appraisals; memoranda of telephone or in person conversations by or with any person, or any other memoranda; letters, emails, telegrams, telexes, or cables prepared, drafted, received or sent; tapes, transcripts, or recordings; photographs, pictures or films; computer programs or data or other graphic, symbolic, recorded or written materials of any nature whatsoever. Any document which contains any comment, notation, addition, insertion or marking of any kind which is not part of another document or any document which does not contain any comment, notation, addition, insertion, or marking of any kind which is part of another document, is to be considered a separate document.

In each instance wherein you are asked to identify or describe a document, or provide identification of a document, your description should be sufficient to satisfy the requirements of CMP No. 1 and should include, but not be limited to:

(1) The nature of the document or writing, e.g., letter, memorandum, etc.;

(2) the name, address, telephone number, occupation, job title and employer of the present custodian of the document;

(3) by whom the document or writing was prepared, including that person's name, address, telephone number, occupation, job title and employer;

(4) the date of the making of the document and the name, address, telephone number, occupation, job title and employer of each person whose testimony could be used to authenticate such document and lay the foundation for its introduction into evidence;

(5) to whom the document was sent, including those persons' names, addresses, telephone numbers, occupations, job titles and employers.

F. The term "identify" in reference to an event or occurrence shall mean to state the date, time and place of the event or occurrence, the persons present or participating, the topic of discussion, and any documents presented by or exchanged among one or more of the participants.

G. "Knowledge" includes first-hand information and information derived from any other source including hearsay knowledge.

H. "Parcel" shall mean a distinct, continuous portion or tract of land.

I. "Person" shall mean and include a natural person, kind of business or legal entity, its agents, directors, officer or employees.

J. "Powder River" shall include all tributaries to the Powder River, including the Little Powder River.

K. The terms "regulate" and "regulation" shall mean any act intentionally undertaken by an official, employee, or agent of a state, to limit, curtail, control, adjust, or regulate the quantity of water available to one or more Water Right or holders of Water Rights or available to any other water users who lack Water Rights, including, but not limited to, physical acts, orders, administrative proceedings, or litigation initiated by the official, employee or agent.

L. "Tongue River" shall include all tributaries to the Tongue River.

M. "water right" shall mean a water right of any kind or nature, including, but not limited to, adjudicated, non-adjudicated, federal reserved, surface, storage, and instream or groundwater rights, within the State of Wyoming.

N. The term "water user" shall mean any individual, entity or corporation, including public and private institutions, that has a water right, or diverts or appropriates water.

O. The terms "you" or "your" shall refer to the State of Wyoming, including any of its employees or agents.

## INTERROGATORIES

### INTERROGATORY NO. 2-1:

Please identify each person answering or supplying information for the answering of these interrogatories, identifying the number of the interrogatory that the person answered or supplied information for answering.

### RESPONSE:

### INTERROGATORY NO. 2-2:

In the *Yellowstone River Compact Commission Fifty-Second Annual Report 2003*, <http://yrcc.usgs.gov/support.docs/YRCCAnnualReport2003.pdf>, Pat Tyrrell stated that “Wyoming has also expended considerable effort to reduce consumption of water and help alleviate shortages, particularly for municipalities through issue of temporary permits and temporary sharing of water rights.” With regard to this statement please:

- (a) Identify each municipality to which Mr. Tyrrell refers.
- (b) Explain what a “temporary permit” is.
- (c) Identify each “temporary permit” by number, entity name, flow rate, volume, purpose, priority date, and length of time permit is effective.
- (d) Explain what Mr. Tyrrell meant by “temporary sharing of water rights.”

- (e) Identify each water right involved in the “temporary sharing of water rights” by number, entity name, flow rate, volume, purpose, priority date, and the period of time in which it was involved in the temporary sharing.

**RESPONSE:**

**INTERROGATORY NO. 2-3:**

In the *Powder/Tongue Basin Advisory Group Meeting Record, Sheridan Inn-Sheridan, August 16, 2000*, <http://waterplan.state.wy.us/BAG/powder/20000816.pdf>, Sue Lowery is documented as explaining the following:

Sue Lowry of the State Engineer’s Office explained the water right attribution process begins with mapping irrigated lands parcels from aerial photography on a quad-level scale. The consulting team will then research the records in the State Engineer’s Office to identify groupings of water rights associated with the irrigated parcels. This process does not map water rights. It is known there are a lot more paper rights on the books than there is water actually being used. Knowing the number of acres irrigated, the type of crops irrigated, and the consumptive requirement of the crops, the actual water use can be determined as opposed to a determination of the total water rights that are on the books.

With regard to this statement please:

- (a) Identify each water right in the Tongue River Basin to which Ms. Lowery is referring when she states “paper rights on the books.”
- (b) For each water right, identify the number, entity name, flow rate, volume, purpose, and priority date.
- (c) For each water right, identify which amount (flow rate and volume) of the water right is “paper” and which amount is actually used.



(d) Identify each of the legal authorities on which you base this contention.

**RESPONSE:**

**INTERROGATORY NO. 2-4:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 2006. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;
- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-5:**

If the State of Wyoming alleges that CBM water used on any parcel described in the response to Interrogatory No. 2-4 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-6:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 2004. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;

- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-7:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-6 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-8:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 2003. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;
- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-9:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-8 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-10:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 2002. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;

- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-11:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-10 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-12:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 2001. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;
- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-13:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-12 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-14:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 2000. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;



- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-15:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-14 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-16:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 1989. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;
- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-17:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-16 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-18:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 1988. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;

- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-19:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-18 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-20:**

Please identify each parcel in the Tongue River Basin that the State of Wyoming alleges or has knowledge was irrigated by CBM water in 1987. For each parcel, please provide the following information:

- (a) The name, address, and telephone number of the owner of the identified parcel;
- (b) The map location of the parcel;
- (c) The water right number for the CBM water;
- (d) The number of acres irrigated with CBM water;
- (e) The volume of CBM water used on the parcel;
- (f) The water right number of any other water right(s) that could legally be used on the parcel; and
- (g) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-21:**

If the State of Wyoming alleges that CBM water used on any parcel described in Interrogatory No. 2-20 contributed in any way to surface water flows in the Tongue River, please provide the following information for each parcel:

- (a) The location at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water used for irrigation on the parcel allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water used for irrigation on the parcel that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-22:**

Please identify each reservoir in the Tongue River Basin in 2006 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-23:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-22 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-24:**

Please identify each reservoir in the Tongue River Basin in 2004 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-25:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-24 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-26:**

Please identify each reservoir in the Tongue River Basin in 2003 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**



**INTERROGATORY NO. 2-27:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-26 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-28:**

Please identify each reservoir in the Tongue River Basin in 2002 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-29:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-28 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-30:**

Please identify each reservoir in the Tongue River Basin in 2001 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-31:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-30 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-32:**

Please identify each reservoir in the Tongue River Basin in 2000 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-33:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-32 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-34:**

Please identify each reservoir in the Tongue River Basin in 1989 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-35:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-34 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-36:**

Please identify each reservoir in the Tongue River Basin in 1988 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-37:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-36 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-38:**

Please identify each reservoir in the Tongue River Basin in 1987 containing CBM water, and describe each reservoir by location, owner, water right number, capacity, and volume.

**RESPONSE:**

**INTERROGATORY NO. 2-39:**

If the State of Wyoming alleges that CBM water stored in any reservoir described in Interrogatory No. 2-38 contributed in any way to surface water flows in the Tongue River, please provide the following information for each reservoir:

- (a) The location at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (b) The flow rate at which CBM water stored in each reservoir allegedly discharged to the Tongue River;
- (c) The total annual volume of CBM water stored in each reservoir that allegedly discharged to the Tongue River; and
- (d) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-40:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 2006. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;

- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-41:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 2004. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-42:**



Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 2003. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-43:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 2002. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-44:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 2001. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-45:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 2000. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;

- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-46:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 1989. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-47:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 1988. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-48:**

Please identify each parcel in the Tongue River Basin irrigated by water from the Powder River Basin, including but not limited to Kearney Lake, in 1987. For each parcel, identify following:

- (a) The location, source and water right number(s) of the water from the Powder River Basin;
- (b) The flow rate and volume of Powder River water used on each parcel; and
- (c) The number of each non-Powder River water right that could be legally used on that parcel.

**RESPONSE:**

**INTERROGATORY NO. 2-49:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 2006.

**RESPONSE:**

**INTERROGATORY NO. 2-50:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 2004.

**RESPONSE:**

**INTERROGATORY NO. 2-51:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 2003.

**RESPONSE:**

**INTERROGATORY 2-52:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 2002.

**RESPONSE:**

**INTERROGATORY 2-53:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 2001.

**RESPONSE:**

**INTERROGATORY 2-54:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 2000.

**RESPONSE:**

**INTERROGATORY 2-55:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 1989.

**RESPONSE:**

**INTERROGATORY 2-56:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 1988.

**RESPONSE:**

**INTERROGATORY 2-57:**

Please identify the flow rate and volume of water from Kearney Reservoir used in the Tongue River Basin in 1987.

**RESPONSE:**

**INTERROGATORY 2-58:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 2006. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and

(e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-59:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 2004. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-60:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 2003. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s)



responsible for regulating the water right for Wyoming;

- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-61:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 2002. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-62:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 2001. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-63:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 2000. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a

description of the extent to which the flow rate and volume were regulated;

- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-64:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 1989. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-65:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 1988. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-66:**

Please identify by number and priority date each water right with a point of diversion on the mainstem of the Tongue River that the State of Wyoming regulated in priority in 1987. For each such water right regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the water right for Wyoming;
- (b) Describe how the water right was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;

- (c) The date(s) the water right was regulated;
- (d) The length of time the water right was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-67:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated in priority in 2006. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 2-68:**

Please identify by water right number and priority date each groundwater well in

the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 2004. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-69:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 2003. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and

- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-70:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 2002. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-71:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 2001. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s)

responsible for regulating the groundwater well for Wyoming;

- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-72:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 2000. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**



**INTERROGATORY 2-73:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 1989. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-74:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 1988. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a

description of the extent to which the flow rate and volume were regulated;

- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-75:**

Please identify by water right number and priority date each groundwater well in the Tongue River Basin that the State of Wyoming regulated or curtailed in priority in 1987. For each such groundwater well regulated by Wyoming, please:

- (a) Provide the name, address, and telephone number of the individual(s) responsible for regulating the groundwater well for Wyoming;
- (b) Describe how the groundwater well was regulated in priority, including a description of the extent to which the flow rate and volume were regulated;
- (c) The date(s) the groundwater well was regulated;
- (d) The length of time the groundwater well was regulated; and
- (e) Identify all documents relied upon in answering this interrogatory.

**RESPONSE:**

**INTERROGATORY 2-76:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2006. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-77:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2005. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-78:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2004. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-79:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2003. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-80:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2002. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-81:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2001. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-82:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 2000. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-83:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 1989. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-84:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 1988. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-85:**

Please identify each reservoir with a capacity greater than 5 acre-feet in the Tongue River Basin that was not regulated in priority by the State of Wyoming in 1987. For each reservoir, identify the location, water right number, capacity, and priority date.

**RESPONSE:**

**INTERROGATORY NO. 2-86:**

Please describe the process in Wyoming for adjudicating a water right for subirrigation.

**RESPONSE:**

**INTERROGATORY NO. 2-87:**

Has the State of Wyoming ever regulated in priority subirrigation water rights in the Tongue River Basin? If so, how?

**RESPONSE:**

**INTERROGATORY NO. 2-88:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2000 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-89:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2001 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-90:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2002 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-91:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2003 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-92:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2004 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-93:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2005 relating to or regarding the Yellowstone River Compact relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-94:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2006 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**



**INTERROGATORY NO. 2-95:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2007 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-96:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2008 relating to or regarding the Yellowstone River Compact relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-97:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2009 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-98:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2010 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-99:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2011 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-100:**

Please identify each water user in the Tongue River Basin with whom any employee of the Wyoming Attorney General's Office communicated in 2012 relating to or regarding the Yellowstone River Compact.

**RESPONSE:**

**INTERROGATORY NO. 2-101:**

Please identify by name, address and telephone number each person or entity with which the State of Wyoming has or had a contract for services of any kind related to this case.

**RESPONSE:**

**INTERROGATORY NO. 2-102:**

Please identify each instream flow water right in the Tongue River, including the water right number, priority date, flow rate and owner.

**RESPONSE;**

**INTERROGATORY NO. 2-103:**

Please identify each water right in the Tongue River Basin with a priority date prior to January 1, 1950, where storage greater than 1 acre-foot was added after that date, including the water right number, date storage was added, and the capacity of the storage.

**RESPONSE:**

**INTERROGATORY NO. 2-104:**

Were any verbal or written complaints made to the Wyoming State Engineer's Office by water users in the Tongue River Basin regarding a hydrographer/water commissioner or the regulation or curtailment of water by an employee of the State of Wyoming in any year from 1987 to 1989, or 2000 to 2007? If so, please identify the name, address and telephone number of the complainant, the date the complaint was made, the hydrographer or employee that was the subject of the complaint, and describe the substance of the complaint.

**RESPONSE:**

**INTERROGATORY NO. 2-105:**

Please identify each small water project in the Tongue River Basin approved by the Wyoming Water Development Commission under the Small Water Project program, W.S. 99-3-703(j). Identify the name and address of the applicant and the date of approval, and describe the project approved.

**RESPONSE:**

**INTERROGATORY NO. 2-106:**

Please describe how Wyoming calculated "Wyoming's Remaining Allocation of Available Flow per Yellowstone River Compact" for each "wet," "average," and "dry" year for the Tongue River in the State Water Plan at [http://waterplan.state.wy.us/BAG/powder/briefbook/pt\\_finalpres2/sld008.html](http://waterplan.state.wy.us/BAG/powder/briefbook/pt_finalpres2/sld008.html)

**RESPONSE:**

**INTERROGATORY NO. 2-107:**

Please identify each hydraulic fracturing well in the Tongue River Basin and its source of water, including the location of the well and any permit number from the State of Wyoming.

**RESPONSE:**

**INTERROGATORY NO. 2-108:**

Please identify each reservoir in the Tongue River Basin in Wyoming that fully closed its outlet works October 30 until April 1 for the water year 2001.

**RESPONSE:**

**INTERROGATORY NO. 2-109:**

Please identify each reservoir in the Tongue River Basin in Wyoming that fully closed its outlet works October 30 until April 1 for the water year 2002.

**RESPONSE:**

**INTERROGATORY NO. 2-110:**

Please identify each reservoir in the Tongue River Basin in Wyoming that fully closed its outlet works October 30 until April 1 for the water year 2003.

**RESPONSE:**

**INTERROGATORY NO. 2-111:**

Please identify each reservoir in the Tongue River Basin in Wyoming that fully closed its outlet works October 30 until April 1 for the water year 2004.

**RESPONSE:**

**INTERROGATORY NO. 2-112:**

Please identify each reservoir in the Tongue River Basin in Wyoming that fully closed its outlet works October 30 until April 1 for the water year 2006.

**RESPONSE:**

**INTERROGATORY NO. 2-113:**

For each reservoir you identified in response to Interrogatory Nos. 2-108 - 2-112, identify the following:

- (a) owner's name and address.
- (b) If located on federal land, identify if there is a special use permit for the reservoir.
- (c) operator of the reservoir if different from the owner
- (d) whether release records are maintained for each irrigation season (April to October 30) and for the time period between irrigation seasons.

**RESPONSE:**

**INTERROGATORY NO. 2-114:**

Please identify each reservoir in the Tongue River Basin in Wyoming that released water, whether intermittently or continuously, irrespective of volume, after October 30, 2000 and before April 1, 2001.

**RESPONSE:**

**INTERROGATORY NO. 2-115:**

Please identify each reservoir in the Tongue River Basin in Wyoming that released water, whether intermittently or continuously, irrespective of volume, after October 30, 2001 and before April 1, 2002.

**RESPONSE:**

**INTERROGATORY NO. 2-116:**

Please identify each reservoir in the Tongue River Basin in Wyoming that released water, whether intermittently or continuously, irrespective of volume, after October 30, 2002 and before April 1, 2003.

**RESPONSE:**

**INTERROGATORY NO. 2-117:**

Please identify each reservoir in the Tongue River Basin in Wyoming that released water, whether intermittently or continuously, irrespective of volume, after October 30, 2003 and before April 1, 2004.

**RESPONSE:**



**INTERROGATORY NO. 2-118:**

Please identify each reservoir in the Tongue River Basin in Wyoming that released water, whether intermittently or continuously, irrespective of volume, after October 30, 2005 and before April 1, 2006.

**RESPONSE:**

**INTERROGATORY NO. 2-119:**

For each reservoir you identified in response to Interrogatory Nos. 2-115 - 2-119, identify the following:

- (a) owner's name and address.
- (b) If located on federal land, identify if there is a special use permit for the reservoir.
- (c) operator of the reservoir if different from the owner
- (d) whether release records are maintained for each reservoir.
- (e) The amount and purpose of the minimum flow and release.
- (f) name and address of the person or entity for whom any minimum flow or release occurred.
- (g) any legal requirement for the minimum flow or release.

**RESPONSE:**



**SECOND SET OF REQUESTS FOR PRODUCTION**

**REQUEST NO 2-1:**

Please produce all documents identified in Interrogatories 2-3 through 2-20.

**RESPONSE:**

**REQUEST NO 2-2:**

Please produce all documents identified in Interrogatories 2-21 through 2-38.

**RESPONSE:**

**REQUEST NO 2-3:**

Please produce all documents identified in Interrogatories 2-57 through 2-65.

**RESPONSE:**

**REQUEST NO 2-4:**

Please produce all documents identified in Interrogatories 2-66 through 2-74.

**RESPONSE:**

**REQUEST NO 2-5:**

Please produce all documents used in responding to Interrogatories 2-109 through 2-119.

**RESPONSE:**

**REQUEST NO 2-6:**

On page 180, Lines 18-23, of Wyoming's deposition of Dale Book, Mr. Kaste references a Memorandum of Understanding (MOU) "between the State of Wyoming and the State of Montana. [A]nd the MOU says, for purposes of reservoir inflows, [W]e're going to treat water rights between 1950 and 1980 as if they were water rights retained before 1950." Please produce a copy of the referenced MOU.

**RESPONSE:**

**REQUEST NO 2-7:**

Please produce a spreadsheet showing or listing approvals of any and all changes for each water right with a priority date before January 1, 1950, in the Tongue River Basin in Wyoming.

**RESPONSE:**

**REQUEST NO 2-8:**

Please produce all communications between any water right holder or water user in the Tongue River Basin and any member of the Wyoming Attorney General's Office from 2003 to the present.

**RESPONSE:**

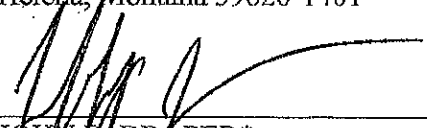
**REQUEST NO 2-9:**

Please produce all proposed, draft or final agreements between the United States (or any agency thereof) and the State of Wyoming (or any agency thereof) concerning any federal reservoir in Wyoming and releases from that reservoir.

**RESPONSE:**

Respectfully submitted,

TIMOTHY C. FOX  
Attorney General of Montana  
CORY J. SWANSON  
Deputy Attorney General  
ANNE YATES  
BRIAN BRAMBLETT  
KEVIN PETERSON  
Special Assistant Attorneys General  
215 North Sanders  
Helena, Montana 59620-1401



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JOHN B. DRAPER\*  
JEFFREY J. WECHSLER  
Special Assistant Attorneys General  
MONTGOMERY & ANDREWS, P.A.  
Post Office Box 2307  
Santa Fe, New Mexico 87504-2307  
(505) 982-3873  
*\*Counsel of Record*

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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Before the Honorable Barton H. Thompson, Jr.  
Special Master

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**CERTIFICATE OF SERVICE**

I certify that a copy of Montana's Second Set of Interrogatories and Requests for Production to Montana was served electronically, and by placing the same in the U.S. mail on June 11, 2013, to the following:

Peter K. Michael  
Chief Deputy Attorney General  
Jay Jerde  
Christopher M. Brown  
David Willms  
Matthias Sayer  
Andrew Kuhlmann  
James C. Kaste  
The State of Wyoming  
123 Capitol Building  
Cheyenne, WY 82002

James Joseph Dragna  
Bingham, McCutchen LLP  
355 South Grand Avenue Suite 4400  
Los Angeles, CA 90071  
[jim.dragna@bingham.com](mailto:jim.dragna@bingham.com)

Michael Wigmore  
Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC 20006-1806  
[michael.wigmore@bingham.com](mailto:michael.wigmore@bingham.com)

[peter.michael@wyo.gov](mailto:peter.michael@wyo.gov)  
[jjerde@wyo.gov](mailto:jjerde@wyo.gov)  
[chris.brown@wyo.gov](mailto:chris.brown@wyo.gov)  
[matthias.sayer.wyo.gov](mailto:matthias.sayer.wyo.gov)  
[david.willms@wyo.gov](mailto:david.willms@wyo.gov)  
[andrew.kuhlmann@wyo.gov](mailto:andrew.kuhlmann@wyo.gov)  
[james.kaste@wyo.gov](mailto:james.kaste@wyo.gov)

Jeanne S. Whiteing  
Attorney at Law  
1628 5<sup>th</sup> Street  
Boulder, CO 80302  
[jwhiteing@whiteinglaw.com](mailto:jwhiteing@whiteinglaw.com)

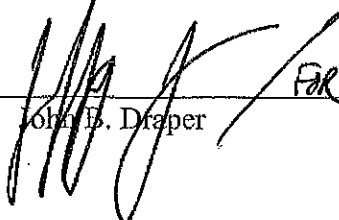
Solicitor General of the United States  
U. S. Department of Justice  
950 Pennsylvania Avenue, N.W., Room 5614  
Washington, D.C. 20530-0001  
[SupremeCtBriefs@usdoj.gov](mailto:SupremeCtBriefs@usdoj.gov)

Barton H. Thompson, Jr., Special Master  
Susan Carter, Assistant  
Jerry Yang and Akiko Yamazaki  
Environment & Energy Building, MC-4205  
473 Via Ortega  
Stanford, CA 94305-4205  
(Original and 3 copies  
Certificate of Service Only)  
[susan.carter@stanford.edu](mailto:susan.carter@stanford.edu)

Jennifer L. Verleger  
Assistant Attorney General  
North Dakota Attorney General's  
Office  
500 North 9th Street  
Bismarck, ND 58501-4509  
[jverleger@nd.gov](mailto:jverleger@nd.gov)

James DuBois  
United States Department of Justice  
Environmental and Natural Resources  
Division of Natural Resources Section  
999 18<sup>th</sup> St. #370 South Terrace  
Denver, CO 80202  
[james.dubois@usdoj.gov](mailto:james.dubois@usdoj.gov)

I further certify that all parties required to be served have been served.

  
\_\_\_\_\_  
John B. Draper