

No. 137, Original

In The
Supreme Court Of The United States

STATE OF MONTANA,

Plaintiff,

v.

STATE OF WYOMING

and

STATE OF NORTH DAKOTA

Defendants.

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

**MONTANA'S EXPEDITED MOTION FOR
EXTENSION OF CASE MANAGEMENT DEADLINES**

STEVE BULLOCK
Attorney General of Montana

JENNIFER ANDERS
ANDREW HUFF
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
**Counsel of Record*

April 10, 2012

COMES NOW the State of Montana, pursuant to Section XI of Case Management Plan No. 1 (December 20, 2011) (“CMP No. 1”), and respectfully requests that the current case management deadlines be extended by four months, and that discovery be stayed from July 15 to September 15, 2012. More specifically, Montana requests that the following case management deadlines be adopted:

October 15, 2012	Deadline for Wyoming’s renewed Motion for Partial Summary Judgment (¶ IX.C)
November 15, 2012	Deadline for Montana’s Response to Wyoming’s renewed motion (¶ IX.C)
December 6, 2012	Deadline for Wyoming’s Response in support of its renewed motion (¶ IX.C)
January, 2013	Argument on Wyoming’s renewed Motion for Partial Summary Judgment
February 15, 2013	Disclosure of Montana’s expert reports (¶ VII.A)
March 15, 2013	Disclosure of Wyoming’s expert reports (¶ VII.B)
April 8, 2013	Disclosure of Montana’s rebuttal reports (¶ VII.C)
April 30, 2013	Last day for propounding written discovery (¶ VIII.C.1.f)
May 30, 2013	Last day for depositions (¶ VIII.C.2.l)
June 21, 2013	Final day for motions

As grounds for this motion, Montana states as follows:

BACKGROUND

1. CMP No. 1 was adopted on December 20, 2011. Appendix A of CMP No. 1 sets forth the current case management deadlines as follows:

June 15, 2012	Deadline for Wyoming's renewed Motion for Partial Summary Judgment (§ IX.C)
July 13, 2012	Deadline for Montana's Response to Wyoming's renewed motion (§ IX.C)
July 27, 2012	Deadline for Wyoming's Response in support of its renewed motion (§ IX.C)
October 19, 2012	Disclosure of Montana's expert reports (§ VII.A)
November 16, 2012	Disclosure of Wyoming's expert reports (§ VII.B)
December 7, 2012	Disclosure of Montana's rebuttal reports (§ VII.C)
December 21, 2012	Last day for propounding written discovery (§ VIII.C.1.f)
January 25, 2013	Last day for depositions (§ VIII.C.2.1)
March 15, 2013	Final day for motions

2. John Draper, Counsel of Record for Montana, is also Counsel of Record for the State of Kansas in *Kansas v. Nebraska & Colorado*, No. 126 Orig. On Friday, March 23, 2012, the Special Master in *Kansas v. Nebraska & Colorado* informed counsel that the trial in that matter will begin between August 8 and 13, 2012, and will conclude before September 3, 2012.

3. In addition to counsel, Montana's two primary expert witnesses in this case are also primary expert witnesses in *Kansas v. Nebraska & Colorado*.

4. Dale E. Book, P.E., is a primary expert for the State of Montana in this case. As set forth in Mr. Book's Declaration, attached hereto as Exhibit A, Mr. Book is also a primary expert for the State of Kansas in *Kansas v. Nebraska & Colorado*. In that case, Mr. Book has prepared four expert reports:

- a. Engineering Analysis of Losses to Kansas Water Users Resulting from Nebraska's Overuse of Republican River Water in Nebraska;

- b. Analysis of Measures that Would have Been Required for Nebraska to Achieve Water-Short Year Compliance with Republican River Compact in 2006;
- c. Requirements for Nebraska's Compliance with the Republican River Compact; and
- d. Response to Expert Report of James C. Schneider, Ph.D., on Nebraska's Proposed Changes to the RRCA Accounting Procedures.

5. The other primary expert for Montana in this case is Steven P. Larson. As set forth in Mr. Larson's Declaration, attached hereto as Exhibit B, Mr. Larson is also a primary expert for the State of Kansas in *Kansas v. Nebraska & Colorado*. In that case, Mr. Larson has prepared three expert reports:

- a. Pumping Reduction Impacts for 2005-2006;
- b. Future Impacts of Pumping on Ground Water Consumptive Use; and
- c. Response to Expert Report of James C. Schneider, Ph.D., on Nebraska's Proposed Changes to the RRCA Accounting Procedures.

6. On Monday, March 26, one business day after learning about the trial setting in *Kansas v. Nebraska & Colorado*, Montana explained the situation to Wyoming and requested that Wyoming join in a motion to adjust the schedule to accommodate the *Kansas v. Nebraska & Colorado* trial. Montana agreed to provide a specific proposal to Wyoming.

7. By letter dated April 4, 2012, in response to a letter regarding discovery issues, Montana provided its specific proposal to adjust the case management deadlines. *See* Letter from J. Wechsler to P. Michael (dated April 4, 2012), attached hereto as Exhibit C. The proposal set forth in the April 4th letter was essentially the same as the proposal requested in this motion. *See id.* at 1-2.

8. On April 5, 2012 Wyoming responded, and indicated that “Wyoming will not agree to join the request.” *See* Letter from P. Michael to J. Wechsler at 3 (dated April 5, 2012), attached hereto as Exhibit D. Wyoming further explained its concerns regarding an extension.

9. That same day, Montana answered Wyoming’s letter. *See* Letter from J. Wechsler to P. Michael (dated April 5, 2012), attached hereto as Exhibit E. In its April 5th letter, Montana attempted to address Wyoming’s concerns through a compromise scheduling proposal. *See id.* at 2-3.

10. Counsel for Montana and Wyoming spoke on April 6, 2012. During that call, Wyoming informed Montana that it would not agree to join the compromise proposal. Wyoming did not offer any alternative modifications that it would consider to address its concerns. *See* Exhibit E at 3.

ARGUMENT

11. To prevent prejudice to the State of Montana, the Special Master should grant the present motion and extend the case management deadlines for three reasons: (1) during the preparation and trial in *Kansas v. Nebraska & Colorado*, Montana’s legal team will be unable to devote the necessary time and resources to this case; (2) Montana’s two primary experts are also experts in *Kansas v. Nebraska & Colorado*, and they have informed Montana that, given their responsibilities in the *Kansas* trial, it will not be possible for them to prepare their expert reports in accordance with CMP No. 1; and (3) Montana’s proposal would cause minimal disruption to the current schedule.

12. As discussed above, the Special Master in *Kansas v. Nebraska & Colorado* has set trial for the month of August. Preparation for trial is a time-consuming endeavor, particularly in an original action involving three participating States. The parties in *Kansas v. Nebraska & Colorado* have identified 33 witnesses, including 14 expert witnesses. From May through September, Mr. Draper, Mr. Wechsler, and Donna Ormerod, one of two paralegals working on behalf of Montana, will be occupied with the demands of drafting and responding to dispositive motions, preparing witnesses and testimony, developing exhibits, preparing and responding to pre-trial motions, preparing cross-examination, drafting pre-trial briefs, conducting the trial, and drafting post-hearing briefs. During that time, Montana counsel will be unable to devote the time and resources required by CMP No. 1 in this case.

13. Interstate water disputes, such as this case, are document and data intensive cases that present complicated technical issues. Discovery is an involved process that requires the full attention of the legal and technical teams. In this case, discovery is only open for another 6 months prior to the deadline for expert disclosures. During that time, Montana must review and process tens of thousands of documents from both States and the Federal Government, request information from Wyoming, respond to inquiries from Wyoming, take relevant depositions, defend depositions, and address discovery disputes. The period from June to September represents two-thirds of the remaining time prior to expert disclosures. The majority of Montana's legal team will be unavailable during this time, and without an extension of the current case management deadlines, Montana will be deprived of the ability to fully develop the factual basis for its case. *See, e.g. United States v. Texas*, 339 U.S. 707, 715 (1950) (the Supreme Court "in original actions,

passing as it does on controversies between sovereigns which involve issues of high public importance, has always been liberal in allowing full development of the facts”).

14. Similarly, Wyoming’s renewed Motion for Partial Summary Judgment is currently due on June 15, 2012, and Montana’s response is currently due on July 13, 2012. Due to the conflicting obligations of the two cases, Montana counsel will be unable to allocate necessary resources to respond by that date, or to conduct the necessary discovery.

15. In addition to counsel, two of Montana’s primary expert witnesses are also involved in the *Kansas v. Nebraska & Colorado* case. Montana expects to rely heavily on the expert analysis of Mr. Book and Mr. Larson, and their testimony will be central to Montana’s case. As with counsel, however, the majority of Mr. Book’s and Mr. Larson’s time during the months of June, July, August and September will be devoted to various trial-related tasks for the *Kansas v. Nebraska & Colorado* case, including assisting counsel on dispositive motions, analyzing Nebraska’s expert reports, preparing expert testimony, assisting the Kansas attorneys in developing cross-examination of the Nebraska witnesses, attending trial on behalf of Kansas, and assisting with post-trial briefing on technical issues.

16. Both Mr. Book and Mr. Larson have informed counsel that the demands of the *Kansas v. Nebraska & Colorado* case will prevent them from devoting the necessary time to acquire and analyze available data, and produce expert reports. See Exhibit A at ¶¶ 7, 10-12 ; Exhibit B at ¶¶ 7, 10-12. Both have indicated that the earliest they would be

prepared to submit an expert report in this case is February 15, 2013. *See* Exhibit A at ¶ 12; Exhibit B at ¶ 12.

17. Finally, the extension proposed by Montana will cause limited disruption to the current schedule. This is true because Montana's proposed extension does not alter the fundamental structure of the schedule. Rather, under the proposed extension, all of the dates would be moved by four months, and the relative time between the deadlines would remain the same. Trial has not yet been set in this matter, and a four-month adjustment of all of the deadlines will not prejudice any of the parties.

18. As a courtesy, Montana conferred with counsel for the other parties to this action to ascertain their position on this motion. *See* United States District Court for the District of Montana L.R. 7.1(c)(1) ("The text of the motion must state that other parties have been contacted and whether any party objects to the motion"); United States District Court for the District of Wyoming L.R. 7.1(b)(1)(A) ("Counsel for the moving party shall set forth in writing all good faith efforts to resolve the dispute and the Court will not consider the motion until said information is provided"). Montana is advised that the State of North Dakota, the Northern Cheyenne Tribe, and Anadarko Petroleum Corporation take no position on this motion; the United States does not oppose this motion; and Wyoming declined to give its position on this motion.

CONCLUSION


For the reasons set forth above, Montana respectfully requests that discovery be stayed from July 15 to September 15, and that the case management deadlines be reset as follows:

October 15, 2012	Deadline for Wyoming's renewed Motion for Partial Summary Judgment (§ IX.C)
November 15, 2012	Deadline for Montana's Response to Wyoming's renewed motion (§ IX.C)
December 6, 2012	Deadline for Wyoming's Response in support of its renewed motion (§ IX.C)
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April 30, 2013	Last day for propounding written discovery (§ VIII.C.1.f)
May 30, 2013	Last day for depositions (§ VIII.C.2.1)
June 21, 2013	Final day for motions

Respectfully submitted,

STEVE BULLOCK
Attorney General of Montana

JENNIFER ANDERS
ANDREW HUFF
Assistant Attorneys General
215 North Sanders
Helena, Montana 59620-1401



JOHN E. DRAPER*
JENNIFER J. WECHSLER
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Santa Fe, New Mexico 87504-2307
(505) 982-3873
**Counsel of Record*

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Defendants.

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Before the Honorable Barton H. Thompson, Jr.
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**DECLARATION OF DALE E. BOOK, P.E.
IN SUPPORT OF MONTANA'S EXPEDITED
MOTION TO EXTEND CASE MANAGEMENT DEADLINES**

COMES NOW Dale E. Book, pursuant to 28 U.S.C. § 1746, and states as follows:

1. I am over 18 years of age.
2. I am the president and principal engineer of Spronk Water Engineers. A copy of my current resume is attached hereto.
3. I am providing this Declaration in support of Montana's Expedited Motion to Extend the Case Management Deadlines.
4. I am an expert witness for the State of Kansas in *Kansas v. Nebraska*, No. 126 Original. In that case I have prepared four expert reports:

- a. Engineering Analysis of Losses to Kansas Water Users Resulting from Nebraska's Overuse of Republican River Water in Nebraska;
 - b. Analysis of Measures that Would have Been Required for Nebraska to Achieve Water-Short Year Compliance with Republican River Compact in 2006;
 - c. Requirements for Nebraska's Compliance with the Republican River Compact; and
 - d. Response to Expert Report of James C. Schneider, Ph.D., on Nebraska's Proposed Changes to the RRCA Accounting Procedures.
5. Nebraska and Colorado have also prepared opposing expert reports.
 6. On Friday, March 23, 2012, the Special Master in *Kansas v. Nebraska* informed the parties that trial will be held in the month of August, 2012, and will conclude before September 3, 2012. This trial date was unexpected.
 7. During the months of June, July, August, and September, the majority of my time will be devoted to various trial-related tasks for the *Kansas v. Nebraska* case, including analyzing Nebraska's expert reports, preparing pre-filed expert testimony and exhibits, analyzing Nebraska's pre-filed expert testimony, preparing to testify before the Special Master, assisting the Kansas attorneys in developing cross-examination of opposing experts, attending trial on behalf of Kansas, and assisting with post-trial briefing on technical issues.
 8. I have also been engaged by the State of Montana to perform expert analysis in *Montana v. Wyoming*, No. 137, Original.
 9. I will be responsible for developing one or more expert reports for the State of Montana in this case.
 10. In addition to the *Kansas v. Nebraska* litigation, I was also involved in *Kansas v. Colorado*, No. 105 Original. Based on my experience, interstate water disputes are document and data intensive cases that present complicated technical

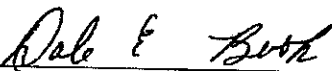
issues. As a result, it is a time consuming endeavor to obtain and analyze the relevant information, and process it for an expert report. I expect that it will take me approximately four additional months of focused work beyond the present schedule to acquire the necessary information, analyze available data, and produce a final expert report.

11. Unfortunately, due to the conflict with my obligations in *Kansas v. Nebraska*, I will not be able to devote the necessary time to produce an expert report in this case by October 19, 2012, the current deadline for disclosure of Montana's expert reports.

12. The earliest that I would be prepared to submit an expert report is February 15, 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 9, 2012.



Dale E. Book, P.E.

Dale E. Book, P.E.
Principal Water Resources Engineer
Spronk Water Engineers, Inc.

Education:

Master of Science Degree in Civil Engineering, with specialty in Water Resources Planning and Management, August 1980, Colorado State University.

Bachelor of Science degree in Civil Engineering, May 1976, University of Illinois.

Professional Registration:

Professional Engineer in Colorado, Idaho, Kansas, New Mexico, Oregon and Montana.

Professional Memberships:

American Society of Civil Engineers
American Water Resources Association

Professional Experience:

November 1984 Spronk Water Engineers, Inc.
to 1000 Logan Street
Present Denver, Colorado 80203

1. Water Rights Engineering
 - * Water right transfers
 - * Plans for Augmentation
 - * Evaluation and appraisals
 - * Interstate Compacts
 - * Applications and permits
 - * Expert testimony

2. Water Resources Engineering
 - * Water Supply Planning, municipal, industrial and agricultural
 - * Reservoir operation studies
 - * Drainage and flood control

3. Hydrology
 - * River basin yield evaluations
 - * Computer modeling
 - * Stream Depletion analyses
 - * Crop Consumptive use

Summary of Experience

Mr. Book is president and principal engineer of the firm Spronk Water Engineers, started in 1984. The firm specializes in water rights engineering, water resources planning, surface and groundwater investigations and water resource systems operations. Projects have been completed in Colorado and other western states related to water rights transfers, water supply, river basin modeling, and stream adjudications. Projects have involved evaluation of irrigation systems and quantification of effects on streamflows. Mr. Book is experienced with various methods to determine crop consumptive use; mapping irrigated area on regional scale; documentation and analysis of historic use of water rights and quantification of historic use of water rights. Spronk Water Engineers provides consulting services to a variety of clients including state agencies, cities, municipal water districts, irrigation districts, ditch companies and private water providers. Mr. Book is responsible for project management and preparation of reports and presentations. Experience has included assistance to clients in negotiations for agreements or settlement of litigation in water rights matters.

Descriptions of representative projects:

Plans for Augmentation and Changes of Water Rights

Preparation of plans for augmentation for numerous entities in Colorado to allow development of new water supplies with alluvial wells, while preventing injury to vested water rights by providing substitute supplies. Development of augmentation plans has included identification and evaluation of substitute water supplies, quantification of water demands, evaluation of existing water rights to be protected and development of terms and conditions for administration of the augmentation plan. Involvement has included preparation of engineering reports and court exhibits, negotiations with objectors and presentation of expert witness testimony in water court. Specific augmentation plans have included the following:

Logan Well Users
North Table Mountain Water and Sanitation District
Forest Lakes Development
Arapahoe County Water and Wastewater Authority
Chatfield East Homeowners Association

Arkansas River Investigations - Kansas v. Colorado

Conducted investigations of hydrology, irrigation practices, stream depletions and reservoir operations to evaluate compliance of post-compact developments in Colorado with the Arkansas River Compact. Investigations were undertaken to develop evidence presented to the Special Master appointed by the U.S. Supreme Court for the trial in Kansas v. Colorado.

Assisted the State of Kansas in ongoing monitoring of compact compliance and implementation of groundwater Rules and Regulations in Colorado. Specific responsibilities included:

- * Consumptive Use analysis for irrigated crops
- * River basin modeling to represent hydrologic and allocation elements of the Arkansas River Basin in Colorado for the purpose of quantifying stream depletions at the Kansas-Colorado Stateline caused by post-compact development in Colorado
- * Present expert witness testimony to Special Master
- * Participate in meetings of the Arkansas River Compact Administration and the Engineering Committee of the Administration
- * Quantification of historical well pumping by analysis of power records
- * Mapping approximately 300,000 acres of irrigated area in Colorado
- * Analysis and summarization of streamflow, diversion and reservoir records for the Arkansas River Basin
- * Annual updates of compliance monitoring with model

Republican River Compact Investigations

Conducted investigations of hydrology, water use, and reservoir operations of the Republican River Basin to assess compliance with the provisions of the Republican River Compact between the States of Kansas, Nebraska and Colorado. Represented the State of Kansas in settlement negotiations to resolve the Supreme Court litigation in Kansas v. Nebraska and Colorado. Participated on committee to develop and implement a groundwater model of the Republican River Basin for the Republican River Compact Administration. Analysis of irrigation water use in the Republican River Basin in Kansas, Nebraska and Colorado for purpose of quantifying beneficial consumptive use and providing inputs for groundwater model.

Eagle County, Colorado

Water rights consultant to Eagle County. Advise County regarding proposed water development projects, transfers and augmentation plans. Assist with protection of County's water rights and management of water supplies.

Lower Rio Grande Hydrologic Investigations

Assist the New Mexico Interstate Stream Commission in evaluations of the water supply for the Lower Rio Grande (LRG) between Elephant Butte Reservoir and El Paso, in support of the general stream adjudication of the LRG. Participate in various technical committees to pursue settlement of various issues. Surface water modeling to quantify impacts of historic water use. Assist with identification and development of management strategies to implement conjunctive administration of ground and surface water.

Lawngrass Irrigation Return Flows

Investigated irrigation return flows for the City of Thornton, using data collected from lysimeters by the City. Analyzed data and developed evidence to substantiate Thornton's claims for return flow credits. Participated in negotiations with other parties and provided expert witness testimony to water court for Thornton's claims to return flow credits. Conducted lysimeter investigations of turf irrigation, consumptive use and return flows for Arapaho County Water and Wastewater Authority.

City of Pocatello, Idaho

Conducted water resource investigations for the City of Pocatello in connection with the City's claims in the Snake River Basin Adjudication. Ongoing efforts for the City include preparing evidence to substantiate claims, development of a mitigation plan to allow the City's continued use of wells, evaluation of other claims in the adjudication to assist the City in protecting their water rights.

Department of Justice, Klamath Basin Adjudication

Conducted investigations of claims in the Klamath Basin adjudication for Walton Reserved Water Rights in the state of Oregon. Documentation of historic irrigation development and chain of title information to assess basis of claims.

September 1983 Senior Water Resources Engineer
to Simons, Li & Associates
October 1984 Denver, Colorado

Project Engineer for water rights and drainage projects. Development of plans for augmentation, evaluation of water rights and river basin studies. Rainfall runoff and water surface profile computer modeling.

June 1980 Water Resources Engineer
to Leonard Rice Consulting Water Engineers, Inc.
September 1983 Denver, Colorado

Water supply planning and water rights management, urban drainage analysis, flood plain delineation and related hydrologic and hydraulic analysis. Planning and design of sedimentation and drainage facilities for mining activities, spillway design, and operation studies for water supply reservoir.

Dale E. Book
Resume
Page 5

September 1978 Graduate Research Assistant
to
Colorado State University
May 1980 Water Resources Planning and Management Program
Department of Civil Engineering

June 1976 Water Resources Engineer
to
Harza Engineering Company
August 1978 Chicago, Illinois

Hydrologic and hydraulic analyses, structural layouts, economic evaluations, plan formulation and feasibility studies for water resources projects. Field surveying, hydrology and backwater computer modeling for plain delineation.

Publications:

A Dynamic Hydraulic Model for Simulation and Evaluation of Complex Drainage Systems, Book, D. E., Masters Thesis, Colorado State University, Fort Collins, Colorado, June 1980.

Dynamic vs. Kinematic Routing in Modeling Urban Storm Drainage, Book, D. E., Labadie, J. W. and Morrow, D., presented at Second International Conference on Urban Storm Drainage, Urbana, Illinois, June 1981.

Interstate Compacts and Transfers, Book, D. E., paper presented at ASCE Water Resources Planning and Management Division 14th Annual Conference, Kansas City, Missouri, March 1987.

Overview of Development and Use of Crop ET Estimates with Hydrological Models for Interstate Compacts, Book, Dale E. and Brengosz, Mary Kay, presented at ASCE World Environmental and Water Resources Congress, May 2009.

Arkansas River Compact and Interstate Litigation, Book, D. E., presented at Water Rights and Water Resources of the Arkansas River Basin in Colorado Program; Colorado Bar Association, CLE, March 26, 2010.

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**DECLARATION OF STEVEN P. LARSON
IN SUPPORT OF MONTANA'S EXPEDITED
MOTION TO EXTEND CASE MANAGEMENT DEADLINES**

COMES NOW Steven P. Larson, pursuant to 28 U.S.C. § 1746, and states as follows:

1. I am over 18 years of age.
2. I am a hydrologist and Executive Vice President of S.S. Papadopoulos & Associates, Inc., in Bethesda, Maryland. A copy of my current resume is attached hereto.
3. I am providing this Declaration in support of Montana's Expedited Motion to Extend the Case Management Deadlines.
4. I am an expert witness for the State of Kansas in *Kansas v. Nebraska & Colorado*, No. 126 Original. In that case I have prepared three expert reports:

- a. Pumping Reduction Impacts for 2005-2006;
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 8. I have also been engaged by the State of Montana to perform expert analysis in *Montana v. Wyoming*, No. 137, Original.
 9. I will be responsible for developing one or more expert reports for the State of Montana in this case.
 10. In addition to the *Kansas v. Nebraska* litigation, I was also involved in *Kansas v. Colorado*, No. 105 Original. Based on my experience, interstate water disputes are document and data intensive cases that present complicated technical issues. As a result, it is a time consuming endeavor to obtain and analyze the relevant information, and process it for an expert report. I expect that it will take me approximately four additional months of focused work beyond the present schedule to acquire the necessary information, analyze available data, and produce a final expert report.

11. Unfortunately, due to the conflict with my obligations in *Kansas v. Nebraska*, I will not be able to devote the necessary time to produce an expert report in this case by October 19, 2012, the current deadline for disclosure of Montana's expert reports.

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Executed on April 9, 2012.


Steven P. Larson



STEVEN P. LARSON

Groundwater Hydrologist

Page 2

REPRESENTATIVE PROJECT EXPERIENCE

— continued

- Missouri, the Hardage-Criner site in Oklahoma, and the Hastings site in Nebraska.
- Evaluations of groundwater contamination at CERCLA and other waste-disposal sites including Love Canal, New York; Savannah River Plant, South Carolina; Tucson Airport, Arizona; Ottati & Goss site, New Hampshire; Martin-Marietta site, Colorado; and Western Processing site in Washington.
- Environmental impact evaluations of the effects of water development for proposed coal slurry operations in Wyoming, of in-situ mining for trona minerals in Wyoming, and of groundwater development on the shallow-water-table in South Dakota.
- Evaluations of the effects of discharge on groundwater from chemical-manufacturing waste disposal in Wyoming, Virginia, and New York.
- Water-supply development evaluations, including potential impacts of salt water intrusion on water supply development, in Oman, Portugal and in Florida; and analysis of potential impacts of power plant cooling water on groundwater and surface water in Wyoming.
- Evaluations of permitting, licensing, and environmental issues associated with coal mining in Wyoming, Montana, and Arizona, copper mining in Montana and Utah, trona mining in Wyoming, and uranium mining in New Mexico.
- Evaluations of water-rights permitting and adjudication in New Mexico, Texas, Colorado, Kansas, Wyoming, Nebraska, Arizona, and Idaho.
- Environmental audits, groundwater monitoring plans, and other environmental investigations at the Oaks Landfill in Maryland, the FMC Carteret facility in Wyoming, the former IBM facility in Indiana, and the Insilco site in Florida.

SPECIFIC PROJECT EXPERIENCE

- Far-Mar-Co Subsite, Hastings Superfund Site, Nebraska – Supervised the preparation of an engineering evaluation/cost analysis (EE/CA) to support implementation of remediation of groundwater contamination. Worked with regulatory agencies to gain approval of the EE/CA and progress toward design and implementation. Previously, on behalf of Morrison Enterprises, supervised completion of a remedial investigation and a feasibility study which focused on carbon tetrachloride and ethylene dibromide contamination.
- Stringfellow site near Riverside, California – Served as the principal technical advisor on groundwater issues to the Pyrite Canyon Group, which overviewed investigations and remedial activities sponsored by the responsible parties. Designed and evaluated several investigations and remediation programs. Represented the client as a technical spokesperson in workshops, technical seminars, and meetings with regulatory agencies and other interested parties. Prepared key documents to support the decision-making process toward the final Record of Decision.
- In the case of Kansas v. Colorado before the U.S. Supreme Court – Served on a team of technical advisors to the State of Kansas in its litigation with Colorado over violations of the Arkansas River Compact. Assisted in obtaining a finding



STEVEN P. LARSON

Groundwater Hydrologist

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**REPRESENTATIVE
PROJECT
EXPERIENCE**
— continued

of compact violation regarding the pumping of groundwater from wells along the river valley in Colorado. Continues as a technical expert as the case moves into subsequent phases involving the quantification of depletions of supply, assessments of damage, and future compliance by Colorado.

EXPERT AND FACT WITNESS EXPERIENCE

- Litigation associated with soil and groundwater contamination at CERCLA, RCRA, and other facility sites in California, Kansas, Missouri, Oklahoma, Tennessee, Montana, Florida, Iowa, and Nebraska.
- Toxic tort, property damage, and liability litigation regarding soil and groundwater contamination at sites or facilities in New York, Tennessee, Texas, Virginia, Ohio, and other states.
- Insurance recovery litigation associated with contamination at a variety of sites or facilities for commercial clients such as General Electric, FMC Corporation, Upjohn, AT&T, Rohr Industries, Beazer East/Koppers, North American Phillips, DOW Chemical, Occidental Chemical, and Southern California Edison.
- Water-rights permitting litigation and water adjudication including cases in New Mexico, Colorado, and Arizona, as well as interstate river compact disputes involving the states of Kansas, Colorado, Wyoming, and Nebraska.

U.S. Geological Survey, Water Resources Division, Reston, Virginia

Originated, planned and conducted research in the development of numerical simulation models and techniques for the analysis of a variety of problems related to groundwater systems. Mr. Larson applied the developed models to actual field situations for verification and further refinement, and documented these models in a manner suitable for use by others. He served as coordinator and instructor for training courses on groundwater simulation models and methodologies conducted by the Division, and provided primary technical assistance to many groundwater projects conducted by District. Mr. Larson participated in and represented the U.S. Geological Survey in national and international meetings. He conducted groundwater studies of national and regional interest and participated in, or was detailed to, overseas projects conducted or managed by other U.S. agencies and the World Bank.

U.S. Geological Survey, Water Resources Division, St. Paul, Minnesota

Served as Project Chief and participated in studies involving the evaluation of groundwater resources, the assessment of stream-water quality, and the analysis of surface-water/groundwater relationships in various parts of Minnesota.

U.S. Geological Survey, Water Resources Division, National Training Center, Denver

Participated in an extended training program providing in-depth training on both office and field techniques for the collection and the analysis of data and the conduct of surface-water, groundwater, and water-quality studies.



STEVEN P. LARSON

Groundwater Hydrologist

Page 4

- REPRESENTATIVE PROJECT EXPERIENCE** — *continued* **St. Anthony Falls Hydraulic Laboratory, Minneapolis, Minnesota**
As a Research Assistant, participated in the development and operation of an urban-runoff model to predict sewer flow distribution for the Minneapolis – St. Paul Sanitary District. Assisted in runoff prediction studies for St. Paul and participated in a project to survey and summarize computer programs used in water resources engineering.
- PROFESSIONAL SOCIETIES** Association of Ground Water Scientists and Engineers
American Institute of Hydrology
- PUBLICATIONS**
- Barth, G., S.P. Larson, G. Lewis, and K. Green. 2011. Prediction Uncertainty of Drawdown in the Seven-Rivers Augmentation Well Field. National Groundwater Association Conference 2011. NGWA, Baltimore, MD June 2011, 15.
- Tonkin, M., S.P. Larson, M. Bakker, R. Shannon, and V. Bennett. 2011. Application of Analytic Element Method (AEM) and Numerical Axi-Symmetric (RZ) Models to Simulate a Groundwater Circulation Well (GCW): *In Review*: 5.
- Spiliotopoulos, A., M. Karanovic, and S.P. Larson. 2008. Development of Transient Flow Models for the Solomon River Basin. Presented at MODFLOW and More 2008: Ground Water and Public Policy Conference, May 18-21, 2008, Golden, Colorado.
- Larson, S.P. 2007. The Use of Complex Computer Modeling of Groundwater Systems. Presented at the 53rd Annual Rocky Mountain Mineral Law Institute,, Vancouver, British Columbia, July 19-21, 2007. 21.
- Papadopulos, S.S., and S.P. Larson. 2007. The Drawdown Distribution in and around a Well Pumping from a Two-Region Aquifer. 119th Annual Meeting of the Geological Society of America, Denver, Colorado, October 27-31, 2007. In *Abstracts and Programs*. 39, no. 6. Washington, DC: American Geophysical Union. 189.
- Larson, S.P. 2006. Simplicity in Modeling – Use of Analytical Models with PEST. MODFLOW and More 2006, Managing Ground-Water Systems, International Ground Water Modeling Center, Colorado School of Mines Golden, Colorado, May 22-24, 2006. Vol. 2. 579-583.
- Tonkin, M.J., S.P. Larson, and C. Muffels. 2004. Assessment of Hydraulic Capture through Interpolation of Measured Water Level Data. Presented at Conference on Accelerating Site Closeout, Improving Performance, and Reducing Costs through Optimization, Environmental Protection Agency, Federal Remediation Technology Roundtable, June 15-17, 2004, Dallas, Texas.
- Tonkin, M.J., and S.P. Larson. 2002. Kriging Water Levels with a Regional-Linear and Point-Logarithmic Drifts: *Ground Water*. 40, no. 2, March-April: 185-193.
- Blum, V.S., S. Israel, and S.P. Larson. 2001. Adapting MODFLOW to Simulate Water Movement in the Unsaturated Zone. MODFLOW 2001 and Other Modeling Odysseys, Proceedings, International Groundwater Modeling Center (IGWMC), September 11-14, 2001, Colorado School of Mines, Golden, Colorado. 60-65.



STEVEN P. LARSON

Groundwater Hydrologist

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DEPOSITION AND TESTIMONY EXPERIENCE

DEPOSITIONS

- 2011 OneBeacon America Insurance Company vs. Narragansett Electric Company. Volume I. Commonwealth of Massachusetts, Suffolk County Superior Court. 05-3086-BLS-I. November 15.
- 2010 Kansas vs. Nebraska and Colorado. U.S. Supreme Court. No. 126, Orig. June 29.
- 2010 OneBeacon America Insurance Company vs. Narragansett Electric Company. Volume I. Commonwealth of Massachusetts, Suffolk County Superior Court. 05-3086-BLS-I. March 3.
- 2009 Morrison Enterprises and the City of Hastings, Nebraska vs Dravo Corporation. U.S. District Court for the District of Nebraska. No. 4:08-CV-3142 (Confidential section). July 23.
- 2009 State of Oklahoma vs. Tyson Foods et al. U.S. District Court for the Northern District of Oklahoma. 05-cv-349-TCK-SAJ. April 10.
- 2009 Kansas vs. Nebraska and Colorado. U.S. Supreme Court. No. 126, Orig. February 24.
- 2009 Timm Adams et al. vs. United States of America et al. U.S. District Court for the District of Idaho. CIV 03-0049-E-BLW. January 16.
- 2008 Gloria Ned et al. vs. Union Pacific Railroad. 14th Judicial District Court, Parish of Calcasieu, State of Louisiana. 2003-001100 (Consolidated Cases). August 15.
- 2008 Jeff Alban et al. vs. ExxonMobil Corporation et al. Circuit Court for Baltimore County. 03-C-06-010932. January 24.
- 2007 City of Neodesha, Kansas et al. vs. BP Corporation North America. District Court of Wilson County, Kansas. 2004-CV-19. July 24.

TESTIMONY

- 2011 OneBeacon America Insurance Company vs. Narragansett Electric Company. Volume I. Commonwealth of Massachusetts, Suffolk County Superior Court. 05-3086-BLS-I. March 23.
- 2010 OneBeacon America Insurance Company vs. Narragansett Electric Company. Volume I. Commonwealth of Massachusetts, Suffolk County Superior Court. 05-3086-BLS-I. October 7.
- 2010 Kansas vs. Nebraska and Colorado. U.S. Supreme Court. No. 126, Orig. July 12 - 14.
- 2010 State of Oklahoma vs. Tyson Foods et al. U.S. District Court for the Northern District of Oklahoma. 05-cv-349-TCK-SAJ. January 4-5.
- 2009 Timm Adams et al. vs. United States of America and E.I. DuPont de Nemours and Company, a Delaware corporation. U.S. District Court, District of Idaho. Case No. CIV-03-0049-E-BLW. August 6.



S.S. PAPANOPULOS & ASSOCIATES, INC.

STEVEN P. LARSON

Groundwater Hydrologist

Page 6

**DEPOSITION AND
TESTIMONY
EXPERIENCE**
— continued

- 2009 Kansas vs. Nebraska and Colorado. U.S. Supreme Court. No. 126, Orig. March 9-19.
- 2009 Gloria Ned et al. vs. Union Pacific Railroad. 14th Judicial District Court, Parish of Calcasieu, State of Louisiana. 2003-001100 (Consolidated Cases). January 6, March 27.
- 2007 City of Neodesha, Kansas et al. vs. BP Corporation North America. District Court of Wilson County, Kansas. 2004-CV-19. December.

**RATE OF
COMPENSATION**

Mr. Larson's rate of compensation is \$251.00 per hour.

KS000671



**MONTGOMERY
& ANDREWS**

JEFFREY J. WECHSLER

Direct: (505) 986-2637

Email: jwechsler@montand.com

Reply To: Santa Fe Office

www.montand.com

April 4, 2012

Via Electronic Mail

Peter K. Michael, Esq.
Chief Deputy Attorney General
State of Wyoming
123 State Capitol Building
Cheyenne, WY 82002

Re: *Montana v. Wyoming*, No. 137 Orig.: Outstanding Discovery Issues

Dear Pete:

Thank you for your letter of April 3, 2012, which was addressed to John Draper. As you know, John is out of the office, so I am responding on behalf of Montana. The purpose of this letter is to address outstanding discovery issues, including certain issues that were raised in your April 3rd letter.

As you recognize in your letter, the Special Master in the *Kansas v. Nebraska* case, No. 126 Orig., has set trial for the month of August. Preparing for, and participating in that trial will demand much of our attention, and the attention of our experts in this case, from June until the trial is complete in late August or early September. When we were in Wyoming last week, we discussed our intention to seek an extension on all of the pending case management deadlines to address this new development. After considering the issue, we would like to propose that the deadlines be extended by four months. The adjusted deadlines under this proposal would be as follows:

October 15, 2012

Deadline for Wyoming's renewed Motion for Partial Summary Judgment

November 15, 2012

Montana's Response

December 6, 2012

Wyoming's Reply

January, 2013

Argument on Wyoming's Motion

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REPLY TO:

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**EXHIBIT
C**

Peter K. Michael
April 4, 2012
Page 2

February 15, 2013	Disclosure of Montana's expert reports
March 15, 2013	Disclosure of Wyoming's expert reports
April 15, 2013	Disclosure of Montana's rebuttal reports
April 30, 2013	Last day for propounding written discovery
May 30, 2013	Last day for depositions
June 21, 2013	Final date for motions

We would appreciate your consideration and feedback on this proposal. After we have heard from you, we will make appropriate adjustments based on your input and file a motion with the Special Master.

In your letter, you indicate that you intend to proceed with discovery absent a stay or suspension. In general, Montana has no problem with discovery remaining open during this period. We are concerned, however, that the demands of the *Kansas v. Nebraska* trial will prevent us from adequately focusing on discovery from July 15 to September 15. Provided that we can agree that no depositions will be set or discovery due during that period, we will not seek a stay of discovery.

Next, we are in the process of evaluating the issues and concerns that you raised in your April 3rd letter regarding Montana's responses to Wyoming's first set of interrogatories. A conference call will help us to understand your concerns better in the hopes that we can address them. I am available Thursday afternoon or Friday morning for such a call. Please advise whether one of those times will work for you.

You mention in your letter that the documents responsive to Wyoming's first request for production were due on April 3, 2012. We agree that this was originally true. As you know, however, Montana is in the process of producing thousands of documents that were reviewed and requested by Wyoming. Many of those documents are responsive to the RFP, and it is my understanding that you agreed with Jennifer Anders that all of the documents that Montana is producing would be provided at the same time, on Monday, April 9, 2012. I hope that there was not a misunderstanding on this issue.

Last, we have discussed the schedule for upcoming depositions that Wyoming requested in Montana. I understand that the depositions will be conducted according to the following schedule:

April 18, 2012	Rich Moy in Helena
April 23, 2012	Keith Kerbel in Billings
April 24, 2012	Orrin Farris in Billings (morning only)
April 25, 2012	Jack Stults in Helena
April 26, 2012	Gary Fritz in Helena (morning only)

Peter K. Michael
April 4, 2012
Page 3

Please confirm this schedule. I understand that will you be providing deposition notices and arranging for the court reporters.

We can discuss these issues further on Thursday or Friday. I look forward to talking to you then.

Very truly yours,



Jeffrey J. Wechsler

JJW:

Cc: John Draper, Esq.
Jennifer Anders, Esq.
Andrew Kuhlmann, Esq.
David Willms, Esq.



Office of the Attorney General

Governor
Matthew H. Mead

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
Peter K. Michael

Attorney General
Gregory A. Phillips

Division Deputy
Jay A. Jerde

April 5, 2012

Jeffrey Wechsler
Montgomery & Andrews
325 Paseo de Peralta
Santa Fe, NM 87501
Via U.S. Mail and E-mail

Re: MT v. WY
Supreme Court of the United States No. 137

Dear Jeff:

This is my reply to your letter today regarding several discovery issues. It is not in the order stated in your letter because I have saved for last your request for our position on an extension of time.

First, with respect to the timing of Montana's document production, I think there may have been a misunderstanding between Jennifer Anders and me. She mentioned on the telephone that Bates stamped documents selected by Wyoming at our visit to Helena would be forwarded on electronic media on April 9, 2012. However, I do not recall discussing the deadline for Montana's response to Wyoming's First Request for Production of Documents. I have been assuming that we would receive the response from Montana on April 3, 2012, but the documents would not necessarily be available until April 9, 2012. Given that the 3rd has come and gone, the 9th would be soon enough to receive the written response under Rule 34, Fed. R. Civ. P. As you know from my last letter to you, I have suspended judgment on some of my concerns about Montana's answers to Wyoming's interrogatories pending receipt of that rule 34 response, so it is important to our discussions on the interrogatory issues for me to have the rule 34 response by the end of the day on April 9, 2012.

EXHIBIT
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Second, you proposed a call regarding the interrogatory answers for either this afternoon or tomorrow morning. Let's shoot for tomorrow morning. We may not be able to resolve all issues for the reason I stated above, but we can start the discussion. Could you let me know your preference for a time by e-mail and identify the telephone number where you will be available?

Third, the schedule for the five depositions stated in your letter is correct. A notice of deposition for Rich Moy's deposition is going out today under separate cover and by e-mail. Further notices will follow, once I receive from Jennifer Anders those deposition locations in Billings and Helena so that I can include them in those notices. I have purchased a plane ticket for the Moy deposition and made the other necessary arrangements, including court reporter. I will make further travel arrangements for the others today or tomorrow. You will notice on the Moy notice that I included the possibility of the deposition being carried on a telephone conference call. For our purposes, we do not need the deposition to be webcast with video of the deponent, but you could certainly arrange for that if you like, in lieu of telephone. The last I heard from Jennifer was that you may intend to attend by telephone.

In addition, I have included a request in Mr. Moy's notice for him to bring any compact related documents that he may have. Jennifer and I have previously discussed this, and she felt that he would not have anything outside of documents that are in the State of Montana's possession and control. It is not completely clear to me who currently employs Mr. Moy, but I have been considering him as a control group employee, or former employee of Montana, which would prevent me from contacting him directly, but which would also remove him from the 60-day subpoena provision of section VIII.C.2.(f)(i) of Case Management Plan No. 1, which applies to non-state witnesses. If he happens to have documents responsive to the request in the notice, it would be best if I could see them in advance of the deposition, as provided in the Case Management Plan.

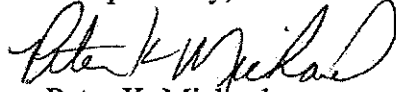
With respect to copies of documents to be provided to the witnesses, my plan is to have one paper copy of each document as an exhibit to the deposition that the court reporter will keep and which the witness can refer to during the deposition. However, I would prefer to provide the additional copies in electronic form as Adobe pdf files so that those attending the deposition, either in person, or remotely, will have a copy, as required by VIII.C.2.(f)(ii) of Case Management Plan No. 1. I believe that I discussed this with Jennifer, but in any event, if you think that creates any problem, please let me know. Most of the exhibits should be pre-numbered under the conventions established in the Case Management Plan, except for any documents that we have not been able to number because they are in the process of being Bates stamped. If that occurs, we will try to

number them anyway, even though it may create some duplication in the extensive record. I would like to discuss with you how you would like to handle pleadings. I propose that we do not number them for purposes of depositions or make them exhibits, but simply refer to them, since they are already in the Special Master's record. We would include electronic copies for counsel to follow, and provide a paper copy to the witness, but would not include such documents as exhibits. I look forward to discussing this point with you.

Finally, we have had a chance to consider Montana's request for amendment of various case deadlines, not only today after receiving your letter, but in more general terms after John Draper raised the possibility several weeks ago. Based on that consideration, Wyoming will not agree to join the request. As I stated to you and John here in Cheyenne when he first raised the issue, and in a follow-up e-mail, Wyoming is concerned that it will be unfairly placed between a rock and a hard place, the rock consisting of the Special Master's desire to try this case soon, most likely in the summer of 2013, and the hard place consisting of Montana's instant request for a further delay in its disclosure to Wyoming of Montana's expert reports. Given the lack of particulars about Montana's case in Montana's answer to Wyoming's interrogatories, Wyoming has little ability to evaluate how extensive its preparation of rebuttal experts will be. As we have made plain to you and John, and to the Special Master in prior scheduling conferences, we question whether the current 30 days for Wyoming to designate experts after receiving Montana's reports will be reasonable, and we have received little at this point from Montana that would allow us to even improve our appraisal of that question. Moreover, it looks like deposition discovery will be vital to Wyoming, and your proposal would prevent Wyoming from taking any depositions during the four month delay. We further must ask why it would be necessary for you or John to personally defend depositions of lay witnesses that Wyoming would be taking over this summer, since Jennifer Anders or other Montana counsel could presumably be available to defend those, in Helena or elsewhere. If Wyoming completed those depositions while you and John were trying the Republican case, that would clear the decks for you and him to personally take depositions in the latter portion of the discovery period in this case with minimal interruption from depositions we would like to take. No expert depositions would occur in this case until well after your trial in *Kansas v. Nebraska* even under our current schedule.

Except for the five depositions later in April, my schedule is in good shape to participate in a prompt hearing on any motion for extension of deadlines that you may file with the Special Master. As I said to you and John when you were in Cheyenne several weeks ago, I believe that this possible extension should be raised promptly if you are going to raise it.

Respectfully,

A handwritten signature in black ink, appearing to read "Peter K. Michael". The signature is fluid and cursive, with the first name "Peter" and last name "Michael" clearly distinguishable.

Peter K. Michael

Chief Deputy Attorney General

CC: Jennifer Anders via email
John Draper via email



**MONTGOMERY
& ANDREWS**

JEFFREY J. WECHSLER

Direct: (505) 986-2637

Email: jwechsler@montand.com

Reply To: Santa Fe Office

www.montand.com

April 5, 2012

Via Electronic Mail

Peter K. Michael, Esq.
Chief Deputy Attorney General
State of Wyoming
123 State Capitol Building
Cheyenne, WY 82002

Re: *Montana v. Wyoming*, No. 137 Orig.: Response to your April 5, 2012 Letter

Dear Pete:

Thank you for your letter of April 5, 2012 regarding outstanding discovery issues.

In your letter you first address the misunderstanding between the States regarding the date for the document production. We regret this misunderstanding, and will do our part to avoid such issues in the future. I anticipate that the discs containing the stamped documents responsive to both the Joint Document Production Order and the request for production will be sent tomorrow, for delivery on Monday, April 9, 2012. We will also serve a certificate of service and cover pleading for the RFP. I will update you if this plan changes.

We received the Deposition Notice for Rich Moy today. As you indicate, I will be attending that deposition from New Mexico. Rather than telephone, however, I plan to attend by videoconference. Since the deposition will be in the Helena Attorney General's office, we will make the necessary arrangements. In addition, we agree that Mr. Moy is a former employee of the State of Montana, and we will provide documents responsive to the Deposition Notice, if any such documents exist, in accordance with CMP § VIII.C.2(f)(i).

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6}

REPLY TO:

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**EXHIBIT
E**

Peter K. Michael
April 5, 2012
Page 2

With regard to the deposition exhibits for Mr. Moy's deposition, electronic copies for the Montana attorneys will be sufficient. I assume that you will provide copies of those exhibits on discs or other means at the time of the deposition. I would ask that you provide an extra copy to Jennifer at that time, so she can deliver it to a Montana staff member to be e-mailed to me. That will allow me to follow along with minimal disruptions to the deposition. I also agree that any pleadings you intend to use do not need to be bates-stamped for purposes of the deposition.

Last, I was disappointed to learn that Wyoming will not agree to join a request for an extension of the case management deadlines. As we mentioned to you on March 26th in your office, the Special Master in *Kansas v. Nebraska*, No. 126 Orig., has set trial for the month of August. As you know, preparation for a trial is a time consuming endeavor, particularly for an original action between two States. During the preparation and trial, we will be unable to devote the necessary time and resources to respond to Wyoming's renewed summary judgment motion, conduct required discovery, or assist in the preparation of expert reports. Moreover, Montana's two primary experts are also involved in the *Kansas v. Nebraska* trial. They have both informed us that, given their responsibilities in the *Kansas* trial, it will not be possible for them to prepare their expert reports in accordance with the current deadlines. To avoid prejudicing the State of Montana, it is therefore necessary for us to request an extension.

In your letter, you raise two concerns with an extension. In the hopes that Wyoming will reconsider its position, I address each of those issues below. The first concern that you raise is related to the period of time between the date that Montana's expert reports are due, and the date that Wyoming's responsive expert reports are due. I note, however, that under our proposal the relative amount of time between the deadlines will remain at approximately 30 days, and an extension would provide Wyoming's experts with an additional four months to evaluate the issues. More importantly, in the interest of compromise, we are willing to consider proposing an extension of the period for responsive exhibits so that Wyoming would have 60 days for its responsive reports. Under this proposal, the time for Montana's rebuttal reports would also be extended to 60 days.

The second issue you raise in your April 5th letter is that Montana's request "would prevent Wyoming from taking depositions during the four month delay." To be clear, as set forth in my April 4th letter, I am only requesting that no depositions be set from July 15th to September 15th, a two month period. Hopefully that will dispel some of your concerns. One of the reasons for making this request is our desire to avoid future disputes over scheduling. I understand your desire to avoid disruptions to discovery, but with the demands of preparing witnesses, drafting pre-filed testimony, preparing cross-examinations, developing exhibits, preparing arguments, conducting the trial, and drafting post-hearing briefs, we simply will not be available for depositions during this

Peter K. Michael
April 5, 2012
Page 3

period. See CMP § VIII.C.2(c). We anticipate that knowing our schedule and limitations in advance will assist you in planning your deposition calendar.

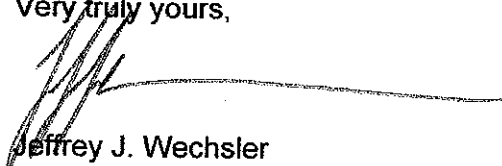
As I mentioned in my previous letter, we intend to file a motion to extend the deadlines next week, whether or not Wyoming concurs. Nonetheless, we believe that the preferable approach is for the States to work together whenever possible on procedural issues, and we remain optimistic that we can find a schedule that accommodates both of our concerns. In sum, the adjusted deadlines under this compromise proposal would be as follows:

October 15, 2012	Deadline for Wyoming's renewed Motion for Partial Summary Judgment
November 15, 2012	Montana's Response
December 6, 2012	Wyoming's Reply
January, 2013	Argument on Wyoming's Motion
February 15, 2013	Disclosure of Montana's expert reports
April 15, 2013	Disclosure of Wyoming's expert reports
June 14, 2013	Disclosure of Montana's rebuttal reports
June 28, 2013	Last day for propounding written discovery
August 2, 2013	Last day for depositions
September 16, 2013	Final date for motions

This schedule would extend the current deadlines by a total of six months. We would appreciate your consideration of this adjusted proposal. If this proposal is not acceptable, please advise whether there are any alternative modifications that Wyoming would consider that would address your concerns.

Please call if you would like to discuss any of these issues further.

Very truly yours,



Jeffrey J. Wechsler

JJW:

Cc: John Draper, Esq.
Jennifer Anders, Esq.
Andrew Kuhlmann, Esq.
David Willms, Esq.

No. 137, Original

In The
Supreme Court Of The United States

STATE OF MONTANA,

Plaintiff,

v.

STATE OF WYOMING

and

STATE OF NORTH DAKOTA

Defendants.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Montana's Expedited Motion for Extension of Case Management Deadlines was served by electronic mail and by placing the same in the United States mail, postage paid, on April 10, 2012, to the following:

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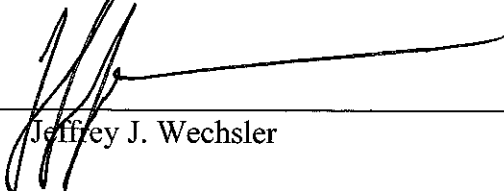
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I further certify that all parties required to be served have been served.



Jeffrey J. Wechsler

