

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 STATUS REPORT NO. 16

TIMOTHY C. FOX
Attorney General of Montana
CORY J. SWANSON
Assistant Attorney General
ANNE YATES
BRIAN BRAMBLETT
Special Assistant Attorney 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*

May 3, 2013

COMES NOW the State of Montana, pursuant to Section VII.D of Case Management Plan No. 1 (December 20, 2011) (“CMP No. 1”), and submits this Status Report No. 16.

1. On April 5, 2013, the State of Montana submitted its previous Status Report No. 15.

2. During the month of April, Montana took the depositions of Wyoming experts Doyl Fritz and Bern Hinckley in Cheyenne, Wyoming. Montana is scheduled to take the deposition of Wyoming expert Willem Schreüder on May 7 in Cheyenne.

3. On April 12, 2013, Montana filed its Objections to Wyoming’s Expert Designations and Expedited Motion for Supplemental Depositions. After further briefing by the parties and a telephonic hearing, Special Master Thompson issued his Order Regarding Expert Witness Designation, resolving the issues raised by Montana and striking 13 of Wyoming’s 16 designated experts.

4. On April 23, 2013, counsel for Wyoming sent a letter to counsel for Montana regarding certain alleged shortcomings in Montana’s Responses to Wyoming’s Second Request for Admissions, Second Request for Production and Third Set of Interrogatories. Montana is in the process of reviewing the Wyoming letter and intends to respond in writing.

5. At the depositions of Mr. Fritz and Mr. Hinckley, Montana requested the production of expert backup material that was withheld by Wyoming. Counsel for Wyoming refused, and Montana notified the Special Master of its intention to file a Motion to Compel. Certain production by Wyoming of the disputed materials has occurred since that time. Montana has requested that Wyoming finish the required

production of backup to the expert reports and is awaiting a response from Wyoming. Montana is also awaiting further production identified by Wyoming during those depositions and has reminded Wyoming that speedy production is essential given the deadlines for Montana's expert rebuttal reports.

6. Montana anticipates that it will need to take a number of depositions of Wyoming water users and others related to Wyoming's expert reports.

7. Montana anticipates that it will be propounding a new set of written discovery in the month of May.

Respectfully submitted,

TIMOTHY C. FOX
Attorney General of Montana
CORY J. SWANSON
Assistant Attorney General
ANNE YATES
BRIAN BRAMBLETT
Special Assistant Attorneys General
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*

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

I certify that a copy of Montana's Status Report No. 16 was served electronically, and by placing the same in the U.S. mail on May 3, 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

Michael Wigmore
Bingham McCutchen LLP
2020 K Street NW
Washington, DC 20006-1806
michael.wigmore@bingham.com

peter.michael@wyo.gov
jjerde@wyo.gov
chris.brown@wyo.gov
matthias.sayer.wyo.gov
david.willms@wyo.gov
andrew.kuhlmann@wyo.gov
james.kaste@wyo.gov

Jeanne S. Whiteing
Attorney at Law
1628 5th Street
Boulder, CO 80302
jwhiteing@whiteinglaw.com

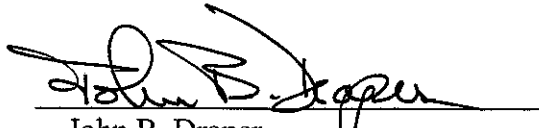
Solicitor General of the United States
U. S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5614
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov

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)
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

James DuBois
United States Department of Justice
Environmental and Natural Resources
Division of Natural Resources Section
999 18th St. #370 South Terrace
Denver, CO 80202
james.dubois@usdoj.gov

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


John B. Draper