

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 WITNESS LIST

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**Counsel of Record*

September 23, 2013

Comes now the State of Montana, pursuant to Case Management Order No. 11, Paragraph 2.3, and lists the following witnesses to be called at trial in this proceeding. The witnesses are separated according to whether they will definitely be present at some point during trial (“Will-Call Witnesses”) and witnesses who may be called (“May-Call Witnesses”):

Montana’s Will-Call Witnesses:

1. Richard G. Allen, P.E.
Allen Engineering
3496 N. 2500 E.
Twin Falls, Idaho 83301

Short Summary of Testimony:

Dr. Allen is expected to testify regarding the subjects discussed in his Expert Report and associated reports or documents submitted in this proceeding, and related topics.

2. Gordon Aycock
2227 E. Echo
Billings, Montana 59105

Short Summary of Testimony:

Mr. Aycock is expected to testify regarding the subjects discussed in his Expert Report and associated reports or documents submitted in this proceeding, reservoir operations under the doctrine of appropriation, and related topics.

3. Dale E. Book, P.E.,
Spronk Water Engineers
1000 Logan Street
Denver, Colorado 80203

Short Summary of Testimony:

Mr. Book is expected to testify regarding the issues discussed in his Expert Reports and associated reports or documents submitted in this proceeding, and related topics.

4. Chuck Dalby
Montana Department of Natural Resources Conservation (DNRC)
1424 9th Avenue
Helena, Montana 59620

Short Summary of Testimony:

Mr. Dalby is expected to testify regarding the subjects discussed in his Expert Report and associated reports or documents submitted in this proceeding, his work on the YRCC, and related topics.

5. Tim Davis
Water Resources Division (WRD) Administration
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short summary of testimony:

Mr. Davis is expected to testify regarding Montana water administration and regulation, water rights in Montana, the adjudication process in Montana, the status of the Tongue River adjudication, and related topics.

6. Alan Fjell
P.O. Box 506
Birney, Montana 59012

Short summary of testimony:

Mr. Fjell is expected to testify with regard to his role and experience as Water Commissioner in the Tongue River Basin, water use and administration in the Tongue River Basin, water supply and availability, irrigation in the Tongue River Basin, and related topics.

7. Charles Gephart
P.O. Box 653
Miles City, Montana 59301

Short summary of testimony:

Mr. Gephart is expected to testify with regard to his role and experience as Water Commissioner in the Tongue River Basin, water use and administration in the Tongue River Basin, water supply and availability, and related topics.

8. John Hamilton
Cedar Hills Ranch LLC
HC 32 Box 4356
Miles City, MT 59301-4356

Short summary of testimony:

Mr. Hamilton is expected to testify with regard to water use and availability in Montana, his own and others' irrigation on the Tongue River in Montana, and related topics.

9. Art Hayes, Jr.
3 Circle Ranch
Birney, Montana 59012

Short summary of testimony:

Mr. Hayes is expected to testify regarding the history and operations of Tongue River Reservoir, the makeup and operations of the Tongue River Water Users Association ("TRWUA"), water use in the Tongue River Basin, water availability, irrigation practices, including his own water use, in the Tongue River Basin, and related topics.

10. Millie Heffner
WRD Water Rights Bureau Chief
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short summary of testimony:

Ms. Heffner is expected to testify regarding water permitting in Montana, including the Tongue River Basin, for the initiation and change of water rights, and related topics.

11. Les Hirsch
1840 Tongue River Rd.
Miles City, Montana 59301

Short summary of testimony:

Mr. Hirsch is expected to testify regarding his own and others' irrigation operations on the Tongue River in Montana, the TRWUA, water supply conditions, and related topics.

12. Charles Kepper
P.O. Box 573
Birney, Montana 59012

Short summary of testimony:

Mr. Kepper is expected to testify with regard to his role and experience as Water Commissioner in the Tongue River Basin, water use and administration in the Tongue River Basin, water supply and availability, and related topics.

13. Steven P. Larson
S.S. Papadopoulos & Associates, Inc.
7944 Wisconsin Avenue
Bethesda, Maryland 20814

Short Summary of Testimony:

Mr. Larson is expected to testify regarding the subjects discussed in his Expert Reports and associated reports or documents submitted in this proceeding, and related topics.

14. Douglas R. Littlefield, Ph.D.
Littlefield Historical Research
6207 Snake Road
Oakland, California 94611

Short Summary of Testimony:

Dr. Littlefield is expected to testify regarding the subjects discussed in his Expert Report and associated reports or documents submitted in this proceeding, and related topics.

15. Rich Moy
680 Blue Grouse Road
Helena, Montana 59602

Short summary of testimony:

Mr. Moy is expected to testify with regard to communications with Wyoming, his work with the Yellowstone River Compact, and the YRCC, events leading to the present litigation during his tenure at DNRC, and related topics.

16. Roger Muggli

Wyttenhove Lane
Miles City, Montana 59301

Short summary of testimony:

Mr. Muggli is expected to testify regarding operations of the Tongue and Yellowstone River Irrigation District, his own irrigation, irrigation and storage operations and practices on the Tongue River, water use and supply in the Tongue River Basin, and related topics.

17. Jay Nance
P.O. Box 22
Birney, Montana 59012

Short summary of testimony:

Mr. Nance is expected to testify regarding his irrigation operations as the first priority direct flow right on the Tongue River in Montana, water availability, water use in the Tongue River Basin, and related topics.

18. Mike Roberts
Surface Water Hydrologist,
WRD Water Management Bureau
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short Summary of Testimony:

Mr. Roberts is expected to testify regarding training of water commissioners in Montana, water administration, and related topics.

19. Kevin Smith
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short Summary of Testimony:

Mr. Smith is expected to testify regarding the subjects discussed in his Expert Reports and associated reports or documents submitted in this proceeding, the role of the Montana DNRC's Water Projects Bureau, reservoir operations, state water projects, the Tongue River Reservoir and implementation of the Northern Cheyenne Tribe Compact ("NCT"), and related topics.

20. Jack Stults
714 Red Letter St.
Helena, Montana 59601

Short Summary of Testimony:

Mr. Stults is expected to testify with regard to events and actions during his tenure as Administrator of the Water Resources Division of DNRC, communications with Wyoming, events leading to the present litigation, his experiences and observations related to the Compact and YRCC and related topics.

21. Chris Tweeten
University of Montana School of Law
Missoula, Montana

Short Summary of Testimony:

Mr. Tweeten is expected to testify with regard to the history and role of Montana's Reserved Water Rights Compact Commission generally and with regard to the NCT Compact, and related topics.

22. Jason Whiteman
P.O.Box 382
Lame Deer, Montana 59043

Short Summary of Testimony:

Mr. Whiteman is expected to testify with regard to tribal uses of water in the Tongue River Basin, including the NCT Compact, and related topics.

Montana's May-Call Witnesses:

23. Jim Bauder
308 Moorhead Rd.
Broadus, Montana 59317

Short Summary of Testimony:

Mr. Bauder, if called, would be expected to testify regarding CBM operations and regulation in Montana, and related topics.

24. Art Compton
17 Mueller Ct.
Helena, Montana 59601

Short Summary of Testimony:

Mr. Compton, if called, would be expected to testify regarding CBM operations and regulation in Montana, and related topics.

25. Karen Barclay Fagg
3053 Thousand Oaks
Billings, MT 59102

Short Summary of Testimony

Ms. Fagg, if called, is expected to testify with regard to events and actions during her tenure as DNRC Director, including negotiations surrounding the Northern Cheyenne Compact, the Tongue River Reservoir, communications with the Northern Cheyenne Tribe and Wyoming, and related topics,

26. Mark Fix

Short Summary of Testimony:

Mr. Hamilton is expected to testify with regard to water use and availability in Montana, his own and others' irrigation on the Tongue River in Montana, and related topics.

27. Gary Fritz

Short Summary of Testimony:

Mr. Fritz, if called, is expected to testify with regard to events and actions during his tenure as Administrator of the Water Resources Division of DNRC, communications with Wyoming, events leading to the present litigation, his experiences and observations related to the Compact and YRCC and related topics.

28. Keith Kerbel
1371 Rimtop Dr.
Billings, Montana 59105

Short Summary of Testimony:

Mr. Kerbel, if called, would be expected to testify on communications with Wyoming, events leading to the current proceedings during his tenure with DNRC, irrigation and

water use in the Tongue River Basin generally, his experiences with the YRCC, water administration in the Tongue River Basin, and related topics.

29. Russell Levens
Section Supervisor/Groundwater Hydrologist
WRD Water Management Bureau
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short Summary of Testimony:

Mr. Levens, if called, would be expected to testify regarding groundwater pumping and regulation in Montana, including the Tongue River Basin, and related topics.

30. John Petersen
Bureau Chief, WRD Adjudication Bureau
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short Summary of Testimony:

Mr. Peterson is expected to testify regarding the adjudication process and DNRC's role in that process in Montana, and related topics.

31. Tom Richmond
Division Administrator
Montana Board of Oil & Gas Conservation
2535 St. Johns Ave.
Billings, Montana 59620

Short Summary of Testimony:

Mr. Richmond is expected to testify regarding CBM operations and regulation in Montana, and related topics.

32. Mary Sexton

Short summary of testimony:

Ms. Sexton is expected to testify regarding communications with Wyoming, proceedings of the YRCC and events leading to the present proceedings during her tenure as Director of DNRC, and related topics.

33. John Tubbs
Director
Montana DNRC
1424 9th Avenue
Helena, Montana 59620

Short summary of testimony.

Mr. Tubbs is expected to testify regarding DNRC and its role in water administration in Montana, and related topics.

34. John Wheaton
Bureau of Mines and Geology

Short Summary of Testimony:

Mr. Wheaton, if called, is expected to testify regarding impacts of CBM development on groundwater, use and disposal of CBM produced water, studies he has performed, and related topics.

Hostile Witnesses:

35. Tana Ankney

Short Summary of Testimony:

Ms. Ankney, if called, is expected to testify regarding her irrigation history and practices, irrigation and water use in Wyoming, and related topics.

36. Gregory D. Benzel
Padlock Ranch
HC 64, P.O. Box 65
Ranchester, Wyoming

Short Summary of Testimony:

Mr. Benzel, if called, is expected to testify regarding Padlock Ranch operations and water use, and related topics.

37. Pat Boyd

Water Commissioner, Division II
Sheridan, Wyoming

Short Summary of Testimony:

Mr. Boyd, if called, is expected to testify regarding water use and administration in Wyoming, and related topics.

38. John Engels
6328 Big Horn Avenue
Sheridan, Wyoming 82801

Short Summary of Testimony:

Mr. Engels, if called, is expected to testify regarding operations of the interstate ditch, irrigation and water use, and related topics.

39. Gordon "Jeff" Fassett
1720 Carey Avenue
Suite 612
Cheyenne, WY 82001

Short Summary of Testimony:

Mr. Fassett, if called, is expected to testify regarding water use and administration in Wyoming, communications with Montana, the YRCC, and related topics.

40. Lisa Lindemann
Wyoming State Engineer's Office
122 W. 25th St.
Herschler Building
Cheyenne, WY 82002

Short Summary of Testimony:

Ms. Lindemann, if called, is expected to testify regarding groundwater and CBM use and regulation in Wyoming, and related topics.

41. Bill Knapp
Water Commissioner, Division II
Sheridan, Wyoming

Short Summary of Testimony:

Mr. Knapp, if called, is expected to testify regarding water use and administration in Wyoming, and related topics.

42. Carmine LoGuidice
Superintendent, Water Division II
Sheridan, Wyoming

Short Summary of Testimony:

Mr. LoGuidice, if called, is expected to testify regarding water administration and water use in Wyoming, and related topics.

43. Dave Shroeder
Water Commissioner, Division II
Sheridan, Wyoming

Short Summary of Testimony:

Mr. Shroeder, if called, is expected to testify regarding water use and administration in Wyoming, and related topics.

44. Sue Lowry
Wyoming Yellowstone Compact Commissioner
Office of the State Engineer
Cheyenne, Wyoming

Short Summary of Testimony:

Ms. Lowry, if called, is expected to testify regarding Compact administration, water use under the YRC and YRCC, and related topics.

45. Michael B. Whitaker
26095 Old Highway 87
Kaycee, Wyoming 82639

Short Summary of Testimony:

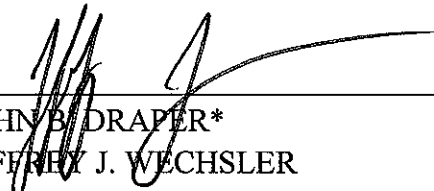
Mr. Whitaker, if called, is expected to testify regarding water administration and regulation in Wyoming, communications with Montana and related topics.

In addition to the foregoing, Montana reserves the right to call any of the Montana water users deposed by Wyoming and any witness identified by Wyoming. Witnesses may testify, in

addition to the areas listed for each witness, to any subject touched upon during their deposition, or any declaration submitted in connection with this case. Montana reserves the right to designate rebuttal or impeachment witnesses as necessary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of *Montana's Witness List* was served electronically, and by U.S. Mail on September 23, 2013, to the following:

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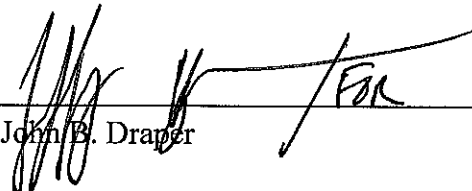
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I further certify that all parties required to be served have been served.



John B. Draper