

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

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT ORDER NO. 2

June 12, 2009

CASE MANAGEMENT ORDER NO. 2

For the purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

1. Letter Briefs Regarding Memorandum Opinion

On or before Friday, July 17, 2009, Montana and Wyoming shall file letter briefs with the Special Master regarding the Memorandum Opinion on Wyoming's Motion to Dismiss Bill of Complaint, dated June 2, 2009 (the "Memorandum Opinion"), and the Special Master's plan to prepare and file a First Report with the Supreme Court based on that opinion. This is not an opportunity to rebrief Wyoming's Motion to Dismiss, and the letter briefs should not cover matters already addressed in the briefs filed on that motion. Instead, the letter briefs should address the following issues to the extent relevant.

- a. Any corrections or clarifications regarding the parties' allegations of fact or law discussed in the Memorandum Opinion.
- b. Any corrections or clarifications regarding issues of state law discussed in the Memorandum Opinion.
- c. Any clarifications that either party believes should be made regarding the conclusions or recommended decision in the Memorandum Opinion.
- d. Any other issues regarding Wyoming's Motion to Dismiss that either Party believes should be addressed in the First Report to the Supreme Court and that are not fully addressed in the Memorandum Opinion.

The Special Master is also interested in knowing whether the parties believe that there are other legal issues, separate from those raised by Wyoming's Motion to Dismiss, that can usefully be resolved before the Special Master issues his First Report and that will help speed resolution of the case. If either party believes that there are any such issues, it should meet and confer with the other parties prior to July 17 in an effort to agree on those issues. The letter briefs should identify any such issues and also suggest appropriate procedures for resolving them.

North Dakota is free to file a letter brief addressing these same issues on or before July 17.

2. Amici & Reply Letter Briefs

On or before Friday, July 24, 2009, the United States, as well as any amici who filed a brief regarding the Motion to Dismiss, may file letter briefs addressing the issues identified above. On or before Monday, August 3, 2009,

Montana and Wyoming may file letter briefs in reply to those filed by other parties and amici.

3. Format of Letter Briefs

In preparing and filing the letter briefs, all parties and amici shall comply with Case Management Order No. 1. Letter briefs shall be single spaced and need not be lengthy. In no case should a letter brief exceed twenty (20) pages. Letter briefs of less than ten (10) pages can be in letter format and need not include tables of contents or authorities. Letter briefs of more than ten (10) pages should include tables of contents and authorities.

4. Next Status Conference

The next status conference will take place by telephone on Wednesday, August 5, at 9 a.m. Pacific Time. Topics for that status conference will include subjects raised by the letter briefs, the Special Master's first report, and future proceedings in this case (including discovery and additional pre-trial motions).

5. Requests for Modification or Supplementation

Any requests for modification or supplementation of this Case Management Order should be received by the Special Master on or before Friday, June 26, 2009.

Date: June 12, 2009



Barton H. Thompson, Jr.
Special Master

Woods Institute
Jerry Yang & Akiko Yamazaki Environment
& Energy Building – MC 4205
473 Via Ortega
Stanford, California 94305