

**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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**OFFICE OF THE SPECIAL MASTER**

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**CASE MANAGEMENT ORDER NO. 9**

**November 7, 2011**

## **CASE MANAGEMENT ORDER NO. 9**

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

### **1. Comments on Draft Memorandum Opinions**

On or before Friday, November 11, 2011, any party or amicus can file comments on the draft memorandum opinions dated November 2, 2011. Such comments should be limited to clarifications or corrections that the party or amicus believes should be made to the memorandum opinion before it is finalized. There is no need to identify typographic or spelling errors.

### **2. Status Conference**

The next telephonic status conference will be held on Monday, November 28 at 8:30 a.m. PST.

### **3. Rule 45 Comments**

On or before Friday, November 11, 2011, counsel for Anadarko Petroleum Corporation shall file a letter brief with the Special Master explaining its concerns under Rule 45 of the Federal Rules of Civil Procedure with the proposed Case Management Plan circulated by the Special Master in late September. The letter brief can incorporate by reference any concerns expressed in earlier correspondence with the parties, so long as that correspondence is attached to the letter. Any party can file a letter brief responding to those concerns up to two days prior to the next status conference or can provide its response orally during the status conference.

### **4. Document Production Order**

Prior to the next status conference, Montana and Wyoming shall meet and confer regarding the terms of a “blanket” document production order that the Special Master would issue requiring both States to produce to the other side all documents falling into specified categories of relevance to this proceeding (e.g., all documents showing diversions from the Tongue and Powder River Basins). Montana and Wyoming shall seek agreement on both (1) the categories of documents to be produced, and (2) the terms of the production. At least three business days prior to the next status conference, Montana and Wyoming shall submit either a joint letter or separate letters summarizing what agreement, if any, the two parties have been able to reach and what, if any, disagreement remains.

### **5. Resolution of the Years for which Montana Can Seek Damages**

Prior to the next status conference, Montana and Wyoming also shall meet and confer regarding the timing and process for resolving the question of the years for which

Montana can seek damages or other relief for any violations of its pre-1950 water rights under Article V of the Compact (the subject of Wyoming's Motion for Partial Summary Judgment). At least three business days prior to the next status conference, Montana and Wyoming shall submit either a joint letter or separate letters summarizing what agreement, if any, the two parties have been able to reach and what, if any, disagreement remains.

#### **6. Initial Disclosures**

The Special Master intends to finalize the Case Management Plan immediately following the next status conference. Montana and Wyoming shall be ready to discuss the terms of that plan at the status conference. Initial disclosures under the Case Management Plan will be due on or before Monday, January 16, 2012.

#### **7. Requests for Modification or Supplementation**

Any requests for modification or supplementation of this Case Management Order should be submitted to the Special Master on or before Wednesday, November 9, 2011.

Date: November 7, 2011

A handwritten signature in black ink, appearing to read "Barton H. Thompson, Jr.", written over a horizontal line.

Barton H. Thompson, Jr.  
Special Master

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