

**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**

---

**BEFORE THE HONORABLE BARTON H. THOMPSON, JR.**

**SPECIAL MASTER**

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**Wyoming's Motion for Summary Judgment**

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The State of Wyoming, through counsel, moves for the entry of summary judgment in its favor on all remaining claims in the State of Montana's Bill of Complaint on the grounds that Montana is bound as a matter of law to the terms of its 1992 Agreement with Wyoming governing water allocation and reservoir operations in the Tongue River Reservoir, and when the plain terms of this Agreement are applied to these proceedings only a trickle of water remains in issue. Wyoming is entitled to summary judgment on the remaining amounts at issue for a variety of reasons, and no genuine questions of material fact preclude the entry of summary judgment in Wyoming's favor on Montana's Bill of Complaint.

This motion is based on the pleadings, the Affidavits of Gordon W. Fassett, P.E., Patrick Tyrrell, P.E., and Bern Hinckley, P.G., the depositions of Dale E. Book, P.E., Steven P. Larson, Arthur F. Hayes, Jr., Roger Muggli, and Russell Levens, select documents produced by Montana in discovery, all of which are attached hereto, and all other items of record at this time, which are specifically incorporated herein. These materials establish that there is no genuine issue as to any material fact and that Wyoming is entitled to judgment as a matter of law. In support of this motion, Wyoming has concurrently filed a memorandum in support of this Motion for Summary Judgment, which is specifically incorporated herein by reference.

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WHEREFORE the State of Wyoming requests that all remaining claims in the State of Montana's Bill of Complaint be dismissed with prejudice.

Dated this 3rd day of July, 2013.

THE STATE OF WYOMING



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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the Wyoming's Motion for Summary Judgment was served by electronic mail and by placing the same in the United States mail, postage paid, this 3rd day of July, 2013.

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