

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

WYOMING'S MOTION FOR PARTIAL SUMMARY JUDGMENT

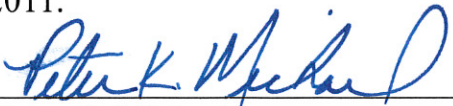
The State of Wyoming, through counsel, moves for partial summary judgment to preclude the State of Montana from claiming damages or other relief based on Section V(A) of the Yellowstone River Compact for the years 1952-2003, and 2005, which were years in which Montana did not notify Wyoming that Montana's pre-1950 appropriators were not receiving adequate water from the Tongue and Powder Rivers. Wyoming also seeks partial summary judgment precluding Montana from claiming damages or other relief for those days in the years 2004 and 2006 that preceded Montana's notifications in those years.

This motion is based on the grounds that there are no genuine issues of material fact and Wyoming is entitled to judgment as a matter of law on Montana's claims for

relief under Section V(A) with respect to all times between 1952 and 2006, except for those periods for which Montana gave notification in 2004 and 2006. In support of this motion, and in compliance with the Special Master's instructions in Case Management Order No. 8, Wyoming relies on the following affidavits and other documents, which are submitted herewith unless otherwise noted:

1. Wyoming's Brief in Support of Motion for Partial Summary Judgment;
2. Affidavit of Patrick T. Tyrrell and Exhibits 1 through 5 thereto;
3. Affidavit of Gordon W. "Jeff" Fassett;
4. Affidavit of Floyd A. Bishop and Exhibit 1 thereto;
5. Affidavit of Paul Rechard;
6. Affidavit of Richard G. Stockdale;
7. Affidavit of Jodee Pring;
8. Annual Reports of the Yellowstone River Compact Commission, 1952 through 2006 (available from the Yellowstone River Compact Commission's official website maintained by the United States Geological Survey).

Dated this 12th day of September, 2011.



Peter K. Michael
Counsel of Record
Chief Deputy Attorney General
123 Capitol Building
Cheyenne, WY 82002
(307) 777-6196

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the Wyoming's Motion for Partial Summary Judgment was served by electronic mail and by placing the same in the United States mail, postage paid, this 12th day of September, 2011.

Jeanne S. Whiteing
Whiteing & Smith
1628 5th Street
Boulder, CO 80302
jwhiteing@whiteingsmith.com

John B. Draper
Montgomery & Andrews
325 Paseo de Peralta
Santa Fe, NM 87501
jdraper@montand.com

Jennifer Anders
Montana Attorney General's Office
P.O. Box 201401
Helena, MT 59620-1401
janders@mt.gov

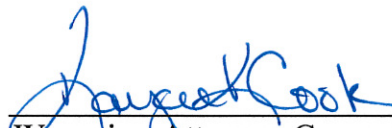
Jennifer Verleger
North Dakota Attorney General's Office
500 North Ninth Street
Bismarck, ND 58501
jverleger@nd.gov

James J. Dubois
Office of the Solicitor
US Department of Justice
Natural Resources Section
1961 Stout Street, 8th Floor
Denver, CO 80294
James.dubois@usdoj.gov

William M. Jay
Assistant to Solicitor General
US Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
William.m.jay@usdoj.gov

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

Barton H. Thompson Jr.
Susan Carter, Assistant
Jerry yang and Akiko Yamazaki
Environment & Energy Building, MC-4205
473 via Ortega
Stanford, CA 94305-4205
Susan.carter@stanford.edu



Wyoming Attorney General's Office