

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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BEFORE THE HONORABLE BARTON H. THOMPSON, JR.  
SPECIAL MASTER

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WYOMING'S STATUS REPORT NO. 13

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The State of Wyoming presents the following Status Report No. 13 pursuant to Section VII.D. of Case Management Plan No.1:

1. On January 4, 2013, Montana filed its Disclosure of Experts and Expert Exhibits.
2. On January 8, 2013, Wyoming sent Montana a letter identifying a preliminary list of information Wyoming's experts require in order to adequately review Montana's expert reports.
3. On January 9, 2013, Wyoming issued seven subpoenas to Montana water users currently located in Helena, Billings, and Big Timber, Montana, as well as Anchorage, Alaska and Edgewood, Iowa. The subpoenas, and all subsequent subpoenas described below, were accompanied by a letter from James Kaste to the persons to whom the subpoenas were directed. A copy of that letter was provided to the Special Master on January 14, 2013, shortly after the status conference that day.
4. On January 11, 2013, Wyoming issued six subpoenas to Montana water users currently located in Great Falls, Malta and Miles City, Montana, as well as Spearfish, South Dakota, Fay, Oklahoma and Gillette, Wyoming.
5. On January 11, 2013, Counsel for Montana and Wyoming conferred with regard to potential extension of expert designation deadlines and Montana's concerns regarding subpoenas issued by Wyoming.
6. On January 12, 2013, Montana filed its Notice of Posting of Expert Backup and Designation of Confidential Documents. The back-up information posted by Montana does not appear to include all of the information Wyoming requested in its January 8, 2013, letter.

7. On January 12, 2013, Montana served its Expedited Motion for a Protective Order regarding subpoenas issued by Wyoming to individual Montana water users.

8. The Special Master held a status conference on January 14, 2013. During the Status Conference, Montana and Wyoming presented their positions with regard to Wyoming's issued subpoenas and Montana's Expedited Motion for a Protective Order. The Special Master also requested that Montana and Wyoming confer with regard to extension of case deadlines.

9. On January 14, 2013, the Special Master issued his Memorandum Opinion Regarding Montana's Expedited Motion for a Protective Order wherein he set out a procedure Wyoming is to follow should any subpoenaed water user contact Wyoming with any questions or concerns regarding the time permitted for production, other terms of the production, or the subpoenas in general.

10. Prior to the January 14 status conference, Montana sent letters to the subpoenaed Montana water users advising them that Montana would assist them in responding to the subpoenas and that Montana was attempting to determine whether there was a better way to produce the subpoenaed information rather than the users digging through their own files. Following the status conference, Montana sent another letter to the subpoenaed water users advising them to contact Wyoming should they believe that it would be burdensome for them to comply with the subpoenas, and requested that the users send copies of any produced materials to Montana as well. Some Montana water users have contacted Wyoming's counsel expressing confusion about their obligation under the subpoenas. Counsel for Wyoming has worked diligently to assist the Montana water users with any confusion created by Montana's initial letter

or other aspects of the subpoena process and has accommodated the users with any extension requests they may have had.

11. On January 16, 2013, Montana filed a joint letter on behalf of Montana and Wyoming identifying proposed dates to which to extend various case deadlines.

12. On January 16, 2013, Montana provided Wyoming with alternate online access to its expert back-up information as a result of technical difficulties related to its first online source.

13. On January 28, 2013, Wyoming served its Second Request for Admissions, Second Requests for Production of Documents and Third Set of Interrogatories on Montana.

14. Wyoming deposed the following individuals between January 15th and January 31st, 2013: Tim Davis, Jim Robinson, Mary Sexton, Russ Levens, Kevin Smith, John Tubbs, Chuck Dalby, and Art Hayes Jr.

15. Wyoming and Montana have made arrangements for Wyoming to take the depositions of Charles Gebhart, Charles Kepper, Allen Fjell, Roger Muggli, Mark Fix, Dale Book and Steve Larson during the first two weeks of February, 2013.

Dated this 1st day of February, 2013.

Respectfully submitted,

THE STATE OF WYOMING



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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the Wyoming Status Report No. 13 was served by electronic mail and by placing the same in the United States mail, postage paid, this 1st day of February, 2013.

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