

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

AFFIDAVIT OF WILLIAM KNAPP IN SUPPORT OF WYOMING'S MOTION FOR
SUMMARY JUDGEMENT

William Knapp, being sworn, states;

1. I am the Assistant Superintendent for Water Division II and the Hydrographer Commissioner for Districts 4, 5, and 6 within Water Division II. I have served as the Hydrographer Commissioner for these Districts for over twenty years. I have knowledge of the facts set forth herein either from my own personal knowledge or from the records of Division II, and am competent to testify thereto.

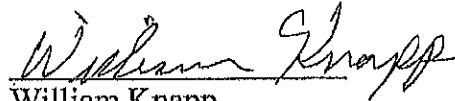
2. The Hydrographer Commissioners within Division II do not use trigger-flows to determine when junior water rights should be regulated without regard to actual demand by senior water rights. Instead, and after years of experience, we know that

certain flow amounts likely indicate that regulation is imminent, although these flow amounts may change over time. Once these flows occur we know that we need to begin communicating with the water users within our Districts to ensure that senior appropriators are receiving the direct flow water they can put to beneficial use and to ensure that junior appropriators receive the stored water they have ordered if any. We know that there is an actual demand for the available direct flow water at the various headgates at all times after the streams go into regulation, and that the appropriators are receiving that water in priority, through constant communications with our appropriators and personal observations. These constant communications often preempt the need for appropriators to make formal calls because the appropriators are generally assured that the stream is being regulated in priority and that their neighbors are not receiving water that they are not entitled to or have no intention to use. Division II Hydrographer Commissioners would not and do not shepherd water to appropriators that are out of priority or that do not have a present intention and actual ability to put the water to beneficial use.

3. When the Hydrographer Commissioners within Division II indicate that a stream typically remains in regulation until the end of the water year that just means that the stream remains within our control. The exact distribution of water made by the Hydrographer Commissioner to the various appropriators while the stream is in regulation may change frequently depending on demand and the available water supply. Stating that the stream remains in regulation does not mean that we deliver water to

certain senior water rights regardless of their intent and ability to put the water to beneficial use.

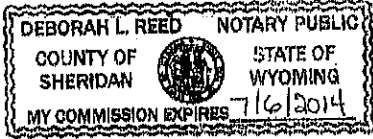
Dated this 3 day of August, 2013.

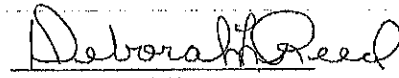

William Knapp

STATE OF WYOMING)
) SS
COUNTY OF SHERIDAN)

The foregoing AFFIDAVIT OF WILLIAM KNAPP was subscribed and sworn to before me, a notary public, by William Knapp this 3rd day of August, 2013.

Witness my hand and official seal.




Notary Public

My Commission Expires: 7/6/2014