

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

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT ORDER NO. 5

July 20, 2010

CASE MANAGEMENT ORDER NO. 5

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

1. Meet and Confer regarding Case Progress

The parties to this action shall meet and confer by telephone to discuss the value, efficiency, and appropriateness of proceeding with select aspects of this case pending the Supreme Court's resolution of Montana's Exceptions to the First Interim Report of the Special Master. The goal is to determine whether valuable progress can be made in this case while waiting for the Supreme Court to act on Montana's exceptions. The parties shall discuss and attempt to reach agreement on whether it would be efficacious and appropriate to:

- Agree on those provisions of a recommended Case Management Plan that are not directly dependent on resolution of Montana's exceptions (e.g., discovery rules, including rules regarding expert discovery, privilege logs, confidentiality, resolution of discovery disputes, and the like);
- Identify the specific legal and factual issues that will need to be resolved in connection with those elements of Montana's Bill of Complaint that are not the direct subject of an exception;
- Proceed with discovery on a coherent subset of issues that are unlikely to be affected by the Supreme Court's resolution of Montana's exceptions (e.g., the groundwater issues raised by ¶ 12 of Montana's Bill of Complaint); and
- Engage in any other actions that the parties believe might be useful at this stage of the proceedings.

To the degree that the parties agree that it would be efficacious and appropriate to pursue particular actions pending the Supreme Court's resolution of Montana's exceptions, the parties shall also discuss and attempt to reach agreement on a time schedule for pursuing and completing those actions.

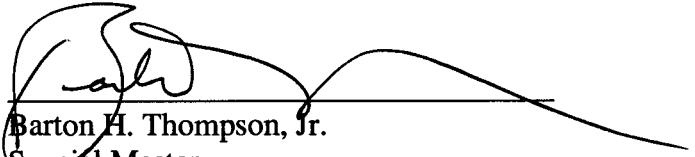
2. Progress Reports

The parties shall submit progress reports on or before Friday, September 3, 2010, setting out any agreement that they have reached on the issues set out in Paragraph 1 of this Order and discussing any disagreement among the parties regarding those issues.

3. Status Conference

The Special Master will hold a Status Conference at 9:00 a.m. on Friday, September 17, 2010 regarding the progress reports and any agreement among the parties on the issues set out in Paragraph 1.

Date: July 23, 2010



Barton H. Thompson, Jr.
Special Master

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