

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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**MONTANA'S STATUS REPORT NO. 5**

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June 1, 2012

COMES NOW the State of Montana, pursuant to Section VII.D of Case Management Plan No. 1 (December 20, 2011) ("CMP No. 1"), and submits this Status Report No. 5.

1. Montana viewed documents responsive to the Joint Document Production Order ("JDPO") at locations in Wyoming on February 22-23 and again on March 26-28. During each of those visits, Montana requested numerous documents pursuant to the JDPO. On May 2-4,<sup>1</sup> Montana received some of the documents that it requested from Wyoming. Although Wyoming was obligated to provide requested documents within 30 days, Montana is still awaiting over half of the documents that it requested in February and March.

2. Wyoming took the following depositions in May by videoconference:

May 21, 2012:	Terri McLaughlin
May 22, 2012:	Mike Roberts and Millie Heffner
May 23, 2012:	Marty VanCleave

3. On May 4, 2012, Montana served its First Set of Interrogatories, First Set of Requests for Production, and First Set of Requests for Admission to Wyoming. Objections and responses to that discovery is due pursuant to CMP No. 1.

4. During the April depositions, Rich Moy, Keith Kerbel, and Jack Stults testified regarding specific years that Montana made verbal calls for water to employees of the State of Wyoming. Based in part on that testimony, on June 1, 2012 Montana inquired from Wyoming whether Wyoming is willing to stipulate to a total of 15 years for which Montana can seek damages pursuant to the Memorandum Opinion of the

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<sup>1</sup> In its Status Report No. 4, Montana mistakenly indicated that it received documents pursuant to the JDPO on April 2-4, as opposed to May 2-4.


Special Master on Wyoming's Motion for Partial Summary Judgment (Notice Requirements for Damages). If the State's can agree upon particular years, it would obviate the need for briefing and argument on Wyoming's Renewed Motion for Summary Judgment, which Wyoming is obligated to file on June 15, 2012.

5. Pursuant to Case Management Order No. 10, ¶ 2, Wyoming and Montana conferred on the discovery that can be conducted from July 15 through September 15, 2012. The States agree that no depositions or written discovery will occur during this period.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Montana's Status Report No. 5 was served by electronic mail on June 1, 2012, and by placing the same in the United States mail, postage paid, on June 1, 2012, to counsel of record. This Certificate of Service was served by electronic mail on June 1, 2012, and by placing the same in the United States mail, postage paid, on June 1, 2012, to the following:

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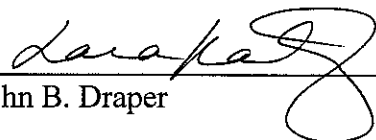
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I further certify that all parties required to be served have been served.

  
for John B. Draper