

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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REQUEST OF ANADARKO PETROLEUM CORPORATION  
FOR MODIFICATION OF CASE MANAGEMENT ORDER  
AND FOR DIVIDED ARGUMENT

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Amicus Anadarko Petroleum Corporation (“Anadarko”) submits this request for modification of the Special Master’s Case Management Order No. 1 and for divided argument to permit Anadarko to participate in the oral argument scheduled for February 3, 2009, on the State of Wyoming’s motion to dismiss. Wyoming supports this request, and the Solicitor General has indicated that it takes no position on it. The State of Montana has indicated that it opposes the request, as it opposed Anadarko’s participation as an amicus. In support of this request, Anadarko states as follows:

1. The Special Master’s Case Management Order No. 1 scheduled a hearing on Wyoming’s motion to dismiss on Tuesday, February 3, 2009, and provided that Wyoming and Montana will each have 30 minutes for oral argument. The Order further provided that the United States as amicus curiae will have 20 minutes in addition to the time allotted to Montana to argue in opposition to Wyoming’s motion. Thus, under the current Order, the Special Master has allotted 30 minutes for argument in support of the motion to dismiss and 50 minutes for arguments in opposition to the motion.

2. In a separate filing, Wyoming has requested that the time allotted to both parties be increased in light of the complexity of the issues and other factors. Here, Anadarko, with Wyoming’s support, asks that Anadarko, which filed an amicus brief in support of Wyoming’s motion to dismiss, be allowed to participate in the hearing and be allotted 20 minutes of argument time—the same amount of time granted to amicus United States to oppose the motion.

3. Anadarko has a direct interest in this controversy and in the proper resolution of the motion to dismiss. The Compact is more than just a contract among the States, it is federal law, and its interpretation could have a substantial impact on Anadarko's interests.

Anadarko is an independent oil and gas exploration and production company with extensive oil and gas leaseholds in the areas surrounding the Powder River in Wyoming. In order to develop these leaseholds, Anadarko engages in coalbed natural gas production. Among other assertions, the Complaint alleges that Wyoming has violated Montana's rights under the Compact by "allow[ing] the pumping of groundwater associated with coalbed methane production in the Tongue and Powder River Basins . . . ." Compl. ¶11. If Montana were to prevail, Anadarko's ability to produce natural gas from coal beds in the area of the Powder River could be adversely affected.

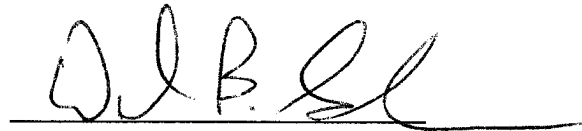
Moreover, a principal issue in the motion to dismiss is whether the Compact covers groundwater. Anadarko addressed this issue extensively in its amicus brief. It also explained the unique nature of the groundwater at issue in coalbed natural gas production, and why such groundwater should not be considered covered by the Compact even if the Compact is read to cover some groundwater. Anadarko is in a unique position to address this aspect of the complaint and motion to dismiss, and its participation in the hearing will likely aid the Special Master's consideration of the issues.

WHEREFORE, Anadarko respectfully requests that the Special Master modify Case Management Order No. 1 to allot 20 minutes of argument time to counsel for Anadarko in support of Wyoming's motion to dismiss.

Dated this 3rd day of December, 2008.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Request of Anadarko Petroleum Corporation for Modification of Case Management Order and for Divided Argument was served by first class mail, postage paid and by electronic mail, as noted, this 3rd day of December, 2008, to the following:

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