

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

WYOMING'S STATUS REPORT NO. 11

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The State of Wyoming presents the following Status Report No. 11 pursuant to Section VII.D. of Case Management Plan No.1:

1. On November 2, 2012, Montana served its responses to Wyoming's Second Set of Interrogatories.

2. By letter dated November 2, 2012, Montana identified deficiencies it perceived with regard to Wyoming's Responses to Montana's First Set of Discovery.

3. By letter dated November 5, 2012, Wyoming informed Montana of Wyoming's concerns regarding Montana's inadequate answers to Wyoming's Second Set of Interrogatories and First Requests for Admissions.

4. By letter dated November 9, 2012, Montana responded to Wyoming's concerns regarding Montana's inadequate answers to Wyoming's Second Set of Interrogatories and First Requests for Admissions.

5. By letter dated November 9, 2012, Montana requested that Wyoming produce certain documents identified during the deposition of Carmine LoGuidice.

6. On November 9, 2012, Montana served deposition notices for John Wantulok, Tom Manolis, Deborah Reed, Pat Boyd, Bill Shackelford, and Edith Lameres. Montana and Wyoming agreed that the deposition of Deborah Reed would not be taken at this time.

7. By letter dated November 13, 2012, Wyoming responded to Montana's November 9, 2012, letter regarding Montana's interrogatory and admission responses, and provided notice that Wyoming was submitting to the discovery dispute to the Special Master.

8. On November 13, 2012, Wyoming submitted the following discovery dispute to the Special Master pursuant to Section VII.G.1(b) of CMP No. 1: Montana's inadequate answers to Wyoming's Second Set of Interrogatories and First Requests for Admissions.

9. On November 13, 2012, Wyoming produced the following documents to Montana following requests made by Montana's counsel at the deposition of Carmine LoGuidice and in response to Montana's letter dated November 9, 2012: 1) The pages and files Montana's counsel marked at Carmine LoGuidice's deposition (WY 37959-38608); 2) The cover memo and table of contents of the State Engineer Office handbook (WY 38609-38612), and; 3) The requested maps created by Deborah Reed (WY 38613-38690).

10. On November 20, 2012, Montana served Notices of Deposition and Subpoenas Duces Tecum on Wyoming for the following witnesses: Gordon Fassett, John Barnes, Lisa Lindemann, Sue Lowry, Pat Tyrrell, Richard Stockdale and Alan Cunningham.

11. Montana conducted the following depositions of Wyoming water officials and water users during November: Edith Lames, 11/13/12; Bill Shackelford, 11/14/12; Pat Boyd, 11/14/12; John Wantulok 11/15/12; Tom Manolis 11/15/12; Lisa Lindemann, 11/26/2012; John Barnes, 11/27/2012; Gordon Fassett, 11/27/12; Patrick Tyrrell 11/28/12; Dick Stockdale 11/29/12; Alan Cunningham 11/29/12, and; Sue Lowry, 11/30/12.

12. On November 21, 2012, Wyoming served its First Supplemental Answers to Montana's First Interrogatories on Montana.

13. On November 21, 2012, Montana served its First Supplemental Response to Wyoming's Second Set of Interrogatories on Wyoming.

14. On November 29, 2012, Montana submitted the following discovery dispute to the Special Master pursuant to Section VII.G.1(b)(i) of CMP No. 1: 1) Failure to produce electronic GIS files; 2) Inadequate answers to interrogatories; and 3) Documents evidencing regulation in Wyoming ("Tag Books").

15. The Special Master held a status conference on November 30, 2012, where he and the parties discussed the parties' discovery disputes and the general status of the case. With regard to Montana's discovery concerns, Wyoming agreed to provide Montana access to the identified electronic GIS files, Wyoming represented that it had provided Montana with all relevant and available Tag Books, and Montana was to narrow its interrogatory requests by being more specific regarding the information and documents Montana is requesting to determine whether Wyoming can reasonably produce responsive information and documents, or whether Montana must collect the requested information itself. With regard to Wyoming's concerns, the Special Master noted that Montana's expert designation and report deadline of January 4, 2013, would not be extended and that he would take Montana's current failure to identify specific contentions and facts into account should Wyoming need extra time to respond to Montana's expert reports. The parties agreed to continue and work to resolve any discovery disputes and the Special Master scheduled a follow-up status conference for December 13, 2012, at 12:00 p.m.

16. On November 30, 2012, Wyoming provided Montana with access to the electronic GIS files it had requested.

17. On December 5, 2012, Wyoming produced the following documents to Montana which Montana had requested during the deposition of Sue Lowry on November 30, 2012: WY

Water Planning Program Report No. 10, April, 1972 (WY 39029-39218); WY Water Planning Program, May, 1973 (WY 39219-39433).

18. Wyoming and Montana have currently arranged for Montana to depose Wyoming water users Greg Bensel and John Engels and Wyoming State Engineer Office employee Kim French in Sheridan, Wyoming on December 12 and 13, 2012.

19. Montana's declarations regarding specific "call" facts for all contested years other than 2004 or 2006 as required by the Special Master's September 28, 2012, opinion are due today, December 7, 2012.

20. At this time, Wyoming has agreed to temporarily forgo taking depositions of the Montana witnesses it has identified to facilitate Montana's ability to conduct its depositions and comply with its Case Management Plan No.1 expert and exhibit disclosure deadline.

Dated this 7th day of December, 2012.

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. 11 was served by electronic mail and by placing the same in the United States mail, postage paid, this 7th day of December, 2012.

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