

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

PETER K. MICHAEL*
Attorney General of Wyoming

JAY JERDE
Deputy Attorney General
JAMES KASTE
Senior Assistant Attorney General
CHRISTOPHER BROWN
Senior Assistant Attorney General
MATTHIAS SAYER
Assistant Attorney General
ANDREW KUHLMANN
Assistant Attorney General
123 Capitol Building
Cheyenne, WY 82002
(307) 777-6196

**Counsel of Record*

**NOTICE OF ISSUANCE OF SUBPOENA TO TESTIFY AT TRIAL
IN A CIVIL ACTION**

Notice is hereby given that the undersigned has issued a Subpoena for the to of documents to:

Richard Anderson
6707 Moon Creek Rd.
Miles City, MT 59301

Raymond Harwood
7100 Moon Creek Rd.
Miles City, MT 59301

Maurice Felton
Felton Angus Ranch
591 Brandenburg Rd
Miles City, MT 59301

Mark Fix
584 Tongue River Rd
Miles City, MT 59301

Kyle Shaw
2742 Tongue River Rd
Miles City, MT 59301

Bret Aye
171 Harvest Ln.
Miles City, MT 59301

Bill Carrel
7 Red Bluff Loop
Birney, MT 59012

Lonnie Wright
Diamond Cross Properties
c/o CT Corporation System
208 North Broadway Ste 313
Billings, MT 59101

Fred Mueller
14 Foothill Driver
Sheridan, WY 82801

The time and place for compliance are set forth in the Subpoena, a true copy of which is attached hereto.

Dated this 10th day of October, 2013.

THE STATE OF WYOMING



Andrew Kuhlmann
Assistant Attorney General
123 Capitol Building
Cheyenne, WY 82002
307-777-6946
andrew.kuhlmann@wyo.gov

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the Notice of Issuance of Subpoena to Testify at Trial in a Civil Action was served by electronic mail and by placing the same in the United States mail, postage paid, this 10th day of October, 2013.

Jeanne S. Whiteing
Whiteing & Smith
1628 5th Street
Boulder, CO 80302
jwhiteing@whiteingsmith.com

Cory J. Swanson
Montana Attorney General's Office
P.O. Box 201401
Helena, MT 59620-1401
coswanson@mt.gov

John B. Draper
Jeffrey Wechsler
Montgomery & Andrews
325 Paseo de Peralta
Santa Fe, NM 87501
jdraper@montand.com
jwechsler@montand.com

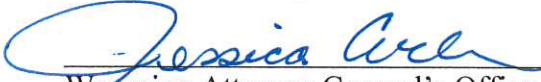
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North Dakota Attorney General's Office
500 North Ninth Street
Bismarck, ND 58501
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James J. Dubois
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Environmental and Natural Resources
Division of Natural Resources Section
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Stanford, CA 94305-4205
Susan.carter@stanford.edu


Wyoming Attorney General's Office

No. 137, ORIGINAL

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STATE OF NORTH DAKOTA, Defendants

**BEFORE THE HONORABLE BARTON H. THOMPSON, JR.
SPECIAL MASTER**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Fred Mueller
[REDACTED]
Sheridan, WY 82801

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time

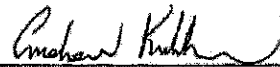
and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: October 10, 2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

Proof of Service

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for _____ was received by me on _____.

I served the subpoena by delivering a copy to the named individual as follows:

_____ on (date) _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law.

I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's Address

FEDERAL RULE OF CIVIL PROCEDURE 45 (C), (D), AND (E) (EFFECTIVE 12/1/07)

(C) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) AVOIDING UNDUE BURDEN OR EXPENSE; SANCTIONS. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) COMMAND TO PRODUCE MATERIALS OR PERMIT INSPECTION.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) QUASHING OR MODIFYING A SUBPOENA.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and

(D) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information.

These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) CLAIMING PRIVILEGE OR PROTECTION.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it.

After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(e)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(E) **CONTEMPT.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(e)(3)(A)(ii).



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Peter K. Michael

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Fred Mueller

██████████
Sheridan, WY 82801

Dear Mr. Mueller,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is ██████████. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

Your appearance at trial is not expected to take more than one day, including your travel to and from Billings. But if the unexpected occurs and you are required to stay overnight either before or after the day of your testimony, you may be entitled to additional fees

October 10, 2013

Page 2 of 2

you are required to stay overnight, the State of Wyoming will also make reservations and pay for your room at a hotel in Billings. The State of Wyoming cannot however pay for extra amenities at the hotel, such as room service, pay-per-view television, or long distance phone calls. Because of this, the hotel will still require you to present a valid credit card at the time you check in. Your card will only be charged if you incur charges for those extra services. **Therefore, please remember to bring a valid credit card with you when you come to testify.** If you do not bring a card, the State of Wyoming will have to reimburse you after your trip to Billings, and this will require some paperwork and delay.

I know that testifying at trial is always a great inconvenience to any witness, so I thank you for your cooperation with this subpoena and your attendance at the trial. The knowledge you possess is important to the resolution of this case. Please feel free to contact me or my office if you have any questions or need to provide us with better contact information. You can reach me at 307-777-3537 or my office at 307-777-6946.

Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)

NO. 137, ORIGINAL

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STATE OF MONTANA, Plaintiff

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To: Richard Anderson
[REDACTED]
Miles City, MT 59301

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and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

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Date: Oct. 10, 2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

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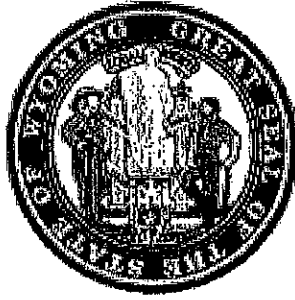
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Office of the Attorney General

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October 10, 2013

Richard Anderson

[REDACTED]
Miles City, MT 59301

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SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Raymond Harwood
[REDACTED]
Miles City, MT 59301

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(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) CLAIMING PRIVILEGE OR PROTECTION.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it.

After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(E) **CONTEMPT.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Peter K. Michael

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Raymond Harwood
[REDACTED]

Miles City, MT 59301

Dear Mr. Harwood,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is [REDACTED]. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

Your appearance at trial is not expected to take more than one day, including your travel to and from Billings. But if the unexpected occurs and you are required to stay overnight either before or after the day of your testimony, you may be entitled to additional fees

October 10, 2013

Page 2 of 2

you are required to stay overnight, the State of Wyoming will also make reservations and pay for your room at a hotel in Billings. The State of Wyoming cannot however pay for extra amenities at the hotel, such as room service, pay-per-view television, or long distance phone calls. Because of this, the hotel will still require you to present a valid credit card at the time you check in. Your card will only be charged if you incur charges for those extra services. **Therefore, please remember to bring a valid credit card with you when you come to testify.** If you do not bring a card, the State of Wyoming will have to reimburse you after your trip to Billings, and this will require some paperwork and delay.

I know that testifying at trial is always a great inconvenience to any witness, so I thank you for your cooperation with this subpoena and your attendance at the trial. The knowledge you possess is important to the resolution of this case. Please feel free to contact me or my office if you have any questions or need to provide us with better contact information. You can reach me at 307-777-3537 or my office at 307-777-6946.

Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)

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**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Maurice Felton

Miles City, MT 59301

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time

and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Oct. 10, 2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

Proof of Service

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for _____ was received by me on _____.

I served the subpoena by delivering a copy to the named individual as follows:

_____ on (date)_____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law.

I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's Address

FEDERAL RULE OF CIVIL PROCEDURE 45 (C), (D), AND (E) (EFFECTIVE 12/1/07)

(C) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) AVOIDING UNDUE BURDEN OR EXPENSE; SANCTIONS. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) COMMAND TO PRODUCE MATERIALS OR PERMIT INSPECTION.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) QUASHING OR MODIFYING A SUBPOENA.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and

(D) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information.

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After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

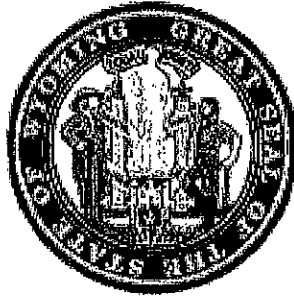
results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(E) CONTEMPT. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(i).



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Peter K. Michael

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Maurice Felton

[REDACTED]
Miles City, MT 59301

Dear Mr. Felton,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is [REDACTED]. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

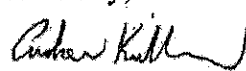
Your appearance at trial is not expected to take more than one day, including your travel to and from Billings. But if the unexpected occurs and you are required to stay overnight

October 10, 2013
Page 2 of 2

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I know that testifying at trial is always a great inconvenience to any witness, so I thank you for your cooperation with this subpoena and your attendance at the trial. The knowledge you possess is important to the resolution of this case. Please feel free to contact me or my office if you have any questions or need to provide us with better contact information. You can reach me at 307-777-3537 or my office at 307-777-6946.

Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)

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**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Mark Fix
[REDACTED]
Miles City, MT 59301

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time

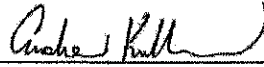
and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Oct. 10, 2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

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This subpoena for _____ was received by me on _____.

I served the subpoena by delivering a copy to the named individual as follows:

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Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law.

I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's Address

FEDERAL RULE OF CIVIL PROCEDURE 45 (C), (D), AND (E) (EFFECTIVE 12/1/07)

(C) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

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Office of the Attorney General

Governor
Matthew H. Mead

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Attorney General
Peter K. Michael

Division Deputy
Jay A. Jerde

October 10, 2013

Mark Fix

[REDACTED]
Miles City, MT 59301

Dear Mr. Fix,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is [REDACTED]. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

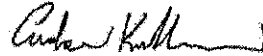
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October 10, 2013
Page 2 of 2

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Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)

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**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Kyle Shaw
[REDACTED]
Miles City, MT 59301

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time

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Date: Oct. 10, 2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

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(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) QUASHING OR MODIFYING A SUBPOENA.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and

(D) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information.

These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

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(2) CLAIMING PRIVILEGE OR PROTECTION.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it.

After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

results from the expert's study that was not requested by a party; or

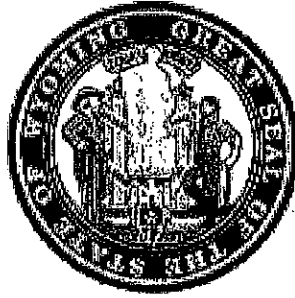
(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(E) **CONTEMPT.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Peter K. Michael

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Kyle Shaw

[REDACTED]
Miles City, MT 59301

Dear Mr. Shaw,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is [REDACTED]. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

Your appearance at trial is not expected to take more than one day, including your travel to and from Billings. But if the unexpected occurs and you are required to stay overnight either before or after the day of your testimony, you may be entitled to additional fees

October 10, 2013

Page 2 of 2

you are required to stay overnight, the State of Wyoming will also make reservations and pay for your room at a hotel in Billings. The State of Wyoming cannot however pay for extra amenities at the hotel, such as room service, pay-per-view television, or long distance phone calls. Because of this, the hotel will still require you to present a valid credit card at the time you check in. Your card will only be charged if you incur charges for those extra services. **Therefore, please remember to bring a valid credit card with you when you come to testify.** If you do not bring a card, the State of Wyoming will have to reimburse you after your trip to Billings, and this will require some paperwork and delay.

I know that testifying at trial is always a great inconvenience to any witness, so I thank you for your cooperation with this subpoena and your attendance at the trial. The knowledge you possess is important to the resolution of this case. Please feel free to contact me or my office if you have any questions or need to provide us with better contact information. You can reach me at 307-777-3537 or my office at 307-777-6946.

Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)

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**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Bret Aye
[REDACTED]
Miles City, MT 59301

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time

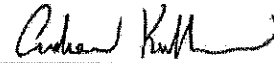
and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Oct. 10, 2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

Proof of Service

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for _____ was received by me on _____.

I served the subpoena by delivering a copy to the named individual as follows:

_____ on (date) _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law.

I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's Address

FEDERAL RULE OF CIVIL PROCEDURE 45 (C), (D), AND (E) (EFFECTIVE 12/1/07)

(C) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) AVOIDING UNDUE BURDEN OR EXPENSE; SANCTIONS. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) COMMAND TO PRODUCE MATERIALS OR PERMIT INSPECTION.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

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(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

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(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

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After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

results from the expert's study that was not requested by a party; or

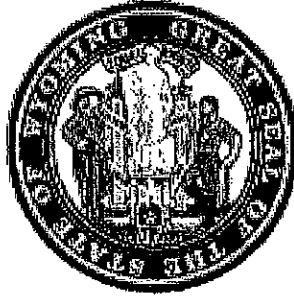
(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

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(E) **CONTEMPT.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Peter K. Michael

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Bret Aye

[REDACTED]
Miles City, MT 59301

Dear Mr. Aye,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is [REDACTED]. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

Your appearance at trial is not expected to take more than one day, including your travel to and from Billings. But if the unexpected occurs and you are required to stay overnight either before or after the day of your testimony, you may be entitled to additional fees

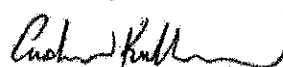
October 10, 2013

Page 2 of 2

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I know that testifying at trial is always a great inconvenience to any witness, so I thank you for your cooperation with this subpoena and your attendance at the trial. The knowledge you possess is important to the resolution of this case. Please feel free to contact me or my office if you have any questions or need to provide us with better contact information. You can reach me at 307-777-3537 or my office at 307-777-6946.

Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)

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**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: **Bill Carrel**
[REDACTED]
Birney, MT 59012

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time


and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Oct. 10, 2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

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(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for _____ was received by me on _____.

I served the subpoena by delivering a copy to the named individual as follows:

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I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's Address

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Office of the Attorney General

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Matthew H. Mead

Attorney General
Peter K. Michael

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Bill Carrel

[REDACTED]
Birney, MT 59012

Dear Mr. Carrel,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

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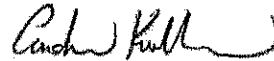
October 10, 2013

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Enc. (2)

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STATE OF MONTANA, Plaintiff

V.

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AND

STATE OF NORTH DAKOTA, Defendants

**BEFORE THE HONORABLE BARTON H. THOMPSON, JR.
SPECIAL MASTER**

SUBPOENA TO TESTIFY AT A TRIAL IN A CIVIL ACTION

To: Lonnie Wright
– Diamond Cross Properties
c/o CT Corporation System
208 North Broadway Ste 313
Billings, MT 59101

COMES NOW the Defendant, State of Wyoming, and pursuant to Rule 45, Federal Rules of Civil Procedure, herewith commands you to appear to testify at a trial in this civil action. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana. The State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013, although this may be subject to change. Please see the attached letter for more information regarding the time

and location where you must appear. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: Oct. 10, 2013

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail and telephone number of the attorney representing the State of Wyoming, who issues or requests this subpoena, are:

Andrew Kuhlmann, Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002, (307) 777-6946, andrew.kuhlmann@wyo.gov

Proof of Service

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for _____ was received by me on _____.

I served the subpoena by delivering a copy to the named individual as follows:

_____ on (date) _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law.

I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's Address

FEDERAL RULE OF CIVIL PROCEDURE 45 (C), (D), AND (E) (EFFECTIVE 12/1/07)

(C) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) AVOIDING UNDUE BURDEN OR EXPENSE; SANCTIONS. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) COMMAND TO PRODUCE MATERIALS OR PERMIT INSPECTION.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) QUASHING OR MODIFYING A SUBPOENA.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and

(D) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information.

These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) CLAIMING PRIVILEGE OR PROTECTION.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it.

After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

results from the expert's study that was not requested by a party; or

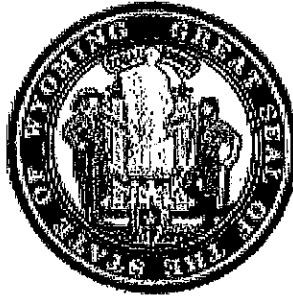
(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(E) CONTEMPT. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).



Office of the Attorney General

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Chief Deputy Attorney General
John G. Knepper

Division Deputy
Jay A. Jerde

October 10, 2013

Lonnie Wright
Diamond Cross Properties
c/o CT Corporation System
208 North Broadway Ste 313
Billings, MT 59101

Dear Mr. Wright,

Enclosed with this letter is a Subpoena to Testify at a Trial in a Civil Action requiring your appearance and testimony at the upcoming trial for the case, *Montana v. Wyoming*, No. 137 Original before the U.S. Supreme Court. The trial will take place at the James F. Battin Federal Courthouse located at 2601 2nd Avenue North, Billings, Montana.

The entire trial is scheduled to take place over several weeks, and therefore the State of Wyoming is not certain at this time exactly when your testimony will be required. Currently, the State of Wyoming estimates that it will call you to testify sometime between November 12 and November 15, 2013. However, if the trial runs longer or shorter than expected, the date when your testimony will be needed could change. My office and I will therefore work to keep you informed about the progress of the trial and let you know exactly when your testimony is expected to be required. The phone number my office currently has for you is [REDACTED]. If there is a better or alternative number for us to reach you at, please call us with it at your earliest convenience.

Also enclosed with this letter and the subpoena is a check for you that includes the \$40 witness fee you are entitled to by law and the federal rate for your mileage to and from the courthouse.

October 10, 2013

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you are required to stay overnight, the State of Wyoming will also make reservations and pay for your room at a hotel in Billings. The State of Wyoming cannot however pay for extra amenities at the hotel, such as room service, pay-per-view television, or long distance phone calls. Because of this, the hotel will still require you to present a valid credit card at the time you check in. Your card will only be charged if you incur charges for those extra services. **Therefore, please remember to bring a valid credit card with you when you come to testify.** If you do not bring a card, the State of Wyoming will have to reimburse you after your trip to Billings, and this will require some paperwork and delay.

I know that testifying at trial is always a great inconvenience to any witness, so I thank you for your cooperation with this subpoena and your attendance at the trial. The knowledge you possess is important to the resolution of this case. Please feel free to contact me or my office if you have any questions or need to provide us with better contact information. You can reach me at 307-777-3537 or my office at 307-777-6946.

Sincerely,



Andrew Kuhlmann
Assistant Attorney General

Enc. (2)