

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 REPLY IN SUPPORT OF MOTIONS IN LIMINE TO EXCLUDE
SCIENTIFIC LITERATURE AND AFFIDAVITS

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The State of Wyoming hereby offers the following reply in support of its motion in limine for an order excluding Montana exhibits 27 through 31, 41, 43, 44, 45 through 58, and 515 through 517 (scientific literature) and Montana exhibits 125 through 130, 228, 242, 276, 277, and 370 (affidavits).

In response to Wyoming's motions in limine to exclude clearly inadmissible evidence, Montana perverts the Special Master's obligation to provide the Supreme Court with a complete record into an assertion that these proceedings have essentially no bounds. It is clear based on the statements in Montana's response that Montana seeks to turn these proceedings into a drawn out free for all, in which anything goes, and the Special Master is powerless to control the presentation of evidence. Wyoming does not adhere to the view that the Special Master is merely a passive bystander in these proceedings, or that he should so readily ignore the hundreds of years of collective legal wisdom embodied in the Federal Rules of Evidence. *A complete record consists solely of competent admissible evidence*, and the Special Master has the power and the duty to control these proceedings in a manner which ensures a fair trial for both parties. To that end the scientific literature and affidavits Montana seeks to admit into evidence should be excluded as they would be as a matter of course in any other proceeding whether tried to a jury or a judge.

WHEREFORE the State of Wyoming requests that the Court enter an order excluding Montana exhibits 27 through 31, 41, 43, 44, 45 through 58, and 515 through 517 (scientific literature) and Montana exhibits 125 through 130, 228, 242, 276, 277, and 370 (affidavits).

Dated this 8th day of October, 2013.

Respectfully submitted,

THE STATE OF WYOMING



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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served by electronic mail and by placing the same in the United States mail, postage paid, this 8th day of October, 2013.

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