

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.



On Exceptions To
The Second Interim Report
Of The Special Master
(Liability Issues)



MONTANA'S MOTION TO DEFER



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September 2, 2015

MONTANA'S MOTION TO DEFER

Comes now the State of Montana and moves the Court to defer consideration of this case for three months, for the purpose of allowing the parties to meaningfully continue settlement negotiations that are currently under way. As grounds for this Motion, Montana states as follows:

1. The Second Interim Report of the Special Master (Liability Issues) was filed with the Court on or about December 29, 2014.

2. On February 23, 2015, the Court entered its Order receiving and ordering filed the Report of the Special Master, stating, *inter alia*:

“The Court notes that the Master has twice directed the parties to address whether the amount of damages at stake justifies further proceedings. The Master’s Report and the submissions of the parties indicate that fees and expenses could well exceed any recovery. The parties are therefore directed to consider carefully whether it is appropriate for them to continue invoking the jurisdiction of this Court. See *Arizona v. California*, 373 U.S. 546, 564 (1963) (“[W]e are mindful of this Court’s often expressed preference that, where possible, States settle their controversies by mutual accommodation and agreement.” (internal quotation marks omitted)).”

3. This case is currently pending on Exceptions to the Second Interim Report of the Special Master. Both Montana and Wyoming have filed Exceptions, and the briefing on the Exceptions is complete. The case is scheduled to be considered at the Court’s conference of September 28, 2015.

4. Since the Court’s Order of February 23, 2015, the States have renewed their settlement discussions. The most recent of these settlement discussions took place in an all-day meeting on August 12, 2015, in Sheridan, Wyoming. Further discussions are scheduled in late September.

5. Montana believes that both States are negotiating in good faith and that a settlement is possible. There are, however, difficult and complex operational and water administration issues regarding future compliance that must be resolved in order to reach a settlement. Resolution by settlement of rules for future operation and administration of reservoirs and other water rights in

both States would relieve the Court of the need to resolve such issues, fostering judicial economy. The requested deferral of three months would facilitate such a result.

6. The State of Montana has conferred with the State of Wyoming regarding this Motion, and the State of Wyoming opposes the Motion.

WHEREFORE, the State of Montana requests that the Court defer consideration of this case and the Exceptions filed by both States for a period of three months.

Respectfully submitted,

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Before the Honorable Barton H. Thompson, Jr.
Special Master

CERTIFICATE OF SERVICE

I certify that a copy of *Montana's Motion to Defer* was served electronically and by U.S.

Mail on September 2, 2015, to the following:

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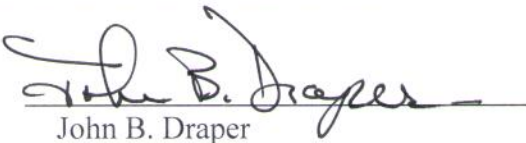
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I further certify that all parties required to be served have been served.


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