

No. 137, ORIGINAL

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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)

◆

WYOMING'S RESPONSE IN OPPOSITION TO
MONTANA'S MOTION TO DEFER

◆

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The State of Wyoming respectfully submits this Response in Opposition to Montana's Motion to Defer filed September 2, 2015.

While it is true that Wyoming and Montana are engaged in discussions on particulars of applying this Court's and the Special Master's decisions interpreting the Yellowstone River Compact, the resolution of the pending exceptions is largely inconsequential to those ongoing discussions. As Montana noted in its motion, the parties are currently discussing complex technical issues regarding future operations and administration of the Yellowstone River Compact as it relates to the Tongue River. However, these discussions have little to do with whether or not the case proceeds to a remedies phase, or whether the Special Master more specifically determines the extent of Montana's storage right in the Tongue River Reservoir. Rather these discussions focus on the ramifications of the recommendations of the Special Master in the Second Interim Report to which neither party objects. Necessarily, as neighbors sharing the waters of the Tongue River, these two states will be working on the details of administering the doctrine of appropriation for years to come, albeit with the current spate of activity following the resolution of legal issues by this Court. Wyoming expects these discussions to proceed, both within and outside the context of the required meetings of the Yellowstone River Compact Commission, regardless of how the Court rules on the pending exceptions. Nothing the Court might do in ruling on these exceptions, short of rejecting recommendations

from the Special Master that both parties accept, will significantly affect the outcome of these inevitable discussions. As a result, the interests of justice and judicial economy are best served by finishing these proceedings as expeditiously as possible. To that end, Wyoming suggests that rather than deferring consideration of the exceptions, the Court rule on the exceptions at its conference on September 28, 2015, without further proceedings.

WHEREFORE, the State of Wyoming respectfully requests that the Court deny Montana's Motion to Defer.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of Wyoming's Response in Opposition to Montana's Motion to Defer was served by electronic mail and by placing the same in the United States mail, postage paid, this 29 day of September, 2015.

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



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