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IN THE
Supreme Court of the United States

October Term, 1986

STATE OF NEBRASKA,

Plaintiff,

v.

STATE OF WYOMING,

Defendant.

**REPLY TO WYOMING'S BRIEF IN OPPOSITION
TO MOTION FOR LEAVE TO FILE PETITION**

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INTRODUCTION

In our petition to enforce the Decree in this case, we have alleged that Wyoming has and will deplete the flows of the North Platte River and thus deprive Nebraska of its decreed apportionment in four ways, two of which are diminishing and will diminish the tributary inflows from the Laramie River and two of which would deplete the flows of the North Platte directly. In response, Wyoming contends that Nebraska has no right to tributary flows from the Laramie, that the Decree allows the usurpation of the irrigation apportionment to facilitate municipal uses, and that Nebraska is effectively seeking to

modify the Decree “to secure greater rights.” Wyoming Brief in Opposition to Motion for Leave to File Petition at 13. Wyoming’s bottom line is that “[e]ven assuming . . . Nebraska’s allegations to be true . . . , they clearly would not establish any violation or threatened violation of the Decree” *Id.* at 12.

Each of Nebraska’s allegations involves present or threatened interference with its apportionment established by the Court in this case. Nebraska does not seek to modify the Decree in any respect, but only to enforce it pursuant to the Court’s express anticipation of the need to do so. We do not propose to litigate anything new, but simply to protect what the Court has already decided. In short, we are asking the Court to protect the integrity of its Decree pursuant to its express and specific retention of jurisdiction.

STATEMENT OF FACTS

Grayrocks Reservoir

In this case the Court apportioned “the natural flows” of the North Platte River between the States of Wyoming and Nebraska, including the tributary flows of the Laramie River below the Wheatland Project in Wyoming, 40 miles upstream from the confluence of the Laramie and the North Platte. Since 1946, the States of Wyoming and Nebraska and the Bureau of Reclamation have agreed on a daily computation of the natural flow allocation pursuant to the Decree in 1945. In the computation, the Wyoming “tributary flow” is the sum of all tributary flows to the North Platte from Whalen, Wyoming, to the state line, including the Laramie River. On September 30, 1986, for example, this value was 368 cfs, of which 263 cfs was contributed by the Laramie, which is representative of the fact that the Laramie constitutes the greatest single tributary inflow to this section of the North Platte pursuant to

the apportionment.¹ The Laramie River flows have been included as the most significant part of the "total Wyoming tributary inflows" since 1946 and have been subject to the 75%/25% apportionment between the States of Wyoming and Nebraska under the Court's Decree of 1945.

Grayrocks Reservoir on the Laramie River was designed to provide water for cooling an electric power generating plant. Prior to its construction in the late 1970s, it was understood that the operation of the reservoir could severely reduce the flows of the North Platte River and interfere with the apportionment to the State of Nebraska. At the time, consideration was given by Nebraska officials to reopening the Court's retained jurisdiction under Paragraph XIII of the Decree. Instead of petitioning the Court to reopen, however, the State of Nebraska sought to protect its apportionment by joining the Fish and Wildlife Service and the National Wildlife Federation in a suit under Section 7 of the National Environmental Protection Act, 16 U.S.C. Section 1536, to enjoin the construction of Grayrocks because it would cause a reduction in North Platte flows and would have adversely affected the critical habitat of whooping cranes 300 miles downstream in Nebraska. Nebraska reasoned that if the North Platte flows were maintained to protect the whooping cranes, the Central Nebraska Power and Irrigation District's interests in the apportionment established in this case would also be protected. *Cf. Nebraska v. R.E.A.*, 12 E.R.C. 1156, *appeal dismissed*, 594 F.2d 870 (8th Cir. 1979).

¹ In the Special Master's Report, the Laramie River is identified as one of the components of apportioned natural flow in the reach from Whalen to the Tri-State Dam. See Table 3 at 67. Over the period of record used by the Special Master in making his recommendations to the Court, the Laramie River contribution amounted to approximately 1/3 of the "usable net accretions" in the reach.

As recited by Wyoming in its Brief in Opposition to Motion for leave to File Petition, the *R.E.A.* case was settled by an Agreement of Settlement and Compromise dated December 4, 1978. The stipulation restricted the use of North Platte water, created a trust fund to enhance the whooping cranes' habitat, and provided for minimum instream flows. Collaterally, Nebraska's apportionment was protected. The State of Wyoming, however, was not a party to the litigation, the settlement agreement, or the stipulation of February 20, 1979, which resulted in the Eighth Circuit's order dismissing the case and vacating the district court's judgment enjoining the construction of the dam. Accordingly, Wyoming is not bound by the agreement or the stipulation.

In order to facilitate the administration of the North Platte Decree, annual "Natural Flow" meetings are held by the States of Wyoming and Nebraska and the Bureau of Reclamation. Since the meeting on May 14, 1979, the State of Wyoming has made it clear that it was not a party to the Grayrocks stipulation and that any water released from Grayrocks Reservoir to meet the terms of the stipulation would be subject to diversion by water users in Wyoming, who would not be regulated by state officials to fulfill the objectives of the stipulation. In other words, the State of Wyoming threatens not to preserve the tributary inflows from the Laramie that Nebraska sought to preserve in *Nebraska v. R.E.A.*, *supra*, and has stated it will violate the provisions of the stipulation and the Decree.

Corn Creek Project

The Corn Creek Irrigation District is situated in Goshen County, Wyoming, and extends south of the confluence of the Laramie and North Platte Rivers. The District encompasses approximately 70,000 acres, 60% of which is rangeland and 40% of which is cropland. On July 24, 1974, the District's

predecessor contracted with the Basin Electric Power Cooperative on behalf of the Missouri Basin Power Project for the future delivery of 22,500 acre-feet annually from Grayrocks Reservoir. The proposed project consists of a surface water diversion system, a 75 cfs pump station at the confluence of the Laramie and North Platte Rivers, a storage reservoir, and a pipeline distribution system. As is recognized in paragraph 5 of the Agreement of Settlement and Compromise in *Nebraska v. R.E.A.*, *supra*, the proposed diversion of Laramie River water to the Corn Creek Irrigation District would undermine the tributary inflow to the North Platte between Whalen and the state line that has been accounted as part of Nebraska's apportionment since 1946. See Appendix A-24-32, Brief in Opposition.

The State of Nebraska appeared in *In Re the Corn Creek Irrig. Dist.*, Civil Section No. 19-460 (Wyo.Dst.Ct. 1978), to object to the formation of the District. After incorrectly concluding that Nebraska has no interest in Laramie River waters under the Decree in this case, the Wyoming district court "denied" the objection instead of dismissing Nebraska for lack of standing.

Deer Creek Project

As noted in Wyoming's Brief in Opposition, Wyoming's recent contention that the Inland Lakes can no longer be used to store irrigation water for Nebraska users is inextricably caught up with Wyoming's proposed storage in a reservoir yet to be constructed on Deer Creek, a tributary to the North Platte between Pathfinder Reservoir and Guernsey Reservoir.²

In Article XIII of the Court's Decree of October 8, 1945, the Court retained jurisdiction to address "[t]he question of

² See Brief in Opposition at 10 n.3.

the effect of the construction or threatened construction of storage capacity not now existing on tributaries entering the North Platte River between Pathfinder Reservoir and Guernsey Reservoir . . .” 325 U.S. at 672.

The design capacity of Deer Creek Reservoir is 66,000 acre-feet, enough to capture the entire tributary inflow from Deer Creek to the North Platte. Historically, the only water use on Deer Creek has been the irrigation of 3,360 acres of land below the proposed damsite. Except for the small amount of water consumed by irrigation existing before the Court’s Decree in 1945, all of the tributary inflows from Deer Creek have been subject to and accounted as part of the percentage apportionment between the States of Wyoming and Nebraska in this case.

The Decree recommended by the Special Master and adopted by the Court restrained any further irrigation development from the North Platte or its tributaries and restricted, by stipulation, future municipal uses to those considered “ordinary and usual” by contemporaneous standards. The Decree did not permit the development of large capacity storage reservoirs which would deplete the natural flows apportioned to irrigation use.

Inland Lakes

The North Platte Project extends 111 miles along the river from Guernsey, Wyoming to Bridgeport, Nebraska. It is an interstate reclamation project supplying irrigation water to 226,000 acres.

The principal features of the Project are the Pathfinder Dam and Reservoir, the Guernsey Dam and Reservoir, and the Whalen Diversion Dam in Wyoming, and Lake Alice, Lake Minatare (the Inland Lakes), two smaller regulating reservoirs, and 2,000 miles of canals, laterals, and drains in Nebraska.

Since 1909, water for the Project has been diverted through the Whalen Diversion Dam. Since 1924, water has been diverted from the south side of the river into the Fort Laramie Canal. Water is diverted from the north side of the river into the Interstate Canal, which has a capacity of 2,100 cfs and delivers water to Lake Alice and Lake Minatare, with a combined capacity of 73,000 acre-feet.

On December 6, 1904, the Bureau of Reclamation applied to Wyoming for a permit to divert the water for the North Platte Project, expressly including the Inland Lakes as storage reservoirs in Nebraska. After construction of the Interstate Canal was completed and the reservoirs were built, the Bureau filed Proof of Appropriation on June 29, 1934. The Wyoming State Engineer accepted the proof without questioning or restricting storage in the Inland Lakes.

At trial in this case in the early 1940s, Wyoming attempted to limit the amount of Inland Lake storage, to no avail. *See, e.g.,* Tr. Vol. II at 480-481, Vol. 56 at 26151-26156 and 26227-26228, Vol. 56 at 26760-26783. In his report, the Special Master recognized the diversion of natural flow for storage in the Inland Lakes by recommending the reduction of 46,000 acre-feet of irrigation season diversion to offset the non-irrigation season diversion of natural flow that was historically stored in the Inland Lakes. Wyoming objected to the recommendation, but the Court adopted the Master's figures. The same diversion amount has also been used in the apportionment calculus in the Decree of 1945 and has been incorporated in the North Platte Ownership and Natural Flow Accounting Procedures, which have been approved and signed by the Wyoming State Engineer as late as 1984. In the decision adopting the Special Master's report, the Court repeatedly recognized the preexisting entitlement to store waters in the Inland Lakes. 325 U.S. at 624-25, 633, 639-40, 646-47, 649.

Shortly after the "Natural Flow and Ownership" meeting on April 8, 1982, the State of Wyoming asserted that storage in the Inland Lakes is not a part of the apportionment between Wyoming and Nebraska. On October 3, 1986, the Wyoming State Engineer filed suit in Wyoming district court against various federal agencies and officials to enjoin storage in the Inland Lakes, contrary to the apportionment in this case. Nebraska, the real party in interest, is not named and is not subject to the state court's jurisdiction.

Historically, the Inland Lakes are filled in the second priority on the river. If Nebraska were to be denied the continued use of the Inland Lakes, the practical effect would be a redistribution of 46,000 acre-feet annually to priorities diverting for use in Wyoming.

ARGUMENT

I.

TRIBUTARY INFLOWS FROM THE LARAMIE RIVER ARE INCLUDED IN THE COURT'S APPORTIONMENT OF THE NORTH PLATTE RIVER TO NEBRASKA.

A.

The Special Master's Report and the Court's Decision and Decree in this Case Are Based on the Contribution of the Laramie River to the Natural Flows of the North Platte.

The North Platte Decree created an entitlement in Nebraska to a portion of the "natural flows" of the North Platte River. 325 U.S. at 630. The importance of the Laramie River to the equitable balance established by the Court has long been recognized by Nebraska and Wyoming and has been a fact of life in the administration of the North Platte Decree for

decades. The contribution of the Laramie River to the natural flow of the North Platte was recognized by the Special Master in his report and formed one of the bases for his recommended apportionment between the states. *See, e.g.*, Report of the Special Master, Table 3 at 67; Statement of Facts, *supra*. The Master's recommendations were adopted by the Court and are subsumed by the Decree. Nebraska and Wyoming have implemented the Decree for forty years consistent with the Master's calculations.

B.

The History of the Administration of the North Platte Decree Establishes Nebraska's Rights to the Contributory Flow of the Laramie River.

Each year since the issuance of the Decree in this case in 1945, Nebraska and Wyoming have agreed to a calculation of the natural flow of the North Platte. The annual calculation has consistently determined a Wyoming "tributary flow." Without variation the tributary flow has been based on the sum of the flows of all tributaries to the North Platte River from Whalen, Wyoming to the Wyoming-Nebraska state line. The Laramie River has been expressly included in these tributary calculations. Wyoming, therefore, has participated in the apportionment of Laramie River waters as a component of the North Platte Decree for forty years. Only recently has Wyoming raised the defective legal argument that Wyoming has an absolute right to "all" water in the Laramie River.

C.

**The Laramie River Decree Between
Wyoming and Colorado Apportioned
Only a Certain Portion of the Waters
of the Laramie.**

In *Wyoming v. Colorado*, 259 U.S. 419 (1922), the Court quantified and apportioned the available supply of water in the Laramie “down to and including the diversion for the Wheatland District” in Wyoming. *Id.* at 488. The return flows from the Wheatland Project, as well as the tributary inflows between the Project and the Laramie’s confluence with the North Platte were not apportioned in *Wyoming v. Colorado*. On the contrary, they became a principal component of the Court’s apportionment between Wyoming and Nebraska of the tributary inflows to the North Platte in the reach between Whalen and the state line.

The purpose of the original Laramie Decree in *Wyoming v. Colorado* was to judicially ascertain and confine Colorado’s rights:

Construing the decree in the light of the record and opinion . . . we think it was intended to and does *define and limit* the quantity of water which Colorado and her appropriators may divert from the interstate stream and its tributaries and thus withhold from Wyoming and her appropriators.

Wyoming v. Colorado, 286 U.S. 494, 508 (1932) (emphasis added). This construction of the Laramie Decree, however, must be understood in the context of the calculation of available supply made by the Court. The Court repeatedly explained the available supply is 288,000 acre-feet within the stretch of the Laramie from the headwaters to the Wheatland diversion.

In 1936 the Court stated that the “decree also confirms and establishes the right of the State of Wyoming and her water

claimants to receive and divert within that state the remaining waters of the stream and its tributaries.” *Wyoming v. Colorado*, 298 U.S. 573, 578 (1936). By “remaining water,” the Court simply meant the water quantified by the original calculations, minus Colorado’s apportionment. The “remaining waters” did not encompass the unquantified return flows from the Wheatland Project and the downstream tributary inflows.

Wyoming also distorts the language contained in the 1957 modification of the Laramie Decree. *See Wyoming v. Colorado*, 353 U.S. 953 (1957). Wyoming fails to point out that the modified Laramie Decree was the result of a self-serving stipulation between Colorado and Wyoming executed years after the North Platte Decree set the equitable balance between Nebraska and Wyoming, apportioning the waters of the lower Laramie as part of the tributary flows to the North Platte. The Laramie Decree of 1957 cannot serve as a subterfuge to dismantle the already settled expectations of Nebraska under the North Platte Decree.

D.

Wyoming Threatens to Violate the North Platte Decree by Depleting Releases from Grayrocks Reservoir.

The essence of Nebraska’s claim with regard to the Grayrocks Reservoir is that Wyoming has repeatedly threatened to ignore the Grayrocks stipulation and to take unilateral actions contrary to the stipulation and the North Platte Decree.

The Grayrocks stipulation recognizes Nebraska’s right to flows in the lower Laramie River. The stipulation is consistent with the North Platte Decree and promotes the policies embodied in the Decree. If Wyoming’s proposed actions had no effect on interstate flows in the North Platte, Nebraska would have no grounds to contest Wyoming’s actions. Wyoming asserts

that any quantities of water released from the Grayrocks Reservoir in accordance with the terms of the stipulation will be subject to diversion by Wyoming water users who will not be subject to regulation by Wyoming officials. It is clear that Wyoming intends to subvert the North Platte Decree, while hiding behind the spurious argument that its actions cannot be constrained by a stipulation to which it is not a party. Wyoming's threats, if carried to fruition, will have an immediate adverse effect on the equitable balance in the North Platte.

Wyoming's protestations of estoppel, therefore, are entirely off the mark. The question before the Court is not whether Nebraska is bound by the terms of the Grayrocks stipulation. Clearly it is. Moreover, the relevant issue is not whether Wyoming is bound by the stipulation. Clearly it is not. Rather, the question requiring adjudication in this Court is whether Wyoming may act in derogation of the North Platte Decree.

E.

The Proposed Operation of the Corn Creek Project Will Have an Immediate Negative Impact on Nebraska's Apportionment of North Platte Natural Flows.

Nebraska has a right under the North Platte Decree to seek to enforce and maintain the equitable balance of the river established in this case. The proposed operation of the Corn Creek Irrigation Project will have a demonstrable adverse effect on the tributary contribution which is integral to the apportioned natural flows of the North Platte. For purposes of Wyoming's Brief in Opposition, which is tantamount to a motion to dismiss, this Court should accept Nebraska's allegations of threatened material depletions to the North Platte flows as true. In that light, Nebraska has stated a cognizable claim.

Wyoming's recourse to collateral estoppel is meritless. First, the Wyoming state court proceeding involving the creation of the Corn Creek Irrigation District was a limited statutory proceeding. The issue presented was the feasibility of the project. Consequently, the scope of the district court's review was narrow, and the court had no general mandate to address wider legal questions.

Because of the circumscribed nature of the state proceedings, it is clear that the issue "definitely and actually litigated" in the earlier proceeding is not identical to the "question expressly and definitely presented" in Nebraska's petition in this case. See *Montana v. United States*, 440 U.S. 147, 157 (1979); *United States v. Moser*, 266 U.S. 236, 242 (1924). The issue litigated in the Goshen County District Court was the feasibility of an irrigation district and the compliance of the petitioners with Wyoming law. The issue presented by Nebraska in this proceeding is whether an interstate apportionment will be upset by the operation of the Corn Creek Project.

Furthermore, the state court's conclusion that Nebraska has no claim to Laramie River waters was a legal determination. The law is clear that where a court "in deciding a case has enumerated a rule of law, the parties in a subsequent action upon a different demand are not estopped from insisting that the law is otherwise." *Id.* at 242; see also *Montana v. United States*, 440 U.S. at 162. Accordingly, the Wyoming district court's interpretation of the Laramie and North Platte Decrees has no effect. A state court in Wyoming has no power, in any event, to define Nebraska's entitlement under the Decree in this case. See, *West Virginia, ex rel. Dyer v. Sims*, 341 U.S. 22 (1951).

II.

**WYOMING'S RIGHTS UNDER ARTICLE X
OF THE NORTH PLATTE DECREE
ARE SUBSERVIENT TO NEBRASKA'S
APPORTIONMENT.**

Wyoming contends it has an "absolute right" under Article X of the North Platte Decree to construct the Deer Creek Project and an unfettered right to appropriate water for that project. The unavoidable problem with Wyoming's position is that it exalts form over substance and confers upon Article X the power to gut the underlying apportionment for irrigation expressed in the Decree. Taken to its logical conclusion, both Wyoming and Colorado could appropriate the entire flow of the North Platte as long as the water is intended for municipal use. This construction of the Decree belies common sense and would promote absurd results.

III.

**WYOMING'S SUIT AGAINST THE BUREAU
OF RECLAMATION IS JURISDICTIONALLY
DEFECTIVE AND IS A SUBTERFUGE DESIGNED
TO UPSET NEBRASKA'S APPORTIONMENT
UNDER THE NORTH PLATTE DECREE.**

The North Platte Decree establishes Nebraska's entitlement to the diversion of North Platte waters through the Interstate Canal in Wyoming for storage in the Inland Lakes and ultimate use in Nebraska. Wyoming does not contest this equitable apportionment to Nebraska. Rather, Wyoming indirectly challenges Nebraska's apportionment based on the North Platte Project by claiming that the suit filed against the United States in Wyoming district court is the appropriate action and forum in which to determine those Nebraska rights.

The Wyoming suit challenges the United States' operation of the North Platte Project, including its diversions through the Interstate Canal for storage and use in Nebraska. The suit names the United States, a nominal party who merely operates the project.³ The relief sought in that case would effectively modify Nebraska's apportionment through reduction of its diversions as well as rearrangement of its decreed priorities in North Platte waters.

Wyoming characterizes the *Christopolus* suit as an attempt to answer "[u]nresolved questions . . . concerning the quantity and timing of natural flow water and storage water delivered to the Inland Lakes" Brief in Opposition at 23. While these and related questions, extensively litigated and discussed in this case, may have been left unresolved by the Decree, their resolution is explicitly provided for in the Decree itself. See Section XIII; see also *Nebraska v. Wyoming*, 325 U.S. at 623, 625, 628, 655.

Wyoming's attempt to litigate matters concerning the proper construction of the Decree in this case in state district court ignores the fact that the acts complained of would be accomplished in contravention to a decree to which Wyoming, Nebraska, Colorado, and the United States are parties. See *Hinderlider, et al. v. La Plata River and Cherry Creek Ditch Company*, 304 U.S. 92, 101 (1938). In *Hinderlider*, the Supreme Court

³ Wyoming's invocation of jurisdiction under the McCarran Amendment, 43 U.S.C. Section 666, is unquestionably defective. McCarran jurisdiction contemplates a comprehensive, stream-wide adjudication. See *Dugan v. Rank*, 372 U.S. 609 (1963). The *Christopolus* suit merely objects to the United States' operation of certain reservoirs on the North Platte and, as such, cannot be considered a stream-wide adjudication. The United States has removed Wyoming's suit to federal court and will likely move to dismiss on jurisdictional grounds.

rejected Colorado's attempt to circumvent the apportionment between New Mexico and Colorado by a decree issued in the Colorado state court. *Id.* at 103.

As to Nebraska's contention that the *Christopolus* suit involves "primarily issues of state law", a quick perusal of Wyoming's complaint reveals the necessity for the construction of the Court's Decree in this case, the interpretation of federal statutory law, and the adjudication of issues of federal common law. See Complaint at 3, 11, 12, 27; *Illinois v. Milwaukee*, 406 U.S. 91 (1972). In addition to being an obvious attempt to cut off rights previously apportioned to Nebraska, the real issues sought to be litigated by Wyoming are exclusively within this Court's jurisdiction and are completely beyond the jurisdictional reach of a state district court. See *Illinois v. Milwaukee*, *supra*; *West Virginia, ex rel. Dyer v. Sims*, 341 U.S. 22, 28 (1951).⁴

Finally, Wyoming's complaint in *Christopolus* demonstrates on its face that Nebraska's ability to protect its interests may be seriously impaired or impeded by the action in the federal district court. See Fed.R.Civ.P. 19(a). In addition, Wyoming's assertion that Nebraska's interests are adequately represented

⁴ The United States' removal of the Wyoming action to federal district court does not alleviate Wyoming's essential jurisdictional problems. This Court is the only forum in which the states and the United States may properly litigate their differences over the Decree. *Maryland v. Louisiana*, 451 U.S. 725, 735 (1980) ("Congress has in turn provided that the Supreme Court shall have 'original and exclusive jurisdiction of all controversies between two or more states.'"). Additionally, enforcement of the Decree in this case cannot be undertaken in the absence of a signatory to the Decree, whose rights will be seriously prejudiced without any representation whatsoever. See e.g., *California v. Arizona*, 440 U.S. 59, 62 (1979); *Provident Tradesmens Bank and Trust Company v. Patterson*, 390 U.S. 102 (1968).

by the Bureau is totally unsupportable. Neither *Nevada v. United States*, 463 U.S. 110, 127-28 (1983), nor any other authority cited by Wyoming, creates any kind of a trust or *parens patriae* relationship between the Bureau of Reclamation and the water users of Nebraska. Nebraska alone may represent its citizens in a matter of such "sovereign interest" as the apportionment of the waters of the North Platte. *New Jersey v. New York*, 345 U.S. 369, 372 (1953). Similarly, the assertion that the Wyoming state court provides an adequate, alternative forum is incorrect. This argument is foreclosed by the obvious inadequacy of a forum where Nebraska is not a party. *Maryland v. Louisiana*, 451 U.S. 725, 743-44 (1980); see also *United States v. Nevada*, 412 U.S. 534, 538 (1972), where the Court stated that "[w]e recognize that the United States will not be able to join California as a defendant in a suit in Nevada and that absent California's voluntary appearance a Nevada decree would not bind that state."

CONCLUSION

Nebraska has presented the Court with justiciable issues of law and fact within the Court's retained jurisdiction under the Decree. That jurisdiction should be exercised to enforce the Decree.

Respectfully submitted,

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A handwritten signature in black ink, appearing to be 'LW Sievers', written over the printed name and title.

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IN THE
Supreme Court of the United States

October Term, 1986

STATE OF NEBRASKA,
Plaintiff,

v.

STATE OF WYOMING,
Defendant.

CERTIFICATE OF SERVICE

I, Richard A. Simms, hereby certify that three true and correct copies of the foregoing Reply to Wyoming's Brief in Opposition to Motion for Leave to File Petition were served on each of the following parties required to be served, in accordance with U.S. Supreme Court Rule 9.3, by depositing the same in the United States mail with first-class postage prepaid and addressed on this 14th day of January, 1987 to:

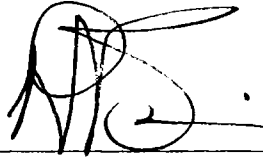
The Honorable Charles Fried
United States Solicitor General
United States Department of Justice
Constitution Avenue & Tenth Street, N.W.
Washington, D.C. 20530

The Honorable Michael J. Sullivan
Governor of the State of Wyoming
State Capitol
Cheyenne, Wyoming 82002

The Honorable Joseph B. Meyer
Wyoming Attorney General
State Capitol, Room 123
Cheyenne, Wyoming 82002

The Honorable Roy Romer
Governor of the State of Colorado
136 State Capitol Building
Denver, Colorado 80203

The Honorable Duane Woodard
Colorado Attorney General
Department of Law
1525 Sherman Street, Third Floor
Denver, Colorado 80203

A handwritten signature in black ink, appearing to read 'RAS', with a horizontal line extending from the end of the signature.

RICHARD A. SIMMS
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