



Montana-Wyoming water trial wraps up after 25 days

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An initial decision is expected by mid-2014 in Montana's bid to prove Wyoming took too much water from the Yellowstone River basin.

The U.S. Supreme Court will have the final say in the dispute once court-appointed special master Barton Thompson Jr. issues his recommendation. Attorneys who wrapped up a marathon 25-day trial in Billings on Wednesday said Thompson could weigh in sometime next summer.

The case revolves around competing claims for the sparse water supplies that allow farmers and ranchers to eke out a living on the arid northern Plains.

Montana claims Wyoming has violated an interstate agreement — the Yellowstone River Compact — nine times since 1981 by taking more than its share of water from the Tongue River. Montana says that's at times left farmers' fields dry along the river, a Yellowstone tributary that runs from northern Wyoming into southeastern Montana.

Wyoming counters that Montana officials formally requested its upstream neighbor release more water in only two years since the compact was signed. But in both instances, there was no clear evidence of harm to Montana water users or proof that Wyoming water users were at fault, attorneys for Wyoming argued during the trial.

During proceedings in Billings that stretched over portions of eight weeks, the two states brought roughly 50 witnesses before Thompson. The testimony delved into the complexities of water appropriation rights, the hydrology of underground aquifers and the constant demand for enough water to support agriculture production in the region.

Also at issue in the dispute is how much water is taken out of the Tongue River system by energy companies drilling for a type of natural gas known as coal-bed methane.

Billions of gallons of water are pumped from underground aquifers to release trapped methane. Wyoming attorneys argued that much of that water is returned to the Tongue River system. But witnesses from Montana said the drilling has partially depleted aquifers that feed into the Tongue and its tributaries.

Under the 1950 compact between the states, Montana water users with longstanding legal rights must get their share of water from Yellowstone tributaries before it's made available to more junior users in Wyoming.

Montana's 2007 lawsuit initially alleged Wyoming also was taking too much water from a second tributary, the Powder River. But the state did not pursue claims specific to the Powder River during the trial, focusing instead on the Tongue.

North Dakota was named as a defendant in the case because it is a party to the Yellowstone River Compact. But there are no claims against the state.

A 2011 Supreme Court ruling resolved one aspect of the case. Justices rejected Montana's claim that

Wyoming farmers had taken advantage of irrigation improvements to increase their water use beyond what was allowed.