

FILED

11/29/2016

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 16-0555

FILED

NOV 29 2016

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 16-0555

ATLANTIC RICHFIELD COMPANY,

Petitioner,

v.

MONTANA SECOND JUDICIAL DISTRICT
COURT, SILVER BOW COUNTY, THE HON.
KATHERINE M. BIDEGARAY,

Respondent,

ORDER

On October 5, 2016, this Court issued an order for full briefing on one issue: whether CERCLA bars the Plaintiffs' claims for restoration damages. The Court invited the United States to submit an amicus brief, due the same date as Petitioner's opening brief. The Court also stated that it would entertain additional amicus briefs, and has since granted leave for two such briefs to be filed, due at the time of Respondent's brief. The Petitioner's opening brief was filed November 17, 2016.

The United States now seeks leave to file an over-length amicus brief, and it has lodged the proposed 7,487-word brief with the Clerk. The United States argues that because of the lengthy history of the cleanup efforts at the Anaconda Smelter Superfund Site, its extensive involvement in the same, and its explicit authority in the subject matter, the ordinary limit of 5,000 words is insufficient to properly address the issues involved in the case. If leave is granted, the United States has no objection to allowing a similar word extension for briefs filed by others in this appeal. Plaintiffs oppose the motion.

This Court does not routinely grant motions to file over-length briefs, but requires demonstration of "extraordinary justification" for such requests. M. R. App. P. 12(10). Although the history is indeed extensive, and the issue may be complex, still there is just one issue for consideration. Upon review of the Petitioner's opening brief, there appears to be

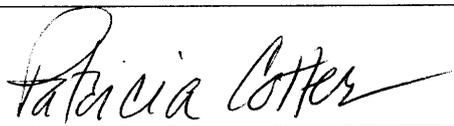
considerable overlap in the United States' proposed filing. The United States' brief devotes nearly ten pages to an explanation of the issues and the factual and procedural background—matters that adequately may be addressed by the parties to the case. We conclude that the case is not so extraordinarily complex as to require exception to the ordinary briefing rules.

IT IS THEREFORE ORDERED that the United States' motion to file an over-length amicus brief is DENIED. The United States shall have ten days from the date of this Order to file a brief that complies with M. R. App. P. 11(4)(a).

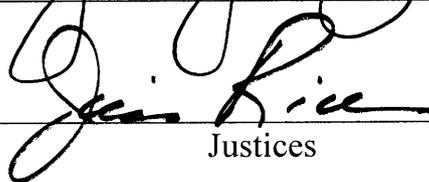
The Clerk is directed to provide copies of this Order to all counsel of record and to the Honorable Katherine Bidegaray, presiding District Judge.

DATED this 29th day of November, 2016.









Justices