

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

PATRICIA DOBRINSKA

PLAINTIFF

v.

Case No. 3:11-CV-03015

UNITED STATES OF AMERICA, DEPARTMENT
OF THE INTERIOR, NATIONAL PARKS SERVICE
CONCESSIONAIRE DEPARTMENT; and
MIKE MILLS, D/B/A BUFFALO OUTDOOR CENTER

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Currently before the Court is Defendant United States of America, Department of the Interior, National Parks Service Concessionaire Department's Motion to Alter and Amend Memorandum and Order Pursuant to Rule 59 (e) (Doc. 11). As a preliminary matter, the basis for Defendant's Motion is improper, as Fed. R. Civ. P. 59 (e) pertains to motions to amend or alter final judgments, and no judgment has entered in the case at bar. Instead, it appears that Defendant would like the Court to reconsider its Order denying Defendant's Motion to Dismiss for lack of subject matter jurisdiction (Doc. 10) pursuant to Fed. R. Civ. P. 60 (a).

Defendant asserts that when the Court ruled on Defendant's Motion to Dismiss (Doc. 6), the Court failed to consider a dispositive Eighth Circuit opinion, *Mader v. United States*, 654 F.3d 794 (8th Cir. 2011). On the contrary, the Court did consider this opinion and cited to it in the Court's Memorandum Opinion and Order (Doc. 10). The *Mader* case is distinguishable from the facts present in the instant dispute, was published prior to the Court's issuance of its Order (Doc. 10) and is not new authority, and does not present a valid basis for the Court to reconsider its prior Order. Therefore, Defendant's Motion to Alter and Amend (Doc. 11) is DENIED.

IT IS SO ORDERED this 30th day of January, 2012.

/s/ P. K. Holmes, III

P.K. HOLMES, III
UNITED STATES DISTRICT JUDGE