

**FILED**

OCT 15 2015

**Montana Water Court**

**IN THE WATER COURT OF THE STATE OF MONTANA  
NATIONAL PARK SERVICE-MONTANA COMPACT**

**CASE NO. WC-1994-01**

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**ORDER CORRECTING CLERICAL ERROR IN AUGUST 14, 2015 ORDER**

On August 14, 2015, this Court issued an Order Directing DNRC to Correct Clerical Errors. Unfortunately that Order contained a clerical error. It described the claims involved as "40T 30068231 through 40T 30068362; claims 40T 30068363 through 40T 30068365; and claim 40T 30068423." The numbers of the first claim were inadvertently transposed. The claims involved should have been described as 40T 30068321 through 40T 30068362; claims 40T 30068363 through 40T 30068365; and claim 40T 30068423.

"The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice." Rule 60(a), M. R. Civ. P.

Accordingly, the August 14, 2015 Order Directing DNRC to Correct Clerical Errors is amended to reflect the above correction to the claim numbers involved.

DATED this 15 day of October, 2015.

  
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Chief Water Judge

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**FILED**

**SEP 16 2015**

**Montana Water Court**

**IN THE WATER COURT OF THE STATE OF MONTANA  
NATIONAL PARK SERVICE-MONTANA COMPACT**

**CASE NO. WC-1994-01**

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**ORDER GRANTING REQUEST TO INCREASE FLOW RATE AND VOLUME  
TO REFLECT THE TERMS OF THE NATIONAL PARK SERVICE COMPACT**

In July 2015, the Department of Natural Resources and Conservation (DNRC) requested the Water Court's approval to correct several errors appearing in the National Park Service's (NPS) compacted claims in Basin 40T, Saint Mary River Basin. After looking into the issue, the Court realized that errors in the abstracts for the NPS compacted rights were not isolated to claims in Basin 40T but occurred in all five areas governed by the NPS Compact.

The errors at issue appeared in the original versions of the abstracts, which were created in 1993. In 2004, the Settling Parties filed a *Notice of Filing of Appendix 4 to the National Park Service-Montana Compact and of the Final Abstracts for All Reserved Water Rights of the National Park Service*. Contained in that filing were abstracts that had been updated to "correct clerical errors identified during final review of the abstracts by the Settling Parties." *Notice Filing*, 2. Claim 41M 30068438, while not mentioned in the DNRC memo to the Court, was one of the claims for which a corrected abstract was submitted. It appears that despite the filing, the 1993 abstracts were not replaced with the corrected 2004 versions.

The Court reviewed the differences between the two versions of the abstracts and determined that all of the changes contained in the 2004 versions were of a clerical nature except for the changes to claim 41M 30068438.<sup>1</sup> The changes to claim 41M 30068438

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<sup>1</sup> Identified in the Court's August 14, 2015 Order as "the water right with a source described as 'Water tributary to the Two Medicine River.'"

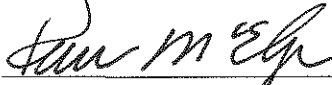
appeared to be substantive in nature, increasing the flow rate from 50 gallons per minute (GPM) to 70 GPM and increasing the volume from 6.00 acre-feet per year (AFY) to 6.40 AFY. The Court determined that the corrections that were clerical in nature should be made because the changes would not substantially affect the rights contained within the abstracts or the rights of other parties. The requested changes to claim 41M 30068438, on the other hand, would substantively change the water right and could potentially affect the rights of other parties. The Court ordered the DNRC to update the database to reflect the clerical changes contained in the 2004 Abstracts with the exclusion of the substantive change to the water right with a source of "Water tributary to the Two Medicine River."

In September 2015, the United States filed a *Motion for Reconsideration of Order Denying Request to Increase Flow Rate*. In its motion, the United States points out that Table 5 in the NPS Compact contains information showing the total volume and flow rate for all of the Places of Use within Glacier National Park. Table 5 shows that the volume for the water right in the Two Medicine River area is 6.40 AFY and the flow rate is 70 gallons per minute. Art. III.C.2, Table 5, § 85-20-401, MCA.

The Compact provides that "[i]n the event of a discrepancy between a right listed in the Abstract and that same right as quantified in accordance with Articles II and III of this Compact, the parties intend that the quantification in accordance with Articles II and III of this Compact shall be reflected in a final decree." Art. II.A., § 85-20-401, MCA. Therefore, the volume and flow rate provided in Table 5 of the Compact is controlling. The Compact provided adequate notice of the elements of the Two Medicine River water right. The DNRC database should be updated in accordance with the 2004 version of the abstract for claim 41M 30068438, which accurately reflects the terms of the Compact.

It is ORDERED that the DNRC shall update claim 41M 30068438 in the database to reflect a volume of 6.40 AFY and a flow rate of 70 GPM.

DATED this 16 day of September, 2015.

  
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Chief Water Judge

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