

Montana Water Court
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**UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND
MANAGEMENT, UPPER MISSOURI RIVER BREAKS NATIONAL MONUMENT–
MONTANA COMPACT**

CASE WC-2015-06

**NOTICE OF ENTRY OF UNITED STATES DEPARTMENT OF INTERIOR,
BUREAU OF LAND MANAGEMENT, UPPER MISSOURI RIVER BREAKS
NATIONAL MONUMENT – MONTANA COMPACT
PRELIMINARY DECREE AND NOTICE OF AVAILABILITY**

AS A WATER USER YOU MUST READ ALL OF THIS NOTICE

The Montana Water Court has been asked to approve a Compact settling and defining all of the reserved water rights for the Upper Missouri River Breaks National Monument claimed by the United States of America on behalf of the U.S. Department of Interior, Bureau of Land Management (“BLM”). The United States Department of Interior, Bureau of Land Management, Upper Missouri River Breaks National Monument–Montana Compact (“the Compact”) was negotiated by the State of Montana and the United States, and ratified by the 2013 Montana Legislature. The Compact needs your review before the Court determines whether to approve the Compact in accordance with applicable law.

The Compact defines the water rights of the United States for the Upper Missouri River Breaks National Monument, located in Basins 41R and 41S. A Summary Description of the water rights in the Compact is enclosed with this Notice.

You are receiving this Notice because the State’s water right records indicate you have filed a statement of claim, have applied for or received a permit to appropriate

water, or have a water reservation in Basin 41R or Basin 41S. Since your water rights may be affected by the Compact, you should review the Compact. Accordingly,

THIS IS YOUR OFFICIAL NOTIFICATION that the Montana Water Court has entered a Preliminary Decree containing the United States Department of Interior, Bureau of Land Management, Upper Missouri River Breaks National Monument–Montana Compact. If the Court approves the Compact, it will enter a Final Decree adjudicating the reserved water rights of the United States as they are recognized in the Compact. That Final Decree will be binding on all water users in the Montana water rights adjudication.

WHAT IS A PRELIMINARY DECREE AND WHAT ARE YOUR RIGHTS AND OBLIGATIONS TO OBJECT TO THE COMPACT?

This Preliminary Decree is a decree entered by the Water Court in accordance with Section 85-2-231, MCA. At this stage in the adjudication, all affected parties are required to state any objections that they may have to the Compact. If you do not agree with the water rights recognized by the Compact, you may file an objection and request a hearing and the Water Court will hear your objection. **This will be your only opportunity to object to the United States Department of Interior, Bureau of Land Management, Upper Missouri River Breaks National Monument–Montana Compact. Any Final Decree entered by the Water Court adjudicating the reserved water rights for the Upper Missouri River Breaks National Monument will be binding on you.**

RIGHT TO APPEAL

If you do not participate in Water Court proceedings, your right to appeal an adverse decision is limited. Section 85-2-235, MCA provides that (1) a person whose existing rights and priorities are finally determined may appeal that determination only if: (a) the person requested a hearing and appeared and entered objections in the Preliminary Decree; (b) the person's rights or priorities as determined in the Decree were affected as the result of an objection filed by another person; (c) the person requested a hearing and

appeared before the Water Court to finally resolve an issue remark; or (d) the person is a claimant appealing an adverse decision when the Water Court issued the decision as the result of an evidentiary hearing or as the result of calling the claim in on the Court's own motion. (2) If the Attorney General participated as an intervenor as provided in Section 85-2-248, MCA, the Attorney General may appeal a decision. (3) An interlocutory ruling by a water judge upon a question of law may be appealed by a party affected by the decision and who participated in the matter in which the ruling was issued.

SHOULD YOU FILE AN OBJECTION?

Only you can answer this question. To help you determine whether you should file an objection to the Compact, you should first examine the Compact and the abstracts. Your examination should not stop there, however. You should also compare the water rights in the Compact with the claims that you have filed with the Water Court or the water right permits or certificates that you have received from the Montana Department of Natural Resources and Conservation, and possibly the claims and permits of others within Basins 41R and 41S.

The following documents can be viewed at the list of offices identified below:

- A. The BLM, Upper Missouri River Breaks National Monument Compact;
- B. The abstracts of the water rights for the Upper Missouri River Breaks National Monument;
- C. All of the water right claims that have been filed and all water right permits and certificates located in Basins 41R and 41S; and
- D. The Court's Order of September 18, 2015 authorizing this proceeding.

The offices at which the documents referenced above can be viewed are:

1. The Montana Water Court, 601 Haggerty Lane, Bozeman, Montana. (BLM, Upper Missouri River Breaks National Monument Compact, Findings of Fact, Conclusions of Law and Order for Commencement only.)

2. The following Montana Department of Natural Resources and Conservation offices:
 - a. Montana DNRC, Water Rights Adjudication Office
910 Helena Ave.
P.O. Box 201601
Helena, MT 59620-1601
Telephone (406) 444-0560
 - b. Lewistown Regional Office
613 NE Main Street
Suite E
Lewistown, MT 59457-2020
Telephone (406) 538-7459
3. Clerk of District Court office for Choteau, Fergus, and Judith Basin Counties. (BLM, Upper Missouri River Breaks National Monument Compact, Findings of Fact, Conclusions of Law and Order for Commencement only.)

Internet information at <http://dnrc.mt.gov/divisions/water/adjudication> is also available. Scroll down through the various basins to BLM, Upper Missouri River Breaks National Monument Compact. Click on BLM, Upper Missouri River Breaks National Monument Compact and click on the Decree information that interests you.

You may obtain a paper or electronic copy of the PRELIMINARY DECREE from the Department of Natural Resources and Conservation, Water Rights Bureau, P.O. Box 201601, Helena, MT, 59620-1601. The cost of a paper copy of this Decree, including the Index, abstracts, and Findings and Conclusions (approximately 22 double-sided pages) is \$14.00. An electronic copy of this Decree on CD, including the Index, abstracts, BLM, Upper Missouri River Breaks National Monument Compact, and Order for Commencement, is \$10.00.

The BLM, Upper Missouri River Breaks National Monument Compact is published in Section 85-20-1801 of the Montana Code Annotated beginning at page 1054 of Volume 10 (2013 edition). The Montana Code Annotated can be found in many public offices and public libraries.

HOW TO FILE AN OBJECTION AND REQUEST A HEARING

An objection to the Compact must be filed on forms provided by the Water Court. Objection forms can be found at any of the offices listed above. **All objections must be filed and received by the Montana Water Court, P.O. Box 1389, Bozeman, Montana 59771-1389, on or before March 22, 2016. LATE OBJECTIONS WILL NOT BE CONSIDERED.**

INFORMATIONAL MEETING

A public meeting to explain the Water Court procedures and the BLM, Upper Missouri River Breaks National Monument Compact will be held by the Settling Parties in:

Stanford at 7:00 p.m. on Wednesday, October 28, 2015, at the Town Hall, 102 Central Avenue, Stanford, Montana.

Representatives of the Settling Parties will be present to answer your questions.

ANY QUESTIONS?

Use our toll-free number 1-800-624-3270 (in Montana). Our regular office number is (406) 586-4364, and is not toll-free. Or call your regional DNRC office at the telephone number listed in paragraphs 2.a and 2.b above.

DATED this 24th day of September, 2015.

/s/ Russ McElyea
Chief Water Judge
Montana Water Court

SUMMARY DESCRIPTION OF RESERVED WATER RIGHTS IN THE UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, UPPER MISSOURI RIVER BREAKS NATIONAL MONUMENT–MONTANA COMPACT

The United States Department of Interior, Bureau of Land Management, Upper Missouri River Breaks National Monument–Montana Compact (Compact) recognizes federal reserved water rights for the Upper Missouri River Breaks National Monument located in Water Court Basins 41R (Arrow Creek) and 41S (Judith River) for instream flow uses. The Compact and the abstract for each water right may be reviewed on the Montana Department of Natural Resources and Conservation website at <http://dnrc.mt.gov/divisions/water/adjudication/>. Following is a summary of key elements of the Compact:

1. Quantifies federal reserved water rights in Arrow Creek of 5 CFS and the Judith River of 160 CFS.
2. The priority date for the reserved water rights is January 17, 2001. However, each reserved right is subordinated to all water rights recognized under state law with a priority date earlier than (senior to) June 1, 2012. The United States may not “call” any water right with a priority date senior to June 1, 2012.
3. Continues to allow for future development of groundwater appropriations (wells, developed springs) and stock ponds in the Judith River and Arrow Creek drainage basins that meet the requirements for exceptions to permitting as listed in Section 85-2-306, MCA.
4. New appropriations (new water rights) issued after June 1, 2012 are subject to call by the United States when stream flow falls below the levels set in its reserved water rights. However, the United States may not call post-June 1, 2012 groundwater appropriations (wells, developed springs) and stock ponds in the Judith River and Arrow Creek drainage basins that meet the requirements for exceptions to permitting as listed in Section 85-2-306, MCA.
5. Prohibits new on-stream impoundments on the Judith River and Arrow Creek that are larger than those excepted from the permitting requirements under Montana law.
6. Allows for development of off-stream impoundments that are diverted from the Judith River and Arrow Creek, provided authorization is granted from the Montana Department of Natural Resources and Conservation pursuant to Montana law.
7. The Compact places conditions on permits issued for diversions greater than 20 CFS from the Judith River or Arrow Creek. Such permits must be operated as a Ramped Diversion. The flow rate for such rights can only be increased by increments of 20 CFS in any 24 hour period. This condition only applies to permits for direct from source water rights issued after the Effective Date of the Compact.

The Compact addresses federal reserved water rights claimed by the United States for the Upper Missouri River Breaks National Monument. The Compact is not intended to address concerns about management of the Upper Missouri River Breaks National Monument that are not related to federal reserved water rights.