

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

**UNITED STATES DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE,
CHARLES M. RUSSELL NATIONAL WILDLIFE REFUGE–MONTANA COMPACT**

* * * * *

CASE NO. WC-2015-05

ORDER DISMISSING AND REINSTATING CLAIMS

On August 7, 2026, the United States Department of Interior, Fish and Wildlife Service (“United States”) filed a Request for Clerical Corrections (“Request”). The Request asks the Court to dismiss water right claims 40E 30064815 and 40E 30064816 and replace them by reinstating previously dismissed claims 40E 165007-00 and 40E 165008-00. The basis of this request is that claims 40E 30064815 and 40E 30064816 were part of a series of reserved water rights associated with the Charles M. Russell National Wildlife Refuge Compact (the “CMR Compact”). This series of water rights replaced state-based water rights that the United States previously had acquired or filed. As part of the replacement process, the Water Court dismissed the state-based claims in an order dated February 23, 2018.

Water right claims 40E 30064815 and 40E 30064816 and dismissed claims 40E 165007-00 and 40E 165008-00 are appurtenant to property the United States conveyed to Towe Farms, Inc. The United States’ Request explains that the reserved rights (40E 30064815 and 40E 30064816) should be replaced by reinstating the state-based rights (40E 165007-00 and 40E 165008-00) because Congress has not authorized private parties to hold reserved rights associated with the CMR Compact. The explanation is more fully set out in a series of letters attached to the Request.

On August 31, 2026, the Court provided notice of the United States' Request to Towe Farms, Inc. Towe Farms, Inc. responded that it does not object to the Request. The Request is unopposed and shows good cause.

ORDER

Therefore, it is ORDERED that the United States' Request is GRANTED. Water right claims 40E 30064815 and 40E 30064816 are DISMISSED and water right claims 40E 165007-00 and 40E 165008-00 are REINSTATED with ownership vested in Towe Farms, Inc.

Post-decree abstracts of the claims are included with this Order to confirm the modifications to the claims have been made in the State's centralized water rights record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Towe Farms Inc.
% Thomas E. Towe
2525 6th Ave N
Billings, MT 59101

Service via Electronic Mail

Judith Coleman, Trial Attorney
Michelle Nkeng
Natural Resources Section, ENRD
US Department of Justice
judith.coleman@usdoj.gov
michelle.nkeng@usdoj.gov
montanabasins.enrd@usdoj.gov

Courtesy Copy:
Pelah Hoyt
Program Manager
Compact Implementation Program, Water
Resources Division
Montana DNRC
pelah.hoyt@mt.gov

Courtesy Copy:
Todd Netto
Adjudication, Enforcement & Distribution
Bureau Chief
Water Resources Division
Montana DNRC
tnetto@mt.gov

Morgan Case
Regional Compact Coordinator
Compact Implementation Program, Water
Resources Division
Montana DNRC
morgan.case@mt.gov

Note: Service List Updated 8-31-2026

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, BETWEEN MUSSELSHELL RIVER AND FORT PECK DAM
BASIN 40E

Water Right Number: 40E 165007-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TOWE FARMS INC
% THOMAS E TOWE
2525 6TH AVE N
BILLINGS, MT 59101

Priority Date: DECEMBER 31, 1938

Enforceable Priority Date: MAY 11, 2015

Type of Historical Right: USE

Purpose (Use): STOCK

Purpose (Use): WILDLIFE

Purpose (Use): WILDLIFE HABITAT

Flow Rate:

RUNOFF

Volume: 57.60 AC-FT

Source Name: UNNAMED TRIBUTARY OF UNNAMED TRIBUTARY OF SOUTH FORK ROCK CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWSE	25	23N	43E	MCCONE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESWSE	25	23N	43E	MCCONE

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

AUGUST 1 TO OCTOBER 4

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESWSE	25	23N	43E	MCCONE
2			W2NESE	25	23N	43E	MCCONE
3			E2NWSE	25	23N	43E	MCCONE
4			NWSESE	25	23N	43E	MCCONE

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, BETWEEN MUSSELSHELL RIVER AND FORT PECK DAM
BASIN 40E

Water Right Number: 40E 165008-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TOWE FARMS INC
% THOMAS E TOWE
2525 6TH AVE N
BILLINGS, MT 59101

Priority Date: DECEMBER 31, 1963

Enforceable Priority Date: MAY 11, 2015

Type of Historical Right: USE

Purpose (Use): STOCK

Purpose (Use): WILDLIFE

Purpose (Use): WILDLIFE HABITAT

Flow Rate:

RUNOFF

Volume: 57.60 AC-FT

Source Name: UNNAMED TRIBUTARY OF UNNAMED TRIBUTARY OF SOUTH FORK ROCK CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWSW	25	23N	43E	MCCONE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESWSW	25	23N	43E	MCCONE

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

AUGUST 1 TO OCTOBER 4

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESWSW	25	23N	43E	MCCONE
2			SENWSW	25	23N	43E	MCCONE
3			NENWSW	25	23N	43E	MCCONE

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, BETWEEN MUSSELSHELL RIVER AND FORT PECK DAM
BASIN 40E

Water Right Number: 40E 30064815 COMPACT
Version: 3 -- POST DECREE
Status: DISMISSED

Owners: TOWE FARMS INC
% THOMAS E TOWE
2525 6TH AVE N
BILLINGS, MT 59101

Priority Date:

Enforceable Priority Date:

Type of Historical Right:

Purpose (Use): STOCK
Purpose (Use): WILDLIFE
Purpose (Use): WILDLIFE HABITAT

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF ROCK CREEK, SOUTH FORK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, BETWEEN MUSSELSHELL RIVER AND FORT PECK DAM
BASIN 40E

Water Right Number: 40E 30064816 COMPACT
Version: 3 -- POST DECREE
Status: DISMISSED

Owners: TOWE FARMS INC
% THOMAS E TOWE
2525 6TH AVE N
BILLINGS, MT 59101

Priority Date:

Enforceable Priority Date:

Type of Historical Right:

Purpose (Use): STOCK
Purpose (Use): WILDLIFE
Purpose (Use): WILDLIFE HABITAT

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF ROCK CREEK, SOUTH FORK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.