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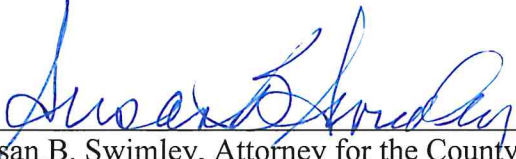
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MONTANA FIRST JUDICIAL DISTRICT COURT, BROADWATER COUNTY

UPPER MISSOURI WATERKEEPER,)	
TANYA & TOBY DUNDAS, SALLY &)	Cause No. DV-2022-38
BRADLEY DUNDAS, CAROLE & CHARLES)	
PLYMALE, and CODY MCDANIEL,)	DEFENDANT BROADWATER
Plaintiffs,)	COUNTY’S MOTION TO
v.)	STRIKE PLAINTIFFS’ UNPLED
)	LEGAL THEORIES
BROADWATER COUNTY and the,)	
MONTANA DEPARTMENT OF NATURAL)	
RESOURCES AND CONSERVATION,)	
Defendants.)	<u>CONTESTED</u>
And)	
)	
71 RANCH LP,)	
Intervenor.)	
_____)	

COMES NOW Defendant Broadwater County (“County”) and moves this Court to strike Plaintiffs’ unpled legal theories proffered in its Response Brief in Opposition to County’s Motion for Summary Judgment asserting that the County has a legal duty to determine legal and physical water. Plaintiffs failed to comply with M.R. Civ. Pro 15 to amend its complaint and such new legal theories proffered in a summary judgment brief prejudice the County. The County contacted Plaintiffs who contest this motion.

Dated this 23rd day of August, 2023.


Susan B. Swimley, Attorney for the County

CERTIFICATE OF SERVICE

I hereby certify that on August 23 2023, a copy of the foregoing document was served on the following person by the following means:

_____ Mail

_____ Electronic delivery (without waiving mail service)

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