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**FILED**

**AUG 01 2016**

**Montana Water Court**

8 IN THE WATER COURT OF THE STATE OF MONTANA  
9 YELLOWSTONE RIVER DIVISION  
10 BIGHORN RIVER, BELOW GREYBULL RIVER – BASIN 43P

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11 PETITIONER: Scott Ranch, LLC, a Montana Limited Liability  
12 Company.

CASE 43P- \_\_\_\_\_

13 MOTION FOR RULING ON  
14 PETITION FOR  
15 ADJUDICATION

16 COMES NOW, Jordan W. Knudsen, Counsel for Scott Ranch, LLC, and hereby  
17 respectfully requests that this Court rule and make a determination on the Petition for  
18 Adjudication submitted to this Court.

19 On July 7<sup>th</sup>, 2016, the Petitioner, through counsel, submitted a verified Petition for  
20 Adjudication of water rights in the Bighorn River Basin, 43P. Days later, counsel for the  
21 Petitioner was contacted by telephone by Water Master Peter Fritz. The Water Master stated  
22 that counsel should file the matter with the Montana Department of Natural Resources and  
23 Conservation, Billings Office (hereinafter "DNRC"), using the Exempt Claim Filing procedure, as  
24 provided in Mont. Code Ann. §§ 85-2-222 and 233 (2015). An Order from this Court was not  
25 issued, and it is unclear if a case number was assigned to this matter.

MOTION FOR RULING - 1

1 The Petitioner now asks the Water Court to reconsider this matter, as the rights sought  
2 are Federally Reserved Rights, arising from *Winters* and *Walton*, and not rights arising from  
3 state law, The Crow Water Compact, or prior use. The majority of these claims arise from  
4 surface water use on fee land owned by non-Indians on the Crow Reservation, who are the  
5 successors in interest of the Crow Indian owner that converted the property from trust to fee  
6 status after 1973. Therefore, these claims do not fall within the scope of Mont. Code Ann. § 85-  
7 2-222 (2015) as Amended by 2013 Mont. Laws Sec. 1, Ch. 323 (Senate Bill 355). Instead these  
8 rights were water uses tied to Indian Trust Land until 2006, when the lands were converted to  
9 fee status. Additionally, some of these claims are for multiple domestic use of a well (Claim 20)  
10 and for irrigation (Claim 16). As such, these claims are outside the scope of the exempt filing  
11 process of § 85-2-222.

12 The Petitioner respectfully requests a determination that these claims are federally  
13 reserved claims that fall under the general adjudication of the Water Court, and not the exempt  
14 claim process. Pursuant to this Court's order issued January 26, 2016, "Claims for water rights  
15 reserved under the laws of the United States of America are included in the Montana general  
16 adjudication of water rights." *Findings of Fact and Conclusions of law for the Preliminary*  
17 *Decree of the Bighorn River Below Greybull River -Basin 43P*, ¶14, p.14, Mont. Water Court.  
18 [emphasis added] "Many of the Basin 43P claims are within or in close proximity to the Crow  
19 Indian Reservation. There are numerous claims asserting reserved water right claims. Any non-  
20 Crow Tribe reserved water right claim will be reviewed by the Water Court to determine whether  
21 it is part of the Tribal Water Right identified in the Compact or whether it is a state law based  
22 claim." *Id.* at ¶17, p.16. The Petitioner argues that the rights contained in the Petitioner are  
23 neither, but still require general adjudication because of their unique status.  
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1 In conclusion, the Petitioner seeks adjudication from the Water Court, and not the DNRC  
2 at this time, that these are federal reserved water rights under *Walton*, and not claims that fall  
3 under the exempt claims process. These water rights arise from a unique set of circumstances  
4 that are of a first impression before this Court: the rights claimed are federally reserved as part  
5 of the *Winters* Doctrine and subsequently *Walton*, but after the creation of the Crow Water  
6 Compact so that they are not recognized in the preliminary decree or the Crow Current Use List  
7 because of the very recent transfer from Trust status to Fee status. Therefore, the Petitioner  
8 respectfully request that the Court determine that these claims are federally reserved water  
9 rights, and not part of the exempt filing claims process.

10 Respectfully submitted this 1<sup>st</sup> day of August, 2016.

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13 Jordan W. Knudsen  
14 Attorney for Petitioner  
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