

Party's Name: Cranney Bros.

Attorneys' Names and Address

Jeffrey C. Fereday
Michael C. Creamer
GIVENS PURSLEY & HUNTLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
(208) 342-6571
(208) 343-9492 (facsimile)

RECEIVED

AUG 21 1995

OFFICE OF THE
ATTORNEY GENERAL

8-18

RECEIVED

AUG 22 1995

Department of Water Resources
Adjudication Bureau

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re: SRBA

Case No. 39576

Subcase Nos. 36-04260B, 36-00048A, 36-00049,
36-02169, 36-00039D

**BRIEF IN SUPPORT OF MOTION
TO FILE LATE RESPONSES**

DESCRIPTIVE SUMMARY

This is the brief filed by Cranney Bros. ("Cranney") in support of Cranney's Motion to File Late Responses to the objections (the "objections") to the director's report for water right claim nos. 36-04260B, 36-00048A, 36-00049, 36-02169, and 36-00039D.

BRIEF

Cranney is a ground water right claimant in the SRBA who relies on waters of the Snake Plain Aquifer.

Cranney has an interest in assuring that the SRBA process fairly and accurately scrutinizes each claimed water right that may have an effect on his own, such as those for which his responses are submitted here. Cranney will be prejudiced unless all such rights are decreed only to the extent that they are being claimed and exercised in accordance with principles of water law, including, among

others, the principle of beneficial use. Cranney asserts that adequate responses to the objections, and the ability to present evidence pertaining to them, will be essential to determining, in the SRBA, all the facts about these claimed water rights.

The Idaho Department of Water Resources ("IDWR") has been removed as a party to the SRBA after the time for responding to the objections has passed, and it appears that the points raised in IDWR's responses to these same water right claims may no longer have vitality in the SRBA unless they are advanced by a party. Cranney's presence in this matter therefore is appropriate.

Cranney has relied upon IDWR's presence in these subcases, and upon its actively litigating its responses to the objections, and therefore has not, until the removal of IDWR as a party, had a need to become involved in Basin 36 objections. To Cranney's knowledge, no other claimants have filed responses to these objections. It would be unfair to prohibit Cranney's entry into these cases at this point.

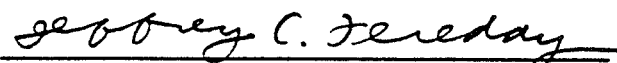
The Court's Order of July 28, 1995 states that late responses filed pursuant to that order are not to raise additional issues beyond those already presented in the particular subcase. This response conforms to this requirement by raising no issues beyond those identified in each of the objections and IDWR's response to it, copies of which are on file with the Court.

It further appears that, in cases where IDWR was the only respondent, some claimant/objectors may assert that their objections should be entitled to prevail on the basis of a default or similar unopposed basis. Cranney disagrees that such a procedure should not be allowed to occur; if it does, parties who have relied upon IDWR's reports and its responses will be prejudiced. Granting the motion will help

to assure that these subcases will provide a full exposition of the facts.

For the above reasons, Cranney respectfully requests that the motion be granted.

GIVENS PURSLEY & HUNTLEY LLP



Jeffrey C. Fereday
Attorney for Cranney Bros.

CERTIFICATE OF SERVICE

I certify that on August 17, 1995, I caused to be served a true and correct copy of the foregoing *BRIEF IN SUPPORT OF MOTION TO FILE LATE RESPONSES* to each of the persons named below by the method indicated below each of their names.

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Environment & Natural Resources Div.
United States Department of Justice
550 West Fort Street, Box 033
Boise, ID 83724

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Patrick D. Brown, Esq.
Hepworth, Lezamiz & Hornhorst, Chtd
133 Shoshone Street North
P. O. Box 389
Twin Falls, ID 83303-0389

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Jeffrey C. Fereday