

Party: Cranney Bros.

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Department of Water Resources
Adjudication Bureau

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OFFICE OF THE
ATTORNEY GENERAL

**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. A36-04260B, A36-00048A,
) A36-00049, A36-02169, A36-00039D,
)
)
) AFFIDAVIT OF
) MICHAEL C. CREAMER

AFFIDAVIT

Michael C. Creamer, being first duly sworn and upon oath, states as follows:

1. I am one of the attorneys representing Cranney Bros. in the above captioned proceeding.
2. On November 3, 1995, I attended the Deposition of Mike Cranney, taken by Mr. Patrick Brown in Burley, Idaho.
3. On November 15, 1995, I received from Maureen Messley, C.S.R., a copy of the Title Page, Certificate of Court Reporter and Exhibits 1 through 4 of the Mike Cranney Deposition, together with a computer disk containing an ASCII version of the balance of the transcript of the Mike Cranney Deposition.
4. Attachment A hereto, consisting of 28 pages, and including Deposition Exhibit 1, are true and correct copies of the transcript of the Mike Cranney Deposition which my office received from Ms. Messley, or of the ASCII file retrieved from the computer disk provided by Ms. Messley.

Further your Affiant sayeth not.

Dated this 20th day of November, 1995.


Michael C. Creamer

CERTIFICATE OF SERVICE

I certify that on this 20th day of November, 1995, I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF MICHAEL C. CREAMER by overnight mail or hand delivery to:

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

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

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

A handwritten signature in cursive script, reading "Michael C. Creamer", written over a horizontal line.

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 No. A36-00048A
)
)
)

) DEPOSITION OF
)
)

) MIKE CRANNEY
)
)
)

Deposition held at the Cassia County Courthouse

November 3, 1995, 10:10 a.m.

APPEARANCES:

PAT BROWN, ESQ., of the law firm of Hepworth, Lezamiz & Hohnhorst,
Chtd., P.O. Box 389, Twin Falls, ID 83303-0389,

appearing on behalf of the Claimants.

MICHAEL CREAMER, ESQ., of the law firm of Givens, Pursley &
Huntley, P.O. Box 2720, Boise, ID 83711-4449,

appearing on behalf of the Cranney Brothers.

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Givens, Pursley & Huntley

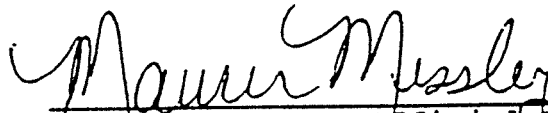
Reported by:
Maureen Messley, C.S.R.
P.O. Box 474
Rupert, ID 83350
(208) 436-9042

CERTIFICATE OF COURT REPORTER

THE STATE OF IDAHO)
)
COUNTY OF MINIDOKA)

I, MAUREEN MESSLEY, Official Court Reporter, and Notary Public, in and for the Fifth Judicial District of Minidoka County, Idaho, do hereby certify that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes, taken upon the occasion set forth in the caption hereof, as reduced to computer-aided transcription, by me or under my direction.

Witness my hand, this the 13th day of November, 1995.


MAUREEN MESSLEY, Official Court
Reporter and Notary Public,
State of Idaho.
My Commission expires:

9/10/2000

CERTIFICATE NO. 321

1 a director or officer or otherwise been involved in active
2 management?

3 A. I've been the director of the Idaho Ground Water
4 Appropriators group.

5 Q. And how long have you been a director?

6 A. Just since Southwest went in the group, and I think
7 that's been about two years.

8 Q. I understand that you're seeking permission to
9 object to the rights of Mr. Brailsford and Mr. Walmsley and
10 Mr. McFaddan. Why are you doing that?

11 A. I guess basically the main reason is we're in a
12 critical ground water area and have been restricted in use
13 in our basin for some time. And we was kind of following
14 this thing and we just felt like the State was going to be
15 -- when I filed my adjudication filings for the farm --

16 Q. The notices of claim?

17 A. Yeah, notices, you know. That I asked them, I
18 said, how is this thing going to proceed? And they said,
19 Well, the State's going to go through and we'll review your
20 water rights and we'll make recommendations to the court.
21 and unless there's some objections, you know, we're going
22 to -- we'll just basically -- shouldn't be more than a
23 administrative proceeding and the State would basically
24 represent us in that.

25 And then as this thing's progressed -- you know.

1 sit back and kind of watched it as it's progressed -- and
2 when the judge ruled that the State was not any longer a
3 party, then I become concerned of who was going to represent
4 me in this issue -- you know, several issues. And I guess
5 I've had some concern about anyone that was exceeding a
6 minor inch to the acre, that I guess I was -- I'd been
7 really concerned that if a call was made -- and I'm not
8 saying they'd call me -- but if they did at some point in
9 time, whether I would be able to -- if we suffered further
10 restriction on our pumping in our valley as a result of
11 someone giving someone water rights that exceed what the
12 State has recommended, what the department recommended, then
13 that could put us possibly in jeopardy on our water rights.
14 And we're pumping 500 feet deep in some of these wells and
15 probably somewhat less than an inch to the acre in all
16 cases, and running the spud, beet, grain in an intensive
17 irrigated operation.

18 Q. So do I correctly understand your concern is you
19 don't want anyone who might receive more than an inch an
20 acre to be able to make a call on your --

21 A. Well, I just think you're opening up a real can of
22 worms if you start allowing people to exceed what the State
23 law is and what the Department has recommended as far as
24 consumptive use of water.

25 Q. Who is it that -- you mentioned before that someone

1 had told y about how to proceed when you filed ur
2 notices of claim. Who is it that informed you of that?

3 A. Loren Holmes and the officer that was reviewing our
4 documents. I might be able to drag out who he was. I
5 haven't had a chance to do that. But Loren Holmes was the
6 one that I talked to and I just said, How is this thing
7 going to come down? And that was -- so I guess I felt that
8 the State was basically going to be kind of running
9 interference for us on this stuff and that the court in most
10 cases would adhere to the recommendations of the Department.

11 Q. So Loren Holmes and the other person you're
12 referring to were both employees with Idaho Department of
13 Resources?

14 A. Right. It was in Twin Falls where I met with them.

15 Q. And this would have been in about what time frame?

16 A. I think about '89 is when we filed our documents.

17 I think that's when we filed the documents.

18 Q. So it would be --

19 A. In the spring.

20 Q. -- in the time frame when you signed your notices
21 of claim?

22 A. Right. We were right up close to the deadline and
23 so I just took them over there and went over it with them.

24 Q. What else did Loren or the other employee of Water
25 Resources tell you about the adjudication at that time?

1 A. Just that they would come out. The procedure that
2 he explained was they'd come out and they were going to come
3 and review the described acres and the different
4 appurtenances and everything and then they would make a
5 recommendation. And they didn't really feel in our area,
6 where we'd been under such scrutiny, that there was going to
7 be a lot of change at that point. But --

8 Q. And when you say your area has been under scrutiny,
9 you mean --

10 A. Where it's been a restricted pumping area for so
11 long, you know.

12 Q. When did that become a critical ground water area?

13 A. In 1963 I think is when they shut off the drilling,
14 and then they opened it back, you know, in the early '70s.
15 Parts of the valley -- out in 21 -- range 21 they opened
16 some pumping back up. But the range 22 area, all down
17 through the canyon and clear from the BID boundaries, we've
18 been restricted since 1963.

19 Q. You said you'd been following this thing and hoping
20 and understanding that water resources would be monitoring
21 things, and can you tell me particularly what you've been
22 doing to follow the thing since you filed your claims?

23 A. Well, when they've had hearings, you know, I've
24 tried to be involved, to go and just find out what's going
25 on. And when we had the conjunctive management rules that

1 that they use the water in some cases; and also the number
2 of days that they use it.

3 And I guess the Cottonwood thing I talked about
4 kind of brought that to mind because we were being
5 restricted here -- or the State had come in and intervened
6 and told us that we were being restricted on a similar-type
7 situation on decreed water rights; and yet over there
8 they're claiming that there shouldn't be any limitation.

9 Q. Why is it that you're concerned with how much water
10 they get?

11 A. If this thing -- if they could ever put a call
12 towards the rest of the state, it could cost either water or
13 money or both. It could cost us water or money or both.
14 And I guess another little pet theory I have is if you open
15 this up, what happens over in eastern Idaho where they have
16 dual rights? Where they have an inch to the acre of surface
17 rights and they have an inches to the acre of ground water
18 rights? Are we going to give them two acre feet to the acre
19 over there and I'm restricted to less than an inch to the
20 acre where I farm, and then somebody comes and tries to put
21 a call on me and tax me or restrict me water?

22 Q. So you're concerned that people from eastern Idaho
23 might --

24 A. I'm just saying that once you open the thing up to
25 where people exceed the consumptive use of water, if they do

1 it in Hagerman Valley, then it isn't going to take a smart
2 man to know that they'll be doing it elsewhere in the state
3 just as quick as they can. And I just -- I felt like the
4 State of Idaho was -- you know, that the recommendations
5 that they made were going to be adhered to, and that was
6 kind of the way -- the directors report would be kind of the
7 way it was going to go, and it's fallen out of that realm
8 now. They've changed the game. Changed the rules.

9 Q. So it's your understanding that the director would
10 not give anyone more than an inch per acre?

11 A. I'm willing -- If they deem with consumptive use
12 that they can exceed that recommendation -- I don't have any
13 real problem with it if it's backed by, like, the State or
14 somebody that's got some know-how and some say. But for all
15 of us to just go out and claim whatever we want instead of
16 what's legal, I think we're circumventing the -- at the
17 expense of others.

18 Q. So I understand you have a general concern. What
19 is your specific concern about any effect that Mr.
20 McFadden's use of water would have on you?

21 A. Well, if you go to some of his cases here, and you
22 go in, in a lot of cases they're -- like, in their original
23 filing, they're filing for substantially over the inch to
24 the acre. And if you took the three filings that he has
25 together, you know, it was substantially above the inch to

1 the acre.

2 Q. Do you have any reason to believe that Mr.
3 McFadden's use of water could in any way effect your use of
4 water?

5 A. I do if they put a call, which Musser has, right?

6 Q. Yes.

7 A. And if the court upheld and said that -- I'm not
8 saying that they -- I guess that would be another day in
9 court, proving whether I'm related to them or vice versa.
10 But I have that concern of the potential of a call coming
11 in, either causing me a mass amount of legal fees to protect
12 my rights, or else the potential of an assessment of further
13 restriction of water so that we can maintain that flow of
14 water there, which I think is unreasonable.

15 And then secondly the -- every one of these
16 hearings you're going through, they're all chirping, Well,
17 we're going to have to maybe make an assessment on the
18 ground water; in money or else through water, we're going to
19 have to restore that.

20 Q. I take it that you're saying that you don't believe
21 that Mr. McFadden's use of water is hydrologically related
22 to your use; would that be fair?

23 MR. CREAMER: Objection. Misstates the prior
24 testimony.

25 THE WITNESS: I'm not a hydrologist so I can't

1 answer that. And right now we're just trying to intervene.

2 And I guess if we're -- if we get into this thing further,

3 then I guess we would find those things out, you know. But

4 at this point we're just trying to step in and try to fill a

5 void that the State --

6 BY MR. BROWN:

7 Q. As you sit here today you have no reason to believe

8 that Mr. McFaddan is hydrologically interconnected with your

9 rights.

10 A. I don't know whether we are or whether they aren't.

11 Q. Tell me about all information you have which could

12 lead you to believe that they are.

13 A. If they move on the Snake River Plain aquifer, then

14 there's a good possibility of us being drug into it.

15 Q. Tell me, as you sit here today, what facts do you

16 know of that in any way show that Mr. McFaddan's water is

17 hydrologically connected to yours.

18 A. The USGS in 1985 did a mass water study south of

19 the river and up until that time we were led to believe that

20 most of our water was coming from the South Hills. And at

21 that time they determined through isotopic study -- they did

22 an isotopic breakdown of the water and followed the movement

23 of the water, and there is Snake River Plain water south of

24 the river, moving, and I guess that's why we got drug

25 into --

1 I don't have any problem with what Mr. McFaddan was trying
2 to do.

3 Q. Please read back the question.

4

5 Question read back.

6

7 MR. CREAMER: Objection. Asked and answered.

8 BY MR. BROWN:

9 Q. Please answer the question.

10 A. I guess the point that I'm trying to make in
11 answering the question is that in the directors report he
12 says, first off there was water rights. If you take water
13 rights -- the 2169 -- the directors report says the claim
14 did not identify on the claim which decreed right pursuant
15 to the New Mortgage Bank v. Idaho Power was being claimed.
16 Also the claim included a water right number on the claim
17 that identified the right as the licensed water right.
18 Number 36-02169.

19 And they go through that and then they go down ,
20 here and they say, it's recommended the amount of water that
21 was being beneficially used. And the fact that if you go
22 back over here again, you have the water that's being of
23 beneficial use. If they aren't using the water
24 beneficially, then we can't allow -- I feel I can't -- I'm
25 being injured if I allow somebody to use five acre feet to

1 the acre and he can only beneficially use, you know, one
2 inch to the acre.

3 Q. Without regard to where that person's use is in
4 this state?

5 A. I don't care. I really don't care where he lives,
6 a crop will only use so much water, and there's only so much
7 that can be beneficially used. And I guess you've got to
8 assume the directors report, that they have some expertise
9 and have some background in gathering that information.

10 Q. Did you make that assumption?

11 A. Well, I'm saying that they're probably the one
12 that's going to be the expert witness in a lot of these
13 situations, right?

14 Q. So you made that assumption?

15 A. Yes, I have.

16 Q. I'm not asking you any legal questions about who
17 has a right or doesn't have a right. I want to ask you
18 solely about factual connections, hydrological connections.
19 Do you understand what I've just said I'm going to be asking
20 you about?

21 A. Uh-huh.

22 Q. Yes?

23 A. Yes.

24 Q. What hydrologic information, other than the USGS
25 report, do you have which suggests that there's any factual

1 BY MR. BROWN:

2 Q. Why haven't you not objected to other claimants who
3 are seeking more than one inch per acre?

4 MR. CREAMER: Object to the form of the question.

5 THE WITNESS: Do you want to rephrase that? What
6 are you saying?

7 BY MR. BROWN:

8 Q. I would like an answer.

9 A. Repeat the question.

10

11 Question read back.

12

13 THE WITNESS: Well, frankly, up until this, I
14 thought the department was intervening in our behalf. And
15 until the judge ruled that they weren't a party, then -- You
16 know, I didn't really want to fight the battle. I thought
17 the State should be doing it for us.

18 BY MR. BROWN:

19 Q. You have known people, other than the three
20 gentlemen here today, who have got more than one inch per
21 acre since the time the director has been taken out of the
22 litigation, correct?

23 A. I didn't know that.

24 Q. You didn't know that?

25 A. I don't know that. I don't know whether anybody

1 A. No, I don't.

2 Q. But you do maintain that more than an inch an acre
3 is too much?

4 A. Yes.

5 Q. And please tell me why you believe more than an
6 inch an acre is too much.

7 A. I guess I'm basically citing what come out of the
8 directors report.

9 Q. So you're relying on the directors investigation
10 and report for your contention that they're not entitled to
11 more than one inch per acre?

12 A. That's right.

13 Q. Are you relying on anything else?

14 A. Well, common sense.

15 Q. Please explain that.

16 A. Well, on my farm, like I say, we're using probably
17 less than -- we're probably using two and a half acre feet
18 to the acre on the average on our farm. And some of the
19 lighter soils, we do not -- You know, on potatoes, you know,
20 we're yielding high yield, where we get yields of 450 to 500
21 sacks to the acre and do it on less than three acre feet to
22 the acre.

23 Q. What period of the year do you water your potatoes?

24 A. Pardon me?

25 Q. What period of year -- tell me when you begin or

1 the area.

2 Q. If you had sandy soil a quarter mile from the
3 river, where do you think the excess water you applied on
4 sandy soil would go?

5 A. I think there's a lot of factors there. I assume
6 it would go to the river, but I don't know.

7 Q. Okay. With that assumption do you have any
8 objection to these gentlemen applying more than an inch per
9 acre?

10 A. I really haven't changed my position. I don't want
11 to be subject to the possibility of a call or something to
12 furnish water for somebody to soak away in a ditch or to
13 keep the water in a pipe from freezing during the winter.

14 Q. Let's go back to the question I asked you before
15 with respect to Mr. McFadden: Whether you had any facts
16 which would tend to show that there was a hydrologic
17 connection between your use of water and his?

18 A. Uh-huh.

19 Q. You mentioned a USGS report, correct?

20 A. Uh-huh.

21 Q. Do you know the particulars of what the report you
22 were referring to are?

23 A. They did a mass water study in -- I think it was in
24 '85 and it's been published, and basically if you refer to
25 this map, this is kind of what -- this is when I got on

1 point, is when your Musser case took place. And I got a
2 notice from the Department of Water Resources saying that we
3 may be subject to a call, that we could be reduced of the
4 flow of our water rights or pay mitigation costs, depending
5 on what the department worked out. And I think everybody
6 else in this whole basin got that. And so that made us
7 where we were involved in the issue.

8 And up until then we kind of thought, Well, we're
9 kind of up here where we're not going to get bothered. But
10 the USGS report shows -- see, you've got this -- this is
11 your river and then you've got the BID system coming in
12 here.

13 Q. BID?

14 A. Burley Irrigation District. But that thing came
15 clear up. It comes up into where -- this is where some of
16 our lands are, right in through here.

17 MR. CREAMER: When you say "this", could you tell
18 us for the record?

19 THE WITNESS: The map shows that the water flows
20 along here, past Antelope Hill, comes up into some of the
21 area where our farm is, and so that puts us where according
22 to this map we are effected. And I guess my presumption is,
23 you know, I haven't been to their farm or anything, but
24 their farm is in the Snake River Plain aquifer, according to
25 the Musser case. And the State sends me a notice and says

1 I'm tied in, and the man says I'm tied in, so I guess my
2 presumption is I'm tied in. That's about all I can say.

3 Q. So you're presuming from the fact that you received
4 a notice from Water Resource and you've seen this map which
5 is entitled "Water Table Elevation and Direction Flow for
6 the Eastern Snake River Plain --

7 I'll get back to the question, but for the record
8 let's just identify this. It's a Department of Water
9 Resources map dated December 17th, 1992, prepared by the
10 Idaho Geographic Information Center of the Idaho Department
11 of Water Resources.

12 So based upon receiving notice and a map --

13 MR. CREAMER: Do you want this left out?

14 MR. BROWN: Let's leave it out for a minute.

15 BY MR. BROWN:

16 Q. You believe that there may be a hydrologic
17 connection between your water and the water of the three
18 gentlemen from Hagerman, is that right?

19 A. I'm led to believe that by that information and the
20 fact that the department served me notice, yes.

21 Q. Have you ever asked a hydrologist or anyone else to
22 look at the map or to look at any other information and give
23 you an opinion as to whether your water is connected?

24 A. Yes. I have.

25 Q. And who have you asked to do that?

1 A. Bill Young with the USGS that helped do the mass
2 study.

3 Q. Bill Young. Do you know where he works or --

4 A. He --

5 Q. -- lives?

6 A. He works out of Boise and we've done -- -- with our
7 water recharge thing we've done a -- he's been doing a
8 ground water study, monitoring the wells to see if the
9 recharge is working and the water quality and all that. A
10 monitoring program on some of the wells that, you know, out
11 in this area where they've been doing some recharge. And
12 I've asked him specifically and they said that the wells on
13 the USGS report, it has some and it shows the chemistry on
14 some of them, has the isotopic breakdown and shows some
15 interchange between the two systems through the Snake River
16 Plain system. And they've found that in some of the wells
17 up in this area and that's why they've programmed it in.
18 Frankly, I wish that they hadn't have found it and somebody
19 else could be playing this game.

20 Q. So what you're saying is it's your understanding
21 that from the map and the report, water available to your
22 wells would be water that may show up at Hagerman?

23 A. It may.

24 Q. Okay. Have you ever asked anyone if the aquifer
25 you're on would extend across the river and effect spring

1 MR. CREAMER: Objection. Foundation.

2 THE WITNESS: I think you're cutting hairs there.

3 That's what the law has been or that's what we were always

4 told: You couldn't apply for more than an inch to the

5 acre all my life. Any permit I've ever filed has always

6 said the maximum allowed by law is an inch to the acre.

7 Some of these rights are stacked on top of each other,

8 they're different rights, and everything else.

9 BY MR. BROWN:

10 Q. You have not objected to anyone who the department

11 recommended receive one inch per acre?

12 A. No.

13 Q. Did you review any claims filed in the Big Lost

14 River Basin?

15 A. I've had a casual review of some of that

16 information.

17 Q. Did you review any of those claims for the purpose

18 of determining whether any of those people were receiving

19 more water than they could reasonably beneficially use?

20 MR. CREAMER: Objection. Relevance.

21 THE WITNESS: At that point the department was in

22 the thing and I was comfortable with letting the department

23 work that out. I wasn't really that aware of it or -- like

24 I say, I did see some of that information. But the

25 department was handling it then and that's the only reason

1 I'm in it now is the because the department was asked to
2 step out.

3 Q. Have you looked into the experience of any of the
4 department -- the experience or training of any of the
5 department personnel who made recommendations in these three
6 cases?

7 A. No.

8 Q. So on what grounds do you believe that their
9 recommendations are by someone who knows, as you said
10 earlier?

11 A. I think they have a public trust to try to present
12 a non-biased opinion and treat everybody fairly. You know,
13 as fairly as they say. And I'm not saying they haven't made
14 mistakes; but I'm not saying they did make any mistakes
15 either.

16 Q. You're saying you haven't looked into whether they
17 made any mistakes or not?

18 A. I don't know what their credentials are. I guess I
19 would trust them as much as I would you or even Mike, over
20 here. I'm not sure an attorney ought to be determining what
21 my water rights are either.

22 Q. Do you believe in order to be fair the department
23 had a responsibility to go out and perform field tests to
24 determine how much water was required?

25 A. I don't know what they did or what they didn't do

1 A. Yes, they did.

2 MR. BROWN: I object. He has no personal
3 knowledge of any of this.

4 BY MR. CREAMER:

5 Q. Let me ask you: In your review of the records in
6 these claims, did you find any indication that the
7 department had examined the acres that were irrigated for
8 these claims?

9 A. Well. Off of the reports that the director gave on
10 each water right, they showed that they had physically
11 examined the property, examined the acres, and tried to
12 establish a beneficial use.

13 Q. Did you see any indication in that record of what
14 the department found in comparison with what was claimed by
15 the claimants in terms of irrigated acres?

16 A. In general terms, without going through the
17 specifics, they reduced the claimant's claim substantially
18 on what they could prove as beneficial use.

19 Q. What about for the number of irrigated acres?

20 A. From the irrigated acres there was some reduction.

21 Q. Did your review of the documents in this case show
22 that the department had looked at the season of use and the
23 conditions in the Hagerman Valley in making their
24 recommendation on season of use?

25 A. I thought it was apparent that they had used that

1 as part of their determination.

2 Q. Did you find any documentation that that had
3 occurred?

4 A. Yes.

5 Q. With respect to the Brailsford right, did you find
6 any particular documentation regarding whether the
7 department had looked at the soils or the crops or the
8 number of acres irrigated?

9 A. Yes, there was.

10 Q. Can you show me what documents you've seen that
11 indicate that?

12 A. Okay, there's reference to Robert Brailsford and
13 employee Lorie White. It says, Mentioned to Bob Brailsford
14 that he had original 10.5 cfs to work with since Johnson was
15 allocated point four in 1959. And it goes on, I asked him
16 how he put it to beneficial -- put the 10.1 to beneficial
17 use. I mentioned that his use consists approximately of 198
18 acres, and domestic .04 cfs, stock water .07, for a total of
19 4.07, leaving 6.03 not beneficially used. Bob stated that
20 he was decreed that amount and that Bob Flamer (sic) told
21 him it would hold up in court.

22 And then it goes on and he says that he talked
23 with Bob Flamer. He stated he didn't realize the property
24 involved was only 198 acres and that Bob would have to
25 submit a statement as to why he needs that much water for

1 irrigation. And then it goes on, Bob F. stated that Bob B.
2 was originally decreed that amount because that's what the
3 pipe held.

4 The problem is that the department had recognized
5 originally 10.5 cfs and based other decisions involving
6 other parties Pierce and Hill on that amount.

7 Then he references, Talked with Loren Holmes. He
8 stated that Bob B. did not have a decree, just a private
9 agreement, and that's why they had Bob B. file for statutory
10 claim on the stock pipeline.

11 So anyway, it goes through some of the visits back
12 and forth and the research that they did as they tried to
13 walk through that. Also -

14 Q. Why don't you turn to the next item in your
15 notebook.

16 MR. BROWN: Counsel, I'm going to object to any of
17 this. I'm not sure it's calculated to lead to discovery of
18 anything.

19 THE WITNESS: Okay.

20 There's a memorandum from Alan Laird here on a
21 letter dated 20th of October 1992, in reference to file
22 36-04260 B. Meeting 10-20 with Robert Brailsford regarding
23 the NOE. On this day I met with Robert Brailsford in my
24 office to discuss the issues that he raised in his NOE. In
25 our discussion I went over the calculations he made to

1 justify more than one inch per acre. He went over the
2 analysis procedure and the assumption that it was observed
3 that beans could not be irrigated with very good efficiency,
4 and Mr. Brailsford indicated that the crop was a major
5 source since he had contracted several years with the bean
6 producers, and he indicated the contracts are dependent on
7 sufficient water.

8 In our discussion he indicated that for several
9 years he had raised at least 88 acres out of 164 acres of
10 beans. A preliminary calculation of using beans with 55
11 percent of the area and without alfalfa as the remaining 45
12 percent, the crop acres would increase the recommended cfs
13 per acre rate. I told him I would write up the calculations
14 and revise our recommendation.

15 BY MR. CREAMER:

16 Q. Have you seen any calculations that are referenced
17 in that write up report by the department employee?

18 A. Yeah, there's a page here that goes through and
19 tracks that through.

20 Q. Now, assuming that the department had made such
21 calculations and evaluations, and assuming that the
22 Brailsford right claimed or requested more of the
23 department's evaluation calculation found, would that cause
24 concern for you, or how would that effect you if the right
25 were decreed as claimed rather than as recommended?

1 A. Well, if it was ever determined that if he or
2 another party in that Hagerman area decided to make a call,
3 then I interpret that to jeopardize my position on our farm.

4 Q. Do you see a difference in having to respond to a
5 call for one inch per acre versus a claim for one-and-a-half
6 inch per acre?

7 MR. BROWN: Counsel, I'm not sure why we're doing
8 this. It's leading and it's absolutely inadmissible. If
9 you want your client to sign an affidavit, you don't need to
10 take our time to do that.

11 MR. CREAMER: Thank you.

12 BY MR. BROWN:

13 Q. Do you see a difference between having to respond
14 to a call for one inch, versus having to respond to a call
15 for an inch and a half per acre?

16 A. Well, I feel the inch per acre is what the law
17 allows. The other exceeds what --

18 Q. Would there be any difference in the effect of your
19 operation in having to respond to a call for an inch and a
20 half per acre versus an inch per acre?

21 A. It could be of some significance.

22 Q. Would there be any difference in the impact on your
23 operation if you had to respond to a call to provide five
24 and a half inches per acre rather than one inch per acre?

25 A. Well, if I had to shorten my pumping so that I

1 could help fill that call, yes. I guess that's kind of the
2 crux of the whole situation.

3 Q. Do you have any opinion as to if the department's
4 recommendations are true or correct that you would -- do you
5 have an opinion as to whether if the department's
6 recommendations are correct you would be impacted in one way
7 or the other if they were ignored?

8 MR. BROWN: Counsel, he's already stated that he
9 does not have any expertise in that area.

10 THE WITNESS: I would say that I feel I could be
11 impacted. But, you know, when you talk about the department
12 being correct, you know, if you go through the -- if you go
13 through the procedures that the department has on file here,
14 they went through the fact that there was some riparian
15 acres that was added into the thing, there's also the
16 cropping patterns. And they try to calculate based on the
17 field slopes and dimensions and the cropping pattern of the
18 farm, the weather data, and they did refer to Bliss and it
19 says the area in the Hagerman Valley within the Snake River
20 Canyon and Milner, has been determined the irrigation period
21 is from 3-15 to 11-15.

22 So they did try to go through in a systematic
23 manner and try to approach the thing as they should.

24 BY MR. CREAMER:

25 Q. Mr. Cranney, in earlier responding to a question

1 from Mr. Brown I believe you stated that you didn't know
2 specifically where Mr. McFadden's point of conversion was.
3 That you hadn't been there. Do you recall that testimony?

4 A. Yes.

5 Q. Do you know where Mr. McFadden's water use in his
6 claim asserts points of conversion in relation to the
7 eastern Snake River Plain aquifer that has been designated
8 by USGS?

9 A. Yes, I do.

10 Q. Do you know whether it is inside that?

11 A. Yes, it is.

12 Q. Are any of your water rights that are claimed in
13 the Snake River Basin Adjudication located inside of this
14 eastern Snake River Plain aquifer?

15 A. Yes.

16 Q. That's all the questions I have.

17 Thank you.

18

19 FURTHER EXAMINATION

20 BY MR. BROWN:

21 Q. Mr. Cranney, you stated earlier that you understand
22 that the Idaho Department of Water Resources, from your
23 review of the record, has done a careful study or
24 investigation of these claims, isn't that correct?

25 A. Yes.

CRAWNEY Bros.

PROPERTY COVERED WITH ADJUDICATION CLAIMS:

A45-04107 ✓
A45-07242 ✓
A45-02431 ✓
A45-07064 ✓
A45-02028C ✓
A45-07307 ✓
A45-00516 ✓
A45-07055 ✓
A45-02594 ✓
A45-02431 ✓
A45-02432 ✓
A45-07355 ✓
A45-02413 ✓
A45-07150 ✓
A45-04045 ✓
A45-00423A ✓
A45-00423B ✓
A45-00424 ✓
A45-00425D ✓
A45-00433 ✓
A45-00434 ✓
A45-00435A ✓
A45-00442 ✓
A45-00514A ✓
A45-02042 ✓
A45-02260

45-02642
45-02668
45-20450

