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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	)	Subcase Nos. 36-00021, 36-00039D, 36-00048A,
	)	36-00049, 36-00051A, 36-02169, 36-04260B,
	)	36-10283A and 36-15168
	)	
Case No. 39576	)	JOINT COMMENTS ON BRIEF RESPONDING
	)	TO MASTER'S QUESTIONS
	)	
_____	)	

DESCRIPTIVE SUMMARY

This document provides the Cranney Bros., May Farms, Ltd.'s, Sand Springs Ranch Partnership's and Faulkner Land and Livestock Company's (herein collectively the "Ground Water Users'") joint comments on two significant issues related to the recently filed Brief Responding to Master's Questions: 1. the timeliness of the Brief; and 2. a misstatement in the Brief concerning the Ground Water Users' position.

COMMENTS

At the June 5, 1996 hearing in the above-referenced subcases, the Special Master allowed an additional seven days for briefing on two legal issues. The seven day deadline for filing these briefs was Wednesday, June 12, 1996. See Rule 6(a), I.R.C.P. Nevertheless, Dan H. and Irma R. McFaddan, Fred and Susan Walmsley, Robert Brailsford, the Hagerman Water Users Association, Walten E. Mildren, Harry R. Gisler and Ya-Ta-Hay Investments, Inc. (hereinafter collectively the “Hagerman Spring Users”) filed their Brief Responding to Master’s Questions on June 13, 1996 without first seeking an extension of time from the Court. Accordingly, that Brief was untimely.

On page two of the Brief, the Hagerman Spring Users assert, “The second issue is not addressed further here because the movants have admitted they are limited by IDWR’s theories.” This is a misstatement and misrepresentation of the Ground Water Users’ position. The Ground Water Users never have claimed to be limited by IDWR’s theories, nor as a practical and ethical matter could they be. Rather, the Ground Water Users have not challenged Special Master Dolan’s statements to the effect that, by allowing them to respond to the Hagerman Spring Users’ Objections, he was not approving the expansion of the litigation beyond the issues raised by the Director’s Report, by the claimants’ Objections to the Report, and by IDWR’s Responses. Indeed, the Ground Water Users are not even in a position to know the nature and extent of the legal theories that IDWR might have had in mind in making its Report or filing its Responses. Furthermore, the Ground Water Users certainly would be entitled to rebut any legal theory advanced by the Hagerman Spring Users.

What legal theories to assert with respect to the issues identified by the pleadings is a

matter between the Ground Water Users and their counsel just as it would be between IDWR and its counsel, if IDWR were a party. In all events, the Ground Water Users have not "admitted they are limited by IDWR's theories." Whatever counsel may intend by such a statement, it is incorrect.

RESPECTFULLY SUBMITTED this 18th day of June, 1996.

DILLION, BOSCH, DAW & BOCK, CHARTERED

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CERTIFICATE OF SERVICE

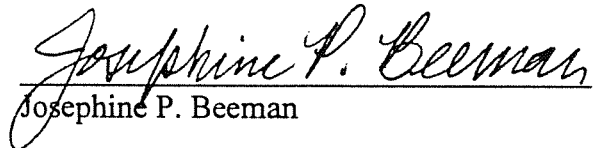
I certify that on the 18th day of June, 1996, I caused a true and correct copy of the foregoing document to be served on the following person(s) in the manner designated:

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