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Department of Water Resources
Adjudication Bureau

Parties' Names:

Cranney Bros., May Farms, Ltd., Sand Springs Ranch Partnership and Faulkner Land and Livestock Company

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ATTORNEY GENERAL

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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 CONSOLIDATED MOTION FOR
	)	PERMISSIVE REVIEW OF SPECIAL
	)	MASTER'S JUNE 17, 1996 ORDER AND
	)	MOTION FOR EXPEDITED HEARING
	)	AND DECISION

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 Consolidated Motion for Permissive Review of Special Master Haemmerle's June 17, 1996 Order Vacating Hearings and Order Denying Motion to File Late

Responses in the above referenced subcases. Expedited hearing and decision of this Motion for Permissive Review is requested.

MOTIONS

Come now the Ground Water Users, through their counsel of record, and move the Court to grant permissive review of the Special Master's June 17, 1996 Order Vacating Hearings and Order Denying Motion to File Late Responses. A copy of the Order is attached as Exhibit A hereto: This motion is based on Rule 11.d. of SRBA Administrative Order 1 which provides for permissive review of a Special Master's interlocutory determination by the Presiding Judge "where the interlocutory determination involves a controlling question of law as to which there are substantial grounds for difference of opinion and in which immediate consideration of the determination may advance the orderly resolution of the litigation."

Special Master Dolan previously granted the Ground Water Users' Motions to File Late Responses. December 11, 1995 Order Denying Motions to Strike Affidavits and Order Granting Motions and Amended Motions to File Late Responses. Now, with the June 17, 1996 Order, Special Master Haemmerle has denied those same motions. The two conflicting Special Masters' decisions concerning the Ground Water Users' rights to participate in the subcases demonstrate that there is a "controlling question of law as to which there are substantial grounds for difference of opinion." It is important that the issue of the Ground Water Users' participation in the subcases be resolved immediately to ensure that they have a full and fair opportunity to participate in pretrial motions, discovery during this irrigation season and upcoming trials.

Moreover, in response to the Claimants' prior Consolidated Motion for Permissive Review of Special Master Dolan's Orders, the Presiding Judge remanded the matter to newly appointed Special Master Haemmerle to consider the issues "in the context of a motion for reconsideration." Order of Temporary Remand to Newly Appointed Special Master dated May 17, 1996. Yet, Special Master Haemmerle's June 17, 1996 Order goes further than just addressing whether reconsideration of Special Master Dolan's decision should be granted. While Special Master Haemmerle's decision is silent on the issue of whether reconsideration should be granted in the first place, it improperly overturns Special Master Dolan's valid decision. Since Special Master Haemmerle has not yet issued the Findings of Fact and Conclusions of Law supporting his June 17, 1996 Order, the Ground Water Users reserve the right to identify additional grounds for permissive review and to submit additional briefing in support of this Motion once the Findings of Fact and Conclusions of Law become available.

To ensure that the Motion for Permissive Review is addressed and decided in a timely fashion, the Ground Water Users also move this Court for an order granting expedited hearing and for an expedited decision.

RESPECTFULLY SUBMITTED this 1 day of ^{July}~~June~~, 1996.

DILLION, BOSCH, DAW & BOCK, CHARTERED

By: Josephine P. Beeman
JOSEPHINE P. BEEMAN
Attorneys for May Farms, Ltd., Sand Springs
Ranch Partnership and Faulkner Land and
Livestock Company

GIVENS, PURSLEY & HUNTLEY, LLP

By: Michael C. Creamer
MICHAEL C. CREAMER
Attorneys for Cranney Bros.

CERTIFICATE OF SERVICE

I certify that on the 1st day of July, 1996, I caused a true and correct copy of the foregoing document to be served on the following person(s) in the manner designated:

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
Chartered
133 Shoshone St. N.
Twin Falls, Idaho 83301

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☐ Fed-Ex
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Office of Attorney General
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Boise, Idaho 83711

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Brent King
Idaho Dept. of Water Resources
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☐ Facsimile

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

☒ U.S. Mail
☐ Fed-Ex
☐ Hand Delivery
☐ Facsimile

Court's Certificate of Service for
Expedited Hearings Dated May 1, 1996,

☒ U.S. Mail
☐ Fed-Ex
☐ Hand Delivery
☐ Facsimile


Michael C. Creamer

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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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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

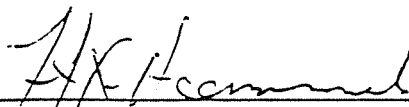
In Re SRBA	)	Subcases: 36-00048A, 36-00049,
	)	36-02169, 36-00039D, 36-04260B,
Case No. 39576	)	36-15168, 36-00051A, 36-00021B &
	)	36-10283A
	)	
	)	ORDER VACATING HEARINGS and
	)	ORDER DENYING MOTION TO FILE
	)	LATE RESPONSES

On Wednesday June 5, 1996 at 1:30 pm the court heard a *Motion to Reconsider an Order Granting Motion to File Late Responses* in the following subcases. Having reviewed this matter the court hereby denies the *Motion to File Late Responses* in the aforementioned subcases. Any and all hearings scheduled in these subcases are hereby vacated. The court will enter an Order including the Findings of Fact and Conclusions of Law within two weeks. The written decision of this court will constitute the final decision.

Therefore, IT IS ORDERED that the *Responses* filed by Cranney Bros. and Faulkner Land and Livestock for subcase 36-00048A, and 36-00049, Cranney Bros. for subcases 36-02169, 36-00039D, and 36-04260B, Sand Springs Ranch Partnership for subcase 36-15168, and 36-00051A, May Farm Ltd. for subcase 36-00021B, and 36-10283A are denied.

IT IS FURTHER ORDERED that all hearings previously set in the subcases listed above are vacated.

DATED June 17, 1996.



FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER VACATING HEARING and ORDER DENYING MOTION TO FILE LATE RESPONSES was mailed on June 17, 1996, with sufficient first-class postage to the following:

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

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

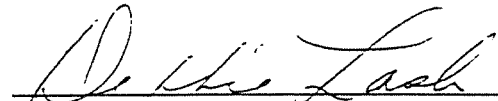
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