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Parties' Names:

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

Department of Water Resources

Attorneys' Names and Addresses:

Josephine P. Beeman
Dana L. Hofstetter
Dillion, Bosch, Daw & Bock, Chtd.
242 N. 8th St., Suite 200
Boise, ID 83702
Telephone: (208) 344-8990
Facsimile: (208) 344-9140

Jeffrey C. Fereday
Michael C. Creamer
Judson B. Montgomery
GIVENS PURSLEY & HUNTLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1201

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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

Case No. 39576

Subcase Nos. 36-00021, 36-00039D, 36-00048A, 36-00049, 36-00051A, 36-02169, 36-04260B, 36-10283A and 36-15168

**JOINT CONSOLIDATED
MOTIONS FOR PERMISSIVE
REVIEW OF SPECIAL
MASTER'S ORDER AND
MOTION FOR EXPEDITED
DECISION**

DESCRIPTIVE SUMMARY

This document provides the Cranney Bros., May Farms, Ltd., Sand Springs Ranch Partnership and Faulkner Land and Livestock Company's (herein collectively the "Ground Water Users") Joint Consolidated Motions for Permissive Review of the Special Master's July 8, 1996 Order on Reconsideration of Motions to Strike Affidavits and Motions to File Late Responses in the above-referenced Subcases. Expedited decision on this Motion for Permissive Review also 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 July 8, 1996 Order on Reconsideration of Motions to Strike Affidavits and Motions to File Late Responses. A copy of the Order is attached as Exhibit C to the Memorandum in Support of Joint Consolidated Motions for Permissive Review of Special Master's Orders and Motion for Expedited Decision filed contemporaneously herewith. 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."

Upon reconsideration of Special Master Dolan's prior decision and Order, Special Master Haemmerle's June 17, 1996 Order denied the Ground Water Users' Motion to File Late Responses without findings of fact and conclusions of law. The June 17 Order indicated that the Court would enter an Order including the findings of fact and conclusions of law shortly. Not having received the findings of fact and conclusions of law as the close of the two week period typically allowed for seeking permissive review under Idaho Appellate Rule 12 approached, the Ground Water Users' decided to preserve their legal rights and filed a Joint Consolidated Motion for Permissive Review of Special Master's June 17, 1996 Order ("First Joint Consolidated Motion") on July 1, 1996. Without the findings and conclusions, the basis for

permissive review could not be fully briefed. Accordingly, that first motion reserved "the right to identify additional grounds for permissive review and to submit additional briefing in support . . . once the findings of fact and conclusions of law become available."

On July 8, 1996, Special Master Haemmerle issued his Order on Reconsideration of Motion to Strike Affidavits and Motions to File Responses including the promised findings of fact and conclusions of law. These Joint Consolidated Motions for Permissive Review of Special Master's Orders (the "Second Joint Consolidated Motion") seek permissive review of that July 8, 1996 Order and decision.

Thus the First Joint Consolidated Motion and this Second Joint Consolidated Motion involve related Orders and decisions. Now that the findings and conclusions have been issued, these Joint Consolidated Motions may be fully briefed. Both Joint Consolidated Motions are supported by the Memorandum in Support of Joint Consolidated Motions for Permissive Review of Special Master's Order and Motions for Expedited Decision filed contemporaneously herewith, as well as the record in these Subcases.

To ensure that the Second Joint Consolidated Motion is addressed and decided in a timely fashion, the Ground Water Users also move this Court for an expedited decision on this matter, consistent with the requirement in AO1 that any party wishing to respond to a Motion for Permissive Review has thirty (30) days in which to do so.

RESPECTFULLY SUBMITTED this 22nd day of July, 1996.

DILLION, BOSCH, DAW & BOCK, CHARTERED

By 
JOSEPHINE E. BEEMAN
Attorneys for May Farms, Ltd., Sand
Springs Ranch Partnership and
Faulkner Land and Livestock Company

GIVENS PURSLEY & HUNTLEY, LLP

By 
MICHAEL C. CREAMER
Attorney for Cranney Bros.

CERTIFICATE OF SERVICE

I hereby certify that on this 22^d day of July, 1996, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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

☐ HAND DELIVER
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Chief, Natural Resources Div.
Office of Attorney General
P.O. Box 44449
Boise, Idaho 83711

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☐ TELECOPY (FAX)

Brent King
Idaho Dept. of Water Resources
1301 N. Orchard
Boise, Idaho 83706

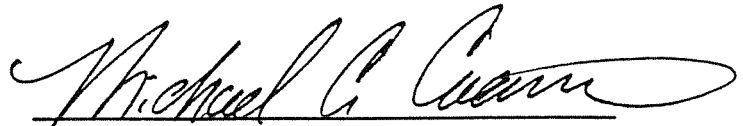
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United States Department of Justice
550 West Fort Street, Box 033
Boise, Idaho

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Michael C. Creamer