

MAY 13 2004

Department of Water Resources

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9

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

12 In Re SRBA

13 Case No. 39576
14

Subcase Numbers 55-10288B, 55-10289B, 55-
10290B, 55-10292B, 55-10293B, 55-10295,
55-10296, 55-10297B, 55-10298, 55-10299B,
55-10300, 55-10301B, 55-10303B, and 55-
13451

15 **LU RANCHING COMPANY'S MOTION**
16 **TO EXTEND TIME TO FILE NOTICE**
17 **OF CHALLENGE**

18 COMES NOW LU Ranching Co. ("LU Ranching"), by and through its counsel of record,
19 and hereby moves for an extension of time, to and including May 28, 2004, within which to file, if
20 necessary, a Notice of Challenge of Special Master's Order on Motion to Alter or Amend and
21 Amended Special Master's Report and Recommendation for Water Rights 55-10288B et. al. In
22 support thereof, LU Ranching submits the following:

23 1. On April 15, 2004, the Special Master issued an Order on Motion to Alter or
24 Amend and Amended Special Master's Report and Recommendation ("Order") in the above
25 referenced subcases. With that Order, the Court issued a Notice of Issuance of Special Master's
26 Recommendations ("Notice"). A copy of the Notice is attached hereto as Exhibit "A".

27 2. The Notice issued by the Court instructed the parties as follows: "Pursuant to
28

1 SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the
2 subcase may file a Motion to Alter or Amend *on or before the 28th day of the next month.* See
3 Notice (*emphasis added*). The 28th day of "the next month" following the Notice is May 28, 2004.

4 3. Pursuant to the Court's Notice, counsel for LU Ranching calendared the May 28,
5 2004 deadline to respond to the Court's Order. Counsel is currently in the process of reviewing the
6 Court's Order in consultation with LU Ranching.

7 4. On April 29, 2004, the United States filed a Notice of Challenge to the Special
8 Master's Order with the SRBA District Court.

9 5. There is an apparent conflict between the Court's Notice setting a May 28, 2004
10 deadline for the parties to respond to the Order, and Administrative Order 1 regarding filing a
11 Notice of Challenge. There is also an apparent conflict regarding whether the Special Master
12 intended to retain jurisdiction over this matter as indicated in its instructions to the parties to file a
13 subsequent motion to alter or amend, if necessary, by May 28, 2004.

14 6. Following the United States' filing of a Notice of Challenge, counsel
15 for LU Ranching consulted with counsel for the United States regarding the Court's Notice setting
16 the May 28, 2004 deadline as well as the procedural posture of this case. Counsel for the parties
17 have stipulated and agreed that the best way to resolve the conflict is, first, to allow the United
18 States' Notice of Challenge to remain on file but to stay briefing on the United States' Challenge,
19 second, to permit LU Ranching to and including May 28, 2004 to file, if necessary, a Notice of
20 Challenge, and, third, to set a briefing schedule after May 28, 2004.

21 7. In further support of the within Motion to Extend Time to File Notice of
22 Challenge, counsel notes that Michael Van Zandt is currently in trial, and said trial is expected to
23 last through May 21, 2004. Additionally, undersigned counsel will be out of town for the week
24 beginning May 9, 2004.

25 ACCORDINGLY, LU Ranching respectfully requests that this Court enter an Order (1)
26 clarifying its jurisdiction over this case at this stage in the proceedings, (2) issuing an order

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1 ///

2 permitting LU Ranching to and including May 28, 2004 within which to file a Notice of Challenge,
3 if necessary, and (3) setting a scheduling conference to address a briefing schedule after May 28,
4 2004.

5 Dated this 5 day of May, 2004.

6 Respectfully submitted,

7 McQUAID, BEDFORD
8 & VAN ZANDT, LLP

9 By:

10 Elizabeth P. Ewens
11 Elizabeth P. Ewens

12 Attorneys for LU RANCHING COMPANY

13 As local counsel, having reviewed the foregoing LU COMPANY'S MOTION TO EXTEND
14 TIME TO FILE NOTICE OF CHALLENGE, I hereby execute the same this ____ day of May, 2004.

15 LING & ROBINSON

16
17 Brian J. Coffey
18 Brian J. Coffey
19 Attorneys for LU RANCHING COMPANY
20 Idaho State Bar No. 6566

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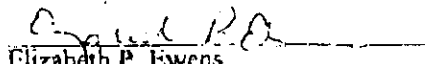
1 permitting LU Ranching to and including May 28, 2004 within which to file a Notice of Challenge,
2 if necessary, and (3) setting a scheduling conference to address a briefing schedule after May 28,
3 2004.

4 Dated this 3 day of May, 2004.

5 Respectfully submitted,

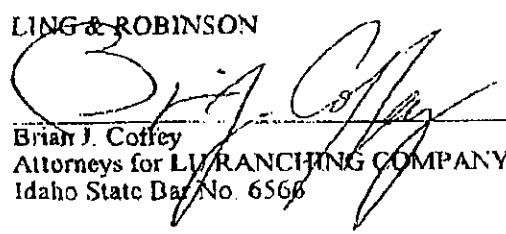
6 McQUAID, BEDFORD
7 & VAN ZANDT, LLP

8 By:

9 
Elizabeth P. Ewens
Attorneys for LU RANCHING COMPANY

10
11
12 As local counsel, having reviewed the foregoing LU COMPANY'S MOTION TO EXTEND
13 TIME TO FILE NOTICE OF CHALLENGE, I hereby execute the same this 3rd day of May, 2004.

14 LING & ROBINSON

15 
16 Brian J. Coffey
17 Attorneys for LU RANCHING COMPANY
18 Idaho State Bar No. 6566

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CERTIFICATE OF SERVICE

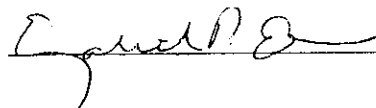
I certify that on May 13, 2004, I served a true and correct copy of foregoing LU RANCHING COMPANY'S MOTION TO EXTEND TIME TO FILE NOTICE OF CHALLENGE upon the following individuals by placing the document in the United States Mail, postage paid, and addressed as follows:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Larry Brown
Attorney, U.S. Dept. of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Chief, Natural Resources Division
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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 112

2004 APR 15 AM 11 48

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)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 55-10288B
(SEE ATTACHED EXHIBIT A)

On April 15, 2004, Special Master THOMAS R CUSHMAN
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party
to the adjudication including parties to the subcase, may file a Motion
to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate
in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION
shall constitute a waiver of the right to challenge it before the
Presiding Judge.

DATED April 15, 2004.


DEBBIE LASH
Deputy Clerk

EXHIBIT "A"

NOTICE OF ISSUANCE

PAGE 1
04/15/04