

AUG 06 2004

DEPARTMENT OF
WATER RESOURCES

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9 Attorneys for Joyce Livestock

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

Subcase Numbers 55-10135, 55-11061,
13 55-11385 and 55-12452

14 Case No. 39576

**JOYCE LIVESTOCK'S NOTICE OF
15 CHALLENGE**

I. INTRODUCTION

Joyce Livestock, by and through its counsel of record, pursuant to Administrative Order 1, subpart 13, hereby gives notice of challenge to the Special Master's Order Denying Motion to Alter or Amend dated July 22, 2004 ("Order Denying Motion to Alter or Amend").

The Special Master's Report and Recommendation ("Report and Recommendation") was filed in this case on October 6, 2003. Thereafter, Joyce Livestock filed a Motion to Alter or Amend the Special Master's Report and Recommendation. A hearing on the Motion to Alter or Amend was held on April 1, 2004, and the Special Master's Order Denying Motion to Alter or Amend was filed on July 22, 2004.

II. ISSUES ON CHALLENGE

Joyce Livestock raises the following issues on challenge:

(1) Whether the Special Master's findings of fact as outlined in the Special Master's Report and Recommendation and Order Denying Motion to Alter or Amend were erroneous;

(2) Whether the Special Master incorrectly stated and applied the law in the Report and Recommendation and Order Denying Motion to Alter or Amend;

(3) Whether the Special Master erred in denying Joyce Livestock's claim;

(4) Whether the Special Master erred in holding that Joyce Livestock's predecessors in interest did not intend to appropriate the water at issue;

(5) Whether the Special Master erred in holding that Joyce Livestock's predecessors in interest did not appropriate the water at issue for beneficial use (instream stockwater use) and did not acquire valid appropriative water rights;

(6) Whether the Special Master erred in holding that Joyce Livestock's predecessors in interest did not intend to transfer or, or in fact transfer, the water rights at issue;

(7) Whether the Special Master's recommendation to award the United States Bureau of Land Management partial decrees adjudicating water rights for claims 55-11061, 55-11385, and 55-12452 was in error;

(8) Whether the Special Master erred in holding that the BLM acquired valid

1 appropriate or beneficial use water rights; and

2 (9) Whether the Special Master erred in holding that the management of federally
3 administered grazing allotments constitutes a beneficial use of water sufficient to support a
4 constitutional or beneficial use water right under Idaho law.

5 **III. STATEMENT OF HEARINGS**

6 The trial in this case commenced on December 3, 2002. A transcript of the trial was
7 previously prepared and lodged with the Court on January 27, 2003.

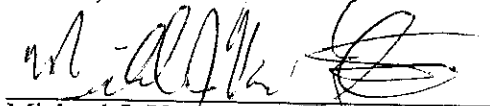
8 A hearing on Joyce Livestock's Motion to Alter or Amend was held on April 1, 2004.
9 Joyce Livestock requests a transcript of that hearing. Filed herewith as Exhibit "A" is the Estimate
10 of Transcript prepared by Maureen Newton, court reporter for the SRBA Court, together with a
11 check in the amount of \$150.00 for the estimated cost of this transcript.

12 DATED this 30 day of August, 2004.

13 Respectfully submitted,

14 McQUAID BEDFORD &
15 VAN ZANDT, LLP

16 By:

17 
18 Michael J. Van Zandt
19 Elizabeth P. Ewens

20 DATED this _____ day of August, 2004.

21 LING & ROBINSON

22 By:

23 Roger D. Ling (ISB No. 1018)
24 Brian J. Coffey (ISB No. 6566)

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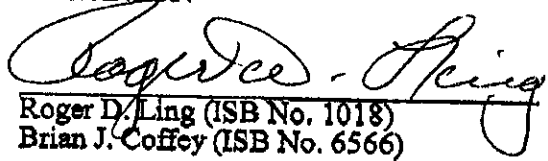
16 By:

17 
18 Michael J. Van Zandt
Elizabeth P. Ewens

19 DATED this 3rd day of August, 2004.

20 LING & ROBINSON

21 By:

22 
23 Roger D. Ling (ISB No. 1018)
24 Brian J. Coffey (ISB No. 6566)

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CERTIFICATE OF SERVICE

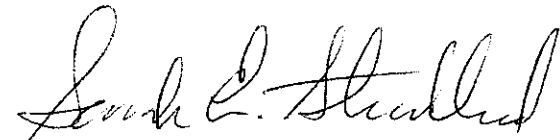
I certify that on August 3, 2004, I served a true and correct copy of foregoing **JOYCE LIVESTOCK'S NOTICE OF CHALLENGE** upon the following individuals by placing the document in the United States Mail, postage paid, and addressed as follows:

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
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83720-0098

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098



Sarah E. Strickland

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,

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) Subcase 55-10135

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) Estimate of transcript

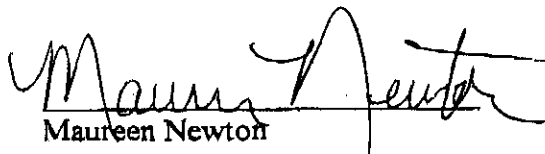
Case No. 39576

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I, Maureen Newton, Court Reporter, hereby estimate the cost of preparing a transcript of the hearing held regarding the above-entitled subcase on April 1, 2004 to be \$150, and hereby request that this be paid to the aforesaid transcriber before preparation of transcript, and all to be mailed to the same at P.O. Box 368, Rupert, ID 83350.

DATED this 3rd day of August, 2004.


Maureen Newton