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Department of Water Resources

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IN THE DISTRICT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcases 55-10135 (Joyce Livestock), 55-
	)	11061, 55-11385 and 55-12452 (U.S.D.I. -
Case No. 39576	)	BLM)
	)	
	)	PRE-TRIAL BRIEF
_____	)	

I. INTRODUCTION

The above-referenced subcases are currently set for trial beginning at 9:00 a.m. on December 3, 2002, in Boise, Idaho. As this Court is well aware, these cases have recently been the subject matter of a motion for summary judgment filed on behalf of Joyce Livestock seeking a judgment in favor of Joyce Livestock with respect to its Subcase 55-10135 and a judgment against the United States with respect to its competing subcases being 55-11061, 55-11385 and 55-12452. These competing subcases involve and are limited to instream flows in Jordan Creek located in the Silver City portion of an allotment which has been historically described as the

“Oreana” and/or “Cow Creek” allotment. The stockwater claims of the United States and Joyce Livestock overlap and are identical with respect to Jordan Creek with the exception of private land adjacent thereto as well as the instream flows passing through such private land with respect to which the United States has not asserted a claim to the water right. Joyce Livestock’s claim is based upon a prior appropriation of stockwater right from Jordan Creek by Joyce Livestock, its shareholders and/or its predecessors in interest including several members of the Nettleton and Joyce families who originally settled and obtained homestead entries and patents beginning in 1898. Accordingly, Joyce Livestock bases its claim on a “vested” stockwater right as a result of prior appropriation and beneficial use. The stockwater rights appropriated historically were conveyed by mesne conveyances from these predecessors to the Joyce Livestock claimant herein some of which contain general appurtenancy clauses in the various deeds while others specifically made reference to water rights. The United States on the other hand claims to own a stockwater right based upon its ownership and regulation of the grazing allotments and not as a result of actual appropriation and beneficial use. Specifically, the United States asserts a “riparian water right” as opposed to a “state law based water right” which, it is submitted is the only recognized means of acquiring a stockwater right other than by an application to the Idaho Department of Water Resources for a permit to appropriate water from instream flows.

Since the stockwater rights which are the subject matter of this litigation are instream flows in Jordan Creek, the case does not involve any range improvements or physical diversions of the water from the source such as the creation of reservoirs, pipelines, storage tanks and troughs. The United States has either stipulated or admitted during discovery that it does not own livestock and that no express agency agreement exists between the United States and Joyce

Livestock or any of its predecessors in interest whereby Joyce Livestock and/or its predecessors acquired a stockwater right by appropriation and beneficial use as the agent of the United States.

II. PROCEDURAL STATUS OF THE SUBCASES

The procedural status of these subcases are as follows:

1. Discovery has been completed with respect to the subcases involved in this litigation.
2. The Court has recently ruled on the Motions in Limine which specifically dealt with the admissibility of documentary evidence. With the exception of this Court's ruling that the Affidavit of David R. Tuthill, Jr., and the accompanying report for Subcase Nos. 57-10587, et al., shall be excluded, the parties have otherwise agreed that all of the exhibits identified and exchanged as "trial exhibits" shall be admitted into evidence at trial reserving the objections set forth in the Motions in Limine. Under separate cover, the Court has been provided with copies of both the United States' exhibits as well as those submitted by Joyce Livestock.
3. Mr. Brown and the undersigned are currently discussing whether or not we can stipulate to facts at the commencement of the trial thus avoiding or at least limiting percipient witness testimony as well as perhaps expert testimony. To the extent that we can, we will so advise the Court at the commencement of trial on December 3, 2002.
4. The United States and Joyce Livestock have entered into an oral stipulation and agreement that the trial should be bifurcated. It is respectfully requested that the Court bifurcate the trial and that the United States present its case in chief with respect to its three subcases first. When the United States has completed its case in chief and rested, it is respectfully submitted that we then proceed with the trial on Joyce Livestock's subcase. The one exception to this

proposed procedure would be with respect to the testimony of Roxanne Brown from IDWR. Ms. Brown has been subpoenaed by the United States and Joyce Livestock to testify with respect to the Director's Reports which have been issued for the subcases which are the subject matter of this litigation. It is anticipated by the undersigned that Joyce Livestock will want to further question Roxanne Brown with respect to the procedures followed by IDWR in recommending the stockwater rights claimed by the United States in Subcase Nos. 55-11061, 55-11385 and 55-12452. In order to avoid the necessity of having Ms. Brown appear twice to testify if the Court should bifurcate the trial, it is suggested that perhaps she could be called as a joint witness at the outset of the trial.

5. Pursuant to the conference call with the Court on November 25, 2002, it has been agreed that the parties will waive closing arguments and lieu thereof submit post-trial briefs addressing the specific factual and legal issues raised at trial. Obviously to the extent that Mr. Brown and the undersigned can agree upon facts by stipulation, this procedure will hopefully allow the parties to specifically discuss only questions of fact which remain in dispute and the legal arguments relative thereto in the post-trial briefs. Although not discussed during the course of our conference telephone call, Mr. Brown and the undersigned are prepared to waive reply briefs and, therefore, are prepared to submit the matter based upon closing briefs to be filed at a date to be set by the Court preferably during the first week or two of January 2003.

III. LEGAL ISSUES AND RELEVANT FACTS

A. The United States Stockwater Claims 55-11061, 55-11385 and 55-12452

The United States, in support of its claim for an adjudicated stockwater right under the subcases above-referenced, relies almost exclusively on the argument that it has acquired a

stockwater right as a result of its ownership of the grazing land under the Taylor Grazing Act together with its right to regulate the grazing activities pursuant to the provisions of the Act and regulations promulgated thereunder. In essence, the United States asserts that because it has a proprietary interest in the land through which Jordan Creek passes, it is entitled to and in fact owns a stockwater right notwithstanding the fact that it concedes that it does not own livestock, has not previously owned livestock, has not actually in its own name appropriated and beneficially used water from the Jordan Creek and has not otherwise acquired those water rights by agreement of purchase or through an agency relationship memorialized by an agreement by and between the United States and Joyce Livestock or any of its predecessors in interest. In effect, the United States is claiming a "riparian water right." It is submitted that the State of Idaho does not recognize riparian rights as a basis for a claimed water right for waters within the boundaries of the state. Federal law as well as the state constitution and code sections promulgated thereunder specifically state that instream water within the state is the property of the State of Idaho subject to appropriation and beneficial use. (See I.C. § 42-101 and Idaho Constitution CONST. Article XV, § 3). Accordingly, it is respectfully submitted in these cases that the United States can acquire a stockwater right only by ownership of livestock which actually grazed in the area surrounding Jordan Creek and actually appropriated water by drinking the same and thus putting it to the beneficial use by consumption thus become an appurtenance to the real property; or, in the alternative, that the United States has applied for and obtained a permit from the Idaho Department of Water Resources for a stockwater right consistent with and pursuant to the provisions of Idaho Law. The United States has done neither and it is submitted cannot acquire a stockwater right merely as a result of filing a claim in this adjudication.

It is anticipated that the United States will offer testimony at trial to sustain the proposition that it owns a stockwater right based solely upon its regulatory powers under the Taylor Grazing Act with respect to the management of grazing allotments including the allotments which are in the area of Jordan Creek; or, that the United States has acquired a stockwater right solely as a result of its ownership or "proprietary interest" in the federally owned land. To the extent that said testimony constitutes legal opinions, it should be excluded since the United States has not designated an expert for this purpose. The issues presented by the United States with respect to its alleged acquisition of the stockwater right have been briefed extensively in the Motion for Summary Judgment submitted by Joyce Livestock Co. for "AN ORDER DISALLOWING THE CLAIMED STOCKWATER RIGHTS IN SUBCASES 51-11061, 55-11385 AND 55-12452 filed in March of this year as well as the reply brief filed to the opposition to said motions by the United States which reply brief was filed on March 29, 2002, all of which are part of the record in this case.

These facts notwithstanding, the United States bases its argument that it has a stockwater right on one or more of the following theories:

1. The United States asserts that it is entitled to an adjudicated water right based upon the presumption which arises from the Director's Report issued in its subcases herein. The presumption which arises from the Director's Report is, as this Court is well aware, a "rebuttable presumption." The same presumption arises, of course, with respect to the competing subcase herein filed on behalf of Joyce Livestock. As it relates to the United States, it is respectfully submitted that this presumption will be overcome based upon the facts of the case and applicable provisions of Idaho law and authority from other jurisdictions which have specifically dealt with

issues involving an alleged appropriated stockwater right in favor of the United States. This is particularly true when one considers that the United States does not own any livestock and by its own admission has not entered into any agency agreement whereby an actual appropriator of stockwater has done so as the agent under the expressed terms of an agreement with the United States. It is anticipated that there will be testimony during the course of trial that IDWR did not conduct any actual investigations in order to determine whether or not the United States has acquired an instream stockwater right by appropriation and beneficial use, nor that the United States has acquired by application to IDWR a stockwater permit or license. The flaw in the United States' theory is that its ownership of the land is separate and distinct from the ownership of the instream flows in Jordan Creek. Each is a distinct and separate interest in specific property. Ownership in one does not confer an ownership interest in the other. Once a water right has been actually appropriated and beneficially used for watering livestock, it becomes vested and becomes appurtenant to the land of the appropriator. The United States has neither appropriated and beneficially used the water from Jordan Creek nor acquired a water right by permit or license. It is respectfully submitted that based upon the admissions by the United States, no such investigation could have reasonably resulted in a conclusion by IDWR that the United States appropriated stockwater.

2. The United States relies heavily on the case of *Nevada v. Morros* 104 Nev. 709, 766 P.2d 263 (Supreme Court Nevada, December 21, 1988) to support its argument that it can in fact acquire and own a stockwater right solely on the basis of its proprietary or ownership interest in the land comprising the grazing allotment in the general area of Jordan Creek. Reliance by the United States for this proposition on the *Morros* case is fatally defective. While the *Morros*

decision specifically states that the United States can acquire a water right as a result of an “application for a permit” for a recreation water right with respect to a lake located on BLM land as well as with respect to a stockwater or wildlife water right, it does not stand for the proposition that the United States has a water right by operation of law based solely upon its ownership of the land. Specifically the *Morros* decision finds that under Nevada law, which in many respects is similar to the law in Idaho, the United States may acquire a stockwater right by filing an application for an appropriation of the water right by permit. In the subcases which are before this Court, the United States is attempting to acquire a water right as a result of an adjudication of an alleged stockwater right under state law of prior appropriation. The only basis upon which the United States can obtain an adjudicated water right in the SRBA is by showing that it has appropriated and actually used the water for stockwatering purposes. The whole purpose of the SRBA is to determine ownership of water rights based upon historic use, and it is not a forum to adjudicate whether or not a claimant can acquire a right by an administrative procedure under state law. In any event, a permitted right is always subject and subordinate to a prior appropriated right to the same source. (I.C. 42-101 and 42-113). The fact the United States has proprietary interest in the grazing land which it owns and, in fact, allows third parties to graze their cattle on that land, does not in and of itself result in an appropriation of a stockwater right. Even if the United States could acquire a permitted stockwater right as a result of its ownership of the land adjacent to Jordan Creek, that acquisition, under Idaho law, would be subordinate to the prior appropriated rights of Joyce Livestock. In other words, the United States has not hereby or herein applied for a permit to acquire a water right and since it has no stockwater right by appropriation under Idaho law, its claim must fail.

3. The United States may allege it has already obtained a decreed water right as a result of the adjudication in Subcase 72-15929C. The decision in that case is not dispositive of the subcases herein. Therein, the United States asserted a stockwater right as a result of its proprietary or ownership interest in the land. The water right claim by the United States was decreed only because its claimed stockwater right with a 1934 priority date was not contested. In fact, both Special Master Haemmerle and Judge Hurlbutt on appeal, pursuant to a Motion to Alter or Amend specifically held that the United States could not have acquired a stockwater right under Idaho law "BUT FOR" the fact that the State of Idaho did not contest its right to acquire a stockwater right in subcases 72-15927C, et al., with a priority date of the enactment of the Taylor Grazing Act in 1934. In fact, this Court specifically found that the United States was not entitled to a stockwater right based upon the very theories which are now submitted to this Court for consideration. The fact that the United States acquired a stockwater right because IDWR did not contest its own Director's Report is not dispositive of this case since the right was acquired by default nor may any subsequent "settlement agreement" or "stipulation" between IDWR and the United States be considered in these subcases (I.R.E. Rule 408).

4. As indicated, Joyce Livestock has already briefed these issues at great length in the Motion for Summary Judgment proceedings. Joyce Livestock incorporates the Points and Authorities cited therein by this reference including, but not necessarily limited to, Special Master Haemmerle's Order Denying Motion to Alter or Amend (Amended Order on State's Motion for Summary Judgment) in Subcase 72-15929C dated April 15, 1999, and Judge Hurlbutt's Order Denying Challenges and Adopting Special Master's Reports and Recommendations dated September 30, 1998. In addition, Joyce Livestock refers this Court to

similar authority in the case of *United States v. State of New Mexico* 98 Supreme Ct. 3012, 438 U.S. 696 (July 3, 1978) and the Findings of Fact and Conclusions of Law, IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF MONITOR VALLEY - SOUTHERN PART (140-B, Nye County, Nevada, Fifth Judicial District Court of the State of Nevada filed October 12, 1999 (See Exhibit HHH) filed with the Court on behalf of Joyce Livestock in the within action). Reference is also made to Judge Wood's MEMORANDUM DECISION AND ORDER ON CHALLENGE - Subcases 55-10288A and B, et al., April 20, 2000, pp. 19-22.

B. Joyce Livestock Is Entitled to a Priority Date for its Stockwater Rights of 1898 as a Result of Mesne Conveyances from the Original Homesteaders and Patentees to Joyce Livestock; or, in the Alternative, According to Proof.

1. Like the United States, Joyce Livestock is entitled to the presumption which arises from the Director's Report with respect to Subcase 55-10135. Unlike the United States, the presumption is not subject to being rebutted. Idaho, specifically recognizes "constitutional appropriation" of stockwater rights, referred to as a state-law based water right. Unlike the United States, all of the instream stockwater rights in Jordan Creek are subject to prior appropriation and to the extent appropriated and beneficially used for stockwatering purposes, the water rights owned by Joyce Livestock are "vested." The stockwater rights of Joyce Livestock and its predecessors in interest have been appropriated pursuant to provisions of Idaho law. Specifically, Joyce Livestock and/or its predecessors have appropriated water pursuant to Title 42-101 of the Idaho Code which provides in relevant part as follows:

"All the waters of the State, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the State are declared to be the property of the State, whose duty it shall be to supervise their appropriation and

allotment to those diverting the same therefrom for any beneficial purpose, and the right to use of any of the waters of the State for useful or beneficial purposes is recognized and confirmed; and, the right to the use of any of the public waters which have heretofore been or may hereafter be allotted or beneficially applied, shall not be considered as being a property right in itself, but such right shall become the complement of, or one of the appurtenances of, the land or other thing to which, through necessity, the water is being applied;"

Title 42-106 of the Idaho Code provides that as between appropriators, the first in time in first in right.

Most importantly are the provisions of Section 42-113 of the Idaho Statutes which in part provides as follows:

(1) A permit may be issued, but shall not be required for appropriation of water for the in-stream watering of livestock...and in the administration of the water rights on any stream, the Director, and the District Court where applicable, shall recognize and protect water rights for in-stream livestock use, according to priority, as they do water rights for other purposes.

(2) For rights to the use of water for in-stream or out-of-stream livestock purposes, associated with grazing on federally owned or managed land, established under the diversion an application to beneficial use method of appropriation, the priority date shall be the first date that water historically was used for livestock watering associated with grazing on land, subject to the provisions of Section 42-222(2), Idaho Code.

2. In addition, the presumption is supported by the fact that IDWR was on actual or constructive notice of the chain of title and history of water right use on the grazing allotments which are currently under permit to Joyce Livestock. Specifically, IDWR is on constructive notice of the recorded documents which are exhibits in the within action and clearly demonstrate that the predecessors of Joyce Livestock acquired by U.S. patent their base property and that those predecessors in interest were awarded a "preference" under the Taylor Grazing Act based

upon their use of the public land for grazing purposes and the use of the water located thereon. Pursuant to 43 C.F.R. §§ 4000 et. seq. as authorized by the Taylor Grazing Act of June 28, 1934, 48 Stat. 1269 codified at 43 U.S.C.A. §§ 316-315r a grazing referenced "is attached to base property owned or controlled by the permittee or lessee. A grazing preference is transferable with base property, a grazing permit or lease is not. 43 C.F.R. 4110. 2-3.

3. Further, it is respectfully submitted that the United States cannot overcome the presumption of the validity of the Director's Report with respect to Subcase 55-10135. In addition to the historic documents which have been identified as exhibits in these proceedings, Joyce Livestock will produce percipient witnesses who will testify that with respect to Joyce Livestock, its predecessors in interest including, but limited to, John T. Shea and Paul Nettleton's uncle J.H. Nettleton and Paul Nettleton's father Hubert E. Nettleton appropriated and beneficially used water from Jordan Creek for watering their livestock to the benefit of their ranch properties. Thus, even if the United States is successful in convincing the Court that stockwater rights do not pass as an "appurtenance" to the base property; but, rather, require evidence of an expressed intention to convey the water rights either expressly in a written instrument or otherwise, Joyce Livestock will prevail based upon the testimony of Paul Nettleton and Mr. Gene Lewis. In addition, the deeds in the chain of title with respect to the base property which currently constitutes the assets of Joyce Livestock herein, in many instances do make specific reference to the water rights which are specifically conveyed therein; although this is not required as a matter of law. Further, the overwhelming weight of authority supports the fact that a stockwater right passes with the title to the base property as a appurtenance. See Clesson S. Kinney, Kinney on Irrigation and Water Rights (2nd Ed. 1917) p. 1772 and pp. 1779 and 1780.

4. Joyce Livestock, in support of these legal arguments makes reference to and incorporates herein the Reply Brief to the United States' Response to Joyce Livestock's Motion for Summary Judgment seeking an order decreeing a stockwater right as reported in Subcase 55-10135; and, in addition, reference is made to the Memorandum Decision and Order on Challenge in Subcase 55-10288A and B, et al. by the Honorable Barry Wood dated April 25, 2000; the Findings of Fact and Conclusions of Law, *In the Matter of the Determination of the Relative Rights in and to the Waters of Monitor Valley, etc.*, dated October 12, 1999, Fifth Judicial District of the State of Nevada, *supra*, (Exhibit HHH), and *Hage v. United States*, United States Court of Federal Claims No. 91-1470L (January 29, 2002), Attachment "B" to Motions for Summary Judgment by Joyce Livestock herein.

5. It is also anticipated that the United States will claim that there is a "gap" with respect to the stockwater right usage from Jordan Creek and that the stockwater rights have either been appropriated or acquired by a third party Augustine Salove or were abandoned. This is the result of a Lease (a copy of which cannot be located in any public record) between John T. Shea and Augustine Salove dated 1938 wherein Mr. Shea leased his ranching operation (which now constitutes part of the base property and the grazing allotment of Joyce Livestock) to Mr. Salove. Under this Lease Agreement, Mr. Salove occupied Mr. Shea's property for purposes of raising livestock and continued to appropriate stockwater which had already been appropriated and attached to the base property owned by Mr. Shea. There is no evidence that Mr. Salove asserted an interest in the stockwater or the land adverse to that of Mr. Shea. On September 24, 1951, J.H. Nettleton and the Joyce Livestock Co. purchased the John T. Shea Ranch. (See Trial Exhibit Z herein). The BLM also approved the transfer of the permit which was originally

owned by Mr. Shea and recognized the grazing preference original acquired by Mr. Shea. Accordingly, Mr. Nettleton and Joyce Livestock Co. obtained a grazing permit for the precise number of AUMs which had historically been used on the grazing land by Mr. Shea in the first instance followed by his tenant Mr. Salove and subsequently by the grantees. It is submitted that the water rights acquired by Mr. Shea as a result of historic grazing in Jordan Creek became appurtenant to his base property. Those water rights were not acquired by Mr. Salove as a result of his lease; but, rather, continued to be appurtenant to the base property and therefore belonged to the owner of that base property, Mr. Shea who ultimately conveyed the base property together with all appurtenances and grazing rights to Mr. Nettleton's father and Joyce Livestock Co.

C. Undisputed Facts

The following are undisputed facts; however, they are not to be deemed to be all of the undisputed facts which exist in this proceeding:

1. The United States does not own livestock.
2. The United States has not entered into any agreement creating an agency relationship specifically with respect to grazing rights and/or stockwater rights with respect to Jordan Creek or any of the owners of the base property historically who have grazed cattle on the public lands in the vicinity of Jordan Creek.
3. The real property which constitutes the "base property" for Joyce Livestock were acquired by a number of predecessors in interest of Joyce Livestock beginning with homestead entries and patents dating back to 1898.
4. The United States and Joyce Livestock have stipulated to a chain of title which was prepared by an independent abstractor of title and agree that the chain of title is accurate

except to the extent that there are certain gaps in the chain of title including, but not necessarily limited to, a recorded lease in favor of Mr. Salove referenced above.

5. Since the enactment of the Taylor Grazing Act in 1934, the United States-BLM has administered public land for stock grazing purposes in and around Silver City and Jordan Creek as well as other streams in the vicinity.

6. Mr. Brown, on behalf of the United States and the undersigned have not had an opportunity to meet and confer with respect to a general statement of undisputed facts. This fact notwithstanding, the undersigned believes that it is undisputed that Joyce Livestock's immediate predecessors in interest including John T. Shea and Hubert Nettleton, father of Paul Nettleton who is presently a shareholder of Joyce Livestock grazed cattle in the area of Jordan Creek and appropriated and put to a beneficial use stockwater from Jordan Creek as a integral part of their ranching operation beginning at least in 1925; although, predecessors in interest who are also related to Paul Nettleton either directly or as a result of marriage acquired patents from the United States Government for ranch property in the Oreana/Cow Creek unit beginning in 1898 based upon matters that are public record which by stipulation are exhibits in this proceeding.

D. Statement of Disputed Facts

Although the undersigned, on behalf of Joyce Livestock, does not necessarily agree that the below stated issues of disputed fact should be or are necessarily relevant to the determination that Joyce Livestock is entitled to a decreed stockwater right in the subcase above-referenced in that, as a matter of law, Joyce Livestock is entitled to a decreed stockwater right based upon prior appropriation and beneficial use of the stockwater, the following may be facts in dispute by the United States, as follows:

1. Whether or not as a matter of fact, predecessors in interest to the base property now comprising the Joyce Livestock Ranch manifested an intention to convey stockwater rights under the terms and conditions of any deed or other instrument conveying title to the base property commencing with the original holder of a homestead or patent through the chain of title to the current owner of those parcels of real property, Joyce Livestock.

2. As of the date of the enactment of the Taylor Grazing Act in 1934 and upon application by the owner of livestock at that time for a grazing permit, had the applicant or his predecessors in interest diverted and beneficially used stockwater thus appropriating the stockwater for beneficial use? In this regard, it is respectfully submitted that grazing preferences were awarded based upon the ownership of base property and the prior use of instream flows in Jordan Creek for purposes of watering livestock.

E. Relief Sought

1. Joyce Livestock is entitled to a decreed stockwater right based upon appropriation and beneficial use of livestock in the Silver City allotment and specifically with respect to the waters of Jordan Creek with a priority date of 1898, or according to proof.

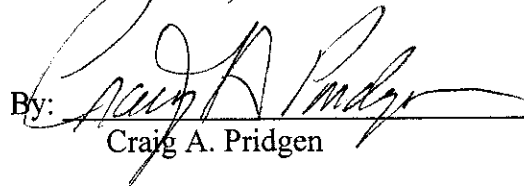
2. The United States is not entitled to a stockwater right by decree in this action in that the United States has admitted that it does not own livestock, is not engaged in the business of livestock grazing, and has not entered into any agency agreement or contract with Joyce Livestock or any of its predecessors with respect to the acquisition of a stockwater right pursuant to the terms and conditions of any such agreement; and, accordingly, the United States subcases claiming a stockwater right should be denied. The United States should be found not have appropriated water or beneficially used water from Jordan Creek for stockwater purposes or for

any other purpose or purposes whatsoever.

DATED: November 27, 2002

Respectfully Submitted,
McQUAID, METZLER, BEDFORD
& VAN ZANDT, LLP

By:



Craig A. Pridgen

DATED: November 27, 2002

LAW OFFICES OF RICHARD L. HARRIS

By:

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Attorneys for Joyce Livestock Company

CERTIFICATE OF MAILING

I certify that on November 27, 2002, I faxed/mailed the original and copies of the foregoing **Pre-Trial Brief** to the following persons as indicated below, the original and/or copies, postage paid and addressed as follows:

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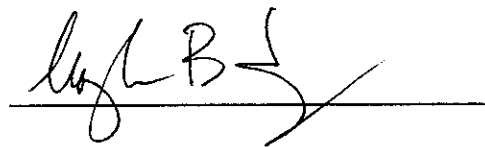
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A handwritten signature, likely of David J. Barber, is written over a horizontal line. The signature is stylized and appears to be "DJ Barber".