

JAN 27 2005

1 Michael J. Van Zandt, Esq. (Cal. SBN 096777)
Elizabeth P. Ewens, Esq. (Cal. SBN 213046)
2 **McQUAID BEDFORD & VAN ZANDT** LLP
221 Main Street, 16th Floor
3 San Francisco, CA 94105
Telephone: 415/905-0200
4 Facsimile: 415/905-0202

5 ROGER D. LING (Idaho SBN 1018)
LING, ROBINSON & WALKER
6 P.O. Box 396
Rupert, Idaho 83350
7 Telephone: (208) 436-4717
Facsimile: (208) 436-6804
8
9 Attorneys for Joyce Livestock

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

11
12 In Re SRBA

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

13
14 Case No. 39576

**JOYCE LIVESTOCK'S UNOPPOSED
MOTION TO FILE SUPPLEMENTAL
OPENING BRIEF AND UNOPPOSED
MOTION TO AMEND SCHEDULING
ORDER**

1 Joyce Livestock, by and through its attorneys, McQuaid, Bedford & Van Zandt, LLP, hereby
2 requests that the Court enter an Order permitting Joyce Livestock to file a Supplemental Opening
3 Brief on Challenge and that the Court amend the current Scheduling Order in the manner and for the
4 reasons set forth below.

5 1. Pursuant to the Scheduling Order in effect, on December 10, 2004 Joyce
6 Livestock filed its Opening Brief in Support of Challenge. At issue in the pending Challenge are
7 private water rights sited on what are now federally administered grazing allotments as well as
8 issues involving BLM water right claims to the same water sources.

9 2. The issues presented in this case substantially mirror many of the issues presented
10 in *In Re SRBA No. 39576*, Subcases 55-10288b et al. ("*LU Ranching*"). This Court entered a
11 Memorandum Decision and Order on Challenge in the *LU Ranching* case on January 4, 2005. That
12 Decision bears directly on many of the issues presented in Joyce Livestock's case, but because of
13 the timing of the *LU Ranching* Decision in relation to the earlier deadline for Joyce Livestock's
14 Opening Brief in Support of Challenge, Joyce Livestock did not have an opportunity to address or
15 incorporate into its analysis the *LU Ranching* Decision.

16 3. The Court indicated in its January 6, 2005 Order Granting the United States' Motion
17 for Leave to File Over-Length Brief and Modify Scheduling Order that it would entertain a motion
18 by Joyce Livestock to file a supplemental brief in light of the *LU Ranching* Decision. By way of
19 this Motion, Joyce Livestock requests the opportunity to file a Supplemental Opening Brief. Such
20 supplemental briefing is necessary to adequately represent Joyce Livestock's interests, particularly
21 given the substantial overlap between issues presented in the *LU Ranching* case and the present
22 litigation.

23 4. In the interest of economy, Joyce Livestock requests that the Court amend the
24 Scheduling Order so as to permit Joyce Livestock to file a Supplemental Opening Brief in advance
25 of the United States' filing of a Responsive Brief.^{1/} Joyce Livestock proposes the following

26
27 ^{1/} Under the current Scheduling Order, the United States would file a
(continued...)

1 amended Scheduling Order:

2 3/4/05 Joyce Livestock's Supplemental Opening Brief

3 4/1/05 United States' Responsive Brief

4 5/6/05 Joyce Livestock's Rebuttal Brief

5 Oral Argument to be set in consultation with the Court.

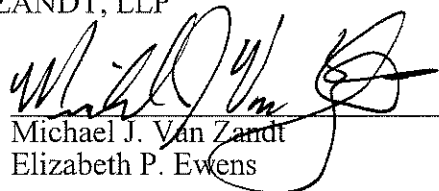
6 5. Counsel for Joyce Livestock has consulted with counsel for the United States
7 regarding all of the above. The United States does not object to Joyce Livestock's Motion to File a
8 Supplemental Opening Brief and agrees to the above proposed Scheduling Order.

9 WHEREFORE, Joyce Livestock respectfully requests that the Court grant the within motion
10 to file a Supplemental Opening Brief and requests that the Court amend the Scheduling Order as set
11 forth herein.

12 Dated this 24 day of January, 2005.

13 Respectfully submitted,
14 McQUAID BEDFORD &
15 VAN ZANDT, LLP

16 By:

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18 Michael J. Van Zandt
19 Elizabeth P. Ewens
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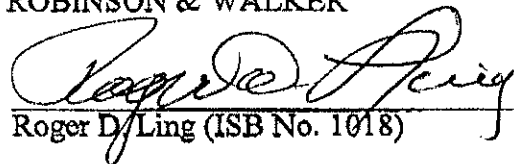
25 ^{1/} (...continued)

26 Responsive Brief to Joyce Livestock's original Opening Brief on Challenge, Joyce Livestock
27 would file a Supplemental Opening Brief, to which the United States would file a
Supplemental Responsive Brief, followed by one if not two Rebuttal Briefs by Joyce
Livestock. By way of this Motion, and in the interest of judicial economy, Joyce Livestock
hopes to avoid such duplication of effort.

1 DATED this 21 day of January __, 2005.

2 LING, ROBINSON & WALKER

3 By:

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Roger D. Ling (LSB No. 1018)

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CERTIFICATE OF SERVICE

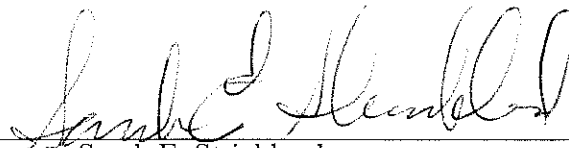
I certify that on January 24, 2005, I served a true and correct copy of foregoing
**JOYCE LIVESTOCK'S UNOPPOSED MOTION TO FILE SUPPLEMENTAL OPENING
BRIEF AND UNOPPOSED MOTION TO AMEND SCHEDULING ORDER** upon the
following individuals by placing the document in the United States Mail, postage paid, and
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