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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	) Subcase Numbers 55-10288B, 55-10289B,
	) 55-10290B, 55-10292B, 55-10293B,
	) 55-10295, 55-10296, 55-10297B,
	) 55-10298, 55-10299B, 55-10300,
	) 55-10303B, 55-13451, 55-13846, and
	) 55-13844
	)
Case No. 39576	) UNITED STATES' MOTION TO
	) ENLARGE TIME TO FILE MOTION
	) TO DISALLOW COSTS, IN THE
	) ALTERNATIVE, MOTION TO
	) DISALLOW COSTS AND BIFURCATE
	) PROCEEDINGS

MOTION

The United States, by and through the undersigned attorney, respectfully moves this Court for an enlargement of time to file a motion to disallow costs. In the alternative, the United States' respectfully moves this Court for an Order disallowing costs and to bifurcate proceedings, and, pursuant to Idaho R. Civ. P. 7(b)(3)(C), the United States shall file a brief in support within 14 days.^{1/}

MEMORANDUM OF POINTS AND AUTHORITIES

The United States' Motion to Strike LU Ranching Co.'s Motion for Attorneys' Fees, Including Memorandum of Points and Authorities was filed in the above-captioned subcases on January 27, 2005. The Motion to Strike is not yet ripe for decision.

Idaho R. Civ. P. 54(d)(6) states that a motion to disallow costs must be filed within 14 days of the date of filing a memorandum of costs, and failure to timely object to costs constitutes a waiver of all objections to the costs claimed. Absent a court order enlarging the time, the United States' Motion to Disallow Costs must be filed on January 31, 2005.

The 14 day time requirement in Idaho R. Civ. P. 54(d)(6) may be enlarged at the District Court's discretion. Wheeler v. McIntyre, 596 P.2d 798, 801 (Idaho 1979). In the interests of judicial economy, the United States hereby requests the District Court to enlarge the time for filing a Motion to Disallow Costs to 14 days after the District Court files its decision on the

^{1/} "Any party may object to the claimed costs of another party . . . by filing and serving on adverse parties a motion to disallow part or all of such costs within fourteen (14) days of service of the memorandum of cost. Such motion shall not stay execution on the judgment, exclusive of costs, and shall be heard and determined by the court as other motions under these rules." Idaho R. Civ. P. 54(d)(6).

United States' Motion to Strike. This Motion has been discussed with opposing counsel, and opposing counsel was not in a position to represent whether LU objects or does not object to this Motion to Enlarge Time.

In the alternative, if this Court denies the United States' Motion for Enlargement of Time, the United States respectfully moves this Court for an order disallowing costs because LU fails to state a claim upon which relief can be granted and this Court lacks jurisdiction over the subject matter; and to bifurcate the proceedings on LU's Motion for Attorneys' Fees into two separate proceedings: one proceeding to determine whether LU Ranching Co. is entitled to costs,² and, in the event this Court determines that LU Ranching Co. is entitled to costs, a separate proceeding to determine reasonable fees and hours.

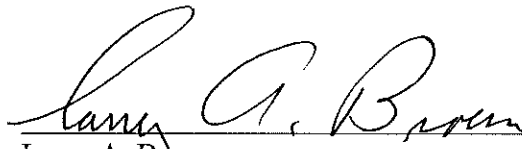
² "Attorney fees, when allowable by statute or contract, shall be deemed as costs in an action and processed in the same manner as costs and included in the memorandum of costs; provided, however, the claim for attorney fees as costs shall be supported by an affidavit of the attorney stating the basis and method of computation of the attorney fees claimed." Idaho R. Civ. P. 54(e)(5) (emphasis added). For the purposes of this Motion, the term "costs" includes attorney fees.

By this motion, the United States makes a special appearance and specifically challenges the jurisdiction of this Court to award costs and attorney fees under the Equal Access to Justice Act (hereinafter "EAJA"), codified at 28 U.S.C. §§ 2412 et seq. See LU Ranching Co.'s Motion for Attorneys' Fees.

DATED this 31st day of January, 2005.

Respectfully submitted,

UNITED STATES OF AMERICA



Larry A. Brown
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on Jan. 31, 2005, that I served a true and correct copy of foregoing **UNITED STATES' MOTION TO ENLARGE TIME TO FILE MOTION TO DISALLOW COSTS, IN THE ALTERNATIVE, MOTION TO DISALLOW COSTS AND BIFURCATE PROCEEDINGS; SUBCASES 55-10288B ET AL.** upon the following individuals by placing the document in the United States Mail in Washington D.C., postage paid, and addressed as follows:

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