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Department of Water Resources

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UNITED STATES OF AMERICA

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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,
Case No. 39576	)	55-10303B, and 55-13451
	)	
	)	UNITED STATES' MOTION TO
	)	BIFURCATE PROCEEDINGS AND
	)	DISALLOW COSTS

MOTION

The United States, by and through the undersigned attorney, respectfully moves this

Court for an order as follows:

1. For an order bifurcating the proceeding on LU Ranching Co.'s Motion for Attorneys' Fees into two proceedings; one proceeding to determine whether LU Ranching Co. is entitled to costs,^{1/} 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. Pursuant to Idaho R. Civ. P. 54(d)(6), for an order disallowing costs because LU Ranching Co.'s Motion for Attorneys' Fees fails to state a claim upon which relief can be granted;

3. Pursuant to Idaho R. Civ. P. 54(d)(6), for an order disallowing costs because this Court lacks jurisdiction over the subject matter of LU Ranching Co.'s Motion for Attorneys' Fees;

4. In the alternative, and pursuant to Idaho R. Civ. P. 54(d)(6), for an order disallowing unreasonable fees and hours;

5. Pursuant to Idaho R. Civ. P. 7(b)(3)(C), the United States' memorandum in support of this motion must be filed within 14 days.^{2/} The United States respectfully moves this Court for an order allowing until May 31, 2005 to file its memorandum in support of this motion; and,

^{1/} "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.

^{2/} "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).

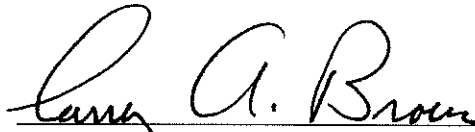
6. For an order allowing such other relief as the Court deems just and reasonable.

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

DATED this 4th day of May, 2005.

Respectfully submitted,

UNITED STATES OF AMERICA

A handwritten signature in black ink, reading "Larry A. Brown". The signature is written in a cursive style with a large initial "L".

Larry A. Brown
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on May 4, 2005, that I served a true and correct copy of foregoing **UNITED STATES' MOTION TO BIFURCATE PROCEEDINGS AND DISALLOW COSTS; 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:

Original to:

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Twin Falls, ID 83303-2707

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