

DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
TWIN FALLS CO., IDAHO
FILED
2005 MAY 18 PM 4:48

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

Case No. 39576

) Subcases: 55-10288B, 55-10289B, 55-
) 10290B, 55-10292B, 55-10293B, 55-10295,
) 55-10296, 55-10297B, 55-10298, 55-10299B,
) 55-10300, 55-10301B, 55-10303B, and 55-
) 13451
)
) ORDER GRANTING MOTION TO
) BIFURCATE,
) ORDER DENYING MOTION TO
) STRIKE,
) AND
) ORDER SETTING HEARING AND
) BRIEFING SCHEDULE

On January 18, 2005, LU Ranching, Inc (LU), filed a *Motion for Attorney's Fees* in the above-captioned subcases. On the same day, LU filed a *Motion to Reconsider and or Motion to Amend*. On January 27, 2005, the United States of America, acting through the Department of Interior, Bureau of Land Management, filed a *Motion to Strike LU Ranching's Motion*. On January 25, 2005, this court entered a ***Deadline Order*** for filing responsive briefing to the *Motion for Reconsideration and Motion for Attorney's Fees*. On January 31, 2005, the United States filed a *Motion to Enlarge Time to File Motion to Disallow Costs, in the Alternative to Disallow and Bifurcate Proceedings*. On February 2, 2005, this Court entered an ***Order on Motion to Enlarge Time to File Motion to Disallow Costs***. The ***Order*** stated that the Court would not hear arguments on LU's *Motion for Attorney's Fees* until after the Court ruled on the *Motion to Reconsider*, and explained why LU's *Motion for Attorneys Fees and Memorandum of Costs* was not considered untimely. On May 2, 2005, the Court filed an ***Order on LU Ranching Co.'s Motion for Reconsideration***.

On May 4, 2005, the United States filed a *Motion to Bifurcate Proceedings and Disallow Costs*. The United States asks the Court to bifurcate the proceeding Lu's *Motion*

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for Attorney's Fees into two proceedings: one to determine whether LU is entitled to costs; and, in the event this Court determines that LU is entitled to costs, a separate proceeding to determine reasonable fees and hours. The United States also asks for the Court to disallow costs under various theories; and finally, for the Court to allow until May 31, 2005 for the United States to file its memorandum in support of the *Motion*. On May 16, 2005, the *Motion to Bifurcate Proceedings* was argued at hearing by Mr. Larry Brown, representing the United States, and Ms. Elizabeth Ewens, representing LU.

At this time, LU's *Motion for Attorney's fees* is ripe. The Court has not definitively ruled on the United States *Motion to Strike*. The United States' *Motion to Bifurcate Proceedings and Enlarge Time* is also before the Court. Therefore, the following are ordered:

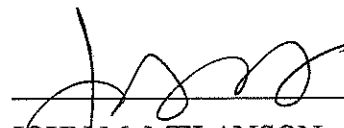
1) United States' *Motion to Bifurcate Proceedings*: This *Motion* is **granted**. The Court wishes to resolve these outstanding matters expediently. The parties shall address only whether LU is entitled to costs and fees. If LU is found to be entitled to costs or fees, an additional briefing and hearing schedule shall be set by the Court.

2) The United States States' *Motion to Strike*: The Court's **Order on Reconsideration** was entered on May 2, 2005. The *Motion to Strike* is now moot, and is **denied**. LU's *Motion for Attorneys Fees* is deemed timely as of May 3, 2005.

3) Briefing Schedule on LU's *Motion for Attorneys Fees*: LU filed briefing with its original *Motion for Attorneys Fees*. The United States may file responsive briefing until May 24, 2005. LU may file a reply brief until June 8, 2005.

4) Hearing on *Motion for Attorney's Fees*: The *Motion for Attorneys Fees* **shall be heard at 3:30 p.m. (or soon thereafter) on June 15, 2005, at the Snake River Basin Adjudication Courthouse, 253 3rd Ave N., Twin Falls, Idaho. Telephone participation is available by calling 1-918-583-3445 and dialing participant code 406128.**

Dated May 18, 2005


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

ORDER GRANTING MOTION TO BIFURCATE

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO BIFURCATE, ORDER DENYING MOTION TO STRIKE & ORDER SETTING SCHEDULE was mailed on May 18, 2005, with sufficient first-class postage to the following:

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