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DEPARTMENT OF
WATER RESOURCES

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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 Case No. 39576

14 **JOYCE LIVESTOCK'S RESPONSE TO**
UNITED STATES' MOTION TO
BIFURCATE PROCEEDINGS,
DISALLOW COSTS, AND ENLARGE
TIME TO FILE A MEMORANDUM IN
SUPPORT OF MOTION TO DISALLOW
COSTS

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20 Joyce Livestock, by and through its attorneys, hereby submits its response to the United
21 States' Motion to Bifurcate Proceedings, Disallow Costs, and Enlarge Time to File a Memorandum
22 in Support of Motion to Disallow Costs ("United States' Motion") as follows.

23 1. On September 2, 2005, the Court set a date and time for a hearing on the United
24 States' Motion to be held on September 20, 2005. In an attempt to narrow the issues to be
25 addressed at the hearing, Joyce submits the within Response to the Court for its consideration.

26 2. In the United States' Motion, the United States requested an extension of time to
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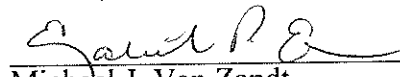
1 October 14, 2005 within which to file a memorandum in support of its motion to disallow costs ^{1/}
2 Joyce Livestock does not object to the United States' request for extension of time so long as Joyce
3 Livestock is provided a commensurate amount of time to respond to the United States' brief. Joyce
4 Livestock requests to and including Friday, November 18, 2005 within which to file a reply in
5 opposition to the United States' Memorandum. Undersigned counsel has consulted with counsel for
6 the United States, and the United States does not object to this proposed briefing schedule.

7 3. The United States also requests that the Court bifurcate the attorneys fees
8 proceedings, the first phase to determine whether Joyce Livestock is entitled to its claimed attorneys
9 fees, and, if the Court determines that Joyce Livestock is entitled to its claimed fees, a second
10 proceeding to address the reasonableness of the claimed attorneys fees. For reasons that can be
11 further addressed with the Court during the scheduled hearing on the United States' Motion, Joyce
12 Livestock objects to the United States' request to bifurcate these proceedings. This case has been in
13 active litigation since December 5, 1997. Bifurcating these proceedings will only serve to further
14 delay the conclusion of this litigation and, by virtue of the fact that it may necessitate two rounds of
15 briefing and oral argument, bifurcation only will delay resolution of this case and increase the
16 expense of this litigation, to the detriment of Joyce Livestock.

17 Dated this 19 day of September, 2005.

18 Respectfully submitted,
19 McQUAID BEDFORD &
20 VAN ZANDT, LLP

21 By:


22 Michael J. Van Zandt
23 Elizabeth P. Ewens

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25 ^{1/} The parties have expressed different opinions about the manner in which this
26 brief should be characterized, as a response brief to Joyce Livestock's Motion for Attorneys
27 Fees or a memorandum in the nature of an opening brief in support of the United States' Motion to Disallow Costs. In substance, however, it is a brief on the issue of Joyce's entitlement to its attorneys fees in this case.

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2 Dated this 19th day of September 2005.

3 Respectfully submitted,

4 LING, ROBINSON & WALKER

5 By:

6 ROGER D. LING

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8 Attorneys for Joyce Livestock
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CERTIFICATE OF SERVICE

I certify that on Sept. 19, 2005, I served a true and correct copy of the foregoing **JOYCE LIVESTOCK'S RESPONSE TO UNITED STATES' MOTION TO BIFURCATE PROCEEDINGS, DISALLOW COSTS, AND ENLARGE TIME TO FILE A MEMORANDUM IN SUPPORT OF MOTION TO DISALLOW COSTS** upon the following individuals by placing the document in the United States Mail, postage paid, and addressed as follows:

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Environment and Natural Resources Division
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