

STATE OF California
COUNTY OF Yolo

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Attorneys for Joyce Livestock

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN RE: SRBA, CASE NO. 39586)

JOYCE LIVESTOCK COMPANY,)

Appellant,)

vs.)

UNITED STATES OF AMERICA,)
et al,)

Respondent)

JOYCE LIVESTOCK COMPANY,)

Respondent,)

vs.)

UNITED STATES OF AMERICA,)
et al,)

Appellant)

AFFIDAVIT OF ELIZABETH P.
EWENS IN SUPPORT OF JOYCE
LIVESTOCK'S MOTION FOR EXTENSION
OF TIME

Supreme Court No. 32278

Supreme Court No. 32279

I, Elizabeth P. Ewens, being duly sworn on oath, state as follows:

1. I am a partner in the law firm of McQuaid, Bedford & Van Zandt LLP, and I am charged with the primary responsibility for representing Joyce Livestock Company ("Joyce Livestock") in

1 these consolidated appeals, Supreme Court Nos. 32278 and 32279.

2 2. Under the current scheduling order, the responsive briefs of both the United States and
3 Joyce Livestock are due on or before Thursday, May 18, 2006.

4 3. Today, May 10, 2006, I received e-mail communication from Ellen Durkee, counsel for
5 the United States advising that she, on behalf of the United States, would need to seek a 29 day
6 extension, to and including June 16, 2006, to file the United States' responsive brief in the within
7 consolidated appeals.

8 4. Ms. Durkee represented that the United States would not oppose a request for a
9 similar extension of time if one was sought by Joyce Livestock.

10 5. As outlined in Joyce Livestock's Opposition to the United States Motion for
11 Extension of Time, because this is the United States' fourth request for extension of time, Joyce
12 Livestock opposes such motion. Further delay in resolution of this case is prejudicial to and
13 compromise the rights and interests of Joyce Livestock.

14 6. Requiring the United States to adhere to the current briefing schedule in place
15 is necessary to protect Joyce Livestock's interests as well as the integrity of the judicial process.

16 7. If the Court grants the United States' request for extension of time,
17 Joyce Livestock requests and requires an equal extension of time to file its responsive brief in these
18 appeals. Absent an extension of time, Joyce Livestock's response brief to the United States'
19 Opening Brief as Appellant in No. 32279 is due on May 18, 2006. Of necessity, considerable time
20 and attention has been diverted from finalizing that responsive brief to, instead, having to address
21 the United States' actions and request for extension of time.

22 8. In addition to the above, because the legal and factual issues in these combined
23 appeals, Nos. 32278 and 32279, are overlapping, if the United States has the benefit of receiving
24 Joyce Livestock's responsive brief before the United States files its responsive brief, the United
25 States will enjoy not only an extended period of time to prepare its brief but will have unilateral
26 access to the brief of its opposing party, which access would not ordinarily be provided under usual
27 application of the Idaho Appellate Rules governing the time for filing briefs.

28 9. Absent an equal and commensurate extension of time, Joyce Livestock will be

1 severely prejudiced in this case.

2 10. In addition to the above, undersigned counsel is principally responsible for the
3 preparation of a responsive brief in *LU Ranching v. United States* appeal (Supreme Court No.
4 31994), due to be filed on or before May 17, 2006.

5 11. Joyce Livestock has only sought two previous extensions of time for filing its
6 brief. Each was in conjunction with the United States' previous requests for extension of time to
7 file opening briefs.

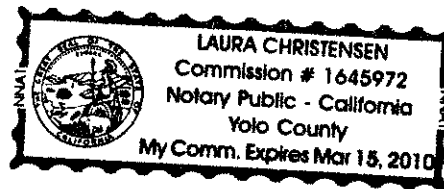
8 12. I will make every effort to file Joyce Livestock's responsive brief within whatever
9 time is proscribed by the Court, and I do not expect the need for Joyce Livestock to file any
10 additional requests for extension of time in this case.

11 FURTHER AFFIANT SAYETH NOT

12 
13 ELIZABETH P. EWENS
14 McQuaid Bedford & Van Zandt LLP
15 221 Main Street, 16th Floor
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(415) 905-0200

16 SUBSCRIBED AND SWORN TO before me this 10th day of March, 2006
17 proved to me on the basis of satisfactory evidence to
18 be the person who appeared before me.
(SEAL)


NOTARY PUBLIC - CALIFORNIA



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CERTIFICATE OF SERVICE

I certify that on March 10, 2006, I served a true and correct copy of foregoing **AFFIDAVIT OF ELIZABETH P. EWENS IN SUPPORT OF MOTION FOR EXTENSION OF TIME TO FILE RESPONSE BRIEF** upon the following individuals by placing the document in the United States Mail, postage paid, and addressed as follows:

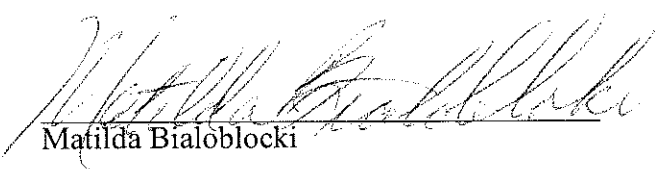
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