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10 **IN THE SUPREME COURT OF THE STATE OF IDAHO**

11 IN RE: SRBA, CASE NO. 39586

12 SUBCASE NOS. 55-10135 (Joyce Livestock),
55-11061, 55-11385, 55-12452 (BLM)

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

13 _____/
JOYCE LIVESTOCK COMPANY,

14 Appellant,

15 vs.

16 UNITED STATES OF AMERICA, et al.
17 _____/

Supreme Court No. 32278

18 JOYCE LIVESTOCK COMPANY,

19 Respondent,

20 vs.

21 UNITED STATES OF AMERICA, et al.

22 Appellant.
23 _____/

Supreme Court No. 32279

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

2 1. I am a partner in the law firm of McQuaid Bedford & Van Zandt LLP, and I am
3 charged with the primary responsibility for representing Joyce Livestock Company ("Joyce
4 Livestock") in these consolidated appeals, Supreme Court Nos. 32278 and 32279.

5 2. Pursuant to the Order Reinstating Appeal dated September 22, 2006, the reply briefs
6 of the United States and Joyce Livestock each are due on or before October 12, 2006.

7 3. Also pending before this Court is *Joyce Livestock v. United States*, Supreme Court
8 No. 32846. An expedited briefing schedule has been implemented in that case, pursuant to which
9 Joyce Livestock's Opening Brief was due on September 29, 2006, the United States' Responsive
10 Brief is due on October 13, 2006 and Joyce Livestock's Reply Brief is due on October 20, 2006.

11 4. On October 2, 2006, I received e-mail communication from Ellen Durkee, counsel
12 for the United States, advising that she, on behalf of the United States, would need to seek a seven
13 (7) day extension, to and including October 19, 2006, to file the United States' Reply Brief in these
14 consolidated appeals, Supreme Court Nos. 32278 and 32279.

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

17 6. If the Court grants the United States' request for extension of time, Joyce Livestock
18 requests and requires an equal extension of time to file its reply brief in these appeals. Absent an
19 extension of time, Joyce Livestock's reply brief in Supreme Court Case No. 32278 is due on
20 October 12, 2006.

21 7. Because the legal and factual issues in these combined appeals, Nos. 32278 and
22 32279, are overlapping, if the United States has the benefit of receiving Joyce Livestock's reply
23 brief before the United States files its reply brief, the United States will enjoy not only an extended
24 period of time to prepare its brief but will have unilateral access to the brief of its opposing party,
25 which access would not ordinarily be provided under the usual application of the Idaho Appellate
26

1 Idaho Appellate Rules governing the time for filing briefs.

2 8. In addition to the above, additional time and attention was diverted from the
3 preparation of Joyce Livestock's Reply Brief to, instead, preparing Joyce Livestock's Opening Brief
4 on Appeal in Case No. 32846 filed on September 29, 2006. Accordingly, additional time is needed
5 to prepare the Reply Brief in Case No. 32278.

6 9. Absent an equal and commensurate extension of time, Joyce Livestock will be
7 severely prejudiced in this case.

8 10. Joyce Livestock has requested three previous extensions of time for filing briefs
9 since the initiation of these appeals, however each was filed in conjunction with or in response to
10 the United States' requests for extensions of time.

11 11. The extension of time requested herein should not affect the date for the oral
12 argument of these cases, set for November 8, 2006.

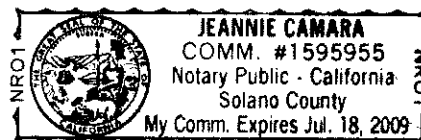
13 12. I will make every effort to file Joyce Livestock's Reply Brief within the additional
14 time requested and I do not expect the need for Joyce Livestock to file any additional requests for
15 extension of time in this case.

16
17 
18 Elizabeth P. Ewens

19 STATE OF CALIFORNIA)

20 COUNTY OF YOLO)

21 Subscribed and sworn to (or affirmed) before me this 4th Day of October, 2006, by Elizabeth P.
22 Ewens, personally known to me or proved to me on the basis of satisfactory evidence to the person
23 who appeared before me.



26 
27 Notary Public Signature

[Notary Seal]

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CERTIFICATE OF SERVICE

I certify that on October 4, 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 REPLY BRIEF** upon the following individuals by placing the document in
the United States Mail, postage paid, and addressed as follows:

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