

34-2528 *et al*

Movant's Name:

UNITED STATES OF AMERICA

RECEIVED

Attorneys' Names and Addresses:

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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 Nos. See Exhibit A |
|                | ) |                            |
| Case No. 39576 | ) | EX PARTE MOTION TO EXTEND  |
|                | ) | THE BRIEFING SCHEDULE ON   |
|                | ) | MOTION TO FILE LATE        |
|                | ) | OBJECTIONS                 |
|                | ) |                            |

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Descriptive Summary

This is the United States' motion to extend the supplemental briefing schedule on San Felipe Ranches and Lola Coates Motion to File Late Objections.

Motion

The United States hereby moves to extend the briefing schedule on San Felipe Ranches and Lola Coates Motion to File

Late Objections. The United States respectfully requests that the Court extend the response period to November 30, 1995. In support of this motion the United States states the following:

1. On October 18, 1995, the Special Master for Basin 34 held a hearing on San Felipe Ranches and Lola Coates Motion to File Late Objections for 187 claims to stockwater by the United States on behalf of the Bureau of Land Management. At that hearing, the Special Master permitted the parties additional time to file supplemental briefing. The Court set October 31, 1995 as the deadline for filing briefs in support of or in opposition to the Motion, and November 14, 1995 as the deadline for filing response briefs.

2. The United States, having fully briefed this matter prior to the hearing on October 18, did not file additional briefing in support of or in opposition to the Motion.

3. The movants did not file their motion within the Court's established briefing deadlines. The movants filed a Brief in Support of Leave to File Late Objections and accompanied this motion with ten affidavits on November 3, 1995. These documents were received at the Department of Justice offices in Boise on November 7, 1995. The documents were then sent by our office in Boise to Justice attorneys in Washington, D.C. by overnight mail and received on November 8, 1995.

4. The movants' brief filed in support of their motion to file late objections raises new issues that have not been previously addressed by the parties in earlier briefing nor at

the October 18 hearing on the motion. For instance, the brief in support alleges that the Court's standards for granting of leave to file late objections is in error or not applicable. Movant's Brief at 2,3. Given these new issues the United States intends to file a comprehensive response. Additional time is necessary to do this.

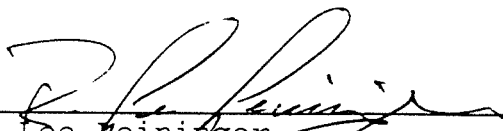
5. The affidavits filed in support of the motion to file late objections raise factual matters and implications of bad faith on behalf of the United States. These matters need to be thoroughly investigated and a full response, including possibly responsive affidavits, prepared and filed. Additional time is necessary to do this.

6. The impending shut-down of the United States government and the furlough of its employees has further affected the United States ability to adequately and effectively reply to the movants' brief. At this time, the United States' attorneys do not know if they will be deemed essential employees and allowed to continue working. It is also uncertain how long the anticipated furlough will persist. Because the government will not be operating, even if certain attorneys are deemed essential, the particular government personnel at the client agency may be furloughed. Thus, it will not be possible to discuss certain factual issues raised or have appropriate discussions with the client on possible positions to assert prior to the deadline for our response. For these reasons, the United States is further hampered in its response to movants' brief.

Conclusion

WHEREFORE, for the foregoing reasons, the United States respectfully requests that the Court extend the response period to November 30, 1995.

Respectfully submitted this 14th day of November, 1995.

  
\_\_\_\_\_  
R. Lee Zeininger  
Attorney, Department of Justice  
Environment and Natural Resources  
Division

CERTIFICATE OF SERVICE

I certify that on the 14 day of November, 1995, I served a true and correct copy of the United States' Ex Parte Motion To Extend The Briefing Schedule On Motion To File Late Objections upon the following individuals:

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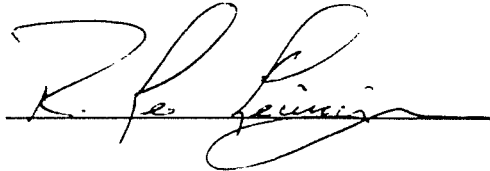
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A handwritten signature in black ink, appearing to read "K. R. Purser", written over a horizontal line.

# Exhibit A

## Subcase Numbers

|           |           |           |           |
|-----------|-----------|-----------|-----------|
| 34-02528  | 34-13120A | 34-13183A | 34-13271A |
| 34-07444  | 34-13122  | 34-13184A | 34-13272A |
| 34-07445  | 34-13122A | 34-13186A | 34-13273A |
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| 34-07449  | 34-13123  | 34-13188A | 34-13275A |
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| 34-12536  | 34-13127A | 34-13190A | 34-13281A |
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| 34-12541A | 34-13135A | 34-13203A | 34-13291A |
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| 34-12542  | 34-13136A | 34-13206A | 34-13299A |
| 34-12552  | 34-13137  | 34-13207A | 34-13303  |
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| 34-13086A | 34-13166A | 34-13257A | 34-13351  |
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| 34-13119  | 34-13180A | 34-13267A |           |
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| 34-13120  | 34-13182A | 34-13269A |           |