

Kent Foster filed documents that are identical except for the subcase numbers. I scanned 33-69 of each document and saved it to the additional numbers. We will put the original documents in the legal files.

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 1198

**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. 35976

A. Subcase 33-69

**AFFIDAVIT OF KENT W. FOSTER IN
SUPPORT OF MOTION FOR LEAVE
TO FILE LATE OBJECTION**

STATE OF IDAHO)
)ss
County of Bonneville)

1. Affiant is a lawyer, duly licensed to practice law in the courts of the State of Idaho, and is a member of the law firm Holden, Kidwell, Hahn & Crapo, P.L.L.C., Idaho Falls, Idaho, attorneys of record for the claimant herein, Sage Willow, Inc.
2. Affiant has personal knowledge of the facts set forth herein.
3. Affiant assisted in the preparation and filing of the SRBA claim for the above numbered water right of Sage Willow, Inc., and was also involved in the preparation, filing and processing of seven (7) Applications for Transfer in 1994, affecting this and other water rights of Sage Willow, Inc. The Idaho Department of Water Resources filed its recommendation with the above entitled court in this matter about January 28, 2000, and affiant prepared and filed an objection thereto on the grounds of resumption of use of this and the other water rights.
4. The administrative proceedings of Idaho Department of Water Resources in connection with the seven 1994 Applications for Transfer became the subject of an appeal to the Idaho Supreme

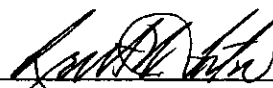
Court. That court filed its opinion in the matter on April 10, 2003. Thereafter, Sage Willow, Inc., withdrew the seven Applications for Transfer, and the SRBA processing of the affected water rights recommenced. Affiant participated on behalf of Sage Willow, Inc., in various status conferences, including one which resulted in the issuance by the Special Master of an "Amended Trial Scheduling Order", dated July, 22, 2003, which provided, interalia, that objections to Amended Director's Report would be due October 17, 2003.

5. Affiant had been working with an expert Hydrogeologist, Dr. Charles E. Brockway, to develop evidence and testimony relevant to the quantification of impacts on both surface and groundwater users from the resumption of use of the Sage Willow, Inc. water rights between 1989 and 1994. The gathering and analysis of relevant data has been a time consuming effort and affiant understood from Dr. Brockway that all of the needed and requested information probably would not be available in report form much before the end of 2003. As a result of affiant's mistake, inadvertence or neglect, affiant did not calendar the date objections were due correctly and some how got into his mind that the due date was November 17, rather than October 17. On October 27, 2003, affiant returned to his office from having been out of town several days, and affiant's secretary indicated she had received a telephone call during affiant's absence from Mr. Creamer's office, inquiring about the objections. When affiant reviewed the file, he discovered his error and immediately prepared and filed objections in this and the other subcases.

6. Affiant has now been able to obtain the report and analysis of Dr. Brockway of the impacts on ground and surface water users of the resumption of use by Sage Willow, Inc., of its water rights. A copy of that report, in Affidavit form, is filed herewith, and demonstrates that there is substantial evidence that the Sage Willow, Inc., resumption of use of its water rights was all done without injury to the water rights of other ground or surface water users in the Little Lost River Basin.

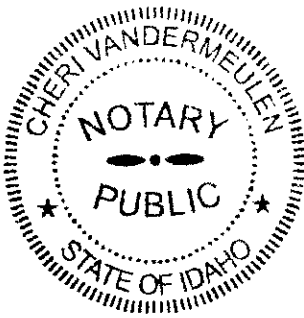
DATED this 12th day of December, 2003.

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.



Kent W. Foster, Esq.

Subscribed and sworn to before me on this ____ day of December, 2003.



Notary Public for Idaho
Residing at Idaho Falls
My Commission Expires: July 7, 2009

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of December, 2003, I mailed the original and copies of this Affidavit of Kent W. Foster in Support of Motion for Leave to File Late Objections, including all attachments, to the following persons:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707
2. One copy to the claimant of the water right at the following address:
Name: Sage Willow, Inc.
c/o Holden, Kidwell, Hahn & Crapo, PLLC
330 Shoup Ave., Third Floor
P.O. Box 50130
Idaho Falls, ID 83405-0130
3. Copies to:
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098
Michael C. Creamer
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701-2720
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449
United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Kent W. Foster, Esq.