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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2004 JUL 30 PM 2 37

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NOS.: 33-2086A,
	)	33-2086B, and 33-2086

I. FINDINGS OF FACT

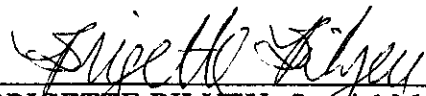
Claims were filed for these water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained recommendations for the elements of these water rights.

Objections were filed on March 23, 2000 in 33-2086A and 33-2086B by Sagewillow Inc. *Responses* were filed on August 9, 2000 in 33-2086A and 33-2086B by Mays Land & Livestock and Blaine County Canal Company. A *Notice of Completed Administrative Proceeding* was filed for each of the above listed subcases. The NCAP resolved all of the objections and responses previously filed, and disallowed the split rights 33-2086A and 33-2086B. The *Notice of Completed Administrative Proceeding* recombined the elements of 33-2086A and 33-2086B back into the parent right 33-2086. There are no unresolved objections or responses remaining in these subcases.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that water rights 33-2086A, and 33-2086B **not be confirmed** in any partial or final decree. IT IS FURTHER RECOMMENDED that water right 33-2086 be decreed with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: July 30, 2004.


BRIGETTE BILYEU, Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 33-02086

NAME AND ADDRESS: SAGEWILLOW INC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS, ID 83405-0130

SOURCE: GROUNDWATER

POINT OF INJECTION INTO LITTLE LOST RIVER. POINT OF
REDIVERSION FROM LITTLE LOST RIVER AND BIG SPRING CREEK.

QUANTITY: 4.00 CFS
910.00 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 5.20 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 910.0 AF. COMBINED RIGHT NOS.:
33-2086 AND 33-7018.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 35.19 CFS AND TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 6356.0 AF. COMBINED RIGHT NOS.:
33-2057, 33-2083, 33-2086, 33-2091, AND 33-7018.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 67.19 CFS. COMBINED RIGHT NOS.:
33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79,
33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091 AND
33-7018.

PRIORITY DATE: 01/12/1959

POINT OF DIVERSION: T07N R27E S01 SWNESE Within Butte County
S02 SWSENE (Rediversion)
SESENE
S12 NENENE
NWNENE
NENWNE
NENENW
NWNENW
SENWNW (Injection)
NWSESE
R28E S05 NENWSW (Rediversion)
S06 SWNESW
S07 LOT 3 (SWNWSW)
LOT 4 (SWSWSW)
T08N R28E S32 NWNWSW
SWSWSW

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-15 TO 10-31 4.00 CFS
910.00 AFY

PLACE OF USE: Irrigation Within Butte County
T07N R27E S01 LOT 1 (NENE) 31.0 LOT 2 (NWNE) 31.0
SWNE 32.0 SENE 32.0
LOT 3 (NENW) 32.0 SENW 32.0
NESW 35.0 NWSW 2.6
SWSW 32.0 SESW 36.0

PLACE OF USE (continued)

	NESE 36.0	NWSE 35.0
	SWSE 33.0	SESE 34.0
S12	NENE 39.0	SENE 32.0
	NWNW 27.0	SESW 8.4
S13	NWNE 34.0	NENW 30.0
R28E S05 LOT 3	(NENW) 27.0	LOT 4 (NWNW) 33.0
	SWNW 17.0	SENW 31.0
	NESW 38.0	SESW 30.0
	SWSE 12.0	
S06 LOT 2	(NWNE) 31.0	SWNE 32.0
	SENE 26.0	LOT 3 (NENW) 31.0
LOT 4	(NWNW) 31.0	LOT 5 (SWNW) 32.0
	SENW 32.0	NESW 37.0
LOT 6	(NWSW) 34.0	LOT 7 (SWSW) 31.0
	SESW 35.0	NWSE 36.0
	SWSE 34.0	
S07	NENE 40.0	NWNE 40.0
	SWNE 34.0	SENE 32.0
	NENW 40.0	LOT 1 (NWNW) 39.0
LOT 2	(SWNW) 24.0	SENW 35.0
S08	NWNE 19.0	SWNE 25.0
	NWNW 31.0	SWNW 32.0
	NWSE 32.0	SWSE 21.0
T08N R28E S31	NESW 18.0	LOT 3 (NWSW) 24.0
LOT 4	(SWSW) 34.0	SESW 25.0
S32	SWSW 39.0	SESW 18.0
1816.0 Acres Total		

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 260.0 ACRES IN A SINGLE IRRIGATION SEASON COMBINED RIGHT NOS.: 33-2086 AND 33-7018.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1816 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-2057, 33-2083, 33-2086, 33-2091, AND 33-7018.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2089.8 ACRES IN A SINGLE IRRIGATION SEASON. THE 2089.8 ACRES ARE COMPRISED OF 1816 ACRES IRRIGATED BY GROUND WATER AND 648.8 ACRES IRRIGATED BY SURFACE WATER SOURCES THAT OVERLAP 375 OF THE GROUND WATER ACRES. COMBINED RIGHT NOS.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091, AND 33-7018.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3019.8 ACRES IN A SINGLE IRRIGATION SEASON. 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091, 33-2133, AND 33-7018.

RIGHTS 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, AND 33-82 OVERLAP 268 ACRES WITHIN THE 1483 ACRES AUTHORIZED UNDER RIGHTS 33-2057 AND 33-2083; AND OVERLAP 382 ACRES WITHIN THE 1436.1 ACRE PLACE OF USE DESCRIBED UNDER RIGHT 33-2133.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

CONTINUED DIVERSION OF WATER UNDER THE RESUMED PORTIONS OF RIGHTS 33-2057 AND 33-2083 (301 ACRES), AND RIGHT 33-2091 (73 ACRES) ARE DEEMED MITIGATED BY, AND THEREFORE ARE EXPRESSLY CONTINGENT UPON, CONTINUED DIVERSION OF WINTER WATER USE UNDER RIGHT 33-2133 TO THE EXTENT WATER IS AVAILABLE FOR DIVERSION UNDER THAT WATER RIGHT.

THE RIGHT HOLDER SHALL MAKE FULL BENEFICIAL USE OF ALL SURFACE WATER RIGHTS AVAILABLE TO THE RIGHT HOLDER FOR IRRIGATION

OTHER PROVISIONS (continued)

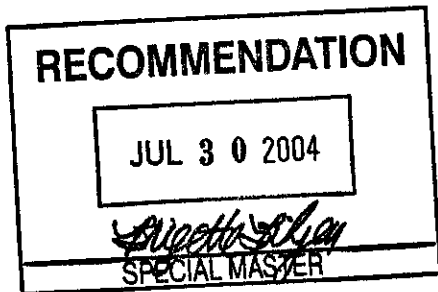
OF THE LANDS AUTHORIZED TO BE IRRIGATED UNDER THIS RIGHT. THE RIGHT HOLDER SHALL LIMIT THE DIVERSION OF GROUND WATER UNDER THIS RIGHT TO THOSE TIMES WHEN THE SURFACE WATER SUPPLY IS NOT AVAILABLE OR THE SURFACE WATER SUPPLY IS NOT REASONABLY SUFFICIENT TO IRRIGATE THE PLACE OF USE AUTHORIZED UNDER THIS RIGHT.

PRIOR TO DIVERSION OF WATER UNDER TRANSFER NOS. 4221 THRU 4227, THE RIGHT HOLDER SHALL PROVIDE A MEANS OF MEASUREMENT AND LOCKABLE CONTROLLING WORKS FOR THE AUTHORIZED POINT OF INJECTION INTO LITTLE LOST RIVER AND AT THE POINTS OF REDIVERSION FROM LITTLE LOST RIVER AND BIG SPRING CREEK. THE MEANS OF MEASUREMENT AND CONTROLLING WORKS MUST BE SUITABLE FOR CONTROL OF THE DIVERSIONS AND ACCEPTABLE TO THE WATERMASTER.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the /
Snake River Basin Adjudication

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TWIN FALLS CO., IDAHO
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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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 33-02086
33-02086A 33-02086B

On July 30, 2004, Special Master BRIGETTE BILYEU
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party
to the adjudication including parties to the subcase, may file a Motion
to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate
in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION
shall constitute a waiver of the right to challenge it before the
Presiding Judge.

DATED July 30, 2004.



JANET CONNELL
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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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)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 33-02086
33-02086A 33-02086B

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on July 30, 2004, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

SAGEWILLOW INC
SAGEWILLOW INC C/O KENT FOSTER
Represented by:
KENT W FOSTER
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

BLAINE COUNTY CANAL COMPANY
MAYS LAND AND LIVESTOCK INC
Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

CERTIFICATE OF MAILING

 PAGE 1
JANET CONNELL 07/30/04
Deputy Clerk