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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 JUL 30 PM 2 53

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 NO.: 33-2133

I. FINDINGS OF FACT

A notice of claim was filed for this water right 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 a recommendation for the elements of this water right.

Objections were filed by The United States Bureau of Land Management and Sagewillow Inc. *Responses* were filed by Mays Land & Livestock and Blaine County Canal Company. A *Notice of Completed Administrative Proceeding* was filed on July 12, 2004. The NCAP resolved the objections and responses previously filed. There are no unresolved objections or responses remaining in this subcase.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements 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
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)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 33-02133

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

SOURCE: LITTLE LOST RIVER TRIBUTARY: SINKS
BIG SPRING CREEK TRIBUTARY: LITTLE LOST RIVER

QUANTITY: 9.88 CFS
2960.00 AFY

PRIORITY DATE: 06/22/1949

POINT OF DIVERSION: T07N R27E S02 SWSENE Within Butte County
S12 NESWNW
R28E S05 NENWSW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
Groundwater Recharge		11-01 TO 04-01	9.88 CFS
			2960.00 AFY
Irrigation			2960.00 AFY

PLACE OF USE: Irrigation Within Butte County

Section	Direction	Quantity	
T07N R27E S01	SWSW	2.0	
	NWNE	21.0	
	SENE	35.0	
	NWNW	30.0	
	SENE	26.0	
	SESW	30.0	
	NWSE	32.0	
	SESE	39.0	
	S13	NENE	32.0
		NENW	2.1
R28E S07	NENE	2.1	
	SENE	40.0	
LOT 3	SENE	38.0	
	(NWSW)	39.0	
	SESW	40.0	
	NWSE	40.0	
	SESE	40.0	
	NENW	5.0	
	SWNW	40.0	
	NWSW	40.0	
	S18	NENE	40.0
		SENE	40.0
LOT 2	NENW	40.0	
	(SNNW)	28.0	
LOT 4	(SWSW)	39.0	
	SENE	38.0	
LOT 1	(NWNW)	39.0	
	SENE	40.0	
LOT 2	SENE	40.0	
	NWSE	16.0	

1436.1 Acres Total

Groundwater Recharge Within Butte County

Section	Direction	Quantity
T07N R27E S01	SWSW	
	NWNE	
	SENE	
	NWNW	
	SENE	
S12	NWNE	
	SENE	
	NWNW	
	SENE	
	NWNE	

PLACE OF USE (continued)

	SESW	NESE
	NWSE	SWSE
	SESE	
S13	NENE	NWNE
	NENW	
R28E S07	NENE	SWNE
	SENE	LOT 2 (SWNW)
	SESW	NESW
LOT 3	(NWSW)	LOT 4 (SWSW)
	SESW	NESE
	NWSE	SWSE
	SESE	
S08	NENW	NWNW
	SWNW	SESW
	NWSW	SWSW
S18	NENE	NWNE
	SWNE	SENE
	NENW	LOT 1 (NWNW)
LOT 2	(SWNW)	SESW
	NESE	NWSE

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3019.8 ACRES IN A SINGLE IRRIGATION SEASON. 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, 33-2133 and 33-7018.

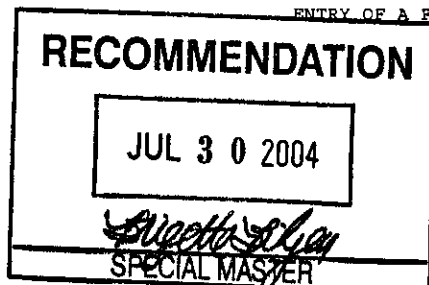
RIGHTS 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 AND 33-82 OVERLAP 268 ACRES WITHIN THE 1483 ACRES AUTHORIZED UNDER RIGHTS 33-2057 AND 33-2083; AND OVERLAP 382 ACRES WITHIN THE 1436.1 ACRE PLACE OF USE DESCRIBED UNDER RIGHT 33-2133.

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.

RIGHT 33-2133 IS FOR NON-IRRIGATION SEASON DIVERSION OF THE ABOVE REFERENCED SOURCES FOR GROUND WATER RECHARGE PURPOSES TO PROVIDE WATER FOR MITIGATION AND SUB-IRRIGATION UNDER RIGHT 33-2133. 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 ALL AUTHORIZED POINTS OF DIVERSION. 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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In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 33-02133

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

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Case No. 39576)
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CERTIFICATE OF MAILING

Water Right(s): 33-02133

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


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JANET CONNELL 07/30/04
Deputy Clerk