

RECEIVED  
AUG 02 2004  
DEPARTMENT OF  
WATER RESOURCES

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2004 JUL 30 PM 3 00

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.: EXHIBIT A |
|                |   | ("High Water Rights")       |

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 by the USDA Forest Service on April 6, 2000. A *Notice of Completed Administrative Proceeding* was filed on July 12, 2004. The NCAP resolved all of the objections previously filed. The legal description and total acreage contained in the NCAP were corrected with the filing of a *Notice of Errata*. (July 26, 2004) There are no unresolved objections remaining in these subcases.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: July 30, 2004.

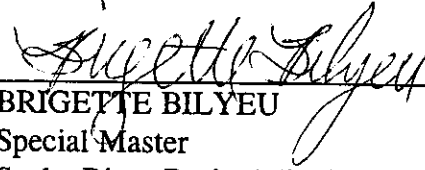
  
BRIGETTE BILYEU  
Special Master  
Snake River Basin Adjudication

EXHIBIT A

("HIGH WATER RIGHTS")

Subcase Nos:

33-00069  
33-00070  
33-00071  
33-00072  
33-00073  
33-00074  
33-00076  
33-00078  
33-00079  
33-00080  
33-00081  
33-00082

(Subcase list: HIGHWATER )  
7/27/04

SCANNED  
AUG 07 2004

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  
FILED

2004 JUL 30 PM 3 00

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 33-00069

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

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

QUANTITY: 3.20 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED  
DIVERSION RATE OF 32.0 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  
AND 33-82.

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, 33-02057, 33-2083, 33-2086, 33-2091 AND  
33-7018.

PRIORITY DATE: 06/01/1908

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  
Irrigation 04-01 TO 11-01 3.20 CFS

PLACE OF USE: Irrigation Within Butte County

|                   |           |                   |
|-------------------|-----------|-------------------|
| T07N R27E S01     | SWSW 26.0 | SESW 40.0         |
| S12               | NENW 0.2  | NWNW 19.0         |
|                   | SWNW 7.6  | SESW 0.9          |
|                   | NESE 2.5  | NWSE 7.6          |
|                   | SWSE 5.0  | SESE 29.0         |
| S13               | NENE 32.0 | NWNE 32.0         |
|                   | NENW 2.0  |                   |
| R28E S07          | NENE 40.0 | NWNE 40.0         |
|                   | SWNE 40.0 | SENE 36.0         |
|                   | NENW 30.0 | SENW 1.9          |
| LOT 4 (SWSW)      | 0.1       |                   |
| S08               | NWNE 2.8  | SWNE 19.0         |
|                   | NWNW 22.0 | SWNW 6.2          |
|                   | NWSE 27.0 | SWSE 16.0         |
| S18               | SWNE 25.0 | SENE 0.2          |
|                   | NENW 1.8  | LOT 1 (NWNW) 34.0 |
| LOT 2 (SWNW)      | 25.0      | SENW 31.0         |
|                   | NESE 31.0 | NWSE 16.0         |
| 648.8 Acres Total |           |                   |

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION  
OF A COMBINED TOTAL OF 648.8 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 AND 33-82.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION  
OF A COMBINED TOTAL OF 3019.8 ACRES IN A SINGLE IRRIGATION

PLACE OF USE (continued)

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 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.

RIGHTS 33-39, 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.

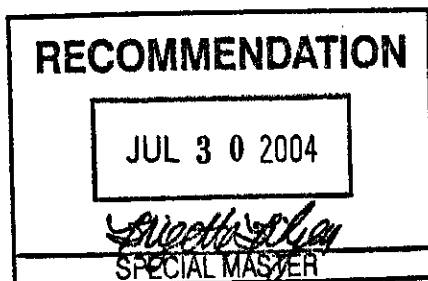
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 160 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

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

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2004 JUL 30 PM 3 01

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): 33-00069  
(SEE ATTACHED EXHIBIT A)

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

Exhibit A

Subcase Nos:

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In Re SRBA )

Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 33-00069  
(SEE ATTACHED EXHIBIT A)

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

UNITED STATES OF AMERICA  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

CERTIFICATE OF MAILING

  
JANET CONNELL  
Deputy Clerk

PAGE 1

07/30/04

SCANNED

AUG 02 2004

Exhibit A

Subcase Nos:

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