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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 Case No. 39576	**SPECIAL MASTER'S REPORT AND RECOMMENDATION; FINDINGS OF 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

SCANNED
AUG 0 2 2004

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 0 7 2004

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
JANET CONNELL
Deputy Clerk

SCANNED
AUG 0 7 2004

Exhibit A

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

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	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

Janet Connell 07/30/04
JANET CONNELL
Deputy Clerk

SCANNED
AUG 0 2 2004

Exhibit A

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

SCANNED
AUG 17 2004

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

2004 JUL 30 PM 3 01

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
Case No. 39576) I.R.C.P. 54(b) FOR
) Water Right 33-00081

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: 0.80 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, 33-2057, 33-2083, 33-2086, 33-2091 AND 33-7018.

PRIORITY DATE: 05/01/1908

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	0.80 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 2089.8 ACRES IN A SINGLE IRRIGATION SEASON. THE 2089.8 ACRES ARE COMPRISED OF 1816 ACRES IRRIGATED BY GROUND

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AUG 0 2 2004

PLACE OF USE (continued)

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. 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.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 40 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.

RECOMMENDATION

JUL 3 0 2004

SPECIAL MASTER

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