

2004 AUG 31 PM 4: 26  
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

In Re SRBA

Case No. 39576

) ORDER OF PARTIAL DECREE  
)  
)  
) SUBCASES: SEE ATTACHED  
) EXHIBIT A ("High Water Rights")  
)  
)  
)  
)

On July 30, 2004, a *Special Master's Report and Recommendation* was filed for the above-captioned water rights. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water rights are hereby decreed as set forth in the attached *Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED August 31, 2004.

  
JOHN M. MELANSON  
Presiding Judge  
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

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE was mailed on August 31, 2004, with sufficient first-class postage to the following:

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

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

1005  
SA

UNITED STATES OF AMERICA  
Department of Justice  
Environmental Protection Agency  
550 West Fort Street, MSC 033  
Boise, ID 83724

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

ORDER

Page 1 8/31/04

FILE COPY FOR 00077

Deputy Clerk

*Julie Murphy*

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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 33-00082

2004 AUG 31 PM 4:27  
DISTRICT COURT - SRBA  
TWIN FALLS CO. IDAHO  
FILED *AM*

NAME AND ADDRESS: SAGEWILLOW INC  
C/O KENT POSTER  
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 |           |                   |

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 40 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

PLACE OF USE (continued)

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. 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.

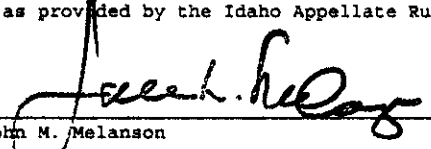
RIGHTS 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 AND 33-82 OVERLAP 268 ACRES WITHIN THE 1483 ACRES AUTHORIZED UNDER RIGHTS 33-2057 AND 33-2083; AND OVERLAP 382 ACRES WITHIN THE 1436.1 ACRE PLACE OF USE DESCRIBED UNDER RIGHT 33-2133.

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

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