

2004 AUG 31 PM 4: 56
TWIN FALLS CO., IDAHO
FILED *JM*

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	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right: 33-02091
	)	
_____	)	

On July 30, 2004, a *Special Master's Report and Recommendation* was filed for water right 33-02091. 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 Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 33-02091 be **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED August 31, 2004.

John M. Melanson

JOHN M. MELANSON
Presiding Judge
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

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 33-02091

2004 AUG 31 PM 4:56
DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED *jm*

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

SOURCE: GROUND WATER

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

QUANTITY: 0.99 CFS
255.50 APY

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: 01/22/1960

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)	
	S12	NWNWSW	
	T08N R28E S12	SWSWSW	

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	0.99 CFS 255.50 APY

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
		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

PLACE OF USE (continued)

R28E S05 LOT 3	(NENW) 27.0	LOT 4	(NNNW) 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	(SNNW) 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	(SNNW) 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		SESW 25.0
	(SWSW) 34.0		SESW 18.0
S32	SWSW 39.0		
1816.0 Acres Total			

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. 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 73.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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 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.

THE REMAINDER OF THIS RIGHT, IN THE AMOUNT OF 3.37 CFS AND 247.0 ACRES, WAS FORFEITED FOR NON-USE FROM 1969 TO 1989.

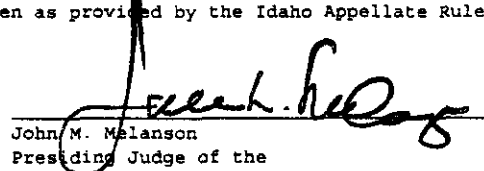
OTHER PROVISIONS (continued)

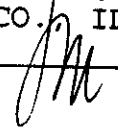
PRIOR TO DIVERSION OF WATER UNDER TRANSFER NOS. 4221 THRU 4227, THE RIGHT HOLDER SHALL PROVIDE A MEANS OF MEASUREMENT AND LOCKABLE CONTROLLING WORKS FOR THE AUTHORIZED POINT OF INJECTION INTO LITTLE LOST RIVER AND AT THE POINTS OF REDIVERSION FROM LITTLE LOST RIVER AND BIG SPRING CREEK. THE MEANS OF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

2004 AUG 31 PM 02:00
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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 33-02091

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 33-02091 was mailed on August 31, 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

JULIE MURPHY
Chief Deputy Clerk

CERTIFICATE OF MAILING

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