

RECEIVED

APR - 9 2001

Department of Water Resources

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

April 4, 2001 AT
4:10 P.M.

James C. Herndon
JAMES C. HERNDON
District Judge

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BUTTE

SAGEWILLOW, INC.,)

Petitioner,)

vs.)

Case No. CV-96-39

IDAHO DEPARTMENT OF WATER)
RESOURCES, JAMES MAYS LAND)
AND LIVESTOCK, BLAINE COUNTY)
CANAL COMPANY,)

**ORDER AND JUDGMENT REISSUING
MEMORANDUM DECISION AND
ORDER RE: APPEAL**

Respondents.)
_____)

I. PROCEDURAL HISTORY

1. On May 7, 1996, the Petitioner, Sagewillow, Inc. ("Sagewillow"), filed its *Petition for Judicial Review* of a decision of the Idaho Department of Water Resources ("IDWR"). After the parties briefed and argued the issues on appeal, this Court issued its *Memorandum Decision and Order Re: Appeal* on December 4, 1997, upholding the IDWR's decision.

2. Sagewillow appealed this Court's decision to the Idaho Supreme Court. In a *per curiam* decision issued September 6, 2000, the Idaho Supreme Court vacated the district court decision and held that the Snake River Basin Adjudication (SRBA) district court had exclusive jurisdiction to hear Sagewillow's Petition for Judicial Review. *Sagewillow, Inc. v. Idaho Dep't of Water Resources*, ___ Idaho ___, 13 P.3d 855 (2000)(*per curiam*), *reh'g denied* (Nov. 28, 2000). In accordance with the Supreme Court's decision and the subsequent remittitur, this Court transferred the case to the SRBA district court.

3. On March 2, 2001, the Governor signed House Bill No. 114, to be codified as I.C. § 42-1401D, into law with an emergency clause providing for its immediate effectiveness. The new statute divests the SRBA district court of venue and jurisdiction to judicially review the administrative decisions of IDWR and provides that venue and jurisdiction shall be in the district court as authorized under the provisions of I.C. § 67-5272, without regard to any other provision of law. The new statute applies to any pending or future actions for judicial review.

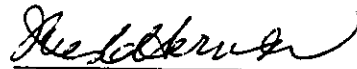
4. On March 7, 2001, the SRBA district court issued an *Order and Transfer to Seventh Judicial District* transferring Sagewillow's pending petition for judicial review to the Seventh Judicial District in and for the County of Butte. Based upon the provisions of House Bill 114, the SRBA district court concluded that it is without jurisdiction to hear the petition for judicial review and that proper venue lies with this Court to take such action as deemed necessary consistent with the new legislation.

II. ORDER AND JUDGMENT

Based upon the foregoing, this Court, after conducting a status conference with the parties on March 27, 2001, and without further briefing, argument or hearing, hereby reissues its

Memorandum Decision and Order Re: Appeal dated December 4, 1997. Any party aggrieved by the entry of this Order and Judgment may seek relief in accordance with the Idaho Appellate Rules.

DATED this 4th day of April, 20001.



JAMES C. HERNDON
District Judge

CERTIFICATE OF MAILING

I certify that true and correct copies of the ORDER AND JUDGMENT REISSUING MEMORANDUM DECISION AND ORDER RE: APPEAL were mailed on April _____, 2001, with sufficient first-class postage, to the following:

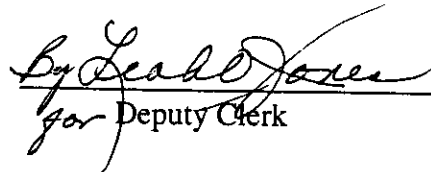
Kent W. Foster, Esq.
HOLDEN KIDWELL HAHN CRAPO
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405

Norman M. Semanko, Esq.
Attorney at Law
410 S. Orchard, Suite 144
Boise, Idaho 83705

Michael C. Creamer, Esq.
GIVENS PURSLEY & HUNTLEY
P.O. Box 2720
Boise, Idaho 83701

Phillip J. Rassier, Esq.
Deputy Attorney General
Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

JUDY BAILEY, CLERK
Clerk of the District Court


for Deputy Clerk