

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

IN THE MATTER OF)
APPLICATION FOR TRANSFER)
NO. 5244 IN THE NAME OF)
JAMES AND/OR PAULA)
WHITTAKER,)
_____)
JAMES AND/OR PAULA)
WHITTAKER,)
)
 Applicant/Appellant,)
vs.)
)
IDAHO DEPARTMENT OF WATER)
RESOURCES,)
)
 Respondent.)
_____)

SRBA Assigned Case 94-00015

**ORDER STAYING
PROCEEDINGS UNTIL
FURTHER ORDER OF THE
COURT; ORDER AND NOTICE
OF STATUS CONFERENCE**

I. BACKGROUND

1. The above-captioned matter, now designated in the SRBA as case no. 94-00015, was transferred to the SRBA pursuant to an *Order and Transfer to Snake River Basin Adjudication (SRBA) District Court* issued on September 20, 2000, by the Honorable James C. Herndon of the Seventh Judicial District, in and for the County of Lemhi.

2. The matter originally came before Judge Herndon's court on an appeal from a final order of the Director of the Idaho Department of Water Resources, brought pursuant to the Idaho Administrative Procedures Act, Idaho Code § 67-5201 *et seq.* and filed on January 12, 2000.

3. Following settlement of the transcript and agency record and completion of the briefing schedule, the Idaho Supreme Court issued its opinion in *Sage Willow, Inc. v.*

Idaho Department of Water Resources et al., 2000 Opinion No. 90 (filed Sept 6, 2000). Based on the Idaho Supreme Court's reasoning and holding in *Sage Willow*, Judge Herndon concluded that the SRBA was vested with exclusive jurisdiction over the above-captioned matter.

4. To date, a Remittitur has not been issued by the Supreme Court with respect to the *Sage Willow* case. Additionally, Court records indicate that petitions for rehearing have also been filed in the case. Therefore, because of the similarity in the jurisdictional issues between *Sage Willow* and the above-captioned case, this Court intends to take no further action in the pending matter until a Remittitur is issued in *Sage Willow*. At that time, this Court will be able to determine appropriate jurisdiction.

II. ORDER

Therefore; IT IS ORDERED that the proceedings in the above-captioned matter are stayed pending further order of this Court.

IT IS FURTHER ORDERED that this matter is set for a status conference on February 20, 2001, at 1:30 p.m., at the SRBA District Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. In the event a Remittitur is issued prior to the time set for the status conference, the parties will be notified as to any scheduling changes.

IT IS SO ORDERED.

DATED:

BARRY WOOD
Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication