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Department of Water Resources

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DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED *[Signature]*

**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     | ) | <b>SPECIAL MASTER'S REPORT</b> |
|                | ) |                                |
| Case No. 39576 | ) | <b>FINDINGS OF FACT AND</b>    |
|                | ) | <b>CONCLUSIONS OF LAW</b>      |
|                | ) |                                |
|                | ) | <b>FOR WATER RIGHTS</b>        |
| _____          | ) | <b>65-03007 and 65-03006B</b>  |

**I. FINDINGS OF FACT**

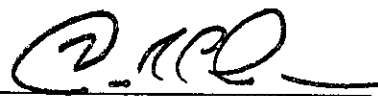
A notice of claim was filed for the above listed water rights pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of these water rights.

On June 9, 2000, the United States of America, Bureau of Reclamation filed a *Motion to File Late Objections* in multiple subcases. The Motion was granted on July 28, 2000. The objections were filed to "General Provisions Basin 65 Irrigation & Other Part III (3) Separate Streams Administration." On May 13, 2003, *Standard Form's 5* were filed. All parties and IDWR are signatures to the *Standard Form's 5*.

**II. CONCLUSIONS OF LAW**

Therefore based on the file and record herein and pursuant to the *Standard Form's 5*, IT IS RECOMMENDED that these water rights be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

DATED May 20, 2003.

  
\_\_\_\_\_  
THOMAS R. CUSHMAN  
Special Master  
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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 65-03006B

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DISTRICT COURT-SRBA  
TWIN FALLS CO, IDAHO  
FILED

NAME AND ADDRESS: MARCIA H HERR  
RODNEY H HERR  
400 COSTON DR  
BOISE, ID 83712

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Department of Water Resources

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 3.38 CFS

PRIORITY DATE: 04/01/1864

POINT OF DIVERSION: T08N R01E S27 SENW Within Gem County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 04-01 TO 11-01 | 3.38 CFS |

PLACE OF USE: Irrigation Within Gem County

|               |           |           |
|---------------|-----------|-----------|
| T07N R01E S03 | SWSW 1.0  |           |
| S04           | SESE 12.0 |           |
| S09           | NENE 38.0 | NWNE 5.0  |
|               | SENE 35.0 | NESE 24.0 |
|               | NWSE 24.0 | SWSE 28.0 |
|               | SESE 2.0  |           |

169.0 Acres Total

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

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS  
GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER  
AFTER OCTOBER 18, 1977.

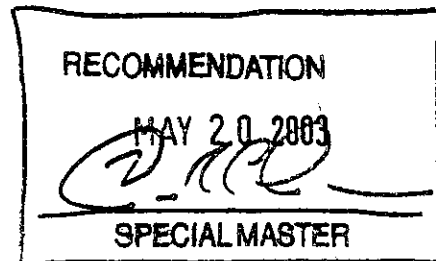
THIS WATER RIGHT SHALL BE ADMINISTERED AS BEING FROM A  
SEPARATE SOURCE PURSUANT TO BASIN 65 GENERAL PROVISION NO. 3.  
IF THE HOLDER OF THIS RIGHT SEEKS TO CHANGE THE RIGHT PURSUANT  
TO IDAHO CODE SECTION 42-222 OR SUCCESSOR STATUTE, NOTHING IN  
THIS GENERAL PROVISION SHALL PRECLUDE ANY OTHER PERSON OR ENTITY  
FROM DEMONSTRATING THAT SUCH CHANGE IN USE WOULD CAUSE INJURY  
TO ITS WATER RIGHT OR FROM RECEIVING ANY RELIEF PROVIDED BY LAW  
IN THE EVENT OF INJURY.

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.

\_\_\_\_\_  
Roger Burdick  
Presiding Judge of the  
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 )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 65-03007

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NAME AND ADDRESS: MARCIA H HERR  
RODNEY H HERR  
400 COSTON DR  
BOISE, ID 83712

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Department of Water Resources

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.99 CFS

PRIORITY DATE: 04/01/1920

POINT OF DIVERSION: T08N R01E S27 SENW Within Gem County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-01 TO 11-01 | 0.99 CFS |

| PLACE OF USE: | Irrigation       | Within Gem County                               |
|---------------|------------------|-------------------------------------------------|
|               | T07N R01E S09    | NWNE 1.0<br>SWNE 14.0<br>NESW 10.0<br>NWSE 15.0 |
|               | 40.0 Acres Total |                                                 |

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

BASIN 65 GENERAL PROVISIONS NO. 3, THE SEPARATE STREAMS  
GENERAL PROVISION, DOES NOT APPLY TO APPROPRIATIONS OF WATER  
AFTER OCTOBER 18, 1977.

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judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

RECOMMENDATION

MAY 20 2003

SPECIAL MASTER

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In Re SRBA )

CERTIFICATE OF MAILING

Case No. 39576 )  
\_\_\_\_\_ )

Water Right(s): 65-03006B  
65-03007

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 May 20, 2003, with sufficient first-class postage prepaid to the following:

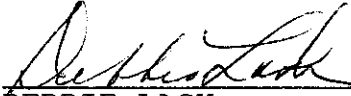
DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

UNITED STATES OF AMERICA

Represented by:  
DAVID W GEHLERT  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATRUAL RESOURCE  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

MARCIA H HERR  
RODNEY H HERR  
Represented by:  
SCOTT L. CAMPBELL  
101 S CAPITOL BLVD, 10TH FLOOR  
PO BOX 829  
BOISE, ID 83701-0829  
Phone: 208-345-2000

CERTIFICATE OF MAILING

  
DEBBIE LASH  
Deputy Clerk

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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

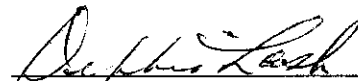
Water Right(s): 65-03006B  
65-03007

On May 20, 2003, Special Master THOMAS R CUSHMAN 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 May 20, 2003.

  
DEBBIE LASH  
Deputy Clerk