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Department of Water Resources  
 DISTRICT COURT - SRBA  
 TWIN FALLS CO., IDAHO  
 FILED \_\_\_\_\_

2004 APR 7 PM 2 51

**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 65-03028, 65-</b>      |
|                | ) | <b>03029, 65-11169, 65-22532, 65-22534</b> |

**I. FINDINGS OF FACT**

Notices of Claim were filed for the above 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 for the elements of these water rights.

*Objections* were filed to the rights on January 17, 2002 by the United States through the Department of Interior, Bureau of Reclamation regarding Separate Streams General Provisions. On January 7, 2004, *Standard Form 5/Stipulated Elements of a Water Right* forms addressing the Separate Streams General Provision signed by the claimants and the objector was filed for the above Water Rights.

**II. CONCLUSIONS OF LAW**

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

DATED: April 7, 2004.



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 65-03028

NAME AND ADDRESS: JOYCE A BIGGERS  
LESLIE W BIGGERS  
PO BOX 55  
OLA, ID 83657

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.06 CFS

THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE AT THE  
FIELD HEAD GATE.\*\*\*

USE OF THIS RIGHT WITH RIGHT NO. 65-22533 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 1.06 CFS.

PRIORITY DATE: 04/01/1865

POINT OF DIVERSION: T10N R01E S13 NWSW Within Gem County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-01 TO 11-01 | 1.06 CFS |

|               |                  |                   |
|---------------|------------------|-------------------|
| PLACE OF USE: | Irrigation       | Within Gem County |
|               | T10N R01E S26    | SWNE 39.0         |
|               |                  | SENE 12.0         |
|               | 51.0 Acres Total |                   |

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

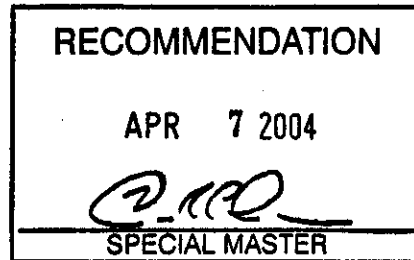
Basin 65 General Provisions No. 3, the Separate Streams  
General Provision, does not apply to appropriations of water  
after October 18, 1977.

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.



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John M. Melanson  
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 )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 65-03029

NAME AND ADDRESS: JOYCE A BIGGERS  
LESLIE W BIGGERS  
PO BOX 55  
OLA, ID 83657

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.40 CFS

USE OF THIS RIGHT WITH RIGHT NO. 65-22532 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF .40 CFS.

PRIORITY DATE: 04/01/1901

POINT OF DIVERSION: T10N R01E S12 NWSW Within Gem County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-01 TO 11-01 | 0.40 CFS |

PLACE OF USE: Irrigation Within Gem County  
T10N R01E S26 SENW 19.0  
19.0 Acres Total

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

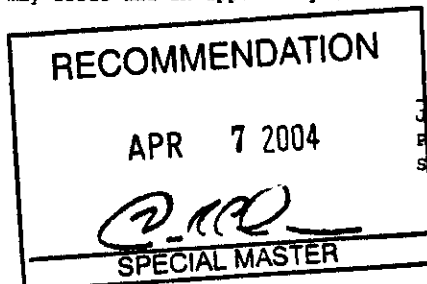
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after October 18, 1977.

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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  
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the event of injury.

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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

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 65-11169

NAME AND ADDRESS: JOYCE A BIGGERS  
LESLIE W BIGGERS  
PO BOX 55  
OLA, ID 83657

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.26 CFS

USE OF THIS RIGHT WITH RIGHT NO. 65-22534 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF .26 CFS.

PRIORITY DATE: 05/29/1927

POINT OF DIVERSION: T10N R01E S13 NENWSW Within Gem County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Irrigation     | 04-01 TO 11-01 | 0.26 CFS |

PLACE OF USE: Irrigation Within Gem County  
T10N R01E S26 SENW 13.0  
13.0 Acres Total

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

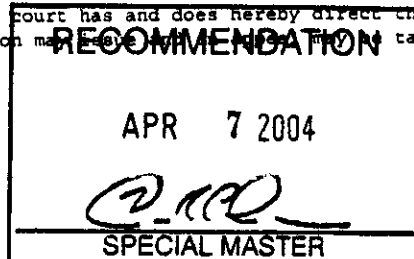
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the event of injury.

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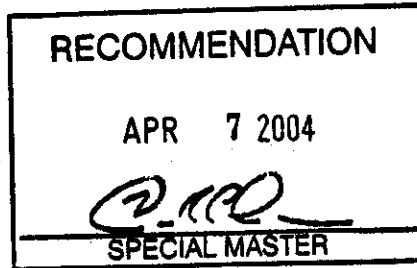
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

In Re SRBA ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 ) Water Right 65-22512

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Jan-09-2004

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John M. Melanson  
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 65-22534

NAME AND ADDRESS: JOYCE A BIGGERS  
LESLIE W BIGGERS  
PO BOX 55  
OLA, ID 83657

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER  
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT  
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

USE OF THIS RIGHT WITH RIGHT NO. 65-11169 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF .26 CFS.

PRIORITY DATE: 05/29/1927

POINT OF DIVERSION: T10N R01E S13 NENWSW Within Gem County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Stockwater Within Gem County  
T10N R01E S26 SENW

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

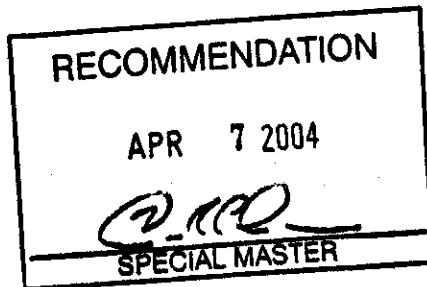
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John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

2004 APR 7 PM 2 51

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 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 65-03028  
65-03029 65-11169 65-22532  
65-22534

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 April 07, 2004, with sufficient first-class postage prepaid to the following:

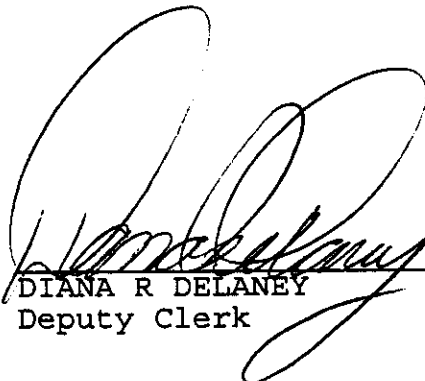
DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

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

JOYCE A BIGGERS  
LESLIE W BIGGERS  
PO BOX 55  
OLA, ID 83657  
Phone: 208-584-3334

CERTIFICATE OF MAILING



DIANA R DELANEY  
Deputy Clerk

PAGE 1  
04/07/04

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

2004 APR 7 PM 2 51

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

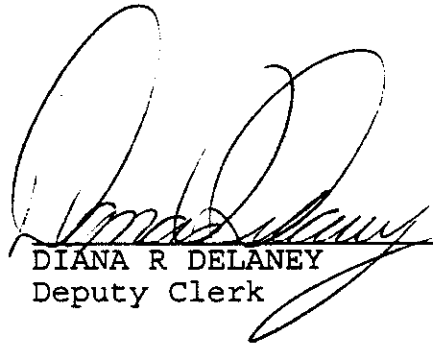
Water Right(s): 65-03028  
65-03029 65-11169 65-22532  
65-22534

On April 07, 2004, 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 April 07, 2004.

  
DIANA R DELANEY  
Deputy Clerk