

2002 DEC 23 AM 9:45

DISTRICT COURT  
TWIN FALLS, IDAHO  
FILED  
SRBA  
10

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     | ) | SPECIAL MASTER' REPORT    |
|                | ) |                           |
| Case No. 39576 | ) | FINDINGS OF FACT AND      |
|                | ) | CONCLUSIONS OF LAW        |
|                | ) |                           |
|                | ) | FOR WATER RIGHT 65-03041D |
|                | ) |                           |

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I. FINDINGS OF FACT

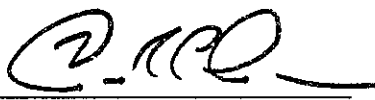
A notice of claim was filed for the above listed water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On June 16, 2000, the United States of America, Bureau of Reclamation filed objections to "General Provisions Basin 65 Irrigation & Other Part II (3) Separate Streams Administration." On September 20, 2002, a *Standard Form 5* was filed. All parties and IDWR are signatures to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5* and the attached Appendix A, IT IS RECOMMENDED that this water right be **decreed** with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 65-03041D*.

DATED December 23, 2002.

  
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 65-03041D

2002 DEC 23 AM 9:46

DISTRICT COURT  
TWIN FALLS, IDAHO  
FILED

NAME AND ADDRESS: CHARLES E MACKENZIE  
CONNIE MACKENZIE  
PO BOX 1005  
CALDWELL, ID 83606

SOURCE: SQUAW CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.74 CFS

USE OF THIS RIGHT WITH RIGHT NO. 65-22610 IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF .74 CFS.

PRIORITY DATE: 04/01/1870

POINT OF DIVERSION: T10N R01E S12 NWSW Within Gem County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Irrigation 04-01 TO 11-01 0.74 CFS

PLACE OF USE: Irrigation Within Gem County  
T10N R01E S23 NESW 19.0 NWSE 23.0  
42.0 Acres Total

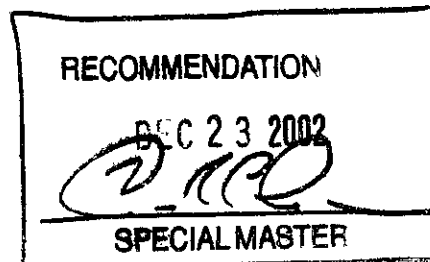
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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



## **APPENDIX A**

**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 § 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.**

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DISTRICT COURT OF 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 )

CERTIFICATE OF MAILING

Case No. 39576 )

Water Right(s): 65-03041D

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 December 23, 2002, 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 & NATURAL RESOURCE  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

CHARLES E MACKENZIE  
CONNIE MACKENZIE  
PO BOX 1005  
CALDWELL, ID 83606  
Phone: 208-459-9188

CERTIFICATE OF MAILING

*[Signature: Debbie Lash]*  
DEBBIE LASH  
Deputy Clerk

PAGE 1  
12/23/02

2002 DEC 23 AM 9:45

DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS  
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 )  
Case No. 39576 )  
\_\_\_\_\_ )

NOTICE OF ISSUANCE OF  
SPECIAL MASTER'S  
RECOMMENDATION

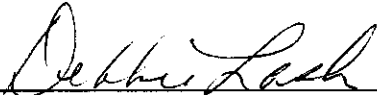
Water Right(s): 65-03041D

On December 23, 2002, 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 December 23, 2002.

  
DEBBIE LASH  
Deputy Clerk