

2002 NOV -4 PM 1:48

FILED  
TWIN FALLS CO., IDAHO  
ST-SRBA

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'S REPORT         |
|                | ) |                                 |
| Case No. 39576 | ) | FINDINGS OF FACT AND            |
|                | ) | CONCLUSIONS OF LAW              |
|                | ) |                                 |
|                | ) | FOR WATER RIGHTS                |
|                | ) | 65-06956, 65-02653 and 65-03118 |

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 II (3) Separate Streams Administration." On September 20, 2002, *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* and the attached Appendix A, 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) for Water Rights 65-06956, 65-02653 and 65-03118*.

DATED November 4, 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 65-06956

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FILED  
TWIN FALLS CO. IDAHO  
DEPT. OF CLERK

NAME AND ADDRESS: D JOHN CAREY  
15320 PEACH HILL RD  
SARATOGA, CA 95070

SOURCE: UNNAMED STREAM TRIBUTARY: BOULDER CREEK

QUANTITY: 0.04 CFS  
2.10 AFY

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

PRIORITY DATE: 04/01/1950

POINT OF DIVERSION: T17N R04E S06 SWSW Within Valley County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|-------------------------------|----------------|----------------|----------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.04 CFS |
|                               |                |                | 2.10 AFY |

PLACE OF USE: Stockwater Within Valley County  
T17N R04E S06 SWSW

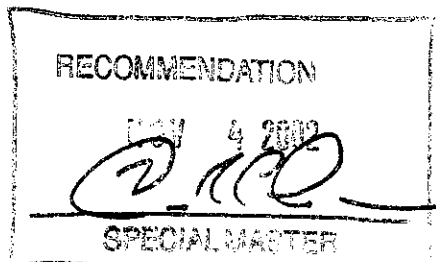
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

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In Re SRBA )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Case No. 39576 )  
Water Right 65-02653

FILED  
TWIN FALLS, IDAHO

NAME AND ADDRESS: D JOHN CAREY  
15320 PEACH HILL RD  
SARATOGA, CA 95070

SOURCE: WASTE WATER TRIBUTARY: BOULDER CREEK

QUANTITY: 1.10 CFS

PRIORITY DATE: 08/28/1959

POINT OF DIVERSION: T18N R03E S36 SESE Within Valley County

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Irrigation 04-15 TO 10-15 1.10 CFS

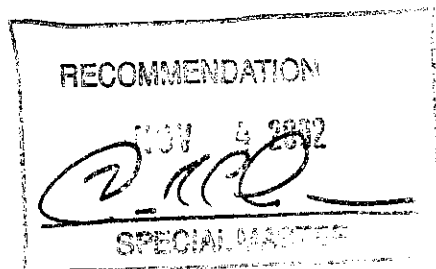
PLACE OF USE: Irrigation Within Valley County  
T17N R03E S01 NENE 10.0 SENE 27.0  
NESE 21.0 SESE 22.0  
80.0 Acres Total

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  
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Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

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Oct-21-2002

## **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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FILED  
CLERK OF DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

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

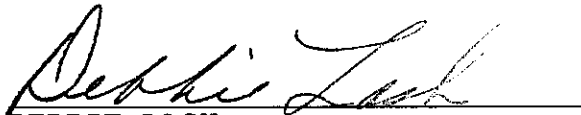
Water Right(s): 65-02653  
65-03118 65-06956

On November 04, 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 November 04, 2002.

  
DEBBIE LASH  
Deputy Clerk

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TWIN FALLS CO., IDAHO  
RT-SRBA  
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 )

CERTIFICATE OF MAILING

Case No. 39576 )

Water Right(s): 65-02653

65-03118 65-06956

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 November 04, 2002, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO  
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

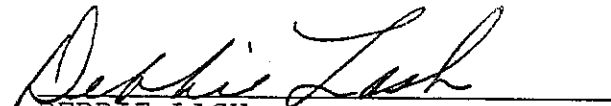
USDI BUREAU OF RECLAMATION  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724  
Phone: 208-387-0835

CERTIFICATE OF MAILING

PAGE 1  
11/04/02

D JOHN CAREY  
C/O BRIAN MC MAHAN  
PO BOX 1066  
MCCALL, ID 83638  
Phone: 208-634-7641

D JOHN CAREY  
15320 PEACH HILL RD  
SARATOGA, CA 95070  
Phone: 408-867-9262

  
DEBBIE LASH  
Deputy Clerk