

Hello Doug:

Here's a list of the objected to water rights in basin 71. Dave and Peter will be picking up the original **claims** for filing with the court Tuesday morning. Southern also should have received copies of the basin 71 objections for the claim file--do you know if you did??

71-00026A	71-00026B	71-00028	71-00029	71-00033B
71-00034C	71-00035C	71-00036B	71-02047A	71-02047B
71-02054	71-02085B	71-04006	71-04018	71-04021
71-10057	71-10080	71-10081	71-10117	71-10139
71-10197	71-10631	71-10763	71-10764	

I'm trying to double check the overlaps (unobjected to) involved--we'll need those original claims also for Tuesday. They are:

71-00027B 71-10059

THANKS FOR YOUR HELP!! Any questions, call me at 327-5458.

FAX MEMORANDUM

TO: DOUG JONES - SOUTHERN AJ SUPERVISOR
FROM: VICKI KELLY - PARALEGAL
DATE: 2/10/99

RECEIVED

JAN 14 1999

Department of Water Resources
Adjudication Bureau

RECEIVED

JAN 25 1999

Department of Water Resources
Southern Region

**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

A. Subcase No. 71-10139

STANDARD FORM 1

OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Dorothy Giffin

Address: P. O. Box 109
Stanley, Idaho 83278

Daytime Phone (208) 774-3525

Name & Address of Attorney, if any:
ROGER D. LING
LING, NIELSEN & ROBINSON
615 H Street, P. O. Box 396
Rupert, Idaho 83350

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dorothy Giffin

Address: P. O. Box 109
Stanley, Idaho 83278

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es).)

1. ☒ **Name and Address**
Should be: Dorothy Giffin, P. O. Box 109, Stanley, Idaho 83278
2. ☒ **Source**
Should be: Iron Creek
3. ☒ **Quantity**
Should be: .35 CFS
4. ☒ **Priority Date**
Should be: May 1, 1902
5. ☒ **Point(s) of Diversion**
Should be: SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 10 North, Range 13 EBM
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: Irrigation
8. ☒ **Period of Year**
Should be: April 1 to November 1
9. ☒ **Place of Use**
Should be: SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 10 North, Range 13 EBM - 15 acres
11. **I object because:**
 - ☐ This water right should not exist.
 - ☒ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** Use of Iron Creek water in Section 5 under Water Right Nos. 71-00026 and 71-00027, allowed for 350 inches from Iron Creek for the irrigation of 302.1 acres. The 15-acres of claimant-objector is a part of said 302.1 acres, and the water has been used openly and notoriously under claim of right since 1972. The water rights have never been transferred from claimant's place of use and there is no justification for allowing 350 inches for the remaining 287.1 acres under the original Cavanagh decree.

VERIFICATION (Must be Completed)

State of IDAHO)

County of Minidoka)

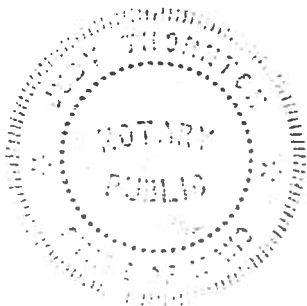
Roger D. Ling, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection

Roger D. Ling
Attorney signing in representative capacity

Subscribed and sworn to before me on: January 12 , 1999



Judith Thornton Barnes
Notary Public for the State of Idaho
Residing at: Rupert, Idaho
My Commission Expires: 02/03/1999

INSTRUCTION FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on January 12, 1999, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the claimant of the water right at the following address:

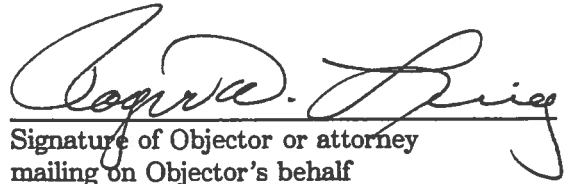
Name: Dorothy Giffin
Address: P. O. Box 109
Stanley, Idaho 83278

3. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734


Signature of Objector or attorney
mailing on Objector's behalf

71-10139

RECEIVED

JAN 25 1999

Department of Water Resources
Southern Region

RECEIVED

JAN 15 1999

OFFICE OF THE
ATTORNEY GENERAL

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

A. Subcase No. 71-10139

STANDARD FORM 1

OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Dorothy Giffin

Address: P. O. Box 109
Stanley, Idaho 83278

Daytime Phone (208) 774-3525

Name & Address of Attorney, if any:
ROGER D. LING
LING, NIELSEN & ROBINSON
615 H Street, P. O. Box 396
Rupert, Idaho 83350

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dorothy Giffin

Address: P. O. Box 109
Stanley, Idaho 83278

MAIL



22907

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es).)

1. ☒ **Name and Address**
Should be: Dorothy Giffin, P. O. Box 109, Stanley, Idaho 83278
2. ☒ **Source**
Should be: Iron Creek
3. ☒ **Quantity**
Should be: .35 CFS
4. ☒ **Priority Date**
Should be: May 1, 1902
5. ☒ **Point(s) of Diversion**
Should be: SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 10 North, Range 13 EBM
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: Irrigation
8. ☒ **Period of Year**
Should be: April 1 to November 1
9. ☒ **Place of Use**
Should be: SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 10 North, Range 13 EBM - 15 acres
11. **I object because:**
 - ☐ This water right should not exist.
 - ☒ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** Use of Iron Creek water in Section 5 under Water Right Nos. 71-00026 and 71-00027, allowed for 350 inches from Iron Creek for the irrigation of 302.1 acres. The 15-acres of claimant-objector is a part of said 302.1 acres, and the water has been used openly and notoriously under claim of right since 1972. The water rights have never been transferred from claimant's place of use and there is no justification for allowing 350 inches for the remaining 287.1 acres under the original Cavanagh decree.

VERIFICATION (Must be Completed)

State of IDAHO)
)
County of Minidoka)

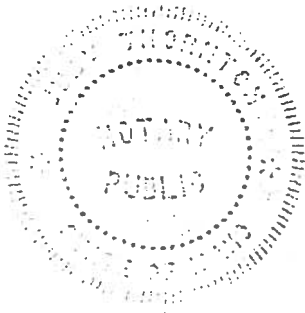
Roger D. Ling, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection

Roger D. Ling
Attorney signing in representative capacity

Subscribed and sworn to before me on: January 12 , 1999



Judith Thornton Barnes
Notary Public for the State of Idaho
Residing at: Rupert, Idaho
My Commission Expires: 02/03/1999

INSTRUCTION FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on January 13, 1999, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the claimant of the water right at the following address:

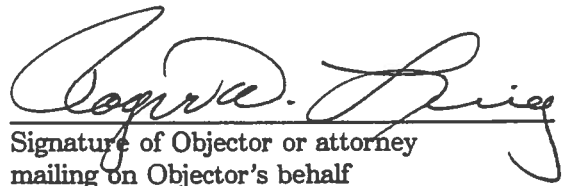
Name: Dorothy Giffin
Address: P. O. Box 109
Stanley, Idaho 83278

3. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734


Signature of Objector or attorney
mailing on Objector's behalf

COPY

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A71-10139
Date Received: 1/10/1990
Receipt No: S010906
Received By: lw

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: HOWARD A. GIFFEN 208-774-3525
Address: P.O. BOX 109
STANLEY, ID 83278

AND/OR

Name: DOROTHY GIFFEN 208-774-3525
Address: P.O. BOX 109
STANLEY, ID 83278

2. Date of Priority: MAY 01, 1902

3. Source: IRON CREEK Trib. to: VALLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
10N	13E	5	SW	SE			CUSTER

5. Description of diverting works:
HEADGATE, FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.300		

7. Total Quantity Appropriated is:
0.300 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 21.2 Acre Feet Per Annum.

9. Non-irrigation uses:

A71-10139

Page 1

Date: 01/10/90

MICROFILMED

MAR 17 1993

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10N	13E	5	SW SE		IRR	15.0
Section Acres						15.0
Total Acres						15.0

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
PORTION OF 71-00026 DECREE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

DAN J. CAVANAGH
Decree Plaintiff

vs

WM. MERRITT, ET AL
Decree Defendant

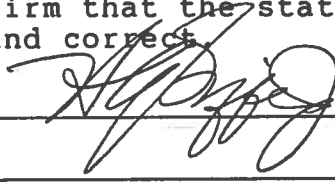
16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not / wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s):  Date: 1-10-90
Date:

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 10 day

of Jan 19 90


Notary Public

Seal

Residing at TF

My Commission Expires 5/94

Old (D) Number -

Address - - - - - +

State- ID Zip- 833500396

State- ID Zip- 83278

```

+ - - - Status - - - +

```

0
3
1
1
0
1
0
0
1
1
0
1
1
1
+

----- Diversion Rate ----- Diversion Volume

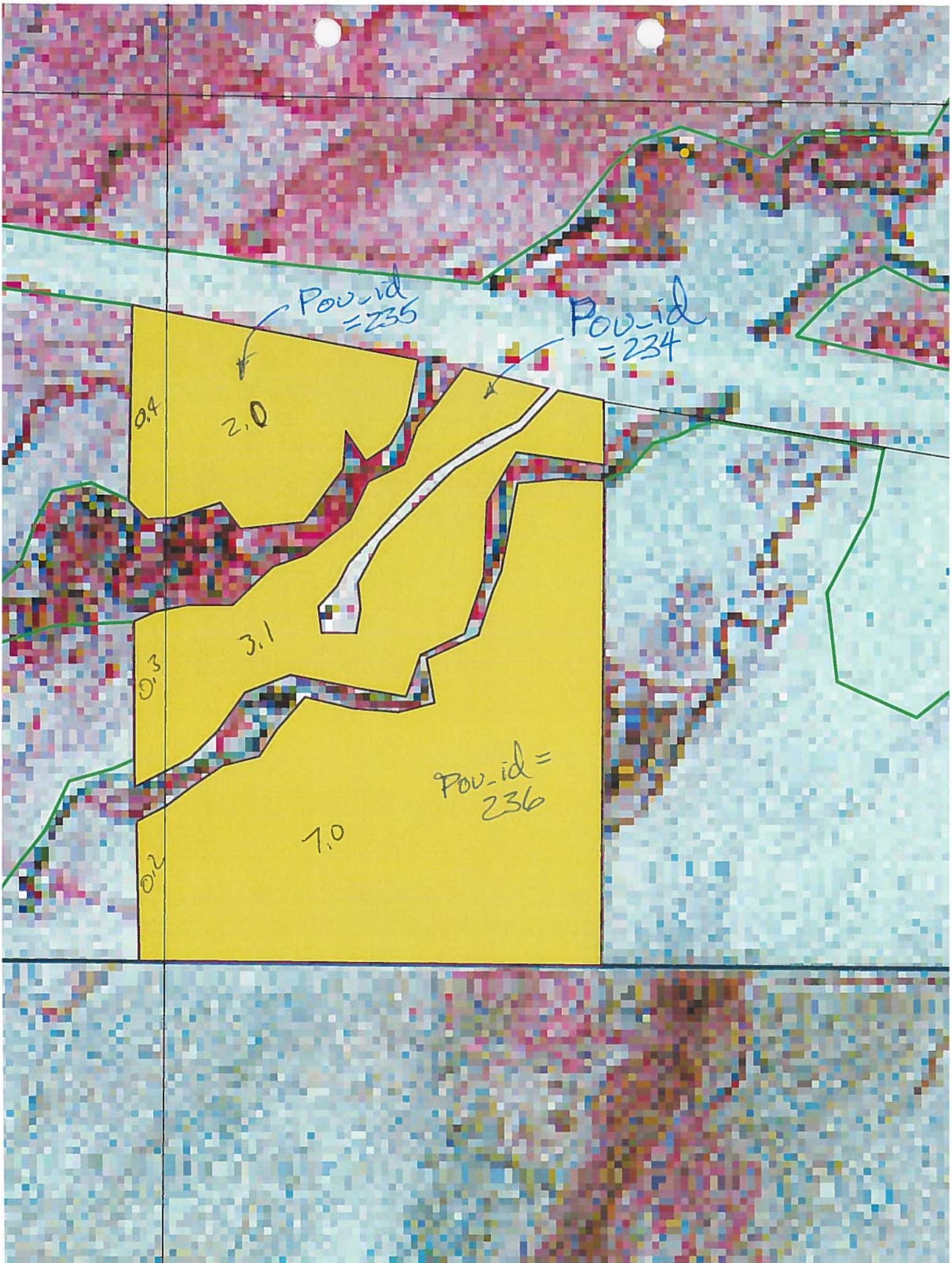
+- Total Consumptive Use	-	+	+- KW Usage	-	+
		0.0			

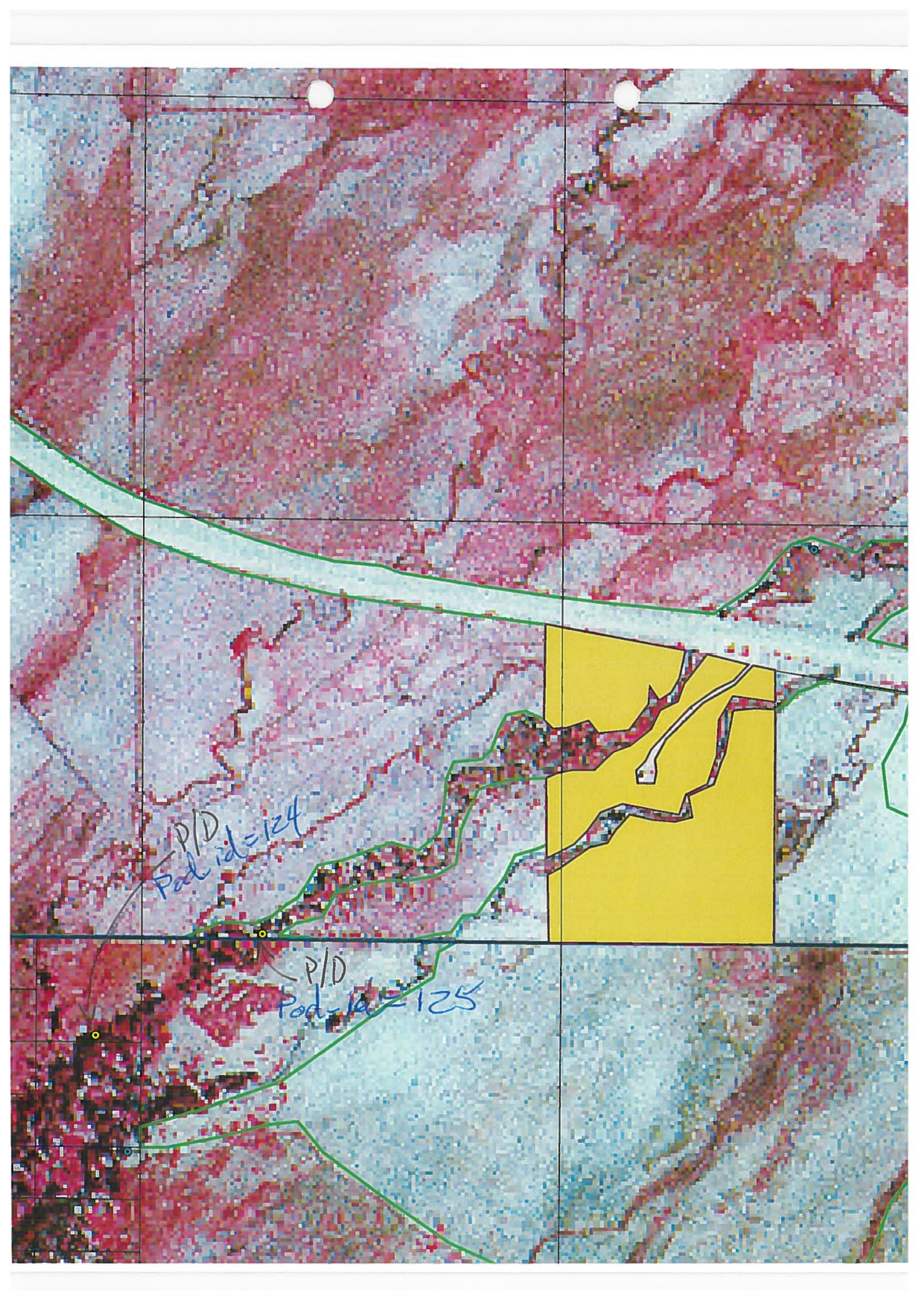
(37) CUSTER
(37) CUSTER

	Remarks
+ + + + +	- - - - -

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF EXP

- Notice of Error Flag

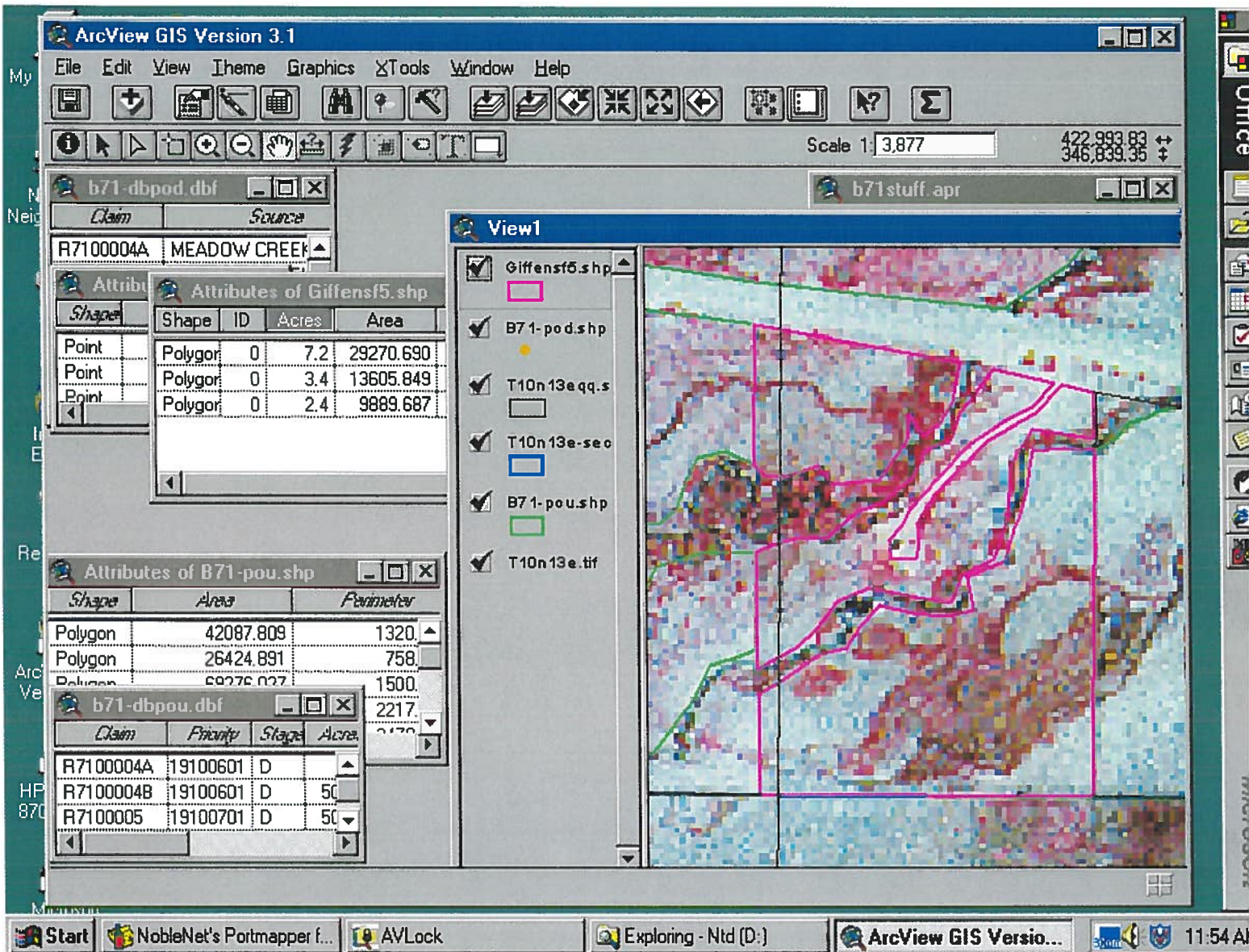




P/D
Pod id=124

This is an aerial photograph overlaid with a black grid. A light blue river flows from the top left towards the center. A yellow-shaded polygon is located on the right side of the map. Two handwritten labels in blue ink are present: 'P/D Pod id=124' with a line pointing to a small yellow dot on a green line, and 'P/D Pod id=125' with a line pointing to a small yellow dot in a dark area at the bottom left. The map shows various terrain features in shades of red, pink, and blue.

P/D
Pod id=125



Water Right Number - R71-10139

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - - - + - - - - - Address - - - - -

*** A - ATTORNEY ***
LING

ROGER D

1 - LING NIELSEN & ROBINSON
2 - PO BOX 396
3 -
City- RUPERT
Phone - 208-436-4717

State- ID Zip- 833500396

*** C - CURRENT OWNER ***
RECOMMENDED AS 71-00026C

1 -
2 -
3 -
City- XX
Phone - 208-000-0000

State- ID Zip- 00000

*** O - ORIGINAL OWNER ***
GIFFEN

DOROTHY

1 - PO BOX 109
2 -
3 -
City- STANLEY
Phone - 208-774-3525

State- ID Zip- 83278

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
05/01/1902 17 SOUTHERN Z - SEE REMARKS

+ - - - - Source - - - - - + - - - - Tributary - - - - - +
IRON CREEK VALLEY CREEK
RECOMMENDED AS 71-00026C

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
10N 13E 5 SW SE (37) CUSTER

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 0.300

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.300 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
10N 13E 5 SW SE 15.0 01 IRRIGATION (37) CUSTER

Total Acres: 15.0

+ - - - - Diversion Means - HEADGATE, FLOOD IRRIGATION

+ - - - - Non-Irrigation Use -

Water right number - R71-10139

Prefix Translation: RESEARCH

+ - - Other Rights for Same Use - NONE

GEN RECOMMENDED AS RIGHT NO. 71-00026C.

+ - - No Old Water Right Numbers Found

- - - Old Water Right Numbers

+ - - No Conditions of Approval found.

+ - - Decree Plaintiff - - - +
DAN J. CAVANAGH

+ - - Decree Defendant - - - +
WM. MERRITT, ET AL

+ - Decree Date - +
00/00/0000

+ - - Date: 06/22/1999 User Id: AMERRITT Subject: RECOMMENDATION
DRAFTED RECOMMENDATION FOR SFS CONSIDERATION.

- Comments -

+ - - Audit Fields - - +
06/22/99 AMERRITT

+ - - Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	-	39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-	
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-	
Claim Received Date	- 01/10/1990	Last Amended Date	- 00/00/0000	Temporary Right	- P	
		Receipt Number	- X777777	Water District	-	
		POU Ownership Flag	- Y	Federal/State Indicator	- S	
		Name Connector	- AND/OR	Presumption Flag	-	
				Notice of Error Flag	-	

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

AUG 13 1998

Please print or type. Attach pages with additional information. Instructions are on the back of this page. Department of Water Resources
 Incomplete forms will be returned.

D.E.
9/3/98
see

1. Water Right or Adjudication Claim No(s): 71-10139 ✓, 21-10138
2. The following **REQUIRED** information must be submitted with this form:
 - A. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - AND**
 - B. **PLAT OF PROPERTY** or **SURVEY MAP** for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
 - OR**
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency **AERIAL PHOTO** with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant: HOWARD A. GIFFEN
DOROTHY GIFFEN
4. New Owner/Claimant(s): DOROTHY A. GIFFEN
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address: P.O. Box 109
 City, State and ZIP Code: STANLEY, ID 83278
 New Telephone Number: 208 774-3525
5. Date you acquired the property _____
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres you irrigate _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner or Claimant(s): Dorothy A. Giffen
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims.

Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign this form.

AM

July 22, 1998

RECEIVED

AUG 10 1998

Department of Water Resources
Southern Region

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: August 14, 1998

Water right number: 71-10139

HOWARD A GIFFEN
DOROTHY GIFFEN
PO BOX 109
STANLEY ID 83278

Daytime Telephone Number:
Evening Telephone Number:

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

I have been working with my attorney Roger King as I disagree with these portions

☐ I AGREE with this proposed recommendation; no changes need to be made.

DATE:

8-6-98

SIGNATURE:

Dorothy Giffen

Please print your name:

DOROTHY GIFFEN



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 21, 1997

Roger Ling
PO Box 396
Rupert, ID 83350

RE: Dorothy Giffen's Iron Creek Use (A71-10139)

Dear Roger:

In response to your recent letter, please find enclosed a copy of the January 16th, 1940, Cavanagh vs Shaw decree by Judge Guy Stevens. Additionally please find a source index I created for Iron Creek for all the SRBA records. I also include proof reports for all of the present SRBA claims on the creek. Please remit \$4.51 for copies and postage.

You are correct in your letter regarding Mrs. Giffen's application for permit 71-07175. It was protested by the Forest Service but no conference or hearing has been set yet to move the application forward. I will await your direction in attempting to schedule this matter for conference.

When I did meet with Mrs. Giffen at the time she filed the application for permit I recall I was informed that her husband had died. It was an oversight on my part in not encouraging her to file a "change of ownership form" at that time to get things totally in her name. Please find enclosed a "Notice of change of Water Right Ownership" to change her domestic right and the Iron Creek Claim solely into her name. I have also enclosed a form for Mrs. Giffen to use for you to be included in the Iron Creek Claim (A71-10139) for notice of appearance. I understand that if she wishes for you to be included on the domestic well (A71-10138) for notice of appearance you will need to file a motion directly with the SRBA Court since the recommendation has been issued.

If our office can be of further assistance or if you have questions, please feel free to contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Allen Merritt'.

Allen Merritt, PE
Southern Region Manager

CC: Dorothy Giffen

71-10139

Claimant Acknowledgement of Change in Attorney in Snake River Basin Adjudication (SRBA)

FEB 19 1998

Name(s) of Claimant (please print):

Dorothy Giffen

I/we acknowledge (check one):

☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.

☒ I/we are now represented by the attorney at the address below.

Roger D. Ling, Esq.

LING, NIELSEN & ROBINSON

P. O. Box 396

Rupert, ID 83350-0396

Attorney's Phone (208) 436-4717

The SRBA water right claim notice(s) affected by this change are listed below or on the attached sheet(s).

71-10139

For Individuals:

Authorized signature(s) Date 2-9-98

Dorothy Giffen

For Organizations:

I am _____ of _____, and I

Title

Organization

have signed the foregoing document in the space below as

of _____.

Title

Organization

Signature of Authorized Agent _____

Title _____

Date _____

Organization _____

IDWR Use:

Date Received

Data Entry

4-3-98

Revised Date 4-03-92

LING, NIELSEN & ROBINSON

ROGER D. LING
ROBERT M. NIELSEN
BRENT T. ROBINSON
BRENT C. TINGEY

ATTORNEYS AT LAW
615 "H" STREET
P. O. BOX 396
RUPERT, IDAHO 83350-0396

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

REGISTERED

FEB 19 1998

Department of Water Resources
Southern Region

February 18, 1998

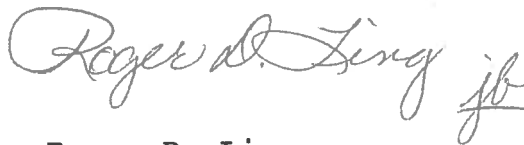
Allen D. Merritt, P.E.
Southern Region Manager
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301

Re: **Claimant Acknowledgment of Change in Attorney in
SRBA - Dorothy Giffen - Water Right No. 71-10139**

Dear Allen:

Enclosed is a duly executed *Claimant Acknowledgment of Change in Attorney in Snake River Basin Adjudication (SRBA)* for Water Right No. 71-10139.

Very truly yours,

Handwritten signature of Roger D. Ling in cursive script, with the initials "jb" written at the end.

Roger D. Ling

Signed in Mr. Ling's
absence to avoid delay

jkb

enc

LING, NIELSEN & ROBINSON

ROGER D. LING
ROBERT M. NIELSEN
BRENT T. ROBINSON
BRENT C. TINGEY

ATTORNEYS AT LAW
615 "H" STREET
P. O. BOX 396
RUPERT, IDAHO 83350

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

May 19, 1997

RECEIVED

MAY 20 1997

Department of Water Resources
Southern Region

Allen D. Merritt, P.E.
Southern Region Manager
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301

RE: Dorothy Giffen - Application for Permit No. 71-07175

Dear Allen:

I have been retained by Dorothy Giffen to help her in obtaining water rights for her property in Custer County. From her file, I noticed that an Application for Permit was filed by her, and a Protest from the Forest Service was received by you. It does not appear that any further action has been taken on that Application. I am not requesting that any action be taken at this time, but merely want to confirm this fact.

I have also reviewed the Claims filed by Dorothy Giffen and her late husband. It appears from your letter of August 30, 1993 that you are recommending that the Claim for irrigation be disallowed. It is very likely that Mrs. Giffen will pursue this Claim, whether or not it is recommended by the Director. It appears that since the property was purchased by the Giffens in 1985, water was used from Iron Creek under a claim of right, and this use constitutes adverse possession of any right that was reserved. We also question whether or not the reservation was valid, as it does not indicate the lands to which the water was reserved for.

Finally, I would appreciate receiving from you a copy of the Cavanagh Decree for Water Right No. 71-00026. I would also appreciate receiving copies of any other claims that may have been filed on Iron Creek by others. If Mrs. Giffen's right to a portion of this Decree is established, it would not be necessary to proceed to obtain a permit and license for the use of water for irrigation. Meanwhile, I have instructed Mrs. Giffen to continue to use the water as she has since 1985. Of course, because of the high run-off, she certainly is entitled to a flood water right as there appears to be more

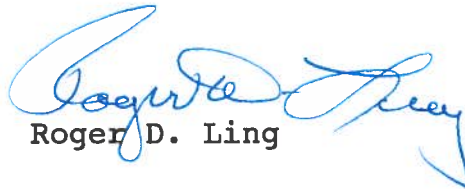
471-10139

Allen D. Merritt
May 19, 1997
Page 2

water than can be used by all of the persons with rights to Iron Creek.

I also was advised by Mrs. Giffen that she had advised the Department that her husband is no longer living. Accordingly the Claims should be changed to her name. In reviewing the recent recommendation as to her domestic water right, it does not appear that her husband's name has been removed. Would you please check your records to determine whether or not a change in name of the claimant has been filed with IDWR.

Very truly yours,



Roger D. Ling

RDL:jkb

pc: Dorothy Giffen

R PROOF

X

CVR

X

MAPS

X

PHOTOS

X

MISC

MICROFILMED

OCT 28 1994

CFL209 94

0-28-72

F12

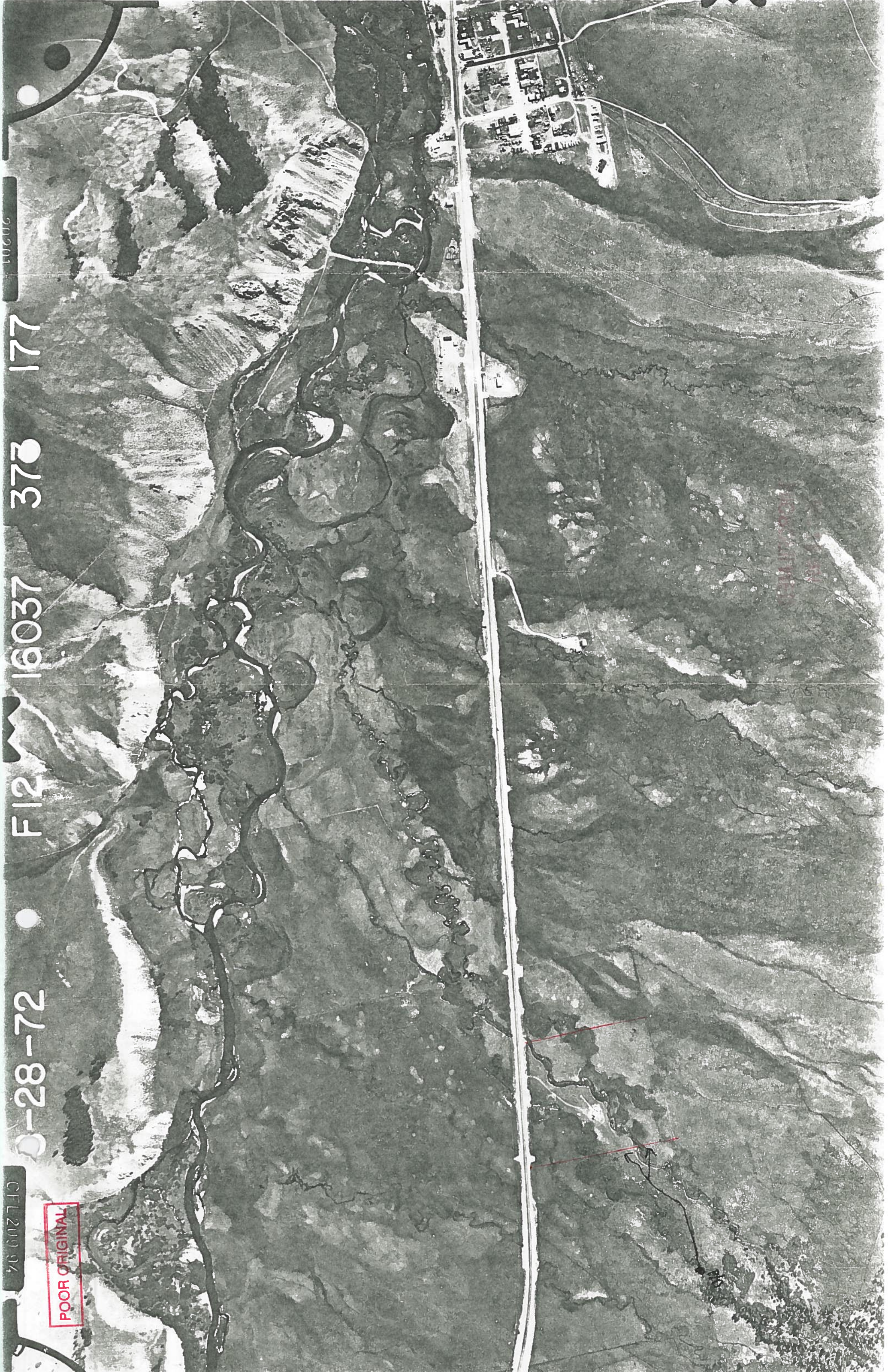
16037

373

177

20001

POOR ORIGINAL



物

Warranty deed
dated 14/8/88
Recorded
Warranty deed
185673
Bower → Giffen
specifically Reserved
the with rights.

Reserve w. R.

June 15th 1972
June 15th 1977

185673

$$\text{Lower} \Rightarrow \text{GFA}$$

Copyright Reserved
the with my 1941.

OCT 28 1994

POOR ORIGINAL

8-28-72

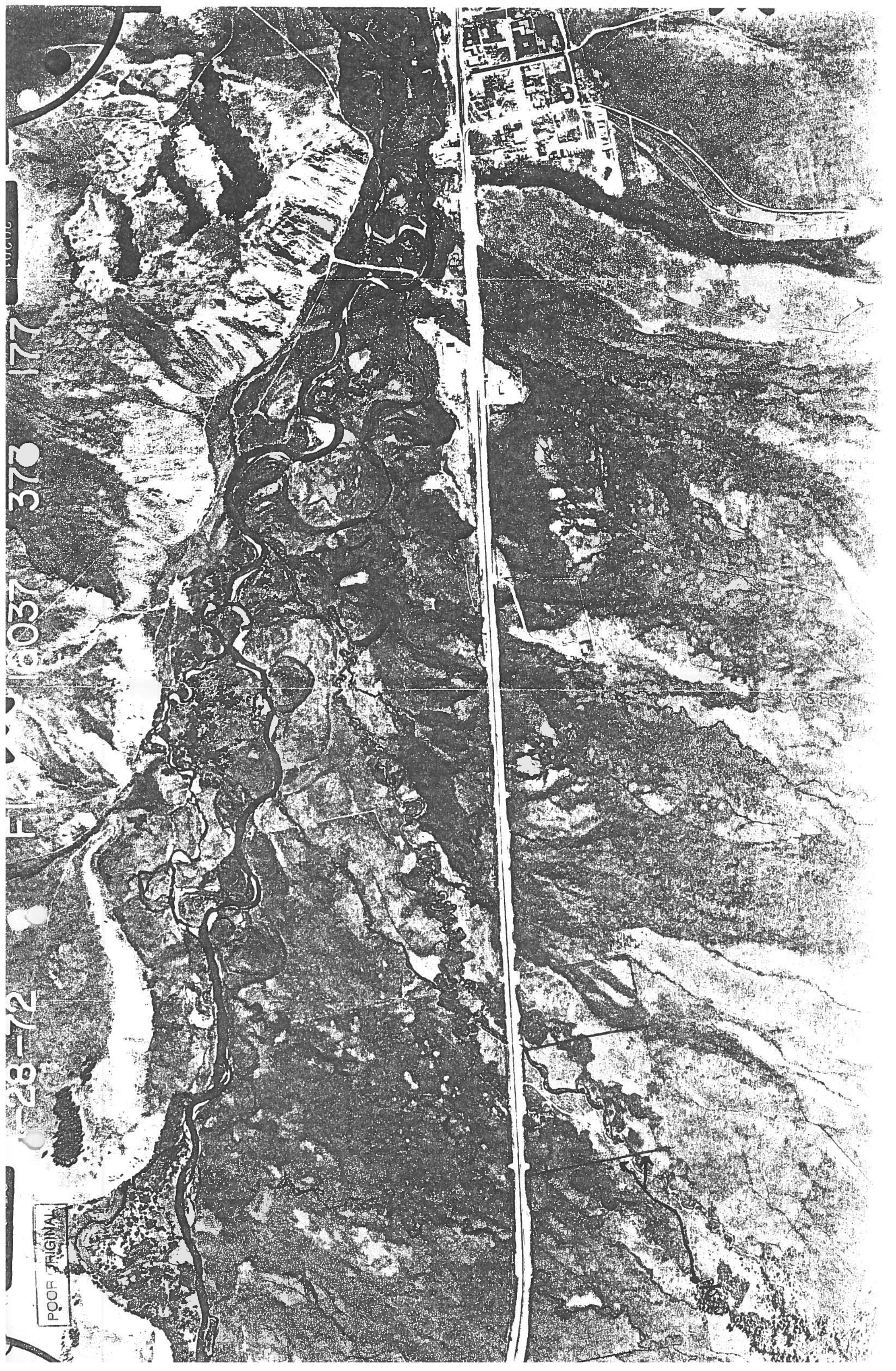
F18

18037

373

21

10000



20

Time	0:00
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100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

19.11.11	11
----------	----



100

1111

Water Right Number - R71-10139

Prefix Translation: RESEARCH

Old (D) Number -

*** C - CURRENT OWNER ***
GIFFEN
Last Name - First Name - Address -
HOWARD A
1 - PO BOX 109
2 -
3 -
City- STANLEY
Phone - 208-774-3525
1 - PO BOX 109
2 -
3 -
City- STANLEY
Phone - 208-774-3525
State- ID Zip- 83278

GIFFEN

DOROTHY

City- STANLEY
Phone - 208-774-3525

State- ID Zip- 83278

Priority Date - 05/01/1902
Region - 17 SOUTHERN
Stage -
Status - 1 - DISALLOWED

Source - IRON CREEK
Tributary - VALLEY CREEK

Twn Rng Sec Tract Lot Rflg County Point of Diversion
10N 13E 5 SW SE (37) CUSTER

Code Description Period From Period To Water Use Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 0.300
+ - Total Div. Rate - 0.300 + - Total Div. Volume - + - Total Consumptive Use - 21.2 + - KW Usage - +

Twn Rng Sec Tract Lot Acres Code Description County
10N 13E 5 SW SE 15.0 01 IRRIGATION (37) CUSTER

Total Acres: 15.0

+ - Diversion Means - HEADGATE, FLOOD IRRIGATION

+ - Non-Irrigation Use -

+ - Other Rights for Same Use - NONE

Remarks -
FORFEITED/ABANDONED.

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Water right number - R71-10139

Prefix Translation: RESEARCH

----- Old Water Right Numbers -----
----- Old Water Right Numbers -----
No Old Water Right Numbers Found

----- Conditions of Approval -----
P04 - FORFEITED/ABANDONED: This is included for a claim based on a
- decree or license that is PROPOSED to be disallowed on the basis
- that the water right no longer exists because forfeiture of the
- right by nonuse was confirmed and a defense to forfeiture was not
- confirmed, or because abandonment of the right was confirmed.

----- Decree Plaintiff ----- + ----- Decree Defendant ----- +
DAN J. CAVANAGH WM. MERRITT, ET AL 00/00/0000

----- Date: 08/31/1993 User Id: MERRITT Subject: COPIED FROM REMARKS ----- +
PORTION OF 71-00026 DECREE. -----
Date: 08/31/1993 User Id: MERRITT Subject: DISALLOWAL
REVIEW OF THE DEED INDICATE THAT THE WATER RIGHTS WERE RETAINED BY THE SELLER (OCAMICA) WHICH KEPT THE WATER AND IS CLAIMING IT
USED ON HIS REMAINING LAND.

----- Audit Fields ----- +
08/31/93 MERRITT

----- Adjudication Rights Dates and Flags Area ----- +
Court Report Filing - 00/00/0000 Field Inspection Made - 08/24/1993 Civil Case Number - 39576
Objection Filed Date - 00/00/0000 Verified Date - 00/00/0000 Old Case Number -
Response Filed Date - 00/00/0000 Last Amended Date - 00/00/0000 Old Judicial District -
Claim Received Date - 01/10/1990 Receipt Number - S010906 Temporary Right - P
POU Ownership Flag - Y Water District -
Name Connector - AND/OR Federal/State Indicator - S
Notice of Error Flag -

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

07:49:37
05/28/92

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A71-10139

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM
PRIORITY DATE	Y		FD 8/23/84				FD 8/13/83	
POINT OF DIV	Y							
SOURCE	Y							
PLACE OF USE	Y							
DIV. AMOUNT CFS/VOLUME	Y				Dis 2/60			
CONSUMPTIVE USE	-							
PURPOSES	Y							
PERIOD OF USE	Y							
BASIS OF CLAIM	Y							
REMARKS	Y							

VERIFIED BY CODES

TOPO MAP/ORTHO-PG = 1
 ASCS MAP = 2
 WATERMASTER RECORDS = 3
 NAPP PHOTOS = 4
 FIELD EXAM = 5
 OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

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Remark
 P84
 Condition
 P84

STATE OF UTAH
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

08:06:59
05/28/92

PAGE: 13
PROFILE REPORT

CLAIM NUMBER: A71-10139

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	HOWARD A. GIEFFEN	05/01/1902	IRRIGATION	04-01 11-01	0.30 CFS	
C	DOROTHY GIEFFEN					
	P.O. BOX 109					
	STANLEY ID 83278					
	(208) 774-3525					
						21.4 CFS

Water Source: IRON CREEK

Tributary to: VALLEY CREEK

Stage: DECREED

Point(s) of Diversion: TION R13E S05 SWSE

CUSTER County

Place of use	Legal Description	for:	IRRIGATION	NE	NW	SW	SE	TOTAL ACRES
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac
10N	13E	5						15.0
								15.0

POU County: CUSTER

Other Rights: NONE

Remarks: PORTION OF 71-00026 DECREE.

Dates: Exam Made Date: Verified Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

07:49:37
05/28/92

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A71-10139

LAST: GIFFEN
ADDRESS: P.O. BOX 109
CITY: STANLEY
PHONE NUMBER: 208-774-3525
OWNER CODE: C

FIRST: HOWARD A.
STATE: ID ZIP: 83278
CITY: STANLEY
PHONE NUMBER: 208-774-3525
OWNER CODE: C

FIELD EXAM REQUIRED?
VERIFICATION REQUIRED DUE TO REMARKS?
CLAIM REMARKS: PORTION OF 71-00026 DECREE.

DATABASE
FIELD EXAMINER

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CONTACT PERSON:

DATE OF FIELD EXAM: 8/23/93

APPOINTMENT MADE: Y (X) N ()

ACCOMPANIED BY:

Dorothy Gitter

PHONE NUMBER: ()
TIME: After 6:00 PM
PHONE NUMBER: ()

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

On 8/23 I visited the site and found the old ditches. Water is still diverted onto the property however the portion east of the cut back of the old ditch is where the water was set but it was a swamp. (water standing knee deep) The diversion ditch also supplies water to the island between the two branches of the creek which belong to Oceanic & Gitter, Oceanic → Bower & Bower → Gitter deeds specifically reserve the water & ditch rights. Based on deeds the claim is being recommended for disallowance.

AG

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A. AJ CLAIM: # A71-10139 PRIORITY DATE: 05-01-1902 STAGE: D

B. WR RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

FIELD EXAMINER
DATABASE Y

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? (Y) (N) ()

REMARKS:

The claim is based on 2 portions of 71-00026. Occurite
claimed this right entirely. On 8/24/93 I reviewed the
deed from Occurite to Bower (Ins. # 143888) and deed
from Bower to Giffen (Ins. # 185673) at the Guster Co.
courthouse. Both deeds specifically reserve the
water rights so it would appear that Occurite
claim for all the water is valid and the Giffen
claim should be disallowed.

RECOMMENDED PRIORITY DATE:

REVIEWED BY

AW

Disallow

DATE

8/30/93

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A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A71-10139	10N	13E	5		SW	SE		CUSTER

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A71-10138 NONE
71-00011
71-00012
71-00013

SOURCE: IRON CREEK

TRIB: VALLEY CREEK

WR POINT OF DIVERSION AND SOURCE:

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY?	(Y/N)	DATABASE	FIELD EXAMINER
DUE TO SOURCE DISCREPANCY?	(Y/N)	Y	-----

REMARKS:

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RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:
TWP. RGE. SEC. 1/4 1/4 1/4 LOT COUNTY

SOURCE:
REVIEWED BY: TRIB: DATE:

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A. ROOT WATER RIGHT NUMBERS: A71-10139

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECORD ACRES
10N	13E	5	SW	SE		GRIFFIN, HOWARD A.	A71-10139 / 15.0	-	/		41.0
			SW	SE		GRIFFIN, HOWARD A.	A71-10138 /	-	/		
			SW	SE		OCAMICA, TOM J.	A71-10628 / 15.0	-	/		
			SW	SE		BROWN, JOHN	71-00026 /	-	/		
			SW	SE		BROWN, JOHN	71-00027 /	-	/		
			SW	SE		HAWKINS, G. P.	71-02009 / 30.0	-	/		

TOTAL ACRES A71-10139 15.00 41.00

IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y () N ()
YES SEE ATTACHED SHEET.

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE Y FIELD EXAMINER

POU COUNTY: CUSTER

PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES:

REVIEWED BY:

DATE:

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A. AJ CLAIMED USES:

PURPOSES
A71-10139 IRRIGATION

MONTH/DAY
FROM 04-01 TO 11-01

TOTAL DIVERSION RATE/VOLUME CLAIMED

DIVERSION QUANTITY
300 CFS
300 CFS

B. WR RECORDED USES:

PURPOSES

MONTH/DAY

DIVERSION QUANTITY

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	(Y/N)	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY?	Y	Y	---
DUE TO DIVERSION RATE DISCREPANCY?	Y	Y	---
DUE TO PERIOD FROM/TO DISCREPANCY?	Y	Y	---

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N()
Y() N() Explain in remarks, below.

REMARKS:

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y() N()

AJ TOTAL CLAIMED DIVERSION RATE: 0.300 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED? FIELD
DATABASE EXAMINER

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N) Y

1

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y() N() IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A71-10139	IRON CREEK	GIFFEN, HOWARD A.	0.300	0.020		
A71-10628	IRON CREEK	OCAMICA, TOM J.	7.000	0.025		

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A71-10138	DOMESTIC	GIFFEN, HOWARD A.	FROM 01-01 TO 12-31	.040 CFS	

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES -----
 x 0.02 CFS/ACRE = CFS
 (Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N() ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 21.2 AF/A
ACRES ----- x CONSUMPTIVE VOL. AF/A FOR AREA ----- =
TOTAL CONSUMPTIVE USE ----- AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A
ACRES ----- x DIVERSION VOL. AF/A FOR AREA ----- =
TOTAL DIVERSION VOLUME ----- AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

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RECOMMENDATIONS:

REC.
PURPOSES

REC. PERIOD
FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS.
USE

DATABASE EXAMINER

DATABASE EXAMINER

DATABASE EXAMINER

TOTAL FOR THIS RIGHT

REVIEWED BY:

DATE:

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OCT 28 1994

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP
FOREIGN/ABANDON
ADDITIONAL DIV. AMOUNT

ACCEPTED
AS CLAIMED
()
()
()
NEEDS
REVIEW
()
()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 71-10139

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE

EXAMINER

CFS

SPLITS:

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

A71-10139 0.300
TOTAL CFS 0.300

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE
N

FIELD
EXAMINER

REMARKS:

Disallow

* Oceanic retained all water rights when land split off. Oceanic filed claim for both 71-00026 & 71-00027 under a combined # 71-10628 which is going to be split back to 71-00026 & 71-00027.

AUTHENTICATION:

SIGNATURE:

[Signature]

DATE:

8/30/93

NAME OF FIELD EXAMINER:

TITLE:

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OCT 28 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

30-Aug-1993 16:43

Howard &/or Dorothy Giffen
PO Box 109
Stanley, ID 83278

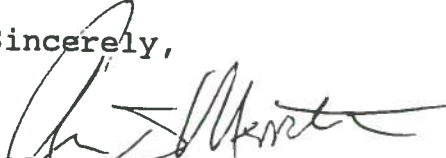
RE: SRBA Claim A71-10139

Dear Mr. & Mrs. Giffen:

After my field review of your lands on August 24 I was able to visit the Custer County Courthouse and was able to review the deeds from Ocamica to Bower and from Bower to Giffen. (Instruments # 143888 and 185673) In both of these deeds the water rights appear to be specifically reserved or withheld. Based on this information I presently propose to disallow your claim which is based on Iron Creek water. If you have evidence which would show that you specifically have obtained water rights from Iron Creek please forward it to my attention at my office. Please note that your claim A71-10138 for use of your well is not affected.

If you have questions please feel free to contact me at my office.

Sincerely,


Allen B. Merritt, P.E.
Water Rights Supervisor

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