

Merritt, Allen

From: Merritt, Allen
Sent: Wednesday, April 27, 2011 8:22 AM
To: 'armand@safelink.net'
Subject: Banbury Pipeline water right

Armand,

Attached is a new map for the water right. Note that the boundary shown is the service area of the company. The boundary calculates out to about 675 acres but not all acres can be irrigated. The right is limited to 387.5 acres within the boundary.

Note that map given you the other day calculated out to be 277 acres so there are some areas outside of that shape that may be irrigated. I believe it is a matter of where the shares are in the company and who owns the shares and how much those shares allow for irrigation that may be the determining factors.



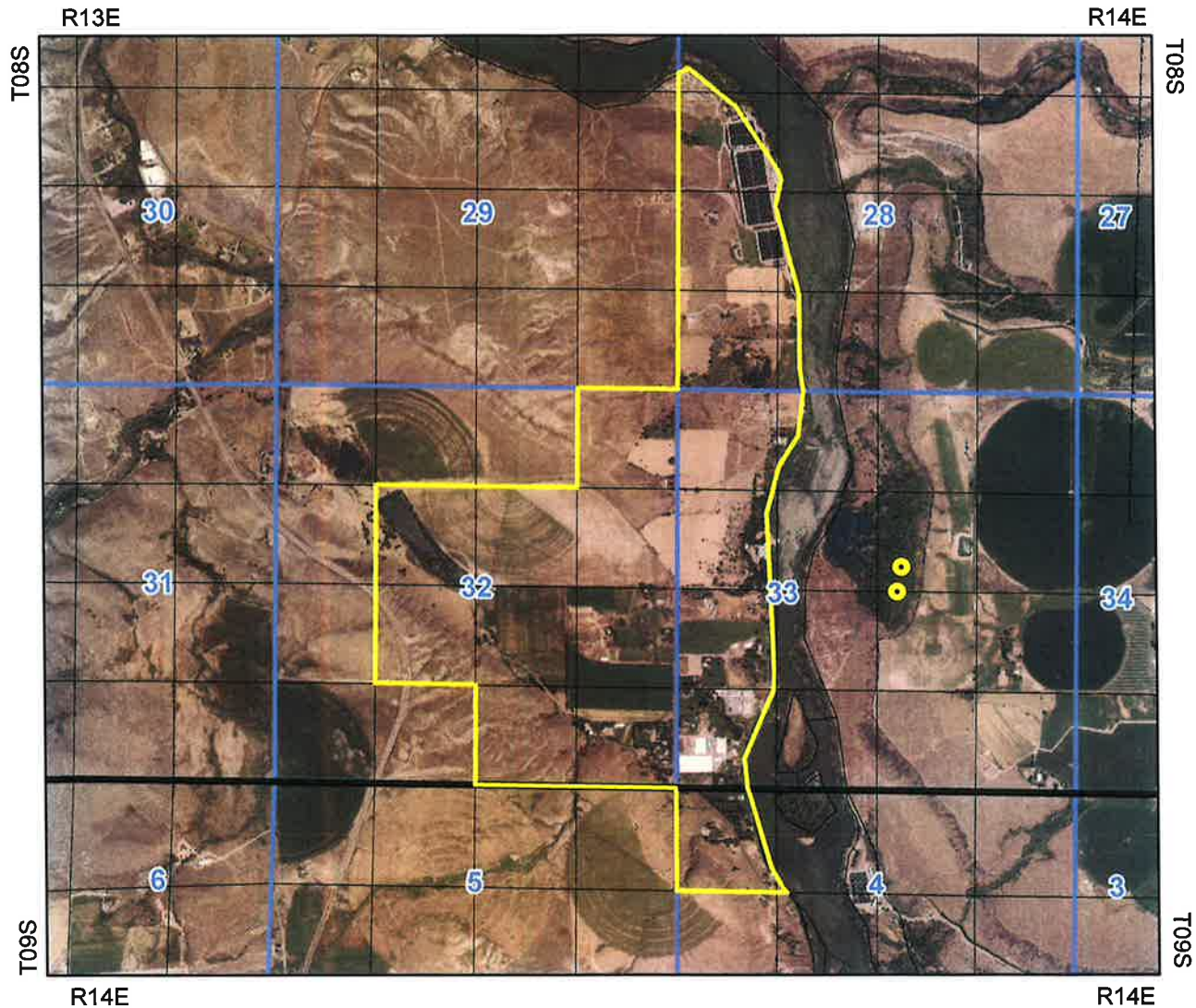
DOC.pdf

Allen

State of Idaho
Department of Water Resources
Water Right Decree
36-2038

This map depicts the IRRIGATION place of use boundary for this water right at the time of the decree
and is attached solely for illustrative purposes.

Note that the right is limited to irrigation of 387.5 acres within the boundary.



Legend

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.3 0.6 1.2 Miles



SRBA

PARTIAL DECREE 36-02038

Issued on 07-14-2000.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: BANBURY PIPE COMPANY
PO BOX 82
GOODING, ID 83330

SOURCE: BANBURY SPRINGS TRIBUTARY: SNAKE RIVER
SOURCE IS ALSO KNOWN AS BLIND SPRINGS.

QUANTITY: 13.25 CFS
35.00 AFY

THE QUANTITY OF WATER FOR STOCKWATER USE SHALL NOT EXCEED
13,000 GALLONS PER DAY.

THE QUANTITY OF WATER UNDER THIS RIGHT IN EXCESS OF 9.50 CFS
IS SUBORDINATED TO ALL GROUNDWATER AND SURFACE WATER RIGHTS
EXISTING AS OF APRIL 30, 1993.

PRIORITY DATE: 11/10/1922

POINT OF DIVERSION: T08S R14E S33 SWSWNE Within Gooding County
NWNWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	13.25 CFS
	Irrigation Storage	01-01 TO 12-31	35.00 AFY
	Irrigation from Storage	02-15 TO 11-30	35.00 AFY
	Stockwater Storage	01-01 TO 12-31	4.00 AFY
	Stockwater from Storage	01-01 TO 12-31	4.00 AFY
	Domestic 34 HOMES	01-01 TO 12-31	0.68 CFS
	Diversion to Storage	01-01 TO 12-31	1.80 CFS

PLACE OF USE: Irrigation Within Twin Falls County

T08S R14E S28 LOT 3 ()	LOT 4 ()	
LOT 7 ()		
S32	NENE	SWNE
	SENE	SENE
	NESW	NESE
	NWSE	SWSE
	SESE	
S33 LOT 2 ()	LOT 3 ()	
LOT 6 ()	LOT 7 ()	
T09S R14E S04 LOT 3 (NWNW)		

Irrigation Storage	Within Twin Falls County
Same as Federal Reserved Use	
Irrigation from Storage	Within Twin Falls County
Same as Federal Reserved Use	
Stockwater Storage	Within Twin Falls County
Same as Federal Reserved Use	
Stockwater from Storage	Within Twin Falls County
Same as Federal Reserved Use	
Domestic	Within Twin Falls County
Same as Federal Reserved Use	
Diversion to Storage	Within Twin Falls County
Same as Federal Reserved Use	

IRRIGATION UNDER THIS RIGHT IS LIMITED TO 387.5 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

THE SUBORDINATED PORTION OF THIS WATER RIGHT IN EXCESS OF 9.50 CFS SHALL NOT BE ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE, OR OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE, EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION FOR ANY SURFACE WATER OR GROUNDWATER RIGHTS EXISTING AS OF APRIL 30, 1993. IF THE SUBORDINATED PORTION IS AVAILABLE AT BANBURY SPRINGS (AKA BLIND SPRINGS), THAT WATER SHALL BE AVAILABLE FOR DIVERSION UNDER THIS 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).

[Return to SRBA Home Page](#)

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2038

WATER RIGHT NUMBER: 36-2038

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	PATRICK D BROWN C/O HUTCHINSON & BROWN LLP 104 LINCOLN ST PO BOX 207 TWIN FALLS, ID 83303-0207 (208)733-9300
Current Owner	BANBURY PIPE CO INC C/O DOUGLAS ELGAN PO BOX 82 GOODING, ID 83330

Priority Date: 11/10/1922

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BANBURY SPRINGS	SNAKE RIVER

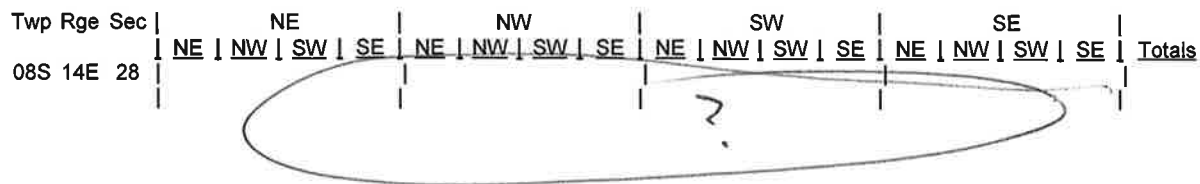
<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER STORAGE	1/01 to 12/31		4.00 AF
DIVERSION TO STORAGE	1/01 to 12/31	1.800 CFS	
DOMESTIC	1/01 to 12/31	0.680 CFS	
IRRIGATION	2/15 to 11/30	13.250 CFS	
IRRIGATION STORAGE	1/01 to 12/31		35.00 AF
STOCKWATER FROM STORAGE	1/01 to 12/31		4.00 AF
IRRIGATION FROM STORAGE	2/15 to 11/30		35.00 AF
	<u>Total Diversion:</u>	13.250 CFS	35.00 AF

Location of Point(s) of Diversion

BANBURY SPRINGS	NW1/4NW1/4SE1/4	Sec. 33, Twp 08S, Rge 14E, B.M.
GOODING County		
BANBURY SPRINGS	SW1/4SW1/4NE1/4	Sec. 33, Twp 08S, Rge 14E, B.M.
GOODING County		

Place of Use

IRRIGATION



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-2038

08S 14E 32		X		X	X			X		X			X	X	X	X	
08S 14E 33																	
09S 14E 4							X										
							L 3										

DOMESTIC same as IRRIGATIONSTOCKWATER FROM STORAGE same as IRRIGATIONIRRIGATION FROM STORAGE same as IRRIGATIONConditions of Approval:

1. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
2. THE QUANTITY OF WATER UNDER THIS RIGHT IN EXCESS OF 9.50 CFS IS SUBORDINATED TO ALL GROUNDWATER AND SURFACE WATER RIGHTS EXISTING AS OF APRIL 30, 1993.
3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4. DOMESTIC USE FOR HEATING AND COOLING PURPOSES.
5. IRRIGATION UNDER THIS RIGHT IS LIMITED TO 387.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
6. SOURCE ALSO KNOWN AS BLIND SPRINGS.
7. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
8. C18 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. SECTION 42-1412(6), IDAHO CODE.
9. THE SUBORDINATED PORTION OF THIS WATER RIGHT IN EXCESS OF 9.50 CFS SHALL NOT BE ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE, OR OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE, EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY SURFACE WATER OR GROUNDWATER RIGHTS EXISTING AS OF APRIL 30, 1993. IF THE SUBORDINATED PORTION IS AVAILABLE AT BANBURY SPRINGS (AKA BLIND SPRINGS), THAT WATER SHALL BE AVAILABLE FOR DIVERSION UNDER THIS RIGHT.

Remarks:Comments:

1. MERRITT 5/13/1991 COPIED FROM REMARKS
Comment: THE ORIGINAL LICENSE LISTED 621 ACRES AS IRRIGATED WITH 13.25 CFS DIVERSION RATE. FOR IRRIG. AND DOMESTIC PURPOSES. THE FIELD EXAM SUPPORTS ONLY 312 ACRES IRRIGATED AND POSSIBLY ONLY 10.5 CFS DIVERSION RATE. THIS CLAIM IS BASED ON THE 312 ACRES AND THE
2. SCHULTZ 2/19/1993 ADDED NEW ATTORNEY
Comment: RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93.
3. cyenter 9/27/2007 POD
Comment: Updated shape

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 36-2038

Dates and Other Information:

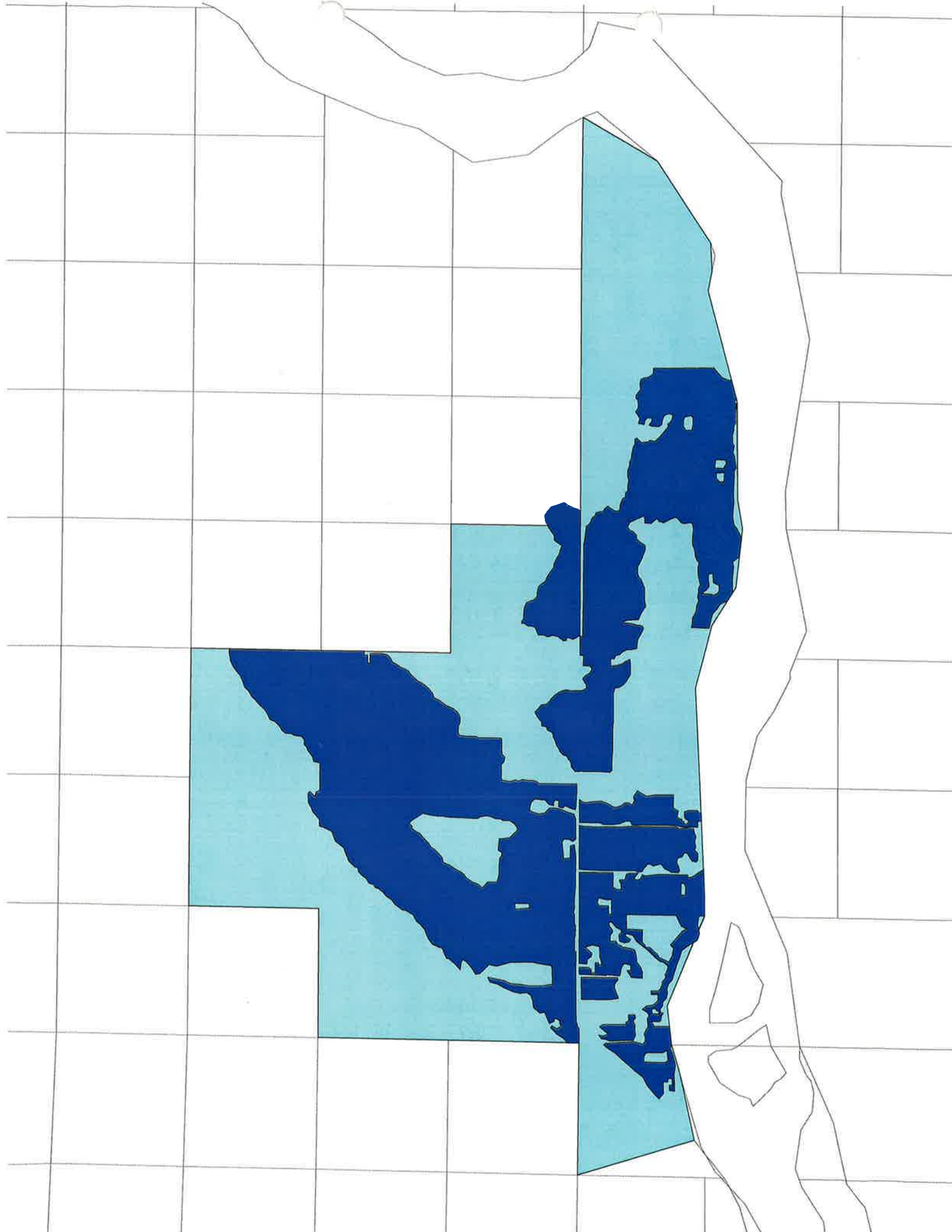
Licensed Date:
Decreed Date: 7/14/2000
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector: AND
Water District Number: 130
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

SubCase:

SubCase Number: 36-2038
Class: 2
SF5 Filed Date: 3/26/1999
Special Master Recom Signed Date: 3/1/2000
Attorney Assigned: NICHOLAS B SPENCER
Adjudication Agent:
Basis of Claim:
Date Filed: 4/29/1993 Objection Status: Decreed

Water Supply Bank:



Adjudication Recommendation Report 36-2038 V2

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	PATRICK D BROWN 109 S ADAMS ST JEROME, ID 83338 (208)644-1967
Current Owner	BANBURY PIPE COMPANY INC PO BOX 82 GOODING, ID 83330 (208)934-4509

Status: Active

SNAKE RIVER

BANBURY SPRINGS GOODING County	NW1/4NW1/4SE1/4	Sec. 33, Twp 08S, Rge 14E, B.M.
BANBURY SPRINGS GOODING County	SW1/4SW1/4NE1/4	Sec. 33, Twp 08S, Rge 14E, B.M.

IRRIGATION

[illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2038 V2

09S 14E 4			X			
			L 3			

STOCKWATER STORAGE same as IRRIGATION
DIVERSION TO STORAGE same as IRRIGATION
DOMESTIC same as IRRIGATION
IRRIGATION STORAGE same as IRRIGATION
STOCKWATER FROM STORAGE same as IRRIGATION
IRRIGATION FROM STORAGE same as IRRIGATION

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 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. SECTION 42-1412(6), IDAHO CODE.
3. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Remarks:

1. General THE SUBORDINATED PORTION OF THIS WATER RIGHT IN EXCESS OF 9.50 CFS SHALL NOT BE ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE, OR OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE, EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY SURFACE WATER OR GROUNDWATER RIGHTS EXISTING AS OF APRIL 30, 1993. IF THE SUBORDINATED PORTION IS AVAILABLE AT BANBURY SPRINGS (AKA BLIND SPRINGS), THAT WATER SHALL BE AVAILABLE FOR DIVERSION UNDER THIS RIGHT.
2. Source SOURCE ALSO KNOWN AS BLIND SPRINGS.
3. Quantity THE QUANTITY OF WATER UNDER THIS RIGHT IN EXCESS OF 9.50 CFS IS SUBORDINATED TO ALL GROUNDWATER AND SURFACE WATER RIGHTS EXISTING AS OF APRIL 30, 1993.
4. Place of Use - Irrigation IRRIGATION UNDER THIS RIGHT IS LIMITED TO 387.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. Purpose of Use DOMESTIC USE FOR HEATING AND COOLING PURPOSES.

Comments:

1. MERRITT 5/13/1991 COPIED FROM REMARKS
 Comment: THE ORIGINAL LICENSE LISTED 621 ACRES AS IRRIGATED WITH 13.25 CFS DIVERSION RATE. FOR IRRIG. AND DOMESTIC PURPOSES. THE FIELD EXAM SUPPORTS ONLY 312 ACRES IRRIGATED AND POSSIBLY ONLY 10.5 CFS DIVERSION RATE. THIS CLAIM IS BASED ON THE 312 ACRES AND THE
2. SCHULTZ 2/19/1993 ADDED NEW ATTORNEY
 Comment: RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 36-2038 V2

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag: NONE RECEIVED
State or Federal: S
Owner Name Connector: AND
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

SubCase:

SubCase Number: 3602038
Class: 2
SF5 Filed Date: 3/26/1999
Special Master Recom Signed Date: 3/1/2000
Attorney Assigned: NICHOLAS B SPENCER
Date Filed: 4/29/1993 Objection Status: Decreed

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2038 V1

WATER RIGHT NUMBER: 36-2038 V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	PATRICK D BROWN PARKER WARR & BROWN LLP 812 SHOSHONE ST E BUHL, ID 83316 (208)735-8812
Current Owner	BANBURY PIPE COMPANY INC C/O DWAIN KNIGGE 4799A RIVER RD BUHL, ID 83316 (208)934-4509

Priority Date: 11/10/1922

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
BANBURY SPRINGS	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15	11/15	6,240 CFS	
STOCKWATER	1/01	12/31	0.050 CFS	
	<u>Total Diversion:</u>		6.290 CFS	

Location of Point(s) of Diversion

BANBURY SPRINGS	SW1/4SW1/4NE1/4	Sec. 33, Twp 08S, Rge 14E, B.M.
GOODING County		
BANBURY SPRINGS	NW1/4NW1/4SE1/4	Sec. 33, Twp 08S, Rge 14E, B.M.
GOODING County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	14E	28											22.0						22.0
													L 7						
08S	14E	29															4.0		4.0
08S	14E	32	13.0		35.0	12.0				14.0	1.0				39.0	34.0	3.0	27.0	178.0
08S	14E	33						32.0	16.0			34.0	19.0						101.0
								L 2	L 3			L 6	L 7						
09S	14E	4						7.0											7.0
								L 3											

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2038 V1

Total Acres: 312

STOCKWATER same as IRRIGATIONConditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

1. General SOURCE ALSO KNOWN AS BLIND SPRINGS.
RIGHT NO. 36-10906 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Comments:

1. MERRITT 5/13/1991 COPIED FROM REMARKS

Comment: THE ORIGINAL LICENSE LISTED 621 ACRES AS IRRIGATED WITH 13.25 CFS DIVERSION RATE. FOR IRRIG. AND DOMESTIC PURPOSES. THE FIELD EXAM SUPPORTS ONLY 312 ACRES IRRIGATED AND POSSIBLY ONLY 10.5 CFS DIVERSION RATE. THIS CLAIM IS BASED ON THE 312 ACRES AND THE 13.25 CFS RATE. ANOTHER CLAIM BASED ON BENEFICIAL USE IS BEING FILED TO COVER THE ADDITIONAL ACRES AND OTHER USES FROM THE SYSTEM. THE SYSTEM PRESENTLY SERVES 26 HOUSES DOMESTIC WATER. IT IS NOT KNOWN THE EXTENT OF THE DOMESTIC USE COVERED UNDER THE ORIGINAL LICENSE BUT ALL THE DOMESTIC USES ARE INCLUDED IN CLAIM A36-10906. THE STOCKWATER LISTED ON THIS CLAIM ARE IN THE SAME DESCRIPTIONS AS THE IRRIG. USES. THE WATER FROM THIS PIPELINE NO LONGER SERVES THE BANBURY NATATORIUM. THE ACRES SERVED UNDER THIS CLAIM HAVE BEEN SHIFTED AROUND FOR CONVENIENCE WHEN DETERMINING EXPANSION OF THE SYSTEM CLAIMED UNDER A36-10906.

2. SCHULTZ 2/19/1993 ADDED NEW ATTORNEY

Comment: RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93.

3. SSHERMAN 2/1/1999 ADDRESS CHANGE

Comment: NOTICE FROM ATTORNEY PAT BROWN OF CHANGE OF ADDRESS FOR BANBURY PIPE CO. ALSO UPDATED PAT BROWN'S ADDRESS TO CURRENT FIRM.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag: NONE RECEIVED

State or Federal: S

Owner Name Connector: AND

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 36-2038 V1

SubCase:

SubCase Number: 3602038
Class: 2
SF5 Filed Date: 3/26/1999
Special Master Recom Signed Date: 3/1/2000
Attorney Assigned: NICHOLAS B SPENCER
Date Filed: 4/29/1993 Objection Status: Decreed