

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-2005

NAME AND ADDRESS: CHERRY GROVE CANAL CO
C/O PAT OCONNOR
127 W 400 S
VICTOR ID 83455

SOURCE: DARBY CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 1.020 CFS

PRIORITY DATE: 12/03/1904

POINT OF DIVERSION:

T04N R46E S17 SWNWNE Lot 1 Within TETON County

T04N R46E S18 NESENE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	1.020 CFS

PLACE OF USE:

992.3 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Place of use is within the area served by Cherry Grove Canal Company.

The rights listed below are limited to the irrigation of a combined total of 992.3 acres in a single irrigation season. Combined Right Nos.: 22-96, 22-218, 22-2005, and 22-13331.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

The following rights are diverted through point(s) of diversion described above: 22-96, 22-218, 22-2005, and 22-13331.

CREATED BY
JUN 18 2008
J LARSEN

12/19/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-2005

DISALLOWED

NAME AND ADDRESS: CHERRY GROVE CANAL CO
C/O PAT OCONNOR
127 W 400 S
VICTOR ID 83455

SOURCE: DARBY CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 1.020 CFS

PRIORITY DATE: 12/03/1904

POINT OF DIVERSION:

T04N R46E S17 SWNWNE Lot 1 Within TETON County

T04N R46E S18 NESENE Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

1.020 CFS

PLACE OF USE:

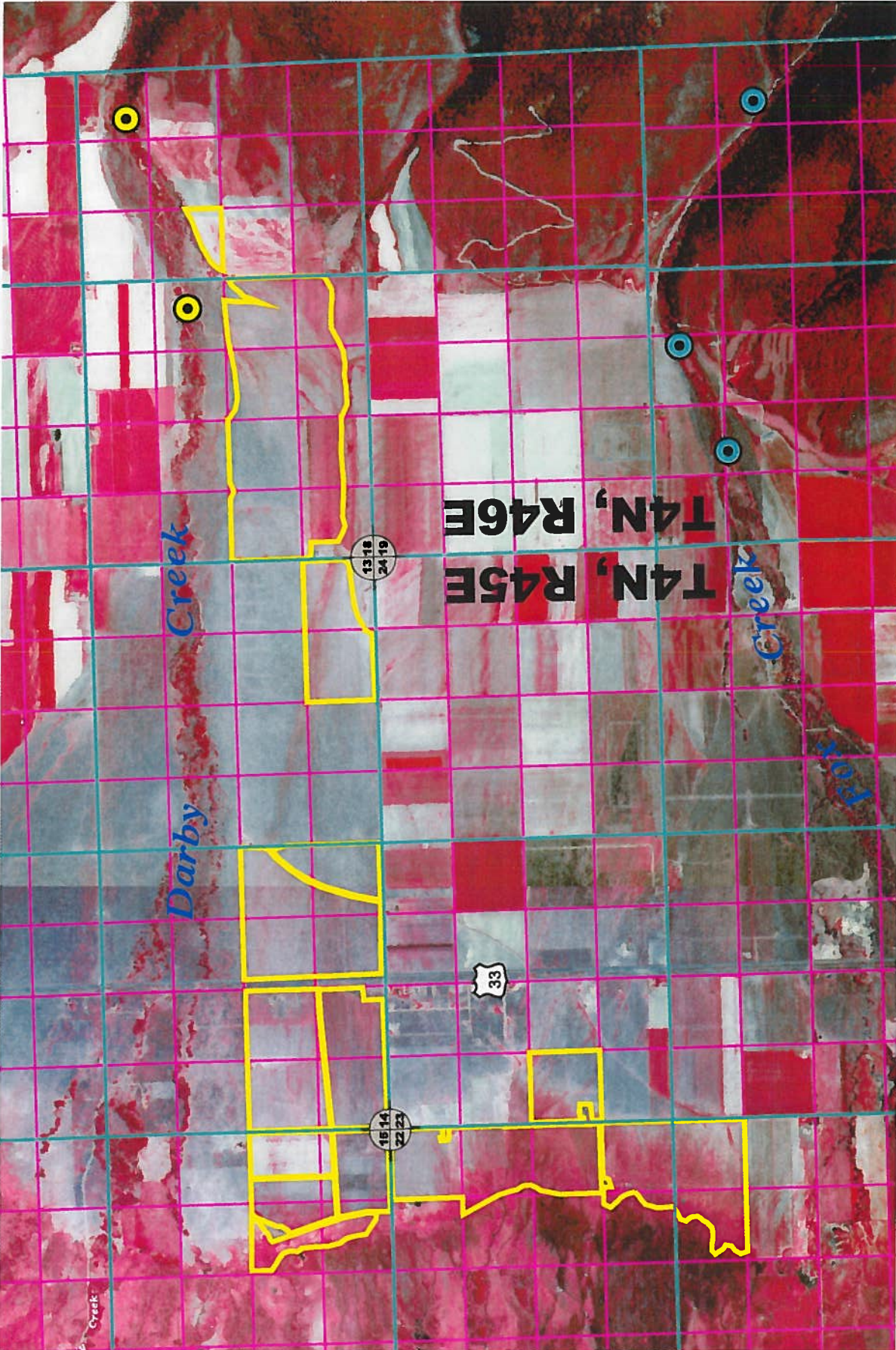
992.3 ACRES TOTAL

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

Change in use; insufficient evidence of date of change.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

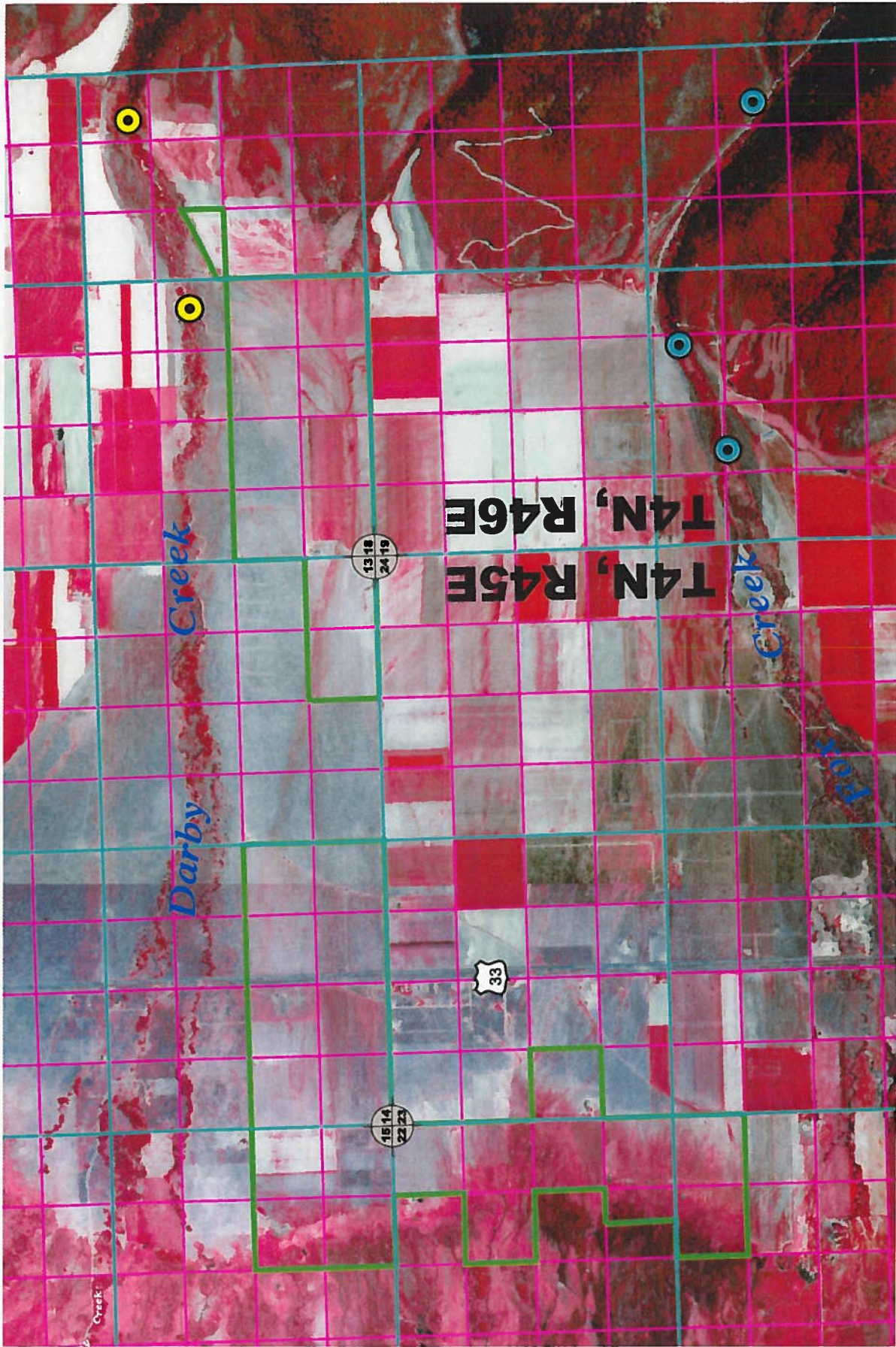
Change in use, insufficient evidence of date of change: This is included for a claim that is proposed to be disallowed because use of the water right was changed without prior IDWR approval and the claimant did not submit sufficient evidence from which the date of the change could be determined. The date of change is necessary to determine if the right may be claimed as changed without prior IDWR approval, and if the change will result in injury to other water right holders.



CONFIRMED

Irrigated Place of Use

MAR 17 2005



Cherry Grove Canal Company

Water Right(s): 22-00096, 22-00281, 22-02005, 22-13331

Place of Use Boundary

MEMORANDUM to FILE

Date: June 18, 2008
To: Adjudication Claim 22-2005
From: Joseph Larsen
Re: Transfer Evaluation

The priority of this claim is valid based on the August 1976 Water District 01 *Decreed Water Rights* report that lists 22-2005 as having a priority of 3Dec1904 for 1.02 cfs of water. A copy of page 60 of this report, that shows right 22-2005, is attached to this memo.

Rights on Upper Teton River and Tributaries (continued)
Listed in Downstream Order

Party or Canal	Orig. Canal	Date	Decreed Amount in Sec.-ft.	Accumulated Total
<u>DARBY CREEK (Continued)</u>				
<u>Cherry Grove Irrigation Co.</u>				
1-0126 V. Foster (C. Nordval)		June 1, 1895 ✓	1.0 ✓	1.0
C. Mangum (G.W. Bush)		June 1, 1896.	2.0	
1-0216 E. Winger (Ira Crandall, TR 635) <i>Garden Water Co</i>		June 1, 1896 ✓	1.47 ✓	2.35 ✓
1-0419 A. Winger (L.P. Peterson) TR 635 <i>Garden Water Co</i>		June 1, 1896 ✓	2.35 ✓	
1-0572 V. A. Price Teton Co. (D. Walton)		June 1, 1896 ✓	2.4 ✓	3.2 ✓
1-0373 C. Barton (K.M. Larson) TR 635 <i>Garden Water</i>		June 1, 1896 ✓	0.59 ✓	
2-0406 W. Casper (T.E. Murphy)		June 1, 1896 ✓	3.2 ✓	2.35 ✓
2-0375 R. Mackley (P. Larson, TR 635) <i>Garden Water Co</i>		June 1, 1896 ✓	2.35 ✓	
1-0369 W. L. Fulmer (A.C. Larsen, TR 635) <i>Garden Water Co</i>		June 1, 1896 ✓	0.29 ✓	2.35 ✓
2-0416 W. Bergener (E. Pascoe, TR 635) <i>Garden Water Co</i>		June 1, 1896 ✓	2.35 ✓	
1-0318 C. W. Hendrick (A. Hill)		June 1, 1897 ✓	1.5 ✓	18.0
2-0218 D. Price (H. L. Crandall)		June 1, 1897 ✓	0.4 ✓	20.3
1-0186 Teton Co. A. E. Taylor (G.W. Bush)		June 1, 1897 ✓	0.4 ✓	
1-0127 V. Foster (C. Nordval)		May 26, 1899 ✓	2.2 ✓	23.7
1-0530 A. Price (C. V. Soulcey)		June 1, 1899 ✓	1.2 ✓	
1-0005 (A. M. Moulton)		Dec. 3, 1904 ✓	1.02 ✓	24.72
1-0531 D. Price (C. V. Soulcey)		June 1, 1906 ✓	2.0 ✓	26.72
1-0096 Cherry Grove Canal Co.		Jan. 22, 1916 ✓	29.6 ✓	56.32
<u>DARBY CREEK MISCELLANEOUS</u>				
1-0219 V. Little (H. L. Crandall)		June 1, 1898 ✓	1.2 ✓	1.6
1-0217 V. Little (Ira Crandall)		June 1, 1898 ✓	0.4 ✓	
1-0043 Eli Lewis		Jan. 22, 1916 ✓	2.4 ✓	8.8
1-0082 R. C. Murdock		Jan. 22, 1916 ✓	0.8 ✓	
1-0091 C. Christensen, E. Murdock (A. Murdock)		Jan. 22, 1916 ✓	3.2 ✓	8.8
1-0092 E. Murdock (E. Christensen)		Jan. 22, 1916 ✓	0.8 ✓	
1-0106 A. Murdock (Lic. 14931)		Sept 1, 1920 ✓	5.6 ✓	14.4
Total Rights on Darby Creek				251.02

Notes

11/21/06 This was not licensed to Cherry Grove Canal co.

Cherry Grove is not an entity. Ray Righy, attorney is trying to get this reinstated. Also, I think this should be "A", there is a Waterright license 1061 with an "A" and "B" portion.

SCANNED

JUN 19 2007

.....
Fremont County
Darby Creek
1.02 sec. ft.
Irrigation
Priority 12-3-04
.....

S T A T E O F I D A H O

- Water License No. 1061 -

WHEREAS, On the third day of December, A. D. 1904, Alma M. Moulton, of Driggs, County of Fremont, State of Idaho, duly made application (No. 1362) to me for a permit to use three and one-fifth second feet of the waters of Darby Creek, County of Fremont, State of Idaho, for irrigation and domestic purposes, and,

WHEREAS, On the twenty-fourth day of January, A. D. 1905, Permit No. 1061 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 24th day of January, A. D. 1907, and for the application to beneficial use of said water on or before the 24th day of January, A. D. 1910, and,

WHEREAS, On the twenty-fourth day of November, A. D. 1906, the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.23 cubic feet per second of said waters, as evidenced by my Certificate No. 1061, dated January 8, 1907, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 2.23 cubic feet per second of water, with date of priority of December 3, 1904, and,

WHEREAS, On the twenty-fourth day of November, A. D. 1906, the holder of said permit duly made proof of the application to beneficial use of 1.02 cubic feet per second of said water:

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to ALMA M. MOULTON of Driggs, County of Fremont, State of Idaho, the holder and owner of said Permit No. 1061 a perpetual right, dating from December 3, 1904, to the use of one and two-onehundredths cubic feet per second of the waters of Darby Creek, in the County of Fremont, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point 1200 feet west and 400 feet south of S. W. Cor. NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 17, Tp. 4 N., R. 46 E. B. M., thence through the Cannon Canal and diverted into private ditch of said Alma M. Moulton at a point 600 feet north of S. W. Cor. of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 12, T. 4 North, Range 45 E. B. M., and conducted to and upon 18 acres in NW $\frac{1}{4}$ of NW $\frac{1}{4}$, 8 acres in NE $\frac{1}{4}$ of NW $\frac{1}{4}$, 18 acres in SE $\frac{1}{4}$ of NW $\frac{1}{4}$, and 7 acres in SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 12, Tp. 4 North, Range 45 East of Boise Meridian, for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

Witness, My hand and the seal of my office at Boise, Idaho, this eighth day of January, A. D. Nineteen hundred and seven.
(Seal)

Jas. Stephenson, Jr.

State Engineer

22 JUL 5 a
SCANNED

JUN 19 2007

02/04/2005

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:

Water right number: 22-2005

CHERRY GROVE CANAL CO

C/O PAT OCONNOR

127 W 400 S

VICTOR ID 83455

Telephone Number: (208) 354 2564

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 AGREE with this proposed recommendation: no changes need to be made.

DATE: 06.26.05

SIGNATURE: Pat O'Connor

Please print your name:

Pat O'Connor

IDWR Regional Office,

PROFILED

SCANNED
JUL 13 2005

RECEIVED
JUL 12 2005
Department of Water Resources
Eastern Region

KMT
7/12

Water Right Number 22-2005

Recommended as Claimed

☐ Claimed as Beneficial Use, ☒ Claimed as Licensed, ☐ Claimed as Decreed

NOTES:

COMBINED USB WITH: 22-00096, 22-00201 AND 22-13331
SEE 22-00096 FOR EXAM AND CONTACT NOTES

PRO

SCANNED

MAR 17 2005

\$50.00

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 22-2005
Date Received: 11/5/2004
Receipt No: E030482
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CHERRY GROVE CANAL CO Phone: (208) 354 2564
C/O PAT OCONNOR
127 W 400 S
VICTOR ID USA 83455

2. Date of Priority: 12/03/1904

3. Source: DARBY CREEK , DARBY CREEK Trib. to: TETON RIVER , TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
04N	46E	18	NE	SE	NE	TETON	
04N	46E	17	SW	NW	NE 1	TETON	

5. Description of diverting works:
gated diversions off creek.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	1.02	

7. Total Quantity Appropriated is:
1.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
04N	45E	13	SW	SE	IRRIGATION	38
			SE	SE	IRRIGATION	28
			Section Acres		66	
04N	45E	14	NE	SW	IRRIGATION	39
			NW	SW	IRRIGATION	39
			SW	SW	IRRIGATION	37
			SE	SW	IRRIGATION	35
			NE	SE	IRRIGATION	39

SCANNED

			NW	SE	IRRIGATION	34
			SW	SE	IRRIGATION	32
			SE	SE	IRRIGATION	37
					Section Acres	292
04N	45E	15	NE	SE	IRRIGATION	38
			NW	SE	IRRIGATION	27
			SW	SE	IRRIGATION	16
			SE	SE	IRRIGATION	37
					Section Acres	118
04N	45E	22	NE	NE	IRRIGATION	38
			SW	NE	IRRIGATION	2.3
			SE	NE	IRRIGATION	38
			NE	SE	IRRIGATION	37
			SW	SE	IRRIGATION	6
			SE	SE	IRRIGATION	39
					Section Acres	160.3
04N	45E	23	NW	SW	IRRIGATION	38
					Section Acres	38
04N	45E	27	NE	NE	IRRIGATION	39
			NW	NE	IRRIGATION	25
					Section Acres	64
04N	46E	17	SW	NW	IRRIGATION	11
					Section Acres	11
04N	46E	18	NE	SW	IRRIGATION	40
			NW	SW	IRRIGATION	40
			SW	SW	IRRIGATION	19
			SE	SW	IRRIGATION	24
			NE	SE	IRRIGATION	36
			NW	SE	IRRIGATION	36
			SW	SE	IRRIGATION	27
			SE	SE	IRRIGATION	21
					Section Acres	243
					Total Acres	992.3

11. Place of use in counties: TETON

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Decreed

SCANNED

MAR 17 2005

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 Organizations:

I do solemnly swear or affirm that I am Representative of
Title
Cherry Grove Canal Co. that I have signed the foregoing
Organization

document in the space below as Representative of
Title
Cherry Grove Canal Co. and that the statements contained in the
Organization
foregoing document are true and correct.

Pat O'Connor
Signature of Authorized Agent

Rep. Cherry Grove Canal Co.
Title and Organization

11/19/04
Date

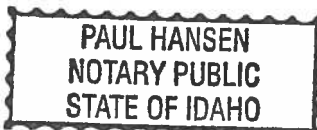
State of Idaho)
County of Teton) SS.

Subscribed and sworn (or affirmed) before me this
of 11/19/2004

Paul Hansen
Notary Public

Residing at Teton County, ID

My commission Expires 8/4/09



SCANNED

MAR 17 2005