

Page _____ of _____

Transfer No. 75039

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of Applicant Cherry Grove LLC Phone (208) 354-7325Mailing Address c/o Julie Bryan, PO Box 6834, Jackson, WY 83002 Email _____**A. PURPOSE OF TRANSFER**

1. ☐ Change Point of Diversion ☐ Add diversion point(s) ☐ Change Place of use
☒ Change Nature of Use ☒ Change Period of Use ☐ Other _____

2. Describe the reason for the proposed changes: Change nature of use of a portion of the described surface water rights for fill and maintenance of the north pond in the Cherry Grove Subdivision

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number Priority Amount Nature of Use Period of Use

22-13873	6/01/1897	0.02 cfs	Diversion to Storage	4/15 to 10/31
		5.4 AF	Fire Protection Storage	1/01 to 12/31
		1.09 cfs	Irrigation	4/15 to 10/31
22-13875	6/01/1899	0.01 cfs	Diversion to Storage	4/15 to 10/31
		5.4 AF	Fire Protection Storage	1/01 to 12/31
		0.68 cfs	Irrigation	4/15 to 10/31

2. Total amount of water being transferred 0.03 cubic feet per second and/or 5.4 acre-feet per annum.
3. Source of water Fox Creek tributary to Teton River
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
	SE	SW	NE	25	4N	45E	TETON	
4	SW	SW	NE	29	4N	46E	TETON	
6	NE	NW	NE	30	4N	46E	TETON	
	NW	SE	NW	30	4N	46E	TETON	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	46E	18											38	39.3					77.3
													FJ						
		19						38.8											38.8
								L1											

Total Acres 116.1

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PART 1**6. General Information:**

- a. Description of diversion system: Water is diverted through the Fox Creek Canal Company's points of diversion and delivered through the Rock Road Pipeline
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ☐ Yes ☒ No If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: 2.5 acres will no longer be irrigated
- d. Remarks: Cherry Grove Subdivision has two ponds for fire protection. The South Pond fits within the domestic exemption. The North Pond is covered by this application, which intends to change the nature of use to fill and maintain the pond.
-

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Right No. _____

And said application is hereby _____, subject to the following conditions:

Witness my hand this _____ day of _____, 20__

for the Director

08/11/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

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RIGHT NUMBER: 22-13873

NAME AND ADDRESS: CHERRY GROVE LLC
C/O JULIE BRYAN
PO BOX 6834
JACKSON WY 83002

SOURCE: FOX CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 1.110 CFS

PRIORITY DATE: 06/01/1897

POINT OF
DIVERSION:

T04N R45E S25 SESWNE Within TETON County
T04N R46E S29 SWSWNE Lot 4 Within TETON County
T04N R46E S30 NENWNE Lot 6 Within TETON County
T04N R46E S30 NWSNW 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	1.110 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R46E S18 Lot 4 SWSW	T04N R46E S19	NENW
	T04N R46E S19 Lot 1 NWNW		

118.6 ACRES TOTAL

Place of use is within the area served by Fox Creek Canal Company.

The rights listed below are limited to the irrigation of a combined total of 118.6 acres in a single irrigation season. Combined Right Nos.: 22-13873, 22-13875.

This right is limited to the irrigation of 74 acres within the place of use described above in a single irrigation season.

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 - Decreed

This right is a combination of portions of old Right No.: 22-433.

Water is delivered through Fox Creek Canal.

This right is a split from former right 22-12165 .

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08/11/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-13875

NAME AND ADDRESS: FOX CREEK CANAL CO
C/O DAWN STONE SEC
494 S 50 W
VICTOR ID 83455

FOX CREEK CANAL CO
C/O RANDALL FOSTER PRES
402 S 200 E
DRIGGS ID 83422

SOURCE: FOX CREEK TRIBUTARY: TETON RIVER

QUANTITY: 0.690 CFS

PRIORITY DATE: 06/01/1899

POINT OF
DIVERSION:

T04N R45E S25 SESWNE Within TETON County
T04N R46E S29 SWSWNE Lot 4 Within TETON County
T04N R46E S30 NENWNE Lot 6 Within TETON County
T04N R46E S30 NWSENW 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	0.690 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R46E S18 Lot 4 SWSW	38.60	T04N R46E S18 SESW 40.00
	T04N R46E S19 Lot 1 NWNW	40.00	

118.6 ACRES TOTAL

Place of use is within the area served by Fox Creek Canal Company.

This right is limited to the irrigation of 46 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 118.6 acres in a single irrigation season. Combined Right Nos.: 22-13873, 22-13875.

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 - Decreed

This right is a split from former right 22-12166 .

This right is a combination of portions of old Right Nos.: 22-434.

Water is delivered through Fox Creek Canal.

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10. To your knowledge, has any portion of these water rights (22-13873 and 22-13875) undergone a period of five or more consecutive years of non-use? NO If yes, describe _____

B. CHANGES IN NATURE OF USE

1.	New Nature of Use	Amount (cfs/af-ac)	Hours/days/year	Period of use
	<u>Diversion to Storage</u>	<u>0.03 cfs</u>	<u>24h/200d/yr</u>	<u>4/15 to 10/31</u>
	<u>Fire Protection Storage</u>	<u>5.40 ac-ft</u>	<u>24h/365d/yr</u>	<u>1/01 to 12/31</u>

2. Quantity and quality of return flows and location of discharge: All water diverted into the pond will be consumptively used. Only enough water to compensate for evaporation will be diverted to the ponds. All other water diverted onto the property will be used for irrigation.

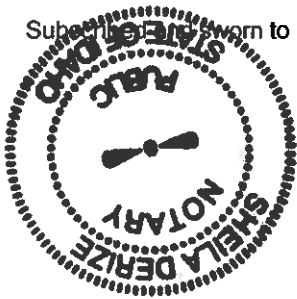
3. Describe effects on other water uses resulting from the proposed change: Because the same volume of water will be diverted down the canals, it is not anticipated to injure any other users of the canal.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

[Signature] (Signature of Applicant) T. H. F. Bryan (dba) Print Name (and title, if applicable) Cherry Grove, LLC

Subscribed and sworn to before me this 5th day of August, 2008.



[Signature]
(Notary Public)

My Commission expires: April 18, 2013

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments
Received by _____ Date _____ Protest filed by _____
Prelim check by _____ Fee 100 -
Receipted by _____ Date 8/25/08 ED34361
Published in _____ Copies of protest forwarded by _____
Pub. Dates _____ Hearing held by _____ Date _____
Watermaster recommendations requested on _____ Recommended for ☐ approval ☐ denial
_____ received _____ By _____
Copy of transfer sent to lien holder _____

Mitigation Plan Cherry Grove LLC

Applicants propose to excavate a fire pond within the SWSW of Section 18, T4N R46E. The pond will have a surface area of 0.5 acre and a volume of 4.5 AF. This transfer proposes to use overlapping surface water rights 22-13873 and 22-13875 for filling and maintaining the pond due to evaporation losses.

Calculations were based on precipitation and evaporation data collected at the Driggs NOAA 102676 station. Historical consumptive use was based on irrigation of alfalfa-less frequent cuttings. This data was input into the Pond Calculations spreadsheet attached to determine the historical consumptive use of 2.19 AF/acre.

In order to fill the pond of 4.5 AF, 2.1 acres are required ($4.5 \text{ AF} / 2.19 \text{ AF/ac} = 2.1 \text{ ac}$) to be dried up. The pond should only require one first-time fill. In subsequent years, losses to evaporation during the off-season will necessitate topping off the pond at the beginning of the irrigation season due to evaporation over the off-season.

Evaporative losses annually have been calculated on the Pond Calculation spreadsheet to be 0.9 AF. Losses will be minimal to none from October to March. However, during the irrigation season, it will be necessary to maintain the level of the pond due to the losses. Based on the historical consumptive use of 2.19 AF/ac, 0.4 acres will be sufficient to provide a loss of 0.9 AF.

To fill and maintain the pond, a total of 2.5 acres (2.1 ac Fill + 0.4 ac Evap.) of irrigated ground will be required. The following table indicates the origin of the acres that will be dried up. More acres are actually available to be dried up than is required.

T4N R46E	Sec 18		Sec 19	Total
	SWSW	SESW	NWNW	
Roadways				
Road Length	1055	1364	1475	3894
Width	24	24	24	24
Area (sf)	25320	32736	35400	93456
Area (ac)	0.58	0.75	0.81	2.15
Ponds				
			0.4	0.4
Total Acres Dried Up*	0.6	0.7	1.2	2.5
Acres Recommended	38.6	40	40	118.6
Remaining*	38.0	39.3	38.8	116.1

*Figures have been rounded

Pond Calculations
Climate Station: Driggs (NWS NOAA 102676)
Project Name: Cherry Grove, LLC

Pond Consumptive Use Calculations

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Annual FWW Evaporation (inches)	35	35	35	35	35	35	35	35	35	35	35	35	35
Monthly Distribution (%) #1	1	2	4	7	12	15	19	16	11	6	4	3	100
Monthly FWS Evaporation (in/mo)	0.35	0.7	1.4	2.45	4.2	5.25	6.65	5.6	3.85	2.1	1.4	1.05	35
Avg. Total Precipitation (in/mo) #2	1.42	1.09	1.1	1.24	1.9	1.84	1.11	1.19	1.3	1.23	1.07	1.38	15.87
Pond Loss ((Evap.) - (Precip. in.)) #3	0	0	0.3	1.21	2.3	3.41	5.54	4.41	2.55	0.87	0.33	0	20.92
Pond Surface Area (acres)	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Total Pond Loss (ac-in)	0.0	0.0	0.2	0.6	1.2	1.7	2.8	2.2	1.3	0.4	0.2	0.0	10.5
Total Pond Loss (ac-ft)	0.0	0.0	0.0	0.1	0.1	0.1	0.2	0.2	0.1	0.0	0.0	0.0	0.9 #7

Irrigation Consumption Crop

Alfalfa-less freq cuttings (mm/yr)	667
Mean Irr. Requirement (ac-in/ac/seas.) =	26.3
Mean Irr. Requirement (ac-ft/ac/seas.) =	2.19
Acres to dry up for pond use =	0.40

Summary

Original Surface Water Right	22-13873	Diversion Rate (cfs)	1.11	Place of Use (acres)	118.6	cfs per acre	0.009	AF per acre (#6)	2.19	Diversion Rate (cfs)	0.69	Place of Use (acres)	118.6	cfs per acre	0.006	AF per acre (#6)	2.19
Amount of Water Needed For Evaporation	22-13873	Surf Area (acres)	0.5	Acres Equivalent to Evaporation Use (#8)	0.4	cfs required	0.004	AF Required	0.9	Surf Area (acres)	0.5	Acres Equivalent to Evaporation Use (#8)	0.4	cfs required	0.002	AF Required	0.9
Amount of Water Needed for Pond Fill	22-13873	Volume (AF)	4.5	Acres Equivalent to Pond Fill	2.1	cfs required	0.019	AF Required	4.5	Volume (AF)	4.5	Acres Equivalent to Pond Fill	2.1	cfs required	0.012	AF Required	4.5
Total Water Needed for Transfer	22-13873	Evap	0.004	Pond Fill	0.019	Sum	0.023	Rounded	0.02	Evap	0.002	Pond Fill	0.012	Sum	0.014	Rounded	0.01
		cfs	0.004							cfs	0.002						
		AF	0.9							AF	0.9						
		acres	0.4							acres	0.4						

#1 - Molau, Myron, Kpordze, Kojo C.S., and Craine, Katherine L., 1992. Monthly shallow pond evaporation in Idaho. ASAE paper PNW 92-111.
#2 - Data collected from the Western Regional Climate Summary, Monthly Climate Summary @ <http://www.wroc.dri.edu/summary/Climsumid.html> - See attached:
#3 - Note: for months where precipitation exceeds evaporation, the resultant pond loss is set to zero
#4, 5 & 6 - [http://www.kimberly.uidaho.edu/ET/Idaho/Precipitation Deficit values used synonymously w/mean irrigation requirement. Values from Allen, Richard G. & Clarence W. Robison, 2006 \(Revised 2007\). Evapotranspiration & Consumptive Irrigation Water Requirements - Idaho, Research Technical Completion Report, Kimberly Research & Extension Center, University of Idaho, Moscow, ID.](http://www.kimberly.uidaho.edu/ET/Idaho/Precipitation%20Deficit%20values%20used%20synonymously%20w/mean%20irrigation%20requirement.%20Values%20from%20Allen,%20Richard%20G.%20&%20Clarence%20W.%20Robison,%202006%20(Revised%202007).%20Evapotranspiration%20&%20Consumptive%20Irrigation%20Water%20Requirements%20-%20Idaho,%20Research%20Technical%20Completion%20Report,%20Kimberly%20Research%20&%20Extension%20Center,%20University%20of%20Idaho,%20Moscow,%20ID.)

Cherry Grove, LLC : Consumptive Use Values

Western Climate Summary

@<http://wrcc.dri.edu/summary/Climsmsid.html>

DRIGGS, IDAHO (102676)

Period of Record Monthly Climate Summary

Period of Record : 8/ 1/1904 to 12/31/2007

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Average Max. Temperature (F)	29.3	33.8	40.4	51.7	62.2	71.1	80.7	79.3	69.9	58.0	41.1	31.4	54.1
Average Min. Temperature (F)	6.0	9.1	16.3	25.5	33.4	39.8	45.9	43.7	36.1	27.6	17.6	8.4	25.8
Average Total Precipitation (in.)	1.42	1.09	1.10	1.24	1.90	1.84	1.11	1.19	1.30	1.23	1.07	1.38	15.87
Average Total SnowFall (in.)	15.1	8.7	8.8	4.7	1.8	0.3	0.0	0.0	0.6	2.0	8.5	14.9	65.5
Average Snow Depth (in.)	12	14	7	1	0	0	0	0	0	0	1	6	3

Percent of possible observations for period of record.

Max. Temp.: 94.4% Min. Temp.: 94% Precipitation: 94.3% Snowfall: 83.3% Snow Depth: 49.9%

Check [Station Metadata](#) or [Metadata graphics](#) for more detail about data completeness.

ET_{Idaho} --- Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho

Driggs (NWS NOAA--102676)

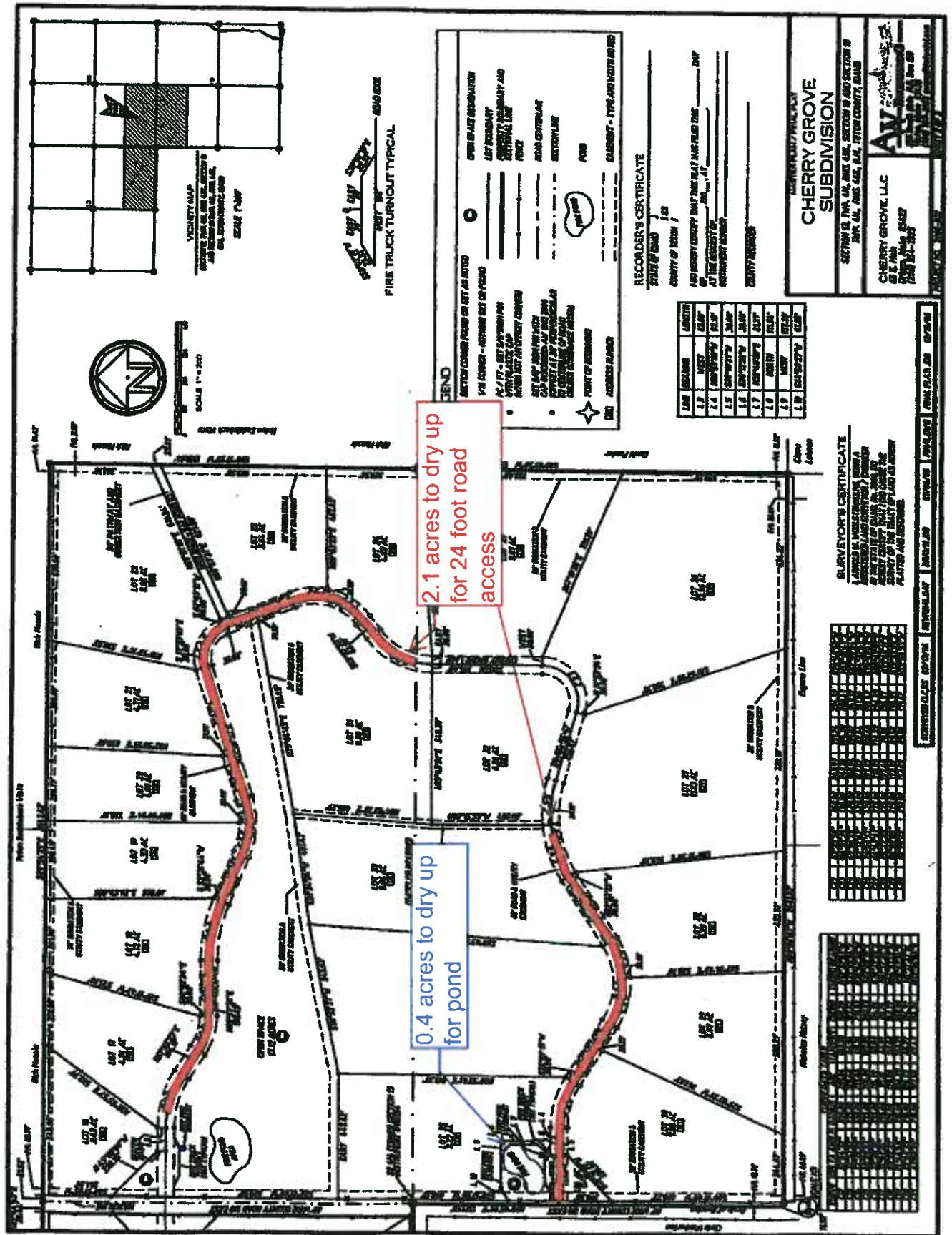
Statistics based on 30 years between 1971 to 2004

Alfalfa - less frequent cuttings

Precipitation Deficit ([Click here for a graph](#))

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Annual
Mean	mm/day												mm	
Monthly ^b	-0.32	-0.02	0.24	0.65	2.28	5.90	4.93	5.52	2.52	0.72	-0.29	-0.43	667	664
15-Day Moving Average ^c	-0.32	-0.11	0.29	0.59	2.28	5.89	4.59	5.57	2.30	0.78	-0.28	-0.33		
7-Day Moving Average ^d	-0.32	-0.08	0.25	0.59	2.29	5.87	4.77	5.57	2.40	0.76	-0.31	-0.37		
3-Day Moving Average ^e	-0.32	-0.04	0.24	0.62	2.26	5.90	4.89	5.54	2.48	0.72	-0.29	-0.42		

Irrigated Acres to Dry up for Pond Use





IDAHO SECRETARY OF STATE

Viewing Business Entity

Ben Ysursa, Secretary of State

CHERRY GROVE, LLC

PO BOX 6834
JACKSON, WY USA 83002

Type of Business:	LIMITED LIABILITY COMPANY
Status:	EXISTING, 2ND AR NOTICE SENT 01 Apr 2008
State of Origin:	IDAHO
Date of	09 Mar 2006
Origination/Authorization:	
Current Registered Agent:	SEAN R MOULTON 60 E WALLAGE AVE DRIGGS, ID 83422
File Number:	W48347
Date of Last Annual Report:	11 Apr 2008

Original Filing:

		[Help Me Print/View TIFF]
Filed 09 Mar 2006	ARTICLES OF ORGANIZATION	View Image (PDF format) View Image (TIFF format)

Amendments:

[\[Help Me Print/View TIFF \]](#)

Annual Reports:

[\[Help Me Print/View TIFF \]](#)

Report for year 2008	ANNUAL REPORT	View Document Online
Report for year 2007	ANNUAL REPORT	

No. W 48347		Due no later than Mar 31, 2008 Annual Report Form		2. Registered Agent and Address (NO PO BOX)		
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. CHERRY GROVE, LLC JULIE F. BRYAN PO BOX 6834 JACKSON WY 83002 USA		SEAN R MOULTON 60 E WALLACE AVE DRIGGS ID 83422		
				3. <u>New</u> Registered Agent Signature:*		
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MEMBER	BLT INVESTORS LLC	PO BOX 6834	JACKSON	WY	USA	83002
MEMBER	BRIAN A PALAFOX LIVING TRUST	11942 WOODLAWN	SANTA ANA	CA	USA	92705
MEMBER	JOHN AND MELISSA HARRIS LIVING TRUST	303 DRIFTWOOD RD	CARONA DEL MAR	CA	USA	92625
5. Organized Under the Laws of:		6. Annual Report must be signed.*				
ID W 48347		Signature: Julie F. Bryan			Date: 04/11/2008	
		Name (type or print): Julie F. Bryan			Title: Member	
Processed 04/11/2008		* Electronically provided signatures are accepted as original signatures.				