

MAY 14 2001

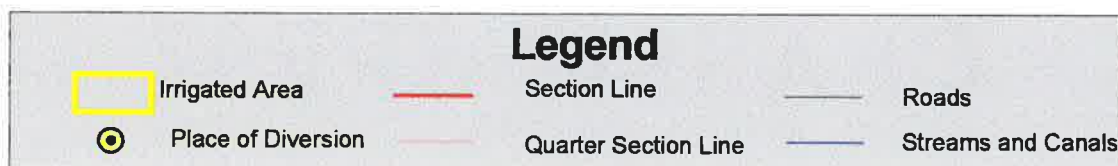
Log for claim A29-07175

Spatial Dynamics AMH

6/12/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
08s31e	8	SWNE	20	40	
08s31e	8	SENE	40	40	
08s31e	8	SWNW	25	27	
08s31e	8	SENW	40	40	
08s31e	8	NESW	40	40	
08s31e	8	NWSW	35	36	
08s31e	8	SWSW	10	8.1	
08s31e	8	SESW	32	28	
08s31e	8	NESE	6	13	
08s31e	8	NWSE	31	25	
08s31e	8	SWSE	20	28	
08s31e	17	NWNE	10	8.7	
Totals:			309	333.8	

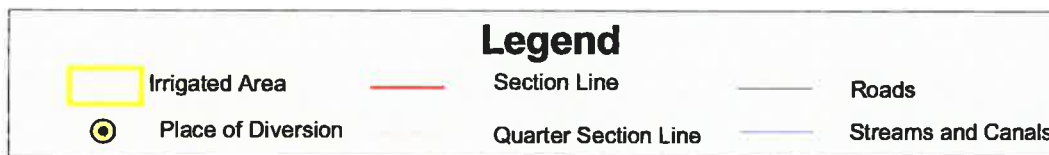
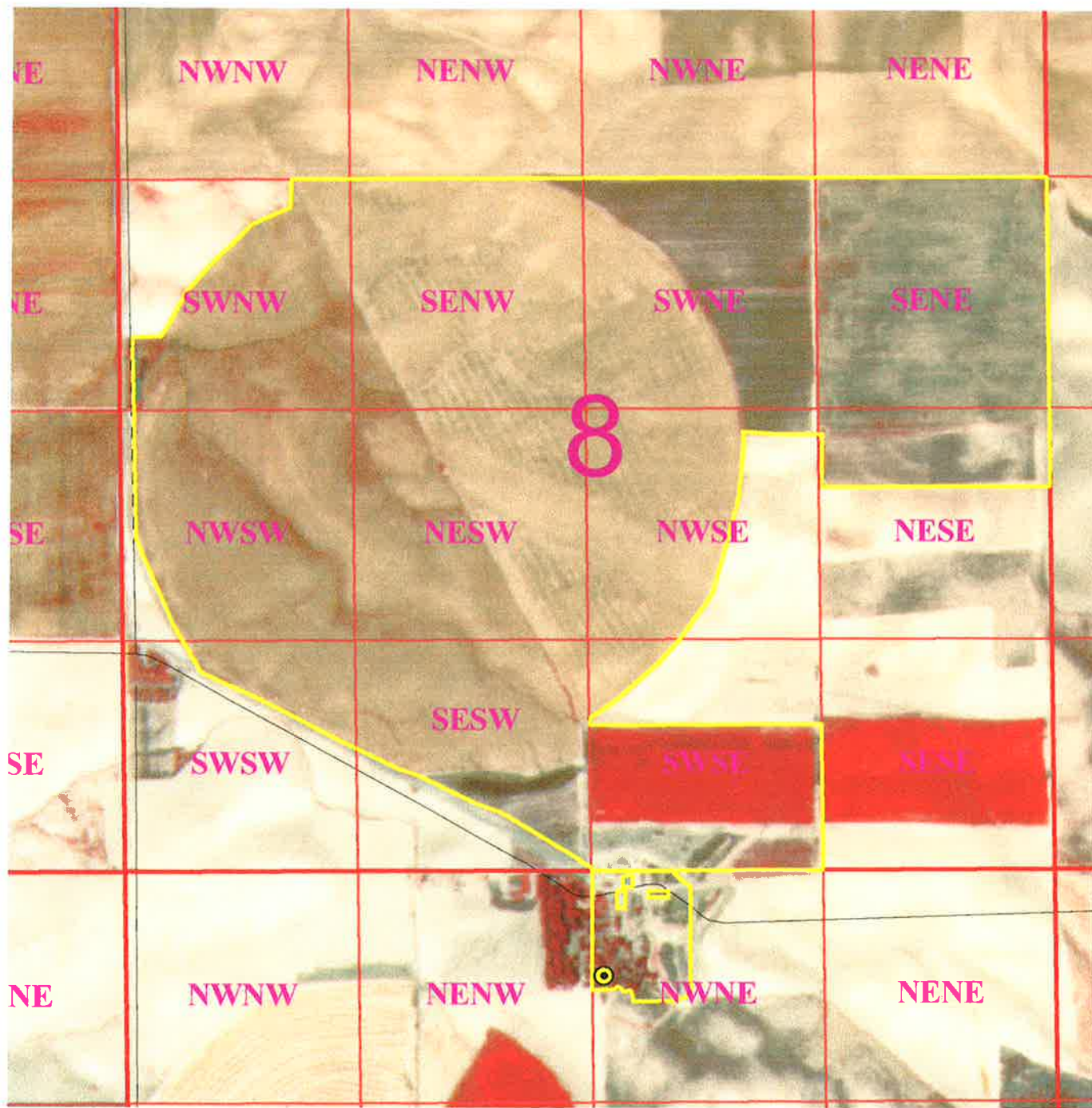
Township , 8S31E



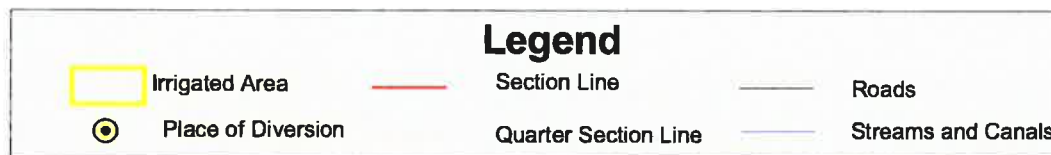
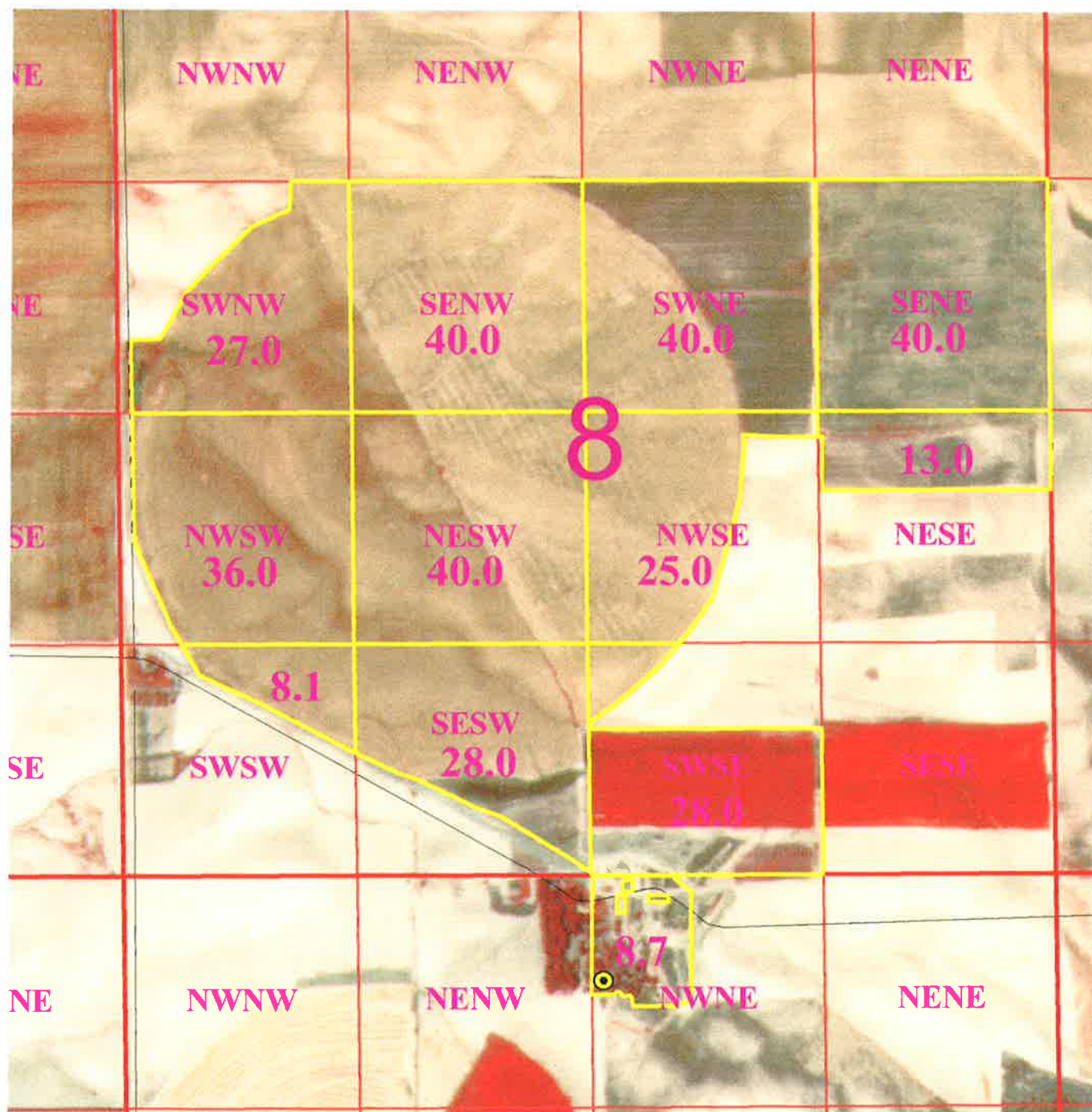
800 0 800 1600 Feet



Township , 8S31E

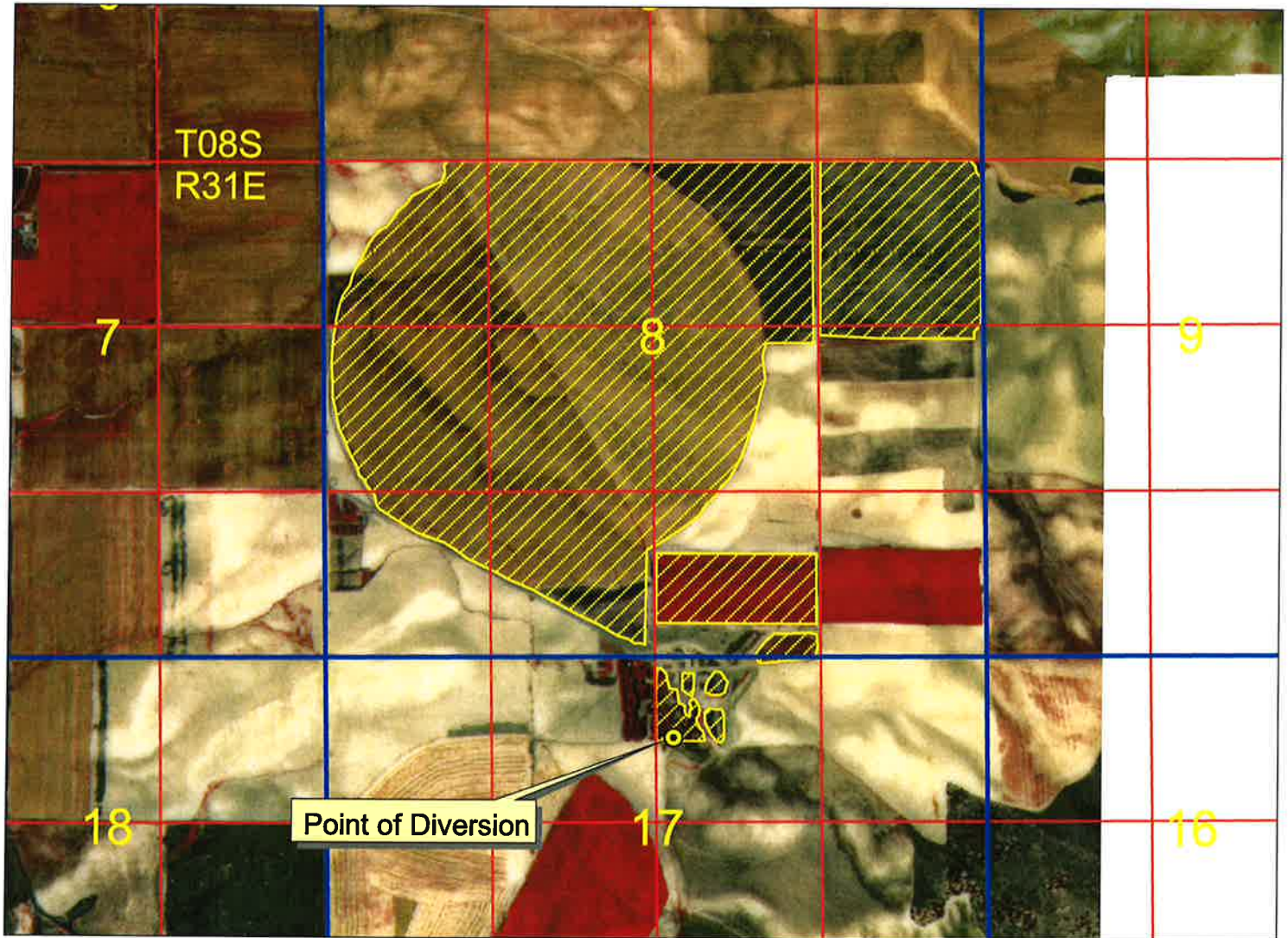


Township , 8S31E



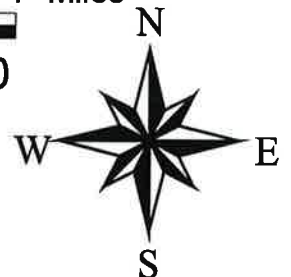


State of Idaho
Department of Water Resources
Eastern Region
Water Right: 29-7175



0.5 0 0.5 1 Miles

1:16000



- Point(s) of Diversion
- ▨ Place of Use
- ▭ Section Lines
- ▭ Quarter Quarter Lines

PROFILED

SCANNED

APR 20 2003

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: P. Meyer
Date: June 2002



American Falls Energy Center

CONFIDENTIAL

November 5, 2002

James F. Mayer
Carl Mayer
Max L. Mayer and Sons
c/o James F. Mayer
730 Calder Avenue
American Falls, ID 83211

Re: Option to Purchase Land located in Power County, Idaho

Dear James and Carl:

In accordance with our letter agreement with you of September 17, 2002, I am enclosing for your review two copies of a draft Option Agreement, including its Attachment 2, Purchase Agreement and Escrow Instructions, for the option to purchase property and water right generally located in Section 8. There are a few items that I describe below in these draft agreements that are either slightly different from or expansions of our September 17 letter agreement. Generally, however, beyond these particular differences, the drafts of the Option Agreement and the Purchase Agreement and Escrow Instructions follow the outline established in the September 17 letter.

As we reviewed your water right #A29-7175, we found that the Idaho Department of Water Resources (IDWR) considers the licensed place of use to be an area apparently slightly different than your current actual place of use, and also perhaps slightly different from the IDWR's recommended place of use. Our research into these discrepancies delayed our preparation of the draft Option Agreement somewhat, which is why we were not able to provide this draft to you prior to today. But more importantly, these discrepancies will ultimately need to be rectified with IDWR in order for us to have certainty that the water right is verified and valid for its full quantity.

You can see, in particular, the differences between the IDWR's licensed place of use and actual place of use in the drawing attached to this letter, where the yellow cross hatched areas indicate the IDWR's place of use, and the green circles indicate our own observations (not IDWR's) via aerial photography we conducted this summer. We have of course not discussed this with the IDWR, but our water counsel has advised us that the IDWR has in the past, and is beginning to again review carefully actual places of use, and to send deficiency notices if differences are observed, and in some cases "cease and desist" orders that could jeopardize the ultimate validity of the water right. Therefore, it appears that both for your and our best interest, a pre-emptive contact with the IDWR by you would be appropriate.

As a result of these discrepancies, we concluded that it is necessary to have you confirm with IDWR the place of use to ensure that the water right continues to be valid. We have proposed in this draft Option Agreement (see Recital E on p. 1 of the Option Agreement) a process whereby you will diligently pursue confirmation of the place of use by the IDWR as part of your Due Diligence Deliveries, and when that confirmation is received it will be incorporated into the Option Agreement. We further propose that at that time we pay the second \$5,000 of the initial Option Payment (see paragraph 2 on p. 2 of the Option Agreement), rather than paying the entire remaining \$8,000 upon signing of this

PROFILED

APR 29 2003

Mrs. Mayer
November 5, 2002
P. 2

CONFIDENTIAL

Agreement. Delaying this portion of the initial payment would provide some protection for us if this portion of the place of use is not ultimately verified.

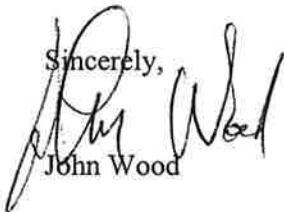
Also, we have continued to show Max L. Mayer & Sons as a signatory of this Option Agreement, as this is the name the IDWR indicates is the valid owner of the water right #29-7175. If you intend to revise the name of ownership, or if Max L. Mayer and Sons is not a validly existing entity (a representation of which you would be making in this Option Agreement), then we would anticipate making revisions to this draft Option Agreement accordingly.

I am still awaiting a preliminary title commitment that will give the final legal descriptions of the Property (see Attachment 1A on p. 12 of the Option Agreement), and I would expect to revise that legal description accordingly prior to execution of this Option Agreement. I have also incorporated into this draft a procedure whereby we can exercise the purchase of the water right, but have the property purchased with that water right be located primarily on the northern edge of your holdings in Section 8 (including only the larger of the two existing pivots), so as to disturb your remaining properties as little as possible. You can see this procedure outlined in Paragraph 1 (on p. 2) of the Option Agreement, and the "Replacement Irrigated Property" is described in Attachment 1C, on p. 14 of the Option Agreement.

You can find the actual purchase price for the property located in Paragraph 2.2 on p. 2 the Purchase Agreement and Escrow Instructions, which is Attachment 2 of the Option Agreement. I have included here the \$2700 per acre for the 309 acres, plus my proposal to pay you \$800 per acre for other easements that we may require elsewhere on your property. You will also note that I've included two methods for you to implement at your discretion your own tax strategies, either by our facilitating a "1031" tax-deferred exchange (see Paragraph 7.7 on p. 7 of the Purchase Agreement and Escrow Instructions), or by your electing to be paid via a Note (see Paragraph 2.3 on p. 3, and Exhibit B, of the Purchase Agreement and Escrow Instructions) rather than cash. I've also included our obligation to compensate you for crops if we exercise the option without allowing you to complete your crop cycle (see Paragraph 8.1 on p. 7 of the Purchase Agreement and Escrow Instructions).

Please review the enclosed documents, and at your earliest convenience send any comments or questions to me. I would be pleased to discuss any of the provisions of these agreements over the telephone. I will, in the meantime, continue to complete these documents with final legal descriptions and other features that remain.

Sincerely,



John Wood

Enclosures

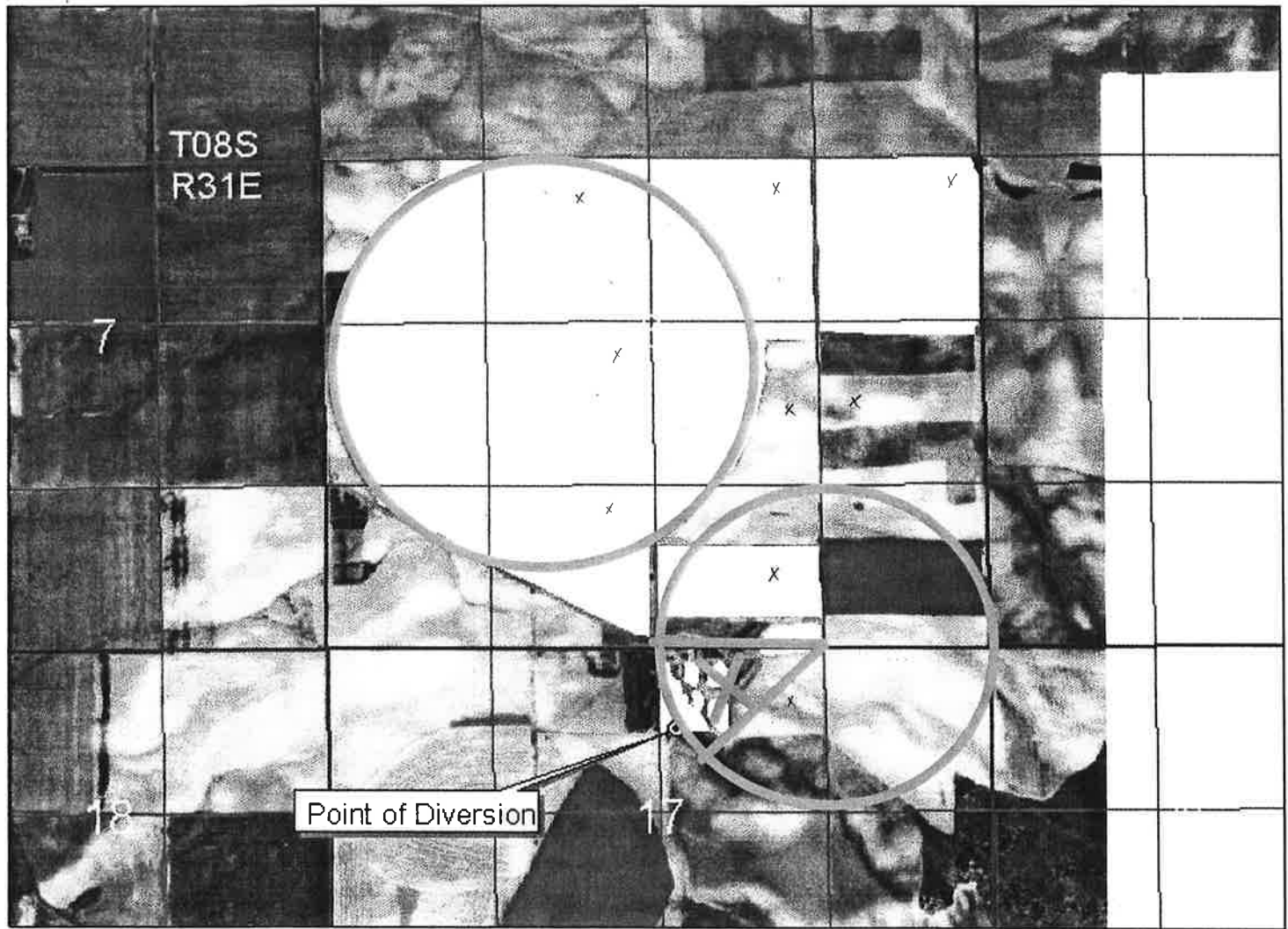
SCANNED

APR 20 2006

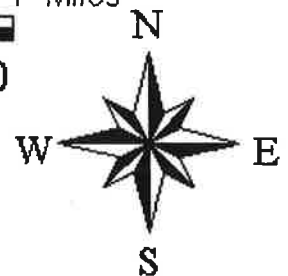


State of Idaho
Department of Water Resources
Eastern Region

Water Right: 29-7175



1:16000



- ⊙ Point(s) of Diversion
- Place of Use
- Section Lines
- Quarter Quarter Lines

Pivots observed in
Summer 2002 aerial
photography

SCANNED

APR 20 2006

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: P. Meyer
Date: June 2002

AJ5809NP

IDAHO DEPARTMENT OF WATER RESOURCES

DATE: 05/23/00

PAGE: 53

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MAX L MAYER & SONS PO BOX 176 AMERICAN FALLS ID 83211 (208) 226-2293	03/04/1974	IRRIGATION	04-01 10-15	3.950 CFS	1081.50 AFA
				TOTAL DIVERSION: CONSUMPTIVE USE:	3.950 CFS	927.00 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion:

T08S R31E S17

SWNWE

POWER County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE									
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM	
			:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:		
08S	31E	8	:			20	40	:			25	40	:	40	35	10	32	:	06	31	20		:	299.0	
08S	31E	17	:		10			:					:					:					:	10.0	
																						TOTAL ACRES		:	309.0

POU County: POWER

Non-Irrigation Uses: NONE

Other Rights: NONE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A29-04499

Other Water Rights Listing Overlapping Place(s) of Use:
A29-02412 A29-04499 A29-10581 A35-04207

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 03/15/90 HAUMANN 07/25/94 THOMPSON 03/29/95 POST-STD

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 29-7175 Priority March 4, 1974 Amount 3.95 cfs

THIS IS TO CERTIFY, that Max L. Mayer & Sons
of American Falls, Idaho, has complied with the terms and conditions of Permit
No. 29-7175 issued pursuant to Application for Permit dated March 4, 1974,
and has submitted proof to the Department of Water Resources on January 25, 1977,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 3.95 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>October 15</u>	at <u>3.95</u> cfs and	<u>1081.5</u> acre feet
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 3.95 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
1081.5 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, Twp.
8S, Rge. 31E in the County of Power

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
8S	31E	8			40	40				40	40			32	29	40	38		299
		17			10														10

Total number of acres irrigated 309

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 21 day of
September _____, 19 82.

Director

DATE OF EXAM May 31, 79

ACREAGE
Found 309 Ac
Recommended 309 Ac

Irrigation Requirement 3.5 Ac Ft/Ac

USE

Irrigation Q = 3.95 c.f.s. V = 1081.5 AF/Ann. from APRIL 1 to OCT. 15
Domestic Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____
Livestock Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____

Is water co-mingled? yes _____ no X

Name source: N/A
twp. _____ N/S, Rge. _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Exchange? yes _____ no X

Name source exchanged with: N/A
twp. _____ N/S, Rge. _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Point of injection: N/A
twp. _____ N/S, Rge. _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Point of exchange: N/A
twp. _____ N/S, Rge. _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____ County _____

Total Q measured 3.95 cfs Method of measurement Amubar ✓

Total Q recommended 3.95 cfs Meter No. 80" Type egg eye meter Condition New

Total V recommended 1081.5 AF/Ann.

Recommended Amendments:

P.D. _____
Place of Use See rough draft amendment
Other _____
None _____

MEASUREMENT CALCULATION:

$$(1.020')^2 \times 3.95 \times 81 = 1771 \text{ gpm} \times 3.95 \text{ cfs} \text{ capacity}$$
$$V = 309 \text{ Ac} \times 3.5 \text{ AF/Ac} = 1081.5 \text{ AF/Ann.} < 3.95 \text{ cfs} \times 1.9835 \text{ cfs/AF/dy} \times 198 \text{ dy} = 1551.3 \text{ AF/Ann.}$$

SYSTEM DESCRIPTION:

300 HP. GE MOTOR, 3 PHASE, SERIAL "BKS 213120" JOHNSTON PUMP (INC. 30. P.A. F):
10" IRON STEEL MAIN EXTENDS 13 FT NORTH & GOES UNDER GROUND, CONNECTS TO
EAST WEST BURIED APPROXIMATELY 50 FT NORTH OF P.D. SYSTEM RUNS FROM 12
4 MILE WHEEL LINES WITH 3/4" NOZZLES.

REMARKS:

SYSTEM DESCRIBED BY MAX DYER. THERE ARE TWO WELLS ON ENTIRE
HOWEVER LANDS IN SEC 8 CAN BE IRRIGATED SOLELY FROM WELL ON THIS PERMIT.

no conflicting g.w. rights

Examiner's Signature John D. Carson Date 3/11/80

Checked by Anthony R. Kozlowski Date 4-7-80

Approved by [Signature] Date 6/23/82

Jim 7-9-82

Overlap Review on back

Re

JAN 27 1977

Permit No. 29-7175

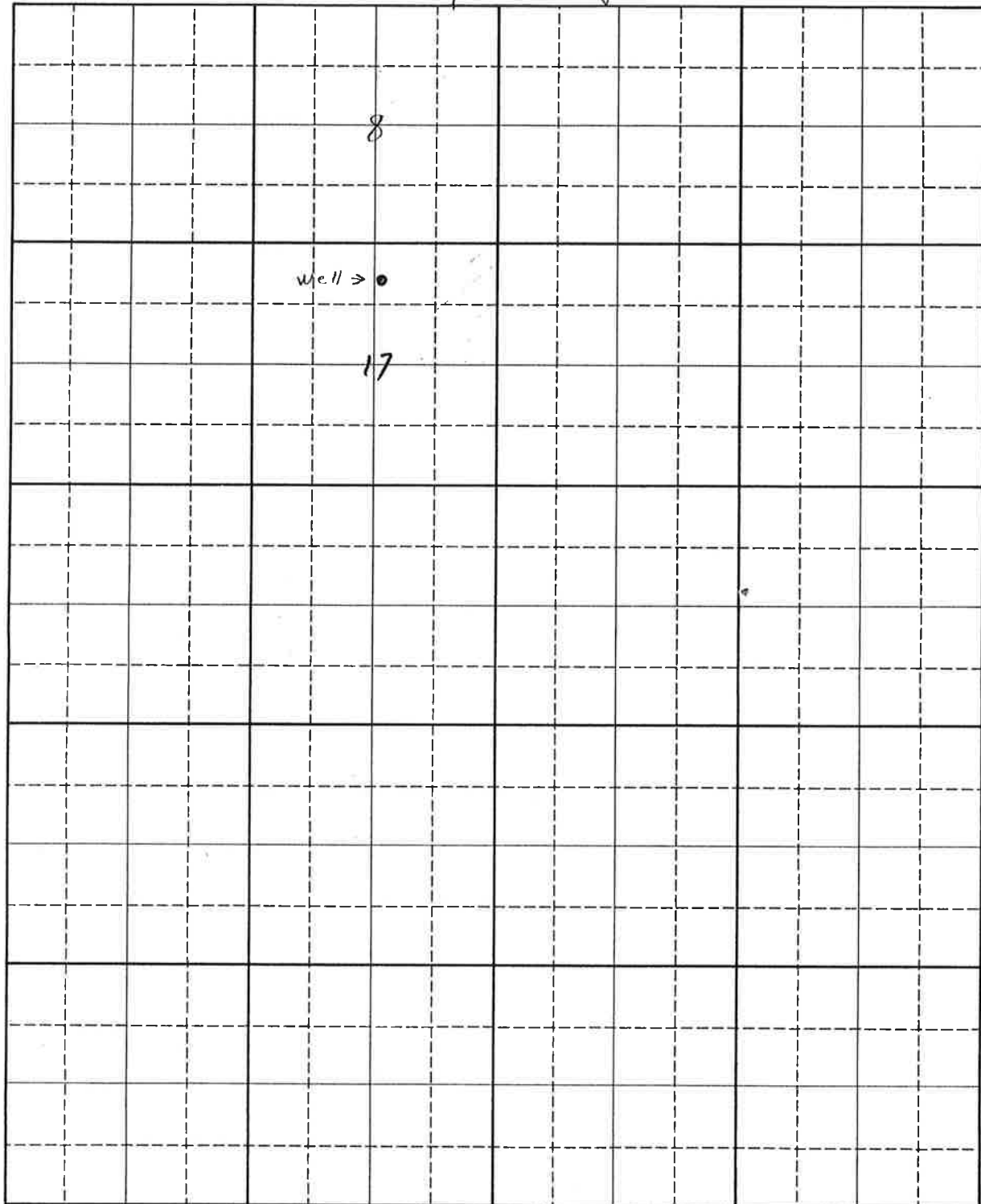
Examination for b/u

Amend place of use.

TOTAL ACREAGE 360

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Trwp 8 So. Rge 31 E. B. M.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Max L. Mayer & Sons

Max L. Mayer
(Applicant)

Identification No. 29 7175
Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

APPROVED

1. Name of applicant Max L. Mayer & Sons
post office address P.O. Box 176, American Falls, ID 83211
2. Source of water supply ground water which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 17 Township 8S
Range 31 E B.M. Power County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 6.0 for irrigation purpose from Apr. 1 to Oct. 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 6.0 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 300 HP pump, underground
mainline, sprinkler system

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is 18 inches; proposed depth of well is 400 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 1 years.
b. Estimated construction cost is \$ 80,000.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.
(5) If water is to be used for other purposes describe: _____

29 7175

STATE OF IDAHO

LICENSING

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

AUG 5 1982

Department of Water Resources

Comes now Max L. Mayer & Sons Phone _____
of (address) P.O. Box 176, American Falls, ID 83211, and represents to the
Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho
No. 29-7175, and requests that the permit and permit map be changed as follows:

NO CHANGE

1. Point of diversion: 1/4 1/4, Section _____, Township _____, Range _____, B.M.,
County of _____ Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 3.95 for irrigation purposes from 4/1 to 10/15 (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	31E	8			40	40				40	40			32	29	40	38		299
		17		10															10

Total number of acres to be irrigated = 309

4. a. Who owns the property at the point of diversion? MAX L. MAYER
b. Who owns the land to be irrigated or the place of use? MAX L. MAYER, JAMES F. MAYER, GARY C. MAYER
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

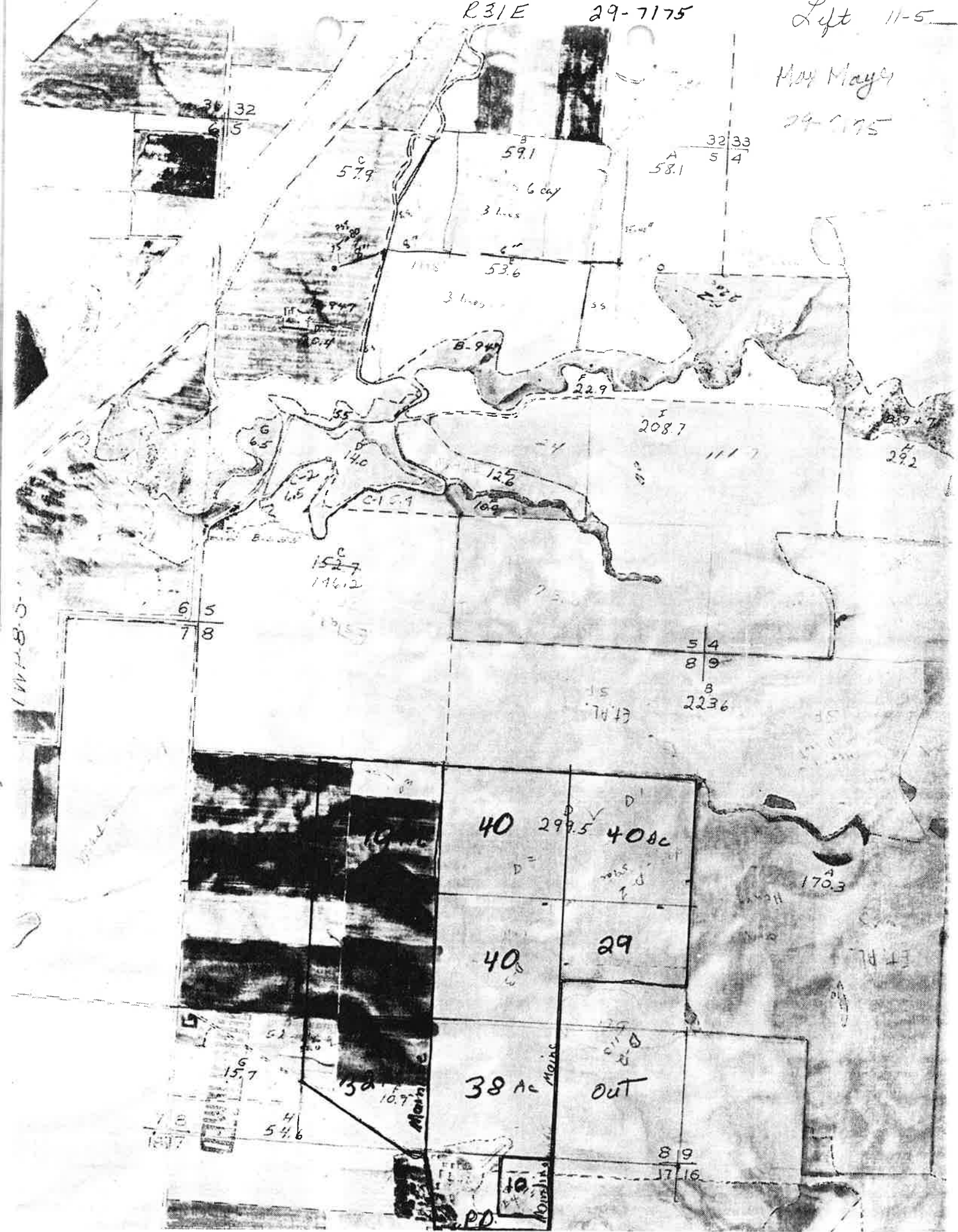
R3/E

29-7175

Left 11-5

May Mayer

29-175



MAY 14 2001

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

RECEIVED

MAR 26 1990

Ident. Number: A29-07175

Date Received: 3/15/1990

Receipt No: 5012562

Received By: EV

OK 3956 357.00
706.00

Department of Water Resources
Eastern District Office

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

1. Name: MAX L. MAYER & SONS
Address: P.O. BOX 176
AMERICAN FALLS, ID

208-226-2293

83211

2. Date of Priority: MAR 04, 1974

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
08S	31E	17	SW	NW	NE		POWER

A2907175



5. Description of diverting works:
WELL, PUMP, PIPELINE & SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/15	3.950		1081.50

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

A.F.A.

8. Total consumptive use is 927.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
08S	31E	8	SW	NE		IRR	20.0
			SE	NE		IRR	40.0
			SW	NW		IRR	25.0

A29-07175

Page 1

Date: 03/15/90

MICROFILMED

NOV 13 1992

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
08S	31E	8	SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	35.0
			SW		SW		IRR	10.0
			SE		SW		IRR	32.0
			NE		SE		IRR	6.0
			NW		SE		IRR	31.0
			SW		SE		IRR	20.0
							Section Acres	299.0
		17	NW		NE		IRR	10.0
							Section Acres	10.0
							Total Acres	309.0

11. Place of use in counties: POWER

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: LICENSE

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 X 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 a partner of _____
Title

Max L. Mayer & Sons, that I have signed the foregoing
Organization

document in the space below as a partner of _____
Title

Max L. Mayer & Sons and that the statements contained in the
Organization

foregoing document are true and correct.

James F. Mayer
Signature of Authorized Agent

Max L. Mayer & Sons
Title and Organization

Date

State of Idaho)
County of Power) SS.

Subscribed and sworn (or affirmed) before me this 21st day
of March 19 90

[Signature]
Notary Public

Seal

Residing at 555 W. Park, American Falls, ID

My Commission Expires Feb 18, 1994

095. 31E See 17.

