

04/19/2007

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

RIGHT NUMBER: 63-7170

NAME AND ADDRESS: MK PLAZA TRUST
C/O AMERICAN RESURGENS MANAGEMENT CORP
720 PARK BLVD STE 100
BOISE ID 83712

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.240 CFS
22.500 AFY

PRIORITY DATE: 11/26/1968

POINT OF DIVERSION:

T03N R02E S11 SWSW Lot 5 Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	1/01 12/31	1.240 CFS
IRRIGATION	4/01 10/15	0.100 CFS 22.50 AFY

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in ADA County

T03N R02E S11 SWSW 5.00

INDUSTRIAL in ADA County

T03N R02E S11 SWSW

5 ACRES TOTAL

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

A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.



Idaho Department of Water Resources

SRBA Recommendation:

63-7170

(Irrigation)

Legend

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



Ada County
IDWR Basin 63



0 0.1 0.2 Miles



Prepared by S. Egbert
On Thursday, April 19, 2007
1987/88 Aerial Photography

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 63-7170 Priority Nov. 26, 1968 Amount 1.24 cfs

THIS IS TO CERTIFY, that MORRISON-KNUDSEN CO., INC.
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 63-7170 issued pursuant to Application for Permit dated November 26, 1968,
and has submitted proof to the Department of Water Resources on April 29, 1974,
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 1.24 cfs of water from a ground water 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
<u>Industrial</u>	from <u>Jan. 1</u> to <u>Dec. 31</u>	at <u>1.24</u> cfs and	<u>n/a</u>
<u>Irrigation</u>	from <u>April 1</u> to <u>Oct. 15</u>	at <u>0.10</u> cfs and	<u>22.5 acre feet or</u>
	from _____ to _____	at _____ cfs and	<u>4.5 af per acre</u>

(Both dates inclusive)

Subject, however, to the condition that no more than 1.24 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
22.5 acre feet per year, said waters to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 11,

Twp. 3'N, Rge. 2'E, B.M. in the County of Ada

Description and location of place of use:

Twp.	Range	Sec.	NEW				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NEW	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
3 N	2 E	11																	Five

Total number of acres irrigated Five

A measuring device of a type approved by this Department shall be permanently
maintained as part of the diverting works.

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 12 day of
May, 19 75.

Director

Youngblood or Lursen 345 5000 24 460

DEPARTMENT OF WATER ADMINISTRATION
FIELD REPORT

1. Name of permit holder Morrison-Knudsen Company, Inc.
Postoffice address P. O. Box 7808, Boise, ID 83729 Phone _____
Person to contact _____ Phone _____

2. Source of water supply: Groundwater ☒ Surface water ☐ _____
(name spring, stream, etc.)
Tributary to _____

3. Water will be used for the following purposes:

Amount 0.2 c.f.s. for irrigation
_____ AF/Annum (nature of use)

Period of Use: from Apr. 1 to Oct. 15
(mo.-day) inclusive (mo.-day)

Amount 2.8 c.f.s. for industrial
_____ AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
_____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

4. Total amount to be appropriated:

Max Rate of Diversion 3.0 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

(3 pts. in the)
Township 3N N/S, Range 2E E/W, B.M., Section 11, Subdivision SW 1/4 SW 1/4, Ada
County
Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____
County
Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____
County

Other Points of Diversions: _____

Description of diverting works: 12" cased well, 420' deep, static water level 15', 50 hp elec. pump.

Measuring device required: yes ☒ no ☐

6. Lands to be irrigated or place of use.

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3N	2E	11											X(industrial)						7
		14							X(industrial)										3
3N	2E	11											X						5

Area during time

TOTAL ACREAGE 10

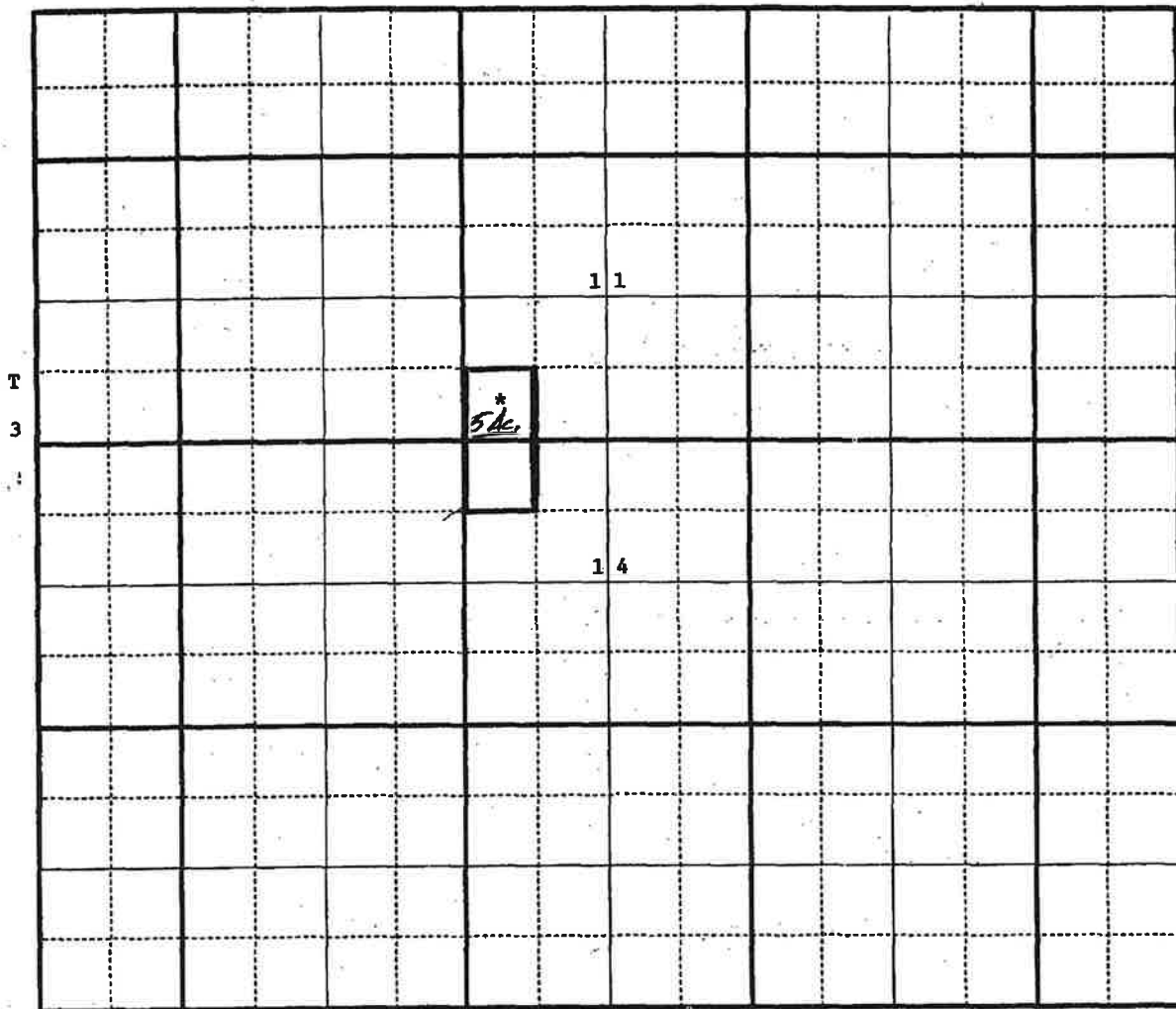


Diagram of System

are left for

industrial = ?

Its share N/A since
the industrial and
is non-consumptive
of

DATE OF EXAM 6/19/1974

ACREAGE
Found 5.0
Recommended 5.0

Irrigation Requirement 4.5 Ac Ft/Ac

USE
Irrigation Q = 0.10 c.f.s. V = 22.5 AF/Ann. from 4/1 to 10/15
Domestic Q = _____ c.f.s. V = _____ AF/Ann. from 4/1 to _____
Livestock Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____
Industrial Q = 1.14 cfs V = 604.88 AF/Ann. from 1/1 to 12/31

Is water co-mingled? yes _____ no ✓

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

Exchange? yes _____ no ✓

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

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

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

Total Q measured 1.24 cfs Method of measurement inline flowmeter

Total Q recommended 1.24 cfs Meter No 10998 Type Rockwell Condition New

Total V recommended 627.38 AF/Ann.

Recommended Amendments:

P.D. _____
Place of Use _____
Other _____
None None

MEASUREMENT CALCULATION:
(Industrial) $Q = 500 \text{ GPM} = 2.2096 \text{ AF/day}$

$$2.2096 \times 365 \times .75 = 604.88$$

(Based on 500 GPM during day use & 250 GPM during nights)

SYSTEM DESCRIPTION:
420' well w/ 12" casing w/ 50 HP Continental Motor (Ser. 614531A)
discharging into 8" mainline and into Air Conditioning & Heating
system and sprinkler system.

REMARKS:

Examiner's Signature Mr. Charles F. ... Date 6/19/1974

Checked by _____ Date _____

Approved by _____ Date _____

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 63-7170
Date Received: 11/29/2006
Receipt No: W034918
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MK PLAZA TRUST Phone: (208)333-2586
C/O AMERICAN RESURGENS MANAGEMENT CORP
720 PARK BLVD STE 100
BOISE ID USA 83712

2. Date of Priority: 11/26/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
03N	02E	11	SW	SW	5	ADA	

5. Description of diverting works:

MK Plaza 1 well and pump.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	10/15	0.1	22.5
INDUSTRIAL	1/01	12/31	1.24	

7. Total Quantity Appropriated is:

1.24 C.F.S. and/or 22.5 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
03N	02E	11	SW	SW		INDUSTRIAL IRRIGATION	5
						Section Acres	5
						Total Acres	5

11. Place of use in counties: ADA

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

13. Other Water Rights Used:

14. Remarks:

A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

15. Basis of Claim: License

RECEIVED

NOV 29 2006

WATER RESOURCES
WESTERN 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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-7170
Date Received: 11-29-06
Receipt No: 6034918
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MK Plaza Trust Phone: (208) 333-2586
c/o American Resurgens Management Corp.
720 Park Blvd., Suite 100
Boise, ID 83712

2. Date of Priority: November 26, 1968

3. Source: Ground water Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	02E	11	SW SW 5	Ada	

5. Description of diverting works:

MK Plaza I well and pump

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Irrigation	04/01	10/15	0.10	22.5
Industrial	01/01	12/31	1.24	

7. Total Quantity Appropriated is: 1.24 cfs

8. Total consumptive use: n/a

9. Non-irrigation uses: Heating and air conditioning system in MK Plaza Building

10. Place of use:

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
03N	02E	11											5.0						5.0
													I						

Total number of acres irrigated: 5.0

11. Place of use in counties: Ada

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

13. Other Water Rights Used: 63-8109

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 ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: aerial photo of irrigated area

For Organizations:

I do solemnly swear or affirm that I am Project Manager of
American Resurgens Mgmt Corp. that I have signed the foregoing
document in the space below as Project Manager of
American Resurgens Mgmt Corp. and that the statements contained in the
foregoing document are true and correct.
Tom Houston
Signature of Authorized Agent
Project Manager: American Resurgens Mgmt. Corp.
Title and Organization
11/28/06
Date

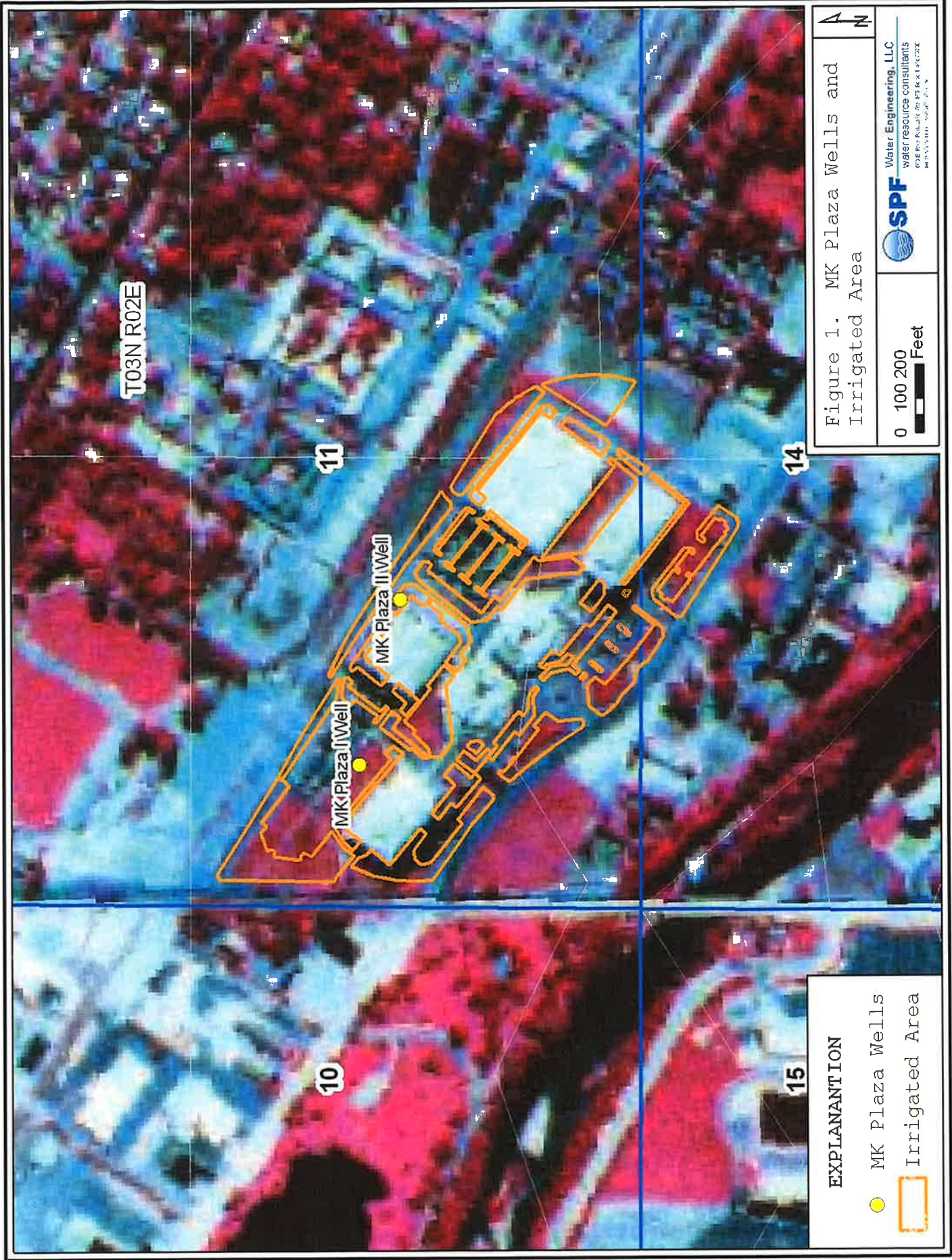
State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 28TH of November 2006.

Roxanne Brown
Notary Public

Residing at Boise, Idaho
My commission Expires 5/11/2008





MANAGEMENT AGREEMENT

by and between

AMERICAN RESURGENS MANAGEMENT CORP.

and

MK PLAZA TRUST

July 1, 1996

- (ii) receiving tenant proposals for improvements and alterations and tenant requests for supplemental services,
- (iii) maintaining current certificates of required tenant insurance,
- (iv) giving and receiving complaints regarding tenant or landlord performance, and
- (v) taking action with respect to such matters as may be required by the terms of this Agreement or by specific or standing instructions of Owner.
- (vi) Manager shall maintain a plan book of the Project listing all Vacant Space, occupied space and expansion option space and the dimensions thereof, asking rents and proposed tenant improvements to be paid for by Owner, including the estimated cost thereof.

Performance Of Owner's Obligations. Manager shall perform or caused to be performed all duties and obligations of Owner relating to the operation, maintenance, repair, replacement and day-to-day management of the Property so that the Tenant Leases remain in full force and effect and the services required to be provided by Owner under the Tenant Leases are in fact provided. Notwithstanding any provision in this Agreement which may be construed to the contrary, however, Manager shall not be required to perform any of the duties, services or obligations imposed upon Manager under this Agreement unless adequate funds for the same have been provided or made available to Manager by Owner.

3.5 On-Site Property Management.

- (a) General Responsibilities. Manager shall be the exclusive management representative of Owner for the Property, with the exclusive authority to make all

decisions relating to the management, operation and maintenance of the Property, subject to the terms, conditions and limitations herein provided, and shall arrange for and supervise the performance of all duties relating thereto. Manager shall cause the Property to be maintained in such condition as similar properties in the respective geographic area of the Property are maintained, including cleaning, maintenance, repair and replacement of common areas and facilities and maintenance, repair and replacement of building systems and equipment, subject to and in compliance with the terms, conditions and provisions contained in this Agreement, in the Tenant Leases and in the Operative Agreements. In connection with the maintenance and operation of the Property, Manager shall take all reasonable steps, including legal action when authorized by Owner, to enforce all maintenance, service and supply contracts, guarantees, warranties, bonds and other contractual undertakings, if any.

- (b) Collections. Manager shall cause all rents and other sums due from tenants of the Property to be promptly paid. If not timely paid, Owner authorizes Manager to request, demand, collect, receive and give receipts for all rent and other sums due to Owner, and, if specifically instructed to do so by Owner, to institute legal procedures through counsel approved by Owner in the name of Owner to enforce and protect Owner's rights and property in connection therewith.
- (c) Compliance with Governmental Orders. Manager shall cause the Property to comply with any and all laws, orders, rules and regulations affecting the Property of any federal, state, county, municipal or local authorities having jurisdiction thereof, and orders of any board of fire underwriters (or other body exercising similar functions), subject to and in

compliance with the terms, conditions and provisions contained in this Agreement, the Operative Agreements and the Term Loan documents. Manager shall obtain all necessary permits, licenses and other approvals required for Owner by any governmental authority having jurisdiction over the Property, and shall pay any fees associated with such permits, licenses or approvals. In addition, Manager shall use its best efforts to deliver to Owner within ninety (90) days from the date of this Agreement all licenses, certificates of occupancy, and other required certificates and agreements relating to the operation of the Property (other than those set forth on Exhibit B attached hereto and made a part hereof), and maintain complete and up to date files of the same.

(d) Utilities Services and Supplies.

- (1) Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph (d), Manager shall enter into or renew in the name of the Owner, and shall supervise the performance of, agreements for cleaning, painting, landscaping, maintenance, repair and replacement, vermin extermination, security, electricity, gas, steam, telephone, fuel oil and other services and utilities in connection with the Ownership, operation, leasing of the Property, and shall purchase all necessary maintenance, repair and replacement, cleaning, utility, security and other supplies, materials, equipment, tools and appliances as are necessary to properly maintain and operate the Property. All such agreements for services shall require that the party rendering the services obtain insurance in such amounts and affording such coverages as Owner reasonably requires, and shall require that such party