

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-2169A V1

WATER RIGHT NUMBER: 67-2169A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LOLA DEANE KERNER 1733 WEISER RIVER RD WEISER, ID 83672 (208)549-2795
Current Owner	MILTON KERNER 1733 WEISER RIVER RD WEISER, ID 83672 (208)549-2795

Priority Date: 12/18/1936

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
WEISER RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.560 CFS	
	<u>Total Diversion:</u>	0.560 CFS	

Location of Point(s) of Diversion

WEISER RIVER	NE1/4NE1/4	Sec. 35, Twp 11N, Rge 04W, B.M.
WASHINGTON 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	
10N	04W	6						23.0											23.0
								L 4											
11N	04W	31											5.0						5.0
													L 4						

Total Acres: 28

Conditions of Approval:

1. 127 Place of use is within the area served by the Weiser Irrigation District
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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
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Comments:

1. mcase 5/3/2004 Weiser Irrigation District

Comment: Letter in file from Weiser Irrigation District objecting to this claim. The license is in the name of the Weiser Irrigation District.

2. mcase 5/3/2004 Period of Use

Comment: No licensed Period of Use. I recommended the standard Season of Use.

3. mcase 5/3/2004 Quantity

Comment: Unable to determine proper split flow rate and annual diversion.

4. dfavreau 11/14/2006 Quantity

Comment: based on agreement between Breshear & WID

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:

State or Federal: S

Owner Name Connector: OR

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

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	5/3/2004 8:21:47 AM	mcase			Active
POD	5/3/2004 8:38:09 AM	mcase			Active
Source	5/3/2004 8:38:18 AM	mcase			Active
POU	5/3/2004 8:38:43 AM	mcase			Active
Use	5/3/2004 8:38:53 AM	mcase			Active
Season	5/3/2004 8:39:23 AM	mcase			Active
Quantity	5/3/2004 8:39:32 AM	mcase			Active
Season	6/1/2004 1:52:18 PM	mcase			Active
Priority Date	11/14/2006 12:35:46 PM	dfavreau			Active
POD	11/14/2006 12:36:08 PM	dfavreau			Active
Source	11/14/2006 12:36:23 PM	dfavreau			Active
POU	11/14/2006 12:36:38 PM	dfavreau			Active

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Use	11/14/2006 12:36:51 PM	dfavreau	Active
Season	11/14/2006 12:37:25 PM	dfavreau	Active
Quantity	11/14/2006 12:37:56 PM	dfavreau	Active
Summary	11/14/2006	dfavreau	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	11/14/2006 12:30:59 PM	dfavreau	Updated PLS for Active POU
POU	11/14/2006 12:30:50 PM	dfavreau	Updated shape for Active POU
General	11/14/2006 12:35:46 PM	dfavreau	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	11/14/2006 12:36:08 PM	dfavreau	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?
Source	11/14/2006 12:36:24 PM	dfavreau	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	11/14/2006 12:36:39 PM	dfavreau	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?
Use	11/14/2006 12:36:52 PM	dfavreau	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-2169A V1

Season	11/14/2006 12:37:25 PM	dfavreau	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (No) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
POD	11/14/2006 12:33:26 PM	dfavreau	Updated shape
Quantity	11/14/2006 12:37:57 PM	dfavreau	(Yes) 1. Is the basis of this claim a Decree or License? (No) 4. Does the Decree or License have a diversion rate and/or volume? (No) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - flow measurements provided by company
Summary	11/14/2006 12:39:17 PM	dfavreau	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POD	5/3/2004 8:37:44 AM	mcase	Edited point location
POD	5/3/2004 8:38:10 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file?
Source	5/3/2004 8:38:19 AM	mcase	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-2169A V1

POU	5/3/2004 8:38:43 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file?
Use	5/3/2004 8:38:54 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file?
Priority Date	5/3/2004 8:21:47 AM	mcase	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
Season	5/3/2004 8:39:24 AM	mcase	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use?
Quantity	5/3/2004 8:39:33 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume?
Season	6/1/2004 1:52:18 PM	mcase	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use?
POU	1/9/2004 2:47:46 PM	awarntje	Edited shape boundary

Water Supply Bank:

Am #67-2169

State of Idaho

License and Certificate of Water Right

Water License No. 18429
Water District No.

Amount 120 second feet
Priority December 18, 1936

THIS IS TO CERTIFY that WEISER IRRIGATION DISTRICT of Weiser, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated December 18, 1936; that Permit No. 18429 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 120 second feet, was issued thereunder on January 23, 1939, showing that said works were completed on the 12th day of March, 1938; and that on the 12th day of March, 1938,

WEISER IRRIGATION DISTRICT

of Weiser, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Weiser River, a tributary of Snake River, for the purpose of irrigation and domestic use, under Use Permit No. 18429 of the Commissioner of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3913, on the 23rd day of January, 1939;

The right hereby confirmed dates from December 18, 1936;

The Point of Diversion is located S 49° 30' W. 1360 feet distant from the NE corner Sec. 35, T. 11 N., R. 4 W. B.M. in the NE 1/4 NE 1/4, Sec. 35, T. 11 N., R. 4 W., B.M.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 120 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
NW 1/4	Sec. 2;	N 1/2 NW 1/4	SW 1/4 Sec. 3; N 1/2 NE 1/4 SW 1/4, N 1/2 SE 1/4 Sec. 4; N 1/2 NE 1/4, N 1/2 NW 1/4, SW 1/4 NW 1/4 Sec. 5; NW 1/4 NE 1/4, NW 1/4 Sec. 6; All in Twp. 10 N., R. 4 W. B.M. E 1/2 NE 1/4, NE 1/4 NW 1/4 Sec. 1; NE 1/4 NE 1/4 Sec. 2; All in Twp. 10 N., R. 5 W. B.M. NE 1/4 SW 1/4, S 1/2 SW 1/4, SE 1/4 Sec. 31; SW 1/4, S 1/2 SE 1/4 Sec. 32; SW 1/4 SW 1/4 Sec. 33; SE 1/4 SW 1/4, S 1/2 SE 1/4 Sec. 34; S 1/2 SW 1/4 Sec. 35; All in Twp. 11 N., R. 4 W. B.M. SE 1/4 SE 1/4 Sec. 28; S 1/2 Sec. 29; S 1/2 Sec. 30; N 1/2 NE 1/4 Sec. 31; N 1/2 NE 1/4 SW 1/4, NW 1/4 SE 1/4 Sec. 32; N 1/2 NE 1/4 NW 1/4 Sec. 33; SW 1/4 NE 1/4, NW 1/4 SE 1/4, NW 1/4 NE 1/4, SE 1/4 SE 1/4 Sec. 34; S 1/2 SW 1/4, SW 1/4 SE 1/4 Sec. 35; All in Twp. 11 N., R. 5 W., B.M. SW 1/4 NW 1/4, SW 1/4 Sec. 14; S 1/2 NW 1/4, S 1/2 Sec. 15; NE 1/4, S 1/2 NW 1/4, S 1/2 Sec. 16; S 1/2 NE 1/4, NE 1/4 NW 1/4, SE 1/4 NW 1/4, S 1/2 Sec. 17; S 1/2 SE 1/4 Sec. 18; N 1/2 NE 1/4, NE 1/4 NW 1/4 Sec. 19; All Secs. 20, 21, 22 & 23; SW 1/4 NE 1/4 Sec. 24; NW 1/4 NE 1/4, S 1/2 NE 1/4, NW 1/4, S 1/2 Sec. 25; All Secs. 26, 27 & 28; N 1/2, NE 1/4 SW 1/4, SE 1/4 Sec. 29; N 1/2, NE 1/4 SW 1/4, NE 1/4 SE 1/4 Sec. 33; N 1/2, SW 1/4, NW 1/4 SE 1/4 Sec. 34; N 1/2 NE 1/4, NW 1/4, Sec. 35; N 1/2 Sec. 36; All in Twp. 11 N., R. 6 W. B.M.	A total of 10,890.9 acres	

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

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 23rd day of January, 1939

(SEAL)

JAMES SPOFFORD

Commissioner of Reclamation

(SEAL)

67 2169

File # 67-2169

State of Idaho

License and Certificate of Water Right

Water License No. 18429
Water District No. _____

Amount 120 second feet
Priority December 18, 1936

THIS IS TO CERTIFY that WEISER IRRIGATION DISTRICT
of Weiser, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated December 18, 1936; that Permit No. 18429
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
120 second feet, was issued thereunder on January 23, 1939, showing that said works
were completed on the 12th day of March, 1938; and that on the 12th
day of March, 1938,

WEISER IRRIGATION DISTRICT

of Weiser, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Weiser
River, a tributary of SNAKE RIVER, for the purpose of irrigation and domestic
use, under Use Permit No. 18429 of the Commissioner of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7
of Licenses, at page 3913, on the 23rd day of January, 1939;

The right hereby confirmed dates from December 18, 1936;

The Point of Diversion is located S 49° 30' W. 1360 feet distant from the NE corner Sec. 35, T. 11 N., R. 4 W. B.M.
in the NE 1/4 NE 1/4, Sec. 35, T. 11 N., R. 4 W., B. M.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 120
cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
NW 1/4 Sec. 2; NE 1/4 Sec. 2; NE 1/4 Sec. 3; NE 1/4 Sec. 4; NE 1/4 Sec. 5; NE 1/4 Sec. 6; All in Twp. 10 N., R. 4 W. B.M. NE 1/4 Sec. 1; NE 1/4 Sec. 2; All in Twp. 10 N., R. 5 W. B.M. NE 1/4 Sec. 31; SE 1/4 Sec. 32; SE 1/4 Sec. 33; SE 1/4 Sec. 34; SE 1/4 Sec. 35; All in Twp. 11 N., R. 4 W. B.M. SE 1/4 Sec. 28; SE 1/4 Sec. 29; SE 1/4 Sec. 30; NE 1/4 Sec. 31; NE 1/4 Sec. 32; NE 1/4 Sec. 33; Sec. 33; SW 1/4 Sec. 34; NE 1/4 Sec. 35; All in Twp. 11 N., R. 5 W., B.M. SW 1/4 Sec. 14; SE 1/4 Sec. 15; NE 1/4 Sec. 16; SE 1/4 Sec. 17; SE 1/4 Sec. 18; NE 1/4 Sec. 19; All Secs. 20, 21, 22 & 23; SW 1/4 Sec. 24; NW 1/4 Sec. 25; All Secs. 26, 27 & 28; NE 1/4 Sec. 29; NE 1/4 Sec. 30; NE 1/4 Sec. 31; NE 1/4 Sec. 32; NE 1/4 Sec. 33; NE 1/4 Sec. 34; NE 1/4 Sec. 35; NE 1/4 Sec. 36; All in Twp. 11 N., R. 6 W. B.M.					
A total of 10,890.9 acres					

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

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 23rd day of January, 1939

(SEAL)

JAMES SPOFFORD

Commissioner of Reclamation

(SEAL)

67 2169

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: **A67-02169A**
Date Received: 9/26/1989
Receipt No: M004698
Received By: _____

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

1. Name: MILTON KERNER 208-549-2795
Address: 1733 WEISER RIVER ROAD
WEISER ID 83672
OR
Name: LOLA DEANE KERNER 208-549-2795
Address: 1733 WEISER RIVER ROAD
WEISER ID 83672

2. Date of Priority: DEC 18, 1936

3. Source: WEISER RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
11N	04W	35	NE	NE			WASHINGTON

5. Description of diverting works:
PORTABLE PUMP, PIPELINE, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.560		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

SCANNED
MAY 10 2004

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10N	04W	6	NW	NW		IRR	28.0
Section Acres							28.0
Total Acres							28.0

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:
A67-00005, A67-02374, A67-04470

14. Remarks:
THIS WATER IS PUMPED ALL ALONG THE WEISER RIVER IN THE LEGAL LAND DESCRIPTIONS GIVEN FOR THE POD.

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: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

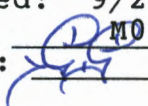
Residing at _____

My Commission Expires _____

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: A67-02169A
Date Received: 9/25/1989
Receipt No: M004698
Received By: 

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MILTON KERNER 208-549-2795
Address: 1733 WEISER RIVER ROAD
WEISER, ID 83672

OR

Name: LOLA DEANE KERNER 208-549-2795
Address: 1733 WEISER RIVER ROAD
WEISER, ID 83672

2. Date of Priority: DEC 18, 1936

3. Source: WEISER RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
11N	04W	35	NE	NE	NE		WASHINGTON

5. Description of diverting works:
PORTABLE PUMP, PIPELINE, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.560		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A67-02169A

Page 1

Date: 09/26/89

MICROFILMED

OCT 01 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10N	04W	6	NW	NW		IRR	28.0
Section Acres							28.0
Total Acres							28.0

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:
A67-00005, A67-02374, A67-04470

14. Remarks:
THIS WATER IS PUMPED ALL ALONG THE WEISER RIVER IN THE LEGAL LAND
DESCRIPTIONS GIVEN FOR THE POD.

15. Basis of Claim: BENEFICIAL USE

(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.

OCT 01 1992

Weiser Irrigation District
P.O. Box 591
Weiser, Idaho 8372
208-413-1792
Fax 208-414-1792

RECEIVED

OCT 31 2002

WATER RESOURCES
WESTERN REGION

October 26, 2002

Lori Graves
Sr. Water Resource Agent
2735 Airport Way
Boise, Idaho 83705-5082

RE: Milt Kerner

Dear Lori:

Milt Kerner has two portions of his farm. The land outlined in blue he purchased from Breshears. Breshears in 1941 contracted with the Weiser Irrigation District for 100 inches of the District's 1936 120cfs water right. *Enclosed is a recorded copy of the contract in Book 5 of Contracts at page 135. Kerner filed A67-02169A on his portion of our license 17813. We object to his claim. It is water we deliver to him.*

Kerner has 3 head gates and one pump out of our Galloway Canal. His property needs to be closely examined for points of use. A portion of his land is irrigated from the Mann Creek Irrigation District. We have no problem with his Muir vs Allison Decree A67-00005A or A67-04470, if in fact he delivers the water directly from the Weiser River and not through our canal.

He has one pump in our canal that appears to irrigate 13 acres in the NENW of Sec. 1, T10N R5W Kerner has filed 67-02374 on that pump. We object to his claim. It is water we deliver him through our licence 17813.

Mr. Kerner has been very uncooperative in resolving these issues and questions. Your help in this situation is greatly appreciated.

Sincerely yours,

Jay Edwards
Sec.

Enc.

SCANNED
MAY 10 2004

17813 = 67-2164

DATE: 08/13/98
PAGE: 4

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

DATE: 08/13/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MILTON KERNER	06/01/1889	IRRIGATION	03-15 11-15	1.40 CFS	
C	LOLA DEANE KERNER					
TOTAL DIVERSION:					1.40 CFS	

Water Source: WEISER RIVER

Tributary to: SNAKE RIVER

Stage: DECREED

Point(s) of Diversion:	T10N R05W S01	NESW	NWSW	SESW	NESE	WASHINGTON County
	S01	NWSE	SWSE			WASHINGTON County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE											
				NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
10N	05W	1	:			03		40		:	13		40		33		40		:	40		13		04		:	248.0
																							22		:	248.0	
																							TOTAL ACRES		:	248.0	

POU County: WASHINGTON

Non-Irrigation Uses: NONE

Other Rights: A67-02169, A67-02374, A67-04470, STORAGE WATER

Remarks: GEN THIS WATER IS PUMPED ALL ALONG THE WEISER RIVER IN THE LEGAL LAND
DESCRIPTIONS GIVEN IN THE POD.
FEES PAID UNDER RECEIPT NO. M004698.

Dates:	Exam Made Date:	Verified Date:	Objection Filed Date:
Misc:	Water District Number: 67	Field Inspection Flag:	
		Presumption Flag:	

WR5809NP
No. 67-02374

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/15/95
PAGE: 4

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MILTON KERNER	01/04/1967	IRRIGATION	03-15 11-15	0.600 CFS	171.00 AFA
TOTAL DIVERSION:					0.600 CFS	171.00 AFA

Water Source: WEISER RIVER

Tributary to: SNAKE RIVER

Stage: LICENSE

Point(s) of Diversion: T11N R04W S35 NENE

WASHINGTON County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
10N	05W	1	:								13									:	13.0
																				TOTAL ACRES	13.0

Pou County: WASHINGTON

Dates: App. Received:
Proof Due Date:
Exam Made Date:
Licensed Date: 01/31/1979

Priority Date: 01/04/1967
Proof Made Date:
Exam Sent to S.O.:

Misc: Water District Number: 67 Field Exam Fee:

Audit: 02/26/85 05/01/88 CONVERT

INSTRUMENT NO. 1471400

THIS CONTRACT Made and entered into on this the 15th day of January, 1941, by and between WEISER IRRIGATION DISTRICT, a quasi-municipal corporation of Weiser, Idaho, party of the first part, and A. ARTHUR BRESHEARS and EVA C. BRESHEARS, husband and wife, of Weiser, Idaho, parties of the second part; WITNESSETH:

WHEREAS, the parties of the second part are the owners of the fee title to lands in the possession of, the following described lands located in Washington County, Idaho, to-wit:

Lots 1 and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 1, Township 10 N of Range 5 West of Boise Meridian, containing ~~80~~ acres, more or less,

Also, a tract described as follows: Beginning at the corner of Townships 10 and 11 North of Range 4 and 5 West of Boise Meridian; thence N on W line of Section 31, Twp 11 N of Range 4 W.B.M. 1186 Ft.; thence E 1382.5 ft; thence S 56.5 ft; thence S 13°08' W 559.1 ft; thence S 41°38' W 307.8 ft; thence S 64°31' W 187.2 ft; thence S 84°31' E 600.5 ft. to the center line of the right of way of Pacific and Idaho Northern Railroad; thence S 5°57' E 620.6 ft; thence S 30°12' W 190 ft; thence S 37°43' W 859.3 ft; thence S 33°36' W 511.5 ft; thence S 75° W 90 ft., more or less, to a point on the W line of Sec. 6 Twp. 10 N of Range 4 W B.M.; thence N on said line 1500 ft to the center line of the right of way of Pacific and Idaho Northern Railroad; thence N on said W line of said Township 10 N of Range 4 W B.M. 743.5 ft. to the place of beginning, containing ~~64.54~~ acres of land, Excepting therefrom the said right of way of said railroad across the same. It being the intention to include all that part of Lot 4 and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31 in Twp. 11 N Range 4 W B.M. lying W of the center line of Manns Creek, excepting a strip of land of uniform width of 140.5 ft. along the N side of said Lot 4 and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 31, in Twp. 11 N of Range 4 W B.M., containing ~~35.45~~ acres more or less; and also, all that part of Lots 4 and 5 of Section 6 in Township 10 N of Range 4 West B.M., lying N and W of the center line of Manns Creek, Excepting therefrom the right of way of the Pacific and Idaho Northern Railroad as the same crosses said Lot 4, containing ~~29.10~~ acres, more or less, making in all said 64.00 acres of land.

and,

WHEREAS, in 1937 the party of the first part made application to the Commission of Reclamation of the State of Idaho for a permit to appropriate a large quantity of flood waters of the Weiser River and on which application Permit No. 19425 was issued from the office of the Commissioner of Reclamation of the State of Idaho to the party of the first part, and since said time formal proof of beneficial use of the water under said permit has been made and license therefor has been duly issued by the Commissioner of Reclamation of

4 W B.M. 743.5 ft. to the place of beginning, containing 54.64 acres of land, Excepting therefrom the said right of way of said railroad across the same. It being the intention to include all that part of Lot 4 and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31 in Twp. 11 N Range 4 W B.M. lying W of the center line of Manns Creek, excepting a strip of land of uniform width of 140.5 ft. along the N side of said Lot 4 and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 31, in Twp. 11 N of Range 4 W B.M., containing 35.45 acres more or less; and also, all that part of Lots 4 and 5 of Section 6 in Township 10 N of Range 4 West B.M., lying N and W of the center line of Manns Creek, Excepting therefrom the right of way of the Pacific and Idaho Northern Railroad as the same crosses said Lot 4, containing 29.19 acres, more or less, making in all said 64.00 acres of land.

and,

WHEREAS, in 1937 the party of the first part made application to the Commission of Reclamation of the State of Idaho for a permit to appropriate a large quantity of flood waters of the Weiser River and on which application Permit No. 18425 was issued from the office of the Commissioner of Reclamation of the State of Idaho to the party of the first part, and since said time formal proof of beneficial use of the water under said permit has been made and license therefor has been duly issued by the Commissioner of Reclamation of the State of Idaho unto the party of the first part; and,

WHEREAS, the parties of the second part are desirous of obtaining late and supplemental water from the Crane Creek reservoir for irrigation of said tract of land, and if same is obtained it will be necessary that said water, and in fact, all of the water to be used in irrigation of the said lands, excepting the water used from Manns Creek, shall be transported from the Weiser River to said lands through the irrigation canal of the party of the first part;

NOW, THEREFORE, in consideration of the premises and of the sum of \$600.00, cash in hand paid by the second parties to the first party, the receipt whereof is hereby acknowledged, the party of the first part does hereby contract and agree with the parties of the second part that it will cause Frank D. Ryan, as Trustee, by proper deed of conveyance duly approved by the court, to convey to the parties of the second part storage capacity in the Crane Creek reservoir sufficient to annually impound in said reservoir two hundred (200) acre feet of the primary storage rights in the Crane Creek reservoir.

And, in consideration of said sum above set forth, the party of the first part does hereby sell and grant to the parties of the second part an interest in said water permit license No. 18425 hereinbefore referred to, sufficient to give to the parties of the second part one hundred (100) miners inches of said water right and which water right is from the flood waters of the Weiser River, and does hereby also grant and convey to the parties of the second part the perpetual right to transport through the irrigation canal of the party of the first part annually, said one hundred (100) miners inches of flood water and said storage water which the party of the first part hereby agrees to have Frank D. Ryan convey to the parties of the second part.

It is agreed that annually the parties of the second part shall pay to the party of the first part Twelve (\$12.00) Dollars maintenance charge, same to be paid one-half on or before the first day of April each year, and the balance on or before the first day of October of each year.

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It is further agreed that the delivery of water hereby conveyed shall be made by the ditch tender of the first party, who shall have the sole right to operate and manage all headgates leading from the canal of the party of the first part.

It is agreed that in the event in the future it shall become necessary that any improvements shall be made in the canal of the party of the first part at any place between the head of said canal and the lands of the parties of the second part, the parties of the second part shall pay their pro rate part of the expense of such improvements.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, signing this contract in duplicate the day and year first above written.

Seal
(WEISER IRRIGATION DISTRICT)
(WASHINGTON COUNTY, IDAHO)

Attest: Oliver J. Smith, Secretary

WEISER IRRIGATION DISTRICT
a corporation,

By John J. McGrea,

A. Arthur Breshears

Eva C. Breshears

STATE OF IDAHO)
) ss.
County of Washington)

On this the 15th day of January, 1941, before me, the undersigned, a Notary Public in and for said State, personally appeared John J. McGrea and Oliver J. Smith, known to me to be the President and Secretary respectively of the Weiser Irrigation District, the corporation whose name is subscribed to the within instrument, and acknowledged to me that such corporation executed the same.

And, at the same time and place also appeared A. Arthur Breshears and wife, Eva C. Breshears, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this day and year first above written.

Seal
(Ed. R. Coulter Notary Public)
(State of Idaho)

Ed. R. Coulter
Notary Public for Idaho
Residing at Weiser, Idaho.

Filed for record at the request of Oliver J. Smith at 11:45 o'clock A.M., Dec. 6th, 1947.

Fees, \$2.20

Huoni Black, Recorder

PLATE SERIES ORT

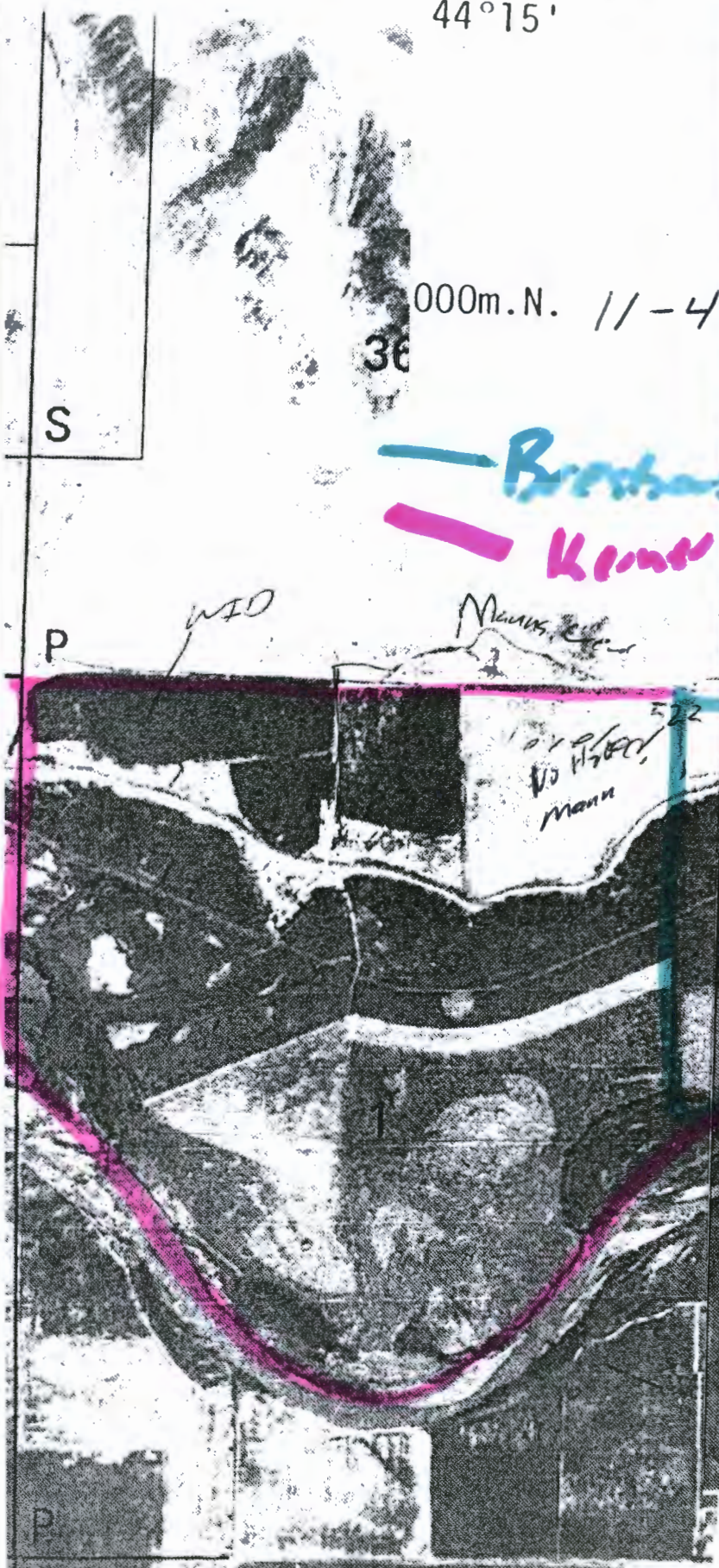
116°52'30"

37

5W

R4W

44°15'



Water Right Number - 67-02169

Adj. Flag Translation: Standard Water Right Number

Old (D) Number - 18429

+ - - - - Last Name - - - - +

+ - First Name - - +

+ - - - - Address - - - - -

*** C - CURRENT OWNER ***
WEISER IRRIGATION DISTRICT

1 -
2 -
3 -
City- WEISER
Phone -

State- ID Zip-

*Individual users
15-20 people*

+ - - Priority Date - - +
12/18/1936

+ - - - Region - - - +
14

+ - - - Stage - - - +
L - LICENSE

+ - - - Status - - - +

+ - - - - Source - - - - - +
WEISER RIVER

+ - - - - Tributary - - - - - +

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

11N 04W 35 NE NE (87) WASHINGTON 272.0 288.0 13.4

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 120.000
43 - DOMESTIC 120.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
120.000

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County

10N	04W	3	NW NE	10.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	3	NW NW	20.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	3	NW SW	30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE NE	30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW NE	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE NW	35.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW NW	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE SW	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW SW	20.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE SE	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW SE	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NE NE	35.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NW NE	35.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NE NW	30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NW NW	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NW SW	5.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NE NE	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NW NE	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NE NW	40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NW NW	40.0	01	IRRIGATION	(87) WASHINGTON

SCANNED
MAY 10 2004

MICROFILMED

APR 22 1990

Water right number - 67-02169

Adj. flag translation: Standard Water Right Number

+	Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
	10N	04W	6	NW SW		30.0	01	IRRIGATION	(87) WASHINGTON
	10N	04W	6	NW SE		10.0	01	IRRIGATION	(87) WASHINGTON
	10N	05W	1	NE NE		35.0	01	IRRIGATION	(87) WASHINGTON
	10N	05W	1	NW NE		20.0	01	IRRIGATION	(87) WASHINGTON
	10N	05W	1	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	10N	05W	2	NE NE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SW NE		5.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SE NE		15.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SE NW		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SW SW		35.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	31	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	32	SW NE		5.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	32	SW NW		5.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	32	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	32	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	32	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	32	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	33	SW SW		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	34	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	34	SW SE		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	34	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	35	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	04W	35	SW SE		25.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	28	SE SE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SW NE		25.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SW NW		25.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SE NW		30.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	29	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SE NE		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SE NW		30.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	30	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NW NW		39.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NE SW		35.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NW SW		15.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	31	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NE NE		33.0	01	IRRIGATION	(87) WASHINGTON

MICROFILMED
OCT 22 1996

Water right number - 67-02169

Adj. flag translation: Standard Water Right Number

+	Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
	11N	05W	32	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NE SE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	32	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	33	NE NE		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	33	NE NW		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	NW NE		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	SE NE		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	SE NW		30.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	NE SW		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	NW SE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	34	SE SE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	35	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	35	SE SW		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	05W	35	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	14	SW NE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	14	SW NW		30.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	14	NW SW		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	14	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	14	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	15	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	15	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	15	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	15	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
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	11N	06W	15	NE SE		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	15	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
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	11N	06W	16	NE NE		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	NE NW		10.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	NW SW		28.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	16	NW SE		37.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	NE NE		6.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	NW NE		12.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	SW NW		30.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	SW NW		3.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	SW SW		37.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	NE SE		12.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	NW SE		30.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	17	SW SE		25.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	18	SE SW		10.0	01	IRRIGATION	(87) WASHINGTON

MICROFILMED

OCT 22 1996

Water right number - 67-02169

Adj. flag translation: Standard Water Right Number

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
11N	06W	18	SE SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	19	NE NE		29.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	19	NW NE		3.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	19	NE NW		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE SW		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW SW		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW SE		36.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE SE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SW NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SW NW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SE NW		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SE SW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NE NW		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NE SE		20.0	01	IRRIGATION	(87) WASHINGTON

MICROFILMED

OCT 22 1996

Water right number - 67-02169

Adj. flag translation: Standard Water Right Number

+	Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
	11N	06W	25	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	26	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	27	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	28	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NW NW		13.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NW SW		7.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	29	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NW NW		20.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NW SW		12.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	33	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NE SW		34.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NE SE		9.0	01	IRRIGATION	(87) WASHINGTON
	11N	06W	34	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON

MICROFILMED

OCT 22 1996

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 11/12/1932	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Start Work Date	- 00/00/0000	Verified Date	- 06/03/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	- 67
Licensed Date	- 01/30/1979	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000				

001 22 1946
MICROFILMED

Split history for Decreed Right 29-02169

WR Record

67-02169	Weiser Irr Dist
120	cfs
10890.9	ac
	af

Adjudication Claim

67-02169	Weiser Irr Dist
120	
10890.9	

67-02169A	Kerner	Kerner
	0.56	0.56
	28	28
67-02169B	Bean	Bean
	1.3	1.3
	65	65
67-02169C	Kelley	Kelley
	1.14	1.14
	111	111
67-02169D	Green	67-14355 Green
	2.22	0.04
	111	2
		67-14366 Syme
		0.55
		27.5
67-02169E	Lylewood Farm	Lylewood Farm
	2.7	2.7
	111	111
67-02169F	Baker Bros	Baker Bros
	1.38	1.38
	111	111
67-02169G	Weiser Irr Dist	Weiser Irr Dist
	120	120

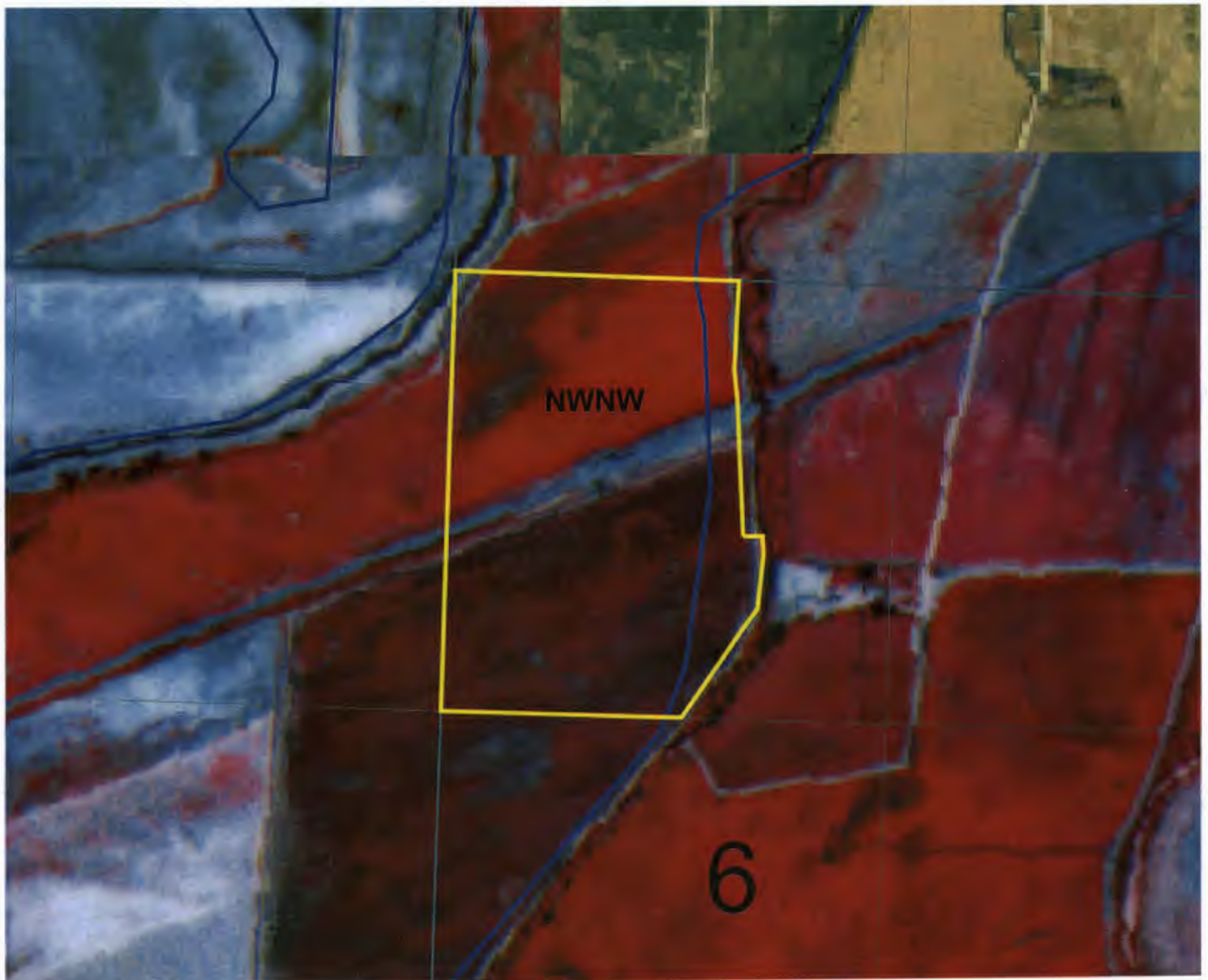
*Last updated 5-5-05 (csaxton)

For digital copy of Excel spreadsheet file: See Craig L. Saxton

Sum CFS =		127.67
Sum Acre =		455.5
Sum AF =		n/a

Un-accounted CFS =	-7.67	Over-claimed
Un-accounted ac =	10435.4	Under-claimed
Un-accounted AF =	n/a	

Idaho Department of Water Resources
67-2169A



500 0 500 1000 1500 2000 Feet

A horizontal scale bar with alternating black and white segments, corresponding to the measurements 500, 0, 500, 1000, 1500, and 2000 feet.

T10N, R04W, S6



Prepared by Anita L. Warntjes
January 9, 2004
1993/94 True Color Photo

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-2169A V1

WATER RIGHT NUMBER: 67-2169A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LOLA DEANE KERNER 1733 WEISER RIVER RD WEISER, ID 83672 (208)549-2795
Current Owner	MILTON KERNER 1733 WEISER RIVER RD WEISER, ID 83672 (208)549-2795

Priority Date: 12/18/1936

Basis:

Status:

<u>Source</u>	<u>Tributary</u>
WEISER RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.560 CFS	
	<u>Total Diversion:</u>	0.560 CFS	

Location of Point(s) of Diversion

WEISER RIVER	NE1/4NE1/4	Sec. 35, Twp 11N, Rge 04W, B.M.
WASHINGTON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
10N	04W	6	NE	NW	SW	SE	28.0

Total Acres: 28

Conditions of Approval:

Remarks:

DRAFT
DO NOT
SCAN

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-2169A V1

Comments:

1. mcase 5/3/2004 Weiser Irrigation District
Comment: Letter in file from Weiser Irrigation District objecting to this claim. The license is in the name of the Weiser Irrigation District.
2. mcase 5/3/2004 Period of Use
Comment: No licensed Period of Use. I recommended the standard Season of Use.
3. mcase 5/3/2004 Quantity
Comment: Unable to determine proper split flow rate and annual diversion.

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:
State or Federal: S
Owner Name Connector: OR
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Priority Date	5/3/2004 8:21:47 AM	mcase			
POD	5/3/2004 8:38:09 AM	mcase			
Source	5/3/2004 8:38:18 AM	mcase			
POU	5/3/2004 8:38:43 AM	mcase			
Use	5/3/2004 8:38:53 AM	mcase			
Season	5/3/2004 8:39:23 AM	mcase			
Quantity	5/3/2004 8:39:32 AM	mcase			

Verification Log:

Element	Date Time Stamp	Reviewer	Log text
POD	5/3/2004 8:37:44 AM	mcase	Edited point location
POD	5/3/2004 8:38:10 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-2189A V1

Source	5/3/2004 8:38:19 AM	mcase	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file?
POU	5/3/2004 8:38:43 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file?
Use	5/3/2004 8:38:54 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file?
Priority Date	5/3/2004 8:21:47 AM	mcase	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
Season	5/3/2004 8:39:24 AM	mcase	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use?
Quantity	5/3/2004 8:39:33 AM	mcase	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume?
POU	1/9/2004 2:47:46 PM	awarntje	Edited shape boundary

Weiser Irrigation District
P.O. Box 591
Weiser, Idaho 83672

RECEIVED
AUG 09 2005
DEPARTMENT OF
WATER RESOURCES

August 5, 2005

~~Diane~~ *Dunolle*
IDWR

RE: Milton Kerner

I am enclosing a map of the Kerner place with a yellow boundary. The East portion, we deliver water through the attached Breshears contract. I have out lined several fields that receive water from the Manns Creek Irrigation District. The South half of Sec 1 has a right 67-0005. I do not know if it is pumped from the Weiser River or gravity fed from the Galloway Canal. There is no other delivery agreement for water. I am enclosing correspondence from 1967 where Kerner badgered the Weiser Irrigation District into accepting \$12.00 year for irrigating 295 acres. We believe all the water delivered to him is a portion our license 17813.

Sincerely yours,

Jay Edwards
Sec.

Enc.

NUTE SERIES ORT

116°52'30"

M. KERNER.

5

5 W

R4W

44°15'

000m.N

Wassermann, Carl - 4

WATER 36
VALLEY

36

31

Jeffrey
Schoo

67-0000
Pumped from River

Milt Kerner

Bearham.

Contract is for

14464
+ ~~54~~ of which
Now
~~100~~ 201 ~~Ac~~
are irrigated
90.7

①

We sold to them a right to

use 100 inches of our
water Permit No. 18425

and we have also given right
to transport ~~200~~ ^{Ac. feet} of Crane
Creek water - ^{support to pay} maintenance ~~is~~
of ditch from head gate East to
River.

Water for land outside District

Galloway Property. land of
Galloway in sec 1 - he has 125 Ac. ^{from}
Crane Creek. ~~the~~ Milt says
he has 125 Ac. feet.

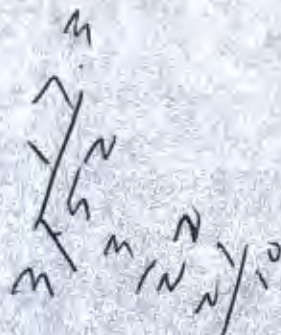
total 317.5 Ac. of
under Galloway has 218.70 ^{which} irrigated.

Kerner irrigates total of 347.9 Acres

We are probably providing spring flood water
for land bought from Galloway.

This land has a portion of Muir vs
Allison. had

347.9
- 52.8 Mann Creek
295.1



28.30
18.30
82.90
129.20

129.2
17.3
141.9

②

248.1
111.9
153.2

which state SW $\frac{1}{4}$ & SE $\frac{1}{4}$ Sec 1

67-000.5

320 Ac. with 70 inches

of that portion 108.5 Ac lying

North of the Wisconsin River

which $\frac{108.5}{320} \times \frac{x}{70} = \underline{23.10 \text{ inches}}$

from McIvor to Allison to Yellowman land.

INSTRUMENT NO. 51400

THIS CONTRACT Made and entered into on this the 15th day of January, 1941, by and between WEISER IRRIGATION DISTRICT, a quasi-municipal corporation of Weiser, Idaho, party of the first part, and A. ARTHUR BRESHEARS and EVA C. BRESHEARS, husband and wife, of Weiser, Idaho, parties of the second part, WITNESSETH:

WHEREAS, the parties of the second part are the owners of the fee title to, and in the possession of, the following described lands located in Washington County, Idaho, to-wit:

Lots 1 and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 1, Township 10 N of Range 5 West of Boise Meridian, containing 80 acres, more or less,

Also, a tract described as follows: Beginning at the corner of Townships 10 and 11 North of Range 4 and 5 West of Boise Meridian; thence N on W line of Section 31, Twp 11 N of Range 4 W.B.M. 1186 Ft.; thence E 1382.5 ft; thence S 56.5 ft; thence S 13°08' W 559.1 ft; thence S 41°38' W 307.8 ft; thence S 64°31' W 187.2 ft; thence S 84°31' E 600.5 ft. to the center line of the right of way of Pacific and Idaho Northern Railroad; thence S 5°57' E 620.6 ft; thence S 30°12' W 190 ft; thence S 37°43' W 859.3 ft; thence S 33°36' W 511.5 ft; thence S 75° W 90 ft., more or less, to a point on the W line of Sec. 6 Twp. 10 N of Range 4 W B.M.; thence N on said line 1500 ft to the center line of the right of way of Pacific and Idaho Northern Railroad; thence N on said W line of said Township 10 N of Range 4 W B.M. 743.5 ft. to the place of beginning, containing 64.64 acres of land, Excepting therefrom the said right of way of said railroad across the same. It being the intention to include all that part of Lot 4 and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31 in Twp. 11 N Range 4 W B.M. lying W of the center line of Manns Creek, excepting a strip of land of uniform width of 140.5 ft. along the N side of said Lot 4 and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 31, in Twp. 11 N of Range 4 W B.M., containing 35.45 acres more or less; and also, all that part of Lots 4 and 5 of Section 6 in Township 10 N of Range 4 West B.M., lying N and W of the center line of Manns Creek, Excepting therefrom the right of way of the Pacific and Idaho Northern Railroad as the same crosses said Lot 4, containing 29.19 acres, more or less, making in all said 64.00 acres of land.

and,

WHEREAS, in 1937 the party of the first part made application to the Commissioner of Reclamation of the State of Idaho for a permit to appropriate a large quantity of flood waters of the Weiser River and on which application Permit No. 18425 was issued from the office of the Commissioner of Reclamation of the State of Idaho to the party of the first part, and since said time formal proof of beneficial use of the water under said permit has

the center line of the right of way of Pacific and Idaho Northern Railroad; thence S 6° 57' E 620.6 ft; thence S 30° 12' W 190 ft; thence S 37° 43' W 859.3 ft; thence S 33° 36' W 511.6 ft; thence S 75° W 90 ft., more or less, to a point on the W line of Sec. 6 Twp. 10 N of Range 4 W B.M.; thence N on said line 1500 ft to the center line of the right of way of Pacific and Idaho Northern Railroad; thence N on said W line of said Township 10 N of Range 4 W B.M. 743.5 ft. to the place of beginning, containing 64.64 acres of land, Excepting therefrom the said right of way of said railroad across the same. It being the intention to include all that part of Lot 4 and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31 in Twp. 11 N Range 4 W B.M. lying W of the center line of Manna Creek, excepting a strip of land of uniform width of 140.5 ft. along the N side of said Lot 4 and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 31, in Twp. 11 N of Range 4 W B.M., containing 35.45 acres more or less; and also, all that part of Lots 4 and 5 of Section 6 in Township 10 N of Range 4 West B.M., lying N and W of the center line of Manna Creek, Excepting therefrom the right of way of the Pacific and Idaho Northern Railroad as the same crosses said Lot 4, containing 29.19 acres, more or less, making in all said 64.00 acres of land.

and,

WHEREAS, in 1937 the party of the first part made application to the Commissioner of Reclamation of the State of Idaho for a permit to appropriate a large quantity of flood waters of the Weiser River and on which application Permit No. 18425 was issued from the office of the Commissioner of Reclamation of the State of Idaho to the party of the first part, and since said time formal proof of beneficial use of the water under said permit has been made and license therefor has been duly issued by the Commissioner of Reclamation of the State of Idaho unto the party of the first part; and,

WHEREAS, the parties of the second part are desirous of obtaining late and supplemental water from the Crane Creek reservoir for irrigation of said tract of land, and if same is obtained it will be necessary that said water, and in fact, all of the water to be used in irrigation of the said lands, excepting the water used from Manna Creek, shall be transported from the Weiser River to said lands through the irrigation canal of the party of the first part;

NOW, THEREFORE, in consideration of the premises and of the sum of \$800.00, cash in hand paid by the second parties to the first party, the receipt whereof is hereby acknowledged, the party of the first part does hereby contract and agree with the parties of the second part that it will cause Frank D. Ryan, as Trustee, by proper deed of conveyance duly approved by the court, to convey to the parties of the second part storage capacity in the Crane Creek reservoir sufficient to annually impound in said reservoir two hundred (200) acre feet of the primary storage rights in the Crane Creek reservoir.

And, in consideration of said sum above set forth, the party of the first part does hereby sell and grant to the parties of the second part an interest in said water permit license No. 18425 hereinbefore referred to, sufficient to give to the parties of the second part one hundred (100) miners inches of said water right and which water right is from the flood waters of the Weiser River, and does hereby also grant and convey to the parties of the second part the perpetual right to transport through the irrigation canal of the party of the first part annually, said one hundred (100) miners inches of flood water and said storage water which the party of the first part hereby agrees to have Frank D. Ryan convey to the parties of the second part.

It is agreed that annually the parties of the second part shall pay to the party of the first part Twelve (\$12.00) Dollars maintenance charge, same to be paid one-half on or before the first day of April each year, and the balance on or before the first day of October of each year.

It is further agreed that the delivery of water hereby conveyed shall be made by the ditch tender of the first party, who shall have the sole right to operate and manage all headgates leading from the canal of the party of the first part.

It is agreed that in the event in the future it shall become necessary that any improvements shall be made in the canal of the party of the first part at any place between the head of said canal and the lands of the parties of the second part, the parties of the second part shall pay their pro rate part of the expense of such improvements.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, signing this contract in duplicate the day and year first above written.

Seal
(WEISER IRRIGATION DISTRICT)
(WASHINGTON COUNTY, IDAHO)
Attest: Oliver J. Smith, Secretary

WEISER IRRIGATION DISTRICT
a corporation,
By John J. McGree,
A. Arthur Breshears
Eva C. Breshears

STATE OF IDAHO)
County of Washington) ss.

On this the 15th day of January, 1941, before me, the undersigned, a Notary Public in and for said State, personally appeared John J. McGree and Oliver J. Smith, known to me to be the President and Secretary respectively of the Weiser Irrigation District, the corporation whose name is subscribed to the within instrument, and acknowledged to me that such corporation executed the same.

And, at the same time and place also appeared A. Arthur Breshears and wife, Eva C. Breshears, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this day and year first above written.

Seal
(Ed. R. Coulter, Notary Public)
(State of Idaho)

Ed. R. Coulter
Notary Public for Idaho
Residing at Weiser, Idaho.

Filed for record at the request of Oliver J. Smith at 11:45 o'clock A.M., Dec. 5th, 1947.

Fees, \$2.20

Naomi Black, Recorder

LAW OFFICE
JAMES B. DONART
COLONNADE BUILDING
P. O. BOX 730
KETCHUM, IDAHO 83340
TELEPHONE (208) 728-3144

May 4, 1977

Board of Directors
Weiser Irrigation District
28 West Idaho
Weiser, Idaho 83672

This letter is prompted by things that transpired Monday, when I was in Weiser, which I would have liked to have dealt with in a little more depth but couldn't because of my hasty departure to meet with my youngest daughter in Boise. Be that as it may, there were two things that I probably should mention.

One deals with an opinion, which for some reason is undated, probably written in 1965 or 1966. It relates to carrying rights of those persons who are along the ditch who are not within the district. A copy is enclosed, and after reading it over I see no reason, even after re-examining all of the ancient documents last Thursday night, to change any statement in it. Specifically, with regard to the situation with Milton Kerner, there is no reason why he should not pay for his carriage right and if he refuses to pay the District is perfectly within it's rights to refuse to deliver water to him. This is a matter for negotiation between the Board and Milton Kerner.

The second question was raised at the meeting of the Crane Creek Reservoir Administration Board when Ralph Lyle, who is a member of the Board, asked if Weiser Irrigation District would permit him, periodically, to make use of his adjudicated water in such a way that he would allow it to flow by except when he was using it, which would be for brief periods of time, but only intermittently, to the end and purpose that he could pump 250 to 300 miners inches for brief periods of time and at intervals and, thus, free up his Crane Creek water so that it could be made available to someone else. Specifically, he was referring to Panicke and Woods.

Weiser Irrigation District
May 4, 1977
Page Two

It is, of course, up to the Board's discretion if you want to permit him to do this. This presupposes that he does have, in fact, an adjudicated right to fifty miners inches as he asserted at the meeting. If the land described in the Durbin vs. Weiser Irrigation District amended complaint describes the land that is now owned by Ralph Lyle, unquestionably, he does have such a right and, probably, if any right on the river is good for the duration of the season, that one will be.

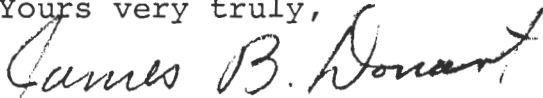
Assumming that is the case, and there is a willingness on the part of the Board to enter into such an arrangement, it is my opinion that in view of the crisis that exists this year you probably could enter into an agreement with him that would permit him to do what he proposes. I will hasten to add that in a normal year I would be very hesitant to counsel you to enter into such an agreement. The agreement would, if entered into, require the sanction of the Water Master. It probably wouldn't be the most simple agreement in the world but it could, nevertheless, be reduced to writing and would, in effect, provide for an exchange of water which would permit the Weiser Irrigation District to use his fifty inches of stream flow during the intervals when he was not irrigating. In exchange for that he would be permitted at intervals, and only after first giving notice to the Weiser Irrigation District, to pump the necessary two hundred and fifty miners inches, which is required to make his pump function properly, for a sufficient interval to provide him with irrigation water. The contract should define the number of times during the season that he would do it and, certainly, be qualified with language mandating that the total amount of water that he would take while pursuing that practice would not exceed, during the season, fifty miners inches of continuous flow. I believe that in order to make such a contract, so that it's operation would not be oppressive to the district, that the exact number of times and the duration of those times be expressly limited because such a quantity of water being turned on and off with frequency could make the ditch fluctuate very substantial and aggravate the problems of water users downstream very materially.

Weiser Irrigation District
May 4, 1977
Page Three

I have volunteered this latter information, which you may or may not want to act on. When the question was put by Ralph Lyle, at the Crane Creek Reservoir Administration Board meeting, our representative on that Board, Amos Rodabaugh, obviously could not give an answer to the question because it would take action by the entire Board. For that reason the question went unanswered at the Reservoir Board meeting.

As you may know by now, I picked up a copy of one page of the amended complaint in the case of Durbin vs. Weiser Irrigation District. It was time well spent to examine the court file because, after reading the amended complaint, even though the decree standing by itself did not appear to change anything, when read in conjunction with the amended complaint it is clear that Mrs. Durbin and her successors in interest did acquire fifty miners inches with a priority of 1868. Unfortunately, this is to be deducted from the one hundred inches that was originally adjudicated to the Weiser Irrigation District. Vincent Derig has been asked to obtain a xeroxed copy of the entire amended complaint and send it, together with a copy of the decree that was entered, to me and I will give you a more in depth opinion on it when I have a chance to read it more deliberately. Monday, I read it in great haste because my time was very limited and I will want to expand on it and give you my opinion on it.

Yours very truly,



James B. Donart

JBD:cam
Enclosure

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF
WEISER IRRIGATION DISTRICT HELD ON THE 4th DAY OF APRIL,
1967

BE IT REMEMBERED, That the Board of Directors of the Weiser Irrigation District met this day in regular session, there being present, Arlo Alder, President, Amos Rodabaugh and Ervin Falconer, Directors and Vincent F. Derig, Secretary.

The minutes of the last regular meeting of the Board, as recorded on page 113 of this Book were read and approved as read.

Comes Now Mr. Milton Kerner requesting that the Board apprise him of his status as a recipient of irrigation water through the Weiser Irrigation District Canal. He states that he has by and through his predecessor in interest, used irrigation water on 14 acres below the present canal and 30 acres, above the canal, for the past ten (10) years or six years prior to December 18, 1961 (evidenced by Guy Galloway Affidavit of said date.) He also states that he is the owner of 125 acres storage capacity in Crane Creek Reservoir, but knows of no agreement for carrying right in the Weiser Irrigation District Canal. After discussion of change in use of water, the Board decided that the matter should be shelved for Legal opinion.

Ditch Tender, Harry Lee Hilt being present at the meeting, by request of the Board, discussion was held on the possibility of operating the Canal with one Ditch Tender, and after due discussion, consideration and re-discussion, the consensus was that in view of the short water year, it would be impossible to operate with one walker, however it was decided that Clarence Benson should be hired on an indefinite basis so that if it seemed feasible, only one walker could operate the said canal, then his services would terminate.

The following claims were examined, allowed and checks were ordered to issue for and in payment thereof.

2403	Vincent F. Derig	Secretary Salary	\$115.82
2404	Arlo Alder	Time, Mileage, Director	81.54
2405	Amos Rodabaugh	Time, Director Salary	23.90
2406	Ervin Falconer	Time, Director Salary	33.46
2407	Harry Lee Hilt	Machine Operator	242.92
2408	Russell Hilt	Machine Operator's helper	141.13
2409	Ralph Anderson	Labor on Canal	244.86
2410	Calvin Hill	Labor on Canal	216.56
2411	Clarence Benson	Labor & Rodent control	163.98
2412	C & W Sand & Gravel	Machine hire	179.60
2413	Ideal Gas & Appliance	Pro-Gas	88.00
2414	Consumers Cooperative	Material and Fuel	69.10
2415	Bestway Building Center	Building Materials	51.74
2416	H-J-H Company	Parts for Caterpillar	28.48
2417	Weiser Iron Works	repair clutch	5.00
2418	Wn. Co. Soc. Sec. Tr. Fd.	Social Security 1st qtr	236.45
2419	United States Treasury	Withholding 1st qtr.	203.10
2420	State of Idaho	Withholding 1st qtr.	39.14
2421	Employment security Acy.	Unemployment Insurance	72.55

There being no further business to come before the board at this time, the meeting was adjourned.

Vincent F. Derig
Secretary

Attest:

Arlo Alder
Chairman

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS (WEISER IRRIGATION DISTRICT HELD ON THE 2nd DAY OF MAY, 1967.

BE IT REMEMBERED, That the Board of Directors of the Weiser Irrigation District met this day in regular session, there being present, Arlo Alder, President, Amos Rodabaugh and Ervin Falconer, Directors and Vincent F. Derig, Secretary.

The minutes of the last regular meeting of the Board, as recorded on page 115 of this Book were read and approved as read.

The Secretary now reads a letter to the Board of Directors, Weiser Irrigation District, dated April 21, 1967 and submitted by James B. Donart of the Law Office of Donart & Donart- -Said letter being in regard to Mr. Milton Kerner request (See Minutes of Meeting April 4, 1967) for statement of rights in Weiser Irrigation District Canal. A copy of said letter is attached hereto and made a part of hereof.

The Matter of Weiser Irrigation Districts participation in the construction of a Spillway at Crane Creek Reservoir and the procurement of funds for said construction and the following proceedings were had:

ACTION: Made by Director Rodabaugh, seconded by Director Falconer that the Board accept the "Association Loan Resolution" submitted by Farmer's Home Administration, and that the President and Secretary sign the same and attach the Seal of Weiser Irrigation District thereto- -Keeping always in mind that said "Association Loan Resolution" is to be binding only after two-thirds of the Water-users voting at a Special or Regular election of said District have voted in favor of said Spillway construction. Unanimously carried.

ACTION: Made by Director Falconer, seconded by Director Rodabaugh, that the Board ratify a Spillway Construction Participation Agreement, by and between Weiser Irrigation District, Weiser Cove Irrigation District, Institute Canal Company and Crane Creek Reservoir Independent Water Users Company, if and when said agreement is presented to the District and such agreement has been found to to have no objectionable components, then, the President and Secretary are hereby ordered to Sign said Agreement and Attach the Seal of the District thereto. Unanimously carried.

The following claims were examined, allowed and checks were ordered to issue for and in payment thereof.

222 Vincent F. Derig	Secretary Salary	\$115.82
223 Arlo Alder	Time & Mileage	79.14
224 Amos Rodabaugh	Time	9.56
225 Harry Lee Hilt	Ditch Tender Salary	314.98
226 Clarence Benson	Ditch Tender Salary	314.98
227 Ralph Anderson	Labor & Mileage	119.22
228 Calvin Hill	Labor & Tractor	189.38
229 Russell Hilt	Labor	38.72
230 C & W. Sand and Gravel	Gravel	103.50
231 Ideal Gas and Appliance	Pro-gas	46.20
232 Bestway Building Center	Lumber	5.76
233 Acme Iron Works	Welding	5.35
234 Ike Dewey	Labor	22.84
235 Idaho Power Company	Advance	60.00

There being no further business to come before the board at this time, the meeting was adjourned.

Vincent F. Derig
Secretary

Attest:

Arlo Alder
Chairman

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MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF
WEISER IRRIGATION DISTRICT HELD ON THE 6th DAY OF JUNE, 1967

BE IT REMEMBERED, That the Board of Directors of the Weiser Irrigation District met this day in regular session, there being present, Arlo Alder, President, Amos Rodabaugh and Ervin Falconer, Directors and Vincent F. Derig, Secretary.

The Minutes of the last regular meeting of the Board, as recorded on pages 117 and 117A of this Book were read and approved as read.

A copy of the Easement granted by Weiser Irrigation District, to Douglas McGinnis on the 12th day of May, 1967, was presented to the Board and ratified. by said Board.

James B. Donart of the Law firm of Donart & Donart, was in attendance at this meeting to discuss the Kerner problem and was instructed to write another letter to Mr. Milton Kerner, a copy of which is attached hereto and made a part hereof.

The following claims were examined, allowed and checks were ordered to issue in payment thereof.

2436	Vincent F. Derig	Secretary Salary	\$115.82
2437	Harry Lee Hilt	Ditch Tender	314.98
2438	Clarence Benson	Ditch Tender	314.98
2439	Arlo Alder	Time and Mileage	42.74
2440	Amos Rodabaugh	Time and Mileage	22.87
2441	Ervin Falconer	Time and Mileage	19.12
2442	Ralph Anderson	Labor on Canal	28.68
2443	Perry Plischke	Labor on Canal	12.00
2444	Consumers' Cooperative	Repair Pump, Headgate, Boots	202.53
2445	Acme Iron Works	Welding	4.00

There being no further business to come before the board at this time, the meeting was adjourned.

Vincent F. Derig
Secretary

Attest: *Arlo Alder*
Chairman.

LAW OFFICES
DONART & DONART

WALLACE BUILDING, 100 N. 1ST ST., BOISE, IDAHO

POST OFFICE BOX 100

WEISER, IDAHO 83672

TELEPHONE 549-2072
AREA CODE 208

JAMES DONART, 1889-1961
JAMES B. DONART

June 8, 1967

Mr. Milton Kerner
Aural Route No. 2
Weiser, Idaho 83672

Dear Milt:

Once again I am writing to you on behalf of the Weiser Irrigation District. This letter does not again concern itself with conveyance of Crane Creek water about which I wrote to you some time back.

It has come to the attention of the Board that for several years past you and your predecessor in interest, Guy Galloway, have flood irrigated some fourteen acres of land lying below the Galloway Canal. Mention has also been made of occasional sprinkler irrigation of approximately thirty acres owned by you above the Canal.

The source of the right to do this at the moment is rather obscure. This is particularly true with respect to the thirty acres that is occasionally irrigated by sprinkler system.

Our search of the District's records at best at the moment is inconclusive. Although we are not prepared, at this time, to tell you that you may continue these practices indefinitely, by the same token we cannot give you any assurance that a conclusive search of the record will compel the District to ask to discontinue these practices.

It has likewise come to the attention of the District that you have expressed an intention to irrigate a like number of acres elsewhere on your property. Due to the fact that a portion of the thirty acres will be irrigated by the Manns Creek Irrigation District. While the District does not care if you desire to irrigate a portion of this land from Manns Creek water, it, nevertheless, cannot permit the use of Weiser irrigation District water on any other land that you own other than that which you have heretofore irrigated. The Idaho Code permits irrigation districts to control the place of application of water supplied by the District. Unquestionably in a case such as yours where your land is not within the District and where the water that you use from the Galloway Canal may well be merely at the pleasure of the District, there is no question but that the District could compel you to cease using that water if you made any attempt to apply it to any land other than that which is now irrigated.

Again, I want to make it abundantly clear that the District is not interfering at the moment with your use of water on either of these parcels of land and is not acknowledging that you have a right either temporary or perpetual to do this. And, it may be compelled in the future to insist that you stop using water out of the Weiser Irrigation District Canal completely.

Yours very truly,

DONART & DONART

By:

JAMES B. DONART

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF
WEISER IRRIGATION DISTRICT, HELD ON THE 7th DAY OF JANUARY,
1969

BE IT REMEMBERED, That the Board of Directors of the Weiser Irrigation District met this day in regular session, there being present, Amos Rodabaugh, Erven Falconer and Maurice Syme, Directors and Vincnet F. Derig, Secretary.

The Minutes of the last regular meeting as recorded on page 189 and those of a special meeting, as recorded on page 191 of this book were read and approved as read.

The Board now proceeds to organize for the year 1969 and for President and Chairman of the Board, Erven Falconer was nominated by Director Rodabaugh Motion was made by Director Syme that the nominations cease, seconded and unanimously carried.

For Vice President and Vice Chairman, Maurice Syme was nominated by Director Rodabaugh, Motion made by Director Falconer, that the nominations cease, seconded and unanimously carried.

Director Rodabaugh was appointed Treasurer of the District for the year 1969 or until his successor be appointed.

Vincent F. Derig was appointed Secretary of the District for the year 1969. Salary to be \$1,800.00 per year and \$600.00 Office Space rental- - (\$2,400.00 Secretary and Office) Appointment confirmed.

IT IS THEREFORE ORDERED, That Erven Falconer, act as Chairman of the Board Maurice Syme, act as Vice Chairman of the Board, That Amos Rodabaugh, act as Treasurer of the District and Vincent F. Derig is appointed Secretary of Weiser Irrigation District for the year 1969 or until their respective successors be appointed and qualified.

Milton Kerner now comes before the Board requesting that a decision be confirmed regarding charges for irrigation water use on the property owned by him but not within the Weiser Irrigation District. And after discussion, The Board decided that If Mr Kerner would pay \$36.00 to bring him current, the charge of \$12.00 per year would be the charge made to and against the Irrigation water used by him. so be it.

Since Arlo Alder has some un-finished projects with the District and has agreed to act as foreman of and for said projects, The Motion was made by Director Syme, that Arlo Alder be paid \$2.25 per hour for the time spent in completeing these projects and any others which he accepts for the District; Seconded by Director Rodabaugh and unanimously carried.

The following claims were examined, allowed and checks were ordered to issue in payment thereof.

2707	Vincent F. Derig	Secretary Salary	\$115.82
2708	Harry Lee Hilt	Machine Operator & Mileage	196.10
2709	Arlo Alder	Time, Mileage & Salary	171.87
2710	Amos Rodabaugh	Director Salary	19.12
2711	Erven Falconer	Director Salary	19.12
2712	Ralph Anderson	Labor on Canal S C F	217.00
2713	Calvin Hill	Labor on Canal c r i	191/19
2714	Ivan Dewey	Labor on Canal o e u	156.90
2715	Delbert Petty	Cement t e m	701.40
2716	Idaho Concrete Pipe Co.	Stringers t k e	630.00
2717	Bestway Building Center	Materials s	600.34
2718	Consumers Cooperative	Materials	106.15
2719	Ideal Gas and Appliance	Pro Gas	38.50
2720	H-J-H Company	Materials	18.02
2721	Commercial Printers	Ballots	9.50
2722	Weiser News Company	Office Supplies	3.00
2723	Vincent F. Derig	Office Rent	400.00
2724	Donart & Donart	Retainer	200.00
2725	Wn. Co. Soc. Sec. Tr. Fund	Social Security 4th quarter	263.27
2726	United States Treasury	Withholding 4th Quarter	232.30
2727	State of Idaho	Withholding 4th Quarter	45.63
2728	Department of Employment	Unemployment Insurance	86.74

There being no further business to come before the board at this time, the meeting was adjourned.

October 30, 1995

revised 11/27/95

Milt Kerner

Breshears contract

144.64
Contract is for about ~~184~~ acres of which now ~~100~~ *90.7* acres are irrigated. WID sold to them a right to use 100 inches of our water permit No. 18425 and we have also given a right to transport 200 acre feet of Crane Creek water. He is supposed to pay a proportion share of maintenance of the ditch from his head gate to the Dam.

Galloway property

There is no contract. Guy Galloway purchased 175 acre feet of Crane Creek water. This District has charged him \$12.00 for carrying the water. The Galloway property has a 23.10 inches of adjudicated water which is delivered by WID. Each time, 1966-74 Kerner has argued and the District has not changed its billing.

Kerner irrigates 347.9 acres of which 52.8 are furnished by Manns Creek Irrigation District. It appears that he irrigates 295.1 acres. WID transports his Crane Creek and adjudicated water and contract water. The WID have provided him spring flood water and water during the irrigation season above his adjudicated and contract water.