

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 81473

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED
FEB 17 2017

Department of Water Resources

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at www.idwr.idaho.gov.

Name of Applicant(s) Walker Land & Cattle, LLC

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☒ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Walker Land & Cattle, LLC Phone 208-524-3341
Mailing address 1070 Riverwalk Drive Ste 200, Idaho Falls, Idaho 83402 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it Attachment #1.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it Attachment #2a.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it Attachment #2b.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it Attachment #3.

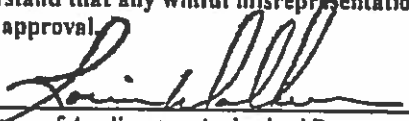
Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Thomas J. Budge, Attorney Phone 208-232-6101
Mailing address P.O. Box 1391, Pocatello, Idaho 83204-1391 Email tjb@racinelaw.net

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it Attachment #4.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.


Signature of Applicant or Authorized Representative

Lorin Walker, Member
Print Name and Title if applicable

2-17-17
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it Part 1A.2.
Transfer water right no. 31-2427C to land four miles east.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or ☒ Part ☐	31-2427C	4.46 cfs	Irrigation	04/01 to 10/31	Groundwater
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 4.46 cfs and/or 910 acre-feet.

2. Total amount of water proposed to be transferred or changed 4.46 cubic feet per second and/or 910 acre-feet per year.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it Attachment #5.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Y		NE	SE	NE	28	8N	37E	Fremont	Groundwater	
Y		NE	SE	SE	28	8N	37E	Fremont	Groundwater	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
8N	37E	27						32.5	32.5			32.5	32.5						130
8N	37E	28	32.5			32.5									32.5			32.5	130
Total Acres (for irrigation use)																			260

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Existing groundwater well.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☒ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: Wells Fargo Mortgage

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

Land now irrigated under 31-2427C will be irrigated under 31-7136, 31-10699 and 31-2435 via companion transfer application filed herewith.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

Presently no other water rights are used to irrigate the place of use of 31-2427C.

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

[Close](#)**IDAHO DEPARTMENT OF WATER RESOURCES**
Water Right Report

2/13/2017

WATER RIGHT NO. 31-2427C

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WALKER LAND & CATTLE LLC 1070 RIVERWALK DR STE 200 C/O MIKE BARNES OR TERRY WADSWORTH IDAHO FALLS, ID 83402 208-524-3341
Original Owner	STEVE M MORTENSEN 3445 TAYLOR VIEW IDAHO FALLS, ID 83406 (208)357-3265
Original Owner	CAL-IDA INC 3445 TAYLOR VIEW NEWDALE, ID 83436
Original Owner	MAX C MORTENSEN 120 N 7 E ST ANTHONY, ID 83445 (208)624-3379
Security Interest	RABO AGRIFINANCE INC 12443 OLIVE BLVD STE 50 ST LOUIS, MO 63141
Security Interest	WELLS FARGO BANK MAC U1228-062 299 S MAIN ST 6TH FLOOR SALT LAKE CITY, UT 84111

Priority Date: 03/29/1966

Basis: Decreed

Status: Active

SourceTributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	4.46 CFS	910 AFA
Total Diversion			4.46 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SWSE|Sec. 26|Township 08N|Range 36E|JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
08N	36E	26		NWNE	32		SWNE	36						
				NENW	30		SENE	33						
				NESW	33		SESE	29						
				NWSE	35		SWSE	32						

Total Acres: 260

Conditions of Approval:

1. 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.

Dates:

Licensed Date:

Decreed Date: 02/22/2002

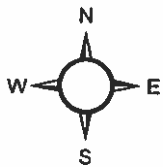
Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Attachment /



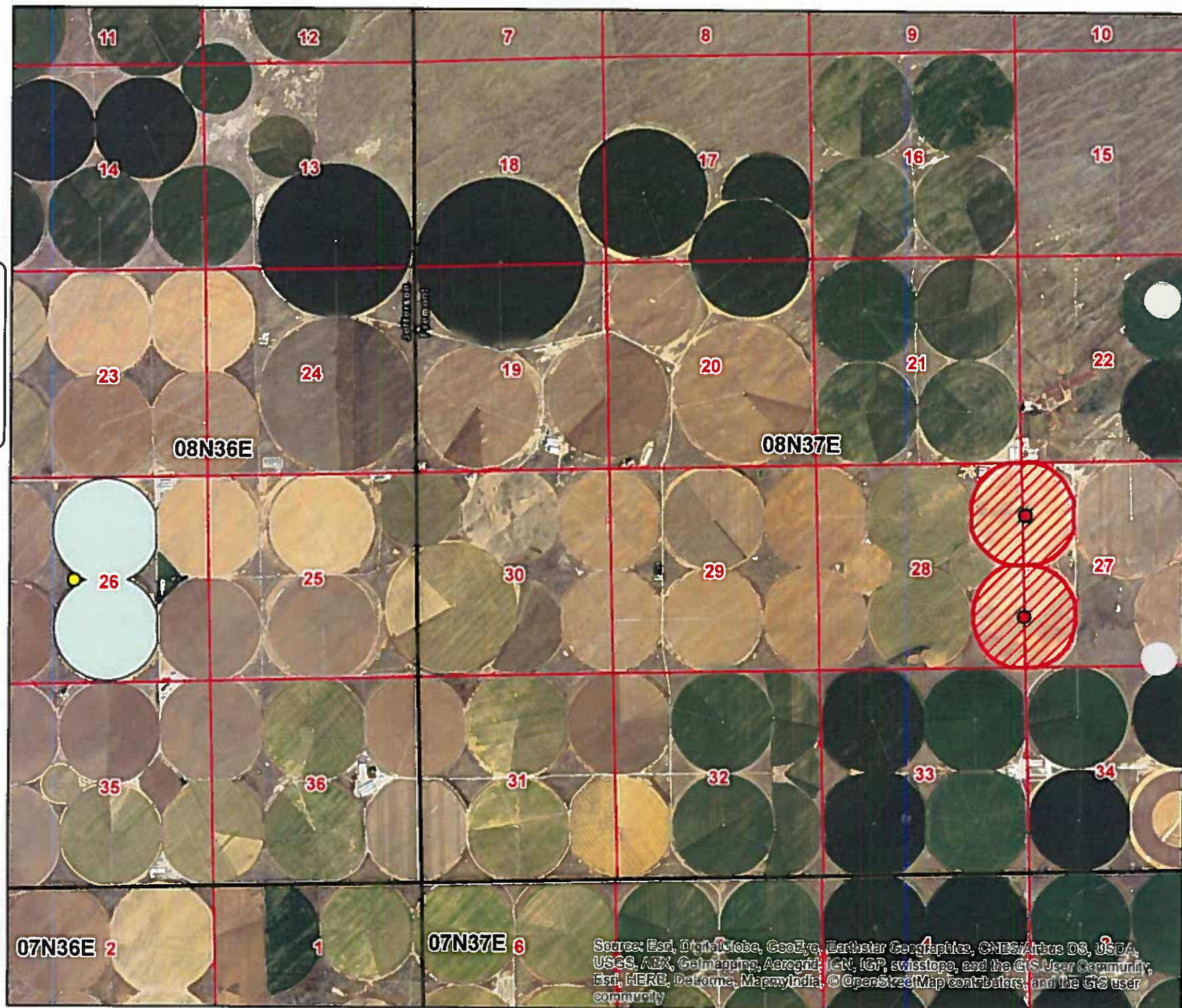
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-  31-2427C - Current POD
-  31-2427C - Current POU
-  New POD
-  New POU
-  TR Lines
-  Section Lines

81473



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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroX, Calmapping, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community, Esri, HERE, DeLorme, MapmyIndia, ©OpenStreetMap contributors, and the GIS user community

February 16, 2017

VIA E-MAIL AND OVERNIGHT DELIVERY

Idaho Department of Water Resources
Attn: Blake Jordan
900 North Skyline Drive, Suite A
Idaho Falls, Idaho

Re: Consent to the Filing of Two Applications to Transfer Water Rights,
Involving Water Rights 31-2427C, 31-2425, 31-7136 (a portion), and 31-10699.

Dear Mr. Jordan:

This letter is filed on behalf of our client, Wells Fargo Bank, National Association ("Wells Fargo"). Wells Fargo holds a mortgage lien on and security interests in the above-referenced water rights and has liens on the land to which the water rights are currently appurtenant and the land to which the water rights will be appurtenant following certain proposed transfers (described below).

The owner, Walker Land & Cattle LLC ("Walker Land"), has caused to be prepared two transfer applications (the "Applications," copies of which are attached hereto), proposing to accomplish the following:

1. transfer water right no. 31-2427C to a location four miles east, to land to which water right nos. 31-7136 and 31-10699 are or will be appurtenant (giving effect to pending Application for Transfer No. 81368); and
2. transfer water right nos. 31-7136 and 31-10699 to a location four miles west, to land to which water right no. 31-2427C is currently appurtenant, and transfer and combine the places of use for water right nos. 31-7136, 31-10699, and 31-2435 to cover the current places of use of water right nos. 31-2427C and 31-2435. This application is a second amendment to Application for Transfer No. 81369.

The Applications were prepared and will be filed by Thomas J. Budge, counsel to NKC Great Plains, LLC ("NKC"), for and on behalf of Walker Land. The Applications will be submitted in connection with and to supplement Transfer Application Nos. 81368 and 81369 which, together with pending Transfer Application No. 81370 (the "Prior Transfer Applications"), were submitted in connection with a land purchase and sale agreement between Walker Land and NKC. Wells Fargo holds a mortgage lien on and security interests in the land and water rights that are subject to the Prior Transfer Applications and land and water rights that

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are subject to the Applications. On January 27, 2017, Wells Fargo filed protests against the Prior Transfer Applications.

This letter confirms that Wells Fargo consents to the transfers described in the Applications. Wells Fargo reserves the right to review and consider any proposed modifications to the Applications and additional modifications to the Prior Transfer Applications and requests notice of any proposed modification of, and notice of any protest filed against, any of the Applications or Prior Transfer Applications.

When the Applications are filed, please send date-stamped copies to the undersigned by e-mail. After confirmation that the Applications have been filed with the Department is received, Wells Fargo intends to withdraw the its protests against the Prior Transfer Applications.

We also sent today, electronically, copies of this letter and the attachments to Mr. Budge and to Robert J. Maynes, counsel to Walker Land.

Please contact the undersigned if you have questions about this letter or if you require anything else from Wells Fargo at this time.

Very truly yours,


Linda B. Jones, Esq.
of Holland & Hart, LLP

LBJ/tan

Enclosures

cc: Gregory Mondon (Wells Fargo Bank) (via e-mail)
Thomas J. Budge (via e-mail)
Robert Maynes (via e-mail)

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