

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT

This is to certify that: **PETER WELKER**
NATALIE TANAKA
4734 FOX CREEK VILLAGE RD
VICTOR, ID 83456
(309)413-8687

RECEIVED
MAR 12 2014
DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

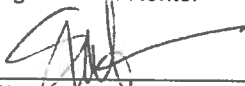
Summary of Water Rights or Portions Rented from the Bank

<u>Water Right</u>	<u>Rented Rate</u>	<u>Annual Rented Volume</u>	<u>Total Rented Acres</u>
22-14054	0.29 CFS	48.8 AF	14.0 AC
Combined Rental Totals:	0.29 CFS	48.8 AF	14.0 AC
Term of Rental:	November 22, 2013 to November 22, 2014		
Rental Fee:	\$82.96		

The fee for rental of the above-described water is \$82.96. The rental fee will go to the Department for administrative costs.

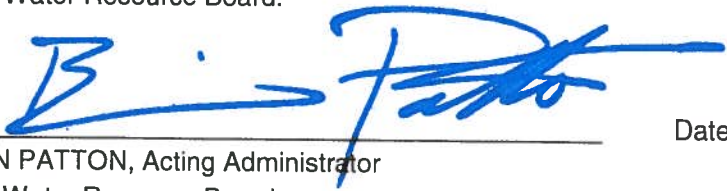
Detailed water right specific limitations and conditions are attached.

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

 _____ Signature of Renter	<u>PETER WELKER</u> _____ Printed Name and Title*	<u>3/6/14</u> _____ Date
 _____ Signature of Renter	<u>NATALIE TANAKA</u> _____ Printed Name and Title*	<u>3/6/14</u> _____ Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfies the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and conditions herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By 
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date 3/13/2014



**WATER SUPPLY BANK RENTAL AGREEMENT
WATER RIGHT NO. 22-14054**

The renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described below:

Renter: **PETER WELKER
NATALIE TANAKA
4734 FOX CREEK VILLAGE RD
VICTOR, ID 83456**

Priority Date: 6/1/1890

Source
FOX CREEK

Tributary
TETON RIVER

BENEFICIAL USE	From	To	Diversion Rate	Volume
IRRIGATION	4/15	to 10/31	0.29 CFS	48.8 AF
	Total:		0.29 CFS	48.8 AF

LOCATION OF RENTER'S POINT(S) OF DIVERSION:

FOX CREEK L4(SWSWNE) Sec. 29, Twp 04N, Rge 46E, TETON County

RENTER'S 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	
04N	45E	23				0.9				9.7				1.7				1.7	14.0

Total Acres: 14.0

CONDITIONS OF WATER USE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
5. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
6. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
7. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.

8. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
9. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
10. The renter must diligently pursue a permanent water right to provide for the uses authorized under this rental agreement.
11. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
12. The place of use of water under this rental agreement is within Lots A10, A11 and Open Area 3, in Fox Creek Village PUD.
13. Water is delivered through Fox Creek Canal.



RECEIVED

STATE OF IDAHO
WATER RESOURCE BOARD

NOV 22 2013

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) Peter and Natalie Wecker
Mailing Address 4934 Fox Creek Village Road. Victor Id. 83456
Phone 309 418 8689 Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) .297 Maximum Volume (ac-ft) _____ Nature of Use _____ Period of Use 4/15 to 10/31

Total: .297

2. Source of water Fox Creek tributary to Teton River

3. Point(s) of Diversion: North West Fox Creek Sprinkler Irr. Co.

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County
<u>04N</u>	<u>46E</u>	<u>29</u>	<u>L4</u>	<u>(SWSWNE)</u>			<u>Teton</u>

4. Lands to be irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>T4N</u>	<u>45E</u>	<u>23</u>				<u>.34</u>				<u>11.19</u>									<u>.34</u>
<u>T4N</u>	<u>45E</u>	<u>23</u>								<u>11.19</u>									<u>11.19</u>
<u>T4N</u>	<u>46E</u>	<u>23</u>												<u>1.59</u>					<u>1.59</u>
<u>T4N</u>	<u>45E</u>	<u>27</u>																<u>.89</u>	<u>.89</u>

If the use is for irrigation, show total number of acres proposed through rental.

Total Acres 14

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☐ No ☒
If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. _____
2. Do you own the land at the proposed place of use? Yes ☒ No ☐
If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

D. GENERAL INFORMATION

1. Please provide a description of the proposed diversion system.

2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.

3. Will the proposed place of use receive water from any other source? Yes ☐ No ☒

If yes, describe. _____

4. If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of water required. Attach additional sheets if needed. _____

5. Are there any other applications pending before the Department, such as an application for permit or transfer, for the same use(s) proposed by this rental? Yes ☐ No ☒

If yes, describe. _____

6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation? Yes ☐ No ☒

If yes, describe. _____

E. RENTAL TERM

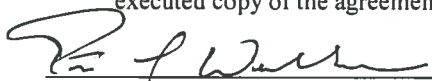
Do you wish to rent water from the Board's bank for more than one (1) year? Yes ☐ No ☒

If yes, please specify the number of years desired through proposed rental. _____

I hereby assert that 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.

If this application is approved, the applicant agrees to the following:

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. Renter shall comply with all applicable state and federal laws while using water under this agreement.
3. Renter shall hold the Board, the Director, and the state of Idaho harmless from all liability on account of negligent acts of the renter.
4. The Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
5. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
6. Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director.



Signature of Applicant



Printed Name and Title*

11-7-2013
Date



Signature of Applicant

- MARRIED
10/13/2012



Printed Name and Title*

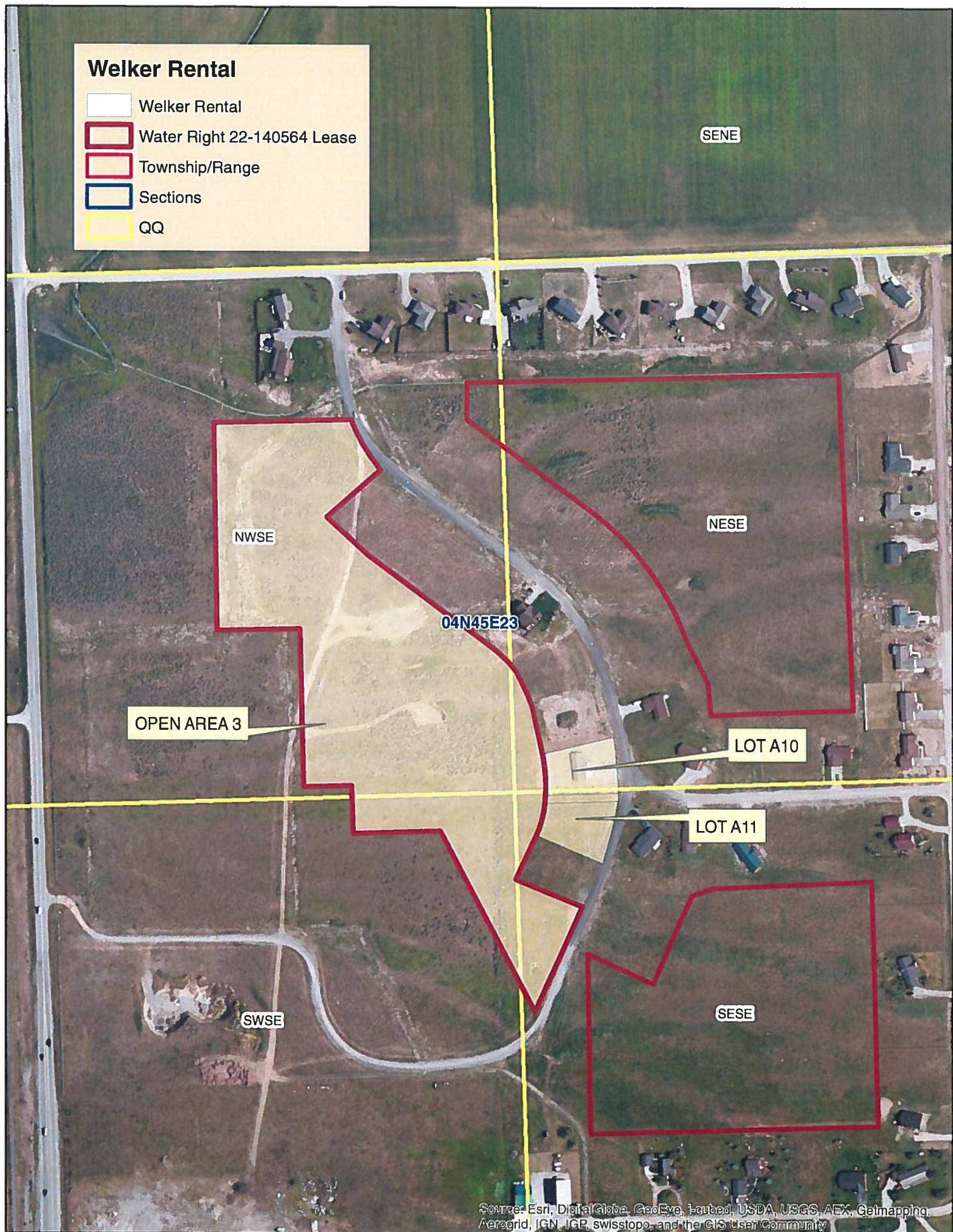
11.7.2013
Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

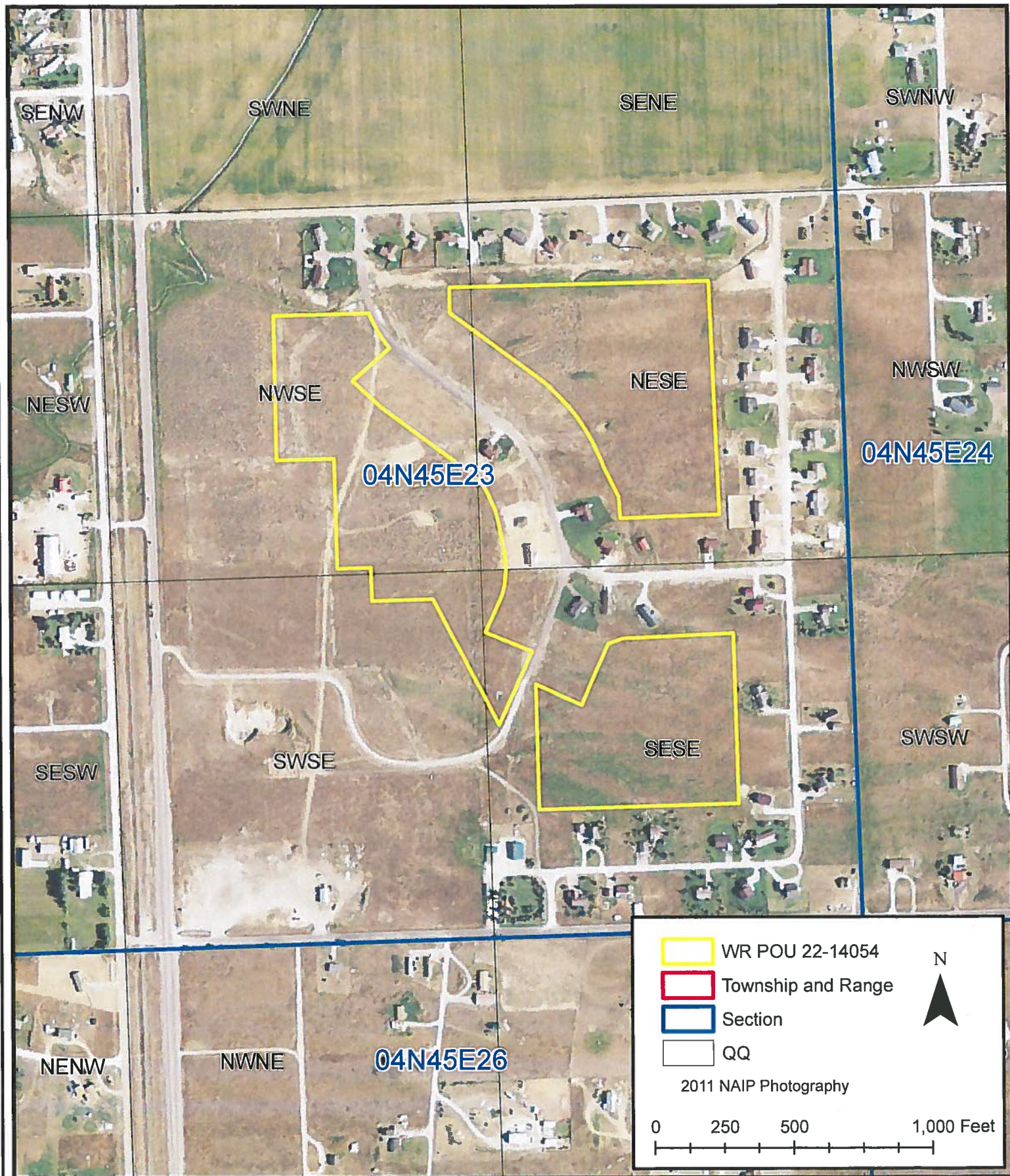
Welker Rental

-  Welker Rental
-  Water Right 22-140564 Lease
-  Township/Range
-  Sections
-  QQ



Application to Lease a Water Right to the Water Supply Bank

Water Right No. 22-14054



First American Title Company
H 32481-T

NOTICE OF CONTRACT OF SALE

NOTICE IS HEREBY GIVEN that ROBERT & YVONNE KINCAID, of P252 Second Street, Presho, SD 57568, hereinafter called "SELLER", is selling on written Contract of Sale of this same date, to PETER L. WELKER and NATALIE E. TANAKA, of PO Box 12106 Jackson, WY 83002, hereinafter called "BUYER", the following described real property situated in Teton County, to-wit:

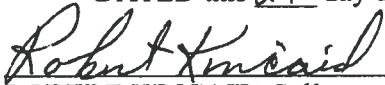
Lot A10 & A11 and Open Area 3 Fox Creek Village PUD, Teton County, Idaho, plat recorded May 30, 1996 as Instrument No. 124033

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

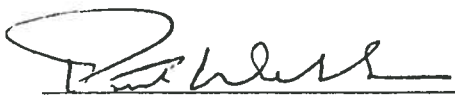
Such contract is in full force and effect.

You are further notified and advised that any and all interest, right or title you may acquire in the same real property by virtue of subsequent transactions with SELLER will be wholly subject to the right, interest, and equity of the undersigned BUYER in such real property, arising by virtue of this Real Estate Purchase and Sale Agreement.

DATED this 24th day of August 2012.


ROBERT KINCAID, Seller

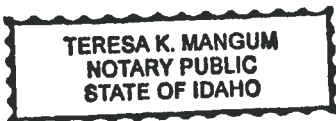

YVONNE KINCAID, Seller


PETER WELKER, Buyer


NATALIE TANAKA, Buyer

STATE OF IDAHO)
): ss.
 County of Teton)

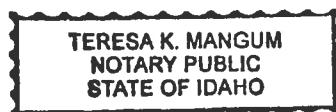
On this 24th day of August in the year of 2012, before me, a Notary Public in and for said State, personally appeared ROBERT & YVONNE KINCAID, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Teresa K. Mangum
 Notary Public for Idaho
 Residing at: Driggs ID
 My Commission expires: 07-24-2015

STATE OF IDAHO)
): ss.
 County of Teton)

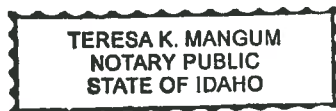
On this 24th day of August 2012, personally appeared before me PETER WELKER, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.



Teresa K. Mangum
 Notary Public for Idaho
 Residing at: Driggs, ID
 My Commission Expires: 07-24-2015

STATE OF IDAHO)
): ss.
 County of Teton)

On this 24th day of August 2012, personally appeared before me NATALIE TANAKA, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.



Teresa K. Mangum
 Notary Public for Idaho
 Residing at: Driggs ID
 My Commission Expires: 07-24-2015



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN

Director

March 13, 2014

C.L. "BUTCH" OTTER
Governor

PETER WELKER
NATALIE TANAKA
C/O HARVEY WALKER
2338 N 2930 W
ARCO ID 83213

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 22-14054**

Dear Renter:

Please find enclosed a receipt in the amount of **\$82.96** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 48.4 acre-feet of water for irrigation of 14 acres during 2014. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you have a private agreement with the lessor of the right(s).

If you have any questions, please contact me at (208) 287-4879.

Sincerely,

Sandra Thiel
Water Resource Planner

Enclosure(s): Receipt No. E039603
Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office
Lyle Swank – State Water District No.110
Harvey Walker – Water Consultant



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 24, 2014

PETER WELKER
NATALIE TANAKA
C/O HARVEY WALKER
2338 N 2930 W
ARCO ID 83213

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 22-14054**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of \$829.60 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 48.8 acre-feet. Since you have a private agreement with the lessor of the right, **you are only obligated to pay the 10% administrative fee or \$82.96.** The agreement will be void if payment is not received prior to the due date. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please send a check for \$82.96 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact me at (208) 287-4879.

Sincerely,

Sandra Thiel
Water Resource Planner

Enclosure(s)

c: IDWR Front Desk
Harvey Walker – Consultant

DEPT. OF WATER RESOURCES
322 E. FRONT ST.
P.O. BOX 83720
BOISE, ID 83720-0098

ADDRESS SERVICE
REQUESTED

RECEIVED

FEB 24 2014

DEPARTMENT OF
WATER RESOURCES

FIRST CLASS



02 1M
0008003718
\$01.19⁰⁰
FEB 11 2014
MAILED FROM ZIP CODE 83702



02/18/14

NIXIE 834563003-1N

RETURN TO SENDER
NO MAIL RECEIPT
UNABLE TO FORWARD
RETURN TO SENDER



Handwritten:
To: Gertie
Nixie
2-24-2014

PETER WELKER
NATALIE TANAKA
4734 FOX CREEK VILLAGE RD
VICTOR ID 83456



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 11, 2014

PETER WELKER
NATALIE TANAKA
4734 FOX CREEK VILLAGE RD
VICTOR ID 83456

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 22-14054**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

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Please send a check for \$82.96 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact me at (208) 287-4879.

Sincerely,

Sandra Thiel
Water Resource Planner

Enclosure(s)

c: IDWR Front Desk

MEMORANDUM

To: 22-14054

From: Sandra Thiel

Date: February 4, 2014

Re: Review/Analysis for Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: An application was received November 22, 2013, to rent 14 acres of Fox Creek water for three parcels Lots A10, A11 and Open Area 3. The renters are buying this land from the Kincaids who are also the water right holders of leased water right 22-14054. See attached map

There is an agreement between the Kincaid's and the Northwest Fox Creek Irrigation Co. The Department will receive 10 percent of the rented volume of 48.8 AF at \$17. The total will be \$82.96.

AUTHORITY TO FILE: A *Notice of Contract of Sale* accompanied the rental application (see attachment). Peter Welker and Natalie Tanaka are buying the land owned by Robert and Yvonne Kincaid.

WATER RIGHT VALIDITY: 22-14054 has been identified as a suitable right for the rental. All but two of the proposed acres that will receive rental water are entirely within the place of use for the leased right 22-14054.

INJURY TO OTHER WATER RIGHTS: None anticipated.

ENLARGEMENT OF USE: None anticipated. The place of use for both the lease and the rental are within the Fox Creek Canal Company service area boundaries. There are no other overlapping irrigation water rights for the proposed rental place of use.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Tony Olenichak responded on 12/31/2013 (see attached email). One of the primary concerns was that there is no change to the point of diversion. The water right, when rented, will be delivered through the system that currently supplies water the Kincaid place of use. The point of diversion will remain the same.