



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 5, 2014

Walker Produce Company Inc
1070 Riverwalk Dr Ste 200
Idaho Falls ID 83402

RE: Notice of Change in Water Right Ownership
Water Rights: 25-11825

Dear Sir/Madam:

On September 5, 2012, you filed a Notice of Change in Water Right Ownership (ownership change) with the Idaho Department of Water Resources (IDWR), seeking to update the ownership records for the water rights listed above. After an initial review, we determined that you needed to provide additional evidence of ownership, specifically a chain of deeds tracing from the owner currently listed on the water rights to you. On November 30, 2012, October 1, 2013 and November 22, 2013, we sent a letter requesting the additional information. The additional information was to be provided within 30 days.

IDWR has never received a response to the request for additional information. Without the requested documents, we cannot verify ownership of the water right and cannot complete the ownership change. We are therefore returning your original ownership change and have initiated a refund of your filing fee (\$25.00). The refund from the state of Idaho will arrive at the address listed above within a couple of weeks.

Please feel free to re-file your ownership change any time in the future when you have collected the requested documentation of ownership. Because your filing fee is being refunded, you will need to determine and provide the proper filing fee at the time you re-file the ownership change.

If you have any questions, feel free to contact me at (208) 525-7161.

Respectfully submitted,

Jonie Barg
Technical Records Specialist

Enclosure(s)

Barg, Jonie

From: Barg, Jonie
Sent: Wednesday, March 05, 2014 2:50 PM
To: Sutcliffe, Lorna
Subject: Refund Request
Attachments: E037980[1].pdf

Lorna,

Good afternoon!!

I have a refund request as follows:

Receipt number: E037980
Amount: \$25.00
Payable to: Walker Land & Cattle LLC
1070 Riverwalk Dr Suite 200
Idaho Falls ID 83402

Reason: Total filing fee received \$25.00 for ownership change for 1 water right. The department cannot complete the ownership change therefore a full refund is required.

Let me know if you need additional information.

Thank you so much for your time. Let me know if you have any questions.

Have a great day!!!

Jonie Barg

Jonie Barg
Technical Records Specialist
Idaho Department of Water Resources
900 N Skyline Ste A
Idaho Falls ID 83402
phone: (208) 525-7161
fax: (208) 525-7177

RECEIVED

SEP 05 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. ~~Department of Water Resources~~ Eastern Region
Enter the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
25-11825	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name:

Roland L. Walker
Name of current water right holder/claimant

3. New Owner(s)/Claimant(s):

Walker Produce Company, Inc.
Name of each new owner as listed on the conveyance document

New owner continued

Name connector ☐ and ☐ or ☐ and/or

1070 Riverwalk Drive Suite 200
Mailing address

Idaho Falls
City

IO 83402
State ZIP

208-932-0738
Telephone

rnelson@walkerproduce.net
Email

4. If the water rights and/or adjudication claims were split, how did the division occur?

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: _____

6. This form must be signed and submitted with the following **REQUIRED** items:

- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- Filing fee (see instructions for further explanation):
 - \$25 per undivided water right.
 - \$100 per split water right.
 - No fee is required for pending adjudication claims.

7. Signature:

[Signature]
Signature of new owner/claimant

President
Title, if applicable

9/4/12
Date

Signature:

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by

refund request 3/5/2014
9/7/2012

Date

Receipt No.

E037980

Receipt Amt.

\$25. -

Approved by

Processed by

Date

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/31/2012

WATER RIGHT NO. 25-11825

SB

Walker Produce

Mena

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROLAND L WALKER 1070 RIVERWALK DR STE 252 IDAHO FALLS, ID 83402 (208)932-0737

Priority Date: 11/18/1955

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
COMMERCIAL	01/01	12/31	0.3 CFS	11.5 AFA
Total Diversion			0.3 CFS	

Location of Point(s) of Diversion:

GROUND WATER NWSW Sec. 33 Township 05N Range 38E JEFFERSON County
GROUND WATER NWSW Sec. 33 Township 05N Range 38E JEFFERSON County
GROUND WATER NWSW Sec. 33 Township 05N Range 38E JEFFERSON County

Place(s) of use:

Place of Use Legal Description: COMMERCIAL JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	38E	33		NWSW										

Conditions of Approval:

- Commercial use is for potato processing and culinary use for employees.
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.
- C18

Dates:

Licensed Date:

Decreed Date: 09/30/2005

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

D.I.E Act Number:

Cary Act Number:

Mitigation Plan: False

Close

EASTERN IDAHO RAILROAD

TRACK LEASE AGREEMENT

This agreement made and entered into this 15th day of March, 2010, by and between Eastern Idaho Railroad Inc., an Idaho corporation, having a mailing address at 420 Hansen Street South, Twin Falls Idaho, 83301 (hereinafter called "Lessor"), and Walker Produce Company, Inc, an Idaho corporation having a mailing address at 638 North 3500 East, Menan, Idaho 83434 (hereinafter called "Lessee").

WITNESSETH:

The parties intending to be legally bound agree as follows:

1. **Premises**
Lessor hereby leases to Lessee the premises and track (sometimes hereinafter referred to as the "Tracks") located in the Town of Menan, County of Jefferson, and State of Idaho (Mile Post 10.4) being 325 feet in length.
2. **Term**
The term of this Lease ("Lease Term") shall commence on, 15th day of March, 2010 ("Commencement Date") and shall be in force for the term of ONE Year from its date and shall automatically continue thereafter until terminated by either party giving to the other thirty (30) days written notice of its desire to terminate the same.
3. **Rental**
 - 3.1 The Lessee shall pay to the Lessor for the use of the Premises, rental at the rate of Five Dollars (\$5.00) per foot or One Thousand Eight Hundred Dollars (\$1,800.00) per annum.
 - 3.2 **Rebate:** Lessor agrees to provide Lessee a rebate per car towards the annual rental at the end of each year as follows:
 - 3.2.a At the end of year one (1), Lessor will rebate Lessee Forty Dollars (\$45.00) per car up to a maximum of Forty Four (40) cars to be applied to the next year's annual rental.
 - 3.2.b At the end of year two (2), Lessor will rebate Lessee Twenty Dollars (\$20.00) per car up to a maximum of Forty Four (44) cars to be applied to the next year's annual rental.
 - 3.2.c At the end of year three (3), Lessor will rebate Lessee Ten Dollars (\$10.00)

public authority shall, following receipt of thirty (30) days notice from Lessor, be made at Lessee's sole expense. If Lessor incurs any expense in connection with any such change, such expense shall be billed to Lessee which shall reimburse Lessor.

- 5.6 Lessee shall not construct or permit any obstruction over the Tracks less than the statutory limit or 23' 0" above top of rail, whichever is greater, or alongside thereof less than the statutory limit or 9' from center of track, whichever is greater, with the necessary additional clearances on curves, without the prior approval of Lessor and any public authority having jurisdiction.
- 5.7 The minimum clearances specified in Section 5.6 may be changed by Lessor to meet legal requirements and Lessee shall, at its sole expense, following receipt of thirty (30) days notice from Lessor, make such changes in the Tracks as may be necessary.
- 5.8 Lessee shall not install any underground storage tanks or related structures on the Premises without the prior approval of Lessor.

6. Reserved Facilities

- 6.1 Lessor reserves the right to operate, maintain, repair, replace, augment, or relocate (provided that said relocation does not unreasonably interfere with Lessee's use of the Premises for the purposes set forth in Section 5) any Reserved Facilities existing within or adjacent to the Premises. This Lease is subject and subordinate to any right which Lessor or any easement holder, lessee, or licensee of Lessor may have in the Reserved Facilities. Lessee shall not interfere with the maintenance or operation of the Reserved Facilities, or the rights of any easement holders, lessees, or licensees with respect thereto.
- 6.2 "Reserved Facilities" means existing tracks, pipes, conduits, thoroughfares, roads, tunnels, electric communication and signal transmission lines and poles and guys for such lines, and any other facilities of similar nature on, above or below the ground, belonging to any party whomsoever.

7. Taxes and Assessments

Lessee shall pay all taxes, water, sewer and other rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other charges (including all interest and penalties thereon) which at any time during the Lease Term may be assessed, levied, confirmed or imposed against any improvements made by Lessee, or other property of Lessee, real or personal, located on the Premises.

8. Utilities

Lessee, at its sole cost and expense (including fees for permits and similar documents), shall obtain all utility services required or desired by Lessee, including the installation of meters and submeters if none exist. Lessee shall be responsible for all charges for utilities consumed by, and supplied to, Lessee by the provider thereof. Lessee shall not obtain any utility service from any of Lessor's facilities without first obtaining the prior consent of Lessor.

9. Condition of Premises and Maintenance

9.1 Lessee has fully inspected and accepts the Premises in "as is" condition. Lessor makes no representations as to the zoning, condition, utility, or fitness of the Premises for any use. Lessor shall perform all general maintenance and repairs necessary to keep the Premises in good order and in safe condition. Any additional repairs or maintenance necessary, as a result of the Lessee's gross negligence, regulatory non-compliance or contractual breach, will be performed by Lessor at the sole expense of the Lessee.

9.2 Lessee shall keep the Tracks free of all hazardous materials and obstructions. WHEN VACATING THE PREMISES, LEAVE THE PREMISES IN A SIMILIAR CONDITION AS IT WAS IN PRIOR TO YOUR OCCUPATION. All maintenance of the Tracks shall be to a minimum of Federal Railroad Administration Class II track standards.

10. Signs and Improvements

Lessee shall not place any sign, advertising, or improvements on the Premises without the prior consent of Lessor. Lessee shall completely remove all improvements made by it upon the Premises within ten (10) days of the expiration or sooner termination of this Lease and restore the Premises to the condition existing prior to placing such improvements, or other property, upon same. If Lessee fails to completely remove such improvements and other property of Lessee and of any other party, Lessor may elect to retain such improvements or property, or enter the Premises and raze or remove same and Lessee hereby waives any claim or right of action with respect thereto. Lessee shall pay Lessor all Lessor's costs related to such razing or removal, including without limitation storage and transportation. Lessee shall indemnify, defend and save harmless Lessor from and against any claim or action by any party brought or asserted against Lessor with respect to such retention, razing, or removal. Lessee shall not change, or permit any change of, the existing grade or topography of the Premises without the prior approval of Lessor.

11. Compliance with Law

Lessee shall, at its own cost and expense, promptly comply with all present and future laws, regulations, and orders of all governmental authorities affecting the Premises whether or not Lessor shall be responsible primarily for such compliance. Lessee shall indemnify, defend and save harmless Lessor from and against, and shall pay, all expenses, damages, penalties, and claims, including without limitation reasonable counsel fees, that may arise from, or be imposed because of, the failure of Lessee to comply with this Section.

12. Assignment and Subletting

Lessee shall not assign, hypothecate, license or transfer any portion of Lessee's interest in this Lease or the Premises without the prior consent of Lessor, and any attempt to do so without such consent shall render same null and void. Lessee shall not permit any security interest in any third party to attach to the Premises or any part thereof, or any improvements or any personal property now or hereafter placed or kept thereon, without the prior consent of Lessor, and any attempt to do so without such consent shall render same null and void.

13. Liability

13.1 Lessee shall relieve, indemnify, and defend Lessor against and from all expenses, damages, actions, fines, penalties, claims, judgments, settlements, and demands of every kind or nature, including reasonable counsel, investigator and expert fees, arising out of any failure by Lessee to perform any of the agreements, terms, covenants, or conditions of this Lease, and any bodily injury, death, or property loss or damage to or of any person or entity that comes upon the Premises or appurtenances thereto, or on or under the walkways, roadways, sidewalks, curbs, or loading areas contiguous thereto, however occurring, and also for any matter growing out of the condition, occupation, maintenance, alteration, repair, use, or operation of the Premises or appurtenances thereto or any part thereof, or of the walkways, roadways, sidewalks, curbing, and loading areas contiguous thereto, unless caused directly by the sole negligence of Lessor.

13.2 Lessee's indemnification shall include indemnity for the negligence of any tenant, invitee, licensee or grantee of Lessee occurring on the Premises shall be deemed the negligence of the Lessee.

14. Environmental Compliance

14.1 Responsibility for Environmental Claims (as defined in Section 14.5) as between the parties shall be borne as follows:

(i) Lessor shall be responsible for Environmental Claims arising from: (a) environmental conditions existing on the Premises prior to the date of this Lease, or (b) use of the Premises by Lessor or its licensees or contractors from and after the date of this Lease pursuant to Section 5 unless such Environmental Claims arise from Lessee's negligence in which event Lessee shall be liable as set forth in Sections 14.1(ii) or 14.1(iii), or (c) its failure, or that of its licensees or contractors, to comply with its obligations under this Lease when such failure is a contributing cause to such Environmental Claims.

(ii) Lessee shall be responsible for Environmental Claims arising from: (a) environmental conditions on the Premises from and after the date of this Lease, or (b) the use of or presence upon the Premises of Lessee, or that of its contractors, invitees or any unauthorized third party; or (c) its failure, or that of its licensees or contractors, to comply with its obligations under this Lease when such failure is a contributing cause to such Environmental Claims.

(iii) The parties hereto shall bear in equal shares responsibility for Environmental Claims arising from the joint responsibility of Lessor and Lessee as set forth in Sections 14.1(i) and 14.1(ii).

14.2 Lessee shall have the burden of proving by a preponderance of the evidence that any Environmental Claims are entirely or partially Lessor's responsibility as set forth in Sections 14.1(i) and 14.1(iii).

14.3 Except as otherwise provided in Section 14.1(iii), the party which is responsible shall release the other party from all responsibility for such Environmental Claims and shall defend, indemnify, protect and save harmless the other party from and against all such Environmental Claims.

14.4 In the event any cleanup, response, removal or remediation of any environmental condition is required by a governmental entity (hereinafter collectively referred to as "Response Action"), Lessee shall not be entitled to any damages, actual or consequential, by reason of the Response Action's interference with Lessee's use of the Premises. If any Response Action results in a portion of the Premises being rendered unusable by Lessee for the purposes set forth in Section 4 for a period in excess of 5 consecutive days, the Base Rent shall be reduced pro rata to reflect the portion of the Premises rendered unusable; however, there shall be no abatement in the Base Rent for any interference with Lessee's use of the Premises due to a Response Action for which Lessee is either partially or wholly responsible pursuant to Sections 14.1(ii) or 14.1(iii). Lessee shall permit Lessor and its contractors full, unrestricted and unconditional access to the Premises for the purpose of completing or engaging in a Response Action for which Lessor has any responsibility or, at Lessor's option, a Response Action for which Lessee is responsible pursuant to Sections 14.1(ii) or 14.1(iii) should Lessee fail to diligently pursue and complete such Response Action to the satisfaction of Lessor. Lessor's completion of any of Lessee's obligations hereunder shall not be deemed a waiver of Lessee's obligations under this Lease. Lessor shall have the right, but not the obligation, to conduct reasonable inspections of Lessee's Response Action and Lessee shall provide Lessor all information requested by Lessor regarding Lessee's Response Action or any Environmental Claims for which Lessee is responsible.

14.5 The term "Environmental Claims" means any cleanup, response, removal or remediation required by a governmental entity, related to any environmental conditions affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with this Lease.

15. Insurance

15.1 Lessee shall maintain continuously in effect a policy of comprehensive general liability insurance, including contractual liability covering the liability assumed by Lessee under the provisions of Sections 13 and 14 hereof. Such insurance shall be in limits of not less than \$5,000,000.00 combined single limit, bodily injury and property damage liability each occurrence. Lessee shall furnish to Lessor certificates evidencing such insurance in companies and form acceptable to Lessor and providing not less than thirty (30) days notice of cancellation or any material change in coverage.

15.2 If the Premises consist of a building or other similar improvements owned by Lessor, Lessee shall maintain continuously in effect a commercial all-risk policy

insuring such building, improvements and all major systems therein for full replacement cost or actual cash value, the former if obtainable for the Premises. Lessee shall furnish to Lessor the original policy evidencing such coverage in companies and form acceptable to Lessor and providing not less than thirty (30) days notice of cancellation or any material change in coverage.

15.3 All risk insurance on the property of the Lessee, or in Lessee's care, custody and control shall contain a waiver of subrogation against Lessor.

15.4 If requested by Lessor, Lessee shall furnish additional coverage against such other hazards as Lessor may require. The providing of said insurances shall not be deemed a limitation on the liability of Lessee as provided in this Lease, but shall be additional security therefore.

15.5 In the event of any substantial (of which fact Lessor shall be the sole judge) loss, damage to, or destruction of the Premises (if the Premises consist of a building or other similar improvements owned by Lessor), or any major system thereof, by any cause whatsoever, Lessor shall have the option, within thirty (30) days from the date thereof, of terminating this Lease by notice to Lessee, or, in the alternative, of requiring Lessee to repair such loss, damage, or destruction. If Lessor elects to terminate this Lease, such termination date shall be set forth in the notice from Lessor as aforesaid and Lessee shall forthwith endorse all insurance proceeds to Lessor. In the event Lessor elects to have Lessee repair such loss, damage or destruction, Lessee shall, within thirty (30) days of the date of Lessor's notice as aforesaid, submit plans to Lessor for its approval prior to the commencement of any repair work. If Lessor elects to have such loss, damage or destruction repaired, and if the Premises shall have been rendered wholly untenable by reason thereof, Base Rent shall abate from the date of such loss, damage or destruction until the date of completion of repairs. In the event the Premises are rendered only partially untenable by such loss, damage or destruction, Base Rent shall continue in full force and effect for that portion of the Premises which remain tenantable, and Lessee shall proceed to repair the Premises after submitting plans within thirty (30) days following such loss, damage or destruction to Lessor for its approval. Upon approval by Lessor of any repair plans of Lessee, Lessee shall proceed immediately to commence such repairs and to diligently and continuously make same until completed at the earliest practicable date. In the event of a termination of this Lease by Lessor as aforesaid, all rent shall end as of the date of such loss, damage, or destruction, and any Base Rent paid beyond such date shall be refunded on a pro-rata basis to Lessee. Notwithstanding anything to the contrary set forth above, no loss, damage to or destruction of the Premises, either in whole or in part, shall relieve Lessee from its obligation to pay any Additional Rent due and payable on the Premises.

16. Condemnation

If all or any part of the Premises shall be acquired or taken under eminent domain proceedings, or transferred to a public authority in lieu of such proceedings, Lessor may terminate this Lease as of the date when possession is taken. All damages awarded for such taking shall belong to and be the property of Lessor. Lessee shall have no claim against Lessor by reason of such taking or termination and shall not have any claim or right to any portion of the amount that may be awarded or paid to Lessor as a result of any such taking. Lessee may, however, make claims against the condemning authority for moving expenses, loss of fixtures, or other matters which do not affect the award otherwise payable to Lessor so long as such claim does not reduce the award otherwise payable to Lessor.

17. Defaults and Remedies; Waiver of Redemption

17.1 Should Lessee default in: (1) fulfilling any of the covenants or obligations of this Lease other than the covenants for the payment of Base Rent or Additional Rent; or (2) if the Premises become vacant or deserted; or (3) if the Premises are damaged by reason of negligence or carelessness of Lessee, or its agents, then, in any one or more of such events, upon Lessor serving a ten (10) day notice upon Lessee specifying the nature of said default, and upon the expiration of said ten (10) days, if Lessee shall have failed to remedy such default, or if the said default or omission complained of shall be of such a nature that the same cannot be completely cured or remedied within said ten (10) day period and Lessee has not diligently commenced curing such default within such ten (10) day period and shall not thereafter with reasonable diligence and in good faith proceed to remedy or cure such default, then Lessor may serve a three (3) day notice of termination of this Lease upon Lessee, and upon the expiration of said three (3) days, this Lease and the Lease Term hereunder shall end and expire and Lessee shall then quit and surrender the Premises to Lessor.

17.2 If the notice provided for in Section 17.1 hereof shall have been given, and the term shall have expired as aforesaid; or (i) if Lessee shall default in the payment of the Base Rent or any item of Additional Rent or any part of either or in making any other payment herein provided; or (ii) if any execution or attachment shall be issued against Lessee or any of Lessee's property whereupon the Premises shall be taken or occupied or attempted to be taken or occupied by someone other than Lessee; or (iii) if there occurs a Bankruptcy Default as defined in Section 17.1 hereof; then, and in any of such events, Lessor may, without notice, re-enter the Premises either by force or otherwise, and dispossess Lessee and the legal representatives of Lessee or other occupant of the Premises, by summary proceedings or otherwise, and remove their effects. Lessee hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end. If Lessee shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Lease, Lessor may cancel and terminate such renewal or extension agreement by notice.

17.3 In the case of any such default, re-entry, expiration, and/or dispossession by summary proceedings or otherwise, (i) the Base Rent and Additional Rent shall become due thereupon and be paid to the time of such re-entry, dispossession, and/or expiration, together with all expenses Lessor incurs for putting the Premises in good order or

for preparing the same for re-rental; (ii) Lessor may relet the Premises or any part thereof, either in the name of Lessor or otherwise, for a term or terms, which may, at Lessor's option, be less than or exceed the period which would otherwise have constituted the balance of the term of this Lease, and may grant concessions or free rent; and/or (iii) Lessee or the legal representative of Lessee shall also pay Lessor as liquidated damages for the failure of Lessee to observe and perform said Lessee's covenants herein contained, any deficiency between the Base Rent and Additional Rent hereby reserved and/or to be collected on account of the lease or leases of the Premises for each month of the period which would otherwise have constituted the balance of the term of this Lease. The failure or refusal of Lessor to relet the Premises or any part or parts thereof shall not release or affect Lessee's liability for damages. In computing such damages, there shall be added to the said deficiency such expenses as Lessor may incur in connection with reletting, such as without limitation, legal expenses, attorneys' fees, brokerage fees and other expenses for keeping the Premises in good order or for preparing the same for reletting. Lessor may immediately accelerate such deficiency for the entire balance of the term, discounted to the date of termination at the "prime" rate of interest in effect at the Chase Manhattan Bank, N.A., New York, New York, on the day following the date of default. Lessor, at Lessor's option, may make such alterations, repairs, replacements, and/or decorations in the Premises as Lessor in Lessor's sole judgment considers advisable and necessary for the purpose of reletting the Premises; and the making of such alterations and/or decorations shall not operate or be construed to release Lessee from liability hereunder as aforesaid. Lessor shall in no event be liable in any way whatsoever for failure to relet the Premises, or in the event that the Premises are relet, for failure to collect the rent thereof under such reletting. Any such action may be an action for the full amount of all rents and damages suffered or to be suffered by Lessor. In the event of a breach or threatened breach by Lessee of any of the covenants, obligations or provisions hereof, Lessor shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings, and other remedies were not herein provided for. Mention in this Lease of any particular remedy shall not preclude Lessor from any other remedy, in law or in equity. The foregoing remedies and rights of Lessor are cumulative. Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Lessee's being evicted or dispossessed of the Premises by reason of the violation by Lessee of the covenants and conditions of this Lease, or otherwise.

- 17.4 Lessor may, in addition to any other remedies set forth in this Section, suspend rail service in the event Lessee breaches any of the covenants in this Lease, and such suspension may continue until such breach is remedied.

18. Termination

This Lease may be terminated by written notice given by either Lessor or the Lessee to the other party on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date on which such notice shall be given.

19. Notice

Any notice, demand, request, consent, approval or communication that either party hereto desires or is required to give to the other party under this Lease shall be in writing. Said notice may be given to the Lessee by serving the Lessee personally or by posting a copy thereof on the outside of any door in any building upon the Premises or by mailing the same, postage prepaid, to the Lessee at the address of **P.O. Box 129, Menan, Idaho 83434**. Said notice may be given to the Lessor by mailing the same, postage prepaid to Lessor at the address of **420 Hansen Street South, Twin Falls Idaho, 83301**. Postal notices shall be by certified mail, return receipt requested, and such notice shall be deemed given on the date deposited with the United States Postal Service.

20. Bankruptcy

If, at the date fixed as the Commencement Date or at any time during the Lease Term, there shall be filed by or against Lessee in any court, pursuant to any statute either of the United States or of any state, a petition in bankruptcy, or there shall be commenced a case by or against Lessee under the Bankruptcy Code, or a petition filed in insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, and within sixty (60) days thereafter Lessee fails to secure a discharge thereof, or if Lessee makes an assignment for the benefit of creditors or petitions for or enters into an arrangement with its creditors (all the hereinabove collectively referred to as a "Bankruptcy Default"), Lessor may terminate this Lease in which event neither Lessee nor any person claiming through or under Lessee by virtue of any statute or of an order of any court shall be entitled to possession or to remain in possession of the Premises, and shall immediately surrender the Premises to Lessor. Lessor, in addition to the other rights and remedies Lessor has by virtue of any other provision contained herein or elsewhere in this Lease or by virtue of any statute or rule of law, may retain as liquidated damages any rent, security, deposit, or monies received by it from Lessee or others on behalf of Lessee.

21. Discontinuance

Lessor shall not be responsible for any loss or damage sustained by Lessee in consequence of any temporary or permanent elimination of the Tracks, or service thereover, due to circumstances beyond Lessor's reasonable control.

22. Inability to Perform

Lessee's liability for all Base Rent, Additional Rent and all other covenants, obligations and conditions of this Lease shall not be affected or reduced by the failure of Lessor to perform any of its obligations under this Lease or to supply any service, whether specifically required herein or not.

23. No Waiver

The waiver by Lessor of any breach by Lessee of any term, covenant, obligation or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or a waiver of any other term, covenant, obligation or condition herein contained. The subsequent acceptance by Lessor of any Base Rent or Additional Rent due hereunder or any or all other monetary obligations of Lessee hereunder, whether or not denoted as Base Rent or Additional Rent hereunder, shall not be deemed to be a waiver of any preceding breach by Lessee, of any term, covenant, obligation or condition of this Lease, other than the failure of Lessee to make the particular payment so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term, obligation or condition of this Lease shall be

deemed to have been waived by Lessor, unless such waiver is in a notice to Lessee executed by Lessor.

24. Binding on Successors

The covenants and agreements herein contained shall inure to the benefit of and be binding upon the successors, heirs, personal representatives, and assigns of the parties hereto, subject, however, to the provisions of Section 11 of this Lease.

25. Quiet Enjoyment

Nothing herein contained shall imply or import a covenant on the part of Lessor for quiet enjoyment.

26. Headings

The heading of each section of this Lease is for convenience only and it shall not affect any construction or interpretation of this Lease.

28. Right to Inspect and Exhibit

Lessor shall have the right to enter the Premises at reasonable hours in the day or night to examine and inspect the Premises, make such repairs, additions or alterations as it may deem necessary for the safety, preservation or restoration of the Premises and the improvements, if any, located thereon (there being no obligation, however, on the part of Lessor to make any such inspections, repairs, additions or alterations), or to exhibit the Premises to prospective purchasers and lessees for three (3) months prior to the expiration of the Lease Term.

29. Mechanics' Liens

In the event any mechanics' lien is filed against the Premises as a result of alterations, additions or improvements made by Lessee, Lessor, at its option, upon thirty (30) days notice to Lessee, may terminate this Lease and may pay said lien, without inquiring into the validity thereof, and Lessee shall forthwith reimburse Lessor the total expense incurred by Lessor in discharging said lien.

30. Recording

Lessee shall not record this Lease without the prior consent of Lessor.

31. Entire Agreement

The entire agreement between Lessor and Lessee is set forth in this Lease and there are no understandings, agreements, or representations of any kind between the parties, verbal or otherwise, other than as set forth in this Lease. However, all terms, conditions, and charges of the railroad general tariff as published from time to time are specifically incorporated into this lease agreement. No change or modification of any of the covenants, terms or provisions hereof shall be valid unless in writing and signed by the parties hereto.

32. Liability

Lessee shall relieve, indemnify, and defend Lessor against and from all expenses, damages, actions, fines, penalties, claims, judgments, settlements, and demands of every kind or nature, including reasonable counsel, investigator and expert fees, arising out of any failure by Lessee to perform any of the agreements, terms, covenants, or conditions of this Lease, and any bodily injury, death, or property loss or damage to or of any person or entity that comes upon the Premises or appurtenances thereto, or on or under the walkways, roadways, sidewalks, curbs, or loading areas contiguous thereto, however occurring, and also for any matter growing out of the condition, occupation, maintenance, alteration, repair, use, or operation of the Premises or appurtenances thereto or any part thereof, or of the walkways, roadways, sidewalks, curbing, and loading areas contiguous thereto, unless caused directly by the sole negligence of Lessor.

The negligence of any tenant, invitee, licensee or grantee of Lessee occurring on the Premises shall be deemed the negligence of the Lessee

33. Partial Invalidity; Separate Covenants

If any term, covenant, obligation or condition of this Lease or the application thereof to any person or circumstance shall be held invalid or unenforceable to any extent by a final judgment or award which shall not be subject to change by appeal, then the remainder of this Lease or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law. Furthermore, each covenant, agreement, obligation and other provision of this Lease is and shall be deemed and construed as a separate and independent covenant of the party bound by, undertaking or making the same, and not dependent on any other provision of this Lease unless expressly so provided.

34. Brokerage Commission

Lessee represents and warrants to Lessor that Lessee has had no dealings, negotiations or consultations with respect to the Premises or this transaction with any broker or finder, and that no broker or finder called the Premises to Lessee's attention for lease. In the event any broker or finder claims to have submitted the Premises, or to have taken part in any dealings, negotiations or consultations with respect to the Premises or this transaction, then Lessee shall be responsible for and will defend, indemnify and save Lessor harmless from and against all costs, fees (including without limitation attorneys' fees), expenses, liabilities and claims incurred or suffered by Lessor as a result thereof.

35. Holding Over

Should Lessee hold over in possession of the Premises or any portion thereof after the expiration of the Lease Term or sooner termination as provided by this Lease without the execution of a new lease agreement or renewal agreement, Lessee, at the option of Lessor, shall be deemed to be occupying the entire Premises from month to month, subject to such occupancy being terminated by either party upon thirty (30) days notice to the other party, at a monthly rental equal to 200% of Base Rent due for the month immediately preceding the termination of this Lease, and otherwise subject to all the other terms, covenants, obligations and conditions of this Lease insofar as the same may be applicable to a month to month tenancy, including the payment of all Additional Rent

as defined in this Lease. The acceptance of rent by Lessor shall not be evidence that Lessor has exercised its option to treat Lessee as a holdover tenant pursuant to the option set forth above.

36. Third Party Beneficiary

Nothing contained in this Lease shall be construed as to confer upon any other party the rights of a third party beneficiary.

37. Applicable Law

This Lease and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State in which the Premises are located.

38. Survival

Any covenant, obligation or liability which arose, may have arisen or was incurred by either party hereto prior to the termination of this Lease shall survive the termination of this Lease.

39. Terminology

As used in this Lease, the terms "Lessor," "Lessee" and "party" shall include the subsidiaries, affiliates, directors, officers, agents and employees of Lessor and Lessee.

40. Liability for Tariff Charges

Lessee agrees to pay any and all charges resulting from the use of rail transportation services on behalf of itself or its customers under Eastern Idaho Railroad, Inc.'s General Tariff as published and amended from time to time. Lessee hereby acknowledges receipt and understanding of said tariff.

41. Additional Provisions, Exhibits and Addendums

The provisions typed on this page, and/or the following pages, and any exhibit or addendum to this Lease shall be deemed a part hereof.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first set forth above.

WITNESS:

EASTERN IDAHO RAILROAD, INC.
(LESSOR)

Name: Paul Westlund
Title: Property Mgr. - West Region

Name: C. J. / 10/
Title: Director of Properties, West Region

WITNESS:

WALKER PRODUCE COMPANY, INC.
(LESSEE)

Name: [Signature]
Title: General Counsel

Name: Keith Walker
Title: President

EASTERN IDAHO RAILROAD

LAND LEASE AGREEMENT

This agreement made and entered into this 1st day of July, 2010, by and between Eastern Idaho Railroad Inc., an Idaho corporation, having a mailing address at 420 Hansen Street South Twin Falls, Idaho (hereinafter called "Lessor"), Walker Produce Company, Inc, an Idaho corporation having a mailing address at 638 North 3500 East, Menan, Idaho 83434 (hereinafter called "Lessee").

WITNESSETH:

Land Lease Location and Term of Use:

Section 1. The Lessor, for and in consideration of the covenants and payments hereinafter mentioned to be performed and made by the Lessee, hereby agrees to lease and let and does hereby lease and let unto the Lessee for a term of five years beginning on the 1st day of July, 2010, the portion of the Premises of the Lessor (hereinafter the "Premises") located at Menan, Idaho, Mile Post 10.4 on the West Belt Branch, shown on the plat or described in the description, or both, hereto attached and hereby made a part hereof (Exhibit A), such Premises to be used for loading and unloading railcars with products that could be safely processed and stored, such as potatoes and other agricultural commodities.

Renewal

Thereafter, so long as neither party is in default, this Lease will renew itself without further documentation every 5 years until terminated as provided in Section 16 herein. Each renewal term will be upon the same terms and conditions set forth herein, including, without limitation, the Lessor's right to reevaluate the rental as hereinafter provided.

Improvements

It is agreed that no improvements placed upon the Premises by the Lessee shall become a part of the realty.

Water Rights

The Lessee acknowledges that this Lease does not grant, convey or transfer any rights to use of water under any water right owned or claimed by the Lessor which may be appurtenant to or otherwise associated with the Premises, and that all right, title, and interest in and to such water is expressly reserved unto the Lessor, its successors and assigns, and that the right to use same or any part thereof may be obtained only by the prior written consent of the Lessor.

This Lease is made without covenant of title or to give possession or for quiet enjoyment.

This Lease is made subject to all outstanding superior rights, including, but not limited to, underground facilities, right-of-way for highways and for power, fiber optics and other communication lines and facilities, and the right of the Lessor to renew such outstanding right, to renew the term thereof and to grant such new or additional rights, licenses or easements unto others as the Lessor in its sole discretion should deem necessary, convenient or appropriate. In the Lessee's use and occupancy of the Premises, the Lessee shall not disturb, damage, or interfere with any such facilities of the Lessor or nonparties.

Rental

Section 2. The Lessee shall pay to the Lessor for the use of the Premises, rental at the rate of Six Thousand One Hundred Dollars (\$6,100.00) per annum, payable annually in advance for each and every year during the term of the Lease, or any renewal thereof, subject to reevaluation, as hereinafter provided.

- A. All rental shall be paid in lawful money of the United States of America at the office of WATCO Companies 315 W 3rd, Pittsburg, Kansas 66762 or at such other place as the Lessor shall designate in writing.
- B. In the event that the rental herein specified to be paid has not been received by the Lessor within fifteen (15) days after the date that such rental payment is due, finance charges shall be assessed at the rate of one and one-half percent of the past due rental per month, (18 percent per annum), and shall accrue until such rental payments are current and all finance charges have been paid.

Rental Reevaluation

The Lessor may annually reevaluate the rental base upon which the above rental is computed. In the event the Lessor shall determine that the rental paid is no longer representative of a fair market value rental, the Lessor may adjust the rental and shall advise the Lessee by written notice of such change. Such written notice shall be served at least thirty (30) days prior to the effective date of the new rental, it being understood however that rental adjustments shall not be more than 3% or made more often than once every twelve months.

Utilities

The Lessee shall arrange, secure, and be responsible for all water, gas, heat, electricity, power, sewer, telephone, and any and all other utilities and services supplied and/or furnished to the Premises in connection with the use of the Premises by the Lessee as hereinafter provided, together with any and all taxes and/or assessments applicable thereto.

In the event such utilities and services are not separately metered to Lessee, Lessee shall pay a reasonable proportion of the cost of such utilities and services, to be determined by the Lessor, of all charges jointly metered with other portions of the Lessor's property.

It is understood and agreed that none of the above utilities or services may be installed upon the Premises without first securing the written consent and approval for such installation and the location thereof by the Lessor's Chief Engineer.

Taxes

The Lessee further agrees to pay, before the same shall become delinquent, all taxes levied during the life of this Lease upon the Premises and upon any buildings and improvements thereon, or to reimburse the Lessor for sums paid by the Lessor for such taxes, except taxes levied upon the Premises as a component part of the railroad property of the Lessor in the state as a whole.

Assessments

If, during the life of this lease, any street or other improvement, whether consisting of new construction, maintenance, repairs, renewals, or reconstruction, shall be made, the whole, or any portion of the cost of which is assessed against or is fairly assignable to the Premises, the Lessee agrees to pay in addition to the other payments herein provided for:

- (a) Ten and one-half per cent (10 ½%) per annum on the amount so assessed against or assignable to the Premises when expenditures by the Lessor for such improvements are properly chargeable to capital account under accounting rules of the Interstate Commerce Commission current at the time; and
- (b) The entire amount so assessed against or assignable to the Premises when expenditures for such improvements are not properly chargeable to capital account under said accounting rules.

Use of Premises – Abandonment

Section 3. The Lessee covenants that the Premises shall not be used for any other purpose than for Permitted Use specified in Section 1 hereof and agrees that if the Lessee abandons the Premises or if railcar volumes fall below service provider's acceptable levels, the Lessor may enter upon and take possession of the same, and that non-use for the purpose mentioned continuing for thirty days shall be sufficient and conclusive evidence of such abandonment.

Lessee Not To Sublet or Assign

Section 4. The Lessee agrees not to let or sublet the Premises, in whole or in part, or to assign this Lease without the prior consent in writing of the Lessor, and it is agreed that any transfer or assignment of this Lease, whether voluntary, by operation of law or

otherwise, without such consent in writing, shall be absolutely void and, at the option of the Lessor, shall terminate this Lease.

Use for Unlawful Purposes Prohibited – Indemnity

Section 5. It is especially covenanted and agreed that the use of the Premises or any part thereof for any unlawful or immoral purposes whatsoever is expressly prohibited; that the Lessee shall indemnify, hold harmless and defend the Lessor and the Premises from any and all liens, fines, damages, penalties, forfeitures or judgments in any manner accruing by reason of the use or occupation of the Premises by the Lessee; and that the Lessee shall at all times protect the Lessor and the Premises from all injury, damage, or loss by reason of the occupation of the Premises by the Lessee or from any cause whatsoever growing out of the Lessee's use thereof.

Care of Premises and Improvements

Section 6.

- A. In the Lessee's use and occupancy of the Premises, the Lessee will observe and exercise reasonable care and caution against damage or destruction to the Premises by fire or otherwise. The Lessee shall not do, suffer or permit anything upon or about the Premises which will or may increase the fire hazard thereon. The Lessee shall not commit or suffer waste thereof or injury thereto and shall not use or permit the use of the Premises for any unlawful purpose nor create or maintain thereon any nuisance or any offensive object, matter or thing. The Lessee, at Lessee's expense, will at all times keep the Premises in a safe, neat, clean and presentable condition including all sidewalks and public ways located on the Premises. The Lessee, within reason, at Lessee's expense, shall also keep the walkways appurtenant to any railroad spur track(s) on or serving the Premises, free and clear from debris, snow, ice and any other substance which would or might create a hazard thereon.
- B. The Lessee shall not install, maintain or permit any sign or advertisement upon the Premises, except signs related to the Lessee's business; provided such signs are properly installed and maintained by the Lessee and present a neat appearance. The Lessor reserves unto itself the exclusive right to permit the location of advertising signs of any kind whatsoever on the Premises.
- C. In the event any building or other improvement not belonging to the Lessor on the Premises is damaged or destroyed by fire, storm, or other casualty, the Lessee shall, within thirty days after such happening remove all debris and rubbish resulting therefrom; and if Lessee fails to do so, the Lessor may enter the Premises and remove such debris and rubbish, and the Lessee agrees to reimburse the Lessor, within thirty days after bill rendered, for all expenses incurred in such cleanup.
- D. In the Lessee's occupancy and use of the Premises, the Lessee, at Lessee's expense, shall conform and comply with all applicable laws, ordinances and public

the time of the placement, construction, operation, maintenance, repair, renewal, modification, or reconstruction.

Compliance with such standards shall not relieve Lessee from the obligation to fully comply with the requirements of any federal, state, or municipal law or regulation; it being understood and agreed that Eastern Idaho Railroad Inc.'s Standard Minimum Clearances are in addition to and supplemental of, any and all requirements imposed by applicable law or regulation and shall be complied with unless to do so would cause Lessee to violate an applicable law or regulation.

Lessee assumes the risk of and shall indemnify, hold harmless, and defend the Lessor, its officers, agents, and employees, against and from all injury or death to persons or loss or damage to property of the parties hereto and their employees and agents and to the person or property of any other person or corporation resulting from the Lessee's noncompliance with the provision of this Section 9, or resulting directly or indirectly from any impairment of the clearances described in this Section 9, whether authorized by applicable state or other public authority pursuant hereto, or existing without compliance with the provisions of this Section 9.

Any knowledge on the part of the Lessor of a violation of the clearance requirements of this Lease, whether such knowledge is actual or implied, shall not constitute a waiver and shall not relieve the Lessee of its obligation to indemnify and defend the Lessor, its officers, agents, and employees, for losses and claims resulting from such violation. However, the terms of this Section shall not apply to losses resulting from impairments or facilities created or constructed by the Lessor that will not benefit the Lessee.

Hazardous Substances and Wastes

Section 10. Lessee shall comply with all federal, state and local environment laws and regulations in its use of the Premises, including the Resource Conservation and Recovery Acts, as amended (RCRA), and the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA); Lessee shall not treat, store or dispose of hazardous wastes on the Premises as defined in RCRA without first obtaining the Lessor's written permission. If such permission is granted, Lessee shall obtain any necessary permits and identification numbers and provide Lessor with the identification number and copies of the permits. Lessee shall also assume all responsibility for the costs associated with any closure and/or post-closure care required. In addition, Lessee shall not install any underground storage tanks as defined in RCRA without first obtaining the Lessor's written permission. If such permission is granted, Lessee shall obtain any necessary permits, notify the proper authorities, and provide the Lessor with copies of such permits and notifications. Furthermore, Lessee shall assume all responsibility for and shall indemnify and defend Lessor against all costs and claims associated with a release or leak of the tank contents.

Lessee shall use its best efforts and safety practices to prevent the release of oil and hazardous substances as defined in CERCLA on the Premises by Lessee and Lessee's

licensees. Notwithstanding, Lessee assumes all responsibility for the investigation and cleanup of any such release and shall indemnify and defend the Lessor, its officers, agents and employees, for all costs, including environmental consultant and attorney fees, and claims resulting from or associated with any such release. This provision shall continue in full force and effect regardless of whether this Agreement is terminated pursuant to any other provision or the Premises are vacated by the Lessee.

Explosives and Inflammables

Section 11. It is further agreed that no gunpowder, gasoline, dynamite, or other explosives or flammable or hazardous materials shall be stored or kept upon the Premises. Nothing herein contained, however, shall prevent the storage of those hazardous commodities, if any, specified in Section 1, or oil or gasoline where same are to be used, as indicated in Section 1 hereof, contemplates such storage; nor the storage of oil or gasoline where same are used by the Lessee for fuel in the business carried on by the Lessee on the Premises, and are stored in quantities reasonable for such purposes; PROVIDED, however, that in all of such expected cases, the Lessee shall store such commodities no closer than fifty (50) feet from the center line of any main track and strictly comply with all statutory and municipal regulations relating to the storage of such commodities.

Liability of Lessee for Breach

Section 12. The Lessee shall be liable for and shall defend against any and all injury or death of persons or loss of or damage to property, of whatsoever nature or kind, arising out of or contributed to by any breach in whole or in part of any covenant of this Lease.

Fire Damage Release

Section 13. It is understood by the parties hereto that the Premises are in dangerous proximity to the tracks of the Lessor, and that by reason thereof there will be a constant danger of injury and damage by fire, and the Lessee accepts this Lease subject to such danger.

It is therefore agreed, as one of the material considerations for the Lease and without which the same would not be granted by the Lessor, that the Lessee assumes all risk of loss or destruction of or damage to building or contents on the Premises, and of or to other property brought thereon by the Lessee or by any other person with the knowledge or consent of the Lessee, and of or to property in proximity to the Premises when connected with or incidental to the occupation thereof, and any incidental loss or injury to the business of the Lessee on the Premises, where such loss, damage, or destruction, injury, or death of persons is occasioned by fire caused by, or resulting from, the operation of the railroad of the Lessor, whether such fire be the result of defective engines, or of negligence on the part of the Lessor or of negligence or misconduct on the part of any officer, servant, or employee of the Lessor, or otherwise, and the Lessee hereby agrees to indemnify and hold harmless and defend the Lessor, its officers,

servants, and/or employees, against and from all liability, causes of action, claims or demands which any person may hereafter assert, have, claim, or claim to have, arising out of or by reason of any such loss, damage, destruction, injury, or death of persons including any claim, cause of action or demand, which any insurer of such buildings or other property may any time assert, or undertake to assert, against the Lessor, its officers, servants and/or employees.

Water Damage Release

Section 14. The Lessee hereby releases the Lessor, its officers, servants, and/or employees, from all liability for damage by water to the Premises or to property thereon belonging to or in the custody or control of the Lessee, including buildings and contents, regardless of whether such damage be caused or contributed by the position, location, construction, or condition of the railroad, roadbed, tracks, bridges, dikes, ditches, or other structures of the Lessor.

Termination on Default

Section 15. It is further agreed that the breach of any covenant, stipulation or condition herein contained to be kept and performed by the Lessee, shall, at the option of the Lessor, forthwith work a termination of this Lease, and all rights of the Lessee hereunder; provided, however, that the Lessee shall not be deemed in default under this Lease unless the Lessor has furnished written notice to the Lessee of Lessee's default, and the Lessee has failed to begin to cure that default within seventy-two (72) hours after receipt of Lessor's default notice or after commencing a cure, has failed to proceed diligently with its cure efforts.

After a default by the Lessee, the Lessor may at once re-enter upon the Premises and repossess itself there of and remove all persons therefrom or may resort to an action of forcible/unlawful entry and detainer, or any other action to recover the same. A waiver by the Lessor of the breach by the Lessee of any covenant or condition of this Lease shall not impair the right of the Lessor to avail itself or any subsequent breach thereof.

Upon such termination and vacation of the Premises by the Lessee, the Lessor shall refund the Lessee on a pro rate basis, any unearned rental paid in advance.

Notice

Section 16. Any notice, demand, request, consent, approval or communication that either party hereto desires or is required to give to the other party under this Lease shall be in writing. Said notice may be given to the Lessee by serving the Lessee personally or by posting a copy thereof on the outside of any door in any building upon the Premises or by mailing the same, postage prepaid, to the Lessee at the address of P.O. Box 129, Menan, Idaho 83434. Said notice may be given to the Lessor by mailing the same, postage prepaid to 420 Hansen Street South Twin Falls, Idaho 83301.

Postal notices shall be by certified mail, return receipt requested, and such notice shall be deemed given on the date deposited with the United States Postal Service.

Consent

Section 17. Wherever the consent, approval, judgment, or determination of Lessor is required or permitted under this Lease, Lessor shall exercise its good faith reasonable business judgment in granting or withholding such consent or approval in making such judgment or determination and shall not unreasonably withhold or delay its consent, approval, judgment or determination.

Vacation of Premises/Removal of Lessee's Property

Section 18. The Lessee covenants and agrees to vacate and surrender the quiet and peaceable possession of the Premises upon termination of this Lease howsoever. No later than the expiration or termination date of this Lease, the Lessee shall (a) remove from the Premises, at the expense of the Lessee, all structures and other property not belonging to the Lessor, regardless of whether such structures or property were in place prior to the effective date of this lease; and (b) restore the surface of the ground to as good condition as the same was in before such structures were erected, including foundations of such structures, the filling in of all excavations and pits and the removal of all debris and rubbish, all at the Lessee's expense, failing in which the Lessor may perform the work and the Lessee shall reimburse the Lessor for the cost thereof within thirty (30) days after bill rendered.

In the case of the Lessee's failure to remove such structures and other property, the same, at the option of the Lessor, shall upon the expiration of thirty (30) days after the termination of this Lease; become and thereafter remain the property of the Lessor; and if within one (1) year after the expiration of such thirty-day period the Lessor elects to and does remove, or cause to be removed, said structures and other property from the Premises and the market value thereof or of the material therefrom on removal does not equal the cost of such removal plus the cost of restoring the surface of the ground as aforesaid, then the Lessee shall reimburse the Lessor for the deficit within thirty (30) days after bill rendered.

Protection of Fiber Optics

Section 19. Fiber optic cable systems may be buried on the Lessor's property. Lessee shall telephone the Idaho Dig-Line at 1-800-342-1585 to determine if fiber optic cable is buried anywhere on the Premises. If it is, Lessee will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Premises.

In addition to the liability terms elsewhere in this Lease, the Lessee shall indemnify and hold the Lessor harmless against and from all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of

or in any way contributed to by any act or omission of the Lessee, its contractor, agents and/or employees, that causes or in any way or degree contributed to (a) any damage to or destruction of any telecommunications system by the Lessee, and/or its contractor, agents and/or employees, on the Premises, (b) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Premises, and/or (c) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or use of, such telecommunication company(ies).

Successors and Assigns

Section 20. Subject to the provisions of Section 4 hereof, this Lease shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns.

Entire Agreement

Section 21. The entire agreement between Lessor and Lessee is set forth in this Lease and there are no understandings, agreements, or representations of any kind between the parties, verbal or otherwise, other than as set forth in this Lease. However, all terms, conditions, and charges of the railroad general tariff as published from time to time are specifically incorporated into this lease agreement to the extent applicable to this Lease. No change or modification of any of the covenants, terms or provisions hereof shall be valid unless in writing and signed by the parties hereto.

Parties authorized to change or modify this agreement on behalf of Lessor are limited to the West Region COO, Watco Companies, Inc., or the West Region Controller, Watco Companies, Inc., or their replacements as may be designated from time to time by a corporate officer of Watco Companies, Inc. No other employees of Watco Companies, Inc. or Eastern Idaho Railroad, Inc. are authorized to charge, modify or cancel this agreement.

Liability

Section 22. Lessee shall relieve, indemnify, and defend Lessor against and from all expenses, damages, actions, fines, penalties, claims, judgments, settlements, and demands of every kind or nature, including reasonable counsel, investigator and expert fees, arising out of any failure by Lessee to perform any of the agreements, terms, covenants, or conditions of this Lease, and any bodily injury, death, or property loss or damage to or of any person or entity that comes upon the Premises or appurtenances thereto, or on or under the walkways, roadways, sidewalks, curbs, or loading areas contiguous thereto, however occurring, and also for any matter growing out of the condition, occupation, maintenance, alteration, repair, use, or operation of the Premises or appurtenances thereto or any part thereof, or of the walkways, roadways, sidewalks, curbing, and loading areas contiguous thereto, unless caused directly by the sole negligence of Lessor.

Lessee's indemnification shall include indemnity for the negligence of any tenant, invitee, licensee or grantee of Lessee occurring on the Premises shall be deemed the negligence of the Lessee.

Partial Invalidity; Separate Covenants

Section 23. If any term, covenant, obligation or condition of this Lease or the application thereof to any person or circumstance shall be held invalid or unenforceable to any extent by a final judgment or award which shall not be subject to change by appeal, then the remainder of this Lease or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law. Furthermore, each covenant, agreement, obligation and other provision of this Lease is and shall be deemed and construed as a separate and independent covenant of the party bound by, undertaking or making the same, and not dependent on any other provision of this Lease unless expressly so provided.

Liability for Tariff Charges

Section 24. Lessee agrees to pay any and all charges resulting from the use of rail transportation services on behalf of itself or its customers under Eastern Idaho Railroad, Inc.'s General Tariff as published and amended from time to time. Lessee hereby acknowledges receipt and understanding of said tariff.

Special Provision

Section 25. This Audit replaces previous Audit #A72128 and Audit #A88893.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first set forth above.

WITNESS:

EASTERN IDAHO RAILROAD INC.
(LESSOR)

Name: _____
Title: _____

Name: _____
Title: _____

WITNESS:

WALKER PRODUCE COMPANY, INC.
(LESSEE)

Name: [Signature]
Title: UP Operations

Name: [Signature]
Title: President

Lessee's indemnification shall include indemnity for the negligence of any tenant, invitee, licensee or grantee of Lessee occurring on the Premises shall be deemed the negligence of the Lessee.

Partial Invalidity; Separate Covenants

Section 23. If any term, covenant, obligation or condition of this Lease or the application thereof to any person or circumstance shall be held invalid or unenforceable to any extent by a final judgment or award which shall not be subject to change by appeal, then the remainder of this Lease or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law. Furthermore, each covenant, agreement, obligation and other provision of this Lease is and shall be deemed and construed as a separate and independent covenant of the party bound by, undertaking or making the same, and not dependent on any other provision of this Lease unless expressly so provided.

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Special Provision

Section 25. This Audit replaces previous Audit #A72128 and Audit #A88893.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first set forth above.

WITNESS:

EASTERN IDAHO RAILROAD INC.
(LESSOR)

Name: Paul W. Scatena
Title: Property Mgr. - West Region

Name: [Signature]
Title: Director of Properties, West Region

WITNESS:

WALKER PRODUCE COMPANY, INC.
(LESSEE)

Name: [Signature]
Title: VP Operations

Name: [Signature]
Title: President

Contract Demographic Data

Audit Number	Land Lease - EIRR1024 Track Lease - EIRR5018
Lessee Name	Walker Produce Company, Inc.
Lessee Address	638 N 3500 E Menan, ID 83434 P.O. Box 129 Menan, Idaho 83434
Contact Name	Mike Meyer
Contact Number	Phone: 208-243-0808 Email: Mike@WalkerProduce.net
Contract Type	Land and Track Lease
Property Use	Unloading Agricultural Products
Contract Date	June 15, 2010
Renewal Date	June 15, 2011
Terms	Annual
Termination	30 days
Non-Exclusive / Exclusive	Non-Exclusive
Branch	West Belt
Mile Post	10.4
Total Square Feet	64,180 sq ft
Total Trackage	325 ft
Original Dollar Amount	Land Lease - \$6,100.00 Track Lease - \$1,525.00
Price Per Unit	Track - \$5.00 per ft
Escalator Terms	Annual Review
Special Provisions	Track Rebate: Lessor agrees to provide Lessee a rebate per car towards the annual rental at the end of each year as follows: 3.2.a At the end of year one (1), Lessor will rebate Lessee Forty Dollars (\$45.00) per car up to a maximum of Forty Four (40) cars to be applied to the next year's annual rental. 3.2.b At the end of year two (2), Lessor will rebate Lessee Twenty Dollars (\$20.00) per car up to a maximum of Forty Four (44) cars to be applied to the next year's annual rental. 3.2.c At the end of year three (3), Lessor will rebate Lessee Ten Dollars (\$10.00) per car up to a maximum of Forty Eight (48) cars to be applied to the next year's annual rental. 3.2.d At the end of year four (4) and each year thereafter until the termination of this Lease, Lessor will provide Lessee an annual rebate equal to the increased percentage of carloads from the previous year to be applied to the next year's annual rental.
Miscellaneous	Audit #EIRR5018 replaces #A72128 and #A88893