

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 11-7788**RECEIVED****APR 14 2014**Department of Water Resources
Eastern Region

1. Name of applicant(s) Five Square Ranch, LLC (c/o John Makoff) Phone (714) 858-5900
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 7028 Kearny Drive City Huntington Beach
 State CA Zip 92648 Email jgm@uniquepartners.com
2. Source of water supply Soren Canyon Creek which is a tributary of Thomas Fork Creek
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
12S	46E	16		SW	NW	SE	Bear Lake	Soren Canyon Creek	

4. Water will be used for the following purposes:
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount 4 ac-ft for livestock storage purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount 4 ac-ft for recreation storage purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) _____ cubic feet per second (cfs) and/or (b) 4 ac-ft acre feet per year (af).
6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. earthen dam
- b. Height of storage dam 6 feet; active reservoir capacity 4 acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
- c. Proposed well diameter is n/a inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____.

7. Description of proposed uses (if irrigation only, go to item 8):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; complete and attach the Municipal Water Right Application Checklist.
- d. Domestic; show number of households _____
- e. Other; describe fully. small pond for livestock and recreation purposes.

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	46E	16														S			

Total number of acres to be irrigated: _____

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

None

10. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

Small pond will be used for livestock and recreation purposes. Pond will be filled during high spring runoff. Pond will be maintained during the summer to the extent water is available in priority. Applicant will dry up 1 acre of irrigated farmland under water right nos. 11-90 and/or 11-7608 to off-set and mitigate for evaporation from the pond.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8 1/4" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

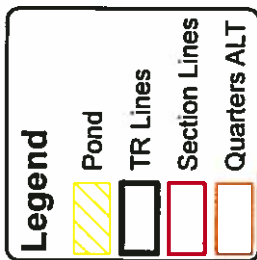
Thomas J. Budge, attorney for the Applicant

Print Name (and title, if applicable)

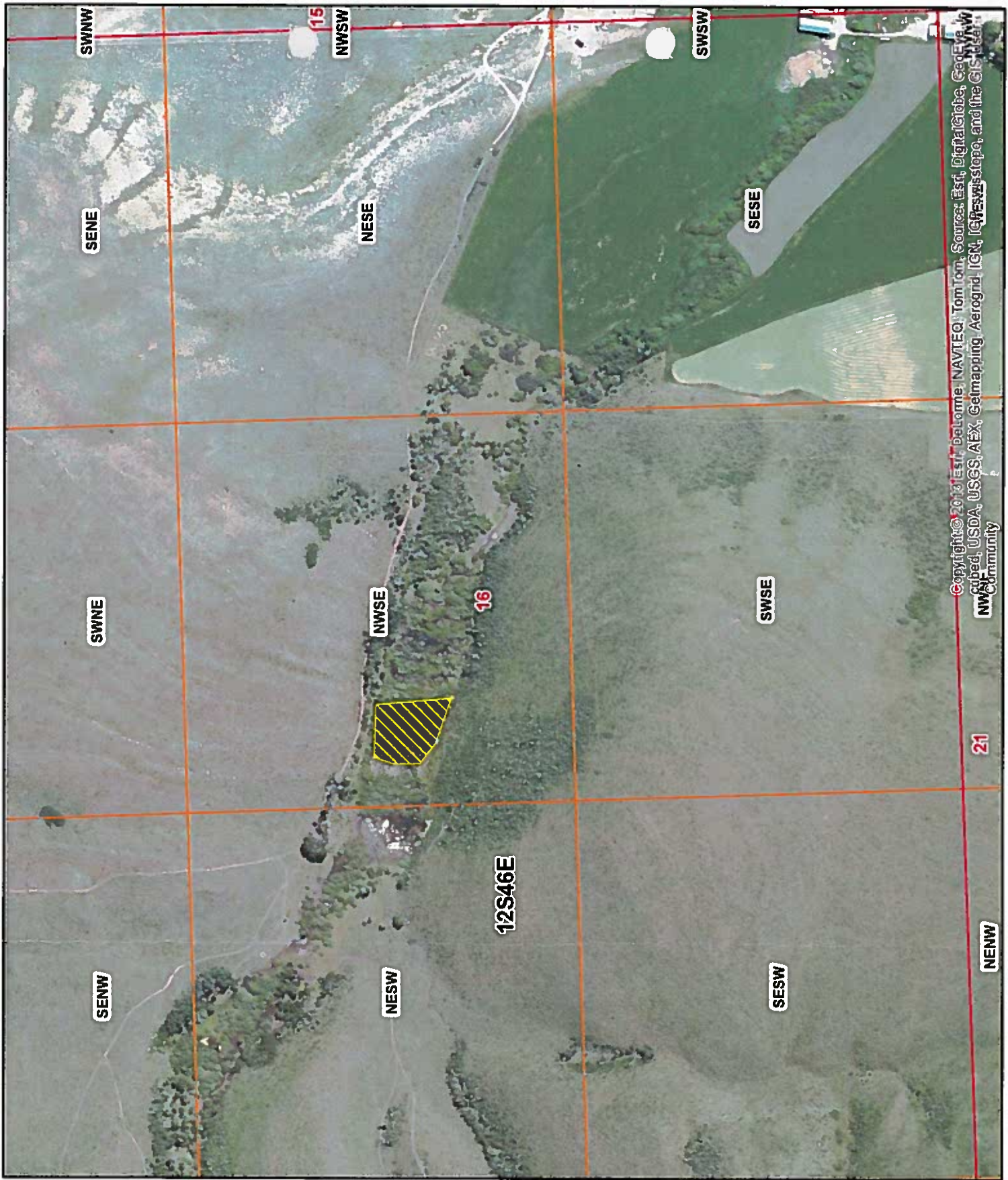
Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ 310 - Receipted by _____ Receipt No. 8039746 Date 4/21/14

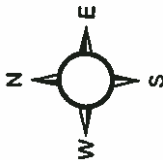


RACINE
OLSON
NYE
BUDGE
BAILEY



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Five Square Ranch - mitigation



Legend

 Dryup

 TR Lines

 Section Lines

 Quarters ALT

11 - 77 88





RACINE

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NYE

BUDGE

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STATE OF IDAHO DEED

Instrument # 211256

BEAR LAKE COUNTY Department of Water Resources
12-7-2011 02:19:09 No. of Pages 2

Recorded for : FIRST AMERICAN TITLE/STATE OF ID

KERRY HADDOCK

Ex-Officio Recorder Deputy

Index to: WARRANTY DEED

RECEIVED

JUL 01 2015

Fee: 10.00
Andy Garner

DEED NO. 90018
(Makoff Land Exchange)

THIS INDENTURE is made this 18th day of November, 2011, by and between the **STATE OF IDAHO, DEPARTMENT OF LANDS**, acting by and through the **STATE BOARD OF LAND COMMISSIONERS**, hereinafter referred to as "Grantor", and **JOHN G. MAKOFF and JUSTINE MARIE MAKOFF**, not individually, but in their capacity as **TRUSTEES** of the **JOHN G. MAKOFF and JUSTINE MARIE MAKOFF FAMILY TRUST**, dated April 1, 1999, hereinafter referred to as "Grantee".

WITNESSETH, That the Grantor for and in consideration of the exchange of lands, in accordance with Section 58-138, Idaho Code, does bargain, sell, convey and confirm in fee unto the said Grantee and their heirs and assigns forever, all of the following described real property situate in Bear Lake County, Idaho, to-wit:

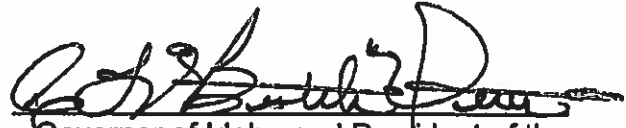
N1/2, SW1/4, W1/2SE1/4, NE1/4SE1/4 Section 16, Township 12 South, Range 46 East, B.M., Bear Lake County, Idaho.

TO HAVE AND TO HOLD, all and singular, the above described premises and parcels of land and conveyed real property unto the said Grantee and its successors and assigns forever, subject to the following:

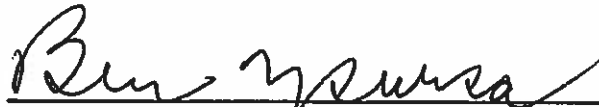
1. All existing rights, patent reservations, protective covenants, zoning ordinances, applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises, encumbrances, reservations, rights-of-way and easements of record, including a reservation to the United States of America for rights-of-way over and across said lands for ditches and canals constructed by authority of the United States as directed and required by the Act of Congress approved August 30, 1890, (26 Stat. 391; 43 U.S.C. Sec. 945); or as provided by Idaho Code § 58-604.
2. State of Idaho Term Easement 6464 issued to Lon Tueller on September 27, 2007, for a water spring collection area, underground waterline and ingress/egress across parts of the North Half of the Southeast quarter (N1/2SE1/4), Northeast quarter of the Southwest quarter (NE1/4SW1/4), and Southeast quarter of the Northwest quarter (SE1/4NW1/4) of Section 16, Township 16, Township 12 South, Range 46 East, Boise Meridian. The easement expires September 27, 2062.

211256

IN WITNESS WHEREOF, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho and President of the State Board of Land Commissioners, have hereunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the State Board of Land Commissioners to be hereunto affixed, this 18th day of November, 2011.


Governor of Idaho and President of the
State Board of Land Commissioners

COUNTERSIGNED:

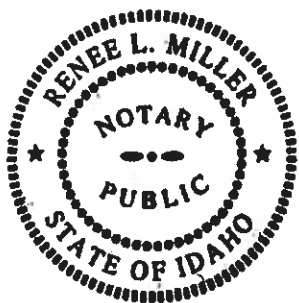

Secretary of State


Director, Department of Lands



STATE OF IDAHO)
)ss.
County of Ada)

On this 18th day of November, in the year 2011, before me a Notary Public in and for said State, personally appeared C.L. "BUTCH" OTTER, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners, and BEN YURSA, known to me to be the Secretary of State of the State of Idaho, and THOMAS M. SCHULTZ, JR., known to me to be the Director of the Department of Lands of the State of Idaho, who executed the said instrument and acknowledged to me that such State of Idaho executed the same.




NOTARY PUBLIC
Residing at Boise, Idaho
My Commission expires: 8-27-2015

11-7788

RECEIVED

JAN 27 2014

Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

CONSENT ORDER AND AGREEMENT

In the Matter of Notice of Violation No. S11-20059 issued by the Idaho Department of Water Resources ("Department") on July 24, 2013, to Five Square Ranch, LLC ("Five Square").

Findings of Fact

- 1) Five Square is the owner of lands described in Notice of Violation ("NOV") No. S11-20059 (enclosed).
- 2) John G. Makoff ("Makoff") is a member of Five Square Ranch, LLC and responded to the NOV through his attorney, T.J. Budge ("Budge").
- 3) The NOV alleged that Five Square had altered a stream known as Surnge Canyon Creek, without the required stream alteration permit.
- 4) The Department conducted a compliance conference with Budge concerning the NOV on September 12, 2013.
- 5) Budge stated that Five Square would have obtained the required permit but did not think a permit was required in this case.
- 6) Based on previous investigations and in consideration of the information presented at the September 12, 2013, compliance conference, the Department concludes that Surnge Canyon Creek is not exempt and is subject to stream alteration permitting requirements under Idaho Law.

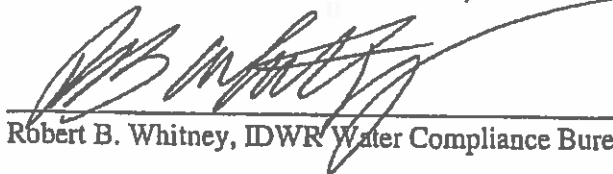
Conclusions of Law

- 1) Idaho Code §42-3803 requires that an application be submitted and a permit issued prior to alteration of a stream channel.
- 2) Idaho Code §42-3809(2) allows the Department to initiate an administrative enforcement action for violation(s) of Idaho Code, Chapter 38, Title 42. The enforcement action must be in accordance with Idaho Code §42-1701B.
- 3) Idaho Code §42-1701B allows the Department to seek agreed civil penalties and other redress pursuant to an NOV and to execute a Consent Order and Agreement between the Department and the alleged violator.
- 4) Idaho Code §42-1701B(6) provides for civil penalties not to exceed ten thousand dollars (\$10,000) per violation, for violating a provision of the Stream Channel Protection Act or rules promulgated pursuant thereto.

Terms of Agreement

- 1) Five Square agrees to cease and desist any unauthorized diversion or impoundment of water from Surnge Canyon Creek until the required approvals are obtained from the Department.
- 2) Five Square agrees to submit the necessary application(s) to obtain a valid water right from Surnge Canyon Creek associated with the unauthorized pond or alteration of the creek. An "Application for Permit" or "Application for Transfer" must be submitted to the Department's Eastern Region office on or before February 28, 2014.
- 3) Five Square agrees that if the application(s) identified in no. 2 above cannot be approved within 12 months after execution of this agreement, Five Square will submit a "Joint Application for Permits" including a plan to remove the impoundment and restore the altered area of Surnge Canyon Creek.
- 4) Five Square agrees to pay a civil penalty in the amount of two thousand five hundred (\$2500.00) dollars on or before February 28, 2014.
- 5) The Department agrees to not initiate a civil action through the Attorney General if this agreement is executed by both parties and the terms of the agreement are met.

Dated this 14th day of January, 2014


Robert B. Whitney, IDWR Water Compliance Bureau

CONSENT

Respondent acknowledges, in general the facts set forth herein and accepts fully the terms and conditions of this Order. These terms shall become effective upon execution by the parties. Respondent waives any right to contest this Order and consents to the issue hereof.

Dated this 27th day of January, 2014


John G. Makoff, Five Square Ranch, LLC

Receipt Details for ID C098269

Status	Adjustment Type	Version
		2

General Information:

Date Received 2/3/2014 2:02:14 PM	Date Deposited 2/3/2014 2:43:00 PM	Region STATE	Total Amount \$2,500.00	Payment Type Check
Payee: FIVE SQUARE RANCH LLC				

Account Information

Check Number 3060

Comment PAYMENT FOR NOTICE OF VIOLATION S11-20059

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$2,500.00	STREAM CHANNEL PROTECTION FINES	57103	0229	21		1315

11-7788

*Five Square Ranch, LLC
7028 Kearny Drive
Huntington Beach, CA 92648*

RECEIVED
FEB 03 2014
**DEPARTMENT OF
WATER RESOURCES**

Rob Whitney
Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

Mr. Whitney,

Please find the enclosed check #3060 from Five Square Ranch, LLC for payment in the matter of Notice of Violation No. S11-20059.

Thank you,

John Makoff

Five Square Ranch, LLC

Idaho Department of Water Resources Receipt

Receipt ID: C098269

Payment Amount \$2,500.00 Date Received 2/3/2014 2:02 PM Region STATE
Payment Type Check Check Number 3060
Payer FIVE SQUARE RANCH LLC
Comments PAYMENT FOR NOTICE OF VIOLATION S11-20059

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$2,500.00	WATER RIGHT ENFORCEMENT	55506	0229	22		1315



Signature Line (Department Representative)

11-7788