

Randall C. Budge, ISB No. 1949
Candice M. McHugh, ISB No. 5908
Thomas J. Budge, ISB No. 7465
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
101 South Capitol Boulevard, Suite 300
Boise, ID 83702
Telephone: 208-395-0011
Fax: 208-433-0167

Attorneys for IGWA

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF THE PETITION
DELIVERY CALL OF RANGEN, INC.'S
WATER RIGHT NOS. 36-02551 & 36-7694**

DOCKET NO. CM-DC-2011-004

**IGWA'S PETITION TO BE
DESIGNATED AS RESPONDENT OR
ALTERNATIVELY TO INTERVENE**

TO THE IDAHO DEPARTMENT OF WATER RESOURCES AND ALL INTERESTED PARTIES:

The Idaho Ground Water Appropriators, Inc., ("IGWA"), acting for and on behalf of its members, by and through counsel, hereby petitions to be designated as a "Respondent" or alternatively to intervene in the above-captioned proceeding pursuant to Rules of Procedure of

the Idaho Department of Water Resources 154, 156, 350 through 354. (IDAPA 37.01.01 *et seq.*)¹

Rule 154 defines “Respondents” as “[p]ersons against whom complaints are filed or about whom investigations are initiated.” Rule 156 defines “Intervenors” as “[p]ersons, not applicants or claimants, appellants, complainants, respondents or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354.....” Rule 350 states that “[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding.” A timely-filed petition to intervene shall be granted if the petition “shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues,... unless the applicant's interest is adequately represented by existing parties.” Rule 353.

On December 13, 2011, Rangen, Inc. filed a Petition for Delivery Call (“Petition”) before the Department alleging that Rangen, Inc.’s decreed water rights have suffered and will continue to suffer material injury as a result of junior-priority ground water rights in the Eastern Snake Plain Aquifer area. The Petition requests that the Director order a curtailment of diversions which are junior to the two water rights identified above.

IGWA represents Ground Water Districts whose members consist of hundreds of irrigators, municipalities, and commercial and industrial entities operating within the State of Idaho. They are all owners of water rights that divert from the Eastern Snake Plain Aquifer that

¹ For ease of citation, IDAPA 37.01.01 will be omitted and citation to the Department’s Rules of Procedure will simply be by “Rule”.

have hydraulic connections (to varying degrees) with the same source for Water Right Nos. 36-2551 and 36-7694.

IGWA, for and on behalf of its members, has a substantial interest in future water use and development of hydraulically-connected reaches of the Snake River and ESPA. Further, IGWA is in the best position to represent the interests of the junior groundwater users and to know and understand the specific impacts upon their water rights and the claims made by Rangen, Inc..

Because IGWA represents the interests of the owners of water rights that are junior in priority to Rangen's water rights, that could be subject to curtailment if the claims in the Rangen Petition are valid, and who are water users that are keenly interested in the future of groundwater use on the Eastern Snake Plain, IGWA, for and on behalf of its members indisputably has a direct and substantial interest in this proceeding.

Based on the foregoing, IGWA, for and on behalf of its members, meets the definition of a Respondent and as such, should be so designated and permitted to participate in the above captioned matter. Alternatively, IGWA, for and on behalf of its members should be granted intervention in the above captioned matter and permitted to participate as an intervenor in this contested case.

Submitted this 4th day of January, 2012.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By: Candice M. Mchugh
CANDICE M. MCHUGH
Attorney for IGWA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of January, 2012, I served a true and correct copy of this document on the persons listed below in the manner(s) indicated.

Garrick Baxter
Chris Bromley
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
garrick.baxter@idwr.idaho.gov
chris.bromley@idwr.idaho.gov

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-mail

Robyn M. Brody
Brody Law Office, PLLC
PO Box 554
Rupert, ID 83350
rbrody@cableone.net
robynbrody@hotmail.com

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-mail

Fritz X. Haemmerle
Haemmerle & Haemmerle, PLLC
PO Box 1800
Hailey, ID 83333
fxh@haemlaw.com


- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-mail

J. Justin May
May, Browning & May, PLLC
1419 West Washington
Boise, ID 83702
jmay@maybrowning.com

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-mail

Michael C. Creamer
Givens Pursley LLP
PO Box 2720
Boise, ID 83702

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail


Candice M. McHugh