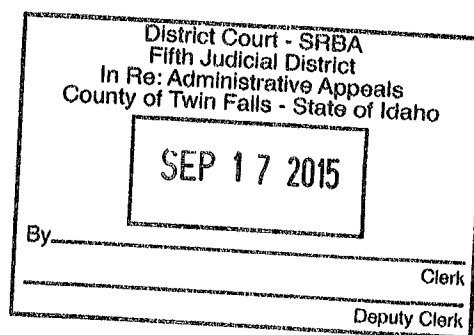


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*Attorneys for Rangen, Inc.*



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF GOODING**

RANGEN, INC.,

Intervenor/Appellant on Appeal,

vs.

IDAHO DEPARTMENT OF WATER  
RESOURCES and GARY SPACKMAN, in his  
official capacity as Director of the Idaho Department  
of Water Resources,

Respondents/Respondents on Appeal,

vs.

NORTH SNAKE GROUND WATER DISTRICT,  
MAGIC VALLEY GROUND WATER DISTRICT  
and SOUTHWEST IRRIGATION DISTRICT,

Petitioners/Respondents on Appeal,

Case No. CV-2015-83

RANGEN INC.'S NOTICE OF  
APPEAL

Fee Category: L.4

Fee Amount: \$129.00

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 36-16976 IN THE NAME OF  
NORTH SNAKE GROUND WATER DISTRICT,  
ET AL

TO THE ABOVE-NAMED RESPONDENTS ON APPEAL, THE CLERK OF THE ABOVE-ENTITLED COURT, AND THE PARTIES' ATTORNEYS AS IDENTIFIED ON THE CRETIFICATE OF SERVICE BELOW:

1. The above-named Appellant, RANGEN, INC. ("Rangen"), appeals the Court's *Memorandum Decision and Order*, and the resulting *Judgment*, issued August 7, 2015 in accordance with the Court's Decision, Honorable Eric J. Wildman, District Judge for the Fifth Judicial District, in and for the County of Gooding, presiding.

2. Rangen has the right to appeal to the Supreme Court, and the judgment described in paragraph 1 is appealable pursuant to I.A.R. 11(a)(2).

3. The following is a preliminary statement of the issues Rangen intends to assert on appeal: Whether the trial court erred in setting aside the Director's *Final Order* which denied the Application for Permit to appropriate water right 36-16976 (hereinafter "Application") filed by the North Snake Ground Water District, Magic Valley Ground Water District, and the Southwest Irrigation District (collectively, the "Districts" or "GWDs"), which ruling raises the following issues:

- a) Whether as a matter of fact or law the Director was correct in his ruling that the Districts' Application was filed in bad faith;

- b) Whether as a matter of fact or law the Director was correct in his ruling that the Districts' Application was not in the Local Public Interest as defined under Idaho Code §§ 42-203A(5) and 42-202B(3);
- c) Whether the Director was correct and acted within his statutory authority in determining that it is inconsistent with the local public interest and inappropriate for the Districts to exercise their power of eminent domain as a vehicle to obtain a water right for mitigation wholly located on land owned by Rangen and to dictate how mitigation water is delivered wholly within Rangen's facility;
- d) Whether as a matter of fact or law the denial should have been affirmed on the additional basis that the Districts' Application is speculative;
- e) Whether as a matter of fact or law the trial court erred in ruling that the District's express authority to exercise their power of eminent domain for condemnation of private property for easements, rights-of-way, and other rights of access to property necessary to exercise their mitigation powers is sufficient for the purposes of a speculation analysis;
- f) Whether as a matter of fact or law the denial should have been affirmed on the additional basis that the Districts do not own either the place of use or point of diversion described by the Application;
- g) Whether as a matter of fact or law the denial should have been affirmed on the additional basis that a water right cannot be perfected by mere delivery of water;
- h) Whether as a matter of fact or law the denial should have been affirmed on the additional basis that "Mitigation", by itself, is not a beneficial use and that "Mitigation"

without any identifying underlying beneficial use does not describe a water right in a way that it can be evaluated or enforced;

i) Whether as a matter of fact or law the denial should have been affirmed on the additional basis that the Districts' Application is incomplete.

4. No order has been issued sealing all or any portion of the record.

5. a. Is a reporter's transcript requested? Yes.

b. Rangen requests the preparation of the following portions of the reporter's transcript: The oral argument from the hearing on the Petition for Judicial Review, dated July 20, 2015.

c. Rangen requests preparation of the transcript in a compressed format.

6. Rangen requests that all transcripts, pleadings, exhibits, briefs, attachments, and orders that are part of the agency record in this case, plus all documents automatically included under Rule 28, I.A.R., be made part of the clerk's record on appeal.

7. I certify that:

a) A copy of this notice of appeal has been served on the reporter;

b) The clerk of the district court has been paid the estimated fee required to prepare the reporter's transcript, to-wit: \$130.00;

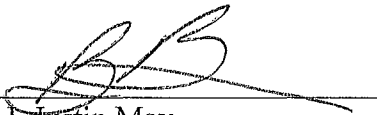
c) The estimated fee for preparation of the clerk's or agency's record has been paid, to-wit: \$100.00 deposit;

d) The appellate filing fee has been paid; and

e) Service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 17 day of September, 2015.

MAY, BROWNING & MAY, PLLC

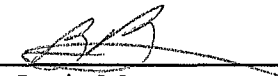
By:   
J. Justin May

**CERTIFICATE OF SERVICE**

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 17 day of September, 2015 he caused a true and correct copy of the foregoing document to be served upon the following as indicated:

<b>Original:</b> SRBA District Court 253 3 <sup>rd</sup> Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Garrick Baxter Emmi L. Blades IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov emmi.blades@idwr.idaho.gov kimi.white@idwr.idaho.gov	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED 201 E. Center Street P.O. Box 1391	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>

Pocatello, ID 83204 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	
Court Reporter Sabrina Vasquez P.O. Box 2707 Twin Falls, ID 83303-2707	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>

  
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J. Justin May