

Supplemental Response to IGWA's First Discovery Requests dated December 21, 2012.

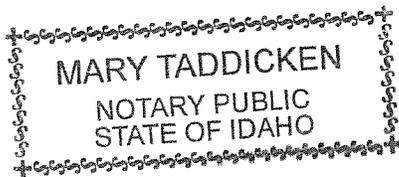
4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the deposition transcript of Joy Kinyon dated 9-10-12.

5. Attached hereto as **Exhibit D** is a true and correct copy excerpts from the deposition transcript of Douglas Ramsey dated 9-12-12 and 11-13-12.

DATED this 9th day of January, 2013.

By: Candice MCHUGH
CANDICE M. MCHUGH

SUBSCRIBED AND SWORN to before me by Candice M. McHugh this 9th day of January, 2013.



Mary Taddicken
Notary Public

Commission Expires: 9-12-13

CERTIFICATE OF MAILING

I hereby certify that on this 9th day of January 2013, **AFFIDAVIT OF CANDICE M. MCHUGH IN SUPPORT OF MOTION IN LIMINE.**, was served by U.S. Mail postage prepaid to the following:


Signature of person mailing form

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Exhibit A

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Attorneys for the Idaho Ground Water Appropriators, Inc.

**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 FIRST SET OF
DISCOVERY REQUESTS**

TO: RANGEN, INC.

Idaho Ground Water Appropriators, Inc., ("Ground Water Users" or "IGWA"), by and through counsel, pursuant IDAPA 37.01.01 Rules 521 and 522 of the Rules of Procedure of Idaho Department of Water Resources ("IDWR"), and the authorization to conduct discovery given by the Director of the IDWR at the May 22, 2012, status and scheduling conference, submits the following discovery requests to Rangen, Inc. ("Rangen") and its attorney of record.

INSTRUCTIONS AND DEFINITIONS

- a. When answering these discovery requests, you must include all information known or ascertainable upon reasonable inquiry to you or your agents, attorneys, investigators, employees, representatives, guardians, or any other person or persons acting on your behalf.
- b. If you cannot answer any of the following requests in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent

possible, specifying your inability to answer to the remainder, and stating whatever information or knowledge you have concerning the unanswered portions.

c. The term “document” means any kind of written, typewritten, or printed material whatsoever, including, without limitation, papers, agreements, contracts, notes, memoranda, correspondence, letters, telegrams, statements, books, reports, studies, minutes, records, accounting books, maps, plans, drawings, diagrams, photographs, video tapes, motion pictures, audio tapes, analyses, surveys, studies, transcriptions, and recordings of which you have any knowledge or information, whether in your possession or control or not, relating or pertaining in any way to the subject matters in connection with which it is used, and includes, without limitation, originals, file copies, and all other copies, no matter how or by whom prepared, and all drafts prepared in connection with such writings, whether used or not.

e. If any requested document cannot be produced in full, you are required to produce it to the fullest extent possible, specifying clearly the reasons for your inability to produce the remainder and stating whatever information, knowledge, or belief you have concerning the unproduced portion.

f. If any requested document was at one time in existence but is no longer in existence, please so state, specifying for each document: (1) the type of document; (2) the types of information contained therein; (3) the date upon which it ceased to exist; (4) the circumstances under which it ceased to exist; (5) the identity of all persons having knowledge of the circumstances under which it ceased to exist; and (6) the identity of each person having knowledge of the contents thereof.

g. With respect to any requested document that is withheld due to a claim of privilege, list for each such document: (1) the paragraph to which the document is otherwise responsive; (2) its title and general subject matter; (3) its date; (4) the names and titles of its authors or preparers; (5) the names and titles of the persons for whom it was prepared and all persons to whom it was sent or shown; and (6) the nature of the privilege claimed.

h. These requests are deemed continuing. If after responding to these requests you acquire any additional information responsive thereto, you must file and

serve supplemental responses containing such information, as required by the Idaho Rules of Civil Procedure.

k. The capitalized term “Water Rights” means Idaho water right numbers 36-02551 & 36-7694.

i. The term “Rangen facility” means the aquaculture facility (diversion structures, water conveyance structures, raceways, buildings, etc.) where the Water Rights are put to beneficial use.

j. The term “water quality” means both chemical quality and temperature of water.

l. The term “point of discharge” means the point where Rangen ceases to use or control the Water Rights.

INTERROGATORIES

Interrogatory No. 1: Please state the name, address, phone number, and relation to Rangen of each person answering these interrogatories.

Interrogatory No. 2: Please state the name, address, phone number, and relation to Range of each person who has supplied information for answers to these interrogatories, and specify the interrogatories for which such person has supplied information..

Interrogatory No. 3: Please identify each item that you may attempt to introduce into evidence at the hearing in this matter, and explain the alleged significance of each item. As to each item that consists of more than 15 pages or more than 3,000 words, quote or otherwise specifically designate the portion of such item that you contend is relevant to this matter.

Interrogatory No. 4: State the name and last known address of each person consulted as an expert witness on your behalf concerning this matter; and, with respect to each, state the following:

- a. The scientific, technical or other specialized knowledge possessed by such person.
- b. The knowledge, skill, experience, training and education which qualifies such person as an expert.

- c. All facts and data upon which the expert bases his opinion.
- d. All opinions and inferences to which the expert may testify and the reasons therefor.

Interrogatory No. 5: Name and identify the last known address and phone number of each person you may call as a witness at the hearing in matter action and briefly state the facts to which you expect each such witness to testify.

Interrogatory No. 6: State the name, address, and telephone number of each person with knowledge of facts relating to your claim of material injury, and describe in general fashion the substance of facts to which each person has knowledge.

Interrogatory No. 7: Identify and describe in detail all documents that you or your attorney are aware of that in any way pertain to your claim of material injury.

Interrogatory No. 8: Describe all sources of water used at the Rangen facility and how such water is used.

Interrogatory No. 9: Describe any seasonal and other patterns of water use at the Rangen facility.

Interrogatory No. 10: Has Rangen ever considered, explored, or developed alternative sources of supply of water for use at the Rangen facility? If the answer is yes, please provide a detailed description of what Rangen considered, explored, or developed. If the answer is no, please provide a detailed description of why not.

Interrogatory No. 11: Identify all alternate sources of water that you believe could potentially be used to increase the supply of water available to the Rangen facility.

Interrogatory No. 12: Has Rangen ever considered, explored, or implemented water conservation or re-use practices at the Rangen facility? If the answer is yes, please provide a detailed description of what Rangen considered, explored, or implemented. If the answer is no, please provide a detailed description of why not.

Interrogatory No. 13: Identify and describe all water conservation or re-use practices that you believe could potentially be effectively implemented within the Rangen facility.

Interrogatory No. 14: Identify all alternate points of diversion that you believe could potentially be used to increase the supply of water available to the Rangen facility.

Interrogatory No. 15: Identify the locations of all groundwater wells used to supply water to the Rangen facility, and for each such well explain how its groundwater is used within the Rangen facility.

Interrogatory No. 16: Have you ever investigated using groundwater within the Rangen facility? If so, please explain what investigations have been performed and any conclusions reached from those investigations.

Interrogatory No. 17: Describe in chronological fashion the historical development of the Rangen facility, including (but not limited to) all additions, modifications, expansions, and reconfigurations of the Rangen facility.

Interrogatory No. 18: For each development described in your answer to interrogatory number 17, please describe what effect the development had on the operation of and beneficial use of water within the Rangen facility.

Interrogatory No. 19: Has Rangen or to Rangen's knowledge any other person or entity improved or attempted to improve the spring outlets that supply the Water Rights? If yes, please describe all such improvements or attempted improvements.

Interrogatory No. 20: Identify each person who makes fish stocking and rearing decisions at the Rangen facility, and describe his/her qualifications, by whom he/she is employed, and how many years he/she has worked at the Rangen facility.

Interrogatory No. 21: List the name and address of all fish rearing, hatchery, processing, brooding or other such type of facility owned in whole or in part or operated or managed by Rangen, and for each such facility identify its location, the name(s) of its operator(s), and the water rights that supply the facility.

Interrogatory No. 22: For the Rangen facility, describe (using one or more aerial photos if desired) the locations of all of the following items:

- a. Spring outlets that supply the Water Rights.
- b. Points of diversion of the Water Rights.
- c. Points of discharge of the Water Rights.
- d. Course(s) of water flow of the Water Rights between the point(s) of diversion and point(s) of discharge.
- e. Devices used to measure the quantity or quality of water flow.

f. Where any other water quality sampling and measurements are taken;

Interrogatory No. 23: Identify all agencies to whom water quality or quantity data from the Rangen facility are reported to, and the method and frequency of such reports.

Interrogatory No. 24: Describe all types of measurements and water quality samples that are taken with respect to the Rangen facility for purposes of reporting to the Idaho Department of Environmental Quality.

Interrogatory No. 25: Describe all water treatment processes performed within the Rangen facility; the location, reason, and frequency of such treatments; the process of such treatments; and the chemicals, antibiotics, or other products used in such treatments.

Interrogatory No. 26: Describe how the number of fish produced at the Rangen facility has changed over time.

Interrogatory No. 27: Describe how fish production numbers have changed over time utilizing existing rearing containers at the Rangen facility.

Interrogatory No. 28: Are any fish rearing raceway/ponds at the Rangen facility not being utilized due to water volume, flow, or dissolved oxygen constraints?

Interrogatory No. 29: Describe how fish stocking or restocking decisions are made and in which month(s) fish stocking occurs at the Rangen facility. Please include in the description what density and flow indexes are used at the facility, and any other methods or loading factors used to make such decisions.

Interrogatory No. 30: Explain whether dissolved oxygen and total gas saturation parameters fluctuate during the year and how, where, and how often this data collected.

Interrogatory No. 31: What water turnover rates are used in the fish rearing containers at the Rangen facility?

Interrogatory No. 32: With respect to water right no. 36-02551 describe:

- a. Evidence showing material injury to this water right.
- b. The amount of water available at the source at the time this water right was originally appropriated.
- c. Seasonal fluctuations in the supply of water under this water right at the time it was originally appropriated.

- d. If Rangen receives the relief it is requesting in this case, how much additional water is expected to accrue to this water right under steady-state conditions.
- e. In detail how such additional water will be beneficially used.
- f. How and to what extent Rangen has been damaged as a result of the alleged material injury to this water right.

Interrogatory No. 33: With respect to water right no. 36-7694 describe:

- a. Evidence showing material injury to this water right.
- b. The amount of water available at the source at the time this water right was originally appropriated.
- c. Seasonal fluctuations in the supply of water under this water right at the time it was originally appropriated.
- d. If Rangen receives the relief it is requesting in this case, how much additional water is expected to accrue to this water right under steady-state conditions.
- e. In detail how such additional water will be beneficially used.
- f. How and to what extent Rangen has been damaged as a result of the alleged material injury to this water right.

REQUESTS FOR PRODUCTION

Request for Production No. 1: Please produce all documents which pertain to and/or on which you base your answers to the Plaintiff's Interrogatories.

Request for Production No. 2: Produce all exhibits or documentary evidence that you intend to produce at the hearing in this matter.

Request for Production No. 3: Produce all maps, diagrams, drawings, and surveys showing all or part of the Rangen facility.

Request for Production No. 4: Produce each and every document that tends to support or discredit your claim of material injury.

Request for Production No. 5: Produce all records in your possession of water flows in the Rangen facility.

Request for Production No. 6: Produce all records in your possession of water flows from the springs that supply the Water Rights.

Request for Production No. 7: Produce all water right permits, licenses, and decrees under which the Rangen facility is operated.

Request for Production No. 8: Produce all water quality permits and related documents issued to Rangen by any regulatory agency, including inspections and infractions related thereto.

Request for Production No. 9: Produce all documents related to water quality at the Rangen facility.

Request for Production No. 10: Produce all documents of processes, chemicals, and antibiotics used to treat water used within or discharged from the Rangen facility.

Request for Production No. 11: Produce all documents identifying the quantities and dates of chemical or antibiotic application within the Rangen facility.

Request for Production No. 12: Produce all documents related to dissolved oxygen and total gas saturation at the Rangen facility.

Request for Production No. 13: Produce all documents of fish disease incidents and pathology records for the Rangen facility, including date of incident, cause of incident, incident response, treatment methods used, numbers of fish lost or destroyed and future corrective actions developed as a result of the incident.

Request for Production No. 14: Produce all documents related to any wells, well pumps, groundwater production, and groundwater quality within one mile of the Rangen facility.

Request for Production No. 15: Produce all documents associated with geologic or hydrologic investigations of springs, groundwater, or groundwater wells within one mile of the Rangen facility.

Request for Production No. 16: Produce the following materials and information for each expert who has been retained or employed by you in preparation for the administrative hearing in this delivery call:

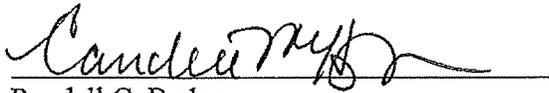
- a. All data or other information considered by the expert in forming the opinions, including any and all exhibits to be used as a summary or to support the expert's opinion.
- b. The qualifications of the expert, including a list of all publications authored by the expert within the preceding ten years.
- c. All reports and draft reports which relate directly or indirectly to this proceeding.
- d. List of all cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

Request for Production No. 17: Produce the past 7 years of federal and state tax returns and financial statements for the Rangen facility and/or Rangen Inc.

Request for Production No. 18: Produce all documents that show whether Rangen improved or attempted to improve the source of supply or spring discharge for the water rights that are used at the Rangen facility. Include copies of any engagement letters and agreements with engineering or other consultants/firms, draft engineering or consultant reports, grant or other funding applications and exhibits and written communications relating to such improvements or attempted improvements.

DATED this 23rd day of May, 2012.

RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED



Randall C. Budge
Candice M. McHugh
Thomas J. Budge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of May, 2012, I served a true and correct copy of this document on the persons listed below in the manner(s) indicated.

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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

**RANGEN, INC.'S THIRD
SUPPLEMENTAL RESPONSE TO
IGWA'S FIRST SET OF
DISCOVERY REQUESTS**

COMES NOW, Rangen, Inc. ("Petitioner"), by and through its counsel of record, Robyn M. Brody of Brody Law Office, PLLC, and responds to IGWA's First Set of Discovery Requests as follows:

GENERAL OBJECTIONS

1) Petitioner objects to the Requests to the extent that they seek information protected by the attorney-client privilege, the work product doctrine or any other applicable privilege or immunity.

2) Petitioner objects to the Requests as premature, burdensome, and improper to the extent they seek factual information in support of Petitions and Claims that Petitioner has not had opportunity to fully prepare and for which Petitioner may require discovery from Plaintiffs or others. These responses are subject to the discovery or recollection of additional information, knowledge, or facts.

3) These responses are provided pursuant to the Rules of Procedure of Idaho Department of Water Resources (“IDWR”) and the Idaho Rules of Civil Procedure to the extent incorporated by the IDWR. To the extent the Requests attempt to impose any differing or additional instructions, definitions, or obligations, Petitioner objects to the Requests.

INTERROGATORIES

Interrogatory No. 4: State the name and last known address of each person consulted as an expert witness on your behalf concerning this matter; and, with respect to each, state the following:

- a. The scientific, technical or other specialized knowledge possessed by such person.
- b. The knowledge, skill, experience, training and education which qualifies such person as an expert.
- c. All facts and data upon which the expert bases his opinion.
- d. All opinions and inferences to which the expert may testify and the reasons therefor.

Supplemental Response to Interrogatory No. 4: Without waiving prior objections, Rangen supplements its response as follows:

- I. Charles E. Brockway
 - a. Dr. Brockway’s scientific, technical or other specialized knowledge is set forth in his Curriculum Vitae which is Exhibit 6 to Rangen’s Preliminary Expert Witness Disclosure dated December 13, 2011.
 - b. Dr. Brockway’s knowledge, skill, experience, training and qualifications are set forth in his Curriculum Vitae which is Exhibit 6

to Rangen's Preliminary Expert Witness Disclosure dated December 13, 2011.

- c. See the Report dated December 21, 2012 and all accompanying files. Said report and files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.
- d. Dr. Brockway's opinions are set forth in the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.

II. David G. Colvin

- a. Mr. Colvin's scientific, technical or other specialized knowledge is set forth in his Curriculum Vitae which is Exhibit 5 to Rangen's Preliminary Expert Witness Disclosure dated December 13, 2011.
- b. Mr. Colvin's knowledge, skill, experience, training and qualifications are set forth in his Curriculum Vitae which is Exhibit 5 to Rangen's Preliminary Expert Witness Disclosure dated December 13, 2011.
- c. See the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.
- d. Mr. Colvin's opinions are set forth in the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.

III. Jim Brannon

- a. Mr. Brannon's scientific, technical or other specialized knowledge is set forth in his Curriculum Vitae which is Exhibit 4 to Rangen's

Preliminary Expert Witness Disclosure dated December 13, 2011.

- b. Mr. Brannon's knowledge, skill, experience, training and qualifications are set forth in his Curriculum Vitae which is Exhibit 4 to Rangen's Preliminary Expert Witness Disclosure dated December 13, 2011.
- c. See the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.
- d. Mr. Brannon's opinions are set forth in the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.

IV. Charlie E. Smith

- a. Mr. Smith's scientific, technical or other specialized knowledge is set forth in his Curriculum Vitae which is attached to Rangen's Supplemental Expert Witness Disclosure dated June 28, 2012 and his Report which has been uploaded to a virtual "box" at Box.com. Counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.
- b. Mr. Smith's knowledge, skill, experience, training and qualifications are set forth in his Curriculum Vitae which is attached to Rangen's Supplemental Expert Witness Disclosure dated June 28, 2012 and his Report which has been uploaded to a virtual "box" at Box.com. Counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.
- c. See the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and

Fremont-Madison Irrigation District have been given access to the box.

- d. Mr. Smith's opinions are set forth in the Report dated December 21, 2012 and accompanying files. Said report and accompanying files have been uploaded to a virtual "box" at Box.com and counsel for IGWA, the City of Pocatello and Fremont-Madison Irrigation District have been given access to the box.

Interrogatory No. 5: Name and identify the last known address and phone number of each person you may call as a witness at the hearing in matter action and briefly state the facts to which you expect each such witness to testify.

Supplemental Response to Interrogatory No. 5: See Rangen's Lay Witness Disclosure. In addition to the persons identified in Rangen's Lay Witness Disclosure, Rangen may call David Brock, a nutritionist employed by Rangen, Inc.

Interrogatory No. 6: State the name, address, and telephone number of each person with knowledge of facts relating to your claim of material injury, and describe in general fashion the substance of facts to which each person has knowledge.

Supplemental Response to Interrogatory No. 6: The people who may have knowledge of the facts relating to Petitioner's claim of material injury include the following persons:

- a) David Brock, Nutritionist, Rangen, Inc., 115 13th Ave. S., P.O. Box 706 Buhl, Idaho 83316-0706, (208) 543-6421. Mr. Brock has knowledge and information concerning feed research that has been conducted at the Research Hatchery in the past and what type of feed research Rangen could do if more water were available at that facility.

BEFORE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

**IN THE MATTER OF DISTRIBUTION
OF WATER TO WATER RIGHT NOS. 36-
02551 & 36-07694**

Docket No.: CM-DC-2011-004

CONFIDENTIAL INFORMATION

The enclosed is subject to the terms of the *Protective Order* entered on August 31, 2012 and is being disclosed pursuant to its terms. The enclosed documents may not be used other than in connection with the above-referenced delivery call.

BEFORE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

**IN THE MATTER OF DISTRIBUTION
OF WATER TO WATER RIGHT NOS. 36-
02551 & 36-07694**

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