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ATTORNEYS FOR THE IDAHO GROUND WATER APPROPRIATORS

ATTORNEYS FOR THE CITY OF POCATELLO

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

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

Docket No.: CM-DC-2011-004

**JOINT NOTICE OF TAKING
DEPOSITION DUCES TECUM OF
CHARLES E. BROCKWAY, PH.D., P.E.**

To: **CHARLES E. BROCKWAY, PH.D., P.E., Rangen, Inc.**

Please take notice, that counsel for the City of Pocatello and Idaho Ground Water Appropriators Inc. ("IGWA") will jointly take your testimony upon oral examination as an expert witness, **CHARLES E. BROCKWAY, PH.D., P.E.**, pursuant to Rule 30, I.R.C.P., other applicable rules of the Idaho Rules of Civil Procedure and applicable rules of the Idaho Department of Water Resources Procedural Rules, IDAPA 37.01.01. The deposition will take place before a court reporter and Notary Public with the

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firm of M&M Court Reporting Service or other duly qualified person in the above-captioned matter. Said deposition will commence on a trailing docket at the close of the deposition of David C. Colvin, P.G., but no later than **9:00 a.m. on Wednesday, March 6, 2013**, and continue from day to day until completion, at the **Law Offices of Racine, Olson, Nye, Budge & Bailey, Chartered, 101 South Capitol Boulevard, Suite 300, Boise, Idaho 83702**, at which time and place you are notified to appear and take part in such examination.

Pursuant to Idaho Rules of Civil Procedure 26, 30(b)(5) and 34 and IDAPA 37.01.01.525, this notice is provided to instruct you to bring to the deposition the following materials:

1. All documents you have reviewed and will review in preparation for this deposition.
2. Curriculum Vitae, including a full record of publications in which you are listed as an author.
3. All documents relied upon, incorporated, or produced in support of the opinions contained in the following reports:
 - a. Brockway, C.E., Colvin, D., and Brannon, J. December 20, 2012. Expert Report in the Matter of Rangen Inc. – Availability of Spring Flow and Injury to Water Rights (Expert Report)
 - b. Brockway, C.E., Colvin, D., and Brannon, J. February 8, 2013. Rebuttal Report in the Matter of Rangen Inc. – Availability of Spring Flow and Injury to Water Rights (Rebuttal Report)
4. The following publications that have not been produced but are cited or mentioned in your expert reports in this case:
 - a. Carter, Kate, Pioneer Irrigation, Upper Snake River Valley (1955) Contor, B.A. and Johnson, G.S., 2006. Enhanced ESPA Ground Water Model, July, 2006, Idaho Water Resources Research Institute, University of Idaho.
 - b. Doherty, J., 2004. PEST Model-Independent Parameter Estimation Users Manual, Watermark Numerical Computing, 336 Cliveden Avenue, Corinda 4075, Brisbane, Australia.

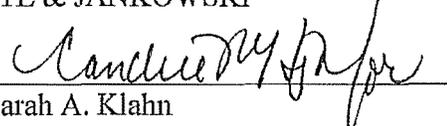
- c. Hill, M.C., and Tiedeman, C.R., 2007. Effective Calibration of Environmental Models with Analysis of Data, Sensitivities, Prediction and Uncertainty.
 - d. Koreny, J., 2008. "Research on ESPA Ground Water Conditions and Eastern Snake Plain Aquifer Model in Preparation for the Blue Lakes Trout Farm Delivery Call". Memo to Dan Steenson, November 2008.
5. Any and all draft reports and revised reports prepared by you in this matter.
6. Any and all documents of your communications, or related thereto, with Rangen staff members, contractors, and consultants.
7. Any and all written documents, correspondence, spreadsheets, input files, output files, post-processing analyses for runs of the ESPAM 2.1 that were performed to evaluate the effect of curtailment on the flow of the Curren Tunnel, whether or not such runs were relied on in preparing your Expert Report or Rebuttal Report.
8. Any and all written documents, correspondence, spreadsheets, input files, output files, post-processing analyses related to analyses of the predictive uncertainty of ESPAM 1.1, ESPAM 2.0, ESPAM 2.1, and any alternative formulations of the ESPAM that you have developed, in the runs of the ESPAM 2.1 that were performed to evaluate the effect of curtailment on the flow of the Curren Tunnel, whether or not such runs were relied on in preparing your Expert Report or Rebuttal Report.
9. Any and all documents related to measurements of the flow of the Curren Tunnel, Billingsley Creek, and the fish rearing facilities in the Rangen Hatchery, including but not limited to the following:
 - a. Documents related to the development of the Rangen discharge table (rating table) that is contained in Appendix A of the Expert Report,
 - b. Documents related to any assessments of the accuracy of the historical flow measurements for the Curren Tunnel, Billingsley Creek, and in the Rangen fish rearing facilities.

10. Any and all documents relied upon to support the following opinions and conclusions contained in the Expert Report:
 - a. “The use of a modified weir coefficient of 3.09 applied to board overflow is consistent with standard practice on aquaculture facilities.” (p. 9).
 - b. “The [Rangen] diversion structures are consistent with the industry standard for aquaculture facilities in the Magic Valley.” (p. 11).
 - c. “Based upon our knowledge of other area facilities, the Rangen Research Hatchery is consistent with the industry standard of practice for conservation and beneficial use of available water and does not waste diverted water.” (p. 11).
11. Any and all documents relied upon to support the following opinions and conclusions contained the Rebuttal Report:
 - a. “The operation of the Rangen facilities for aquaculture research and fish production are consistent with the standard of care in the industry and the diversion facilities are reasonable, hydraulically adequate, and approved by IDWR.” (p. 4).
 - b. “The Rangen diversion structures effectively deliver the available water for use in the facility, where it is put to efficient use according to standard aquaculture practices.” (p. 6).
 - c. “[E]ven though the concept [of reuse] may be hydraulically feasible, the risk of and water quality degradation has not been deemed a feasible alternative by the commercial trout industry.” (p. 7).
 - d. “Studies conducted on flow over check boards at the ends of raceways on aquaculture facilities indicate that the weir coefficient that should be used for flow over check boards, is near 3.09...” (p. 9).
12. Any and all documents related to flow measurements that you have made or which you are aware of that support the “stick the weir” flow measuring method that is used to measure the flow in the Rangen raceways and at the Lodge Dam in Billingsley Creek.
13. All documents related to preparation of the July 27, 1988 Report on Water Measuring Facilities, Niagara Springs, Gooding County, Idaho.
14. All documents, data, measurements associated with development of modified weir coefficients for 2-inch wide boards, including a “study of flow over 42 sets of boards at the Rimview Trout Company near Wendell, ID in 1979 by C.E. Brockway P.E.”

For purposes of this notice, "document" includes but is not limited to memoranda, notes (field, meeting, or otherwise), graphs, logs, reports, studies, maps, photographs, calculations, spreadsheets, any computer analyses, ledgers, letters, receipts, sketches, publications, drawings, flow charts, manuals, worksheets, pamphlets, manuals and data compilations in whatever form. "Document" shall further collectively include the original, duplicate original and any or all copies or reproductions of the original document, to the extent that any or all copies are different in any way from the original document, whether by interlineations, notations, or indication of copies sent or received otherwise, which are within your possession, custody or control.

Respectfully submitted this 22nd day of February, 2013.

WHITE & JANKOWSKI

By 
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Attorneys for City of Pocatello

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By 
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Candice M. Mchugh
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Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2013, I caused to be served a true and correct copy of the foregoing **JOINT NOTICE OF TAKING DEPOSITION DUCES TECUM OF CHARLES E. BROCKWAY, PH.D., P.G.**, upon the following by the method indicated:



Signature of person mailing form

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