

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

<b>IN THE MATTER OF THE MITIGATION</b>	)	<b>CM-MP-2014-001</b>
<b>PLAN FILED BY THE IDAHO GROUND</b>	)	
<b>WATER APPROPRIATORS FOR THE</b>	)	<b>ORDER GRANTING</b>
<b>DISTRIBUTION OF WATER TO WATER</b>	)	<b>RANGEN'S MOTION</b>
<b>RIGHT NOS. 36-02551 AND 36-07694 IN</b>	)	<b>IN LIMINE TO EXCLUDE</b>
<b>THE NAME OF RANGEN, INC.</b>	)	<b>EVIDENCE OF TUCKER</b>
	)	<b>SPRINGS PROJECT</b>
	)	

---

**BACKGROUND**

On March 14, 2014, Rangen, Inc. (“Rangen”) filed with the Idaho Department of Water Resources (“Department”) *Rangen’s Motion in Limine to Exclude Evidence of Tucker Springs Project* (“Motion”). In its Motion, moved the Director for an order prohibiting the Idaho Ground Water Appropriators, Inc. (“IGWA”) from “introducing any evidence or eliciting any testimony concerning” about the Tucker Springs Project. *Motion* at 1. Rangen explains that the Tucker Springs Project was introduced by IGWA in its Second Mitigation Plan filed with the Department on March 10, 2014, and that the Department has not yet published notice of the Second Mitigation Plan or set the matter for hearing. *Id.* at 1-2. Rangen asserts it is unprepared to address IGWA’s Second Mitigation Plan and that allowing IGWA to present evidence of the Tucker Springs Project at the March 17-18, 2014 hearing on IGWA’s first Mitigation Plan “would be unfairly prejudicial to Rangen and potentially other water users who may have objections to IGWA’s Tucker Springs Project.” *Motion* at 3.

A hearing on Rangen’s Motion was held at the commencement of the hearing on IGWA’s first Mitigation Plan on March 17, 2014. The Director verbally granted Rangen’s Motion and told the parties that a written order documenting the decision would be issued. This is the order documenting the decision.

**ANALYSIS**

Pursuant to Conjunctive Management Rule 43.02, “[u]pon receipt of a proposed mitigation plan the Director [of the Department] will provide notice, hold a hearing as determined necessary, and consider the plan under the procedural provisions of Section 42-222, Idaho Code, in the same manner as applications to transfer water rights.” IDAPA 37.03.11.043.02.

The Department in the process of publishing notice of IGWA's Second Mitigation Plan and has not yet set the matter for hearing. The deadline for protesting IGWA's Second Mitigation Plan has not yet run. Others who may have an interest in the Tucker Springs Project must be given appropriate notice of IGWA's Second Mitigation Plan and must be provided the opportunity to participate in the hearing regarding the "Tucker Springs Project." Therefore, it would be inappropriate to allow evidence of the "Tucker Springs Project" at the March 17-18, 2014 hearing regarding IGWA's first Mitigation Plan.

### ORDER

Based upon and consistent with the foregoing, the Director hereby GRANTS *Rangen's Motion in Limine to Exclude Evidence of Tucker Springs Project* from the hearing on IGWA's Mitigation Plan held on March 17-18, 2014.

Dated this 26<sup>th</sup> day of March, 2014.



GARY SPACKMAN  
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26<sup>th</sup> day of March, 2014, the above and foregoing document was served on the following by providing a copy of the *ORDER GRANTING RANGEN'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF TUCKER SPRINGS PROJECT* in the manner selected:

J JUSTIN MAY  
MAY BROWNING & MAY PLLC  
1419 W WASHINGTON  
BOISE ID 83702-5039  
[jmay@maybrowning.com](mailto:jmay@maybrowning.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

ROBYN BRODY  
BRODY LAW OFFICE PLLC  
PO BOX 554  
RUPERT ID 83350-0554  
[robynbrody@hotmail.com](mailto:robynbrody@hotmail.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

FRITZ X HAEMMERLE  
HAEMMERLE HAEMMERLE  
PO BOX 1800  
HAILEY ID 83333-1800  
[fxh@haemlaw.com](mailto:fxh@haemlaw.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

RANDY BUDGE  
T J BUDGE  
RACINE OLSON  
PO BOX 1391  
POCATELLO ID 83204-1391  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[tjb@racinelaw.net](mailto:tjb@racinelaw.net)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

SARAH KLAHN  
MITRA PEMBERTON  
WHITE & JANKOWSKI  
511 16<sup>TH</sup> ST STE 500  
DENVER CO 80202  
[sarahk@white-jankowski.com](mailto:sarahk@white-jankowski.com)  
[mitrap@white-jankowski.com](mailto:mitrap@white-jankowski.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

A DEAN TRANMER  
CITY OF POCA TELLO  
PO BOX 4169  
POCA TELLO ID 83205  
[dtranmer@pocatello.us](mailto:dtranmer@pocatello.us)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JOHN K SIMPSON  
TRAVIS L THOMPSON  
PAUL L ARRINGTON  
BARKER ROSHOLT & SIMPSON LLP  
195 RIVER VISTA PL STE 204  
TWIN FALLS ID 83301-3029  
[jks@idahowaters.com](mailto:jks@idahowaters.com)  
[tlt@idahowaters.com](mailto:tlt@idahowaters.com)  
[pla@idahowaters.com](mailto:pla@idahowaters.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

W KENT FLETCHER,  
FLETCHER LAW OFFICE  
PO BOX 248  
BURLEY ID 83318  
[wkf@pmt.org](mailto:wkf@pmt.org)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

C THOMAS ARKOOSH  
ARKOOSH LAW OFFICES  
802 WEST BANNOCK STE 900  
BOISE ID 83701  
[tom.arkoosh@arkoosh.com](mailto:tom.arkoosh@arkoosh.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JERRY R RIGBY  
HYRUM ERICKSON  
ROBERT H WOOD  
RIGBY ANDRUS & RIGBY CHTD  
PO BOX 250  
REXBURG ID 83440  
[jrigby@rex-law.com](mailto:jrigby@rex-law.com)  
[herickson@rex-law.com](mailto:herickson@rex-law.com)  
[rwood@rex-law.com](mailto:rwood@rex-law.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

GARY LEMMON  
BLIND CANYON AQUARANCH, INC.  
2757 S 1050 EAST  
HAGERMAN, ID 83332  
[glemmon@northrim.net](mailto:glemmon@northrim.net)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail



Deborah J. Gibson  
Admin. Assistant to the Director