

Randall C. Budge (ISB# 1949)  
Thomas J. Budge (ISB# 7465)  
RACINE OLSON NYE BUDGE  
& BAILEY, CHARTERED  
201 E. Center St. / P.O. Box 1391  
Pocatello, Idaho 83204  
(208) 232-6101 – phone  
(208) 232-6109 – fax  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[tjb@racinelaw.net](mailto:tjb@racinelaw.net)

*Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)*

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

IN THE MATTER OF THE SECOND MIT-  
IGATION PLAN FILED BY THE IDAHO  
GROUND WATER APPROPRIATORS FOR  
THE DISTRIBUTION OF WATER TO WA-  
TER RIGHT NOS. 36-02551 AND 36-  
07694 IN THE NAME OF RANGEN, INC.

Docket No. CM-MP-2014-003

**IGWA’s Motion in Limine  
and Notice of Hearing**

Idaho Ground Water Appropriators, Inc. (IGWA) hereby moves the Director of the Idaho Department of Water Resources (IDWR), to enter an Order pursuant to IDAPA 37.01.01.600 prohibiting protestants from offering any and all testimony and exhibits as follows:

1. All testimony and evidence that has not been fully and properly disclosed pursuant to the Director’s *Notice of Hearing, Order Authorizing Discovery, and Scheduling Order* dated May 2, 2014 or in response to IGWA’s discovery requests. The Order specifically sets forth deadlines in this matter. This Order also provides that any exhibits to be offered at the hearing must meet the requirements of the Department’s Rules of Procedure, Rule 606. Non-compliance with the Department’s Rules of Procedure and the Director’s Order, should result in the exclusion of such testimony and evidence.
2. All testimony and evidence from Rangen of alleged injury to water rights not owned by Rangen. Rangen’s protest does not assert injury to other water rights, and Rangen lacks standing to assert injury to other water rights.

3. All testimony and evidence of injury that derives from the transfer of the place of use of Idaho Department of Fish & Game water rights to include the Rangen hatchery, for the reason that the pending Application for Transfer is the proper forum for presenting such claims of injury.
4. In the event number 3 above is not granted, testimony and evidence from protestants having water rights in Tucker Springs or downstream on Riley Creek should be limited only to alleged injury resulting from the reduction in 10 cfs return flow from the Hagerman State Hatchery resulting from the 2<sup>nd</sup> Mitigation Plan transfer of water to Rangen. Protestants should not be allowed to present evidence of other injury to their water rights caused by drought, changes in incidental recharge, or junior ground water pumping which is unrelated to and not relevant to this mitigation plan.

If such testimony and evidence is allowed, IGWA will be unfairly prejudiced by its inability to evaluate, prepare and defend its position against same.

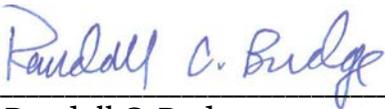
For the reasons set forth above, IGWA respectfully requests the Director to enter an Order prohibiting any protestant from putting on testimony and exhibits into evidence at the hearing as above requested.

### **NOTICE OF HEARING**

Notice is hereby given that this motion shall be heard at the outset of the hearing on IGWA's 2<sup>nd</sup> Mitigation Plan scheduled to commence at 9 a.m. on Wednesday, June 4, 2014 at the office of IDWR in Boise.

Dated this 29th day of May, 2014.

IDAHO GROUND WATER  
APPROPRIATORS, INC.

By:   
\_\_\_\_\_  
Randall C. Budge  
Attorney

## CERTIFICATE OF MAILING

I certify that on this 29th day of May, 2014, the foregoing document was served on the following persons in the manner indicated.

*Randall C. Budge*

\_\_\_\_\_  
Signature of person mailing form

<p><b>Original:</b> Director, Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, ID 83720-0098 Attn: Deborah Gibson <a href="mailto:Deborah.Gibson@idwr.idaho.gov">Deborah.Gibson@idwr.idaho.gov</a> <a href="mailto:Kimi.white@idwr.idaho.gov">Kimi.white@idwr.idaho.gov</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>John K. Simpson Paul Arrington BARKER ROSHOLT &amp; SIMPSON, LLP 195 River Vista Place, Suite 204 Twin Falls, Idaho 83301-3029 <a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a> <a href="mailto:pla@idahowaters.com">pla@idahowaters.com</a> <a href="mailto:jlw@idahowaters.com">jlw@idahowaters.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Leo E. Ray Big Bend Trout, Inc. P.O. Box 479 Hagerman, Idaho 83330 <a href="mailto:fpi@fishbreedersofidaho.com">fpi@fishbreedersofidaho.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Michael J. Henslee, V.P. Salmon Falls Land &amp; Livestock Co. 95-A Bell Rapids Road Hagerman, Idaho 83332 <a href="mailto:mjhenslee@gmail.com">mjhenslee@gmail.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>

<p>Timothy J. Stover  WORST FITZGERALD &amp; STOVER  PLLC  P.O. Box 1428  Twin Falls, Idaho 83303  <a href="mailto:tjs@magicvalleylaw.com">tjs@magicvalleylaw.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-mail</p>
<p>Almer Huntley, Jr., President  Big Bend Irrigation &amp; Mining Co., Ltd.  2721 South 900 East  Hagerman, Idaho 83332  <a href="mailto:plspe@hotmail.com">plspe@hotmail.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-mail</p>
<p>Robyn Brody  Brody Law Office, PLLC  P.O. Box 554  Rupert, ID 83350-0554  <a href="mailto:robynbrody@hotmail.com">robynbrody@hotmail.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>
<p>J. Justin May  May Browning &amp; May PLLC  1419 W Washington  Boise, ID 83702-5039  <a href="mailto:jmay@maybrowning.com">jmay@maybrowning.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>
<p>Fritz X. Haemmerle  Haemmerle Haemmerle  P.O. Box 1800  Hailey, ID 83333-1800  <a href="mailto:fxh@haemlaw.com">fxh@haemlaw.com</a></p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>

