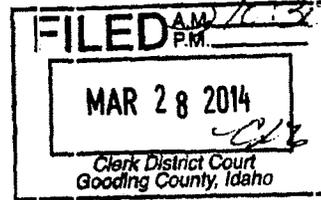


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**DISTRICT COURT OF THE STATE OF IDAHO
FIFTH JUDICIAL DISTRICT
GOODING COUNTY**

IDAHO GROUND WATER APPRO-
PRIATORS, INC.,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

Case No. CV- 2014-000179

**PETITION FOR
JUDICIAL REVIEW**

IN THE MATTER OF DISTRIBU-
TION OF WATER TO WATER
RIGHT NOS. 36-02551 & 36-07694
(RANGEN, INC.), IDWR DOCKET
NO. CM-DC-2011-004

Fee Category I.3: \$96.00

Idaho Ground Water Appropriators, Inc. (IGWA), acting for and on behalf of its members, submits this petition for judicial review pursuant to Idaho Code §§ 42-1701A and 67-5270 and Rule 84 of the Idaho Rules of Civil Procedure.

1. This petition requests judicial review of agency action taken by the Idaho Department of Water Resources (IDWR).

2. This court is the proper venue because many of the water rights affected by the agency action are located in Gooding County.¹ Pursuant to an Administrative Order issued by the Idaho Supreme Court on December 9, 2009, this case should be reassigned to the presiding judge of the Snake River Basin Adjudication (SRBA) district court for further proceedings.

3. This petition seeks judicial review of the *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962*, issued January 29, 2014, and the *Order on Reconsideration* issued March 4, 2014, In the Matter of Distribution of Water to Water Right Nos. 36-02551 and 36-07694 (Rangen, Inc.), IDWR Docket No. CM-DC-2011-004.

4. An evidentiary hearing was held at the IDWR state office in Boise from April 30 to May 16, 2013. The hearing was transcribed by M&M Court Reporting, 421 W. Franklin Street, Boise, Idaho 83702.

5. IGWA submits the following issues for judicial review:

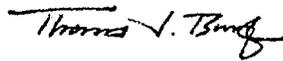
- 5.1 Whether the IDWR erred by ruling that the Martin-Curren Tunnel should be administered as a surface water source even though it meets the statutory definition of a groundwater well.
- 5.2 Whether the IDWR erred by curtailing beneficial water use where less than 1% of the curtailed water is predicted to accrue to Rangen after 50 years of curtailment.
- 5.3 Whether the IDWR erred by failing to assign an uncertainty factor to version 2.1 of the Eastern Snake Plain Aquifer Model (ESPAM).
- 5.4 Whether the IDWR erred by applying the incorrect presumption and burden of proof to issues involving reasonable water use.
- 5.5 Whether the IDWR erred by not requiring Rangen to improve its means of diversion and/or means of conveyance before seeking to curtail junior-priority water use.
- 5.6 Whether the IDWR erred by finding that Rangen needs additional water to accomplish its beneficial use.
- 5.7 Whether the IDWR erred by phasing in mitigation as opposed to phasing in curtailment.

¹ Idaho Code § 67-5272.

Pursuant to I.R.C.P. 84(d)(5), IGWA reserves the right to amend the issues it presents for judicial review. A final statement of issues will be contained in IGWA's opening brief submitted in support of this Petition.

6. A transcript of proceedings held before the IDWR is requested.
7. The undersigned attorney certifies as follows:
 - 7.1 Service of this Petition has been made on the IDWR.
 - 7.2 A request has been made to the IDWR for the estimated fee to prepare the transcript. IGWA will pay its share of this fee.
 - 7.3 A request has been made to the IDWR for the estimated fee to prepare the agency record. IGWA will pay its share of this fee.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

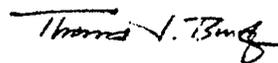


Randall C. Budge
Thomas J. Budge

MARCH 27, 2014
Date

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2014, I served a true and correct copy of the foregoing was served by the method indicated below, and addressed as stated:



Randall C. Budge
Thomas J. Budge

<p><i>Original to:</i> Clerk of the Court Gooding County 624 Main Street Gooding, ID 83333</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Email</p>
<p><i>Courtesy copy to:</i> Clerk of the Court Snake River Basin Adjudication 427 Shoshone Street N Twin Falls, ID 83303</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Email</p>
<p>Garrick L. Baxter Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p>
<p>Director Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, ID 83720-0098 Deborah.gibson@idwr.idaho.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p>
<p>Robyn M. Brody Brody Law Office, PLLC P.O. Box 554 Rupert, ID 83350 robynbrody@hotmail.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p>
<p>Fritz X. Haemmerle Haemmerle & Haemmerle, PLLC P.O. Box 1800 Hailey, ID 83333 fxh@haemlaw.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p>

<p>J. Justin May May, Browning & May, PLLC 1419 West Washington Boise, ID 83702 jmay@maybrowning.com</p>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
<p>Sarah Klahn Mitra Pemberton WHITE JANKOWSKI, LLP 511 16th St., Suite 500 Denver, Colorado 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com</p>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
<p>Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83201 dtranmer@pocatello.us</p>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
<p>C. Thomas Arkoosh Arkoosh Law Offices P.O. Box 2900 Boise, ID 83702 tom.arkoosh@arkoosh.com</p>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
<p>John K. Simpson Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson 195 River Vista Place, Suite 204 Twin Falls, ID 83301-3029 tlr@idahowaters.com jks@idahowaters.com pla@idahowaters.com</p>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
<p>W. Kent Fletcher Fletcher Law Office P.O. Box 248 Burley, ID 83318 wkf@pmt.org</p>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email