

# COPY

Robyn M. Brody (ISB No. 5678)  
Brody Law Office, PLLC  
P.O. Box 554  
Rupert, ID 83350  
Telephone: (208) 420-4573  
Facsimile: (208)260-5482  
rbrody@cableone.net  
robynbrody@robynbrodylaw.com

Fritz X. Haemmerle (ISB No. 3862)  
Haemmerle Law, PLLC  
P.O. Box 1800  
Hailey, ID 83333  
Telephone: (208) 578-0520  
Facsimile: (208) 578-0564  
fxh@haemlaw.com

*Attorneys for Rangen, Inc.*

DISTRICT COURT  
TWIN FALLS CO., IDAHO  
FILED  
J. Justin May (ISB No. 5818)  
May, Browning & May  
1419 W. Washington  
Boise, Idaho 83702  
Telephone: (208) 429-0905  
Facsimile: (208) 342-7278  
jmay@maybrowning.com  
CLERK  
DEPUTY  
JUN 24 PM 3:26

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

RANGEN, INC.,

Petitioner/Appellant,

vs.

THE IDAHO DEPARTMENT OF  
WATER RESOURCES and GARY  
SPACKMAN, in his capacity as Director  
of the Idaho Department of Water  
Resources,

Respondents/Respondents,

and

IDAHO GROUND WATER  
APPROPRIATORS, INC.,

Intervenor/Respondent.

Case No. CV-2014-4633

**NOTICE OF APPEAL**

Fee: L(4) - \$129.00

IN THE MATTER OF THE FOURTH  
MITIGATION PLAN FILED BY THE  
IDAHO GROUND WATER  
APPROPRIATORS FOR THE  
DISTRIBUTION OF WATER TO  
WATER RIGHT NOS. 36-02551 & 36-  
07694 IN THE NAME OF RANGEN,  
INC., IDWR DOCKET NO. CM-MP-  
2014-006,  
"MAGIC SPRINGS PROJECT".

TO THE ABOVE-NAMED RESPONDENTS/RESPONDENTS, THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN, and their attorney, GARRICK BAXTER, Deputy Attorney General, Idaho Attorney General's Offices, 322 E. Front Street, P.O. Box 83720, Boise, ID 83720-0098, THE ABOVE-NAMED INTERVENOR/RESPONDENT, IDAHO GROUND WATER APPROPRIATORS, INC., and its attorney, RANDALL C. BUDGE, Racine, Olson, Nye & Bailey, P.O. Box 1391, Pocatello, ID 83204-1391, AND THE CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant, RANGEN, INC., appeals against the above-named respondents to the Idaho Supreme Court from the Court's *Memorandum Decision and Order* and the resulting *Judgment*, entered in the above-entitled action on May 13, 2015, Honorable Eric J. Wildman, District Judge for the Fifth Judicial District, in and for the County of Twin Falls, presiding.
2. Rangen has a right to appeal to the Idaho Supreme Court, and the Judgment described in paragraph 1 is appealable pursuant to Rule 11(a)(2) I.A.R.

3. The following is a preliminary statement of the issues Rangen intends to assert on appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal: Whether the trial court erred in denying Petitioner/Appellant's Petition for Judicial Review, which ruling raises the following issues:

- a) Whether the rulings are in violation of constitutional, statutory provisions or administrative rules of the Department;
- b) Whether the rulings are in excess of the statutory authority or authority of the Department under the administrative rules of the Department;
- c) Whether the rulings were made upon unlawful procedures;
- d) Whether the ruling were arbitrary, capricious, and/or an abuse of the agency discretion;
- e) Whether the Director's Final Order was contrary to Rule 40 of the State's Conjunctive Management (CM) Rules;
- f) Whether the Director's approval of the Fourth Mitigation Plan contains adequate contingencies;
- g) Whether the Director erred in deferring consideration of Rule 43.03.j factors until a separate transfer proceeding;
- h) Whether Rangen, Inc. is entitled to attorney's fees and costs.

4. No order has been entered sealing all or any portion of the record.

5. a) Is a reporter's transcript requested? Yes.

b) The Appellant requests the preparation of the following portions of the reporter's transcript: The oral argument from the hearing on the Petition for Judicial Review, dated April 16, 2015, and a copy of the transcript from the agency proceedings before the Idaho Department of Water Resources, which were previously included in the record before this Court.

c) The Appellant requests preparation of the transcript in a compressed format.

6. The Appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.: all pleadings, exhibits, briefs, attachments, orders, and the entire administrative record and transcripts from the administrative proceedings, filed by the Idaho Department of Water Resources (IDWR or Department) in its Notice of Lodging the Agency Record and Transcript with the District Court in Twin Falls County Case No. CV-2014-4633, as well as Attachments A-1 – A-12 to the parties *Stipulation to Augment the Record* dated March 19, 2015 in Twin Falls County Case No. CV-2014-4633.

7. I certify:

- a) That a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named and at the address set out in the Certificate of service below;
- b) That the clerk of the district court has been paid the estimated fee for preparation of the reporter's transcript;
- c) That the estimated fee for preparation of the clerk's or agency's record has been paid;
- d) That service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 24 day of June, 2015.

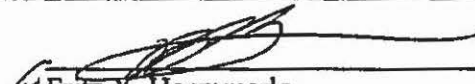
HAEMMERLE LAW, PLLC

By:   
Fritz X. Haemmerle

**CERTIFICATE OF SERVICE**

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 24<sup>th</sup> day of June, 2015 he caused a true and correct copy of the foregoing document to be served upon the following as indicated:

|   |  |
|---|--|
| <b>Original:</b><br>SRBA District Court<br>253 3 <sup>rd</sup> Avenue North<br>P.O. Box 2707<br>Twin Falls, ID 83303-2707<br>Facsimile: (208) 736-2121  | Hand Delivery <input checked="" type="checkbox"/><br>U.S. Mail <input type="checkbox"/><br>Facsimile <input type="checkbox"/><br>Federal Express <input type="checkbox"/><br>E-Mail <input type="checkbox"/> |
| Director Gary Spackman<br>Idaho Department of Water<br>Resources<br>P.O. Box 83720<br>Boise, ID 83720-0098<br>deborah.gibson@idwr.idaho.gov   | Hand Delivery <input type="checkbox"/><br>U.S. Mail <input type="checkbox"/><br>Facsimile <input type="checkbox"/><br>Federal Express <input type="checkbox"/><br>E-Mail <input checked="" type="checkbox"/> |
| Garrick Baxter<br>Idaho Department of Water<br>Resources<br>P.O. Box 83720<br>Boise, Idaho 83720-0098<br>garrick.baxter@idwr.idaho.gov<br>chris.bromley@idwr.idaho.gov<br>kimi.white@idwr.idaho.gov | Hand Delivery <input type="checkbox"/><br>U.S. Mail <input type="checkbox"/><br>Facsimile <input type="checkbox"/><br>Federal Express <input type="checkbox"/><br>E-Mail <input checked="" type="checkbox"/> |
| Randall C. Budge<br>TJ Budge<br>RACINE, OLSON, NYE, BUDGE<br>& BAILEY, CHARTERED<br>201 E. Center Street<br>P.O. Box 1391<br>Pocatello, ID 83204<br>rcb@racinelaw.net<br>tjb@racinelaw.net          | Hand Delivery <input type="checkbox"/><br>U.S. Mail <input type="checkbox"/><br>Facsimile <input type="checkbox"/><br>Federal Express <input type="checkbox"/><br>E-Mail <input checked="" type="checkbox"/> |
| Sabrina Vasquez<br>Court Reporter<br>P.O. Box 2707<br>Twin Falls, ID 83303-2707<br>svasquez61@gmail.com   | Hand Delivery <input type="checkbox"/><br>U.S. Mail <input type="checkbox"/><br>Facsimile <input type="checkbox"/><br>Federal Express <input type="checkbox"/><br>E-Mail <input checked="" type="checkbox"/> |

  
 \_\_\_\_\_  
 Fritz X. Haemmerle