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NOV 07 2014
DEPARTMENT OF
WATER RESOURCES

Attorneys for Rangen, Inc.

**BEFORE THE 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.)

IN THE MATTER OF THE 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.

IN THE MATTER OF DISTRIBUTION
OF WATER TO RANGEN, INC.'S
WATER RIGHT NOS. 36-15501, 36-135B,
AND 36-135A

CM-DC-2011-004
CM-MP-2014-001
CM-DC-2014-004

**RANGEN, INC.'S NOTICE OF
INTENT TO PROCEED WITH
MOTION TO DETERMINE
MORRIS EXCHANGE WATER
CREDIT AND ENFORCE
CURTAILMENT**

COMES NOW, Rangen, Inc. ("Rangen"), by and through its attorneys, and hereby makes the following statement:

1. On October 31, 2014, Rangen filed *Rangen Inc.'s Motion to Determine Morris Exchange Water Credit and Enforce Curtailment* ("Rangen's Motion to Enforce"). Rangen's Motion to Enforce requests that the Director immediately 1) Determine 2014-2015 Morris Exchange Water Credit utilizing 2014 Martin Curren Tunnel measurements, and 2) Enforce the January 29, 2014 Curtailment Order. As Rangen's Motion states, the actual Curren Tunnel flows during the 2014 irrigation season were substantially less than the predicted flows used by the Director to estimate the 2014-2015 Morris Exchange Water Credit. Based upon the estimated Morris Exchange Water Credit, the Director established a curtailment date of January 19, 2015. Utilizing the Department's methodology as described in the orders on IGWA's first and second mitigation plans together with the actual 2014 irrigation season Curren Tunnel flows, the Morris Exchange Water actually ran out on October 2, 2014. This shortfall must be addressed by the Director immediately.

2. A Status Conference was held on November 6, 2014, in IDWR Docket No. CM-DC-2014-004 ("Rangen's Second Call"). During the Status Conference, it was agreed to postpone the hearing on Rangen's Second Call.

3. A question was raised during the Status Conference as to the effect, if any, the postponement of the hearing in Rangen's Second Call would have on Rangen's Motion to Enforce. The Director requested that Rangen file a statement by November 7, 2014, regarding any such effect.

4. This Notice is being provided in response to the Director's request. The outcome of Rangen's Second Call does not have any practical effect on Rangen's present Motion to Enforce.

The methodology used by the Department to calculate the Morris Exchange Water Credit ignores Rangen's 1957 water right, which is the subject of Rangen's Second Call. The Department's methodology allocates no water to Rangen's 1957 right because that right is junior in priority to the Morris water right. Despite Rangen's numerous objections to the Department's methodology, for the purpose of Rangen's Motion to Enforce, Rangen requested that Leonard Rice Engineers utilize the Department's methodology precisely with the sole exception of substituting actual 2014 irrigation season Curren Tunnel flows. This means that Rangen's Motion to Enforce assumes that Rangen's Second Call has not been ruled upon.¹

5. Rangen hereby renews its request that the Department immediately 1) Determine 2014-2015 Morris Exchange Water Credit utilizing 2014 Martin Curren Tunnel measurements, and 2) Enforce the January 29, 2014 Curtailment Order.

DATED this 7th day of November, 2014.

MAY, BROWNING & MAY

By


J. Justin May

¹ If Rangen's 1957 water right were appropriately included in the Department's methodology, the Morris Exchange Water Credit would be substantially less than what Rangen has determined in its present Motion to Enforce.

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 7th day of November, 2014 he caused a true and correct copy of the foregoing document to be served by email and first class U.S. Mail, postage prepaid upon the following:

Original: Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov	Hand Delivery <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
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