

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED  
JUL 07 2014  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested: Amended 3<sup>rd</sup> Mitigation Plan for Rangen Delivery Call submitted by IGWA
2. Name of protestant Blind Canyon Aquaranch Inc.
3. Protestant's Representative for service ( If different than protestant)  
Gary Lemmon
4. Service mailing address 2757 South 1050 East, Hagerman, ID 83332
5. Service telephone no. 208-837-4448 Email Address: glemmon@northrim.net
6. Basis of protest ( including statement of facts and law upon which the protest is based)  
( additional pages may be attached to describe nature of the protest)  
See Attached
7. What would resolve your protest? Withdraw Amended 3<sup>rd</sup> Mitigation Plan

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 7<sup>th</sup> day of July, 20 14.

Blind Canyon Aquaranch Inc.

Protestant

  
by Gary Lemmon

## Protestant's Representative

### NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

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### INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. \_\_\_\_\_ in the name of \_\_\_\_\_" or "Application for Transfer No. \_\_\_\_\_ in the name of \_\_\_\_\_".
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

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### FOR DEPARTMENT USE ONLY

Received by DM/CH Date 7-7-2014 Time 11:00 AM  
\$25.00 fee Received by DM # 5034129 Date 7-7-2014

Blind Canyon Aquaranch Inc.

Protest of IGWA's Amended 3<sup>rd</sup> Mitigation Plan for Rangen's Deliver Call and Water Users in Water District 36A

6. Basis of protest:

Blind Canyon Inc. and its principles own and have lease interests in four fish rearing facilities along Billingsley Creek within Water District 36A and own shares in Big Springs Water Users Association used for fish rearing and irrigation. We believe that our interests will be injured by actions proposed specifically as mitigation for Rangen Inc. and by actions generally proposed for all water users in Water District 36A. Our concerns include, but are not limited to, the following:

- a. The mitigation plan does not meet various requirements under Conjunctive Management Rule 43. For example, the plan does not list water right numbers [43.01 (b)] or indicate the source of water for each water right proposed to be mitigated in the future [43.01 (c)]. Thus, the plan is speculative. The spring source of mitigation water is unreliable [43.03 (h)] because springs continue to decline. The plan does not describe the source of water to be used for recharge.
- b. The mitigation plan is not in the public interest and elements of the plan may injure existing water rights [43.03 (j)]. For example, expert testimony for the 1<sup>st</sup> mitigation plan concluded that proposed modifications to the Curren Tunnel would injure other spring and ground water rights. The additional engineering aspects described in the amended 3<sup>rd</sup> plan version have not reduced the risk of injury to other spring water rights in Water District 36A should modifications be made to the Curren Tunnel. Construction and collection of spring water from Big Springs risks injuring existing senior rights already diverting from Big Springs, whether it is meant to mitigate Rangen or other water users in Water District 36A. Furthermore, diversion of water away from Big Springs and Billingsley Creek to mitigate irrigation use would be consumptive to the system. IGWA has not documented that the Sandy Pond sink hole has been approved by DEQ as a managed recharge site that will not pollute existing wells or springs. The high transmissivity in the vicinity of the site, proximity to the Snake River, and availability of water make this site unsuitable as a reliable recharge site.
- c. The Director has already approved IGWA's 2<sup>nd</sup> Mitigation Plan, thereby negating the need for IGWA to submit additional or subsequent plans. It is not in the public interest for the State of Idaho and IDWR to use taxpayer dollars and resources to evaluate additional mitigation plans when one has already been approved.
- d. For these and other reasons that may be discovered during the hearing, Blind Canyon Aquaranch Inc. protests the Amended 3<sup>rd</sup> Mitigation Plan submitted by IGWA and respectively requests that the Director dismiss the Amended 3<sup>rd</sup> Mitigation Plan in its entirety.

CERTIFICATE OF SERVICE

I hereby certify that on this 7<sup>th</sup> day of July, 2014, the above and foregoing document was served on the following by providing a copy of the *Protest of IGWA's Amended 3<sup>rd</sup> Mitigation Plan in response to the Rangen Inc. Water Delivery Call* in the manner selected:

J JUSTIN MAY  
MAY BROWNING & MAY PLLC  
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DIRECTOR GARY SPACKMAN  
IDAHO DEPARTMENT OF WATER RESOURCES  
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322 EAST FRONT STREET  
BOISE, ID 83720-0098  
Deborah.Gibson@idwr.idaho.gov

(x) U.S. Mail, Postage Prepaid  
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( ) E-mail

A handwritten signature in black ink, appearing to read "Gary Spackman", written over a horizontal line.