

APR 05 2018

DEPARTMENT OF  
WATER RESOURCES

Randall C. Budge, ISB No. 1949  
Thomas J. Budge, ISB No. 7465  
RACINE OLSON NYE & BUDGE, CHARTERED  
P.O. Box 1391 / 201 E. Center Street  
Pocatello, Idaho 83204-1391  
(208) 232-6101 – phone  
(208) 232-6109 – fax  
rcb@racinelaw.net  
tjb@racinelaw.net  
*Attorneys for IGWA*

**STATE OF IDAHO**

**DEPARTMENT OF WATER RESOURCES**

IN THE MATTER OF THE  
DISTRIBUTION OF WATER TO  
WATER RIGHT NOS. 36-02551, 36-  
07694 and 36-15501

CM-MP-2018- 001  
CM-DC-2014-004  
CM-DC-2011-004

**STIPULATED MITIGATION PLAN  
AND REQUEST FOR ORDER**

This Stipulated Mitigation Plan (“Plan”) is submitted to the Idaho Department of Water Resource (“Department”) for approval pursuant to rule 43.03.o of the Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”; IDAPA 37.03.11) by Idaho Ground Water Users, Inc. (“IGWA”) on behalf of American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry’s Fork Ground Water District, Jefferson-Clark Groundwater District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground Water District, and Southwest Irrigation District (collectively the “Districts”).

**BACKGROUND**

A. The Districts own Idaho water right nos. 36-15501, 36-02551 and 36-07694 (referred to herein as the “Rangen Rights”). The Districts acquired the Rangen Rights from Rangen, Inc. (“Rangen”) in 2017 in connection with the Districts’ purchase of the fish hatchery to which the Rangen Rights are appurtenant.

B. Prior to the Districts' acquisition of the Rangen Rights, Rangen made delivery calls under the CM Rules in 2011 (docket no. CM-DC-2011-004) and 2014 (docket no. CM-DC-2014-004) based on water supply shortages to the Rangen Rights.

C. Rangen's 2011 delivery call was based on injury to Rangen's 1962 and 1977 priority water rights (36-02551, 36-07694) and resulted in a Department order curtailing groundwater rights junior to July 13, 1962 (*Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Groundwater Rights Junior to July 13, 1962*, CM-DC-2011-004). Many of the groundwater rights owned by members of the Districts are subject to curtailment under this order.

D. IGWA, an umbrella organization under which the Districts operate, submitted and obtained approval of IGWA's First Mitigation Plan (CM-MP-2014-001) and IGWA's Fourth Mitigation Plan (CM-MP-2014-006) to mitigate material injury to the Rangen Rights. IGWA successfully implemented both plans which have protected the Districts' members' water rights from curtailment.

E. Rangen's 2014 delivery call was based on injury to Rangen's 1957 priority water right (36-15501). In response to this call, the Districts acknowledged injury to the 1957 priority right and stipulated to provide mitigation using the same means approved under IGWA's First Mitigation Plan and IGWA's Fourth Mitigation Plan. The stipulation was accepted by IDWR and implemented by IGWA.

F. The Districts purchased the Rangen fish hatchery and the Rangen Rights in 2017 as an alternative to providing mitigation under IGWA's First Mitigation Plan and IGWA's Fourth Mitigation Plan. The Districts desire to have their ownership of the Rangen Rights approved as a mitigation plan under the CM Rules to protect the water rights of District members from curtailment, with the Rangen delivery calls remaining in place as against water rights that do not belong to or are not in good standing with the Districts.

### **STIPULATION**

1. The Districts hereby stipulate pursuant to CM Rule 43.03.o that the Districts' ownership of the Rangen Rights shall be an effective mitigation plan for all groundwater rights that belong to and are in good standing with the Districts.

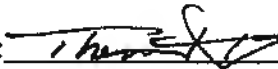
2. The Rangen delivery calls shall remain in effect as against all groundwater rights that do not belong to or are not in good standing with the Districts.

### **REQUEST FOR ORDER**

The Districts hereby request that the Director of the Department enter an order approving this stipulated mitigation plan pursuant to CM Rule 43.03.o.

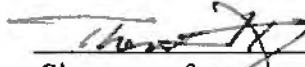
Dated this 5<sup>th</sup> day of April, 2018.

RACINE OLSON NYE & BUDGE,  
CHARTERED

By:   
\_\_\_\_\_  
Randall C. Budge  
T.J. Budge  
*Attorneys for IGWA*

**CERTIFICATE OF SERVICE**

I certify that on this 5<sup>th</sup> day of April, 2018, that the foregoing document was served on the following persons in the manner indicated.

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

Director, Gary Spackman	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid
Idaho Department of Water Resources	<input type="checkbox"/> Facsimile
P. O. Box 83720	<input type="checkbox"/> Overnight Mail
Boise, Idaho 83720-0098	<input type="checkbox"/> Hand Delivery
<a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a>	<input checked="" type="checkbox"/> E-mail
<a href="mailto:kimi.white@idwr.idaho.gov">kimi.white@idwr.idaho.gov</a>	