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Attorneys for IGWA

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

IDAHO GROUND WATER
APPROPRIATORS, INC.,

Petitioner,

vs.

RANGEN, INC.,

Cross-Petitioner.

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

Case No. CV-2014-179

**Affidavit of Charles M. Brendecke
in Support of IGWA's Motion to Augment
Record**

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

STATE OF COLORADO)
 : ss
County of Boulder)

**Affidavit of Charles M. Brendecke in Support
of IGWA's Motion to Augment Record**

Charles M. Brendecke, being first duly sworn under oath, deposes and states as follows:

1. I am employed by AMEC, 1002 Walnut, Suite 200, Boulder, Colorado 80302. I am a Licensed Professional Engineer in Idaho, Colorado, and Wyoming. I have a Bachelor of Science degree in Civil Engineering from the University of Colorado, and Master of Science and Doctor of Philosophy Degrees in Civil Engineering from Stanford University.

2. As evidenced by the agency record submitted in this case, I have been retained by Idaho Ground Water Appropriators, Inc. (IGWA) to provide expert reports, testimony, and technical assistance in this case concerning the hydrogeology of the ESPA, the ESPA Model (ESPAM), and other technical and scientific matters.

3. I am competent to testify in this matter.

4. Attached hereto as ***Exhibit A*** is a true and correct copy of a table titled *Impacted Acreage for Pending Water Delivery Calls within the Great Rift Trimline* (Table 1) which was developed by my staff under my direct supervision.

5. Table 1 was developed by GIS analysis of documents and databases created and maintained by the Idaho Department of Water Resources (IDWR), including:

- a. IDWR shapefile *irr06_20100629* which is an irrigated acreage coverage with relevant information that includes: water source (GW, SW or mixed), GW fraction, Acres, and Net Acres (GW fraction applied);
- b. IDWR shapefile *wrpou* which is a Idaho water rights Place of Use (POU) shapefile with relevant information that includes: water right numbers, priority dates, POU parcel coverage, total acres, acre

limits, and source;

- c. Billingsley Creek Ranch delivery call letter to IDWR dated March 16, 2005, a true and correct copy of which is attached hereto as ***Exhibit B***;
- d. Aquarius Aquaculture delivery call letter to IDWR dated February 12, 2014, a true and correct copy of which is attached hereto as ***Exhibit C***;
- e. Ark Fisheries delivery call letter to IDWR dated May 20, 2014, a true and correct copy of which is attached hereto as ***Exhibit D***; and LynClif Farms delivery call letter to IDWR dated May 21, 2014, a true and correct copy of which is attached hereto as ***Exhibit E***.

6. IGWA asked me to determine the magnitude of the curtailment risk from other pending delivery calls made by water users in the Hagerman area, based on the Great Rift trimline the IDWR adopted in its January 29, 2014, *Final Order Regarding Rangen, Inc's Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* (the "Rangen Curtailment Order").

7. Because the IDWR had not developed or utilized the Great Rift trimline any time prior to issuing the Rangen Curtailment Order, the magnitude of the curtailment risk from other pending delivery calls could not be evaluated until after the Rangen Curtailment Order was issued.

8. Table 1 reflects AMEC's calculation of the number of groundwater irrigated acres exposed to curtailment, within the Great Rift trimline, using the ESPA Model, based on the priority dates (i.e. curtailment dates) of the delivery calls attached hereto as Exhibits B through E.

9. The acreages in Table 1 are a close, but not exact determination of the acres curtailed. For example, Table 1 shows 155,000 acres curtailed under the July 13, 1962, curtailment date of Rangen, whereas the Department of Water Resources found in the Curtailment Order, page 28, paragraph 110, that 157,000 acres are curtailed under that

priority date.

10. Because some land is irrigated with multiple water rights from both surface water and ground water sources, a more detailed analysis of specific water rights would be required to exactly calculate the acres curtailed. AMEC was not able to complete this water right-specific analysis within the timeframe provided for filing IGWA's Motion to Augment the Record.

11. While Table 1 is not an exact calculation the acres curtailed, it is sufficiently accurate that, in my opinion, it can reasonably be relied upon to understand the magnitude of the curtailment risk created by the Great Rift trimline adopted in the Curtailment Order.

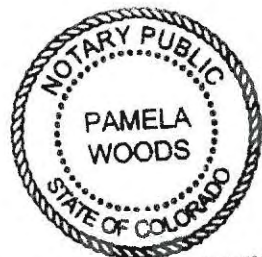
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 17th day of June, 2014.



CHARLES M. BREDECKE

SUBSCRIBED AND SWORN TO before me this 17th day of June, 2014.



My Commission Expires 01/05/2015



NOTARY PUBLIC FOR

COLORADO

Residing at: 102 E Bridge St, Hotchkiss

My Commission Expires 1-5-2015

CO
81419

CERTIFICATE OF MAILING

I certify that on this 17th day of June, 2014, the foregoing document was served on the following persons in the manner indicated.



Signature of person serving document

Clerk of the Court SRBA DEPUTY CLERK 253 3 rd Ave. North PO Box 2707 Twin Falls, ID 83303-2707	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Facsimile – 208-736-2121 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Email
Deputy Attorney General Garrick L. Baxter IDAHO DEPT. OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 Fax: 208-287-6700 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
Robyn M. Brody BRODY LAW OFFICE, PLLC P.O. Box 554 Rupert, ID 83350 robynbrody@hotmail.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
Fritz X. Haemmerle HAEMMERLE & HAEMMERLE, PLLC P.O. Box 1800 Hailey, ID 83333 fxh@haemlaw.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
J. Justin May MAY, BROWNING & MAY, PLLC 1419 West Washington Boise, ID 83702 jmay@maybrowning.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email

Sarah Klahn Mitra Pemberton WHITE JANKOWSKI, LLP 511 16 th St., Suite 500 Denver, Colorado 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
Dean Tranmer CITY OF POCATELLO P.O. Box 4169 Pocatello, ID 83201 dtranmer@pocatello.us	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
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	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
Jerry Rigby RIGBY ANDRUS & RIGBY 25 N. 2 nd East Rexburg, ID 83440 jrigby@rex-law.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email

Exhibit A

Table 1: Impacted Acreage for Pending Water Delivery Calls within the Great Rift Trimline

<i>Total GW Irrigated Acres</i>		<i>325,000</i>
<i>Pending Call</i>	<i>Priority Date</i>	<i>Irrigated Acres Impacted¹</i>
Billingsley Creek Ranch	5/1/1933	325,000
Billingsley Creek Ranch	3/19/1959	195,000
Billingsley Creek Ranch	1/18/1961	170,000
Rangen	13/07/1962	155,000
Aquarius Aquaculture	11/6/1969	120,000
Aquarius Aquaculture	2/18/1971	110,000
Ark Fisheries, Inc.	2/14/1973	100,000
LynClif Farms	10/24/1979	35,000

¹Impacted acreage is rounded to the nearest 5,000 as there are about 3,000 acres scattered throughout the trimline that are not readily linked to a water right or priority date

²Note curtailed acreage was estimated using GIS so there will be slight differences compared to acreage as determined using ESPAM tools (i.e. final Rangen Order determined 157,000 acres curtailed for the 13/07/1962 priority)



BILLINGSLEY CREEK RANCH

2726 South 1050 East
Hagerman, Idaho 83332

Phone 208-837-6174
Fax 208-837-6563

March 16, 2005

Director Karl Dreyer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83303-0325

Re: Request For Delivery of Water

Dear Director Dreher:

Our one year stay on water calls expired at midnight yesterday. I would like to request that you order the delivery of my water under the laws of Idaho and the prior appropriation doctrine. I have been in communication with the IDWR since 1992 and have patiently hoped for some solution to my water shortages. I signed on to the 2004 agreement that put a hold on all water calls for one year and ordered delivery of water to the 1000 Springs reach. Nothing happened - no water at all showed up and the pumpers, as always, kept pumping. The interim committee was a joke. They accomplished nothing. I am tired of waiting. My water rights are 36-02379 for 5cfs with a priority of 3/19/59, 36-02465 for 4cfs with a priority of 1/18/61 and 36-10870 for .36cfs with a priority of 5/1/33. All of these springs have dried up. Water right 36-02379 had recorded flows of over 10cfs in the winter months in the 1980's so you can see how rapidly things changed. I wrote my first letter to Keith Higginson on October 19, 1993 advising him that this particular spring was starting to dry up in the summer months. I am sure that you will be getting many of these letters in the coming days. I just wanted to be included.

Sincerely:

Donnie McFadden
Billingsley Creek Ranch

EXHIBIT

B

*Aquarius Aquaculture
2674 Norwood Rd.
Hagerman, Idaho 83332
208-837-9032 Office
208-421-5944 Cell
Email: ozzie@q.com*

RECEIVED

FEB 14 2014

DEPARTMENT OF
WATER RESOURCES

Gary Spackman - Director
Idaho Dept. of Water Resources
322 E. Front St.
Boise, Idaho 83702

February 12, 2014

Re: Water call and request for administration

Dear Mr. Spackman,

Please consider this letter to be a formal notice that Aquarius Aquaculture is again making a water call and requesting the Idaho Dept. of Water Resources to do whatever is necessary to deliver water to the points of diversion, for water right numbers 36-07160 (2.64 cfs – priority 2/18/1971), 36-07159 (10 cfs – priority 2/18/1971), and, 36-07092B (10 cfs – priority 11/06/1969). We are entitled to delivery of 22.64 cfs from Hidden Springs for fish propagation.

Today, the facility that utilizes these water rights is receiving less than 50% of the water entitled by these rights from the spring source. Any water that can be returned to our points of diversion will be put to beneficial use under the terms and conditions of our decrees.

Demand is hereby given that you direct the Water Master to administer water rights required by Idaho Code 8 42-607 in order to supply these prior rights.

Sincerely yours,



David Huff
Vice President – Aquarius Aquaculture





ARK Fisheries, Inc.

2825 S. 1050 E.
HAGERMAN, IDAHO 83332
PH: (208) 837-4860 • FAX: (208) 837-6322
E-MAIL: arkfish@q.com

Date: 5/20/14

To: Gary Spackman, Director
Idaho Department of Water Resources
322 East Front St. P.O. Box 83720
Boise, Id. 83720-0098

RECEIVED

MAY 28 2014

DEPARTMENT OF
WATER RESOURCES

From: Lynn Babington
2825 S. 1050 E.
Hagerman, Id. 83332

RE: Delivery of Water to Water Right No. 36-7278

Dear Mr. Spackman

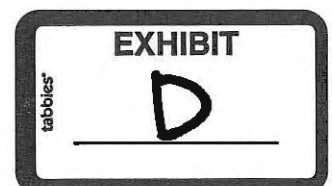
Water Right No. 36-7278, with a priority date of 2/14/1973, is entitled to delivery of 4.69 c.f.s. from Spring Creek Springs for fish propagation from January 1 thru December 31.

I have operated these ponds since 1992 and only twice has the 4.69 c.f.s. flow been obtained; April 1996 and January 2001. Both times Spring Creek Springs was augmented with overflow from an irrigation diversion ditch. Typical flows are approximately 2.5 to 3 c.f.s. in high water months and 1.8 to 2.4 c.f.s. during low flow months. The flow measured today was 1.94 c.f.s.

Demand is hereby made that you direct water district No's 120, 130, and 36A water masters to administer water rights by priority as required by Idaho Code 42-607. This demand is for the period of January 1 to December 31 as specified in the water right.

Sincerely

Lynn Babington



Date: May 21, 2014

To: Gary Spackman, Director
Idaho Department of Water Resources
322 East Front St. P.O. Box 83720
Boise, Id. 83720-0098

RECEIVED

MAY 28 2014
DEPARTMENT OF
WATER RESOURCES

From: Lynn Babington Clifton Jensen
LynClif Farms LynClif Farms
2825 S. 1050 E. P.O. Box 201
Hagerman, Id 83332 Hagerman, Id 83332

RE: Water Right No. 36-7875

Dear Mr. Spackman,

December 18, 2003 Lynclif made a call on water for Water Right No. 36-7875. Director Dreher responded in his letter dated January 14, 2004. 36A Water Master Frank Erwin responded also. April 28, 2007 we submitted an Idaho Water Resource Board's Interest Assessment questionnaire. (copies are enclosed for your convenience).

In the last 10 years we have harvested (2-3) crops of sturgeon from the 4 ponds. These crops were stocked @ 40% capacity due to the diminished availability of water at our diversion point. These flows ranged from 3 c.f.s. in the Spring to 10 c.f.s. in the Winter.

At this time we are requesting information, and answers to the following:

- 1) A list of all ground water users up gradient from springs supplying Billingsley Creek with priority dates junior to October 24, 1979. Please include owners name, priority date, beneficial use, and diversion rate.
- 2) What is the status of our call for water delivery made on December 18, 2003 on water right No. 36-07875? (Please reactivate this call if necessary)
- 3) We will finish the harvest of the final pond of sturgeon in the near future. We recognize that we are junior to some downstream water rights. District 36A Water Master and others are not optimistic about the springs supplying water to Billingsley Creek being adequate to fill all water rights this summer. Are you and the Idaho Department of Water Resources administering water deliveries under the Conjunctive Management Rules this summer? In short, should we stock our ponds?; at what capacity?; and what water flows can we expect on a continuous basis for the next 3 - 4 years for this stocking of sturgeon.

Thanks in advance for your prompt response and attention to this matter.

Sincerely,

 
Lynn Babington Clifton Jensen

enclosures

