

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

RANGEN, INC.)	Case No. CV 2014-4970
)	
Petitioner,)	ORDER GRANTING MOTION
)	TO STAY CURTAILMENT
vs.)	ORDER
)	
)	
THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his capacity as Director of the Idaho Department of Water Resources,)	
)	
Respondents.)	
)	

On January 20, 2015, the Idaho Ground Water Appropriators, Inc. (“IGWA”) filed a *Motion to Stay Curtailment Order* (“*Motion*”) in the above-captioned matter. The *Motion* moves the Court to stay implementation of the Director’s *Order Granting Rangen’s Motion to Determine Morris Exchange Water Credit; Second Amended Curtailment Order* issued on November 21, 2014, in IDWR docket numbers CM-DC-2011-004, CM-MP-2014-001 and CM-MP-2014-006 (“*Final Order*”). Specifically, IGWA requests that this Court stay curtailment of certain junior ground water rights identified in the Director’s *Final Order* until February 7, 2015, so that it may complete construction of its Magic Springs mitigation project.¹ The *Motion* is made pursuant to Idaho Code § 67-5274 and Idaho Rule of Civil Procedure 84(m). Rangen, Inc. filed a response in opposition to the *Motion* on January 21, 2015. A hearing on the *Motion* was held before this Court on January 22, 2015. After reviewing the files and hearing the comments

¹ The term “Magic Springs mitigation project” refers to the mitigation project addressed and approved by the Director in his *Order Approving IGWA’S Fourth Mitigation Plan* dated October 29, 2014, and addressed by the Director in his *Final Order*.

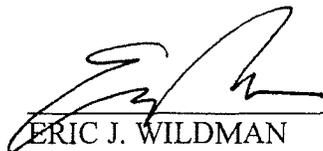
made in open court, the Court for the reasons set forth on the record and based upon its independent discretion under Idaho Code § 67-5274 and Idaho Rule of Civil Procedure 84(m), granted the *Motion*. The Court further ordered that IGWA complete the Magic Springs mitigation project per the Director's specifications on or before February 7, 2015, and that IGWA deliver 7.81 cfs as mitigation to Rangen to make up for the delay on or before February 7, 2015.

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The *Motion to Stay Curtailment Order* filed by IGWA in the above-captioned matter **is hereby granted**.
2. Implementation of curtailment under the Director's *Order Granting Rangen's Motion to Determine Morris Exchange Water Credit; Second Amended Curtailment Order* **is hereby stayed until February 7, 2015**.
3. IGWA shall complete the Magic Springs mitigation project and deliver water to Rangen per the Director's specifications as set forth in his *Final Order* on or before February 7, 2015, and deliver 7.81 cfs as mitigation to Rangen to make up for the delay on or before February 7, 2015.

IT IS SO ORDERED:

Dated January 22, 2015


ERIC J. WILDMAN
District Judge

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO STAY CURTAILMENT ORDER was mailed on January 22, 2015, with sufficient first-class postage to the following:

RANGEN INC

Represented by:
FRITZ X HAEMMERLE
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520

GARY SPACKMAN, IN HIS

Represented by:
GARRICK L BAXTER
DEPUTY ATTORNEY GENERAL
STATE OF IDAHO - IDWR
PO BOX 83720
BOISE, ID 83720-0098
Phone: 208-287-4800

RANGEN INC

Represented by:
J JUSTIN MAY
1419 W WASHINGTON
BOISE, ID 83702
Phone: 208-429-0905

MILLENKAMP PROPERTIES LLC
TESSENDERLO KERLY INC

Represented by:
MCQUADE, MELODIE A
GIVENS PURSLEY LLP
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

MILLENKAMP PROPERTIES LLC
TESSENDERLO KERLY INC

Represented by:
MICHAEL C CREAMER
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

IDAHO GROUND WATER

Represented by:
RANDALL C BUDGE
201 E CENTER ST STE A2

PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

RANGEN INC

Represented by:
ROBYN M BRODY
BRODY LAW OFFICE, PLLC
PO BOX 554
RUPERT, ID 83350
Phone: 208-434-2778

IDAHO GROUND WATER

Represented by:
THOMAS J BUDGE
201 E CENTER ST
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

ORDER

Page 1 1/22/15

FILE COPY FOR 80034


Deputy Clerk