BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-15501, 36-2551, AND 36-7694	))))	**ORDER RESCINDING AMENDED ORDER DATED MARCH 10, 2004**

On March 10, 2004, the Director of the Idaho Department of Water Resources ("Director" or "Department") issued an Amended Order *In the Matter of Distribution of Water to Water Rights Nos. 36-15501, 36-02551, and 36-7694* filed by Rangen, Inc., hereafter referred to as the "*Rangen Call.*" The amended order stated:

> IT IS, THEREFORE, HEREBY ORDERED that based on the information currently available to the Director, the watermaster for Water District No. 130 is directed to issue written notices within five (5) days of the date below to all holders of consumptive ground water rights in Water District No. 130 that are junior in priority to July 13, 1962, including consumptive ground water rights for agricultural, commercial, industrial, and municipal or other uses. The written notices are to advise the holders of such consumptive ground water rights of this order and to instruct the holders of such rights that they are not to divert ground water pursuant to their rights beginning April 1, 2004, in accordance with the provisions of Idaho Code §§ 42-602 and 42-607, applicable rules adopted pursuant to Idaho Code § 42-603, and the directions and orders of the Director, unless sufficient replacement water is provided as set forth herein.

The paragraphs and subparagraphs of the order following the above excerpt described the components of an acceptable mitigation plan and also established deadlines for completion of mitigation implementation. The mitigation plan described in the amended order was based on calculated depletions to springs discharging from the Snake River Canyon in the Thousand Springs area resulting from the diversion and use of ground water under water rights junior in priority to the rights held by Rangen, Inc. The calculated depletions were determined using the Department's original ground water model for the Eastern Snake Plain Aquifer that had been developed at that point in time.

On or about March 20, 2004, the State of Idaho and parties to the *Rangen Call* signed an agreement titled "The Eastern Snake Plain Aquifer Mitigation, Recovery, and Restoration Agreement for 2004" (hereafter referred to as the ESPA Agreement"). The ESPA Agreement included the provision that: "All pending delivery calls against the aquifer and conjunctive management litigation are stayed and no further delivery calls against the aquifer will be made from March 15, 2004 to March 15, 2005." The ESPA Agreement also stated: "This Agreement shall be effective until March 15, 2005."

On March 24, 2004, the Director issued an order approving the ESPA Agreement as a mitigation plan. The ESPA Agreement was "approved by the Director according to it (sic) terms as interim mitigation for the period from March 15, 2004 through March 15, 2005."

On or about May 11, 2004, the Department and its contractors completed the development of a reformulated and recalibrated ground water model for the Eastern Snake Plain Aquifer. This reformulated ground water model includes significant refinement of the calculated depletions to springs discharging from the Snake River Canyon in the Thousand Springs area resulting from the diversion and use of ground water and apportions the depletions among six adjacent spring complexes within the Thousand Springs area. The model provides calculated depletions to the reach containing the Curren Springs from which Rangen, Inc. receives surface water.

The previous calculated spring depletions upon which the amended order issued on March 10, 2004, was based, is no longer the most accurate information available to the Director. Calculated depletions to spring flows from the reformulated and recalibrated ground water model should be used to determine the extent of injury to the water rights held by Rangen, Inc. The amended order dated March 10, 2004, must be rescinded and a new order must be issued based on results from the reformulated and recalibrated ground water model.

IT IS HEREBY ORDERED that the Amended Order in the above titled matter, dated March 10, 2004, is **RESCINDED**.

On or about April 1, 2005, the Director will issue a new order based on results from the reformulated and recalibrated ground water model.

Dated this 14th day of March, 2005.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of March, 2005, the above and foregoing document was served by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

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Victoria Wigle

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