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Attorneys for Rangen, Inc.

District Court - SFBA Fifth Judicial District In Re: Administrative Appeals County of Twin Falls - State of Idaho	
JUN 27 2014	
By _____	Clerk
_____	Deputy Clerk

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

RANGEN, INC.,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF
WATER RESOURCES and GARY
SPACKMAN, in his capacity as Director
of the Idaho Department of Water
Resources,

Respondents.

IDAHO GROUND WATER
APPROPRIATORS, INC., FREMONT
MADISON IRRIGATION DISTRICT,
A&B IRRIGATION DISTRICT, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2,
MINIDOKA IRRIGATION DISTRICT,
NORTH SIDE CANAL COMPANY,

Case No. CV-2014-1338

(Consolidated Gooding County Case
No. CV-2014-179)

**AFFIDAVIT OF CHARLES E.
BROCKWAY, Ph.D., P.E. IN
SUPPORT OF RANGEN, INC.'S
RESPONSE IN OPPOSITION TO
MOTION TO AUGMENT RECORD**

TWIN FALLS CANAL COMPANY, AND
THE CITY OF POCA TELLO,

Intervenors.

STATE OF IDAHO,)
) ss.
County of Twin Falls.)

CHARLES E. BROCKWAY, Ph.D., P.E., being sworn upon oath, deposes and states as follows:

1. I am a registered professional engineer in the State of Idaho and senior partner of Brockway Engineering, PLLC. I make the averments contained herein of my own personal knowledge and would testify to the facts as presented herein if called upon to do so. For the purposes of this proceeding, I am currently retained by Rangen, Inc., and the Surface Water Coalition.

2. I have a B.S. in Civil Engineering from the University of Idaho; an M.S. in Civil Engineering from the California Institute of Technology and a Ph.D. in Civil Engineering from Utah State University. Since the 1960's to the present date, I have been instrumental in the characterization and analysis of water resources throughout southern Idaho and the Northwest.

3. I have been involved with the Idaho Department of Water Resources ("Department") for decades on various formal and informal hydrologic committee dealings with groundwater models. Beginning in 1965, I was working for the University of Idaho, through the Idaho Water Resources Research Institute ("IWRRI"). I was the project leader for the development of a groundwater flow model for the Eastern Snake Plain Aquifer ("ESPA"), under contract to the Department.

4. In the above-captioned matter, IGWA has filed a Motion to Augment Record requesting that it be allowed to include an Affidavit of Charles M. Brendecke.

5. I have reviewed Mr. Brendecke's affidavit. The affidavit is misleading. In particular, the information in Table 1 attached to Mr. Brendecke's affidavit is misleading.

6. In his affidavit, Brendecke seems to be suggesting that each of the water calls set forth in Table 1 would result in additional acres being curtailed in the amount specified in the third column. This is not the case. The third column only sets forth the number of acres based solely upon the priority date of the particular calling water right if the call were considered in isolation. In fact, each of the numbers in this column is cumulative of all acres listed below. For instance, the Rangen Call is listed in the middle of the table with a priority date of 7/13/1962 and 155,000 acres. This does not mean that an additional 155,000 acres would be curtailed if curtailment under an earlier priority call was implemented. Curtailment of these 155,000 acres would likely encompass all of the acres for water calls with priority dates listed below (or later than) the Rangen Call for the Aquarius Aquaculture, Ark Fisheries, Inc., and LynClif Farms Calls. In other words, these calls would not result in additional acres curtailed, but rather, the curtailment as a result of the Rangen Call would provide additional water to satisfy other senior water rights from springs and streams in the Hagerman Valley and throughout the ESPA that are short of water due to junior ground water pumping.

7. The Brendecke Affidavit is misleading because it assumes with no analysis that it would be necessary to curtail all junior water rights to satisfy each of the calls. This also is not the case. For instance the Billingsley Creek Ranch Call attached to Brendecke's Affidavit indicates three water rights from springs are short a combined 9.36 cfs of water. These water rights are diverted from springs tributary to Billingsley Creek downstream of the Rangen Research Hatchery.

Curtailment under the Rangen Call would result in enhancement of the springs available to the Billingsley Creek Ranch water supply similar to the water arriving in the Curren Tunnel. The ground water model predicts an additional approximately 14 cfs of water at the head of Billingsley Creek as a result of Rangen's Call. It is almost certain (although the model has not been run specifically for a Billingsley Creek Ranch Call), that the spring flows providing water under the Billingsley Creek Ranch Call would also be satisfied by curtailment under the Rangen Call.

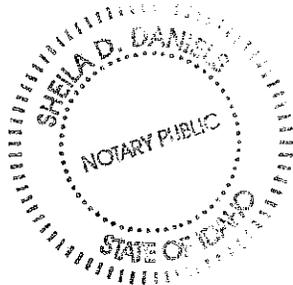
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 27th day of June, 2014.


CHARLES E. BROCKWAY, Ph.D., P.E.

SUBSCRIBED AND SWORN to before me this 27th day of June, 2014.


NOTARY PUBLIC FOR IDAHO
Residing at: Kimberly, Id
Commission expires: 8/16/19

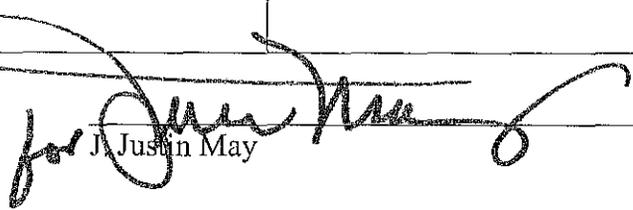


CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 27th day of June, 2014 she caused a true and correct copy of the foregoing document to be served upon the following by the method indicated:

<p>Original: Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Garrick Baxter Emmi L. Blades IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov emmi.blades@idwr.idaho.gov kimi.white@idwr.idaho.gov</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 101 South Capitol Blvd, Ste 300 Boise, ID 83704-1391 Fax: 208-433-0167 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Sarah Klahn Mitra Pemberton WHITE & JANKOWSKI Kittredge Building, 511 16th Street, Suite 500 Denver, CO 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Dean Tranmer CITY OF POCATELLO P.O. Box 4169</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/></p>

Pocatello, ID 83201 dtranmer@pocatello.us	Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, L.L.P. 195 River Vista Place, Suite 204 Twin Falls, ID 83301-3029 Facsimile: (208) 735-2444 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Jerry R. Rigby Hyrum Erickson Robert H. Wood RIGBY, ANDRUS & RIGBY, CHARTERED 25 North Second East Rexburg, ID 83440 jrigby@rex-law.com herickson@rex-law.com rwood@rex-law.com	Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>


for Justin May