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Attorneys for Rangen, Inc.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING

RANGEN, INC., an Idaho corporation, Petitioner, vs. GARY R. SPACKMAN, in his official capacity as Director of the Idaho Department of Water Resources, and THE IDAHO DEPARTMENT OF WATER RESOURCES, Respondents.	Case No. CV-2014-272 **RANGEN, INC.'S VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE** Fee Category A: $96.00

Petitioner Rangen, Inc. ("Rangen"), by and through its attorneys of record, hereby petitions the Court to issue a Peremptory Writ of Mandate against Director Gary R. Spackman in his official capacity as Director of the Idaho Department of Water Resources ("Director Spackman") and the Idaho Department of Water Resources ("IDWR" or "Department") commanding Director Spackman and IDWR to rescind the *Order Granting IGWA's Second Petition to Stay Curtailment*

entered on April 28, 2014 in *In the Matter of the Distribution of Water to Water Right Nos. 36-02551 and 36-07694 (Rangen, Inc.)*, IDWR Docket No. CM-DC-2011-004 ("Rangen Delivery Call Action"), and comply with the Conjunctive Management Rules and curtail junior groundwater use that is causing material injury to Rangen and not covered by an approved mitigation plan that satisfies the water delivery obligations set forth in the *Final Order* entered in Rangen's Delivery Call Action. As grounds, Rangen states the following:

I. PARTIES, JURISDICTION AND VENUE

1. Rangen, Inc. is an Idaho corporation with its principal place of business in Twin Falls County, Idaho. Rangen owns and operates a research and fish propagation facility in Gooding County, Idaho ("Research Hatchery").

2. Respondent Gary R. Spackman is the Director of the Idaho Department of Water Resources and a resident of Ada County, Idaho.

3. Respondent Idaho Department of Water Resources is an executive department existing under the laws of the State of Idaho pursuant to I.C. § 42-1701, et seq., with its principal state office located in Ada County, Idaho.

4. Jurisdiction is proper in this Court pursuant to I.C. §§ 1-705 and 7-301.

5. Gooding County is the proper venue for this matter pursuant to I.C. § 5-402 because the Respondents' failure to act as set forth herein affects Rangen's property interests in the Research Hatchery located in Gooding County.

II. STATEMENT OF CLAIM FOR RELIEF

A. GENERAL ALLEGATIONS

6. Rangen is the beneficial owner of Water Right Nos. 36-02551 and 36-07694 ("Rangen's Water Rights").

7. Rangen's Water Rights entitle Rangen to divert spring water to supply the Research Hatchery.

8. On December 13, 2011, Rangen filed a *Petition for Delivery Call* with IDWR seeking priority administration of Rangen's Water Rights because it is not receiving, and had not been receiving, its full entitlement of water because of declining ground water levels in the Snake River Plain Aquifer ("ESPA") caused by junior-priority groundwater pumping. A true and correct copy of Rangen's *Petition for Delivery Call* is attached hereto as Exhibit A.

9. From May 6, 2013 to May 16, 2013, Director Spackman held a hearing on Rangen's *Petition for Delivery Call*. Idaho Ground Water Appropriators, Inc. ("IGWA") and the City of Pocatello ("Pocatello") were allowed to intervene in the matter and defend against Rangen's *Petition for Delivery Call*.

10. On January 29, 2014, Director Spackman entered a *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962 ("Final Order")*. A true and correct copy of the *Final Order* is attached hereto as Exhibit B. In his *Final Order*, Director Spackman found that junior-priority

groundwater pumping in the ESPA is materially injuring Rangen's Water Rights. He found, among other things that:

> 26. As a result of declining spring flows, Rangen has been hindered in its ability to exercise its water rights from the Curren Tunnel. A number of Rangen staff testified regarding the impact of the declining flows and Rangen's ability to raise more fish if Rangen had more water. Finding of Fact 59. The Director finds the testimony of Rangen's staff on this point credible. ***The reduction in flows from the Curren Tunnel have caused a reduction in the number of fish that Rangen could raise at the Rangen Facility and impeded Rangen's full beneficial use of water that could have been diverted pursuant to its water rights.***
>
> * * *
>
> 32. As previously discussed, as a result of declining spring flows, Rangen has been hindered in its ability to exercise its water rights from the Curren Tunnel. The reduction of flows affects the number of fish Rangen raises and the research it is able to undertake. ***Ground water diversions have reduced the quantity of water available to Rangen for beneficial use of water pursuant to its water rights.***
>
> * * *
>
> 36. ***The Director concludes that pumping by junior ground water users has materially injured Rangen.***
>
> *Final Order*, ¶¶ 26, 32 and 36 (emphasis added).

11. Consistent with his finding of material injury, Director Spackman ordered the curtailment of certain junior-priority groundwater rights within the area of common groundwater supply located West of the Great Rift. The *Final Order* stated in relevant part:

> IT IS HEREBY ORDERED that, at 12:01 a.m. on or before March 14, 2014, users of ground water holding consumptive water rights bearing priority dates junior to July 13, 1962, listed in Attachment C to this order, within the area of common ground water, located west of the Great Rift, and within a water district that regulates ground water, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights. This order shall apply to all

consumptive ground water rights, including agricultural, commercial, industrial, and municipal uses, but excluding ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(1)), pursuant to IDAPA 37.03.11.020.11.

Final Order, p. 42.

12. Director Spackman also ordered that the holders of ground water rights affected by the *Final Order* had the right to file a mitigation plan in order to continue to use their rights out of priority. Director Spackman ordered:

> IT IS FURTHER ORDERED that holders of ground water rights affected by this Order may participate in a mitigation plan through a Ground Water District or Irrigation District if a plan is proposed by a Ground Water District or Irrigation District. ***The mitigation plan must provide simulated steady state benefits of 9.1 cfs to Curren Tunnel or direct flow of 9.1 cfs to Rangen. If mitigation is provided by direct flow to Rangen, the mitigation may be phased-in over not more than a five-year period pursuant to CM Rule 40 as follows: 3.4 cfs the first year, 5.2 cfs the second year, 6.0 cfs the third year, 6.6 cfs the fourth year, and 9.1 cfs the fifth year.*** Holders of ground water rights that are not members of a ground water district may be deemed a nonmember participant for mitigation purposes pursuant to H.B. No. 737 (Act Relating to the Administration of Ground Water Rights within the Eastern Snake Plain, ch. 356, 2006 Idaho Sess. Laws 1089) and Idaho Code § 42-5259. If a mitigation plan is approved and the holder of such a junior priority ground water right elects not to join a ground water district, the Director will require curtailment.
>
> *Final Order*, p. 42 (emphasis added).

13. Director Spackman explained how he determined the phased-in mitigation requirement in an *Order on Reconsideration* entered on March 4, 2014. A true and correct copy of the *Order on Reconsideration* is attached hereto as Exhibit C. He explained in relevant part:

> The volume of mitigation water required during the first four years of the five year phase in period was calculated using the transient, superposition

> version of ESPAM2.1. The benefit of curtailment to the aquifer was simulated at a constant rate equivalent to the average annual consumptive use. The simulated volume of water accruing to the Rangen model cell during each of the first four years was calculated from the model results and multiplied by 63% to predict the volume of benefit at the Martin-Curren Tunnel. The volume accruing to the Martin-Curren Tunnel during each year was converted to an average discharge rate in cubic feet per second. The predicted volume of benefit at the Martin-Curren tunnel during each of the first four years of curtailment was found to be 2,442 AF (3.4 cfs), 3,742 AF (5.2 cfs), 4,368 AF (6.0 cfs) and 4,813 AF (6.6 cfs).
>
> *Order on Reconsideration*, p. 5.

14. On February 11, 2014, IGWA filed a *Petition to Stay Curtailment, and Request for Expedited Decision* ("*IGWA's Petition to Stay Curtailment*"). A true and correct copy of *IGWA's Petition to Stay Curtailment* is attached hereto as Exhibit D.

15. On February 12, 2014, IGWA filed a *Mitigation Plan and Request for Hearing* ("*First Mitigation Plan*"). A true and correct copy of the *First Mitigation Plan* is attached hereto as Exhibit E.

16. Rangen opposed *IGWA's Petition to Stay Curtailment* by filing *Rangen's Response in Opposition to IGWA's Petition to Stay Curtailment ("Rangen's Opposition to Stay)*. A true and correct copy of *Rangen's Opposition to Stay* is attached hereto as Exhibit F. Rangen argued, among other things, that a stay was not proper because the Department's Conjunctive Management Rules provide that out-of-priority water use can only occur pursuant to a properly enacted mitigation plan that satisfies the water delivery obligations set forth in the *Final Order*. *See Rangen's Opposition to Stay*, p. 6 (citing *In the Matter of Distribution of Water to Various Water Rights*, _____ Idaho _____, _____ P.3d _____ (2013 Opinion No. 134)).

17. Before a hearing to approve IGWA's First Mitigation Plan was held, Director Spackman granted *IGWA's Petition to Stay Curtailment*. A true and correct copy of the *Order Granting IGWA's Petition to Stay Curtailment* ("*Stay Order*") is attached hereto as Exhibit G. Director Spackman granted the stay, holding that:

> ***Given that IGWA has submitted a mitigation plan, which appears on its face to satisfy the criteria for a mitigation plan*** pursuant to the Conjunctive Management Rules and the requirements of the Director's Curtailment Order, and because of the disproportional harm to IGWA members when compared with the harm to Rangen if a temporary stay is granted, the Director will approve the temporary stay pending a decision on the mitigation plan. The Director will conduct an expedited hearing for the mitigation plan and to [sic] issue a decision shortly thereafter. ***Ground water users are advised that in the event the mitigation plan is not approved, the curtailment order will go into effect immediately.***
>
> *Stay Order*, p. 5 (emphasis added).

18. On March 17-19, Director Spackman held a hearing on IGWA's First Mitigation Plan.

19. Contrary to Director Spackman's initial impression, he found after a hearing that IGWA's First Mitigation Plan did not satisfy the 3.4 cfs direct flow mitigation obligation for the first year. *See Order Approving in Part and Rejecting in Part IGWA's Mitigation Plan; Order Lifting Stay Issued February 21, 2014; Amended Curtailment Order* ("*First Mitigation Plan Order*") entered on April 11, 2014. A true and correct copy of the *First Mitigation Plan Order* is attached hereto as Exhibit H.

20. As part of the *First Mitigation Plan Order*, Director Spackman also lifted the stay that had previously been granted to IGWA and modified the original curtailment order contained in the *Final Order* on *Rangen's Petition for Delivery Call*. He ordered in relevant part:

> IT IS FURTHER ORDERED that the stay issued in the February 21, 2014, *Order Granting IGWA's Petition to Stay Curtailment* of the Curtailment Order is hereby lifted.
>
> *First Mitigation Plan Order*, p. 20.

21. Even though Director Spackman had previously advised ground water users when he granted the first stay of curtailment that: ". . . ***in the event the mitigation plan is not approved, the curtailment order will go into effect immediately,"*** he did not order immediate curtailment. Instead, he granted another three-week delay. He ordered:

> IT IS FURTHER ORDERED that, at 12:01 a.m. on or before May 5, 2014, users of ground water holding consumptive water rights bearing priority dates junior or equal to October 13, 1978, listed in Attachment A to this order, within the area of common ground water, located west of the Great Rift, and within a water district that regulates ground water, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that this amended order of curtailment has been modified or rescinded as to their water rights. This order shall apply to all consumptive ground water rights, including agricultural, commercial, industrial, and municipal uses, but excluding ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(1)), pursuant to IDAPA 37.03.11.020.11.
>
> *First Mitigation Plan Order*, p. 21.

22. Director Spackman also gave a contingent alternative mitigation obligation which would further limit the scope of the curtailment order if Butch Morris, the holder of Martin-Curren Tunnel water rights, agreed to cease diverting water from the Martin-Curren Tunnel. *See First Mitigation Plan Order*, pp. 21-22.

23. On April 17, 2014, just six days after Director Spackman lifted the stay, IGWA filed a *Second Petition to Stay Curtailment and Request for Expedited Decision* ("*IGWA's*

Second Stay Petition"). A true and correct copy of *IGWA's Second Stay Petition* is attached hereto as Exhibit I.

24. Rangen opposed *IGWA's Second Stay Petition* by filing *Rangen's Response in Opposition to IGWA's Second Petition to Stay Curtailment* ("*Rangen's Opposition to Second Stay Petition*"). A true and correct copy of *Rangen's Opposition to Second Stay Petition* is attached hereto as Exhibit J.

25. Director Spackman granted *IGWA's Second Stay Petition* on April 28, 2014. *See Order Granting IGWA's Second Petition to Stay Curtailment* ("*Second Stay Order*"). A true and correct copy of the *Second Stay Order* is attached hereto as Exhibit K.

26. In the *Second Stay Order*, Director Spackman held that:

> Curtailment of diversions of ground water for irrigation in April and May would provide little benefit to Rangen because significant irrigation with ground water does not normally intensify until late May or June. In contrast, curtailment of the irrigation of 25,000 acres during the period of reduced ground water use is significant. IGWA's Second Mitigation Plan has been published and a pre-hearing status conference is scheduled for April 30, 2014. The Second Mitigation Plan proposes direct delivery of water from Tucker Springs to Rangen. The plan is conceptually viable, and given the disparity in impact to the ground water users if curtailment is enforced versus the impact to Rangen if curtailment is stayed, the ground water users should have an opportunity to present evidence at an expedited hearing for their second mitigation plan. All of the standard of the conjunctive management rules will apply at the hearing.
>
> *Second Stay Order*, p. 4.

27. IGWA's Second Mitigation Plan referenced in the Second Stay Order involves a plan to acquire Tucker Springs water rights and then divert that water and pipe it over a mile

to the Research Hatchery and deliver it over the canyon rim to the raceways. A true and correct copy of *IGWA's Second Mitigation Plan* is attached hereto as Exhibit L.

28. On May 6, 2014, Director Spackman sent Rangen, IGWA and other protestants a letter addressing the standard of proof that will be used to assess IGWA's Second Mitigation Plan ("*Director's Letter*"). A true and correct copy of the *Director's Letter* is attached hereto as Exhibit M. In his letter Director Spackman stated:

> At the Status Conference, a question was raised regarding the evidence IGWA must offer to satisfy its burden of proof at the hearing for the Second Mitigation Plan. At the request of the parties for guidance on this issue, I am providing a copy of the Final Order Concerning the Over-the-Rim Mitigation Plan, Doc. No. CM-MP-2009-004 (Mar. 18, 2011) ("Order") with this letter. The key points from the Order can be summarized as follows:
>
> - ***Preliminary engineering plans may be acceptable proof at a hearing for a proposed mitigation plan. However, approval may be conditioned upon submittal of final plans.***
> - ***A mitigation plan may be approved upon conditions when the necessary easements and constructions permits are pending.***
> - ***A mitigation plan may be approved upon conditions when a transfer is pending.***
>
> *Director's Letter*, p. 1 (emphasis added).

29. On May 19, 2014, IGWA provided Rangen with an Engineering Report for the *Second Mitigation Plan* involving Tucker Springs. A true and correct copy of the Engineering Report is attached hereto as Exhibit N. IGWA estimates that if the Second Mitigation Plan is approved, the

Tucker Springs pipeline will be complete and operational no earlier than March 13, 2015. See Fig. 7 on p. 13 of Exhibit N.

B. WRIT OF MANDATE

30. Rangen realleges the allegations set forth in paragraphs 1-29 above.

31. Director Spackman found in the Final Order entered on January 29, 2014 that Rangen is being materially injured by junior-priority groundwater pumping in an area of common groundwater supply in an organized water district.

32. Pursuant to I.C. §§ 42-602, 42-231 and 42-237a et seq., Director Spackman and IDWR have a legal duty to administer junior-priority groundwater rights in a manner that delivers water pursuant to Rangen's Water Rights.

33. Director Spackman has entered an order of curtailment to deliver water pursuant to Rangen's Water Rights, but he and IDWR have refused and/or failed to enforce the order of curtailment and have instead issued orders staying the enforcement of the curtailment order even though there is no approved mitigation plan that satisfies the mitigation obligation set forth in the Final Order.

34. Out-of-priority diversions can only be permitted by Director Spackman and IDWR pursuant to a properly enacted mitigation plan which satisfies the mitigation obligations set forth in the Final Order. *See In the Matter of Distribution of Water to Various Water Rights*, _____ Idaho _____, _____ P.3d _____ (2013 Opinion No. 134)).

35. There are no properly enacted mitigation plans in place that satisfy the junior-priority groundwater pumpers' obligation to provide Rangen with either simulated steady state benefits of 9.1 cfs to the Martin-Curren Tunnel or 3.4 cfs direct flow as required by the *Final Order*.

    a. The *First Mitigation Plan* does not provide Rangen with either simulated steady state benefits of 9.1 cfs to the Martin-Curren Tunnel or 3.4 cfs direct flow.

    b. The *Second Mitigation Plan* has not been approved by IDWR.

    c. There is no basis in the Conjunctive Management Rules or Idaho law for allowing out-of-priority junior groundwater use based upon "conditional" approval of a mitigation plan.

    d. Even assuming conditional approval of the Second Mitigation Plan is legally permissible, IGWA estimates that construction on the Tucker Springs pipeline cannot be completed until March 13, 2015.

    e. Director Spackman and IDWR cannot allow out-of-priority junior groundwater use until such time as the Tucker Springs pipeline is operational and delivering water to the Rangen Research Hatchery in the required mitigation amounts or the junior users otherwise satisfy their current mitigation obligation to provide Rangen with either simulated steady state benefits of 9.1 cfs to the Martin-Curren Tunnel or 3.4 cfs direct flow.

36. There is no legal justification for the refusal and failure of Director Spackman and IDWR to enforce the order of curtailment.

37. Enforcement of the order of curtailment is a ministerial act.

38. Rangen is being materially and irreparably harmed as a direct and proximate result of the refusal and failure of Director Spackman and IDWR to enforce the order of curtailment that has been issued.

39. Rangen does not have a plain, speedy or adequate remedy to address the refusal and failure of Director Spackman and IDWR to enforce the order of curtailment that has been issued in response to Rangen's *Petition for Delivery Call.*

40. Rangen is entitled to the issuance of a writ of mandate pursuant to I.C. § 7-302 mandating Director Spackman and IDWR to enforce the order of curtailment that has been issued in response to Rangen's *Petition for Delivery Call.*

C. REQUEST OF ATTORNEY'S FEES

41. As a further direct and proximate result of the refusal and failure of Director Spackman and IDWR to administer Rangen's Water Rights and enforce the curtailment order that has been issued in response to Rangen's *Petition for Delivery Call*, Rangen has been required to employ the services of the attorneys listed above and has also incurred various costs and attorney's fees. Director Spackman in his official capacity as the Director of IDWR and IDWR should be required to pay Rangen's reasonable costs and attorney's fees as required by I.C. §§ 12-117 and 12-121.

D. REQUEST FOR RELIEF

WHEREFORE, RANGEN, INC. prays for the issuance of the following:

1. An Alternative Writ of Mandamus commanding Director Spackman and IDWR to rescind the *Order Granting IGWA's Second Petition to Stay Curtailment* entered on April 28, 2014 in *In the Matter of the Distribution of Water to Water Right Nos. 36-02551 and 36-07694 (Rangen, Inc.)*, IDWR Docket No. CM-DC-2011-004 ("Rangen's Delivery Call Action"), and comply with the Conjunctive Management Rules and curtail junior groundwater use that is causing material injury to Rangen and not covered by an approved mitigation plan that satisfies the mitigation obligations set forth in the *Final Order* entered in Rangen's Delivery Call Action; OR ALTERNATIVELY, appear before the Court on June 16, 2014, at 1:30 p.m. at the Snake River Basin Adjudication Courthouse, located at 253 Third Avenue North, Twin Falls, Idaho 83301 and show cause why they have not complied with the Alternative Writ. The *Application for Alternative Writ* is based upon this *Verified Petition for Peremptory Writ of Mandate* and *Affdavit of J. Wayne Courtney.*
2. A Peremptory Writ of Mandamus, after a trial on the merits, by which Director Spackman and IDWR are commanded to rescind the *Order Granting IGWA's Second Petition to Stay Curtailment* entered on April 28, 2014 in *In the Matter of the Distribution of Water to Water Right Nos. 36-02551 and 36-07694 (Rangen, Inc.)*, IDWR Docket No. CM-DC-2011-004 ("Rangen's Delivery Call Action"), and comply with the Conjunctive Management Rules and curtail junior groundwater use that is causing material injury to Rangen and not covered by an approved mitigation plan that satisfies the mitigation obligations set forth in the *Final Order* entered in Rangen's Delivery Call Action; and

3. For an order awarding Rangen reasonable costs and attorney's fees in accordance with I.C. §§ 12-117 and 12-121; and

4. For such other and further relief as the Court deems just and equitable.

DATED THIS 22nd day of May, 2014.

BRODY LAW OFFICE, PLLC

By: _____
Robyn M. Brody

HAEMMERLE AND HAEMMERLE, PLLC

By: _____
Fritz X. Haemmerle

MAY, BROWNING & MAY, PLLC

By: _____
J. Justin May

VERIFICATION

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

J. Wayne Courtney, Executive Vice President of Rangen, Inc., being first duly sworn upon oath, deposes and states:

That he is the Executive Vice President of Rangen, Inc., the petitioner in the above-captioned matter, that he has read the foregoing Petition for Writ of Mandate, knows the contents thereof and the facts stated he believes to be true.

J. Wayne Courtney, Executive Vice President
Rangen, Inc.

SUBSCRIBED AND SWORN to before this 22nd day of May, 2014.

ROBYN MADDOX BRODY NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 1/27/18

EXHIBIT A - PETITION FOR DELIVERY CALL

IDAHO Department of Water Resources

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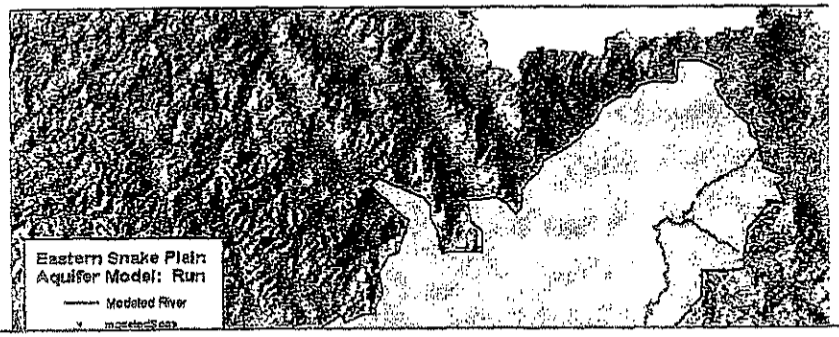
BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO



IN THE MATTER OF DISTRIBUTION OF WATER TO RANGEN, INC.'s WATER RIGHT NOS. 36-02551 AND 36-07694	**DOCKET NO.:_____** **PETITION FOR DELIVERY CALL**

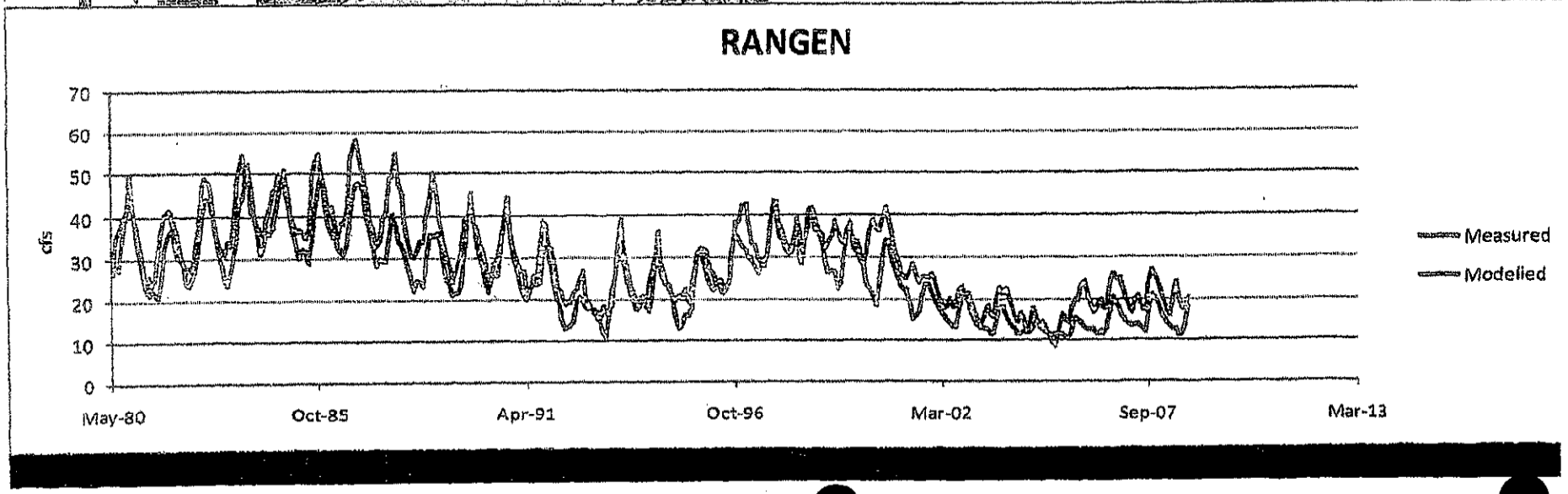


EXHIBIT A - PETITION FOR DELIVERY CALL

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BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO RANGEN, INC.'s WATER RIGHT NOS. 36-02551 AND 36-07694	**DOCKET NO.: _____** **PETITION FOR DELIVERY CALL**

Rangen, Inc., by and through its attorneys, submits the following Petition for Delivery Call in accordance with Art. XV, § 3 Idaho Const., I.C. §§ 42-101, 226, 602, 607 and IDAPA 37.03.11.040 or as otherwise provided for by the laws of the State of Idaho:

I. BACKGROUND

1. Rangen, Inc. ("Rangen") is a family corporation that has been in business since 1925. Its headquarters is located in Buhl, Idaho.

2. Rangen, among other things, is a leading feed manufacturer in the US aquaculture markets.

3. As part of its aquaculture business, Rangen owns and operates a research and fish propagation facility ("Research Hatchery") near Hagerman, Idaho. A sketch of Rangen's

Research Hatchery is attached hereto as Exhibit 1A and an aerial photograph taken on August 29, 1986 is attached hereto as Exhibit 1B.

4. The water that sustains Rangen's Research Hatchery is spring water from an area commonly referred to as the Thousand Springs area of the Thousand Springs Reach of the Snake River within Water District 130. The Thousand Springs area is characterized by many flowing springs of high quality water that is well suited to aquaculture and fish propagation.

5. Rangen's water comes from a spring through the Martin-Curran Tunnel. The Martin-Curran Tunnel is tributary to Billingsley Creek, a tributary of the Snake River in Gooding County.

6. Rangen has five (5) water rights for the Research Hatchery that have been decreed through the Snake River Basin Adjudication. Rangen's decreed water rights are summarized as follows:

Water Right No.:	36-00134B	36-00135A	36-15501	36-02551	36-07694
Priority Date:	October 9, 1884	April 1, 1908	July 1, 1957	July 13, 1962	April 12, 1977
Beneficial Use:	Irrigation (0.09 cfs) and Domestic (0.07 cfs)	Irrigation (0.05 cfs) and Domestic (0.05 cfs)	Fish Propagation	Domestic (0.10 cfs) and Fish Propagation (48.54)	Fish Propagation
Diversion Rate:	0.09 cfs	0.05 cfs	1.46 cfs	48.54 cfs	26.0 cfs
Period of Use:	Jan. 1 - Dec. 31 (Domestic) Feb. 15 - Nov 30 (Irrigation)	Jan. 1 - Dec. 31 (Domestic) Feb. 15 - Nov. 30 (Irrigation)	Jan. 1 - Dec. 31	Jan. 1 - Dec. 31	Jan. 1 - Dec. 31

Copies of the partial decrees associated with these rights are attached hereto as Exhibit 2.

II. RANGEN HAS SUFFERED, AND CONTINUES TO SUFFER, MATERIAL INJURY FROM JUNIOR-PRIORITY GROUND WATER PUMPING IN THE AREAS ENCOMPASSED BY ESPAM2

7. Rangen has expended reasonable efforts to divert water for right nos. 36-02551 and 36-07694. See IDAPA 37.03.11.042.01.b.

8. Rangen can beneficially use all of the water to which it is entitled pursuant to its decreed water rights if it is available.

9. Rangen is not wasting water.

10. Rangen has been measuring and tracking the water delivered to its Research Hatchery since 1966. Rangen's flow measurements represent the total supply of water available to the Research Hatchery and consist of measurements taken at the Western end of the facility below the CTR raceways (see sketch attached as Exhibit 1) plus measurements taken at the dam on Billingsley Creek (see also sketch attached as Exhibit 1). The monthly average flow measurements from 1966 to October, 2011 are attached hereto as Exhibit 3A. The weekly average flow measurements from 1996 to October, 2011 are attached hereto as Exhibit 3B.

11. Based on the flow data attached as Exhibits 3A-B, the amount of water available for Rangen's Research Hatchery has declined significantly over the years.

12. The only water rights which have been, and are currently being, satisfied are 36-00134B (0.09 cfs), 36-00135A (0.05 cfs) and 36-15501 (1.46 cfs).

13. Rangen is not receiving all of the water to which it is entitled pursuant to decreed water rights nos. 36-02551 and 36-07694.

14. The quantity of water available in the Martin-Curran tunnel, the source of Rangen's water rights, is expected to continue to be insufficient during 2012 and beyond. See IDAPA 37.03.11.042.01.a.

15. Rangen has been, and is currently being, materially injured by junior-priority ground water pumping in the areas encompassed by the Eastern Snake Plain Aquifer Model Version 2.0 ("ESPAM2").

16. Curtailment of junior-priority ground water pumping in the areas encompassed by ESPAM2, would result in a usable amount of water reaching Rangen's point of diversion in a time of need. Rangen is aware of the following facts and information to support its allegation of material injury:

A. The Idaho Supreme Court previously affirmed the issuance of a writ of mandate ordering the Department to administer water from Martin-Curran Tunnel (the same source as Rangen's water) in accordance with the doctrine of prior appropriation after the Department failed to deliver water to property owned by Alvin and Tim Musser. See Musser v. Higginson, 125 Idaho, 392, 871 P.2d 809 (1994).

B. Rangen made a delivery call in September/October 2003. The Department used its Enhanced Snake Plain Aquifer Model (ESPA1) to evaluate the call. See ¶¶ 3-5, 65, 1-77 of Order dated February 25, 2004. A copy of the February 25, 2004 Order is attached hereto as Exhibit 4.

C. Based on computer-simulated curtailment scenarios at that time, the Department determined that Rangen was, in fact, suffering some material injury and ordered curtailment of some junior-priority ground water pumping. See, p. 26 of Exhibit 4.

D. The Department pointed out in its February 25, 2004 Order that a new ground water model was expected to be ready for use in making water management decisions in late 2004. See ¶ 76, p. 22 of Exhibit 4.

E. The Department amended the Order on March 10, 2004 (see Exhibit 5 attached hereto) and rescinded it on March 14, 2005.

F. After the Department's model was reformulated and recalibrated ("ESPAM1.1"), the Department issued a Second Amended Order dated May 19, 2005 in which it determined that Rangen was not being materially injured by junior-priority ground water pumping and that its call was futile. See ¶ 25, p. 28 of Second Amended Order dated May 19, 2005. A copy of the Second Amended Order is attached hereto as Exhibit 6. The Department used the newer version of the model (ESPAM1.1) to reverse its prior determination concerning Rangen's call.

G. On June 3, 2005, Rangen timely requested a hearing on all aspects of the Second Amended Order and requested the appointment of an independent hearing officer. The Department did not convene a hearing. A copy of the June 3, 2005 request is attached hereto as Exhibit 7.

H. On March 31, 2009, Rangen filed another delivery call with the Department and requested a hearing. The Department did not convene a hearing. A copy of the March 31, 2009 delivery call is attached hereto as Exhibit 8.

I. Since the issuance of the May 1, 2005 Second Amended Order, the Department's model has been further refined and Version 2.0 of the Eastern Snake Plain Aquifer Model has been developed. Specifically, a priority of the refinements has been the

"development of a more scientifically based error factor." See Letter from Director David Tuthill dated February 25, 2009. A copy of Director Tuthill's letter is attached hereto as Exhibit 9.

J. ESPAM2 is well calibrated to regional observations and Rangen's actual observed and documented spring flows. See Exhibit 10 attached hereto for a graph generated by the Department comparing Rangen's modeled spring flows with actual observed and documented spring flows.

K. ESPAM2 is currently the best available science and any administrative modeling scenarios to evaluate the impacts of junior-priority ground water pumping should be implemented using ESPAM2 with a "difference" modeling approach.

L. Attached hereto as Exhibit 11 is a Memorandum from Leonard Rice Engineering outlining a computer-generated curtailment scenario using ESPAM2 with a "difference" modeling approach. This curtailment scenario demonstrates that Rangen has been, and is presently being, materially injured by junior-priority ground water pumping in areas encompassed by ESPAM2.

17. To date, the Department has not evaluated Rangen's rights using ESPAM2. Rangen's call under this Petition presents issues that are different than those raised previously, and therefore, this Petition necessarily raises issues that were not actually decided by the Department previously.

III. RELIEF REQUESTED

18. Pursuant to the Department's constitutional and statutory duty to supervise the distribution of water under Art. XV, § 3 Idaho Const., I.C. §§ 42-101, 226, 602, 607 and IDAPA

37.03.11.040 or as otherwise provided for by the laws of the State of Idaho, Rangen respectfully requests that the Director:

A. find that Rangen has suffered, and will suffer, material injury as a result of junior-priority ground water pumping in the areas encompassed by ESPAM2;

B. administer and distribute water in the areas encompassed by ESPAM2 in accordance with the prior appropriation doctrine as required by I.C. § 42-602;

C. order the water masters of the areas encompassed by ESPAM2 to curtail junior-priority ground water pumping as necessary to deliver Rangen's water in accordance with the prior appropriation doctrine. See I.C. § 42-607.

D. order immediate curtailment before any hearing is held because: (I) immediate curtailment is necessary to secure an important government or public interest, to-wit, the guaranteed delivery of water rights obtained under the laws of the State of Idaho; (ii) there is a need for prompt action in that junior diversions continue to prevent Rangen's ability to obtain all its decreed water flows; and (iii) the State of Idaho, by and through its Department of Water Resources and Director, has a duty to supervise the allotment of both surface and ground water to those diverting water for any beneficial purpose; and

E. if the Department does not order immediate curtailment, then convene a timely hearing of this matter before further damage is done by junior-priority ground water pumping

EXHIBIT A - PETITION FOR DELIVERY CALL

DATED this 13th day of December, 2011.

BRODY LAW OFFICE, PLLC

By: _____
Robyn M. Brody

HAEMMERLE & HAEMMERLE, PLLC

By: _____
Fritz X. Haemmerle

MAY, BROWNING & MAY, PLLC

By: _____
J. Justin May

EXHIBIT A - PETITION FOR DELIVERY CALL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of December, 2011, the above and foregoing document was served in the following manner:

Gary Spackman Interim Director IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☑ Hand Delivery ☐ E-mail
Randall C. Budge Candice M. McHugh Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED 101 South Capitol Blvd., Suite 300 Boise, ID 83702	☑ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☐ E-mail
Michael C. Creamer GIVENS PURSLEY LLP PO Box 2720 Boise, ID 83702	☑ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☐ E-mail

Robyn M. Brody

EXHIBIT A - PETITION FOR DELIVERY CALL

INDEX OF EXHIBITS

Sketch of Rangen Research Hatchery.....Exhibit 1A

Photograph of Rangen Research Hatchery dated August 29, 1986.....Exhibit 1B

Partial Decrees.....Exhibit 2

Rangen's Monthly Average Flow Measurements.....Exhibit 3A

Rangen's Weekly Average Flow Measurements.....Exhibit 3B

IDWR Order dated February 25, 2004.....Exhibit 4

IDWR Amended Order dated March 10, 2004.....Exhibit 5

IDWR Second Amended Order dated May 19, 2005.....Exhibit 6

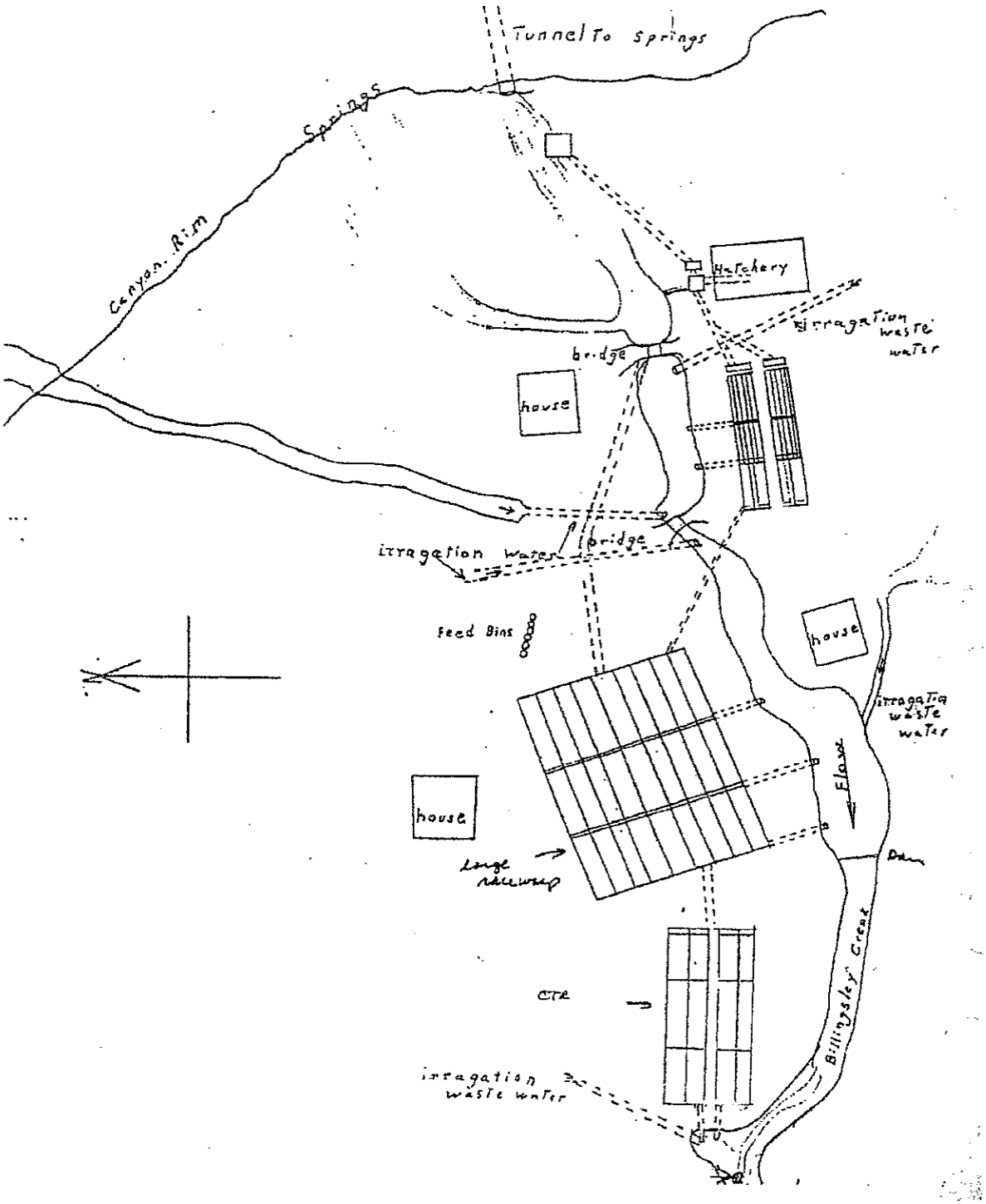
Letter from Rangen to Director Tuthill dated March 31, 2009.....Exhibit 7

Rangen's Petition Requesting Hearing on Second Amended Order of May 19, 2005 and Requesting Appointment of an Independent Hearing Officer.....Exhibit 8

Letter from Director Tuthill to ESHMC dated February 25, 2009.....Exhibit 9

IDWR Graph Showing Rangen's Measured Spring Flow vs. Modeled Results Using ESPAM2.....Exhibit 10

Memorandum from Leonard Rice Engineers, Inc. dated December 9, 2011.....Exhibit 11



Rangen Hatchery Facilities
Hagerman, Idaho

PLAINTIFF'S EXHIBIT
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PLAINTIFF'S
EXHIBIT
13
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-001348

1998 JAN 30 PM 4:18
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: RANGEN INC
PO BOX 706
BUHL ID 83316

SOURCE: MARTIN-CURREN TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.09 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 10/09/1884

POINT OF DIVERSION: T07S R14E S32 SESWNW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	Irrigation Season	0.09 CFS
DOMESTIC 3 HOMES AND 2 OFFICES	01-01 12-31	0.07 CFS

PLACE OF USE:

IRRIGATION
T07S R14E S31 Within GOODING County
S32 SWNE 2 SENE 4
SWNW 1
7 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-00135A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 7.0 ACRES IN A SINGLE IRRIGATION SEASON.

DOMESTIC
T07S R14E S31 Within GOODING County
S32 SENE
SWNW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

PLAINTIFF'S EXHIBIT 2

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 36-00135A

1998 JAN -6 AM 11: 44

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: RANGEN INC
PO BOX 706
BUHL ID 83316

SOURCE: MARTIN-CURREN TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.05 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 04/01/1908

POINT OF DIVERSION: T07S R14E S32 SESWNW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	Irrigation Season	0.05 CFS
DOMESTIC 3 HOMES AND 2 OFFICES	01-01 12-31	0.05 CFS

PLACE OF USE:

IRRIGATION Within GOODING County
T07S R14E S31 SWNE 2 SENE 4
S32 SWNW 1
7 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-001348 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 7.0 ACRES IN A SINGLE IRRIGATION SEASON.

DOMESTIC Within GOODING County
T07S R14E S31 SENE
S32 SWNW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
Case No. 39576) I.R.C.P. 54(b) FOR
)
) Water Right 36-15501

NAME & ADDRESS: RANGEN INC
PO BOX 706
BUHL ID 83316

SOURCE: MARTIN-CURREN TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.46 CFS

THIS RIGHT AND RIGHT NO. 36-02551 ARE LIMITED TO A TOTAL COMBINED FACILITY VOLUME OF 123,272 CU. FT.

PRIORITY DATE: 07/01/1957

POINT OF DIVERSION: T07S R14E S32 SESWNW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
FISH PROPAGATION	01-01 12-31	1.46 CFS

PLACE OF USE:

FISH PROPAGATION		Within GOODING County
T07S R14E	S31	SENE
	S32	SWNW

RULE 54(b) CERTIFICATE

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DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

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

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-02551

NAME & ADDRESS: RANGEN INC
PO BOX 706
BUHL ID 83316

SOURCE: MARTIN-CURREN TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 48.54 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
THIS RIGHT AND RIGHT NO. 36-15501 ARE LIMITED TO A TOTAL COMBINED FACILITY VOLUME OF 123,272 CU. FT.

PRIORITY DATE: 07/13/1962

POINT OF DIVERSION: T07S R14E S32 SESWNW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
FISH PROPAGATION	01-01 12-31	48.54 CFS
DOMESTIC 3 HOMES AND 2 OFFICES	01-01 12-31	0.1 CFS

PLACE OF USE:

FISH PROPAGATION		
T07S R14E S31	Within GOODING County	SENE
S32		SWNW
DOMESTIC		
T07S R14E S31	Within GOODING County	SENE
S32		SWNW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

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

In Re SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-07694

1997 DEC 30 AM 9:46

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

NAME & ADDRESS: RANGEN INC
PO BOX 706
BUHL ID 83316

SOURCE: MARTIN-CURREN TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 26.00 CFS

FACILITY VOLUME=287,640 CU. FT.

PRIORITY DATE: 04/12/1977

POINT OF DIVERSION: T07S R14E S32 SESWNW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
FISH PROPAGATION	01-01 12-31	26.00 CFS

PLACE OF USE:

FISH PROPAGATION		Within GOODING County
T07S R14E S31		SENE
	S32	SWNW

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Average
	Ranson Research Hatchery, total flow measurements												
	CTR + Dam measurements, average for the month												
1966	52.2	48.2	44.9	38.5	34.2	45.4	51.3	53.2	62.4	69.9	58.4	49.2	50.7
1967	43.9	39.3	33.4	36.6	37.6	47.4	49.0	52.9	58.9	69.4	67.4	64.3	50.0
1968	52.8	45.8	41.2	36.0	36.8	45.0	50.5	58.9	68.2	68.2	65.5	63.1	52.7
1969	50.8	43.4	38.2	33.4	34.3	45.5	49.6	58.5	65.9	66.9	64.7	57.2	50.7
1970	49.8	42.7	42.0	34.7	34.5	42.5	50.3	59.4	66.0	69.3	63.3	60.0	51.2
1971	50.2	41.2	39.1	37.2	40.5	43.4	51.0	60.5	64.8	73.7	70.2	63.4	52.9
1972	55.1	48.1	43.0	40.6	45.9	58.1	61.0	67.3	73.9	76.1	68.2	66.7	58.7
1973	57.9	49.1	46.2	37.6	39.6	42.1	53.1	55.1	57.8	65.8	61.6	55.3	51.8
1974	44.1	46.5	41.1	35.8	34.4	43.4	47.1	55.0	59.2	69.6	62.8	57.9	49.7
1975	43.0	39.9	32.8	33.5	37.3	39.5	43.2	51.9	55.6	57.9	56.2	58.3	45.8
1976	50.0	44.3	41.1	33.1	35.9	38.0	39.5	47.2	56.4	61.6	58.7	53.0	46.6
1977	47.1	39.5	37.7	35.2	32.6	37.0	34.9	33.9	37.9	38.9	42.4	37.6	37.9
1978	33.3	29.4	30.1	28.3	27.6	27.3	27.9	33.6	49.9	42.8	40.3	36.5	33.9
1979	34.4	30.3	29.3	24.5	20.3	25.4	27.1	36.1	47.8	47.7	42.2	38.3	33.6
1980	34.6	31.7	27.5	25.8	22.7	30.9	32.7	34.5	37.8	47.4	41.1	34.9	33.5
1981	31.1	26.7	22.4	23.7	20.0	21.5	27.5	33.3	37.0	39.1	41.0	34.1	29.8
1982	30.6	30.1	29.7	24.7	24.1	23.0	29.0	33.1	42.8	46.7	47.6	41.9	33.6
1983	37.0	33.1	32.3	28.2	30.3	29.0	35.1	43.1	47.5	51.9	48.6	46.7	38.6
1984	41.0	40.1	37.4	33.6	31.5	35.0	37.9	42.1	42.9	47.6	45.8	44.1	39.9
1985	40.2	38.3	36.1	34.5	31.7	31.0	32.9	45.3	48.9	52.0	49.1	42.5	40.2
1986	37.8	36.5	34.8	32.4	34.3	34.2	38.2	49.6	52.6	55.6	51.5	48.9	42.2
1987	43.3	38.2	36.1	30.7	30.1	35.5	37.2	45.2	45.6	52.3	47.4	45.3	40.6
1988	37.6	33.9	30.8	27.6	27.7	30.1	29.9	35.8	39.7	47.5	43.1	37.9	35.1
1989	34.4	31.3	28.7	22.2	23.2	25.0	27.5	35.3	34.9	42.9	38.7	36.7	31.7

tabbies
PLAINTIFF'S EXHIBIT
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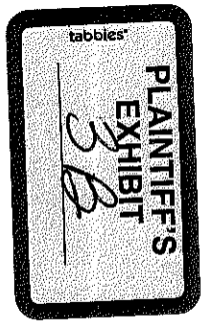
	Rangen Research Hatchery, total flow measurements												
ear	J.	Feb	Mar	Apr	May	Jun	Jul	Au	Sep	Oct	Nov	Dec	Average
990	34.3	31.7	28.8	20.9	22.3	24.9	26.5	30.4	35.2	41.9	35.6	32.1	30.4
991	28.6	27.2	27.3	17.8	18.9	19.9	20.8	27.5	34.8	35.6	32.8	32.3	27.0
992	27.4	22.9	21.8	16.4	15.7	15.5	18.1	18.8	21.3	24.8	20.4	18.9	20.2
993	16.8	17.0	15.4	16.4	13.9	15.2	15.8	21.0	27.3	36.2	31.2	27.5	21.1
994	24.3	22.3	19.8	17.1	18.9	16.9	19.4	22.3	27.6	33.4	28.8	25.8	23.1
995	22.5	20.7	19.7	19.1	18.1	19.2	16.5	19.5	25.3	30.9	31.9	28.5	22.7
996	25.4	23.3	22.4	22.2	20.3	18.9	19.4	22.8	30.2	34.8	34.2	32.6	25.5
997	31.6	29.9	30.0	26.2	24.0	26.1	25.4	27.8	35.2	43.2	43.3	37.5	31.7
998	36.1	33.6	30.9	29.9	30.1	32.9	26.1	26.6	33.6	41.3	41.9	39.5	33.5
999	36.5	32.6	30.8	25.7	24.8	24.3	19.8	21.8	27.9	36.1	38.3	32.2	29.2
000	31.7	29.3	28.5	22.7	20.3	18.7	16.0	21.7	27.7	33.9	34.0	29.5	26.2
001	27.0	24.2	23.1	21.3	16.9	12.8	13.2	14.8	18.3	23.6	24.0	21.8	20.1
002	20.1	18.4	17.3	14.9	12.5	11.7	10.8	11.0	15.2	21.0	21.1	18.9	16.1
003	16.5	15.1	13.9	12.9	12.9	12.7	11.6	12.0	14.9	18.3	18.2	16.1	14.6
004	14.6	13.3	13.1	11.7	11.4	12.2	11.8	11.8	13.1	14.4	13.7	12.8	12.8
005	12.1	11.4	11.1	11.5	11.4	11.5	10.8	10.6	12.4	15.7	15.0	14.1	12.3
006	13.2	12.6	12.6	12.8	11.6	12.2	11.7	13.1	17.1	21.0	19.5	17.6	14.6
007	15.7	14.6	13.8	13.4	13.6	13.8	12.8	11.8	16.6	21.3	20.5	19.0	15.6
008	16.6	15.2	14.1	13.4	12.5	12.6	11.4	11.7	13.7	18.1	17.5	15.5	14.3
009	14.0	13.2	12.6	11.9	11.0	11.4	11.7	12.3	14.6	18.1	17.2	16.1	13.7
010	14.4	13.6	12.4	12.0	11.9	12.7	11.7	12.1	14.1	17.6	18.4	16.4	13.9
011	14.9	13.8	13.4	13.1	12.7	13.3	12.3	12.3	14.0	19.9			
rage	33.2	30.1	28.0	25.9	24.6	27.1	28.6	32.9	37.9	42.6	40.7	37.3	32.7

Rangen Research Hatchery - Weekly Total Flow (CTR + Dam) Measurements

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1996												
Week 1	28.5	26.0	24.5	23.5	18.5	19.2	16.4	18.9			36.3	34.7
Week 2	27.8	24.2	24.3	23.0	17.3	16.5	15.1	20.9	26.7		35.8	34.3
Week 3	27.1	24.6	23.0	22.8	20.2	16.8	17.6	20.2	31.4	34.8	36.1	33.3
Week 4	25.4	24.8	23.2	22.5	21.8	14.2	16.7	23.0	29.0	35.9	34.9	32.5
Week 5	25.9			19.7			19.2					
Average	27.0	24.9	23.7	22.3	19.4	16.7	17.0	20.7	29.0	35.3	35.8	33.7
1997	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Week 1	31.8	29.2	30.9	28.4	26.7	25.1	27.7	25.1			44.0	41.6
Week 2	32.5	30.0	30.4	27.0	22.7	25.7	23.6	28.6	32.0		43.7	40.6
Week 3	31.6	30.5	29.5	27.2	22.4	27.1	25.9	29.7	32.9	42.9	43.5	39.5
Week 4	31.6	29.9	29.1	24.0	24.1	26.6	24.5	27.9	35.9	43.5	42.1	38.6
Week 5	30.4			24.4					39.4			37.2
Average	31.6	29.9	30.0	26.2	24.0	26.1	25.4	27.8	35.0	43.2	43.3	39.5
1998	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Week 1	37.1	34.3	32.1	29.4	22.9	31.2	24.7	23.4	26.8		42.3	40.6
Week 2	36.8	33.4	31.2	29.2	23.7	29.4	24.4	25.5			42.6	39.4
Week 3	35.9	34.0	30.4	29.0	28.0	29.3	21.1	25.2	32.9	41.2	41.4	37.8
Week 4	34.5	32.9	30.2	26.2	30.0	29.9	22.1	24.3	35.4	41.4	41.2	43.5
Week 5				24.3			23.5		39.2			36.2
Average	36.1	33.6	30.9	27.6	26.2	29.9	23.1	24.6	33.6	41.3	41.9	39.5
1999	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Week 1	36.2	34.0	33.5	27.3	25.9	24.4	21.3	21.3	24.8	34.3	31.2	34.3
Week 2	36.8	33.6	31.9	25.9	26.1	26.5	19.1	19.3	26.5	35.6	21.7	33.5
Week 3		33.3	30.1	25.6	24.6	24.5	18.4	20.6		37.0	31.4	32.5
Week 4		29.6	27.1	22.7	21.4	22.3	20.6	23.2	32.6	37.4	31.8	32.5
Week 5			26.8			24.2					31.7	
Average	36.5	32.6	29.9	25.4	24.5	24.4	19.9	21.1	28.0	36.1	29.5	33.2
2000	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Week 1	32.0	29.6	28.9	25.2	16.4	18.0	16.2	22.7	26.3	31.9	36.1	30.9
Week 2	32.3	29.2	30.1	24.7	18.1	18.2	15.1	18.8	28.0	34.5	34.7	30.3
Week 3	31.5	28.5	28.5	20.7	21.3	20.1	16.7	18.6	26.9	35.4	35.0	29.2
Week 4	30.9	29.8	29.1	20.4	23.3	18.5	21.2	21.6		33.8	30.0	27.5
Week 5			25.9		22.6			24.2				
Average	31.7	29.3	28.5	22.7	20.3	18.7	17.3	21.2	27.1	33.9	34.0	29.5
2001	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Week 1	27.5	26.1	24.2	21.8	17.7	11.2	13.8	13.7	17.9	20.0	24.5	22.0
Week 2	27.2	22.7	23.3	22.5	18.1	13.3	14.2	15.2	18.2	22.8	24.2	22.7



Week 3	27.2	23.4	22.5	21.3	16.3	14.3	12.3	14.5	18.2	24.4	23.7	22.2
Week 4	26.7	24.6	22.2	19.6	15.3	12.4	12.4	15.6	18.8	25.6	23.8	21.6
Week 5	26.2				17.0					25.0		21.0
verage	27.0	24.2	23.1	21.3	16.9	12.8	13.2	14.8	18.3	23.6	24.0	21.9
2002	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	20.5	19.1	17.4	16.4	12.0	11.3	10.9	10.1	12.3	20.3	21.5	19.6
Week 2	20.0	18.4	17.6	15.9	12.5	11.8	11.0	11.2	13.0	21.5	21.5	18.8
Week 3	19.8	18.1	17.0	15.5	13.5	12.1	10.6	11.3	14.5	21.2	20.7	19.2
Week 4	19.9	18.1	17.1	15.4	12.0	11.7	10.8	11.4	17.1	21.1	20.6	19.0
Week 5				13.1			11.0		19.2	20.9		17.9
verage	20.1	18.4	17.2	15.3	12.5	11.7	10.9	11.0	15.2	21.0	21.1	18.9
2003	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	16.9	16.0	14.6	13.2	12.9	13.0	11.9	11.3	12.9	16.7	19.2	17.1
Week 2	16.8	15.1	13.8	12.5	13.0	12.8	12.0	12.0	13.8	18.5	18.2	15.7
Week 3	16.2	14.9	13.7	13.0	12.8	12.5	11.0	12.3	15.1	19.2	17.8	16.2
Week 4	16.1	14.4	13.6	12.7	12.9	12.7	11.6	12.5	16.3	18.8	17.5	15.5
Week 5			13.5			12.3			15.9			15.9
verage	16.5	15.1	13.8	12.9	12.9	12.7	11.6	12.0	14.8	18.3	18.2	16.1
2004	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	15.2	13.4	13.3	11.8	11.3	12.3	12.1	12.0	12.1	14.9	14.2	12.9
Week 2	14.8	13.5	13.5	12.2	11.0	12.5	12.3	11.2	13.3	13.8	14.0	12.9
Week 3	14.5	13.2	13.4	11.3	10.9	12.1	11.3	11.7	13.2	14.3	13.5	12.7
Week 4	13.9	13.1	12.6	11.6	11.8	12.0	11.7	11.9	13.6	14.6	13.6	12.6
Week 5			12.7		12.1			12.4			13.3	
verage	14.6	13.3	13.1	11.7	11.4	12.2	11.8	11.8	13.1	14.4	13.7	12.8
2005	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	12.6	11.6	11.2	11.4	11.1	11.8	11.5	9.7	11.4	14.4	15.6	14.9
Week 2	12.5	11.6	10.9	11.5	10.9	11.7	10.9	9.9	11.8	15.3	15.7	14.1
Week 3	12.3	11.3	11.3	11.3	11.8	11.5	11.2	10.6	12.9	16.1	14.6	13.7
Week 4	11.9	11.0	10.8	11.7	11.8	11.0	9.8	11.3	13.3	16.6	14.1	13.6
Week 5	11.5				11.6			11.6		16.1		
verage	12.1	11.4	11.1	11.5	11.4	11.5	10.8	10.6	12.4	15.7	15.0	14.1
2006	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	13.6	12.7	12.3	12.8	12.6	12.0	12.4	12.9	15.1	19.0	20.7	18.1
Week 2	13.0	12.4	12.6	12.8	10.7	11.8	11.5	12.8	15.7	20.6	19.6	18.0
Week 3	13.1	12.5	12.9	12.8	11.3	12.4	11.4	12.9	18.2	22.0	19.1	17.6
Week 4	13.5	12.6	12.8	12.7	11.6	12.5	11.4	13.8	19.3	21.9	18.7	16.9
Week 5	12.8				11.9		12.1			21.5		
verage	13.2	12.6	12.6	12.8	11.6	12.2	11.8	13.1	17.1	21.0	19.5	17.6
2007	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**

Week 1	16.3	15.1	13.7	13.6	13.7	13.8	13.1	11.4	14.8	20.0	20.1	20.3
Week 2	15.7	15.1	13.7	13.2	13.5	14.2	12.7	11.6	15.6	20.7	20.6	19.9
Week 3	15.9	14.0	14.1	13.2	13.5	14.0	12.6	12.3	17.2	21.6	20.8	19.2
Week 4	15.6	14.2	13.6	13.2	13.9	13.4	12.6	12.0	19.0	22.2	20.5	17.7
Week 5	14.8			13.5			12.8			22.1		18.1
Average	15.7	14.6	13.8	13.4	13.6	13.8	12.8	11.8	16.7	21.3	20.5	19.0
2008	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	17.4	15.9	14.7	13.7	13.0	12.8	11.2	11.7	12.2	17.1	18.2	15.9
Week 2	16.9	15.2	14.0	13.8	12.3	12.9	11.4	10.9	12.8	18.1	17.9	15.6
Week 3	16.2	15.0	14.0	13.0	12.2	13.1	11.4	11.6	13.8	18.8	17.3	15.4
Week 4	15.9	14.6	13.9	13.0	12.7	12.9	11.4	12.4	14.5	18.5	16.5	15.2
Week 5			14.0			11.2			15.1			15.2
Average	16.6	15.2	14.1	13.4	12.6	12.6	11.4	11.7	13.7	18.1	17.5	15.4
2009	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	14.5	13.4	12.9	12.3	11.3	10.7	11.8	11.5	13.5	17.4	18.0	16.3
Week 2	14.4	13.3	12.2	12.0	11.5	9.3	11.7	12.1	14.7	18.2	17.1	16.5
Week 3	14.0	13.3	12.5	11.8	10.2	12.0	11.7	12.1	14.8	19.1	17.2	16.2
Week 4	13.2	13.0	12.7	11.6	10.9	12.5	11.7	12.6	15.6	17.7	16.9	15.5
Week 5			12.6					13.1			16.5	
Average	14.0	13.2	12.6	11.9	11.0	11.1	11.7	12.3	14.6	18.1	17.2	16.1
2010	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	14.8	14.2	12.6	12.2	11.8	12.6	12.0	11.7	13.2	16.0	19.0	17.6
Week 2	14.1	13.8	12.7	12.2	11.7	13.3	11.6	11.9	13.6	17.2	19.1	16.1
Week 3	14.7	13.3	12.3	11.7	11.7	12.9	11.3	12.1	14.4	18.0	18.5	16.3
Week 4	14.2	13.0	12.5	11.9	12.1	12.1	11.8	12.3	15.4	19.2	17.5	15.7
Week 5			11.8		12.3			12.8			18.3	
Average	14.4	13.6	12.4	12.0	11.9	12.7	11.7	12.1	14.1	17.6	18.5	16.4
2011	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
Week 1	15.7	14.2	13.8	13.2	13.0	13.6	12.4	11.8	13.0	16.5	21.9	19.9
Week 2	15.3	13.9	13.4	13.6	12.2	13.5	12.8	12.6	13.2	18.7	21.8	
Week 3	15.0	13.8	13.4	12.6	12.8	13.4	12.3	12.6	14.4	20.6	21.8	
Week 4	14.6	13.5	13.3	13.0	13.1	12.9	12.0	12.2	15.5	21.3	20.5	
Week 5	13.8				12.6			12.4		22.3		
Average	14.9	13.8	13.5	13.1	12.7	13.3	12.3	12.3	14.0	19.9	21.5	19.9

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-15501, 36-02551, AND 36-07694	))))	**ORDER**

This matter comes before the Director of the Department of Water Resources ("Director" or "Department") as a result of a letter dated September 23, 2003, and a subsequent letter dated October 6, 2003. Both letters were from J. Dee May ("May"), an attorney representing Rangen, Inc. The September 23 letter sought administration of "the diversion of water in District 36A in such a way that [Rangen] receives its full appropriation of the above referenced water rights" for use at hatchery facilities owned and operated by Rangen near Hagerman, Idaho. Because there are no water rights in Water District No. 36A that are junior in priority to the water rights listed above and divert from the same sources as the listed rights, the Director requested additional clarification concerning the nature of the administration of water rights sought by Rangen. In his October 6 letter, May described the administration sought by Rangen to be the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights under the water right numbers referenced above." The Director enters the following Findings of Fact, Conclusions of Law, and Order in response to these two letters.

FINDINGS OF FACT

The Eastern Snake River Plain Aquifer and the Department's Ground Water Model

1. The Eastern Snake River Plain Aquifer ("ESPA") is defined as the aquifer underlying the Eastern Snake River Plain as delineated in the report "Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho," USGS Professional Paper 1408-F, 1992, excluding areas lying both south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. The ESPA is also defined as an area having a common ground water supply. (See IDAPA 37.03.11.050).

2. The water supply in the ESPA is hydraulically connected to the Snake River and tributary surface water sources at various places and to varying degrees. One of the locations at which a direct hydraulic connection exists between the ESPA and surface water sources tributary to the Snake River is in the Thousand Springs area located at the western edge of the ESPA east and southeast of Hagerman, Idaho.

PLAINTIFF'S EXHIBIT 4

3. Simulations using the Department's calibrated computer model of the ESPA show that ground water withdrawals from certain portions of the ESPA for irrigation and other consumptive purposes cause reductions in spring flows tributary to the Kimberly to King Hill (or Thousand Springs) reach of the Snake River, although the reductions in flows from individual springs caused by ground water withdrawals from individual wells or groups of wells cannot be determined using the Department's existing ground water model for the ESPA.

4. Surface and ground water studies for the Eastern Snake River Plain, funded in part by the Idaho Legislature, were recently completed by or on behalf of the Department, with the participation of other public and private entities. These studies provide additional data that is being used to reformulate and recalibrate the ground water model used by the Department to calculate the amount, location, and timing of surface water depletions caused by the withdrawal and use of ground water throughout the plain overlying the ESPA. The purpose for the additional data collection and model reformulation/calibration is to reduce uncertainty in modeled results. Although development of the reformulated and recalibrated ground water model is nearly complete, the model will not be ready for use in making water management determinations until the latter part of 2004. In the meantime, the results from simulations using the Department's existing ground water model provide the best available technical basis for making some water management decisions.

5. The Department is implementing full conjunctive administration of rights to the use of interconnected surface and ground waters within the Eastern Snake River Plain consistent with Idaho law and available information. The results of simulations from the Department's existing ground water model are suitable for determining the area containing those ground water diversions for which the depletion of water from the ESPA results in the most direct and significant reduction in the flow of water from springs tributary to the Snake River in the Thousand Springs reach.

The Thousand Springs Ground Water Management Area and Interim Stipulated Agreement

6. Discharges from springs in the Thousand Springs area have diminished and are expected to be further diminished primarily because of significant reductions in incidental recharge of the ESPA from surface water irrigation, resulting from changes in surface water irrigation systems and application practices (conversion from application by flood irrigation to application by sprinkler systems), and the last four consecutive years of drought. For example, decreases in the springs supplying the Rangen hatchery facilities can be correlated with repairs made to the facilities of the North Side Canal Company to reduce losses of surface water to ground water from the canal company's facilities above those springs in 1987, 1998, and 2000. Spring discharges are also reduced as a result of ground water withdrawals from the ESPA for irrigation and other consumptive purposes that are diverted in relatively close proximity to the area of the springs. When superimposed on diminished spring discharges resulting from changes in surface water irrigation and drought, reductions in spring discharges caused by ground water depletions under relatively junior priority water rights can potentially cause injury to senior priority water rights dependent on spring sources.

7. On August 3, 2001, the Director issued orders designating the Thousand Springs Ground Water Management Area and the American Falls Ground Water Management Area in exercise of his statutory authorities to administer rights to the use of ground water, in a manner that recognizes and protects senior priority surface water rights in accordance with the directives of Idaho law. In issuing these orders, the Director also announced his intent to issue additional orders prior to September 1, 2001, directing that holders of certain water rights for the use of ground water cease ground water withdrawals beginning March 15, 2002, pursuant to Idaho Code § 42-233b.

8. On August 31, 2001, the Director was advised by representatives of certain holders of senior priority surface water rights and certain holders of junior priority ground water rights that an agreement in principle had been reached under which the holders of junior priority ground water rights agreed to provide replacement surface water for the next two irrigation seasons in an amount equal to what the information then available to the Director indicated would have resulted from the curtailment of ground water diversions intended by the Director within the Thousand Springs Ground Water Management Area, or an appropriate reduction in ground water diversions to the extent that replacement water was not provided.

9. Based upon the representations that an agreement in principle had been reached, the Director announced on August 31, 2001, that no curtailment orders would be issued for the Thousand Springs or American Falls Ground Water Management Areas.

10. After August 31, 2001, representatives of holders of most of the affected ground water rights entered into a detailed, written, stipulated agreement with representatives of certain holders of senior priority surface water rights in the Thousand Springs area titled: "Interim Stipulated Agreement for Areas Within and Near IDWR Administrative Basin 36" (the "Stipulated Agreement"). The Director conditionally approved the Stipulated Agreement by interlocutory order on January 18, 2002. Rangen was not a signatory to the Stipulated Agreement.

11. Under the Stipulated Agreement, the represented holders of senior priority surface water rights agreed not to exercise their senior priorities against the represented holders of junior priority ground water rights in exchange for commitments by the ground water right holders to provide 40,000 acre feet of replacement water during each irrigation season of each year of the two-year term of the Stipulated Agreement as replacement for the estimated increase in the quantity of water that would have been discharged through springs in the Thousand Springs area as a result of curtailment of ground water diversions intended by the Director after six months, based on the Department's simulations of curtailment using the existing ground water model for the ESPA. The estimated increase in the amount of water that would have been discharged through springs in the Thousand Springs area after one full year of curtailment of the ground water diversions intended by the Director, based on the simulations of curtailment using the Department's existing ground water model for the ESPA, is 48,000 acre feet. The replacement water was to be used to enhance spring flows in the Thousand Springs reach. In the event the full amount of replacement water could not be provided, the Stipulated Agreement provided that the holders of ground water rights would reduce their diversion and use of ground water for

irrigation in proportion to the lack of replacement water provided up to a maximum reduction of 10 percent.

12. Under the Stipulated Agreement, the parties also agreed not to oppose the State of Idaho's motion to the District Court for the Snake River Basin Adjudication ("SRBA District Court") requesting authority for the Director to implement interim administration of water rights in Basin 36. Basin 36 is the administrative basin defined by the Department primarily for the purpose of managing surface water and for administering water rights for the use of surface water decreed in proceedings preceding the Snake River Basin Adjudication. Basin 36 includes most of the area in the Thousand Springs Ground Water Management Area. The remaining portion of the Thousand Springs Ground Water Management Area is within the Department's Administrative Basin 37.

13. The holders of ground water rights party to the Stipulated Agreement fully met their obligations under the Stipulated Agreement in 2002 and 2003.

14, On October 10, 2003, the Director issued *Order In the Matter of Distribution of Water to Water Rights Nos. 36-02659, 36-02680, 36-04032A, 36-04032B, 36-04032C, 36-04032D, 36-07004, 36-07080, 36-07167, 36-07176, 36-07725, 36-07731, and 36-08089* in which the Director determined that through his approval of the Stipulated Agreement, he approved the amount of replacement water as being adequate mitigation to the Thousand Springs reach for the depletionary effects of ground water withdrawals for the two-year term of the agreement. By offseting the depletionary effects, any material injury potentially caused by out-of-priority diversion of ground water was adequately mitigated during the term of the Stipulated Agreement.

15. The Stipulated Agreement expired on December 31, 2003, and is no longer in effect.

Creation and Operation of Water Districts No. 120 and No. 130,
And Status of Thousand Springs and American Falls Ground Water Management Areas

16. Consistent with the Stipulated Agreement, the State of Idaho filed a motion with the SRBA District Court on November 19, 2001, requesting an order authorizing the interim administration of water rights by the Director in all or parts of the Department's Administrative Basins 36 and 43 overlying the ESPA in the Thousand Springs area. The State of Idaho also sought authorization for the interim administration of water rights by the Director in all or parts of the Department's Administrative Basins 35 and 41 overlying the ESPA in the American Falls area. On January 8, 2002, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued two orders on February 19, 2002, creating Water District No. 120 and Water District No. 130 pursuant to the provisions of Idaho Code § 42-604.

17. On August 30, 2002, the State of Idaho filed a second motion with the SRBA District Court requesting an order authorizing the interim administration of water rights by the

Director in the portion of the Department's Administrative Basin 37 overlying the ESPA in the Thousand Springs area. On November 19, 2002, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued an order on January 8, 2003, revising the boundaries of Water District No. 130 to include the portion of Administrative Basin 37 overlying the ESPA, pursuant to the provisions of Idaho Code § 42-604. The boundaries for Water District No. 130 encompass the North Snake Ground Water District and most of the Magic Valley Ground Water District.

18. On July 10, 2003, the State of Idaho filed a third motion with the SRBA District Court requesting an order authorizing the interim administration of water rights by the Director in the portion of the Department's Administrative Basin 29 overlying the ESPA in the American Falls area. On October 29, 2003, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued an order on January 22, 2004, revising the boundaries of Water District No. 120 to include the portion of Administrative Basin 29 overlying the ESPA, pursuant to the provisions of Idaho Code § 42-604.

19. Water Districts No. 120 and No. 130 were created, and the respective boundaries revised, to provide for the administration of water rights, pursuant to chapter 6, title 42, Idaho Code, for the protection of prior surface and ground water rights. As a result, the watermasters for Water Districts No. 120 and No. 130 were given the following duties to be performed in accordance with guidelines, direction, and supervision provided by the Director:

a. Curtail illegal diversions (i.e., any diversion without a water right or in excess of the elements or conditions of a water right);

b. Measure and report the diversions under water rights;

c. Enforce the provisions of any stipulated agreement; and

d. Curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

20. During 2002, in the course of carrying out the duties set forth in Finding19, the watermaster for Water District No. 130 identified five unauthorized diversions of ground water for uses that were in excess of the beneficial use authorized under a water right or for uses at unauthorized places of use. Pursuant to instructions from the Director, Notices of Violation were issued, Consent Orders entered, and penalties were assessed for each of these five illegal uses of ground water.

21. During 2003, in the course of carrying out the duties set forth in Finding 19, the watermaster for Water District No. 130 identified two additional unauthorized diversions of ground water; one for violation of a Consent Order entered in 2002, and another for a large expansion in use beyond the beneficial use authorized under a water right. A Notice of Violation has been issued for the former, and a Notice of Violation is pending for the latter.

22. The Director issued final orders on August 29, 2003, dissolving the Thousand Springs Ground Water Management Area and reducing the area of the American Falls Ground Water Management Area. Even though spring discharges in the Thousand Springs area have generally not improved since 2001 when the Thousand Springs Ground Water Management Area was designated, the Director determined that the Thousand Springs Ground Water Management Area was no longer necessary and preserving the original area of the American Falls Ground Water Management Area was no longer necessary to administer water rights for the protection of senior surface and ground water rights because administration of such rights is now accomplished through the operation of Water Districts No. 120 and No. 130.

The Conjunctive Management Rules

23. Idaho Code § 42-603 authorizes the Director "to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof." Promulgation of such rules and regulations must be in accordance with the procedures of chapter 52, title 67, Idaho Code.

24. On October 7, 1994, the Director issued *Order Adopting Final Rules*; the *Rules for Conjunctive Management of Surface and Ground Water Resources* (IDAPA 37.03.11) ("Conjunctive Management Rules"), promulgated pursuant to chapter 52, title 67, Idaho Code, and Idaho Code § 42-603.

25. The Conjunctive Management Rules "apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply." IDAPA 37.03.11.020.01.

26. The Conjunctive Management Rules "acknowledge all elements of the prior appropriation doctrine as established by Idaho law." IDAPA 37.03.11.020.02.

27. The Conjunctive Management Rules "may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right ... ." IDAPA 37.03.11.020.04.

28. Pursuant to Idaho Code § 67-5291, the Conjunctive Management Rules were submitted to the 1st Regular Session of the 53rd Idaho Legislature (1995 session). During no legislative session, beginning with the 1st Regular Session of the 53rd Idaho Legislature, have the Conjunctive Management Rules been rejected, amended, or modified by the Idaho Legislature. Therefore, the Conjunctive Management Rules are final and effective.

The Letters Submitted on Behalf of Rangen Seeking Administration of Water Rights and Application of the Conjunctive Management Rules

29. On September 23, 2003, the Director received a letter from May representing Rangen, Inc. seeking the administration of "the diversion of water in District 36A in such a way that [Rangen] receives its full appropriation of the above referenced water rights."

30. On September 25, 2003, the Director responded to the letter of September 23, 2003, from May requesting "additional clarification concerning the nature of the administration of water rights in Water District 36A" being sought, since "there are no water rights in Water District No. 36A that are junior in priority to the listed rights and divert from the same sources as the listed rights."

31. On October 10, 2003, the Director received a second letter from May dated October 6, 2003. In that letter, May clarified that Rangen was seeking the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights under the water right numbers referenced above."

32. The water rights held by Rangen that Rangen sought to have protected by the administration of junior priority water rights are as follows pursuant to decrees issued by the SRBA District Court:

Water Right No.:	36-15501	36-02551	36-07694
Priority Date:	July 1, 1957	July 13, 1962	April 12, 1977
Beneficial Use:	Fish Propagation	Domestic (0.1 cfs) and Fish Propagation (48.54 cfs)	Fish Propagation
Diversion Rate:	1.46 cfs	48.54 cfs	26.00 cfs
Period of Use:	Jan. 1 – Dec. 31	Jan. 1 – Dec. 31	Jan. 1 – Dec. 31

33. Rule 10.04 of the Conjunctive Management Rules defines a "delivery call" as: "A request from the holder of a water right for administration of water rights under the prior appropriation doctrine." The two letters from May seeking administration of water rights interfering with and impacting Rangen's water rights described in Findings 29 and 31 come within the definition of a delivery call.

34. Water Districts No. 36A, No. 120, and No. 130 were created pursuant to Idaho Code § 42-604. Water District No. 36A contains water rights senior in priority to Rangen's water rights that divert from a portion of the same sources as Rangen's water rights as well as water rights that divert from other sources, most of which are hydraulically connected but some of which are not hydraulically connected to the sources for Rangen's water rights. Although

some of the other sources are hydraulically connected to the sources for Rangen's water rights, water rights diverted from those sources do not interfere with and impact Rangen's water rights. Therefore, there are no water rights in Water District No. 36A that can be administered to prevent injury to Rangen's rights.

35. Water District No. 120 contains water rights that are junior in priority to Rangen's water rights and divert from ground water that is hydraulically connected to the source for Rangen's water rights. Such water rights could potentially interfere with and potentially impact Rangen's water rights.

36. Water District No. 130 contains surface water rights that divert from sources that are hydraulically connected to the sources for Rangen's water rights but do not interfere with or impact Rangen's water rights. Water District No. 130 also contains water rights that are junior in priority to Rangen's water rights and divert from ground water that is hydraulically connected to the sources for Rangen's water rights. Such water rights could potentially interfere with and potentially impact Rangen's water rights.

37. Rule 40 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights from Areas Having a Common Ground Water Supply in an Organized Water District." Rule 40 applies to the delivery calls made by Rangen against the holders of junior priority ground water rights in both Water District No. 120 and Water District No. 130.

38. Some of the junior priority ground water rights that could potentially interfere with and potentially impact Rangen's water rights are not in a water district created pursuant to the provisions of Idaho Code § 42-604 because a final decree has not been issued by the SRBA District Court and the requirements for interim administration of these rights pursuant to Idaho Code § 42-1417 have not been met. Also, some of the junior priority ground water rights that could potentially interfere with and potentially impact Rangen's water rights are in the American Falls Ground Water Management Area described in Findings 7 and 22.

39. Rule 30 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights Within Areas of the State Not in Organized Water Districts or Within Water Districts Where Ground Water Regulation Has Not Been Included in the Function of Such Districts or Within Areas That Have Not Been Designated Ground Water Management Areas."

40. Rule 41 of the Conjunctive Management Rules is titled "Administration of Diversion and Use of Water Within a Ground Water Management Area."

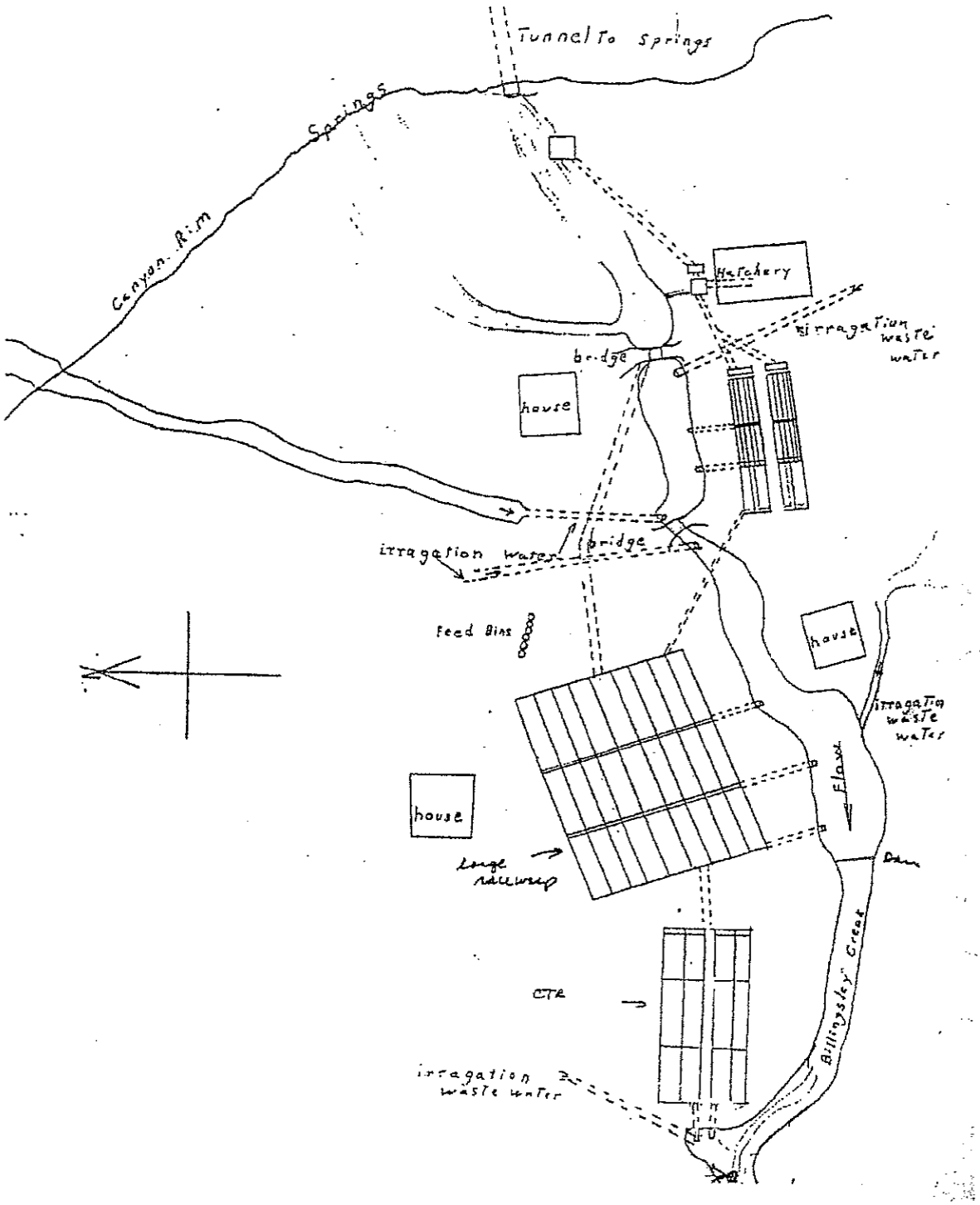
41. The two letters from May, described in Findings 29 and 31, seeking administration of water rights interfering with and impacting Rangen's water rights did not meet the requirements set forth in Rule 30 of the Conjunctive Management Rules. Also, the two

letters from May did not seek administration of junior priority ground water rights in the American Falls Ground Water Management Area as provided in Rule 41 of the Conjunctive Management Rules. Pursuant to Rule 41, such administration could not occur until the irrigation season of 2005, even if material injury to Rangen's rights was determined to be occurring as a result of diversion and use of ground water under junior priority rights in the American Falls Ground Water Management Area.

42. While Rule 40 of the Conjuctive Management Rules is applicable to the two letters from May, described in Findings 29 and 31, neither Rule 40 nor any other provisions of the Conjunctive Management Rules are applicable to delivery calls or demands for water distribution by the holder of a senior priority water right against the holder of a junior priority surface water right.

43. On October 17, 2003, the Director provided a letter to May initially responding to May's letter of October 10, 2003, described in Finding 31, making a delivery call by seeking administration of water rights interfering with and impacting Rangen's water rights. In his October 17 letter, the Director advised that determinations regarding "material injury" and "reasonableness of water diversions" would be made pursuant to Rule 40 and Rule 42 of the Conjunctive Management Rules in responding to the delivery call against junior priority ground water rights in Water Districts No. 120 and No. 130. In his October 17 letter, the Director also requested that he be provided copies of "all historical records of the amounts of water diverted under the listed rights as soon as practicable." Such records were not available to the Director for diversions under Rangen's water rights prior to 1995 because prior to 1995, the Department did not require the measurement and reporting of diversions under Rangen's rights and most other water rights that were not in organized water districts created pursuant to Idaho Code § 42-604.

44. On November 21, 2003, May transmitted on behalf of Rangen historical records of flow through the hatchery facilities owned and operated by Rangen. Included was the following sketch depicting the layout of the Rangen hatchery facilities, a summary of flows on a monthly basis, and records of periodic flow measurements beginning in 1966 through part of 2003.



Rangen Hatchery Facilities
Hagerman, Idaho

45. The flow measurements that are considered to be representative of the total supply of water available to the Rangen hatchery facilities under water rights nos. 36-15501, 36-02551, and 36-07694, consist of the sum of the discharge from raceways designated by Rangen as the "CTR" raceways and the flow over the check "Dam." The dam is sited upstream from the discharge points from the CTR raceways and downstream from the discharge points from raceways designated by Rangen as the "Large" raceways. The sum of the discharge from the CTR raceways and the flow over the check dam is considered to be representative of the total supply of water available even though at times some of the flow over the check dam may include water flowing from small springs downstream from the diversion to the Large raceways, water discharged from the Large raceways that was not diverted through the CTR raceways, and irrigation return flows.

46. The records of flow measurements submitted by May on behalf of Rangen for the years 1966 through 1974 consist of measurements or estimates of discharges from the Curran Spring made by George Lemmon, a former watermaster for Water District No. 36A. These recorded flows are not representative of the total supply of water available to the Rangen hatchery facilities because water rights for irrigation that are senior in priority to Rangen's rights are entitled to divert the first portion of the discharge from the Curran Spring during the irrigation season. In addition, the recorded flows do not include discharges from springs downstream of the Curran Spring that are upstream of Rangen's diversion to the Large raceways.

47. Without further explanation from Rangen, the Department can not confirm that the records of flow measurements submitted by May on behalf of Rangen for the years 1975 through 1980 are representative of the total supply of water available to the Rangen hatchery facilities. Based on subsequent findings in this order, however, it is not necessary to confirm whether the flow measurements for the years 1975 through 1980 are representative of the total supply of water available to the Rangen hatchery facilities.

Authorized Diversion Rate for Water Rights Nos. 36-15501, 36-02551, and 36-07694

48. Springs discharging in the Thousand Springs area do not discharge at a constant rate or at a rate that progressively increases or decreases from year to year. While there are overall increases or decreases in the discharge from individual springs between years (inter-year variations), there are also pronounced within-year or intra-year variations in discharge from individual springs.

49. Simplistically, overall variations between years in the discharge of springs in the Thousand Springs area result from differences between the amounts of ground water depletions and recharge to the ESPA above the springs, with delays in the response of spring discharge ranging at the extremes from days to decades depending on the proximity of ground water depletions and recharge as well as geologic and hydraulic characteristics of the ESPA. Factors affecting overall variations between years in the cumulative discharge from springs in the Thousand Springs area as well as from individual springs include but are not necessarily limited to: variations in surface water supplies available for irrigation above the ESPA, which affect

cropping decisions and the amount of incidental recharge to the ESPA; changes in the amounts and timing of tributary underflow to the ESPA, which also reflect numerous variations upgradient from where tributary underflow contributes to the ESPA; inter-year variations in precipitation and temperature, which not only affect the amount of surface water used above the ESPA and associated incidental recharge to the ESPA, but also affect the quantity of ground water withdrawals and depletions from the ESPA; and differences between years in the quantity of intentional or managed recharge to the ESPA.

50. Intra-year variations in the discharge from individual springs result from the factors described in Finding 49 but also from other factors including: variations in surface water application above the ESPA and associated incidental recharge in response to seasonal changes in precipitation and temperature; variations in timing of ground water withdrawals and depletions from the ESPA in close proximity to individual springs; and the timing of intentional or managed recharge to the ESPA in close proximity to individual springs.

51. While both the regional and local factors affecting inter-year and intra-year variations in spring discharge are generally understood, the interactions between these factors are complex and the specific effects of individual factors and various combinations of factors on the discharge from individual springs are not presently quantifiable.

52. Both inter-year and intra-year variations in the discharge from the springs that are the sources for water rights nos. 36-15501, 36-02551, and 36-07694 existed when appropriations for these rights were initiated (July 1, 1957; July 31, 1962; and April 12, 1977; respectively). Furthermore, the authorized diversion rates for water rights nos. 36-02551 and 36-07694 were licensed based on when the discharges from the springs that are the source for these rights were at or near the maximum intra-year discharges during the years for which the extent of beneficial use was deemed to be established or confirmed (November 1962 for 36-02551 and October 1972 for 36-07694), although erroneously for water right no. 36-07694 (see Findings 53 and 54 below). There are no other measurements of the total supply of water available to the Rangen hatchery facilities in 1962, nor any other means for determining the intra-year variations in the discharges from the springs comprising the source for water right no. 36-02551.

53. Water right no. 36-07694 was licensed on September 19, 1985, and has an authorized diversion rate of 26.00 cfs. The authorized diversion rate, as licensed, was not based on measurements of the amount of water actually diverted and applied to beneficial use. Rather, the authorized diversion rate was based on an estimate (not an actual measurement) made by George Lemon, a former watermaster for Water District No. 36A, of the discharge from the Curran Spring at or near its seasonal maximum flow in October of 1972. This estimate of the discharge from the Curran Spring was made nearly 5 years before the application for permit to appropriate water was filed for water right no. 36-07694.

54. Based on available records, there was not water available for appropriation at the time or subsequent to the date of appropriation for water right no. 36-07694. Therefore, the Department erred in licensing water right no. 36-07694, and should not have recommended this right for decree in the SRBA. Nonetheless, since the SRBA District Court decreed water right

no. 36-07694, Rangen may be entitled to divert water under this right when such water is physically available. However, because water was not available to appropriate on the date of appropriation for right no. 36-07694, Rangen may or not be entitled to have a delivery call recognized against junior priority water rights.

55. The records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities and the records maintained by the Department since 1995 show that the quantity of water available at the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) has been sufficient to continuously fill water right no. 36-15501 at the authorized diversion rate of 1.46 cfs.

56. The records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities show that 1987 was the last year in which the quantity of water available at the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) was sufficient to fill water right no. 36-02551 at the authorized diversion rate of 48.54 cfs, when the cumulative discharges from springs supplying the Rangen hatchery facilities were at seasonal maximums (November). Since 1987, the quantity of water available at the Rangen hatchery facilities has not been sufficient to fill water right no. 36-02551 at the authorized diversion rate of 48.54 cfs although in 1997 and 1998, the seasonal maximum quantity of water available came within about 5 cfs (or about 10 percent) of the authorized diversion rate.

57. The rates of diversion authorized pursuant to water rights nos. 36-15501 and 36-02551 (1.46 cfs and 48.54 cfs, respectively) are not quantity entitlements that are guaranteed to be available to Rangen. Rather, the authorized rates of diversion are the maximum rates at which water can be diverted under these rights, respectively, when such quantities of water are physically available and the rights are in priority. Rangen can not call for the curtailment of junior priority water rights at all times that insufficient water is physically available to fill water rights no. 36-02551 or no. 36-07694 at the authorized rates of diversion. Rangen is not entitled to a water supply that is enhanced beyond the conditions that existed at the time such rights were established; i.e., Rangen can not call for the curtailment of junior priority water rights simply because seasonally the discharge from springs is less than the authorized rates of diversion for Rangen's rights unless such seasonal variations are caused by depletions resulting from diversion and use of water under junior priority rights.

58. Rangen can only call for the distribution of water to its rights through the curtailment of junior priority ground water rights from the hydraulically-connected ESPA when such curtailment would result in a usable amount of water reaching Rangen's points of diversion in time of need, and depletions causing material injury as a result of diversion and use of ground water under such junior priority rights have not been adequately mitigated.

Factors Considered in Determining Material Injury To and Reasonableness of Water Diversions Under Water Rights Nos. 36-15501, 36-02551, and 36-07694

59. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, the following table summarizes the maximum daily flow and average daily flow by month for the water supply available to the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) in 1987 and 2003. The year 1987 was the last year within which the discharge from springs supplying the Rangen hatchery facilities at the seasonal maximum (November) was sufficient to fill water rights nos. 36-15501 and 36-02551 at the cumulative authorized diversion rate of 50 cfs, and 2003 was the last year for which complete data are available.

Month	Year	Maximum Daily Flow	Average Daily Flow
January	1987	44.25 cfs	44.25 cfs
	2003	17.49	16.60
February	1987	42.89	39.75
	2003	16.15	15.07
March	1987	NM*	NM*
	2003	14.56	13.82
April	1987	32.52	28.55
	2003	13.45	12.81
May	1987	23.97	23.29
	2003	13.14	12.89
June	1987	30.43	27.58
	2003	13.00	12.59
July	1987	30.91	29.09
	2003	12.16	11.61
August	1987	40.13	36.70
	2003	12.49	12.02
September	1987	47.94	40.06
	2003	16.97	14.92
October	1987	46.93	46.93
	2003	19.26	18.30
November	1987	50.08	46.52
	2003	19.20	18.20
December	1987	44.39	44.22
	2003	17.10	16.10

*NM = No measurement

60. Comparing same-month maximum daily and average daily flows representing the water supply available to the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) between years for the years shown above demonstrates that there have been significant decreases in the water supply available to the Rangen hatchery facilities between 1987 and 2003. Flow measurements for the other years between 1987 and 2003 not shown above demonstrate that the water supply available to the Rangen hatchery facilities generally decreased from 1990 through 1996, rebounded in 1997 and 1998, and then significantly decreased again after 1998 to record lows by 2002 and 2003 for the post-1981 time period.

61. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, the quantity of water available at the source for

water right no. 36-15501 with the priority date of July 1, 1957, is currently sufficient to fill this right at the authorized diversion rate of 1.46 cfs. (See IDAPA 37.03.11.042.01.a).

62. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, and taking into account the variations in spring flows between months that have existed since the date of appropriation for water right no. 36-02551, the quantity of water available at the source for water right no. 36-02551 with the priority date of July 13, 1962, is currently insufficient to fill this right at the authorized diversion rate of 48.54 cfs, even during months when the springs providing the source for this right are discharging at the highest seasonal flows during the year, generally October through January. Based on differences between average monthly flows for the years 1987 and 2003, the estimated annual decrease in the quantity of water available at the source for water right no. 36-02551 for 2003 is 16,000 acre feet. The annual shortage in the quantity of water available at the source for water right no. 36-02551 for 2004 is expected to be similar. (See IDAPA 37.03.11.042.01.a).

63. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, the quantity of water available at the source for water right no. 36-07694 with the priority date of April 12, 1977, is wholly insufficient to fill this right at the authorized diversion rate of 26.00 cfs, even during months when the springs providing the source of water for this right are discharging at the highest seasonal flows during the year, generally October through January. As described in Findings 53 and 54, there was not any water available for appropriation at the time or subsequent to the time that the application for permit to appropriate water for water right no. 36-07694 was filed. (See IDAPA 37.03.11.042.01.a).

64. Based on the results from field inspections conducted on November 25, 2003, by the watermaster for Water District No. 130 and Brian Patton, a registered professional civil engineer, Rangen has expended reasonable efforts to divert water for right no. 36-02551 from its source for use at the Rangen hatchery facilities. (See IDAPA 37.03.11.042.01.b).

65. Based on simulations using the Department's existing ground water model for the ESPA, the diversion and use of ground water under water rights having priority dates later than the priority date for water right no. 36-02551 (July 13, 1962) do affect the quantity and timing of when water is available from springs discharging in the Thousand Springs area. (See IDAPA 37.03.11.042.01.c).

66. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, as well as the field investigations on November 25, 2003, described in Finding 64, Rangen is currently diverting and using surface water within the

authorized diversion rate for water rights nos. 36-15501 and 36-02551 (50 cfs total). (See IDAPA 37.03.11.042.01.e)

67. Based on the field investigations on November 25, 2003, described in Finding 64, the Rangen hatchery facilities have marginally adequate water measuring and recording devices. However, the watermaster for Water District No. 130 reports that the amounts of water diverted to domestic and irrigation uses is not measured, and the measurements of flows through hatchery raceways reported by Rangen may be systematically about 10 percent lower than actual flows. (See IDAPA 37.03.11.042.01.f).

68. Based on the results from the field inspection on November 25, 2003, described in Finding 64, two potential modifications to the existing Rangen hatchery facilities were identified that could increase the supply of water to the Rangen hatchery facilities during times that water right no. 36-02551 is not satisfied. However, the combined additional flow that could be diverted is estimated to be 0.64 cfs, which is not significant given the shortages in water supply shown and described in Findings 59 and 60. (See IDAPA 37.03.11.042.01.g).

69. Based on the results from the field inspection on November 25, 2003, described in Finding 64, there are actions that potentially could provide alternate means of diversion or alternate points of diversion to increase the supply of water to the Rangen hatchery facilities during times that water right no. 36-02551 is not satisfied. However, the feasibility of these actions is unknown and it is not clear that the actions identified would result in a sufficient increase in the water supply available to fill water right no. 36-02551. Therefore, it can not be determined at the present time whether there are alternate reasonable means of diversion or alternate points of diversion that should be pursued. (See IDAPA 37.03.11.042.01.h).

70. Given the magnitude of the decreases in the water supply available to the Rangen hatchery facilities between 1987 and 2003, shown and described in Findings 59 and 60, and given the facts set forth in Findings 64 through 69, material contributions to the decreased water supply available to the Rangen hatchery facilities caused by depletions to the ESPA resulting from diversion and use of ground water under water rights that are junior in priority to Rangen's water right no. 36-02551 cause material injury. The maximum extent of the material injury is currently estimated to be 16,000 acre feet per year (see Finding 62). The extent of material injury is dependent on the factors described in Findings 49 and 50, which can vary significantly from year to year. If material injury to Rangen's water right no. 36-02551 occurs beyond 2004, the amount of material injury must be determined on an annual basis, and will be set forth in subsequent order(s) as necessary.

Effects of Curtailing Ground Water Diversions Under Rights Junior to Water Right No. 36-02551

71. The Department's existing ground water model was used to simulate the effects of curtailing all diversions and use of ground water for agricultural irrigation purposes in Water Districts No. 120 and No. 130, pursuant to water rights that are junior in priority to Rangen's water right no. 36-02551, which has a priority date of July 13, 1962.

72. Only ground water diverted and used for agricultural irrigation purposes was included in the modeled curtailment simulation. Disregarding the priority dates of ground water rights from the ESPA, the Department has determined that agricultural irrigation using ground water results in 93.5 percent of the total consumptive use causing depletions to the ESPA that contributes to reduced reach gains (or spring discharges) in the Thousand Springs area and reaches of the Snake River that are hydraulically connected to the ESPA. Uses pursuant to all ground water rights from the ESPA for commercial, municipal, domestic, and other purposes besides agricultural irrigation have been determined by the Department to cause depletions to the ESPA of 1.5 percent, 4 percent, 0.5 percent, and 0.5 percent of the total depletions to the ESPA, respectively.

73. The results from the simulated curtailment described in Findings 71 and 72 showed no significant simulated increases in reach gains (spring discharges) in the Thousand Springs area from simulated complete curtailment of ground water rights for agricultural irrigation junior in priority to July 13, 1962, in Water District No. 120 at any time period following simulated curtailment. Therefore, depletions to the ESPA from the diversion and use of ground water in Water District No. 120 under water rights junior in priority to July 13, 1962, do not cause material injury to Rangen's water right no. 36-02551.

74. The results from the simulated curtailment described in Findings 71 and 72 showed an increase in reach gains (spring discharges) in the Thousand Springs area of 53,000 acre feet after one year of simulated complete curtailment of ground water rights for agricultural irrigation junior in priority to July 13, 1962, in Water District No. 130.

75. The 53,000 acre feet of increased reach gain (spring discharges) that resulted from simulated curtailment of ground water diversion and use under water rights for agricultural irrigation in Water District No. 130 junior in priority to Rangen's water right no. 36-02551 accrued to the reach of the modeled Thousand Springs area as a whole. The Department's existing ground water model for the ESPA cannot provide accurate simulations of the effects on individual springs in the Thousand Springs area from curtailing individual ground water rights or groups of ground water rights.

76. The Department's existing ground water model for the ESPA provides the best and most technically sound information that is currently available concerning the effects of ground water depletions on spring discharges in the Thousand Springs area. The new ground water model resulting from the reformulation and recalibration described in Finding 4 is expected to provide more detailed information concerning the effects of ground water depletions on spring discharges in the Thousand Springs area. The new ground water model is not expected to be ready for use in making water management decisions until the latter part of 2004.

77. There currently is no other technical basis as accurate as the simulations from the Department's existing ground water model for the ESPA that could be used to determine the amount of reductions in spring discharges in the Thousand Springs area caused by depletions from the diversion and use of ground water under junior priority rights that result in material

injury to senior priority rights to use water from sources provided by such spring discharges. There also is not currently a sufficient basis to determine that the amount of replacement water or mitigation required to offset such depletions in lieu of curtailment is different than the 53,000 acre feet in increased reach gains (spring discharges) that is simulated to result after one year of curtailing water rights for agricultural irrigation in Water District No. 130 that are junior to the July 13, 1962, priority date of Rangen's water right no. 36-02551.

78. The amount of replacement water or other mitigation required that could offset depletions from continued out-of-priority diversion and use of ground water is subject to change and may increase or decrease after 2004, depending on hydrologic conditions, the factors described in Findings 49 and 50, and other additional information that will become available, including simulations using the new ground water model resulting from the reformulation and recalibration described in Finding 4.

79. Assuming a crop mix based on averages for Gooding, Jerome, and Minidoka Counties weighted by area for the years 2000 through 2002 from the National Agricultural Statistics Service, U. S. Department of Agriculture, 80 percent of the consumptive crop irrigation use occurs for irrigation through August 14 for years similar to 2002, using the reference consumptive use measured at the Agrimet Station in Kimberly, Idaho.

79. Matters expressed herein as a Finding of Fact that are later deemed to be a Conclusion of Law are hereby made as a Conclusion of Law.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-603, which grants the Director authority to adopt rules governing water distribution, provides as follows:

> The director of the department of water resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. Promulgation of rules and regulations shall be in accordance with the procedures of chapter 52, title 67, Idaho Code.

In addition, Idaho Code § 42-1805(8) provides the Director with authority to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. It is the duty of a watermaster, acting under the supervision of the Director, to distribute water from the public water supplies within a water district among those holding rights to the use of the water in accordance with the respective priority of the rights subject to applicable Idaho law, including applicable rules promulgated pursuant to the Idaho Administrative Procedure Act. See Idaho Code § 42-607.

4. The Department adopted Conjunctive Management Rules, effective October 7, 1994. IDAPA 37.03.11. The Conjunctive Management Rules prescribe procedures for responding to a delivery call made by the holder of a senior priority surface or ground water right against junior priority ground water rights in an area having a common ground water supply. IDAPA 37.03.11.001.

5. Rule 10 of the Conjunctive Management Rules contains the following pertinent definitions:

> **01. Area Having a Common Ground Water Supply.** A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights. IDAPA 37.03.11.010.01.
>
> **03. Conjunctive Management.** Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. IDAPA 37.03.11.010.03.
>
> **04. Delivery Call.** A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. IDAPA 37.03.11.010.04.

6. Rule 20 of the Conjunctive Management Rules contains the following pertinent statements of purpose and policies for conjunctive management of surface and ground water resources:

> **01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights.** The rules apply to all situations in the State where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply. IDAPA 37.03.11.020.01.
>
> **02. Prior Appropriation Doctrine.** These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law. IDAPA 37.03.11.020.02.

04. Delivery Calls. These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued. IDAPA 37.03.11.020.04.

7. Rule 40 of the Conjunctive Management Rules sets forth the following procedures to be followed for responses to calls for water delivery made by the holders of senior priority surface or ground water rights against the holders of junior priority ground water rights from areas having a common ground water supply in an organized water district. IDAPA 37.03.11.040.

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material injury is occurring, the Director, through the watermaster, shall:

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year period to lessen the economic impact of immediate and complete curtailment; or

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.

02. Regulation of Uses of Water by Watermaster. The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in section 42-604, Idaho Code, and under the following procedures:

a. The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source.

b. The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director.

c. Where a call is made by the holder of a senior-priority water right against the

holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority.

d. The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by section 42-606, Idaho Code.

e. Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated.

03. Reasonable Exercise of Rights. In determining whether diversion and use of water under rights will be regulated under Rules 40.01.a., or 40.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste.

04. Actions of the Watermaster under a Mitigation Plan. Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan.

. . . .

8. Rule 42 of the Conjunctive Management Rules sets forth the factors the Director may consider in determining material injury and the reasonableness of water diversions:

01. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following:

a. The amount of water available in the source from which the water right is diverted.

b. The effort or expense of the holder of the water right to divert water from the source.

c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application.

e. The amount of water being diverted and used compared to the water rights.

f. The existence of water measuring and recording devices.

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority.

02. The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan.

9. The Director created Water Districts No. 130 and No. 120 on February 19, 2002, and extended the boundaries of Water Districts No. 130 and No. 120 on January 8, 2003, and January 22, 2004, respectively, to provide for the administration of ground water rights in the area overlying the ESPA in the Thousand Springs area and the American Falls area, pursuant to the provisions of chapter 6, title 42, Idaho Code, for the protection of prior surface and ground water rights.

10. The Director has appointed watermasters for Water Districts No. 120 and No. 130 to perform the statutory duties of a watermaster in accordance with guidelines, direction, and supervision provided by the Director. The Director has given specific directions to the watermasters for Water Districts No. 120 and No. 130 to curtail illegal diversions, measure and report diversions, and curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

11. The two letters received on September 23 and October 10, 2003, by the Director from J. Dee May, representing Rangen, Inc., seeking the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights" are either delivery calls as defined by Rule 10.04 of the Conjunctive Management Rules against

junior priority ground water rights or demands for the administration of surface water rights pursuant to Idaho Code § 42-607.

12. Rule 40 of the Conjunctive Management Rules applies to the delivery calls made by Rangen against the holders of junior priority ground water rights, but not surface water rights, in Water Districts No. 36A, No. 120, and No. 130.

13. There are no surface water rights in Water Districts No. 36A or No. 130 that are junior in priority to Rangen's water right no. 36-02551 and that are diverted from the same surface water source as right no. 36-02551. There are also no surface water rights in Water District No. 120.

14. There are no ground water rights in Water District No. 36A that are diverted from a source that is hydraulically connected to the source for water right no. 36-02551.

15. Rules 40 and 42 of the Conjunctive Management Rules require the Director to make determinations regarding "material injury" and the "reasonableness of water diversions" in responding to a delivery call against junior priority ground water rights in Water Districts No. 120 and No. 130.

16. The reductions in the quantity of water discharging from springs in the Thousand Springs area attributable to depletions to the ESPA from the diversion and use of ground water in Water Districts No. 120 and No. 130 do not automatically constitute material injury to surface water rights diverting from springs or dependent on sources formed by springs even when the diversion and use of ground water occur under water rights that are junior in priority to such surface water rights. Whether reductions in the quantity of water discharging from springs caused by the diversion and use of ground water under junior priority rights in Water Districts No. 120 and No. 130 constitute material injury is dependent on the factors enumerated in Rule 42 of the Conjunctive Management Rules.

17. Based on simulations using the Department's existing ground water model simulating curtailment of all ground water rights for agricultural irrigation in Water District No. 120 junior in priority to July 13, 1962, there would be no material increase in reach gains (spring discharges) in the Thousand Springs area from such curtailment. Therefore, there are no material contributions to the decreased water supply caused by depletions to the ESPA resulting from diversion and use of ground water in Water District No. 120 under water rights that are junior in priority to water right no. 36-02551, and there is no material injury to water right no. 36-02551 from the diversion and use of ground water for agricultural irrigation under such rights

18. Given the magnitude of the decrease in the spring-dependent water supply currently available to the Rangen hatchery facilities, contributions to the decreased water supply caused by depletions to the ESPA resulting from diversion and use of ground water under water rights in Water District No. 130 that are junior in priority to Rangen's water right no. 36-02551 cause material injury.

19. Rule 42.02 of the Conjunctive Management Rules provides that the holder of a senior priority surface water right is prevented from making a delivery call for curtailment of pumping of any well under a junior priority ground water right if the ground water right is covered by an approved and effectively operating mitigation plan. IDAPA 37.03.11.042.02.

20. There currently is no approved and effectively operating mitigation plan in place to mitigate for reductions in discharges from the springs supplying Rangen's water right no. 36-02551 caused by depletions to the ESPA resulting from diversion and use of ground water under rights in Water District No. 130 that are junior to water right no. 36-02551. Therefore, the delivery call by Rangen for distribution of water to water right no. 36-02551 for use at the Rangen hatchery facilities is recognized.

21. The Department's existing ground water model for the ESPA cannot provide accurate simulations of the effects on individual springs in the Thousand Springs area from curtailing individual ground water rights or groups of ground water rights. There currently is no reliable method or basis for determining the effects of diversion and use of ground water under an individual water right or groups of water rights on individual springs in the Thousand Springs area.

22. Based on simulations using the Department's existing ground water model simulating curtailment of all ground water rights for agricultural irrigation in Water District No. 130 junior in priority to July 13, 1962, reach gains (spring discharges) in the Thousand Springs area would increase by a total of 53,000 acre feet after one year of simulated complete curtailment of such rights in Water District No. 130. To the extent that 53,000 acre feet of replacement water is supplied to increase spring discharges in the Thousand Springs area in 2004, or is used to obtain comparable results, no material injury could be determined to occur to water right no. 36-02551 in 2004 as a result of diversion and use of ground water for agricultural irrigation in Water District No. 130 under rights junior in priority to July 13, 1962.

23. Ground water districts created pursuant to Idaho Code §§ 42-5202 et seq. are specifically authorized by Idaho Code § 42-5224(11) to "... implement mitigation plans designed to mitigate any material injury caused by ground water use within the district upon senior water uses within and/or without the district."

24. Rule 40.02.b of the Conjunctive Management Rules requires the watermaster of Water District No. 130 to "regulate the diversions and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director." IDAPA 37.03.11.040.02.b.

ORDER

In response to the water delivery call made by Rangen, Inc., and for the reasons stated in the foregoing Findings of Fact and Conclusions of Law, the Director orders as follows:

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.

IT IS FURTHER ORDERED that holders of consumptive ground water rights in Water District No. 130 that are junior in priority to July 13, 1962, who are members of the North Snake Ground Water District or the Magic Valley Ground Water District (the "Ground Water Districts") will be allowed to divert or continue to divert ground water pursuant to their rights beginning on April 1, 2004, or subsequent date as herein provided, through March 31, 2005, provided the following actions are taken by the Ground Water Districts and the associated conditions are satisfied:

(1) The Ground Water Districts must submit a plan to the Director, which the Director approves by April 1, 2004, for providing Rangen with 16,000 acre feet of replacement water of suitable water quality for use by Rangen, and at a location and time usable by Rangen*.

(2) As an alternative to provision (1), the Ground Water Districts must submit a plan to the Director, which the Director approves by April 1, 2004, for providing replacement water, including surface water used in place of diversion and use of ground water, in the amount of 53,000 acre feet between April 1, 2004, and March 31, 2005, to increase spring discharges in the Thousand Springs area, or is used to obtain comparable results.

(3) In the event a plan for providing replacement water pursuant to either provision (1) or provision (2) is submitted or approved after April 1, 2004, then those rights subject to this Order will not be allowed to divert or continue to divert ground water pursuant to their rights until such plan is approved.

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* This Order is issued in response to the delivery call made by Rangen, Inc. There is at least one other order pending that may cause this action, in and of itself, to be inadequate to avoid curtailment of some portion of consumptive ground water rights in the North Snake and Magic Valley Ground Water Districts that are junior in priority to July 13, 1962.

(4) If a plan to provide replacement water pursuant to either provision (1) or provision (2) above is approved by the Director, monthly reports documenting the amount, location, and timing for replacement water supplied shall be submitted to the Director on the first of each month following the month in which the Director approves such plan for providing replacement water.

(5) The Director shall evaluate the monthly reports documenting the amount, location, and timing for replacement water supplied by the Ground Water Districts. If at any time the Ground Water Districts are not substantially on schedule to supply the required amount of replacement water in accordance with the plan approved by the Director, except as otherwise provided in provision (6) below, the Director shall determine, based upon the monthly reports and other current water supply information, whether the actions of the districts constitute good faith substantial compliance with the provisions of the water replacement plan. If the Director determines that the Ground Water Districts are not in substantial compliance with the plan, the Director may order the immediate curtailment of all or a portion of the consumptive ground water rights in Water District No. 130 junior in priority to July 13, 1962.

(6) If a plan to provide replacement water pursuant to either provision (1) or provision (2) above is approved by the Director, and the full quantity of replacement water is not supplied, a portion of the replacement water not to exceed 20 percent may be supplied between April 1 and August 31, 2005. Documentation that such portion of the replacement water has been secured for delivery in 2005 must be submitted to the Director by August 1, 2004, and such replacement water shall be provided in addition to any other replacement water that may be required beginning April 1, 2005, by any subsequent order of the Director. This carryover provision is for contingency purposes only and will not be approved as an initial element of a plan to provide replacement water pursuant to either provision (1) or provision (2) above.

(7) If a plan to provide replacement water pursuant to either provision (1) or provision (2) above is approved by the Director, and the monthly report required to be submitted on August 1, 2004, required in (4) above does not demonstrate that the full quantity of replacement water will be supplied prior to March 31, 2005, and the carryover provisions in (6) above are not satisfied, then all or a portion of consumptive ground water rights in Water District No. 130 junior in priority to July 13, 1962, will be curtailed by the watermaster beginning on August 15, 2004, for the remainder of the 2004 irrigation season as follows:

a. If the amount of replacement water confirmed to be supplied prior to March 31, 2005, is 80 percent or less of the amount required herein, then all consumptive ground water rights in Water District No. 130 junior in priority to July 13, 1962, will be curtailed beginning on August 15, 2004; or

b. If the amount of replacement water confirmed to be supplied prior to March 31, 2005, is more than 80 percent of the amount required herein, then the priority date for consumptive ground water rights in Water District No. 130 to be curtailed will be adjusted by the Director to a later date such that the curtailed ground water depletion equals the shortfall in the quantity of confirmed replacement water.

IT IS FURTHER ORDERED that the holder of any consumptive ground water right in Water District No. 130 that is junior in priority to July 13, 1962, who is not a member of either the North Snake Ground Water District or the Magic Valley Ground Water District, may petition the Director prior to March 15, 2004, setting forth the reasons why such right holder should not be subject to this order, or proposing a plan to offset the depletions to the ESPA caused by diversion and use of ground water under that holder's water right(s).

IT IS FURTHER ORDERED that any person aggrieved by this decision shall be entitled to a hearing before the Director to contest the action taken provided the person files with the Director, within fifteen (15) days after receipt of written notice of the order, or receipt of actual notice, a written petition stating the grounds for contesting the action and requesting a hearing. Any hearing conducted shall be in accordance with the provisions of chapter 52, title 67, Idaho Code, and the Rules of Procedure of the Department, IDAPA 37.01.01. Judicial review of any final order of the Director issued following the hearing may be had pursuant to Section 42-1701A(4), Idaho Code.

DATED this 25th day of February 2004.

KARL J. DREHER
Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-15501, 36-02551, AND 36-07694	**AMENDED ORDER**

This matter comes before the Director of the Department of Water Resources ("Director" or "Department") as a result of a letter dated September 23, 2003, and a subsequent letter dated October 6, 2003. Both letters were from J. Dee May ("May"), an attorney representing Rangen, Inc. The September 23 letter sought administration of "the diversion of water in District 36A in such a way that [Rangen] receives its full appropriation of the above referenced water rights" for use at hatchery facilities owned and operated by Rangen near Hagerman, Idaho. Because there are no water rights in Water District No. 36A that are junior in priority to the water rights listed above and divert from the same sources as the listed rights, the Director requested additional clarification concerning the nature of the administration of water rights sought by Rangen. In his October 6 letter, May described the administration sought by Rangen to be the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights under the water right numbers referenced above." The Director issued an Order on February 25, 2004, in response to these two letters. The Director now enters the following Findings of Fact, Conclusions of Law, and Amended Order with revisions to Findings of Fact Nos. 21, 54, 70, 74, 75, and 77, and Conclusions of Law No. 22.

FINDINGS OF FACT

The Eastern Snake River Plain Aquifer and the Department's Ground Water Model

1. The Eastern Snake River Plain Aquifer ("ESPA") is defined as the aquifer underlying the Eastern Snake River Plain as delineated in the report "Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho," USGS Professional Paper 1408-F, 1992, excluding areas lying both south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. The ESPA is also defined as an area having a common ground water supply. (See IDAPA 37.03.11.050).

2. The water supply in the ESPA is hydraulically connected to the Snake River and tributary surface water sources at various places and to varying degrees. One of the locations at which a direct hydraulic connection exists between the ESPA and surface water sources tributary to the Snake River is in the Thousand Springs area located at the western edge of the ESPA east and southeast of Hagerman, Idaho.

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3. Simulations using the Department's calibrated computer model of the ESPA show that ground water withdrawals from certain portions of the ESPA for irrigation and other consumptive purposes cause reductions in spring flows tributary to the Kimberly to King Hill (or Thousand Springs) reach of the Snake River, although the reductions in flows from individual springs caused by ground water withdrawals from individual wells or groups of wells cannot be determined using the Department's existing ground water model for the ESPA.

4. Surface and ground water studies for the Eastern Snake River Plain, funded in part by the Idaho Legislature, were recently completed by or on behalf of the Department, with the participation of other public and private entities. These studies provide additional data that is being used to reformulate and recalibrate the ground water model used by the Department to calculate the amount, location, and timing of surface water depletions caused by the withdrawal and use of ground water throughout the plain overlying the ESPA. The purpose for the additional data collection and model reformulation/calibration is to reduce uncertainty in modeled results. Although development of the reformulated and recalibrated ground water model is nearly complete, the model will not be ready for use in making water management determinations until the latter part of 2004. In the meantime, the results from simulations using the Department's existing ground water model provide the best available technical basis for making some water management decisions.

5. The Department is implementing full conjunctive administration of rights to the use of interconnected surface and ground waters within the Eastern Snake River Plain consistent with Idaho law and available information. The results of simulations from the Department's existing ground water model are suitable for determining the area containing those ground water diversions for which the depletion of water from the ESPA results in the most direct and significant reduction in the flow of water from springs tributary to the Snake River in the Thousand Springs reach.

The Thousand Springs Ground Water Management Area and Interim Stipulated Agreement

6. Discharges from springs in the Thousand Springs area have diminished and are expected to be further diminished primarily because of significant reductions in incidental recharge of the ESPA from surface water irrigation, resulting from changes in surface water irrigation systems and application practices (conversion from application by flood irrigation to application by sprinkler systems), and the last four consecutive years of drought. For example, decreases in the springs supplying the Rangen hatchery facilities can be correlated with repairs made to the facilities of the North Side Canal Company to reduce losses of surface water to ground water from the canal company's facilities above those springs in 1987, 1998, and 2000. Spring discharges are also reduced as a result of ground water withdrawals from the ESPA for irrigation and other consumptive purposes that are diverted in relatively close proximity to the area of the springs. When superimposed on diminished spring discharges resulting from changes in surface water irrigation and drought, reductions in spring discharges caused by ground water

depletions under relatively junior priority water rights can potentially cause injury to senior priority water rights dependent on spring sources.

7. On August 3, 2001, the Director issued orders designating the Thousand Springs Ground Water Management Area and the American Falls Ground Water Management Area in exercise of his statutory authorities to administer rights to the use of ground water, in a manner that recognizes and protects senior priority surface water rights in accordance with the directives of Idaho law. In issuing these orders, the Director also announced his intent to issue additional orders prior to September 1, 2001, directing that holders of certain water rights for the use of ground water cease ground water withdrawals beginning March 15, 2002, pursuant to Idaho Code § 42-233b.

8. On August 31, 2001, the Director was advised by representatives of certain holders of senior priority surface water rights and certain holders of junior priority ground water rights that an agreement in principle had been reached under which the holders of junior priority ground water rights agreed to provide replacement surface water for the next two irrigation seasons in an amount equal to what the information then available to the Director indicated would have resulted from the curtailment of ground water diversions intended by the Director within the Thousand Springs Ground Water Management Area, or an appropriate reduction in ground water diversions to the extent that replacement water was not provided.

9. Based upon the representations that an agreement in principle had been reached, the Director announced on August 31, 2001, that no curtailment orders would be issued for the Thousand Springs or American Falls Ground Water Management Areas.

10. After August 31, 2001, representatives of holders of most of the affected ground water rights entered into a detailed, written, stipulated agreement with representatives of certain holders of senior priority surface water rights in the Thousand Springs area titled: "Interim Stipulated Agreement for Areas Within and Near IDWR Administrative Basin 36" (the "Stipulated Agreement"). The Director conditionally approved the Stipulated Agreement by interlocutory order on January 18, 2002. Rangen was not a signatory to the Stipulated Agreement.

11. Under the Stipulated Agreement, the represented holders of senior priority surface water rights agreed not to exercise their senior priorities against the represented holders of junior priority ground water rights in exchange for commitments by the ground water right holders to provide 40,000 acre feet of replacement water during each irrigation season of each year of the two-year term of the Stipulated Agreement as replacement for the estimated increase in the quantity of water that would have been discharged through springs in the Thousand Springs area as a result of curtailment of ground water diversions intended by the Director after six months, based on the Department's simulations of curtailment using the existing ground water model for the ESPA. The estimated increase in the amount of water that would have been discharged through springs in the Thousand Springs area after one full year of curtailment of the ground water diversions intended by the Director, based on the simulations of curtailment using the Department's existing ground water model for the ESPA, is 48,000 acre feet. The replacement

water was to be used to enhance spring flows in the Thousand Springs reach. In the event the full amount of replacement water could not be provided, the Stipulated Agreement provided that the holders of ground water rights would reduce their diversion and use of ground water for irrigation in proportion to the lack of replacement water provided up to a maximum reduction of 10 percent.

12. Under the Stipulated Agreement, the parties also agreed not to oppose the State of Idaho's motion to the District Court for the Snake River Basin Adjudication ("SRBA District Court") requesting authority for the Director to implement interim administration of water rights in Basin 36. Basin 36 is the administrative basin defined by the Department primarily for the purpose of managing surface water and for administering water rights for the use of surface water decreed in proceedings preceding the Snake River Basin Adjudication. Basin 36 includes most of the area in the Thousand Springs Ground Water Management Area. The remaining portion of the Thousand Springs Ground Water Management Area is within the Department's Administrative Basin 37.

13. The holders of ground water rights party to the Stipulated Agreement fully met their obligations under the Stipulated Agreement in 2002 and 2003.

14, On October 10, 2003, the Director issued *Order In the Matter of Distribution of Water to Water Rights Nos. 36-02659, 36-02680, 36-04032A, 36-04032B, 36-04032C, 36-04032D, 36-07004, 36-07080, 36-07167, 36-07176, 36-07725, 36-07731, and 36-08089* in which the Director determined that through his approval of the Stipulated Agreement, he approved the amount of replacement water as being adequate mitigation to the Thousand Springs reach for the depletionary effects of ground water withdrawals for the two-year term of the agreement. By offseting the depletionary effects, any material injury potentially caused by out-of-priority diversion of ground water was adequately mitigated during the term of the Stipulated Agreement.

15. The Stipulated Agreement expired on December 31, 2003, and is no longer in effect.

Creation and Operation of Water Districts No. 120 and No. 130,
And Status of Thousand Springs and American Falls Ground Water Management Areas

16. Consistent with the Stipulated Agreement, the State of Idaho filed a motion with the SRBA District Court on November 19, 2001, requesting an order authorizing the interim administration of water rights by the Director in all or parts of the Department's Administrative Basins 36 and 43 overlying the ESPA in the Thousand Springs area. The State of Idaho also sought authorization for the interim administration of water rights by the Director in all or parts of the Department's Administrative Basins 35 and 41 overlying the ESPA in the American Falls area. On January 8, 2002, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued two orders on February 19, 2002, creating Water District No. 120 and Water District No. 130 pursuant to the provisions of Idaho Code § 42-604.

17. On August 30, 2002, the State of Idaho filed a second motion with the SRBA District Court requesting an order authorizing the interim administration of water rights by the Director in the portion of the Department's Administrative Basin 37 overlying the ESPA in the Thousand Springs area. On November 19, 2002, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued an order on January 8, 2003, revising the boundaries of Water District No. 130 to include the portion of Administrative Basin 37 overlying the ESPA, pursuant to the provisions of Idaho Code § 42-604. The boundaries for Water District No. 130 encompass the North Snake Ground Water District and most of the Magic Valley Ground Water District.

18. On July 10, 2003, the State of Idaho filed a third motion with the SRBA District Court requesting an order authorizing the interim administration of water rights by the Director in the portion of the Department's Administrative Basin 29 overlying the ESPA in the American Falls area. On October 29, 2003, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued an order on January 22, 2004, revising the boundaries of Water District No. 120 to include the portion of Administrative Basin 29 overlying the ESPA, pursuant to the provisions of Idaho Code § 42-604.

19. Water Districts No. 120 and No. 130 were created, and the respective boundaries revised, to provide for the administration of water rights, pursuant to chapter 6, title 42, Idaho Code, for the protection of prior surface and ground water rights. As a result, the watermasters for Water Districts No. 120 and No. 130 were given the following duties to be performed in accordance with guidelines, direction, and supervision provided by the Director:

a. Curtail illegal diversions (i.e., any diversion without a water right or in excess of the elements or conditions of a water right);

b. Measure and report the diversions under water rights;

c. Enforce the provisions of any stipulated agreement; and

d. Curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

20. During 2002, in the course of carrying out the duties set forth in Finding 19, the watermaster for Water District No. 130 identified five unauthorized diversions of ground water for uses that were in excess of the beneficial use authorized under a water right or for uses at unauthorized places of use. Pursuant to instructions from the Director, Notices of Violation were issued, Consent Orders entered, and penalties were assessed for each of these five illegal uses of ground water.

21. During 2003, in the course of carrying out the duties set forth in Finding 19, the watermaster for Water District No. 130 identified two additional unauthorized diversions of

ground water; one for violation of a Consent Order entered in 2002, and another for a large expansion in use beyond the beneficial use authorized under a water right. Notices of Violation have been issued for both unauthorized diversions.

22. The Director issued final orders on August 29, 2003, dissolving the Thousand Springs Ground Water Management Area and reducing the area of the American Falls Ground Water Management Area. Even though spring discharges in the Thousand Springs area have generally not improved since 2001 when the Thousand Springs Ground Water Management Area was designated, the Director determined that the Thousand Springs Ground Water Management Area was no longer necessary and preserving the original area of the American Falls Ground Water Management Area was no longer necessary to administer water rights for the protection of senior surface and ground water rights because administration of such rights is now accomplished through the operation of Water Districts No. 120 and No. 130.

The Conjunctive Management Rules

23. Idaho Code § 42-603 authorizes the Director "to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof." Promulgation of such rules and regulations must be in accordance with the procedures of chapter 52, title 67, Idaho Code.

24. On October 7, 1994, the Director issued *Order Adopting Final Rules*; the *Rules for Conjunctive Management of Surface and Ground Water Resources* (IDAPA 37.03.11) ("Conjunctive Management Rules"), promulgated pursuant to chapter 52, title 67, Idaho Code, and Idaho Code § 42-603.

25. The Conjunctive Management Rules "apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply." IDAPA 37.03.11.020.01.

26. The Conjunctive Management Rules "acknowledge all elements of the prior appropriation doctrine as established by Idaho law." IDAPA 37.03.11.020.02.

27. The Conjunctive Management Rules "may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right ... ." IDAPA 37.03.11.020.04.

28. Pursuant to Idaho Code § 67-5291, the Conjunctive Management Rules were submitted to the 1st Regular Session of the 53rd Idaho Legislature (1995 session). During no legislative session, beginning with the 1st Regular Session of the 53rd Idaho Legislature, have the

Conjunctive Management Rules been rejected, amended, or modified by the Idaho Legislature. Therefore, the Conjunctive Management Rules are final and effective.

The Letters Submitted on Behalf of Rangen Seeking Administration of Water Rights and Application of the Conjunctive Management Rules

29. On September 23, 2003, the Director received a letter from May representing Rangen, Inc. seeking the administration of "the diversion of water in District 36A in such a way that [Rangen] receives its full appropriation of the above referenced water rights."

30. On September 25, 2003, the Director responded to the letter of September 23, 2003, from May requesting "additional clarification concerning the nature of the administration of water rights in Water District 36A" being sought, since "there are no water rights in Water District No. 36A that are junior in priority to the listed rights and divert from the same sources as the listed rights."

31. On October 10, 2003, the Director received a second letter from May dated October 6, 2003. In that letter, May clarified that Rangen was seeking the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights under the water right numbers referenced above."

32. The water rights held by Rangen that Rangen sought to have protected by the administration of junior priority water rights are as follows pursuant to decrees issued by the SRBA District Court:

Water Right No.:	36-15501	36-02551	36-07694
Priority Date:	July 1, 1957	July 13, 1962	April 12, 1977
Beneficial Use:	Fish Propagation	Domestic (0.1 cfs) and Fish Propagation (48.54 cfs)	Fish Propagation
Diversion Rate:	1.46 cfs	48.54 cfs	26.00 cfs
Period of Use:	Jan. 1 – Dec. 31	Jan. 1 – Dec. 31	Jan. 1 – Dec. 31

33. Rule 10.04 of the Conjunctive Management Rules defines a "delivery call" as: "A request from the holder of a water right for administration of water rights under the prior appropriation doctrine." The two letters from May seeking administration of water rights interfering with and impacting Rangen's water rights described in Findings 29 and 31 come within the definition of a delivery call.

34. Water Districts No. 36A, No. 120, and No. 130 were created pursuant to Idaho Code § 42-604. Water District No. 36A contains water rights senior in priority to Rangen's

water rights that divert from a portion of the same sources as Rangen's water rights as well as water rights that divert from other sources, most of which are hydraulically connected but some of which are not hydraulically connected to the sources for Rangen's water rights. Although some of the other sources are hydraulically connected to the sources for Rangen's water rights, water rights diverted from those sources do not interfere with and impact Rangen's water rights. Therefore, there are no water rights in Water District No. 36A that can be administered to prevent injury to Rangen's rights.

35. Water District No. 120 contains water rights that are junior in priority to Rangen's water rights and divert from ground water that is hydraulically connected to the source for Rangen's water rights. Such water rights could potentially interfere with and potentially impact Rangen's water rights.

36. Water District No. 130 contains surface water rights that divert from sources that are hydraulically connected to the sources for Rangen's water rights but do not interfere with or impact Rangen's water rights. Water District No. 130 also contains water rights that are junior in priority to Rangen's water rights and divert from ground water that is hydraulically connected to the sources for Rangen's water rights. Such water rights could potentially interfere with and potentially impact Rangen's water rights.

37. Rule 40 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights from Areas Having a Common Ground Water Supply in an Organized Water District." Rule 40 applies to the delivery calls made by Rangen against the holders of junior priority ground water rights in both Water District No. 120 and Water District No. 130.

38. Some of the junior priority ground water rights that could potentially interfere with and potentially impact Rangen's water rights are not in a water district created pursuant to the provisions of Idaho Code § 42-604 because a final decree has not been issued by the SRBA District Court and the requirements for interim administration of these rights pursuant to Idaho Code § 42-1417 have not been met. Also, some of the junior priority ground water rights that could potentially interfere with and potentially impact Rangen's water rights are in the American Falls Ground Water Management Area described in Findings 7 and 22.

39. Rule 30 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights Within Areas of the State Not in Organized Water Districts or Within Water Districts Where Ground Water Regulation Has Not Been Included in the Function of Such Districts or Within Areas That Have Not Been Designated Ground Water Management Areas."

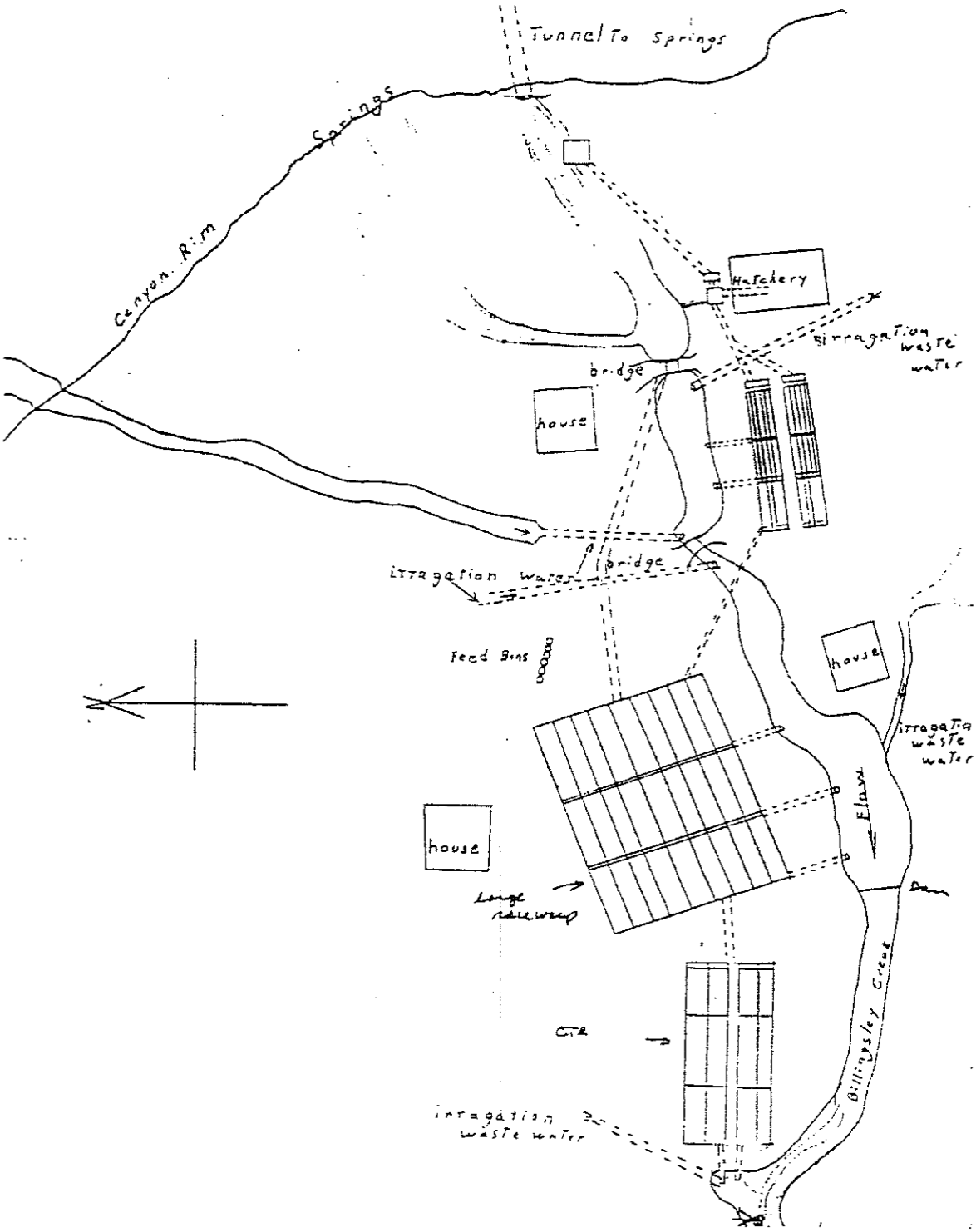
40. Rule 41 of the Conjunctive Management Rules is titled "Administration of Diversion and Use of Water Within a Ground Water Management Area."

41. The two letters from May, described in Findings 29 and 31, seeking administration of water rights interfering with and impacting Rangen's water rights did not meet the requirements set forth in Rule 30 of the Conjunctive Management Rules. Also, the two letters from May did not seek administration of junior priority ground water rights in the American Falls Ground Water Management Area as provided in Rule 41 of the Conjunctive Management Rules. Pursuant to Rule 41, such administration could not occur until the irrigation season of 2005, even if material injury to Rangen's rights was determined to be occurring as a result of diversion and use of ground water under junior priority rights in the American Falls Ground Water Management Area.

42. While Rule 40 of the Conjuctive Management Rules is applicable to the two letters from May, described in Findings 29 and 31, neither Rule 40 nor any other provisions of the Conjunctive Management Rules are applicable to delivery calls or demands for water distribution by the holder of a senior priority water right against the holder of a junior priority surface water right.

43. On October 17, 2003, the Director provided a letter to May initially responding to May's letter of October 10, 2003, described in Finding 31, making a delivery call by seeking administration of water rights interfering with and impacting Rangen's water rights. In his October 17 letter, the Director advised that determinations regarding "material injury" and "reasonableness of water diversions" would be made pursuant to Rule 40 and Rule 42 of the Conjunctive Management Rules in responding to the delivery call against junior priority ground water rights in Water Districts No. 120 and No. 130. In his October 17 letter, the Director also requested that he be provided copies of "all historical records of the amounts of water diverted under the listed rights as soon as practicable." Such records were not available to the Director for diversions under Rangen's water rights prior to 1995 because prior to 1995, the Department did not require the measurement and reporting of diversions under Rangen's rights and most other water rights that were not in organized water districts created pursuant to Idaho Code § 42-604.

44. On November 21, 2003, May transmitted on behalf of Rangen historical records of flow through the hatchery facilities owned and operated by Rangen. Included was the following sketch depicting the layout of the Rangen hatchery facilities, a summary of flows on a monthly basis, and records of periodic flow measurements beginning in 1966 through part of 2003.



Rangen Hatchery Facilities
Hagerman, Idaho

45. The flow measurements that are considered to be representative of the total supply of water available to the Rangen hatchery facilities under water rights nos. 36-15501, 36-02551, and 36-07694, consist of the sum of the discharge from raceways designated by Rangen as the "CTR" raceways and the flow over the check "Dam." The dam is sited upstream from the discharge points from the CTR raceways and downstream from the discharge points from raceways designated by Rangen as the "Large" raceways. The sum of the discharge from the CTR raceways and the flow over the check dam is considered to be representative of the total supply of water available even though at times some of the flow over the check dam may include water flowing from small springs downstream from the diversion to the Large raceways, water discharged from the Large raceways that was not diverted through the CTR raceways, and irrigation return flows.

46. The records of flow measurements submitted by May on behalf of Rangen for the years 1966 through 1974 consist of measurements or estimates of discharges from the Curran Spring made by George Lemmon, a former watermaster for Water District No. 36A. These recorded flows are not representative of the total supply of water available to the Rangen hatchery facilities because water rights for irrigation that are senior in priority to Rangen's rights are entitled to divert the first portion of the discharge from the Curran Spring during the irrigation season. In addition, the recorded flows do not include discharges from springs downstream of the Curran Spring that are upstream of Rangen's diversion to the Large raceways.

47. Without further explanation from Rangen, the Department can not confirm that the records of flow measurements submitted by May on behalf of Rangen for the years 1975 through 1980 are representative of the total supply of water available to the Rangen hatchery facilities. Based on subsequent findings in this order, however, it is not necessary to confirm whether the flow measurements for the years 1975 through 1980 are representative of the total supply of water available to the Rangen hatchery facilities.

Authorized Diversion Rate for Water Rights Nos. 36-15501, 36-02551, and 36-07694

48. Springs discharging in the Thousand Springs area do not discharge at a constant rate or at a rate that progressively increases or decreases from year to year. While there are overall increases or decreases in the discharge from individual springs between years (inter-year variations), there are also pronounced within-year or intra-year variations in discharge from individual springs.

49. Simplistically, overall variations between years in the discharge of springs in the Thousand Springs area result from differences between the amounts of ground water depletions and recharge to the ESPA above the springs, with delays in the response of spring discharge ranging at the extremes from days to decades depending on the proximity of ground water depletions and recharge as well as geologic and hydraulic characteristics of the ESPA. Factors affecting overall variations between years in the cumulative discharge from springs in the Thousand Springs area as well as from individual springs include but are not necessarily limited to: variations in surface water supplies available for irrigation above the ESPA, which affect

cropping decisions and the amount of incidental recharge to the ESPA; changes in the amounts and timing of tributary underflow to the ESPA, which also reflect numerous variations upgradient from where tributary underflow contributes to the ESPA; inter-year variations in precipitation and temperature, which not only affect the amount of surface water used above the ESPA and associated incidental recharge to the ESPA, but also affect the quantity of ground water withdrawals and depletions from the ESPA; and differences between years in the quantity of intentional or managed recharge to the ESPA.

50. Intra-year variations in the discharge from individual springs result from the factors described in Finding 49 but also from other factors including: variations in surface water application above the ESPA and associated incidental recharge in response to seasonal changes in precipitation and temperature; variations in timing of ground water withdrawals and depletions from the ESPA in close proximity to individual springs; and the timing of intentional or managed recharge to the ESPA in close proximity to individual springs.

51. While both the regional and local factors affecting inter-year and intra-year variations in spring discharge are generally understood, the interactions between these factors are complex and the specific effects of individual factors and various combinations of factors on the discharge from individual springs are not presently quantifiable.

52. Both inter-year and intra-year variations in the discharge from the springs that are the sources for water rights nos. 36-15501, 36-02551, and 36-07694 existed when appropriations for these rights were initiated (July 1, 1957; July 31, 1962; and April 12, 1977; respectively). Furthermore, the authorized diversion rates for water rights nos. 36-02551 and 36-07694 were licensed based on when the discharges from the springs that are the source for these rights were at or near the maximum intra-year discharges during the years for which the extent of beneficial use was deemed to be established or confirmed (November 1962 for 36-02551 and October 1972 for 36-07694), although erroneously for water right no. 36-07694 (see Findings 53 and 54 below). There are no other measurements of the total supply of water available to the Rangen hatchery facilities in 1962, nor any other means for determining the intra-year variations in the discharges from the springs comprising the source for water right no. 36-02551.

53. Water right no. 36-07694 was licensed on September 19, 1985, and has an authorized diversion rate of 26.00 cfs. The authorized diversion rate, as licensed, was not based on measurements of the amount of water actually diverted and applied to beneficial use. Rather, the authorized diversion rate was based on an estimate (not an actual measurement) made by George Lemon, a former watermaster for Water District No. 36A, of the discharge from the Curran Spring at or near its seasonal maximum flow in October of 1972. This estimate of the discharge from the Curran Spring was made nearly 5 years before the application for permit to appropriate water was filed for water right no. 36-07694.

54. Based on available records, there was not water available for appropriation at the time or subsequent to the date of appropriation for water right no. 36-07694. Therefore, the Department erred in licensing water right no. 36-07694, and should not have recommended this right for decree in the SRBA. Nonetheless, since the SRBA District Court decreed water right

no. 36-07694, Rangen may be entitled to divert water under this right when such water is physically available. However, because water was not available to appropriate on the date of appropriation for right no. 36-07694, Rangen may not be entitled to have a delivery call recognized against junior priority water rights.

55. The records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities and the records maintained by the Department since 1995 show that the quantity of water available at the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) has been sufficient to continuously fill water right no. 36-15501 at the authorized diversion rate of 1.46 cfs.

56. The records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities show that 1987 was the last year in which the quantity of water available at the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) was sufficient to fill water right no. 36-02551 at the authorized diversion rate of 48.54 cfs, when the cumulative discharges from springs supplying the Rangen hatchery facilities were at seasonal maximums (November). Since 1987, the quantity of water available at the Rangen hatchery facilities has not been sufficient to fill water right no. 36-02551 at the authorized diversion rate of 48.54 cfs although in 1997 and 1998, the seasonal maximum quantity of water available came within about 5 cfs (or about 10 percent) of the authorized diversion rate.

57. The rates of diversion authorized pursuant to water rights nos. 36-15501 and 36-02551 (1.46 cfs and 48.54 cfs, respectively) are not quantity entitlements that are guaranteed to be available to Rangen. Rather, the authorized rates of diversion are the maximum rates at which water can be diverted under these rights, respectively, when such quantities of water are physically available and the rights are in priority. Rangen can not call for the curtailment of junior priority water rights at all times that insufficient water is physically available to fill water rights no. 36-02551 or no. 36-07694 at the authorized rates of diversion. Rangen is not entitled to a water supply that is enhanced beyond the conditions that existed at the time such rights were established; i.e., Rangen can not call for the curtailment of junior priority water rights simply because seasonally the discharge from springs is less than the authorized rates of diversion for Rangen's rights unless such seasonal variations are caused by depletions resulting from diversion and use of water under junior priority rights.

58. Rangen can only call for the distribution of water to its rights through the curtailment of junior priority ground water rights from the hydraulically-connected ESPA when such curtailment would result in a usable amount of water reaching Rangen's points of diversion in time of need, and depletions causing material injury as a result of diversion and use of ground water under such junior priority rights have not been adequately mitigated.

Factors Considered in Determining Material Injury To and Reasonableness of Water Diversions Under Water Rights Nos. 36-15501, 36-02551, and 36-07694

59. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, the following table summarizes the maximum daily flow and average daily flow by month for the water supply available to the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) in 1987 and 2003. The year 1987 was the last year within which the discharge from springs supplying the Rangen hatchery facilities at the seasonal maximum (November) was sufficient to fill water rights nos. 36-15501 and 36-02551 at the cumulative authorized diversion rate of 50 cfs, and 2003 was the last year for which complete data are available.

Month	Year	Maximum Daily Flow	Average Daily Flow
January	1987	44.25 cfs	44.25 cfs
	2003	17.49	16.60
February	1987	42.89	39.75
	2003	16.15	15.07
March	1987	NM*	NM*
	2003	14.56	13.82
April	1987	32.52	28.55
	2003	13.45	12.81
May	1987	23.97	23.29
	2003	13.14	12.89
June	1987	30.43	27.58
	2003	13.00	12.59
July	1987	30.91	29.09
	2003	12.16	11.61
August	1987	40.13	36.70
	2003	12.49	12.02
September	1987	47.94	40.06
	2003	16.97	14.92
October	1987	46.93	46.93
	2003	19.26	18.30
November	1987	50.08	46.52
	2003	19.20	18.20
December	1987	44.39	44.22
	2003	17.10	16.10

*NM = No measurement

60. Comparing same-month maximum daily and average daily flows representing the water supply available to the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) between years for the years shown above demonstrates that there have been significant decreases in the water supply available to the Rangen hatchery facilities between 1987 and 2003. Flow measurements for the other years between 1987 and 2003 not shown above demonstrate that the water supply available to the Rangen hatchery facilities generally decreased from 1990 through 1996, rebounded in 1997 and 1998, and then significantly decreased again after 1998 to record lows by 2002 and 2003 for the post-1981 time period.

61. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, the quantity of water available at the source for

water right no. 36-15501 with the priority date of July 1, 1957, is currently sufficient to fill this right at the authorized diversion rate of 1.46 cfs. (See IDAPA 37.03.11.042.01.a).

62. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, and taking into account the variations in spring flows between months that have existed since the date of appropriation for water right no. 36-02551, the quantity of water available at the source for water right no. 36-02551 with the priority date of July 13, 1962, is currently insufficient to fill this right at the authorized diversion rate of 48.54 cfs, even during months when the springs providing the source for this right are discharging at the highest seasonal flows during the year, generally October through January. Based on differences between average monthly flows for the years 1987 and 2003, the estimated annual decrease in the quantity of water available at the source for water right no. 36-02551 for 2003 is 16,000 acre feet. The annual shortage in the quantity of water available at the source for water right no. 36-02551 for 2004 is expected to be similar. (See IDAPA 37.03.11.042.01.a).

63. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, the quantity of water available at the source for water right no. 36-07694 with the priority date of April 12, 1977, is wholly insufficient to fill this right at the authorized diversion rate of 26.00 cfs, even during months when the springs providing the source of water for this right are discharging at the highest seasonal flows during the year, generally October through January. As described in Findings 53 and 54, there was not any water available for appropriation at the time or subsequent to the time that the application for permit to appropriate water for water right no. 36-07694 was filed. (See IDAPA 37.03.11.042.01.a).

64. Based on the results from field inspections conducted on November 25, 2003, by the watermaster for Water District No. 130 and Brian Patton, a registered professional civil engineer, Rangen has expended reasonable efforts to divert water for right no. 36-02551 from its source for use at the Rangen hatchery facilities. (See IDAPA 37.03.11.042.01.b).

65. Based on simulations using the Department's existing ground water model for the ESPA, the diversion and use of ground water under water rights having priority dates later than the priority date for water right no. 36-02551 (July 13, 1962) do affect the quantity and timing of when water is available from springs discharging in the Thousand Springs area. (See IDAPA 37.03.11.042.01.c).

66. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2003, as well as the field investigations on November 25, 2003, described in Finding 64, Rangen is currently diverting and using surface water within the

authorized diversion rate for water rights nos. 36-15501 and 36-02551 (50 cfs total). (See IDAPA 37.03.11.042.01.e)

67. Based on the field investigations on November 25, 2003, described in Finding 64, the Rangen hatchery facilities have marginally adequate water measuring and recording devices. However, the watermaster for Water District No. 130 reports that the amounts of water diverted to domestic and irrigation uses is not measured, and the measurements of flows through hatchery raceways reported by Rangen may be systematically about 10 percent lower than actual flows. (See IDAPA 37.03.11.042.01.f).

68. Based on the results from the field inspection on November 25, 2003, described in Finding 64, two potential modifications to the existing Rangen hatchery facilities were identified that could increase the supply of water to the Rangen hatchery facilities during times that water right no. 36-02551 is not satisfied. However, the combined additional flow that could be diverted is estimated to be 0.64 cfs, which is not significant given the shortages in water supply shown and described in Findings 59 and 60. (See IDAPA 37.03.11.042.01.g).

69. Based on the results from the field inspection on November 25, 2003, described in Finding 64, there are actions that potentially could provide alternate means of diversion or alternate points of diversion to increase the supply of water to the Rangen hatchery facilities during times that water right no. 36-02551 is not satisfied. However, the feasibility of these actions is unknown and it is not clear that the actions identified would result in a sufficient increase in the water supply available to fill water right no. 36-02551. Therefore, it can not be determined at the present time whether there are alternate reasonable means of diversion or alternate points of diversion that should be pursued. (See IDAPA 37.03.11.042.01.h).

70. Given the magnitude of the decreases in the water supply available to the Rangen hatchery facilities between 1987 and 2003, shown and described in Findings 59 and 60, and given the facts set forth in Findings 64 through 69, material contributions to the decreased water supply available to the Rangen hatchery facilities caused by depletions to the ESPA resulting from diversion and use of ground water under water rights that are junior in priority to Rangen's water right no. 36-02551 cause material injury. The maximum extent of the material injury can not be more than the decrease in the quantity of water available at the source for water right no. 36-02551, which is currently estimated to be 16,000 acre feet per year (see Finding 62). The extent of material injury is dependent on the factors described in Findings 49 and 50, which can vary significantly from year to year. If material injury to Rangen's water right no. 36-02551 occurs beyond 2004, the amount of material injury must be determined on an annual basis, and will be set forth in subsequent order(s) as necessary.

Effects of Curtailing Ground Water Diversions Under Rights Junior to Water Right No. 36-02551

71. The Department's existing ground water model was used to simulate the effects of curtailing all diversions and use of ground water for agricultural irrigation purposes in Water

Districts No. 120 and No. 130, pursuant to water rights that are junior in priority to Rangen's water right no. 36-02551, which has a priority date of July 13, 1962.

72. Only ground water diverted and used for agricultural irrigation purposes was included in the modeled curtailment simulation. Disregarding the priority dates of ground water rights from the ESPA, the Department has determined that agricultural irrigation using ground water results in 93.5 percent of the total consumptive use causing depletions to the ESPA that contributes to reduced reach gains (or spring discharges) in the Thousand Springs area and reaches of the Snake River that are hydraulically connected to the ESPA. Uses pursuant to all ground water rights from the ESPA for commercial, municipal, domestic, and other purposes besides agricultural irrigation have been determined by the Department to cause depletions to the ESPA of 1.5 percent, 4 percent, 0.5 percent, and 0.5 percent of the total depletions to the ESPA, respectively.

73. The results from the simulated curtailment described in Findings 71 and 72 showed no significant simulated increases in reach gains (spring discharges) in the Thousand Springs area from simulated complete curtailment of ground water rights for agricultural irrigation junior in priority to July 13, 1962, in Water District No. 120 at any time period following simulated curtailment. Therefore, depletions to the ESPA from the diversion and use of ground water in Water District No. 120 under water rights junior in priority to July 13, 1962, do not cause material injury to Rangen's water right no. 36-02551.

74. The results from the simulated curtailment described in Findings 71 and 72 showed an increase in reach gains (spring discharges) in the Thousand Springs area of 26,500 acre feet after one year of simulated complete curtailment of ground water rights for agricultural irrigation junior in priority to July 13, 1962, in Water District No. 130.

75. The 26,500 acre feet of increased reach gain (spring discharges) that resulted from simulated curtailment of ground water diversion and use under water rights for agricultural irrigation in Water District No. 130 junior in priority to Rangen's water right no. 36-02551 accrued to the reach of the modeled Thousand Springs area as a whole. The Department's existing ground water model for the ESPA cannot provide accurate simulations of the effects on individual springs in the Thousand Springs area from curtailing individual ground water rights or groups of ground water rights.

76. The Department's existing ground water model for the ESPA provides the best and most technically sound information that is currently available concerning the effects of ground water depletions on spring discharges in the Thousand Springs area. The new ground water model resulting from the reformulation and recalibration described in Finding 4 is expected to provide more detailed information concerning the effects of ground water depletions on spring discharges in the Thousand Springs area. The new ground water model is not expected to be ready for use in making water management decisions until the latter part of 2004.

77. There currently is no other technical basis as accurate as the simulations from the Department's existing ground water model for the ESPA that could be used to determine the

amount of reductions in spring discharges in the Thousand Springs area caused by depletions from the diversion and use of ground water under junior priority rights that result in material injury to senior priority rights to use water from sources provided by such spring discharges. There also is not currently a sufficient basis to determine that the amount of replacement water or mitigation required to offset such depletions in lieu of curtailment is different than the 26,500 acre feet in increased reach gains (spring discharges) that is simulated to result after one year of curtailing water rights for agricultural irrigation in Water District No. 130 that are junior to the July 13, 1962, priority date of Rangen's water right no. 36-02551.

78. The amount of replacement water or other mitigation required that could offset depletions from continued out-of-priority diversion and use of ground water is subject to change and may increase or decrease after 2004, depending on hydrologic conditions, the factors described in Findings 49 and 50, and other additional information that will become available, including simulations using the new ground water model resulting from the reformulation and recalibration described in Finding 4.

79. Assuming a crop mix based on averages for Gooding, Jerome, and Minidoka Counties weighted by area for the years 2000 through 2002 from the National Agricultural Statistics Service, U. S. Department of Agriculture, 80 percent of the consumptive crop irrigation use occurs for irrigation through August 14 for years similar to 2002, using the reference consumptive use measured at the Agrimet Station in Kimberly, Idaho.

79. Matters expressed herein as a Finding of Fact that are later deemed to be a Conclusion of Law are hereby made as a Conclusion of Law.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-603, which grants the Director authority to adopt rules governing water distribution, provides as follows:

> The director of the department of water resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of

the rights of the users thereof. Promulgation of rules and regulations shall be in accordance with the procedures of chapter 52, title 67, Idaho Code.

In addition, Idaho Code § 42-1805(8) provides the Director with authority to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. It is the duty of a watermaster, acting under the supervision of the Director, to distribute water from the public water supplies within a water district among those holding rights to the use of the water in accordance with the respective priority of the rights subject to applicable Idaho law, including applicable rules promulgated pursuant to the Idaho Administrative Procedure Act. See Idaho Code § 42-607.

4. The Department adopted Conjunctive Management Rules, effective October 7, 1994. IDAPA 37.03.11. The Conjunctive Management Rules prescribe procedures for responding to a delivery call made by the holder of a senior priority surface or ground water right against junior priority ground water rights in an area having a common ground water supply. IDAPA 37.03.11.001.

5. Rule 10 of the Conjunctive Management Rules contains the following pertinent definitions:

> **01. Area Having a Common Ground Water Supply.** A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights. IDAPA 37.03.11.010.01.
>
> **03. Conjunctive Management.** Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. IDAPA 37.03.11.010.03.
>
> **04. Delivery Call.** A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. IDAPA 37.03.11.010.04.

6. Rule 20 of the Conjunctive Management Rules contains the following pertinent statements of purpose and policies for conjunctive management of surface and ground water resources:

> **01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights.** The rules apply to all situations in the State where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply. IDAPA 37.03.11.020.01.

02. Prior Appropriation Doctrine. These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law. IDAPA 37.03.11.020.02.

04. Delivery Calls. These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued. IDAPA 37.03.11.020.04.

7. Rule 40 of the Conjunctive Management Rules sets forth the following procedures to be followed for responses to calls for water delivery made by the holders of senior priority surface or ground water rights against the holders of junior priority ground water rights from areas having a common ground water supply in an organized water district. IDAPA 37.03.11.040.

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material injury is occurring, the Director, through the watermaster, shall:

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year period to lessen the economic impact of immediate and complete curtailment; or

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.

02. Regulation of Uses of Water by Watermaster. The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in section 42-604, Idaho Code, and under the following procedures:

a. The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source.

b. The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director.

c. Where a call is made by the holder of a senior-priority water right against the holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority.

d. The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by section 42-606, Idaho Code.

e. Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated.

03. Reasonable Exercise of Rights. In determining whether diversion and use of water under rights will be regulated under Rules 40.01.a., or 40.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste.

04. Actions of the Watermaster under a Mitigation Plan. Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan.

. . . .

8. Rule 42 of the Conjunctive Management Rules sets forth the factors the Director may consider in determining material injury and the reasonableness of water diversions:

01. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following:

a. The amount of water available in the source from which the water right is diverted.

b. The effort or expense of the holder of the water right to divert water from the source.

c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application.

e. The amount of water being diverted and used compared to the water rights.

f. The existence of water measuring and recording devices.

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority.

02. The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan.

9. The Director created Water Districts No. 130 and No. 120 on February 19, 2002, and extended the boundaries of Water Districts No. 130 and No. 120 on January 8, 2003, and January 22, 2004, respectively, to provide for the administration of ground water rights in the area overlying the ESPA in the Thousand Springs area and the American Falls area, pursuant to the provisions of chapter 6, title 42, Idaho Code, for the protection of prior surface and ground water rights.

10. The Director has appointed watermasters for Water Districts No. 120 and No. 130 to perform the statutory duties of a watermaster in accordance with guidelines, direction, and supervision provided by the Director. The Director has given specific directions to the watermasters for Water Districts No. 120 and No. 130 to curtail illegal diversions, measure and report diversions, and curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

11. The two letters received on September 23 and October 10, 2003, by the Director from J. Dee May, representing Rangen, Inc., seeking the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights" are either delivery calls as defined by Rule 10.04 of the Conjunctive Management Rules against junior priority ground water rights or demands for the administration of surface water rights pursuant to Idaho Code § 42-607.

12. Rule 40 of the Conjunctive Management Rules applies to the delivery calls made by Rangen against the holders of junior priority ground water rights, but not surface water rights, in Water Districts No. 36A, No. 120, and No. 130.

13. There are no surface water rights in Water Districts No. 36A or No. 130 that are junior in priority to Rangen's water right no. 36-02551 and that are diverted from the same surface water source as right no. 36-02551. There are also no surface water rights in Water District No. 120.

14. There are no ground water rights in Water District No. 36A that are diverted from a source that is hydraulically connected to the source for water right no. 36-02551.

15. Rules 40 and 42 of the Conjunctive Management Rules require the Director to make determinations regarding "material injury" and the "reasonableness of water diversions" in responding to a delivery call against junior priority ground water rights in Water Districts No. 120 and No. 130.

16. The reductions in the quantity of water discharging from springs in the Thousand Springs area attributable to depletions to the ESPA from the diversion and use of ground water in Water Districts No. 120 and No. 130 do not automatically constitute material injury to surface water rights diverting from springs or dependent on sources formed by springs even when the diversion and use of ground water occur under water rights that are junior in priority to such surface water rights. Whether reductions in the quantity of water discharging from springs caused by the diversion and use of ground water under junior priority rights in Water Districts No. 120 and No. 130 constitute material injury is dependent on the factors enumerated in Rule 42 of the Conjunctive Management Rules.

17. Based on simulations using the Department's existing ground water model simulating curtailment of all ground water rights for agricultural irrigation in Water District No. 120 junior in priority to July 13, 1962, there would be no material increase in reach gains (spring discharges) in the Thousand Springs area from such curtailment. Therefore, there are no material contributions to the decreased water supply caused by depletions to the ESPA resulting from diversion and use of ground water in Water District No. 120 under water rights that are junior in priority to water right no. 36-02551, and there is no material injury to water right no. 36-02551 from the diversion and use of ground water for agricultural irrigation under such rights

18. Given the magnitude of the decrease in the spring-dependent water supply currently available to the Rangen hatchery facilities, contributions to the decreased water supply caused by depletions to the ESPA resulting from diversion and use of ground water under water rights in Water District No. 130 that are junior in priority to Rangen's water right no. 36-02551 cause material injury.

19. Rule 42.02 of the Conjunctive Management Rules provides that the holder of a senior priority surface water right is prevented from making a delivery call for curtailment of pumping of any well under a junior priority ground water right if the ground water right is covered by an approved and effectively operating mitigation plan. IDAPA 37.03.11.042.02.

20. There currently is no approved and effectively operating mitigation plan in place to mitigate for reductions in discharges from the springs supplying Rangen's water right no. 36-02551 caused by depletions to the ESPA resulting from diversion and use of ground water under rights in Water District No. 130 that are junior to water right no. 36-02551. Therefore, the delivery call by Rangen for distribution of water to water right no. 36-02551 for use at the Rangen hatchery facilities is recognized.

21. The Department's existing ground water model for the ESPA cannot provide accurate simulations of the effects on individual springs in the Thousand Springs area from curtailing individual ground water rights or groups of ground water rights. There currently is no reliable method or basis for determining the effects of diversion and use of ground water under an individual water right or groups of water rights on individual springs in the Thousand Springs area.

22. Based on simulations using the Department's existing ground water model simulating curtailment of all ground water rights for agricultural irrigation in Water District No. 130 junior in priority to July 13, 1962, reach gains (spring discharges) in the Thousand Springs area would increase by a total of 26,500 acre feet after one year of simulated complete curtailment of such rights in Water District No. 130. To the extent that 26,500 acre feet of replacement water is supplied to increase spring discharges in the Thousand Springs area in 2004, or is used to obtain comparable results, no material injury could be determined to occur to water right no. 36-02551 in 2004 as a result of diversion and use of ground water for agricultural irrigation in Water District No. 130 under rights junior in priority to July 13, 1962.

23. Ground water districts created pursuant to Idaho Code §§ 42-5202 et seq. are specifically authorized by Idaho Code § 42-5224(11) to "... implement mitigation plans designed to mitigate any material injury caused by ground water use within the district upon senior water uses within and/or without the district."

24. Rule 40.02.b of the Conjunctive Management Rules requires the watermaster of Water District No. 130 to "regulate the diversions and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director." IDAPA 37.03.11.040.02.b.

ORDER

In response to the water delivery call made by Rangen, Inc., and for the reasons stated in the foregoing Findings of Fact and Conclusions of Law, the Director orders as follows:

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 of the original Order in this matter (February 25, 2004) 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.

IT IS FURTHER ORDERED that holders of consumptive ground water rights in Water District No. 130 that are junior in priority to July 13, 1962, who are members of the North Snake Ground Water District or the Magic Valley Ground Water District (the "Ground Water Districts") will be allowed to divert or continue to divert ground water pursuant to their rights beginning on April 1, 2004, or subsequent date as herein provided, through March 31, 2005, provided the following actions are taken by the Ground Water Districts and the associated conditions are satisfied:

(1) The Ground Water Districts must submit a plan to the Director, which the Director approves by April 1, 2004, for providing Rangen with 16,000 acre feet of replacement water of suitable water quality for use by Rangen, and at a location and time usable by Rangen*.

(2) As an alternative to provision (1), the Ground Water Districts must submit a plan to the Director, which the Director approves by April 1, 2004, for providing replacement water, including surface water used in place of diversion and use of ground water, in the amount of 26,500 acre feet between April 1, 2004, and March 31, 2005, to increase spring discharges in the Thousand Springs area, or is used to obtain comparable results.

(3) In the event a plan for providing replacement water pursuant to either provision (1) or provision (2) is submitted or approved after April 1, 2004, then those rights subject to this Order will not be allowed to divert or

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* This Order is issued in response to the delivery call made by Rangen, Inc. There is at least one other order pending that may cause action in compliance provision (1) to be inadequate to avoid curtailment of some portion of consumptive ground water rights in the North Snake and Magic Valley Ground Water Districts that are junior in priority to July 13, 1962.

continue to divert ground water pursuant to their rights until such plan is approved.

(4) If a plan to provide replacement water pursuant to either provision (1) or provision (2) above is approved by the Director, monthly reports documenting the amount, location, and timing for replacement water supplied shall be submitted to the Director on the first of each month following the month in which the Director approves such plan for providing replacement water.

(5) The Director shall evaluate the monthly reports documenting the amount, location, and timing for replacement water supplied by the Ground Water Districts. If at any time the Ground Water Districts are not substantially on schedule to supply the required amount of replacement water in accordance with the plan approved by the Director, except as otherwise provided in provision (6) below, the Director shall determine, based upon the monthly reports and other current water supply information, whether the actions of the districts constitute good faith substantial compliance with the provisions of the water replacement plan. If the Director determines that the Ground Water Districts are not in substantial compliance with the plan, the Director may order the immediate curtailment of all or a portion of the consumptive ground water rights in Water District No. 130 junior in priority to July 13, 1962.

(6) If a plan to provide replacement water pursuant to either provision (1) or provision (2) above is approved by the Director, and the full quantity of replacement water is not supplied, a portion of the replacement water not to exceed 20 percent may be supplied between April 1 and August 31, 2005. Documentation that such portion of the replacement water has been secured for delivery in 2005 must be submitted to the Director by August 1, 2004, and such replacement water shall be provided in addition to any other replacement water that may be required beginning April 1, 2005, by any subsequent order of the Director. This carryover provision is for contingency purposes only and will not be approved as an initial element of a plan to provide replacement water pursuant to either provision (1) or provision (2) above.

(7) If a plan to provide replacement water pursuant to either provision (1) or provision (2) above is approved by the Director, and the monthly report required to be submitted on August 1, 2004, required in (4) above does not demonstrate that the full quantity of replacement water will be supplied prior to March 31, 2005, and the carryover provisions in (6) above are not satisfied, then all or a portion of consumptive ground water rights in Water District No. 130 junior in priority to July 13, 1962, will be curtailed by the watermaster beginning on August 15, 2004, for the remainder of the 2004 irrigation season as follows:

a. If the amount of replacement water confirmed to be supplied prior to March 31, 2005, is 80 percent or less of the amount required herein, then all consumptive ground water rights in Water District No. 130 junior in priority to July 13, 1962, will be curtailed beginning on August 15, 2004; or

b. If the amount of replacement water confirmed to be supplied prior to March 31, 2005, is more than 80 percent of the amount required herein, then the priority date for consumptive ground water rights in Water District No. 130 to be curtailed will be adjusted by the Director to a later date such that the curtailed ground water depletion equals the shortfall in the quantity of confirmed replacement water.

IT IS FURTHER ORDERED that the holder of any consumptive ground water right in Water District No. 130 that is junior in priority to July 13, 1962, who is not a member of either the North Snake Ground Water District or the Magic Valley Ground Water District, may petition the Director prior to March 15, 2004, setting forth the reasons why such right holder should not be subject to this order, or proposing a plan to offset the depletions to the ESPA caused by diversion and use of ground water under that holder's water right(s).

IT IS FURTHER ORDERED that any person aggrieved by this decision shall be entitled to a hearing before the Director to contest the action taken provided the person files with the Director, within fifteen (15) days after receipt of written notice of the order, or receipt of actual notice, a written petition stating the grounds for contesting the action and requesting a hearing. Any hearing conducted shall be in accordance with the provisions of chapter 52, title 67, Idaho Code, and the Rules of Procedure of the Department, IDAPA 37.01.01. Judicial review of any final order of the Director issued following the hearing may be had pursuant to Section 42-1701A(4), Idaho Code.

DATED this 10th day of March 2004.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of March, 2004, the above and foregoing, was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

J DEE MAY
MAY SUDWEEKS
PO BOX 1846
TWIN FALLS ID 83303-1846

DANIEL STEENSON
CHARLES L HONSINGER
RINGERT CLARK CHTD
PO BOX 2773
BOISE ID 83701-2773

MIKE CREAMER
JEFF FEREDAY
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720

JOHN SIMPSON
BARKER ROSHOLT
PO BOX 2139
BOISE ID 83301

JOHN ROSHOLT
BARKER ROSHOLT
233 2ND ST N STE D
TWIN FALLS ID 83301

JOSEPHINE BEEMAN
BEEMAN & ASSOC
409 W JEFFERSON ST
BOISE ID 83702

MAGIC VALLEY GWD
1099 N 400 W
RUPERT ID 83350

NORTH SNAKE GWD
152 E MAIN ST
JEROME ID 83338

FRANK ERWIN
WATER DIST 36A
2628 SOUTH 975 EAST
HAGERMAN ID 83332

CINDY YENTER
WATER DIST 130
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380

JASON MICIAK
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WONDERLICH WAKEFIELD
PO BOX 1812
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BUREAU OF RECLAMATION
KATHLEEN CARR
550 W FORT ST MSC-020
BOISE ID 83724

Victoria Wigle
Administrative Assistant to the Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-15501, 36-02551, AND 36-07694	))))	**SECOND AMENDED ORDER**

This matter is before the Director of the Department of Water Resources ("Director" or "Department") as a result of a letter dated September 23, 2003, and a subsequent letter dated October 6, 2003. Both letters were from J. Dee May ("May"), an attorney representing Rangen, Inc. The September 23 letter sought administration of "the diversion of water in District 36A in such a way that [Rangen] receives its full appropriation of the above referenced water rights" for use at hatchery facilities owned and operated by Rangen near Hagerman, Idaho. Because there are no water rights in Water District No. 36A that are junior in priority to the water rights listed above and divert from the same sources as the listed rights, the Director requested additional clarification concerning the nature of the administration of water rights sought by Rangen. In his October 6 letter, May described the administration sought by Rangen to be the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights under the water right numbers referenced above."

In response to the May letter of October 6, 2003, the Director issued an Order on February 25, 2004, and replaced it with an Amended Order on March 10, 2004. The Amended Order of March 10, 2004, was rescinded on March 14, 2005. Based upon the Director's further consideration of this matter, the Director enters the following Findings of Fact, Conclusions of Law, and Second Amended Order.

FINDINGS OF FACT

Procedural History

1. In addition to the letters from May dated September 23, 2003, and October 6, 2003, hereinafter referred to as the "*Rangen Call*," and in addition to the Orders of February 25, 2004, and March 10, 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" on or about March 20, 2004. That agreement is hereinafter referred to as the "*ESPA Agreement*."

2. 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

PLAINTIFF'S EXHIBIT
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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."

3. 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."

4. 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 ("ESPA"). 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 groupings of spring complexes, or reaches, in the Thousand Springs area. The model provides calculated depletions to the reach containing the Curran Spring, from which Rangen receives surface water, resulting from the diversion and use of ground water for irrigation.

5. The calculated depletions to springs discharging in the Thousand Springs area upon which the Amended Order of March 10, 2004, was based, were determined from simulations using a coarser ground water model of the ESPA that was not as well calibrated as the reformulated model described in Finding 4. The ground water model preceding the reformulated model described in Finding 4 no longer provides the most accurate information available to the Director. As a result, the Amended Order of March 10, 2004, was rescinded by the order issued on March 14, 2005.

6. Results of simulations using the reformulated and recalibrated ground water model described in Finding 4 provide the best available science currently available to the Director and should be used to determine the extent of depletions to springs discharging in the Thousand Springs area resulting from the diversion and use of ground water.

The Eastern Snake River Plain Aquifer and the Department's Ground Water Model

7. The Eastern Snake River Plain Aquifer ("ESPA") is defined as the aquifer underlying an area of the Eastern Snake River Plain that is about 170 miles long and 60 miles wide as delineated in the report "Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho," U. S. Geological Survey ("USGS") Professional Paper 1408-F, 1992, excluding areas lying both south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. The ESPA is also defined as an area having a common ground water supply. *See* IDAPA 37.03.11.050.

8. The ESPA is predominately in fractured Quaternary basalt having an aggregate thickness that may, at some locations, exceed several thousand feet, decreasing to shallow depths in the Thousand Springs area. The ESPA fractured basalt is characterized by high hydraulic conductivities, typically 1,000 feet/day but ranging from 0.1 feet/day to 100,000 feet/day.

9. Based on averages for the time period from May of 1980 through April of 2002, the ESPA receives approximately 7.5 million acre-feet of recharge on an average annual basis from the following: incidental recharge associated with surface water irrigation on the plain (3.4 million acre-feet); precipitation (2.2 million acre-feet); underflow from tributary drainage basins (1.0 million acre-feet); and losses from the Snake River and tributaries (0.9 million acre-feet).

10. Based on averages for the time period from May of 1980 through April of 2002, the ESPA also discharges approximately 7.5 million acre-feet on an average annual basis through sources including complexes of springs in the Thousand Springs area, springs in and near American Falls Reservoir, and the discharge of nearly 2.0 million acre-feet annually in the form of depletions from ground water withdrawals.

11. From the pre-irrigation conditions of the 1860s until the 1950s, the amount of water diverted from the Snake River and its tributaries for gravity flood/furrow irrigation increased substantially, from about 8 million acre-feet, or less, in the early 1900s to about 9.5 million acre-feet in the early 1950s. USGS Professional Paper 1408-F, p. F14. Significant quantities of the surface water diverted were in excess of crop consumptive uses and provided incidental recharge to the ESPA above the average incidental recharge of 3.4 million acre-feet described in Finding 9 for the May 1980 through April 2002 time period. Ground water levels across the ESPA responded by rising at many locations. For example, the average rise in ground water levels near Jerome, Idaho, and near Fort Hall, Idaho, was 20 to 40 feet over several tens of years. The average rise in ground water levels west of American Falls may have been 60 to 70 feet. USGS Professional Paper 1408A, p. A40. As a result, spring discharges in the Thousand Springs area correspondingly increased based on USGS data as shown on Attachment A.

12. Beginning in about the 1960s to 1970s time period through the most recent years, the total combined diversions of natural flow and storage releases above Milner Dam for irrigation using surface water supplies have declined from an average of nearly 9 million acre-feet annually to less than 8 million acre-feet annually, notwithstanding years of drought, because of conversions from gravity flood/furrow irrigation to sprinkler irrigation in surface water irrigation systems and other efficiencies implemented by surface water delivery entities. The measured decrease in cumulative surface water diversions above Milner Dam for irrigation reflects the fact that less water is generally needed in the present time to fully irrigate lands authorized for irrigation with a certain crop mix under certain climatic growing conditions than was needed in the 1960s to 1970s for the same lands, crop mix, and climatic growing conditions. With parallel appropriations of ground water, which dramatically increased beginning in about 1950, ground water levels across the ESPA have responded by declining at most locations where levels had previously risen, exacerbated by the worst consecutive period of drought years on record for the upper Snake River Basin. As a result, spring discharges in the Thousand Springs area have correspondingly declined based on USGS data as also shown on Attachment A.

13. The ground water in the ESPA is hydraulically connected to the Snake River and tributary surface water sources at various places and to varying degrees. One of the locations at

which a direct hydraulic connection exists between the ESPA and springs tributary to the Snake River is in the Thousand Springs area.

14. Hydraulically-connected ground water sources and surface water sources are sources that within which, ground water can become surface water, or surface water can become ground water, and the amount that becomes one or the other is largely dependent on ground water elevations.

15. When water is pumped from a well in the ESPA, a conically-shaped zone that is drained of ground water, termed a cone of depression, is formed around the well. This causes surrounding ground water in the ESPA to flow to the cone of depression from all sides. These depletionary effects propagate away from the well, eventually reaching one or more hydraulically-connected reaches of the Snake River and its tributaries, including springs in the Thousand Springs area. When the depletionary effects reach a hydraulically-connected reach of the Snake River or the points of discharge for springs in the Thousand Springs area, reductions in flow begin to occur in the form of losses from the river, reductions in spring discharge, or reductions in reach gains to the river. The depletions to the Snake River and its tributaries increase over time, with seasonal variations corresponding to seasonal variations in ground water pumping, and then either recede over time, if ground water pumping from the well ceases, or reach a maximum over time beyond which no further significant depletions occur, if ground water pumping from the well continues from year to year. This latter condition is termed a steady-state condition.

16. Various factors determine the specific hydraulically-connected reach of the Snake River or spring complexes affected by the pumping of ground water from a well in the ESPA; the magnitude of the depletionary effects to a hydraulically-connected reach or spring complex; the time required for those depletionary effects to first be expressed as reductions in river flow or spring discharge; the time required for those depletionary effects to reach maximum amounts; and the time required for those depletionary effects to either recede, if ground water pumping from the well ceases, or reach steady-state conditions, if ground water pumping continues. Those factors include the proximity of the well to the various hydraulically-connected reaches or springs, the transmissivity of the aquifer (hydraulic conductivity multiplied by saturated thickness) between the well and the hydraulically-connected reach of the Snake River or springs, the riverbed hydraulic conductivity, the specific yield of the aquifer (ratio of the volume of water yielded from a portion of the aquifer to the volume of that portion of the aquifer), the period of time over which ground water is pumped from the well, and the amount of ground water pumped that is consumptively used.

17. The time required for depletionary effects in a hydraulically-connected reach of the Snake River or tributary springs to first be expressed, the time required for those depletionary effects to reach maximum amounts, and the time required for those depletionary effects to either recede, if ground water pumping from the well ceases, or reach steady-state conditions, if ground water pumping continues, can range from days to years or even decades, depending on the factors described in Finding No. 16. Generally, the closer a well in the ESPA is located to a hydraulically-connected reach of the Snake River or tributary springs, the larger will be the flow

reductions in the hydraulically-connected reach or springs, as a percentage of the ground water depletions, and the shorter will be the time periods for depletionary effects to first be expressed, for those depletionary effects to reach maximum amounts, and for those depletionary effects to either recede or reach steady-state conditions. However, essentially all depletions of ground water from the ESPA cause reductions in flows in the Snake River and spring discharges equal in quantity to the ground water depletions over time.

18. The Department uses a calibrated ground water model to determine the effects on the ESPA and hydraulically-connected reaches of the Snake River and its tributaries from pumping a single well in the ESPA, from pumping selected groups of wells, and from surface water uses on lands above the ESPA.

19. In 2004, in collaboration with the Idaho Water Resources Research Institute ("IWRRI"), University of Idaho, U. S. Bureau of Reclamation ("USBR"), USGS, Idaho Power Company, and consultants representing various entities, including certain entities relying on the discharge of springs in the Thousand Springs area, the Department completed reformulation of the ground water model used by the Department to simulate effects of ground water diversions and surface water uses on the ESPA and hydraulically-connected reaches of the Snake River and its tributaries, including springs in the Thousand Springs area. This effort was funded in part by the Idaho Legislature and included significant data collection and model calibration intended to reduce uncertainty in the results from model simulations.

20. Below Milner Dam, the Snake River is incised and springs in the Thousand Springs area emanate from the canyon wall. The ground water model used by the Department prior to the reformulation of the model represented the Thousand Springs area as a single, hydraulically-connected, tributary reach of the Snake River. In the reformulated ground water model for the ESPA described in Finding 19, the Thousand Springs area was divided into six adjacent groupings of spring complexes, or spring reaches, based on the relative magnitude of spring discharge as follows:

a. Devil's Washbowl to the USGS stream gage located near Buhl, Idaho ("Buhl Gage") – includes springs having moderately large rates of discharge at intermittent locations;

b. Buhl Gage to Thousand Springs – includes springs having somewhat larger average rates of discharge per river mile than in the reach Devil's Washbowl to Buhl Gage;

c. Thousand Springs – includes springs having very large rates of discharge;

d. Thousand Springs to Malad Gorge – includes springs having moderate discharge;

e. Malad Gorge – includes springs having very large rates of discharge near the confluence of the Malad and Snake Rivers; and

f. Malad Gorge to Bancroft – includes springs having relatively small rates of discharge.

21. The segment that includes the Curran Spring from which Rangen diverts surface water is the Thousand Springs to Malad Gorge spring reach.

22. The reformulated ground water model for the ESPA was calibrated to recorded ground water levels in the ESPA, spring discharge in the spring reaches described in Finding 20, and reach gains or losses to Snake River flows, determined from stream gages together with other stream flow measurements, for the period May 1, 1980 to April 30, 2002. The calibration targets, consisting of measured ground water levels, reach gains/losses, and discharges from springs, have inherent uncertainty resulting from limitations on the accuracy of the measurements. The uncertainty in results predicted by the ESPA ground water model cannot be less than the uncertainty of the calibration targets. The calibration targets having the maximum uncertainty are the reach gains or losses determined from stream gages, which although rated "good" by the USGS, have uncertainties of up to 10 percent.

23. Discharges from springs in the segments or reaches described in Finding 20 have diminished primarily because of significant reductions in incidental recharge of the ESPA from surface water irrigation, resulting from changes in surface water irrigation systems and application practices (conversion from application by gravity flood/furrow irrigation to application by sprinkler systems), and the last five consecutive years of drought. For example, decreases in the springs supplying the Rangen hatchery facilities can be correlated with repairs made to the facilities of the North Side Canal Company to reduce losses of surface water to ground water from the canal company's facilities above those springs in 1987, 1998, and 2000.

24. Spring discharges are also reduced as a result of ground water withdrawals from the ESPA for irrigation and other consumptive purposes, especially ground water that is diverted in relatively close proximity to the area of the springs. Simulations using the Department's calibrated computer model of the ESPA show that ground water withdrawals from certain portions of the ESPA for irrigation and other consumptive purposes cause depletions in the flow of springs discharging in the spring reaches described in Finding 20. When superimposed on diminished spring discharges resulting from changes in surface water irrigation and drought, reductions in spring discharges caused by ground water depletions under relatively junior priority water rights can potentially cause injury to senior priority water rights dependent on spring sources.

25. The Department is implementing full conjunctive administration of rights to the use of hydraulically-connected surface and ground waters within the Eastern Snake River Plain consistent with Idaho law and available information. The results of simulations from the Department's ground water model are suitable for making factual determinations on which to base conjunctive administration of surface water rights diverted from the Snake River and its tributaries and ground water rights diverted from the ESPA.

26. The Department's ground water model represents the best available science for determining the effects of ground water diversions and surface water uses on the ESPA and hydraulically-connected reaches of the Snake River and its tributaries. There currently is no other technical basis as reliable as the simulations from the Department's ground water model for the ESPA that can be used to determine the effects of ground water diversions and surface water uses on the ESPA and hydraulically-connected reaches of the Snake River and its tributaries.

Creation and Operation of Water Districts No. 120 and No. 130

27. On November 19, 2001, the State of Idaho sought authorization from the Snake River Basin Adjudication ("SRBA") District Court for the interim administration of water rights by the Director in all or parts of the Department's Administrative Basins 35 and 41 overlying the ESPA in the American Falls area and all or parts of Basins 36 and 43 overlying the ESPA in the Thousand Springs area. On January 8, 2002, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued two orders on February 19, 2002, creating Water District No. 120 and Water District No. 130, pursuant to the provisions of Idaho Code § 42-604.

28. On August 30, 2002, the State of Idaho filed a second motion with the SRBA District Court seeking authorization for the interim administration of water rights by the Director in the portion of the Department's Administrative Basin 37 overlying the ESPA in the Thousand Springs area. On November 19, 2002, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued an order on January 8, 2003, revising the boundaries of Water District No. 130 to include the portion of Administrative Basin 37 overlying the ESPA, pursuant to the provisions of Idaho Code § 42-604.

29. On July 10, 2003, the State of Idaho filed a third motion with the SRBA District Court seeking authorization for the interim administration of water rights by the Director in the portion of the Department's Administrative Basin 29 overlying the ESPA in the American Falls area. On October 29, 2003, the SRBA District Court issued an order authorizing the interim administration by the Director. After notice and hearing, the Director issued an order on January 22, 2004, revising the boundaries of Water District No. 120 to include the portion of Administrative Basin 29 overlying the ESPA, pursuant to the provisions of Idaho Code § 42-604.

30. Water Districts No. 120 and No. 130 were created, and the respective boundaries revised, to provide for the administration of water rights, pursuant to chapter 6, title 42, Idaho Code, for the protection of prior surface and ground water rights. As a result, the watermasters for Water Districts No. 120 and No. 130 were given the following duties to be performed in accordance with guidelines, direction, and supervision provided by the Director:

a. Curtail illegal diversions (i.e., any diversion without a water right or in excess of the elements or conditions of a water right);

b. Measure and report the diversions under water rights;

c. Enforce the provisions of any stipulated agreement; and

d. Curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

31. On April 15, 2005, the State of Idaho filed three motions with the SRBA District Court seeking authorization for the interim administration of water rights by the Director in the Department's Administrative Basin 25; Basins 31, 32, and 33; and Basin 45. If the SRBA District Court authorizes interim administration in these administrative basins, nearly all ground water rights authorizing diversion of ground water from the ESPA will be subject to administration through water districts, when combined with the ground water rights already in Water Districts No. 120 and No. 130. At the time of filing Director's Reports in the SRBA later this year for the relatively few remaining ground water rights authorizing diversions from the ESPA, additional motions will be filed by the State of Idaho seeking authorization for interim administration of those remaining rights. While authorization for interim administration of the remaining ground water rights is subject to determinations to be made by the SRBA District Court, the Director anticipates that water districts covering all of the ESPA will be in place for the irrigation season of 2006, and all ground water rights authorizing diversions from the ESPA will be subject to administration through water districts established pursuant to chapter 6, title 42, Idaho Code.

32. The general location and existing boundaries for Water Districts No. 120 and No. 130, as well as the location and existing boundaries for the American Falls Ground Water Management Area, are shown on Attachment B. Boundaries for a proposed addition to Water District No. 120, as well as areas for potential future water districts (Water Districts No. 110 and No. 140), are also shown on Attachment B.

Conjunctive Management Rules

33. Idaho Code § 42-603 authorizes the Director "to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof." Promulgation of such rules and regulations must be in accordance with the procedures of chapter 52, title 67, Idaho Code.

34. On October 7, 1994, the Director issued *Order Adopting Final Rules*; the *Rules for Conjunctive Management of Surface and Ground Water Resources* (IDAPA 37.03.11) ("Conjunctive Management Rules"), promulgated pursuant to chapter 52, title 67, Idaho Code, and Idaho Code § 42-603.

35. Pursuant to Idaho Code § 67-5291, the Conjunctive Management Rules were submitted to the 1st Regular Session of the 53rd Idaho Legislature (1995 session). During no legislative session, beginning with the 1st Regular Session of the 53rd Idaho Legislature, have the

Conjunctive Management Rules been rejected, amended, or modified by the Idaho Legislature. Therefore, the Conjunctive Management Rules are final and effective.

36. The Conjunctive Management Rules "apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply." IDAPA 37.03.11.020.01.

37. The Conjunctive Management Rules "acknowledge all elements of the prior appropriation doctrine as established by Idaho law." IDAPA 37.03.11.020.02.

The Letters Submitted on Behalf of Rangen Seeking Administration of Water Rights and Application of the Conjunctive Management Rules

38. On September 23, 2003, the Director received a letter from May representing Rangen, Inc. seeking the administration of "the diversion of water in District 36A in such a way that [Rangen] receives its full appropriation of the above referenced water rights."

39. On September 25, 2003, the Director responded to the letter of September 23, 2003, from May requesting "additional clarification concerning the nature of the administration of water rights in Water District 36A" being sought, since "there are no water rights in Water District No. 36A that are junior in priority to the listed rights and divert from the same sources as the listed rights."

40. On October 10, 2003, the Director received a second letter from May dated October 6, 2003. In that letter, May clarified that Rangen was seeking the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights under the water right numbers referenced above."

41. The water rights held by Rangen that Rangen sought to have protected by the administration of junior priority water rights are as follows pursuant to decrees issued by the SRBA District Court:

Water Right No.:	36-15501	36-02551	36-07694
Priority Date:	July 1, 1957	July 13, 1962	April 12, 1977
Beneficial Use:	Fish Propagation	Domestic (0.1 cfs) and Fish Propagation (48.54 cfs)	Fish Propagation
Diversion Rate:	1.46 cfs	48.54 cfs	26.00 cfs
Period of Use:	Jan. 1 – Dec. 31	Jan. 1 – Dec. 31	Jan. 1 – Dec. 31

42. Rule 10.04 of the Conjunctive Management Rules defines a "delivery call" as: "A request from the holder of a water right for administration of water rights under the prior appropriation doctrine." The two letters from May, described in Findings 38 and 40 seeking administration of water rights interfering with and impacting Rangen's water rights, come within the definition of a delivery call.

43. Water Districts No. 36A, No. 120, and No. 130 were created pursuant to Idaho Code § 42-604. Water District No. 36A includes water rights senior in priority to Rangen's water rights that divert from a portion of the same source as Rangen's water rights. Other water rights in Water District No. 36A, both senior in priority and junior in priority to Rangen's rights, are diverted from other sources that are hydraulically connected through the ESPA, to varying degrees, to the source for Rangen's water rights. Water rights diverted from these other sources, which are hydraulically connected through the ESPA to the source for Rangen's water rights, do not interfere with and impact Rangen's water rights. Therefore, there are no water rights in Water District No. 36A that can be administered to prevent injury to Rangen's rights.

44. Water District No. 120 contains water rights that are junior in priority to Rangen's water rights and divert from ground water that is hydraulically connected to the source for Rangen's water rights. Such water rights could potentially interfere with and potentially impact Rangen's water rights.

45. Water District No. 130 contains surface water rights that divert from sources that are hydraulically connected through the ESPA to the source for Rangen's water rights but do not interfere with or impact Rangen's water rights. Water District No. 130 also contains water rights that are junior in priority to Rangen's water rights and divert from ground water that is hydraulically connected to the source for Rangen's water rights. Such water rights could potentially interfere with and potentially impact Rangen's water rights.

46. Rule 40 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights from Areas Having a Common Ground Water Supply in an Organized Water District." Rule 40 applies to the delivery calls made by Rangen against the holders of junior priority ground water rights in both Water District No. 120 and Water District No. 130.

47. Some of the junior priority ground water rights that could potentially interfere with and potentially impact Rangen's water rights are not in a water district created pursuant to the provisions of Idaho Code § 42-604 because a final decree has not been issued by the SRBA District Court and the requirements for interim administration of these rights pursuant to Idaho Code § 42-1417 have not been met.

48. Rule 30 of the Conjunctive Management Rules is titled "Responses to Calls for Water Delivery Made by the Holders of Senior-Priority Surface or Ground Water Rights Against the Holders of Junior-Priority Ground Water Rights Within Areas of the State Not in Organized

Water Districts or Within Water Districts Where Ground Water Regulation Has Not Been Included in the Function of Such Districts or Within Areas That Have Not Been Designated Ground Water Management Areas."

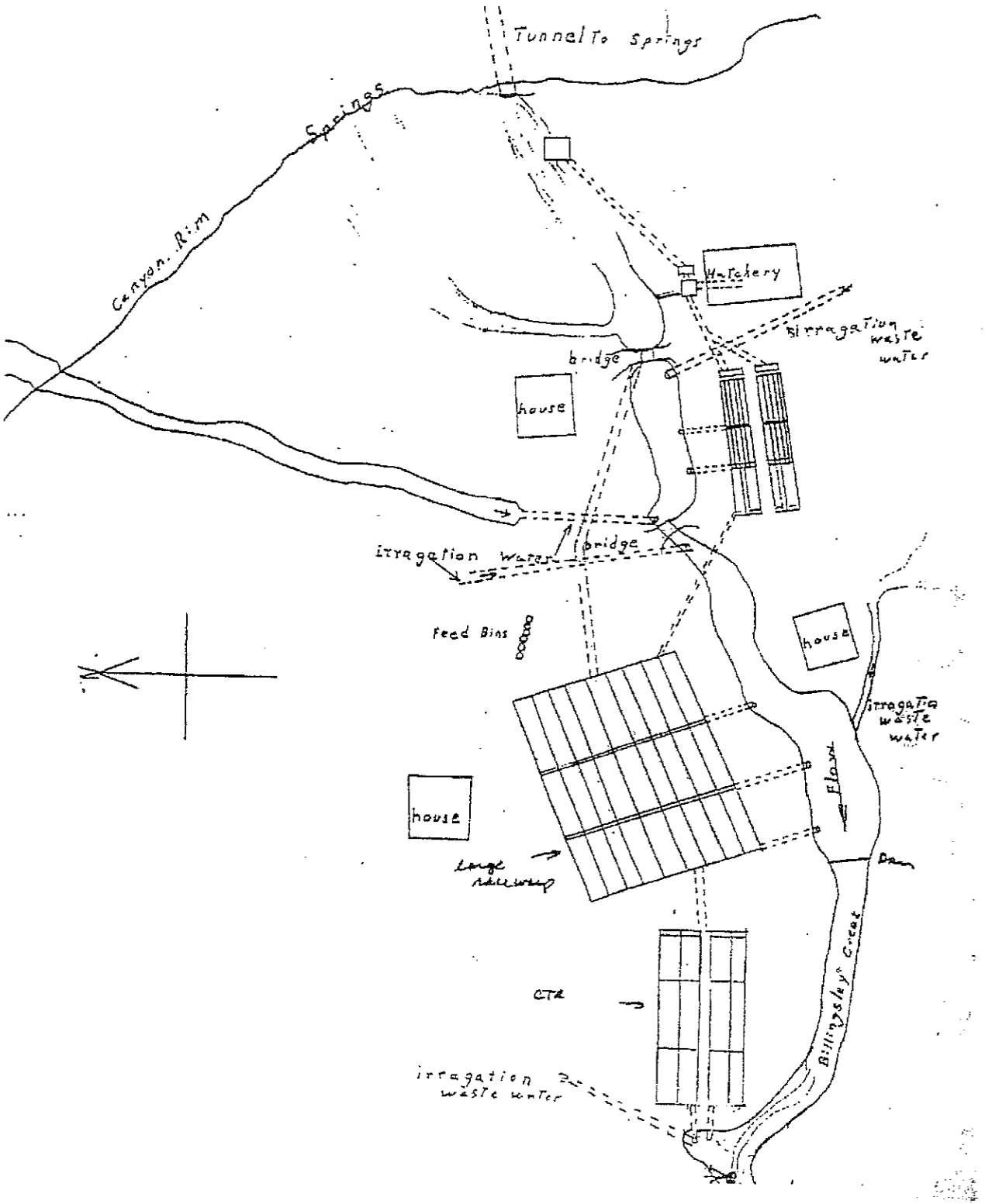
49. Rule 41 of the Conjunctive Management Rules is titled "Administration of Diversion and Use of Water Within a Ground Water Management Area."

50. The two letters from May, described in Findings 38 and 40, seeking administration of water rights interfering with and impacting Rangen's water rights did not meet the requirements set forth in Rule 30 of the Conjunctive Management Rules. Also, the two letters from May did not seek administration of junior priority ground water rights in the American Falls Ground Water Management Area as provided in Rule 41 of the Conjunctive Management Rules. Pursuant to Rule 41, such administration could not occur until the irrigation season of 2006, even if material injury to Rangen's rights was determined to be occurring as a result of diversion and use of ground water under junior priority rights in the American Falls Ground Water Management Area.

51. While Rule 40 of the Conjunctive Management Rules is applicable to the two letters from May, described in Findings 38 and 40, neither Rule 40 nor any other provisions of the Conjunctive Management Rules are applicable to delivery calls or demands for water distribution by the holder of a senior priority water right against the holder of a junior priority surface water right.

52. On October 17, 2003, the Director provided a letter to May initially responding to May's letter of October 10, 2003, described in Finding 40, making a delivery call by seeking administration of water rights interfering with and impacting Rangen's water rights. In his October 17 letter, the Director advised that determinations regarding "material injury" and "reasonableness of water diversions" would be made pursuant to Rule 40 and Rule 42 of the Conjunctive Management Rules in responding to the delivery call against junior priority ground water rights in Water Districts No. 120 and No. 130. In his October 17 letter, the Director also requested that he be provided copies of "all historical records of the amounts of water diverted under the listed rights as soon as practicable." Such records were not available to the Director for diversions under Rangen's water rights prior to 1995 because prior to 1995, the Department did not require the measurement and reporting of diversions under Rangen's rights and most other water rights that were not in organized water districts created pursuant to Idaho Code § 42-604.

53. On November 21, 2003, May transmitted on behalf of Rangen historical records of flow through the hatchery facilities owned and operated by Rangen. Included was the following sketch depicting the layout of the Rangen hatchery facilities, a summary of flows on a monthly basis, and records of periodic flow measurements beginning in 1966 through part of 2003.



Rangen Hatchery Facilities
Hagerman, Idaho

54. The flow measurements that are considered to be representative of the total supply of water available to the Rangen hatchery facilities under water rights nos. 36-15501, 36-02551, and 36-07694, consist of the sum of the discharge from raceways designated by Rangen as the "CTR" raceways and the flow over the check "Dam." The dam is sited upstream from the discharge points from the CTR raceways and downstream from the discharge points from raceways designated by Rangen as the "Large" raceways. The sum of the discharge from the CTR raceways and the flow over the check dam is considered to be representative of the total supply of water available even though at times some of the flow over the check dam may include water flowing from small springs downstream from the diversion to the Large raceways, water discharged from the Large raceways that was not diverted through the CTR raceways, and irrigation return flows.

55. The records of flow measurements submitted by May on behalf of Rangen for the years 1966 through 1974 consist of measurements or estimates of discharges from the Curran Spring made by George Lemmon, a former watermaster for Water District No. 36A. These recorded flows are not representative of the total supply of water available to the Rangen hatchery facilities because water rights for irrigation that are senior in priority to Rangen's rights are entitled to divert the first portion of the discharge from the Curran Spring during the irrigation season. In addition, the recorded flows do not include discharges from springs downstream of the Curran Spring that are upstream of Rangen's diversion to the Large raceways.

56. Without further explanation from Rangen, the Department cannot confirm that the records of flow measurements submitted by May on behalf of Rangen for the years 1975 through 1980 are representative of the total supply of water available to the Rangen hatchery facilities. Based on subsequent findings in this order, however, it is not necessary to confirm whether the flow measurements for the years 1975 through 1980 are representative of the total supply of water available to the Rangen hatchery facilities.

Authorized Diversion Rate for Water Rights Nos. 36-15501, 36-02551, and 36-07694

57. Springs discharging in the Thousand Springs area do not discharge at a constant rate or at a rate that progressively increases or decreases from year to year. While there are overall increases or decreases in the discharge from individual springs between years (inter-year variations), there are also pronounced within-year or intra-year variations in discharge from individual springs.

58. Simplistically, overall variations between years in the discharge of springs in the Thousand Springs area result from differences between the amounts of ground water depletions and recharge to the ESPA above the springs, with delays in the response of spring discharge ranging at the extremes from days to decades depending on the proximity of ground water depletions and recharge and the other factors set forth in Finding 16. Factors affecting overall variations between years in the cumulative discharge from springs in the Thousand Springs area as well as from individual springs include but are not necessarily limited to: variations in surface water supplies available for irrigation above the ESPA, which affect cropping decisions and the

amount of incidental recharge to the ESPA; changes in the amounts and timing of tributary underflow to the ESPA, which also reflect numerous variations upgradient from where tributary underflow contributes to the ESPA; inter-year variations in precipitation and temperature, which not only affect the amount of surface water used above the ESPA and associated incidental recharge to the ESPA, but also affect the quantity of ground water withdrawals and depletions from the ESPA; and differences between years in the quantity of intentional or managed recharge to the ESPA.

59. Intra-year variations in the discharge from individual springs result from the factors described in Finding 58 but also from other factors including: variations in surface water application above the ESPA and associated incidental recharge in response to seasonal changes in precipitation and temperature; variations in timing of ground water withdrawals and depletions from the ESPA in close proximity to individual springs; and the timing of intentional or managed recharge to the ESPA in close proximity to individual springs.

60. While both the regional and local factors affecting inter-year and intra-year variations in spring discharge are generally understood, the interactions between these factors are complex and the specific effects of individual factors and various combinations of factors on the discharge from individual springs are not presently quantifiable.

61. Both inter-year and intra-year variations in the discharge from the springs that are the sources for water rights nos. 36-15501, 36-02551, and 36-07694 existed when appropriations for these rights were initiated (July 1, 1957; July 13, 1962; and April 12, 1977; respectively). Furthermore, the authorized diversion rates for water rights nos. 36-02551 and 36-07694 were licensed based on when the discharges from the springs that are the source for these rights were at or near the maximum intra-year discharges during the years for which the extent of beneficial use was deemed to be established or confirmed (November 1962 for 36-02551 and October 1972 for 36-07694), although erroneously for water right no. 36-07694 (see Findings 62 and 63 below). There are no other measurements of the total supply of water available to the Rangen hatchery facilities in 1962, nor any other means for determining the intra-year variations in the discharges from the springs comprising the source for water right no. 36-02551.

62. Water right no. 36-07694 was licensed on September 19, 1985, and has an authorized diversion rate of 26.00 cfs. The authorized diversion rate, as licensed, was not based on measurements of the amount of water actually diverted and applied to beneficial use. Rather, the authorized diversion rate was based on an estimate (not an actual measurement) made by George Lemon, a former watermaster for Water District No. 36A, of the discharge from the Curran Spring at or near its seasonal maximum flow in October of 1972. This estimate of the discharge from the Curran Spring was made nearly 5 years before the application for permit to appropriate water was filed for water right no. 36-07694.

63. Based on available records, there was not water available for appropriation at the time or subsequent to the date of appropriation for water right no. 36-07694. Therefore, the Department erred in licensing water right no. 36-07694, and should not have recommended this right for decree in the SRBA. Nonetheless, since the SRBA District Court decreed water right

no. 36-07694, Rangen may be entitled to divert water under this right when such water is physically available. However, because water was not available to appropriate on the date of appropriation for right no. 36-07694, Rangen may not be entitled to have a delivery call recognized against junior priority water rights.

64. The records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities and the records maintained by the Department since 1995 show that the quantity of water available at the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) has been sufficient to continuously fill water right no. 36-15501 at the authorized diversion rate of 1.46 cfs.

65. The records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities show that 1987 was the last year in which the quantity of water available at the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) was sufficient to fill water right no. 36-02551 at the authorized diversion rate of 48.54 cfs, when the cumulative discharges from springs supplying the Rangen hatchery facilities were at seasonal maximums (November). Since 1987, the quantity of water available at the Rangen hatchery facilities has not been sufficient to fill water right no. 36-02551 at the authorized diversion rate of 48.54 cfs although in 1997 and 1998, the seasonal maximum quantity of water available came within about 5 cfs (or about 10 percent) of the authorized diversion rate.

66. The rates of diversion authorized pursuant to water rights nos. 36-15501 and 36-02551 (1.46 cfs and 48.54 cfs, respectively) are not quantity entitlements that are guaranteed to be available to Rangen. Rather, the authorized rates of diversion are the maximum rates at which water can be diverted under these rights, respectively, when such quantities of water are physically available and the rights are in priority. Rangen cannot call for the curtailment of junior priority water rights at all times that insufficient water is physically available to fill water rights no. 36-02551 or no. 36-07694 at the authorized rates of diversion. Rangen is not entitled to a water supply that is enhanced beyond the conditions that existed at the time such rights were established; i.e., Rangen cannot call for the curtailment of junior priority water rights simply because seasonally the discharge from springs is less than the authorized rates of diversion for Rangen's rights unless such seasonal variations are caused by depletions resulting from diversion and use of water under junior priority rights.

67. Rangen can only call for the distribution of water to its rights through the curtailment of junior priority ground water rights from the hydraulically-connected ESPA when such curtailment would result in a usable amount of water reaching Rangen's points of diversion in time of need, and depletions causing material injury as a result of diversion and use of ground water under such junior priority rights have not been adequately mitigated.

Factors Considered in Determining Material Injury To and Reasonableness of Water Diversions Under Water Rights Nos. 36-15501, 36-02551, and 36-07694

68. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2004, the following table summarizes the maximum daily flow and average daily flow by month for the water supply available to the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) in 1987 and 2004. The year 1987 was the last year within which the discharge from springs supplying the Rangen hatchery facilities at the seasonal maximum (November) was sufficient to fill water rights nos. 36-15501 and 36-02551 at the cumulative authorized diversion rate of 50 cfs, and 2004 was the last year for which complete data are available.

Month	Year	Maximum Daily Flow	Average Daily Flow
January	1987	44.25 cfs	44.25 cfs
	2004	15.75	14.58
February	1987	42.89	39.75
	2004	13.58	13.29
March	1987	NM*	NM*
	2004	13.56	13.09
April	1987	32.52	28.55
	2004	12.24	11.74
May	1987	23.97	23.29
	2004	12.06	11.42
June	1987	30.43	27.58
	2004	12.77	12.23
July	1987	30.91	29.09
	2004	12.29	11.84
August	1987	40.13	36.70
	2004	12.38	11.85
September	1987	47.94	40.06
	2004	13.73	13.06
October	1987	46.93	46.93
	2004	15.19	14.39
November	1987	50.08	46.52
	2004	14.50	13.73
December	1987	44.39	44.22
	2004	12.87	12.76

*NM = No measurement

69. Comparing same-month maximum daily and average daily flows representing the water supply available to the Rangen hatchery facilities (sum of the discharge from the CTR raceways and the flow over the check dam) between years for the years shown above demonstrates that there have been significant decreases in the water supply available to the Rangen hatchery facilities between 1987 and 2004. Flow measurements for the other years between 1987 and 2004 not shown above demonstrate that the water supply available to the Rangen hatchery facilities generally decreased from 1990 through 1996, rebounded in 1997 and 1998, and then significantly decreased again after 1998 to record lows by 2002, 2003, and 2004 for the post-1981 time period.

70. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2004, the quantity of water available at the source for water right no. 36-15501 with the priority date of July 1, 1957, is currently sufficient to fill this right at the authorized diversion rate of 1.46 cfs. *See* IDAPA 37.03.11.042.01.a.

71. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2004, and taking into account the variations in spring flows between months that have existed since the date of appropriation for water right no. 36-02551, the quantity of water available at the source for water right no. 36-02551 with the priority date of July 13, 1962, is currently insufficient to fill this right at the authorized diversion rate of 48.54 cfs, even during months when the springs providing the source for this right are discharging at the highest seasonal flows during the year, generally October through January. The quantity of water available at the source for water right no. 36-02551 is expected to continue to be insufficient during 2005. *See* IDAPA 37.03.11.042.01.a.

72. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2004, the quantity of water available at the source for water right no. 36-07694 with the priority date of April 12, 1977, is wholly insufficient to fill this right at the authorized diversion rate of 26.00 cfs, even during months when the springs providing the source of water for this right are discharging at the highest seasonal flows during the year, generally October through January. As described in Findings 62 and 63, there was not any water available for appropriation at the time or subsequent to the time that the application for permit to appropriate water for water right no. 36-07694 was filed. *See* IDAPA 37.03.11.042.01.a.

73. Based on subsequent findings and conclusions, it is unnecessary to determine whether Rangen has or has not expended reasonable efforts to divert water for right no. 36-02551 from its source for use at the Rangen hatchery facilities. *See* IDAPA 37.03.11.042.01.b.

74. Based on the Department's water rights data base and simulations using the Department's ground water model for the ESPA described in Findings 19 and 20, the diversion and consumptive use of ground water under water rights having priority dates later than the priority date for water right no. 36-02551 (July 13, 1962), and which at steady-state conditions reduce spring discharge in the Thousand Springs to Malad Gorge spring reach by more than 10 percent of the amount of depletion to the ESPA resulting from those ground water diversions (10 percent is the uncertainty in model simulations, *see* Finding 22), has insignificant effects on the quantity and timing of water available from springs discharging in the Thousand Springs to Malad Gorge spring reach, which includes the Curran Spring from which Rangen diverts surface water. *See* IDAPA 37.03.11.042.01.c.

75. Based on the records of flow measurements submitted by May on behalf of Rangen that are representative of the total supply of water available to the Rangen hatchery facilities for the years 1981 through part of 2003 and annual reports submitted by Rangen to the Department for the years 1995 through 2004, as well as field investigations conducted on November 25, 2003, by the watermaster for Water District No. 130 and Brian Patton, a registered professional civil engineer, Rangen is currently diverting and using surface water within the authorized diversion rate for water rights nos. 36-15501 and 36-02551 (50 cfs total). *See* IDAPA 37.03.11.042.01.e.

76. Based on the field investigations on November 25, 2003, described in Finding 75, the Rangen hatchery facilities have marginally adequate water measuring and recording devices. The watermaster for Water District No. 130 reports that the amounts of water diverted to domestic and irrigation uses are not measured, and the measurements of flows through hatchery raceways reported by Rangen may be systematically about 10 percent lower than actual flows. *See* IDAPA 37.03.11.042.01.f.

77. Based on the results from the field inspection on November 25, 2003, described in Finding 75, two potential modifications to the existing Rangen hatchery facilities were identified that could increase the supply of water to the Rangen hatchery facilities during times that water right no. 36-02551 is not satisfied. However, the combined additional flow that could be diverted is estimated to be 0.64 cfs, which is not significant given the shortages in water supply shown and described in Findings 68 and 69. *See* IDAPA 37.03.11.042.01.g.

78. Based on subsequent findings and conclusions, it is unnecessary to determine whether there are actions that potentially could provide alternate means of diversion or alternate points of diversion to increase the supply of water to the Rangen hatchery facilities during times that water right no. 36-02551 is not satisfied. *See* IDAPA 37.03.11.042.01.h.

Effects of Curtailing Ground Water Diversions Under Rights Junior to Water Right No. 36-02551

79. The following water rights authorize the diversion and use of ground water for consumptive uses from the area of common ground water supply described in Finding 7, have priority dates later than the priority date for water right no. 36-02551 (July 13, 1962), and based on model simulations reduce spring discharge in the Thousand Springs to Malad Gorge spring reach by more than 10 percent of the amount of depletion to the ESPA resulting from those ground water diversions (10 percent is the uncertainty in model simulations, *see* Finding 22):

Water Right No.	Priority Date	Diversion Rate	Authorized Use	Water Right Holder of Record
37-02733	04/12/1966	0.57 cfs	Irrigation of 32 acres	Scott & Sandi Luttmer
36-07156	02/08/1971	2.56	Irrigation of 190 acres	Orval & Bonnie Vader
36-07376	09/29/1973	2.75	Irrigation of 185 acres	Len Riddle & Frank Veenstra
36-07666A	01/05/1977	1.64	Irrigation of 82 acres	Frank Veenstra
36-07666B	01/05/1977	0.66	Commercial/Stock	Frank Veenstra
36-16146	11/25/1977	0.08	Irrigation of 4 acres	Larry & Lauri Nielson
36-07995	07/17/1981	0.20	Commercial/Domestic	Leo & Judith Ray
36-08100	07/13/1982	0.15	Irrigation of 5 acres	Lavar Jackson
36-08101	07/13/1982	0.80	Irrigation of 40 acres	Lavar Jackson
36-08268A	03/26/1985	0.04	Irrigation of 1 acre	Richard & Shelly Regnier
36-08333	08/25/1987	3.66	Irrigation of 183 acres	Ronnie & Sharlene Smith
36-08561	08/24/1990	0.18	Irrigation of 6 acres	Walter & Margaret Candy
36-08652	04/27/1992	0.24	Irrigation of 4½ acres	Valley View Homeowners
36-08662	05/26/1992	0.24	Commercial/Stock	Harry & Flora Bokma
36-08715	07/02/1993	2.00	Municipal	City of Hagerman
36-08747	02/02/1996	0.35	Irrigation of 8 acres	Northview Water Assoc.
36-16204	02/09/2004	0.18	Irrigation of 9 acres	Northview Water Assoc.

80. The Department's ground water model for the ESPA, described in Findings 19 and 20, was used to simulate the effects of permanently curtailing the diversion and use of ground water for the irrigation of 735 equivalent[1] acres under the water rights listed in Finding 79 for irrigation purposes. The results of the simulation show that permanently curtailing the diversion and use of ground water for the irrigation of these lands would increase the discharge of springs in the Thousand Springs to Malad Gorge spring reach, which includes the Curran Spring from which Rangen diverts surface water, by an average amount of 0.4 cfs at steady state conditions.

[1] For the ESPA ground water model, an algorithm is used to simulate the effects of supplemental ground water irrigation where surface water is deliverable for some portion of the irrigation of those lands. For each model cell, acreages simulated to be irrigated with both surface water and supplemental ground water are replaced with acreages simulated to be irrigated using all ground water such that the simulated consumptive use on the replacement acreage equals the consumptive use on the acreage with supplemental ground water irrigation. The equivalent acreage consists of the sum of acreages irrigated solely with ground water and the replacement acreages for acreages irrigated with both surface water and ground water.

81. Finding 80 is consistent with results from simulations conducted by IWRRI using the Department's ground water model for the ESPA. IWRRI simulated the effects of permanently curtailing ground water diversion and use across the ESPA under ground water rights junior to January 1, 1870; January 1, 1949; January 1, 1961; January 1, 1973; and January 1, 1985; with no other changes, using separate model simulations (the "Curtailment Scenario"). IWRRI Technical Report 04-023. Simulating the permanent curtailment of ground water diversions under rights junior to January 1, 1961, for irrigation in areas both within and outside the area having a common ground water supply described in Finding 7, results in the simulated curtailment of ground water irrigation on a total of 664,300 equivalent acres of land. IWWRI's simulation of the effects of such curtailment showed that spring discharges would increase in the Thousand Springs to Malad Gorge spring reach, which includes the Curran Spring from which Rangen diverts surface water, by an average amount of 5 cfs at steady state conditions. Simulating the permanent curtailment of essentially all ground water irrigation (ground water rights junior to January 1, 1870), which would curtail the irrigation of 1,102,000 acres, showed that spring discharges would increase in the Thousand Springs to Malad Gorge spring reach by an average amount of 8 cfs at steady state conditions.

82. Only ground water diverted and used for agricultural irrigation purposes was included in the modeled curtailment simulations conducted by Department staff and IWRRI. Based on USGS data, and disregarding the priority dates of ground water rights from the ESPA, about 95 percent of the ground water diverted from the ESPA is used for irrigation. Uses pursuant to ground water rights from the ESPA for public, domestic, industrial, and livestock purposes constitute 2.6 percent, 1.2 percent, 0.7 percent, and 0.6 percent of the total ground water diversions from the ESPA, respectively. Since a significant portion of these other uses is nonconsumptive, the depletions to the ESPA from irrigation uses that contribute to reduced spring discharges in the Thousand Springs area, and other reaches of the Snake River that are hydraulically connected to the ESPA, are greater than 95 percent of the total depletions from all uses of ground water.

83. Using the Department's ground water model for the ESPA to simulate increases in reach gains and spring discharges resulting from the curtailment of the diversion and use of ground water solely for agricultural irrigation purposes provides reasonable quantification of the increases in reach gains and spring discharges resulting from the curtailment of the diversion and use of ground water for all purposes.

84. Based on simulations using the Department's ground water model for the ESPA and accounting for the level of uncertainty in the model (10 percent as described in Finding 22), curtailment of the diversion and use of ground water under all water rights with priority dates later than July 13, 1962, the priority date for water right no. 36-02551, will not at any time result in a meaningful increase in the quantity of water discharging from springs in the Thousand Springs to Malad Gorge spring reach, which includes the Curran Spring from which Rangen diverts surface water.

85. Matters expressed herein as a Finding of Fact that are later deemed to be a Conclusion of Law are hereby made as a Conclusion of Law.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho Code § 42-603, which grants the Director authority to adopt rules governing water distribution, provides as follows:

> The director of the department of water resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. Promulgation of rules and regulations shall be in accordance with the procedures of chapter 52, title 67, Idaho Code.

In addition, Idaho Code § 42-1805(8) provides the Director with authority to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

3. The issue of how to integrate the administration of surface and ground water rights diverting from a common water source in the Eastern Snake Plain area has been a continuing point of debate for more than two decades. To date, no court has directly and fully addressed the issue of how to integrate the administration of the surface and ground water rights that were historically administered as separate sources. The progress made in adjudicating the ground water rights in the Snake River Basin Adjudication and the development of the reformulated ground water model for the ESPA used by the Department to simulate the effects of ground water depletions on hydraulically-connected tributaries and reaches of the Snake River now allow the State to address this issue during this period of unprecedented drought.

4. Resolution of the conjunctive administration issue lies in the application of two well established principles of the prior appropriation doctrine: (1) the principle of "first in time is first in right" and (2) the principle of optimum use of Idaho's water. Both of these principles are subject to the requirement of reasonable use.

5. "Priority of appropriations shall give the better right as between those using the water" of the state. Art. XV, § 3, Idaho Const. "As between appropriators, the first in time is first in right." Idaho Code § 42-106.

6. "[W]hile the doctrine of 'first in time is first in right' is recognized [and applies to ground water rights], a reasonable exercise of this right shall not block full economic development of underground water resources." Idaho Code § 42-226.

7. Because it is the policy of this state to integrate the appropriation, use, and administration of ground water tributary to a stream with the use of surface water from the stream in such a way as to optimize the beneficial use of all of the water of this state, "[a]n appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water . . .." IDAPA 37.03.11.020.03; *see also Schodde v. Twin Falls Land & Water Co.*, 224 U.S. 107, 119 (1912).

8. It is the duty of a watermaster, acting under the supervision of the Director, to distribute water from the public water supplies within a water district among those holding rights to the use of the water in accordance with the prior appropriation doctrine as implemented in Idaho law, including applicable rules promulgated pursuant to the Idaho Administrative Procedure Act. *See* Idaho Code § 42-607.

9. The Director created Water Districts No. 130 and No. 120 on February 19, 2002, and extended the boundaries of Water Districts No. 130 and No. 120 on January 8, 2003, and January 22, 2004, respectively, to provide for the administration of ground water rights in the area overlying the ESPA in the Thousand Springs area and the American Falls area, pursuant to the provisions of chapter 6, title 42, Idaho Code, for the protection of prior surface and ground water rights.

10. The Director has appointed watermasters for Water Districts No. 120 and No. 130 to perform the statutory duties of a watermaster in accordance with guidelines, direction, and supervision provided by the Director. The Director has given specific directions to the watermasters for Water Districts No. 120 and No. 130 to curtail illegal diversions, measure and report diversions, and curtail out-of-priority diversions determined by the Director to be causing injury to senior priority water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

11. In accordance with chapter 52, title 67, Idaho Code, the Department adopted rules regarding the conjunctive management of surface and ground water effective October 7, 1994. IDAPA 37.03.11. The Conjunctive Management Rules prescribe procedures for responding to a delivery call made by the holder of a senior priority surface or ground water right against junior priority ground water rights in an area having a common ground water supply. IDAPA 37.03.11.001.

12. Rule 10 of the Conjunctive Management Rules, IDAPA 37.03.11.010, contains the following pertinent definitions:

01. Area Having a Common Ground Water Supply. A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights.

03. Conjunctive Management. Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply.

04. Delivery Call. A request from the holder of a water right for administration of water rights under the prior appropriation doctrine.

07. Full Economic Development Of Underground Water Resources. The diversion and use of water from a ground water source for beneficial uses in the public interest at a rate that does not exceed the reasonably anticipated average rate of future natural recharge, in a manner that does not result in material injury to senior-priority surface or ground water rights, and that furthers the principle of reasonable use of surface and ground water as set forth in Rule 42.

08. Futile Call. A delivery call made by the holder of a senior-priority surface or ground water right that, for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource.

14. Material Injury. Hindrance to or impact upon the exercise of a water right caused by the use of water by another person as determined in accordance with Idaho Law, as set forth in Rule 42.

16. Person. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character.

17. Petitioner. Person who asks the Department to initiate a contested case or to otherwise take action that will result in the issuance of an order or rule.

19. Reasonably Anticipated Average Rate Of Future Natural Recharge. The estimated average annual volume of water recharged to an area having a common ground water supply from precipitation, underflow from tributary sources, and stream losses and also water incidentally recharged to an area having a common ground water supply as a result of the diversion and use of water for irrigation and other purposes. The estimate will be based on available data regarding conditions of diversion and use of water existing at the time the estimate is made and may vary as these conditions and available information change.

20. Respondent. Persons against whom complaints or petitions are filed or about whom investigations are initiated.

13. As used herein, the term "injury" means "material injury" as defined by Rule 10.14 of the Conjunctive Management Rules.

14. The diversion and use of ground water under existing rights results in an average annual depletion of ground water from the ESPA of nearly 2.0 million acre-feet and does not exceed the "Reasonably Anticipated Average Rate of Future Natural Recharge," consistent with Rule 10.07 of the Conjunctive Management Rules.

15. Rule 20 of the Conjunctive Management Rules contains the following pertinent statements of purpose and policies for conjunctive management of surface and ground water resources:

> **01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights.** The rules apply to all situations in the State where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply.
>
> **02. Prior Appropriation Doctrine.** These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law.
>
> **03. Reasonable Use Of Surface And Ground Water.** These rules integrate the administration and use of surface and ground water in a manner consistent with the traditional policy of reasonable use of both surface and ground water. The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule.
>
> **04. Delivery Calls.** These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued.
>
> **05. Exercise Of Water Rights.** These rules provide the basis for determining the reasonableness of the diversion and use of water by both the holder of a senior-priority water right who requests priority delivery and the holder of a junior-priority water right against whom the call is made.

11. Domestic and Stock Watering Ground Water Rights Exempt. A delivery call shall not be effective against any ground water right used for domestic purposes regardless of priority date where such domestic use is within the limits of the definition set forth in Section 42-111, Idaho Code, nor against any ground water right used for stock watering where such stock watering use is within the limits of the definition set forth in Section 42-1401A(12), Idaho Code; provided, however, this exemption shall not prohibit the holder of a water right for domestic or stock watering uses from making a delivery call, including a delivery call against the holders of other domestic or stockwatering rights, where the holder of such right is suffering material injury.

16. Rule 40 of the Conjunctive Management Rules sets forth the following procedures to be followed for responses to calls for water delivery made by the holders of senior priority surface or ground water rights against the holders of junior priority ground water rights from areas having a common ground water supply in an organized water district:

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material injury is occurring, the Director, through the watermaster, shall:

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year period to lessen the economic impact of immediate and complete curtailment; or

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.

02. Regulation of Uses of Water by Watermaster. The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in section 42-604, Idaho Code, and under the following procedures:

a. The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source.

b. The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director.

c. Where a call is made by the holder of a senior-priority water right against the holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director

whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority.

d. The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by section 42-606, Idaho Code.

e. Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated.

03. Reasonable Exercise of Rights. In determining whether diversion and use of water under rights will be regulated under Rules 40.01.a., or 40.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste.

04. Actions of the Watermaster under a Mitigation Plan. Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan.

17. In accordance with Rule 40 of the Conjunctive Management Rules, curtailment of junior priority ground water rights may only occur if the use of water under senior priority rights is consistent with Rule 20.03 of the Conjunctive Management Rules and injury is determined to be caused by the exercise of the junior priority rights. Factors that will be considered in determining whether junior priority ground water rights are causing injury to the senior priority water rights held by Rangen are set forth in Rule 42 of the Conjunctive Management Rules as follows:

01. Factors. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following:

a. The amount of water available in the source from which the water right is diverted.

b. The effort or expense of the holder of the water right to divert water from the source.

c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply.

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application.

e. The amount of water being diverted and used compared to the water rights.

f. The existence of water measuring and recording devices.

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system.

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority.

02. Delivery Call For Curtailment of Pumping. The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan.

18. The two letters received on September 23 and October 10, 2003, by the Director from J. Dee May, representing Rangen, Inc., seeking the administration of "all water right diversions junior to [Rangen's] that are interfering with and impacting [Rangen's] water rights" are either delivery calls as defined by Rule 10.04 of the Conjunctive Management Rules against junior priority ground water rights or demands for the administration of surface water rights pursuant to Idaho Code § 42-607.

19. Rule 40 of the Conjunctive Management Rules applies to the delivery calls made by Rangen against the holders of junior priority ground water rights, but not surface water rights, in Water Districts No. 36A, No. 120, and No. 130.

20. There are no surface water rights in Water Districts No. 36A or No. 130 that are junior in priority to Rangen's water right no. 36-02551 and that are diverted from the same

surface water source as right no. 36-02551. There are also no surface water rights in Water District No. 120.

21. There are no ground water rights subject to administration included within Water District No. 36A.

22. Rules 40 and 42 of the Conjunctive Management Rules require the Director to make determinations regarding "material injury" and the "reasonableness of water diversions" in responding to a delivery call against junior priority ground water rights in Water Districts No. 120 and No. 130.

23. The reductions in the quantity of water discharging from springs in the Thousand Springs area attributable to depletions to the ESPA from the diversion and use of ground water in Water Districts No. 120 and No. 130 do not automatically constitute material injury to surface water rights diverting from springs or dependent on sources formed by springs even when the diversion and use of ground water occur under water rights that are junior in priority to such surface water rights. Whether reductions in the quantity of water discharging from springs caused by the diversion and use of ground water under junior priority rights in Water Districts No. 120 and No. 130 constitute material injury is dependent on the factors enumerated in Rule 42 of the Conjunctive Management Rules.

24. Since the records of flow measurements submitted by May on behalf of Rangen and the records maintained by the Department since 1995 show that the quantity of water available at the Rangen hatchery facilities has been sufficient to continuously fill water right no. 36-15501 at the authorized diversion rate of 1.46 cfs, the exercise of junior priority ground water rights have not reduced the quantity of water available for water right no. 36-15501. Therefore, there is no material injury to water right no. 36-15501.

25. Based on simulations using the Department's reformulated and recalibrated ground water model, permanently curtailing the diversion and use of ground water under rights for agricultural irrigation that (1) are in the area of common ground water supply described in Finding 7, (2) have priority dates later than the priority date for water right no. 36-02551 (July 13, 1962), and (3) reduce spring discharge in the Thousand Springs to Malad Gorge spring reach by more than 10 percent of the amount of depletion to the ESPA resulting from those ground water diversions (10 percent is the uncertainty in model simulations, see Finding 22), would increase the discharge of springs in the Thousand Springs to Malad Gorge spring reach, which includes the Curran Spring from which Rangen diverts surface water, by a total average amount of 0.4 cfs at steady state conditions. Therefore, the delivery call against ground water rights junior in priority to July 13, 1962, to supply water right no. 36-02551 is futile because an insignificant quantity of water would accrue to the entirety of the Thousand Springs to Malad Gorge spring reach (*see* IDAPA 37.03.11.010.08), and since the diversion and use of ground water under rights junior in priority to July 13, 1962, do not significantly affect the quantity of water available for water right no. 36-02551, there is no material injury to water right no. 36-02551 (*see* IDAPA 37.03.11.042.01.c).

26. If the area of simulated permanent curtailment includes all of the area included in the ESPA ground water model (not limited to the area of common ground water supply described in Finding 7), and the uncertainty in the model simulations is disregarded, simulating the permanent curtailment of ground water under rights for agricultural irrigation that have priority dates later than the priority date for water right no. 36-02551 (July 13, 1962) would increase the discharge of springs in the Thousand Springs to Malad Gorge spring reach, which includes the Curran Spring from which Rangen diverts surface water, by a total average amount of less than 5 cfs at steady state conditions. Even if an average accrual of 5 cfs in the Thousand Springs to Malad Gorge spring reach would result from the permanent curtailment of 664,300 irrigated acres, curtailment of such rights would be precluded under principles of the prior appropriation doctrine as established by Idaho law. *See e.g.*, IDAPA 37.03.11.020.03; *Schodde*, 224 U.S. at 119.

27. Based on available records, there has never been water available for water right no. 36-07694 (See Finding 63). The exercise of junior priority ground water rights cannot reduce the quantity of water available for water right no. 36-07694 since water has never been available anyway. Therefore, there is no material injury to water right no. 36-07694 caused by the diversion and use of ground water under junior priority rights. Even if water had been available at one time to partially or completely satisfy water right no. 36-07694, the delivery call would still be futile and no material injury would be found. See Conclusion 25.

28. The Director should deny Rangen's delivery call.

ORDER

In response to the water delivery call made by Rangen, Inc., and for the reasons stated in the foregoing Findings of Fact and Conclusions of Law, the Director orders as follows:

IT IS HEREBY ORDERED that the delivery call made by Rangen through the letters filed with the Director by J. Dee May on September 23, 2003, and October 6, 2003 is hereby DENIED.

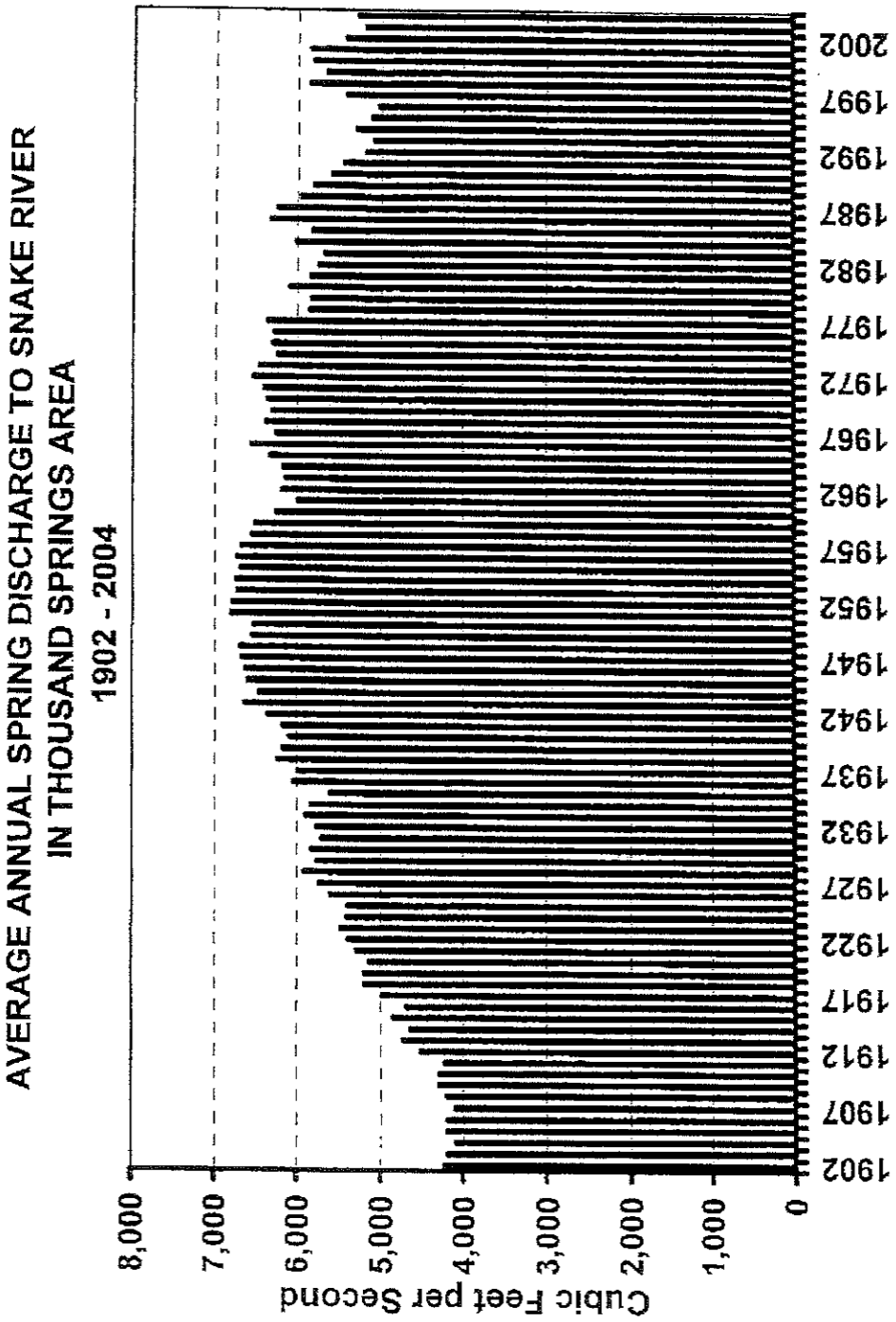
IT IS FURTHER ORDERED that this is a final order of the agency. Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law pursuant to Idaho Code § 67-5246.

IT IS FURTHER ORDERED that any person aggrieved by this decision shall be entitled to a hearing before the Director to contest the action taken provided the person files with the Director, within fifteen (15) days after receipt of written notice of the order, or receipt of actual notice, a written petition stating the grounds for contesting the action and requesting a hearing. Any hearing conducted shall be in accordance with the provisions of chapter 52, title 67, Idaho Code, and the Rules of Procedure of the Department, IDAPA 37.01.01. Judicial review of any final order of the Director issued following the hearing may be had pursuant to Idaho Code § 42-1701A(4).

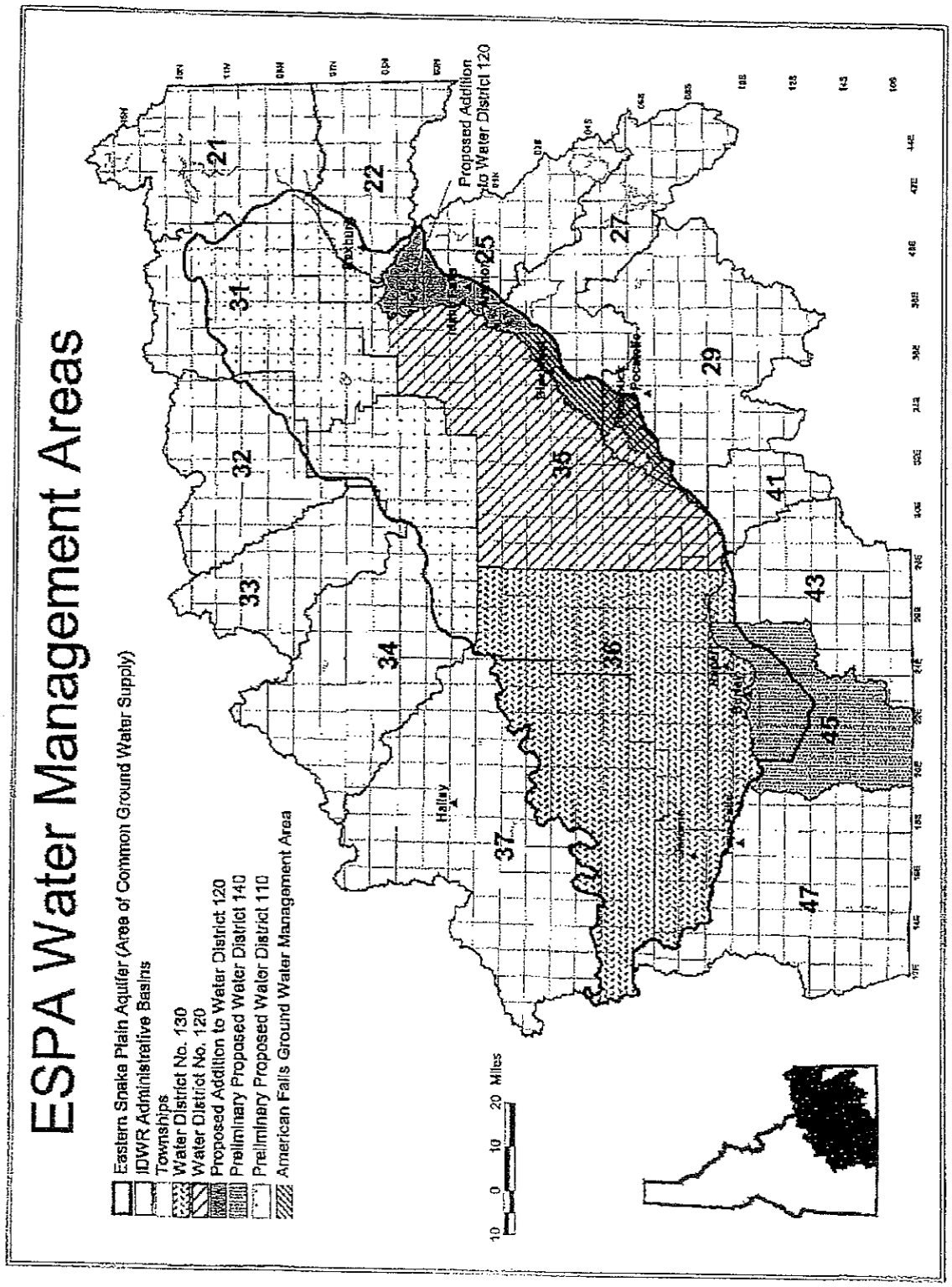
DATED this 19 th day of May 2005.

KARL J. DREHER
Director

ATTACHMENT A



ATTACHMENT B



RAN 780

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of May, 2005, the above and foregoing document was served by the method indicated:

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DANIEL STEENSON CHARLES HONSINGER RINGERT CLARK PO BOX 2773 BOISE ID 83701-2773 (208) 342-4657 dvs@ringertclark.com clh@ringertclark.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
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March 31, 2009

David R. Tuthill, Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

RE: Rangen, Inc.
Water rights Nos. 36-15501, 36-02551, 36-07694

Dear Director Tuthill:

I am writing to renew Rangen, Inc.'s request and petition for a hearing before an independent hearing officer on former Director Dreher's Second Amended Order of May 19, 2005.

As you know, it has been more than five years since Rangen first requested the priority administration of water rights due to shortages at its research facility and fish farm. On September 23, 2003 and again on October 6, 2003, Rangen requested that the Director fulfill his duty to administer water rights in accordance with priority. Rangen's request resulted in a series of orders culminating in the Second Amended Order of May 19, 2005. Among other things, the Second Amended Order concluded that Rangen's delivery call was futile.

On June 3, 2005, Rangen timely petitioned for a hearing on all aspects of the Second Amended Order and requested the appointment of an independent hearing officer. This hearing has yet to occur although Justice Shroeder, as independent hearing officer, has held hearings on a number of calls by other senior water rights holders including Blue Lakes, Clear Springs, the Surface Water Coalition, and A & B Irrigation.

These hearings have resulted in orders for curtailment that would benefit not only the specific calling senior water right holder, but also other senior water rights holders including Rangen. However, at this time no such curtailment has occurred. Nor have other measures been implemented to fully mitigate for the depletionary effect of junior ground water pumping on the aquifer and spring water flows. Most recently, on March 26, 2009, you approved a "replacement water" plan submitted by the ground water districts that at best provides some water to Clear Springs Snake River Farms facility. That "replacement water" plan does not mitigate the effects of pumping on the aquifer, yet allows junior pumpers to continue to take water that would otherwise flow to senior water rights holders, like Rangen, that are suffering shortages.

tabbies PLAINTIFF'S EXHIBIT 7

The water flowing from the Curran Tunnel, the spring source for Rangen's water rights, continues to decrease. The current flow is approximately 12.2 cfs. The cumulative amount of Rangen's water rights from the Curran Tunnel is 76.0 cfs. A significant portion of the diminished spring flow is caused by ground water pumping under water rights that are junior to Rangen's rights. Spring flows at Rangen's facility continue to decrease while junior ground water pumping continues.

Rangen once again requests that the Director schedule a hearing before an independent hearing officer on the Second Amended Order of May 19, 2005.

Very truly yours,

MAY, SUDWEEKS & BROWNING, LLP

J. Justin May

JJM:bh
cc: Rangen, Inc.

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JUN 03 2005
Department of Water Resources

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Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-15501, 36-02551, AND 36-07694

RANGEN, INC.'S PETITION REQUESTING HEARING ON SECOND AMENDED ORDER OF MAY 19, 2005 AND REQUESTING APPOINTMENT OF AN INDEPENDENT HEARING OFFICER

COMES NOW Rangen, Inc., through counsel, and submits this Petition Requesting a Hearing on the Second Amended Order issued by the Director of the Idaho Department of Water Resources on May, 19, 2005. This Petition is submitted pursuant to the Idaho Administrative Procedure Act, Idaho Code § 67-5201, et. seq., as adopted by Idaho Code § 42-1701A(3) and the Department's Rules of Procedure, IDAPA 37.01.01, et. seq. Rangen requests a hearing on all aspects of the Second Amended Order and requests the appointment of an independent hearing officer pursuant to Idaho Code § 42-1701A(2).

PLAINTIFF'S EXHIBIT 8
tabbies

I. INTRODUCTION

Rangen holds water rights with a source in the Curran Tunnel, a spring that is part of the Thousand Springs complex. Rangen conducts research and development and raises fish with those rights at its research facility. The quantity of water flowing from the Curran Tunnel has been decreased substantially. The current flow is sufficient to satisfy only approximately 15% of Rangen's decreed rights.

The Curran Tunnel, like the other springs in the Thousand Springs complex, is hydraulically connected to the Eastern Snake Plain Aquifer. The measured decrease in flows at the Curran Tunnel can be attributed to many sources including depletions due to ground water pumping from the Eastern Snake Plain Aquifer. Some of the water rights causing ground water depletions have priority dates junior to the water rights utilized in Rangen's facility.

II. PROCEDURAL HISTORY

On September 23, 2003 and again on October 6, 2003 Rangen requested that the Director fulfill his duty to administer water rights in accordance with priority. The Director responded on February 25, 2004 with an order curtailing "consumptive ground water rights in Water District No. 130 that are junior in priority to July 13, 1962 . . . unless sufficient replacement water is provided as set forth herein." That order was amended on March 10, 2004 to reduce the simulated reach gains expected as a result of curtailment from 53,000 acre feet to 26,500 acre feet. On or about March 20, 2004, Rangen, the State of Idaho, and the parties to the contested case resulting from Rangen's request for administration, executed the Eastern Snake Plain Aquifer Mitigation, Recovery, and Restoration Agreement for 2004. Pursuant to that agreement "All pending delivery calls against the aquifer and conjunctive management litigation" were stayed and the parties agreed there would be "no further delivery calls against the aquifer . . . from March 15, 2004 to March 15, 2005." Shortly before the expiration of the agreement, on

March 14, 2005, the Director rescinded the March 10, 2004 Amended Order. A Second Amended Order was issued by the Director on May 19, 2005. Rangen now requests a hearing on all aspects of this Second Amended Order and requests appointment of an independent hearing officer.

III. GROUNDS FOR REQUESTING HEARING

Pursuant to Idaho Code § 42-1701A(3) Rangen requests a hearing on all aspects of the Director's Second Amended Order upon the following grounds. Rangen objects to the Directors' findings of fact and conclusions of law except as specifically stated herein. Paragraph references are to paragraph numbers in the Director's Second Amended Order unless specified otherwise.

1. In paragraph 6 the Director finds that "the reformulated and recalibrated ground water model . . . should be used to determine the extent of depletions to springs discharging in the Thousand Springs area resulting from the diversion and use of ground water." In paragraph 25 the Director finds that "The results of simulations from the Department's ground water model are suitable for making factual determinations on which to base conjunctive administration of surface water rights diverted from the Snake River and its tributaries and ground water rights diverted from the ESPA." These findings are in error to the extent that the model is used to quantify and minimize the injury suffered by the holders of senior water rights due to out of priority ground water pumping. On information and belief the ground water model utilized by the Director is not designed or adequately calibrated to specifically quantify the injury suffered at an individual spring or by an individual water rights holder. On information and belief the ground water model utilized by the Director is not designed or adequately calibrated to specifically quantify the injury caused by an individual junior pumper. Rangen is entitled to a hearing and discovery regarding the basis for the Department's model and the adequacy of its calibration.

2. The Department's ground water model divides the Thousand Springs area into six adjacent groupings of spring complexes "based on the relative magnitude of spring discharge" as described in paragraph 20. The Director improperly relied upon these arbitrary groupings of springs to determine the magnitude of injury suffered at Rangen's facility. Following the logic of the Director's order a different arbitrary grouping of springs could result in a different calculation of injury. On information and belief the accuracy of the model and its calibration varies between and within the described spring reaches. Rangen is entitled to discovery to determine the basis for the Director's grouping of springs and the relative accuracy of the model for describing impacts on these groupings of springs.

3. The Director erred by placing the burden of declining ground water levels – from whatever cause – on senior water rights holders. The doctrine of prior appropriation does not guarantee that senior water holders will always have water. Water levels and availability may fluctuate for a number of reasons outside the control of either the Director or the Courts. However, the doctrine of prior appropriation does provide that in a time of shortage water is not available to junior water rights until senior rights are satisfied. A junior appropriator can only obtain a right to use water that is in excess of the water necessary to fill rights existing at the time of the junior's appropriation. "Each junior appropriator is entitled to divert water only at such times as all prior appropriators are being supplied under their appropriations under conditions as they existed at the time the appropriation was made." *Beecher v. Cassia Creek Irr. Co.*, 66 Idaho 1, 9, 154 P.2d 507, 515 (1944). The relative percentage of impact due to drought, reduced recharge due to irrigation efficiency, depletions from ground water pumping, and other causes cited by the Director is irrelevant. With regard to the Director's duty to administer water rights according to priority, the only relevant questions are whether the senior water right holder

is receiving enough water to satisfy its rights as decreed and whether the senior water right would receive more water if junior pumping were curtailed.

4. The Director's Second Amended Order fails to comply with the Director's duty to administer water rights pursuant to the SRBA Court's Order Granting the State of Idaho's Motion for Interim Administration as acknowledged in paragraph 27 through 30. The Director's duty is to administer water rights in priority and *as decreed*. In paragraph 63 the Director acknowledges that "the SRBA District Court decreed water right no. 36-07694." However, based upon his own determination that "there was not water available for appropriation at the time or subsequent to the date of appropriation for water right no. 36-07694 . . . the Department erred in licensing water right no. 36-07694, and should not have recommended this right for decree in the SRBA." The Director concludes that "because water was not available to appropriate on the date of appropriation for right no. 36-07694, Rangen may not be entitled to have a delivery call recognized against junior priority water rights." The Director erred by ignoring and attempting to readjudicate Rangen's decreed water rights.

5. The Director's view of water rights as expressed in paragraph 66 is inconsistent with Idaho Law, the Idaho Constitution and the doctrine of prior appropriation. According to the Director: "The rates of diversion authorized pursuant to water rights nos. 36-15501 and 36-02551 . . . are not quantity entitlements that are guaranteed to be available to Rangen. Rather, the authorized rates of diversion are the maximum rates at which water can be diverted under these rights respectively, when such quantities of water are physically available and the rights are in priority." This is wholly inconsistent with the basic principles of Idaho water law.

6. In paragraph 67, the Director states that "Rangen can only call for the distribution of water to its rights through the curtailment of junior priority ground water rights from the hydraulically-connected ESPA when such curtailment would result in a

usable amount of water reaching Rangen's points of diversion in time of need. . .." This is basically a proper statement of the law regarding "futile calls." However, the Director's application of the rule in this matter is improper in at least two respects.

First, after determining that water would reach Rangen's facility if curtailment is ordered, the Director made no effort to determine whether that water would be usable by Rangen. Rather, the Director simply states that the resulting water is "insignificant." This determination is arbitrary and does not comply with the rule set out by the Director and quoted above. Rangen is entitled to a hearing to determine whether the water resulting from any curtailment would be in "a usable amount" and arrive at "Rangen's points of diversion in time of need."

Second, by the application of an arbitrary limitation on which diversions can be curtailed, the Director has improperly allocated the burden of proof regarding a futile call. The burden of showing that a call is futile as to any individual junior water right is on the junior appropriator. The Director has chosen to administer only those rights where 10% of the depletionary effect from junior pumping shows up as a reduction in the reach where Rangen's diversion is located. The apparent basis for this limitation is that "10% is the uncertainty in model simulations." If the Director is determining that those water rights that can't be shown to cause injury above the uncertainty in the model cannot be curtailed because they cannot be shown to cause injury, this is an impermissible shifting of the burden of proof on this issue.

7. On information and belief, the Director erred in determining the model uncertainty as 10%. The Director also erred in utilizing this 10% limitation on the model to minimize the impact of junior ground water pumping.

8. In paragraph 81 the Director states that simulated curtailment of water rights junior to January 1, 1961 within the modeled area would result in an increase of 5 cfs at steady state conditions within the spring reach that includes the Curran Tunnel.

However, the Director concludes that only those rights that meet the Director's arbitrary 10% criteria can be curtailed. Based upon this 10% criteria the Director uses a simulation curtailing 735 acres to conclude that the actual result of curtailment would be .4 cfs. The Director then completes this reduction by concluding that .4 cfs is insignificant. By this use of the 10% uncertainty, the Director has set a de facto standard for a futile call that is inconsistent with Idaho law.

9. The Conjunctive Management Rules on their face and as applied in this matter are unconstitutional and violate Idaho law including the doctrine of prior appropriation.

10. The Director erred in subjecting the doctrine of prior appropriation to a requirement of reasonable use. Once a water right has been decreed, the beneficial use decreed is not subject to reduction according to whether the Director believes the use is reasonable.

11. Idaho Code § 42-226 has no application to surface water rights.

12. Once the Director determines that injury is occurring due to out of priority diversions it is improper for the Director to determine whether curtailment can be ordered based upon "optimiz[ing] the beneficial use of all of the water of this state." The doctrine of prior appropriation together with the limitation on futile calls constitute the method used in this state for optimizing the beneficial use of water and providing that junior water rights are not curtailed needlessly or without reason. There is no provision in Idaho law providing for an examination of the relative beneficial uses of the junior and senior appropriators. *Schodde v. Twin Falls Land & Water Co.*, 224 U.S. 107 (1912) cited by the Director has no application to this situation.

13. Even if the director could consider and balance the water received by the holder of a senior water right against the impact on the holders of junior rights, it is improper to aggregate the impact on junior appropriators without considering that

curtailment will result in reduced injury to senior water right holders in the same spring reach as Rangen as well as other reaches. There is no indication that any of the curtailed depletions would result in wasted water. Many of the benefited senior water rights holders have made calls that are subject to other orders by the Director.

14. The Director improperly considered the impact of curtailment upon junior appropriators when deciding whether to enforce Rangen's decreed rights. In response to curtailment, a junior user cannot complain that the impact of curtailment is out of proportion to the percentage of curtailed water that will reach the senior water right.

15. The standard for material injury used by the Director is inconsistent with Idaho law.

16. The Director's Second Amended Order results in a taking of Rangen's water rights in violation of both the Idaho and United States Constitutions.

17. The application of factors enumerated in Rule 42 of the Conjunctive Management Rules to qualify material injury to a senior water rights holder as set out in conclusion of law 23 is unconstitutional and violates the doctrine of prior appropriation.

18. Rangen reserves the right to raise additional issues during the requested hearing.

19. Rangen reserves the right to challenge the Director's Second Amended Order in an action or actions in District Court.

IV. REQUEST FOR INDEPENDENT HEARING OFFICER

Rangen requests that the Director appoint an independent hearing officer in this matter pursuant to Idaho Code § 42-1701A(2). It is anticipated that the Director will be a fact witness in this matter. The Director has been involved in the design, development, and calibration of the ground water model that is relied upon in the challenged order. The Director has also been involved in negotiation between Rangen and others who may

be parties to this action including negotiations involving the Eastern Snake Plain Aquifer Mitigation, Recovery, and Restoration Agreement for 2004.

V. CONCLUSION

Rangen respectfully requests a hearing on all aspects of the Director's Second Amended Order as provided herein and requests the appointment of an independent hearing officer.

DATED This 3rd day of June, 2005.

MAY, SUDWEEKS & BROWNING, LLP

By _____
J. Justin May
Attorneys for Rangen, Inc.

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 3rd day of June, 2005 he caused a true and correct copy of the forgoing document to be served upon the following by the indicated method:

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DANIEL STEENSON CHARLES L HONSINGER RINGERT CLARK CHTD P0 BOX 2773 BOISE ID 83701-2773	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
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FRANK ERWIN WATER DIST 36 2628 SOUTH 975 EAST HAGERMAN, ID 83332	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
CINDY YENTER WATERMASTER – WD 130 IDWR-SOUTHERN REGION 1341 FILLMORE ST STE 200 TWIN FALLS, ID 83301-3380	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
FRITZ WONDERLICH WONDERLICH & WAKEFIELD P0 BOX 1812 TWIN FALLS, ID 83303-1812	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
JAMES LOCHHEAD WAYNE FORMAN BROWNSTEIN HYATT 410 17Th ST 22ND FLR DENVER, CO 80202	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
KATHLEEN CARR US DEPT OF THE INTERIOR OFFICE OF THE SOLICITOR 550 W FORT ST MSC-020 BOISE, ID 83724	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐

NORTH SNAKE GWD 152 E MAIN ST JEROME, ID 83338	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
FRITZ HAEMMERLE HAEMMERLE HAEMMERLE P.O BOX 1800 HAILEY, ID 83333	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
ROGER LING LINK ROBINSON WALKER PO BOX 396 RUPERT, ID 83350-0396	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
GENE & JUDY FREDERICKSEN 200 NORTH 349 EAST JEROME, ID 83338	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
JEROME COUNTRY CLUB P.O. BOX 136 JEROME, ID 83338	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
RICHARD DINGES TUNUPA RANCH 2490 EAST 1700 SOUTH GOODING ID 83330	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
SCOTT CAMPBELL MOFFATT THOMAS PO BOX 829 BOISE, ID 83701	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐

NEAL & NANCY BOWMAN 402 SOUTH 750 EAST DIETRICH, ID 83324	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
RC STONE PARSONS SMITH STONE PO BOX 910 BURLEY, ID 83318	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
RALPH STANLEY WARD 917 EAST 470 SOUTH DIETRICH, ID 83324	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
DANA HOFSTETTER HOFSTETTER LAW OFFICE 608 WEST FRANKLIN BOISE, ID 83702	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
GAIL MCGARRY PN 3100 BUREAU OF RECLAMATION 1150 N CURTIS ROAD BOISE, ID 83706	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
JERRY AND PATTY NANCE 814 HWY 24 DIETRICH, ID 83324	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
HUBERT & RITA SHAW SHAW LAND & LIVESTOCK 411 SOUTH 750 EAST DIETRICH, ID 83324	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐

LOUIS LEON HUBSMITH 647 EAST 130 SOUTH DIETRICH, ID 83324	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
MICHAEL STEVENS LAVA LAKE LAND & LIVESTOCK P.O. BOX 2249 HAILEY, ID 83333	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
DELBERT KOHTZ 1135 VALLEY ROAD SOUTH EDEN, ID 83325	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
VERNON RAVENSCROFT 1328-B SHOESTRING RD. BLISS, ID 83314	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
VIC CONRAD JR SIMPLOT CO P.O. BOX 27 BOISE, ID 83707-0027	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
CHUCK BROCKWAY WEBB BASIN DAIRY 2016 N WASHINGTON ST STE 4 TWIN FALLS, ID 83301	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐
ARLEN & MARYLEE BUERKLE 343 SOUTH 300 WEST RUPERT, ID 83350	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☒ ☐ ☐ ☐

J TIM THOMAS DEPUTY ATTORNEY GENERAL P.O. BOX 7129 BOISE, ID 83707-1129	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
DONLEY FARMS DONALD & BEVERLY TABER 501 EAST 20 NORTH SHOSHONE, ID 83352	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
BARBARA SCOTT BRIER US DEPT OF THE INTERIOR OFFICE OF THE SOLICITOR 500 NE MULTNOMAH ST STE 607 PORTLAND, OR 97232	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
ED & ALPHA MAHLER 366 N. MERIDIAN RUPERT, ID 83350	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
DONAL T. BRAY SCOTT HUXBOLD P.O. BOX 156 BLISS, ID 83314	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
ALEXANDRA M VISCUSI US DEPT OF THE INTERIOR OFFICE OF THE SOLICITOR 550 W FORT ST MSC 020 BOISE, ID 83724	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐
SCOTT JENSEN JENSEN DAIRY FARM 660 WEST 300 SOUTH HEYBURN, ID 83336	Hand Delivery U.S. Mail Fax Federal Express Email	☐ ☑ ☐ ☐ ☐

J. Justin May

State of Idaho
DEPARTMENT OF WATER RESOURCES
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C. L. "BUTCH" OTTER
Governor
DAVID R. TUTHILL, JR.
Director

February 25, 2009

To the members of the ESHMC:

I appreciate the hard work and significant contributions the modeling committee is making toward updating and improving the ESPA Model. On January 15th, 2009, the committee sent me the following question:

As part of the uncertainty analysis, should the ESHMC address the technical aspects (not policy issues) of a trim line as a function of uncertainty?

Please note that the subject of the trim line was addressed by the Hearing Officer's January 11, 2008 Opinion in the Spring Users case (Blue Lakes Trout Farm, Inc. and Clear Springs Foods, Inc.). The Hearing Officer stated that:

4. It was proper for the Director to determine a margin of error which resulted in the so called "trim line." *The 10% margin of error factor assigned by the former Director was not the result of a perfect protocol that might render a different figure or range of figures. No such protocol was in place and there was none forthcoming in a reasonable time when the decisions on the Spring Users' calls had to be made. There is common sense to the 10% error factor assigned by the former Director, based on the assumption that the model cannot be better than the input of a key component. The evidence is clear that the model is not perfect and should have an error factor developed to utilize. It may be simple but true - a 10% factor is closer to accurate than no error factor, once the scientists agree, as they do, that an error factor is desirable. Until a better factor is established, the Director in his best judgment may use 10%. The development of a more scientifically based error factor should be a priority in improvement.*

More recently, the trim line was discussed in the Hearing Officer's April 29th, 2008 Opinion in the Surface Water Coalition case:

7. The former Director utilized a 10% margin of error that is appropriate until a more scientifically based margin is established. Development of a more scientifically, peer reviewed, margin should be a priority. *Development of the model has not proceeded to the point of establishing a margin of error. Those involved in the development of the model agree that it is not 100% accurate and that it is desirable to determine an error factor. The calls that have been made have necessitated decisions before the next stage in model development. The former Director recognized that there had to be a margin of error in the application of the model and assigned a 10% error factor. This conclusion was based on the fact that the gauges used in water measurement have a plus or minus error factor of 10%. The former Director concluded that the model could be no better than the measuring gauges used and used the 10% margin absent a better figure developed through further testing of the model. No party offered credible evidence of a better margin of error.*

8. The former Director used the 10% margin of error as a trim line, excluding ground water users from curtailment who were in that margin. *The purpose of the trim line or clip was to avoid curtailing ground water users who might have no effect on enhancing reach gains. Application of the trim line was proper to avoid a significant probability that curtailment would extend to ground water users who would suffer significantly without contributing water where necessary to remediate the material injury to the surface water users.*

Based on these opinions, I believe there is sufficient guidance and a basis for the use of a trim line. The trim line is related to my determination of injury in that it defines users whose contribution to the shortage suffered by a calling party is de *minimus*. However, during the next ESHMC meeting (March 31st – April 1), members of the committee are welcome to bring a write-up and make a 10 to 15 minute presentation regarding the technical aspects of the use of a trim line. The write-ups and meeting minutes will become part of a white paper that is an ESHMC publication similar to the previous white paper on the "ESHMC Member Opinions of the ESPA Model" (January, 2007).

The white paper does not supersede the need for the ESHMC to address uncertainty associated with Version 2.0 of the ESPA Model as it pertains to predictions of river and spring reach gains. The associated level of uncertainty will be most useful in determining where and what type of data to collect to minimize uncertainty in future versions of the ESPA Model. The investigation of uncertainty should be accomplished through regular committee analysis and discussion.

Thank you again for your efforts.

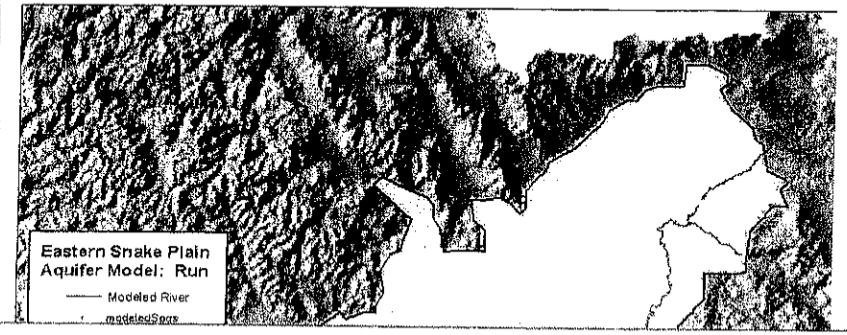
Sincerely,

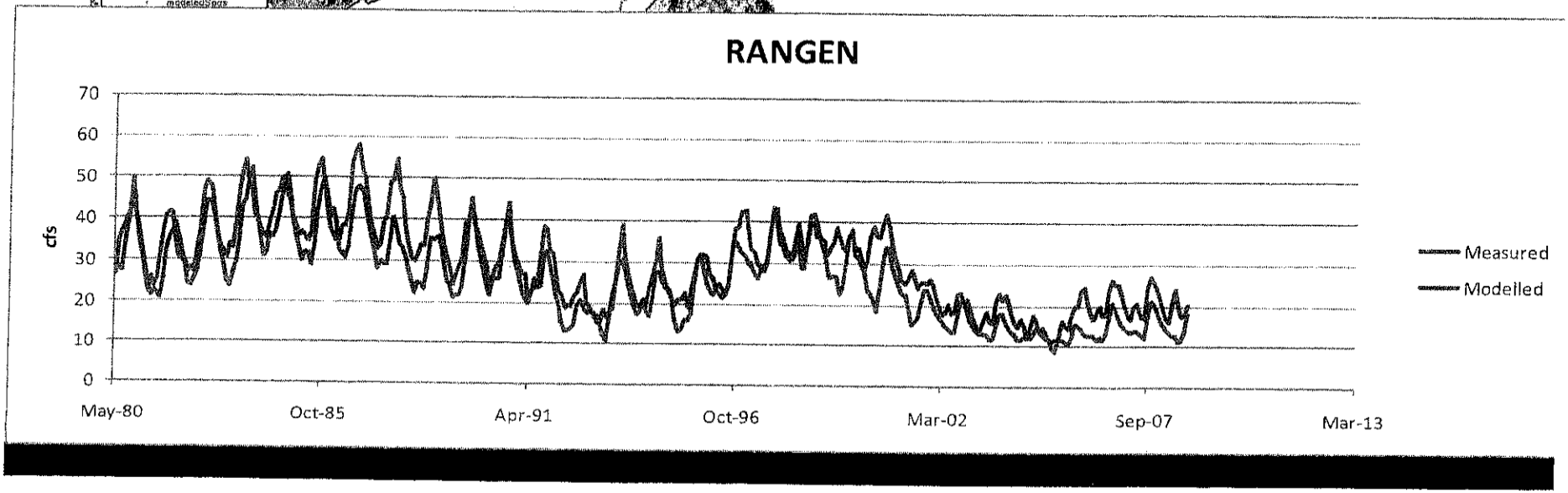
David R. Tuthill, Jr.
Director

IDAHO Department of Water Resources

PLAINTIFF'S EXHIBIT

- Rangen Spring





Memorandum

To: Rangen Inc.

From: Dennis McGrane, Jim Brannon, and Dave Colvin– Leonard Rice Engineers, Inc.

Date: December 9, 2011

Project: 1179MSB01

Subject: ESPAM Model V. 2.0 Curtailment Analysis

The Eastern Snake Hydrologic Modeling Committee (ESHMC) has been overseeing the development of the Eastern Snake Plain Aquifer ground water model (ESPAM). During the ESHMC's December, 2011 meeting, we expect they will announce that they have completed calibrating Version 2.0 of the ESPAM model.

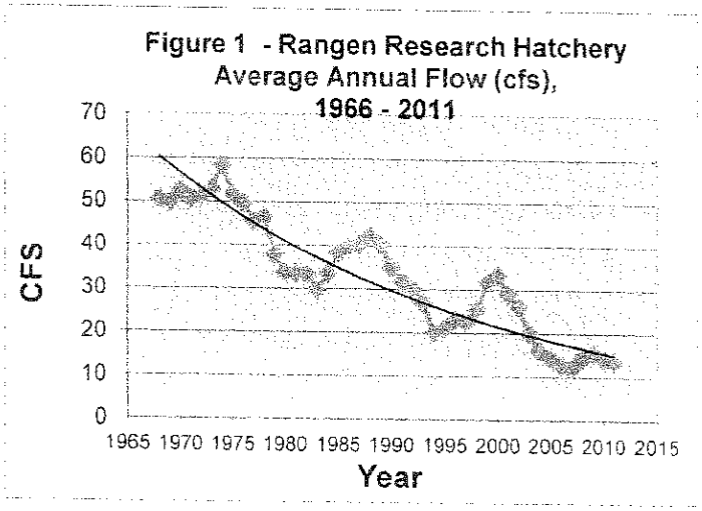
At Rangen's request, Leonard Rice Engineers (LRE) used the current model (Model Version 2.0-E110712A) to:

- Determine whether junior well pumping has impacted Rangen spring flows and water rights;
- Quantify the cumulative impacts to Rangen spring flow over time;
- Quantify the recovery of the Rangen Spring if junior wells are administered (shut down); and
- Evaluate whether the model predicted recovery is reasonable.

Background

Rangen has five water rights on Billingsley Creek dated October 9, 1884 (0.09 cfs), April 1, 1908 (0.05 cfs), July 1, 1957 (1.46 cfs), July 13, 1962 (48.54 cfs), and April 12, 1977 (26.0 cfs). Spring flows at the Rangen spring are well documented and have been declining since 1966. LRE has inspected the Rangen facility and the spring flow measurement devices. LRE believes that Rangen has collected accurate flow measurements, that the water use is reasonable and not wasteful, and that Rangen has the physical capacity to put all of its water rights to use.

Figure 1 shows how weekly flow measurements averaged on an annual basis have declined from an average of approximately 51 cfs in 1966 to an average of approximately 14 cfs in 2011 (average through October), a total average decline since 1966 of approximately 37 cfs.



The decline is caused by several factors including junior well pumping which lowers the water table thereby reducing spring flow.

ESPAM Model Version 2.0

The ESPAM model was originally created by the Idaho Water Resources Research Institute (IWRRI). In the past, the Idaho Department of Water Resources (IDWR) used a superposition version of the ESPAM model (Versions 1 and 1.1) to evaluate delivery calls. IDWR also utilized a "trim line methodology" with ESPAM model Version 1.1 despite a White Paper written by six members of the ESHMC stating the method is not technically valid or justified (2). We agree that the "trim line methodology" is not a technically valid approach to evaluate delivery calls and believe other technically sound methods should be utilized.

Recognizing serious limitations of ESPAM model Version 1.1, IDWR (with assistance from ESHMC and IWRRI) recently completed significant improvements to the ESPAM model. ESPAM model Version 2.0 is significantly improved from model Version 1.1 because, among other things, it is actually calibrated to observed and documented Rangen spring flows. LRE utilized the ESPAM Version 2.0 model with a more appropriate "difference" modeling approach to evaluate the effects of a Rangen call. "Difference" models are commonly used, and widely accepted among hydrologists and water administrators, to evaluate the impacts of well pumping on water rights. The differencing technique involves calculating the difference between ESPAM Version 2.0 model output under noncurtailed and curtailed scenarios using the same steady state noncurtailed input heads. Since the model is now calibrated to the Rangen spring, the difference in transient runs accurately predict the Rangen spring response to the curtailment scenario. The trim line methodology does not.

2011 Curtailment Scenario

In the ESPAM v2.0 model simulated ground water pumping from the Eastern Snake Plain Aquifer is driven by the amount of designated "Ground Water Acres" determined by IDWR. There is not a

direct connection between the amount of pumping determined by the model and the water rights Point of Diversion (POD) database that compiles actual well data. To tie ground water acres in the model to ground water rights in the POD database, we determined the percentage of junior water rights (post July 13, 1962) compared to total ground water rights from the POD database within each model cell and then multiplied that percentage by the total number of ground water acres assigned to each cell in the model. By doing this, we effectively reduced the ground water acres (and therefore pumping) by the percentage of ground water rights that are junior to Rangen. We then ran the model preprocessor to recalculate model input files for the curtailment scenario and reran the transient mode using steady state input heads from the noncurtailment run.

Figure 2 shows observed and documented Rangen spring flows, modeled outflow at the cell containing the Rangen spring, and modeled outflow at the Rangen spring cell during the curtailment run. The Rangen spring is the only spring in its' model cell. The data for Figure 2 are also included as a table in Appendix A.

Figure 2 - Rangen Spring Flows Under ESPAM v2 Curtailment Scenarios

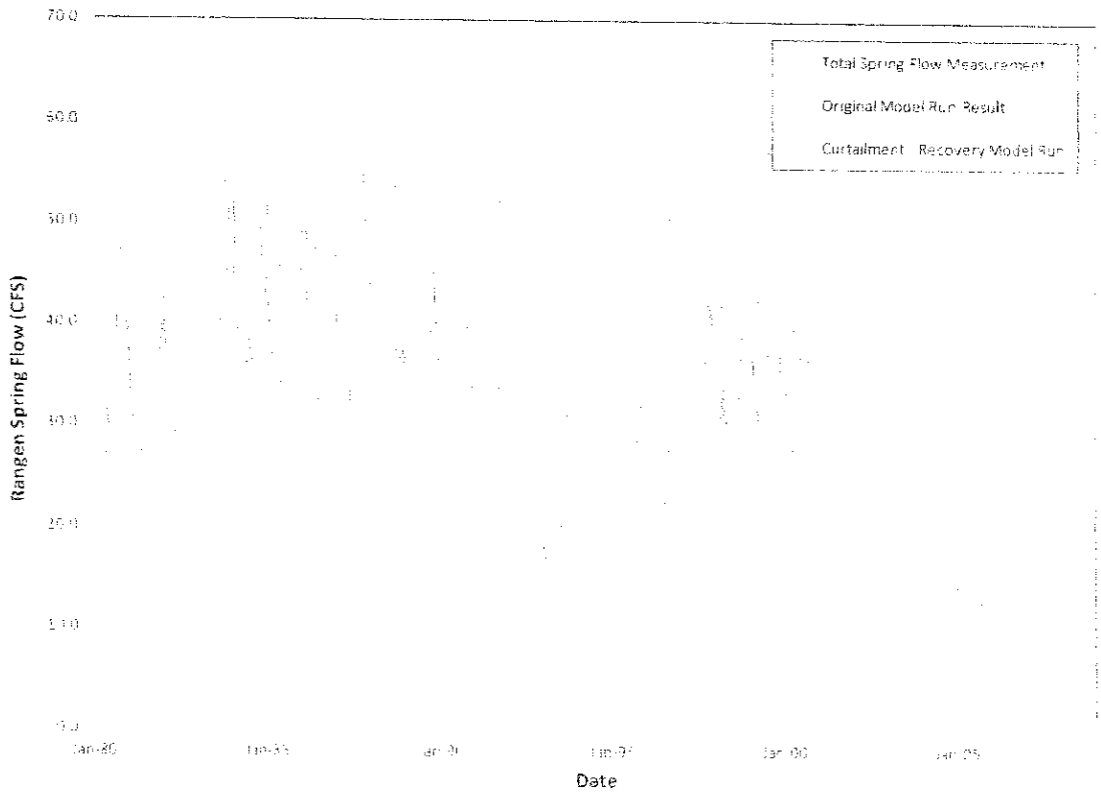
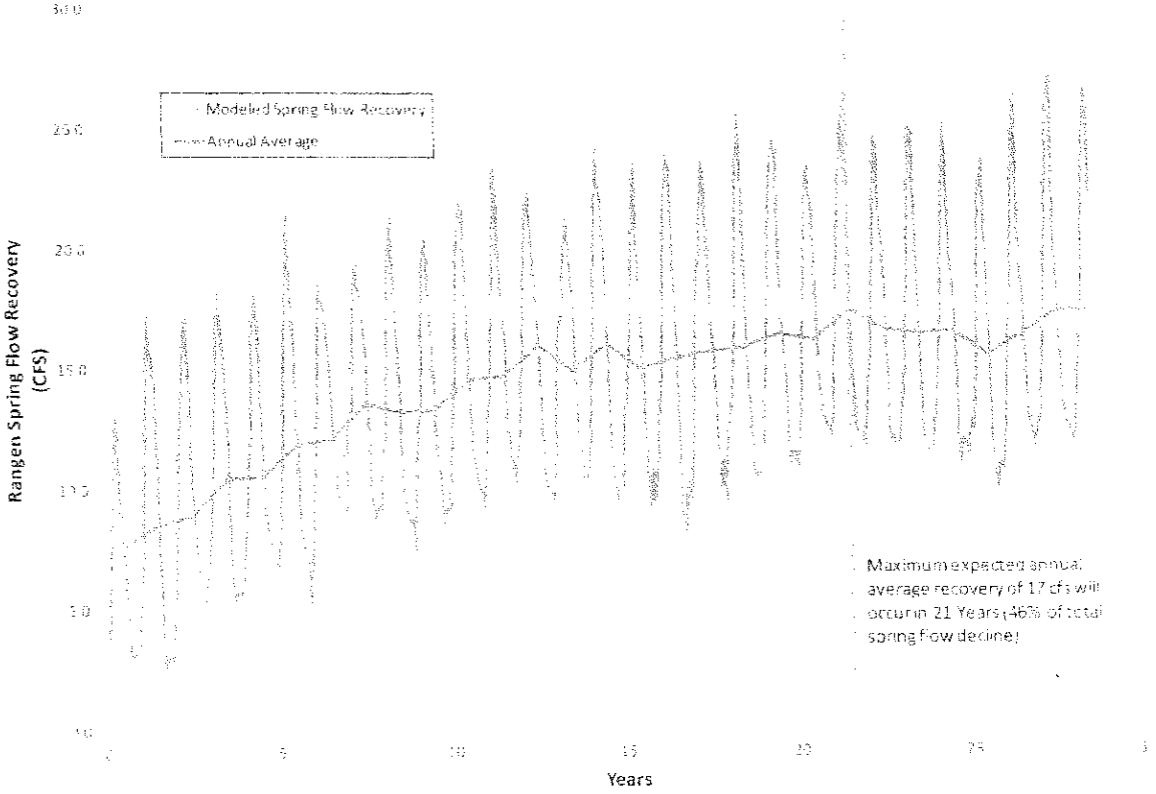


Figure 2 shows that:

- Observed and documented Rangen spring flows fluctuate seasonally;
- Modeled spring flows closely match those observed at the Rangen spring so the model is therefore "well calibrated" to the Rangen spring; and
- Modeled Rangen spring flows during the curtailment scenario plot above the noncurtailed scenario due to the quick recovery response of the spring.

Figure 3 shows the difference between the noncurtailed and curtailed runs shown in Figure 2 assuming that junior-priority ground water rights are curtailed.

Figure 3 - Rangen Spring Flow Recovery



The Rangen spring is expected to recover an average of 8 cfs during the first year which is more than 50 percent of Rangen's average current flow. A recovery of 17 cfs is expected within 21 years. This is 46 percent (17 cfs/37 cfs) of the approximate total decline since 1966, which is significant.

Conclusions

We conclude:

- The ESPAM Model (Version 2.0) has undergone significant improvements since version 1.1. We believe the ESPAM Version 2.0 model is currently the best available science and any administrative modeling scenarios to evaluate impacts caused by junior-priority ground water pumping should be implemented using ESPAM Version 2.0 with a "difference" modeling approach.

- Using the "difference" modeling approach, we determined that junior-priority (post July 13, 1962) ground water pumping has caused the Rangen spring to decline approximately 17 cfs, which constitutes material injury to Rangen's water rights.

- If the IDWR curtailed junior-priority ground water pumping, the Rangen spring would likely recover approximately 17 cfs within 21 years.

- The predicted model response is likely accurate since the ESPAM Version 2.0 model is "well calibrated" to regional observations and to the historical Rangen spring observations.

Recommendations

We recommend that Rangen request that the Idaho Department of Water Resources curtail all junior-priority ground water pumping in the area encompassed by ESPAM Version 2.0 model.

References:

1) IDWR Second Amended Order in response to the "Rangen Call" dated May 19, 2005

2) The Eastern Snake Hydrologic Modeling Committee (ESHMC), May 6, 2009. "White Paper - Technical Evaluation of Trim Line and Method Used to Evaluate Impacts to Spring in ESPAM Model." Prepared by the following members of the ESHMC: John Koreny, HDR, Inc., Willem Schreuder, Principia Mathematica, Charles Brockway, Sr., Brockway Engineering, Inc., John Bowling, Dave Blew, Idaho Power Co., Jim Brannon, Leonard Rice Engineers, Inc., and Jennifer Johnson, Bureau of Reclamation. Available on Request.

APPENDIX A

Rangen Spring Flow Measurements and

ESPAM V. 2.0 Curtailment Model Results

APPENDIX A
Rangen Spring Flow Measurements and
ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
5/1/1980		26.075	24.444
5/16/1980	26.7	29.129	31.077
6/1/1980		31.673	35.653
6/16/1980	34.9	28.378	35.749
7/1/1980		26.779	36.356
7/16/1980	36.7	27.543	39.254
8/1/1980		28.13	41.447
8/16/1980	38.5	33.509	46.09
9/1/1980		37.216	49.658
9/16/1980	41.8	40.713	51.209
10/1/1980		43.159	52.644
10/16/1980	49.9	42.462	50.985
11/1/1980		42.137	50.081
11/16/1980	41.1	41.218	47.278
12/1/1980		40.128	45.074
12/16/1980	34.9	37.89	41.759
1/1/1981		35.968	39.1
1/16/1981	31.1	33.246	36.156
2/1/1981		31.156	33.802
2/16/1981	26.7	28.778	31.815
3/1/1981		26.902	30.106
3/16/1981	22.4	25.36	28.612
4/1/1981		23.986	27.251
4/16/1981	26.2	21.874	26.835
5/1/1981		20.539	26.39
5/16/1981	24	22.536	29.179
6/1/1981		23.752	31.106
6/16/1981	25.5	21.383	32.597
7/1/1981		20.44	33.941
7/16/1981	31.5	20.311	36.284
8/1/1981		20.436	38.163
8/16/1981	37.3	24.818	40.778
9/1/1981		27.984	43.236
9/16/1981	41	32.339	47.063
10/1/1981		35.283	49.808
10/16/1981	41.6	35.852	47.787
11/1/1981		36.242	46.619
11/16/1981	41	37.211	44.779
12/1/1981		37.523	43.322
12/16/1981	34.1	39.244	43.055
1/1/1982		40.079	42.54
1/16/1982	30.6	35.988	38.916
2/1/1982		33.371	36.351
2/16/1982	30.1	33.097	35.934

APPENDIX A
Rangen Spring Flow Measurements and
ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
3/1/1982		32.673	35.364
3/16/1982	29.7	29.632	32.664
4/1/1982		27.484	30.655
4/16/1982	27.2	25.041	29.647
5/1/1982		23.418	28.814
5/16/1982	28.1	24.44	32.196
6/1/1982		25.576	34.844
6/16/1982	27	25.412	37.492
7/1/1982		25.825	39.678
7/16/1982	33	27.043	42.71
8/1/1982		27.99	45.022
8/16/1982	37.1	31.032	48.076
9/1/1982		33.206	50.521
9/16/1982	46.8	37.281	52.625
10/1/1982		40.145	54.465
10/16/1982	49.2	43.369	54.999
11/1/1982		45.388	55.458
11/16/1982	47.6	43.821	52.637
12/1/1982		42.806	50.736
12/16/1982	41.9	41.186	47.753
1/1/1983		39.721	45.377
1/16/1983	37	36.457	42.069
2/1/1983		34.01	39.456
2/16/1983	33.1	32.719	38.155
3/1/1983		31.633	36.983
3/16/1983	32.3	29.714	35.245
4/1/1983		28.341	33.915
4/16/1983	30.7	25.74	32.872
5/1/1983		24.006	32.014
5/16/1983	34.3	24.853	34.666
6/1/1983		25.607	36.562
6/16/1983	33	27.763	40.847
7/1/1983		29.778	44.33
7/16/1983	39.1	30.446	47.316
8/1/1983		31.402	49.796
8/16/1983	47.1	36.302	53.773
9/1/1983		39.664	56.881
9/16/1983	51.5	43.783	59.273
10/1/1983		46.73	61.277
10/16/1983	54.4	45.315	58.73
11/1/1983		44.749	57.429
11/16/1983	48.6	50.225	59.807
12/1/1983		53.346	61.083
12/16/1983	46.7	52.181	58.229

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Rangen Spring Flow Measurements and
ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
1/1/1984		51.442	56.276
1/16/1984	41	45.98	51.488
2/1/1984		42.312	48.006
2/16/1984	40.1	40.708	46.324
3/1/1984		39.279	44.765
3/16/1984	37.4	35.988	41.982
4/1/1984		33.557	39.788
4/16/1984	36.1	31.835	38.798
5/1/1984		30.558	37.898
5/16/1984	35.5	33.066	41.545
6/1/1984		34.881	44.181
6/16/1984	39	36.668	47.687
7/1/1984		38.351	50.41
7/16/1984	41.9	36.182	52.005
8/1/1984		35.602	53.726
8/16/1984	46.1	38.758	56.668
9/1/1984		40.915	59.02
9/16/1984	46.9	42.003	59.293
10/1/1984		43.033	59.952
10/16/1984	50.1	46.945	60.965
11/1/1984		49.072	61.478
11/16/1984	45.8	51.375	61.549
12/1/1984		52.711	61.452
12/16/1984	44.1	47.401	55.898
1/1/1985		43.873	52.035
1/16/1985	40.2	41.011	48.895
2/1/1985		38.615	46.236
2/16/1985	38.3	37.366	44.383
3/1/1985		36.067	42.679
3/16/1985	36.1	34.049	40.789
4/1/1985		32.519	39.233
4/16/1985	37	31.27	38.748
5/1/1985		30.347	38.197
5/16/1985	35.7	33.131	43.405
6/1/1985		35.291	47.076
6/16/1985	35	32.694	48.062
7/1/1985		31.526	49.114
7/16/1985	36.9	30.547	50.734
8/1/1985		30.197	52.18
8/16/1985	49.3	35.491	55.323
9/1/1985		39.157	58.086
9/16/1985	52.9	43.457	60.061
10/1/1985		46.417	61.645
10/16/1985	54.5	48.367	61.347

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Rangen Spring Flow Measurements and
ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
11/1/1985		49.476	61.073
11/16/1985	49.1	50.493	60.121
12/1/1985		50.99	59.312
12/16/1985	42.5	46.706	54.802
1/1/1986		43.726	51.511
1/16/1986	37.8	41.333	48.813
2/1/1986		39.325	46.518
2/16/1986	36.5	42.864	48.663
3/1/1986		45.123	49.988
3/16/1986	34.8	39.698	46.087
4/1/1986		36.429	43.566
4/16/1986	34.9	34.047	43.266
5/1/1986		32.493	42.911
5/16/1986	38.3	33.157	45.224
6/1/1986		33.796	46.909
6/16/1986	38.2	32.045	48.444
7/1/1986		31.354	49.844
7/16/1986	42.2	34.677	52.619
8/1/1986		36.977	54.93
8/16/1986	53.6	40.945	58.141
9/1/1986		43.812	60.859
9/16/1986	56.6	47.172	63.253
10/1/1986		49.673	65.181
10/16/1986	58.1	49.012	63.298
11/1/1986		48.576	62.052
11/16/1986	51.5	48.259	60.346
12/1/1986		47.762	58.951
12/16/1986	48.9	44.84	55.217
1/1/1987		42.525	52.312
1/16/1987	43.3	40.862	50.001
2/1/1987		39.268	47.922
2/16/1987	38.2	37.521	46.185
3/1/1987		35.992	44.578
3/16/1987	36.1	34.181	42.844
4/1/1987		32.688	41.319
4/16/1987	33.2	30.098	41.221
5/1/1987		28.402	40.922
5/16/1987	34.1	31.874	44.658
6/1/1987		34.193	47.332
6/16/1987	39.5	31.062	48.038
7/1/1987		29.533	48.766
7/16/1987	41.2	31.519	50.612
8/1/1987		32.76	52.083
8/16/1987	49.2	36.663	55.129

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
9/1/1987		39.32	57.519
9/16/1987	49.6	41.328	58.701
10/1/1987		43.01	59.845
10/16/1987	54.8	39.513	55.575
11/1/1987		37.131	52.71
11/16/1987	47.4	36.067	49.759
12/1/1987		34.765	47.315
12/16/1987	45.3	34.641	45.319
1/1/1988		33.847	43.438
1/16/1988	37.6	32.435	41.646
2/1/1988		31.322	40.046
2/16/1988	33.9	29.43	38.598
3/1/1988		27.986	37.288
3/16/1988	30.8	26.693	35.912
4/1/1988		25.572	34.696
4/16/1988	30.1	23.809	34.615
5/1/1988		22.586	34.328
5/16/1988	31.7	26.264	38.014
6/1/1988		28.846	40.703
6/16/1988	34.1	25.784	42.109
7/1/1988		24.371	43.29
7/16/1988	33.9	24.845	45.151
8/1/1988		25.198	46.634
8/16/1988	39.8	29.705	49.123
9/1/1988		32.707	51.219
9/16/1988	43.7	36.333	53.242
10/1/1988		38.825	54.725
10/16/1988	50	36.414	51.306
11/1/1988		34.77	49.011
11/16/1988	43.1	37.327	48.667
12/1/1988		38.687	48.22
12/16/1988	37.9	35.051	44.473
1/1/1989		32.562	41.684
1/16/1989	34.4	30.453	39.313
2/1/1989		28.67	37.284
2/16/1989	31.3	26.807	35.598
3/1/1989		25.332	34.14
3/16/1989	28.7	25.451	33.345
4/1/1989		25.208	32.525
4/16/1989	24.7	22.54	32.182
5/1/1989		20.851	31.746
5/16/1989	27.2	22.714	35.115
6/1/1989		24.146	37.588
6/16/1989	29	22.22	39.572

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
7/1/1989		21.536	41.24
7/16/1989	31.5	24.501	44.474
8/1/1989		26.319	46.832
8/16/1989	39.3	30.907	50.744
9/1/1989		34.542	54.11
9/16/1989	38.9	38.33	56.173
10/1/1989		41.009	57.927
10/16/1989	45.4	43.291	57.95
11/1/1989		44.927	58.213
11/16/1989	38.7	40.832	52.914
12/1/1989		38.053	49.29
12/16/1989	36.7	34.975	45.819
1/1/1990		32.441	42.935
1/16/1990	34.3	31.806	41.057
2/1/1990		30.788	39.241
2/16/1990	31.7	28.391	37.296
3/1/1990		26.608	35.649
3/16/1990	28.8	24.926	34.144
4/1/1990		23.519	32.775
4/16/1990	23.4	22.538	33.925
5/1/1990		22.007	34.62
5/16/1990	26.3	25.802	39.534
6/1/1990		28.619	43.13
6/16/1990	28.9	25.663	43.501
7/1/1990		24.138	44.018
7/16/1990	30.5	25.869	47.005
8/1/1990		26.981	49.153
8/16/1990	34.4	30.783	52.589
9/1/1990		33.602	55.374
9/16/1990	39.2	37.514	57.32
10/1/1990		40.191	58.923
10/16/1990	44.4	39.699	56.346
11/1/1990		39.341	54.728
11/16/1990	35.6	35.643	49.386
12/1/1990		32.871	45.532
12/16/1990	32.1	31.149	42.684
1/1/1991		29.482	40.22
1/16/1991	28.6	27.164	37.685
2/1/1991		25.274	35.538
2/16/1991	27.2	24.002	33.973
3/1/1991		22.82	32.542
3/16/1991	27.3	21.92	31.237
4/1/1991		21.02	30.035
4/16/1991	20.3	20.296	30.8

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
5/1/1991		19.813	31.037
5/16/1991	22.9	22.343	35.293
6/1/1991		24.273	38.35
6/16/1991	23.9	25.534	41.776
7/1/1991		27.004	44.565
7/16/1991	24.8	23.451	44.595
8/1/1991		21.593	44.998
8/16/1991	31.5	24.028	46.488
9/1/1991		25.459	47.721
9/16/1991	38.8	30.914	50.813
10/1/1991		34.303	52.917
10/16/1991	38.1	32.297	49.728
11/1/1991		31.243	47.887
11/16/1991	32.8	30.053	44.293
12/1/1991		28.836	41.591
12/16/1991	32.3	26.137	38.39
1/1/1992		24.079	35.846
1/16/1992	27.4	22.555	33.743
2/1/1992		21.131	31.881
2/16/1992	22.9	19.998	30.418
3/1/1992		18.922	29.078
3/16/1992	21.8	15.537	27.03
4/1/1992		13.247	25.417
4/16/1992	18.9	13.277	27.422
5/1/1992		13.273	28.479
5/16/1992	19.7	13.1	30.939
6/1/1992		13.088	32.676
6/16/1992	19.5	13.112	34.19
7/1/1992		13.216	35.423
7/16/1992	22.1	14.152	36.469
8/1/1992		14.902	37.415
8/16/1992	22.8	18.69	39.04
9/1/1992		20.967	40.57
9/16/1992	25.3	20.063	39
10/1/1992		19.672	38.025
10/16/1992	27.3	18.898	36.226
11/1/1992		18.202	34.824
11/16/1992	20.4	17.64	32.455
12/1/1992		16.806	30.497
12/16/1992	18.9	18.192	29.757
1/1/1993		18.81	28.959
1/16/1993	16.8	17.432	27.564
2/1/1993		16.431	26.328
2/16/1993	17	15.482	25.403

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
3/1/1993		14.777	24.604
3/16/1993	15.4	14.367	23.949
4/1/1993		14.022	23.367
4/16/1993	18.5	12.18	22.743
5/1/1993		11.069	22.24
5/16/1993	16.9	10.776	25.45
6/1/1993		11.162	27.874
6/16/1993	18.2	16.43	33.374
7/1/1993		20.125	37.441
7/16/1993	19	21.637	41.028
8/1/1993		23.294	43.991
8/16/1993	26	25.021	46.017
9/1/1993		26.758	48.112
9/16/1993	33.1	29.089	49.54
10/1/1993		30.962	51.001
10/16/1993	39.2	30.476	49.213
11/1/1993		30.317	48.301
11/16/1993	31.2	28.6	44.176
12/1/1993		26.918	41.062
12/16/1993	27.5	25.26	38.331
1/1/1994		23.682	35.966
1/16/1994	24.3	22.163	33.85
2/1/1994		20.737	31.948
2/16/1994	22.3	19.852	30.664
3/1/1994		19	29.461
3/16/1994	19.8	17.888	28.455
4/1/1994		16.921	27.481
4/16/1994	19.6	18.705	30.401
5/1/1994		20.103	32.425
5/16/1994	21.4	20.692	35.6
6/1/1994		21.543	37.943
6/16/1994	19.4	18.288	38.346
7/1/1994		16.544	38.897
7/16/1994	24.4	17.003	40.379
8/1/1994		17.125	41.48
8/16/1994	27.3	20.679	43.492
9/1/1994		23.092	45.233
9/16/1994	30.1	26.854	47.608
10/1/1994		29.594	49.492
10/16/1994	35.9	27.391	45.832
11/1/1994		26.034	43.546
11/16/1994	28.8	25.613	40.578
12/1/1994		24.551	37.974
12/16/1994	25.8	24.09	36.091

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
1/1/1995		23.454	34.426
1/16/1995	22.5	23.329	33.335
2/1/1995		23.074	32.32
2/16/1995	20.7	20.582	30.375
3/1/1995		18.866	28.854
3/16/1995	19.7	17.157	27.298
4/1/1995		15.799	25.971
4/16/1995	21.1	13.209	25.454
5/1/1995		11.587	24.961
5/16/1995	21.1	13.993	27.485
6/1/1995		16.03	29.654
6/16/1995	22.7	16.607	31.897
7/1/1995		17.51	33.967
7/16/1995	19.5	16.384	36.621
8/1/1995		16.12	38.787
8/16/1995	22.7	17.892	41.08
9/1/1995		19.378	43.191
9/16/1995	27.3	24.223	45.231
10/1/1995		27.317	46.974
10/16/1995	30.9	30.371	48.784
11/1/1995		32.507	50.019
11/16/1995	31.9	32.079	47.067
12/1/1995		31.533	44.95
12/16/1995	28.5	32.053	43.804
1/1/1996		32.123	42.702
1/16/1996	25.4	31.405	41.324
2/1/1996		30.842	40.163
2/16/1996	23.3	27.513	37.833
3/1/1996		25.301	36.085
3/16/1996	22.4	26.429	36.263
4/1/1996		26.648	35.935
4/16/1996	23.4	23.217	35.041
5/1/1996		21.361	34.558
5/16/1996	22.8	24.442	38.647
6/1/1996		26.64	41.579
6/16/1996	21.5	23.24	42.285
7/1/1996		21.73	43.258
7/16/1996	22.2	21.907	44.732
8/1/1996		21.993	45.954
8/16/1996	25.1	23.555	47.145
9/1/1996		24.871	48.452
9/16/1996	32.6	31.185	51.885
10/1/1996		35.187	54.298
10/16/1996	35.2	36.951	54.759

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
11/1/1996		38.417	55.338
11/16/1996	34.2	37.9	52.752
12/1/1996		37.52	51.024
12/16/1996	32.6	41.776	52.246
1/1/1997		44.161	52.691
1/16/1997	31.6	41.58	50.074
2/1/1997		40.061	48.246
2/16/1997	29.9	36.279	45.846
3/1/1997		33.829	44.095
3/16/1997	30	33.36	43.284
4/1/1997		32.643	42.366
4/16/1997	27.4	32.203	43.277
5/1/1997		32.075	43.891
5/16/1997	26.5	29.106	44.765
6/1/1997		27.805	45.762
6/16/1997	28.7	28.529	47.533
7/1/1997		29.144	49.041
7/16/1997	28.2	28.211	50.478
8/1/1997		27.902	51.746
8/16/1997	30.1	29.834	53.185
9/1/1997		31.255	54.55
9/16/1997	37.6	36.007	57.585
10/1/1997		39.168	59.817
10/16/1997	43.6	41.334	60.589
11/1/1997		42.893	61.292
11/16/1997	43.3	39.335	55.992
12/1/1997		36.794	52.353
12/16/1997	37.5	35.11	49.449
1/1/1998		33.395	46.883
1/16/1998	36.1	34.445	45.949
2/1/1998		34.585	44.797
2/16/1998	33.6	31.839	42.826
3/1/1998		29.991	41.223
3/16/1998	30.9	32.467	42.507
4/1/1998		33.719	43.022
4/16/1998	31.1	30.507	42.198
5/1/1998		28.764	41.721
5/16/1998	32.6	34.15	47.585
6/1/1998		38.101	51.886
6/16/1998	35.5	38.025	53.624
7/1/1998		38.59	55.366
7/16/1998	28.9	34.086	55.151
8/1/1998		31.751	55.475
8/16/1998	28.9	31.246	56.163

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
9/1/1998		31.105	57.013
9/16/1998	36	34.085	57.292
10/1/1998		35.901	57.801
10/16/1998	41.7	39.007	58.184
11/1/1998		40.847	58.398
11/16/1998	41.9	39.413	55.218
12/1/1998		38.194	52.791
12/16/1998	39.5	36.352	50.148
1/1/1999		34.616	47.786
1/16/1999	36.5	36.058	47.589
2/1/1999		36.558	46.956
2/16/1999	32.6	35.068	45.688
3/1/1999		34.119	44.714
3/16/1999	30.8	31.758	42.529
4/1/1999		30.08	40.875
4/16/1999	26.9	32.669	44.163
5/1/1999		34.435	46.283
5/16/1999	27.3	34.27	48.285
6/1/1999		34.804	50.094
6/16/1999	26.9	37.317	54.25
7/1/1999		39.32	57.382
7/16/1999	22.6	35.247	57.013
8/1/1999		33.179	57.307
8/16/1999	24.1	33.402	57.704
9/1/1999		33.561	58.183
9/16/1999	30.3	33.164	57.5
10/1/1999		32.956	57.262
10/16/1999	36.5	36.303	56.948
11/1/1999		38.002	56.804
11/16/1999	38.3	35.739	53.396
12/1/1999		33.985	50.737
12/16/1999	32.2	33.635	48.645
1/1/2000		32.77	46.633
1/16/2000	31.7	33.321	45.3
2/1/2000		33.211	43.901
2/16/2000	29.3	31.224	42.579
3/1/2000		29.881	41.396
3/16/2000	28.5	27.935	39.591
4/1/2000		26.404	38.07
4/16/2000	23.9	30.268	41.425
5/1/2000		32.209	43.09
5/16/2000	22.8	35.016	48.04
6/1/2000		37.366	51.6
6/16/2000	21.3	36.778	53.816

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Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
7/1/2000		36.907	55.756
7/16/2000	18.8	34.607	56.084
8/1/2000		33.665	56.91
8/16/2000	24	34.679	58.136
9/1/2000		35.671	59.488
9/16/2000	30.1	37.636	60.163
10/1/2000		39.281	61.136
10/16/2000	34.3	40.387	60.297
11/1/2000		41.105	59.858
11/16/2000	34	38.415	55.382
12/1/2000		36.271	52.104
12/16/2000	29.5	34.738	49.342
1/1/2001		33.17	46.91
1/16/2001	27	31.149	44.591
2/1/2001		29.417	42.527
2/16/2001	24.2	28.088	40.951
3/1/2001		26.832	39.475
3/16/2001	23.1	25.499	37.911
4/1/2001		24.32	36.516
4/16/2001	22.5	24.44	37.245
5/1/2001		24.41	37.494
5/16/2001	19.4	25.683	41.357
6/1/2001		26.824	44.022
6/16/2001	15.4	27.032	46.378
7/1/2001		27.488	48.297
7/16/2001	16	25.099	48.263
8/1/2001		23.828	48.587
8/16/2001	17.1	23.311	48.988
9/1/2001		23.034	49.474
9/16/2001	20.7	24.595	48.561
10/1/2001		25.307	47.988
10/16/2001	24	24.621	45.701
11/1/2001		23.813	43.886
11/16/2001	24	24.57	41.721
12/1/2001		24.661	39.997
12/16/2001	21.8	25.5	39.291
1/1/2002		25.723	38.368
1/16/2002	20.1	23.691	36.253
2/1/2002		22.303	34.588
2/16/2002	18.4	21.135	33.438
3/1/2002		20.184	32.4
3/16/2002	17.3	19.044	31.095
4/1/2002		18.104	29.986
4/16/2002	16.1	17.197	29.796

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ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
5/1/2002		16.481	29.416
5/16/2002	15	17.724	32.328
6/1/2002		18.786	34.423
6/16/2002	14.3	19.388	37.463
7/1/2002		20.158	39.73
7/16/2002	13.6	17.312	40.166
8/1/2002		15.907	40.882
8/16/2002	13.31	17.615	42.088
9/1/2002		18.714	43.179
9/16/2002	17.64	21.324	43.59
10/1/2002		23.05	44.146
10/16/2002	21.38	21.921	41.591
11/1/2002		20.909	39.662
11/16/2002	21.06	20.561	37.26
12/1/2002		19.845	35.251
12/16/2002	18.9	20.906	34.278
1/1/2003		21.19	33.238
1/16/2003	16.5	18.915	31.287
2/1/2003		17.376	29.7
2/16/2003	15.1	16.615	28.729
3/1/2003		15.896	27.807
3/16/2003	13.9	14.621	26.584
4/1/2003		13.633	25.555
4/16/2003	12.9	13.01	25.993
5/1/2003		12.578	26.086
5/16/2003	12.9	14.337	28.589
6/1/2003		15.582	30.424
6/16/2003	12.7	17.232	34.788
7/1/2003		18.605	37.825
7/16/2003	11.6	15.194	38.141
8/1/2003		13.721	39.012
8/16/2003	12	14.993	39.997
9/1/2003		15.986	41.145
9/16/2003	14.9	19.924	42.29
10/1/2003		22.438	43.273
10/16/2003	18.3	22.255	41.317
11/1/2003		21.945	39.87
11/16/2003	18.18	21.262	37.284
12/1/2003		20.387	35.178
12/16/2003	16.06	22.141	35.089
1/1/2004		22.99	34.674
1/16/2004	14.57	20.488	32.232
2/1/2004		18.785	30.375
2/16/2004	13.29	17.774	29.432

APPENDIX A
Rangen Spring Flow Measurements and
ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
3/1/2004		17.031	28.616
3/16/2004	13.08	15.277	26.938
4/1/2004		13.948	25.607
4/16/2004	11.73	13.897	26.746
5/1/2004		13.729	27.253
5/16/2004	11.41	15.639	30.882
6/1/2004		17.107	33.432
6/16/2004	12.22	14.128	33.824
7/1/2004		12.613	34.406
7/16/2004	11.82	11.246	35.214
8/1/2004		10.417	35.935
8/16/2004	11.83	12.861	37.208
9/1/2004		14.351	38.271
9/16/2004	13.05	15.983	37.29
10/1/2004		16.854	36.7
10/16/2004	14.38	15.006	33.721
11/1/2004		13.621	31.52
11/16/2004	13.7	12.711	29.296
12/1/2004		11.71	27.446
12/16/2004	12.8	13.684	26.419
1/1/2005		14.422	25.383
1/16/2005	12.1	12.139	23.914
2/1/2005		10.821	22.704
2/16/2005	11.4	9.808	21.924
3/1/2005		9.027	21.202
3/16/2005	11.1	8.604	20.409
4/1/2005		8.168	19.719
4/16/2005	11.5	7.474	20.002
5/1/2005		7.07	20.07
5/16/2005	11.4	9.475	22.161
6/1/2005		11.085	23.649
6/16/2005	11.5	13.594	27.606
7/1/2005		15.67	30.603
7/16/2005	10.8	12.039	31.837
8/1/2005		10.515	33.171
8/16/2005	10.6	11.411	34.696
9/1/2005		12.283	36.277
9/16/2005	12.36	14.572	36.889
10/1/2005		16.171	37.713
10/16/2005	15.67	16.731	36.115
11/1/2005		16.844	34.985
11/16/2005	14.99	16.87	33.026
12/1/2005		16.546	31.421
12/16/2005	14.05	20.819	33.12

APPENDIX A
Rangen Spring Flow Measurements and
ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
1/1/2006		23.287	33.911
1/16/2006	13.2	21.863	32.318
2/1/2006		21.183	31.267
2/16/2006	12.55	19.214	30.069
3/1/2006		17.922	29.126
3/16/2006	12.63	16.624	27.623
4/1/2006		15.593	26.41
4/16/2006	12.77	14.871	26.467
5/1/2006		14.443	26.475
5/16/2006	11.61	16.047	30.333
6/1/2006		17.643	33.36
6/16/2006	12.17	17.742	36.152
7/1/2006		18.352	38.576
7/16/2006	11.68	16.222	40.18
8/1/2006		15.623	41.999
8/16/2006	13.09	17.469	43.862
9/1/2006		19.094	45.815
9/16/2006	17.05	24.077	46.856
10/1/2006		27.431	48.081
10/16/2006	20.99	27.789	46.942
11/1/2006		27.759	45.923
11/16/2006	19.53	27.59	44.115
12/1/2006		27.086	42.474
12/16/2006	17.59	27.71	41.65
1/1/2007		27.748	40.647
1/16/2007	15.67	24.966	38.062
2/1/2007		22.974	36.002
2/16/2007	14.58	22.726	34.984
3/1/2007		22.205	33.929
3/16/2007	13.75	20.32	32.45
4/1/2007		18.896	31.153
4/16/2007	13.35	19.463	32.515
5/1/2007		19.644	33.089
5/16/2007	13.64	22.969	38.319
6/1/2007		25.304	41.944
6/16/2007	13.84	23.734	43.327
7/1/2007		23.529	44.975
7/16/2007	12.75	20.072	44.921
8/1/2007		18.608	45.651
8/16/2007	11.83	19.527	46.781
9/1/2007		20.417	48.085
9/16/2007	16.64	26.516	49.263
10/1/2007		30.344	50.439
10/16/2007	21.28	30.502	49.52

APPENDIX A
Rangen Spring Flow Measurements and ESPAM V. 2.0 Curtailment Model Results

Date	Total Spring Flow Measurement (CFS)*	Original Model Run Result (CFS)	Curtailment - Recovery Model Run (CFS)
11/1/2007		30.713	48.827
11/16/2007	20.49	29.884	46.707
12/1/2007		28.72	44.686
12/16/2007	19.02	28.01	42.653
1/1/2008		27.117	40.82
1/16/2008	16.6	25.467	38.69
2/1/2008		24.01	36.799
2/16/2008	15.15	22.423	35.222
3/1/2008		21.158	33.847
3/16/2008	14.09	19.86	32.159
4/1/2008		18.639	30.655
4/16/2008	13.36	18.234	30.519
5/1/2008		17.723	30.092
5/16/2008	12.54	22.827	36.721
6/1/2008		26.287	41.062
6/16/2008	12.59	26.626	43.399
7/1/2008		27.342	45.406
7/16/2008	11.35	22.175	44.366
8/1/2008		19.476	44.252
8/16/2008	11.65	18.241	44.145
9/1/2008		17.593	44.451
9/16/2008	13.66	17.956	44.213
10/1/2008		18.147	44.248
10/16/2008	18.11	19.77	42.202

Note:

*The historical monthly values were calculated using historical measurements at key locations in the Rangen Spring complex. However, some minor components of the total historical spring flow were estimated based on incomplete available data or empirical information when available. The methods and data used to make these estimates were documented and reviewed by the ESHMC and IDWR and

EXHIBIT B - FINAL ORDER

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694	)	**CM-DC-2011-004**
(RANGEN, INC.)	)	**FINAL ORDER REGARDING RANGEN, INC.'S PETITION FOR DELIVERY CALL; CURTAILING GROUND WATER RIGHTS JUNIOR TO JULY 13, 1962**

The Director ("Director") of the Idaho Department of Water Resources ("Department") finds, concludes, and orders as follows:

FINDINGS OF FACT

I. Procedural Background

1. On December 13, 2011, Rangen, Inc. ("Rangen") filed a *Petition for Delivery Call* ("Petition") with the Department alleging that it is not receiving all of the water it is entitled to pursuant to water right nos. 36-02551 and 36-07694, and is being materially injured by junior-priority ground water pumping in the areas encompassed by the Enhanced Snake Plain Aquifer Model Version 2.0 ("ESPAM 2.0"). *Petition* at 3-4. The Petition requested the Director administer and distribute water in the areas encompassed by ESPAM 2.0 in accordance with the prior appropriation doctrine and to curtail junior-priority ground water pumping as necessary to deliver Rangen's water. *Id.* at 7.

2. In response to the Petition, the Department assigned the contested case proceeding docket number CM-DC-2011-004.

3. On January 4, 2012, the Idaho Ground Water Appropriators, Inc. ("IGWA") petitioned to be designated as a respondent or alternatively to intervene in the proceeding. IGWA represents ground water districts whose members consist of irrigators, municipalities, and commercial and industrial entities with ground water rights. Many of the ground water districts' member's water rights are junior to Rangen's water rights and could be curtailed if Rangen is successful in its delivery call. The Director granted IGWA's petition to intervene on January 13, 2012.

4. On May 21, 2012, the City of Pocatello ("Pocatello") petitioned to be designated as a respondent or alternatively to intervene in the proceeding. Pocatello is a municipality with ground water rights junior to Rangen's water rights and could be curtailed if Rangen is successful in its delivery call. The Director granted Pocatello's petition to be designated as a respondent on May 29, 2012.

5. On July 24, 2012, A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company and Twin Falls Canal Company (collectively, the "Surface Water Coalition" or "SWC") petitioned for limited intervention in the proceeding for the purpose of addressing the application of ESPAM 2.0 in the Rangen delivery call. The water delivery entities comprising the SWC hold senior surface water rights on the Snake River and filed a separate delivery call against junior ground water users. The Department employed a previous version of ESPAM to determine the effects of ground water pumping on the SWC's senior priority water rights. The Director granted the SWC's petition for limited intervention on August 14, 2012.

6. On August 14, 2012, Buckeye Farms, Inc. ("Buckeye") petitioned for limited intervention in the Rangen proceeding for the purpose of addressing the application of ESPAM 2.0. Buckeye argued that it has several surface water rights downstream from Rangen and should be allowed to participate in the proceeding because "[f]uture conjunctive administration involving Buckeye's senior surface water rights will involve ESPAM 2.0." *Buckeye Farms, Inc Petition for Limited Intervention* at 3. On August 21, 2012, both IGWA and Pocatello filed responses in opposition to Buckeye's petition. The Director denied Buckeye's petition on September 11, 2012, stating Buckeye's petition was untimely and that Buckeye's limited interests are adequately represented by existing parties. *Order Denying Buckeye Farms, Inc.'s Petition for Limited Intervention* at 2-3.

7. On August 21, 2012, Fremont-Madison Irrigation District ("Fremont-Madison") petitioned to be designated as a respondent or alternatively to intervene in the proceeding. The Director granted Fremont-Madison's petition to be designated as a respondent on September 11, 2012, concluding Fremont-Madison meets the definition of a respondent according to the Department's rules of procedure because Fremont-Madison is an irrigation district that diverts ground water from the Eastern Snake Plain Aquifer ("ESPA") and could be curtailed if Rangen is successful in its delivery call. *Order Designating Freemont-Madison a Respondent* at 1.

8. Several dispositive motions were filed prior to the hearing. Rangen filed a *Motion for Partial Summary Judgment Re: Material Injury* on January 9, 2013. The motion was disposed of by an *Order Denying Rangen, Inc.'s Motion for Partial Summary Judgment Re: Material Injury* issued April 24, 2013.

9. Rangen filed a *Motion for Partial Summary Judgment Re: Source* on March 8, 2013, which was disposed of by an *Order Granting In Part and Denying in Part Rangen, Inc's Motion for Partial Summary Judgment Re: Source* issued on April 22, 2013.

10. Pocatello filed a *Motion for Declaratory Order Regarding Rangen's Legal Obligation to Interconnect* on March 8, 2013. The motion was disposed of by an *Order Denying*

City of Pocatello's Motion for Declaratory Order Re: Rangen's Legal Obligation to Interconnect issued on April 23, 2013.

11. The hearing on Rangen's delivery call commenced on May 1, 2013, at the Department's State Office in Boise, Idaho. The hearing concluded on May 16, 2013. The hearing was bifurcated. The first part of the hearing focused on issues of material injury and beneficial use and the second part of the hearing focused on issues related to ESPAM 2.1.[1]

II. History of the Rangen Facility

12. Rangen started business in 1925. Courtney, Vol. I, p. 53. The company was formally incorporated in 1935 and has been in business for over 88 years. *Id.* Aquaculture is one of the company's business enterprises. *Id.*

13. Rangen owns and operates a fish research and propagation facility ("Rangen Facility") in the Thousands Springs area near Hagerman, Idaho. Courtney, Vol. I, p. 55. Rangen Exhibit 1005[2] is a schematic diagram of the Rangen Facility and is attached as Attachment A. The Rangen Facility is situated below a canyon rim at the headwaters of Billingsley Creek. *Id.* Torlief Rangen began construction of the Rangen Facility in 1962. *Id.* at 62.

14. The Rangen Facility was developed in stages. Courtney, Vol. I, p. 61. The facility started with a series of concrete channels for fish rearing, now commonly referred to as the "small raceways" and the "large raceways," and a hatch house for incubation of fish eggs. Rangen Ex. 1014; Courtney, Vol. I, pp. 60, 66. Rangen also constructed some earthen ponds for fish rearing and holding. The facility was expanded in 1976, when additional raceways, now referred to as the "CTR raceways," were constructed. Courtney, Vol. I, p. 61. In approximately 1992, the greenhouse was added to the back of the hatch house to expand Rangen's hatching and research capabilities. *Id.* Other buildings were added over time, but their addition is not relevant to this proceeding.

15. Rangen first filed a delivery call in September of 2003, seeking to curtail junior-priority ground water users. In February of 2004, a previous Director of the Department, Karl Dreher, ordered curtailment of all ground water rights in Water District 130 with priority dates junior to July 13, 1962 (the priority date of Rangen's water right no. 36-02551). *Order* at 26 (Feb. 25, 2004). However, ESPAM model version 1.0 was released shortly thereafter. Based on the curtailment predictions of ESPAM 1.0, Director Dreher withdrew his curtailment order, concluding instead that the Rangen delivery call was futile. *Second Amended Order* at 28 (May 19, 2005).

[1] As described later in this order, ESPAM 2.0 was updated shortly before the hearing commenced. The latest version is referred to as ESPAM 2.1.

[2] All references to "Exhibit" or "Ex." in this order refer to exhibits from the administrative hearing in this matter.

III. Source of Water and Diversions

16. Immediately east of the Rangen Facility, water emanates from numerous springs on the talus slopes just below the canyon rim. Water also emanates from what is called the "Martin-Curren Tunnel" or "Curren Tunnel." The tunnel is a large, excavated conduit constructed high on the canyon rim and extends approximately 300 feet into the canyon wall. Tate, Vol. IV, p. 911. The first 50 feet of the tunnel is supported by a corrugated metal pipe approximately 6 feet in diameter. Brendecke, Vol. IX, p. 2039. The remaining 250 feet of the excavation is an open tunnel unsupported by any structure. *Id.* The main tunnel bifurcates into two tunnels approximately 150-200 feet into the tunnel from its mouth. *Id.*; IGWA Ex. 2328. The record does not clearly establish when the tunnel was built, but the tunnel predates the construction of the Rangen Facility.

17. A concrete collection box located near the mouth of the Curren Tunnel collects water for delivery to Rangen and holders of early priority irrigation water rights via pipelines. Pocatello Ex. 3651. The concrete box is commonly referred to as the "Farmers' Box." Since 2002, the water historically diverted by the senior-priority irrigation water right holders has been replaced with surface water delivered by the Sandy Pipeline. Sullivan, Vol. VI, p. 1345; Brendecke, Vol. IX, p. 2081. Currently, only Rangen diverts from the Farmers' Box, but senior priority irrigation water right holders may call for delivery of water from Curren Tunnel in the future.

18. Further down the talus slope is a second concrete water collection box with an open top, commonly referred to as the "Rangen Box." Rangen rediverts the water from the Farmers' box through two plastic pipes down to the Rangen Box. Sullivan, Vol. VII, p. 1661. Water is then delivered from the Rangen Box via a 12-inch diameter steel pipe to the small raceways. *Id.* The water diverted by Rangen can then be routed from the small raceways down through the large and CTR raceways. *Id.* Rangen Exhibit 1292, a picture showing the two collection boxes and the distribution piping, is attached as Attachment B. Water can also be spilled out the side of the Rangen Box and returned to the talus slope.

19. In the early 1980's, Rangen built a 6-inch white PVC pipeline to divert water from inside the Curren Tunnel and deliver the water to the hatch house and greenhouse buildings. The water is used in the hatch house and/or greenhouse and then can be discharged either back into Billingsley Creek or discharged directly into the small raceways and used in the large and CTR raceways. Sullivan, Vol. VI, p. 1336.

20. The main diversion for the large raceways is located downstream from the talus slope, where the defined channel for Billingsley Creek begins. Sullivan, Vol. VI, p. 1336. This Rangen diversion is commonly referred to as the "Large Raceway Diversion" or "Bridge Diversion." The Bridge Diversion collects and diverts the spring flows that arise on the talus slope below the Curren Tunnel and water spilled from the Rangen Box. *Id.*

IV. Rangen Water Rights

21. Rangen holds five water rights for the Rangen Facility. The five water rights have been decreed through the Snake River Basin Adjudication ("SRBA"). Rangen's decreed water rights are summarized as follows:

ELEMENTS OF RANGEN, INC.'S WATER RIGHTS					
WATER RIGHT NO.:	36-00134B	36-00135A	36-15501	36-02551	36-07694
PRIORITY DATE:	Oct. 9, 1884	Apr. 1, 1908	July 1, 1957	July 13, 1962	Apr. 12, 1977
SOURCE:	Martin-Curren Tunnel Tributary: Billingsley Creek	Martin-Curren Tunnel Tributary: Billingsley Creek	Martin-Curren Tunnel Tributary: Billingsley Creek	Martin-Curren Tunnel Tributary: Billingsley Creek	Martin-Curren Tunnel Tributary: Billingsley Creek
QUANTITY:	0.09 cfs[3]	0.05 cfs	1.46 cfs	48.54 cfs	26.0 cfs
DIVERSION POINT:	T07S R14E S32 SESWNW	T07S R14E S32 SESWNW	T07S R14E S32 SESWNW	T07S R14E S32 SESWNW	T07S R14E S32 SESWNW
PURPOSE AND PERIOD OF USE:	Domestic (0.07 cfs) 01-01 to 12-31 Irrigation (0.09 cfs) 03-15 to 11-15	Domestic (0.05 cfs) 01-01 to 12-31 Irrigation (0.05 cfs) 03-15 to 11-15	Fish Propagation (1.46 cfs) 01-01 to 12-31	Domestic (0.10 cfs) 01-01 to 12-31 Fish Propagation (48.54 cfs) 01-01 to 12-31	Fish Propagation (26.0 cfs) 01-01 to 12-31
PLACE OF USE:	Domestic T07S R14E S31 SENE S32 SWNW Irrigation T07S R14E S31 SWNE 2 SENE 4 S32 SWNW1 (7 acres total)	Domestic T07S R14E S31 SENE S32 SWNW Irrigation T07S R14E S31 SWNE 2 SENE 4 S32 SWNW 1	Fish Propagation T07S R14 E S31 SENE S32 SWNW	Domestic T07S R14E S31 SENE S32 SWNW Fish Propagation T07S R14E S31 SENE S32 SWNW	Fish Propagation T07S R14E S31 SENE S32 SWNW

[3] Cubic feet per second.

22. Water right nos. 36-00134B and 36-00135A are for irrigation and domestic purposes. They are not for fish propagation.

23. Water right nos. 36-15501, 36-02551, and 36-07694 authorize a total, cumulative diversion of 76.0 cfs for fish propagation. The priority dates associated with the three fish propagation water rights are July 1, 1957, July 13, 1962 and April 12, 1977, respectively.

24. Rangen alleges that it "is not receiving all of the water to which it is entitled pursuant to decreed water rights nos. 36-02551 and 36-07694." *Petition* at 3. Rangen does not allege injury to water right nos. 36-00134B, 36-00135A, and 36-15501. *Id.*

25. The source for water right nos. 36-02551 and 36-07694 is the Martin-Curren Tunnel, which is commonly referred to as the Curren Tunnel. Rangen Ex. 1026; Rangen Ex. 1028. The point of diversion for both water rights is described as the 10 acre tract: SESWNW T07S R14E S32. *Id.*

26. On March 8, 2013, Rangen filed a *Motion* and *Brief in Support of Motion for Partial Summary Judgment Re: Source* ("Source Brief"). Rangen sought a ruling that it is entitled to judgment as a matter of law as follows: (1) the source for water rights 36-02551, 36-07694, and 36-15501 is surface water, not ground water; and (2) its delivery call "is not limited only to water from the mouth of the Martin-Curren Tunnel itself." *Source Brief* at 2. Rangen stated that IGWA and Pocatello "contend that Rangen's water rights at issue are ground water rights (as opposed to surface water) and that Rangen can only call for water discharging from the mouth of the Martin-Curren Tunnel itself and not the entire spring complex that supplies Rangen's Research Hatchery." *Id.* at 2-3.

27. On the issue of source, the Director reviewed the SRBA decrees and concluded the decrees were not ambiguous:

> Water right nos. 36-2551, 36-7694, and 36-15501 were decreed in the SRBA with the following Source element: Martin-Curren Tunnel, tributary to Billingsley Creek. ... The fact that the source and tributary are named demonstrate that the rights were decreed from a surface water source. *See* [IDAPA 37.03.01.060] ("For surface water sources, the source of water shall be identified . . . . The first named downstream water source to which the source is tributary shall also be listed. For ground water sources, the source shall be listed as 'ground water.'"). Consistent with [IDAPA 37.03.01.060], listing a source and tributary for surface water rights, and only "ground water" for ground water rights, was the custom and practice in the SRBA. In 1997, Rangen's Martin-Curren Tunnel water rights were partially decreed. The partial decrees were entered pursuant to Idaho Rule of Civil Procedure 54(b). No appeal has ever been taken. The plain language of Rangen's partial decrees from the SRBA show that Martin-Curren Tunnel is unambiguously surface water.

Order Granting in Part and Denying in Part Rangen, Inc.'s Motion For Partial Summary Judgment Re: Source ("Order on Summary Judgment") at 4 (April 22, 2013).

28. The Director also concluded that previous Idaho Supreme Court decisions already decided that the source of the Martin-Curren Tunnel is surface water. *Order on Summary Judgment* at 4. The Idaho Supreme Court case *Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994), involved a delivery call by water users other than Rangen with water rights from the Martin-Curren Tunnel. The Court in *Musser* specifically described the source as "springs." *Musser* at 394, 871 P.2d at 811. Spring water users are considered surface water users, not ground water users. *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 804, 252 P.3d 71, 85 (2011) ("The Spring Users are not appropriators of ground water . . . [t]hey are appropriators of surface water flowing from springs."). The Court in *A&B Irr. Dist. v. Idaho Dept. of Water Res.*, had cause to discuss the *Musser* Court's characterization of the source and recognized that the Martin-Curren Tunnel is considered surface water. *A&B Irr. Dist. v. Idaho Dept. of Water Res.*, 153 Idaho 500, 509, 284 P.3d 225, 234 (2012)(Concluding that the Court in *Musser* could not have opined on the application of the Ground Water Act because the call was "between senior spring users and junior ground water users.")

29. Based on the above conclusions, the Director granted summary judgment to Rangen on the issue of source. *Order on Summary Judgment* at 7.

30. On the second issue, the Director again started with the SRBA decrees:

> The point of diversion element decreed by the SRBA district court unambiguously limits diversion to T07S R14E S32 SESWNW. Therefore, by the unambiguous terms of its SRBA partial decrees, Rangen is not authorized to divert water from sources outside T07S R14E S32 SESWNW. Without a water right that authorizes diversion outside T07S R14E S32 SESWNW, Rangen cannot call for delivery of water from sources located outside its decreed point of diversion. IDAPA 37.03.11.001 ("rules prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right) (emphasis added); 37.03.11.010.25 (defining "water right" to mean "[t]he legal right to divert and use . . . the public waters of the state of Idaho where such right is evidenced by a decree . . . .").

Order on Summary Judgment at 6 (emphasis in original).

31. However, summary judgment was not granted to any party on the issue of the point of diversion because questions of material fact remained related to how water is diverted by Rangen from the Curren Tunnel. *Id.* 6-7.

V. Water Measurements

32. Rangen has measured the flows through the Rangen Facility since 1966. Ramsey, Vol. III, p. 617; Rangen Ex. 1075. Since 1995, Rangen has been required by the Department to measure the flows through the Rangen Facility and report the measurements annually to the watermaster. IDWR Staff Memorandum, Ex. 3203, p. 13.

33. The water that flows through the Rangen Facility is measured at two different locations, the CTR raceways and the lodge pond dam.[4] Maxwell, Vol. I, p. 269; Rangen Ex. 1074. Rangen's measurements at the CTR raceways and the lodge pond dam, summed together, quantify all inflow that is tributary to Billingsley Creek upstream from those measurement locations, except for diversions to the senior irrigation rights from the Farmers' Box. Courtney, Vol. I, p. 142. Irrigation return flows sporadically discharge into Billingsley Creek above the lodge dam measurement point. Rangen is not able to beneficially use these irrigation return flows, but the irrigation return flows are included in Rangen's measurements. *Id.*, pp. 142-143. Rangen measures the flows weekly. *Id.*, p. 270. The weekly measurements from the CTR raceways and the lodge pond dam are summed for reporting purposes. Maxwell, Vol. I. p. 281; Rangen Ex. 1094. Rangen also measures flows weekly at the large raceways, but the large raceways measurement data are not reported to the watermaster. Maxwell, Vol. I., p. 278.

34. To determine the flow of water in the CTR raceways, Rangen employees measure the depth of water (head) flowing over wooden check board dams in each raceway using a ruler placed on top of the board. Maxwell, Vol. I, pp. 270-273. This method of measuring head with a ruler on top of the board is commonly referred to as "sticking the weir." Sullivan, Vol. XI, p. 1387. Rangen employees clean the upper board in each multi-board dam prior to measuring the head to prevent error from moss accumulation. Erwin, Vol. I, p. 249. Rangen also inspects the upper dam board to ensure that the board is centered and flush. Maxwell, Vol. I, pp. 273-274. Rangen uses the same procedure to measure head at the lodge pond dam.

35. Frank Erwin, who has been watermaster for Water District 36 for more than 16 years, observed Rangen employee Dan Maxwell measuring water three or four times. Erwin, Vol. I, p. 249. Erwin stated Maxwell did "a good job" and that Maxwell "probably does a little better job at it than I would be able to do." *Id.*, p. 245. He stated that Rangen sends him annual reports of their water measurements and that he has never had an issue with any of Rangen's measurements. *Id.*

36. Wooden check board dams are considered nonstandard measurement devices and are not listed as an acceptable measuring device in the Department's *Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices*. Yenter, Vol. III, p. 557; IDWR Staff Memorandum, Ex. 3203, p. 59; Luke, Vol. V, pp. 1134-1135. Roughness, rounding, and sagging in wooden check boards can cause measurement error. Sullivan, Vol. VI, pp. 1408-1409.

37. Although wooden check board dams are considered nonstandard measuring devices, the Department historically accepted measurements using these structures because the Department's standards allow an accuracy of +/- 10% for open channel measuring devices when compared to measurements using standard portable measuring devices. The Department's experience is that flows rates derived by treating wooden check board dams as weirs generally

[4] The Department has measured the flow from the mouth of Curren Tunnel since 1993. The Curren Tunnel flow data are not used by the watermaster to determine the overall flows through the Rangen Facility, as most water that emanates from the Curren Tunnel is counted either at the measurement in the CTR raceways or at the lodge pond dam.

provide an accuracy of +/- 10%. Yenter, Vol. III, p. 567; IDWR Staff Memorandum, Ex. 3203, p. 13; Luke, Vol. V, pp. 1139,1140, 1168.

38. Two questions were raised related to Rangen's measurements. The first question is whether Rangen historically under-measured its flows because Rangen was using an incorrect rating table. The second question is whether United States Geological Survey ("USGS") flow measurements downstream from the Rangen Facility are a more accurate representation of historic flows through the Rangen Facility and should be relied upon in this proceeding.

39. The Francis equation for a standard suppressed rectangular weir with full bottom contraction is $Q=CLH^{3/2}$ where the weir coefficient "C" is 3.33, and:

Q=flow rate in cubic feet per second
L=length of the weir crest in feet
H=head of water over the weir crest in feet

40. Each weir type has a unique weir coefficient and relates the measurement of the head on the weir to the flow rate over the weir. Brockway, Vol. IV, p. 935. A wooden check board dam employed by Rangen is considered a suppressed weir with a nonstandard weir blade. *Id.*

41. After measuring the head over the wooden check board dams, Rangen employees consult a rating table and identify the flow value corresponding to the measured head for each raceway. By referring to a rating table, a water user can determine flow rates based solely upon the head of water over the weir without calculating the flow with a weir equation. The values in a rating table should be derived either from a weir equation or from direct measurements of discharge and head at numerous flow rates.

42. Historically, Rangen has used at least two different rating tables. It is not clear how Rangen's rating tables were derived. The accuracy of Rangen's original and revised rating tables was an issue discussed extensively at the hearing. The parties, including Rangen, agree that there are problems with the original and the revised rating tables.

43. If compared to the Francis equation, the weir coefficient implicit in Rangen's original rating table varied with the depth of water over the weir crest. Pocatello Ex. 3345, p. 18. Prior to December 1998, Rangen's rating table implied a weir coefficient that averaged between 3.27 and 3.40. *Id.*

44. Sometime between December 1998 and July 2003, Rangen revised its rating table. Pocatello Ex. 3345, p. 18. Between December 1998 and July 2003, there are no measured head data available with which to determine the implicit average weir coefficient. *Id.* Starting in July 2003 through the present, the available measurement data suggest that the revised table had an equivalent weir coefficient in the range of 3.05 to 3.09. *Id.*

45. When the head over a wooden dam board exceeds approximately two times the width of the board crest, the nappe, or the sheet of water flowing over the top of the dam board, begins to "spring" from the front edge of the dam board, and simulates the physical "springing"

of water across a sharp crested weir blade. Brockway, Vol. IV, pp. 955-958. The width of Rangen's dam boards is 1 and 5/8 inches. Two times 1 and 5/8 inches is 3 and ¼ inches. The vast majority of Rangen's head measurements exceeded 3 and ¼ inches, more than two times the dam board width. *Id.*, p. 959. Rangen's wooden dam boards act like a standard suppressed sharp-crested weir. *Id.*, p. 959. Without actually calibrating the measurement of flows over the nonstandard dam boards, the best approximation of a correct flow computation for measurements of head at Rangen's wooden check board dams, would be to use the Francis formula with the standard suppressed sharp-crested weir coefficient of 3.33. Brockway, Vol. IV, pp. 959, 962.[5]

46. In 2003, the Department evaluated Rangen's measurements in connection with Rangen's previous delivery call. Department employees measured flows at the large and CTR raceways and the lodge pond dam by "sticking the weir." Department employees measured a combined total discharge of 18.69 cfs for the CTR raceways and the lodge pond dam. Rangen Ex. 1129, p. 3. The day prior to the Department's measurement, Rangen employees measured a combined total discharge of 17.52 cfs for the CTR raceways and the lodge pond dam, a difference of 1.17 cfs, or a difference of approximately -6%. *Id.*, p. 12.

47. The employment of a nonstandard measuring device and the under-reporting of flow rate values due to the uncalibrated rating table is cause to review other available flow rate measurement values. The USGS periodically measures Billingsley Creek flows at a site just downstream of the Rangen Facility. Sullivan, Vol. VI, pp. 1414-1415. The USGS derives flow values by measuring velocities across the creek's flow profile and by multiplying each measured velocity by a cross sectional area to compute the flow rate in each individual cross sectional area using a current meter. The flow rates for each area are summed, resulting in a total flow rate. The method described above is considered a standard method of water measurement, is listed as an acceptable measuring method in the Department's *Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices,* and is employed to calibrate the accuracy of weirs and other measuring devices. USGS flow measurements are widely accepted as accurate and objective measurements.

48. When a USGS hydrographer measures flow rates, the hydrographer assigns a quality rating to the measurement. Sullivan, Vol. VI, p. 1423. This is a quasi-quantitative rating of the quality of the measurement. Various factors are considered in rating the measurement. The USGS quantifies the standard error[6] associated with each rating. The highest rating assigned to measurements in Billingsley Creek below the Rangen Facility is "good," abbreviated by the letter "G." When a measurement is rated "G," the estimated standard error is plus or minus 5%. A lesser rating of "fair" is abbreviated by the letter "F." When a measurement is rated "F," the estimated standard error of the measurement is plus or minus 8%. *Id.* at 1424. The lowest rating is "poor," abbreviated by the letter "P." When a measurement is rated "P," the estimated standard error of the measurement is greater than 8%. *Id.* The abbreviation "U" means the measurement was unrated and means that, for some reason, the hydrographer didn't assign a

[5] Brockway derived a weir coefficient for measuring flows discharging over splash board dams at another fish propagation facility. The other facility's weir coefficient was 3.68. Brockway distinguished the other facility's weir coefficient from the standard 3.33 value by observing that the head measurements over the dam board at the other facility were near or below two times the width of the dam board, resulting in a larger coefficient.

[6] A standard error of 5% means there is a 68% probability that the true measurement is within plus or minus 5% of the true value. Sullivan, Vol. VI, p. 1423.

rating. *Id.* Most of the USGS measurements in Billingsley Creek below the Rangen Facility are rated as "good" or "fair" measurements. The rating of measurement conditions may be "fair" because, as discussed in the IDWR staff memorandum, flow and/or cross-sectional conditions are less than ideal. IDWR Staff Memorandum, Ex. 3203, p. 65.

49. Rangen presented evidence that there is a small drain that discharges into Billingsley Creek between where Rangen measures flows from the Rangen Facility and where the USGS measures flow in Billingsley Creek. This drain sometimes carries irrigation return flows to the creek. Sullivan, Vol. VI, p. 1419. However, the record does not support a finding that these return flows affected the USGS measurements because the USGS generally measures the flow in Billingsley Creek during the non-irrigation season. *Id.*

50. Pocatello compared the USGS measurements taken downstream from Rangen with Rangen's reported flows closest to the date of the USGS measurement. Pocatello's expert, Greg Sullivan, testified that comparison of Rangen's reported flows with flows measured by the USGS below the Rangen Facility show a systematic under-measurement of Rangen's flows, especially since 1980. Sullivan estimated the measurement error to be 15.9% based on the comparison of 45 measurements by the USGS between 1980 and 2012. Sullivan, Vol. VI, pp. 1428-1429; Pocatello Ex., p. 3349.

51. In addition, Sullivan derived a weir coefficient for the Rangen Facility by solving the standard weir equation for the weir coefficient using 14 of the USGS flow measurements and Rangen head measurements made nearest in time. Sullivan derived an average weir coefficient of 3.62. Sullivan, Vol. VI., pp. 1438-1439.

52. The Director finds, based upon clear and convincing evidence, that Rangen's use of a nonstandard measuring device with an inaccurate rating curve has resulted in under-reporting of flows at the CTR raceways and Rangen's lodge pond dam.

VI. Historical Spring Flows

53. Notwithstanding Rangen's use of inaccurate rating tables and under-reporting of its flows, it is clear that spring flows in the area of the Curren Tunnel have declined significantly. IDWR Staff Memorandum, Ex. 3203, p. 2. In 1966, Rangen's reported hatchery flows averaged 50.7 cfs. Rangen Ex. 1075. In 2012, spring complex flows averaged just 14.6 cfs. *Id.* If one redetermines Rangen's reported flows using Pocatello's estimated measurement error of 15.9% since 1980, the declines in flow rate from the Rangen springs have been dramatic. Even if the 15.9% correction is applied to the 2012 spring complex discharge, flows declined by over 33 cfs between 1966 and 2012.

54. Discharge from the mouth of Curren Tunnel has been measured by the Department since 1993. Pocatello, Ex. 3650, p. 5. The measured discharge does not include flow in the 6-inch PVC pipe. The sum of the tunnel discharge and flow in the 6-inch PVC pipe represents the flow available from the Curren Tunnel source. Rangen began submitting flow data for the 6-inch PVC pipe to the Department in 1996. Sullivan used data available from 1996 through 2011 to extrapolate Curren Tunnel flows prior to 1996. *Id.* Sullivan estimated the

average annual tunnel flow in 1966 was 32.1 cfs.[7] Pocatello, Ex. 3650, Table A-5. By 2011, the average annual tunnel flow had declined to 4.4 cfs. *Id.*, Table A-1.

55. There is no single reason for the decline in flow. Several anthropogenic activities on the Eastern Snake Plain caused reductions in spring flows near Rangen and throughout the Thousand Springs complex. These activities included diversion of ground water from wells, reduction in incidental recharge because of increased delivery and application efficiencies for surface water irrigation, and reductions in incidental recharge because of an overall reduction in surface water delivered for irrigation of the Eastern Snake Plain. Reduction in natural recharge derived from precipitation has also contributed to declines in spring flow. Because the Rangen spring complex is hydraulically connected to the ESPA, it is clear that ground water pumping has contributed to the decrease in discharge, but other activities have also contributed.

VII. Effects of Declining Flows on Rangen

56. Rangen argues that its ability to conduct research has been hindered because of reduced spring flows. Ramsey, Vol. III, p. 691; Kinyon, Vol. II, pp. 452,460; Rangen Ex. 1161. An important aspect of the Rangen Facility is its research. Rangen conducts experiments at its facility to: (a) improve its commercial fish food, (b) treat or prevent disease, and (c) improve its fish rearing (husbandry) techniques. Because of lower flows, Rangen is not able to conduct all the desired experiments. Ramsey, Vol. III, pp. 692-693. Rangen would conduct more research if the flows were higher. Kinyon, Vol. V, p. 1183.

57. Pocatello argues that, historically, most of Rangen's experiments have been conducted inside the hatchhouse and greenhouse, not outside in the raceways, and that outside experiments in production ponds do not generate reliable data. Woodling, Vol. VI, pp. 1239-1240. Pocatello references a Rangen analysis suggesting that more reliable data could be generated from studies in the greenhouse as opposed to the outside raceways. Woodling, Vol. VI, p. 1246. Rangen's response to this argument is that its clients want experiments in outdoor raceways in a production-type setting, not a laboratory setting, and that Rangen would conduct experiments in the outdoor raceways if more water were available. Ramsey, Vol. III, pp. 697-698. For example, Rangen testified it would experiment with fishmeal replacements. Kinyon, Vol. V, p. 1185; Ramsey, Vol. V, p. 1197. Rangen testified to numerous other studies it would undertake. Kinyon, Vol. V, pp. 1184-1186; Ramsey, Vol. V, pp. 1198-1199.

58. Pocatello also argues that if Rangen wants to undertake outside studies, it should modify the way it conducts raceway studies and initiate fish tagging studies instead. Woodling, Vol. VI, pp. 1249-1250. Pocatello suggests Rangen would then need only two raceways and would gather better data. Pocatello recognizes that its suggested alternative study method would require much more manpower to complete, but suggests Rangen can find volunteers with the Idaho State Fish and Game or Idaho Power Company ("Idaho Power").

[7] Pocatello's Ex. 3650, Table A-5 is based on Rangen's reported values for flow in the CTR raceways and lodge pond dam. The values in Table A-5 do not incorporate Pocatello's correction of Rangen's reported values based on comparison with the USGS data.

59. Rangen also argues that its ability to raise more fish has been hindered because of the reduced flows. Tate, Vol. IV, pp. 867-868. There currently is sufficient water available to the hatchery and the greenhouse to raise more fish should Rangen desire to do so. Tate, Vol. IV, p. 894. The bottleneck for raising more fish is the outside raceways. Rangen has sufficient water to operate the small raceways during some parts of the year but not others. *Id.*, p. 895. Rangen could open up the other raceways and add more fish if it had more water. Tate, Vol. IV, pp. 868, 905-906. Furthermore, while the water may be sufficient to satisfy its existing contractual obligations, Rangen would raise more eggs in the hatchhouse than are currently being raised if it had more water in other parts of the facility to put those fish, when the fish are grown out. Ramsey, Vol. III, p. 719.

60. Rangen argues that it employs many fewer people now than it once did. Kinyon, Vol. II, p. 452. There may be multiple reasons for a reduction in employees, including a slump in the fish hatchery industry. Church, Vol. VIII, pp. 1965, 1974.

VIII. Rangen's Use of Water

61. Rangen currently raises fish for commercial processing, research, and for public sale to fish pond operators and others. Kinyon, Vol. II, p. 474. Since 2004, Rangen has also contracted with Idaho Power to raise trout. Rangen Ex. 1141. Idaho Power stocks the fish in the Middle Snake River and American Falls Reservoir. Kinyon, Vol. II, p. 422. Raising fish for restocking is commonly referred to as raising fish for conservation purposes, and the fish are commonly referred to as conservation fish. The timing and the way Rangen raises the fish for Idaho Power is dictated primarily by the contract with Idaho Power. Kinyon, Vol. II, p. 478; Maxwell, Vol. II, p. 316; Tate, Vol. IV, p. 860.

62. Because the fish for Idaho Power are being raised for conservation purposes (as opposed to being raised for processing), Rangen is contractually required to satisfy specific flow and density indexes when raising the fish. Kinyon, Vol. II, p. 482. A flow index is a measurement of the relationship between the number and size of fish and the flow rate of water in a rearing space. The density index is a measurement of the relationship between the number and size of fish and the available rearing volume of water. Ramsey, Vol. III, p. 721; Smith, Vol. IV, p. 812. The Idaho Power's contract requires that Rangen employ a specific flow index so that the ratio of flow to fish is higher than the ratio of flow to fish when raising fish for processing purposes. Similarly, the Idaho Power contract requires that Rangen employ a specific density index so that the ratio of volume of water to fish is higher than the ratio of volume of water to fish than might be used when raising fish for processing purposes. Requiring higher flow and density indexes is a standard industry practice when raising conservation fish because the goal is to produce fish that are better able to survive in the wild and are more physically attractive to anglers. Kinyon, Vol. II, pp. 482-483. Since contracting with Idaho Power, raising fish for Idaho Power has been the main focus of Rangen's fish production efforts. The Idaho Power contract governs the timing of Rangen's purchases of its fish eggs and Rangen's movement of fish from one rearing location to another through the facility. Rangen raises some extra fish beyond those required by the Idaho Power contract. Rangen sells these extra fish for processing and other purposes.

63. IGWA and Pocatello argue Rangen's use of water is unreasonable. First, they argue Rangen is not efficiently using its water, is not efficiently raising fish at the facility, and could be raising more fish if they would take advantage of peak spring flows. They assert Rangen could be raising more fish for the Idaho Power contract, even under the density index imposed through the Idaho Power contract, Rangen could be raising more fish. Rogers, Vol. VIII, p. 1829. They argue the lack of records related to dissolved oxygen suggests Rangen is not trying to maximize fish production. *Id.*, p. 1839. They suggest that Rangen's failure to maximize the number of fish it raises is unreasonable and constitutes waste. *Id.*, p. 1849. Furthermore, they argue Rangen could be taking steps to further aerate its water, so it could raise even more fish. *Id.*, p. 1840.

64. IGWA and Pocatello also argue that Rangen's use of the water is unreasonable because Rangen is not recycling the water it has already beneficially used to raise more fish. Rogers, Vol. VIII, pp. 1843, 1866. Recycling water would require a pump-back system or reconfiguring the present system for water delivery. *Id.* Prior to filing its delivery call, Rangen considered constructing a pump-back system but ultimately rejected the idea. Courtney, Vol. I, p. 113; Courtney, Vol. II, pp. 400-404; Rangen Ex. 1203. Raceways require continuous replenishment with fresh water. Courtney, Vol. II, p. 401. Interruption of this flow would result in the loss of fish and likely a significant monetary loss. *Id.* A pump-back system would require redundant power sources and pumps to ensure that a loss of power or a pump failure would not deprive fish of water, thereby killing the fish. Courtney, Vol. I, p. 112; Courtney, Vol. II, p. 401. The cost of building the pump-back system, without the redundant power sources and pumps, was estimated to be $116,000. Courtney, Vol. II, p. 403. The annual costs of operating the system run between $22,000 and $46,000. *Id.* Because of the significant costs to build the project, and other concerns about the issues of water quality and water temperature associated with a pump-back system, Rangen ultimately rejected the idea of a pump-back system. Courtney, Vol. I, p. 113. The cost of building redundant systems along with annual operating costs makes a pump-back system cost prohibitive.

65. Water must contain dissolved oxygen for fish to extract the oxygen through their gills. The minimum level of dissolved oxygen in water for rearing fish is approximately 5 to 5.5 parts per million. Smith, Vol. IV, p. 840; Rogers, Vol. VIII, p. 1828. Rangen maintains a dissolved oxygen level of approximately seven parts per million in the CTR raceways, which is at the bottom of its system. Maxwell, Vol. II, p. 320. The solubility of dissolved oxygen in the water varies because of water temperature and other factors, but a typical oxygen saturation level for water at the Rangen springs is nine parts per million. Rogers, Vol. VIII, p. 1828. IGWA and Pocatello suggest, because Rangen does not regularly measure the oxygen levels in its raceways, Rangen is not efficient in its operation. Rogers, Vol. VIII, pp. 1839-1843. They argue, if Rangen wanted to maximize its production, Rangen could further aerate its water as part of a pump-back system. *Id.*

66. Water depleted of dissolved oxygen can be aerated to restore the level of dissolved oxygen. Water can be aerated mechanically by injecting oxygen or by creating a head drop where water is exposed to oxygen in the atmosphere. Rangen does not mechanically inject oxygen. Smith, Vol. IV, p. 840. There are slight vertical drops within the Rangen Facility that provide some aeration. *Id.*

IX. Diversion Works

67. In 2004, Rangen hired SPF Water Engineering, LLC ("SPF") to evaluate a number of projects with the intent of improving Rangen's water supply. IGWA Ex. 2040. The evaluations were supportive technical information for grant funding applications from the Idaho Department of Commerce and Labor. *Id.*

68. SPF evaluated the possible construction of a new vertical ground water well near the upstream end of the Rangen raceways. IGWA Ex. 2040, p. 7. Ground water in a new well would have to be lifted more than 100 feet. *Id.* There were three concerns with this approach. The first concern was the pumping costs associated with lifting the water from the wells to raceways. *Id.*, pp. 7-8. The second concern was that this would require redundant systems to protect against a loss of water from failure of power or pumps. *Id.*, p. 8. The third concern was that, because of the ESPA moratorium on new appropriations, Rangen would not be able to obtain a new water right absent mitigation. *Id.*

69. A second option studied was the construction of a horizontal well at a lower elevation than the Curren Tunnel. IGWA Ex. 2040, p. 8. While SPF believed a horizontal well would increase flow to the Rangen Facility, it also believed that a horizontal well would likely decrease current discharge to the Curren Tunnel, to other springs in the vicinity of the Curren Tunnel and possibly to wells located on the rim above the Curren Tunnel. *Id.*

X. Eastern Snake Plain Aquifer

70. The ESPA is defined as the aquifer underlying an area of the Eastern Snake Plain that is about 170 miles long and 60 miles wide, excluding areas lying both south of the Snake River and west of the line separating sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. The ESPA is defined as an area having a common ground water supply. IDAPA 37.03.11.050.

71. The ESPA is highly productive and is composed predominately of fractured Quaternary basalt having an aggregate thickness that may, at some locations, exceed several thousand feet and generally decreases in thickness along the margins of the aquifer. The fractured Quaternary basalt is generally characterized by high hydraulic conductivity. The presence of interbedded sediments, a volcanic rift zone, and less permeable basalts result in lower hydraulic conductivity in some areas of the aquifer. Notable areas of lower hydraulic conductivity are in the vicinity of Mud Lake and in the Great Rift zone, which extends north to south across the plain from the Craters of the Moon to just west of American Falls Reservoir. These zones of lower hydraulic conductivity impede the transmission of water through the aquifer.

72. The ground water in the ESPA is hydraulically connected to the Snake River and tributary springs at various places and to varying degrees. One of the locations at which a direct hydraulic connection exists between the ESPA and springs tributary to the Snake River is in the Thousand Springs area. The amount of water that discharges from the aquifer to hydraulically

connected surface water sources is largely dependent on ground water elevations and hydraulic conductance.

73. Based on averages for the time period from October of 1980 through September of 2008[8], the ESPA receives approximately 7.7 million acre feet of recharge on an average annual basis from the following sources: incidental recharge associated with surface water irrigation on the plain (5.3 million acre feet), infiltration of precipitation on non-irrigated lands (0.7 million acre feet), underflow from tributary drainage basins (1.1 million acre feet), and seepage losses from rivers and streams (0.6 million acre feet). Rangen Ex. 1273A, Figure 8.

74. Based on averages for the time period from October of 1980 through September of 2008, the ESPA discharges approximately 8.0 million acre feet on an average annual basis through the Snake River and tributary springs (5.4 million acre feet), evapotranspiration in wetlands (0.1 acre feet), and ground water withdrawals (2.5 million acre feet). *Id.*

75. For the time period from October of 1980 through September of 2008, average annual discharge from the ESPA exceeded annual average recharge by approximately 270,000 acre feet, resulting in declining aquifer water levels and declining discharge to hydraulically connected reaches of the Snake River and tributary springs. *Id.*

XI. History of ESPA Model

76. The Enhanced Snake Plain Aquifer Model ("ESPAM") is a calibrated regional ground water model representing the ESPA. ESPAM version 1.0 ("ESPAM 1.0") was developed by the Department working in collaboration with the Eastern Snake Hydrologic Modeling Committee ("ESHMC"), a technical committee comprised of representatives of water user groups and government agencies. ESPAM 1.0 simulated the effects of ground water pumping from the ESPA on the Snake River and tributary springs.

77. In determining a previous Rangen delivery call to be a futile call using ESPAM 1.0, former Director Dreher determined that curtailment of water rights junior to July 13, 1962 would not result in a meaningful increase in the quantity of water discharging from springs in the vicinity of the Rangen Facility. *Second Amended Order*, p. 28 (May 19, 2005).

78. Following the previous Rangen delivery call, ESPAM 1.0 was superseded by a revised and recalibrated model version 1.1 ("ESPAM 1.1"). In *Clear Springs Foods, Inc. v. Spackman*, a delivery call proceeding instituted by Clear Springs Foods, ESPAM 1.1 was used to estimate the effects of ground water pumping on the springs in the Thousand Springs area, the name for the general geographic location where Rangen diverts water. The Idaho Supreme Court upheld the Director's application of ESPAM 1.1. *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 814, 252 P.3d 71, 95 (2011).

79. In the Clear Springs Foods delivery call, a trim line was used to limit the area of curtailment simulated with ESPAM 1.1. The trim line was defined by model cells in which 10%

[8] Volumes were calculated from the ESPAM 2.1 water budget, which extended from 1980 to 2008. Rangen Ex. 1273A.

or greater of the curtailed use would result in benefits to the Buhl to Thousand Springs reach (the reach within which Clear Springs Foods diverted water) at steady state. Because much of the benefit to the Buhl to Thousand Springs reach would occur at locations other than Clear Springs Foods' point of diversion, the Department subsequently estimated that Clear Springs Foods would receive 6.9% of the benefit accruing to the Buhl to Thousand Springs reach. Therefore, the trim line applied in Clear Springs Foods limited curtailment to areas where Clear Springs Foods was predicted to receive at least 0.69% (6.9% of 10%) of the total benefits of curtailment at steady state.

80. In the Blue Lakes delivery call, a trim line was used to limit the area of curtailment simulated with ESPAM 1.0. The trim line was defined by model cells in which 10% or greater of the curtailed use would result in benefits to the Devil's Washbowl to Buhl reach (the reach within which Blue Lakes diverted water) at steady state. Because much of the benefit to the Devil's Washbowl to Buhl reach would occur at locations other than Blue Lakes Trout Farms' point of diversion, the Department subsequently estimated that Blue Lakes Trout Farms would receive 20% of the benefit accruing to the reach. Therefore, the trim line applied in the Blue Lakes delivery call limited curtailment to areas where Blue Lakes Trout Farm was predicted to receive at least 2% (20% of 10%) of the total benefits of curtailment at steady state.

81. In 2005, the ESHMC and the Department started working on updates to ESPAM 1.1. The revision to ESPAM 1.1 was referred to as ESPAM 2.0. The model was refined and re-calibrated with additional data. In particular, the model was calibrated using monthly water levels and flow targets, including measured spring discharges within 14 specific model grid cells. The springs captured and used by Rangen were measured throughout the model calibration period, and the monthly average spring discharge in the model cell where spring flows are captured by Rangen was a target for model calibration. The revision of the ESPAM was in progress when Rangen filed its Petition in December of 2011. The parties to this proceeding agreed to wait until the work on the updated model by the ESHMC was complete before going to hearing.

82. "During development of ESPAM 2.0, IDWR discovered that values from Covington and Weaver (1990) that were used to estimate discharge for Thousand Springs and springs in the Thousand Springs to Malad spring reach for calibration of ESPAM1.1 were inaccurate. These values were corrected in the calibration targets for ESPAM2.0. These corrections resulted in a significant decrease in the spring discharge target at Thousand Springs and a significant increase in spring discharge targets in the Billingsley Creek area." IDWR Staff Memorandum, Ex. 3203, p. 32. Because of these adjustments, Rangen challenged the previous determination of a futile call. The update to ESPAM 2.0 was the basis for Rangen's renewed delivery call.

83. The Director concluded that Rangen's request to apply ESPAM 2.0 to the delivery call was premature because the ESHMC had not yet completed its work on the revisions. *Prehearing Conference* (Jan. 19, 2011) (audio recording). The Director explained the remaining steps needed before ESPAM 2.0 would be ready to be applied in the proceeding. *Id.* The Director and the parties agreed to hold regular status conferences to receive reports on the status of ESPAM 2.0. *Order Continuing Prehearing Conference* at 1 (Feb. 1, 2012).

84. In July of 2012, the ESHMC determined that the calibration of ESPAM 2.0 was complete and recommended that the Department begin using ESPAM 2.0 rather than ESPAM 1.1 for ground water modeling. Email from Rick Raymondi to Gary Spackman, *ESPAM Version 2.0* (July 16, 2012). In response, an order was issued adopting ESPAM 2.0 for use in the Rangen delivery call. *Order Re: Eastern Snake Plain Aquifer Model and the Rangen, Inc. Delivery Call* at 1 (July 27, 2012). However, during the preparation of the final project report, data calculation mistakes were discovered in the model input data used for calibration. Email from Rick Raymondi to ESHMC members, *ESPAM Version 2* (Oct. 4, 2012). The model was re-calibrated in November 2012, resulting in the release of ESPAM 2.1. In January of 2013, the ESHMC endorsed the use of ESPAM 2.1 in place of ESPAM 2.0. Email from Rick Raymondi to Gary Spackman, *ESPAM2.1* (Jan. 16, 2013). ESPAM 2.1 was subsequently used by the Department and the parties in this proceeding to simulate the effects of ground water withdrawals on flows available to the Rangen Facility.

XII. ESPAM 2.1 is the Best Available Science

85. "ESPAM 2.1 is a numerical groundwater model that was developed for the purpose of determining the effects of groundwater pumping on discharge to spring and river reaches, such as the Rangen spring cell." IDWR Staff Memorandum, Ex. 3203, p. 2. "Numerical models are . . . the most robust approach for predicting the effects of groundwater pumping on surface-water discharge." *Id.* "ESPAM 2.1 is a regional groundwater model and is suitable to predict the effects of junior groundwater pumping on discharge at the Rangen spring cell because the spring discharge responds to regional aquifer stresses, and junior groundwater pumping is a dispersed, regional aquifer stress." *Id.* "ESPAM 2.1 . . . is an imperfect approximation of a complex physical system, but it is the best available scientific tool for predicting the effects of groundwater pumping on discharge at the Rangen spring cell and other spring and river reaches." *Id.*

86. ESPAM 2.1 was developed in an open, collaborative environment, with guidance from the ESHMC. During development of ESPAM 2.1, decisions regarding the conceptual model, modeling methods, and modeling data were presented to the ESHMC with opportunity for committee members to provide comments and suggest alternative approaches. *Id.*, p. 3. By developing the model in collaboration with the ESHMC, the Department benefitted from the input of a number of individuals with expertise in hydrology, geology, and ground water modeling.

87. The ESHMC is comprised of professionals working on eastern Snake Plain water issues. Regular members include agency representatives (Idaho Department of Water Resources, U.S. Bureau of Reclamation (USBR), U.S. Fish and Wildlife Service, U.S. Geological Survey (USGS)), industry representatives (Idaho Power), researchers (University of Idaho, Idaho Water Resources Research Institute), and private consultants (AMEC; Brockway Engineering, PLLC; HDR, Inc.; Leonard Rice Engineers, Inc.; Principia Mathematica, Inc.; Rocky Mountain Environmental Associates, Inc.; Spronk Water Engineers, Inc.; and others) representing water users on the eastern Snake Plain. Rangen Ex. 1273A, p. 2.

88. ESPAM 2.1 incorporates the spatial distribution of recharge and groundwater pumping, a large number of water level and aquifer discharge observations, regional-scale hydrogeology, and the transient response of aquifer discharge to spatially and temporally distributed recharge and pumping. *Id.*, p. 5.

89. ESPAM 2.1 answers the following questions relevant to the Rangen water call:

a. What is the effect of junior groundwater pumping within the ESPA on discharge at the Rangen spring cell?
b. What portion of curtailed groundwater use will accrue to the Rangen spring cell?
c. What portion of curtailed groundwater use will accrue to other spring cells?

90. During development of ESPAM2.1, model uncertainty was reduced through collaboration with the ESHMC and the use of model calibration tools. The ESHMC provided input on decisions about the conceptual model, calibration targets, and water budget input data. Id, p. 3, Exhibit 1273A.

91. The Department evaluated the predictive uncertainty of ESPAM 2.1 by repeatedly recalibrating the model and comparing predicted impacts from ground water pumping at eight different locations in the Eastern Snake Plain. Impacts were evaluated for two targets: Clear Lakes spring and the near Blackfoot to Minidoka reach of the Snake River. Exhibit 1277, p.5. The predictive uncertainty for Clear Lakes spring was not significant for each of the eight analyses. The largest predictive uncertainty with respect to Clear Lakes spring was noted for ground water pumping in the Big Lost River area. With alternative calibrations of the model, the predicted impact of ground water pumping in the Big Lost River area on spring discharge at Clear Lakes ranged from 3% of the pumping rate to less than 1% of the pumping rate. Id, p. 9. The predictive uncertainty for the near Blackfoot to Minidoka reach was not significant for pumping locations evaluated on the western side of the plain, but higher uncertainty in the near Blackfoot to Minidoka reach was noted for some pumping locations evaluated on the eastern side of the plain. Id, p. 12. Lack of water level data in the Craters of the Moon area and noise in the calibration target for the near Blackfoot to Minidoka reach may contribute to higher predictive uncertainty for pumping locations evaluated on the eastern side of the plain. *Id.* There is lower uncertainty on the western side of the Great Rift. There is generally higher uncertainty on the eastern side of the Great Rift, however impacts from several pumping locations evaluated on the eastern side of the Great Rift had negligible impacts on Clear Lakes.

92. Expert witnesses employed by Rangen testified that the ESPAM 2.1 development process resulted in a very robust model with good calibration results. Colvin, Vol. X, pp. 2403-2404; Brockway, Vol. X, pp. 2296 - 2327.

93. Expert witnesses employed by junior ground water users offered criticisms of using ESPAM 2.1 for administration of water rights. The following is a summary of the criticisms offered.

a. The time-constant transmissivity model does not adequately represent conditions in the ESPA aquifer, which is an unconfined aquifer where transmissivity may vary with time.

b. ESPAM 2.1 does not adequately represent detailed geologic features and groundwater flow direction in the immediate vicinity of the Rangen Facility.

c. Uncertainty in the water budget, particularly uncertainty in the spatial distribution of canal seepage within the North Side Canal Company service area, contributes to uncertainty in model predictions of impacts to spring flows in the Rangen model cell.

d. Interpretation of calibration results indicates that ESPAM 2.1 is biased toward over-predicting impacts to spring flows in the Rangen model cell.

e. It is not appropriate for the Department to use a regional model as a tool for the administration of water rights.

94. The experts criticizing use of ESPAM 2.1 did not offer reasonable alternatives to using ESPAM 2.1. IGWA's experts argued that "any application of ESPAM 2.1 must acknowledge and accept that there is an inherent and unquantifiable level of uncertainty in the predictions generated by the model." Brendecke, Vol. XI, p. 2741. IGWA's experts further argued that uncertainty could be acknowledged by discounting the prediction generated by the model, or by applying a zone of exclusion or trim line. Hinckley, Vol. X, pp. 2489-2498, Brendecke, Vol. XI, 2741-2743. However, IGWA's experts acknowledged that model uncertainty does not provide a definitive location for a trim line. Hinckley, Vol. XI, p. 2551.

95. Department staff and Rangen's expert witnesses responded to the above criticisms in the staff memorandum and testimony. The following is a summary of the responses offered.

a. ESPAM 2.1 uses time-constant transmissivity to approximate conditions in the unconfined ESPA aquifer. Time-constant transmissivity models of unconfined systems are common in practice, because calibrating models with variable transmissivity is generally not feasible with state of the art calibration tools. IDWR Staff Memorandum, Ex. 3203, p. 29. Employment of time-constant transmissivity is an accepted scientific practice for modeling aquifers where drawdown is generally expected to be less than 10% of the total saturated thickness. *Id.*, p. 5.

b. Although ESPAM 2.1 is a regional model that accounts for variation in geologic features within the constraints of a one-square-mile grid cell, ESPAM 2.1 was calibrated to observed monthly spring discharge in the Rangen model cell. These discharge data reflect local and regional geologic controls on hydrologic responses to ground water pumping and other aquifer stresses. IDWR Staff Memorandum, Ex. 3203, pp. 4, 28. Further, Dr. Brendecke explored the effects of changing the model to better represent local geologic detail and ground

water flow direction as discussed by Mr. Hinckley. Dr. Brendecke presented three alternative conceptual models (AMEC Model 1, AMEC Model 2, and the "composite model") that he asserted resulted in a "more realistic representation of the local hydrogeology" near the Rangen Facility. IGWA Ex. 2401, p. 42. The impacts of junior groundwater pumping on the model cell containing the Rangen spring predicted by AMEC Model 1 and AMEC Model 2 were very similar to the impacts predicted by ESPAM 2.1, and do not contradict the Department staff conclusion that ESPAM 2.1 is the best available tool for predicting the impacts of groundwater pumping on the Rangen spring cell. IDWR Staff Memorandum, Ex. 3203, p. 38; Wylie, Vol. XII, p. 2925; Colvin, Vol. X, p. 2412. The calibration method used in AMEC's "composite model" did not follow proper procedures. Wylie, Vol. XII, p. 2923. The quality of the calibration of the composite model was compromised. Colvin, Vol. X, pp. 2418-2419.

c. The ESPAM 2.1 calibration procedure allowed adjustment of several components of the water budget (including evapotranspiration, tributary underflow, recharge on non-irrigated lands, canal seepage, and non-Snake River seepage) within ranges of uncertainty determined by the ESHMC. The IDWR predictive uncertainty analysis incorporated the impact of uncertainty associated with these components of the water budget. IDWR Staff Memorandum, Ex. 3203, p. 10. Not all sources of uncertainty significantly impact every prediction. This is illustrated by the IDWR predictive uncertainty analysis, which incorporated the uncertainty associated with many of the components of the water budget and indicated that predictive uncertainty is low with respect to the response at the Clear Lakes spring cell. *Id.* Regarding the water budget in the North Side Canal Company service area, the ESPAM 2.1 water budget did simulate a reduction in incidental recharge over the calibration period, because the sum of incidental recharge and canal seepage in the North Side Canal Company service area is equal to recorded diversions less crop irrigation requirement and return flows. Canal seepage losses varied with time, because diversions varied with time. *Id.*, p. 33. Information to refine the spatial distribution of the canal seepage was not available to the Department during development of ESPAM 2.1.

d. Department staff disagree with the conclusion that calibration results indicate ESPAM 2.1 is biased to over-predict impacts to spring flows in the Rangen model cell. IDWR Staff Memorandum, Ex. 3203, pp. 39, 57. Mr. Hinckley's and Dr. Brendecke's arguments that the model is biased to over-predict impacts are based largely on comparison of model results with well and spring discharge data collected only after the year 2000. Ignoring data collected before 2000 compromises their interpretation. It is important to consider both older and more recent data to obtain the best representation of the physical system. IDWR staff memorandum, p. 37. The difference between recent low flow values and older historic values is the spring's response to changes in the aquifer water budget and is critical to the prediction of the impacts of ground water pumping. *Id.*, p. 57. Contrary to IGWA's arguments, evaluation of ESPAM2.1's calibration results, which under-predict the difference between

flows in the 1980s and the 2000s, suggests that the model would be more likely to under-predict the impacts of ground water pumping on spring flows in the Rangen cell. *Id.* IGWA's arguments are further contradicted by the results obtained from Dr. Brendecke's alternative model (AMEC Model 2), which he states "*appears to resolve the overprediction problem noted for ESPAM 2.1 in recent years.*" IGWA Ex. 2401, p. 45. AMEC Model 2 predicts a response of 18.0 cfs in response to curtailment within the model domain, which is slightly higher than the ESPAM 2.1-predicted response of 17.9 cfs. IDWR Staff Memorandum, Ex. 3203, p. 57.

e. It is appropriate for the Department to use a regional model as a tool for conjunctive administration of water rights, because the effect of junior ground water pumping within the Eastern Snake Plain, an approximately 11,000 square mile area, on spring discharge and river reaches is a regional-scale question that cannot be addressed with a small-scale, local model. IDWR Staff Memorandum, Ex. 3203, p. 4. ESPAM 2.1 was developed specifically to predict the effect of regional aquifer stresses such as ground water pumping on river reaches and springs, including the model cell containing the Rangen spring. *Id.*, p. 2. ESPAM 2.1 incorporates much more information about the aquifer than can be considered in other predictive methods available to the Department, and incorporates data that specifically reflect how spring discharge in the Rangen cell has responded to regional aquifer stresses in the past. *Id.*, p. 4. This is the reason that numerical models are recognized by the USGS as the most robust approach for predicting the effects of groundwater pumping on surface-water discharge. *Id.*, p. 2.

96. The criticisms raised in Finding of Fact 93 fail to persuade the Director that ESPAM 2.1 should not be used in this proceeding. The Director finds, based upon clear and convincing evidence, that ESPAM 2.1 is the best technical scientific tool currently available to predict the effect of ground water pumping on flows from springs located in the Rangen cell. The Director acknowledges that there is uncertainty in the model predictions, but disagrees with IGWA's conclusion that ESPAM 2.1 is biased toward over-predicting impacts to flows at the Rangen model cell.

XIII. Prediction of Impacts of Ground Water Pumping on Curren Tunnel Flow

97. ESPAM 2.1 predicts the effect of ground water pumping on the aggregate flows from springs located within the Rangen model cell, including but not limited to the Curren Tunnel. ESPAM 2.1 cannot distinguish the water flowing from the Curren Tunnel from water discharging from other springs within the model cell. Because Rangen's water rights only authorize diversion of water from the Curren Tunnel source, the historical relationship between Curren Tunnel discharge and total spring complex discharge must be used to predict the portion of the modeled effects that will accrue to the Curren Tunnel.

98. The Department has measured discharge from the mouth of Curren Tunnel since 1993. Pocatello, Ex. 3650, p. 5. The measured discharge does not include flow in the 6-inch PVC pipe. Rangen submitted flow data for the 6-inch PVC pipe to the Department beginning in

1996. *Id.* The sum of the measured tunnel discharge and flow in the 6-inch PVC pipe represents the flow available from the Curren Tunnel source.

99. Historically, the total spring complex discharge is the sum of the flow in Rangen's CTR raceways, Rangen's lodge pond dam, and irrigation diversions from the Farmers' Box. As described in Section V above, Rangen's use of a nonstandard measuring device with an inadequate rating curve has resulted in under-reporting of flows at the CTR raceways and Rangen's lodge pond dam.

100. In Pocatello Exhibit 3650, Figure 1, Pocatello's expert witness Greg Sullivan plotted data for measured Curren Tunnel flow rates on the "y" axis and data for measured total spring flows on the "x" axis, and performed a linear regression of the data. The resulting regression line represents the historic relationship between Curren Tunnel flow and total flow in the spring complex. The slope of the regression line in Exhibit 3650, Figure 1 is the coefficient 0.7488 associated with the "x" variable and represents the change in flow at Curren Tunnel corresponding to a 1 cfs change in total spring complex flow. The increase in flow at Curren Tunnel resulting from curtailment can be computed by multiplying the predicted increase in total spring flow from ESPAM 2.1 by 0.7488. *Id.*, p. 7. This analysis used flow data reported by Rangen, and predicts that approximately 75% of curtailment benefits accruing to the model cell would accrue to Curren Tunnel. Because this analysis used Rangen's under-reported flow data, the Director finds, based upon clear and convincing evidence, that the slope of the regression line is too high.

101. Sullivan plotted another regression line using adjusted data. Pocatello Ex. 3654, Fig. 1. Data values that were under-reported were "corrected for the historical 15.9% under-measurement of flows by Rangen by multiplying the reported flows by a factor of 1.189 (computed as 1/[1-0.159])." *Id.*, Fn. 2. The slope of Sullivan's alternative regression line is 0.6337, which is the coefficient associated with the "x" variable. This analysis predicts that approximately 63% of curtailment benefits accruing to the model cell would accrue to Curren Tunnel. Because there is uncertainty about the accuracy of the USGS measurements used by Sullivan to adjust the under-reported data, the slope of this regression line may be too low or too high.

102. There are two reasons why the Director should apply the 63% proportion to determine the increase in Curren Tunnel flow from the total simulated increase in flow to the Rangen model cell. First, all parties agree that the data used to calculate the 75% proportion were under-reported. The alternative regression line plotted by Sullivan is a credible method to correct the under-reported data. Second, applying a 75% proportion to determine the increase in the Curren Tunnel flow may result in Rangen benefiting from its own under-reporting of flows if mitigation by direct flow to Rangen is provided in lieu of curtailment.

103. Using ESPAM 2.1, Department staff simulated curtailment of ground water rights for irrigation within the model boundaries bearing priority dates later than July 13, 1962, the priority date of Rangen's water right no. 36-02551. The simulated increase in discharge to the Rangen model cell at steady state is 17.9 cfs. IDWR Staff Memorandum, Ex. 3203, p. 6.

104. Department staff eliminated points of diversion inside the model boundary but outside the boundary of common ground water supply as described in Rule 50 of the Department's Conjunctive Management Rules. After the removal of these points of diversion from the simulation, the model predicted a total of 16.9 cfs of reach gains to the Rangen cell attributable to modeled curtailment of junior ground water diversions within the area of common ground water supply at steady state.

105. In model simulations of curtailment for each model cell, Department staff determined the percentage of water that would ultimately accrue to the Rangen cell and the percentage that would ultimately accrue to other spring cells or river reaches. These percentages will be referred to hereafter as a "depletion percentage" of ground water pumping on the Rangen model cell. For example, if 10 cfs of ground water pumping is modeled within a given model cell and the modeled decrease in discharge at the Rangen cell is 0.1 cfs, the depletion percentage for points of diversion within that model cell is 1%. In this example, the simulated decrease in discharge and depletion percentage for all other springs and river reaches are 9.9 cfs and 99%, respectively. A map of the ESPA showing the depletion percentage for each model cell with respect to spring discharge in the Rangen cell is provided in Figure 1. IDWR Staff Memorandum, Ex. 3203, p. 9.

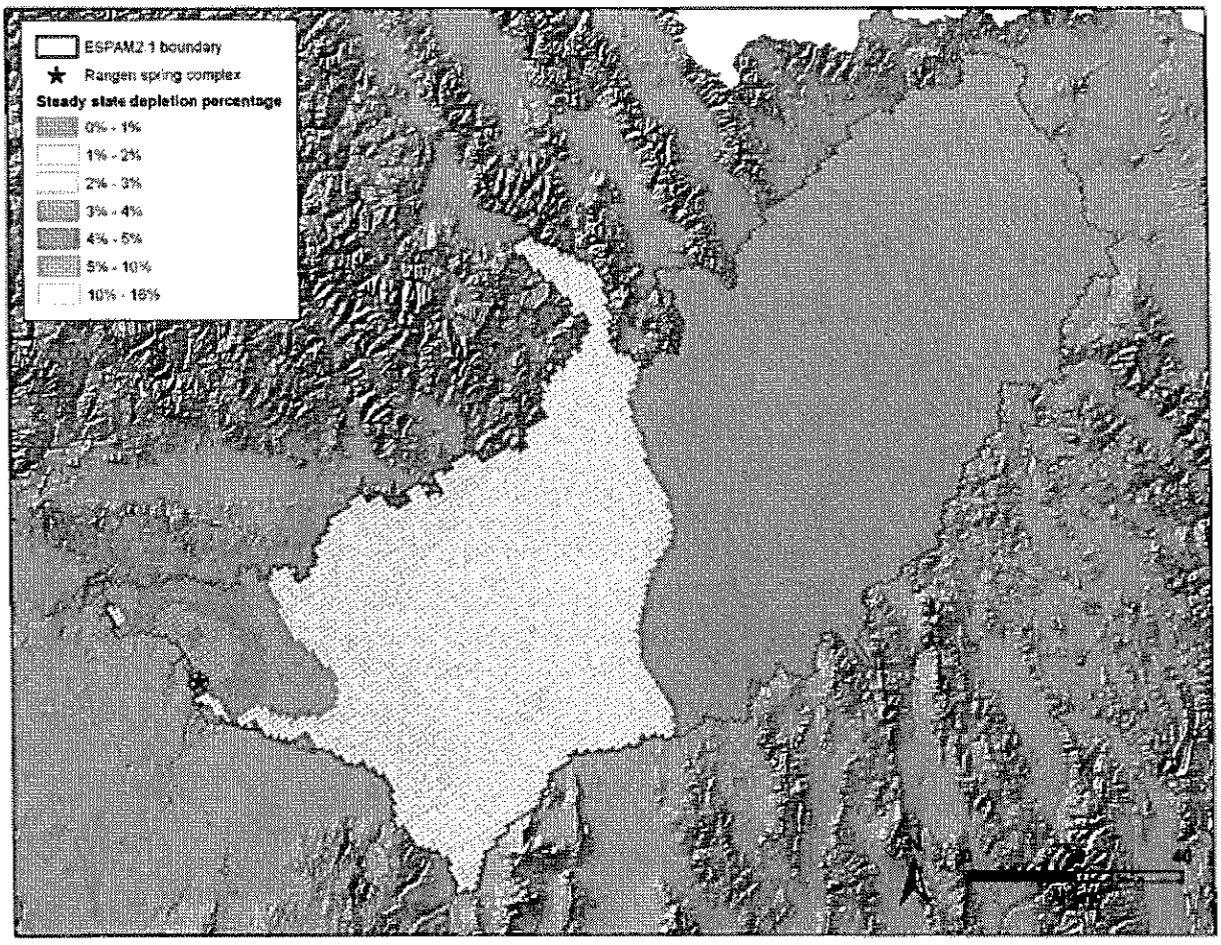

Figure 1. Depletion percentages indicating the portion of curtailed ground water use predicted to accrue to the Rangen model cell.

106. Department staff used ESPAM 2.1 to predict the benefit to discharge in the Rangen model cell resulting from curtailment within areas bounded by various depletion percentages. See Figure 2 below, taken from IDWR Staff Memorandum, Ex. 3203, p. 51. For each depletion percentage, the predicted increase in discharge in the Rangen model cell was plotted against the number of curtailed acres.

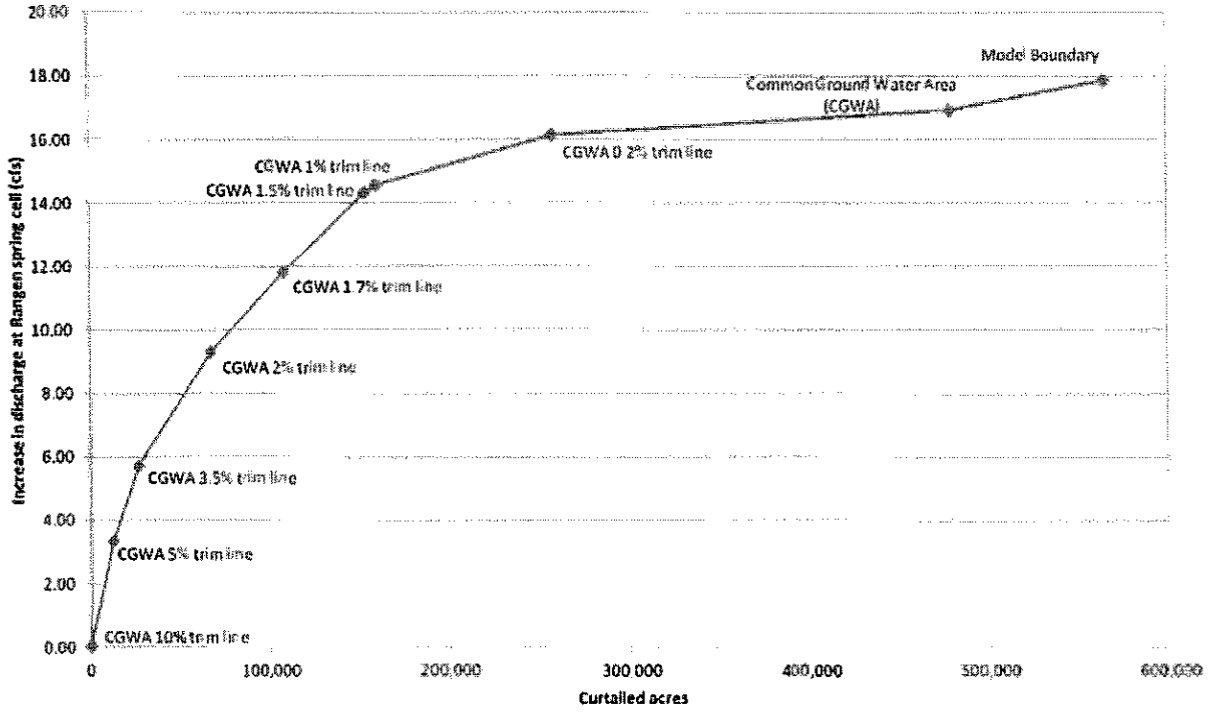

Figure 2. Acres of ground water irrigation curtailed and simulated increase in spring discharge in the model cell.

This chart illustrates that the benefit of curtailment with respect to the number of acres curtailed diminishes significantly where the depletion percentage approaches 1.0 to 1.5% and the benefit approaches approximately 14.3 to 14.6 cfs.

107. Because Rangen is only entitled to the portion of the benefit that is predicted to accrue to Curren Tunnel, a revised chart was prepared (Figure 3). This chart also illustrates that the benefit of curtailment with respect to the number of acres curtailed diminishes significantly where the depletion percentage for the Rangen model cell approaches 1.0 to 1.5% and the corresponding benefit to Curren Tunnel approaches approximately 9.0 to 9.2 cfs.

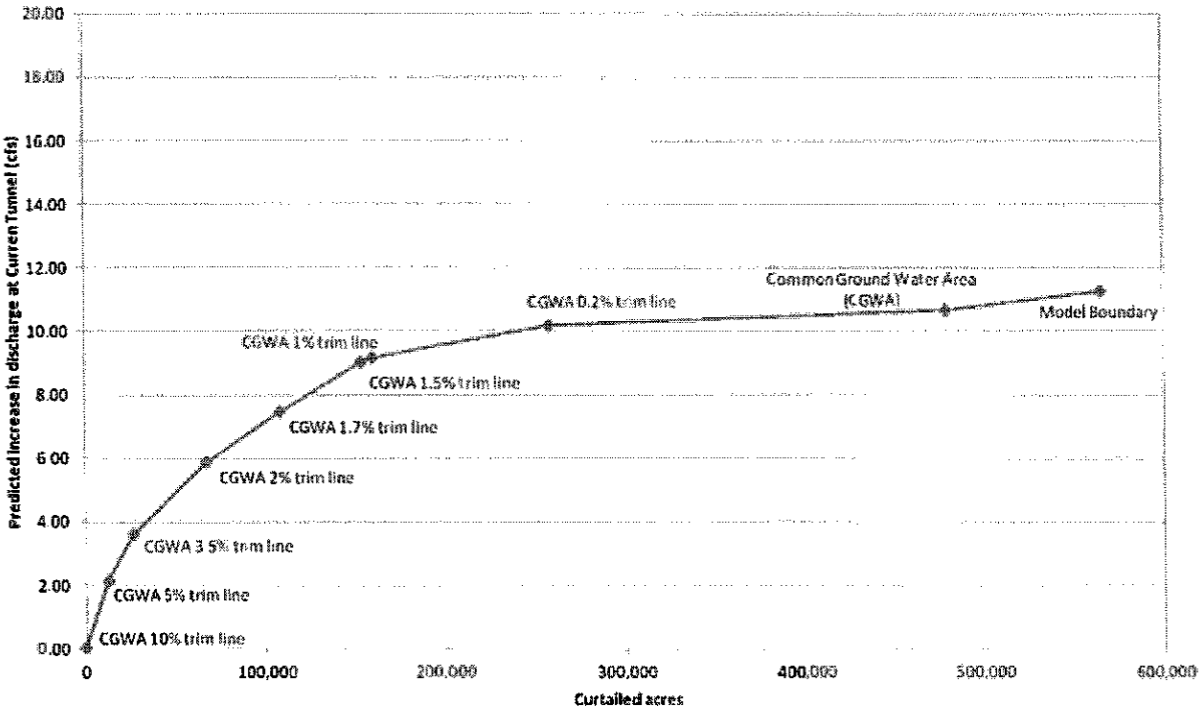

Figure 3. Acres of ground water irrigation curtailed and predicted increase in spring discharge from Curren Tunnel.

108. The diminishing benefits correspond with the location of the Great Rift (Figure 4), where low transmissivity impedes the transmission of water through the aquifer. IDWR Staff Memorandum, Ex. 3203, p. 8.

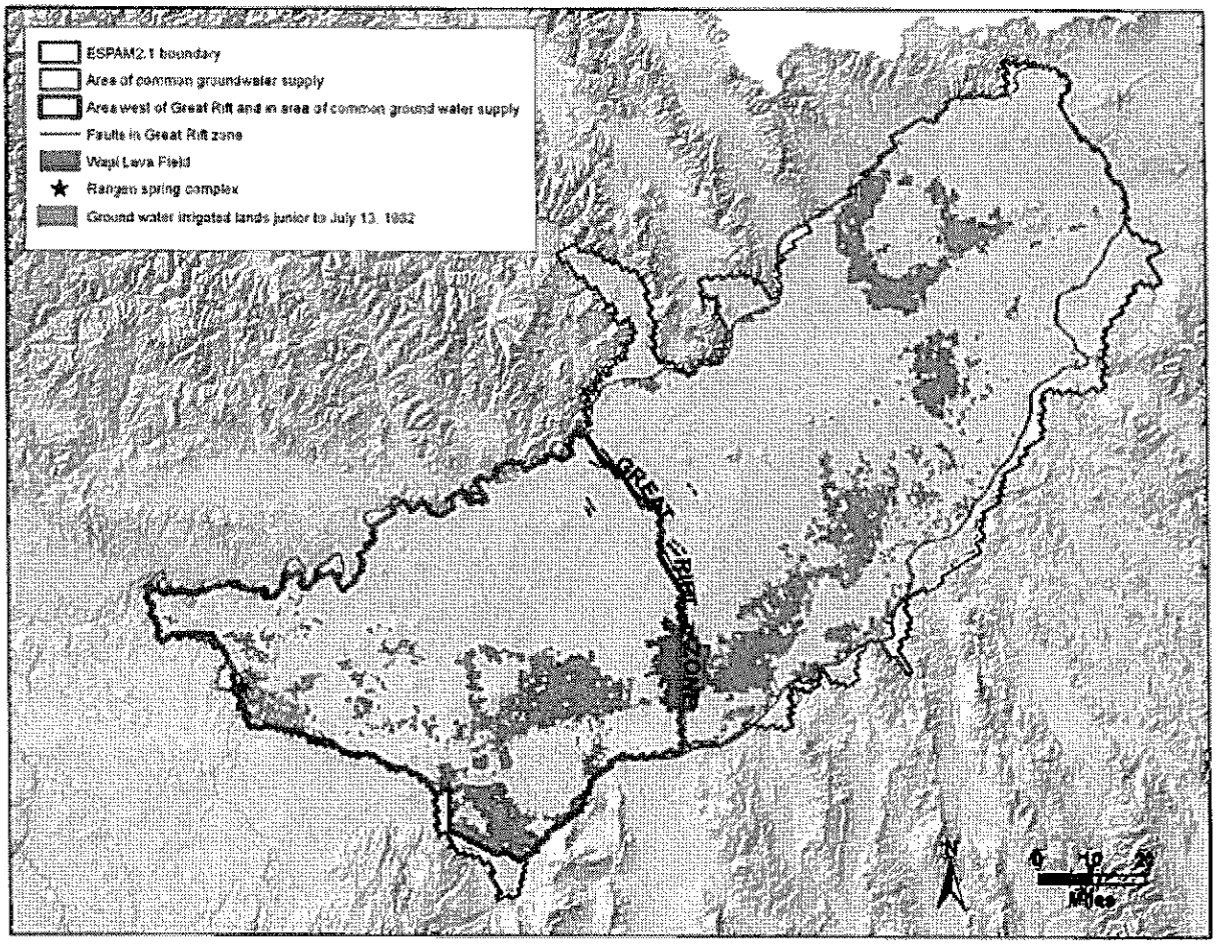

Figure 4. Delineation of area west of the Great Rift.

109. If ground water points of diversion located east of the Great Rift are eliminated from the simulation (Figure 5), ESPAM 2.1 predicts the curtailment of the remaining junior wells in the area of common ground water supply would accrue 14.4 cfs of benefit to the Rangen model cell at steady state. The predicted increase in discharge to Curren Tunnel is 9.1 cfs (63% of 14.4 cfs).

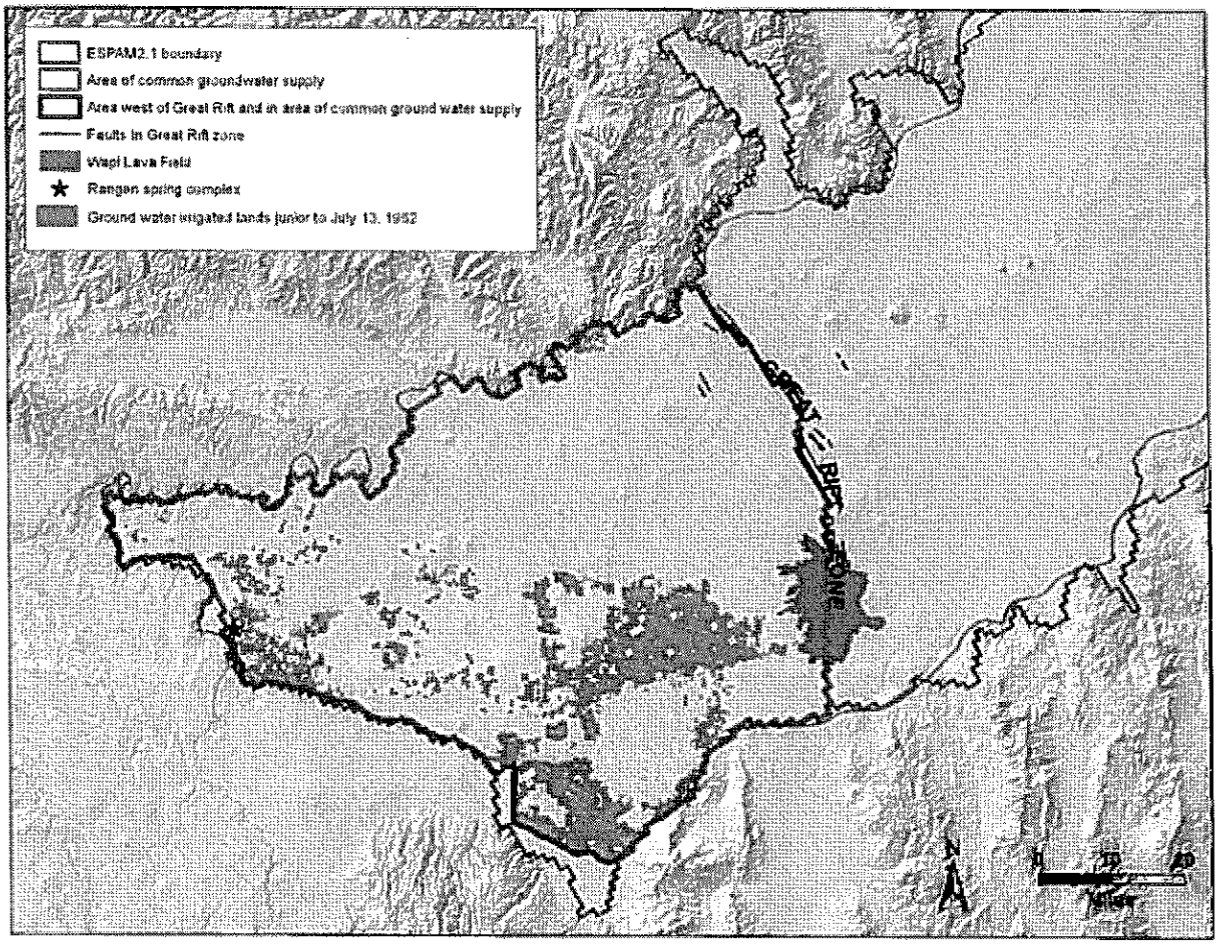

Figure 5. Junior ground water irrigated lands within area of common ground water and west of the Great Rift.

110. Curtailment of junior ground water irrigation west of the Great Rift would curtail irrigation of approximately 157,000 acres, resulting in curtailment of irrigation of approximately 17,000 acres per cfs of predicted benefit to the Curren Tunnel. Curtailment of junior ground water irrigation east of the Great Rift would curtail irrigation of approximately 322,000 additional acres, resulting in curtailment of irrigation of approximately 204,000 acres per cfs of predicted benefit to the Curren Tunnel.

111. While Curren Tunnel discharge will continue to vary with climate and surface water irrigation practices, historic values can be used to evaluate the range of flow rates that can be expected to be available from Curren Tunnel if junior ground water use is curtailed. From the

time the Department began measuring Curren Tunnel discharge in 1993, the maximum annual average discharge measured at the mouth of the tunnel was 18.2 cfs in 1997. Pocatello Ex. 3650, Table A-1. Including the discharge from the 6-inch PVC pipe, the annual average flow available from Curren Tunnel in 1997 was 19.1 cfs. *Id.* The lowest average annual flow available from Curren Tunnel was 3.1 cfs in 2005. *Id.* The average annual flow has not exceeded 7 cfs since 2002. *Id.* Because the predicted increase in Curren Tunnel flow from curtailing ground water rights junior to July 13, 1962 within the area of common ground water supply and west of the Great Rift is 9.1 cfs, the average annual discharge from Curren Tunnel after several years of curtailment within the model boundary is expected to be less than 17 cfs.

CONCLUSIONS OF LAW

I. Idaho Law Applicable to the Distribution of Water Under the Prior Appropriation Doctrine

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

2. Idaho's Constitution provides that "[p]riority of appropriation shall give the better right as between those using the water" of the State. Idaho Const. Art. XV, § 3. "As between appropriators, the first in time is first in right." Idaho Code § 42-106.

3. Beneficial use plays an equally important role in the prior appropriation doctrine: "The prior appropriation doctrine is comprised of two bedrock principles—that the first appropriator in time is the first in right and that water must be placed to a beneficial use." *In Matter of Distribution of Water to Various Water Rights Held By or For The Benefit of A & B Irrigation Dist.*, Docket Nos. 38191, 38192, 38193, slip op. at 14 (Idaho Dec. 17, 2013). "A prior appropriator is only entitled to the water to the extent that he has use for it when economically and reasonably used. It is the policy of the law of this state to require the highest and greatest possible duty from the waters of the state in the interest of agriculture and for useful and beneficial purposes." *Washington State Sugar Co. v. Goodrich*, 27 Idaho 26, 44, 147 P. 1073, 1079 (1915).

4. Idaho Code § 42-603, which grants the Director authority to adopt rules governing water distribution, provides as follows:

> The director of the department of water resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as shall be necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. Promulgation of rules and regulations shall be in accordance with the procedures of chapter 52, title 67, Idaho Code.

In addition, Idaho Code § 42-1805(8) provides the Director with authority to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

5. It is the duty of a watermaster, acting under the supervision of the Director, to distribute water from the public water supplies within a water district among those holding rights to the use of the water in accordance with the respective priority of the rights subject to applicable Idaho law, including applicable rules promulgated pursuant to the Idaho Administrative Procedure Act. *See* Idaho Code §§ 42-602 and 607.

II. Conjunctive Management Rules

6. In accordance with chapter 52, title 65, Idaho Code, rules regarding the conjunctive management of surface and ground water were adopted by the Department, effective October 7, 1994. IDAPA 37.03.11. The Conjunctive Management Rules ("CM Rules") prescribe procedures for responding to a delivery call made by the holder of a senior priority surface or ground water right against junior priority ground water rights in an area having a common ground water supply. IDAPA 37.03.11.001.

7. The CM Rules "give the Director the tools by which to determine 'how the various ground and surface water sources are interconnected, and how, when, where and to what extent the diversion and use of water from one source impacts [others].'" *American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Resources,* 143 Idaho 862, 878, 154 P.3d 433, 449 (2007) (citations omitted).

8. Generally, junior-priority ground water users are entitled to a hearing prior to curtailment. *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 815, 252 P.3d 71, 96 (2011). Any hearing will determine whether the senior-priority water right holder is suffering material injury and whether both the senior-priority and junior-priority water right holders are diverting and using water efficiently without waste. IDAPA 37.03.11.040.03.

9. The burden is not on the senior-priority water right holder to re-prove an adjudicated water right. *American Falls*, 143 Idaho at 878, 154 P.3d at 449. In a delivery call, the Director must give a decree proper legal effect by establishing a presumption that the senior is entitled to his decreed quantity. *Id.* However, there may be some post-adjudication factors which are relevant to the determination of how much water is actually needed by the senior. *Id.* A determination in a delivery call proceeding that less than the decreed amount is needed must

be supported by clear and convincing evidence. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 249 (2012).

10. Once the initial determination is made that material injury is occurring or will occur, the junior then bears the burden of proving that the call would be futile or to challenge, in some other constitutionally permissible way, the senior's call. *American Falls*, 143 Idaho at 878, 154 P.3d at 449. Any defense raised, such as waste or futile call, must be proven by clear and convincing evidence. *A&B Irr. Dist.*, 153 Idaho at 517, 284 P.3d at 242.

11. Beneficial use acts as a measure and limit upon the extent of a water right. *In Matter of Distribution of Water to Various Water Rights Held By or For The Benefit of A & B Irrigation Dist.*, Docket Nos. 38191, 38192, 38193, slip op. at 14 (Idaho Dec. 17, 2013). A person claiming a right under a decree is not entitled to the use of more water than can be beneficially used. *Id.* The wasting of water is both contrary to Idaho law and is a recognized defense to a delivery call. "Neither the Idaho Constitution, nor statutes, permit...water right holders to waste water or unnecessarily hoard it without putting it to some beneficial use." *American Falls*, 143 Idaho at 880, 154 P.3d at 451. "Simply put, a water user has no right to waste water. If more water is being diverted than can be put to beneficial use, the result is waste. Consequently, Idaho law prohibits a senior from calling for the regulation of juniors for more water than can be put to beneficial use." *In the Matter of the Petition for Delivery Call of A&B Irrigation District for the Delivery of Ground Water and for the Creation of a Ground Water Management Area*, Memorandum Decision and Order on Petition for Judicial Review, Minidoka Dist. Court Case No. 2009-000647 at 31-32 (May 4, 2010) (Hon. E. Wildman).

12. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. Idaho Code § 67-5251(5); IDAPA 37.01.01.600. "Somewhere between the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director." *American Falls*, 143 Idaho at 880, 154 P.3d at 451. This discretion is not unfettered, nor is it to be exercised without judicial oversight. *Id.* The courts determine whether the exercise of discretion is being properly carried out. *Id.*

III. Material Injury

13. In considering a petition for delivery call, the Director must first determine whether the holder of a senior water right is suffering material injury and using water efficiently and without waste. Material injury is defined by the Conjunctive Management Rules as "[h]indrance to or impact upon *the exercise of a water right* caused by the use of water by another person as determined in accordance with Idaho Law, as set forth in Rule 42." IDAPA 37.03.11.010.14 (emphasis added). Material injury requires impact upon the exercise of a water right. *Clear Springs Foods*, 150 Idaho at 811, 252 P.3d at 92.

14. CM Rule 42 lists the factors the Director may consider in determining whether Rangen is suffering material injury and using water efficiently and without waste. Factors listed in Rule 42 solely relevant to other beneficial uses, such as irrigation, should not be considered in this delivery call. The factors relevant in this proceeding, using CM Rule 42's lettering

identifiers, include: (a) the amount of water available to Rangen from its decreed source; (b) the effort or expense of Rangen to divert water from the source; (c) whether the junior ground water rights affect the quantity and timing of when water is available; . . . (e) the amount of water being diverted and used compared to the water rights; (f) the existence of water measuring devices; (g) [i]whether Rangen's needs could be satisfied with the user's existing facilities and water supplies and [ii] the reasonableness of Rangen's diversions and activities; and (h) whether the senior water right could be met using alternate reasonable means of diversion or alternate points of diversion.

i. Amount of Water from the Source

15. The source for water right nos. 36-02551 and 36-07694 is the Curren Tunnel. The point of diversion for both water rights is described to the 10 acre tract: SESWNW Sec. 32, T7S, R14E. While Rangen has historically diverted water from Billingsley Creek at the Bridge Diversion located in the SWSWNW Sec. 32, T7S, R14E, Rangen's SRBA decrees do not identify Billingsley Creek as a source of water and do not include a point of diversion in the SWSWNW Sec. 32, T7S, R14E. A decree entered in a general adjudication such as the SRBA is conclusive as to the nature and extent of the water right. Idaho Code § 42-1420. Administration must comport with the unambiguous terms of the SRBA decrees. Because the SRBA decrees identify the source of the water as the Curren Tunnel, Rangen is limited to only that water discharging from the Curren Tunnel. Because the SRBA decrees list the point of diversion as SESWNW Sec. 32, T7S, R14E, Rangen is restricted to diverting water that emits from the Curren Tunnel in that 10-acre tract.

16. Dr. Charles Brockway ("Dr. Brockway") testified that Rangen is entitled to divert water at the Bridge Diversion (which is located outside the SESWNW) because Rangen is legally entitled to all the water that emanates from springs in the talus slope in the SESWNW. Brockway, Vol. V, p. 1074-1075. When questioned about how Rangen can legally divert water at a point not listed as a point of diversion in its SRBA decree, Dr. Brockway stated that springs arising in the SESWNW constitute a legal point of diversion. *Id.* p. 1075-1076. In other words, Dr. Brockway argues that a physical diversion structure at the springs is not necessary to declare the spring water appropriated, and that a spring itself, without any sort of diversion structure, constitutes a diversion of water.

17. First, Dr. Brockway's argument ignores the fact that the source listed on the water rights is the Curren Tunnel. Setting aside that impediment for discussion purposes, Dr. Brockway's suggestion that a spring itself constitutes a point of diversion is contrary to Idaho water law. Idaho water law generally requires an actual physical diversion and beneficial use for the existence of a valid water right. *State v. United States*, 134 Idaho 106, 111, 996 P.2d 806, 811 (2000). The only recognized exception to this rule is for instream beneficial uses of water. *Id.* Taken to its logical conclusion, Dr. Brockway's argument means that any water user could claim as his point of diversion the highest headwater of the state and then argue for protection up to the water source. This troublesome outcome underscores the problem of Dr. Brockway's argument and diminishes the credibility of his testimony.

18. Because Rangen's decreed source and point of diversion limit Rangen to only water discharging from the Curren Tunnel and diverted in the 10 acre tract, the evaluation of material injury must consider this limitation. The Director must determine whether Rangen's ability to divert water that discharges from the Curren Tunnel and is diverted in the 10-acre tract has diminished sufficiently that Rangen has been materially injured.

ii. The Existence of Water Measuring Devices

19. Although Rangen has historically measured water at the bottom of the raceways and not at the Curren Tunnel, the Department has measured the discharge of Curren Tunnel since 1993. Experts testifying on behalf of junior ground water users have established a relationship between the total spring complex discharge and the discharge of the Curren Tunnel.

20. Rangen currently measures the flows through the facility at two different locations, the CTR raceways and the lodge pond dam. While the detailed methods of measuring at these locations are considered a nonstandard measurement method, the Department has historically accepted the measurements and associated flow rates. For purposes of this decision, the Director accepts the use of the dam boards as a substitute for a standard weir, given the measurement conditions of flow over the dam boards.

21. Because Rangen used incorrect rating tables for determining flow rates, Rangen's reported historic flows were lower than actual flows. Sullivan used USGS data to determine the magnitude of error in Rangen's reported flow rates. He concluded the measurement error to be 15.9% based on the comparison of 45 measurements by the USGS between 1980 and 2012. Finding of Fact 50. Sullivan also plotted a regression line to determine the relationship between Curren Tunnel discharge and the corrected historic measurement of total spring complex discharge. Finding of Fact 101. The slope of the regression indicates that the change in discharge of Curren Tunnel is 63% of the corresponding change in total spring complex discharge. If curtailment of ground water pumping results in an increase in the total flow of the spring complex, 63% of that benefit would be realized at the Curren Tunnel. The other 37% of the benefit from curtailment would accrue to the talus slope springs below the Curren Tunnel and would not be available to water rights 36-02551 and 36-07694.

22. Because of Rangen's measurement error, the Director adopts Sullivan's corrected calculation of the proportion of the benefit to total spring flows in the Rangen model cell that would accrue to the Curren Tunnel. The Director concludes, based upon clear and convincing evidence, that a percentage of 63% should be used to compute the quantity of water the ground water users may be required to provide as mitigation to avoid curtailment.

iii. Amount of Water Diverted Compared to the Water Right

23. It is clear that spring flows have declined significantly. One of IGWA's own experts, who first visited the Rangen property back in 1976, described the declines as significant. Rogers, Vol. VIII, pp. 1899-1900. Rangen's reported hatchery flows in 1966 averaged 50.7 cfs. Finding of Fact 53. In 2012, spring complex flows averaged just 14.6 cfs. *Id.* Notwithstanding Rangen's estimated measurement error of 15.9% since 1980, the declines have been dramatic.

Even if the 15.9% correction is applied to the 2012 spring complex discharge, flows declined by over 33 cfs between 1966 and 2012. Based on the relationship between Curren Tunnel flow and total spring complex flow, the corresponding decline in Curren Tunnel discharge between 1966 and 2012 would have been approximately 21 cfs. This decline in flow is substantial, resulting in Rangen diverting significantly less than allowed under its water rights.

24. Rangen is authorized to divert up to 76 cfs pursuant to water rights 36-15501, 36-02551, and 36-07694. Rangen asserts it is not receiving the quantity of water authorized for diversion by water rights 36-02551 and 36-07694. Water rights 36-02551 and 36-07694 authorize a total diversion of 74.54 cfs.

25. An issue was raised at the hearing regarding Rangen's junior fish propagation water right, water right no. 36-07694, and the extent of its beneficial use at the time of licensing. The predicted increase in discharge to the Curren Tunnel from curtailing ground water rights junior to July 13, 1962 (the priority date for water right no. 36-02551) within the ESPAM 2.1 model boundaries, within the area of common ground water supply, and west of the Great Rift is 9.1 cfs. Finding of Fact 109. The average annual discharge from Curren Tunnel after several years of curtailment within the model boundary is expected to be less than 17 cfs. Finding of Fact 111. Because Rangen's two senior fish propagation rights, water right nos. 36-15501 and 36-02551, authorize diversion of a total of 50 cfs from Curren Tunnel, it is not expected that curtailment will ever result in more water than the two additional senior water rights are authorized to divert. Thus, the issue of extent of beneficial use for water right no. 36-07694 is never likely to arise and is moot.

iv. Existing Facilities, Water Supplies, and Needs of Rangen for Water Use

26. As a result of declining spring flows, Rangen has been hindered in its ability to exercise its water rights from the Curren Tunnel. A number of Rangen staff testified regarding the impact of the declining flows and Rangen's ability to raise more fish if Rangen had more water. Finding of Fact 59. The Director finds the testimony of Rangen's staff on this point credible. The reduction in flows from the Curren Tunnel have caused a reduction in the number of fish that Rangen could raise at the Rangen Facility and impeded Rangen's full beneficial use of water that could have been diverted pursuant to its water rights.

27. Rangen's ability to conduct the type of research it would like to conduct also has been hindered. Findings of Fact 56. The Director finds the testimony of Rangen's staff credible and concludes that the reduced flows at the Curren Tunnel have hindered the way Rangen would conduct its research.

28. Pocatello argues that if Rangen wants to undertake outside research studies, it should modify the way it conducts raceway studies and initiate fish tagging studies instead. Finding of Fact 58. Fish tagging studies require less water but requires more manpower to complete. *Id.* Pocatello suggests Rangen can get the required manpower by finding volunteers with the Idaho State Fish and Game or Idaho Power Company. *Id.* The Director finds that Pocatello's suggestion of modification of Rangen's fish study processes, while interesting, is not

required of Rangen. The Director will not dictate in detail how Rangen must conduct its studies. The Director concludes Rangen's plans for research are reasonable.

29. The ground water users argue that Rangen could be producing more fish if Rangen would rotate more fish through the Rangen Facility and if Rangen would take advantage of peak spring flows. Findings of Fact 63. The ground water users also argue Rangen has not maximized the number of fish it raises because it does not oxygenate its water, has not maximized the number of eggs it orders, and has not maximized the number of cycles of fish moving through the facility because of its Idaho Power contract.

30. While beneficial use acts as a measure and limit upon the extent of a water right, *In Matter of Distribution of Water to Various Water Rights Held By or For The Benefit of A & B Irrigation Dist.*, Docket Nos. 38191, 38192, 38193, slip op. at 14 (Idaho Dec. 17, 2013), this does not mean that a water user must maximize his beneficial use, or otherwise risk his water use be deemed inadequate or unreasonable. There could be a circumstance where a water use might be deemed no longer beneficial. "What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time." *State, Dep't of Parks v. Idaho Dep't of Water Admin.*, 96 Idaho 440, 448, 530 P.2d 924, 932 (1974) (Justice Bakes concurring specially) (citations omitted). This is not such a case. In this case, Rangen is beneficially using water by raising fish to satisfy its contract with Idaho Power and to sell fish on the open market. IGWA and Pocatello have failed to show, by clear and convincing evidence, that Rangen's water use is unreasonable. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, 153 Idaho 500, 524, 284 P.3d 225, 2249 (2012). The Director concludes Rangen's water use is reasonable.

v. Whether Ground Water Rights Affect the Quantity and Timing of When Water is Available

31. The total average annual discharge of the spring complex in the vicinity of the Rangen Facility declined over 33 cfs between 1966 and 2012 in response to changes in the ESPA water budget. Finding of Fact 53. Decreased incidental recharge associated with surface water irrigation, decreased recharge derived from precipitation, and increased ground water pumping have all contributed to declines in discharge from the spring complex in the vicinity of the Rangen Facility and from Curren Tunnel. Finding of Fact 55. While it is clear that junior-priority ground water pumping is a significant component of the ESPA water budget, quantifying the portion of the declines that is attributable to ground water pumping is complex. ESPAM 2.1 is a numerical ground water model that was developed for the purpose of determining the effects of ground water pumping on discharge to spring and river reaches. ESPAM 2.1 simulations establish that junior-priority ground water pumping is a substantial component of the decline in spring complex discharge. ESPAM 2.1 simulations predict that approximately 14 cfs of the decline to the spring complex can be attributed to junior-priority ground water pumping west of the Great Rift and in the area of common groundwater supply. The relationship between Curren Tunnel flow and total spring complex discharge indicates that approximately 9 cfs of the decline in flow from Curren Tunnel can be attributed to junior-priority ground water pumping west of the Great Rift and in the area of common groundwater supply. Finding of Fact 109.

32. As previously discussed, as a result of declining spring flows, Rangen has been hindered in its ability to exercise its water rights from the Curren Tunnel. The reduction of flows affects the number of fish Rangen raises and the research it is able to undertake. Ground water diversions have reduced the quantity of water available to Rangen for beneficial use of water pursuant to its water rights.

vi. Alternate Reasonable Means of Diversion or Alternate Points of Diversion

33. IGWA and Pocatello argue that Rangen's water needs could be met using alternate means of diversion. Specifically, they point to the report prepared by SPF in 2004 to evaluate a number of projects with the intent of improving Rangen's water supply. IGWA and Pocatello suggest that Rangen should be required to explore and implement these alternative means of diversion prior to making a delivery call. The two proposals they focus on from the SPF report are the proposals to construct a vertical well and a horizontal well at the Rangen Facility.

34. Both proposals were considered and rejected by Rangen. With the vertical well, the three concerns highlighted were: the pumping costs associated with lifting the water from the wells to raceways, the redundant power and pumping systems necessary to protect against a loss of power or pumps, and that Rangen would not be able to obtain a new water right absent mitigation because of the ESPA moratorium on new appropriations. The concern regarding the horizontal well was that such a well would likely decrease current discharge to the Curren Tunnel, decrease discharge of other springs in the vicinity of the Curren Tunnel, and possibly reduce ground water levels in wells located on the rim above the Curren Tunnel. Wayne Courtney, executive vice president for Rangen testified about the concerns with the well proposals. He explained that Rangen did not implement the proposal for alternate points of diversion because Rangen "felt that the risk was too great for any possible outcome." Courtney, Vol. I, p. 111-112. Rangen was concerned that new wells might damage the geohydrology of the area and would actually injure the existing springs and injure water users that rely on the springs for their water. *Id.* at 112. The Director concludes that Rangen's reasons for rejecting the proposals are reasonable. IGWA and Pocatello have failed to show, by clear and convincing evidence, that Rangen's means of diversion is unreasonable. The Director concludes that Rangen employs "reasonable diversion and conveyance efficiency and conservation practices" in diverting water from the Curren Tunnel.

vii. Effort or Expense to Divert Water from the Source

35. Because the method of diversion is reasonable, the effort and expense by Rangen to divert water from the source is also reasonable.

IV. Conclusion Regarding Material Injury

36. The Director concludes that pumping by junior ground water users has materially injured Rangen.

V. ESPAM 2.1 Results and Area of Common Ground Water

37. ESPAM 2.1 is a technical improvement to ESPAM 1.1 in part because ESPAM 2.1 was calibrated to monthly observations of spring discharge within individual model cells and is capable of simulating the impacts of depletions from or accretions to the aquifer on spring discharge within those model cells. ESPAM 1.1 was calibrated to significantly fewer spring discharge data. ESPAM 1.1 was only capable of simulating depletions from or accretions to a group of springs that, in total, contribute water to larger segmented reaches of the Snake River. In ESPAM 2.1, spring discharge in the model cell where Rangen's water is derived was a target used for calibration of the model. The outflow of water in the vicinity of the Rangen Facility was identified as a model calibration target because flows from the Rangen Facility had been measured over a sufficiently long period of time and with enough frequency.

38. Idaho courts previously held that ESPAM 1.1 was the best scientific tool for estimating the impact of pumping on spring flows. Recognizing that every model is an approximation of physical reality, ESPAM 2.1 is a technical improvement to ESPAM 1.1 and is the best available science for simulating the impacts of ground water pumping. There is no other technical instrument as reliable as ESPAM 2.1 that can be used to determine the effects of ground water pumping on the ESPA and hydraulically-connected reaches of the Snake River and its tributaries. Accordingly, the outputs from ESPAM 2.1 simulations will be used to determine impacts to total flow in the Rangen spring complex.

39. ESPAM 2.1 simulations determined that curtailment of ground water diversions authorized by priority dates earlier than July 13, 1962 would result in a total increase in flow in the Rangen model cell of 17.9 cfs.

40. Rule 50 of the CM Rules delineates the boundaries of the ESPA area of common ground water supply. The delineated area is the area within which the Director is currently authorized to administer junior priority ground water rights to satisfy senior priority surface water rights. Any curtailment of junior ground water rights in this matter will be limited to water rights with points of diversion within the delineated area of common ground water supply.

41. IDWR is only authorized to curtail diversions within the area of common ground water supply described by Rule 50 of the CM Rules. Removing water right points of diversion outside of the area of common ground water supply reduces the total simulated increase in flows in the Rangen model cell to 16.9 cfs.

VI. Trim Line

42. The applicability of a trim-line was previously litigated in the Clear Springs delivery call. *Clear Springs*, 150 Idaho 790, 812, 252 P.3d 71, 93 (2011). In *Clear Springs*, the Department used ESPAM 1.1 to determine effects of ground water pumping, just as ESPAM 2.1 is being applied in this proceeding. *Clear Springs*, 150 Idaho at 814, 252 P.3d at 95. With ESPAM 1.1, former Director Dreher found that "the degree of uncertainty associated with application of the [Aquifer] ground water model is 10 percent" and based on that level of

possible uncertainty, he limited the number of junior water right curtailed. *Clear Springs*, 150 Idaho at 812-13, 252 P.3d at 93-94 (bracketed language in original).

43. In the Clear Springs delivery call, the 10% trim line was applied based on accrual of the benefits of curtailment to the Buhl to Thousand Springs reach, which contained multiple ESPAM model cells and several other springs not diverted by the calling party. The calling party was estimated to receive 6.9% of the benefits accruing to the Buhl to Thousand Springs reach. In the Clear Springs delivery call, the trim line limited curtailment to areas where the calling party would receive at least 0.69% (6.9% of 10%) of the benefits of curtailment.

44. Because the 10% trim line applied in Clear Springs delivery call was based on model predictions of impacts to a multi-cell reach containing several springs, applying a 10% trim line based on model predictions of impacts to a single model cell, as proposed by IGWA, would result in a significantly different standard than was applied in the Clear Springs delivery call.

45. Similarly, in the Blue Lakes delivery call, the 10% trim line was applied based on accrual of the benefits of curtailment to the Devil's Washbowl to Buhl reach, which contained multiple ESPAM model cells and several other springs not diverted by the calling party. The calling party was estimated to receive 20% of the benefits accruing to the Devil's Washbowl to Buhl reach. In the Blue Lakes delivery call, the trim line limited curtailment to areas where the calling party would receive at least 2% (20% of 10%) of the benefits of curtailment.

46. The district court in the Clear Springs delivery call affirmed the application of a trim line on appeal: "The evidence also supports the position that the model *must* have a factor for uncertainty as it is only a simulation or prediction of reality... ." *Clear Springs*, 150 Idaho at 816, 252 P.3d at 97 (emphasis added). Because the model is just a "simulation or prediction of reality", the district court held that "it would be inappropriate to apply the [model] results independent of the assigned margin of error." *Id.* The district court concluded "the use of a trim-line for excluding juniors within the margin of error is acceptable simply based on the function and application of a model...the Director did not abuse discretion by apply the 10% margin of error 'trim line.'" *Id.* The Idaho Supreme Court affirmed the Director's application of the trim line, finding that the Director properly exercised discretion in making the trim line determination: "The Director perceived the issue as discretionary, he acted within the outer limits of his discretion and consistently with the legal standards applicable to the available choices, and reached his decision through an exercise of reason. The district court did not err in upholding the Director's decision in this regard." *Id.* at 817, 252 P.3d at 98.

47. Substantial testimony was presented about the approximations and possible inaccuracies of using a regional model to simulate the depletions to Rangen spring complex discharge caused by ground water diversions from the ESPA. Ground water users diverting from the ESPA argued that any application of the model should acknowledge that there is an unquantifiable level of uncertainty in the predictions generated by the model by either discounting the prediction or applying a trim line. Rangen and the SWC argue that regardless of inaccuracies in the model, it is the best estimate of the impacts of junior ground water pumping on flows in the Rangen cell, therefore no trim line should be applied.

48. Because numerical models are approximations of complex physical systems, aquifer modeling is a dynamic process. ESPAM 2.1 is the result of improvements to previous versions of the model, and it will likely be improved upon through future efforts of the Department and the ESHMC. Some of the criticisms of the model have merit, and may be addressed in future versions of the model as data availability and improvements in computing technology allow. While there is the potential to improve the model given additional time and resources, ESPAM 2.1 is currently the best available scientific tool. Imperfections in the model should not preclude the Department from using the model as an administrative tool, and should not be the basis for using other predictive methods that have less scientific basis. The Director concludes that ESPAM 2.1 predicted responses to curtailment are the best available predictions.

49. Because of the complexity of the model, the margin of error associated with model predictions cannot be quantified. The lack of a quantifiable margin of error associated with the model does not mean that the model should be abandoned, but simply that its use should be tempered with the fact that it is a "simulation or prediction of reality." The Director concludes that there is uncertainty in the predicted increase in spring flow resulting from curtailment and that the actual response may be lower or higher than predicted. This variance should be taken into consideration when considering a trim line.

50. The Curren Tunnel and the Rangen spring complex are located west of the Great Rift, a low transmissivity feature that impedes the transmission of water through the aquifer Finding of Fact 108, Figure 4. While there is some predicted depletion of Curren Tunnel discharge attributable to points of diversion east of the Great Rift, the contribution is small. ESPAM 2.1 establishes, by clear and convincing evidence, that the portion of benefits of curtailed ground water use east of the Great Rift that would accrue to the Rangen spring complex is generally less than 1%. Finding of Fact 105, Figure 1. The benefit of curtailment with respect to the number of acres curtailed diminishes significantly if areas east of the Great Rift are included in the curtailment. Finding of Fact 107, Figure 3. The argument that no trim line is appropriate was considered and rejected in *Clear Springs*. The effect of the Great Rift on propagation of impacts to Curren Tunnel should be taken into consideration when deciding on a trim line.

51. Delineating a trim line using the Great Rift will limit curtailment to an area where the Rangen spring cell is predicted to receive at least 1% of the benefits of curtailment, and the calling party is predicted to receive at least 0.63% of the benefits of curtailment. This is similar to the trim lines applied to ESPAM 1.1 in the Clear Springs delivery call and the Blue Lakes delivery call, where the calling parties were predicted to receive 0.69% and 2% of the curtailed benefits, respectively.

52. The Idaho Supreme Court stated, "Given the nature of the decisions which must be made in determining how to respond to a delivery call, there must be some exercise of discretion by the Director." *American Falls*, 143 Idaho at 875, 154 P. 3d at 446. The Director perceives this issue of a trim line as one of limited discretion and applies the legal standards established by Idaho courts. *Clear Springs*, 150 Idaho at 813, 252 P.3d at 94.

53. The Director must consider the diminishing benefits of curtailment beyond the Great Rift. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water. CM Rule 20. Demand should be viewed in light of reasonableness and optimum development of water resources in the public interest. CM Rules 20 and 42; *American Falls*, 143 Idaho at 876-80, 154 P.3d at 447-51; *Clear Springs*, 150 Idaho at 807-10; 252 P.3d at 88-91; *In Matter of Distribution of Water to Various Water Rights Held By or For The Benefit of A & B Irrigation Dist., supra*, slip op. at 13-17.

54. "The policy of the law of this State is to secure the maximum use and benefit, and least wasteful use, of its water resources." *Clear Springs*, 150 Idaho at 808, 252 P.3d at 89 (quoting *Poole v. Olaveson*, 82 Idaho 496, 502, 356 P.2d 61, 65 (1960)). The Idaho Constitution enunciates a policy of promoting optimum development of water resources in the public interest. *Baker v. Ore-Ida Foods, Inc.*, 95 Idaho 575, 584, 513 P.2d 627, 636 (1973); Idaho Const. Art. XV, § 7. "There is no difference between securing the maximum use and benefit, and least wasteful use, of this State's water resources and the optimum development of water resources in the public interest. Likewise, there is no material difference between 'full economic development' and the 'optimum development of water resources in the public interest.' They are two sides of the same coin. Full economic development is the result of the optimum development of water resources in the public interest." *Clear Springs*, 150 Idaho at 809, 252 P.3d at 90. "The policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources applies to both surface and ground waters, and it requires that they be managed conjunctively." *Clear Springs*, 150 Idaho at 809, 252 P.3d at 90.

55. Low transmissivity impedes the transmission of water through the aquifer at the Great Rift. Finding of Fact 108. This low transmissivity causes the benefit of curtailment compared to the number of acres curtailed to diminish significantly. As provided in Findings of Fact 105 through 108, generally less than 1% of the benefits of curtailment of water users east of the Great Rift will accrue to the Rangen spring cell. Even less will be expected to accrue to the Curren Tunnel. Curtailment of junior ground water irrigation west of the Great Rift would dry up approximately 157,000 acres, resulting in curtailment of irrigation of approximately 17,000 acres per cfs of predicted benefit to the Curren Tunnel. Finding of Fact 110. Curtailment of junior ground water irrigation east of the Great Rift would dry up approximately 322,000 additional acres, resulting in curtailment of irrigation of approximately 204,000 acres per cfs of predicted benefit to the Curren Tunnel. *Id.* In addition, there is uncertainty in the model. There is lower predictive uncertainty on the western side of the Great Rift. Finding of Fact 91. There is generally higher predictive uncertainty on the eastern side of the Great Rift, however impacts from several pumping locations evaluated on the eastern side of the Great Rift had negligible impacts on the spring cell evaluated in the Department's predictive uncertainty analysis. *Id.* Uncertainty in the model justifies use of a trim line. *Clear Springs*, 150 Idaho at 816, 252 P.3d at 97. The Director concludes curtailment of ground water diversions on the east side of the Great Rift is not justified. To curtail junior ground water users east of the Great Rift would be counter to the optimum development of Idaho's water resources in the public interest and the policy of securing the maximum use and benefit, and least wasteful use, of the State's water resources. This conclusion is consistent with previous conclusions regarding trim lines applied in Clear Springs delivery call and the Blue Lakes delivery call.

56. Eliminating water rights with points of diversion east of the Great Rift results in a simulated curtailment benefit to the Rangen model cell of 14.4 cfs at steady state.

57. The predicted curtailment benefit to the Curren Tunnel, computed as 63% of the simulated curtailment benefit to the Rangen model cell, is 9.1 cfs.[9]

VII. Rule 40 Call Determination

58. Rule 40 of the CM Rules provides in relevant part that upon a determination of material injury:

> [T]he Director, through the watermaster, shall:
> ...
> Regulate the diversion and use of water in accordance with the priorities of rights of the...ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year (5) period to lessen the economic impact of immediate and complete curtailment; or [a]llow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director.
> ...
> [T]he Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste.

IDAPA 37.03.11.40.

59. In the material injury analysis above, the Director considered whether Rangen is diverting and using water efficiently, without waste, and in a matter consistent with the goal of reasonable use. The Director concludes Rangen is diverting and using water efficiently, without waste and in a matter consistent with the goal of reasonable use. Testimony was presented at hearing regarding respondent junior-priority water right holders' use of water. The Director concludes the junior-priority water right holders are using water efficiently and without waste.

60. Because Rangen has suffered material injury, the Director will curtail ground water rights bearing dates of priority earlier than July 13, 1962, with points of diversion located both within the area of common ground water supply and west of the Great Rift as delineated in Figure 5, Finding of Fact 109.

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[9] Rangen may not be entitled to all of the predicted increase in discharge of the Curren Tunnel if senior water right holders call for delivery of water from the Curren Tunnel.

ORDER

IT IS HEREBY ORDERED that, at 12:01 a.m. on or before March 14, 2014, users of ground water holding consumptive water rights bearing priority dates junior to July 13, 1962, listed in Attachment C to this order, within the area of common ground water, located west of the Great Rift, and within a water district that regulates ground water, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that the order of curtailment has been modified or rescinded as to their water rights. This order shall apply to all consumptive ground water rights, including agricultural, commercial, industrial, and municipal uses, but excluding ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

IT IS FURTHER ORDERED that the watermasters for the water districts within the area of common ground water, located west of the Great Rift, and who regulate ground water, are directed to issue written notices to the holders of the consumptive ground water rights listed in Attachment C to this order. The water rights on the list bear priority dates junior to July 13, 1962. The written notices are to advise the holders of the identified ground water rights that their rights are subject to curtailment in accordance with the terms of this order.

IT IS FURTHER ORDERED that holders of ground water rights affected by this Order may participate in a mitigation plan through a Ground Water District or Irrigation District if a plan is proposed by a Ground Water District or Irrigation District. The mitigation plan must provide simulated steady state benefits of 9.1 cfs to Curren Tunnel or direct flow of 9.1 cfs to Rangen. If mitigation is provided by direct flow to Rangen, the mitigation may be phased-in over not more than a five-year period pursuant to CM Rule 40 as follows: 3.4 cfs the first year, 5.2 cfs the second year, 6.0 cfs the third year, 6.6 cfs the fourth year, and 9.1 cfs the fifth year. Holders of ground water rights that are not members of a ground water district may be deemed a nonmember participant for mitigation purposes pursuant to H.B. No. 737 (*Act Relating to the Administration of Ground Water Rights within the Eastern Snake River Plain*, ch. 356, 2006 *Idaho Sess. Laws* 1089) and Idaho Code § 42-5259. If a mitigation plan is approved and the holder of such a junior priority ground water right elects not to join a ground water district, the Director will require curtailment.

Dated this 29th day of January, 2014.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 2014, the above and foregoing document was served on the following by providing a copy in the manner selected:

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(x) U.S. Mail, Postage Prepaid
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(x) E-mail

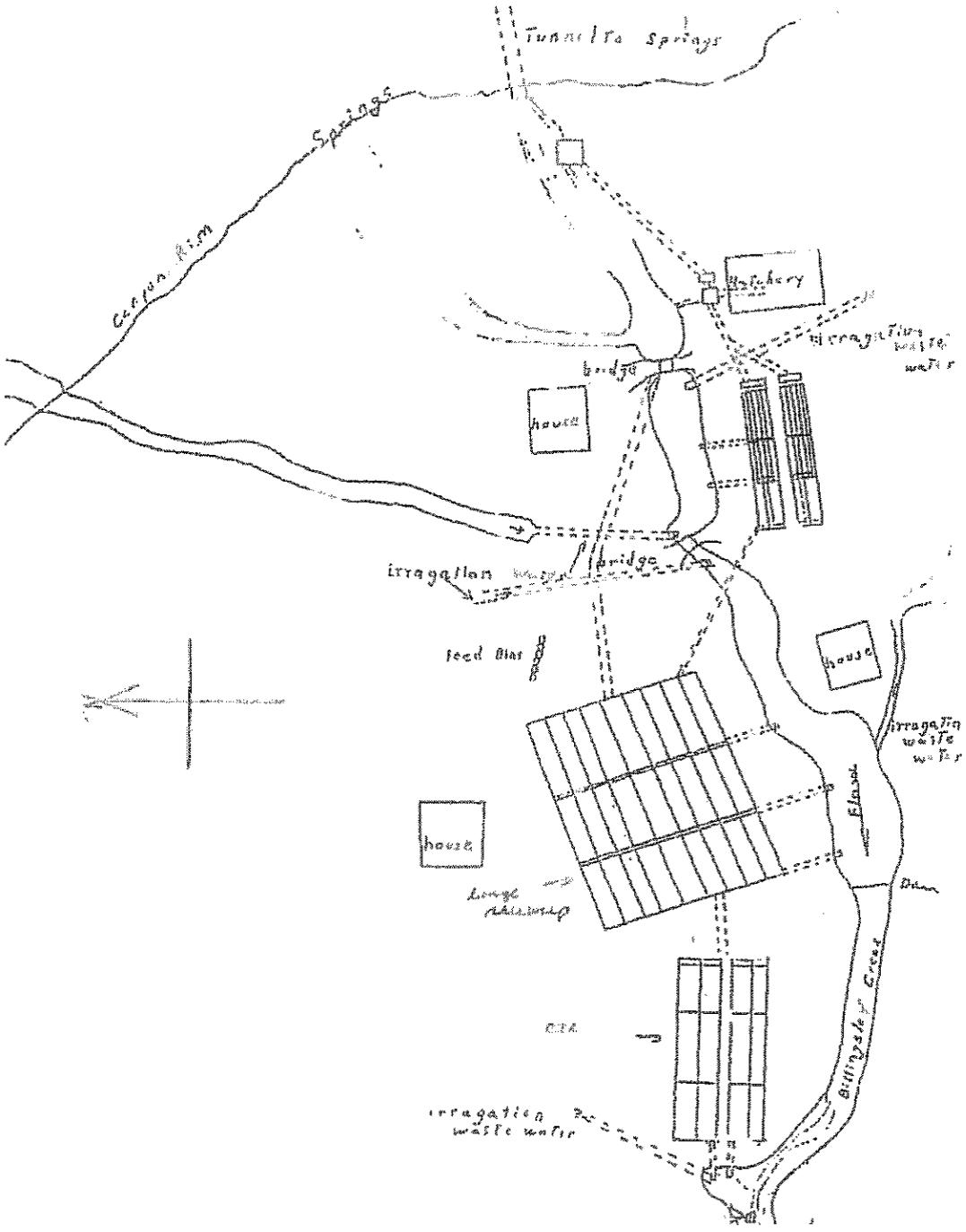
A. DEAN TRANMER
CITY OF POCATELLO
P.O. BOX 4169
POCATELLO, ID 83205
dtranmer@pocatello.us

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

Deborah J. Gibson
Assistant to the Director

ATTACHMENT A

EXHIBIT B - FINAL ORDER



Rangen Hatchery Facilities
Hagerman, Idaho

EXHIBIT
1005
CM-DC-2011-004

PLAINTIFF'S EXHIBIT
14

ATTACHMENT B

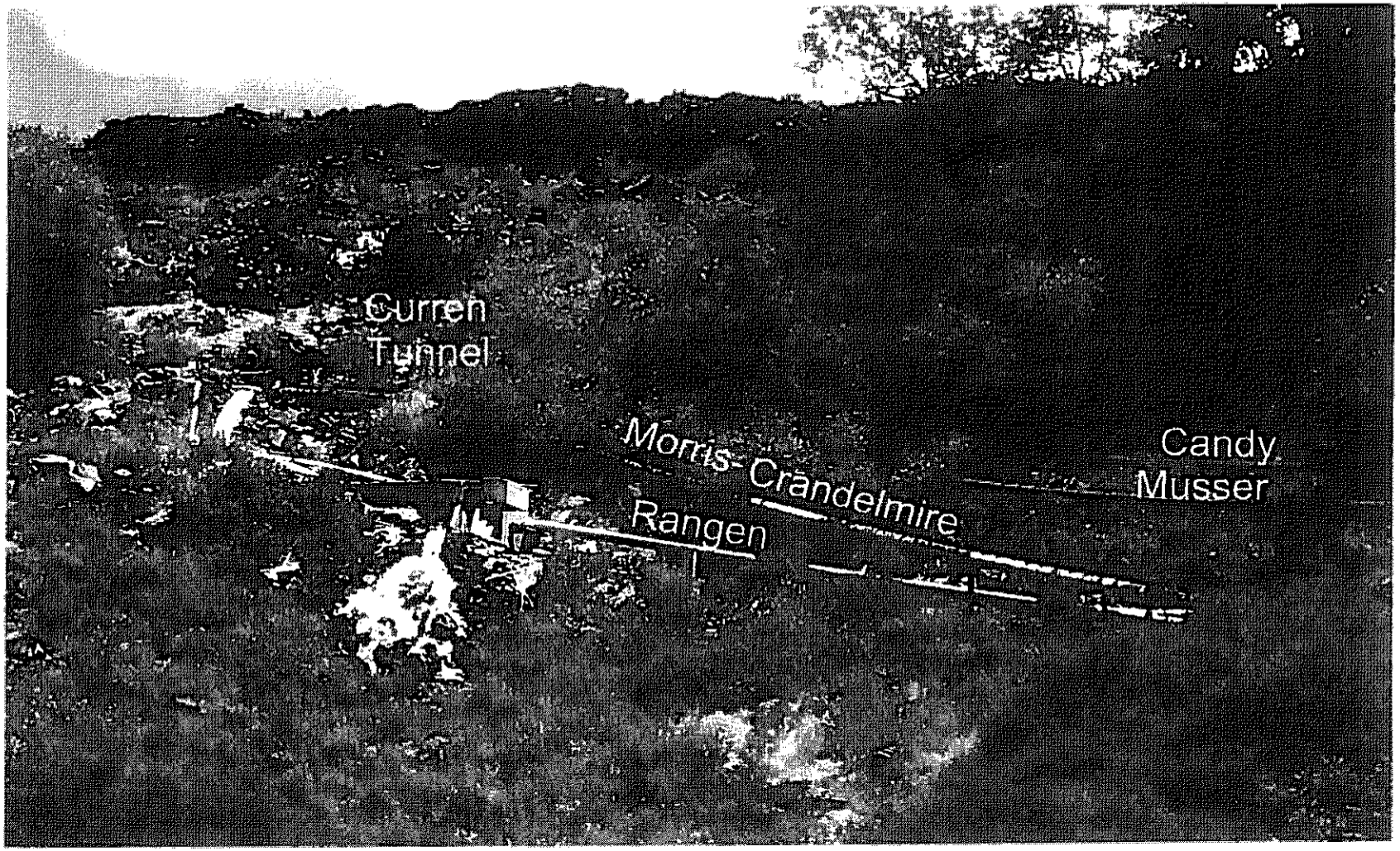


Figure 7. Photo Showing Curren Tunnel and Pipelines

EXHIBIT
1292
CM-DC-2011-004

ATTACHMENT C

EXHIBIT B - FINAL ORDER

Attachment C

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
-RANCH LLC	36-16158	1/24/1972	3.95	IRRIGATION, MITIGATION	346.5
-RANCH LLC	36-16160	1/24/1972	0.04	MITIGATION	
-RANCH LLC	36-16161	8/9/1975	2.97	IRRIGATION, MITIGATION	395.5
-RANCH LLC	36-16163	8/9/1975	0.02	MITIGATION	
BROS DAIRY INC	37-20613	12/19/1974	1.12	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-20614	12/19/1974	0.58	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22641	10/18/1968	0.06	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22642	10/18/1968	0.04	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22643	2/18/1971	0.01	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22644	12/3/1966	0.02	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22645	10/18/1968	0.03	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22646	12/3/1966	0.05	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22647	12/3/1966	0.03	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22648	2/18/1971	0.03	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22649	2/18/1971	0.02	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22652	11/15/1970	0.08	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22653	5/16/1980	0.02	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-22654	5/26/1971	0.01	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-7033	7/5/1988	2.16	IRRIGATION	211
BROS DAIRY INC	37-7278	9/10/1973	6	IRRIGATION	390.9
BROS DAIRY INC	37-7575	3/28/1977	2.21	IRRIGATION	349
BROS DAIRY INC	37-8813	10/14/1983	0.13	STOCKWATER, COMMERCIAL	
BROS DAIRY INC	37-8814	7/10/1983	0.1	STOCKWATER, COMMERCIAL	
) GOLF RANCH	36-7573	10/31/1975	2.92	IRRIGATION	188
& B IRRIGATION DISTRICT; UNITED TATES OF AMERICA ACTING THROUGH	36-15127B*	4/1/1984	28.89	IRRIGATION	82610
& B IRRIGATION DISTRICT; UNITED TATES OF AMERICA ACTING THROUGH	36-15193B*	4/1/1965	0.31	IRRIGATION	82610
& B IRRIGATION DISTRICT; UNITED TATES OF AMERICA ACTING THROUGH	36-15194B*	4/1/1968	2.51	IRRIGATION	82610
& B IRRIGATION DISTRICT; UNITED TATES OF AMERICA ACTING THROUGH	36-15195B*	4/1/1978	2.24	IRRIGATION	82610
& B IRRIGATION DISTRICT; UNITED TATES OF AMERICA ACTING THROUGH	36-15196B*	4/1/1981	0.08	IRRIGATION	82610
ARDEMA DIARY LTD PARTNERSHIP	36-7290	1/23/1973	1.6	IRRIGATION	80
ARDEMA FARMS LTD PARTNERSHIP	36-10225F	5/1/1985	0.01	STOCKWATER	
ARDEMA FARMS LTD PARTNERSHIP	36-14035B	5/26/1976	0.42	STOCKWATER, COMMERCIAL	
ARDEMA FARMS LTD PARTNERSHIP	36-15169F	12/11/1969	0.05	STOCKWATER	
ARDEMA FARMS LTD PARTNERSHIP	36-15256C*	3/15/1975	0.92	IRRIGATION	401.6
ARDEMA FARMS LTD PARTNERSHIP	36-15256D	3/15/1975	0.11	STOCKWATER, COMMERCIAL	
ARDEMA FARMS LTD PARTNERSHIP	36-15561	8/19/1965	2.7	IRRIGATION	608
ARDEMA FARMS LTD PARTNERSHIP	36-15563	2/26/1979	1.91	IRRIGATION	608
ARDEMA FARMS LTD PARTNERSHIP	36-16269	6/7/1965	0.51	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16271	2/26/1973	0.36	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16273	8/2/1973	0.61	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16275	5/28/1974	0.19	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16277	2/4/1976	0.17	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16279	2/22/1978	0.57	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16281	12/11/1978	0.03	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16283*	5/1/1985	0.17	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16285	12/11/1969	1.72	IRRIGATION	302.7
ARDEMA FARMS LTD PARTNERSHIP	36-16447	1/28/1964	0.19	STOCKWATER, COMMERCIAL	

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EXHIBIT B - FINAL ORDER

Attachment 3

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
RDEMA FARMS LTD PARTNERSHIP	36-16449	5/26/1976	0.19	STOCKWATER, COMMERCIAL	
RDEMA FARMS LTD PARTNERSHIP	36-16891	1/10/1997	0.06	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-16893	11/1/1979	0.02	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-16894	1/28/1964	2.67	IRRIGATION	435.1
RDEMA FARMS LTD PARTNERSHIP	36-16895	1/28/1964	0.1	STOCKWATER, COMMERCIAL	
RDEMA FARMS LTD PARTNERSHIP	36-16896	5/26/1976	6.03	IRRIGATION	435.1
RDEMA FARMS LTD PARTNERSHIP	36-16897	5/26/1976	0.23	STOCKWATER, COMMERCIAL	
RDEMA FARMS LTD PARTNERSHIP	36-2575B	8/5/1963	0.05	STOCKWATER, COMMERCIAL	
RDEMA FARMS LTD PARTNERSHIP	36-2586B	1/28/1964	0.2	STOCKWATER, COMMERCIAL	
RDEMA FARMS LTD PARTNERSHIP	36-2614F	6/7/1965	0.01	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-7049	1/10/1969	2.41	IRRIGATION	126
RDEMA FARMS LTD PARTNERSHIP	36-7215	1/3/1972	0.84	IRRIGATION	164
RDEMA FARMS LTD PARTNERSHIP	36-7250	7/21/1972	0.25	STOCKWATER, COMMERCIAL, DOMESTIC	
RDEMA FARMS LTD PARTNERSHIP	36-7307F	2/26/1973	0.02	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-7329	4/18/1973	0.8	IRRIGATION	40
RDEMA FARMS LTD PARTNERSHIP	36-7362F	8/2/1973	0.02	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-7477F	5/28/1974	0.01	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-7606F	2/4/1976	0.01	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-7734	3/11/1977	1	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	30
RDEMA FARMS LTD PARTNERSHIP	36-7779F	2/22/1978	0.02	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-7832F	12/11/1978	0.01	STOCKWATER	
RDEMA FARMS LTD PARTNERSHIP	36-8169	4/6/1983	0.26	STOCKWATER, COMMERCIAL	
RDEMA FARMS LTD PARTNERSHIP	36-8517	4/3/1990	0.04	STOCKWATER, COMMERCIAL	
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON DAIRY; HEIDA, MARY JANE; IDA, THOMAS	36-7363A	8/7/1973	1.23	IRRIGATION	110
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON LAND HOLDINGS LLC; HEIDA, RY JANE; HEIDA, THOMAS	36-15181*	3/15/1982	0.23	IRRIGATION	54
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON LAND HOLDINGS LLC; HEIDA, RY JANE; HEIDA, THOMAS	36-2610	3/22/1965	2	IRRIGATION	220
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON LAND HOLDINGS LLC; HEIDA, RY JANE; HEIDA, THOMAS	36-7387D	10/27/1973	0.15	STOCKWATER, COMMERCIAL	
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON LAND HOLDINGS LLC; HEIDA, RY JANE; HEIDA, THOMAS	36-7650A	7/30/1976	1.22	IRRIGATION	220
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON LAND HOLDINGS LLC; HEIDA, RY JANE; HEIDA, THOMAS	36-8305	2/14/1986	1.9	IRRIGATION	95
RDEMA, CORNELIA; AARDEMA, FRANS; X CANYON LAND HOLDINGS LLC; HEIDA, RY JANE; HEIDA, THOMAS	36-8362	6/3/1988	1	STOCKWATER, COMMERCIAL	
RDEMA, DONALD J	36-8548	5/11/1990	0.06	STOCKWATER	
RDEMA, DONALD JOHN	36-10225H*	5/1/1985	0.01	IRRIGATION	3
RDEMA, DONALD JOHN	36-15169H	12/11/1969	0.02	IRRIGATION	3
RDEMA, DONALD JOHN	36-2614H	6/7/1965	0.01	IRRIGATION	3
RDEMA, DONALD JOHN	36-7307H	2/26/1973	0.01	IRRIGATION	3
RDEMA, DONALD JOHN	36-7362H	8/2/1973	0.01	IRRIGATION	3

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EXHIBIT B - FINAL ORDER

Attachment C

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ARDEMA, DONALD JOHN	36-7477H	5/28/1974	0.01	IRRIGATION	3
ARDEMA, DONALD JOHN	36-7606H	2/4/1976	0.01	IRRIGATION	3
ARDEMA, DONALD JOHN	36-7779H	2/22/1978	0.01	IRRIGATION	3
ARDEMA, DONALD JOHN	36-7832H	12/11/1978	0.01	IRRIGATION	3
BC AGRA LLC	36-8484	12/11/1989	0.08	COMMERCIAL, DOMESTIC	
DAMS, CHERYL L; ADAMS, H LYLE; ADAMS, DDY L	37-7078	10/12/1970	0.077	STOCKWATER, COMMERCIAL, DOMESTIC	
DKINS, GINA; ADKINS, RICK	36-8525	3/2/1990	0.06	IRRIGATION, DOMESTIC	1
KL PROPERTIES LLC	36-16942	2/27/1970	1.65	IRRIGATION	295.7
KL PROPERTIES LLC	36-16944	12/11/1981	1.72	IRRIGATION	295.7
LEN, BETTY; ALLEN, BUD	37-21225	1/29/1974	0.02	IRRIGATION	1
LEN, HERB; ALLEN, MARY CHUGG; LLOYD, NIEL; TIERNEY LLOYD, MONA LISA	36-8523	4/25/1990	1.89	IRRIGATION	115
LEN, JANE C; ALLEN, WAYNE R	36-7418	12/11/1973	3.48	IRRIGATION	217
LEN, PATRICIA; ALLEN, STEPHEN B	37-21226	1/29/1974	2.72	IRRIGATION	154
LEN, REX	36-7649	10/19/1976	0.26	IRRIGATION, DOMESTIC	12
LIANCE LAND & LIVESTOCK LLC	45-12769A	9/11/1967	0.31	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-13520*	3/15/1976	0.23	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14054	9/6/1967	1.8	IRRIGATION, STOCKWATER	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14055	9/6/1967	0.93	STOCKWATER, COMMERCIAL	
LIANCE LAND & LIVESTOCK LLC	45-14104	6/30/1985	0.09	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14105	6/30/1985	0.01	STOCKWATER, COMMERCIAL	
LIANCE LAND & LIVESTOCK LLC	45-14253	11/15/1970	0.3	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14254	5/16/1980	0.08	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14255*	5/26/1971	0.02	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14256	9/12/1973	0.24	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-14257	5/4/1978	0.51	STOCKWATER, COMMERCIAL	
LIANCE LAND & LIVESTOCK LLC	45-2674B	9/11/1962	0.48	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-7054	4/28/1970	1.34	STOCKWATER	
LIANCE LAND & LIVESTOCK LLC	45-7243	7/1/1975	2.19	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-7482A	11/24/1981	2.18	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-7482B	11/24/1981	1.99	IRRIGATION	3088.3
LIANCE LAND & LIVESTOCK LLC	45-7513	10/13/1982	0.31	IRRIGATION	3088.3
LISON, E R	36-7034	5/27/1968	0.16	IRRIGATION, STOCKWATER	7.1
LISON, E R	36-7347A	6/26/1973	0.11	IRRIGATION	5.4
LRED, JACKSON W; SMITH, MIRIAM LRED	45-11142	6/30/1985	3.11	IRRIGATION	2073
MBROSE, A N; SOUTHFIELD PROPERTIES C	36-7157A	2/16/1971	3.3	IRRIGATION	436
MERICAN FALLS RESERVOIR DISTRICT #2	36-11120	11/27/1962	0.07	IRRIGATION, DOMESTIC	1.5
NDERLAND LLC	45-14066	8/17/1972	2.67	IRRIGATION	233.1
NDERLAND LLC	45-14070	2/6/1979	0.01	IRRIGATION	8.4
NDERSEN, ALAN H; ANDERSEN, NORMA	45-13394	2/6/1979	0.05	STOCKWATER, COMMERCIAL	
NDERSEN, ALAN H; ANDERSEN, NORMA	45-14067	8/17/1972	0.12	STOCKWATER, COMMERCIAL	
NDERSON SR, LARREY; ANDERSON, ETHA	36-8232	9/27/1983	0.09	IRRIGATION, COMMERCIAL, DOMESTIC	1
NDERSON SR, LARREY; ANDERSON, ETHA; MILLER, GERALD	36-8233	12/17/1991	0.06	HEATING, RECREATION	
NDERSON, DONALD M; ANDERSON, JOAN	36-8285	6/14/1985	0.04	IRRIGATION	2
NDERSON, GEORGE; ANDERSON, MARILYN	36-7777	2/7/1978	1.33	IRRIGATION	75

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
IDERSON, GREGORY M; ANDERSON, :NNETH C	36-7214	1/3/1972	2.45	IRRIGATION	144
IDERSON, LA DELL; ANDERSON, SHERRY \RRIS	36-7272	11/7/1972	1.42	IRRIGATION	71
IDERSON, SHERRY HARRIS	36-2632	1/8/1966	1.94	IRRIGATION	417.1
IDERSON, SHERRY HARRIS	36-7022	4/12/1968	4.64	IRRIGATION	417.1
IDERSON, SHERRY; HARRIS, STEVEN; NSEN, CINDY	36-7897	2/25/1980	2.84	IRRIGATION	203
IDRESEN DAIRY LLC	36-16381	9/12/1973	0.08	STOCKWATER, COMMERCIAL	
IDRESEN DAIRY LLC	36-8215	6/22/1983	0.07	STOCKWATER, COMMERCIAL, DOMESTIC	
IDRESEN DAIRY LLC	36-8735	1/10/1992	0.04	STOCKWATER, COMMERCIAL	
IDREWS, GERALD CLINTON; ANDREWS, \RIAN J	36-15227*	8/27/1973	0.7	IRRIGATION	163
IKOOSH, GEORGE F; ARKOOSH, LIZABETH	37-7160	9/14/1972	0.3	IRRIGATION, STOCKWATER	26
IKOOSH, KAREN A; ARKOOSH, WILLIAM	37-7570	3/9/1977	4.29	IRRIGATION	277
TLE, DOUGLAS D; ASTLE, JANIS L	37-8296	5/11/1987	4.01	IRRIGATION	357.2
TLE, GERALDINE; ASTLE, SEM D	37-7538	11/2/1976	4.18	IRRIGATION	285
TLE, MICHELE	37-8125	6/23/1983	0.04	STOCKWATER, COMMERCIAL, DOMESTIC	
TLE, RICK J; ASTLE, TANYA R	37-7264	8/21/1973	3.42	IRRIGATION	192
TORQUIA, FRANK	37-7475	2/12/1976	0.7	IRRIGATION	35
TORQUIA, FRANK	37-8338	5/19/1994	0.6	IRRIGATION	72
TORQUIA, FRANK; ASTORQUIA, SEPHINE	37-7460	7/3/2002	3.33	IRRIGATION	258
TORQUIA, JUSTIN	37-7092	4/15/1971	0.8	IRRIGATION	40
& H FARMING	36-11643*	4/1/1981	1	IRRIGATION	448
& H FARMING	36-15226*	6/15/1973	0.36	IRRIGATION	658
& H FARMING	36-16206	4/14/1983	1.91	IRRIGATION	152
& H FARMING	36-2570	6/20/1963	0.8	IRRIGATION	658
& H FARMING	36-2587	2/19/1964	5.79	IRRIGATION	455
& H FARMING	36-4264*	4/1/1974	2	IRRIGATION	455
I DAIRY	36-7732B	10/21/1977	0.4	STOCKWATER, COMMERCIAL	
I DAIRY	36-7732C	10/21/1977	2.64	IRRIGATION	132
I DAIRY	36-7732D	10/21/1977	0.34	STOCKWATER, COMMERCIAL	
AR JR, TED	36-10845	1/28/1972	0.24	STOCKWATER, DOMESTIC	
AR, ANNA E; BAAR, THEODORE;)RTHWEST FARM CREDIT SERVICES FLCA	36-8478	11/7/1989	0.47	STOCKWATER, COMMERCIAL, DOMESTIC	
ILEY, CALVIN M; BAILEY, DE ANN W	36-7735	7/25/1977	1.75	IRRIGATION	105
ILEY, CARL W; BAILEY, STEPHANIE G	36-16981	3/4/1976	1	IRRIGATION	50
ILEY, CARL W; BAILEY, STEPHANIE G	36-7615	3/4/1976	1.6	IRRIGATION	203
ILEY, PATSY J; BAILEY, QUINN W	36-7941	9/17/1980	0.13	STOCKWATER, COMMERCIAL	
KER, DANIEL C; BAKER, DARRELL JAMES	36-2668	11/18/1966	4.65	IRRIGATION	634.4
KER, DARRELL JAMES	36-13065A	3/15/1981	0.66	IRRIGATION	260.7
KER, DARRELL JAMES	36-13065B	3/15/1981	0.16	IRRIGATION	634.4
KER, DARRELL JAMES	36-15170B	6/29/1971	0.01	IRRIGATION	634.4
KER, DARRELL JAMES	36-2565B	2/11/1963	0.38	IRRIGATION	634.4
KER, DWAINE D; BAKER, LINDA	45-4216B	6/30/1985	0.01	IRRIGATION	7
LL, CARMA B; BALL, JERRY R	36-2563	1/28/1963	2.2	IRRIGATION	146

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Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ANDY, BONNIE; BANDY, BRADLEY W	36-7473	5/14/1974	0.1	IRRIGATION	5
ANNOCK PAVING CO	36-7470	4/26/1974	0.33	INDUSTRIAL	
ARNES, T H; COLLINS, LARRY	36-8780	4/17/1998	0.04	IRRIGATION, DOMESTIC	1
ARRYMORE EST SUBDIVISION WATER BERS	36-8155	3/4/1983	0.07	STOCKWATER, DOMESTIC	
ARRYMORE, BLAKE; BARRYMORE, EBORAH	37-8145	7/7/1983	0.17	COMMERCIAL	
ARTLETT, ERWIN; BARTLETT, JANICE	45-7653	6/6/1989	0.04	COMMERCIAL	
AXTER, DAVID W; BAXTER, ELIZABETH R	36-7060	5/12/1969	1.34	IRRIGATION	160
AXTER, DAVID W; BAXTER, ELIZABETH R	36-7948	11/21/1980	0.87	IRRIGATION	160
ECK, BART L; BECK, DANENE	45-7029	6/4/1968	1.2	IRRIGATION	997.5
ECK, BART L; BECK, DANENE	45-7263	3/30/1976	3	IRRIGATION	997.5
ECK, CLYDETTE G; BECK, ROBERT M	45-7087	12/20/1971	4.64	IRRIGATION	316
ECK, DAVID; BECK, SUSAN K	45-13907*	4/13/1971	0.11	STOCKWATER	
ECK, DAVID; BECK, SUSAN K	45-13909	4/13/1970	0.21	STOCKWATER	
ECK, DAVID; BECK, SUSAN K	45-13994	9/17/1970	12.84	IRRIGATION	1766
ECK, DAVID; BECK, SUSAN K	45-13995	9/17/1970	0.22	STOCKWATER	
ECK, DAVID; BECK, SUSAN K	45-14302	4/13/1970	3.95	IRRIGATION	1766
ECK, DAVID; BECK, SUSAN K	45-14304*	4/13/1971	2.14	IRRIGATION	1766
ECK, PAIGE	45-10679*	4/1/1977	0.22	IRRIGATION	301.8
ECK, PAIGE	45-10777B*	3/15/1976	0.23	IRRIGATION	151
ECK, SCOTT W	45-14448*	4/1/1977	0.3	IRRIGATION	427.7
ECKLEY, BONNIE B; BECKLEY, RON K	37-8138	6/29/1983	0.12	STOCKWATER, COMMERCIAL	
EEM, DONNA L; BEEM, KENNETH C	36-7695	4/13/1977	1	IRRIGATION	50
EEM, STEVEN G	36-7609	2/19/1976	3.18	IRRIGATION, STOCKWATER	295
ENNETT, CAROLE R; BENNETT, JOHN D	37-20931	5/5/2003	0.12	IRRIGATION	4.3
EORCHIA PROPERTIES & HOLDINGS LLC	36-8108	8/16/1982	0.03	IRRIGATION, STOCKWATER, DOMESTIC	5
ETTENCOURT, LUIS M	36-10821A	6/1/1979	2.45	IRRIGATION	138
ETTENCOURT, LUIS M	36-10821B	6/9/1979	10.2	IRRIGATION	626.5
ETTENCOURT, LUIS M	36-15161*	3/15/1977	0.14	IRRIGATION	258
ETTENCOURT, LUIS M	36-15174A	11/21/1973	3.08	IRRIGATION	154
ETTENCOURT, LUIS M	36-15174B	11/21/1973	0.12	IRRIGATION	128
ETTENCOURT, LUIS M	36-15354	1/6/1975	2.3	IRRIGATION	193.4
ETTENCOURT, LUIS M	36-15679	3/26/1969	0.45	STOCKWATER	
ETTENCOURT, LUIS M	36-16480	3/26/1969	0.77	STOCKWATER, COMMERCIAL	
ETTENCOURT, LUIS M	36-7054B	3/26/1969	2.73	STOCKWATER, COMMERCIAL	
ETTENCOURT, LUIS M	36-7103	12/23/1969	1.6	IRRIGATION	80
ETTENCOURT, LUIS M	36-7116C	2/18/1970	3.4	IRRIGATION	170
ETTENCOURT, LUIS M	36-7116D	2/18/1970	0.72	STOCKWATER, COMMERCIAL	
ETTENCOURT, LUIS M	36-7260B	9/15/1972	0.1	STOCKWATER, COMMERCIAL	
ETTENCOURT, LUIS M	36-7324	3/29/1973	3.2	IRRIGATION	160
ETTENCOURT, LUIS M	36-7368B	8/16/1973	0.04	STOCKWATER, COMMERCIAL	
ETTENCOURT, LUIS M	36-7373	8/31/1973	4.46	IRRIGATION	258
ETTENCOURT, LUIS M	36-7499B	9/4/1974	0.12	IRRIGATION	128
ETTENCOURT, LUIS M	36-7605	2/4/1976	1.04	IRRIGATION, MITIGATION	29.6
ETTENCOURT, LUIS M	36-7608	2/24/1976	0.82	IRRIGATION	128
ETTENCOURT, LUIS M	36-8081	3/7/1983	0.42	IRRIGATION	22
ETTENCOURT, LUIS M	36-8135	11/5/1983	0.06	STOCKWATER, DOMESTIC	
ETTENCOURT, LUIS M	36-8302	11/14/1985	0.96	IRRIGATION	193.4
ETTENCOURT, LUIS M	36-8739	5/10/1995	1	IRRIGATION	108.6
ETTENCOURT, LUIS M	36-8740	5/10/1995	0.53	IRRIGATION	126.5

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Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-14595A*	5/1/1978	1.31	IRRIGATION	414.8
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-14595B*	5/1/1978	0.1	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-15672	10/18/1968	0.1	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-15674	12/3/1966	0.07	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-15676	2/18/1971	0.04	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-16159	1/24/1972	0.01	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-16162	8/9/1975	0.01	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-2666	10/11/1966	3	IRRIGATION	168
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-7345B	6/21/1973	0.12	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-7591D	12/29/1975	5.54	IRRIGATION	414.8
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-7591E	12/29/1975	0.52	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-8062	2/9/1982	0.05	STOCKWATER, COMMERCIAL, DOMESTIC	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	36-8411	4/18/1989	0.5	STOCKWATER, COMMERCIAL	
:TTENCOURT, LUIS M; BETTENCOURT, IARON L	37-8865	3/25/1974	0.24	STOCKWATER, COMMERCIAL	
IB FARMS INC	36-7494	8/12/1974	3.2	IRRIGATION	160
IB FARMS INC	36-8144	2/2/1983	0.84	IRRIGATION	42
:KETT, HARVEY B; BICKETT, MYRNA	37-8366	7/14/1988	0.06	IRRIGATION, DOMESTIC	0.8
3 SKY DAIRY	36-2671C	1/9/1967	0.06	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-2671G	1/9/1967	0.19	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-2671K	1/9/1967	0.7	IRRIGATION	451.3
3 SKY DAIRY	36-2671L	1/9/1967	0.72	IRRIGATION	762.6
3 SKY DAIRY	36-7157D	2/16/1971	0.83	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7366B	8/13/1973	0.11	STOCKWATER	
3 SKY DAIRY	36-7367C	8/13/1973	0.33	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7367G	8/13/1973	0.66	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7367K	8/13/1973	2.62	IRRIGATION	451.3
3 SKY DAIRY	36-7367L	8/13/1973	2.52	IRRIGATION	762.6
3 SKY DAIRY	36-7381C	9/19/1973	0.05	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7381G	9/19/1973	0.11	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7381K	9/19/1973	0.43	IRRIGATION	451.3
3 SKY DAIRY	36-7381L	9/19/1973	0.42	IRRIGATION	762.6
3 SKY DAIRY	36-7402	11/8/1973	2.78	IRRIGATION	451.3
3 SKY DAIRY	36-7445C	2/21/1974	0.1	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7445G	2/21/1974	0.19	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7445K	2/21/1974	0.77	IRRIGATION	451.3
3 SKY DAIRY	36-7445L	2/21/1974	0.74	IRRIGATION	762.6
3 SKY DAIRY	36-7480D	5/31/1974	0.21	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7480H	5/31/1974	0.43	STOCKWATER, COMMERCIAL	
3 SKY DAIRY	36-7480L	5/31/1974	1.73	IRRIGATION	451.3

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
G SKY DAIRY	36-7480M	5/31/1974	1.66	IRRIGATION	762.6
G SKY DAIRY	37-20721	1/10/1973	0.44	STOCKWATER	
G SKY DAIRY	37-20724	2/16/1971	0.49	IRRIGATION	36
G SKY DAIRY	37-20725	2/16/1971	2.81	IRRIGATION	208.8
G SKY DAIRY	37-22158	1/10/1973	1.77	IRRIGATION	86.1
G SKY DAIRY	37-22159	1/10/1973	0.19	STOCKWATER	
G SKY DAIRY	37-2679	9/28/1962	4.78	IRRIGATION	310
G SKY DAIRY	37-2687A	3/8/1963	2.13	IRRIGATION	762.6
G SKY DAIRY	37-7005	11/22/1967	3.12	IRRIGATION	156
G SKY DAIRY	37-7247	7/10/1973	4.18	IRRIGATION	226
G SKY DAIRY	37-7388	9/30/1974	0.78	IRRIGATION	39
G SKY DAIRY	37-7419B	1/29/1975	0.14	IRRIGATION	7
G SKY DAIRY	37-7419C	1/29/1975	2.02	IRRIGATION	762.6
G SKY DAIRY	37-7435A	4/22/1975	0.74	IRRIGATION	762.6
G SKY DAIRY	37-7440A	5/31/1974	1.47	IRRIGATION	762.6
G SKY DAIRY	37-7488	4/15/1976	1.98	IRRIGATION	99
G SKY DAIRY	37-7639A	7/8/1977	2.76	IRRIGATION	762.6
G SKY DAIRY	37-7805	3/25/1975	0.78	IRRIGATION	39
G SKY DAIRY	37-8054	7/1/1983	3.34	IRRIGATION	167
G SKY DAIRY	45-13549*	8/21/1978	0.76	IRRIGATION, STOCKWATER, COMMERCIAL	863
G SKY DAIRY	45-13853	6/30/1985	2.27	IRRIGATION	2077
G SKY DAIRY	45-13854	6/30/1985	1.66	IRRIGATION	2077
G SKY DAIRY	45-2685	1/19/1963	5.31	IRRIGATION	2077
G SKY DAIRY	45-7012	9/11/1967	6.08	IRRIGATION	2077
G SKY DAIRY	45-7147	7/31/1973	4.41	IRRIGATION	2077
G SKY DAIRY	45-7148	7/31/1973	3.81	IRRIGATION	2077
G SKY DAIRY	45-7258	2/2/1976	4.49	IRRIGATION	880
G SKY DAIRY	45-7276	10/13/1976	3	IRRIGATION	880
G SKY DAIRY	45-7335	9/19/1978	6.68	IRRIGATION, STOCKWATER, COMMERCIAL	863
G SKY DAIRY	45-7340A	2/2/1978	2.93	IRRIGATION	880
G SKY DAIRY	45-7355	8/21/1978	6.4	IRRIGATION, STOCKWATER, COMMERCIAL	863
NGHAM II, WALLACE S; BINGHAM, NANCY	36-7802B	6/16/1978	1.4	IRRIGATION	522.5
NGHAM, LAVERLE M	36-8425	6/23/1989	0.88	IRRIGATION	105
NGHAM, MARJORIE J; BINGHAM, THOMAS	37-2719	11/30/1965	4.54	IRRIGATION	439
NGHAM, MARJORIE J; BINGHAM, THOMAS	37-7473	2/4/1976	3.46	IRRIGATION	439
NGHAM, THOMAS O	37-7221	4/18/1973	0.17	COMMERCIAL, DOMESTIC	
_ACK BUTTE HILLS LLC	36-15233*	4/6/1980	0.73	IRRIGATION	180
_AINE COUNTY SCHOOL DISTRICT #61	37-21742	4/17/2006	0.8	IRRIGATION	20
_AINE COUNTY SCHOOL DISTRICT #61	37-22542	4/30/2010	3.65	HEATING, COOLING	
_ALACK, JOANN K; SCHMIDT, CHESTER A	36-8208	5/20/1985	0.1	IRRIGATION, DOMESTIC	2
_INCOE FARMS INC	36-15362*	4/1/1981	2.8	IRRIGATION	960
_INCOE FARMS INC	36-7413	11/30/1973	5.18	IRRIGATION	960
_ISS ACRES LLC; BOSMA, JACOB F	37-8487B	1/25/1989	0.18	STOCKWATER, COMMERCIAL	
_ISS LLC	37-7194	1/12/1973	1.4	IRRIGATION	70
_ISS LLC	37-7381	9/11/1974	0.8	IRRIGATION	40
_ISS LLC	37-7761A	5/8/1980	0.07	STOCKWATER, DOMESTIC	

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ISS LLC	37-7761B	5/8/1980	1.21	IRRIGATION	146
ISS, GARY B	36-8459	9/22/1989	0.04	IRRIGATION	2.4
UE SKY RANCH; KRUCKER, KATHLEEN; UCKER, ROBERT	36-16184	6/30/1983	0.13	STOCKWATER, DOMESTIC	
UE SKY RANCH; KRUCKER, KATHLEEN; UCKER, ROBERT	36-8482	11/7/1989	0.05	STOCKWATER	
ER DAIRY LLC	36-16906	7/18/1973	1.14	IRRIGATION	920
ER DAIRY LLC	36-7617	3/11/1976	10	IRRIGATION	920
ER JR, ADRIAN K; BOER, LINDA M; RTHWEST FARM CREDIT SERVICES FLCA	36-8359	6/15/1988	0.29	STOCKWATER, COMMERCIAL	
ISE PACKAGING & NEWSPRINT LLC	45-2760	7/15/1965	0.2	COMMERCIAL	
KMA, FLORA; BOKMA, HARRY B	36-8662	5/26/1992	0.18	STOCKWATER, COMMERCIAL	
LDT, LAWRENCE P; BOLDT, MARCY M	45-7370	1/24/1979	0.11	IRRIGATION, STOCKWATER	5.6
NAWITZ, DANI; BONAWITZ, DUKE	36-8065	2/17/1982	0.12	IRRIGATION, DOMESTIC	5
OT JACK DAIRY PARTNERSHIP	37-20395	3/16/1982	2.1	IRRIGATION	277.4
OT JACK DAIRY PARTNERSHIP	37-20396	3/16/1982	0.08	STOCKWATER, COMMERCIAL	
RBA, JOSE; BORBA, MARIA	36-15665	10/18/1968	0.04	STOCKWATER, COMMERCIAL	
RBA, JOSE; BORBA, MARIA	36-15667	12/3/1966	0.03	STOCKWATER, COMMERCIAL	
RBA, JOSE; BORBA, MARIA	36-15669	2/18/1971	0.02	STOCKWATER, COMMERCIAL	
RBA, JOSE; BORBA, MARIA	36-16240	1/7/1974	0.01	STOCKWATER, COMMERCIAL	
RBA, JOSE; BORBA, MARIA	36-8731	7/13/1994	0.08	STOCKWATER, DOMESTIC	
RBA, JOSE; BORBA, MARIA	37-21318	1/7/1974	0.13	IRRIGATION, MITIGATION	4.5
SMA, JACOB F	37-8487C	1/25/1989	0.48	IRRIGATION	97.9
THOF, GERALDA; BOTHOF, ROGER W	36-8805	10/31/2000	0.03	IRRIGATION	0.8
TT, BRIAN; BOTT, KELLI	36-16621	7/3/1974	2.32	IRRIGATION	135
WEN THEATRE CO	36-8631	11/7/1991	0.04	DOMESTIC	
WMAN, GARY F	37-7465B	12/1/1975	2.22	IRRIGATION	132
X CANYON DAIRY	36-8713	8/6/1993	0.04	STOCKWATER	
X CANYON LAND HOLDINGS LLC	36-10044*	3/1/1984	0.55	IRRIGATION	124
X CANYON LAND HOLDINGS LLC	36-15991	11/29/1973	0.08	STOCKWATER, COMMERCIAL	
X CANYON LAND HOLDINGS LLC	36-16268	6/7/1965	0.75	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16270	2/26/1973	0.59	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16272	8/2/1973	0.91	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16274	5/28/1974	0.29	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16276	2/4/1976	0.29	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16278	2/22/1978	0.86	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16280	12/11/1978	0.08	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16282*	5/1/1985	0.26	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16284	12/11/1969	2.54	IRRIGATION	444
X CANYON LAND HOLDINGS LLC	36-16497	11/29/1973	1.24	IRRIGATION	126.2
X CANYON LAND HOLDINGS LLC	36-16498	11/29/1973	0.16	STOCKWATER, COMMERCIAL	
X CANYON LAND HOLDINGS LLC	36-7291C	1/23/1973	1.04	IRRIGATION	51.8
X CANYON LAND HOLDINGS LLC	36-7291D	1/23/1973	0.32	STOCKWATER, COMMERCIAL	
X CANYON LAND HOLDINGS LLC	36-7387A	10/27/1973	0.44	IRRIGATION	33.7
X CANYON LAND HOLDINGS LLC	36-7387C	10/27/1973	0.17	IRRIGATION	33.7
X CANYON LAND HOLDINGS LLC	36-7450A	3/6/1974	5.2	IRRIGATION	261
X CANYON LAND HOLDINGS LLC	36-7585	12/9/1975	0.52	IRRIGATION	97
X CANYON LAND HOLDINGS LLC	36-7713A	8/13/1977	0.85	IRRIGATION	107
X CANYON LAND HOLDINGS LLC	36-7713B	8/13/1977	0.13	STOCKWATER, COMMERCIAL	
X CANYON LAND HOLDINGS LLC	36-7871	9/24/1979	1	IRRIGATION, STOCKWATER, COMMERCIAL	40

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
RADLEY, DAWN ANN; BRADLEY, R BRUCE	36-8112	9/7/1982	0.04	IRRIGATION, COMMERCIAL, DOMESTIC	1
RANCHFLOWER, KATHERINE L; RANCHFLOWER, MICHAEL G	36-8581	3/13/1991	0.74	IRRIGATION	39
RANDSMA, ANN; BRANDSMA, HILL A	36-16022	6/7/1965	0.53	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16024	2/26/1973	0.4	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16026	8/2/1973	0.65	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16028	5/28/1974	0.21	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16030	2/4/1976	0.19	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16032	2/22/1978	0.61	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16034	12/11/1978	0.05	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16036*	5/1/1985	0.18	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16038	12/11/1969	1.81	IRRIGATION	318
RANDSMA, ANN; BRANDSMA, HILL A	36-16083	1/10/1973	2.56	IRRIGATION	198.8
RANDSMA, ANN; BRANDSMA, HILL A	36-7208	11/10/1971	3.68	IRRIGATION	184
RANDSMA, ANN; BRANDSMA, HILL A	36-7353	7/18/1973	1.98	IRRIGATION	99
RANDSMA, ANN; BRANDSMA, HILL A	36-7574	10/30/1975	1.5	IRRIGATION	108
RANDSMA, ANN; BRANDSMA, HILL A	36-7576	11/17/1975	1.97	IRRIGATION	140
RANDSMA, ANN; BRANDSMA, HILL A	36-7799	6/27/1978	0.8	IRRIGATION	40
RANDSMA, ANN; BRANDSMA, HILL A	36-8140	1/21/1983	0.11	STOCKWATER, COMMERCIAL	
RANDSMA, DEBRA K; BRANDSMA, ENNETH A	36-7513	11/29/1974	1.73	IRRIGATION	152
RANDSMA, DEBRA K; BRANDSMA, ENNETH A	36-8252D	10/17/1984	0.52	STOCKWATER, COMMERCIAL	
RANDSMA, DEBRA K; BRANDSMA, ENNETH A	36-8787	1/22/1999	1.05	IRRIGATION	152
RANDSMA, HILL A	36-8063D	3/18/1982	0.28	STOCKWATER, COMMERCIAL	
RETZ, WAYNE E	37-7376	8/14/1974	0.09	IRRIGATION, STOCKWATER, DOMESTIC	5
RINEGEAR, ELVIN E; BRINEGEAR, VIRGINIA	36-7113	1/30/1970	3.27	IRRIGATION	314
ROUGH, SHERRY K; BROUGH, WILDE F	36-16697	7/12/1964	0.16	IRRIGATION	18
ROWN II, ROBERT BURTON; BROWN, ARIA CHRISTENSEN	45-14187	9/7/1967	0.02	IRRIGATION	3
ROWN II, ROBERT BURTON; BROWN, ARIA CHRISTENSEN	45-14189*	3/15/1968	0.01	IRRIGATION	3
ROWN, AUSTIN; BROWN, REED	36-7484	6/12/1974	0.18	IRRIGATION, DOMESTIC	13
ROWN, HEATHER; BROWN, WAYNE	36-15739	12/3/1966	0.1	STOCKWATER, COMMERCIAL	
ROWN, HEATHER; BROWN, WAYNE	36-15741	10/18/1968	0.13	STOCKWATER, COMMERCIAL	
ROWN, HEATHER; BROWN, WAYNE	36-15743	2/18/1971	0.05	STOCKWATER, COMMERCIAL	
ROWN, JAY A; BROWN, MARIE H	36-2611	4/12/1965	4.43	IRRIGATION	309.8
ROWN, JAY A; BROWN, MARIE H	36-8111	8/20/1982	0.76	IRRIGATION	309.8
ROWNING FAMILY LLC	36-10123*	4/1/1977	1.78	IRRIGATION	429
ROWNING FAMILY LLC	36-7038B	9/24/1968	0.42	IRRIGATION	429
JERKLE, ARLEN E; BUERKLE, MARY LEE	36-8519	4/10/1990	0.09	IRRIGATION, COMMERCIAL	1.5
JRLEY IRRIGATION DISTRICT	45-7720	9/27/1993	0.09	DOMESTIC	
JRLEY WEST INVESTMENTS LLC	45-13522*	3/15/1976	1.05	IRRIGATION	358.6
JRTON, JERRY; BURTON, SUZANNE	36-8181	4/28/1983	0.09	IRRIGATION, DOMESTIC	1.5
JSMAN, JOHN R; BUSMAN, SHERRY A	36-10640	6/1/1978	0.04	STOCKWATER, DOMESTIC	
JSMAN, JOHN R; BUSMAN, SHERRY A	36-15569	2/18/1971	0.07	STOCKWATER, COMMERCIAL	
JSMAN, JOHN R; BUSMAN, SHERRY A	36-15571	10/18/1968	0.16	STOCKWATER, COMMERCIAL	
JSMAN, JOHN R; BUSMAN, SHERRY A	36-15573	12/3/1966	0.12	STOCKWATER, COMMERCIAL	

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Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ISMAN, JOHN R; BUSMAN, SHERRY A	36-16182	1/7/1974	0.04	STOCKWATER, COMMERCIAL	
ISMAN, JOHN R; BUSMAN, SHERRY A	37-21134	1/7/1974	0.31	IRRIGATION, MITIGATION	18.9
ITTARS FAMILY LIMITED PARTNERSHIP	36-8453	9/21/1989	0.04	COMMERCIAL	
ITTERFIELD, LEE	45-7136	5/14/1973	0.2	IRRIGATION	10
ITTERFIELD, LEE	45-7200	11/19/1974	0.33	IRRIGATION	29
IXTON, ANNA LEE; BUXTON, BILL W	36-7496	8/13/1974	0.33	IRRIGATION	27
DE KRUYF DAIRY PARTNERSHIP	36-15993	7/31/1974	0.52	IRRIGATION	116
DE KRUYF DAIRY PARTNERSHIP	36-7491	7/31/1974	1.64	IRRIGATION	120
DE KRUYF DAIRY PARTNERSHIP	36-8539	4/13/1990	0.27	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	1
LDERON, DAVID	36-8463	9/18/1989	0.02	COMMERCIAL	
LKINS, LAWRENCE L	37-20382	3/1/2001	0.07	DOMESTIC	
LKINS, LAWRENCE L	37-20383	3/12/2001	0.07	DOMESTIC	
LKINS, LAWRENCE L	37-22596	2/15/2011	0.07	DOMESTIC	
LKINS, LAWRENCE L; CALKINS, SANDRA L	37-21384	12/6/2004	0.07	DOMESTIC	
LLEN, JERRY; CALLEN, PATRICIA	36-14324	11/15/1962	0.09	IRRIGATION	617
LLEN, JERRY; CALLEN, PATRICIA	36-7384	10/4/1973	2.26	IRRIGATION	130
LLEN, JERRY; CALLEN, PATRICIA	36-7975	3/20/1981	0.03	STOCKWATER	
LVARY BAPTIST CHURCH	45-14172	11/15/1970	0.02	IRRIGATION	
LVARY BAPTIST CHURCH	45-14173	5/16/1980	0.01	IRRIGATION	
LVARY BAPTIST CHURCH	45-14174	5/26/1971	0.01	IRRIGATION	
MPBELL JR, FRANCIS W	36-2707	1/5/1966	4.58	IRRIGATION	325
MPBELL, ANNIE M; CAMPBELL, WILLIAM Y	36-8535	4/12/1990	0.13	IRRIGATION, DOMESTIC	4
NYONSIDE DAIRY	36-7947	11/28/1980	0.13	IRRIGATION, STOCKWATER, DOMESTIC	4
RLQUIST BROTHERS	36-7527	3/26/1975	0.6	IRRIGATION	528.5
RNEY FARMS	36-16395	12/8/1981	0.62	IRRIGATION	524
RNEY FARMS	36-2634	2/15/1966	2.2	IRRIGATION	117
RNEY FARMS	36-7025	11/21/1966	1.88	IRRIGATION	310
RNEY FARMS	36-7501	9/18/1974	0.8	IRRIGATION	40
RNEY FARMS	36-7949	2/4/1981	1.41	IRRIGATION	524
RNEY, BARBARA J; CARNEY, GARY	36-7408	11/21/1973	1.84	IRRIGATION	779
RNEY, BARBARA J; CARNEY, GARY	36-7560	3/3/1976	5.45	IRRIGATION	779
RNEY, BARBARA J; CARNEY, GARY	36-7603	1/29/1976	1.76	IRRIGATION	779
RRELL, F DUANE	36-8342	1/5/1988	0.02	COMMERCIAL	
RRILLO, CUTBERTO	36-8407	1/19/1989	0.08	IRRIGATION, DOMESTIC	3
SA DEL NORTE LP	37-7081	12/8/1970	1.67	IRRIGATION	840
SSIA COUNTY JOINT SCHOOL DISTRICT 51	45-7207	3/22/1975	0.36	IRRIGATION	18
SSIA COUNTY JOINT SCHOOL DISTRICT 51	45-7208	12/19/1974	0.22	IRRIGATION	11
SSIA COUNTY JOINT SCHOOL DISTRICT 51	45-7236	4/28/1975	0.13	IRRIGATION	6.6
SSIA COUNTY JOINT SCHOOL DISTRICT 51	45-7741	11/12/1998	0.45	IRRIGATION	11.7
STLE, NICOLE R; CASTLE, SCOTT A	37-7621D	6/7/1977	0.77	IRRIGATION	39
TMULL, KAY E	36-8496	10/24/1989	0.03	COMMERCIAL	
NARRUSA, JANICE M; CENARRUSA, RRY	37-7517	9/7/1976	2.04	IRRIGATION	160

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ENARRUSA, JANICE M; CENARRUSA, ERRY	37-7593A	5/4/1977	2.2	IRRIGATION	110
ENARRUSA, JOHN L	37-7593B	5/4/1977	1.88	IRRIGATION	94
HAMBERS, DEANNA; CHAMBERS, FERRELL	36-7715	5/26/1977	3.63	IRRIGATION	257
HAMBERS, DEANNA; CHAMBERS, FERRELL	36-7885	12/28/1979	0.74	IRRIGATION	257
HISHOLM, DONALD J	45-7564	11/20/1984	0.02	HEATING, COOLING	
HRISTENSEN, PAUL; CHRISTENSEN, ERRY G	45-14186	9/7/1967	2.98	IRRIGATION	389.6
HRISTENSEN, PAUL; CHRISTENSEN, ERRY G	45-14188*	3/15/1968	0.17	IRRIGATION	389.6
HRISTIANSON FAMILY REVOCABLE TRUST	45-11180	6/30/1985	0.27	IRRIGATION	307
HURCH OF LIFE	36-8504	2/20/1990	0.01	STOCKWATER, DOMESTIC	
IOCCA, ANN A; CIOCCA, EDWARD M	36-7448	2/27/1974	2.23	IRRIGATION	139.1
IOCCA, ANN A; CIOCCA, EDWARD M	36-8219	6/30/1983	1.72	IRRIGATION	86
IOCCA, ANN A; CIOCCA, EDWARD M; ORTHWEST FARM CREDIT SERVICES FLCA	36-8672	9/23/1992	0.06	STOCKWATER	
IOCCA, TONY M; CIOCCA, TRINA A	36-8255	12/7/1984	1.16	IRRIGATION	154
IRCLE G LAND LLC	36-2672	12/16/1966	1.26	IRRIGATION	120
ITY OF BLISS	37-8886	11/24/1998	0.45	MUNICIPAL	
ITY OF BURLEY	36-2648A	4/6/1966	1.96	INDUSTRIAL	
ITY OF BURLEY	36-2648B	4/6/1966	0.7	INDUSTRIAL	
ITY OF BURLEY	36-2729	3/3/1964	0.56	INDUSTRIAL	
ITY OF BURLEY	36-4180	8/1/1962	0.02	IRRIGATION	0.5
ITY OF BURLEY	36-4181	9/8/1962	0.02	IRRIGATION	0.5
TY OF BURLEY	36-4182	10/1/1962	0.02	INDUSTRIAL	
ITY OF BURLEY	36-8154	2/24/1983	1.2	INDUSTRIAL	
ITY OF BURLEY	45-13411	10/22/2001	7.8	MUNICIPAL	
ITY OF BURLEY	45-2719	5/9/1966	0.3	INDUSTRIAL	
TY OF BURLEY	45-7002	8/24/1967	4	IRRIGATION, COMMERCIAL, DOMESTIC	107.6
TY OF BURLEY	45-7092	3/10/1972	0.44	MUNICIPAL	
TY OF BURLEY	45-7114	12/7/1972	0.18	MUNICIPAL	
ITY OF BURLEY	45-7269	5/25/1976	3.56	MUNICIPAL	
TY OF BURLEY	45-7436	2/15/1980	0.69	MUNICIPAL	
TY OF BURLEY	45-7686	2/11/1991	1.75	MUNICIPAL	
TY OF BURLEY	45-7735	9/3/1996	4.46	MUNICIPAL	
TY OF CAREY	37-20384	3/20/2001	0.7	MUNICIPAL	
TY OF CAREY	37-21243	12/25/2003	0.6	MUNICIPAL	
TY OF CAREY	37-21355	9/23/2004	1.29	MUNICIPAL	
TY OF CAREY	37-22661	8/18/2011	1.45	MUNICIPAL	
TY OF CAREY	37-7766	2/21/1979	0.71	MUNICIPAL	
TY OF DECLO	45-7726	2/16/1995	2.23	MUNICIPAL	
TY OF DIETRICH	37-22751	6/1/2012	0.2	MUNICIPAL	
TY OF GOODING	37-11221	4/20/1977	5.9	MUNICIPAL	
TY OF GOODING	37-7597	5/5/1977	1.07	IRRIGATION	78
TY OF HAZELTON	36-7634B	7/23/1976	0.14	IRRIGATION	7
TY OF HAZELTON	36-7858	6/12/1979	1	MUNICIPAL, DOMESTIC	
TY OF HEYBURN	36-8550	5/29/1990	6.67	MUNICIPAL	
TY OF HEYBURN	36-8738	5/22/1995	3.3	MUNICIPAL	

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TY OF JEROME	36-16937	4/12/1965	0.03	IRRIGATION	2.2
TY OF JEROME	36-16938	8/20/1982	0.01	IRRIGATION	2.2
TY OF JEROME	36-8234	1/11/1984	1.23	IRRIGATION, COMMERCIAL, DOMESTIC, RECREATION	14
TY OF JEROME	36-8237	12/22/1983	2.71	MUNICIPAL	
TY OF PAUL	36-7206	8/9/1971	1.06	MUNICIPAL	
TY OF PAUL	36-7899	2/27/1980	0.78	MUNICIPAL	
TY OF PAUL	36-8763	10/18/1999	2.75	MUNICIPAL	
TY OF RICHFIELD	37-22431	1/13/2009	1.19	MUNICIPAL	
TY OF RICHFIELD	37-8402	9/22/1988	1.63	MUNICIPAL	
TY OF RUPERT	36-7115	3/15/1970	2.4	MUNICIPAL	
TY OF RUPERT	36-7656	9/18/1962	3.44	MUNICIPAL	
TY OF RUPERT	36-7862	10/11/1985	1.15	MUNICIPAL	
TY OF RUPERT	36-7863	6/30/1979	3.83	MUNICIPAL	
TY OF SHOSHONE	37-7432	5/6/1975	2	MUNICIPAL	
TY OF SHOSHONE	37-7662	8/30/1977	2.01	MUNICIPAL	
TY OF WENDELL	36-7440	2/6/1974	0.22	INDUSTRIAL	
TY OF WENDELL	36-7722	6/20/1977	2.67	MUNICIPAL	
TY OF WENDELL	36-8421	9/14/1998	2.76	MUNICIPAL	
TY OF WENDELL	36-8764	3/28/1997	1.27	MUNICIPAL	
ARK, BETTE L; CLARK, RAYMOND G	36-15253*	3/15/1985	0.34	IRRIGATION	211
ARK, BETTE L; CLARK, RAYMOND G	36-7644	9/22/1976	3.34	IRRIGATION	211
ARK, CHERRY A; CLARK, DENNIS D	37-20950	2/18/1971	0.03	COMMERCIAL	
ARK, CHERRY A; CLARK, DENNIS D	37-21117	10/18/1968	0.06	COMMERCIAL	
ARK, CHERRY A; CLARK, DENNIS D	37-21118	12/3/1966	0.05	COMMERCIAL	
ARK, RAYMOND G	36-8286	6/26/1985	0.21	IRRIGATION	225
AYSON, CASEY; CLAYSON, SHANE	45-7496	1/27/1982	0.06	IRRIGATION, DOMESTIC	0.7
AYTON, CARRIE L; CLAYTON, DOUGLAS M	45-13400	7/7/1986	0.06	IRRIGATION	2
IFFORD SEARLE FAMILY TRUST	45-14415	5/4/1978	0.65	IRRIGATION	4389
IFFORD SEARLE FAMILY TRUST	45-7118	1/8/1973	2.4	IRRIGATION	4389
OYD R SEARLE FAMILY TRUST	45-14412	1/8/1973	2.4	IRRIGATION	4389
OYD R SEARLE FAMILY TRUST	45-14416	5/4/1978	0.66	IRRIGATION	4389
IOSSEN BROTHERS CO INC	36-7109	12/3/1969	0.27	IRRIGATION, STOCKWATER	14
IOSSEN BROTHERS CO INC	36-7292	1/23/1973	0.28	STOCKWATER	
IOSSEN BROTHERS CO INC	36-8264	6/30/1969	0.1	STOCKWATER, DOMESTIC	
IOSSEN BROTHERS CO INC	36-8468	9/26/1989	0.86	COMMERCIAL	
IOSSEN BROTHERS CO INC; NORTHWEST RM CREDIT SERVICES FLCA	36-8417	3/1/1989	0.76	STOCKWATER, DOMESTIC	
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-2687B	3/8/1963	0.19	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7191	1/5/1973	4.61	IRRIGATION	351
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7198B	1/29/1973	0.74	STOCKWATER, COMMERCIAL	
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7198C	1/29/1973	0.1	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7315A	11/7/1973	3.05	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7379	9/21/1974	3.96	IRRIGATION	300
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7419D	1/29/1975	0.18	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7420A	1/29/1975	1.48	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7420B	1/29/1975	0.58	STOCKWATER, COMMERCIAL	
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7435B	4/22/1975	0.06	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7438	5/13/1975	3	IRRIGATION	153
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7440B	5/31/1974	0.13	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7470	12/9/1975	3.12	IRRIGATION	422
)LEMAN, CAROLYN F; COLEMAN, GARY R	37-7476	1/7/1976	1.4	IRRIGATION	300

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OLEMAN, CAROLYN F; COLEMAN, GARY R	37-7545	2/1/1977	0.18	STOCKWATER, COMMERCIAL	
OLEMAN, CAROLYN F; COLEMAN, GARY R	37-7639B	7/8/1977	0.13	IRRIGATION	422
OMMONS, RAY L	36-7296	4/11/1973	3.81	IRRIGATION	238
OOK, TYSON; COOK, VALERIE B	36-7927	7/15/1980	0.07	IRRIGATION, DOMESTIC	1
OOMBS, MICHAEL R	36-15565	2/5/2001	0.08	DOMESTIC	
ORP OF THE PRESIDING BISHOP	36-7782	3/10/1978	2.43	IRRIGATION	132
ORP OF THE PRESIDING BISHOP	36-8145	2/14/1983	0.04	IRRIGATION, DOMESTIC	0.5
ORP OF THE PRESIDING BISHOP	36-8428	6/7/1989	0.02	IRRIGATION	0.5
ORP OF THE PRESIDING BISHOP	36-8429	6/7/1989	0.12	IRRIGATION	4
ORP OF THE PRESIDING BISHOP	36-8430	6/7/1989	0.04	IRRIGATION, DOMESTIC	0.8
ORP OF THE PRESIDING BISHOP	37-7076	10/24/1988	0.09	IRRIGATION, DOMESTIC	1
ORP OF THE PRESIDING BISHOP	45-10984	6/30/1985	0.78	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-11867	6/30/1985	0.29	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-13471	6/30/1985	0.69	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-13472	6/30/1985	0.7	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-13781	6/30/1985	2.43	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-13782	6/30/1985	1.47	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-13798	6/30/1985	0.2	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-13811	6/30/1985	0.93	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-2702A	2/17/1964	0.87	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-2702B	2/17/1964	0.99	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-2702C	2/17/1964	0.56	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-4216A	6/30/1985	4.99	IRRIGATION	7502
ORP OF THE PRESIDING BISHOP	45-7130	4/16/1973	0.02	IRRIGATION	1
ORP OF THE PRESIDING BISHOP	45-7535	6/10/1983	0.08	IRRIGATION	2.5
OUNTRY CLUB ESTATES WATER ASSN INC	36-8607	11/18/1991	0.5	STOCKWATER, DOMESTIC, FIRE PROTECTION	
OX FAMILY FARMS LLC	36-7006	10/30/1967	1.4	IRRIGATION	70
RANE, CALVIN C	45-7303	5/10/1977	1.28	IRRIGATION, STOCKWATER	62
RANE, DANFORD L; CRANE, LARAE	45-4067B	8/1/1962	1.46	IRRIGATION	73
RANE, SARA D	36-7011A	11/27/1967	1.01	IRRIGATION	79
RANE, SARA D	36-7011B	11/27/1967	1.71	IRRIGATION	133
RANE, SARA D	36-8282	6/13/1985	2	IRRIGATION	108
RANER, DAVID A; CRANER, HELEN B	45-7442	4/4/1980	0.12	IRRIGATION	4
RANNEY BROTHERS	45-13550	6/30/1985	8.14	IRRIGATION	3605
RANNEY BROTHERS	45-13585	9/17/1970	21	IRRIGATION	1693
RANNEY BROTHERS	45-7055	5/1/1970	6.04	IRRIGATION	3605
RANNEY BROTHERS	45-7064	5/14/1970	5.44	IRRIGATION	3605
RANNEY BROTHERS	45-7150	8/17/1973	6.2	IRRIGATION, STOCKWATER	3605
RANNEY BROTHERS	45-7242	6/27/1975	4.8	IRRIGATION	3605
RANNEY BROTHERS	45-7307	5/11/1977	4.48	IRRIGATION	3605
RANNEY FARMS	45-7052	6/5/1970	6.3	IRRIGATION	315
RANNEY LAND CO LLC	45-13997	2/26/1970	3.38	IRRIGATION	255
RANNEY LAND CO LLC	45-13999	1/7/1975	1.72	IRRIGATION	255
RANNEY RANCHES	45-13599*	6/11/1981	0.42	IRRIGATION	344
RANNEY RANCHES	45-7053	6/22/1970	4.41	IRRIGATION	344
RESPO TRUCKING INC	37-8355	8/9/1988	0.04	COMMERCIAL, DOMESTIC	
RESPO, ATILANO	37-7694	1/9/1978	0.1	IRRIGATION	5
ROCKER, BRENT; CROCKER, TONIA	36-8375	7/18/1988	0.04	IRRIGATION, DOMESTIC	2
ULLEY, JUDITH; CULLEY, RYAN D	36-8563	10/18/1990	0.07	IRRIGATION, DOMESTIC	1
M F INC	36-7222	2/1/1972	4.57	IRRIGATION	296
ALLEY, RICHARD B; DALLEY, SHAUNA H	36-16129	11/8/1973	1.24	IRRIGATION	813.6

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\LLEY, RICHARD B; DALLEY, SHAUNA H	36-4263*	3/15/1974	0.74	IRRIGATION	352
\NSIE, BERTHA D; DANSIE, ELVOY H	37-8363	8/6/1988	0.05	STOCKWATER, COMMERCIAL, DOMESTIC	
\RRINGTON, DENTON C; DARRINGTON, RGENE L	45-7124	1/29/1973	1.58	IRRIGATION	79
\RRINGTON, MARK L; DARRINGTON, :RLA	45-7249	10/28/1975	4.54	IRRIGATION	227
\RRINGTON, MARK L; DARRINGTON, :RLA	45-7501	4/7/1982	2	IRRIGATION	108
\RRINGTON, MARK L; DARRINGTON, :RLA	45-7551	7/26/1983	0.6	IRRIGATION	30
\RRINGTON, MARK L; KOEPNICK, KENNY KOEPNICK, TAMMERA L	45-7455	10/30/1980	0.11	IRRIGATION	5.8
\RRINGTON, MARK L; KOEPNICK, KENNY KOEPNICK, TAMMERA L	45-7552A	7/19/1983	0.19	IRRIGATION, DOMESTIC	10
\RRINGTON, ROBERT	45-7119	1/12/1973	2.56	IRRIGATION	128
\VIDSON, JOSEPH E	36-8790	4/12/1999	0.05	DOMESTIC	
\VIS, STACI ; DAVIS, TRENT W	36-7457	3/20/1974	1.18	IRRIGATION	59
\VIS, STACI ; DAVIS, TRENT W	36-7458	3/20/1974	0.8	IRRIGATION	40
3 V PARTNERSHIP	36-16952	9/26/1963	5.34	IRRIGATION	287.8
)ARK PROPERTIES	36-8441A	9/12/1989	0.04	IRRIGATION	1
)ARK PROPERTIES	36-8441B	9/12/1989	0.02	COMMERCIAL	
: FILIPPIS, EARL H; DE FILIPPIS, JOAN A	36-7864	6/18/1979	0.03	IRRIGATION	1
: KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-10082A*	3/15/1976	0.21	IRRIGATION	162.7
: KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-8530	4/5/1990	0.54	STOCKWATER, COMMERCIAL, DOMESTIC	
: KRUYF, CALVIN; DE KRUYF, MARK A	36-10082B	3/15/1976	0.06	STOCKWATER, COMMERCIAL	
: KRUYF, CALVIN; DE KRUYF, MARK A	36-8481	12/4/1989	0.34	STOCKWATER	
: MOSS, GARY A; DE MOSS, HELEN	37-22168	9/20/1974	1.73	IRRIGATION, STOCKWATER	808
: WIT DAIRY	36-8661	5/21/1992	0.26	STOCKWATER, COMMERCIAL	
: WIT, MELINDA; DE WIT, NEIL	36-2658	9/3/1966	1.23	IRRIGATION	80
: WIT, MELINDA; DE WIT, NEIL	36-7714B	5/19/1977	1.44	IRRIGATION	144
: WIT, NEIL	36-7714A	5/19/1977	2.79	IRRIGATION	188
: WIT, NEIL	36-8388	5/8/2003	0.17	STOCKWATER, COMMERCIAL	
: WOLFE, HARRY G; DE WOLFE, LORI	36-2588	2/20/1964	2.02	IRRIGATION	101
: WOLFE, HARRY G; DE WOLFE, LORI	36-7303	3/16/1973	1.11	IRRIGATION	70
:L RIO ESTATES HOMEOWNERS ASSN INC	45-7647	6/6/1989	0.2	DOMESTIC	
:LIS FARMS INC	36-2629	10/27/1965	3.82	IRRIGATION	1275
:LIS FARMS INC	36-2716	7/18/1966	4.52	IRRIGATION	1275
:LIS FARMS INC	36-7311	3/5/1973	4.46	IRRIGATION	1275
:LIS FARMS INC	36-7371	8/23/1973	2.9	IRRIGATION	1275
:LIS FARMS INC	36-7652	10/29/1976	5.06	IRRIGATION	283
:LIS FARMS INC	36-8489	10/11/1989	0.02	COMMERCIAL	
:VELOPMENT WEST CORPORATION	37-8379	8/22/1988	0.36	IRRIGATION, DOMESTIC	17
:WIT DAIRY PARTNERSHIP	36-8491	10/31/1989	0.33	STOCKWATER, COMMERCIAL	
\MOND A LIVESTOCK INC	37-21490	1/29/1965	3.16	IRRIGATION	158
\MOND A LIVESTOCK INC	37-21491	1/29/1965	0.04	COMMERCIAL	
\MOND A LIVESTOCK INC	37-21492	6/1/1971	0.04	COMMERCIAL	
:KINSON, DALE; DICKINSON, MARSHA	36-8681	10/16/1992	0.03	IRRIGATION, DOMESTIC	1
_WORTH, ARLEN S; DILWORTH, CARMENE	37-22450	11/25/1962	0.78	IRRIGATION	39

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LWORTH, ARLEN S; DILWORTH, CARMENE	37-2680B	3/29/1963	1.08	IRRIGATION	73
LWORTH, PAMLA; DILWORTH, REED W	36-8114	6/16/1982	0.04	IRRIGATION, DOMESTIC	3
MOND, CAROLYN T; DIMOND, HAROLD S	36-7401	11/7/1973	3.52	IRRIGATION	343
MOND, DEAN T; DIMOND, EDEN C	36-7614	5/8/1976	1.26	IRRIGATION	322
NIS, MANUEL A; DINIS, MARIA	36-10656	3/1/1981	0.04	STOCKWATER, COMMERCIAL	
NIS, MANUEL A; DINIS, MARIA	36-7460S	3/25/1974	0.11	STOCKWATER, COMMERCIAL	
NOS LLC; DINOS LLC	36-8680	10/21/1992	0.1	DOMESTIC	
OUBLE A DAIRY	37-22613	9/29/1976	0.1	IRRIGATION	335.1
OUBLE A DAIRY	37-22614	9/29/1976	0.19	STOCKWATER, COMMERCIAL	
OUBLE A DAIRY	37-7533B	9/29/1976	0.12	STOCKWATER, COMMERCIAL	
OUBLE V LLC	36-7023	4/15/1968	1.14	IRRIGATION, STOCKWATER	56
OUBLE V LLC	36-7582	1/1/1976	1.6	IRRIGATION	138
OUBLE V LLC	36-8247	6/12/1984	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
OUBLE V LLC	36-8543	6/15/1990	0.08	STOCKWATER, COMMERCIAL	
OUBLE V LLC	37-7213	3/28/1973	5.02	IRRIGATION, STOCKWATER	283
OUBLE V LLC	37-7214	3/28/1973	2.9	IRRIGATION	218
OUBLE V LLC	37-7453	8/27/1975	2.14	IRRIGATION, STOCKWATER	146
OUBLE V LLC	37-8756A	2/4/1987	2.41	IRRIGATION	146.5
OUBLE V LLC	37-8756B	2/4/1987	2.41	IRRIGATION	146.5
OUBLE V LLC	37-8757	2/4/1987	2.56	IRRIGATION	160
OUBLE V LLC; VANDERVEGT, RAY	36-7460G	3/25/1974	0.19	IRRIGATION	32
OUBLE V LLC; VANDERVEGT, RAY	36-7547B	5/13/1975	0.09	STOCKWATER, COMMERCIAL	
OUBLE V LLC; VANDERVEGT, RAY	36-8047B	12/9/1981	0.17	STOCKWATER, COMMERCIAL	
OUBLE V LLC; VANDERVEGT, RAY	36-8047D	12/9/1981	0.26	STOCKWATER, COMMERCIAL	
OUBLE V LLC; VANDERVEGT, RAY	36-8047E	12/9/1981	0.8	IRRIGATION	81
OUBLE V LLC; VANDERVEGT, RAY	36-8047F	12/9/1981	0.09	STOCKWATER, COMMERCIAL	
OUBLE V LLC; VANDERVEGT, RAY	36-8313B	8/20/1986	0.32	IRRIGATION	16
RAKOS, CHRIS	45-13469	6/30/1985	0.16	IRRIGATION	318
RISCOLL BROTHERS PARTNERSHIP	36-7333	4/27/1973	0.04	INDUSTRIAL	
RISCOLL BROTHERS PARTNERSHIP	36-8466	10/4/1989	0.03	COMMERCIAL	
UFFIN, DON D	45-7696	1/3/1992	0.02	IRRIGATION	0.5
UGAN FAMILY FARMS LLC	36-7704A	5/12/1977	1.58	IRRIGATION	79
UGAN FAMILY FARMS LLC	36-7704B	5/12/1977	0.18	STOCKWATER, COMMERCIAL	
UNCAN PARTNERSHIP TRUST	45-7108B	5/11/1972	2.4	IRRIGATION	134.2
UNCAN PARTNERSHIP TRUST	45-7232C	3/13/1975	0.17	IRRIGATION	274
UNCAN PARTNERSHIP TRUST; DUNCAN, ATHY F; DUNCAN, PAUL H	36-13531*	4/1/1979	0.42	IRRIGATION	341
UNCAN PARTNERSHIP TRUST; DUNCAN, ATHY F; DUNCAN, PAUL H	36-15458*	12/31/1978	0.05	IRRIGATION	158
UNCAN PARTNERSHIP TRUST; DUNCAN, ATHY F; DUNCAN, PAUL H	36-2678	1/11/1967	2.45	IRRIGATION	158
UNCAN PARTNERSHIP TRUST; DUNCAN, ATHY F; DUNCAN, PAUL H	36-7294	1/30/1973	2.12	IRRIGATION	160
UNCAN PARTNERSHIP TRUST; DUNCAN, ATHY F; DUNCAN, PAUL H	36-7356A	7/24/1973	0.35	IRRIGATION	35
UNCAN PARTNERSHIP TRUST; DUNCAN, ATHY F; DUNCAN, PAUL H	36-7356D	7/24/1973	1.81	IRRIGATION	158
UNCAN PARTNERSHIP TRUST; PKD ROPERTIES LC	36-15200*	3/15/1980	1.01	IRRIGATION	296

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Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
JNCAN PARTNERSHIP TRUST; PKD ROPERTIES LC	36-15979	3/13/1975	0.02	IRRIGATION	256
JNCAN PARTNERSHIP TRUST; PKD ROPERTIES LC	36-15980	3/13/1975	0.24	IRRIGATION	256
JNCAN PARTNERSHIP TRUST; PKD ROPERTIES LC	36-15981	2/10/1981	0.65	IRRIGATION	256
JNCAN, JACK F; WALTON, DANIEL C	45-7658	7/8/1989	0.02	COMMERCIAL	
JNCAN, KATHY F; DUNCAN, PAUL H	45-4241B*	8/20/1976	0.3	IRRIGATION	271
JRAND, DANIEL G; DURAND, VICKY S	37-8410	10/4/1988	0.03	STOCKWATER, COMMERCIAL, DOMESTIC	
JRFEE, BRENDA J; DURFEE, JAMES M	36-8367	6/21/1988	0.11	STOCKWATER, COMMERCIAL	
JRFEE, DEWEY D	36-7641	5/19/1983	1.19	IRRIGATION	64
JTCHMEN MANUFACTURING INC	45-7512	9/28/1982	1.57	COMMERCIAL	
GLE CREEK NORTHWEST LLC	45-7111	9/27/1972	6.69	IRRIGATION, STOCKWATER	513
GLE CREEK NORTHWEST LLC	45-7134	6/11/1973	1.9	IRRIGATION	128
GLE CREEK NORTHWEST LLC	45-7140	6/8/1973	1.93	IRRIGATION	140
MES ACRES	36-2683	2/20/1967	0.55	IRRIGATION	36
MES ACRES INC	36-2628A	9/30/1965	5.63	IRRIGATION	296
MES, CARI H; EAMES, TIMOTHY R	36-7182	6/29/1971	0.15	IRRIGATION	160
MES, CARI H; EAMES, TIMOTHY R	36-7460N	3/25/1974	0.2	STOCKWATER, COMMERCIAL	
MES, CARI H; EAMES, TIMOTHY R	36-8231	9/27/1983	0.04	RECREATION	
ST RIDGE MILK LLC	45-14020	2/10/1981	0.04	STOCKWATER	
ST RIDGE MILK LLC	45-7462B	2/10/1981	0.22	STOCKWATER	
DINGS, RE NAE; SPURGEON-EDDINGS, SON T	45-7615	6/17/1987	0.07	IRRIGATION, DOMESTIC	1
WARDS, KENT F	36-8628	11/26/1991	0.18	IRRIGATION, STOCKWATER, DOMESTIC	8
INS, CHRIS; EKINS, ERNESTINE	45-7634	4/12/1993	0.06	COMMERCIAL	
IASON APARTMENTS; ELIASON, DROTHY; ELIASON, IVAN L	36-12911	12/31/1962	0.1	COMMERCIAL	
TATE OF RAY CHUGG	36-8266	3/18/1985	0.12	STOCKWATER, COMMERCIAL, DOMESTIC	
TATE OF TED LENO	36-7607	2/20/1976	4.5	IRRIGATION	289
'CHEVERRY SHEEP CO	36-7059	5/9/1969	1.06	IRRIGATION	64
'ANS GRAIN & ELEVATOR CO	36-8436	9/8/1989	0.11	COMMERCIAL	
'ANS GRAIN & ELEVATOR CO	37-8573	11/6/1989	0.03	COMMERCIAL	
'ARD LLC	45-13573	5/19/2003	0.11	STOCKWATER, COMMERCIAL	
'ERS BROTHERS PARTNERSHIP; ORTHWEST FARM CREDIT SERVICES FLCA	36-8584	2/26/1991	2.08	IRRIGATION	144
'ERS, DARLENE; EVERS, J RAY	36-2584	12/30/1963	1.5	IRRIGATION	75
'ERS, DARLENE; EVERS, J RAY	36-7668	1/13/1977	1.22	IRRIGATION	76
RMLAND RESERVE INC	36-11278*	4/1/1977	2.55	IRRIGATION	1610
RMLAND RESERVE INC	36-15562	8/19/1965	1.37	IRRIGATION	307
RMLAND RESERVE INC	36-15564	2/26/1979	0.96	IRRIGATION	307
RMLAND RESERVE INC	36-7097	12/9/1969	6.02	IRRIGATION	505
RMLAND RESERVE INC	36-8239	1/12/1984	0.88	IRRIGATION	630
RMLAND RESERVE INC	45-14175	6/30/1985	1.03	IRRIGATION	3832.6
RMLAND RESERVE INC	45-2674A	9/11/1962	4.22	IRRIGATION	3832.6
RMLAND RESERVE INC	45-2689	11/9/1962	5.82	IRRIGATION	3832.6
RMLAND RESERVE INC	45-7020	4/6/1967	3.52	IRRIGATION	3832.6
RMLAND RESERVE INC	45-7035	2/28/1969	5.79	IRRIGATION	3832.6

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ARMLAND RESERVE INC	45-7110	9/18/1972	4	IRRIGATION, STOCKWATER	3832.6
ARMLAND RESERVE INC	45-7238	5/2/1975	6.4	IRRIGATION	3832.6
ARMLAND RESERVE INC	45-7363	1/8/1979	1.66	IRRIGATION	3832.6
ARMLAND RESERVE INC	45-7374	4/11/1979	3.1	IRRIGATION	3832.6
ASSETT, LYLE A	36-12650	3/15/1979	0.08	IRRIGATION	146
ASSETT, LYLE A	36-2664	9/22/1966	1.46	IRRIGATION	146
ASSETT, LYLE A	36-7268	10/3/1972	1.3	IRRIGATION	146
ASSETT, LYLE A	36-8046	12/11/1981	0.62	IRRIGATION	202.5
ASSETT, LYLE A	36-8446	9/26/1989	0.2	IRRIGATION	10
ATTIG, PATSY; FATTIG, WAYNE	36-7524	3/5/1975	4.36	IRRIGATION	232
ATTIG, PATSY; FATTIG, WAYNE	36-8637	12/6/1991	0.23	IRRIGATION	245
AULKNER LAND & LIVESTOCK CO INC	37-7242	6/14/1973	4	IRRIGATION	200
AULKNER LAND & LIVESTOCK CO INC	37-7808	11/16/1979	3.26	IRRIGATION	163
AULKNER LAND & LIVESTOCK CO INC	37-8005B	3/20/1982	2.02	IRRIGATION	264
AULKNER LAND & LIVESTOCK CO INC	37-8005C	3/20/1982	1.6	IRRIGATION	264
AULKNER LAND & LIVESTOCK CO INC	37-8005D	3/20/1982	0.41	IRRIGATION	264
AULKNER LAND & LIVESTOCK CO INC	37-8487D	1/25/1989	0.86	IRRIGATION	112
AULKNER LAND & LIVESTOCK CO INC	37-8720	4/23/1991	3.2	IRRIGATION	324
EARLESS FARRIS STINKER STATIONS	36-8332	10/12/1987	0.04	COMMERCIAL	
ED AGRIBUSINESS LLC	45-10164	6/30/1985	2.47	IRRIGATION	515
ED AGRIBUSINESS LLC	45-7201	11/18/1974	5.72	IRRIGATION	936
ELDS, KAREN C; FIELDS, VIRGIL	37-7699	2/23/1978	0.2	STOCKWATER, DOMESTIC	
RST PRESBYTERIAN CHURCH	45-7529	4/13/1983	0.03	IRRIGATION	1
AT TOP SHEEP CO	36-7021D	4/9/1968	2.42	IRRIGATION	447
AT TOP SHEEP CO	36-7138	9/24/1970	0.03	STOCKWATER	
AT TOP SHEEP CO	36-8273	7/4/1985	0.68	IRRIGATION	447
AT TOP SHEEP CO	36-8275A	5/9/1985	2.44	IRRIGATION	447
AT TOP SHEEP CO	36-8641	8/25/1983	0.08	STOCKWATER, DOMESTIC	
ORD, JOYCE A; FORD, THOMAS RAY	36-14617*	5/1/1982	0.9	IRRIGATION	378
ORD, JOYCE A; FORD, THOMAS RAY	36-14619*	5/1/1965	1.32	IRRIGATION	311
ORSYTH, DANNY R	36-16639	2/26/1980	1.1	IRRIGATION	59
ORSYTH, DANNY R; FORSYTH, GINGER	36-8531	4/24/1990	0.05	IRRIGATION, DOMESTIC	0.8
OSTER LAND & CATTLE	45-14453	11/29/1971	0.07	IRRIGATION	849
OSTER LAND & CATTLE	45-14454	11/29/1971	0.008	IRRIGATION	849
OUR + RANCH INC	37-8729	6/11/1991	2	IRRIGATION	120
OWLER, GARY L; SOMSEN, KRISTINE P; OMSEN-FOWLER, SARA D	45-2743	4/14/1966	0.78	IRRIGATION	39
OWLER, GARY; SOMSEN, G FRANK; OMSEN, KRISTINE P	45-7192	10/7/1974	0.36	IRRIGATION, STOCKWATER	18
RANCIS, MARK	36-8371	7/20/1988	0.06	IRRIGATION, DOMESTIC	2
RAZIER FAMILY TRUST DTD 6/19/80 4% NDIVIDED INT; FRAZIER, JAMES F; RAZIER, JEFFREY W; FRAZIER, JOE K; RAZIER, JORDAN P	36-7745	8/15/1977	4.5	IRRIGATION	292
RAZIER FAMILY TRUST DTD 6/19/80 4% NDIVIDED INT; FRAZIER, JAMES F; RAZIER, JEFFREY W; FRAZIER, JOE K; RAZIER, JORDAN P	36-8049	12/21/1981	0.94	IRRIGATION	47
REDERICKSEN, GENE D; FREDERICKSEN, JDI K	36-7359	9/27/1973	2.18	IRRIGATION	143
RENCH III, JAMES A; FRENCH, PATRICIA A	36-16404	11/14/1991	0.02	IRRIGATION, DOMESTIC	0.5
RENCH JR, JAMES A; FRENCH, KARI D	36-16405	11/14/1991	0.03	IRRIGATION, STOCKWATER	1.5

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NDERBURG, DENISE K; FUNDERBURG, ARY L	36-7357	8/26/1973	0.08	IRRIGATION, DOMESTIC	2
NK, DARRELL M	45-13657	1/1/1983	0.06	STOCKWATER	
NK, DARRELL M	45-4103	6/30/1985	1.6	IRRIGATION	305
NK, DARRELL M; FUNK, PATRICIA M	45-10228	5/31/1966	0.06	STOCKWATER	
NK, DARRELL M; FUNK, PATRICIA M	45-13910	8/19/1976	5.07	IRRIGATION	277
NK, DARRELL M; FUNK, PATRICIA M	45-13911	8/19/1976	0.64	STOCKWATER, COMMERCIAL	
NK, DARRELL M; FUNK, PATRICIA M	45-13917	6/8/1982	0.06	STOCKWATER, COMMERCIAL	
& B FARMS INC	37-2753	11/29/1966	2.95	IRRIGATION	372
& G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-14834	12/12/1979	0.04	DOMESTIC	
& G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-15745	12/3/1966	0.28	STOCKWATER, COMMERCIAL	
& G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-15747	10/18/1968	0.36	STOCKWATER, COMMERCIAL	
& G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-15749	2/18/1971	0.15	STOCKWATER, COMMERCIAL	
& G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-8532	4/10/1990	0.18	STOCKWATER	
& H DAIRY LLC	36-7409A	11/21/1973	2.19	IRRIGATION	268
& H DAIRY LLC	36-7631A	6/23/1976	3.17	IRRIGATION	268
& H DAIRY LLC	36-7847	3/28/1979	0.56	STOCKWATER, COMMERCIAL	
& H DAIRY LLC	36-8396	10/20/1992	0.2	STOCKWATER, COMMERCIAL	
LLEGOS, GEORGE	36-8201	5/31/1983	0.12	IRRIGATION, DOMESTIC	5.5
LOW, MOLLY; GALOW, ROGER A	36-8448	9/28/1989	0.05	IRRIGATION	1.5
RDNER TRUST	36-16590	2/29/1968	0.05	IRRIGATION	7
RDNER TRUST	36-16841	3/13/1989	0.05	IRRIGATION	20
RDNER TRUST	36-16845	3/7/1966	0.06	IRRIGATION	20
RDNER TRUST	36-16847	7/13/1987	0.01	IRRIGATION	20
RDNER TRUST	36-16853	9/27/1968	0.04	IRRIGATION	20
RDNER TRUST	36-16855	4/6/1978	0.01	IRRIGATION	20
RDNER TRUST	36-2694A	6/17/1967	0.82	IRRIGATION	354
RDNER TRUST	36-7053	2/20/1969	3.75	IRRIGATION	354
RDNER TRUST	36-7479	7/8/1974	0.65	IRRIGATION	354
RDNER TRUST	36-7588	1/12/1976	0.4	IRRIGATION	354
RNER, BEVERLY; GARNER, GARY B	36-12043*	7/31/1987	0.25	IRRIGATION	308
RNER, ELDON I; GARNER, MARIE	36-8195	9/1/1989	0.08	IRRIGATION, DOMESTIC	1.5
RRARD, KATHLEEN; GARRARD, THOMAS	45-12460A	6/30/1985	0.46	IRRIGATION	149
RRARD, KATHLEEN; GARRARD, THOMAS	45-12460B	6/30/1985	0.47	IRRIGATION	151
D LLC	36-8467	12/15/1989	0.12	COMMERCIAL	
RMAN, DONALD H	36-7460X	3/25/1974	0.25	STOCKWATER, COMMERCIAL	
RRATT, BECKY ANN; GERRATT, DALE AYNE	36-15995	11/27/1964	0.61	STOCKWATER, COMMERCIAL	
BBY, REED	45-13990	2/10/2006	0.09	DOMESTIC	
LETTE, CINDY L; GILLETTE, LARRY R	37-2761A	7/14/1967	1.64	IRRIGATION	130.5
LETTE, CINDY L; GILLETTE, LARRY R	37-8742	3/28/1991	4.21	IRRIGATION	995.5
LETTE, CINDY; GILLETTE, RANDY	36-11412*	4/1/1984	0.84	IRRIGATION	1108
LETTE, CINDY; GILLETTE, RANDY	36-2600	1/20/1965	6.55	IRRIGATION	1108
LETTE, CINDY; GILLETTE, RANDY	36-7046	12/9/1968	2.98	IRRIGATION	1108
LETTE, CINDY; GILLETTE, RANDY	36-7212A	11/29/1971	0.69	IRRIGATION	196

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
LLETTE, CINDY; GILLETTE, RANDY	36-7435	1/25/1974	5.03	IRRIGATION	1108
LLETTE, JERRY; GILLETTE, ROANNE	36-11413*	4/1/1984	0.13	IRRIGATION	274
LLETTE, JERRY; GILLETTE, ROANNE	36-2669	1/9/1967	3.53	IRRIGATION	274
LLETTE, JERRY; GILLETTE, ROANNE	36-7212B	11/29/1971	0.54	IRRIGATION	162
LLETTE, JERRY; GILLETTE, ROANNE	36-7626	6/3/1976	5.14	IRRIGATION	308
LLETTE, LARRY R	37-2697	7/2/1964	3.25	IRRIGATION	194
LLETTE, LARRY R	37-2729	3/13/1966	4.4	IRRIGATION, STOCKWATER	295
LLETTE, PERRY	36-7340	6/15/1973	2.92	IRRIGATION	146
LLETTE, PERRY	36-7542	5/7/1975	5.36	IRRIGATION	268
LLEY, KAREN; GILLEY, PHILLIP N	36-8018	11/12/1981	0.06	IRRIGATION, COMMERCIAL, DOMESTIC	0.5
LTNER DAIRY LLC	36-4089	1/1/1963	0.06	COMMERCIAL, DOMESTIC	
LTNER, HOLLY L; GILTNER, SCOTT R; CCOY, LUKE; MCCOY, TANI; PITTOCK, RIAN M; PITTOCK, SANDY L	36-14988	12/31/1983	0.07	STOCKWATER, COMMERCIAL, DOMESTIC	
ILTNER, HOLLY L; GILTNER, SCOTT R; CCOY, LUKE; MCCOY, TANI; PITTOCK, RIAN M; PITTOCK, SANDY L	36-7460AG	3/25/1974	0.18	STOCKWATER, COMMERCIAL	
LANBIA FOODS	36-16215	11/15/1970	3.9	MITIGATION	
LANBIA FOODS	36-16217	5/16/1980	0.96	MITIGATION	
LANBIA FOODS	36-16219*	5/26/1971	0.33	MITIGATION	
LANBIA FOODS INC	37-21136	7/24/2003	8	IRRIGATION	1422.7
LANBIA FOODS INC	37-7051	8/27/1969	1	COMMERCIAL	
LANBIA FOODS INC	37-7252A	7/24/1973	3.09	IRRIGATION	622
LANBIA FOODS INC	37-7252B	7/24/1973	0.21	IRRIGATION	622
LANBIA FOODS INC	37-7260	8/8/1973	5.7	IRRIGATION	983.7
LANBIA FOODS INC	37-7380A	9/5/1974	3.03	IRRIGATION	983.7
LANBIA FOODS INC	37-7380C	9/5/1974	4.38	IRRIGATION	983.7
LANBIA FOODS INC	37-7576	3/29/1977	2.5	IRRIGATION	983.7
LANBIA FOODS INC	37-7677	9/15/1977	2	IRRIGATION	622
LANBIA FOODS INC	37-8903	9/17/1999	1.67	COMMERCIAL	
LEN CAPPS INC	36-8176	3/31/1983	0.04	COMMERCIAL, DOMESTIC	
LENN DALE RANCHES INC	36-7361	8/2/1973	3	IRRIGATION	150
LENN WARD DAIRY LLC; WARD LAND & VESTOCK LLC	45-7733	8/27/1979	0.33	STOCKWATER, COMMERCIAL	
LOBAL AG PROPERTIES USA LLC	36-15165*	3/15/1970	2.2	IRRIGATION	2785
LOBAL AG PROPERTIES USA LLC	36-16417	3/17/1963	0.28	IRRIGATION	2785
LOBAL AG PROPERTIES USA LLC	36-16419	9/24/1968	0.59	IRRIGATION	2785
LOBAL AG PROPERTIES USA LLC	36-16421	12/30/1983	0.13	IRRIGATION	2785
LOBAL AG PROPERTIES USA LLC	36-16425*	5/1/1976	0.15	IRRIGATION	2785
LOBAL AG PROPERTIES USA LLC	36-4200*	3/15/1974	0.84	IRRIGATION	2785
LOBAL AG PROPERTIES USA LLC	36-8403	11/28/1988	0.31	IRRIGATION	2785
OCHNOUR, JIM W; GOCHNOUR, MARILYN A	45-7461	2/5/1981	0.73	IRRIGATION	36.5
OEDHART, HUGO	36-7276	12/5/1972	0.04	COMMERCIAL	
OEDHART, HUGO C; GOEDHART, MARY	36-7460AD	3/25/1974	0.06	STOCKWATER, COMMERCIAL	
OEDHART, HUGO; GOEDHART, MARY	36-8774	3/10/1998	0.13	STOCKWATER, DOMESTIC	
OLDEN ACRES LLC	37-7458B	10/14/1975	1.23	IRRIGATION	142.5
OLDEN RAIL MOBILE HOME COURT	45-7458	12/16/1980	0.22	IRRIGATION, DOMESTIC	8.1
OOCH, BEATRICE; GOOCH, ELLIS	37-21154	12/3/1966	0.03	STOCKWATER, COMMERCIAL	
OOCH, BEATRICE; GOOCH, ELLIS	37-21155	10/18/1968	0.04	STOCKWATER, COMMERCIAL	
OOCH, BEATRICE; GOOCH, ELLIS	37-21156	2/18/1971	0.02	STOCKWATER, COMMERCIAL	

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Attachment 3

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
)OCH, BEATRICE; GOOCH, ELLIS	37-8839	11/22/1994	0.06	STOCKWATER	
)TT, MIKE	36-8534	4/27/1990	0.1	IRRIGATION, DOMESTIC	2.5
?ANT 4 D FARMS	36-16130	11/8/1973	0.05	IRRIGATION	264
?ANT 4 D FARMS	36-2194	9/10/1984	3.18	IRRIGATION	264
?ANT 4 D FARMS	36-7264	9/21/1972	3.52	IRRIGATION	310
?ANT 4 D FARMS	36-7273A	11/14/1972	2.08	IRRIGATION	104
?ANT 4 D FARMS	36-7850C	3/30/1979	0.39	IRRIGATION	290
?ANT 4 D FARMS	36-8106C	8/10/1982	1.26	IRRIGATION	290
?ANT 4 D FARMS	36-8187	5/27/1983	1.4	IRRIGATION	310
?ANT 4 D FARMS; HONSINGER, EVELYN D;)Y T HONSINGER TESTAMENTARY FAMILY :UST	36-7850D	3/30/1979	0.04	IRRIGATION	591
?ANT 4 D FARMS; HONSINGER, EVELYN D;)Y T HONSINGER TESTAMENTARY FAMILY :UST	36-8106D	8/10/1982	0.13	IRRIGATION	591
?ANT JR, DOUGLAS E; GRANT, LAUREL A	36-2684	3/2/1967	5.36	IRRIGATION	320
?ANT JR, ROBERT	36-7516	12/13/1974	5.35	IRRIGATION	420
?ANT, DOUGLAS E	36-2585	4/7/1964	0.78	IRRIGATION	40
?ANT, DUANE R; GRANT, LAURA A	36-16549	4/21/1989	0.16	IRRIGATION	16.1
?ANT, DUANE R; GRANT, LAURA A	36-16800	4/21/1989	1.23	IRRIGATION	126.7
?ANT, DUANE R; GRANT, LAURA A	36-16801	4/21/1989	0.07	IRRIGATION	305
?ANT, DUANE R; GRANT, LAURA A	36-7932	8/14/1980	0.8	IRRIGATION	40
?AVES, FRANCES M; GRAVES, RICHARD L	37-7371	7/31/1974	6.49	IRRIGATION, STOCKWATER, DOMESTIC	320
?EAVES, ALAN; GREAVES, COLLEEN	36-8479	11/13/1989	0.04	IRRIGATION	1.5
?EEN, DONALD L; GREEN, MARY S	37-7621G	6/7/1977	0.59	IRRIGATION	30
?EENE, DOUGLAS E; GREENE, GLORIA V	36-8438	7/24/1989	0.09	IRRIGATION	4.5
?EENER, BARNEY; GREENER, SHERRIE	45-14352	6/20/2011	0.02	HEATING, COOLING	
)ILLORY, CAMERON; GUILLORY, IDA	36-7382	9/20/1973	0.1	IRRIGATION, DOMESTIC	5
)LICK, LARRY	36-8507	2/1/1990	0.06	STOCKWATER, COMMERCIAL	
)LLEY, JUDY L; GULLEY, WILLIAM F	36-7293	1/24/1973	1.8	IRRIGATION	130
)LLEY, JUDY L; GULLEY, WILLIAM F	36-7425	12/28/1973	0.8	IRRIGATION	130
)LLEY, JUDY L; GULLEY, WILLIAM F	36-8789	3/23/1999	0.39	IRRIGATION	12
)NNING, F F; GUNNING, G C	36-8063A	2/16/1982	2.14	IRRIGATION	329
& P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2573	4/29/1963	3.96	IRRIGATION	198
& P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2578	10/3/1963	4.71	IRRIGATION	238
& P FARMS; HUNT, JEFF; PINCOCK, BRUCE	36-2589	2/25/1964	0.34	IRRIGATION	319
.AGSMA FAMILY TRUST	36-7337B	11/25/1977	1.34	IRRIGATION	138
.NCHETT, AUREL K; HANCHETT, PHYLLIS	36-15355*	3/23/1971	0.4	IRRIGATION	139
.NCHETT, AUREL K; HANCHETT, PHYLLIS	36-7128	3/23/1970	1.4	IRRIGATION	139
.NDY TRUCK LINES INC	36-8510	2/14/1990	0.04	COMMERCIAL	
.NEY SEED CO	36-8416	3/30/1989	0.04	COMMERCIAL	
.NEY SEED CO	45-7639	3/30/1989	0.04	COMMERCIAL	
.NSEN QUALITY JERSEYS LLC	36-16758	9/30/1965	4.79	IRRIGATION	263
.NSEN QUALITY JERSEYS LLC	36-16759	9/30/1965	0.3	STOCKWATER, COMMERCIAL	
.NSEN QUALITY JERSEYS LLC	36-16760*	9/23/1967	0.37	IRRIGATION	263
.NSEN QUALITY JERSEYS LLC	36-16761*	9/23/1967	0.03	STOCKWATER, COMMERCIAL	
.NSEN QUALITY JERSEYS LLC	36-2638	1/27/1966	1.57	IRRIGATION	233
.NSEN, CREG; HANSEN, LETA	37-7621F	6/7/1977	2.53	IRRIGATION	129

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
NSEN, GARY L	36-11508*	3/15/1978	0.31	IRRIGATION	110
RDY PROPERTIES L P	36-7510	11/7/1974	1.1	IRRIGATION	55
RMS, BOYD L	36-16904	8/21/1973	0.08	IRRIGATION	3.9
RPER LAND LLC	36-7108	1/12/1970	1.94	IRRIGATION	152
RPER, CLINT; HARPER, KEVIN; HARPER, YNE R	36-7960A	1/26/1981	0.9	IRRIGATION	1194
RPER, CLINT; HARPER, KEVIN; HARPER, YNE R	36-7960B	1/26/1981	0.9	IRRIGATION	1194
RPER, CLINT; HARPER, LAYNE R	36-7412	11/30/1973	4.01	IRRIGATION	460
RPER, LARRY F	36-7020	4/15/1968	1	IRRIGATION	50
RTLEY, DOUGLAS D; HARTLEY, RENEA N	36-7529E	3/28/1975	0.42	IRRIGATION	312
RTWELL, JANET L; HARTWELL, JIMMY D	45-14437	10/30/1980	0.01	IRRIGATION	0.6
TFIELD DAIRY LLC	37-21628	9/25/1979	0.11	STOCKWATER, DOMESTIC	
WKER, FRED	45-7339A	2/2/1978	2.3	IRRIGATION	154
YDEN, DONALD D; HAYDEN, SHARON A	36-8470	9/12/1989	0.08	IRRIGATION	2.5
YES, COLIN L; HAYES, SUE E	36-2679	1/12/1967	1.5	IRRIGATION	135
IDA, MARY JANE; HEIDA, THOMAS	36-7597A	1/13/1976	0.7	IRRIGATION	114
IDA, MARY JANE; HEIDA, THOMAS	36-7597B	1/13/1976	1.18	IRRIGATION	79
IDA, MARY JANE; HEIDA, THOMAS	36-7610	2/27/1976	2.4	IRRIGATION	120
IDA, MARY JANE; HEIDA, THOMAS	36-7682	2/14/1977	1.24	IRRIGATION	78
IDA, MARY JANE; HEIDA, THOMAS	36-8276	6/6/1985	0.14	IRRIGATION	121
LSLEY HENDRIX, JEANINE P; HELSLEY, IAN T	36-16561	2/8/1971	0.03	IRRIGATION	3
NRY FARMS	36-15163*	5/1/1981	0.66	IRRIGATION	286
NRY FARMS	36-7698	4/22/1977	2.36	IRRIGATION	160
NRY FARMS	36-8568	11/7/1990	0.79	IRRIGATION	240
NRY, AUDREY; HENRY, ROBERT P	36-14844*	3/15/1983	0.25	IRRIGATION	94
PWORTH FAMILY LANDHOLDINGS LLC	45-14243	10/17/1962	5.35	IRRIGATION	1887
PWORTH FAMILY LANDHOLDINGS LLC	45-14245	6/30/1985	4.27	IRRIGATION	1887
PWORTH FAMILY LANDHOLDINGS LLC	45-2688B	10/17/1962	0.04	COMMERCIAL	
PWORTH FAMILY LANDHOLDINGS LLC	45-7032	12/18/1968	1.92	IRRIGATION	601
PWORTH FAMILY LANDHOLDINGS LLC	45-7117	1/3/1973	3.41	IRRIGATION	601
PWORTH FAMILY LANDHOLDINGS LLC	45-7330	11/30/1977	4	IRRIGATION	601
PWORTH, BONNIE B; HEPWORTH, LLIAM M	45-7160	12/13/1973	3.11	IRRIGATION	229
PWORTH, BONNIE B; HEPWORTH, LLIAM M	45-7187	9/16/1974	0.36	IRRIGATION, STOCKWATER	229
RNANDO, EDWARD O; HERNANDO, RESA C	36-16493	8/25/1977	0.11	IRRIGATION, IRRIGATION STORAGE, IRRIGATION FROM STORAGE, STOCKWATER, DIVERSION TO STORAGE	2.5
TTINGA, ARLENE; HETTINGA, STEVEN	36-2575A	8/5/1963	0.62	IRRIGATION	36
WARD LANDS LTD	45-7668	11/7/1989	0.5	IRRIGATION	25
WARD, DORA W; HEWARD, GERALD B	45-13564	10/12/1973	1.53	IRRIGATION	185.4
WARD, DORA W; HEWARD, GERALD B	45-4067A	8/1/1962	1.54	IRRIGATION	77
WARD, DORA W; HEWARD, GERALD B	45-7166A	2/3/1974	1.53	IRRIGATION	185.4
BBARD, DONNA G; HIBBARD, GARY J	37-7199	1/30/1973	3.02	IRRIGATION	151
DDEN VALLEY LAND CO LLC	36-10174*	3/15/1968	0.74	IRRIGATION	377
DDEN VALLEY LAND CO LLC	36-7016	2/27/1968	0.5	IRRIGATION	377
DDEN VALLEY LAND CO LLC	36-8528	3/16/1990	0.6	IRRIGATION	421.5
GH COUNTRY HOLDINGS LLC	37-2704	3/8/1965	1.18	IRRIGATION	287
LT, ARIE; HILT, CECIL; HILT, HENRIETTA	36-8265	3/7/1985	0.15	STOCKWATER, COMMERCIAL	

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
LT, DARYL; HILT, ELAINE	37-8055	10/28/1982	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
RAI, GREGORY; HIRAI, JENNIFER	36-7793	6/1/1978	2.26	IRRIGATION	144
RAI, GREGORY; HIRAI, JENNIFER	36-7946	1/8/1981	0.05	STOCKWATER, COMMERCIAL	
RAI, JACK J; MATTHEWS, J W	36-8585	8/11/1988	0.22	IRRIGATION	171
TZEMAN, LEONARD W	36-16704	10/11/1966	0.03	IRRIGATION	2
)BSON, DAVID MARK	45-14434	3/13/1976	0.2	IRRIGATION	84.5
)BSON, DAVID MARK	45-14435*	3/15/1976	0.21	IRRIGATION	84.5
)LLAND, JOHN H; HOLLAND, JUDITH A	36-7112	1/22/1970	0.84	IRRIGATION, STOCKWATER	40
)LT, RONALD; HOLT, SHARON	36-7876	10/26/1979	0.88	IRRIGATION	48
)LTON, DOROTHY; HOLTON, HAROLD L	36-7067	7/12/1969	1	IRRIGATION, STOCKWATER	147
)LTON, RONALD	36-12588*	3/1/1974	0.44	IRRIGATION	147
)LTON, RONALD	36-2561	1/22/1963	2.4	IRRIGATION	147
)LTZEN FARMS INC	36-8603	6/14/1991	0.14	STOCKWATER	
)NDO FARMS	45-12453	3/15/1963	8.47	IRRIGATION	737.4
)NDO FARMS	45-13602	6/30/1985	2.87	IRRIGATION	737.4
)NDO FARMS	45-7465A	4/15/1981	1.91	IRRIGATION	737.4
)NSINGER, EVELYN D; ROY T HONSINGER ESTAMENTARY FAMILY TRUST	36-2560	12/26/1962	0.72	IRRIGATION	591
)OPER, CYNTHIA ANN; HOOPER, LAURA Y; HOOPER, TIMOTHY E	37-7279	9/13/1973	1.23	IRRIGATION, STOCKWATER	74
)OPER, GRAHAM E; HOOPER, PATTY	37-7205	2/16/1973	5.81	IRRIGATION	321.8
)RIZON ORGANIC DAIRY LLC	36-16045	10/19/1981	1.95	IRRIGATION	1520
)RIZON ORGANIC DAIRY LLC	36-16046	10/19/1981	0.05	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-16053	7/16/1973	1.38	IRRIGATION	1520
)RIZON ORGANIC DAIRY LLC	36-16054	7/16/1973	0.21	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-16055	12/8/1981	4.12	IRRIGATION	1520
)RIZON ORGANIC DAIRY LLC	36-16056	12/8/1981	0.61	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-16396	12/8/1981	0.75	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-7351B	7/16/1973	0.09	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-7688	4/6/1977	8.36	IRRIGATION	513
)RIZON ORGANIC DAIRY LLC	36-7801	8/24/1978	0.89	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-8005B	12/8/1981	0.27	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-8008	12/8/1981	0.84	IRRIGATION	1520
)RIZON ORGANIC DAIRY LLC	36-8011A	12/24/1981	0.15	DOMESTIC	
)RIZON ORGANIC DAIRY LLC	36-8011B	12/24/1981	0.14	STOCKWATER	
)RIZON ORGANIC DAIRY LLC	36-8014	11/4/1981	0.26	STOCKWATER, COMMERCIAL, DOMESTIC	
)RIZON ORGANIC DAIRY LLC	36-8015	12/24/1981	0.46	STOCKWATER, COMMERCIAL	
)RIZON ORGANIC DAIRY LLC	36-8401	11/28/1988	0.68	IRRIGATION	520
)RIZON ORGANIC DAIRY LLC	36-8402	11/28/1988	0.84	IRRIGATION	1520
IUZA, EUGENE	36-8290	6/24/1985	1.88	IRRIGATION	277
IUZA, EUGENE; HRUZA, SHIRLEY	36-4169	3/15/1963	1.12	IRRIGATION	56
IUZA, RONALD L	36-7878	10/30/1979	1.43	IRRIGATION	76
IUZA, RONALD L	36-8183	5/12/1983	0.66	STOCKWATER, COMMERCIAL	
IBSMITH, IRIS B; HUBSMITH, LOUIS L	37-8093	3/17/1984	0.08	STOCKWATER, COMMERCIAL	
IETTIG, ANDREA B; HUETTIG, BRIAN J	36-7150	1/6/1971	1.32	IRRIGATION	66
IETTIG, DOUGLAS	36-15994	11/27/1964	1.49	IRRIGATION	110
IETTIG, ELLEN M; HUETTIG, MYRON A	36-2594	10/29/1964	1.07	IRRIGATION	511
IETTIG, ELLEN M; HUETTIG, MYRON A	36-7639	8/24/1976	1.45	IRRIGATION	511
IETTIG, ELLEN M; HUETTIG, MYRON A	36-8147	3/1/1983	1.6	IRRIGATION	511
ILME, RONALD A	36-15666	10/18/1968	0.2	IRRIGATION	25

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
JLME, RONALD A	36-15668	12/3/1966	0.16	IRRIGATION	25
JLME, RONALD A	36-15670	2/18/1971	0.09	IRRIGATION	25
JLME, RONALD A	36-15690	10/18/1968	0.11	IRRIGATION	13.3
JLME, RONALD A	36-15692	12/3/1966	0.08	IRRIGATION	13.3
JLME, RONALD A	36-15694	2/18/1971	0.04	IRRIGATION	13.3
JLME, RONALD A	36-15702	10/18/1968	0.27	STOCKWATER, COMMERCIAL	
JLME, RONALD A	36-15704	12/3/1966	0.21	STOCKWATER, COMMERCIAL	
JLME, RONALD A	36-15706	2/18/1971	0.11	STOCKWATER, COMMERCIAL	
JLTS , JOSEPH; HULTS, DAVID; HULTS, \Y A; HULTS, NICOLE	36-16203	8/21/1973	2.6	IRRIGATION	387.5
JLTS , JOSEPH; HULTS, DAVID; HULTS, \Y A; HULTS, NICOLE	36-16902	8/21/1973	0.73	IRRIGATION	387.5
JLTS , JOSEPH; HULTS, DAVID; HULTS, \Y A; HULTS, NICOLE	36-16903	8/21/1973	3.11	IRRIGATION	307.6
JLTS , JOSEPH; HULTS, DAVID; HULTS, \Y A; HULTS, NICOLE	36-2665A	10/11/1966	2.92	IRRIGATION	387.5
JLTS , JOSEPH; HULTS, DAVID; HULTS, \Y A; HULTS, NICOLE	36-7817	10/14/1978	1.1	IRRIGATION	307.6
JLTS , JOSEPH; HULTS, DAVID; HULTS, \Y A; HULTS, NICOLE	36-7877	12/21/1979	0.83	IRRIGATION	307.6
JLTS , JOSEPH; HULTS, KAY A	36-16399	8/24/1973	0.01	IRRIGATION	9
JLTS, DAVID; HULTS, JOSEPH ; HULTS, \Y; HULTS, NICOLE	36-16318	7/21/1967	0.12	IRRIGATION	12
JLTS, DAVID; HULTS, JOSEPH ; HULTS, \Y; HULTS, NICOLE	36-16319	7/21/1967	0.78	IRRIGATION	120
JLTS, JOSEPH ; HULTS, KAY A	36-10547*	4/1/1980	0.25	IRRIGATION	154
JLTS, JOSEPH ; HULTS, KAY A	36-16400	8/24/1973	0.01	IRRIGATION	142
JLTS, JOSEPH ; HULTS, KAY A	36-8200	5/26/1983	0.28	IRRIGATION	154
JNT, DUANE W; HUNT, MARGARET	36-11079*	3/15/1973	0.05	IRRIGATION	163
JNT, DUANE W; HUNT, MARGARET	36-7058	4/9/1969	2.7	IRRIGATION	163
JRTADO, GRICELDA; HURTADO, JESUS	36-16007	6/21/1973	3.12	IRRIGATION	155.7
JRTADO, GRICELDA; HURTADO, JESUS	36-16008	6/21/1973	0.33	STOCKWATER, COMMERCIAL	
JRTADO, GRICELDA; HURTADO, JESUS	36-7508B	11/5/1974	2.42	IRRIGATION	132
JRTADO, GRICELDA; HURTADO, JESUS	36-8736	5/19/1992	0.52	STOCKWATER, COMMERCIAL	
JTCHISON, W JAY	45-7108A	7/18/1972	0.78	IRRIGATION	39
JTCHISON, W JAY	45-7158	11/13/1973	1.4	IRRIGATION	70
A GOLD FARMS GENERAL PARTNERSHIP; ORTHWEST FARM CREDIT SERVICES FLCA	45-7680	10/15/1990	1.22	STOCKWATER, COMMERCIAL	
A GOLD FARMS GENERAL PARTNERSHIP; ORTHWEST FARM CREDIT SERVICES FLCA	45-7684	12/11/1990	0.14	STOCKWATER, DOMESTIC	
AHO ACRES DAIRY	36-11110*	3/15/1968	1	IRRIGATION	408
AHO ACRES DAIRY	36-2512	11/30/1962	2	IRRIGATION	408
AHO ACRES DAIRY	36-8412	3/1/1989	0.95	IRRIGATION	408
AHO AG INC	36-7306	2/26/1973	3.9	IRRIGATION	974
AHO AG INC	36-7493	8/8/1974	3.84	IRRIGATION	974
AHO AG INC	36-7883A	1/15/1980	5.64	IRRIGATION	678
AHO FRESH PAK INC	36-15553*	3/15/1974	0.06	COMMERCIAL	
AHO FRESH PAK INC	36-8456	9/21/1989	0.27	COMMERCIAL	
AHO POWER CO	37-8484	1/17/1989	0.02	COMMERCIAL	
AHO SUPREME POTATOES	36-2557	12/13/1962	4.76	IRRIGATION	319

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
AHO SUPREME POTATOES	36-2568	3/18/1963	2.93	IRRIGATION	160
AHO SUPREME POTATOES	36-7015B	2/14/1968	1.92	IRRIGATION	303
AHO WATER CO LLC	36-16534	11/15/1970	0.19	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	36-16537	5/16/1980	0.05	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	36-16540*	5/26/1971	0.02	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	36-16627	11/15/1970	0.16	MITIGATION	
AHO WATER CO LLC	36-16629	5/16/1980	0.04	MITIGATION	
AHO WATER CO LLC	36-16631	5/26/1971	0.01	MITIGATION	
AHO WATER CO LLC	36-16766	9/12/1973	0.11	IRRIGATION	160
AHO WATER CO LLC	36-16909	9/12/1973	0.06	IRRIGATION	485
AHO WATER CO LLC	36-16911	9/12/1973	0.1	IRRIGATION	485
AHO WATER CO LLC	37-22446	9/12/1973	0.1	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	37-22452	9/12/1973	0.12	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	45-13987	11/15/1970	0.13	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	45-13988	5/16/1980	0.03	STOCKWATER, COMMERCIAL	
AHO WATER CO LLC	45-13989*	5/26/1971	0.01	STOCKWATER, COMMERCIAL	
AHO WATER COMPANY, LLC	36-16878*	10/31/1986	0.02	IRRIGATION	4
AHO WATER COMPANY, LLC	36-16879	1/27/1976	0.06	IRRIGATION	4
AHO YOUTH RANCH INC	36-8256	12/6/1984	0.55	IRRIGATION, STOCKWATER, DOMESTIC	58.9
FANGER, DEBRA A; INFANGER, JOHN N	37-20800	9/10/2002	0.12	DOMESTIC	
TERSTATE MFG	36-8454	9/14/1989	0.04	COMMERCIAL	
) HEISKELL HOLDINGS LLC	37-22665	9/12/1973	0.02	COMMERCIAL	
) HEISKELL HOLDINGS LLC	37-22666	9/12/1973	0.02	COMMERCIAL	
) HEISKELL HOLDINGS LLC	37-7380D	9/5/1974	0.05	COMMERCIAL	
? SIMPLOT CO	36-7636	7/27/1976	0.49	INDUSTRIAL	
? SIMPLOT CO	36-8469	10/12/1989	0.28	IRRIGATION	16
? SIMPLOT CO	36-8471	10/4/1989	0.18	COMMERCIAL	
? SIMPLOT CO	45-2746	5/9/1966	2	IRRIGATION	1874
CKSON FARMS INC	45-4241A*	8/20/1976	0.3	IRRIGATION	294
CKSON, IRIS; JACKSON, MICHAEL	45-7353A	8/9/1978	0.02	IRRIGATION, DOMESTIC	1.4
CKSON, JAMES EARL	36-8605	5/23/1991	0.04	IRRIGATION	1.4
CKSON, LAVAR R; VEENSTRA, FRANK W; ENSTRA, MARY JANE	36-8101	7/13/1982	0.8	IRRIGATION	40
DE INVESTMENTS LTD PARTNERSHIP	45-7232E	3/13/1975	1.36	IRRIGATION	68
NSS FARMS	36-16705	3/25/1974	5.72	IRRIGATION	321
NSS FARMS	37-7012	2/12/1968	0.08	HEATING, DOMESTIC	
NSS FARMS	37-7351	4/12/1974	0.14	STOCKWATER	
ROLIMEK, LEROY; JAROLIMEK, PEGGY	45-11196*	3/15/1968	2.04	IRRIGATION	884
ROLIMEK, LEROY; JAROLIMEK, PEGGY	45-14401	9/15/1971	8.19	IRRIGATION, MITIGATION	1035.5
ROLIMEK, LEROY; JAROLIMEK, PEGGY	45-14403	6/30/1985	0.3	IRRIGATION, MITIGATION	1035.5
NTZSCH KEARL FARMS	36-16416	3/17/1963	4.38	IRRIGATION	995
NTZSCH KEARL FARMS	36-16418	9/24/1968	3.45	IRRIGATION	995
NTZSCH KEARL FARMS	36-16420	12/30/1983	1.95	IRRIGATION	995
NTZSCH KEARL FARMS	36-16424*	5/1/1976	0.85	IRRIGATION	995
NTZSCH KEARL FARMS	36-16773	3/13/1989	4.93	IRRIGATION	2508.5
NTZSCH KEARL FARMS	36-16777	3/7/1966	5.97	IRRIGATION	2508.5
NTZSCH KEARL FARMS	36-16779*	7/13/1987	1.3	IRRIGATION	2508.5
NTZSCH KEARL FARMS	36-16785	9/27/1968	4.51	IRRIGATION	2508.5
NTZSCH KEARL FARMS	36-16787	4/6/1978	0.63	IRRIGATION	2508.5
NTZSCH KEARL FARMS	36-16827	9/13/1984	0.1	IRRIGATION	15.3
NTZSCH KEARL FARMS	36-16925	7/25/1987	0.03	COMMERCIAL	

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
:NTZSCH KEARL FARMS	36-16980	7/25/1987	0.29	IRRIGATION	995
:NTZSCH KEARL FARMS	36-2593	6/5/1964	3.63	IRRIGATION	2508.5
:NTZSCH KEARL FARMS	36-2693	6/17/1967	0.67	IRRIGATION	2508.5
:NTZSCH KEARL FARMS	36-8622	12/4/1991	0.02	COMMERCIAL	
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-11328	3/19/1963	1.46	IRRIGATION	634
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-15170A	6/29/1971	1.81	IRRIGATION	1201
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-15536*	4/1/1964	3.44	IRRIGATION	1201
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-16554	3/21/1989	0.34	IRRIGATION	1201
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-16622	7/3/1974	2.95	IRRIGATION	172
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-2635	1/27/1966	5.56	IRRIGATION	634
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY	36-7216	1/5/1972	3.58	IRRIGATION	634
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY KEARL, JOSEPH; KEARL, MELYNDA	36-16826	9/13/1984	2.34	IRRIGATION	1257
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY KEARL, JOSEPH; KEARL, MELYNDA	36-16924	7/25/1987	2.74	IRRIGATION	1257
:NTZSCH, RODNEY A; JENTZSCH, SHIRLEY KEARL, JOSEPH; KEARL, MELYNDA	36-7193	6/29/1971	0.28	IRRIGATION	1257
:ROME CHEESE CO	36-16380	9/12/1973	0.11	MITIGATION	
:ROME CHEESE CO	36-16907	7/18/1973	0.91	COMMERCIAL, MITIGATION	
:ROME CHEESE CO	36-2554B	8/31/1962	1.88	COMMERCIAL	
:ROME CHEESE CO	36-7337F	11/25/1977	0.66	COMMERCIAL	
:ROME COUNTRY CLUB INC	36-8344	2/12/1988	0.41	IRRIGATION	104
:ROME COUNTY ROD & GUN CLUB	36-8620	11/14/1991	0.02	IRRIGATION, COMMERCIAL	0.5
:ROME HOLDING CO INC	36-7202	8/6/1971	0.06	IRRIGATION, INDUSTRIAL, DOMESTIC, FIRE PROTECTION	1
:ROME JOINT SCHOOL DISTRICT NO 261	36-16440	8/31/2006	1.07	HEATING	
:ROME JOINT SCHOOL DISTRICT NO 261	36-16441	8/31/2006	0.45	HEATING	
:ROME JOINT SCHOOL DISTRICT NO 261	36-16898	6/8/2011	1.1	HEATING, COOLING	
:ROME RECREATION DISTRICT	36-7525	3/20/1975	0.2	DOMESTIC, RECREATION	
:SSE, LYDIA MARIA; JESSE, ROBERT LEE	36-8447	10/10/1989	0.12	IRRIGATION	6
)HN A STEVENSON & ELAINE G 'EVENSON TRUST	36-16872	3/28/1975	0.01	IRRIGATION	3.2
)HN A STEVENSON & ELAINE G 'EVENSON TRUST	36-16873	3/28/1975	0.01	IRRIGATION	3.2
)HN A STEVENSON & ELAINE G 'EVENSON TRUST	36-7529G	3/28/1975	2.18	IRRIGATION	946
)HN R SEYMOUR & EVELYN LOIS :YMOUR FAMILY TRUST	45-13542*	3/15/1976	1.28	IRRIGATION	479
)HN R SEYMOUR & EVELYN LOIS :YMOUR FAMILY TRUST	45-7005	9/6/1967	5	IRRIGATION	479
)HN, GLORIA; JOHN, KIT M	37-8346	6/21/1988	0.03	COMMERCIAL	

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HNSON JR, ELMER F; JOHNSON, JUDY	36-7342	6/20/1973	2.23	IRRIGATION	151
HNSON JR, ELMER F; JOHNSON, JUDY	36-7462	4/3/1974	0.89	IRRIGATION	80
HNSON, BECKY; JOHNSON, CHARLES; LSON, JACK; NELSON, KATHY	37-21644	2/2/2006	0.12	DOMESTIC	
HNSON, JODIE; JOHNSON, MITCH	36-7929	8/4/1980	0.06	IRRIGATION, DOMESTIC	1
HNSON, WALTER B	45-7632	3/27/1996	1.13	IRRIGATION	79
HNSTON, ELDON K; JOHNSTON, KANDIS L	36-7173	4/30/1971	1	IRRIGATION	154
LLEY, LARRY	36-16788	11/1/1967	1.88	IRRIGATION	99
NES, RONALD S ; JONES, TAMMY	36-8056A	1/21/1982	4.79	IRRIGATION	312
NES, RONALD S ; JONES, TAMMY	36-8110A	8/19/1982	0.8	IRRIGATION	312
SEF & RITA EHRLER TRUST	45-7377	5/26/1979	0.15	IRRIGATION	12
UGLARD SHEEP CO INC	36-8462	10/11/1989	0.16	STOCKWATER, DOMESTIC	
DD, ALENE L; JUDD, GLENN C	45-7536	6/9/1983	0.02	COMMERCIAL, DOMESTIC	
RGENSMEIER, RALPH	36-7616	3/4/1976	0.22	IRRIGATION	11
& W DAIRY	36-10225D	5/1/1985	0.06	STOCKWATER, COMMERCIAL	
& W DAIRY	36-10225K*	5/1/1985	0.58	IRRIGATION	1064.7
& W DAIRY	36-15169D	12/11/1969	0.56	STOCKWATER, COMMERCIAL	
& W DAIRY	36-15169K	12/11/1969	5.76	IRRIGATION	1064.7
& W DAIRY	36-2614D	6/7/1965	0.16	STOCKWATER, COMMERCIAL	
& W DAIRY	36-2614K	6/7/1965	1.69	IRRIGATION	1064.7
& W DAIRY	36-7307D	2/26/1973	0.13	STOCKWATER, COMMERCIAL	
& W DAIRY	36-7307K	2/26/1973	1.27	IRRIGATION	1064.7
& W DAIRY	36-7362D	8/2/1973	0.2	STOCKWATER, COMMERCIAL	
& W DAIRY	36-7362K	8/2/1973	2.05	IRRIGATION	1064.7
& W DAIRY	36-7477D	5/28/1974	0.06	STOCKWATER, COMMERCIAL	
& W DAIRY	36-7477K	5/28/1974	0.66	IRRIGATION	1064.7
& W DAIRY	36-7606D	2/4/1976	0.06	STOCKWATER, COMMERCIAL	
& W DAIRY	36-7606K	2/4/1976	0.61	IRRIGATION	1064.7
& W DAIRY	36-7779D	2/22/1978	0.19	STOCKWATER, COMMERCIAL	
& W DAIRY	36-7779K	2/22/1978	1.93	IRRIGATION	1064.7
& W DAIRY	36-7832D	12/11/1978	0.02	STOCKWATER, COMMERCIAL	
& W DAIRY	36-7832K	12/11/1978	0.16	IRRIGATION	1064.7
& W DAIRY	36-8175	4/1/1984	0.17	STOCKWATER, COMMERCIAL	
BLACK TRUST	36-7726	6/23/1977	4	IRRIGATION	261
RRLE, GERALD A ; KARRLE, JOAN K	36-4233	3/1/1963	0.2	IRRIGATION, DOMESTIC	5
ARL, JOSEPH N; KEARL, MELYNDA	36-2565A	2/11/1963	3.67	IRRIGATION	279
ARL, JOSEPH; KEARL, MELYNDA	36-16553	3/21/1989	0.48	IRRIGATION	160
ARL, JOSEPH; KEARL, MELYNDA	36-7171	3/22/1971	1.78	IRRIGATION	95
ARL, JOSEPH; KEARL, MELYNDA	36-8205	6/15/1983	0.6	IRRIGATION	30
ARL, JOSEPH; KEARL, MELYNDA	36-8595	7/10/1991	0.11	IRRIGATION	5.3
ARL, JOSEPH; KEARL, MELYNDA	36-8624	12/10/1991	0.21	IRRIGATION	160
CHTER, RICHARD L	37-7157	8/21/1972	1.94	IRRIGATION	97.2
NNEDY, BRENDA; KENNEDY, TRACY S	36-7471	5/3/1974	0.08	IRRIGATION, STOCKWATER	10
NT SEARLE FAMILY TRUST	45-7317	7/11/1977	3.35	IRRIGATION	4389
RBS OIL CO INC	45-7643	5/19/1989	0.04	COMMERCIAL	
RBS OIL CO INC	45-7644	5/22/1989	0.04	COMMERCIAL	
RBS, WILLIAM	36-16688	5/22/1974	1.52	IRRIGATION	113
RNER, HERSHEL	37-8361	6/16/1988	0.03	COMMERCIAL	
NG, ALYCE B; KING, VERN W	36-7024	4/16/1968	0.54	IRRIGATION	35
NG, CORY; KING, VICKY	36-16971	1/4/2013	0.12	HEATING, COOLING, DOMESTIC	

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NG, FERRIL; KING, RENE	36-8440	9/7/1989	0.02	COMMERCIAL	
RCHER, JAMES; KIRCHER, RACHEL	45-7511	8/27/1982	0.07	IRRIGATION, DOMESTIC	1.1
.OSTERMAN, KENT L	36-7974	3/25/1981	2.6	IRRIGATION	201
.OSTERMAN, KENT L	36-8432	6/22/1989	4.01	IRRIGATION	277
)A KAMPGROUND	36-7048	12/18/1968	0.17	IRRIGATION, COMMERCIAL, DOMESTIC	4
)CH AGRI SERVICE	36-8476	11/6/1989	0.01	COMMERCIAL	
)CH AGRI SERVICE	36-8477	11/6/1989	0.06	COMMERCIAL	
)CH, DENISE K; KOCH, MITCHELL L	37-7755	12/4/1978	0.04	IRRIGATION, DOMESTIC	2
)RB, LONNIE; KORB, LOVENIA	45-7689	2/22/1991	0.14	IRRIGATION	7
JLHANEK, DENNIS; KULHANEK, MAXINE	36-8503	2/21/1990	0.04	IRRIGATION	2
JNSMAN, SHIRLEY	36-8249	7/12/1984	0.09	IRRIGATION, DOMESTIC	2.5
JNSMAN, SHIRLEY	36-8306	2/26/1986	0.08	IRRIGATION	2.5
& S LAND HOLDINGS LLC	36-16479	3/26/1969	1.39	IRRIGATION	449.3
& S LAND HOLDINGS LLC	36-7539	6/10/1975	7.6	IRRIGATION	449.3
M DAIRY	36-8224	6/29/1983	0.17	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	2
KE MEAD ENTERPRISES	45-2687	8/22/1962	4.78	IRRIGATION	921.3
KE MEAD ENTERPRISES	45-7439B	2/29/1980	3.92	IRRIGATION	921.3
MBERT PRODUCE CO INC	45-13470	6/30/1985	0.1	IRRIGATION	186
MBERT PRODUCE CO INC	45-13777	6/30/1985	11.22	IRRIGATION	4983
MBERT PRODUCE INC	45-4041	6/30/1985	0.5	IRRIGATION	749
MBERT PRODUCE INC	45-7439A	2/29/1980	1.46	IRRIGATION	118.8
NIER, BLANCHE; LANIER, MELVIN	36-8501	2/21/1990	0.07	IRRIGATION, DOMESTIC	1.5
RSON, CRAIG S; LARSON, PAULEE A	45-12931	2/10/1969	3.05	IRRIGATION	299.5
RSON, CRAIG S; LARSON, PAULEE A	45-12932	2/10/1969	3.41	IRRIGATION	334.6
ST RANCH LLC	37-21157	5/24/1973	2.48	IRRIGATION	1300
ST RANCH LLC	37-21158	5/24/1973	0.72	STOCKWATER	
ST RANCH LLC	37-7232	5/24/1973	4.32	IRRIGATION	1300
WTON, WARREN E	36-7012	11/17/1967	1.66	IRRIGATION, STOCKWATER	118
ZY P FARMS; PAULS, DEBBRAH; PAULS, MIL V; PAULS, RONALD	37-8147	6/27/1983	0.04	IRRIGATION, STOCKWATER, DOMESTIC	1.8
SC ENTERPRISES LLC	45-13776	6/30/1985	1.81	IRRIGATION	449
SC ENTERPRISES LLC	45-7189	9/16/1974	3.53	IRRIGATION	476
SC ENTERPRISES LLC	45-7277	10/4/1976	1.11	IRRIGATION	476
AVELL, ALONZO B	37-22164	9/20/1974	0.05	IRRIGATION	4.1
AVELL, ALONZO B	37-22165	9/20/1974	0.05	IRRIGATION	2
AVELL, ALONZO B	37-22166	9/20/1974	0.3	IRRIGATION	21.6
AVELL, ALONZO B	37-22167	9/20/1974	0.4	IRRIGATION	31
DBETTER, GREG; LEDBETTER, JANE F	36-16186	10/28/1977	0.75	IRRIGATION	154
DBETTER, GREG; LEDBETTER, JANE F	36-16188	8/10/1973	2.11	IRRIGATION	154
DBETTER, GREG; LEDBETTER, JANE F	36-7364A	8/10/1973	2.35	IRRIGATION	125
DBETTER, JANE F; MILLER, TED	36-8223	3/11/1984	0.62	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	5
DERER, PAUL H; LEDERER, SHARON	36-2545	8/20/1962	0.55	IRRIGATION, STOCKWATER	69.5
DERER, PAUL H; LEDERER, SHARON	36-7592	1/6/1976	2.44	IRRIGATION	178
DERER, PAUL H; LEDERER, SHARON	36-7939A	11/29/1980	0.84	IRRIGATION	69.5
DERER, PAUL H; LEDERER, SHARON	36-7939B	11/29/1980	0.05	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	0.5
E, MARTIN R	36-8410	2/10/1989	0.03	COMMERCIAL	
ED CORP	37-21952	10/11/2006	0.44	DOMESTIC	

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
GUINECHE, LOUIS J; LEGUINECHE, CKEY R	37-20799	2/11/1966	2.04	IRRIGATION	102
ONARD, HAROLD L	36-11631	9/1/1967	0.01	DOMESTIC	
ND, ELDEN; LIND, MELBA JEAN	36-8583	2/22/1991	3.99	IRRIGATION	238.9
TTLE SKY FARMS	37-7480	2/24/1977	9.83	IRRIGATION	844.4
OYD, JANICE	36-8580	2/19/1991	0.7	IRRIGATION	35
NG VIEW DAIRY	36-16185	6/30/1983	2.03	IRRIGATION	131
NG VIEW DAIRY	36-7317A	3/21/1973	2.2	IRRIGATION	110
NG VIEW DAIRY	36-7317B	3/21/1973	0.2	STOCKWATER, COMMERCIAL	
NG VIEW DAIRY	36-8061	2/9/1982	0.2	STOCKWATER, COMMERCIAL	
PES, JOE S; LOPES, VERNA F	37-21570	2/18/1971	0.1	STOCKWATER, COMMERCIAL	
PES, JOE S; LOPES, VERNA F	37-21571	12/3/1966	0.19	STOCKWATER, COMMERCIAL	
PES, JOE S; LOPES, VERNA F	37-21572	10/18/1968	0.24	STOCKWATER, COMMERCIAL	
ND, JEFFREY A	36-15211*	1/30/1970	0.33	IRRIGATION	75
ND, JEFFREY A	36-8649	1/25/1978	1.47	IRRIGATION	73.5
TTMER, SANDI; LUTTMER, SCOTT	37-2733	4/12/1966	0.57	IRRIGATION	32
XTON, JORDAN; LUXTON, MARJORIE	36-8078	4/14/1982	0.02	DOMESTIC, FIRE PROTECTION	
NCH, LESLIE R	36-7154	1/25/1971	0.02	INDUSTRIAL	
GIC VALLEY GROWERS LTD	37-7591	5/30/1979	5.21	IRRIGATION	260.4
GIC VIEW CALVES LLC	37-21144	1/7/1974	0.17	IRRIGATION, MITIGATION	4
HLER, ALPHA; MAHLER, EDWIN	36-8442	9/14/1989	0.03	IRRIGATION	1
RT PRODUCE CORP	36-8457	9/20/1989	0.16	COMMERCIAL	
RT PRODUCE CORP	36-8458	9/20/1989	0.01	COMMERCIAL	
RTIN, JAY H	36-7235	4/19/1972	5	IRRIGATION	354
RTIN, KRISTI	36-16940	9/26/1963	0.09	IRRIGATION	5
RTIN, KRISTI	36-16951	9/26/1963	0.17	IRRIGATION	9.2
RTIN, KRISTI	36-2608	2/8/1965	5.2	IRRIGATION	260
SONER, MRS MERLE	36-11978	1/1/1963	0.02	COMMERCIAL	
C CABE, LINDA JOY; MC CABE, ROBERT	37-20747*	4/1/1978	0.56	IRRIGATION	300
C CAIN FOODS USA INC	45-2749	8/13/1965	2.85	INDUSTRIAL	
C CAIN FOODS USA INC	45-7137	5/24/1973	3.43	INDUSTRIAL	
C CAIN FOODS USA INC	45-7241	5/27/1975	0.25	COMMERCIAL, FIRE PROTECTION	
C CAUGHEY, MARGARET; MC CAUGHEY, ALTER L	36-7438	1/31/1974	2	IRRIGATION	100
C CAUGHEY, MARGARET; MC CAUGHEY, ALTER L	36-8579	2/8/1991	0.68	IRRIGATION	52
C CLELLAN, TOM	45-7533	4/26/1983	0.09	IRRIGATION	3
C CLYMONDS, MICHAEL J	36-7873	9/27/1979	0.08	IRRIGATION, DOMESTIC	4.5
C CORD, HARRIETT	36-16063	1/10/1973	0.11	IRRIGATION	8.2
C CORD, HARRIETT	36-16064	1/10/1973	0.33	IRRIGATION	28.4
C DONALD, FRANK F	36-8516	3/2/1990	0.11	IRRIGATION, DOMESTIC	3
C KAY, BRYAN; MC KAY, SHAWNA	36-7456A	3/20/1974	2.1	IRRIGATION, STOCKWATER	182
C KAY, BRYAN; MC KAY, SHAWNA	36-7456B	3/20/1974	0.89	IRRIGATION	77.5
C KNIGHT, SPARR	37-22201	7/5/2007	0.04	DOMESTIC	
C MANUS, JANINE B; MC MANUS, WILLIAM	36-8226	7/23/1983	0.74	IRRIGATION	37
C MANUS, JANINE B; MC MANUS, WILLIAM	36-8288	7/21/1985	0.58	IRRIGATION	29
C MANUS, JANINE B; MC MANUS, WILLIAM	45-7548	7/3/1983	1.44	IRRIGATION	103.8

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
C MANUS, WILLIAM D	45-7264	3/23/1976	3.78	IRRIGATION	189
C MINN, DALE M	36-16109	11/19/1979	0.06	IRRIGATION, DOMESTIC	2
C REITS LLC	36-7288A	2/28/1973	4.58	IRRIGATION	229
C REITS LLC	36-7288C	2/28/1973	4.38	IRRIGATION	219
C REITS LLC	36-7288D	2/28/1973	2.24	STOCKWATER, COMMERCIAL	
C REITS LLC	36-8382	8/16/1988	0.67	STOCKWATER, COMMERCIAL, DOMESTIC	
CKEAN, EDWARD; MCKEAN, LYNETTE	36-8186	5/17/1983	0.04	COMMERCIAL, DOMESTIC	
EEKS FAMILY LTD PARTNERSHIP	36-7684	3/2/1977	1.41	IRRIGATION	180
EEKS, DIANE SAWYER; MEEKS, JAMES D	36-7032	9/14/1968	2.56	IRRIGATION	233
EEKS, DIANE SAWYER; MEEKS, JAMES D	36-7336	8/8/1986	0.88	IRRIGATION	87
ENDOZA, BERTHA; MENDOZA, RICARDO	45-14343	12/29/1989	0.07	IRRIGATION	3.3
ERENZ, MAX H	36-7396	10/29/1973	0.15	IRRIGATION, DOMESTIC	5.5
ERZ, BEATRICE BOLDT; MERZ, VERNON	36-15495	7/1/1969	0.04	DOMESTIC	
ESSNER, ROBERT; MESSNER, SHIRLENE	36-16547	9/12/1973	1.6	IRRIGATION	160
ETZ, JOHN B	36-16492	8/25/1977	0.11	IRRIGATION, IRRIGATION STORAGE, IRRIGATION FROM STORAGE, STOCKWATER, DIVERSION TO STORAGE	5
EYERS, KATHI L; MEYERS, ROBERT J	36-7459	3/20/1974	2.45	IRRIGATION	160
EYERS, KATHI L; MEYERS, ROBERT J	37-2760	4/6/1967	3	IRRIGATION	150
EYERS, KATHI L; MEYERS, ROBERT J	37-7611	5/23/1977	2.18	IRRIGATION, STOCKWATER	112
EYERS, KATHI L; MEYERS, ROBERT J	45-13778	3/1/1963	0.03	IRRIGATION	1
EYERS, KATHI L; MEYERS, ROBERT J	45-13779	3/1/1963	0.17	DOMESTIC	
EYERS, ROBERT J	36-7854	2/16/1990	2.71	IRRIGATION	142
EYERS, ROBERT J	37-8801	10/20/1992	0.1	DOMESTIC	
ICKELSEN, KARMA J; MICKELSEN, ICHAEL B	36-2675	4/24/1966	2.92	IRRIGATION	303
IDNIGHT SUN INC	36-2662	9/19/1966	1.24	IRRIGATION	62
IDNIGHT SUN INC	45-13820	10/13/1972	9.24	IRRIGATION	663.2
IDNIGHT SUN INC VIII	36-2690	5/1/1967	0.94	IRRIGATION	46.86
ILLENKAMP PROPERTIES	36-16927	11/26/1974	1.06	IRRIGATION	217.8
ILLENKAMP PROPERTIES LLC	36-16914	4/24/1990	0.06	IRRIGATION	3
ILLENKAMP PROPERTIES LLC	36-16915	4/24/1990	1.36	STOCKWATER, COMMERCIAL	
ILLENKAMP, SUSAN; MILLENKAMP, 'ILLIAM J	36-16916	4/24/1990	0.88	IRRIGATION	217.8
ILLENKAMP, SUSAN; MILLENKAMP, 'ILLIAM J	36-16926	11/26/1974	1.18	IRRIGATION	79
ILLENKAMP, SUSAN; MILLENKAMP, 'ILLIAM J	45-11912*	11/6/1981	0.71	IRRIGATION	277
ILLENKAMP, SUSAN; MILLENKAMP, 'ILLIAM J	45-7290	7/26/1977	3.78	IRRIGATION	189
ILLENKAMP, SUSAN; MILLENKAMP, 'ILLIAM J	45-7331	10/12/1978	4.7	IRRIGATION	277
ILLER, BLAINE E	36-2637C	1/27/1966	0.06	STOCKWATER, COMMERCIAL	
ILLER, BLAINE E	36-7096B	12/1/1969	0.03	STOCKWATER, COMMERCIAL	
ILLER, DIANE M; MILLER, GUS E	37-8373	8/10/1988	0.04	IRRIGATION, STOCKWATER, DOMESTIC	2
ILLER, GARY W; MILLER, TERESA S	37-7491	6/8/1976	0.06	IRRIGATION, DOMESTIC	2
ILLER, GARY; MILLER, SANDRA K	37-22306	7/22/1971	0.06	IRRIGATION	6
ILLER, JOLENE R; MILLER, TERRY D	36-7823A	9/8/1978	1.31	IRRIGATION	331
ILLER, JOLENE R; MILLER, TERRY D	36-7823B	9/8/1978	0.23	IRRIGATION	130

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
LLER, KALVIN W; MILLER, PAMELLA K	36-12953*	3/9/1979	1.25	IRRIGATION	320
LLER, KALVIN W; MILLER, PAMELLA K	36-2576	8/14/1963	1.85	IRRIGATION	102
LLERCOORS LLC	45-7641	6/8/1989	0.04	COMMERCIAL	
NIDOKA COUNTY FIRE PROTECTION STRICT	36-16364	8/15/2005	0.04	DOMESTIC, FIRE PROTECTION	
NIDOKA COUNTY SCHOOL DISTRICT # 331	36-7134	6/24/1970	0.38	IRRIGATION	19
NIDOKA COUNTY SCHOOL DISTRICT # 331	36-7135	6/24/1970	0.38	IRRIGATION	19
NIDOKA FARMS LLC	36-7403	11/8/1973	1.35	IRRIGATION	632
NIDOKA FARMS LLC	36-8133	12/31/1982	0.21	IRRIGATION	632
NIDOKA LUMBER CO	36-12643*	3/15/1973	1.7	IRRIGATION	793
NIDOKA LUMBER CO	36-16208	10/29/1973	0.16	COMMERCIAL	
NIDOKA LUMBER CO	36-16209	10/29/1973	4.36	IRRIGATION	634
NIDOKA LUMBER CO	36-7015A	2/14/1968	0.97	IRRIGATION	793
NIDOKA LUMBER CO	36-8493	12/19/1989	2.7	IRRIGATION	793
PAD LTD PARTNERSHIP	36-8538	6/1/1990	0.27	STOCKWATER, COMMERCIAL	
PAD LTD PARTNERSHIP	37-8867	11/25/1977	0.14	STOCKWATER, COMMERCIAL	
RKIN, JON F; MIRKIN, SHANNAN R	36-16634	4/8/1975	0.09	COMMERCIAL	
TCHELL, DELL N; MITCHELL, LYNN N	45-14334	10/20/1980	0.31	IRRIGATION	23.8
TCHELL, DELL N; MITCHELL, LYNN N	45-14336	2/14/1991	0.11	IRRIGATION	7
TCHELL, DELL N; MITCHELL, SUSAN L	45-7454	10/20/1980	1.32	IRRIGATION	102.6
TCHELL, DELL N; MITCHELL, SUSAN L	45-7688	2/14/1991	0.56	IRRIGATION	35.6
TCHELL, JAN R; MITCHELL, LYNN N	45-14333	10/20/1980	0.17	IRRIGATION	13.6
TCHELL, JAN R; MITCHELL, LYNN N	45-14335	2/14/1991	0.15	IRRIGATION	9.4
TCHELL, JAN R; MITCHELL, LYNN N	45-7044	12/8/1969	5	IRRIGATION	257
TCHELL, RALPH M	45-7640	5/23/1989	0.07	IRRIGATION, DOMESTIC	1.5
LYNEUX, CLYDE L; MOLYNEUX, TERESA L	37-8065	1/14/1983	0.09	IRRIGATION, DOMESTIC	1.5
NSON, LEO DEAN	36-16205	4/14/1983	0.09	IRRIGATION	7
NTGOMERY, DARLENE M; NTGOMERY, LLOYD J	36-12464*	5/1/1981	0.11	IRRIGATION	76.2
O VIEW COW PALACE	45-13905	11/16/1974	0.3	STOCKWATER, COMMERCIAL	
OSMAN, MARK C; MOOSMAN, SHANILLE	45-11635	6/26/1978	0.04	DOMESTIC	
RGAN, CODY G; MORGAN, KATHY J	36-16094	3/10/1992	0.03	STOCKWATER	
RGAN, CODY G; MORGAN, KATHY J	36-16407	3/10/1992	1.53	IRRIGATION	390.5
RGAN, CODY G; MORGAN, KATHY J	36-16408	3/10/1992	0.08	STOCKWATER, COMMERCIAL	
RRIS, AUDREY; MORRIS, HOWARD L; RRIS, JEREMY; MORRIS, RHONDA K	37-20838	2/6/1974	1.15	IRRIGATION	376
RRIS, AUDREY; MORRIS, HOWARD L; RRIS, JEREMY; MORRIS, RHONDA K	37-8500	2/22/1989	0.09	IRRIGATION	3
RRIS, HOWARD L; MORRIS, RHONDA K	36-2671M	1/9/1967	1	IRRIGATION	421
RRIS, HOWARD L; MORRIS, RHONDA K	36-7367M	8/13/1973	3.52	IRRIGATION	421
RRIS, HOWARD L; MORRIS, RHONDA K	36-7381M	9/19/1973	0.59	IRRIGATION	421
RRIS, HOWARD L; MORRIS, RHONDA K	36-7445M	2/21/1974	1.03	IRRIGATION	421
RRIS, HOWARD L; MORRIS, RHONDA K	36-7480N	5/31/1974	2.32	IRRIGATION	421
RRIS, HOWARD L; MORRIS, RHONDA K	37-20854	12/3/1966	0.18	STOCKWATER, COMMERCIAL	
RRIS, HOWARD L; MORRIS, RHONDA K	37-20855	10/18/1968	0.23	STOCKWATER, COMMERCIAL	
RRIS, HOWARD L; MORRIS, RHONDA K	37-20856	2/18/1971	0.09	STOCKWATER, COMMERCIAL	
RRIS, HOWARD L; MORRIS, RHONDA K	37-7001	7/25/1967	0.7	IRRIGATION	117
RRIS, HOWARD L; MORRIS, RHONDA K	37-7198D	1/29/1973	2.39	IRRIGATION	126.8
RRIS, HOWARD L; MORRIS, RHONDA K	37-7315B	11/7/1973	0.15	IRRIGATION	126.8
RRIS, HOWARD L; MORRIS, RHONDA K	37-7316	11/7/1973	3.1	IRRIGATION	155

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ORRIS, HOWARD L; MORRIS, RHONDA K	37-7363	5/31/1974	1.64	IRRIGATION	117
ORRIS, HOWARD L; MORRIS, RHONDA K	37-7531	10/6/1976	0.66	IRRIGATION	33
OSS GREENHOUSES INC; MOSS, CAROLYN	36-8298	9/23/1985	0.27	COMMERCIAL	
OSS LAND CO LLP	36-2566	4/27/1963	3.82	IRRIGATION	472.4
OSS PRODUCE LLC	36-8426	7/18/1989	0.02	COMMERCIAL	
OSS, CAROLYN A; MOSS, DE WITT A	36-7898	2/27/1980	0.06	COMMERCIAL, DOMESTIC	
OSS, DEAN H; MOSS, MARSHA	45-14436	10/30/1980	0.04	IRRIGATION, DOMESTIC	2.2
OUNTAIN VIEW LAND LP	36-16736	12/1/1972	0.98	IRRIGATION	49
OUNTAIN VIEW LAND LP	36-7273B	11/14/1972	0.92	STOCKWATER, COMMERCIAL	
OUNTAIN VIEW LAND LP	36-7460L	3/25/1974	0.55	STOCKWATER, COMMERCIAL	
OUNTAIN VIEW LAND LP	36-7646	9/24/1976	1.05	STOCKWATER, COMMERCIAL	
OUNTAIN VIEW LAND LP	36-7945	10/20/1980	0.5	IRRIGATION	25
OUNTAIN VIEW WATER CORP	37-21278	3/22/2004	0.06	DOMESTIC	
OUNTAIN VIEW WATER CORP	37-7469	3/14/1976	0.67	DOMESTIC	
OYLE, ALLEN; MOYLE, KARLA	36-8418	3/16/1989	0.48	DOMESTIC	
OYLE, ALLEN; MOYLE, KARLA	36-8768	6/16/1997	0.17	STOCKWATER, COMMERCIAL	
OYLE, LEE	36-8450	9/21/1989	0.02	COMMERCIAL	
PD HOLDING LLC	37-7259	9/12/1973	3.64	IRRIGATION	182
PD HOLDING LLC	37-8707	3/26/1991	2	IRRIGATION	100
PH FARMS	36-2556	10/19/1962	3.9	IRRIGATION	286
UNSEE, AMY; MUNSEE, MARK W	36-8559	9/4/1990	1.86	IRRIGATION	93
URPHY, LA VERN A	36-8361	5/31/1988	0.09	IRRIGATION	3
USSMANN, MILDRED; MUSSMANN, ERWYN	36-7700	5/2/1977	0.73	IRRIGATION, STOCKWATER	88
VCP LLC	45-13904	11/16/1974	10.07	IRRIGATION	4389
VCP LLC	45-13981	5/4/1978	4.6	IRRIGATION	4389
VCP LLC	45-7004	9/6/1967	6.4	IRRIGATION	4389
VCP LLC	45-7186A	12/7/1974	6.12	IRRIGATION	4389
ALLEY, TINA L	37-8750	7/12/1991	0.13	IRRIGATION, STOCKWATER, DOMESTIC	6
APIER, DIANNA K	36-8521	12/19/1991	0.03	IRRIGATION, DOMESTIC	1
EIBAUR, MACK W	36-11893*	7/23/1985	0.08	IRRIGATION	79
EIBAUR, MACK W	36-7529H	3/28/1975	0.35	IRRIGATION	79
EIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-15212*	3/15/1975	0.33	IRRIGATION	310
EIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-15213*	3/15/1980	0.13	IRRIGATION	310
EIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-16955*	7/23/1985	0.07	IRRIGATION	79
EIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7490	7/30/1974	4	IRRIGATION	310
EIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7529A	3/28/1975	0.9	IRRIGATION	541.8
EIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7529B	3/28/1975	1.47	IRRIGATION	541.8
EIBAUR, STEVE	36-15375*	4/1/1978	1.25	IRRIGATION	427
EIBAUR, STEVE	36-2661	9/12/1966	2.8	IRRIGATION	140
EILSON, GLENN	36-8487	9/27/1989	0.22	DOMESTIC	
EILSON, KAYLEEN; NEILSON, KJEL	37-22451	11/25/1962	0.2	IRRIGATION	10
ELLIS, CARL H; NELLIS, JANE	36-7481	6/4/1974	0.04	IRRIGATION	2
ELSEN DAIRY	36-8745	11/7/1995	0.14	STOCKWATER, COMMERCIAL	

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ELSON, JACK; NELSON, KATHY	37-8717	3/1/1991	0.08	IRRIGATION	2.6
ELSON, JACK; NELSON, KATHY	37-8740	3/14/1991	0.09	IRRIGATION	3
ESBIT, BERVA DAWN; NESBIT, LARRY R	36-8124	9/30/1982	0.16	IRRIGATION, STOCKWATER	7
EUMANN, DAVID A; NEUMANN, SUZANNE	37-7837	6/24/1980	0.1	IRRIGATION, STOCKWATER	5
EWCOMB, BRUCE C	45-7083	8/20/1971	2.34	IRRIGATION	614.1
EWCOMB, BRUCE C	45-7184	8/6/1974	5.57	IRRIGATION	614.1
EWCOMB, BRUCE C	45-7507	6/16/1982	1.93	IRRIGATION	614.1
EWCOMB, LONNA; NEWCOMB, MARK T	36-7122	2/26/1970	1.4	IRRIGATION	144
EWCOMB, LONNA; NEWCOMB, MARK T	36-7170	3/22/1971	1.18	IRRIGATION	144
EWCOMB, LONNA; NEWCOMB, MARK T	36-7890	1/17/1980	1.48	IRRIGATION	144
EWCOMB, MARK T	45-12439	7/28/1978	11.15	IRRIGATION, STOCKWATER	629
EWCOMB, MARK T	45-12440	5/14/1976	4.28	IRRIGATION	237
EWCOMB, MARK T	45-14069	2/6/1979	0.37	IRRIGATION	269.6
EWCOMB, MARK T	45-7252	7/2/1976	4.56	IRRIGATION	842
EWCOMB, MARK T	45-7268B	5/14/1976	0.61	IRRIGATION	842
EWCOMB, MARK T	45-7318	7/14/1977	3.38	IRRIGATION	200
EWTON, DENNIS; NEWTON, RANDY	36-7308	3/2/1973	1.62	IRRIGATION	368
IELSEN, A DIANE; NIELSEN, RICHARD G	36-8474	9/29/1989	0.04	COMMERCIAL	
ORTH RIM FAIRWAYS OWNERS ASSN INC	36-8399	1/5/1995	0.41	DOMESTIC	
ORTHSIDE DAIRY	36-7529F	3/28/1975	0.27	IRRIGATION	312
ORTHSIDE DAIRY	36-8490	11/7/1989	0.27	STOCKWATER, COMMERCIAL, DOMESTIC	
ORTHSIDE DAIRY; VERBREE JR, JACK; ERBREE LAND HOLDINGS LLC	36-16747	8/16/1973	0.38	IRRIGATION	100
ORTHSIDE DAIRY; VERBREE LAND OLDINGS LLC	36-16633	4/8/1975	2.2	IRRIGATION	211.5
ORTHSIDE FARMS CO; NORTHWEST FARM REDIT SERVICES FLCA	36-7291A	3/13/1973	1.17	IRRIGATION	69
ORTHSIDE RANCH CO LLC	36-13986	3/1/1978	0.2	STOCKWATER, DOMESTIC	
ORTHWEST FARM CREDIT SERVICES CA; ROTH INVESTMENTS LLC	37-8685	9/20/1990	0.84	STOCKWATER, INDUSTRIAL	
ORTHWEST FARM CREDIT SERVICES CA; VAN BEEK, JOHN W	36-8165	4/7/1983	0.88	STOCKWATER, COMMERCIAL	
ORTHWEST FARM CREDIT SERVICES CA; VAN DYK, MARIE C; VAN DYK, CHARD B	36-8547	4/25/1990	0.33	STOCKWATER, COMMERCIAL, DOMESTIC	
ORTHWEST FARM CREDIT SERVICES CA; VERBREE LAND HOLDINGS LLC	36-8667	7/10/1992	0.27	STOCKWATER, COMMERCIAL, DOMESTIC	
ORTHWEST FARM CREDIT SERVICES PCA; BER, BEVERLY; TABER, DONALD E	37-8401	9/20/1988	3	IRRIGATION	248
ORTHWEST FARM CREDIT SERVICES PCA; YLOR, JACK; VERBREE LAND HOLDINGS C	36-7882A	12/7/1979	2.06	IRRIGATION	200
OTCH BUTTE FARMS LLC	36-16139*	3/15/1974	0.18	IRRIGATION	188
OTCH BUTTE FARMS LLC	36-7123	2/27/1970	2.25	IRRIGATION	403.3
OTCH BUTTE FARMS LLC	36-7648	9/29/1976	0.44	IRRIGATION	667
OTCH BUTTE FARMS LLC	36-8050	12/11/1981	2.34	IRRIGATION	403.3
OTCH BUTTE FARMS LLC	37-20816	11/12/1981	0.49	IRRIGATION	195.4
OTCH BUTTE FARMS LLC	37-20817	11/12/1981	0.47	IRRIGATION	187
OTCH BUTTE FARMS LLC	37-22612	9/29/1976	0.11	IRRIGATION	335.1
OTCH BUTTE FARMS LLC	37-8909*	3/15/1974	0.02	STOCKWATER	

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JNES BROTHERS DAIRY	36-8552	6/28/1990	0.12	STOCKWATER, COMMERCIAL, DOMESTIC	
JNES, DUARTE; NUNES, NELINHA	36-16703	10/11/1966	0.05	IRRIGATION	4
DONNELL, JOSEPH A; O DONNELL, JOYCE	36-7662	1/8/1977	0.08	IRRIGATION, DOMESTIC	2
AK VALLEY LAND CO LLC	45-10777A*	3/15/1976	0.47	IRRIGATION	463
AK VALLEY LAND CO LLC	45-13591*	3/15/1979	0.26	IRRIGATION	241
AK VALLEY LAND CO LLC	45-13921	9/11/1967	0.36	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13923	11/24/1981	0.49	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13924	12/16/1970	4.33	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13925	12/16/1970	0.29	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13926	9/30/1971	6.16	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13927	9/30/1971	0.41	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13928	6/11/1979	6	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13929	6/11/1979	0.4	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13930	6/30/1985	1.29	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13931	6/30/1985	0.08	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13934	6/30/1985	2.3	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13935	6/30/1985	0.15	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13936	9/11/1967	3.46	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13937	9/11/1967	0.23	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13938	9/6/1967	4.94	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-13939	9/6/1967	0.33	IRRIGATION	267.1
AK VALLEY LAND CO LLC	45-13943	9/11/1967	0.92	STOCKWATER, COMMERCIAL	
AK VALLEY LAND CO LLC	45-13945	11/24/1981	1.24	STOCKWATER, COMMERCIAL	
AK VALLEY LAND CO LLC	45-13984	9/11/1967	3.17	IRRIGATION	265.1
AK VALLEY LAND CO LLC	45-13985	9/11/1967	1.03	STOCKWATER, COMMERCIAL	
AK VALLEY LAND CO LLC	45-14005*	4/1/1978	0.33	IRRIGATION	265.1
AK VALLEY LAND CO LLC	45-14006*	4/1/1978	0.1	STOCKWATER, COMMERCIAL	
AK VALLEY LAND CO LLC	45-14308	9/11/1967	3.76	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-14309	9/11/1967	0.75	STOCKWATER, COMMERCIAL	
AK VALLEY LAND CO LLC	45-14310	11/24/1981	5.07	IRRIGATION	3694.1
AK VALLEY LAND CO LLC	45-14311	11/24/1981	1.02	STOCKWATER, COMMERCIAL	
AK VALLEY LAND CO LLC	45-4176*	3/15/1976	0.18	IRRIGATION	463
AK VALLEY LAND CO LLC	45-7141	6/18/1973	2.25	IRRIGATION	371.7
AK VALLEY LAND CO LLC	45-7339B	2/2/1978	0.8	IRRIGATION	371.7
AK VALLEY LAND CO LLC	45-7672	12/29/1989	0.43	IRRIGATION	371.7
LIVER, DEBBY; OLIVER, ROGER K	45-7545	6/29/1983	0.05	IRRIGATION	1.5
LIVER, JIMMY R	45-7650	6/21/1989	0.06	IRRIGATION, DOMESTIC	1
LSON, CHRISTIAN CHAD	37-8377	8/19/1988	0.03	IRRIGATION	1
PPIO LAND & LIVESTOCK LLC	37-19848*	4/15/1987	0.29	IRRIGATION	142.4
PPIO LAND & LIVESTOCK LLC	37-8010	12/5/1982	2.52	IRRIGATION	142.4
PPIO LAND & LIVESTOCK LLC	37-8756C	2/4/1987	1.34	IRRIGATION	67
RLO H MAUGHAN FAMILY REVOCABLE RUST	36-7669	1/17/1977	2.36	IRRIGATION	1100
RLO H MAUGHAN FAMILY REVOCABLE RUST	36-7883B	1/15/1980	1.49	IRRIGATION	1100
RLO H MAUGHAN FAMILY REVOCABLE RUST DTD 02/03/1978	36-15191	6/15/1981	0.45	IRRIGATION	1100
RLO H MAUGHAN FAMILY REVOCABLE RUST DTD 02/03/1978	36-7964A	2/9/1981	2	IRRIGATION	1100

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LO H MAUGHAN FAMILY REVOCABLE UST DTD 02/03/1978	36-7964B	2/9/1981	3.7	IRRIGATION	1100
ERMAN, ARQUE W; RUBY OVERMAN UST	36-2700	4/13/1967	0.97	IRRIGATION	75
ERMAN, ARQUE W; RUBY OVERMAN UST	36-2715	8/22/1966	1.01	IRRIGATION	78
ARANGO, ROBERT; OXARANGO, CHELLE	36-7030	6/7/1968	0.7	IRRIGATION	35
& C IRRIGATION ASSN INC	37-2740	7/11/1966	4.06	IRRIGATION	1156
LACIO, THOMAS R	37-7629	6/14/1977	1.3	IRRIGATION	76
RKINSON, ROBERT J	36-8591	3/6/1991	1	IRRIGATION	66
RNELL, KEVIN	36-15651	10/18/1968	0.05	STOCKWATER, COMMERCIAL	
RNELL, KEVIN	36-15653	12/3/1966	0.04	STOCKWATER, COMMERCIAL	
RNELL, KEVIN	36-15655	2/18/1971	0.02	STOCKWATER, COMMERCIAL	
RNELL, KEVIN	36-16207	2/27/1979	0.02	STOCKWATER, COMMERCIAL	
RNELL, KEVIN	37-21266	2/27/1979	0.07	IRRIGATION, MITIGATION	3.6
RR, LOVELLE L; PARR, ROLLIN	36-7541	5/7/1975	0.19	IRRIGATION	25
TTCO, LLLP	45-13398*	3/15/1987	0.66	IRRIGATION	133
TTCO, LLLP	45-13399*	3/15/1976	0.97	IRRIGATION	305
TTCO, LLLP	45-7164	1/17/1974	1.2	IRRIGATION	133
TTCO, LLLP	45-7261	3/13/1976	0.7	IRRIGATION	305
TTCO, LLLP	45-7603	7/9/1986	1.26	IRRIGATION	72
TTERSON BROTHERS	36-8022B	11/19/1981	0.04	COMMERCIAL	
TTERSON FARMS OF IDAHO INC	36-7718	6/1/1977	1.68	IRRIGATION	84
TTERSON LAND & LIVESTOCK CO INC	37-7357	4/25/1974	2.9	IRRIGATION	170
TTERSON LAND & LIVESTOCK CO INC	37-7952	11/18/1981	0.15	IRRIGATION	10
TTERSON, ARNOLD F; PATTERSON, CILIA S	36-7687	4/4/1977	2.8	IRRIGATION	199
TTERSON, ARNOLD F; PATTERSON, CILIA S	36-8022A	11/19/1981	0.15	STOCKWATER	
TTERSON, E F; PATTERSON, PHYLLIS A	36-8449	10/12/1989	0.03	IRRIGATION	1
TTERSON, LISA E; PATTERSON, RUSSELL	36-16499*	4/1/1984	0.04	IRRIGATION	466.5
TTERSON, LISA E; PATTERSON, RUSSELL	36-16526*	4/1/1955	0.31	IRRIGATION	466.5
TTERSON, LISA E; PATTERSON, RUSSELL	36-7101	12/16/1969	1.12	IRRIGATION	307
UL CEMETERY MAINTENANCE DISTRICT	36-8586	4/24/1991	0.2	IRRIGATION	10
VKOV, JOAN R; PAVKOV, JOSEPH D	37-7255	7/31/1973	4.68	IRRIGATION	280
YTON, BROOKE; PAYTON, STEVEN R	36-7483	6/7/1974	0.12	IRRIGATION	6
ARSON, DONALD N; PEARSON, MARY L	36-16727	3/7/1978	0.07	IRRIGATION	3.6
LICAN POINT SUBDIVISION ASSN INC	36-8772	1/16/1998	0.73	DOMESTIC	
RRINE RANCH INVESTMENT GROUP	36-8017	12/24/1981	0.06	STOCKWATER, DOMESTIC	
RRY GILLETTE FARMS INC	36-15552	3/15/1974	0.86	IRRIGATION	282.6
TE & JANE REITSMA LIVING TRUST	36-16651	12/17/1974	1.54	IRRIGATION	76.9
TE & JANE REITSMA LIVING TRUST	36-16652	12/17/1974	0.06	STOCKWATER, COMMERCIAL	
TE & JANE REITSMA LIVING TRUST	36-8378	7/23/1997	0.07	STOCKWATER, COMMERCIAL	
TERS, THOMAS R	36-8577	2/28/1991	1.68	IRRIGATION	94
TTA, DANIEL FREDRICK	36-16144	11/25/1977	0.02	IRRIGATION	1
TTERSON, REBECCA L; PETTERSON, TIM	36-7460AH	3/25/1974	0.49	STOCKWATER, COMMERCIAL	
TTERSON, REBECCA L; PETTERSON, TIM	36-8533	4/11/1990	0.1	STOCKWATER, COMMERCIAL, DOMESTIC	

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
CKET, KIRK	45-7635	4/12/1993	0.08	COMMERCIAL	
CKETT RANCH & SHEEP CO	45-13658	6/30/1985	0.34	IRRIGATION	475
ERSON, MARGARET A; PIERSON, MARVIN	37-7649	7/27/1978	2.99	IRRIGATION	181
ETERS, ALLAN; PIETERS, VIRGINA	36-7431	1/18/1974	0.54	IRRIGATION	122
LKINTON, C R; PILKINTON, THOMAS R	36-7650B	7/30/1976	0.08	IRRIGATION	4
RES, JOHN; PIRES, LUCIA	36-10664	6/23/1976	0.05	IRRIGATION	1.6
TCHFORK RANCH LLC	61-2242	7/28/1966	0.94	IRRIGATION	861
TCHFORK RANCH LLC	61-2243	7/26/1966	1.6	IRRIGATION	861
TCHFORK RANCH LLC	61-7231	10/4/1968	1.2	IRRIGATION	861
(D PROPERTIES LC	45-14019	2/10/1981	2.05	IRRIGATION	104
(D PROPERTIES LC	45-2709	1/6/1966	4.72	IRRIGATION	236
(D PROPERTIES LC	45-7102	4/2/1973	0.7	IRRIGATION	328
(D PROPERTIES LC	45-7104A	7/5/1972	2.16	IRRIGATION	108
(D PROPERTIES LC	45-7104B	7/4/1972	0.32	IRRIGATION	328
(D PROPERTIES LC	45-7109	5/11/1972	0.89	IRRIGATION	140
(D PROPERTIES LC	45-7159	11/13/1973	2.36	IRRIGATION	118
(D PROPERTIES LC	45-7292	4/25/1977	2.6	IRRIGATION	180
(D PROPERTIES LC	45-7299	5/4/1977	3.18	IRRIGATION	165
(D PROPERTIES LC	45-7433	12/28/1979	0.83	IRRIGATION	140
(D PROPERTIES LC	45-7508	7/12/1982	1.62	IRRIGATION	112
(D PROPERTIES LC; THE DUNCAN LTD \RTNERSHIP	45-7037	4/18/1969	0.78	IRRIGATION	60
(D PROPERTIES LC; TLD PROPERTIES LLC	45-13475	6/30/1985	3.66	IRRIGATION	2040
(D PROPERTIES LC; TLD PROPERTIES LLC	45-13788	12/3/1971	1.64	STOCKWATER, COMMERCIAL	
(D PROPERTIES LC; TLD PROPERTIES LLC	45-14060	12/3/1971	21.38	IRRIGATION	2219
(D PROPERTIES LC; TLD PROPERTIES LLC	45-14061	12/3/1971	1.01	STOCKWATER, COMMERCIAL, DOMESTIC	
(D PROPERTIES LC; TLD PROPERTIES LLC	45-14101	4/29/1970	0.11	STOCKWATER, COMMERCIAL	
(D PROPERTIES LC; TLD PROPERTIES LLC	45-7086D	12/3/1971	5.07	IRRIGATION	934
(D PROPERTIES LC; TLD PROPERTIES LLC	45-7086F	12/3/1971	4.53	IRRIGATION	2040
)PA, DAN; POPA, PAM	36-8197	6/7/1983	0.08	IRRIGATION, DOMESTIC	2.5
)STMA, LAURA; POSTMA, RAYMOND	37-7447B	7/30/1975	0.31	IRRIGATION	16
)TEET, HERBERT W; POTEET, RICHARD F	36-7600	1/19/1976	3.88	IRRIGATION	308
RATT, CAMI; PRATT, JARED A	36-2685	2/27/1967	0.35	IRRIGATION	17.5
RESCOTT, ALICE M; PRESCOTT, GWENNA PRESCOTT, MARVIN L; PRESCOTT, WADE	37-7620	6/2/1977	3.31	IRRIGATION, IRRIGATION STORAGE, IRRIGATION FROM STORAGE, DIVERSION TO STORAGE	450.4
RICE, BERTHA; PRICE, EUGENE F	45-10000*	4/1/1971	0.74	IRRIGATION	202.1
RINCE, CARI L; PRINCE, JAMES J	36-15685	10/18/1968	0.17	STOCKWATER, COMMERCIAL	
RINCE, CARI L; PRINCE, JAMES J	36-15687	12/3/1966	0.13	STOCKWATER, COMMERCIAL	
RINCE, CARI L; PRINCE, JAMES J	36-15689	2/18/1971	0.07	STOCKWATER, COMMERCIAL	
RINCE, CARI L; PRINCE, JAMES J	36-16100	5/9/1988	0.09	STOCKWATER, COMMERCIAL	
RINCE, CARI L; PRINCE, JAMES J	36-8395	9/23/1988	0.11	STOCKWATER, COMMERCIAL	

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INCE, CARI L; PRINCE, JAMES J	36-8505	2/23/1990	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
UETT, BRENDA; PRUETT, DAN R	45-13821	10/13/1972	0.05	IRRIGATION	6.1
AD CAPITAL LLC	36-8221	7/9/1983	0.02	COMMERCIAL	
J LLC	36-7523	2/26/1975	2.68	IRRIGATION, DOMESTIC	660
J LLC	36-7835	12/22/1978	3.13	IRRIGATION	660
J LLC	36-7934	8/19/1980	2.68	IRRIGATION	660
J LLC	36-7042	10/15/1968	5.12	IRRIGATION	555
FTER J FARM & LIVESTOCK LLC	36-7009	9/18/1967	0.56	IRRIGATION	28
NGEN INC	36-8048	12/21/1981	0.41	IRRIGATION	20.2
VENSCROFT, HARRIETT B; VENSCROFT, VERNON F	37-7343	3/3/1974	1.8	IRRIGATION	90
D BRIDGE FARMS LLC	36-14285*	5/1/1977	0.32	IRRIGATION	274
D BRIDGE FARMS LLC	36-14394*	6/28/1967	0.16	IRRIGATION	618
D BRIDGE FARMS LLC	36-2546	8/22/1962	4.9	IRRIGATION	618
D BRIDGE FARMS LLC	36-2581	11/14/1963	4.4	IRRIGATION	303
ED & LESLIE BROWN FAMILY LTD RTNERSHIP	36-7102A	12/17/1969	0.07	IRRIGATION	4.5
ED & LESLIE BROWN FAMILY LTD RTNERSHIP	36-7102B	12/17/1969	4.16	IRRIGATION	306.5
ED, DARLENE; REED, JOHN GLENN	36-16558	2/8/1963	4.79	IRRIGATION	262
ED, GLENN E	36-16557	2/8/1963	0.05	IRRIGATION	3
ITSMA, JOHN; REITSMA, SUSAN	36-16304	12/4/1972	1.81	IRRIGATION	94.7
ITSMA, JOHN; REITSMA, SUSAN	36-16305	12/4/1972	0.03	STOCKWATER, COMMERCIAL	
ITSMA, JOHN; REITSMA, SUSAN	36-7277B	12/4/1972	0.39	STOCKWATER, COMMERCIAL	
MSBERG, JOHN D; REMSBERG, JUDY	36-16728	3/7/1978	0.71	IRRIGATION	35.4
MSBERG, JOHN D; REMSBERG, JUDY	36-7730	7/1/1977	4	IRRIGATION	400
CHAN, CLYDE L; RICHAN, ELVERA L	36-8486	9/19/1989	0.03	COMMERCIAL, DOMESTIC	
CHARDS, BETH N; RICHARDS, JACKSON H	36-16110	11/19/1979	0.06	IRRIGATION	3
DDLE, LEN H; VEENSTRA, FRANK W	36-7376	9/29/1973	2.75	IRRIGATION	185
ETKERK, GEORGE; RIETKERK, NANCY	36-7888	1/10/1980	0.07	IRRIGATION, STOCKWATER, DOMESTIC	1
ETKERK, JOHN H; RIETKERK, RHONDA M	36-2692	6/2/1967	2.56	IRRIGATION	220
ETKERK, JOHN H; RIETKERK, RHONDA M	36-7691	3/22/1977	0.7	IRRIGATION	220
TCHIE, JAMES M; RITCHIE, KARLYN	36-7394	11/14/1973	4.56	IRRIGATION	330
TCHIE, JAMES M; RITCHIE, KARLYN	36-7752	9/28/1977	3.58	IRRIGATION	251
TCHIE, JAMES M; RITCHIE, KARLYN	36-8077	7/12/1984	1.6	IRRIGATION	330
VERSIDE CEMETERY DISTRICT	36-15341*	8/20/1976	0.12	IRRIGATION	9
VERSIDE CEMETERY DISTRICT	36-7063	5/8/1969	0.08	IRRIGATION	9
VERSIDE CEMETERY DISTRICT	36-7227	3/8/1972	0.2	IRRIGATION	9
VERSIDE ELECTRIC CO	36-8492	11/13/1989	0.01	COMMERCIAL	
BERTSON LAND CO LLC	36-15155	2/3/1966	3.28	IRRIGATION	400
BERTSON LAND CO LLC	36-16591	2/29/1968	2.82	IRRIGATION	426
BERTSON LAND CO LLC	36-7674	1/28/1977	4.74	IRRIGATION	400
BERTSON, COLLETTE; ROBERTSON, GAN	36-16840	3/13/1989	0.02	IRRIGATION	7.7
BERTSON, COLLETTE; ROBERTSON, GAN	36-16844	3/7/1966	0.02	IRRIGATION	7.7
BERTSON, COLLETTE; ROBERTSON, GAN	36-16846	7/13/1987	0.01	IRRIGATION	7.7

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)BERTSON, COLLETTE; ROBERTSON,)GAN	36-16852	9/27/1968	0.02	IRRIGATION	7.7
)BERTSON, COLLETTE; ROBERTSON,)GAN	36-16854	4/6/1978	0.01	IRRIGATION	7.7
)BERTSON, PAUL	36-11124	5/1/1972	0.52	IRRIGATION	1140
)BERTSON, PAUL	36-7056	5/7/1969	6.4	IRRIGATION	1140
)BERTSON, PAUL	36-7690A	4/6/1978	2.24	IRRIGATION	1140
)BINSON, DIANE	36-11109	3/15/1963	0.12	IRRIGATION	6
)CHA DAIRY	36-7460AB	3/25/1974	0.6	STOCKWATER, COMMERCIAL, DOMESTIC	
)CHA DAIRY	36-8379	8/19/1988	0.38	STOCKWATER, COMMERCIAL, DOMESTIC	
)CKY MOUNTAIN AGRONOMICS INC	36-4009	4/16/1963	0.5	IRRIGATION	26.6
)DNEY HANSEN FARMS INC	36-11147*	3/15/1968	0.27	IRRIGATION	500
)GERS, DOROTHY; ROGERS, WAYNE	36-7428	1/10/1974	0.4	IRRIGATION	30
)LLER KING TRUST	36-8419	4/4/1989	0.04	COMMERCIAL	
)LLING ROCK DAIRY FARM LLC	36-8546	5/15/1990	0.08	STOCKWATER, COMMERCIAL	
)OST POTATO CO INC	36-7000	6/14/1967	0.56	STOCKWATER	
)SA, EDWARD M	36-15511	3/24/1963	0.19	STOCKWATER, COMMERCIAL	
)SA, EDWARD M; ROSA, KAREN	37-7009	1/16/1968	3.04	IRRIGATION	151.7
)SA, EDWARD M; ROSA, KAREN R	37-7447A	7/30/1975	0.29	IRRIGATION	15
)SS, PAULINE	37-8112	6/2/1983	0.02	COMMERCIAL, COOLING	
)TH INVESTMENTS LLC	36-16683	2/26/1980	18.39	IRRIGATION	1151.5
)TH INVESTMENTS LLC	36-16684	2/26/1980	0.37	STOCKWATER, COMMERCIAL	
)TH INVESTMENTS LLC	36-16859	7/5/1973	0.18	STOCKWATER, COMMERCIAL	
)TH INVESTMENTS LLC	36-16860	7/5/1973	2.67	IRRIGATION	220
)TH INVESTMENTS LLC	36-16886*	7/5/1985	0.49	IRRIGATION	220
)TH INVESTMENTS LLC	36-16887*	7/5/1985	0.03	STOCKWATER, COMMERCIAL	
)TH INVESTMENTS LLC	36-2612A	5/6/1965	2.74	IRRIGATION	234
)TH INVESTMENTS LLC	36-2612B	5/6/1965	0.9	STOCKWATER, COMMERCIAL	
)TH INVESTMENTS LLC	36-7705	5/16/1977	2.09	IRRIGATION	167
)TH INVESTMENTS LLC	36-7894B	2/26/1980	0.31	STOCKWATER, COMMERCIAL	
)TH INVESTMENTS LLC	36-7906A	3/26/1980	0.35	IRRIGATION	234
)TH INVESTMENTS LLC	36-7906B	3/26/1980	0.11	STOCKWATER, COMMERCIAL	
)TH, JAMES D	36-7395	10/24/1973	3.18	IRRIGATION	314
)WSER, JUSTIN	45-13519*	3/15/1976	0.01	IRRIGATION	27
)YCE, DAN; ROYCE, JO ANNE	36-8609	10/21/1991	0.02	DOMESTIC	2.5
JBY RANCH INC	36-7860	6/20/1979	1.01	IRRIGATION	51
JBY, HAROLD J; RUBY, LINDA L	36-7508A	11/5/1974	0.61	IRRIGATION	33
JBY, KENNETH E	36-7207A	10/12/1971	1.28	IRRIGATION	64
JBY, KENNETH E	36-7794	4/28/1978	0.38	IRRIGATION	19
JBY, KENNETH E; RUBY, MARY LOU	37-7442	7/11/1975	6.47	IRRIGATION, STOCKWATER, DOMESTIC	320
JDY, THOMAS A	45-7278	12/6/1976	0.24	DOMESTIC	
JPERT ANIMAL HOSPITAL	36-8460	10/11/1989	0.05	COMMERCIAL	
JPERT FIRST CHRISTIAN CHURCH	36-12780	9/1/1962	0.04	IRRIGATION	2
JRAL ELECTRIC CO	36-8435	8/11/1989	0.04	COMMERCIAL	
/AN, EDWARD G	37-7313	11/2/1973	1.11	IRRIGATION	75
\BALA, JANE M; SABALA, JERRY	36-7515	12/12/1974	0.73	IRRIGATION	38
\CCOMAN, MARK M	36-7380	9/19/1973	0.32	IRRIGATION	16
\GEBRUSH SPUDS	36-8366	6/15/1988	0.02	COMMERCIAL	
\LMON FALLS LAND & LIVESTOCK CO INC	36-10033*	3/15/1975	1.07	IRRIGATION	370

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LMON FALLS LAND & LIVESTOCK CO INC	36-10035*	3/15/1981	0.47	IRRIGATION	370
LMON FALLS LAND & LIVESTOCK CO INC	36-10037*	3/15/1974	1.65	IRRIGATION	404
ND SPRINGS LP	36-7136	7/10/1970	4.2	IRRIGATION	235
ND SPRINGS LP	36-7163	3/3/1971	5.49	IRRIGATION	420
ND SPRINGS LP	36-7452	3/11/1974	0.5	IRRIGATION	235
ND SPRINGS LP	36-7453	3/11/1974	1.34	IRRIGATION	67
ND SPRINGS RANCH PARTNERSHIP	36-7499A	9/4/1974	2.26	IRRIGATION	113
WTOOTH SHEEP INC	37-8702	1/31/1991	2.5	IRRIGATION	260
ARROW, JIM D	36-15328	7/6/1974	5.19	IRRIGATION	263
ARROW, JIM D	36-7110	12/22/1969	4.68	IRRIGATION	313
ARROW, JIM D	36-7111	12/22/1969	5.13	IRRIGATION	264
ARROW, JIM D	36-7153	1/20/1971	2.8	IRRIGATION	140
ARROW, JIM D	36-7337K	11/25/1977	1.3	STOCKWATER, COMMERCIAL	
ARROW, JIM D	36-7365A	8/10/1973	1.12	IRRIGATION	106
ARROW, JIM D	36-7365B	8/10/1973	0.33	STOCKWATER, COMMERCIAL	
ARROW, JIM D	36-7386	10/9/1973	3.2	IRRIGATION	160
ARROW, JIM D	36-7563	9/26/1974	4.38	IRRIGATION	219
ARROW, JIM D	36-7572	10/14/1975	2.64	IRRIGATION	132
ARROW, JIM D	36-8164	6/27/1985	2.08	IRRIGATION	104
ARROW, JIM D	36-8263	2/3/1985	0.85	IRRIGATION	128
ARROW, JIM D	37-8152	6/30/1983	0.25	STOCKWATER	
ARROW, JIM D	37-8901	11/25/1977	0.2	STOCKWATER	
HAEFFER, DAN; SCHAEFFER, JAMES K	36-8220B	2/7/1990	1.2	IRRIGATION	162
HENK, ROBERT W; STEWART, REID S; LLINGER, C S	36-10030*	4/1/1975	1.3	IRRIGATION	462
HMID, JOHN; SCHMID, PATRICIA	36-8434	7/31/1989	0.03	IRRIGATION	1
HOTH, PAMELA S	36-8589	5/9/1991	0.13	IRRIGATION, DOMESTIC	2.7
ARLE, CLIFFORD; SEARLE, CLOYD R; ARLE, CRAIG; SEARLE, KELLY; SEARLE, NT R; SEARLE, RAYMOND C	45-13946	5/4/1978	0.35	STOCKWATER, COMMERCIAL	
ARLE, GERALDINE; SEARLE, ORVAL M	45-7028	3/19/1968	3	IRRIGATION	458
ARLE, RAYMOND C; SEARLE, SHAROL	45-7125	1/31/1973	3.14	IRRIGATION	4389
ARLE, SCOTT O	45-7151	8/29/1973	1.38	IRRIGATION	458
ARLE, SCOTT O	45-7338	1/31/1978	1.54	IRRIGATION	458
ARLE, SCOTT O	45-7358B	3/20/1979	1.54	IRRIGATION	458
ARS, CODY J; SEARS, NATALIE N	36-8372	8/3/1988	0.06	IRRIGATION	3
RR, DARYL J; SERR, ILENE M	36-7026	6/5/1968	4.9	IRRIGATION	291
RR, KAREN B; SERR, MAX A	36-15364*	4/1/1985	0.06	IRRIGATION	214
RR, KAREN B; SERR, MAX A	36-7299	2/7/1973	4.22	IRRIGATION	214
RR, KAREN B; SERR, MAX A	36-7965	12/29/1980	1.18	IRRIGATION	59
VERANCE, EULA; SEVERANCE, RICHARD	37-2724	2/11/1966	1.26	IRRIGATION	63
ADY GROVE DAIRY PROPERTIES LLC	37-7458A	10/14/1975	1.25	IRRIGATION	145
ADY GROVE DAIRY PROPERTIES LLC	37-8751	6/11/1991	0.11	STOCKWATER, COMMERCIAL, DOMESTIC	
AFFER, JOSEPH D	37-22305	7/22/1971	0.08	IRRIGATION	3
AW, ACEY RYAN; SHAW, JALYN BELLE; AW, RITA S; SHAW, WILLIAM HUBERT	37-21264	2/27/1979	0.63	IRRIGATION	31.5
AW, RITA S; SHAW, WILLIAM HUBERT	37-21425	1/7/1974	2.65	IRRIGATION	133
AW, DEAN B	36-7702	5/5/1977	2.32	IRRIGATION	116
AW, EUGENE L; SHAW, JOYCE	37-7314	11/5/1973	2.8	IRRIGATION	180
AW, EUGENE L; SHAW, JOYCE	37-7726	8/10/1978	0.8	IRRIGATION	180
AW, RITA S; SHAW, WILLIAM HUBERT	37-7189	12/29/1972	2.45	IRRIGATION	150

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IAW, RITA S; SHAW, WILLIAM HUBERT	37-7716	5/22/1978	0.78	IRRIGATION	39
IAW, WILLIAM HUBERT	37-7149	6/26/1972	4.46	IRRIGATION	1892
IAW, WILLIAM HUBERT	37-7394	12/1/1974	5.94	IRRIGATION, STOCKWATER	1892
IAW, WILLIAM HUBERT	37-7768	2/28/1979	0.18	STOCKWATER	
IAW, WILLIAM HUBERT	37-7814	12/12/1979	0.14	IRRIGATION	1892
IAW, WILLIAM HUBERT	37-8705	2/21/1991	7	IRRIGATION	1892
IEPARD, JANET C; SHEPARD, ROBERT J	36-14202*	5/1/1975	0.2	IRRIGATION	130
IEPARD, JANET C; SHEPARD, ROBERT J	36-7737A	7/29/1977	1.42	IRRIGATION	120
IEPARD, JANET C; SHEPARD, ROBERT J	36-7737B	7/29/1977	0.16	IRRIGATION	142
IOSHONE JOINT SCHOOL DISTRICT #312	37-7498	6/25/1976	0.3	IRRIGATION	18
MPSON, JOYE	45-7333B	1/19/1978	0.08	IRRIGATION	8
MPSON, JOYE; TURNER, LOVELL J; JRNER, RONALD J	45-7731	2/12/1996	1.21	IRRIGATION	110.9
NCLAIR OIL CORP	45-7657	6/30/1989	0.02	COMMERCIAL	
NNOTT, EDGAR L	37-8869	2/3/1998	0.04	DOMESTIC	
RUCEK, MIKE	36-8569	12/10/1990	0.46	IRRIGATION	67
X HEPS LTD PARTNERSHIP	45-13775	9/6/1962	0.8	IRRIGATION	308
CAAR, KELLI JO	36-7434	3/21/1974	0.17	IRRIGATION, STOCKWATER	8.5
ADE, DELILAH; SLADE, KEVIN L	36-15229*	8/17/1972	0.3	IRRIGATION	153
ADE, DELILAH; SLADE, KEVIN L	36-7119	2/24/1970	2.41	IRRIGATION	153
ADE, WILLIAM J; SLADE, WYLENE	36-15228*	3/15/1973	0.1	IRRIGATION	459
ADE, WILLIAM J; SLADE, WYLENE	36-2598	1/7/1965	0.98	IRRIGATION	459
ADE, WILLIAM J; SLADE, WYLENE	36-7254	8/9/1972	3.2	IRRIGATION	459
ADE, WILLIAM J; SLADE, WYLENE	36-7301	2/13/1973	1.12	IRRIGATION	459
IGAR, KEITH	36-7619	8/16/1976	4.15	COMMERCIAL, RECREATION, FIRE PROTECTION	
IMAN, MICHAEL E; SLIMAN, MIKE G	37-8060	12/9/1982	0.01	COMMERCIAL	
IMAN, MICHAEL E; SLIMAN, MIKE G	37-8061	12/9/1982	0.07	IRRIGATION, DOMESTIC	1
UDER, GILBERT T; SLUDER, GONDA O; UDER, RONALD E	37-8108	6/1/1983	0.08	DOMESTIC	
ITH, CLIFFORD L	36-8522	4/11/1990	0.14	IRRIGATION, STOCKWATER, DOMESTIC	5
ITH, DAVID RA	37-7484	3/22/1976	2.88	IRRIGATION	144
ITH, GEORGE E; SMITH, NANCY L	45-7541	7/29/1983	0.03	IRRIGATION	1
ITH, JAMES M; SMITH, SHERRI	45-7180	7/15/1974	0.62	IRRIGATION, DOMESTIC	38
ITH, JEREMY S	36-16967	5/2/1977	0.05	IRRIGATION	26.4
ITH, JEREMY S	36-16969	3/15/1981	0.02	IRRIGATION	26.4
ITH, JEREMY S	36-16970	11/18/1966	0.14	IRRIGATION	26.4
ITH, JEREMY S; SMITH, LISA G; SMITH, NAE GRIFFIN	36-16658	12/9/1968	0.33	IRRIGATION	51
ITH, JEREMY S; SMITH, LISA G; SMITH, NAE GRIFFIN	36-16660	10/10/1969	0.33	IRRIGATION	51
ITH, JEREMY S; SMITH, LISA G; SMITH, NAE GRIFFIN	36-16662	1/17/1973	0.08	IRRIGATION	51
ITH, JEREMY S; SMITH, LISA G; SMITH, NAE GRIFFIN	36-16664	11/15/1973	0.17	IRRIGATION	51
ITH, JEREMY S; SMITH, LISA G; SMITH, NAE GRIFFIN	36-16666*	5/1/1984	0.07	IRRIGATION	51
ITH, JOHN E	45-7353B	8/9/1978	0.04	IRRIGATION, STOCKWATER, DOMESTIC	2.8
ITH, RONNIE D; SMITH, SHARLENE M	36-16559	2/8/1971	2.01	IRRIGATION	149
ITH, RONNIE D; SMITH, SHARLENE M	36-16837	2/8/1971	0.48	IRRIGATION	35.7

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Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
ITH, RONNIE D; SMITH, SHARLENE M	36-8333	8/25/1987	2.91	IRRIGATION	146
)ARES, JOHN C	36-8803	7/13/2000	0.13	STOCKWATER, COMMERCIAL	
)DERQUIST, CHRISTIE; SODERQUIST, ITH EDWIN	36-7416C	2/22/1974	4.78	IRRIGATION	310.4
)DERQUIST, CHRISTIE; SODERQUIST, ITH EDWIN	36-7416D	2/22/1974	4	IRRIGATION	310.4
)LAR FARMS	36-7266	11/13/1972	1.66	IRRIGATION	133
)RENSON, ESMERALDA J; SORENSON, EGORY J	37-20361	1/9/2001	0.06	STOCKWATER	
)UTH IDAHO LEASING INC	36-7768	11/28/1977	3.42	IRRIGATION	171
)UTH VIEW DAIRY	36-14035D	5/26/1976	0.14	COMMERCIAL	
)UTH VIEW DAIRY	36-16605	6/7/1965	0.43	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16606	6/7/1965	0.01	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-16607	2/26/1973	0.33	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16608	2/26/1973	0.01	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-16609	8/2/1973	0.52	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16610	8/2/1973	0.02	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-16611	5/28/1974	0.16	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16612	5/28/1974	0.01	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-16613	2/4/1976	0.15	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16614	2/4/1976	0.01	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-16615	2/22/1978	0.18	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16616	2/22/1978	0.01	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-16619	12/11/1969	1.47	IRRIGATION	236.2
)UTH VIEW DAIRY	36-16620	12/11/1969	0.04	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-2586D	1/28/1964	0.14	STOCKWATER, COMMERCIAL	
)UTH VIEW DAIRY	36-7681A	2/14/1977	0.9	IRRIGATION	56.7
)UTH VIEW DAIRY	36-7681B	2/14/1977	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
)UTH VIEW DAIRY	36-8578	2/8/1993	0.25	STOCKWATER, COMMERCIAL	
)UTHERN IDAHO REGIONAL SOLID WASTE STRICT	45-7047B	2/26/1970	0.89	IRRIGATION, STOCKWATER, INDUSTRIAL, DOMESTIC	640
)UTHERN IDAHO REGIONAL SOLID WASTE STRICT	45-7221B	1/7/1975	0.46	IRRIGATION, STOCKWATER, INDUSTRIAL, DOMESTIC	640
)UTHFIELD DAIRY	36-8387	8/31/1988	2.48	IRRIGATION	149
)UTHFIELD PROPERTIES LLC	36-10666*	5/1/1987	0.19	IRRIGATION	142
)UTHFIELD PROPERTIES LLC	36-2590	5/19/1964	2.42	IRRIGATION	142
)UTHFIELD PROPERTIES LLC	36-2907	4/26/1990	0.8	IRRIGATION	436
)UTHFIELD PROPERTIES LLC	36-7295A	12/11/1973	2.43	IRRIGATION	177
)UTHFIELD PROPERTIES LLC	36-7295B	12/11/1973	2.8	IRRIGATION	190.9
)UTHFIELD PROPERTIES LLC	36-7295C	12/11/1973	0.32	STOCKWATER, COMMERCIAL	
)UTHFIELD PROPERTIES LLC	36-7304A	2/23/1973	5.2	IRRIGATION	322
)UTHFIELD PROPERTIES LLC	36-7304B	2/23/1973	0.24	STOCKWATER, COMMERCIAL	
)UTHFIELD PROPERTIES LLC	36-7304C	2/23/1973	0.8	STOCKWATER, COMMERCIAL	
)UTHFIELD PROPERTIES LLC	36-7325A	4/12/1973	3.6	IRRIGATION	188.5
)UTHFIELD PROPERTIES LLC	36-7325B	4/12/1973	0.95	IRRIGATION	279
)UTHFIELD PROPERTIES LLC	36-7326	4/6/1973	0.64	IRRIGATION	36
)UTHFIELD PROPERTIES LLC	36-7377D	9/7/1973	0.79	STOCKWATER, COMMERCIAL	
)UTHFIELD PROPERTIES LLC	36-7377F	9/7/1973	0.24	IRRIGATION	141
)UTHFIELD PROPERTIES LLC	36-7377G	9/7/1973	1.04	IRRIGATION	139
)UTHFIELD PROPERTIES LLC	36-7377H	9/7/1973	0.05	IRRIGATION	7
)UTHFIELD PROPERTIES LLC	36-7460B	3/25/1974	1.04	IRRIGATION	99

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OUTHFIELD PROPERTIES LLC	36-7460E	3/25/1974	0.13	IRRIGATION	8
OUTHFIELD PROPERTIES LLC	36-7460F	3/25/1974	0.12	IRRIGATION	8
OUTHFIELD PROPERTIES LLC	36-7533A	3/27/1975	1.13	IRRIGATION	72
OUTHFIELD PROPERTIES LLC	36-7533B	3/27/1975	1.12	IRRIGATION	81
OUTHFIELD PROPERTIES LLC	36-7533C	3/27/1975	0.42	IRRIGATION	30
OUTHFIELD PROPERTIES LLC	36-7547D	5/13/1975	1.14	STOCKWATER, COMMERCIAL	
OUTHFIELD PROPERTIES LLC	36-7547F	5/13/1975	0.35	IRRIGATION	141
OUTHFIELD PROPERTIES LLC	36-7547G	5/13/1975	1.51	IRRIGATION	139
OUTHFIELD PROPERTIES LLC	36-7547H	5/13/1975	0.08	IRRIGATION	7
OUTHFIELD PROPERTIES LLC	36-7575	10/31/1975	0.43	IRRIGATION, STOCKWATER	37
OUTHFIELD PROPERTIES LLC	36-7583	12/9/1975	0.22	IRRIGATION	142
OUTHFIELD PROPERTIES LLC	36-7584	12/9/1975	1.08	IRRIGATION	154
OUTHFIELD PROPERTIES LLC	36-7672	1/27/1977	1.77	IRRIGATION	103
OUTHFIELD PROPERTIES LLC	36-8063C	2/21/1982	0.3	IRRIGATION	99
OUTHFIELD PROPERTIES LLC	36-8252E	10/17/1984	0.1	IRRIGATION	99
OUTHFIELD PROPERTIES LLC	36-8313A	8/20/1986	1.2	IRRIGATION	60
OUTHFIELD PROPERTIES LLC	36-8529	4/5/1990	0.66	IRRIGATION	33
OUTHFIELD PROPERTIES LLC	36-8560A	9/7/1990	1.03	IRRIGATION	135
OUTHFIELD PROPERTIES LLC	36-8560B	9/7/1990	0.12	IRRIGATION	6
OUTHFIELD PROPERTIES LLC	36-8582	2/20/1991	0.46	IRRIGATION	23
OUTHFIELD PROPERTIES LLC	36-8608	9/3/1991	0.86	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	2
OUTHFIELD PROPERTIES LLC	36-8760	12/4/1990	1.52	IRRIGATION	436
OUTHFIELD PROPERTIES LLC	37-2761B	7/14/1967	5.04	IRRIGATION	602
OUTHFIELD PROPERTIES LLC	37-7370	7/22/1974	3.26	IRRIGATION	576
OUTHFIELD PROPERTIES LLC	37-7572	3/21/1977	2.53	IRRIGATION	576
OUTHFIELD PROPERTIES LLC	37-7634	5/23/1977	1.31	IRRIGATION	576
OUTHFIELD PROPERTIES LLC	37-8326	1/6/1988	1.36	IRRIGATION	602
OUTHFIELD PROPERTIES LLC	37-8732	4/13/1991	3	IRRIGATION	587
ARKS JR, RULAND G	36-7050	1/10/1969	2.23	IRRIGATION	183
ENCER, GLEN D	36-8536	4/12/1990	0.03	IRRIGATION, DOMESTIC	1
RING CREEK TERRACES INC	45-7100	7/17/1972	0.1	MUNICIPAL	
RING CREEK TERRACES INC	45-7286	3/22/1977	0.27	DOMESTIC	
RINGDALE ACRES HOMEOWNERS ASSN	45-7697	1/9/1992	0.31	IRRIGATION, DOMESTIC	11
RINGDALE ACRES HOMEOWNERS ASSN IC	45-13513	12/6/2002	0.29	HEATING, COOLING	
RINGDALE ACRES HOMEOWNERS ASSN IC	45-7375	4/12/1979	0.12	DOMESTIC	
TALLINGS FARMS INC	36-2631	12/15/1965	1.05	IRRIGATION	52
TANDLEE FAMILY LTD PARTNERSHIP	36-15119*	3/1/1975	1.31	IRRIGATION	534
TANDLEE FAMILY LTD PARTNERSHIP	36-15178*	3/1/1975	0.04	IRRIGATION	456
TANDLEE FAMILY LTD PARTNERSHIP	36-16500*	4/1/1984	0.51	IRRIGATION	345
TAR FALLS AG INC	36-7417	12/11/1973	0.51	IRRIGATION	200
TAR FALLS FARMS LLC	36-16947	8/24/1976	0.52	IRRIGATION	511
TAR FALLS FARMS LLC	36-8289	6/26/1985	0.04	IRRIGATION	511
TARGAZER LAND & CATTLE LP	36-15152*	8/30/1984	0.08	IRRIGATION	633
TARGAZER LAND & CATTLE LP	36-7019	4/20/1968	1.78	IRRIGATION	160
TARGAZER LAND & CATTLE LP	36-7554	7/5/1975	5.35	IRRIGATION	633
TARGAZER LAND & CATTLE LP	36-7620	3/15/1976	1.76	IRRIGATION	137
TARGAZER LAND & CATTLE LP	36-7829	11/9/1978	4.8	IRRIGATION	633
TATE OF IDAHO	36-13721	10/2/1962	0.12	COMMERCIAL, DOMESTIC	
TATE OF IDAHO	37-20853	9/20/1974	0.13	MUNICIPAL	

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'ATE OF IDAHO	37-22570	5/5/2010	0.06	DOMESTIC	
'ATE OF IDAHO	37-7003	8/10/1967	0.13	MUNICIPAL	
'ATE OF IDAHO	37-7457	10/1/1975	0.05	DOMESTIC	
'ATE OF IDAHO; STATE OF IDAHO	37-7372	6/30/1999	6.54	IRRIGATION, STOCKWATER	320
'ATE OF IDAHO; STATE OF IDAHO DEPT = TRANSPORTATION	37-20852	9/20/1974	0.09	IRRIGATION	4.7
'EVE NEIBAUR FARMS INC	36-15209*	3/15/1970	0.71	IRRIGATION	335
'EVENSON BROTHERS FARMS	36-7495	8/13/1974	4.58	IRRIGATION	320
'EVENSON BROTHERS FARMS	36-7529C	3/28/1975	4.28	IRRIGATION	316
'EVENSON, DEAN F; STEVENSON, ELLEN	36-2630A	11/1/1965	4.65	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-2630B	11/1/1965	0.81	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-7007C	9/11/1967	1.31	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-7007D	9/11/1967	0.09	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-7956A	1/16/1981	2.15	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-7956B	1/16/1981	0.15	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-8619A	11/13/1991	1.13	IRRIGATION	884
'EVENSON, DEAN F; STEVENSON, ELLEN	36-8619B	11/13/1991	0.2	IRRIGATION	884
'EVENSON, JOHN A	36-7529Q	3/28/1975	0.69	IRRIGATION	158
'EVENSON, SCOTT A; STEVENSON, MARA LYNN	36-16459	9/23/1965	0.04	IRRIGATION	5.1
'EVENSON, SCOTT A; STEVENSON, MARA LYNN	36-16461	2/15/1974	0.04	IRRIGATION	5.1
'EVENSON, SCOTT A; STEVENSON, MARA LYNN	36-2562	1/24/1963	2.09	IRRIGATION	446
'EVENSON, SCOTT A; STEVENSON, MARA LYNN	36-7651	10/28/1976	4.5	IRRIGATION	316
'EVENSON, SCOTT A; STEVENSON, MARA LYNN	36-8161	3/31/1983	1.8	IRRIGATION	446
'EWART, CAROLYN L; STEWART, DENNIS	37-7628	6/16/1977	3.4	IRRIGATION	170
'EWART, FRED R	37-7443	2/29/1968	3.04	IRRIGATION	166
'ODDARD, NEIL	36-8744	12/22/1995	0.12	IRRIGATION, DOMESTIC	0.3
'OKER, BRENT; STOKER, LAVEL ; STOKER, RLA ; STOKER, WENDY	45-13861	11/3/1970	3.9	IRRIGATION	2034.6
'OKER, BRENT; STOKER, LAVEL ; STOKER, RLA ; STOKER, WENDY	45-13862	11/3/1970	0.32	STOCKWATER, COMMERCIAL	
'OKER, BRENT; STOKER, LAVEL ; STOKER, RLA ; STOKER, WENDY	45-13863	12/26/1972	1.78	IRRIGATION	2034.6
'OKER, BRENT; STOKER, LAVEL ; STOKER, RLA ; STOKER, WENDY	45-13864	12/26/1972	0.14	STOCKWATER, COMMERCIAL	
OKER, BRENT; STOKER, LAVEL ; STOKER, RLA ; STOKER, WENDY	45-13865	12/26/1973	8.84	IRRIGATION	2034.6
OKER, BRENT; STOKER, LAVEL ; STOKER, RLA ; STOKER, WENDY	45-13866	12/26/1973	0.72	STOCKWATER, COMMERCIAL	

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TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13867	7/31/1972	1.34	IRRIGATION	2034.6
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13868	7/31/1972	0.11	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13869	1/17/1973	1.32	IRRIGATION	2034.6
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13870	1/17/1973	0.11	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13871	3/20/1979	1.54	IRRIGATION	2034.6
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13872	3/20/1979	0.13	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13900	10/16/1987	2.09	IRRIGATION	2034.6
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-13901	10/16/1987	0.17	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-14102	5/4/1978	1.36	IRRIGATION	2034.6
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-14250	5/4/1978	1.41	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-7045	12/16/1969	5.47	IRRIGATION	2034.6
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-7072D	11/3/1970	0.18	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-7105B	7/31/1972	0.06	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-7116B	12/26/1972	0.08	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-7161B	12/26/1973	0.3	STOCKWATER, COMMERCIAL	
TOKER, BRENT; STOKER, LAVEL ; STOKER, ARLA ; STOKER, WENDY	45-7358D	3/20/1979	1.59	IRRIGATION, STOCKWATER	2034.6
TOKES, SHIRLEY W	36-8409	1/23/1989	0.2	IRRIGATION	10
TOUDER HOLSTEINS LLP	36-8225A	11/19/1983	0.54	IRRIGATION, STOCKWATER, COMMERCIAL	1.5
TOUDER HOLSTEINS LLP	36-8225B	11/19/1983	0.18	STOCKWATER	
TOUDER HOLSTEINS LLP	36-8350	4/5/1988	0.31	STOCKWATER, COMMERCIAL	
TRAUB, KATHARINA	36-13629	8/2/1972	0.04	DOMESTIC	
TRAUB, KATHARINA	36-15711	12/8/1981	0.06	STOCKWATER, COMMERCIAL	
TRICKLAND, EVELYN G	36-7450B	3/6/1974	0.76	IRRIGATION	37
TROUD, JAMES L; STROUD, LORIEN E	36-13645	12/31/1978	0.08	STOCKWATER, DOMESTIC	
TROUD, JAMES L; STROUD, LORIEN E	36-16210	5/4/1978	0.11	STOCKWATER, COMMERCIAL	
JCHAN, CHEYENNE B; SUCHAN, RUSSELL	36-12454*	7/4/1974	0.51	IRRIGATION	800
JCHAN, CHEYENNE B; SUCHAN, RUSSELL	36-7052	1/14/1969	6.58	IRRIGATION	800
JCHAN, FRANK J	36-2574	7/22/1963	0.9	IRRIGATION	240
JCHAN, FRANK J	36-7629	6/24/1976	2	IRRIGATION	240
JCHAN, FRANK J	36-7828	10/23/1978	2.32	IRRIGATION	156
JCHAN, FRANK J	36-7839	1/19/1979	0.8	IRRIGATION	156
JHR, DANIEL A; SUHR, DONNA DEE	36-14317*	3/20/1976	0.67	IRRIGATION	153
JN VALLEY POTATOES INC	36-8349	7/20/1988	0.29	COMMERCIAL	
JNDANCE INC	36-15992	7/31/1974	0.42	IRRIGATION	94
VEET, WILLIAM G	37-7692	12/21/1977	4	IRRIGATION	196

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VISHER, JERRY S	45-7652	6/5/1989	0.06	IRRIGATION, DOMESTIC	2.1
BRANDY, ANNA; SYBRANDY, IDA; BRANDY, SIMON	36-8408	1/19/1989	0.31	COMMERCIAL, DOMESTIC	
DNOR, CARLA; SYDNOR, CHARLES	45-7661	6/29/1989	0.05	IRRIGATION, DOMESTIC	2
BER FAMILY LLC	37-7465A	12/1/1975	2.67	IRRIGATION	160
BER FAMILY LLC	37-7504	7/22/1976	3.3	IRRIGATION, STOCKWATER	178
BER FAMILY LLC	37-7772	1/11/1980	0.71	IRRIGATION	38
BER, BEVERLY	37-7877A	2/5/1981	0.02	IRRIGATION	1
BER, BEVERLY; TABER, DONALD E	37-7617A	6/2/1977	3.64	IRRIGATION	186
BER, BEVERLY; TABER, DONALD E	37-7617B	6/2/1977	0.14	STOCKWATER, COMMERCIAL	
BER, DONALD C; TABER, LYNDA L	37-8078	5/15/1983	2	IRRIGATION	116
BER, DONALD E	37-10158*	4/1/1974	1.78	IRRIGATION	466
BER, DONALD E	37-7197	1/23/1973	4.46	IRRIGATION	466
JO LLC	45-2761	10/18/1962	1.04	IRRIGATION	75
JO LLC	45-7214	12/24/1974	1	IRRIGATION	50
NNER, BARBARA; TANNER, ROBERT	36-8512	2/27/1990	0.02	COMMERCIAL	
T FARMS LLC	45-13490	6/30/1985	0.74	IRRIGATION	385
T FARMS LLC	45-13491	6/30/1985	4.02	IRRIGATION	1261.1
TEOKA, JIM; TATEOKA, KO T	36-7522	1/29/1975	2.15	IRRIGATION	307
D MILLER DAIRY	36-16187	10/28/1977	0.75	IRRIGATION	150
D MILLER DAIRY	36-16189	8/10/1973	2.11	IRRIGATION	150
IXEIRA, HUMBERTO AZEVEDO	36-16732	8/21/1973	0.16	IRRIGATION	8
LFORD, MICHAEL S	36-10024*	5/31/1976	1.15	IRRIGATION	298.8
LFORD, MICHAEL S	36-10025*	5/31/1976	0.77	IRRIGATION	238
LFORD, MICHAEL S	36-15984	12/7/1979	2.91	IRRIGATION	444
LFORD, MICHAEL S	36-15985	12/7/1979	0.94	IRRIGATION	308
LFORD, MICHAEL S	36-2552	11/14/1962	4.42	IRRIGATION	298.8
LFORD, MICHAEL S	36-8189	5/11/1983	0.96	IRRIGATION	48
LFORD, MICHAEL S	36-8191	5/11/1983	1.97	IRRIGATION	98.3
LFORD, MICHAEL S	37-7650	9/4/1977	0.17	STOCKWATER, DOMESTIC	
LFORD, MICHAEL S	37-7949	11/4/1981	0.25	STOCKWATER, COMMERCIAL	
LFORD, MICHAEL S; TELFORD, ROBERT	37-8212	5/11/1983	0.01	STOCKWATER, COMMERCIAL	
LFORD, MICHAEL S; TELFORD, SHANNON	36-7002A	8/1/1967	4.36	IRRIGATION	291
LFORD, MICHAEL S; TELFORD, SHANNON	36-7002B	8/1/1967	2.84	IRRIGATION	257
RRONEZ, EUGENE THOMAS; TERRONEZ, DITH J	36-7924	6/30/1980	0.08	IRRIGATION, STOCKWATER, DOMESTIC	1
SSENDERLO KERLEY INC	45-7465C	4/15/1981	0.14	IRRIGATION	9
SSENDERLO KERLEY INC	45-7465D	4/15/1981	0.56	INDUSTRIAL	
XAS MUNICIPAL PLAN CONSORTIUM LLC	36-16140*	3/15/1974	0.01	IRRIGATION	11.3
XAS MUNICIPAL PLAN CONSORTIUM LLC	36-2554A	8/31/1962	2.52	IRRIGATION	640
IAIN, CORY S	36-16702	3/13/1981	0.86	IRRIGATION	43
IAIN, GREG S	36-16701	3/13/1981	0.3	IRRIGATION	15
IAIN, GREG S; THAIN, JOHN T	36-8413	3/2/1989	1	IRRIGATION	183.5
IE ALTON & PAULA HUYSER TRUST	37-7268	8/23/1973	3.06	IRRIGATION	489
IE ALTON & PAULA HUYSER TRUST	37-7454	9/8/1975	3.94	IRRIGATION	489
IE ALTON & PAULA HUYSER TRUST	37-7602	5/4/1977	2.62	IRRIGATION	489
IE ALTON & PAULA HUYSER TRUST	37-8679	8/23/1990	0.16	IRRIGATION	489
IE AMALGAMATED SUGAR CO	36-8364	6/10/1988	0.22	INDUSTRIAL	
IE BAKER FAMILY TRUST	36-7405	11/8/1973	1.16	IRRIGATION	240
IE BENEDICTINE MONKS OF IDAHO INC	36-7904	3/26/1980	0.38	IRRIGATION	425
IIBAULT, DONALD F; THIBAULT, PHYLLIS N	36-7447	2/21/1974	3.91	IRRIGATION	282

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HOMPSON, CONNIE J; THOMPSON, ICHAEL W	36-16707	4/26/1990	0.03	STOCKWATER, COMMERCIAL	
HOMPSON, CONNIE J; THOMPSON, ICHAEL W	36-16708	4/26/1990	0.06	STOCKWATER, COMMERCIAL	
HOMPSON, CONNIE J; THOMPSON, ICHAEL W	36-16767	9/12/1973	0.16	STOCKWATER, COMMERCIAL	
HOMPSON, CONNIE J; THOMPSON, ICHAEL W	36-7337H	11/25/1977	0.3	STOCKWATER, COMMERCIAL	
HOMPSON, DEBORAH M; THOMPSON, ARY C	36-11839*	3/15/1976	0.25	IRRIGATION	317
HOMPSON, DEBORAH M; THOMPSON, ARY C	36-15171	6/23/1962	4.65	IRRIGATION	317
HOMPSON, KURT; THOMPSON, LINDA B	36-8615	10/30/1991	0.05	IRRIGATION	1.5
HOMSON, JOHN S	36-8675	9/14/1992	0.03	STOCKWATER	
.D PROPERTIES LLC	36-16657	12/9/1968	6.07	IRRIGATION	929
.D PROPERTIES LLC	36-16659	10/10/1969	6.07	IRRIGATION	929
.D PROPERTIES LLC	36-16661	1/17/1973	1.52	IRRIGATION	929
.D PROPERTIES LLC	36-16663	11/15/1973	3.03	IRRIGATION	929
.D PROPERTIES LLC	36-16665*	5/1/1984	1.19	IRRIGATION	929
OLEDO, JOHN B	36-7265	9/25/1972	0.76	IRRIGATION, STOCKWATER, COMMERCIAL	15
OLEDO, JOHN B; TOLEDO, MARIA R	36-7460AF	3/25/1974	0.2	STOCKWATER, COMMERCIAL	
OONE, MARK S; TOONE, SALLY J	37-7412	12/18/1974	2.25	IRRIGATION	247
OONE, MARK S; TOONE, SALLY J	37-7816	12/26/1979	2.25	IRRIGATION	138
RACY, CHARLES R	36-7733	7/22/1977	0.12	IRRIGATION, DOMESTIC	3.5
RAU, DONNA; TRAU, JOSEPH P	36-8464B	10/12/1989	0.16	IRRIGATION, STOCKWATER	5
RAVELERS OASIS TRUCK PLAZA; WILLIE, ANIEL L	36-8766	6/8/1997	0.1	COMMERCIAL	
RIANGLE P LLC	36-10852	1/1/1968	0.14	IRRIGATION	470.9
RIPLE ACE INC	36-2558	12/14/1962	3.08	IRRIGATION	459
RIPLE C CONCRETE INC	36-8791	6/17/1999	1.68	INDUSTRIAL	
RIPLE C CONCRETE INC	36-8792	6/17/1999	1.68	INDUSTRIAL	
RIPLE T FARMS	36-7882B	12/7/1979	7.85	IRRIGATION	639.5
ROST, KEN R; TROST, PAM J	36-7996	7/24/1981	0.22	IRRIGATION	11
URNER, BRUCE B	45-7120A	1/10/1973	1.67	IRRIGATION	146
URNER, CHARLES K; TURNER, STACEY	37-7415A	1/6/1975	1.39	IRRIGATION	69.4
URNER, CHARLES K; TURNER, STACEY	37-7415B	1/6/1975	0.21	STOCKWATER, COMMERCIAL	
URNER, DALE N; TURNER, NILENE M	45-7334	6/7/1978	1.78	IRRIGATION	160
URNER, LOVELL J	45-13548	1/19/1978	0.03	IRRIGATION	5.6
URNER, RONALD J	45-7333A	1/19/1978	0.44	IRRIGATION	97.3
URNEY, JAMES O; TURNEY, VICKIE	45-7674	4/9/1990	0.03	IRRIGATION	0.8
VIN STOCK LLC	36-7699	5/2/1977	2.15	IRRIGATION	107.5
NIT 3 WATER ASSN INC	36-8090	6/16/1982	0.51	IRRIGATION, STOCKWATER, DOMESTIC, FIRE PROTECTION	24
NIT 3 WATER ASSN INC	36-8727	5/5/1994	0.45	DOMESTIC	
NITED ELECTRIC COOP INC	36-8797	11/5/1999	0.21	HEATING, COOLING	
NITED STATES OF AMERICA ACTING HROUGH	36-16183	6/18/2003	0.03	STOCKWATER, WILDLIFE	
NITED STATES OF AMERICA ACTING HROUGH	36-16583*	3/15/1987	0.03	IRRIGATION	4

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JITED STATES OF AMERICA ACTING IROUGH	36-16691	9/10/1984	2.68	IRRIGATION	133.8
JITED STATES OF AMERICA ACTING IROUGH	36-16950	5/1/1967	0.22	IRRIGATION	11.14
JITED STATES OF AMERICA ACTING IROUGH	36-7497	8/21/1974	0.05	STOCKWATER, WILDLIFE	
JITED STATES OF AMERICA ACTING IROUGH	36-7611A	2/25/1977	1.67	IRRIGATION	119
JITED STATES OF AMERICA ACTING IROUGH	36-7830A	11/9/1978	0.67	IRRIGATION	119
JITED STATES OF AMERICA ACTING IROUGH	36-8056B	1/21/1982	0.7	IRRIGATION	46
JITED STATES OF AMERICA ACTING IROUGH	36-8110B	8/19/1982	0.12	IRRIGATION	46
JITED STATES OF AMERICA ACTING IROUGH	37-20839	2/6/1974	0.19	IRRIGATION	64
JITED STATES OF AMERICA ACTING IROUGH	37-20849	10/6/1977	0.42	IRRIGATION	30
JITED STATES OF AMERICA ACTING IROUGH	37-20851*	3/15/1983	0.02	IRRIGATION	30
JITED STATES OF AMERICA ACTING IROUGH	43-7007	12/24/1968	0.5	STOCKWATER, WILDLIFE	
JITED STATES OF AMERICA ACTING IROUGH	45-13446	4/13/1970	0.76	IRRIGATION	38
JITED STATES OF AMERICA ACTING IROUGH	45-13586	9/17/1970	0.4	IRRIGATION	33
JITED STATES OF AMERICA ACTING IROUGH	45-13786	9/17/1970	0.54	IRRIGATION	39
JITED STATES OF AMERICA ACTING IROUGH	45-7340B	2/2/1978	0.97	IRRIGATION	80
I FARMS LTD PARTNERSHIP	36-15645	10/18/1968	0.15	STOCKWATER, COMMERCIAL	
I FARMS LTD PARTNERSHIP	36-15647	12/3/1966	0.12	STOCKWATER, COMMERCIAL	
I FARMS LTD PARTNERSHIP	36-15649	2/18/1971	0.06	STOCKWATER, COMMERCIAL	
I FARMS LTD PARTNERSHIP	36-16192	1/7/1974	0.03	STOCKWATER, COMMERCIAL	
I FARMS LTD PARTNERSHIP	36-16378	1/7/1974	0.1	STOCKWATER, COMMERCIAL	
I FARMS LTD PARTNERSHIP	36-8549	6/28/1990	0.09	STOCKWATER, COMMERCIAL	
I FARMS LTD PARTNERSHIP	37-21142	1/7/1974	0.08	IRRIGATION, MITIGATION	4.9
I FARMS LTD PARTNERSHIP	37-21160	2/27/1979	0.12	MITIGATION	
DEPARTMENT OF INTERIOR BUREAU OF CLAMATION	36-16928	2/1/2012	0.2	HEATING, COOLING	
DEPARTMENT OF THE INTERIOR	45-14303	4/13/1970	1.28	IRRIGATION	130.5
DEPARTMENT OF THE INTERIOR	45-14305*	4/13/1971	0.69	IRRIGATION	130.5
DEPT OF INTERIOR	36-16062	8/12/2002	0.02	DOMESTIC, FIRE PROTECTION	
DEPT OF INTERIOR	36-8575	12/24/1990	0.07	STOCKWATER, WILDLIFE	
L DAIRY	36-7569	9/24/1975	6.02	IRRIGATION	302
R FARMS LLC	45-13948	7/11/1966	0.81	IRRIGATION	120
R FARMS LLC	45-13950	8/15/1975	1.16	IRRIGATION	120
R FARMS LLC	45-13962	8/29/1991	7.35	IRRIGATION	367.4
R FARMS PARTNERSHIP	45-13963	8/29/1991	0.22	IRRIGATION	120
DER, BONNIE; VADER, ORVAL E	36-16836	2/8/1971	0.03	IRRIGATION	2.3
LLEY COOPS INC	36-8452	8/22/1989	0.16	COMMERCIAL	

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ALLEY SCHOOL DISTRICT #262	36-16299	9/22/2004	1.52	DOMESTIC, FIRE PROTECTION	
ALLEY VIEW DAIRY LLC	36-14846	12/31/1962	0.12	STOCKWATER, COMMERCIAL, DOMESTIC	
AN BEEK, DIANNE; VAN BEEK, JACK	36-2580	11/21/1963	1.93	IRRIGATION	369.1
AN BEEK, DIANNE; VAN BEEK, JACK	36-7958	1/9/1981	5.8	IRRIGATION	290
AN BEEK, DIANNE; VAN BEEK, JOHN W	36-16719*	3/15/1975	0.08	STOCKWATER, COMMERCIAL	
AN BEEK, DIANNE; VAN BEEK, JOHN W	36-16720*	3/15/1975	0.05	STOCKWATER, COMMERCIAL	
AN BEEK, DIANNE; VAN BEEK, JOHN W	36-8021	1/2/1982	0.22	STOCKWATER, COMMERCIAL	
AN BEEK, DIANNE; VAN BEEK, JOHN W	36-8398	2/14/1995	0.51	STOCKWATER, COMMERCIAL	
AN DYK & SONS A GENERAL PARTNERSHIP	36-7319	3/22/1973	1.11	IRRIGATION	74
AN DYK & SONS A GENERAL PARTNERSHIP	36-7454	3/11/1974	0.28	IRRIGATION	74
AN DYK, MARIE C; VAN DYK, RICHARD B	36-7738	9/7/1977	2.5	IRRIGATION	125
AN DYK, RICHARD B; VAN DYK, TAMMY D	36-7760	11/7/1977	2.3	IRRIGATION	222
AN DYK, RICHARD B; VAN DYK, TAMMY D	36-8389	9/1/1988	0.18	STOCKWATER, COMMERCIAL	
AN STRAALEN, ALICE; VAN STRAALEN, RIE	36-16506	4/8/1975	0.05	COMMERCIAL	
AN STRAALEN, ALICE; VAN STRAALEN, RIE	36-16508	9/15/1972	0.23	STOCKWATER, COMMERCIAL	
AN STRAALEN, ALICE; VAN STRAALEN, RIE	36-16510	8/16/1973	0.08	STOCKWATER, COMMERCIAL	
AN TASSELL, AFTON	36-2569	4/3/1963	0.9	IRRIGATION	45
AN TASSELL, AFTON; VAN TASSELL, GAIL	36-7512	11/25/1974	9.2	IRRIGATION	837
AN TASSELL, AFTON; VAN TASSELL, GAIL	36-7966	2/23/1981	0.37	IRRIGATION	837
AN TASSELL, PERRY	36-7010	9/28/1967	3.79	IRRIGATION	305
AN TASSELL, PERRY	36-7784A	3/17/1978	3.23	IRRIGATION	272
AN TASSELL, PERRY	36-7784B	3/17/1978	1.11	IRRIGATION	305
ANDEN BOSCH SR, MARVIN L; VANDEN OSCH, JEANNETTE	36-7954	12/30/1980	0.07	IRRIGATION, DOMESTIC	2
ANDER VEGT, IRENE	36-7283	1/5/1973	1.16	IRRIGATION	76
ANDER VEGT, IRENE	36-7289	1/22/1973	2.1	IRRIGATION	105
ANDER VEGT, IRENE	36-7363B	8/7/1973	2.56	IRRIGATION	245
ANDERHAM BROTHERS DAIRY	36-7379A	9/18/1973	1.96	IRRIGATION	132
ANDERHAM BROTHERS DAIRY	36-7379B	9/18/1973	0.27	STOCKWATER, COMMERCIAL	
ANDERHAM BROTHERS DAIRY	36-8554	5/13/1990	0.23	DOMESTIC	
ANDERHAM DAIRY	36-16104	10/18/1968	0.49	IRRIGATION	59.4
ANDERHAM DAIRY	36-16106	12/3/1966	0.38	IRRIGATION	59.4
ANDERHAM DAIRY	36-16108	2/18/1971	0.2	IRRIGATION	59.4
ANDERHAM, DANNY C	36-8636	9/23/1997	1	STOCKWATER, COMMERCIAL, DOMESTIC	
ANDERVEGT, RAY	36-7350	7/18/1973	2.34	IRRIGATION	132
ANDERVEGT, RAY	36-7460J	3/25/1974	1.23	IRRIGATION	69
ANDERVEGT-GIBSON, IRENE	36-2673	8/3/1966	2.28	IRRIGATION	114
ANDERVEGT-GIBSON, IRENE	36-7517	12/17/1974	4	IRRIGATION	556
ASQUAZ, DUFIA; VASQUAZ, J REUBEN	36-10243*	5/1/1985	0.4	IRRIGATION	205
EENHOUWER FAMILY FARMS LLC	36-7255	7/13/1972	2	IRRIGATION	108
EENHOUWER FAMILY FARMS LLC	36-8060	2/9/1982	0.2	COMMERCIAL	
EENHOUWER FAMILY FARMS LLC	36-8422	4/20/1989	0.2	STOCKWATER, COMMERCIAL	
EENSTRA FAMILY LTD PARTNERSHIP	36-16706	3/25/1974	2.34	IRRIGATION	132
EENSTRA, FRANK W	36-15077*	4/1/1982	0.91	IRRIGATION	198.5

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ENSTRA, FRANK W	36-16746	9/15/1972	0.16	STOCKWATER, COMMERCIAL	
ENSTRA, FRANK W	36-16748	8/16/1973	0.05	STOCKWATER, COMMERCIAL	
ENSTRA, FRANK W	36-7666A	1/5/1977	1.64	IRRIGATION	82
ENSTRA, FRANK W	36-7666B	1/5/1977	0.66	STOCKWATER, COMMERCIAL	
ENSTRA, FRANK W; VEENSTRA, MARY NE	36-15207	7/29/1988	0.04	DOMESTIC	
ENSTRA, FRANK W; VEENSTRA, MARY NE	36-7274	11/17/1972	0.8	IRRIGATION	50
ENSTRA, FRANK W; VEENSTRA, MARY NE	36-7341	6/18/1973	2.06	IRRIGATION	103
ENSTRA, FRANK W; VEENSTRA, MARY NE	36-7472	5/8/1974	2.16	IRRIGATION	157
ENSTRA, FRANK W; VEENSTRA, MARY NE	36-7526	3/24/1975	5.08	IRRIGATION	306
ENSTRA, FRANK W; VEENSTRA, MARY NE	36-8100	7/13/1982	0.15	IRRIGATION, STOCKWATER, DOMESTIC	5
ENSTRA, FRANK W; VEENSTRA, MARY NE	37-20590	7/22/1971	1.74	IRRIGATION	113
ENSTRA, FRANK; VEENSTRA, MARY JANE	36-15206	7/29/1988	0.24	STOCKWATER	
RBREE LAND HOLDINGS LLC	36-15998	4/8/1975	0.38	IRRIGATION	211.5
RBREE LAND HOLDINGS LLC	36-15999	4/8/1975	0.3	STOCKWATER, COMMERCIAL	
RBREE LAND HOLDINGS LLC	36-16458	9/23/1965	7.3	IRRIGATION	477.7
RBREE LAND HOLDINGS LLC	36-16460	2/15/1974	7.3	IRRIGATION	471.5
RBREE LAND HOLDINGS LLC	36-16745	9/15/1972	1.01	IRRIGATION	100
RBREE LAND HOLDINGS LLC	36-2642	2/11/1966	3.12	IRRIGATION	500
RBREE LAND HOLDINGS LLC	36-7318A	3/21/1973	0.24	COMMERCIAL	
RBREE LAND HOLDINGS LLC	36-7318B	3/21/1973	0.1	STOCKWATER, DOMESTIC	
RBREE LAND HOLDINGS LLC	36-7318C	3/21/1973	0.09	STOCKWATER	
RBREE LAND HOLDINGS LLC	36-7318D	3/21/1973	0.26	STOCKWATER, COMMERCIAL	
RBREE LAND HOLDINGS LLC	36-7318E	3/21/1973	0.05	IRRIGATION	2.6
RBREE LAND HOLDINGS LLC	36-7535	4/9/1975	4.34	IRRIGATION	305
RBREE LAND HOLDINGS LLC	36-7571	10/14/1975	1.5	IRRIGATION	305
RBREE LAND HOLDINGS LLC	36-7604	3/11/1976	5.74	IRRIGATION	906
RBREE LAND HOLDINGS LLC	36-7640	10/8/1976	2.13	IRRIGATION	108
RBREE LAND HOLDINGS LLC	36-7706	5/25/1977	1.45	IRRIGATION	136
RBREE LAND HOLDINGS LLC	36-7788A	4/8/1978	1.94	IRRIGATION	889
RBREE LAND HOLDINGS LLC	36-7788B	4/8/1978	0.28	IRRIGATION	500
RBREE LAND HOLDINGS LLC	36-8079	4/15/1982	0.06	STOCKWATER, COMMERCIAL, DOMESTIC	
RBREE LAND HOLDINGS LLC	36-8199	6/15/1983	0.2	STOCKWATER, COMMERCIAL	
RBREE LAND HOLDINGS LLC	36-8351	6/15/1988	0.19	STOCKWATER, COMMERCIAL, DOMESTIC	
RBREE LAND HOLDINGS LLC	36-8666	7/10/1992	0.27	STOCKWATER, COMMERCIAL, DOMESTIC	
CTOR, SALLY; VICTOR, STEVE	36-8128	12/30/1982	0.03	COMMERCIAL	
LAGE ENTERPRISES LLC	45-7662A	8/2/1989	0.6	IRRIGATION, COMMERCIAL, DOMESTIC, RECREATION	5
LAGE ENTERPRISES LLC	45-7662B	8/2/1989	0.46	IRRIGATION, RECREATION	20
RGIL & AMA LEE BROCKMAN FAMILY UST	36-7623	4/13/1976	0.64	IRRIGATION, COMMERCIAL	27
SSER, CAROL; VISSER, TONY	36-7366A	8/13/1973	2.83	IRRIGATION	141.5

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' 4 DAIRY	36-16569	2/8/1977	2.89	IRRIGATION	308
' 4 DAIRY	36-16578	2/20/1990	0.42	IRRIGATION	308
' 4 DAIRY	36-16587*	3/15/1987	0.03	IRRIGATION	308
' 4 DAIRY	36-16737	12/1/1972	1.3	IRRIGATION	320
' 4 DAIRY	36-2650	5/6/1966	2.42	IRRIGATION	320
'ACHTEL, BERND; WACHTEL, SHEILA	36-16560	2/8/1971	0.01	IRRIGATION	2
'AHLSTROM, LESLIE; WAHLSTROM, RON	36-8612	10/24/1991	0.03	IRRIGATION	1
'ALKER, AUSTIN RAY; WALKER, JONI	45-7043	12/8/1969	1.02	IRRIGATION	170.6
'ALKER, AUSTIN RAY; WALKER, JONI	45-7235	4/4/1975	0.83	IRRIGATION	170.6
'ALL, DIANA R; WALL, LARRY G	36-8451	9/28/1989	0.02	COMMERCIAL	
'ARD, ALLAN	45-14338	9/15/1971	0.21	IRRIGATION	27.9
'ARD, ALLAN	45-14339	9/15/1971	0.09	STOCKWATER, COMMERCIAL	
'ARD, ALLAN	45-14340	6/30/1985	0.01	IRRIGATION	27.9
'ARD, AMY RAE; WARD, STANLEY	37-7695	2/7/1977	2.59	IRRIGATION	198
'ARD, DANIEL G; WARD, KARLA	36-16331	11/15/1970	0.21	STOCKWATER, COMMERCIAL	
'ARD, DANIEL G; WARD, KARLA	36-16333	5/16/1980	0.05	STOCKWATER, COMMERCIAL	
'ARD, DANIEL G; WARD, KARLA	36-16335*	5/26/1971	0.02	STOCKWATER, COMMERCIAL	
'ARD, DANIEL G; WARD, KARLA	36-7717	5/26/1977	0.07	STOCKWATER, COMMERCIAL	
'ARD, DANIEL G; WARD, KARLA	45-14425	6/30/1985	0.25	IRRIGATION	294.8
'ARD, DANIEL G; WARD, KARLA	45-7259	2/9/1976	4.03	IRRIGATION	313
'ARNER JR, THOMAS F; WARNER, PAULINE	36-7262	9/19/1972	1.9	IRRIGATION	99
'ARNER LAND & LIVESTOCK	36-7263	9/19/1972	0.26	IRRIGATION	128
'ARNER, GARALD; WARNER, SARA	37-7679	9/23/1977	0.12	IRRIGATION	6
'ARNER, THOMAS	36-7213	12/30/1971	4.8	IRRIGATION	240
'ARNER, THOMAS	36-7486	6/27/1974	2.4	IRRIGATION	120
'ARNER, THOMAS	36-7498	8/19/1974	0.8	IRRIGATION	40
'ARREN, DAVID L; WARREN, SANDRA L	45-13567*	11/14/1983	0.21	IRRIGATION	163
'ARREN, DAVID L; WARREN, SANDRA L	45-7023	1/26/1968	1.77	IRRIGATION	163
'ARTLUFT, HAROLD; WARTLUFT, LOIS	37-8375	8/11/1988	0.15	IRRIGATION, DOMESTIC	3.5
'ATERS, LINDA K; WATERS, TIM H	36-2637B	1/27/1966	1.54	IRRIGATION	701
'ATERS, LINDA K; WATERS, TIM H	36-7096A	12/1/1969	0.77	IRRIGATION	701
'ATERS, LINDA K; WATERS, TIM H	36-7613	2/26/1976	1.6	IRRIGATION	701
'ATERS, LINDA K; WATERS, TIM H	36-7703	5/10/1977	3.57	IRRIGATION	198
'AUNA VISTA PARK HOMEOWNERS ASSN	36-8720	2/4/1994	0.03	IRRIGATION	0.7
'AYMENT FARMS INC	45-13413	6/30/1985	0.75	IRRIGATION	791.8
'AYMENT FARMS INC	45-2691	12/20/1962	3.4	IRRIGATION	791.8
'AYNE C ANDERSEN LLC	45-10310*	5/1/1978	4.04	IRRIGATION	1265
'AYNE C ANDERSEN LLC	45-11728	6/30/1985	1.25	IRRIGATION	465
'AYNE C ANDERSEN LLC	45-14244	10/17/1962	2.67	IRRIGATION	941.5
'AYNE C ANDERSEN LLC	45-14246	6/30/1985	2.13	IRRIGATION	941.5
'AYNE C ANDERSEN LLC	45-7048	3/3/1970	2.5	IRRIGATION	1265
'AYNE C ANDERSEN LLC	45-7347	6/29/1978	4.5	IRRIGATION	1265
'AYSIDE ESTATES INC	36-7970	3/10/1981	0.2	DOMESTIC	
'EBER, JEFF L; WEBER, KERI JO	37-20848	10/6/1977	8.28	IRRIGATION	634
EBER, JEFF L; WEBER, KERI JO	37-20850*	3/15/1983	0.4	IRRIGATION	634
EBER, JEFF L; WEBER, KERI JO	37-7089	3/22/1971	4.4	IRRIGATION	288
EL IDAHO REAL ESTATE LLC	37-8289	2/23/1987	0.11	COMMERCIAL	
ENDELL CEMETERY DISTRICT	36-8242	4/10/1984	0.2	IRRIGATION	10
ERT, LOREN; WERT, RITA	36-8000	9/11/1981	0.8	IRRIGATION	40
ERT, WAYNE K	36-7310	3/2/1973	2.56	IRRIGATION	144
EST ONE BANK IDAHO	36-15215*	3/15/1972	1.1	IRRIGATION	609

* Enlargement right subordinate to rights earlier than April 12, 1994

EXHIBIT B - FINAL ORDER

Attachment 6

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
EST ONE BANK IDAHO	36-7145	12/10/1970	2.45	IRRIGATION	609
EST ONE BANK IDAHO	36-7147	12/10/1970	4.03	IRRIGATION	609
EST ONE BANK IDAHO	36-7528	3/27/1975	1.08	IRRIGATION	609
EST ONE BANK IDAHO N A	36-7146	12/10/1970	1.94	IRRIGATION	609
EST SLOPE FARMS INC	45-11022*	5/1/1966	0.37	IRRIGATION	884
EST SLOPE FARMS INC	45-14402	9/15/1971	0.49	IRRIGATION	884
EST SLOPE FARMS INC	45-14404	6/30/1985	0.02	IRRIGATION	884
EST SLOPE FARMS INC	45-7003	9/6/1967	5.32	IRRIGATION	884
EST, JIM	37-8222	8/5/1985	0.03	STOCKWATER	
ESTERN DAIRYMEN COOPERATIVE INC	36-7492B	7/31/1974	3.96	IRRIGATION	198
ESTERN FARM SERVICE INC	36-8341	11/25/1987	0.08	COMMERCIAL	
ESTERN FARM SERVICE INC	45-7648	6/13/1989	0.2	COMMERCIAL	
ESTERN IDAHO POTATO PROCESSING CO	36-8324	4/3/1987	2	FIRE PROTECTION	
ESTERN MORTGAGE & REALTY CO	36-10863A*	5/1/1970	2.57	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-10863B*	5/1/1970	0.03	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-11290*	5/1/1985	0.06	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-11340*	4/1/1972	0.97	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-13320	9/8/1962	0.11	STOCKWATER	
ESTERN MORTGAGE & REALTY CO	36-15234*	3/15/1971	1.14	IRRIGATION	2969.3
ESTERN MORTGAGE & REALTY CO	36-15264A*	8/24/1966	0.68	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-15264B*	8/4/1979	0.71	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-15567	2/20/1990	1.54	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-15616*	7/13/1971	0.17	IRRIGATION	260
ESTERN MORTGAGE & REALTY CO	36-15617*	7/13/1971	0.03	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-15618	1/11/1966	3.86	IRRIGATION	260
ESTERN MORTGAGE & REALTY CO	36-15619	1/11/1966	0.71	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-15621	2/8/1977	3.34	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-16456*	3/15/1984	0.1	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-16582*	3/15/1987	0.09	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-16585*	3/15/1987	0.96	IRRIGATION	2969.3
ESTERN MORTGAGE & REALTY CO	36-16689	5/22/1974	4.68	IRRIGATION	2969.3
ESTERN MORTGAGE & REALTY CO	36-16690	9/10/1984	5.52	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-16692	9/10/1984	0.11	IRRIGATION	5.4
ESTERN MORTGAGE & REALTY CO	36-16789	11/1/1967	0.15	IRRIGATION	260
ESTERN MORTGAGE & REALTY CO	36-16790	11/1/1967	0.08	IRRIGATION	2969.3
ESTERN MORTGAGE & REALTY CO	36-16814	2/20/1990	11.33	IRRIGATION	2969.3
ESTERN MORTGAGE & REALTY CO	36-16815	2/20/1990	3.9	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-16816	2/20/1990	0.16	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-2582A	11/17/1963	3.52	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-2582B	11/17/1963	0.03	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-2591	6/3/1964	2.9	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-2618	7/28/1965	2.9	IRRIGATION	5063
ESTERN MORTGAGE & REALTY CO	36-2619	10/16/1965	12.8	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-2620	8/6/1965	7.13	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-2653B	9/12/1966	0.68	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-2653N	9/12/1966	0.05	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-2653P	9/12/1966	6.75	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-2653Q	9/12/1966	0.09	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-4006*	7/14/1977	1.7	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-7007B	9/11/1967	1.32	IRRIGATION	8627.4
ESTERN MORTGAGE & REALTY CO	36-7021A	4/9/1968	0.42	IRRIGATION	8627.4

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EXHIBIT B - FINAL ORDER

Attachment C

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
'ESTERN MORTGAGE & REALTY CO	36-7021C	4/9/1968	0.54	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7041	10/15/1968	4.4	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7209	11/17/1971	4.01	IRRIGATION	5063
'ESTERN MORTGAGE & REALTY CO	36-7246A	5/18/1972	3.81	IRRIGATION	5063
'ESTERN MORTGAGE & REALTY CO	36-7246B	5/18/1972	0.04	IRRIGATION	5063
'ESTERN MORTGAGE & REALTY CO	36-7391	10/12/1973	0.11	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7476B	5/22/1974	1.8	IRRIGATION	2969.3
'ESTERN MORTGAGE & REALTY CO	36-7580B	11/21/1975	0.07	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7580C	11/21/1975	3.53	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7580D	11/21/1975	0.32	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7611B	2/25/1977	4.29	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7627	6/7/1976	5.57	IRRIGATION	5063
'ESTERN MORTGAGE & REALTY CO	36-7795A	5/26/1978	1.58	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7795B	5/26/1978	0.06	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-7830B	11/9/1978	1.71	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8068B	3/4/1982	0.05	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8068D	3/4/1982	0.04	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8068E	3/4/1982	2.17	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8068F	3/4/1982	0.05	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8069N	3/4/1982	0.03	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8069P	3/4/1982	3.34	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8069Q	3/4/1982	0.05	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8227	6/30/1983	1.91	IRRIGATION	5063
'ESTERN MORTGAGE & REALTY CO	36-8274A	7/4/1985	0.28	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8274B	7/4/1985	2.04	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8275B	5/9/1985	2.46	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8404	3/1/1989	2.1	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8475	10/31/1989	2.64	IRRIGATION	8627.4
'ESTERN MORTGAGE & REALTY CO	36-8777	3/4/1982	1.12	IRRIGATION	8627.4
'ESTWAY TRADING	36-8765	4/7/1997	0.04	DOMESTIC	
'G FARMS LLC	36-15356A*	6/30/1973	0.22	IRRIGATION	4382.7
'G FARMS LLC	36-15380*	4/1/1974	0.26	IRRIGATION	4382.7
'G FARMS LLC	36-2550	8/27/1962	4.01	IRRIGATION	4382.7
'G FARMS LLC	36-7186	5/19/1972	0.26	IRRIGATION	4382.7
'G FARMS LLC	36-7187	5/19/1972	0.4	IRRIGATION	4382.7
'G FARMS LLC	36-7188	5/19/1972	0.51	IRRIGATION	158
'G FARMS LLC	36-7189	6/29/1971	0.52	IRRIGATION	135
'G FARMS LLC	36-7190	5/19/1972	0.84	IRRIGATION	156
'G FARMS LLC	36-7191	5/19/1972	0.7	IRRIGATION	153
'G FARMS LLC	36-7393	10/12/1973	0.78	IRRIGATION	312
'G FARMS LLC	36-7399	10/30/1973	4.83	IRRIGATION	4382.7
'G FARMS LLC	36-7531	3/31/1975	1.6	IRRIGATION	80
'G FARMS LLC	36-8107	8/10/1982	0.76	IRRIGATION	312
'G FARMS LLC	36-8212	6/22/1983	1.16	IRRIGATION	4382.7
'G FARMS LLC	36-8213	6/22/1983	2.04	IRRIGATION	4382.7
'G FARMS LLC	36-8257	12/6/1984	4.42	IRRIGATION	4382.7
'G FARMS LLC	36-8258	12/6/1984	8.7	IRRIGATION	4382.7
'G FARMS LLC	36-8259	12/6/1984	5.2	IRRIGATION	4382.7
'HEELER, DEE RAY	36-8601	9/5/1991	0.06	IRRIGATION	2
'HEELER, DEE RAY; WHEELER, LINDA	36-8488	10/10/1989	0.03	COMMERCIAL	
'HITBY, BEVERLY A; WHITBY, ROBERT D	37-7581	1/9/1978	5.1	IRRIGATION	460
'HITELEY BROTHERS LLC	45-10414	6/30/1985	3.14	IRRIGATION	1426

* Enlargement right subordinate to rights earlier than April 12, 1994

EXHIBIT B - FINAL ORDER

Attachment 3

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
HITTAKER, JAMES A	37-8063	1/6/1983	2	IRRIGATION	658
HITTAKER, KEITH	36-8553	7/9/1990	0.13	IRRIGATION	4.3
HITWORTH, BOYD	45-7638	3/10/1989	0.06	INDUSTRIAL	
ICKEL, ARDEL W; WICKEL, JUDY M	45-13773*	3/15/1968	0.66	IRRIGATION	849
ICKEL, ARDEL W; WICKEL, JUDY M	45-7336	1/24/1978	4.38	IRRIGATION	849
ICKEL, ARDEL W; WICKEL, JUDY M	45-7449	7/15/1980	0.41	IRRIGATION, STOCKWATER	849
ICKEL, ARDEL W; WICKEL, JUDY M	45-7471	5/22/1981	1.36	IRRIGATION	849
ILCOX, FRANCIS; WILCOX, MARGARET	36-8515	3/2/1990	0.03	IRRIGATION	1
ILD WEST INC	37-21719	3/22/2006	0.11	DOMESTIC	
ILFERTH, CONNIE; WILFERTH, DON E	36-7594	12/16/1975	0.14	IRRIGATION	7
ILLIE HUNZEKER ENTERPRISES	36-7045	11/15/1968	0.14	COMMERCIAL, FIRE PROTECTION	
ILLIE, DANIEL L	36-15637	10/18/1968	0.07	COMMERCIAL	
ILLIE, DANIEL L	36-15639	12/3/1966	0.05	COMMERCIAL	
ILLIE, DANIEL L	36-15641	2/18/1971	0.03	COMMERCIAL	
ILLIE, DANIEL L	36-16114	11/15/1970	0.29	MITIGATION	
ILLIE, DANIEL L	36-16116	5/16/1980	0.07	MITIGATION	
ILLIE, DANIEL L	36-16124*	5/26/1971	0.03	MITIGATION	
ILSON, DIANA J; WILSON, ROBERT E	36-7892	2/4/1980	0.06	IRRIGATION, DOMESTIC	1.4
ISE, EARL; WISE, INEZ	36-8638	1/7/1992	0.04	IRRIGATION, DOMESTIC	1
LR LC	36-16568	2/8/1977	10.14	IRRIGATION	1076
LR LC	36-16577	2/20/1990	1.5	IRRIGATION	1076
LR LC	36-16586	3/15/1987	0.09	IRRIGATION	1076
OOD RIVER RANCH CO INC	36-8312	8/15/1986	0.05	STOCKWATER	
OODLAND, ALAN; WOODLAND, DEBRA	36-16517*	3/15/1984	0.93	IRRIGATION	307
OODLAND, ALAN; WOODLAND, DEBRA	36-16518*	3/15/1984	0.12	IRRIGATION	32
OODLAND, ALAN; WOODLAND, DEBRA	36-16698	7/12/1964	5.02	IRRIGATION	606
OODLAND, MICHAEL D	36-7930	8/11/1980	3.68	IRRIGATION	200
OODLAND, MICHAEL D; WOODLAND, ATRICIA	36-15179*	3/15/1975	0.94	IRRIGATION	531
OODLAND, MICHAEL D; WOODLAND, ATRICIA	36-2567	3/7/1963	3.4	IRRIGATION	531
OODLAND, MICHAEL D; WOODLAND, ATRICIA	36-2674	8/25/1966	1.04	IRRIGATION	531
OODLAND, MICHAEL D; WOODLAND, ATRICIA	36-7055	4/7/1969	2.4	IRRIGATION	120
OODLAND, MICHAEL D; WOODLAND, ATRICIA	36-7461	3/26/1974	8.35	IRRIGATION	548
OODWARD, ARLEN; WOODWARD, JUDY	36-8194	5/24/1983	0.03	IRRIGATION	1
OODWARD, RODGER; WOODWARD, RUTH	36-8214	6/27/1983	0.04	IRRIGATION, DOMESTIC	1
RIGHT, CECELIA W; WRIGHT, JOHN W	36-7562C	1/21/1974	0.6	IRRIGATION	30
RIGHT, CECELIA W; WRIGHT, JOHN W	36-7562D	1/21/1974	0.12	STOCKWATER, COMMERCIAL	
RIGHT, CECELIA W; WRIGHT, JOHN W	36-7562E	1/21/1974	0.15	IRRIGATION	30
RIGHT, CECELIA W; WRIGHT, JOHN W	36-7562F	1/21/1974	0.05	STOCKWATER, COMMERCIAL	
RIGHT, CECELIA W; WRIGHT, JOHN W	36-7622A	4/29/1976	0.45	IRRIGATION	30
RIGHT, CECELIA W; WRIGHT, JOHN W	36-7622B	4/29/1976	0.15	STOCKWATER, COMMERCIAL	
RIGLEY, DON; WRIGLEY, EDITH; WRIGLEY, AVIS; WRIGLEY, RICK; WRIGLEY, VERLA	45-7155A	10/12/1973	2.29	IRRIGATION	296

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EXHIBIT B - FINAL ORDER

Attachment C

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
RIGLEY, DON; WRIGLEY, EDITH; WRIGLEY, AVIS; WRIGLEY, RICK; WRIGLEY, VERLA	45-7166B	2/3/1974	2.29	IRRIGATION	296
RIGLEY, DON; WRIGLEY, GALE; WRIGLEY, YE; WRIGLEY, RICK	45-7166D	2/3/1974	2	IRRIGATION	172.5
RIGLEY, EDITH; WRIGLEY, RICK	45-13565	10/12/1973	2.18	IRRIGATION	280
RIGLEY, EDITH; WRIGLEY, RICK	45-7166C	2/3/1974	2.18	IRRIGATION	280
YATT, GRANT M	45-13541	6/30/1985	2.09	IRRIGATION	479
YBENGA DAIRY LLC	45-13418	10/31/1974	5.24	IRRIGATION	1223
YBENGA DAIRY LLC	45-13440	1/4/1975	2.11	IRRIGATION	1223
YBENGA DAIRY LLC	45-13442	10/31/1974	5.45	IRRIGATION	1223
YBENGA DAIRY LLC	45-13444	6/30/1978	2.31	IRRIGATION	1223
YBENGA DAIRY LLC	45-7196B	1/4/1975	2.03	IRRIGATION	1223
YBENGA DAIRY LLC	45-7345B	6/30/1978	2.22	IRRIGATION	1223
YBENGA, DARLA; WYBENGA, STEVE C	45-13423	1/4/1975	0.25	STOCKWATER, COMMERCIAL	
YBENGA, DARLA; WYBENGA, STEVE C	45-13425	10/31/1974	0.63	STOCKWATER, COMMERCIAL	
YBENGA, DARLA; WYBENGA, STEVE C	45-13427	6/30/1978	0.27	STOCKWATER, COMMERCIAL	
YBENGA, DARLA; WYBENGA, STEVE C	45-13976	1/4/1975	0.06	STOCKWATER, COMMERCIAL	
YBENGA, DARLA; WYBENGA, STEVE C	45-13978	10/31/1974	0.16	STOCKWATER, COMMERCIAL	
YBENGA, DARLA; WYBENGA, STEVE C	45-13980	6/30/1978	0.07	STOCKWATER, COMMERCIAL	
YNN DEWSNUP FAMILY REVOCABLE RUST	36-15217*	3/15/1968	0.76	IRRIGATION	176
YNN DEWSNUP FAMILY REVOCABLE RUST	36-7356C	7/24/1973	0.78	IRRIGATION	99
ERION, GEORGE A; YERION, SUSAN F	37-20717	4/29/2002	0.1	IRRIGATION	3.3
OUNG, KAREN W; YOUNG, ROSS M	37-7621E	6/7/1977	0.67	IRRIGATION	34
OUNG, KAREN W; YOUNG, ROSS M	37-7782	6/5/1979	0.14	IRRIGATION, DOMESTIC	3
ON LUTHERAN CHURCH	45-7167	2/13/1974	0.06	IRRIGATION	2.1
OLLINGER, C S	36-2615	6/11/1965	5.9	IRRIGATION	306
OLLINGER, RAY D	45-11806	8/15/1971	0.24	STOCKWATER	

* Enlargement right subordinate to rights earlier than April 12, 1994

EXHIBIT B - FINAL ORDER

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) The petition for reconsideration is disposed of; or
(b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days: a) of the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

EXHIBIT C - ORDER ON RECONSIDERATION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694	)	**CM-DC-2011-004**
	)	**ORDER ON RECONSIDERATION**
(RANGEN, INC.)	)	

BACKGROUND

On January 29, 2014, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued a *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Final Order") in response to the *Petition for Delivery Call* filed by Rangen, Inc. ("Rangen").

Three petitions for reconsideration of the Final Order were filed. On February 11, 2014, the Idaho Ground Water Appropriators, Inc. ("IGWA") timely filed *IGWA's Petition for Reconsideration* ("IGWA Petition"). On February 12, 2014, Rangen timely filed *Rangen, Inc.'s Motion for Reconsideration and Clarification* ("Rangen Motion"). On February 12, 2014, the City of Pocatello ("Pocatello") timely filed *City of Pocatello's Motion to Reconsider* ("Pocatello Motion"). Various responsive briefs were submitted by the parties.

ANALYSIS

Response to Rangen's Petition for Reconsideration

In its motion, Rangen asks the Director to alter findings of fact and conclusions of law related to its decreed source and point of diversion. *Rangen Motion* at 1-3. Rangen further asks the Director to modify conclusions of law regarding the trim line, the ratio of water predicted to accrue to the Martin-Curren Tunnel, and the weir coefficient identified by Pocatello's expert. *Id.* at 3-4. Finally, Rangen also asks the Director to clarify his determination and calculations for a phased-in mitigation plan. *Id.* at 4. This order responds to each request in turn.

1. **The Martin-Curren Tunnel is not a name in local common usage describing the entire Rangen spring complex.**

Rangen asks the Director to reconsider the conclusion that Rangen "is limited to the water that flows from the mouth of the Martin-Curren Tunnel itself, and not the entire spring complex that forms the headwaters of Billingsley Creek." *Rangen Motion* at 1. For support of this argument, Rangen refers to IDAPA 37.03.01.060.02.c, which sets forth the minimum standards for identifying the source of water supply in a claim in an adjudication. This rule provides in relevant part:

> For surface water sources, the source of water shall be identified by the official name listed on the U.S. Geological Survey Quadrangle map. If no official name has been given, the name in local common usage should be listed. If there is no official or common name, the source should be described as 'unnamed stream' or 'spring.'

Rangen argues that the name "Martin-Curren Tunnel" was not intended to describe the tunnel itself, but instead is the name in local common usage for the entire Rangen spring complex. The record supports a conclusion to the contrary. In his testimony, the watermaster for Water District 36A, Frank Erwin, distinguished between the Martin-Curren Tunnel and the springs that feed Billingsley Creek. Erwin, Vol. I, pp. 232, 237-238. Erwin has lived in Hagerman all his life and has been watermaster for Water District 36A for 16 years. *Id.*, p. 230. The fact he distinguishes between the tunnel and the spring complex is significant because he is in a position to know whether the entire spring complex is commonly referred to as the Martin-Curren Tunnel. A former Rangen employee, Lynn Babington, testified regarding this issue and his testimony is mixed. Counsel for Rangen asked, "What did you understand was the Curren Tunnel?" Babington's initial response was, "The Curren Tunnel was the – up on the hillside, a tunnel there." Babington, Vol. I, p. 190. He then stated that he considered all springs arising as the source for the hatchery and that he considered the name Martin-Curren Tunnel as referring to all the springs. *Id.* Babington's testimony does not persuade the Director that the Martin-Curren Tunnel is a name of local common usage for all the springs in the Rangen complex. In addition to Erwin's testimony, the record is replete with references and exhibits specifically identifying the Martin-Curren Tunnel as a unique structure at a specific location, thereby distinguishing between the spring complex and the Martin-Curren Tunnel itself. Rangen Ex. 1290; Rangen Ex. 1446A, B and C; IGWA Ex. 2408A and B; IGWA Ex 2286, IGWA Ex. 2328 (diagram of Martin-Curren Tunnel); Pocatello Ex. 3277; Pocatello Ex. 3278; Pocatello Ex. 3648; Pocatello Ex. 3651. All measurements taken by the Department that identify the Martin-Curren Tunnel as the source refer only to water measured in the tunnel itself, not the spring complex. Anytime the tunnel was mentioned in the proceeding, there was no confusion by the witnesses between the Martin-Curren Tunnel and the rest of the spring complex. When the topic was the Martin-Curren Tunnel, the witnesses would testify about the physical structure itself, not the spring complex as a whole. The name Martin-Curren Tunnel is not ambiguous and does not create a latent ambiguity in the partial decree as suggested by Rangen. If Rangen truly believed that Martin-Curren Tunnel was the common name for the entire spring complex, Rangen should have sought and had its water right decreed with additional points of diversion because the entire spring complex stretches over at least two ten-acre tracts. Rangen Ex. 1446B. The fact that only a

single ten-acre tract was decreed and the Martin-Curren Tunnel is located in that single ten-acre tract suggests that the reference to the Martin-Curren Tunnel was not understood to describe the entire spring complex.

Rangen also states that the Department should be "precluded by the doctrine of quasi estoppel" from concluding the decreed source is solely the Martin-Curren Tunnel. *Rangen Motion* at 2. Rangen fails to cite any case law or provide any argument to support this statement. Moreover, equitable estoppel may not ordinarily be invoked against a government or public agency functioning in a sovereign or governmental capacity. *Sagewillow, Inc. v. Idaho Dept. of Water Resources*, 138 Idaho 831, 845, 70 P.3d 669, 683 (2003).

2. Rangen's partial decree does not permit Rangen to divert water from a point of diversion adjacent to the decreed point of diversion.

In the Final Order, the Director recognized that Rangen historically diverted water from Billingsley Creek at a point of diversion commonly referred to as the Bridge Diversion, but that because the Bridge Diversion was not within Rangen's decreed point of diversion (SESWNW Sec. 32, T7S, R14E), Rangen is not entitled to divert water at the Bridge Diversion. *Final Order* at 32. This is because a decree entered in a general adjudication such as the SRBA is conclusive as to the nature and extent of the water right. Idaho Code § 42-1420. Rangen cites to a previous version of adjudication rule 37.03.01.060.05.d, which provides that the location of the point of diversion should be described "to the nearest ten (10) acre tract (quarter-quarter-quarter section) if that description is reasonably available." Rangen appears to be arguing that because the Bridge Diversion is in the ten-acre tract *nearest* to SESWNW, then Rangen can use it as a point of diversion. This is an illogical argument. The reason for describing a point of diversion to the 10-acre tract is to provide more specificity of the location of the point of diversion, not create more ambiguity. If Rangen's interpretation were adopted, suddenly the 10-acre tract description becomes much larger as all neighboring 10-acre tracts become potential locations for points of diversion. This is not an interpretation ever adopted by the Department and Rangen's suggestion to the contrary is incorrect.

3. IGWA and Pocatello have demonstrated efficient use of water without waste.

Rangen requests the Director alter his conclusion that IGWA and Pocatello have demonstrated efficient use of water without waste. *Rangen Motion* at 3. Rangen argues, "There is no evidence in the record to support Conclusion 59 that '...the junior-priority water right holders are using water efficiently and without waste.'"

The evidence in the record supports Conclusion of Law 59. Lynn Carlquist, President of North Snake Ground Water District, testified as to his water use practices and the practices of others in his district. Carlquist, Vol. VII, pp. 1671-1673. He described how he sprinkler irrigates and how almost 100 percent of the members of his ground water district also sprinkler irrigate. *Id.* He also testified about the conversions that the district has undertaken to reduce reliance on ground water pumping and increase recharge. *Id.*, pp. 1692-1693. He testified as to the steps the district takes to monitor diversions to ensure its member are not using more water than they have a right to. *Id.*, p. 1727. Similarly, Tim Deeg, President of IGWA, testified about

how he sprinkler irrigates and the costs of his pumping and about the various projects IGWA has undertaken to reduce reliance on ground water pumping, increase recharge and remove end guns. Deeg, Vol. VIII, pp. 1739-1740, 1748, 1751. He suggested that ground water pumpers will pump only the minimum amount of water to get by because of the costs associated with pumping ground water. *Id.*, pp. 1753-1754. Deeg also testified about how the ground water districts monitor ground water diversions to ensure the ground water pumpers are using water consistent with their decrees. *Id.*, p. 1765. Pocatello presented evidence of its water user through Justin Armstrong, Pocatello's Water Superintendent. Armstrong, Vol. V, pp. 1104-1107. Contrary to Rangen's suggestion, there is evidence in the record to support the conclusion that junior ground water pumpers efficiently use water without waste.

4. Conclusions of Law 42 through 46 (references to the 10% trim line) are necessary to the Director's opinion.

Rangen asks the Director to alter the Final Order by deleting Conclusions of Law 42 through 46 because they reference ESPAM 1.1 and the 10% trim line associated with ESPAM 1.1. *Rangen Motion* at 3. Rangen argues that these references are "not necessary or relevant" as to ESPAM 2.1. The Director disagrees. Idaho Code § 67-5248(1) provides that an agency order must contain "a reasoned statement in support of the decision." Conclusions of Law 42 through 46 set forth the history and established case law related to the application of a trim line. One argument raised in this proceeding by Rangen and the Surface Water Coalition is that no trim line should be used at all. As Conclusion of Law 46 points out, this argument has been considered and rejected by Idaho courts. Moreover, Conclusions of Law 43 through 45 explain how the application of the trim line in the Rangen proceeding is consistent with the application of the trim line in the Clear Springs and Blue Lakes delivery calls. These conclusions of law are directly relevant to this proceeding and are a part of the Director's "reasoned statement in support" of his decision as required by Idaho Code § 67-5248(1).

5. There is substantial evidence in the record to support Conclusions of Law 21 and 22.

Rangen argues that the Director's determination that 63% of the benefits of curtailment to the Rangen spring complex would be realized at the Martin-Curren Tunnel is not supported by substantial evidence in the record. *Rangen Motion* at 4. A review of the record shows that this is not true. Conclusion of Law 21 cites Findings of Fact 50 and 101, which in turn reference Greg Sullivan's testimony related to United States Geological Survey ("USGS") measurements and his plot of a regression line to determine the 63% ratio. Sullivan's testimony constitutes substantial evidence. Rangen states that Sullivan's reliance on USGS flow data is inconsistent with IDWR staff opinion. *Id.* While IDWR staff member Tim Luke testified there was some concern with the quality of the stream channel where the USGS takes its measurements, this does not prevent the Director from adopting an approach which relies upon the USGS data for support. As discussed in the Final Order, the method used by the USGS to measure flows on Billingsley Creek is considered a standard method of water measurement and is listed as an acceptable measuring method in the Department's *Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices,* and is employed to calibrate the accuracy of weirs and other measuring devices. *Final Order* at 10, FF ¶ 47. Furthermore, USGS flow

measurements are widely accepted as accurate and objective measurements. *Id.* Rangen argues that Sullivan also provided another regression analysis showing that 75% of the benefits of curtailment to the Rangen spring complex would be realized at the Martin-Curren Tunnel. *Rangen Motion* at 4. However, as described in Finding of Fact 102, there are justifications for using the 63% ratio. First, all parties to the proceeding recognized that the data used to calculated the 75% ratio under-reported the actual flows through the Rangen facility. *Final Order* at 23, FF ¶ 102. The Director concluded that the alternative approach that results in the 63% ratio was a "credible method" to correct the under-reported data. *Id.* Moreover, if the 75% ratio is used to determine the increase in the Martin-Curren Tunnel flows, this would result in Rangen benefiting from its own under-reporting of flows.

6. Finding of Fact 51 is supported by substantial evidence in the record.

Finding of Fact 51 addresses certain analysis undertaken by IGWA's expert Greg Sullivan. Finding of Fact 51 provides:

> Sullivan derived a weir coefficient for the Rangen Facility by solving the standard weir equation for the weir coefficient using 14 of the USGS flow measurements and Rangen head measurements made nearest in time. Sullivan derived an average weir coefficient of 3.62. Sullivan, Vol. VI., pp. 1438-1439.

Rangen argues that Finding of Fact 51 is not supported by substantial evidence and is not necessary to the Director's decision. *Rangen Motion* at 4. The Director disagrees. First, the record clearly shows that Sullivan derived a weir coefficient for the Rangen Facility and that the average weir coefficient was 3.62. Sullivan, Vol. VI., 1434-1440. Moreover, the weir coefficient is relevant to this proceeding. The derived weir coefficient supports Conclusions of Law 19 through 22, which conclude that Rangen's use of a nonstandard measuring device with an inaccurate rating curve resulted in a systematic under-measurement of the flows through the Rangen Facility and that less than 75% of the benefits to the Rangen's spring complex would be realized at the Martin-Curren Tunnel.

7. Clarification of phased-in curtailment.

Finally, Rangen requests that the Director "clarify the Final Order by articulating how he determined how much mitigation water must be delivered each year of the five year phase-in." *Rangen Motion* at 4-5. The following is an explanation of the specific calculations to determine how much mitigation water is required. The volume of mitigation water required during the first four years of the five year phase-in period was calculated using the transient, superposition version of ESPAM 2.1. The benefit of curtailment to the aquifer was simulated at a constant rate equivalent to the average annual consumptive use. The simulated volume of water accruing to the Rangen model cell during each of the first four years was calculated from the model results and multiplied by 63% to predict the volume of benefit at the Martin-Curren Tunnel. The volume accruing to the Martin-Curren Tunnel during each year was converted to an average discharge rate in cubic feet per second. The predicted volume of benefit at the Martin-Curren Tunnel during each of the first four years of curtailment was found to be 2,442 AF (3.4 cfs), 3,742 AF (5.2 cfs), 4,368 AF (6.0 cfs) and 4,813 AF (6.6 cfs). *Final Order* at 42. The predicted

volume of benefit at the Martin-Curren Tunnel during the fifth year of curtailment was found to be 5,148 AF (7.1 cfs). Because the Director can only phase in curtailment over five years per Conjunctive Management Rule 20.04, this then necessitated the full obligation of 9.1 cfs be provided in the fifth year.

Response to IGWA's Petition for Reconsideration

1. **Curtailment has been stayed pending a decision on IGWA's mitigation plan.**

In its petition, IGWA asks the Director to withhold curtailment of groundwater rights until a decision is entered on IGWA's pending mitigation plan. *IGWA Petition* at 1. This request has already been addressed through other proceedings. On February 11, 2014, IGWA filed *IGWA 's Mitigation Plan and Request for Hearing* ("Mitigation Plan"). On February 12, 2014, IGWA filed *IGWA's Petition to Stay Curtailment, and Request for Expedited Decision* (Petition to Stay Curtailment). In its Petition to Stay Curtailment, IGWA asked the Director to withhold curtailment of groundwater rights until a decision is entered on IGWA's pending mitigation plan. The Director granted IGWA's request to stay curtailment on February 21, 2014. IGWA's request is moot.

2. **The application of the Great Rift as a basis for a trim line is consistent with previous proceedings and is supported by existing case law.**

It its petition, IGWA raises a number of objections related to the Director's use of the Great Rift as a basis for a trim line and suggests that its use results in the impermissible waste of water. *IGWA Petition* at 2-7. IGWA suggests that the Director should "return" to the 10% trim line used in previous administrative matters and that existing case law actually requires the application of a 10% trim line. *Id.* at 34. The Director disagrees with IGWA's analysis.

First, IGWA's suggestion that the Director should apply a 10% trim line with respect to the model cell containing the Martin-Curren Tunnel is inconsistent with the 10% trim lines used in administration of previous Thousand Springs delivery calls. ESPA model version 1 was used to delineate trim lines for the previous Thousand Springs delivery calls. The ESPA model version 1 trim lines included areas in which 10% or greater of the curtailed use would result in benefits to a group of springs tributary to a reach of the Snake River (commonly referred to as a "spring reach"). Because a spring reach contains numerous springs that are not available to the calling party, significantly less than 10% of the curtailed use benefitted the calling party. The portion of the benefit received by the calling party was estimated based on spring flow rate data for all springs in the reach. For example, as discussed in the Final Order, in the Clear Springs Foods delivery call, the calling party was predicted to receive only 6.9% of the benefit to the spring reach. In the Blue Lakes delivery call, the calling party was predicted to receive only 20% of the benefit to the spring reach. In these delivery calls, a 10% trim line limited the area subject to curtailment to areas where at least 0.69% (6.9% of 10%) and 2% (20% of 10%), respectively, of the curtailed use was predicted to benefit the calling party. *Final Order* at 38.

ESPA model version 2, the updated model used in the Rangen delivery call, was improved by calibration to more detailed spring flow data. Because of this improvement, the

Department can predict the benefit to smaller groups of springs, in addition to spring reaches. In the recent Rangen delivery call, the trim line delineated by the Great Rift generally limits the area subject to curtailment to areas where at least 0.63% of the curtailed use benefits the calling party. Comparing the benefit to the calling party at the trim line in previous Thousand Springs area delivery calls (0.69% and 2%) and the benefit to Rangen at the eastern boundary of the Great Rift trim line (0.63%) establishes that the standard applied previously in the Clear Springs Foods and Blue Lakes delivery calls is similar to the standard used in the recent Rangen delivery call.

Moreover, if the Department were to return to the approach used in previous Thousand Springs delivery calls, it would apply a 10% trim line with respect to the Buhl to Thousand Springs reach, which is the calibrated spring reach in ESPA model version 2 containing the Martin-Curren Tunnel and numerous other springs. If the Department were to change its approach and delineate a 10% trim line for the Buhl to Thousand Springs reach, the trim line would be similar to the trim line delineated using the Great Rift. IGWA's argument that because a 10% trim line with respect to the spring reach was used previously, a 10% trim line with respect to the model cell containing Curren Tunnel should be applied in this scenario, is like comparing apples to oranges. To correctly compare, the benefits to the calling party should be examined.

IGWA also contrasts the futile call determination in the first Rangen delivery call in 2005 with the results of the most recent Rangen delivery call. *IGWA Petition* at 2-3. However, the trim line applied in the first Rangen delivery call also limited curtailment to areas where at least 10% of the curtailed use was predicted to benefit *a river reach* containing Curren Tunnel and numerous other springs. The percentage that would have benefitted *the calling party* also would have been significantly less than 10%. While Director Dreher determined in the first Rangen delivery call in 2005 that the call was futile, the change in result in this proceeding is not due to changes in the approach used to define the trim line as implied by IGWA. Model predictions of benefits to springs in the Billingsley Creek area changed significantly in the latest version of the model because important improvements to spring discharge calibration targets were made. For example, errors discovered in spring flow measurements used in the first version of the model were corrected in the new version of the model and additional, more detailed, spring flow data were available for calibration of the new version of the model. To imply as IGWA does that the application of the trim line is the basis for the change in result is simply incorrect.

The Director, in an exercise of discretion, must consider the diminishing benefits of curtailment beyond the Great Rift. The Great Rift is an area of low transmissivity that justifies its use as a trim line. Low transmissivity impedes the transmission of water through the aquifer at the Great Rift. *Final Order* at 27, FF ¶ 108. This low transmissivity causes the benefit of curtailment compared to the number of acres curtailed to diminish significantly. As provided in Findings of Fact 105 through 108, generally less than 1% of the benefits of curtailment of water users east of the Great Rift will accrue to the Rangen spring cell. Even less will be expected to accrue to the Curren Tunnel. Curtailment of junior ground water irrigation west of the Great Rift would dry up approximately 157,000 acres, resulting in curtailment of irrigation of approximately 17,000 acres per cfs of predicted benefit to the Curren Tunnel. *Final Order* at 28, FF ¶ 110. Curtailment of junior ground water irrigation east of the Great Rift would dry up approximately 322,000 additional acres, resulting in curtailment of irrigation of approximately

204,000 acres per cfs of predicted benefit to the Curren Tunnel. *Id.* In addition, there is uncertainty in the model. There is lower predictive uncertainty on the western side of the Great Rift. *Final Order* at 19, FF ¶ 91. There is generally higher predictive uncertainty on the eastern side of the Great Rift, however impacts from several pumping locations evaluated on the eastern side of the Great Rift had negligible impacts on the spring cell evaluated in the Department's predictive uncertainty analysis. *Id.*

IGWA's argument that the trim line should be 10% because 10% was used in previous proceedings is not a persuasive reason for using a 10% trim line in this proceeding. The definition of a 10% trim line is dependent on the length of the reach to which the 10% applies, and calibration reaches are not necessarily consistent between model versions, complicating comparisons of 10% trim lines. What can be analyzed is whether the benefits of curtailment to the calling party are consistent between the various proceedings. The use of the Great Rift to define a trim line is both justified based on the evidence presented in this proceeding, and results in benefits to the calling party that are consistent with those resulting from trim lines applied in previous proceedings.

IGWA's identification of "waste" as an issue arising out of the Rangen curtailment order is incorrect. The fact that a large portion of the water curtailed will not reach Rangen does not mean it is being wasted. Water not reaching Rangen becomes available to other senior water users in the Thousand Springs area. The water also benefits other senior water users with pending delivery calls upstream from the Thousand Springs area (such as the Surface Water Coalition call) because the benefits of curtailment of ground water rights propagate upstream as well as downstream. The real issue is to what extent the prior appropriation doctrine as established under Idaho law allows a senior surface water user to call upon an aquifer to satisfy a senior water right. The use of the Great Rift as justification for a trim line strikes an appropriate balance.

IGWA also argues that the Director is compelled to use a 10% trim line based upon prior court precedent. *IGWA Petition* at 6. In support of this argument, IGWA cites to *Van Camp v. Emery*, 13 Idaho 202, 89 P. 752 (1907) and *Schodde v. Twin Falls Land Company*, 224 U.S. 107 (1912). IGWA argues that these decisions, along with *American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Res.*, 143 Idaho 862 (2007), "are binding precedent and they draw the line at 10%." *Id.* Nowhere in these decisions does it require the application of a 10% trim line.

In *Van Camp*, the senior appropriator dammed a creek so that the water would back up, raising the water table to subirrigate his lands. *Van Camp,* 13 Idaho at 208, 89 P. at 754. The *Van Camp* Court held that although Van Camp could divert water from the stream to fill his water right, he could not dam or impede the flow of the remaining water in order to cause a subirrigation of his meadows. *Id.* As discussed in *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 809, 252 P.3d 71, 90 (2011), the issue in *Van Camp* was whether a senior appropriator was protected in his means of diversion. In *Clear Springs*, IGWA argued that *Van Camp* could be read broadly to require the Director to reduce the amount of water a senior is entitled to under his water right. The *Clear Spring* Court rejected this argument, recognizing the limited holding of Van Camp: "The senior appropriator in *Van Camp* was entitled to his water right; he simply had to change his unreasonable means of diversion." *Id.* In *Clear Springs*, IGWA also cited *Schodde* as a defense in a delivery call proceeding. As with *Van Camp*, the

Court recognized that the holding of *Schodde* was limited to the reasonableness of the appropriator's means of diversion: "The issue in *Schodde* was whether the senior appropriator was protected in his means of diversion, not in his priority of water rights." *Id.* IGWA continues to misinterpret these decisions. IGWA also cites as support *American Falls Reservoir Dist. No. 2*. *IGWA Petition* at 5. This was a facial challenge to the Conjunctive Management Rules. It did not reach substantive issues regarding application of the rules and did not address the use of a 10% trim line. These cases do not address conjunctive administration of ground water right and do not require the application of a 10% trim line.

IGWA also argues that *Clear Springs* does not support the Director's application of a trim line. *IGWA Petition* at 6. In *Clear Springs,* the Department used ESPAM 1.1 to determine effects of ground water pumping, just as ESPAM 2.1 is being applied in this proceeding. *Clear Springs*, 150 Idaho at 814, 252 P.3d at 95. In the Clear Springs delivery call, the 10% trim line was applied based on accrual of the benefits of curtailment to the Buhl to Thousand Springs reach, which contained multiple ESPAM model cells and several other springs not diverted by the calling party. The calling party was estimated to receive 6.9% of the benefits accruing to the Buhl to Thousand Springs reach. In the Clear Springs delivery call, the trim line limited curtailment to areas where the calling party would receive at least 0.69% (6.9% of 10%) of the benefits of curtailment. Because the 10% trim line applied in Clear Springs delivery call was based on model predictions of impacts to a multi-cell reach containing several springs, applying a 10% trim line based on model predictions of impacts to a single model cell, as proposed by IGWA, would result in a significantly different standard than was applied in Clear Springs delivery call. The modification of the trim line is justified because of the ability to now model to individual cells and as opposed to modeling only to the river reaches.

3. Further phasing-in of curtailment over five years as suggested by IGWA results in inequity to the senior.

Finally, IGWA requests that the Director act to further phase-in curtailment over five years. *IGWA Petition* at 8. The Director declines to adopt such an approach. In the Final Order, the Director agreed to phase in mitigation provided by direct flow to Rangen. *Final Order* at 42. The Director concluded that if IGWA is able to provide Rangen the water through direct delivery that Rangen would have otherwise received through curtailment, IGWA should be allowed to do so. As discussed above, the simulated volume of water accruing to the Rangen model cell during each of the first four years was calculated from the model results and multiplied by 63% to predict the volume of benefit at the Martin-Curren Tunnel. The volume accruing to the tunnel during each year was converted to an average discharge rate in cubic feet per second. The predicted volume of benefit at the tunnel during the fourth year of curtailment was found to be 6.6 cfs. *Id.* Because the Director can only phase in curtailment over five years per Conjunctive Management Rule 20.04, the full benefit of 9.1 cfs must be supplied in the fifth year. Now, IGWA asks the Director to further reduce its mitigation obligation on an annual basis, by "stepping down the curtailment priority date." *IGWA's Petition* at 9. First, IGWA mischaracterizes how curtailment has been phased-in previously. Previous proceeding used the model at steady state to determine the benefits, not transient state as suggested by IGWA. Second, adopting the approach advocated by IGWA would result in even less water being owed by IGWA in each of the first four years: 0.7 cfs in year one, 1.9 cfs in year two, 3.2 cfs in year three, 4.3 cfs in year four. *Id.* The Director finds no justification for taking such action in this

proceeding. The Director concludes that this would result in an inequitable benefit to IGWA. IGWA should be required to provide the quantity of water that otherwise would have been supplied to Rangen through curtailment.

Response to Pocatello's Motion to Reconsider

1. Mootness is the correct legal doctrine under which to evaluate Pocatello's argument related to the extent of beneficial use of Rangen's junior water right.

In its motion, Pocatello seeks modification of Conclusions of Law 24 and 25 of the Final Order. *Pocatello Motion* at 3. In Conclusions of Law 24 and 25, the Director found that the question of the extent of historic beneficial use of Rangen's junior water right no. 36-7694 was moot. *Final Order* at 34, CL ¶¶ 24-25. Pocatello argues mootness is not the correct legal doctrine to analyze this issue. *Pocatello Motion* at 3. The Director concludes that mootness is the correct legal doctrine to address issues related to the historic beneficial use of water right no. 36-7694. An issue becomes moot if a judicial determination on that issue will have no practical effect upon the outcome of the case. *Hoagland v. Ada County*, 154 Idaho 900, 912, 303 P.3d 587, 599 (2013). As discussed in the Final Order, a determination related to the extent of historic beneficial use of the junior water right will not result in any relief to Pocatello and IGWA because it is not expected that curtailment will ever result in more water to Rangen than Rangen is entitled to under its senior water rights. The predicted increase in discharge to the Martin-Curren Tunnel from curtailing ground water rights junior to July 13, 1962 (the priority date for water right no. 36-2551) within the ESPAM 2.1 model boundaries, within the area of common ground water supply, and west of the Great Rift is 9.1 cfs. *Final Order* at 28, FF ¶ 109. The average annual discharge from Martin-Curren Tunnel after several years of curtailment within the model boundary is expected to be less than 17 cfs. *Id.* at FF ¶ 111. Because Rangen's two senior fish propagation rights, water right nos. 36-15501 and 36-02551, authorize diversion of a total of 50 cfs from Martin-Curren Tunnel, full curtailment is not expected to bring anywhere near 50 cfs to Rangen and would provide no water to junior water right no. 36-7694. As a decision on the historic extent of beneficial use of water right no. 36-7694 will have no practical effect upon the outcome of this case, the issue is moot.

Pocatello also argues that "[a] finding by the Director that this issue is moot could potentially bind the parties from raising this issue in contexts before a court where there is in fact 'a real and substantial controversy that is capable of being concluded by judicial relief.'" *Pocatello Motion* at 3. Pocatello cites *State v. Barclay*, 149 Idaho 6, 8, 232 P.3d 327, 329 (2010) in support of this assertion. *Barclay* does not stand for this proposition and is distinguishable from the case at hand. In *Barclay*, the State of Idaho sought to appeal a decision by the Idaho Court of Appeals related to Barclay's criminal sentencing. *Barclay*, 149 Idaho at 7-8, 232 P.3d at 328-329. The Idaho Supreme Court held that the appeal was rendered moot by the fact that Barclay completed his full sentence and "any judicial relief from this Court would simply create precedent for future cases and would have no effect on either party." *Barclay*, 149 Idaho at 8, 232 P.3d at 329. Notwithstanding the mootness determination, the Court vacated the appellate decision so that the State would not be prejudiced and bound by the decision. *Id.* The distinguishing factor when comparing *Barclay* and this proceeding is the fact that the appellate court issued a decision on the specific legal question at issue which, because the decision was

mooted, would have resulted in the state being bound by the decision with no ability to appeal. Here, no ruling on the issue has been made. There is no decision regarding the extent of Rangen's historical beneficial used water right no. 36-7694. Thus, there is no chance of prejudice to any party on the issue. The determination here that the question of the historic extent of beneficial use of water right no. 36-7694 is moot should not prejudice Pocatello or IGWA from raising the issue in other future proceedings should it become an issue.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the Petition for Reconsideration filed by IGWA and the Motion for Reconsideration filed by Pocatello are DENIED.

IT IS FURTHER ORDERED that Rangen's request to clarify the basis for the amounts designated in the mitigation phase-in is GRANTED. Section seven under the subheading titled Response to Rangen's Petition for Reconsideration contains the requested information. Except as to Rangen's request to clarify the basis for the amounts designated in the mitigation phase-in, Rangen's Motion for Reconsideration is DENIED.

Dated this 4th day of March, 2014.

Gary Spackman

GARY SPACKMAN
Director

EXHIBIT C - ORDER ON RECONSIDERATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March, 2014, I served a true and correct copy of the forgoing document on the following parties by the methods indicated:

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EXHIBIT C - ORDER ON RECONSIDERATION

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EXHIBIT D - PETITION TO STAY CURTAILMENT

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 (RANGEN, INC.)	Docket No. CM-DC-2011-004 **IGWA's Petition to Stay Curtailment, and Request for Expedited Decision**

Idaho Ground Water Appropriators, Inc. (IGWA), acting for and on behalf of its members, hereby petitions the Director pursuant to IDAPA 37.01.01.780 to stay implementation of curtailment under the *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights junior to July 13, 1962* (referred to herein as the "Curtailment Order") entered January 29, 2014, during the 2014 growing season until a decision is made on IGWA's Mitigation Plan filed herewith.

LEGAL STANDARD

The Director has authority to stay an order pursuant to IDAPA 37.01.01.780, which states:

> Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute.

This rule does not specify a particular standard for granting a stay. However, the Idaho Administrative Procedure Act provides that an agency "may grant, or the reviewing court may order, a stay upon appropriate terms."[1] Idaho Rule of Civil

[1] Idaho Code § 67-5274.

Procedure 84(m) similarly provides that "an agency may grant... a stay upon appropriate terms."

While Idaho law does not specifically elaborate on what "appropriate terms" are for granting a stay under Idaho Code § 67-5274 or I.R.C.P. 84(m), petitions for stay are generally decided based on principles of equity.[2] The following factors are often considered:

> (1) the likelihood the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay.[3]

ARGUMENT

The Director should stay regulation of groundwater use during the 2014 growing season and adequate time is afforded to implement approved mitigation solutions because (1) due process warrants consideration of IGWA's mitigation plan before implementing curtailment; (2) it is highly likely that IGWA will obtain approval of its mitigation plan, making curtailment unnecessary; (3) Junior groundwater users and many others will suffer severe, irreparable harm if the stay is not granted; (4) Rangen will not be materially harmed if the Director the stay; (5) granting the stay is in the public's interest; and (6) principles of equity warrant a stay in this proceeding.

1. Due process warrants a determination on IGWA's pending mitigation plan before implementing curtailment.

The Curtailment Order allows groundwater users to avoid curtailment by participating in an approved mitigation plan.[4] As such, principles of due process require adequate time to submit, obtain approval of, and implement a mitigation plan before curtailment occurs. In the Clear Springs Foods and Blue Lakes Trout

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[2] *Haley v. Clinton*, 123 Idaho 707, 709 (Ct. App. 1993); *see also McHan v. McHan*, 59 Idaho 41, 46 (1938) ("Where it appears necessary to preserve the *status quo* to do complete justice the appellate court will grant a stay of proceedings in furtherance of its appellate powers. It is entirely possible that the refusal to grant a stay would injuriously affect appellant, and it likewise is apparent that granting such a stay will not be seriously injurious to respondent.").

[3] *Michigan Coalition of radioactive Material Users, Inc. v. Griepentrog*, 945 F.2d 150, 153 (6th Cir. 1991); *see also Utah Power & Light Co. v. Idaho Pub. Utils. Comm'n*, 107 Idaho 47, 50 (1984) (Stay justified when there is irreparable loss to moving party); *McClendon v. City of Albuquerque*, 79 F.3d 1014, 1020 (10th Cir. 1996); *Lopez v. Heckler*, 713 F.2d 1432, 1435-1436 (9th Cir. 1983); *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977); 5 Am.Jur.2d *Appellate Review* § 470 ("Standards for granting stay").

[4] Curtailment Order, p. 42.

delivery call case, District Court Judge John Melanson held that while Idaho Code § 42-607 does not expressly require a hearing before undertaking curtailment, "because water rights are property rights, a due process argument can be made that notice and a hearing are indeed required before curtailment of such rights by a watermaster . . . ."[5] The Judge suggested the following process:

> Under the CMR, a more appropriate course of action for the Director to follow would have been to issue the initial curtailment order, provide the junior Ground Water Users time to submit a mitigation plan before making that order final, and then hold a hearing on the order of curtailment and material injury.[6]

IGWA recognizes that the procedural history is a little different in the present case, since a hearing has already been held on the issue of material injury; however, that does not negate the need to consider mitigation before making the Curtailment Order final. Judge Melanson affirmed this on rehearing, explaining that while a mitigation plan hearing is not mandatory following a finding of injury, "neither I.C. § 42-607 nor the CMR preclude the Director from providing for a hearing after the material injury determination and prior to curtailment."[7]

In this case, the Director could have issued a preliminary order finding material injury, then provided an opportunity to submit a mitigation plan before making the order final, as Judge Melanson suggests. While the Curtailment Order was instead issued as a final order, the Director can achieve the same result by exercising his authority under IDAPA 37.01.01.780 to stay curtailment until a decision is made on IGWA's pending mitigation plan and a reasonable time is afforded to implement approved mitigation solutions. This course is consistent with due process and orderly administration of Idaho's water resources.

2. IGWA's Mitigation Plan will likely be approved, making curtailment unnecessary.

IGWA is diligently working to provide mitigation. Some of the solutions in IGWA's mitigation plan have already been undertaken and are in place, such as recharge, conversions of farmland from surface water to groundwater irrigation, and delivery of water through the Sandy Pipe. These actions have benefitted Rangen for many years, and will continue to benefit Rangen while the Director considers IGWA's mitigation plan.

Further, IGWA has a proven track record of developing and implementing mitigation plans, and it is highly probable that IGWA's mitigation plan will be approved, making curtailment unnecessary.

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[5] Order on Petitions for Judicial Review, *Clear Springs Foods, Inc., v. Blue Lakes Trout Farm Inc.*, Gooding County Case No. 2008-444 (June 19, 2009) p. 44.

[6] *Id.* at 51;

[7] Order on Petitions for Rehearing, *Clear Springs Foods, Inc., v. Blue Lakes Trout Farm Inc.*, Gooding County Case No. 2008-444, (Dec. 4, 2009) p. 12.

3. IGWA's members and many others will suffer severe irreparable harm if a stay is not granted.

The short timeframe afforded by the Curtailment Order to provide mitigation has thrown the Magic Valley agriculture industry into disarray. Curtailment will dry up a large percentage of the irrigated farmland in the Magic Valley. Banks, dairies, cheese producers, suppliers, and many other businesses are dependent upon, and have planned for, production from this farmland. If curtailment is implemented, loans will go into default, thousands of jobs will be lost, cities will be unable to provide services, businesses will close, and land will be foreclosed on. The harm that will result will be devastating, irreparable, and likely unmatched in the history of the state.

4. The granting of the stay is in the public's interest.

For the reasons stated above, few would argue that the magnitude of the pending curtailment rises to the level of a public crisis. Given Idaho's heavily agriculture-dependent economy, the effects of curtailment will ripple throughout Idaho's economy. Though IGWA's mitigation plan will be approved, the damage will have already been done. If there was ever a time for the Director to exercise his stay authority in the interest of public welfare, this is it.

5. Rangen will not be materially harmed if the stay is granted.

Rangen will not be significantly harmed if the Director grants the stay. Since irrigation does not begin until April, curtailment will not provide any benefit to Rangen until sometime thereafter. Yet, given the time it takes for the effects of curtailment to be realized, the benefits to Rangen will be small within the first year after curtailment. If the Director phases in curtailment as requested in IGWA's Petition for Reconsideration, only 0.7 cfs is expected to accrue to the Curren Tunnel in year 1. This is not enough water to make any material difference in the way Rangen operates, considering the lack of efficiency with which Rangen has operated in recent years, and this will presumably be satisfied by actions already taken by groundwater users (recharge, conversions, etc.).

The amount of water Rangen may receive in the year 2014 from curtailment is so small, coupled with the fact that IGWA has already taken measures that have and will provide water Rangen, including the Sandy Pipe which provides far more water to Rangen that it will get from curtailment, compels granting a stay.

6. Principles of equity warrant a stay on the curtailment order.

Had the Curtailment Order been issued well in advance of the 2014 irrigation season, mitigation could have been provided, or curtailment could have been prepared for, without creating the dire circumstance farmers, businesses, and cities now find themselves in. Implementation of curtailment within a matter of weeks after the Curtailment Order was issued creates an incredible hardship on

affected water right holders, and does not leave adequate time to seek alternative remedies such as mitigation or judicial appeal, nor does it provide adequate time for users to prepare for curtailment and the effect it will have on their businesses.

Idaho Code § 42-607 does not set timeframes for groundwater regulation, but the Idaho legislature has recognized the need for early warning of curtailment risks. The statutes governing critical ground water areas and ground water management areas (Idaho Code § 42-233(a) and (b)) require the Director to issue curtailment orders no later than September 1 prior to the irrigation season when the order is to be effective. These statutes recognize that planting and business decisions are made long before the actual growing season begins. Although the Department's Order was not issued under I.C. § 42-233(a) and (b), the same equity principles apply to the Curtailment Order. This is particularly true in this case where Rangen's call was previously declared a futile call, and was previously subject to a 10% trimline that exposed 735 acres to curtailment. The potential for 157,000 acres to be curtailed on short notice was inconceivable.

Moreover, the timing problem created by the Curtailment Order is partly of Rangen's own making. The Curtailment Order was delayed because of Rangen's unnecessary request that attorney Chris Bromley not contribute to the decision even though Mr. Bromley sat through most of the hearing. Rangen should not be able to profit from its delay of the Curtailment Order.

CONCLUSION

Due process and principles of equity warrant staying curtailment during the 2014 growing season because (1) the Curtailment Order provides that parties may submit a mitigation plan, and due process requires sufficient time to implement mitigation before curtailment becomes effective; (2) there is a high likelihood IGWA's pending mitigation plan will be approved and successfully implemented, avoiding curtailment altogether; (3) if a stay is not granted, junior groundwater users will suffer severe, irreparable harm; (4) Rangen will not be significantly harmed if a stay is granted; (5) a stay is in the public interest; and (6) equitable principles warrant a stay.

REQUEST FOR EXPEDITED DECISION

Given the urgent for Magic Valley farmers and others to make planting and other agribusiness decisions related to the 2014 irrigation season, IGWA asks that the Director rule on this Petition as soon as possible.

EXHIBIT D - PETITION TO STAY CURTAILMENT

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By: _____ February 11, 2014
T.J. Budge Date
Attorneys for IGWA

EXHIBIT D - PETITION TO STAY CURTAILMENT

CERTIFICATE OF MAILING

I certify that on this 11th day of February, 2014, the foregoing document was served on the following persons in the manner indicated.

Signature of person mailing form

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EXHIBIT D - PETITION TO STAY CURTAILMENT

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EXHIBIT E - FIRST MITIGATION PLAN

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 (RANGEN, INC.)	Docket No. CM-DC-2011-004 **IGWA's Mitigation Plan and Request for Hearing**

Idaho Ground Water Appropriators, Inc. (IGWA), acting for and on behalf of its members and non-member participants in IGWA-sponsored mitigation activities, submits this Mitigation Plan pursuant to rule 43 of the Rules for Conjunctive Management of Surface and Ground Water Resources (CM Rules) to avoid curtailment under the *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights junior to July 13, 1962* entered January 29, 2014 (the "Curtailment Order"), as amended from time to time.

The Curtailment Order presently requires junior-priority groundwater rights to provide simulated steady state benefits of 9.1 cfs to Curren Tunnel or direct flow of 9.1 cfs to Rangen. The mitigation may be phased in over a five-year period pursuant to CM Rule 40 as follows: 3.4 cfs in the first year, 5,2 cfs in the second year, 6.0 cfs the third year, 6.6 cfs the fourth year, and 9.1 cfs the fifth year.[1] IGWA has filed a Petition for Reconsideration that, if granted, is expected to reduce the mitigation obligations.

Proposals 1, 2 and 3 below are immediately available to deliver water directly to Rangen. Proposals 4 through 9 require engineering, technical analysis, land and/or water right acquisition, and facilities construction. Given the short time between issuance of the Curtailment Order on January 29, 2014, and the physical curtailment scheduled to commence March 14, 2014, it is impractical to include

[1] Curtailment Order p. 42.

the specific details, engineering, hydrogeological analysis, technical data, and necessary acquisitions for alternatives 4 through 9 at this time. IGWA asks the Director to review and conditionally approve these solutions in concept, providing necessary guidance for IGWA to proceed with the acquisitions, engineering, technical support, financial plans, and construction commitments necessary to implement these alternatives.

Each of the following proposals is designed to offset the depletive effects of junior-priority ground water withdrawals.

1. Request for credit for current and ongoing mitigation activities.

IGWA has for a number of years carried out a range of activities that augment the groundwater supply in the Eastern Snake Plain Aquifer (ESPA), which in turn increases ESPA discharge to springs in the Hagerman area. IGWA has been given mitigation credit for these actions in other delivery call settings. IGWA requests that it likewise be given credit toward the mitigation obligations imposed by the Curtailment Order. IGWA will continue to cooperate with the Department to enable prompt and accurate calculation of such mitigation credits.

A. Conversions.

IGWA's members have converted thousands of acres of irrigated lands from groundwater to surface water within Water Districts 120 and 130. IGWA plans to continue to deliver surface water to conversion acres in the future as required to prevent material injury to holders of senior water rights, including Rangen. These conversions decrease in the amount of groundwater withdrawn from the ESPA, while simultaneously increasing incidental recharge.

B. Voluntary Dry-Ups

IGWA's members have voluntarily dried up irrigated farmland via the Conservation Reserve Enhancement Program (CREP), Agricultural Water Enhancement Program (AWEP), and other programs, reducing groundwater withdrawals from the ESPA.

C. Groundwater Recharge

IGWA's members deliver surface water to the North Side Canal Company (NSCC) system for recharge when water and delivery capacity allow. This water recharges the ESPA through canal seepage, conveyance loss, and recharge sites such as Wilson Lake. Recharge enhances groundwater levels and hydraulically connected surface water sources.

2. Mitigation via Sandy Pipe.

IGWA's member North Snake Ground Water District (NSGWD) constructed the Sandy Pipe in 2003 to provide an alternate supply of water to irrigation water

rights from the Curren Tunnel. The Sandy Pipe has and will continue to deliver water to Butch Morris in lieu of water from the Curren Tunnel pursuant to the Memorandum Agreement between NSGWD and Morris attached hereto as ***Exhibit A***. As shown in the Memorandum Agreement, Morris owns water right numbers 36-123D, 36-134E, 36-135D, 36-135E, 36-10141A and 36-10141B—all of which are senior in priority in Rangen's water right 36-2551. The Morris water rights collectively authorize the diversion of 6.05 cfs. Morris will continue to be provided irrigation water through the Sandy Pipe, providing water from the Curren Tunnel to mitigate injury to Rangen.

Therefore, IGWA requests and is entitled to full credit for this direct delivery of water to Rangen of 6.05 cfs that could otherwise be diverted from the Curren Tunnel under Morris's prior rights.

3. Assignment of water right no. 36-16976.

IGWA's members have pending before the Department an Application for Water Right Permit no. 36-16976, a copy of which is attached as ***Exhibit B***, to appropriate 12 cfs from Springs and Billingsley Creek for aquaculture and mitigation purposes. The sole purpose of this Application is to mitigate injury to Rangen. And, given the non-consumptive nature of this water right, it is certain to be approved.

The Curtailment Order provides that the source of Rangen's water rights is limited to the Curren Tunnel only.[2] Consequently, the Director issued an order on January 31, 2014, directing Rangen to cease and desist illegal diversion of water from Billingsley Creek at its Bridge Diversion located in the SWSWNW Section 32, T7S R14E. The Bridge Diversion will no longer be available for Rangen's use after February 24, 2014, since Rangen does not possess a water right for this point of diversion.

Permit 36-16976 includes the Bridge Diversion as an authorized point of diversion. IGWA will make a direct delivery to Rangen, to the extent needed to meet the full mitigation obligation not satisfied by the credits requested above, by assigning water right no. 36-16976 to Rangen.

4. Fish Replacement.

The Curtailment Order found that Rangen's inability to exercise its water rights from the Curren Tunnel due to declining groundwater discharge from the ESPA has caused a reduction in the number of fish Rangen is able to raise.[3] IGWA proposes to deliver to Rangen the number, size, and quality of fish Rangen could raise with the water it would receive from curtailment, at appropriate times and locations. IGWA will cooperate with Rangen to reasonably determine the number of additional fish that could be raised.

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[2] Curtailment Order p. 32.

[3] Curtailment Order, pp. 34-35.

5. Monetary Compensation.

As an alternative to fish replacement, IGWA proposes to pay to Rangen in cash the profits Rangen could otherwise obtain from the sale of fish raised with the water it would receive from curtailment. IGWA will cooperate with Rangen to reasonably determine lost profits from reduced fish sales.

6. Improvements to Curren Tunnel diversion.

IGWA recently learned that the Curren Tunnel was regularly cleaned in years past to remove obstructions and sustain ESPA discharge, but that such activities ceases some time ago. There is reason to believe that flow from the Tunnel can be enhanced by proper cleaning and maintenance and improving the Tunnel and other diversion and delivery facilities. This proposal requires that IGWA be allowed access to evaluate the Tunnel and other diversion facilities to determine the nature and scope of maintenance and improvements that would enhance flows therefrom.

7. Horizontal well.

SPF Engineering advised Rangen go that drilling a horizontal well in the vicinity of the Curren Tunnel would likely increase the supply of water available to Rangen. SPF's documents were admitted as exhibits at the hearing and are part of the agency record. IGWA proposes to pay for the cost of engineering and constructing a second horizontal tunnel to increase the flow of water to Rangen. Work will proceed on an "as-needed" basis upon approval of the Director.

8. Vertical well(s) with delivery over-the-rim.

IGWA proposes to drill new groundwater wells or utilize existing wells to deliver water directly to Rangen. This would function similar to IGWA's over-the-rim mitigation plan approved for Clear Springs Foods. The design, engineering and construction components will be proceed as needed upon approval of the Director.

9. Direct Pump-Back.

IGWA will pay the costs to engineer, construct, and operate a direct pump-back and aeration system within the Rangen facility to secure sufficient flows to meet mitigation obligations, to the extent of any shortfall to the previously described mitigation alternatives. Pursuant to evidence and testimony at the administrative hearing, to alleviate concerns, redundant power sources and pumps will be included in the pump-back design plan as remediation for power or pump failure.

EXHIBIT E - FIRST MITIGATION PLAN

REQUEST FOR HEARING

Pursuant to CM Rule 43.02, IGWA requests that a Status/Scheduling Conference be set for hearing with notice given to the parties to discuss the mitigation alternatives identified in this plan; and, to schedule necessary hearings.

RESPECTFULLY SUBMITTED this 12th day of February, 2014.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By: Randall C. Budge

Randall C. Budge
T.J. Budge
Attorneys for IGWA

EXHIBIT E - FIRST MITIGATION PLAN

CERTIFICATE OF MAILING

I certify that on this 12th day of February, 2014, the foregoing document was served on the following persons in the manner indicated.

Randall C. Budge

Signature of person mailing form

Director, Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, ID 83720-0098 Deborah.Gibson@idwr.idaho.gov	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☒ Hand Delivery ☒ E-mail
Garrick Baxter Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-mail
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J. Justin May May, Browning & May, PLLC 1419 West Washington Boise, ID 83702 jmay@maybrowning.com	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-mail

EXHIBIT E - FIRST MITIGATION PLAN

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EXHIBIT E - FIRST MITIGATION PLAN

FORM 202 11/13

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) North Snake GWD, Magic Valley GWD, et al. Phone 208-232-6101
   Name connector (check one): ☑ and ☐ or ☐ and/or
   Mailing address c/o Randall C. Budge,T.J. Budge,201 E Center Street, PO Box 1391 City Pocatello
   State ID Zip 83204 Email rcb@racinelaw.net, tcb@racinelaw.net
2. Source of water supply Springs; Billingsley Creek which is a tributary of Snake River
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
7S	14E	32		SE	SW	NW	Gooding	Springs; Billingsley Creek	
7S	14E	32		SW	SW	NW	Gooding	Springs; Billingsley Creek	

4. Water will be used for the following purposes:
   Amount 12 cfs (cfs or acre-feet per year) for mitigation for irrigation purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 12 cfs (cfs or acre-feet per year) for fish progagation purposes from 1/1 to 12/31 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated is (a) 12 cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Hydraulic pump(s) (size TBD); screw-operated headgate on Billingsley Creek
   b. Height of storage dam N/A feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is N/A inches; proposed depth of well is _____ feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? N/A; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.
7. Description of proposed uses (if irrigation only, go to item 8):
   a. Hydropower; show total feet of head and proposed capacity in kW. N/A
   b. Stockwatering; list number and kind of livestock. N/A
   c. Municipal; complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households N/A
   e. Other; describe fully. mitigation for groundwater irrigation; fish propagation

EXHIBIT E - FIRST MITIGATION PLAN

8. Description of place of use:

   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	14E	31			M/F	M/F													
7S	14E	32							M/F										

Total number of acres to be irrigated: N/A

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?
None for mitigation. Water right nos. 36-2551 and 36-7694 are used for fish propagation purposes at Rangen.

10. a. Who owns the property at the point of diversion? Rangen, Inc.

    b. Who owns the land to be irrigated or place of use? Rangen, Inc.; members of applicant Ground Water Districts

    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Idaho Code Section 42-5224(13)

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.
The GW Districts will use this water for mitigation purposes to protect groundwater use on the Eastern Snake Plain to mitigate for Rangen's apparent material injury and to provide mitigation for the curtailment of junior groundwater users as specified in the Director's Final Order dated 1/29/14 for Rangen's delivery call. Mitigation water will be provided to Rangen for its Curren Tunnel rights for fish propagation purposes. If unable to secure proper consent, the GWDs will use their power of eminent domain as set forth in I.C. Sec. 42-5224(13) to secure easements, as necessary.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Thomas J. Budge, Attorney
Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee $ _____ Receipted by _____ Receipt No. _____ Date _____

EXHIBIT E - FIRST MITIGATION PLAN

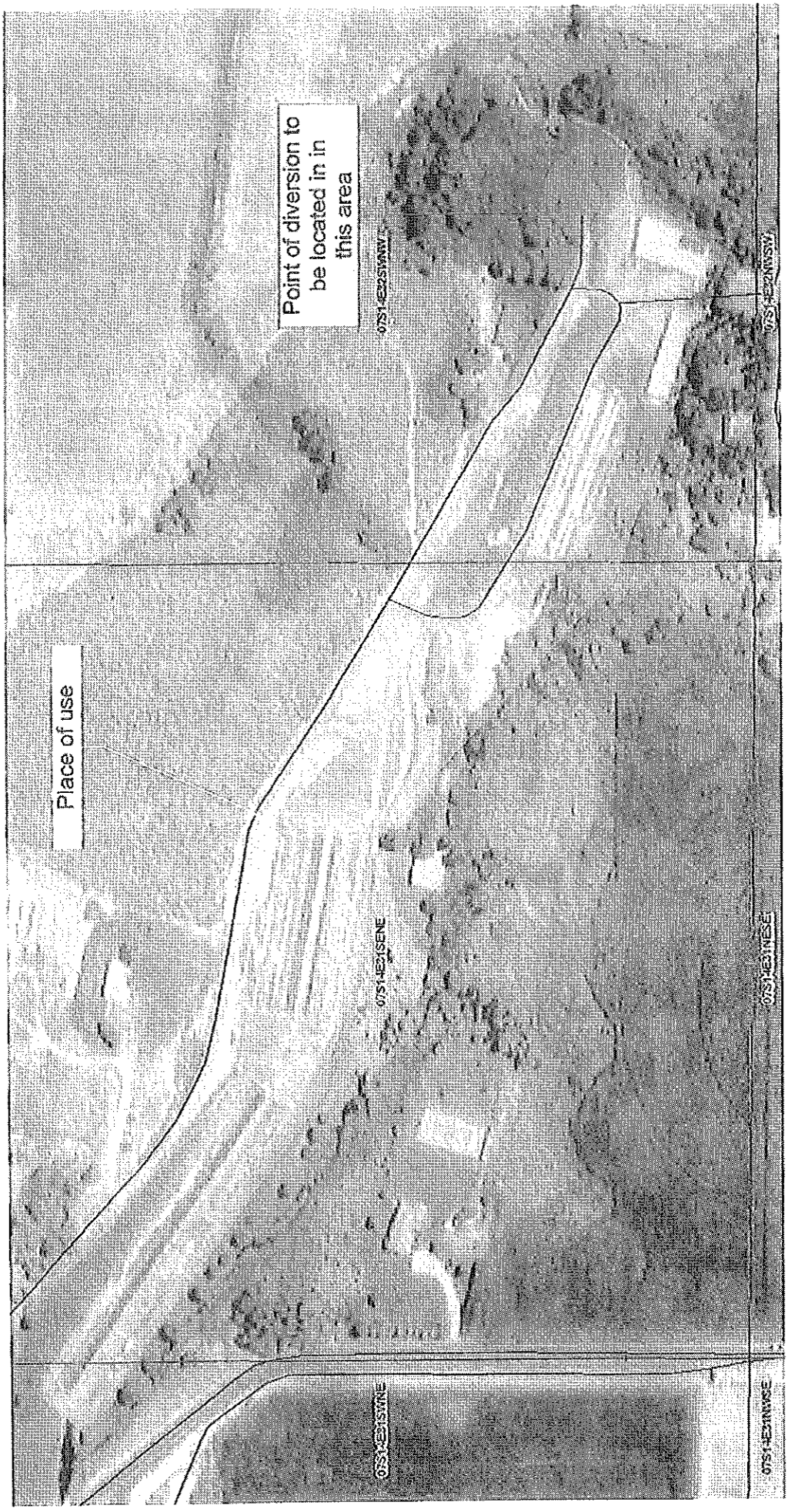

EXHIBIT E - FIRST MITIGATION PLAN

Attachment for Item 1

Name of Applicants
Amended Application for Permit
Submitted 2/5/2014

PERMIT APPLICANTS
GROUND WATER DISTRICTS

Aberdeen American Falls Ground Water District
Bingham Ground Water District
Bonneville-Jefferson Ground Water District
Madison Ground Water District
Magic Valley Ground Water District
North Snake Ground Water District
Clark Jefferson Ground Water District

EXHIBIT E - FIRST MITIGATION PLAN

EXHIBIT "B"

MEMORANDUM AGREEMENT

This Memorandum Agreement is entered into February 11th, 2014, between North Snake Ground Water District, whose address is 152 E. Main Street, Jerome, Idaho 83338 ("District") and Howard (Butch Morris), whose address is1101 East 2900 South, Hagerman, Idaho 83332 ("Morris"). The purpose of this Agreement is to provide for the ongoing delivery of irrigation water to Morris through the Sandy Pipeline in consideration for the District's use of certain water rights owned by Morris diverted from the Martin-Curren Tunnel at the head of Billingsley Creek to supply mitigation water to Rangen, Inc.

Water rights at the head of Billingsley Creek diverted from the Martin-Curren Tunnel are reflected in Table 3.1 attached. These include 6.05 cfs under water right numbers 36-134D, 36-134E, 36-135D, 36-135E, 36-10141A and 36-10141B owned by Morris (the "Morris Rights"). The District constructed in 2003 and owns and operates the Sandy Pipeline which delivers irrigation water from the end of the North Side Canal Company system to Morris, with a discharge into Billingsley Creek immediately downstream from Rangen.

The Sandy Pipeline has in the past and will continue in the future to be operated and maintained by the Districts to deliver irrigation water to Morris by reason of which the Morris Rights have not been diverted from the Martin-Curren Tunnel and have instead been delivered to the junior water rights of Rangen. Morris's irrigation diversions from the Sandy Pipeline utilize and replace the full 6.05 cfs available under the Morris Rights. Were it not for the Sandy Pipeline, Morris would take all water available from the Martin-Curren Tunnel under the Morris Rights for irrigation purposes.

The District agrees that Morris may continue to use the Sandy Pipeline without expense to deliver irrigation water to the property he owns. The District and Morris will cooperate with each other and with North Side Canal Company and use their best efforts to continue to supply irrigation water to Morris. In return therefore, Morris agrees that the District may use the Morris Rights as needed to provide mitigation water to Rangen to satisfy the IDWR Director's January 29, 2014 Order curtailing 157,000 acres of ground water rights junior to July 13, 1962.

This Memorandum Agreement is for a period of five (5) years and then will be reviewed by the parties to determine if it should be extended or terminated. By signing this Agreement Morris inno way agrees to any forfeiture or loss of water rights from the Martin-Curren Tunnel.

NORTH SNAKE GROUND WATER DISTRICT

* Signed Copy to be substituted.

By: /s/
LYNN CARLQUIST, Chairman

/s/
HOWARD (BUTCH) MORRIS

Exhibit "A"

Privileged and Confidential
Attorney-Client Work Product

Table 3.1: Water Rights at Head of Billingsley Creek

User Name	Water Right Number	Priority Date	Amount (cfs)	Source*	Use
Candy	36-134A	10/9/1884	0.49	Martin-Curren Tunnel	Domestic, Irrigation
Rangen, Inc.	36-134B	10/9/1884	0.09	Martin-Curren Tunnel	Irrigation and domestic use
Morris	36-134D	10/9/1884	1.58	Martin-Curren Tunnel	Irrigation, Stockwater
Morris	36-134E	10/9/1884	0.82	Martin-Curren Tunnel	Irrigation, Stockwater
Musser	36-102	4/1/1892	4.1	Martin-Curren Tunnel	Domestic, Irrigation, Stockwater
Rangen, Inc.	36-135A	4/1/1908	0.05	Martin-Curren Tunnel	Irrigation and domestic use
Candy	36-135B	4/1/1908	0.51	Martin-Curren Tunnel	Irrigation
Morris	36-135D	4/1/1908	1.58	Martin-Curren Tunnel	Irrigation, Stockwater
Morris	36-135E	4/1/1908	0.82	Martin-Curren Tunnel	Irrigation, Stockwater
Morris	36-10141A	12/1/1908	0.82	Martin-Curren Tunnel	Irrigation, Stockwater
Morris	36-10141B	12/1/1908	0.43	Martin-Curren Tunnel	Irrigation, Stockwater
Rangen, Inc.	36-15501	7/1/1957	1.46	Martin-Curren Tunnel	Fish propagation use at the hatchery and research facility on Billingsley Creek.
Rangen, Inc.	36-2551	7/13/1962	48.54	Martin-Curren Tunnel	Fish propagation use at the hatchery and research facility on Billingsley Creek. (Includes 0.1 cfs for domestic use.)
Rangen, Inc.	36-7694**	4/12/1977	26.00	Martin-Curren Tunnel	Fish propagation use at the hatchery and research facility on Billingsley Creek.

* SRBA Partial Decree.

** According to a memorandum from Cindy Yenter to Karl Dreher dated December 15, 2003, Rangen's submitted historical flow numbers show that flows have not been available to support water right number 36-7694 since October 1972, which predates the priority year of the right by nearly 5 years. Additionally, during the water right development period flows did not exceed 50 cfs, which is the total of water rights 36-15501 and 36-2551.

EXHIBIT F - OPPOSITION TO STAY

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Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR DELIVERY CALL OF RANGEN, INC.'S WATER RIGHT NOS. 36-02551 & 36-07694 (RANGEN, INC.)	Docket No. CM-DC-2011-004 **RANGEN, INC.'S RESPONSE IN OPPOSITION TO IGWA'S PETITION TO STAY CURTAILMENT**

COMES NOW, Rangen, Inc. ("Petitioner" or "Rangen"), by and through its attorneys, and hereby submits the following response in opposition to *IGWA's Petition to Stay Curtailment, and Request for Expedited Decision*, filed by the Idaho Ground Water Appropriators, Inc. (IGWA) on February 11, 2014.

I. BACKGROUND

1) Rangen filed its most recent *Petition for Delivery Call* more than two years ago on December 13, 2011.

2) At that time Rangen was suffering a shortage of water at its Research Hatchery. This shortage is ongoing and pre-dates Rangen's first Delivery Call in 2003.

3) After 16 days of hearing testimony and extensive briefing by all parties, the Director entered his decision on Rangen's Petition on January 29, 2014.

4) The Director concluded that pumping by junior ground water users has materially injured Rangen. The Director also concluded that Rangen is diverting and using water efficiently, without waste and in a manner consistent with the goal of reasonable use. The material injury suffered by Rangen is ongoing and cumulative.

5) Based upon the finding of material injury, the Director ordered curtailment of water rights within Water District 130 bearing priority dates junior to July 13, 1962. The Director's curtailment order requires holders of those consumptive ground water rights to refrain from diverting ground water under those rights beginning March 14, 2014. The Director phased in curtailment and recognized that the parties could propose mitigation plans.

6) On February 11, 2014 IGWA filed *IGWA'S Petition to Stay Curtailment, and Request for Expedited Decision.* The primary basis for the request is the perceived unfairness of curtailing shortly before an irrigation season.

7) Rangen anticipated that some variant of this argument would eventually be raised. Nearly two years ago Rangen asked that junior-priority groundwater pumpers be issued notices of possible curtailment so that they could be prepared in the event a curtailment order was issued just prior to the beginning of the irrigation season (at the time the request was made, the Director anticipated issuing a final order on Rangen's call by April 1, 2013). *See Transcript of May 24, 2012 Hearing* ("Transcript") attached as *Exhibit 3 to Affidavit of J. Justin May in Opposition to Idaho Cities' Petition for Limited Intervention and in Opposition to IGWA's Petition to Stay*

Curtailment ("May Affidavit"). The Director advised counsel for IGWA that it had the responsibility of notifying its members ahead of a formal hearing of the possibility of curtailment. The Director stated:

> ***My inclination is that we place that burden upon [counsel for IGWA]. She's representing those folks, the groundwater users and they should, I guess, have the ability to anticipate the possibility of curtailment.*** As we go through I'm not sure I want to be issuing a notice ahead of some decision. I think that's a little difficult. When the notices were issued I think they were issued after Carl Dreyer's [sic] initial orders, and so it was based on an order that had been issued, an evaluation of where we were at from the standpoint of storage in the system or, you know, what was predicted as a water year, and those were sent out as a result. But I think we're premature.

Transcript, p. 44, lines 10-22 (emphasis added).

IGWA unequivocally rejected the Director's determination:

> Ms. McHugh: *Just for the record, we aren't planning to send out any notices.*
>
> Mr. Haemmerle: You've got a lot of confidence. That's good.
>
> Ms. McHugh: I'll represent the IGWA ground water appropriators and the board, but we're not going to send out notices to individual groundwater users.

Transcript, p. 44, line 23 – p. 45, line 4. After this exchange, the Director commented that everyone needed to be prepared for the possibility of an April 1st curtailment order. *See Transcript*, p. 45, lines 5-13.

8) On September 26, 2012, IGWA filed a *Motion to Continue Hearing and Request for Expedited Decision* seeking to delay the hearing date in this matter from January 28, 2013 to March 11, 2013. Rangen opposed that motion arguing that:

> IGWA is looking for any way to delay the hearing of this matter because even a slight delay will probably mean that curtailment will not be ordered in 2013 even if Rangen prevails on its material injury claim. The Director has made it clear that April 1 is the "drop dead" date for ordering curtailment and that he must have time to issue a decision before that date or curtailment will not be ordered.

Response in Opposition to IGWA's Motion to Continue Hearing and Request for Expedited Decision, p. 18.

9) Following the discovery of the so-called Mud Lake error in October 2012, the Director issued an Order suspending the hearing in this matter "until further notice." In that Order the Director stated:

> The Director must use the best available science, and at the same time must also protect senior-priority rights by enforcing an order finding material injury. Therefore, **the parties should be fully aware that if material injury is found, the order finding material injury will be enforced, regardless of the time of year in which it is issued.**

Order Suspending Hearing and Setting Status Conference, p. 2 (emphasis added).

II. LEGAL STANDARD

Once the Director makes a determination of material injury, Rule 40 of the Conjunctive Management Rules dictates that the Director shall either: 1) "Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users who rights are included within the district, . . ." or 2) Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director." IDAPA 37.03.11.040.01. To lessen the economic impact the Director may, in specified circumstances, phase in the curtailment over a period up to 5 years. *Id.*

As the Idaho Supreme Court recently held in *In the Matter of Distribution of Water to Various Water Rights*, ___ Idaho ___, ___ P.3d ___(2013 Opinion No. 134), "[t]he Conjunctive Management Rules require that out-of-priority diversions only be permitted pursuant to a properly enacted mitigation plan." In that case the Director of the Department of Water Resources allowed out-of-priority diversions pursuant to "replacement water plans," which were not subject to the procedural requirements of a mitigation plan. "The Director reasoned that approval as a mitigation plan would require curtailment of junior ground water users without a hearing because they could not formulate a mitigation plan until they knew how much water

would be owed to the [senior water user]." *Id.* The District Court determined that "replacement water plans permitted the rules governing mitigation plans to be circumvented." The Supreme Court "affirm[ed] the district court's holding that the Director abused his discretion by failing to comply with the procedural framework applicable to mitigation plans when he approved replacement water plans." *Id.*

IGWA's present motion seeks a stay of the Director's Order to allow out-of-priority diversion for the entire 2014 irrigation season without the approval of a mitigation plan. The basis cited for this request is IDAPA 37.01.01.780, which provides generally that "[a]ny party or person affected by an order may petition the agency to stay any order, whether interlocutory or final." In the context of a petition for review, Idaho Code § 67-5274 similarly provides that "[t]he agency may grant, or the reviewing court may order, a stay upon appropriate terms." I.C. § 67-5274. This language provides little, or no, guidance as to what might be the appropriate terms for a stay that would be consistent with the Conjunctive Management Rules.

III. ARGUMENT

The effect of the stay sought by IGWA would be to allow out-of-priority diversions for an entire irrigation season without a properly approved mitigation plan in violation of the Conjunctive Management Rules. The year-long stay requested by IGWA is not warranted by the circumstances of this case. Such a stay would allow IGWA to circumvent the rules and procedures for the approval of mitigation plans, be inconsistent with the Conjunctive Management Rules, and would be inconsistent with the Director's previously recognized obligation to protect senior priority rights. IGWA has provided no compelling reason or justification for the Director to reverse his prior statement of intent to enforce an order finding material injury "regardless of the time of year in which it is issued."

A. No further hearing is required prior to curtailment.

IGWA's reliance upon Judge Melanson's decision in the *Clear Springs Foods, Inc. v. Blue Lakes Trout Farm, Inc.* delivery call case is misplaced. The procedural history of that case

is significantly different. As IGWA acknowledges, the Director has already held an extensive hearing in this matter and made a determination that Rangen is being materially injured by junior ground water pumping. IGWA has not provided any authority suggesting that there is a due process right to a further hearing on mitigation before the order finding material injury may be enforced. Indeed the Idaho Supreme Court's decision in the Surface Water Coalition delivery call case indicates that allowing out-of-priority diversions following a determination of material injury would violate the Conjunctive Management Rules.

B. Whether IGWA will be able to get a mitigation plan approved is not relevant to the enforcement of the Director's Order finding material injury.

Whether one or more of the junior priority ground water users will be able to get a mitigation plan approved is not relevant to whether the Director's Order finding material injury should be enforced. The Conjunctive Management Rules provide the exclusive procedure for evaluating and approving mitigation plans. See *In the Matter of Distribution of Water to Various Water Rights*, ___ Idaho ___, ___ P.3d ___(2013 Opinion No. 134). Out-of-priority diversions can only be permitted pursuant to a properly enacted mitigation plan. *Id.*

There is simply no way for anyone to evaluate the potential for approval of the mitigation plan that has been submitted by IGWA at this time. The mitigation plan as submitted is simply a list of conceptual, not necessarily feasible, components that might be considered for a mitigation plan. The description of these conceptual ideas is vague and many have been thoroughly evaluated and rejected in the past.

C. Rangen continues to be materially injured by junior-priority ground water pumping.

As the Director found following the extensive hearing conducted in this matter, Rangen is being materially injured by junior ground water pumping. Rangen's injury is long standing and continuing. Rangen has no doubt that planning for curtailment will be difficult for some junior ground water pumpers. Rangen has extensive experience planning for, and coping with,

shortages of water. The impact of curtailment on junior priority water rights, however, is not a basis to avoid enforcement of the Director's Order finding material injury.

IGWA's arguments on the relative impacts of curtailment, equity and the public interest are primarily hyperbole without any support in the record. However, despite the fact that there is no legal basis to grant a stay based upon such rhetoric, a couple of IGWA's statements warrant comment.

IGWA claims that:

> Had the Curtailment Order been issued well in advance of the 2014 irrigation season, mitigation could have been provided, or curtailment could have been prepared for, without creating the dire circumstance farmers, businesses, and cities now find themselves in.

IGWA's Petition, at p. 4. Further, "[t] he potential for 157,000 acres to be curtailed on short notice was inconceivable." *Id.* at p. 5. If it is true that IGWA and its members were surprised by the Director's decision, this is shocking. IGWA has known since at least 2003, when Rangen first made a delivery call, that Rangen was short of water. IGWA's expert witnesses have participated in the development and refinement of the ground water model used by the Director to determine the amount of acres to be curtailed since that development began. IGWA's attorneys received the Department's Staff Report, deposed the Department's staff, and participated in 16 days of testimony during the hearing on this matter. During the May 24, 2012 hearing, the Director advised counsel for IGWA that it had the responsibility of notifying its members ahead of a formal hearing of the possibility of curtailment. IGWA unequivocally rejected the Director's suggestion and indicated that they are not going to send out notices to individual groundwater users. After this exchange, the Director commented that everyone needed to be prepared for the possibility of an April 1st curtailment order. In the 2012 *Order Suspending Hearing and Setting Status Conference*, the Director stated "[t]he parties should be fully aware that if material injury is found, the order finding material injury will be enforced,

regardless of the time of year in which it is issued." IGWA may disagree with the Director's conclusions, but the Order finding material injury in this case cannot reasonably have been a surprise to anyone.

IV. CONCLUSION

The granting of a stay in these circumstances would be inconsistent with the Conjunctive Management Rules and inconsistent with the Director's obligation to protect senior water rights. Rangen respectfully requests that IGWA's Petition to Stay Curtailment be denied.

DATED this 19th day of February, 2014.

MAY, BROWNING & MAY

By _____
J. Justin May

EXHIBIT F - OPPOSITION TO STAY

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 19th day of February, 2014 he caused a true and correct copy of the foregoing document to be served by email and first class U.S. Mail, postage prepaid upon the following:

Original: Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☑ ☐ ☐ ☐ ☑
Garrick Baxter IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☐ ☐ ☐ ☑
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EXHIBIT F - OPPOSITION TO STAY

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J. Justin May

EXHIBIT G - STAY ORDER

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694	**CM-DC-2011-004**
(RANGEN, INC.)	**ORDER GRANTING IGWA'S PETITION TO STAY CURTAILMENT**

BACKGROUND

On January 29, 2014, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued a *Final Order Regarding Rangen, Inc,'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Final Order") in this proceeding.

On February 11, 2014, the Idaho Ground Water Appropriators, Inc. ("IGWA") filed *IGWA's Mitigation Plan and Request for Hearing* ("Mitigation Plan").

On February 12, 2014, IGWA filed *IGWA's Petition to Stay Curtailment, and Request for Expedited Decision* ("Petition to Stay"). The petition asks the Director to issue a stay of the Final Order "during the 2014 growing season until a decision is made on IGWA's Mitigation Plan...." *Petition to Stay* at 1. That same day the Department issued its *Order Shortening Time to File Responses to IGWA's Petition to Stay Curtailment*, which shortened the time for parties to respond to the Petition to Stay to February 19, 2014.

On February 19, 2014, Rangen, Inc. ("Rangen") filed *Rangen, Inc.'s Response in Opposition to IGWA's Petition to Stay Curtailment* ("Response"). No other parties filed responses to the Petition to Stay.[1]

[1] On February 14, 2014, a *Petition for Limited Intervention* was filed by a number of municipalities located within the curtailment area. In the petition, the municipalities seek to join in IGWA's petition to stay. *Petition for Limited Intervention* at 5. Because the municipalities are not currently parties to this proceeding, the Director will not consider the municipalities' arguments. The Director notes, however, that the arguments raised by the municipalities echo those raised by IGWA in its petition.

LEGAL STANDARD FOR A STAY

The Director has authority to stay a final order pursuant to the Department's rules of procedure:

> Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion.

IDAPA 37.01.01.780 ("Rule 780").

The authority to stay a final order is also reflected in I.C. § 67-5274 and I.R.C.P. 84(m), which provide that an "agency may grant, or the reviewing court may order, a stay upon appropriate terms." The use of the word "may" demonstrates the Director's discretionary authority to stay enforcement of an order. *See Bank of Idaho v. Nesseth*, 104 Idaho 842, 846, 664 P.2d 270, 274 (1983). As both IGWA and Rangen recognize in their briefing, however, neither the statute nor the rule define what constitutes "appropriate terms" or establish a clear test for determining when a stay is appropriate. There are no reported judicial opinions in Idaho discussing what qualifies as "appropriate terms" or that describe when a stay is appropriate pursuant to Rule 780, I.C. § 67-5274 or I.R.C.P. 84(m). Consequently, the Director must look to other authorities to help determine when a stay is appropriate.

The authority of the Director to stay an order in an administrative proceeding is analogous to the authority of a district court to stay the enforcement of a judgment under I.R.C.P 62(a). In both circumstances, an order has been issued deciding the matter and a party can seek to have enforcement of the order stayed pending appeal or pending further action. A stay pursuant to I.R.C.P 62(a) may be granted by a district court "when it would be unjust to permit the execution on the judgment, such as where there are equitable grounds for the stay or where certain other proceedings are pending." *Haley v. Clinton*, 123 Idaho 707, 709, 851 P.2d 1003, 1005 (Ct. App. 1993). A stay is appropriate "[w]here it appears necessary to preserve the status quo ... ." *McHan v. McHan*, 59 Idaho 41, 80 P.2d 29, 31 (1938). Likewise, a stay is appropriate when, "[i]t is entirely possible that the refusal to grant a stay would injuriously affect appellant, and it likewise is apparent that granting such a stay will not be seriously injurious to respondent." *Id.* This standard parallels the standard for issuing a preliminary injunction found in I.R.C.P. 65(e). The relevant sections of I.R.C.P. 65(e) provide:

> A preliminary injunction may be granted in the following cases:
> (1) When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the acts complained of, either for a limited period or perpetually.
> (2) When it appears by the complaint or affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to the plaintiff.
> . . .

(5) A preliminary injunction may also be granted on the motion of the defendant upon filing a counterclaim, praying for affirmative relief upon any of the grounds mentioned above in this section, subject to the same rules and provisions provided for the issuance of injunctions on behalf of the plaintiff.

Based on the foregoing, the Director will consider the following factors when deciding whether a stay should be issued:

1. The likelihood the moving party will prevail on appeal or in another pending proceeding;
2. Whether denial of the stay will result in irreparable harm to the moving party;
3. Whether granting the stay will cause irreparable harm to the respondent.

ANALYSIS

A. There are equitable grounds for the stay as it is likely that IGWA's mitigation plan will be approved for the irrigation season.

Junior ground water users may avoid curtailment by participating in an approved mitigation plan. *Final Order* at 42. IGWA submitted a mitigation plan to the Department and the process of advertising the mitigation plan is occurring. The last day of publication of the plan is February 27, 2014. The deadline for protests to the mitigation plan is March 10, 2014. A hearing on the mitigation plan has been scheduled for March 17 - 18, 2014,. IGWA has represented that it has secured and is ready to supply water directly to Rangen in the amount required by the Rangen Order. Specifically, North Snake Ground Water District ("NSGWD"), a member of IGWA, has reached a five year agreement with Butch Morris to provide Morris surface water through the Sandy Pipeline in return for allowing NSGWD to use certain water rights owned by Morris which have a source of the Curren Tunnel. *Mitigation Plan* at 2-3. The Morris rights are for 6.05 cfs. Because the Morris water rights are senior to Rangen's injured water rights and because the agreement with Morris gives IGWA the right to use the Morris water rights for mitigation purposes, IGWA is likely entitled to mitigation credit related to the exercise of the Morris rights.

In addition, IGWA has implemented a number of mitigation solutions that continue to this day. For example, IGWA has undertaken recharge, conversion of farmland from surface water to ground water irrigation, and voluntary dry-ups. *Mitigation Plan* at 2. The Director has previously approved mitigation credit for these activities in other delivery call proceedings and expects that IGWA will be entitled to approximately 1.5 to 2 cfs of credit for these activities.

Furthermore, NSGWD has proposed additional mitigation actions that it intends to undertake to comply with the Director's Order. Cumulatively, the proposed measures, once implemented, will fully satisfy the requirements of the Director's Order and it appears that IGWA will be able to demonstrate that it has satisfied the requirement for direct delivery of water to Rangen.

B. Denial of the stay will result in irreparable harm to IGWA

If the curtailment order is left in place, it will have significant negative and potentially irreversible effects on the water right holders subject to the curtailment order. Curtailment will result in the drying up of approximately 157,000 acres of irrigated farm land. *Final Order* at 28. It is likely that many, if not most, of the water right holders will suffer significant financial hardship. The financial hardship will not be limited to the affected water right holders but will be shared by all industries with overlapping economic sectors. If the curtailment order is not lifted until IGWA's mitigation plan is approved, the damage to these businesses and communities will have already occurred and will not be able to be undone.

C. Granting IGWA's request to stay the curtailment order will not cause irreparable harm to Rangen.

Granting the stay will not result in irreparable harm to Rangen. As recognized by the Idaho Supreme Court in *Clear Springs*, ground water pumping does not cause a sudden loss of water discharge from the springs. *Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 815, 252 P.3d 71, 96 (2011). The reduction in flows from the springs in the Thousand Springs area has been gradual and immediate curtailment will not quickly restore the Curren Tunnel spring flows. The effects of curtailment may take years to be fully realized. *Final Order* at 42. Furthermore, most of the irrigation in the area of curtailment does not commence until April, so most of the benefits of curtailment will be even further delayed. The Director has already scheduled a hearing for IGWA's mitigation plan and anticipates a decision for the plan in early spring. If the stay only lasts until a decision is issued for the mitigation plan, the amount of water that would have accrued to the Curren Tunnel as a result of curtailment in the time frame for making a decision on the mitigation plan is small.

D. The stay will be in effect until a decision is made on IGWA's pending mitigation plan.

As correctly pointed out by Rangen, IGWA cannot claim surprise that a curtailment order was issued as part of the Final Order. At the start of the Rangen proceeding, the Director advised all parties that curtailment was a possible result of the hearing. *Transcript of May 24, 2012 Hearing*, p. 43-45, attached as Exhibit 3 to *Affidavit of J. Justin May*. Then in a subsequent order, the parties were again directly warned:

> The Director must use the best available science, and at the same time must also protect senior-priority rights by enforcing an order finding material injury. **Therefore, the parties should be fully aware that if material injury is found, the order finding material injury will be enforced, regardless of the time of year in which it is issued.**

Order Suspending Hearing and Setting Status Conference, p. 2 (emphasis added).

EXHIBIT G - STAY ORDER

Given that IGWA has submitted a mitigation plan, which appears on its face to satisfy the criteria for a mitigation plan pursuant to the Conjunctive Management Rules and the requirements of the Director's curtailment order, and because of the disproportional harm to IGWA members when compared with the harm to Rangen if a temporary stay is granted, the Director will approve a temporary stay pending a decision on the mitigation plan. The Director will conduct an expedited hearing for the mitigation plan and to issue a decision shortly thereafter. Ground water users are advised that in the event the mitigation plan is not approved, the curtailment order will go into effect immediately.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that IGWA's Petition to Stay is GRANTED. Enforcement of the curtailment order issued in conjunction with the Final Order is stayed for members of IGWA and the non-member participants in IGWA's mitigation plan until a decision is issued on IGWA's mitigation plan. The stay does not apply to the holders of junior ground water rights identified in Attachment C of the Final Order that are not members of IGWA or are not non-member participants in IGWA's migration plan. Pursuant to Idaho Code § 42-5259, junior ground water right holders may contact their nearest ground water district to become a non-member participant in the mitigation plan.

Dated this 21st day of February, 2014.

GARY SPACKMAN
Director

EXHIBIT G - STAY ORDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of February, 2014, I served a true and correct copy of the ORDER DENYING IGWA'S PETITION FOR RECONSIDERATION on the following parties by the methods indicated:

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EXHIBIT G - STAY ORDER

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Deborah J. Gibson

Deborah Gibson
Assistant to the Director

EXHIBIT H - FIRST MITIGATION PLAN ORDER

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY THE IDAHO GROUND WATER APPROPRIATORS FOR THE DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694 IN THE NAME OF RANGEN, INC.	)	**CM-MP-2014-001** **CM-DC-2011-004**
IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694 (RANGEN, INC.)	)	**ORDER APPROVING IN PART AND REJECTING IN PART IGWA'S MITIGATION PLAN; ORDER LIFTING STAY ISSUED FEBRUARY 21, 2014; AMENDED CURTAILMENT ORDER**

PROCEDURAL BACKGROUND

On January 29, 2014, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued the *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Curtailment Order"). The Curtailment Order recognizes that holders of junior-priority ground water rights may avoid curtailment if they participate in a mitigation plan which provides "simulated steady state benefits of 9.1 cfs to Curren Tunnel [sometimes referred to as the "Martin-Curren Tunnel"]or direct flow of 9.1 cfs to Rangen." *Curtailment Order* at 42. The Curtailment Order explains that mitigation provided by direct flow to Rangen "may be phased-in over not more than a five-year period pursuant to CM Rule 40 as follows: 3.4 cfs the first year, 5.2 cfs the second year, 6.0 cfs the third year, 6.6 cfs the fourth year, and 9.1 cfs the fifth year." *Id.*

On February 11, 2014, the Idaho Ground Water Appropriators, Inc. ("IGWA") filed with the Department *IGWA's Mitigation Plan and Request for Hearing* ("Mitigation Plan") to avoid curtailment imposed by the Curtailment Order. The Mitigation Plan sets forth nine proposals for junior-priority ground water pumpers to meet mitigation obligations: 1) credit for current and ongoing mitigation activities; 2) mitigation via the Sandy Pipe; 3) assignment of water right no. 36-16976; 4) fish replacement; 5) monetary compensation; 6) improvements to the Curren Tunnel diversion; 7) drilling a horizontal well in the vicinity of the Curren Tunnel; 8) drilling new groundwater wells or utilizing existing wells with delivery over-the-rim; and 9) construction of a direct pump-back and aeration system within the Rangen facility.

On March 14, 2014, Rangen, Inc. ("Rangen") filed three documents with the Department: *Rangen's Motion in Limine to Exclude Evidence of Tucker Springs Project; Rangen's Motion to Dismiss Proposals 3-9 of IGWA 's Mitigation Plan and Limit Scope of Hearing;* and *Rangen, Inc. 's Petition to Intervene to Become a Party Protestant and Rangen 's Motion for Reconsideration Re: Denial of Participation in Mitigation Plan Hearing.* At the commencement of the hearing on IGWA's Mitigation Plan, which was held on March 17-19, 2014 at the Department's State office in Boise, Idaho, the Director verbally ruled on Rangen's motions and petition to intervene. Specifically, the Director granted Rangen's motion to exclude evidence of the Tucker Springs Project; dismissed proposals four and five of IGWA's Mitigation Plan, and granted Rangen's petition to intervene. On March 26, 2014, the Director issued the following to reflect those verbal rulings: *Order Granting Rangen's Motion in Limine to Exclude Evidence of Tucker Springs Project; Order Granting in Part and Denying in Part Rangen's Motion to Dismiss Proposals 3-9 of IGWA's Mitigation Plan and Limit Scope of Hearing;* and *Order Granting Rangen, Inc.'s Petition to Intervene and Denying Motion for Reconsideration.*

APPLICABLE LAW

Conjunctive Management Rule 43.03 ("Rule 43.03") establishes the following factors that "may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights":

a. Whether delivery, storage and use of water pursuant to the mitigation plan is in compliance with Idaho law.

b. Whether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods.

c. Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable.

d. Whether the mitigation plan proposes artificial recharge of an area of common ground water supply as a means of protecting ground water pumping levels, compensating senior-priority water rights, or providing aquifer storage for exchange or other purposes related to the mitigation plan.

e. Where a mitigation plan is based upon computer simulations and calculations, whether such plan uses generally accepted and appropriate engineering and hydrogeologic formulae for calculating the depletive effect of the ground water withdrawal.

f. Whether the mitigation plan uses generally accepted and appropriate values for aquifer characteristics such as transmissivity, specific yield, and other relevant factors.

g. Whether the mitigation plan reasonably calculates the consumptive use component of ground water diversion and use.

h. The reliability of the source of replacement water over the term in which it is proposed to be used under the mitigation plan.

i. Whether the mitigation plan proposes enlargement of the rate of diversion, seasonal quantity or time of diversion under any water right being proposed for use in the mitigation plan.

j. Whether the mitigation plan is consistent with the conservation of water resources, the public interest or injures other water rights, or would result in the diversion and use of ground water at a rate beyond the reasonably anticipated average rate of future natural recharge.

k. Whether the mitigation plan provides for monitoring and adjustment as necessary to protect senior-priority water rights from material injury.

l. Whether the plan provides for mitigation of the effects of pumping of existing wells and the effects of pumping of any new wells which may be proposed to take water from the areas of common ground water supply.

m. Whether the mitigation plan provides for future participation on an equitable basis by ground water pumpers who divert water under junior-priority rights but who do not initially participate in such mitigation plan.

n. A mitigation plan may propose division of the area of common ground water supply into zones or segments for the purpose of consideration of local impacts, timing of depletions, and replacement supplies.

o. Whether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions.

IDAPA 37.03.11.043.03(a-o).

A proposed mitigation plan must contain information that allows the Director to evaluate these factors. IDAPA 37.03.11.043.01(d).

While Rule 43.03 lists factors that "may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights," factors 43.03(a) through 43.03(c) are necessary components of mitigation plans that call for the direct delivery of mitigation water. A junior water right holder seeking to directly deliver mitigation water bears the burden of proving that (a) the "delivery, storage and use of water pursuant to the mitigation plan is in compliance with Idaho law," (b) "the mitigation plan will provide replacement water, at the time and place required by the senior priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy the rights of diversion from the surface or ground water source," and (c) "the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage." IDAPA 37.03.11.043.03(a-c) These three inquiries are threshold factors against which IGWA's mitigation plan proposal must be measured.

To satisfy its burden of proof, IGWA must present sufficient factual evidence at the hearing to prove that (1) the proposal is legal, and will generally provide the quantity of water required by the curtailment order; (2) the components of the proposed mitigation plan can be implemented to timely provide mitigation water as required by the curtailment order; and (3)(a) the proposal has been geographically located and engineered, and (b) necessary agreements or option contracts are executed, or legal proceedings to acquire land or easements have been initiated.

Consideration of the first three factors in Rule 43.03 requires that the water be provided in the season of use.

ANALYSIS

This decision approves portions of IGWA's Mitigation Plan, but determines that the quantities of mitigation water available to Rangen during the time of need are insufficient to fully mitigate as required by the Curtailment Order. As a result, curtailment of the use of water by a segment of the ground water holders whose use was curtailed in the Curtailment Order is required.

This decision recognizes credit for only two components of IGWA's proposed mitigation plan: (1) Aquifer enhancement activities (conversions, recharge, and voluntary curtailments), and (2) Exchange of irrigation water diverted from the Curren Tunnel with operational spill water from the North Side Canal Company. The Director rejects the remaining components (proposals 3, 6- 9) of IGWA's mitigation plan. The primary reason for rejection of the other proposed components of IGWA's mitigation plan is the lack of evidence in the record to determine how the proposal could be implemented, either legally or physically. IGWA did not address and carry its evidentiary burden by: (1) Establishing the legality of the proposal, (2) Presenting details about how the proposed physical infrastructure could be physically located, constructed and operated, and (3) Predicting when the proposal could be completed to provide

the required mitigation. The only evidence that IGWA presented about proposed physical infrastructure was testimony that the proposals requiring infrastructure would be feasible or that there is no reason why IGWA couldn't implement sections its mitigation proposals. Brendeke, Tr., Vol. II, pp. 483-85, 494-95, 501, 504, 511, 515, 519, 522-23, 525-27. Testimony that IGWA has an optimistic vision of successfully completing proposals 3 and 6-9 of its mitigation plan is not a substitute for presenting actual activities or written plans demonstrating that it has initiated and at least completed preliminary tasks in implementing its mitigation plan.

Use of ESPAM 2.1

The Eastern Snake Plain Aquifer Model ("ESPAM") is a calibrated regional ground water model representing the Eastern Snake Plain Aquifer ("ESPA"). In the Curtailment Order the Director adopted ESPAM 2.1 to model the stresses to the ESPA related to Rangen's renewed delivery call. In this decision, the Director uses ESPAM 2.1 to determine the simulated benefits of aquifer enhancement activities conducted by IGWA and other private entities and to determine a curtailment date because of a mitigation deficiency.

Benefits of Aquifer Enhancement Activities

ESPAM 2.1 can simulate the equilibrium, steady-state impacts resulting from a constant stress, or, alternatively, it can simulate the impacts of constant or time-variable stresses during a specific period of time. Model simulations that analyze impacts over a specific time period are called "transient runs." The length of the simulation is dependent on the time period of interest. Curtailment of ground water pumping was simulated over a period of five years representing the five-year curtailment phase-in period from April 2014 through March 2019. Aquifer enhancement activities by IGWA and other private entities were simulated over a period of 14 years representing April 2005 through March 2019. In both simulations, the volume of benefit to the aquifer during each year was averaged over a one-year "stress period." For example, the volume of aquifer enhancement activities during 2005 was input into the model at a constant rate from April 2005 through March 2006.

For purposes of both the Curtailment Order and analyzing the mitigation required in response to a delivery call, the Department employed an annual stress period in ESPAM 2.1, predicted the annual volume accruing to the Curren Tunnel within each year of the five-year phase-in period, and calculated an average annual mitigation flow requirement for each year from the annual volume . The mitigation requirement was calculated by dividing the total volume predicted to accrue over a one year period by 365 days and converting the units to cubic feet per second. The use of the average annual mitigation requirement promotes annual planning and is a reasonable time period for model prediction and analysis.[1]

[1] The Director notes that Rangen also evaluated IGWA's aquifer enhancement activities using an annual stress period approach. *See* Rangen Ex. 2071. Rangen's evaluation neglected aquifer enhancement activities performed by Southwest Irrigation District and the ongoing transient effects of aquifer enhancement activities performed by IGWA in prior years, thus Rangen's evaluation did not include all of the transient benefits predicted to accrue to the Curren Tunnel after April 2014.

Benefits of Mitigation Using Senior Irrigation Water Rights

Ground water pumping for irrigation causes depletions of Curren Tunnel flows during the non-irrigation season after ground water pumping ceases. As stated above, however, predicted accretions to flows in the Curren Tunnel from curtailment were modeled over one year stress periods to determine the obligations of the ground water users to mitigate for their ground water diversions. Predicted accretions to the Curren Tunnel resulting from aquifer enhancement activities were also modeled over one year stress periods.

In this decision, the Director also employs an annual time period to evaluate the average benefit of IGWA's proposal to deliver water to Rangen that would have been diverted pursuant to irrigation water rights held by Howard (Butch) and Rhonda Morris (hereafter referred to in the singular as "Morris"). The Curtailment Order allowed staged mitigation, requiring incremental increases in mitigation for each of the first five years of implementation. Each of the incremental mitigation requirements assumed an average obligation within each year. For each of the first four years, the determination of the annual obligation was computed by applying annual stresses and computing an average annual obligation. Because the conjunctive management rules limit the staged mitigation period to five years, the mitigation obligation for the fifth year increased to the full 9.1 cfs obligation. Similarly, an annual averaging of delivery of irrigation water can be employed determine whether the junior water right holder has satisfied the mitigation obligation. Averaging IGWA's mitigation activities over a period of one year will establish consistent time periods for combining delivery of the Morris water for mitigation and the average annual benefit provided by aquifer enhancement activities, and for direct comparison to the annual mitigation requirement. If the proposed mitigation falls short of the annual mitigation requirement, the deficiency can be calculated at the beginning of the irrigation season. Diversion of water by junior water right holders will be curtailed to address the deficiency. The senior water right holder will be assured of a water supply, particularly during periods of low spring flow, as the low flow periods occur during the irrigation season in recent years. *See* Rangen Ex. 2045, 2073.

Time Period for Mitigation

The first year mitigation requirement of 3.4 cfs will begin on April 1, 2014, and continue through March 31, 2015. On April 1, 2015, the ground water users must have sufficient mitigation in place to deliver 5.2 cfs to Rangen, either by direct delivery or by transient modeled accretions.

FINDINGS OF FACT

Eastern Snake Plain Aquifer Model Version No. 2.1

1. ESPAM is a calibrated regional ground water model representing the ESPA. In the Curtailment Order the Director adopted ESPAM 2.1 to model the stresses to the ESPA related to Rangen's renewed delivery call. IDWR will use ESPAM 2.1 to determine the simulated benefits of aquifer enhancement activities conducted by IGWA and other private

entities, and, if there is a deficiency in the mitigation plan, to determine a curtailment date to provide for the deficiency.

Proposal No. 1: Aquifer Enhancement Activities

2. Proposal No. 1 requests mitigation credit for the following ongoing and future activities by IGWA: (a) conversions from ground water irrigation to surface water irrigation, (b) voluntary "dry-ups" of acreage irrigated with ground water through the Conservation Reserve Enhanced Program ("CREP") or other cessation of irrigation with ground water, and (c) ground water recharge. This order will subsequently refer to these activities as "aquifer enhancement activities."

3. Exhibit 3001 in the hearing record contains data compiled by IDWR that quantifies the aquifer enhancement activities of IGWA and other private entities during the time period beginning in 2005 through 2010. Data for 2011-2013 private aquifer enhancement activities were received into evidence as Exhibits 1022, 1023, 1082 and 1083.

4. In the past, the Department input data for aquifer enhancement activities into ESPAM as a stress in the model to simulate benefits accruing to spring/Snake River reaches from the aquifer enhancement activities that benefit spring/Snake River reaches that supply water to senior surface water right holders who called for delivery of water pursuant to their senior surface water rights against junior ground water right holders. These data have been recognized by the Department in other conjunctive management contested cases as a reliable representation of previous aquifer enhancement activities of IGWA. *See Final Order Approving Mitigation Credits Regarding SWC Delivery Call*, In the Matter of the Idaho Ground Water Appropriators, Inc.'s Mitigation Plan for Conversions, Dry-ups, and Recharge, Doc. No. CM-MP-2009-006 (July 19, 2010), aff'd on appeal in *Memorandum Decision and Order on Petition for Judicial Review,* CV-2010-3822 (Fifth Jud. Dist., Twin Falls County, April 22, 2011).

5. The Curtailment Order stated that, to avoid curtailment, IGWA must either provide mitigation of 9.1 cfs in combined direct flows and steady state simulated flows to Rangen during 2014, or must provide 3.4 cfs of direct flows to Rangen during the first year of the curtailment order. To predict the benefit of aquifer enhancement activities in a steady state and also to predict transient benefits of aquifer enhancement activities in year 2014, ESPAM Model 2.1 must be run (a) once to determine the steady state benefits assuming constant implementation of fixed aquifer enhancement activities; and (b) once in transient mode with a stress period for each year of aquifer enhancement activities (2005 – 2013 plus projected future activities) to determine the benefits of past and projected future activities predicted to accrue to the Curren Tunnel during each year of the five-year phase-in period.

6. Exhibit no. 1025 summarizes model runs predicting benefits to Rangen resulting from steady state simulations of activities in 2011, 2012, and 2013. The predicted flow benefits to Rangen in Exhibit 1025 were accepted and referred to by all parties in the presentation of evidence.

7. For comparison with the phased-in requirement of 3.4 cfs during the first year of the curtailment order, it is necessary to predict the benefits of aquifer enhancement that would accrue during the first year. Rangen used ESPAM 2.1 to evaluate the transient benefits of aquifer enhancement activities beginning in 2014 in Exhibit 2071, but neglected to include ongoing transient benefits of prior IGWA aquifer enhancement projects that occurred between 2005 and 2013 and neglected to include aquifer enhancement activities performed by Southwest Irrigation District. *See* Brockway, Tr. Vol. III, p. 681-685.Using the data entered into evidence at the hearing, the Department input data into the model for each year of private party aquifer enhancement activities from 2005 through 2014. The 2005 through 2013 data were compiled from previously documented activities. IDWR Ex. 3001; IGWA Ex. 1025. For 2014, conversions, CREP, and voluntary curtailment projects were assumed to be identical to 2013, and private party managed recharge was assumed to be zero. The Department determined the average annual benefit from aquifer enhancement activities predicted to accrue to the Curren Tunnel between April 2014 and March 2015 is 871 acre feet, which is equivalent to an average rate of 1.2 cfs for 365 days. The modeling files and a summary table of the model results are included on a CD accompanying this order.

Proposal No. 2: Mitigation Using Senior Irrigation Water Rights Diverted from the Curren Tunnel

8. IGWA proposes to mitigate using water from Morris, who holds certain senior irrigation water rights from the Curren Tunnel. Specifically, IGWA and Morris agreed that IGWA would deliver Snake River water discharging from the North Side Canal Co. system into the Sandy Pond as operational spill to Morris through the Sandy Pipeline, and, in exchange, Morris would forego diversion of water from Curren Tunnel pursuant to water right numbers 36-123D, 36-134E, 36-135D, 36-135E, 36-10141A, and 36-10141B that bear priority dates senior to Rangen's fish propagation water rights. The foregone diversion of water by Morris will result in discharge and capture of water from the Curren Tunnel by Rangen that would have been diverted and used by Morris but for the agreement with IGWA.

9. It is necessary to apply the first three threshold factors of Rule 43.03.

Legality of Use of North Side Canal Company Water Spilled into the Sandy Ponds

10. Morris is presently irrigating approximately 205 acres of his own land with wastewater from the Sandy Ponds. Morris, Tr. Vol. II, p. 371-72. Morris testified that he also irrigates adjacent land owned by Musser and Candy with water from the Sandy Ponds. Morris, Tr. Vol. II, pp. 363, 372.

11. Morris holds a water right to irrigate 125 acres of his own land with water from the Sandy Pond. Department records do not identify any water rights in the name of Musser or Candy to irrigate their lands with water from the Sandy Pond.

12. The lands of Musser, Candy, and Morris are all within the water right place of use service area of the North Side Canal Company. *See* Exhibit 3000. The Sandy Pond was originally constructed by North Side Canal Company to capture its operational spill for water

quality purposes. When North Snake Ground Water District acquired the Sandy Pond, it enlarged the size of the pond. The enlargement of the pond did not change the character or assumed ownership of the water in the pond, however. Until other water rights are established authorizing diversion and use of water from the pond, the Department will presume the water in the pond is North Side Canal Company operational spill water that is being captured and may be applied to North Side Canal Company lands. *Reynolds Irr. Dist. v. Sproat*, 70 Idaho 217, 222, 214 P.2d 880, 883 (1950).

Quantity of Water Delivered to Rangen

13. The quantity of water available for diversion by Morris pursuant to water right numbers 36-123D, 36-134E, 36-135D, 36-135E, 36-10141A, and 36-10141B is limited by the discharge of the Curren Tunnel and by diversions of other water users pursuant to other senior water rights.

14. The Morris water rights authorize a beneficial use of irrigation. The contribution of water to Rangen by leaving water in the Curren Tunnel that normally would have been diverted by Morris only benefits Rangen during the irrigation season. In contrast, as identified in the Curtailment Order, the modeled 2014 **year-round** average Curren Tunnel depletion resulting from junior ground water pumping is 3.4 cfs. *Curtailment Order* at 42. The benefit to Rangen of Morris' nondiversion of water from Curren Tunnel to Rangen must be estimated and then compared to the year-round depletion average. The calculation of the average first year depletion of 3.4 cfs starts April 1. IGWA needs to compensate for depletions of water for the entire 365 days from April 15 to March 31.

15. Morris irrigates crops from approximately April through mid-October. Tr. Vol. II, p 392-93. The number of days he would have irrigated with water from the Curren Tunnel is approximately 184 days (April 15 through October 15). This means that IGWA can claim credit only for that volume of water available to Morris for 184 days between April 15 and October 15.

16. Flows discharging from Curren Tunnel have been measured for approximately 20 years. The Curren Tunnel discharge is the sum of the average monthly flow measured at the mouth of the tunnel by IDWR (Exhibit 2045) and the average monthly flow diverted into Rangen's 6-inch PVC pipe (Exhibit 3000). The magnitude of discharges from the Curren Tunnel varies annually and seasonally depending on hydrologic conditions, related water uses, and other activities on the ESPA.

17. Table 1 lists the average irrigation season (April 15 through October 15) flow from Curren Tunnel for years 1996 through 2013. There is a distinct change in the magnitude of average irrigation season flow values starting in 2002. It is likely that the average discharge from the Curren Tunnel during the 2014 irrigation season will be within the range represented by the 2002-2013 conditions. From 2002 through 2013, the average irrigation season flow has varied between 2.3 cfs and 5.7 cfs. The years of 2002 through 2013 will be used as a historical data set to predict the flows from Curren Tunnel for 2014. The average of the average irrigation season values for each year from 2002 through 2013 is 3.7 cfs.

Year	Average Curren Tunnel discharge, April 15 - October 15
1996	12.4
1997	17.9
1998	17.0
1999	15.2
2000	13.9
2001	8.0
2002	4.5
2003	3.9
2004	4.4
2005	2.3
2006	5.7
2007	4.9
2008	3.2
2009	2.8
2010	2.3
2011	3.4
2012	4.1
2013	2.8
2002-2013 average	3.7

Table 1. Average Curren Tunnel discharge during Morris' irrigation season.

18. Rangen holds water rights for irrigation and domestic purposes that identify Curren Tunnel as the source of water. Water right no. 36-00134B authorizes diversion of 0.09 cfs from Curren Tunnel and bears a priority date of October 9, 1884.

19. Morris holds water rights for irrigation and stockwater purposes that identify Curren Tunnel as the source of water. Water right no. 36-134D authorizes diversion of 1.58 cfs of water from Curren Tunnel. Water right no. 36-134E also authorizes diversion of 0.82 cfs for water from Curren Tunnel. Both water right no. 36-134D and water right no. 36-134E bear a priority date of October 9, 1884 (identical to the priority date for Rangen's water right no. 36-00134B identified above). Morris is entitled to divert a total of 2.4 cfs from Curren Tunnel under water right nos. 36-134D and 36-134E. Morris currently diverts up to 15 miner's inches of water from the Curren Tunnel for maintenance of his irrigation pipe. Morris, Tr. Vol. II, p. 390. Because Morris currently diverts up to 15 miner's inches of water from the Curren Tunnel, the Director will subtract 15 miner's inches (0.3 cfs) from the available supply for mitigation.

20. Walter and Margaret Candy (hereafter referred to in the singular as "Candy") hold water right no. 36-134A, a water right authorizing diversion for domestic use of 0.04 cfs and irrigation of 36 acres with water from the Curren Tunnel. Water right no. 36-134A authorizes a total diversion of 0.49 cfs from the Curren Tunnel for both the domestic and irrigation uses and bears a priority date of October 9, 1884 (identical to the priority date for Rangen's water right

no. 36-00134B identified above). Water right 36-134A authorizes a diversion rate of 0.014 cfs per acre. Candy uses water from the Curren Tunnel for domestic use and to irrigate land around their home. The land irrigated with water from the tunnel is approximately one half acre. Morris, Tr. Vol. II, p. 382. As stated above, the remainder of Candy's land is irrigated from the Sandy Pipeline. Candy domestic water use would be 0.04 cfs. Because irrigation is included in a small domestic use of one-half acre or less, the total use by Candy is limited to 0.04 cfs.

21. Alvin and Hope Musser Living Trust (hereafter referred to in the singular as "Musser") hold water right no. 36-102. Water right no. 36-102 authorizes the diversion of 4.1 cfs for irrigation purposes on Musser's property, and bears a priority date of April 1, 1892. Morris is farming Musser's property but Morris does not irrigate Musser's property with water right no. 36-102. Instead, Morris is irrigating the Musser's property with water from the Sandy Pipeline,

22. Rangen holds water right no. 36-135A. Water right no. 36-135A authorizes diversion of 0.05 cfs for irrigation and domestic purposes, and bears a priority date of April 1, 1908.

23. Candy holds water right no. 36-135B. Water right no. 36-135B authorizes diversion of 0.51 cfs for irrigation purposes and bears a priority date of April 1, 1908. Morris is farming Candy's property but Morris does not irrigate Candy's property with water right no. 36-135B. Instead, Morris is irrigating the land with water from the Sandy Pipeline,

24. Morris holds water right nos. 36-135D and 36-135E. Water right no. 36-135D authorizes the diversion of 1.58 cfs for irrigation and stockwater purposes. Water right no. 36-135E authorizes the diversion of 0.82 cfs for irrigation and stockwater purposes. Both water rights bear a priority date of April 1, 1908.

25. The following spreadsheet quantifies the allocation of water according to the priority dates of water rights offered for mitigation. Water right nos. 36-134A, 36-134B, 36-134D, and 36-134E are the earliest priority date (October 9, 1884) water rights authorizing diversion of water from the Curren Tunnel. The total flow rate authorized for diversion pursuant to these water rights is 2.98 cfs. A flow rate of 3.7 cfs exceeds the 2.98 cfs maximum diversion rate authorized by water rights held by Morris, Candy, and Rangen bearing an 1884 priority date. Morris will divert 0.3 cfs of Curren Tunnel water into his irrigation pipeline. Candy will divert 0.04 cfs, and because his lands are being irrigated with water from the Sandy Pipeline, he will not divert the remaining 0.45 cfs pursuant to water right no. 36-134A. Rangen will divert 0.09 cfs pursuant to water right no. 36-134B.

26. Water right no. 36-102 (Musser) is the next water right in priority bearing a priority date of April 1, 1892 and authorizing diversion of 4.1 cfs.. Because Musser lands are being irrigated by water from the Sandy Pipeline, Musser will not divert water from Curren Tunnel, and the next in line priority holders must be considered until the total quantity of use or mitigation equals 3.7 cfs.

27. Water right nos. 135A (Rangen), 36-135B (Candy), 36-135D (Morris) , and 36-135E (Morris) all bear a priority date of April 1, 1892. Rangen will divert 0.05 cfs. Candy will not divert water authorized by water right no. 36-135B because his lands are being irrigated with water from the Sandy Pipeline. Morris's water right nos. 36-135D and 36-135E are available for additional mitigation.

Water Right Holder	Water Right Number	Water Right Quantity (cfs)	Diverted for beneficial use, not available for mitigation (cfs)	Non-diversion of Morris water, available for mitigation (cfs)
Morris	36-134D & 36-134E	2.4	0.3	2.1
Candy	36-134A	0.49	0.04	
Rangen	36-134B	0.09	0.09	
Musser	36-102	4.1	0.00	
Rangen	36-135A	0.05	0.05	
Candy	36-135B	0.51	0.00	
Morris	36-135D	1.58	0.0	1.12
Morris	36-135E	0.82	0.00	
Total			0.5[2]	3.2

As a result of the above summary, IGWA would be entitled to the following for mitigation:

3.7 cfs - 0.3 cfs (Morris) - 0.14 cfs (Rangen) – 0.04 cfs (Candy) = 3.2 cfs (approximately)

The average annual benefit provided by the Morris water portion mitigation plan for comparison with the annual requirement (3.4 cfs for April 1, 2014 through March 31, 2015, 5.2 cfs for April 1, 2015 through March 31, 2106, etc.) is computed as follows:

$$\frac{184 \text{ days}}{365 \text{ days}} \times 3.2 \text{ cfs} = \text{annual average of } 1.6 \text{ cfs provided}$$

If Morris foregoes diversion of the 0.3 cfs from the Curren Tunnel, additional water would be available for IGWA as follows:

3.7 cfs - 0.14 cfs (Rangen) – 0.04 cfs (Candy) = 3.5 cfs (approximately)

[2] Number reflects rounding to the nearest 1/10 of a cfs.

If Morris foregoes diversion of the 0.3 cfs from the Curren Tunnel, the average annual benefit provided would be as follows:

$$\frac{184 \text{ days}}{365 \text{ ys}} \times 3.5 \text{ cfs} = \text{annual average of } 1.8 \text{ cfs provided}$$

Proposal No. 3: Assignment of IGWA's Water Right Application to Rangen

28. IGWA proposes to assign pending application to appropriate water no. 36-16976 to Rangen as mitigation. Application no. 36-16976 proposes to appropriate 12 cfs from Springs and Billingsley Creek at Rangen's existing physical diversion from Billingsley Creek known as the "bridge diversion."

29. IGWA filed application to appropriate water no. 36-16976 on April 3, 2013, shortly after the Director ruled in the contested case for Rangen's delivery call that Rangen's water rights only authorized diversion of water from the Curren Tunnel. This ruling was the basis for a determination in the Director's Curtailment Order that Rangen does not hold a water right authorizing diversion of water from Billingsley Creek at the bridge diversion.

30. IGWA's water right application could be characterized as a preemptive strike against Rangen to establish a prospective priority date earlier than any later prospective priority date borne by a Rangen application.

Legality of Assigning Application to Appropriate Water no. 36-16976 to Rangen

31. Pursuant to Rule 43, the Director can approve proposal no. 3 only if the Director believes that the application can provide water to Rangen in the time of need, i.e. this year. The pending application cannot be prejudged in this proceeding. IGWA essentially asked the Director to prejudge the application. The Director declines to do so. The application seeks authorization to divert 12 cfs from a point of diversion on the Rangen property. IGWA Ex. 1018 at 1. A map attached to the application shows the general area of the planned point of diversion. *Id.* at 4. The Department published notice of the application and the application was protested by Rangen. Rangen also filed a competing application and a transfer to address the point of diversion issue. The facts behind IGWA's application and the competing application and transfer are unique. Given the uncertainty of the application given the specific facts which have developed in this case, the Director concludes that it is too speculative to consider.

Quantity of Water Delivered to Rangen

32. As stated above, the facts behind IGWA's application and the competing application and transfer are unique. Given the uncertainty of the application given the specific facts of this case, the Director concludes that it is too speculative to determine that Rangen will deliver water in its time of need pursuant to this application.

Proposal Nos. 4 and 5: Mitigation with Money or Fish

33. IGWA proposed fish replacement or monetary compensation to mitigate injury caused to Rangen by junior-priority ground water pumpers. These proposals will not be evaluated in this decision because proposal nos. 4 and 5 were dismissed as part of IGWA's Mitigation Plan in the *Order Granting in Part and Denying in Part Rangen's Motion to Dismiss Proposals 3-9 of IGWA's Mitigation Plan and Limit Scope of Hearing* issued March 26, 2014.

Proposal No. 6: Cleaning, Deepening, or Enlarging Curren Tunnel

34. IGWA suggests that cleaning, maintaining, and improving the Curren Tunnel will increase the flows from Curren Tunnel. IGWA implies that the Director should require that Rangen grant IGWA access to the tunnel to remove debris and rock from the tunnel and to assess whether the tunnel can be deepened or enlarged.

Quantity of Water Delivered to Rangen from Proposed Tunnel Cleaning

35. Morris testified that cleaning out fallen rock and dirt that collected at the mouth of the Hoagland Tunnel resulted in additional water discharging from the Hoagland Tunnel. Morris Tr. Vol. II, p. 384-85. However, there is no evidence that the rock-fall in any tunnel changed the hydraulic conditions in the tunnel itself. Morris' testimony suggests the rock at the mouth of the Hoagland tunnel likely blocked collection works and created diffuse flow channels around or underneath the collection works that prevented collection of the water into the associated diversion works.

36. There is no fallen rock at the mouth of Curren Tunnel impeding Rangen's collection of water. Curren Tunnel is lined with a large diameter corrugated pipe from its mouth 50 feet into the tunnel. The remainder of the tunnel is completed in basalt rock. IGWA failed to present evidence demonstrating that cleaning the Curren Tunnel would provide any additional water to Rangen.

Quantity of Water Delivered to Rangen from an Enlargement or Deepening of Curren Tunnel

37. There is evidence in the record that deepening or enlarging the Curren Tunnel could increase flows from the Curren Tunnel. However, there is no evidence quantifying the potential increase. Any physical work to deepen or enlarge the tunnel could not be completed to timely provide water during the 2014 irrigation season.

Proposal No. 7: Construction of a Horizontal Well

38 IGWA proposes to drill a horizontal well in the vicinity of the Curren Tunnel and divert the water from the well to Rangen's facility. IGWA proposes to drill the horizontal well near the Curren Tunnel at an elevation lower than the outlet of the Curren Tunnel.

Legality of Constructing a Horizontal Well

39. Prior to construction of a horizontal well, IGWA would need to obtain a water right to divert and beneficially use water from the horizontal well. IGWA has not filed any applications to appropriate water from a horizontal well. IGWA did not identify a location for construction of the well, and did not present any evidence about land ownership or easements on land where a well could be constructed. The source of water proposed to be diverted is trust water. The Department has issued a moratorium on all appropriations of water from the Eastern Snake Plain Aquifer in the area where the proposed horizontal well would be constructed. Any horizontal well proposal will need to mitigate to address injury to other water users. IGWA failed to satisfy its burden because it failed to present any evidence that it will be able to address the injury to other water users.

Quantity of Water Delivered to Rangen

40. IGWA has failed to present evidence that it could timely deliver water to Rangen when water is needed by Rangen in 2014. No evidence was presented quantifying the available water supply. The lack of information makes the proposal too speculative to approve.

Proposal No. 8: Mitigation With Water from New Wells or Existing Wells

41. IGWA proposes to drill new ground water wells or utilize existing wells to deliver water directly to Rangen. IGWA asserts this plan would be similar to its over-the-rim plan previously approved in the Clear Springs Foods delivery call.

Legality of Diverting Ground Water From New or Existing wells and Delivering the Water to Rangen for Mitigation

42. IGWA has not identified any water rights that could be exercised, through a change in nature of use, to deliver water to Rangen. Because no water rights have been identified, the Director cannot evaluate important components of the water rights such as priority date, flow rate limitations, volume limitations, and periods of use to determine whether water diverted pursuant to the water rights could be delivered for mitigation.

43. IGWA cites the Director's approval of the over-the-rim plan in the Snake River Farms delivery call as support for its argument the Director should conditionally approve Proposal No. 8 and then allow IGWA to provide engineering and other plans at a later date. However, there are important distinctions between the progress IGWA had made in the over-the-rim plan when it was considered by the Department and this plan. At the time the hearing for the over-the-rim plan was heard, IGWA had exerted significant effort to justify the plan, including identifying water rights that would be acquired and wells that could be used, testing of water temperature, quality, and evaluating the reliability and biosecurity of the proposed pumping system. IGWA had also provided preliminary engineering plans. While the Director conditionally approved the over-the-rim plan, IGWA had taken significant steps towards implementation of that plan. Here, IGWA has not taken any steps toward implementation of this proposal.

44. There is no evidence in the record that would allow the Director to recognize mitigation provided through new or existing wells.

Quantity of Water Delivered to Rangen

45. No evidence was presented in the record about how water could physically be delivered to Rangen, and whether IGWA could obtain necessary rights of way. No quantification of available water was presented either. Planning and design for an over the rim project would take at least six months. IGWA could not timely deliver water to Rangen when water is needed in 2014.

Proposal No. 9: Mitigation by Pumping Water in Billingsley Creek Back to Rangen

46. IGWA proposes a direct pump-back and aeration system within the Rangen facility to satisfy mitigation obligations.

Legality of IGWA Providing a direct Pump-Back and Aeration System Within the Rangen Facility

47. There is no evidence in the record that IGWA has the water rights or property access to construct and operate a pump back and aeration system to Rangen. IGWA did not present any evidence about how the water rights or property access would be acquired.

Delivery of Pump-Back Water to Rangen

48. There is no evidence in the record that IGWA could timely deliver water to Rangen when Rangen needs the water in 2014.

Mitigation Shortfall

49. Proposal No. 1 provides an average of 1.2 cfs during the first year (April 1, 2014 through March 31, 2015) through aquifer enhancement activities.

50. Proposal No. 2 provides an average of 1.6 cfs through delivery of water not diverted by Morris. If Morris foregoes diversion of all water from Curren Tunnel, the water available for Proposal No. 2 would increase to an average of 1.8 cfs.

51. There is no evidence in the record establishing that other proposals would provide mitigation during the first year.

52. The mitigation plan provides an average predicted benefit of 2.8 cfs during the first year if Morris continues to divert 0.3 cfs of water from the Curren Tunnel. If Morris foregoes diversion of all water from Curren Tunnel, the average predicted benefit would increase to 3.0 cfs.

53. The mitigation plan fails to provide the required 3.4 cfs during the first year, and the mitigation shortfall is 0.6 cfs if Morris continues to divert 0.3 cfs of water from the Curren Tunnel. If Morris foregoes diversion of all water from Curren Tunnel, the mitigation shortfall would decrease to 0.4 cfs.

54. Curtailment dates coinciding with various priority dates were iteratively entered into ESPAM 2.1 to determine the curtailment date required to provide the mitigation shortfall. A curtailment date of October 13, 1978 is predicted to provide an average benefit of 0.6 cfs to the Curren Tunnel during the first year. A curtailment date of July 1, 1983 is predicted to provide an average benefit of 0.4 cfs during the first year to the Curren Tunnel.

Conclusion

55. IGWA's evidence established that foregone diversion of Curren Tunnel water by Morris is predicted to deliver an average of 1.6 cfs water directly to Rangen from April 1, 2014 through March 31, 2015.I If Morris also foregoes diversion of 15 miner's inches (0.3 cfs) of water diverted from Curren Tunnel through his irrigation pipeline during the 2014 irrigation season, the foregone diversion of Curren Tunnel water by Morris is predicted to deliver an average of 1.8 cfs directly to Rangen from April 1, 2014 through March 31, 2015

56. IGWA's evidence established that it can provide an average of 1.7 cfs water to Rangen through its aquifer enhancement activities, based on steady state ESPAM model runs.

57. IGWA's evidence established that it can provide 1.2 cfs of water from its aquifer enhancement activities, based on transient ESPAM 2.1 model runs, from April 1, 2014 through March 31, 2015.

58. IGWA's evidence established that it can provide a total of 3.3 cfs in steady state benefits to Rangen.

59. Evidence from the hearing establishes that IGWA can provide a total of 2.8 cfs of direct flow benefits to Rangen from April 1, 2014 through March 31, 2015 if Morris continues to divert 15 inches of water (0.3 cfs) from Curren Tunnel through his irrigation pipeline. The mitigation credit of 2.8 cfs is 0.6 cfs less than the 3.4 cfs obligation. ESPAM 2.1 determines that water rights bearing priority dates of October 13, 1978 or later (junior) must be curtailed to provide the 0.6 cfs to Rangen.

60. If Morris discontinues diversion of 15 inches (0.3 cfs) through his irrigation pipeline, IGWA can provide a total of 3.0 cfs of direct flow benefits to Rangen from April 1, 2014 through March 31, 2015. The mitigation credit of 3.0 cfs is 0.4 cfs less than the 3.4 cfs obligation. ESPAM 2.1 determines that water rights bearing priority dates of July 1, 1983 or later (junior) must be curtailed to provide the 0.4 cfs to Rangen.

61. IGWA did not establish that it can provide any steady state benefits or direct delivery of water to Rangen in the current annual period for the following proposals: assignment of a water right application, cleaning and/reconstruction of the Curren Tunnel, drilling a

horizontal well, delivery of water from new or existing wells, or pumping water back through the Rangen facility.

CONCLUSIONS OF LAW

Aquifer Enhancement Activities

1. IGWA is entitled to a mitigation credit of 1.7 cfs toward its steady state obligation of 9.1 cfs because of its aquifer enhancement activities.

2. IGWA is entitled to a mitigation credit of 1.2 cfs toward its from April 1, 2014 through March 31, 2015 direct flow obligation of 3.4 cfs because of its aquifer enhancement activities.

3. The steady state and direct flow obligations are separate alternatives in the Director's Curtailment Order, and the model simulations resulting in the above steady state and direct flow credits are mutually exclusive.

Irrigation Water Not Diverted from the Curren Tunnel

4. IGWA is entitled to a mitigation credit of 1.6 cfs for Curren Tunnel water directly provided to Rangen because of the non diversion of irrigation water from the Curren Tunnel pursuant to water rights held by Morris. Alternatively, if Morris ceases diverting 0.3 cfs from Curren Tunnel through his irrigation pipeline, IGWA is entitled to a mitigation credit of 1.8 cfs for Curren Tunnel water directly provided to Rangen because of the non diversion of irrigation water from the Curren Tunnel pursuant to water rights held by Morris. The quantity of 1.6 cfs or 1.8 cfs counts toward both the steady state and direct flow obligations in the Curtailment Order.

Assignment of IGWA's Water Right Application to Rangen

5. Because all IGWA offered to Rangen at the hearing is assignment of a bare application to appropriate water for mitigation with no supporting evidence about its development and perfection, there is currently no legal basis for the Director to hold that an application to appropriate water can provide mitigation to Rangen. Furthermore, the unique factual situation of this case will likely play an important role in the application proceeding. IGWA is not entitled to any mitigation credit for its proposal to assign application to appropriate water no. 36-16976 to Rangen.

Cleaning, Deepening, or Enlarging Curren Tunnel

6. Rangen is not required to construct a deeper or larger tunnel to enhance the flow of water from the Curren Tunnel. The Director does not have the legal authority to require that Rangen grant access to IGWA to study a proposed enlargement, nor does the Director have the authority to order construction proposed by IGWA after studies are complete.

7. The proposed work is not legally possible without Rangen's consent.

8. Any physical work to deepen or enlarge the tunnel could not be completed to timely provide water during the 2014 irrigation season when the water is needed.

9. There was no evidence presented that IGWA could timely deliver water to Rangen when water is needed by Rangen in 2014.

10. IGWA is not entitled to any mitigation credit for its proposal to clean, deepen, or enlarge the Curren Tunnel.

Construction of a Horizontal Well

11. IGWA did not establish what water rights would be exercised to deliver water to Rangen from a new horizontal well. IGWA did not identify a location for construction of the well, and did not present any evidence about land ownership or easements on land where a well could be constructed. The planning and construction of a delivery system could not be completed in 2014 during the time water is needed by Rangen.

12. IGWA is not entitled to any mitigation credit for its proposal to provide mitigation water directly to Rangen from a newly constructed horizontal well.

Mitigation with Water from New Wells or Existing Wells

13. IGWA did not establish what water rights would be exercised or that there were any commitments by the owners of wells, either by contract or acquisition, authorizing diversion of water to Rangen from new wells or existing wells for mitigation. The planning and construction of a delivery system could not be completed in 2014 during the time water is needed by Rangen.

14. IGWA is not entitled to any mitigation credit for its proposal to provide mitigation water directly to Rangen from new wells or existing wells.

Mitigation by Pumping Water in Billingsley Creek Back to Rangen

15. IGWA did not establish what water rights would be exercised or that IGWA owns, or that there are commitments by an owner of land, authorizing construction of a pump back system and delivery of Billingsley Creek water.

16. IGWA is not entitled to any mitigation credit for its proposal to provide mitigation water from Billingsley Creek directly to Rangen through a pump back system.

Conclusion

17. IGWA is entitled to a total steady state mitigation credit of 3.3 cfs toward its steady state obligation of 9.1 cfs.

18. IGWA is entitled to a total direct credit of 2.8 cfs toward its first annual period direct flow obligation of 3.4 cfs. The mitigation credit of 2.8 cfs is 0.6 cfs less than the 3.4 cfs obligation. ESPAM 2.1 determines that water rights bearing priority dates of October 13, 1978 or later must be curtailed to provide the 0.6 cfs to Rangen.

19. Alternatively, upon agreement by Morris that he will not divert 0.3 cfs directly from Curren Tunnel, IGWA is entitled to a total direct credit of 3.0 cfs toward its first annual period direct flow obligation of 3.4 cfs. The mitigation credit of 3.0 cfs is 0.4 cfs less than the 3.4 cfs obligation. ESPAM 2.1 determines that water rights bearing priority dates of July 1, 1983 or later must be curtailed to provide the 0.4 cfs to Rangen.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the Director APPROVES proposal no. 1 (aquifer enhancement activities) and proposal no. 2 (delivery of Morris Curren Tunnel Water) of IGWA's mitigation plan.

IT IS FURTHER ORDERED that the Director rejects proposals nos. 3 and 6 through 9 of IGWA's mitigation plan.

IT IS FURTHER ORDERED that IGWA is granted 1.2 cfs of transient mitigation credit for the annual period from April 1, 2014 through March 31, 2015, because of its past and ongoing, muti-year aquifer enhancement activities.

IT IS FURTHER ORDERED that IGWA is granted 1.6 cfs of mitigation credit for direct delivery of surface water from Curren Tunnel to Rangen.

IT IS FURTHER ORDERED that IGWA is granted 2.8 cfs of total mitigation credit for the annual period from April 1, 2014 through March 31, 2015.

IT IS FURTHER ORDERED that the 2.8 cfs total annual mitigation credit is 0.6 cfs less that the annual mitigation requirement of 3.4 cfs for the annual period from April 1, 2014 through March 31, 2015.

IT IS FURTHER ORDERED that the stay issued in the February 21, 2014, *Order Granting IGWA's Petition to Stay Curtailment* of the Curtailment Order is hereby lifted.

IT IS FURTHER ORDERED that, at 12:01 a.m. on or before May 5, 2014, users of ground water holding consumptive water rights bearing priority dates junior or equal to October 13, 1978, listed in Attachment A to this order, within the area of common ground water, located west of the Great Rift, and within a water district that regulates ground water, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that this amended order of curtailment has been modified or rescinded as to their water rights. This order shall apply to all consumptive ground water rights, including agricultural, commercial, industrial, and municipal uses, but excluding ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition

set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

IT IS FURTHER ORDERED that the watermasters for the water districts within the area of common ground water, located west of the Great Rift, and who regulate ground water, are directed to issue written notices to the holders of the consumptive ground water rights listed in Attachment A to this order. The water rights on the list bear priority dates junior or equal to October 13, 1978. The written notices are to advise the holders of the identified ground water rights that their rights are subject to curtailment in accordance with the terms of this order.

IT IS FURTHER ORDERED that pursuant to Conjunctive Management Rule 37.03.11.040.40, for the water districts within the area of common ground water, located west of the Great Rift, and who regulate ground water, shall permit the diversion and use of ground water by water rights with priority date senior to October 13, 1978 to continue out of priority diversions within the water district provided IGWA's mitigation plan is complied with.

CONTINGENT ALTERNATIVE OBLIGATION

IT IS FURTHER ORDERED that, if Morris agrees to cease diverting 0.3 cfs from Curren Tunnel through his irrigation pipeline, IGWA will be granted 3.0 cfs of total annual mitigation credit for the annual period from April 1, 2014 through March 31, 2015.

IT IS FURTHER ORDERED that the 3.0 cfs total mitigation credit is 0.4 cfs less than the annual mitigation requirement of 3.4 cfs for the annual period from April 1, 2014 through March 31, 2015.

IT IS FURTHER ORDERED that water rights bearing priority dates junior or equal to July 1, 1983 shall be curtailed during the 2014 irrigation season.

IT IS FURTHER ORDERED that, if Morris agrees to cease diverting 0.3 cfs from Curren Tunnel through his irrigation pipeline, at 12:01 a.m. on or before May 5, 2014, users of ground water holding consumptive water rights bearing priority dates junior or equal to July 1, 1983, as may be determined from Attachment A to this order, within the area of common ground water, located west of the Great Rift, and within a water district that regulates ground water, shall curtail/refrain from diversion and use of ground water pursuant to those water rights unless notified by the Department that this amended order of curtailment has been modified or rescinded as to their water rights. This order shall apply to all consumptive ground water rights, including agricultural, commercial, industrial, and municipal uses, but excluding ground water rights used for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111 and ground water rights used for *de minimis* stock watering where such stock watering use is within the limits of the definitions set forth in Idaho Code § 42-1401A(11), pursuant to IDAPA 37.03.11.020.11.

IT IS FURTHER ORDERED that, if Morris agrees to cease diverting 0.3 cfs from Curren Tunnel through his irrigation pipeline, the watermasters for the water districts within the area of

common ground water, located west of the Great Rift, and who regulate ground water, are directed to issue written notices to the holders of the consumptive ground water rights listed in Attachment A to this order with water rights that bear priority dates junior or equal to July 1, 1983. The written notices are to advise the holders of the identified ground water rights that their rights are subject to curtailment in accordance with the terms of this order.

IT IS FURTHER ORDERED that, if Morris agrees to cease diverting 0.3 cfs from Curren Tunnel through his irrigation pipeline, pursuant to Conjunctive Management Rule 37.03.11.040.40, for the water districts within the area of common ground water, located west of the Great Rift, and who regulate ground water, shall permit the diversion and use of ground water by water rights with priority date senior to July 1, 1983 to continue out of priority diversions within the water district provided IGWA's mitigation plan is complied with.

Dated this 11th day of April, 2014.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of April, 2014, the above and foregoing document was served on the following by providing a copy of the *ORDER APPROVING IN PART AND REJECTING IN PART IGWA'S MITIGATION PLAN; ORDER LIFTING STAY ISSUED FEBRUARY 21, 2014; AMENDED CURTAILMENT ORDER* in the manner selected:

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EXHIBIT H - FIRST MITIGATION PLAN ORDER

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EXHIBIT I - SECOND STAY PETITION

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 (RANGEN, INC.)	Docket No. CM-DC-2011-004 **IGWA's Second Petition to Stay Curtailment, and Request for Expedited Decision**

Idaho Ground Water Appropriators, Inc. (IGWA), acting for and on behalf of its members, hereby petitions the Director pursuant to IDAPA 37.01.01.780 to stay implementation of the *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights junior to July 13, 1962* ("Curtailment Order") entered January 29, 2014, and the *Notice of Violation and Cease and Desist Order* ("Cease & Desist Order") entered January 31, 2014, until the judiciary completes its review of the Curtailment Order in *IGWA v. IDWR*, Gooding County Case No. CV-2014-179, and *Rangen v. IDWR*, Twin Falls County Case No. CV-2014-1338.

As explained below, Rangen will receive far more water if the Orders are stayed than if they are enforced; issues of first impression warrant judicial review before the Orders take effect; and staying the Orders will afford the IDWR an opportunity to rule on IGWA's application for permit no. 36-16976, as well as its Second Mitigation Plan to deliver water from Tucker Springs, both of which are capable of meeting the full 9.1 cfs mitigation obligation on a permanent basis.

LEGAL STANDARD

The IDWR has explicit legal authority to stay the Curtailment Order and the Cease & Desist Order during the appeals process. The Idaho Administrative Procedures Act states that any agency "may grant, or the reviewing court may order, a stay upon appropriate terms." IDWR Rules of Procedure similarly state: "Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final."[1] And Rule 84(m) of the Idaho Rules of Civil Procedure reaffirms that "an agency may grant ... a stay upon appropriate terms."

While neither the Idaho Code nor the Idaho Rules of Civil Procedure elaborate on what "appropriate terms" are for a stay, petitions for stay are generally decided based on principles of equity.[2] The following factors are often considered:

> (1) the likelihood the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay.[3]

ARGUMENT

As explained below, the Director should stay implementation of the Curtailment Order and the Cease & Desist Order because (1) critical issues of first impression warrant judicial review before the Orders take effect; (2) curtailed groundwater users will be severely and irreparably harmed absent a stay; (3) Rangen will not be harmed, but will actually benefit, from a stay; and (4) granting a stay is in the public interest.

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[1] IDAPA 37.01.01.780.

[2] *Haley v. Clinton*, 123 Idaho 707, 709 (Ct. App. 1993); *see also McHan v. McHan*, 59 Idaho 41, 46 (1938) ("Where it appears necessary to preserve the *status quo* to do complete justice the appellate court will grant a stay of proceedings in furtherance of its appellate powers. It is entirely possible that the refusal to grant a stay would injuriously affect appellant, and it likewise is apparent that granting such a stay will not be seriously injurious to respondent.").

[3] *Michigan Coalition of radioactive Material Users, Inc. v. Griepentrog*, 945 F.2d 150, 153 (6th Cir. 1991); *see also Utah Power & Light Co. v. Idaho Pub. Utils. Comm'n*, 107 Idaho 47, 50 (1984) (Stay justified when there is irreparable loss to moving party); *McClendon v. City of Albuquerque*, 79 F.3d 1014, 1020 (10th Cir. 1996); *Lopez v. Heckler*, 713 F.2d 1432, 1435-1436 (9th Cir. 1983); *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977); 5 Am.Jur.2d *Appellate Review* § 470 ("Standards for granting stay").

1. Critical issues of first impression warrant judicial review before the Orders take effect.

The petition for judicial review filed by IGWA raises significant issues, some of which are issues of first impression in Idaho. Among them are:

A. Whether the Curren Tunnel should be administered as a groundwater source since it meets the statutory definition of a groundwater well under the Idaho Ground Water Act?

B. Whether the Curtailment Order permits excessive waste and hoarding of Idaho's water resources by curtailing beneficial use of water even if less than 1% of the curtailed water will accrue to Rangen after 50 years?

C. Whether an uncertainty factor must be applied to the predictions generated by Eastern Snake Plain Aquifer Model (ESPAM) version 2.1, as was done in all prior conjunctive management cases using ESPAM version 1.1?[4]

While there may be room to debate the likelihood of the judiciary reversing the IDWR on these issues, there is no question that a reversal may reduce or even eliminate the curtailment of groundwater rights. It would be a travesty to curtail groundwater rights, causing farmers, dairies, and others to go out of business, only to have the judiciary subsequently rule that the curtailment was unjustified to begin with. This very real possibility weighs heavily in favor of staying the Curtailment Order and the Cease & Desist Order.

2. Curtailment will cause severe and irreparable harm.

The livelihoods of farmers, dairies, and many other businesses are dependent upon water. Curtailment will devastate not only the holders of the curtailed water rights, but also numerous other Magic Valley businesses who depend upon agricultural production for their survival. If curtailment is implemented, loans will go into default, jobs will be lost, cities will be unable to provide services, businesses will close, and land will be foreclosed on. The harm that will be devastating, irreparable, and likely unmatched in the history of the state.

[4] *Petition for Judicial Review*, Gooding County Case No. CV-2014-179 (March 28, 2014).

3. Rangen will not be harmed, but will actually benefit, from a stay.

Perhaps the most compelling reason for staying the Orders is that it will provide far more water to Rangen than curtailment will. Curtailment of 157,000 acres is predicted provide 9.1 cfs to Rangen at steady-state, after more than 50 years. In the first year of curtailment, only 3.4 cfs is predicted to accrue to Rangen. Accordingly, the Curtailment Order provides for phased-in mitigation, requiring groundwater users to provide 3.4 cfs in mitigation the first year, 5.2 cfs the second year, 6.0 cfs the third year, 6.6 cfs the fourth year, and 9.1 cfs the fifth year.

On April 11, 2014, the IDWR approved IGWA's first mitigation plan in part, providing an immediate 3.0 cfs[5] mitigation credit for groundwater recharge, conversions, dry-ups, and the Sandy Pipe exchange.[6] These mitigation actions are already in place and will be implemented even if the Curtailment Order is stayed. Because the 3.0 cfs credit is 0.4 cfs short of the full 3.4 cfs mitigation obligation, the IDWR has ordered the curtailment of all groundwater rights in the Magic Valley with priority dates junior to July 1, 1983, beginning May 5, 2014. These rights supply water to 25,000 acres of irrigated farmland as well as cities, dairies, and other businesses.

The additional 0.4 cfs that Rangen will receive if the Curtailment Order and the Cease & Desist Order are not stayed is a fraction of the amount of water it will receive if they are stayed. Since the Curtailment Order rules that Rangen does not have a valid water right from Billingsley Creek, the IDWR issued the Cease & Desist Order which prohibits Rangen from diverting any water from Billingsley Creek. Most of the water that is available for use in Rangen's fish hatchery comes from Billingsley Creek. As Exhibits 2291 and 3656 shown, the total flow available to Rangen has fluctuated between approximately 12 and 20 cfs in recent years.[7] The flow from the Curren Tunnel accounts for nearly all of this volatility, fluctuating between roughly 1 and 9 cfs. The rest of the water comes from Billingsley Creek which provides a steady year-round flow of 10-12 cfs.

If the Curtailment Order and the Cease & Desist Order are stayed, Rangen will be able to utilize 10-12 cfs from Billingsley Creek. Without a

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[5] Butch Morris has verbally informed IGWA that he will not use any water from the Curren Tunnel, resulting in a 3.0 cfs mitigation credit as set forth on page 21 of the Order. A letter will soon be submitted by Mr. Morris to the IDWR to confirm this.

[6] *Order Approving in Part and Rejecting in Part IGWA's Mitigation Plan; Order Lifting Stay Issued February 21, 2014; Amended Curtailment Order*, IDWR Docket No. CM-MP-2014-001 (April 11, 2014).

[7] Exhibits 2291 and 3656 are attached hereto as Appendix A.

stay, Rangen will be barred from using that water, receiving instead 0.4 cfs from curtailment.

Since there will be no harm to Rangen from a stay, but instead a significant benefit, a stay should be granted.

4. Granting a stay is in the public interest.

For the reasons stated above, few would argue that the magnitude of the pending curtailment rises to the level of a public crisis. Given Idaho's heavily agriculture-dependent economy, the effects of curtailment will undoubtedly ripple throughout Idaho's economy.

If the judiciary reverses the Curtailment Order, the damage from curtailment will have been done. Even if the judiciary does not reverse the Curtailment Order, by the time the appeals process concludes IGWA will have in place a long-term solution to meet the full 9.1 cfs mitigation obligation. As the Director is aware, IGWA has a pending application to use up to 12 cfs from Billingsley Creek for mitigation purposes. If the IDWR approves this mitigation proposal, it will permanently meet the full 9.1 cfs mitigation obligation. If the IDWR denies it, IGWA's pending Second Mitigation Plan proposes to deliver 9.1 cfs to Rangen from Tucker Springs. This proposal is currently being engineered and is expected to be approved since the IDWR has approved pump-based mitigation systems previously.

While curtailment can be avoided long-term by either of these options, the damage of a short-term curtailment will have already been done. The public interest weighs overwhelmingly against short-term curtailment, particularly since it would provide less water to Rangen than would a stay of the Curtailment Order and the Cease & Desist Order.

CONCLUSION

The Curtailment Order and the Cease & Desist Order should be stayed during judicial review because a stay will (1) provide more water to Rangen than enforcing the Orders, (2) avoid severe and irreparable harm to the curtailed groundwater users and the economies of the Magic Valley and the State of Idaho, (3) allow judicial review of critical issues of first impression, avoiding mistaken curtailment, and (4) serve the public interest.

EXHIBIT I - SECOND STAY PETITION

REQUEST FOR EXPEDITED DECISION

Curtailment is scheduled to begin May 5, 2014. If the IDWR does not grant this motion, IGWA must file a similar motion with the Idaho judiciary asking it to stay the Curtailment Order and the Cease & Desist Order, which must be heard and decided prior to May 5, 2014. Therefore, IGWA requests an expedited decision on this motion by April 23rd if at all possible.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By: _____ April 17, 2014
Randy Budge Date
T.J. Budge

Attorneys for IGWA

EXHIBIT I - SECOND STAY PETITION

CERTIFICATE OF MAILING

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

T J Budge

Signature of person serving document

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EXHIBIT I - SECOND STAY PETITION

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EXHIBIT I - SECOND STAY PETITION

Appendix A

Exhibits 2291 & 3656

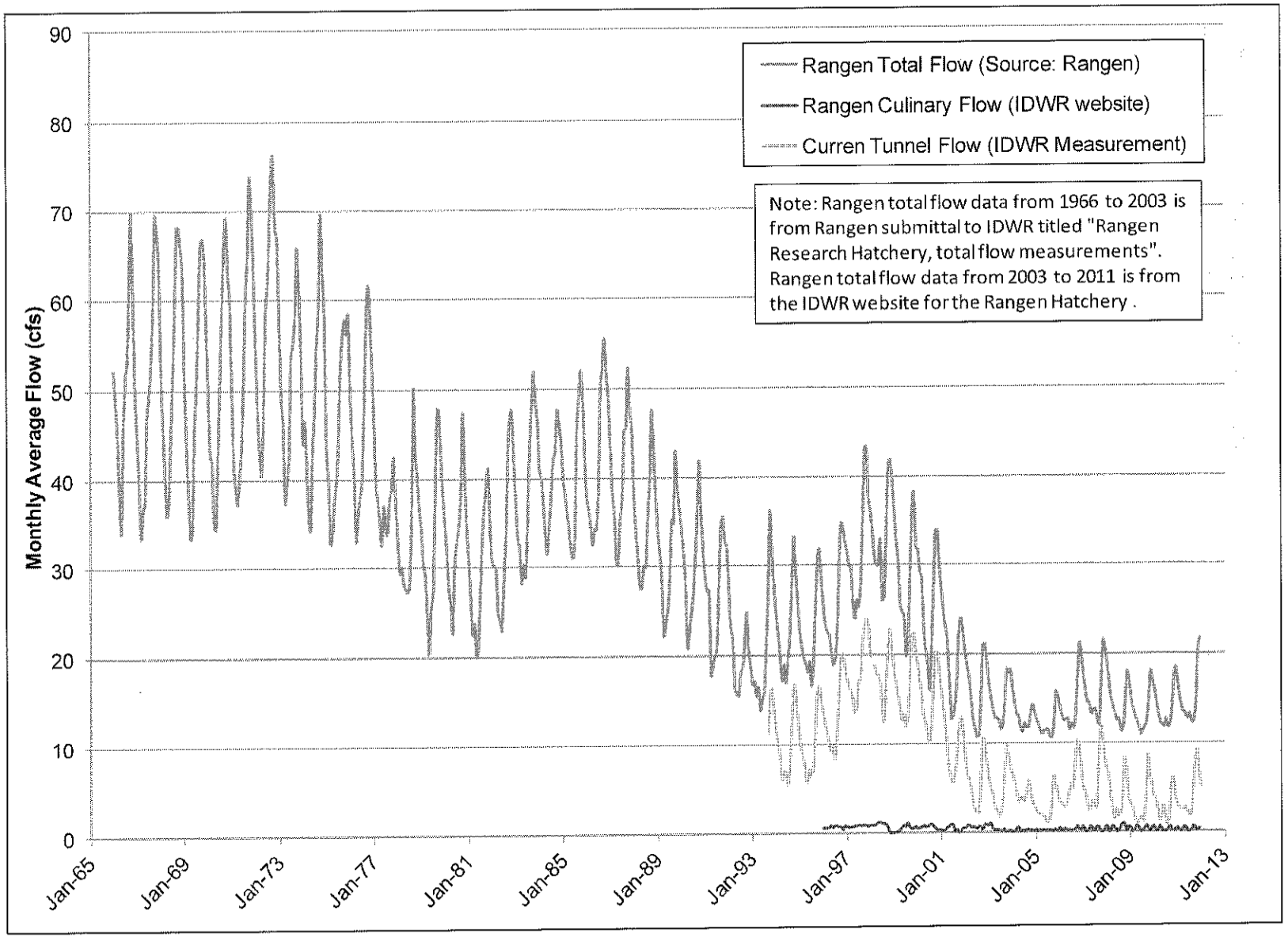
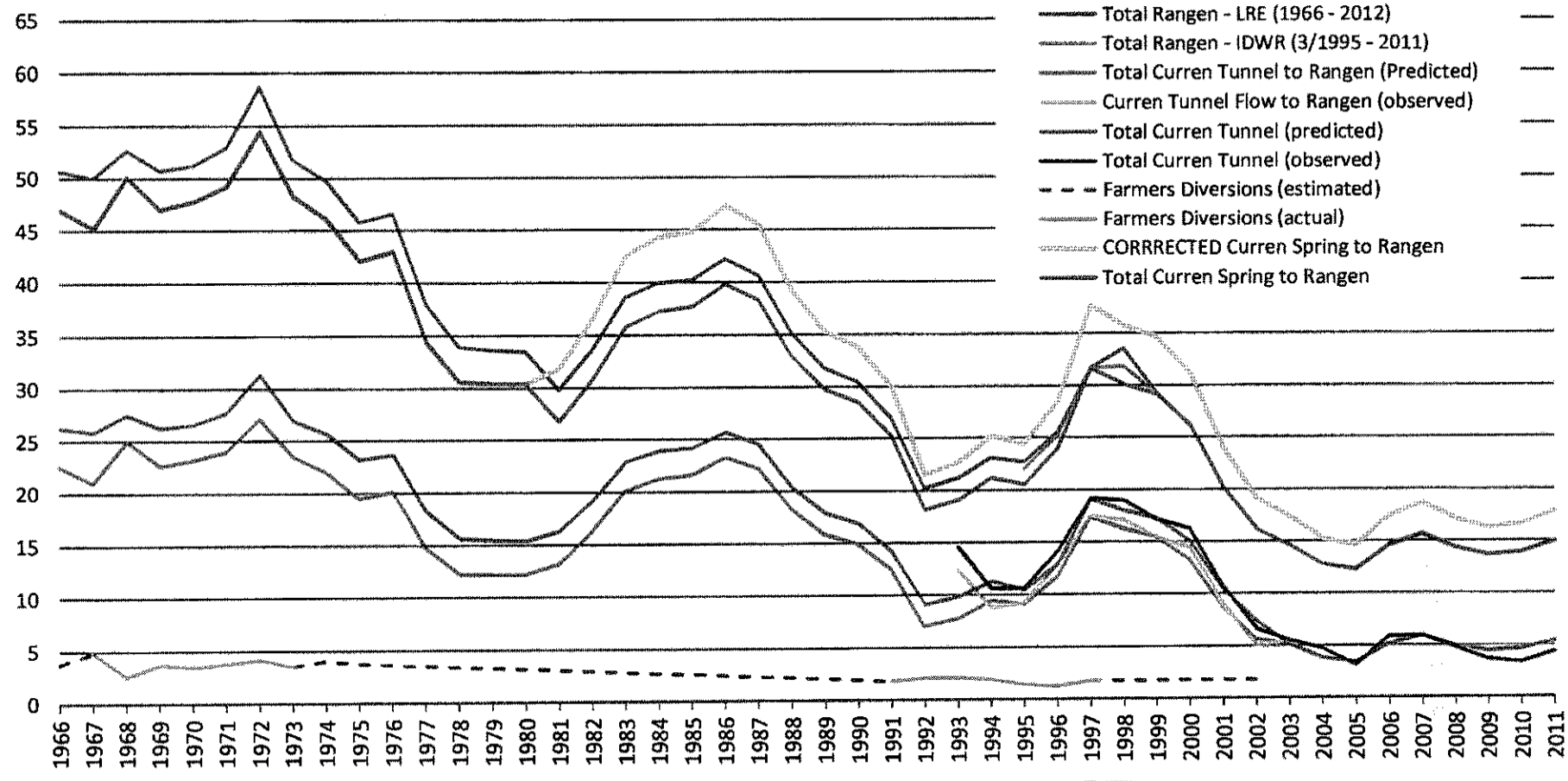


Figure 3.8: Historical Flows at Rangen Facility

Figure 2-5c

Annual Average Flow
Rangen Hatchery
1966 - 2012
Values in CFS



Source: Annual averages of monthly average flows presented in Figure 2-5b.
Annual average Total Curren Spring Flow to Rangen computed as the Total Curren Spring after diversions to farmers.

EXHIBIT
3656

Spronk Water Engineers, Inc.

Updated 5/15/2013

EXHIBIT I - SECOND STAY PETITION

EXHIBIT J -- OPPOSITION SECOND STAY

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RECEIVED
APR 25 2014
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR DELIVERY CALL OF RANGEN, INC.'S WATER RIGHT NOS. 36-02551 & 36-07694 (RANGEN, INC.)	Docket No. CM-DC-2011-004 **RANGEN, INC.'S RESPONSE IN OPPOSITION TO IGWA'S SECOND PETITION TO STAY CURTAILMENT**

COMES NOW, Rangen, Inc. ("Petitioner" or "Rangen"), by and through its attorneys, and hereby submits the following response in opposition to *IGWA's Second Petition to Stay Curtailment, and Request for Expedited Decision*, filed by the Idaho Ground Water Appropriators, Inc. (IGWA) on April 17, 2014.

I. INTRODUCTION AND BACKGROUND

On February 12, 2014, IGWA filed its first *Petition to Stay Curtailment* asking the Director to enter an order staying curtailment during the 2014-2015 growing season. *See*

IGWA's Petition to Stay Curtailment. The Director granted IGWA's first request because IGWA filed a mitigation plan which the Director found, on its face, appeared to satisfy IGWA's mitigation requirement for the 2014 growing season. The Order granting the stay stated: "Cumulatively, the proposed measures, once implemented, will fully satisfy the requirements of the Director's Order and it appears that IGWA will be able to demonstrate that it has satisfied the requirement for direct delivery of water to Rangen." *See Order Granting IGWA's Petition to Stay Curtailment*, p. 3. The Order cautioned, however: ***"Ground water users are advised that in the event the mitigation plan is not approved, the curtailment order will go into effect immediately."*** *Id.*, p. 5.

The Director held an expedited hearing on IGWA's Mitigation Plan on March 17-19, 2014. At the start of that hearing the Director granted Rangen's Motion to Dismiss Proposals 4 and 5 of IGWA's first Mitigation Plan because they exceeded the scope of the Director's legal authority. On April 11, 2014, the Director issued an Order rejecting Proposals 3 (proposed assignment of IGWA's Application for Permit for talus slope water), 6 (cleaning, deepening or enlarging the Martin-Curren Tunnel), 7 (construction of a horizontal well), 8 (over-the-rim delivery system), and 9 (pump back and aeration system). The Director did, however, give IGWA credit for mitigation activities (Proposal 1) and water delivered to Butch Morris through the Sandy Pipeline (Proposal 2). Even after giving IGWA all of these credits, the Director found that IGWA has not satisfied its obligation for the delivery of water to Rangen (either steady state impact of 9.1 cfs or direct flow of 3.4 cfs to the Martin-Curren Tunnel). The Director narrowed the scope of the curtailment order considerably to reflect the credits IGWA has been given. The new curtailment Order changes the curtailment priority date from 1962 to 1978 and gives IGWA the opportunity to further reduce the number of effected rights by moving the curtailment priority

date to 1983 if IGWA delivers a written agreement with Butch Morris that Morris will not take any water from the Martin-Curren Tunnel. The Director has given the ground water users three weeks to comply with the new curtailment order.

Despite IGWA's failure to satisfy its water delivery obligations and the narrowed scope of the Director's curtailment order, IGWA is now seeking a stay that would enjoin curtailment not only during the 2014-2015 growing season as IGWA first proposed, but now the entire time this matter is on appeal. IGWA's request should be denied because: (1) an unapproved mitigation plan cannot be used to allow out-of-priority diversions and IGWA is not likely to obtain approval for its Tucker Springs Mitigation Plan; (2) IGWA's application for a permit to use the talus slope water cannot be used as the basis for the issuance of a stay; (3) junior-priority groundwater pumpers have had ample opportunity to prepare for this curtailment; (4) the risk of curtailment of a junior-priority ground water right during a time of shortage is a risk that Idaho water users knowingly undertake; and (5) the injury to Rangen caused by junior-priority groundwater pumping is ongoing and cumulative and the Director's revised curtailment order has been narrowly crafted to address the amount of water that would accrue to Rangen during the 2014-2015 season. Rangen respectfully requests that IGWA's Second Petition to Stay Curtailment be denied.

II. LEGAL STANDARD

Once the Director makes a determination of material injury like he has in Rangen's delivery call, Rule 40 of the Conjunctive Management Rules dictates that the Director shall either: (1) "Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users who rights are included within the district, . . ." or (2) Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director." IDAPA 37.03.11.040.01. To lessen the

economic impact the Director may, in specified circumstances, phase in the curtailment over a period up to 5 years. *Id.*

The Idaho Supreme Court recently held that the "[t]he Conjunctive Management Rules require that out-of-priority diversions only be permitted pursuant to a properly enacted mitigation plan." *In the Matter of Distribution of Water to Various Water Rights*, ___ Idaho ___, ___ P.3d ___(2013 Opinion No. 134).

IGWA's present motion seeks a stay of the Director's curtailment order to allow out-of-priority diversion while this case is on appeal without the approval of a mitigation plan that satisfies IGWA's direct delivery of water obligations. In support of its request, IGWA relies upon IDAPA 37.01.01.780, which provides generally that "[a]ny party or person affected by an order may petition the agency to stay any order, whether interlocutory or final." In the context of a petition for review, Idaho Code § 67-5274 similarly provides that "[t]he agency may grant, or the reviewing court may order, a stay upon appropriate terms." I.C . § 67-5274. This language provides little, or no, guidance as to what might be the appropriate terms for a stay that would be consistent with the Conjunctive Management Rules. In the decision granting IGWA's first *Petition to Stay Curtailment*, the Director ruled that he would consider the following factors: (1) the likelihood the moving party will prevail on appeal or in another pending proceeding; (2) whether denial of the stay will harm the moving party; and (3) whether granting the stay will cause irreparable harm to the non-moving party. *See Order Granting IGWA's Petition to Stay Curtailment.* These factors warrant a denial of *IGWA's Second Petition to Stay Curtailment.*

III. ARGUMENT

IDWR adopted the Conjunctive Management Rules in 1994. Over the past twenty years surface water users have filed delivery calls against junior-priority groundwater rights and curtailment orders have been issued, but the reality is that actual curtailment in these types of situations has not yet occurred and some even question whether conjunctive management is a reality in Idaho. *See, e.g.*, presentation titled "Conjunctive Management: Science or Fiction?"

given by Chuck Brendecke at Idaho Water User's Association 18th Annual Water Law and Resource Issues Seminar in 2001 (Hearing Exhibit 2409). While the effect of Idaho's long-standing, constitutionally mandated prior appropriation doctrine can be harsh (*see, American Falls Reservoir District No. 2 v. Idaho Dep't of Water Resources*, 143 Idaho 862, 869 153 P.3d 433, 440 (2007)), curtailment orders have to be enforced where material injury has been found or else conjunctive management will indeed be fiction.

A. IGWA's Tucker Springs Mitigation Plan Cannot be the Basis of a Stay and Has the Same Defects as Proposal No. 8 of IGWA's First Mitigation Plan.

IGWA contends that the Director's curtailment order should be stayed during the time this case is on appeal because it would give the Director time to rule on IGWA's Tucker Springs Mitigation Plan. *See IGWA's Second Mitigation Plan* filed on March 10, 2014. There are two problems with IGWA's position.

First, the Director should not grant a stay simply because IGWA has submitted a mitigation plan. As explained above in the section addressing the legal standard that is applicable to *IGWA's Second Petition to Stay Curtailment*, the Idaho Supreme Court recently held that "[t]he Conjunctive Management Rules require that out-of-priority diversions only be permitted pursuant to a properly enacted mitigation plan." *See In the Matter of Distribution of Water to Various Water Rights*, ___ Idaho ___, ___ P.3d ___ (2013 Opinion No. 134). In that case the Director allowed out-of-priority diversions pursuant to "replacement water plans," which were not subject to the procedural requirements of a mitigation plan. "The Director reasoned that approval as a mitigation plan would require curtailment of junior ground water users without a hearing because they could not formulate a mitigation plan until they knew how much water would be owed to the [senior water user]." *Id.* The District Court determined that "replacement water plans permitted the rules governing mitigation plans to be circumvented."

The Supreme Court "affirm[ed] the district court's holding that the Director abused his discretion by failing to comply with the procedural framework applicable to mitigation plans when he approved replacement water plans." *Id.* Based on the Supreme Court's ruling and the plain language of CM Rule 43, the only way to grant IGWA the relief it is requesting (i.e., allow out-of-priority junior groundwater pumping) is to rule on the merits of its Second Mitigation Plan and find that it satisfies IGWA's water delivery obligations (either the 9.1 cfs steady state impact or the 3.4 cfs direct flow). Until that happens, the Director has an obligation to ensure that out-of-priority groundwater pumping does not take place.

Second, even if the Director could use the submission of an unapproved mitigation plan as the basis to stay curtailment, IGWA's Second Mitigation Plan has the same defects as Proposal No. 8 of IGWA's first Mitigation Plan and is not likely to be approved. A hearing on IGWA's Second Mitigation Plan has not yet been set. While the Second Mitigation Plan identifies the source and amount of the proposed mitigation water (Tucker Springs), the plan does not contain any of the details necessary to evaluate whether it satisfies Rule 43 of the Conjunctive Management Rules as a mitigation plan. IGWA's Tucker Springs proposal is the same type of bare-bones proposal which IGWA submitted for conditional approval as part of its first Mitigation Plan. The Director rejected Proposal No. 8 for an over-the-rim delivery system and found that the lack of detail was fatal to the plan:

> IGWA cites the Director's approval of the over-the-rim plan in the Snake River Farms delivery call as support for its argument the Director should conditionally approve Proposal No. 8 and then allow IGWA to provide engineering and other plans at a later date. However, there are important distinctions between the progress IGWA had made in the over-the-rim plan when it was considered by the Department and this plan. At the time the hearing for the over-the-rim plan was heard, IGWA had exerted significant effort to justify the plan, including identifying water rights that would be acquired and wells that could be used, testing of water temperature, quality, and evaluating the reliability and biosecurity of the proposed pumping system. IGWA had also provided preliminary

> engineering plans. While the Director conditionally approved the over-the-rim plan, IGWA had taken significant steps towards the implementation of that plan. Here IGWA has not taken any steps toward implementation of this proposal.

Order Approving in Part and Rejecting in Part IGWA's Mitigation Plan; Order Lifting Stay Issued February 21, 2014, Amended Curtailment Order, p. 15.

IGWA has not provided any of the details necessary to evaluate the Tucker Springs Plan. While a hearing has not yet been held, it appears the Tucker Springs plan will be even more controversial than IGWA's first Mitigation Plan. The protest period ended approximately twelve days ago, and at this time there are five protestors including, Rangen, Buckeye Farms, Inc., Salmon Falls Land & Livestock Co., Big Bend Irrigation & Mining Co., Ltd. and Leo Ray. Aside from Rangen, these protestors are down-stream water users who would likely be injured if IGWA were allowed to proceed with a plan to divert the water from Tucker Springs through a lengthy pipeline and deliver it to Rangen over the canyon rim. Until IGWA demonstrates that its Tucker Springs proposal will deliver suitable replacement water to Rangen in the quantities that are necessary to satisfy its water delivery obligations, the Tucker Springs proposal cannot be used as a basis for staying curtailment.

B. IGWA's Application for Permit for the Talus Slope Water Cannot be Used as the Basis of Stay.

IGWA also argues that a stay should be granted while this matter is on appeal because it would give the Director time to rule on IGWA's application for permit on the talus slope water. As explained above, the CM Rules only allow out-of-priority pumping under an approved mitigation plan. IGWA tried to get its application for permit approved as part of its first mitigation plan and the Director unequivocally rejected that approach, finding:

> Pursuant to rule 43, the Director can approve proposal no. 3 only if the Director believes that the application can provide water to Rangen in the time of need, i.e., this year. The pending application cannot be prejudged in this

> proceeding. IGWA essentially asked the Director to prejudge the application. The Director declines to do so. The application seeks authorization to divert12 cfs from a point of diversion on the Rangen property. IGWA Ex. 1018 at 1. A map attached to the application shows the general area of the planned point of diversion. *Id.* at 4. The Department published notice of the application and the application was protested by Rangen. Rangen also filed a competing application and a transfer to address the point of diversion issue. The facts behind IGWA's application and the competing application and transfer are unique. ***Given the uncertainty of the application given the specific facts which have developed in this case, the Director concludes that it is too speculative to consider.***

Order Approving in Part and Rejecting in Part IGWA's Mitigation Plan; Order Lifting Stay Issued February 21, 2014; Amended Curtailment Order, p. 13 (emphasis added). IGWA now seeks to make an end-run around the ruling by using its pending application as the basis for a stay. If the Director would not grant direct relief from the curtailment order by approving a mitigation plan that included IGWA's talus slope permit, he should not grant indirect relief by issuing a stay on that basis.

C. Junior-Priority Ground Water Pumpers Have Had Ample Time to Prepare for the Curtailment Order.

Even though the Director's Amended Curtailment Order narrows the scope of curtailment considerably and gives IGWA the opportunity to even further reduce the number of curtailed junior rights, IGWA predicts widespread economic devastation caused by curtailment without submitting any evidence to support its position. The fact that a water right appurtenant to a particular piece of land is curtailed does not mean that the land, in fact, will remain idle. In fact, there can be multiple rights appurtenant to a piece of land and farmers often have multiple places of use and points of diversion that can be used to keep land productive. While Rangen understands that the Director's order is likely to result in some acres being idled, IGWA's prediction that ". . . loans will go into default, jobs will be lost, cities will be unable to provide services, businesses will close, and land will be foreclosed on" is unsubstantiated rhetoric.

The reality is that IGWA and the ground water users it represents have had years to prepare for the curtailment that has been ordered. Rangen's delivery call has been pending for more than two and a half years. In May 2012, Rangen requested that junior-priority groundwater pumpers be given notice of possible curtailment so that they could be prepared. *See Transcript of May 24, 2012 Hearing* ("Transcript") attached as *Exhibit 3 to Affidavit of J. Justin May in Opposition to Idaho Cities' Petition for Limited Intervention and in Opposition to IGWA's Petition to Stay Curtailment ("May Affidavit").* The Director advised counsel for IGWA that it had the responsibility of notifying its members ahead of a formal hearing of the possibility of curtailment. The Director stated:

> ***My inclination is that we place that burden upon [counsel for IGWA]. She's representing those folks, the groundwater users and they should, I guess, have the ability to anticipate the possibility of curtailment.*** As we go through I'm not sure I want to be issuing a notice ahead of some decision. I think that's a little difficult. When the notices were issued I think they were issued after Carl Dreyer's [sic] initial orders, and so it was based on an order that had been issued, an evaluation of where we were at from the standpoint of storage in the system or, you know, what was predicted as a water year, and those were sent out as a result. But I think we're premature.

Transcript, p. 44, lines 10-22 (emphasis added).

IGWA unequivocally rejected the Director's determination:

> Ms. McHugh: *Just for the record, we aren't planning to send out any notices.*
>
> Mr. Haemmerle: You've got a lot of confidence. That's good.
>
> Ms. McHugh: I'll represent the IGWA ground water appropriators and the board, but we're not going to send out notices to individual groundwater users.

Transcript, p. 44, line 23 – p. 45, line 4. After this exchange, the Director commented that everyone needed to be prepared for the possibility of an April 1st curtailment order. *See Transcript*, p. 45, lines 5-13.

In the Fall of 2012, the Director again made it clear to IGWA that its members needed to be prepared for a curtailment order even if it were entered at the beginning of an irrigation season. On September 26, 2012, IGWA filed a *Motion to Continue Hearing and Request for Expedited Decision* seeking to delay the hearing date in this matter from January 28, 2013 to March 11, 2013. Rangen opposed that motion arguing that:

> IGWA is looking for any way to delay the hearing of this matter because even a slight delay will probably mean that curtailment will not be ordered in 2013 even if Rangen prevails on its material injury claim. The Director has made it clear that April 1 is the "drop dead" date for ordering curtailment and that he must have time to issue a decision before that date or curtailment will not be ordered.

Response in Opposition to IGWA's Motion to Continue Hearing and Request for Expedited Decision, p. 18. Following the discovery of the so-called Mud Lake error in October 2012, the Director issued an Order suspending the hearing in this matter "until further notice." In that Order the Director stated:

> The Director must use the best available science, and at the same time must also protect senior-priority rights by enforcing an order finding material injury. Therefore, ***the parties should be fully aware that if material injury is found, the order finding material injury will be enforced, regardless of the time of year in which it is issued.***

Order Suspending Hearing and Setting Status Conference, p. 2 (emphasis added).

When the Director issued the stay of the curtailment order in February, 2014, he again told IGWA that if a mitigation plan were not approved, the curtailment would take effect immediately. The Director ruled: ***"Ground water users are advised that in the event the mitigation plan is not approved, the curtailment order will go into effect immediately."*** *Order Granting IGWA's Petition to Stay Curtailment*, p. 5.

While Rangen understands that curtailment can be harsh, the reality is that Idaho water users have been dealing with curtailment in times of shortage for decades and understand the

risks involved. Tim Deeg, the Chairman of the Board of IGWA, testified at the hearing on Rangen's delivery call that he knows that Idaho is a prior appropriation state. (Tr., p. 1747, l. 18-21). He admitted that Idaho farmers understand that curtailment is a risk they take if a junior user is causing harm to a senior user. (Tr., p. 1748, l. 1-4). Deeg also admitted that junior-priority groundwater pumping in the Eastern Snake Plain Aquifer impacts Rangen's spring flows. (Tr., p. 1750, l. 2-12). Deeg acknowledged that farmers who have late water rights understand that there is a risk that senior users like Rangen will call for their water. (*Id.*). In fact, farmers in Southern Idaho deal with shortages just about every year. The farmer who uses surface water from the Big Wood faces curtailment just about every year. The only difference between him and the groundwater pumpers in this case is that he usually only has 2-3 days to respond to the water master's notice that his water use is being curtailed. In this case, the groundwater users have been on notice for nearly two and a half years.

Even though groundwater users understand the risks of curtailment and have been given another three weeks to prepare for the narrowly constructed curtailment that has been ordered in this case, IGWA still complains that it would be unduly harsh to enforce the Director's order because of the harm that may be done to junior pumpers. There should be no dispute that harm will be done to Rangen if the stay is granted while this case is on appeal since the Director has already found that Rangen is being materially injured by junior-priority groundwater pumping. The Idaho Supreme Court has made it clear that if there is any risk of error in the administration of water rights, the risk should be borne by the junior user, not the senior:

> The application of the clear and convincing standard of proof only makes sense from a common sense perspective. If the Director determines that a senior can satisfy the decreed purpose of use on less than the decreed quantity reflected, he needs to be certain to a standard of clear and convincing evidence. In making a determination of whether or not to regulate juniors, the Director is required to evaluate whether the quantity available meets or exceeds the quantity the senior

> can put to beneficial use. If the Director regulates juniors to satisfy the senior's decreed quantity there is no risk of injury to the senior. **However, if the Director regulates juniors to satisfy a quantity less than decreed, there is risk to the senior that the Director's determination is incorrect. There is no remedy for the senior if the Director's determination turns out to be in error and the senior comes up short of water during the irrigation season. Any burden of this uncertainty should be borne by the junior....** [I]f the Director's determination is only based on a finding 'more probable than not.' The senior's right is put at risk and the junior is essentially accorded the benefit of uncertainty. The requisite high standard accords appropriate presumptive weight to the decree.

A&B Irrigation District v. IDWR, 153 Idaho 500, 517, 284 P.3d 225, 242 (2012) (emphasis added). The bottom line is that the Director has found that Rangen is being materially injured by junior-priority ground water pumping and has narrowly tailored a curtailment order that gives IGWA credit for all of its mitigation activities. The ground water pumpers have known for more than two and a half years that curtailment was a possibility and have had ample opportunity to prepare for this order. The risk of any error or harm in this process has to be shouldered by the junior users as a matter of law, not Rangen. As such, IGWA's Second Petition to Stay Curtailment should be denied.

D. Rangen continues to be materially injured by junior-priority ground water pumping.

In a somewhat confusing argument, IGWA insists that Rangen will actually benefit from the stay IGWA has requested because Rangen will receive more water. A stay of the curtailment order does not benefit Rangen in any way. In fact, it causes more harm. The issue of Rangen's use of the talus slope water has been addressed in a separate proceeding and is not at issue in this case. There is no validity to the assertion that Rangen benefits from the stay IGWA has requested. As such, IGWA's Second Petition to Stay Curtailment should be denied.

EXHIBIT J -- OPPOSITION SECOND STAY

IV. CONCLUSION

The granting of a stay in these circumstances would be inconsistent with the Conjunctive Management Rules and inconsistent with the Director's obligation to protect senior water rights. Rangen respectfully requests that IGWA's Second Petition to Stay Curtailment be denied.

DATED this 25 day of April, 2014.

MAY, BROWNING & MAY

By _____
J. Justin May

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 25 day of April, 2014 he caused a true and correct copy of the foregoing document to be served by email and first class U.S. Mail, postage prepaid upon the following:

Original: Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☑ ☐ ☐ ☐ ☑
Garrick Baxter IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☐ ☐ ☐ ☑
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EXHIBIT J -- OPPOSITION SECOND STAY

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EXHIBIT J -- OPPOSITION SECOND STAY

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J. Justin May

EXHIBIT K - SECOND STAY ORDER

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694	)	**CM-DC-2011-004**
(RANGEN, INC.)	)	**ORDER GRANTING IGWA'S SECOND PETITION TO STAY CURTAILMENT**

BACKGROUND

On January 29, 2014, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued a *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Curtailment Order") in this proceeding. The Curtailment Order recognizes that holders of junior-priority groundwater rights may avoid curtailment if they participate in a mitigation plan which provides "simulated steady state benefits of 9.1 cfs to Curren Tunnel or direct flow of 9.1 cfs to Rangen." *Curtailment Order* at 42. The Curtailment Order explains that mitigation provided by direct flow to Rangen, Inc. ("Rangen") "may be phased-in over not more than a five-year period pursuant to CM Rule 40 as follows: 3.4 cfs the first year, 5.2 cfs the second year, 6.0 cfs the third year, 6.6 cfs the fourth year, and 9.1 cfs the fifth year." *Id.*

On February 11, 2014, the Idaho Ground Water Appropriators, Inc. ("IGWA") filed with the Department *IGWA's Mitigation Plan and Request for Hearing* ("Mitigation Plan") to avoid curtailment imposed by the Curtailment Order. The Mitigation Plan set forth nine proposals for junior-priority groundwater pumpers to meet mitigation obligations: 1) credit for current and ongoing mitigation activities; 2) mitigation via the Sandy Pipe; 3) assignment of water right no. 36-16976; 4) fish replacement; 5) monetary compensation; 6) improvements to the Curren Tunnel diversion; 7) drilling a horizontal well in the vicinity of the Curren Tunnel; 8) drilling new groundwater wells or utilizing existing wells with delivery over-the-rim; and 9) construction of a direct pump-back and aeration system within the Rangen facility.

On February 12, 2014, IGWA filed *IGWA's Petition to Stay Curtailment, and Request for Expedited Decision.*

On February 21, 2014, the Director issued an *Order Granting IGWA's Petition to Stay Curtailment* which stayed enforcement of the Curtailment Order for members of IGWA and the non-member participants in IGWA's Mitigation Plan until a decision was issued on the Mitigation Plan.

On March 10, 2014, IGWA filed *IGWA's Second Mitigation Plan and Request for Hearing* ("Second Mitigation Plan"). IGWA asserts the Second Mitigation Plan, referred to as the "Tucker Springs Project," is capable of meeting the full 9.1 cfs mitigation obligation on a year-round basis. *Second Mitigation Plan* at 2.

A hearing was held on IGWA's Mitigation Plan on March 17-19, 2014 at the Department's State office in Boise, Idaho.

On April 11, 2014, the Director issued an *Order Approving in Part and Rejecting in Part IGWA's Mitigation Plan; Order Lifting Stay Issued February 21, 2014; Amended Curtailment Order* ("Mitigation Plan Order"). The Mitigation Plan Order recognized credit for only two components of IGWA's Mitigation Plan: (1) IGWA's ongoing aquifer enhancement activities, and (2) exchange of irrigation water diverted from the Curren Tunnel with operational spill water from the North Side Canal Company. *Mitigation Plan Order* at 4.

On April 17, 2014, IGWA filed *IGWA's Second Petition to Stay Curtailment, and Request for Expedited Decision* ("Petition"). The Petition asks the Director to stay implementation of the Curtailment Order[1], and a *Notice of Violation and Cease and Desist Order* ("Cease & Desist Order") issued to Rangen on January 31, 2014, "until the judiciary completes its review of the Curtailment Order in *IGWA v. IDWR*, Gooding County Case No. CV-2014-179, and *Rangen v. IDWR*, Twin Falls County Case No. CV-2014-1338." *Petition* at 1.

IGWA asserts:

> The Curtailment Order and the Cease & Desist Order should be stayed during judicial review because a stay will (1) provide more water to Rangen than enforcing the Orders, (2) avoid severe and irreparable harm to the curtailed groundwater users and the economies of the Magic Valley and the State of Idaho, (3) allow judicial review of critical issues of first impression, avoiding mistaken curtailment, and (4) serve the public interest.

Petition at 5.

[1] The Department will treat IGWA's request as a petition to stay the Amended Curtailment Order set forth in the April 11, 2014 Mitigation Plan Order.

On April 25, 2014, Rangen filed *Rangen, Inc.'s Response in Opposition to IGWA's Second Petition to Stay Curtailment* ("Response"). Rangen argues that IGWA's request should be denied because:

> (1) an unapproved mitigation plan cannot be used to allow out-of-priority diversions and IGWA is not likely to obtain approval for its Tucker Springs Mitigation Plan; (2) IGWA's application for a permit to use the talus slope water cannot be used as the basis for the issuance of a stay; (3) junior-priority ground water pumpers have had ample opportunity to prepare for this curtailment; (4) the risk of curtailment of a junior –priority ground water right during a time of shortage is a risk that Idaho water users knowingly undertake; and (5) the injury to Rangen caused by junior-priority ground water pumping is ongoing and cumulative and the Director's revised curtailment order has been narrowly crafted to address the amount of water that would accrue to Rangen during the 2014-2015 season.

Response at 3.

No other parties filed responses to the Petition.

LEGAL STANDARD FOR A STAY

The Director has authority to stay a final order pursuant to the Department's rules of procedure:

> Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion.

IDAPA 37.01.01.780 ("Rule 780").

The authority to stay a final order is also reflected in I.C. § 67-5274 and I.R.C.P. 84(m), which provide that an "agency may grant, or the reviewing court may order, a stay upon appropriate terms." The use of the word "may" demonstrates the Director's discretionary authority to stay enforcement of an order. *See Bank of Idaho v. Nesseth*, 104 Idaho 842, 846, 664 P.2d 270, 274 (1983).

Neither the statute nor the rule define what constitutes "appropriate terms" or establish a clear test for determining when a stay is appropriate. There are no reported judicial opinions in Idaho discussing what qualifies as "appropriate terms" or that describe when a stay is appropriate pursuant to Rule 780, I.C. § 67-5274 or I.R.C.P. 84(m). Consequently, the Director must consult other authorities to determine when a stay is appropriate.

The authority of the Director to stay an order in an administrative proceeding is analogous to the authority of a district court to stay the enforcement of a judgment under I.R.C.P 62(a). In both circumstances, an order has been issued deciding the matter and a party can seek to have enforcement of the order stayed pending appeal or pending further action. A stay pursuant to I.R.C.P 62(a) may be granted by a district court "when it would be unjust to permit the execution on the judgment, such as where there are equitable grounds for the stay or where certain other proceedings are pending." *Haley v. Clinton*, 123 Idaho 707, 709, 851 P.2d 1003, 1005 (Ct. App. 1993). A stay is appropriate "[w]here it appears necessary to preserve the status quo ... ." *McHan v. McHan*, 59 Idaho 41, 80 P.2d 29, 31 (1938). Likewise, a stay is appropriate when, "[i]t is entirely possible that the refusal to grant a stay would injuriously affect appellant, and it likewise is apparent that granting such a stay will not be seriously injurious to respondent." *Id.*

ANALYSIS

Equity Justifies a Stay of the Curtailment Order as Amended in the April 11, 2014 Mitigation Plan Order.

A stay may be granted when refusal to grant the stay would injuriously affect one party and when granting the stay would not seriously injure the other party. *McHan v. McHan*, 59 Idaho 41, 46, 80 P.2d 29, 31 (1938). The Eastern Snake Plain Aquifer Model Version 2.1 predicted an average first-year accrual of 3.4 cfs of additional flow to the Curren Tunnel. In the Mitigation Plan Order, the Director clarified that the first annual period would start on April 1, 2014, with each subsequent year starting on the anniversary of the first year. *Mitigation Plan Order* at 5.

Curtailment of diversions of ground water for irrigation in April and May would provide little benefit to Rangen because significant irrigation with ground water does not normally intensify until late May or June. In contrast, curtailment of the irrigation of 25,000 acres during the period of reduced ground water use is significant. IGWA's Second Mitigation Plan has been published and a pre-hearing status conference is scheduled for April 30, 2014. The Second Mitigation Plan proposes direct delivery of water from Tucker Springs to Rangen. The plan is conceptually viable, and given the disparity in impact to the ground water users if curtailment is enforced versus the impact to Rangen if curtailment is stayed, the ground water users should have an opportunity to present evidence at an expedited hearing for their second mitigation plan. All of the standards of the conjunctive management rules will apply at the hearing.

A status conference regarding IGWA's Second Mitigation Plan is set for April 30, 2014. The Director will ensure that the hearing is expedited. The Director will revisit the stay at the time a decision on IGWA's Second Mitigation Plan is issued.

EXHIBIT K - SECOND STAY ORDER

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that IGWA's Second Petition to Stay Curtailment is GRANTED.

Dated this 28th day of April, 2014.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2014, the above and foregoing document was served on the following by providing a copy in the manner selected:

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EXHIBIT K - SECOND STAY ORDER

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Deborah J. Gibson

Deborah Gibson
Assistant to the Director
Idaho Department of Water Resources

EXHIBIT K - SECOND STAY ORDER

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) The petition for reconsideration is disposed of; or
(b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate

action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days: a) of the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

EXHIBIT L - SECOND MITIGATION PLAN

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Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY THE IDAHO GROUND WATER APPROPRIATORS FOR THE DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694 IN THE NAME OF RANGEN, INC.	Docket No. CM-MP-2014-001 **IGWA's Second Mitigation Plan and Request for Hearing**

INTRODUCTIONS

Idaho Ground Water Appropriators, Inc. (IGWA), through counsel, acting for and on behalf of its members and non-member participants in IGWA's mitigation activities, submits this mitigation plan pursuant to Conjunctive Management Rule 43 to provide additional alternative means of providing direct water flow to Rangen, Inc. (Rangen) to avoid curtailment of junior-priority groundwater rights under the Director's January 29, 2014, *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Curtailment Order"). This is the second mitigation plan submitted by IGWA in response to the Curtailment Order. This plan proposes an additional means of mitigation by delivery water directly to Rangen from Tucker Springs to Rangen. As with the mitigation alternatives outlined in IGWA's first mitigation plan dated February 12, 2014, the mitigation alternative set forth below enables the Director to exercise his authority and discretion in evaluating the factors to be considered under CM Rule 43.

EXHIBIT L - SECOND MITIGATION PLAN

DESCRIPTION OF MITIGATION PLAN

This mitigation plan, referred to herein as the "Tucker Springs Project," will benefit Rangen's water right numbers 36-2551 and 36-7694 which have as their source the Martin-Curren Tunnel. If this plan is approved, IGWA will attempt to acquire the right to use up to 9.1 cfs of water from Tucker Springs owned and operated by the State of Idaho Department of Fish & Game, which would be pumped approximately 1.3 miles to Rangen's place of use near Billingsley Creek. This would enable spring water discharged from the ESPA at Tucker Springs and currently used for fish production year-round to be delivered to Rangen's facilities for fish production year-round. The Tucker Springs Project would require the following which would be timely competed by IGWA at its expense:

(1) Acquisition of Tucker Springs water rights owned by the State of Idaho;
(2) Design and construction of a pump station with pumps, motors, and related equipment including necessary redundancy to continuously pump water from Tucker Springs to Rangen;
(3) Design and construction of approximately 1.3 miles of pipeline to deliver water from Crystal Springs to Rangen;
(4) Acquisition by purchase or condemnation of the necessary rights of way for the above described facilities and pipeline;
(5) Permission from Rangen to access its property for engineering and design purposes; and
(6) An easement from Rangen to construct and operate the pipeline and other facilities necessary to deliver water to Rangen's property.

REQUEST FOR HEARING

Pursuant to CM Rule 43.02, IGWA requests that this mitigation plan be promptly processed and advertised, and that an expedited scheduling conference be set with notice given to the parties to discuss this mitigation plan and schedule necessary hearings. As this mitigation plan is similar in concept to the other direct water delivery proposals set forth in IGWA's first mitigation plan scheduled for hearing to commence March 17, 2014, IGWA asks that testimony and evidence on this plan be accepted at the same time and preserved to promote efficiency and economy since the same parties are involved.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By: Randall C. Budge
RANDALL C. BUDGE
Attorneys for IGWA

March 10, 2014
Date

EXHIBIT L - SECOND MITIGATION PLAN

CERTIFICATE OF MAILING

I certify that on this 10th day of March, 2014, the foregoing document was served on the following persons in the manner indicated.

Randall C. Budge

Signature of person mailing form

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EXHIBIT L - SECOND MITIGATION PLAN

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EXHIBIT M - DIRECTOR'S LETTER

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 6, 2014

Re: IGWA's Second Mitigation Plan
Docket No. CM-MP-2014-003

Dear Interested Party:

On March 10, 2014, the Idaho Ground Water Appropriators, Inc. ("IGWA") filed *IGWA's Second Mitigation Plan and Request for Hearing* ("Second Mitigation Plan") with the Idaho Department of Water Resources ("Department") in response to the Department's January 29, 2014, *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962.*

On April 30, 2014, the Director conducted a status conference regarding IGWA's Second Mitigation Plan. All parties attended the conference. A hearing on IGWA's Second Mitigation Plan is scheduled for June 4, 5, and 6 at the Department's State Office in Boise, Idaho. *See Notice of Hearing, Order Authorizing Discovery, and Scheduling Order,* issued May 2, 2014.

At the Status Conference, a question was raised regarding the evidence IGWA must offer to satisfy its burden of proof at the hearing for the Second Mitigation Plan. At the request of the parties for guidance on this issue, I am providing a copy of the *Final Order Concerning the Over-the-Rim Mitigation Plan,* Doc. No. CM-MP-2009-004 (Mar. 18, 2011) ("Order") with this letter. The key points from the Order can be summarized as follows:

- Preliminary engineering plans may be acceptable proof at a hearing for a proposed mitigation plan. However, approval may be conditioned upon submittal of final plans.
- A mitigation plan may be approved upon conditions when the necessary easements and construction permits are pending.
- A mitigation plan may be approved upon conditions when a transfer is pending.

See Order at 6-8.

Please also refer to the review criteria of Rule 50.03 of the Conjunctive Management Rules. Components of the review criteria related to quantity, timing, and legality are specifically discussed in the *Order Approving in Part and Rejecting in Part IGWA's Mitigation Plan; Order Lifting Stay Issued February 21, 2014; Amended Curtailment Order*, issued April 11, 2014, and will be applied in the same way in reviewing IGWA's Second Mitigation Plan.

EXHIBIT M - DIRECTOR'S LETTER

The parties also requested guidance regarding the extent to which injury as a result of a transfer related to IGWA's Second Mitigation Plan should be addressed in this proceeding. The parties asserting that a transfer related to IGWA's Second Mitigation Plan will cause them injury may participate in this proceeding and may raise questions of injury. However, this mitigation plan proceeding should not preempt the full injury analysis that will arise in the subsequent transfer proceeding.

Sincerely,

Gary Spackman
Director

Encl.

EXHIBIT M - DIRECTOR'S LETTER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of May, 2014, the above and foregoing document was served on the following by providing a copy of the Guidance Letter to the Parties dated May 6, 2014 in the manner(s) selected:

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Deborah J. Gibson

Deborah Gibson
Administrative Assistant for the Director

EXHIBIT M - DIRECTOR'S LETTER

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-04013A, 36-04013B, AND 36-07148 (SNAKE RIVER FARM)	**CM-MP-2009-004**
IN THE MATTER OF THE THIRD MITIGATION PLAN (OVER-THE-RIM) OF THE NORTH SNAKE AND MAGIC VALLEY GROUND WATER DISTRICTS TO PROVIDE REPLACEMENT WATER FOR CLEAR SPRINGS SNAKE RIVER FARM (WATER DISTRICT NOS. 130 AND 140)	**FINAL ORDER CONCERNING THE OVER-THE-RIM MITIGATION PLAN**

Interim Director of the Idaho Department of Water Resources Gary Spackman ("Director") finds, concludes, and orders as follows:

FINDINGS OF FACT

I. Procedural Background

1. On March 5, 2009, the then-Director of the Department of Water Resources, David R. Tuthill, Jr. ("Director Tuthill") issued a *Final Order Accepting Ground Water Districts' Withdrawal of Amended Mitigation Plan, Denying Motion to Strike, Denying Second Mitigation Plan and Amended Second Mitigation Plan in Part; and Notice of Curtailment* ("Notice of Curtailment"). The Notice of Curtailment stated that because there was no longer an acceptable mitigation plan before the Director, it would be necessary to order curtailment of junior ground water rights, starting on March 16, 2009, unless a plan to replace depletions to Clear Springs Foods, Inc. ("Clear Springs") was received by March 12, 2009. Notice of Curtailment at 14.

2. On March 12, 2009, Director Tuthill received the Magic Valley Ground Water District and the North Snake Ground Water Districts' (collectively referred to herein as "Ground Water Districts") *2009 Replacement Water Plan and Third Mitigation Plan (Over-the-Rim) of North Snake Ground Water District and Magic Valley Ground Water District* ("Over-the-Rim plan").

3. The Over-the-Rim plan was developed by the Ground Water Districts to offset the depletive effects of junior-priority ground water withdrawals on Clear Springs' water rights by way of two proposals.

4. The Over-the-Rim plan proposed to provide ground water to Clear Springs from the conversion of irrigation wells that are situated directly above Clear Springs' facility. The plan proposed the construction of a piping system that would integrate numerous irrigation wells and pipe the water down the canyon wall to Clear Springs. The Ground Water Districts proposed to provide Clear Springs a maximum of 3.0 cfs.

5. The second proposal, to convey water right no. 36-4076 directly to Clear Springs, would be implemented if the over-the-rim proposal "is rejected or conditioned, or ... inadequate ...." Over-the-Rim plan at 9. Water right no. 36-4076 is a partially decreed spring right held by the Idaho Department of Fish and Game with a year-round use in the amount of 3.59 cfs with a priority date of January 1, 1893, which is senior to Clear Springs' water rights. Measurements by Watermaster Cindy Yenter indicate that the flows available from the springs supplying this right sometimes are less than the decreed quantity but there is consistently about 1.1 cfs of water.

6. On March 19, 2009, the Department received *Clear Springs Foods, Inc.'s Protest of the 2009 Replacement Water Plan and Third Mitigation Plan of North Snake Groundwater District and Magic Valley Groundwater District* ("Clear Springs Protest") and a *Petition for Reconsideration and Request for Hearing on the Director's March 5, 2009 Final Order.*

7. On March 24, 2009, the Ground Water Districts filed an *Augmentation to 2009 Replacement Water Plan and Third Mitigation Plan (Over-the-Rim) of North Snake Ground Water District and Magic Valley Ground Water District.*

8. On April 9, 2009, Director Tuthill entered an *Order Denying Clear Springs Foods, Inc.'s March 19, 2009, Petition for Reconsideration; and Granting Request for Hearing.*

9. A hearing on the Over-the-Rim plan was held December 7 and 8, 2009. Former Idaho Supreme Court Justice Gerald F. Schroeder acted as hearing officer.

10. On February 9, 2010, the hearing officer issued his *Opinion and Recommendation Concerning the Over-the-Rim Mitigation Plan* ("Recommended Order"). The Recommended Order was issued as a recommended order pursuant to Idaho Code § 67-5243. The hearing officer recommended that the Over-the-Rim plan be conditionally approved.

11. On February 23, 2010, the Ground Water Districts filed *Ground Water Districts' Motion for Clarification and Exceptions to the Opinion and Recommendation Concerning the Over-the-Rim Mitigation Plan* ("Motion for Clarification and Exceptions").

12. On February 25, 2010, Clear Springs filed its *Petition for Reconsideration* ("Petition for Reconsideration"). [1]

13. On June 1, 2010, the Ground Water Districts and Clear Springs filed a *Request for Stay*. The parties requested a stay of the Over-the-Rim plan until November 15, 2010.

II. The Hearing Officer's Recommended Order

14. The hearing officer concluded that the Over-the-Rim plan is an acceptable mitigation plan. Recommended Order at 6, 16.

15. The hearing officer found that the temperature of the water delivered through pumping would be the same as that utilized at the Clear Springs facility. Recommended Order at 6.

16. The hearing officer found that the plan would also meet the necessary standard of reliability: "Redundancy systems are available and designed into the system to provide backup to deliver the water in the event of power or mechanical failure or failure of a well." Recommended Order at 7.

17. The hearing officer found that water quality will be at least equal to the water that flows from the springs that supply the Clear Springs facility: "The wells to be utilized draw from the same body of water that ultimately supplies the water emerging in the canyon from springs. As such it is logical that it would have the same or very similar characteristics to the spring water. Testing from the wells confirms that conclusion." Recommended Order at 7. If a well falls below the quality standard of the water from spring flows, that well should be withdrawn from use. Id.

18. The hearing officer found that issues of biosecurity have been adequately addressed: "The planning provides for locked enclosures for the wells. Thereafter the water is transported through an enclosed pipeline that will be buried at the points where access would otherwise be easy. ... [t]he pipeline would provide a high level of security comparable to that of the spring flows." Recommended Order at 7.

19. The hearing officer rejected Clear Springs' argument that the Over-the-Rim plan is not an acceptable mitigation plan because it would damage Clear Springs' marketing image. Recommended Order at 8, 16. The hearing officer specifically held that the marketing strategy of Clear Springs falls outside the factors that should be considered in evaluating the proposed mitigation plan. "[T]he State should not engage in validating or rejecting the Clear Springs marketing strategy. The State should stop at assuring that Clear Springs receives the amount and quality of water it would otherwise receive through curtailment." Recommended Order at 16.

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[1] For purposes of this order, Clear Springs' Petition for Reconsideration will be treated as a brief in support of exceptions pursuant to IDAPA 37.01.01.720.02.c.

20. The hearing officer concluded that the following additional conditions must be satisfied before the Over-the-Rim plan is finally approved:

> 1) The proposed transfer of water rights must be approved;
>
> 2) The Ground Water Districts must have approval from the appropriate entities for easements and permits necessary for construction of the pipeline;
>
> 3) A detailed plain of maintenance and response to emergencies must be in place at the expense of the Ground Water Districts; and
>
> 4) The presentation of the final plans which meet legitimate concerns of Clear Springs.

Recommended Order at 16-17.

21. The hearing officer also imposed limits on the plan and its implementation:

> 1) The construction plan must not intrude on Clear Springs' right to use or market[2] its real property in the future which eliminates construction or the placement of facilities on Clear Springs property; and
>
> 2) There must be no blasting in the vicinity of the Clear Springs facilities during construction.

Recommended Order at 17.

22. The hearing officer concluded that at the time engineering of the system has been completed and all conditions for implementation of the Over-the-Rim plan have been met, Clear Springs should be given the opportunity to determine if it would accept water pumped over the rim. If so, construction must begin expeditiously. Id. If Clear Springs determines that it will not accept water from the Over-the-Rim pumping, the Ground Water Districts' obligation to mitigate should be suspended with a requirement of further exploration of alternatives to be reported to the Director periodically. Id.

III. Exceptions Filed By Parties

23. In the Motion for Clarification and Exceptions, the Ground Water Districts raise several issues regarding the hearing officer's recommended order. The Ground Water Districts seek to clarify the number of acres the Over-the-Rim plan anticipates converting. The hearing officer, referencing the Ground Water Districts' plan, stated that the Ground Water Districts propose converting 2,000 acres. Recommended Order at 2. The Ground Water Districts state that this was a typographical error in their plan, and that a little less than 1,000 acres will be converted. This clarification is acknowledged by the Director.

---

[2] The use of the term "market" by the hearing officer here does not include the marketing image of Clear Springs' product but instead references a possible sale of the property.

24. The Ground Water Districts also take exception with the timing of the steps described in the Recommended Order. As outlined above, the hearing officer recommended that before the mitigation plan is finally approved, a number of conditions must be satisfied:

1) The proposed transfer of water rights must be approved;

2) The Ground Water Districts must have approval from the appropriate entities for easements and permits necessary for construction of the pipeline;

3) A detailed plan of maintenance and response to emergencies must be in place at the expense of the Ground Water Districts; and

4) The presentation of the final plans which meet legitimate concerns of Clear Springs.

The hearing officer recommended that once these actions are completed, Clear Springs should then be given the opportunity to determine if it would accept water pumped over the rim. The Ground Water Districts argue that this order should be reversed and Clear Springs should first be required to make a decision whether it would accept water pumped over the rim. "Without first requiring Clear Springs' advance commitment to accept the water, requiring the Ground Water Districts to actually meet all of the conditions is entirely unnecessary and would be unduly burdensome, inefficient and a waste of resources." Motion for Clarification and Exceptions at 3. They argue that this is especially important because the CEO of Clear Springs, Larry Cope, already testified there is a strong likelihood that Clear Springs will not accept the water. Recommended Order at 15.

25. The Ground Water Districts also take exception with the conditions that "eliminates construction or placement of facilities on Clear Springs' property" and provide Clear Springs the opportunity to review and comment on construction plans. The Ground Water Districts argue these conditions would impede the Director's authority under the conjunctive management rules and Idaho Code.

26. In its Petition for Reconsideration, Clear Springs challenges the following conclusions made by the hearing officer:

1) Harm to Clear Springs' business image is "conjectural" and "should not prevent approval of the mitigation plan";

2) Proposed replacement water is different only in the method of delivery;

3) Consideration of the impacts of the well location and pumping operation can be investigated in the transfer proceeding; and

4) The Over-the-Rim plan is the only plan properly before the hearing officer.

CONCLUSIONS OF LAW

1. Idaho Code § 42-602, addressing the authority of the Director over the supervision of water distribution within water districts, provides:

> The director of the department of water resources shall have direction and control of the distribution of water from all natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished by watermasters as provided in this chapter and supervised by the director. The director of the department of water resources shall distribute water in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

In addition, Idaho Code § 42-1805(8) provides the Director with authority to "promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department."

2. Idaho Code § 42-603 grants the Director authority to adopt rules governing water distribution. In accordance with chapter 52, title 67, Idaho Code, the Department adopted rules regarding the conjunctive management of surface and ground water effective October 7, 1994, ("CM Rules"). CM Rule 0. The CM Rules prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against junior-priority ground water rights in an area having a common ground water supply. CM Rule 1.

3. CM Rule 43.01 sets forth the criteria for submission of a mitigation plan to the Director.

4. CM Rule 43.03 establishes the factors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights.

5. The Director concurs with the hearing officer's conclusion that the Over-the-Rim plan meets the necessary standard of temperature, reliability, water quality, and biosecurity. The Director concurs with the hearing officer's conclusion that the claim of potential damage to the marketing image of Clear Springs should not prevent approval of the mitigation plan.

6. The Director concurs with the hearing officer's conclusion that the Over-the-Rim plan, with conditions, is an acceptable mitigation plan under the CM Rules. However, the Director herein modifies the order of implementation recommended by the hearing officer.

7. The plan adequately describes the actions that will be taken by the Ground Water Districts to mitigate material injury to Clear Springs by pumping ground water over-the-rim for the beneficial purpose of fish propagation. As will be described below, the approval of the plan is conditional. Nevertheless, the plan, if implemented, will provide water, of sufficient quality,

to Clear Springs "at the time and place required by the senior-priority water right . . . ." CM Rule 43.03.b.

8. The determination that the Over-the-Rim plan can provide the proper quality of water in the requested amounts at the times necessary does not prejudge the legitimacy of the transfers or preclude objections to the transfers. However, given Clear Springs' previous statements about the refusal to accept water under the proposed mitigation plan, the Ground Water Districts are entitled to know whether Clear Springs will in fact refuse the replacement water prior to incurring the time and expense of a transfer proceeding.

9. As a condition of approval, however, the Ground Water Districts must still present a plan to Clear Springs which allows Clear Springs to fully evaluate the proposal. At the time of the hearing, the construction plans were not fully developed. The Ground Water Districts shall prepare a full conceptual plan for review by Clear Springs consistent with the Idaho Public Works Construction Standards. The conceptual plan should locate sources of water and the placement of pipe in both plan and profile views. The conceptual plan should describe the proposed modification of existing ground water wells and pumping systems and should specify the quantity of water proposed to be delivered, the pipe size, and pipe type. The conceptual plan should contain computations showing the amount of water proposed for delivery can physically be delivered by the conceptual delivery system. Finally, the conceptual plan should describe the methods of construction and security to minimize risk to Clear Springs of water contamination. The plan must include a detailed plan of maintenance and response to emergencies. This plan shall be prepared and submitted to the Department and Clear Springs by April 8, 2011.

10. Following submittal of the conceptual plan, Clear Springs must state, in writing, whether it will accept the water delivered through the over-the-rim pipeline before the Ground Water Districts need to take any further action (i.e., file transfers, seek easements, finish plans). Clear Springs must submit its written acceptance/rejection to the Department and the Ground Water Districts on or before April 22, 2011. The written acceptance/rejection must state whether Clear Springs will accept the piped ground water and whether Clear Springs will allow construction on its land related to placement of the delivery pipe. Rejection of the water by Clear Springs or Clear Springs' refusal to allow construction in accordance with an approved plan suspends the Ground Water Districts' mitigation obligations for the quantity of water that can physically be delivered to Clear Springs by the over-the-rim pipeline. The Director may require resubmission of the plan by the Ground Water Districts to address any reasonable design and construction concerns raised by Clear Springs. If the plan is accepted by Clear Springs, the Ground Water Districts must immediately file and pursue appropriate transfer applications and finalize all necessary approvals.

11. In its petition for reconsideration, Clear Springs argues that the hearing officer erred in finding that potential harm to Clear Springs' business reputation was conjectural. The Director agrees with and adopts the hearing officer's conclusion that the harm to Clear Springs' business reputation is conjectural. However, the hearing officer made potentially conflicting statements about the extent the Director should delve into an analysis of business reputation. These potentially conflicting statements should be addressed. The hearing officer recommended:

> In this case the State should not engage in validating or rejecting the Clear Springs marketing strategy. The State should stop at assuring that Clear Springs receives the amount and quality of water it would otherwise receive through curtailment.

Recommended Order at 16.

The Director agrees with the above statement. Elsewhere in the recommended order, however, the hearing officer seemingly backs away from the statement by saying that "under some circumstances, the claim of damage to a business reputation could preclude a mitigation plan." Recommended Order at 10. The Director disagrees with the suggestion that business reputation could preclude a mitigation plan. The responsibility of the Director is to determine whether the replacement water provided under the mitigation plan allows the senior user to meet the beneficial use of the senior water right. CM Rule 43.03. Here, Clear Springs' senior water rights are for fish propagation. The Director must evaluate whether the plan will provide Clear Springs with the amount and quality of water it is authorized to be able to raise fish. CM Rule 43.03.b. Issues of business models and business reputation are outside the appropriate scope of the Director's evaluation because they extend beyond whether the replacement water is adequate for its intended purpose. Business reputation is outside of the appropriate scope of the Director's evaluation and is not something the Director should consider.

12. It its petition for reconsideration, Clear Spring also claims the hearing officer erred by concluding the replacement water is different only in the method of delivery. Clear Springs argues that the source of its water rights is "springs" not ground water. Petition for Reconsideration at 10. Clear Springs suggests that this means that replacement water cannot have a source different from the water right it replaces. There is no support for this argument in the CM Rules or Idaho Code. As discussed above, the focus in this proceeding is whether the replacement water is adequate for its intended purpose. The fact that Clear Springs' water rights have been decreed with a source of springs does not preclude use of ground water for mitigation.

13. The hearing officer held that issues related to injury to existing water rights caused by the transfer of the ground water rights did not need to be addressed in this proceeding but could be addressed in the transfer proceeding. Recommended Order at 11-12. Clear Springs argues that the hearing officer does not have the discretion to "pre-approve" a mitigation plan. Petition for Reconsideration at 12. Contrary to Clear Springs' suggestion, the hearing officer did not "pre-approve" the plan but recommended that it be approved upon conditions. CM Rule 43.02 provides that the Director is to consider the mitigation plan under the procedural provisions of Idaho Code § 42-222. Idaho Code § 42-222 provides that approval may be granted "in whole, or in part, or upon conditions" provided no other water rights are injured. Here, the Director views the hearing officer recommendation as recommending that the Director approve the mitigation plan contingent upon certain conditions. The Director agrees with this approach.

14. Clear Springs also argues that the hearing officer erred by not considering other alternative mitigation methods that were discussed in the proceeding. Petition for Reconsideration at 12. At the hearing, Clear Springs presented evidence of prior mitigation plans that were no longer under consideration. The hearing officer correctly identified that

"these prior proposals are not relevant to the question of whether the Over-the-Rim plan will provide an acceptable amount of water of proper quality day in and day out." Recommended Order at 10. The hearing officer was correct that there might be other alternatives to curtailment but there are no viable alternatives in this record.

15. The Hearing Officer recommended that if Clear Springs determines that it will not accept water from the Over-the-Rim plan, the Ground Water Districts' obligation to mitigate should be suspended with a requirement of further exploration of alternatives to be reported to the Director periodically. Recommended Order at 17. The Director does not adopt the hearing officer's recommendation in its entirety. The Director agrees with the hearing officer that if Clear Springs does not accept water from the Over-the-Rim plan, the Ground Water Districts' obligation to mitigate should be suspended. However, there will be no requirement of further exploration of alternatives to be reported to the Director periodically. The suggestion by the hearing officer to have continued exploration of alternatives is too vague and will only lead to future litigation. Clear Springs will be able to decide whether or not to accept the water from the Over-the-Rim project, but will not be allowed to reject it, and then demand some other solution at some indeterminate time.

ORDER

Based upon and consistent with the foregoing, the Director hereby orders as follows:

IT IS ORDERED that the Over-the-Rim plan is conditionally approved. The Over-the-Rim plan is an acceptable mitigation plan as it provides replacement water of sufficient quality and temperature and in the time needed by Clear Springs. The argument that the plan is not an acceptable mitigation plan because it would damage Clear Springs' marketing image is rejected. Certain conditions need to be met by the Ground Water Districts. The Ground Water Districts shall provide additional design details to Clear Springs as outlined in this order. Clear Springs shall provide a response as outlined in this order. If the plan is accepted by Clear Springs, the Ground Water Districts must immediately file and pursue appropriate transfer applications and finalize all necessary approvals. If the plan is rejected by Clear Springs, the Ground Water Districts' mitigation obligation will be reduced by the amount of water the over-the-rim pipeline could physically deliver to Clear Springs. The Director will issue a separate "as applied" order shortly, which will address the effect of the conditionally approved mitigation plan with relation to the 2011 irrigation season.

IT IS FURTHER ORDERED that all other requests for relief by the Ground Water Districts and Clear Springs, unless specifically discussed herein, are hereby denied.

IT IS FURTHER ORDERED that this is a FINAL ORDER of the agency. Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law pursuant to Idaho Code § 67-5246.

EXHIBIT M - DIRECTOR'S LETTER

IT IS FURTHER ORDERED that pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by the final order or orders previously issued by the Director in this matter may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which a hearing was held, the final agency action was taken, the party seeking review of the order resides, or the real property or personal property that was the subject of the agency action is located. The appeal must be filed within twenty-eight (28) days: (a) of the service date of the final order; (b) of an order denying petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Dated this 18th day of March, 2011.

Gary Spackman

GARY SPACKMAN
Interim Director

EXHIBIT M - DIRECTOR'S LETTER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of March, 2011, the above and foregoing, was served by the method indicated below, and addressed to the following:

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cmm@racinelaw.net

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Victoria Wigle
Administrative Assistant to the Director

IGWA'S SECOND MITIGATION PLAN
TUCKER SPRINGS PROJECT REPORT

Prepared for

THE IDAHO GROUND WATER APPROPRIATORS, INC.

NORTH SNAKE GROUND WATER DISTRICT

MAGIC VALLEY GROUND WATER DISTRICT

SOUTHWEST IRRIGATION DISTRICT

Prepared by

SPF Water Engineering, LLC
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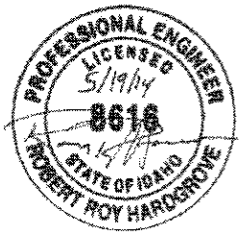
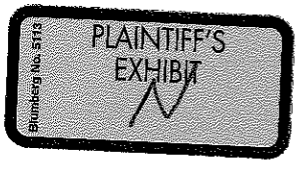
May 19, 2014



SPF WATER ENGINEERING



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1. TUCKER SPRINGS PROJECT SUMMARY

SPF Water Engineering, LLC (SPF) was hired to design the infrastructure required to implement the Idaho Ground Water Appropriator's (IGWA's) Second Mitigation Plan, also known as the Tucker Springs Project (Project). The Project concept proposes construction of a pumping station and pipeline from the State of Idaho Department of Fish & Game (IDFG) property, where Upper Tucker Springs is located, to the Rangen, Inc. (Rangen) property approximately 1.78 miles away. To date, the engineering required to construct the Project is 60% complete. Current engineering drawings are included as Appendix A. This memorandum summarizes the work SPF has completed regarding the Project.

2. WATER RIGHTS

The Project is designed to pump up to 10 cfs of IDFG water right 36-2055 from Upper Tucker Springs to Rangen's facility adjacent to Billingsley Creek. Water right 36-2055 authorizes the diversion of 64 cfs for fish propagation purposes from Upper Tucker Springs and Riley Creek with a priority date of September 16, 1947. An application for water right transfer (Appendix B) has been submitted by North Snake Ground Water District, Magic Valley Ground Water District, and Southwest Irrigation District on behalf of IDFG to add a nature of use and additional place of use for up to 10 cfs of the water right. The additional nature is mitigation. The additional place of use consists of the Rangen Fish Hatchery and the Hagerman Valley served from Billingsley Creek downstream of the Rangen Hatchery. If approved, the transfer will allow up to 10 cfs from Upper Tucker Springs to be diverted to Rangen, where the water will be discharged into the Rangen raceways and thereafter be discharged to Billingsley Creek providing an enhanced supply and additional benefit for downstream users.

Upper Tucker Springs is the source for numerous water rights, including eight rights that are senior to IDFG right 36-2055. The senior water rights total 45.68 cfs. IDFG holds four water rights from Upper Tucker Springs, totaling 87.16 cfs with priority dates ranging from 1908 to 1956. IDFG also holds three water rights totaling 88.22 cfs from Riley Creek.

3. WATER QUALITY

IDFG provided SPF with water quality data from 2008 and 2013 for its Tucker Springs water source. SPF is not aware of Rangen providing water quality data from either the Curren Tunnel or Billingsley Creek for comparison purposes, even though Rangen's water quality and temperature records have been requested in discovery.

SPF performed a limited water quality field analysis on May 7, 2014 at both Tucker Springs and Rangen. This analysis focused on temperature, pH, electrical conductivity,

specific conductance, and dissolved oxygen. The results are shown in Table 1. In general, the Tucker Springs water has a slightly higher pH and slightly lower electrical conductivity and dissolved oxygen concentrations compared to the water used by Rangen. It is beyond SPF's current scope to determine what effect if any these differences might have on fish-rearing, but it should be noted that Tucker Springs is currently used by IDFG to raise trout. It should also be noted that the pH from the two IDFG reports were 7.4 on both occasions, and that dissolved oxygen can be readily increased through aeration, if necessary.

Rangen Field WQ		pH Meter	Conductivity Meter		DO Meter	
Location	Date/Time	pH	EC (µS)	SC (µS)	DO (mg/L)	% Saturation
Upstream Farmers Box	5/7/2014 9:30	7.28	263.7	326.1	8.3	93
Upstream Rangen Box	5/7/2014 9:38	7.28	261.8	323.7	8.5	95
Upstream Bridge Diversion	5/7/2014 9:52	7.52	262.4	325.5	8.6	96
Tucker Springs Field WQ		pH Meter	Conductivity Meter		DO Meter	
Location	Date/Time	pH	EC (µS)	SC (µS)	DO (mg/L)	% Saturation
Upstream IDFG Collection Box	5/7/2014 10:57	7.71	255.9	314.7	8.0	89

Table 1. Water Quality Field Data

SPF also took temperature readings on May 7, 2014. Three different instruments were calibrated with a mercury thermometer and a correction factor by dividing the thermometer reading by the instrument reading. Field measurements of temperature and the corrected temperatures are shown in Table 2. The temperate readings at Tucker Springs were between 0.1 and 0.6 degrees Celsius higher than the readings at Rangen. As with the other measurements, it is beyond SPF's current scope to determine what effect, if any, these differences might have on fish-rearing.

Rangen Field WQ		pH Meter[4]		Conductivity Meter[5]		DO Meter[5]	
Location	Date/Time	Temp (°C)	Corr Temp (°C)[1]	Temp (°C)	Corr Temp (°C)[2]	Temp (°C)	Corr Temp (°C)[3]
Upstream Farmers Box	5/7/2014 9:30	14.8	15.7	15.0	15.9	15.1	15.9
Upstream Rangen Box	5/7/2014 9:38	14.8	15.7	15.0	15.9	15.0	15.8
Upstream Bridge Diversion	5/7/2014 9:52	14.6	15.5	14.8	15.7	14.6	15.4
Tucker Springs Field WQ		pH Meter		Conductivity Meter		DO Meter	
Location	Date/Time	Temp (°C)	Corr Temp (°C)[1]	Temp (°C)	Corr Temp (°C)[2]	Temp (°C)	Corr Temp (°C)[3]
Upstream IDFG Collection Box	5/7/2014 10:57	15.1	16.1	15.2	16.1	15.2	16.0

1 - Calibrated against mercury thermometer using tap water, correction factor = 1.0634
2 - Calibrated against mercury thermometer using tap water, correction factor = 1.0583
3 - Calibrated against mercury thermometer using tap water, correction factor = 1.0531
4 - Temperature accuracy of 0.5°C
5 - Temperature accuracy of 0.2°C

Table 2. Temperature Readings.

An analysis to determine how much the water temperature may increase after 10 cubic feet per second (cfs) is pumped and piped 1.78 miles from Tucker Springs to Rangen was performed by Emily LoDolce, P.E. (AMEC). This analysis shows that the temperature is likely to increase 0.22°F or 0.12°C. The complete analysis is attached as Appendix C.

SPF does not see any critical water quality or temperature disparities between the two facilities' water sources. The IDFG successfully raise trout at its Hagerman Hatchery using Tucker Springs' water. The Second Mitigation Plan assumes that water from the Tucker Springs project will be suitable for raising trout at Rangen.

4. PROJECT DESIGN

4.1. Pipeline Alignments

IGWA asked SPF to design a 10-cfs pumping and pipeline system to reliably deliver 9.1 cfs from Tucker Springs to the Rangen facility. IGWA provided SPF at the outset with two conceptual alignments depicted on a map prepared by the Idaho Department of Water Resources (IDWR), referred to as the Musser Alignment and the Morris Alignment. IGWA requested SPF pursue an initial design of both alignments, to provide flexibility with obtaining pipeline easements. SPF evaluated both alignments based on construction feasibility, Hagerman Highway District (HHD) input, existing infrastructure, and topography. Both alignments are shown in Figure 1 and are described further in the following sections.

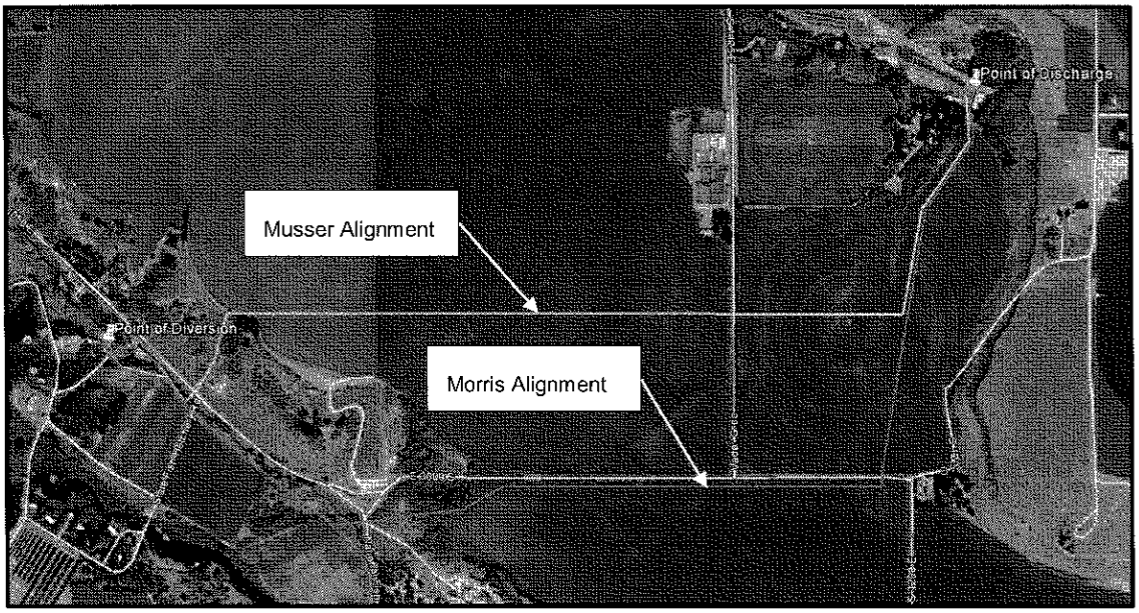


Figure 1. Preliminary Pipeline Alignments

SPF hired Quadrant Consulting, Inc. (Quadrant) to perform a topographical survey of the two alignments. Quadrant surveyed a 50-foot to 100-foot width along both alignments, providing elevation data to allow minor alignment modifications to minimize high and low points in the alignment due to topography.

4.1.1. Musser Alignment

From Tucker Springs, this alignment travels southeasterly to a dirt road that parallels the Brailsford Ditch, then follows this road for approximately 200 feet, then turns northeast and across the Brailsford Ditch and the S 1050 E paved roadway. A directional bore under both the ditch and the roadway is anticipated.

Once across S 1050 E, the pipeline will travel upslope, in a northerly direction across IDFG property to the Musser property. The pipeline will then travel east across irrigated Musser property, then across S 1175 E. Once across the roadway, the pipeline will travel east and then north on property owned by Butch Morris, then onto property owned by Walt Candy, until finally entering property owned by Rangen.

The Musser Alignment is 1.57 miles long, with a maximum elevation 192 feet higher than Tucker Springs.

4.1.2. Morris Alignment

From Tucker Springs, this alignment follows the dirt road that parallels the Brailsford Ditch, staying on State of Idaho property. This alignment will avoid being in the right-of-way of S 1050 E, as the HHD discourages the installation of pipelines that run parallel within their maintained right-of-way. This alignment will also avoid the Brailsford Ditch that was recently enclosed with a 27-inch PVC pipeline due to a canal failure that occurred in 2013.

The pipeline will then cross the Brailsford Ditch and the National Fish Hatchery Road, by directional bore, before entering property owned by Butch Morris. The pipeline will then travel upslope and parallel to E 3000 S through irrigated fields, staying greater than 25 feet from the centerline of the road to avoid being in the HHD's maintained right-of-way. The pipeline will turn north and cross E 3000 S, anticipated to be by open-cut. The pipeline will continue to run on Morris property before following the remainder of the Musser Alignment north to the Rangen property.

The Morris Alignment is 1.78 miles long, with a maximum elevation 190 feet higher than Tucker Springs.

4.1.3. Preferred Alignment

Both alignments require easement agreements with three property owners and two HHD crossings. The Musser Alignment was initially the preferred alignment due to its shorter length and fewer construction challenges. However, the Musser family is reportedly unwilling to commit to granting a pipeline easement across their property.

Therefore, SPF was instructed to continue with engineering of the Morris Alignment only. The State of Idaho, Mr. Morris, and Mr. Candy are all reportedly agreeable to granting an easement through their respective properties for the pipe.

4.1.4. Highway District Approval

SPF presented the Morris Alignment to the HHD superintendent, Rich Regnier, on May 7, 2014. Review of the Morris Alignment was added to the May 12, 2014 HHD Commissioner's board meeting and Mr. Regnier presented it to the Commissioners on SPF's behalf. SPF requested that HHD review the applicable design sheets and grant preliminary approval for the alignment, including an open-cut crossing at E 3000 S, a horizontal directional bore under the National Fish Hatchery Road, and installing two air valve vaults on the shoulder of E 3000 S. The HHD granted preliminary approval on May 14, 2014 via the email included as Appendix D. This confirms that HHD will allow the pipe to be installed within its right of way. If the IDWR approves the Second Mitigation Plan and the Project moves forward, the pipeline contractor will be required to obtain a permit from the HHD and pay any associated fees required at the time of construction.

4.2. Spring Intake Design

The Project will divert water from Upper Tucker Springs at the same location on IDFG property that IDFG currently diverts water into the Hagerman State Hatchery. The IDFG currently diverts water through two pipelines at this spring source. The Project will be supplied from the same source that currently feeds IDFG's larger and lower pipeline, and will require construction of a new collection box in Upper Tucker Springs. A photograph of the current IDFG lower collection box and the approximate location for the Project's new collection box is shown in Figure 2.

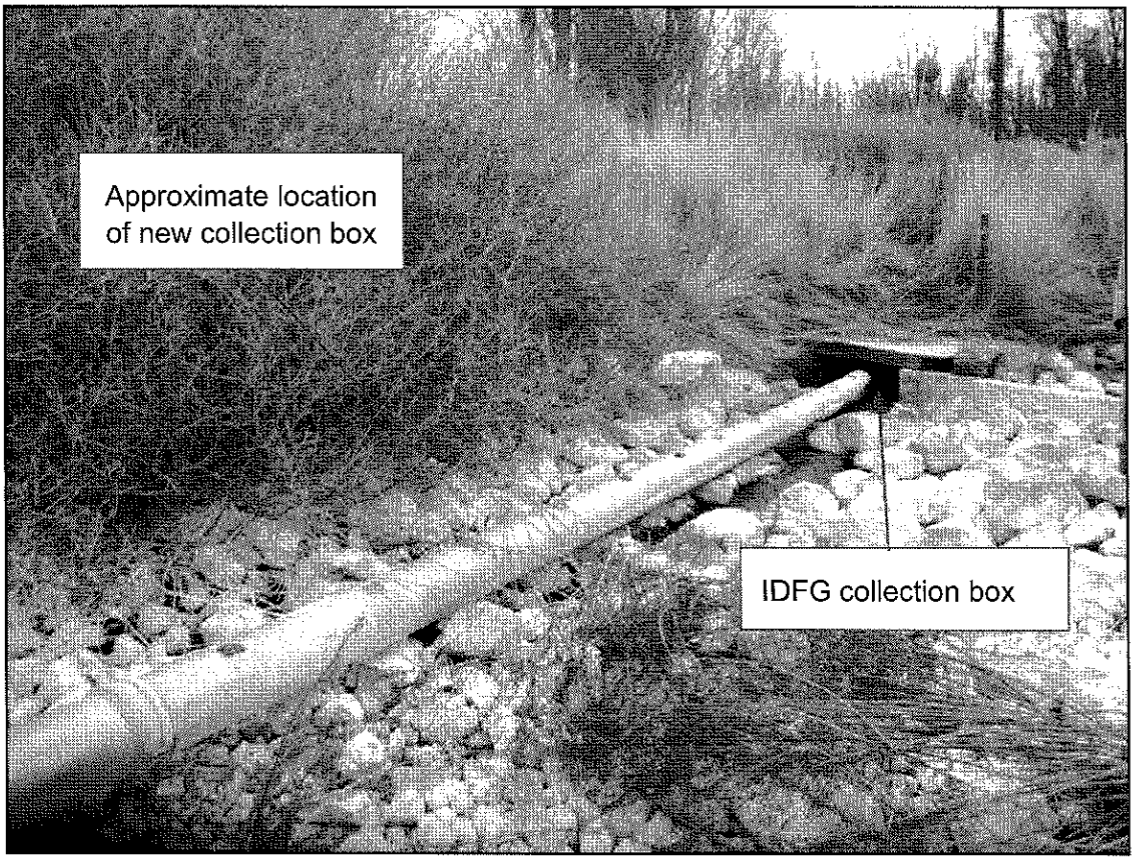


Figure 2. Tucker Springs Collection Site

Per the letter of intent (LOI) between IGWA, IDFG, and the Idaho Water Resource Board, IGWA will be allowed to divert up to 10 cfs from Tucker Springs. The LOI states IDFG will grant a permanent easement to IGWA to access, design, construct, operate and maintain the water intake, collection facilities, pump station, pipeline, and other facilities as necessary to divert and deliver the 10 cfs to Rangen. The letter of intent is included in Appendix E.

The 60% design anticipates using a precast collection box with bar grate and expanded metal cover. A 24-inch diameter gravity pipeline will deliver water from the collection box to a wet well that will house the pumps. A head gate will be installed on the upstream end of the 24-inch pipe to isolate the feed to the wet well for maintenance. Check boards slots are also included on the upstream side of the collection box. This will make it possible to isolate flow for sediment removal within the collection box. The spring collection box detail is included as Figure 3.

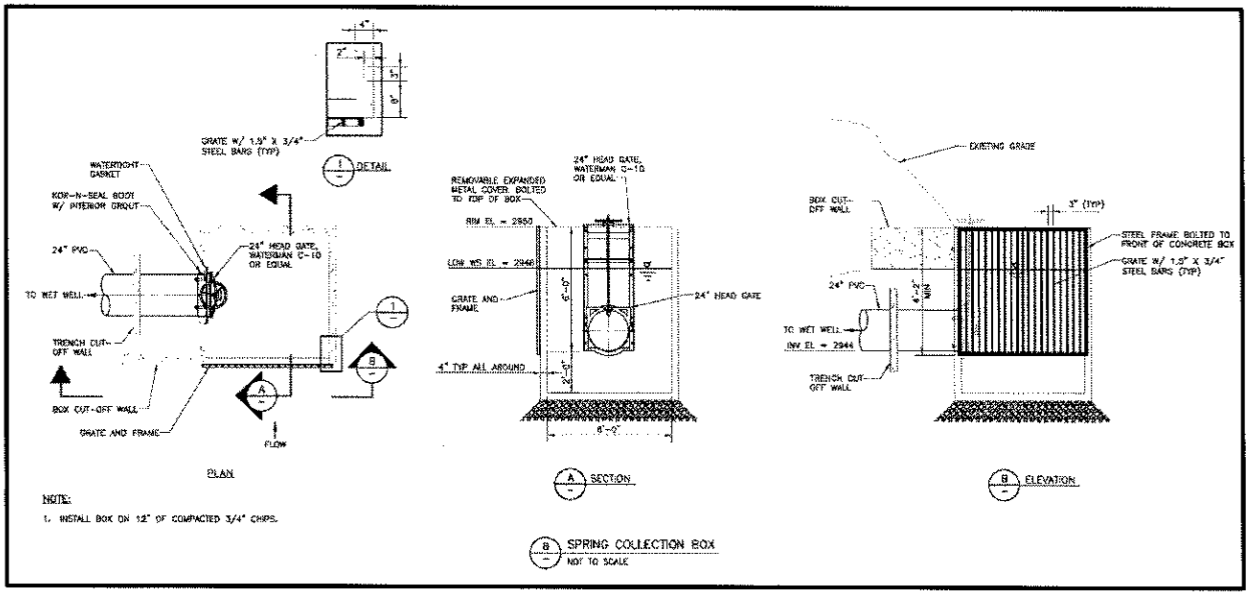


Figure 3. Spring Collection Box Detail

Currently IDFG diverts over 40 cfs from the spring source into its lower collection box and through their large pipe to the Hagerman State Hatchery. The average diversion through this pipe from October 2010 through December 2013 was 42.97 cfs. IDWR has monitored the daily IDFG flows at Tucker Springs since the fall of 2010. This daily flow data was provided by IDWR. Figure 4 is a graph of the daily flows for this time period.

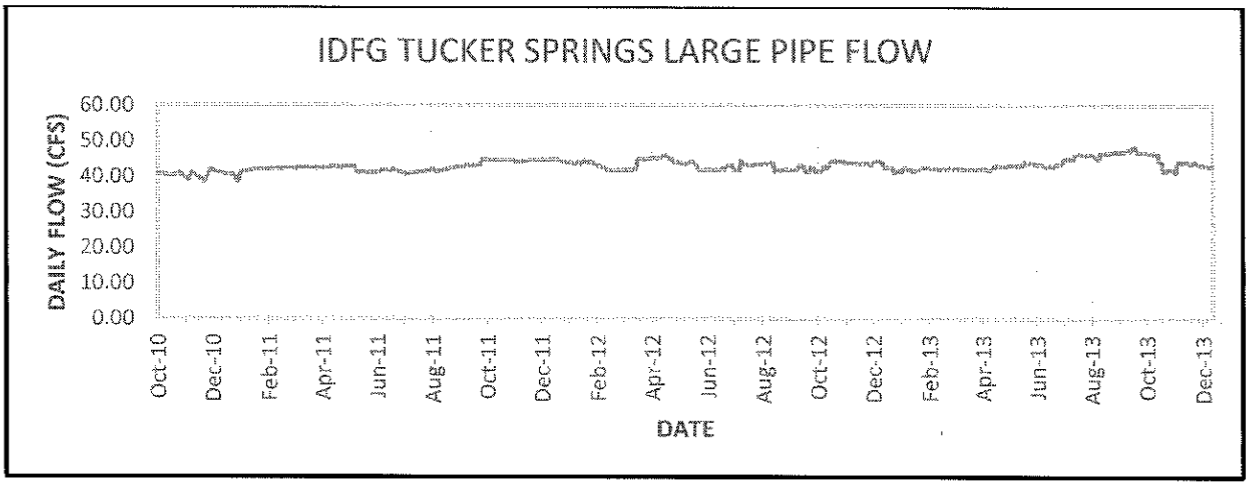


Figure 4. IDFG Daily Large Pipe Flows

It is not known at this time how much spring discharge is available in addition to the IDFG diversion at this specific location. The average IDFG diversion in excess of 40

cfs is more than four times the flow needed to supply the Project's proposed maximum 10 cfs diversion.

4.3. Pump Station Design

The 60% design set contemplates utilizing a skid-mounted packaged pump station; including pumps, mechanical piping, valves, flow meter, variable frequency drives (VFDs), and associated controls, generator, and enclosure. The pump station will include three short-set line-shaft turbine pumps. Two of the pumps will be duty pumps and one will be on standby to ensure that two pumps can operate at all times should one be taken out of service for maintenance. The pumps will be placed in an 8-foot diameter, 20-foot deep, precast concrete wet well. The wet well will be fed from a 24-inch diameter gravity line from the spring collection box.

To deliver 10 cfs from Tucker Springs to Rangen, the pump station will have to generate approximately 243 feet of total dynamic head (TDH). The TDH calculation assumes:

- 2,980 feet of 24-inch fused high density polyethylene (HDPE) pipe (DIPS, SDR 11, 20.83-inch I.D.)
- 6,380 feet of 24-inch HDPE pipe (DIPS, SDR 17, 22.58-inch I.D.)
- Pumping water elevation of 2,948 feet at Tucker Springs
- A maximum pipeline elevation of 3,138 feet
- A pressure sustaining valve to maintain backpressure equal to 25 feet over the maximum elevation of the pipeline, equal to 3,163 feet
- Connection to Rangen's existing 14-inch buried steel pipe between the hatch house and the small raceway
    - Assumed design flow of 4 cfs (1,800 gpm) to Rangen's small raceway
    - Assumed design flow of 6 cfs (2,700 gpm) to the Rangen box

With a TDH of 243 feet and a delivery rate of 10 cfs (4,488 gpm), total brake horsepower required is 344 hp, or 172 hp per pump with two pumps running. The pumps have nominal 200-hp motors. All three 200-hp pumps will be controlled by VFDs and paced off flow to maintain any operator-adjustable flow rate up to 10 cfs. System operation will be controlled by a programmable logic controller with remote monitoring and auto-restart capabilities. The packaged pump station will include an isolation and check valve on each pump, a mainline butterfly valve, pressure relief valve, combination air valve, and a flow meter. A generator is proposed for the final design documents to provide emergency power. The pump station will be enclosed for protection from weather and to provide sound attenuation. The insulated enclosure will be heated and ventilated.

The pump station will be designed to deliver a maximum flow of 10 cfs at 243 feet of TDH. Because the pump station is using two VFD-controlled pumps paced off of flow, it can be programmed to deliver the phased in lower direct flows identified by IDWR in the Rangen curtailment order. These flows were determined to be:

- 1st Year: 3.4 cfs (1,525 gpm)
- 2nd Year: 5.2 cfs (2,335 gpm)
- 3rd Year: 6.0 cfs (2,695 gpm)
- 4th year: 6.6 cfs (2,965 gpm)
- 5th year: 9.1 cfs (4,085 gpm)

Power for the pump station will be delivered from Idaho Power Company (IPCo) from a three-phase distribution line that runs adjacent to the proposed pump station location. SPF met IPCo's distribution engineer, Bud Garmendia, on site on April 22, 2014. Mr. Garmendia worked with IPCo's field engineer to determine if the distribution line has the capacity and whether any upgrades were needed to the line. IPCo informed SPF via e-mail that no upgrades were needed, and the distribution line can adequately feed the proposed 600-hp pump station service. It is currently assumed IPCo will set a pad mount transformer adjacent to the pump station and feed the transformer from an existing power pole approximately 150 feet from the pump station. When the Tucker Springs design moves forward, a work order will be pursued with IPCo requesting they complete their design. Their design will be referenced in SPF's final design documents.

The pump station is designed to be a reliable, year-round facility. It includes a redundant pump, remote monitoring and alarming capabilities, auto-restart, and a proposed standby power generator and auto-transfer switch. The pump station VFDs are controlled by water flow, allowing them to automatically adjust their speed to deliver a constant flow to Rangen without manual adjustments. The pump station location is on a dead-end road on IDFG property where typically only staff members travel. The enclosure will be lockable and durable. All these items will make the pump station dependable, biologically and physically secure, and will minimize downtime due to maintenance and power outages.

4.4. Pipeline Design

The pipeline will follow the Morris Alignment identified in Section 4.1.2 of this report. This alignment is approximately 1.78 miles long with ~3,000 feet of it being SDR 11 (200 psi) HDPE pipe and ~6,400 feet being SDR 17 (125 psi) HDPE pipe. HDPE is a very durable and low-friction pipe. It has a better friction coefficient than PVC, which minimizes head loss due to friction and is less susceptible to any build-up on the interior surface of the pipe.

The working pressure at the pump station will be approximately 105 psi. The HDPE DIPS DR11 pipe specified in the 60% design documents downstream of the pump station has a pressure rating of 200 psi, the static pressure rating of the pipe. Per AWWA C901-08, DR11 HDPE PE4710 pipe can safely handle a recurring pressure surge of 300 psi at 80°F and an occasional pressure surge of 400 psi. The specified pipe is designed to accommodate the pressure surges, or water hammer, that may occur due

to pressure transients in the system resulting from power outages or rapid valve closures. The final design effort will include a hydraulic transient analysis to identify if additional surge mitigation measures are needed.

The pipe will be connected using a butt-fusion welding machine. The pipe comes in 50-foot lengths which will result in approximately 200 butt-fused joints. The interior welds will be de-beaded to keep the interior a continuous smooth surface. This type of HDPE installation results in a fully restrained and leak-free pipeline. The pipeline has an approximate 60-foot bending radius, which eliminates the need for fittings on vertical and horizontal bends of 45 degrees or less. The design contemplates only needing one 90-degree elbow at the E 3000 S crossing. The rest of the alignment bends are made with pipe deflection.

A minimum of 3 feet of cover is required for the pipeline installation. In many places the bury depth is greater than this to maintain straight grades in the pipe. The grading of the pipe is necessary to minimize the number of high points and low points in the alignment. Over the 1.78 miles, the design limited the high points and low points to two each. Combination air valves will be installed at the high points and pipeline drains will be installed at the low points. Four additional combination air valves will be installed along the alignment. Combination air valves will release air during pipeline filling, let air enter the pipe when it is being drained, and release small amounts of accumulated air when the pipe is under pressure. These valves help protect the pipe during filling and draining events and minimize the amount of air in the line, which reduces the friction losses in the pipeline. In areas that are safe from vehicles or farm equipment, the air valves are placed directly over the pipe with access via a manhole. Where the pipeline is in a road or a farmed field, the air valve is remotely located in a vault and fed with a small diameter lateral line.

Where the pipeline crosses the Brailsford Ditch and the National Fish Hatchery Road, a horizontal directional bore is planned to minimize disturbance to the existing facilities in this area. The bore will be approximately 250 feet long and will go under the piped ditch, the road, a culvert, and the phone line. The bore will start on the State of Idaho property on the west and end on the Morris property to the east.

Where the pipeline crosses E 3000 S, open-trench construction methods are anticipated. Mr. Regnier of HHD provided HHD pipeline crossing criteria to SPF and this information was incorporated into the trench detail. This detail is shown as Figure 5 and depicts the different bedding, backfill, and compaction requirements along the alignment.

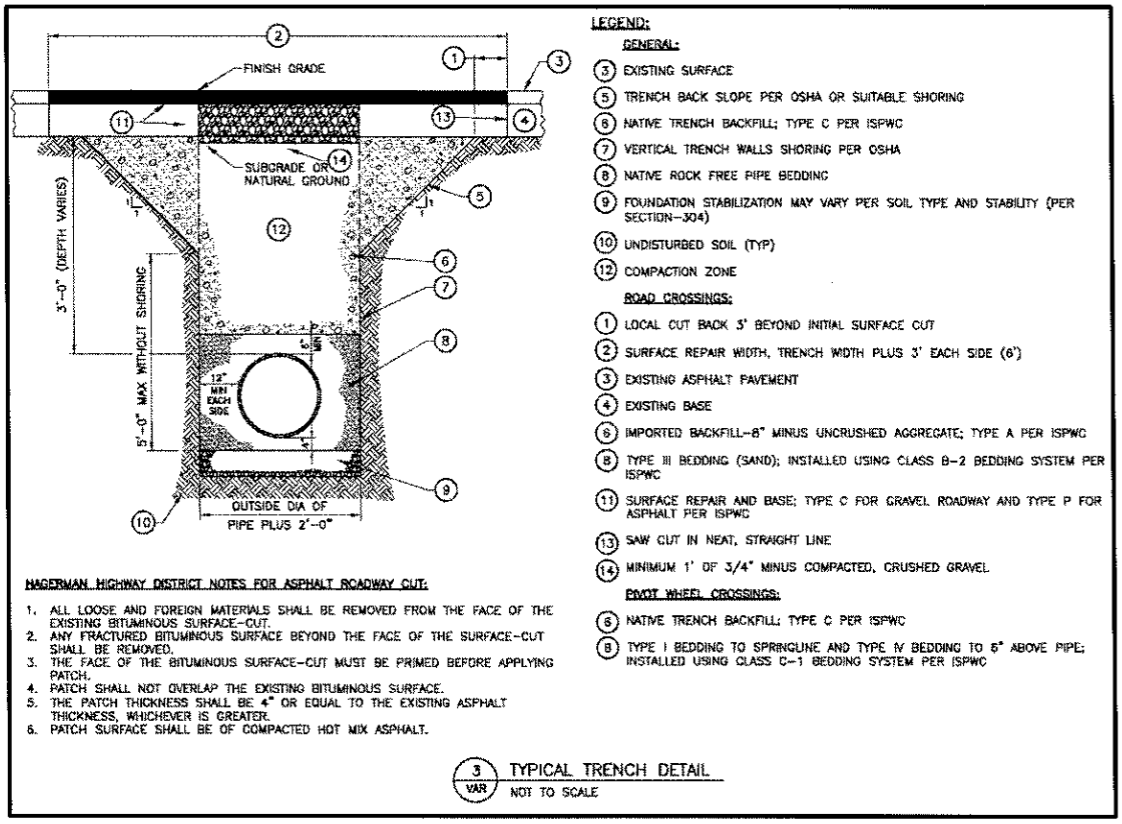


Figure 5. Typical Trench Detail

4.5. Rangen Tie-In Design

The pipeline will only need to cross approximately 150 lineal feet of Rangen property to make the proposed tie-in. The 24-inch HDPE pipe will transition to 12-inch diameter ductile iron pipe, and will enter a precast concrete valve vault housing a 12-inch diameter pressure sustaining valve. The pressure sustaining valve is provided to ensure a full pipeline upstream of the valve is maintained and enough pumping head is developed to transport water over the mainline high-point without creating a vacuum condition. This valve is designed to maintain a minimum upstream pressure in the pipeline under all static and operating conditions. Two 12-inch isolation valves are provided on either side of the pressure sustaining valve, and a 12-inch bypass line with isolation valve around the pressure sustaining valve is provided to maintain delivery to Rangen should the pressure sustaining valve need maintenance or replacement.

Directly downstream of the valve vault, the 12-inch ductile iron line will connect to the existing 14-inch buried steel pipeline that exists between the hatch house and the small raceway. A 14-inch by 12-inch flanged ductile iron tee will be used for the tie-in. A 14-inch butterfly valve will be installed on the small raceway leg of the tee to allow control of flow to the small raceway. Flange coupling adapters (14-inch IPS) will be used to

transition from the flanges to the plain ends of the steel pipe. There is an existing 14-inch valve located in a vault near the hatch house that could be used to control flow from or to the Rangen Box. In addition, there is an existing valve and lateral that can be used to direct flow from the 14-inch pipeline to the hatch house.

The pressure sustaining valve vault and 14-inch tie-in is detailed in Figure 6.

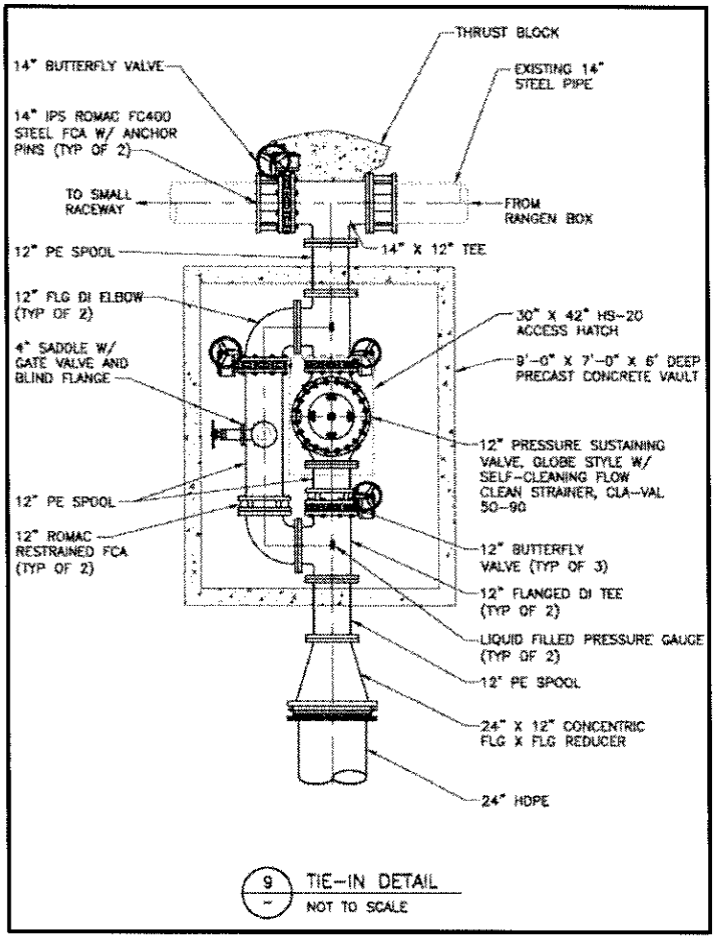


Figure 6. Rangen Tie-in Detail

The existing 14-inch pipeline transports water from the Rangen Box to the small raceways. The pipe from Tucker Springs will tie-in to this 14-inch pipe, allowing flows to be directly delivered to the small raceways through the 14-inch pipe, or to the large raceways in two ways. First, water can flow to the large raceways after it flows through the small raceways via an existing 18-inch diameter pipeline. Second, water not taken into the small raceways will be delivered to the Rangen Box through the 14-inch pipeline, spilled into Billingsley Creek, and diverted to the large raceways at the Bridge Diversion. For design purposes it was assumed 4 cfs would be delivered to the small raceways

and 6 cfs would be delivered to the Rangen Box, but if the small raceways can take additional flow, a larger portion of the 10 cfs can be sent that direction. The distribution of water between the small raceways and the Rangen Box will be adjusted by opening or closing a 14-inch butterfly valve that will be installed on the small raceway leg of the tee.

The current design is conservative in nature and allows some flexibility for delivery at the Rangen site. With approval of the Project, the design will be completed to a 100% level. SPF will request input from Rangen on how they would like to utilize the Tucker Springs water. Minor changes to the 14-inch tie-in can be made to allow direct discharge into Billingsley Creek upstream and/or downstream of the Bridge Diversion, if allowed by IDWR.

5. PROJECT SCHEDULE

If the Tucker Springs project is pursued, the target completion date would be on or before April 1, 2015. The hearing for the 2nd Mitigation Plan is scheduled for the first week of June. It is assumed the IDWR Director will render a favorable decision by the end of June. The proposed schedule in Figure 7 identifies the major tasks and their timeframes required to meet the April 1, 2015 deadline.

ID	Task Name	Duration	Start	Finish
1	**Tucker Springs Second Mitigation Project**	**256 days**	**Fri 3/21/14**	**Fri 3/13/15**
2	**Preliminary Project Work**	**18 days**	**Fri 3/21/14**	**Wed 4/16/14**
9	**60% Design Documents**	**18 days**	**Wed 4/16/14**	**Fri 5/9/14**
17	Complete 60% Cost Estimate	3 days	Mon 5/12/14	Wed 5/14/14
18	**Tucker Springs Report**	**6 days**	**Mon 5/12/14**	**Mon 5/19/14**
24	Rangen Deposition	1 day	Fri 5/23/14	Fri 5/23/14
25	Rangen Hearing	2 days	Tue 6/3/14	Wed 6/4/14
26	Director's Approval and Final Order	17 days	Thu 6/5/14	Fri 6/27/14
27	**90% Design Docs**	**38 days**	**Mon 7/7/14**	**Wed 8/27/14**
44	**100% Construction Documents**	**5 days**	**Thu 8/28/14**	**Wed 9/3/14**
47	Bidding Process	10 days	Thu 9/4/14	Wed 9/17/14
48	Issue Contract	5 days	Thu 9/18/14	Wed 9/24/14
49	**Project Construction**	**117 days**	**Thu 10/2/14**	**Fri 3/13/15**

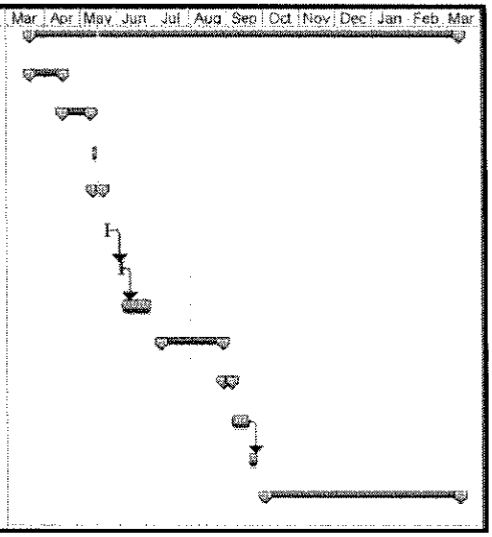
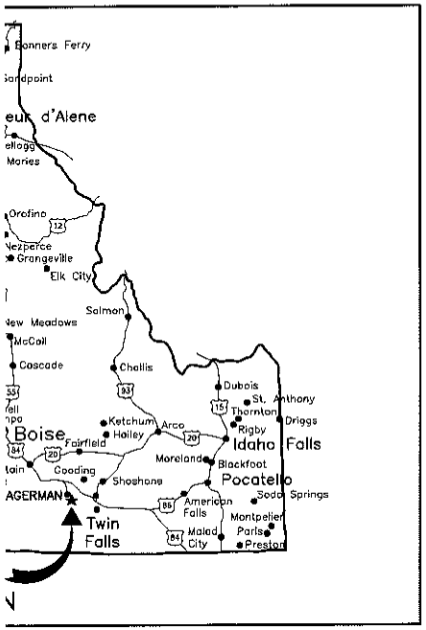


Figure 7. Tucker Springs Project Schedule

APPENDIX A: 60% DESIGN DRAWING SET

HAGERMAN, IDAHO

2014



VICINITY MAP

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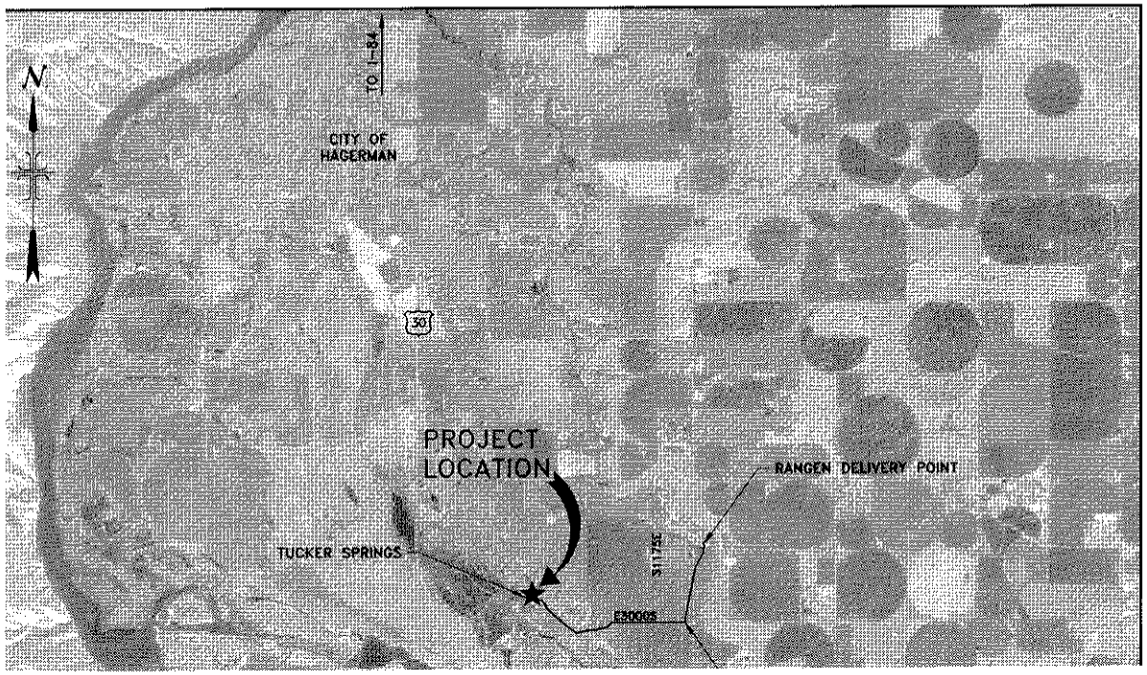


PROJECT TEAM

OWNER

NORTH SNAKE, MAGIC VALLEY, AND SOUTHWEST GROUND WAT
LYNN CARLQUIST
152 E MAIN ST
JEROME, ID 83338
(208) 324-8995

CIVIL ENGINEER

SPF WATER ENGINEERING
ATTN: ROBERT HARDGROVE, PE
300 E MALLARD DR, SUITE 350
BOISE, ID 83706
PHONE: (208) 383-4140
EMAIL: bhardgrove@spfwater.com

SURVEYOR

QUADRANT CONSULTING, INC
ATTN: PETE LOUNSBURY
1904 W OVERLAND RD
BOISE, ID 83705
PHONE: (208) 342-0091
EMAIL: pete@quadrant.cc

SHEET INDEX

G-001	COVER SHEET
G-002	DESIGN CRITERIA
G-003	PROCESS FLOW DIAGRAM
G-004	HYDRAULIC PROFILE
G-005	PLAN AND PROFILE SHEET KEY MAP
C-101	PUMP STATION PLAN & PROFILE
C-102	PIPELINE PLAN & PROFILE STA. 0+87 TO STA. 8
C-103	PIPELINE PLAN & PROFILE STA. 8+00 TO STA. 1
C-104	PIPELINE PLAN & PROFILE STA. 16+00 TO STA.
C-105	PIPELINE PLAN & PROFILE STA. 21+00 TO STA.
C-106	PIPELINE PLAN & PROFILE STA. 26+00 TO STA.
C-107	PIPELINE PLAN & PROFILE STA. 32+00 TO STA.
C-108	PIPELINE PLAN & PROFILE STA. 40+00 TO STA.
C-109	PIPELINE PLAN & PROFILE STA. 48+00 TO STA.
C-110	PIPELINE PLAN & PROFILE STA. 56+00 TO STA.
C-111	PIPELINE PLAN & PROFILE STA. 64+00 TO STA.
C-112	PIPELINE PLAN & PROFILE STA. 72+00 TO STA.
C-113	PIPELINE PLAN & PROFILE STA. 80+00 TO STA.
C-114	PIPELINE PLAN & PROFILE STA. 88+00 TO STA.

IO CFS (4,500 GPM)
WAY: 4 CFS (1,800 GPM)
K: 6 CFS (2,700 GPM)

SET POINT: 207 FEET
AINING VALVE: 36 FEET
WELL: 2948 FEET
R 10 CFS AT 243 FEET TDH: 344 HP
ER 10 CFS AT 243 FEET TDH: 400 HP
00-HP PUMPS: TWO (2) DUTY PUMPS AND ONE (1) STANDBY PUMP
ED BY VARIABLE FREQUENCY DRIVES (VFDS) AND PACED OFF OF FLOW
FROM THE EXISTING IPCO DISTRIBUTION LINE ON THE IF&G PROPERTY. A TRANSFORMER WILL BE
N. IPCO HAS VERIFIED THE EXISTING DISTRIBUTION LINE HAS THE REQUIRED CAPACITY TO OPERATE THE

H A HEATED AND VENTILATED INSULATED ENCLOSURE FOR YEAR-ROUND OPERATION AND SOUND

Y NOT DEPICTED WITHIN THE 60% DESIGN SET, BUT WILL BE INCORPORATED INTO THE 100% DESIGN IF
TY.

I.D.; 200 PSI) AND SDR 17 (22.58-INCH I.D.; 125 PSI), PE4710. FUSED JOINTS FOR BOTH OPEN
RES.

ED 14-INCH STEEL PIPELINE
EN BOX AND TERMINATES AT THE SMALL RACEWAYS
HE HATCHERY HOUSE AND THE SMALL RACEWAYS
4-INCH PIPELINE TO BOTH THE SMALL AND LARGE RACEWAYS
OUGH THE 14-INCH PIPELINE

HROUGH THE SMALL RACEWAYS
RACEWAYS WILL BE DELIVERED TO THE RANGEN BOX THROUGH THE 14-INCH PIPELINE, SPILLED INTO
HE LARGE RACEWAYS AT THE BRIDGE DIVERSION

Controls	Design Flow (gpm)	Design TDH (ft)	Pump Model, Or Approved Equal	Number of Stages	Pump HP
VFD	2250	243	Goulds 14RJHC	4	200
VFD	2250	243	Goulds 14RJHC	4	200
VFD	2250	243	Goulds 14RJHC	4	200

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING MONUMENTS, OTHER SURVEY MARKERS, ST IRRIGATION LINES, PAVEMENT, TREES, FENCES, AND ANY OTHER IMPORTANT OBJECTS ON OR ADJACENT TO THE JOB SITE AS OWNER'S REPRESENTATIVE OR ENGINEER.
5. CONTRACTOR SHALL CONTACT IDAHO DIG LINE (208) 342-1585 TO MARK AND IDENTIFY UNDERGROUND UTILITIES PRIOR TO E
6. CONTRACTOR SHALL LEGALLY DISPOSE OF ALL EXCESS MATERIAL.
7. ALL "OR EQUAL" ITEMS ARE SUBJECT TO REVIEW AND APPROVAL OF THE ENGINEER.
8. CONTRACTOR SHALL PROVIDE, MAINTAIN, AND BE RESPONSIBLE FOR ALL EROSION AND SEDIMENT CONTROL STRUCTURES AND THE REQUIREMENTS OF ANY AGENCY HAVING JURISDICTION.
9. CONTRACTOR TO OBTAIN AND PAY ALL COSTS FOR ALL APPLICABLE PERMITS, INCLUDING BUT NOT LIMITED TO A PERMIT FRO HIGHWAY DISTRICT FOR ALL ROADWAY CROSSINGS AND OTHER APPURTENANCES INSTALLED WITHIN THE ROW.
10. UPON THE COMPLETION OF WORK, THE CONTRACTOR SHALL SUBMIT A SET OF "RED-LINED" RECORD DRAWINGS TO THE ENGI
11. CONTRACTOR SHALL NOTIFY AND COORDINATE WITH THE OWNER'S REPRESENTATIVE PRIOR TO, DURING, AND AT THE COMPLET ACTIVITY.
12. IF WITHIN ONE (1) YEAR FROM THE DATE OF COMPLETION, THE PUMPING SYSTEM, PIPELINE, AND ALL APPURTENANCES OR AI INSTALLED AS NEW SHALL PROVE TO BE DEFECTIVE IN INSTALLATION, MATERIAL, OR WORKMANSHIP THE CONTRACTOR SHALL OR REPAIR TO THE SATISFACTION OF THE OWNER'S REPRESENTATIVE AT NO EXPENSE TO THE OWNER.
13. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN AS AN APPROXIMATE LOCATION ONLY. THE CONTRACTOR SH EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK. THE CONTRACTOR AGREES TO BE FULLY RESPONSIBL DAMAGES WHICH MIGHT BE OCCASIONED BY THEIR FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND SHALL CONTACT PROPERTY OWNERS TO GAIN INFORMATION ON PRIVATE UTILITIES.
14. CONTRACTOR TO NOTIFY AND COORDINATE WITH PRIVATE PROPERTY OWNERS PRIOR TO BLOCKING AND DETOURING DRIVEWAYS POINTS.
15. ALL CONTRACTORS WORKING WITHIN THE PROJECT BOUNDARIES ARE RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE SAI JURISDICTIONAL BODY.
16. CONTRACTOR SHALL PROVIDE, MAINTAIN, AND BE RESPONSIBLE FOR TRAFFIC CONTROL PERSONNEL AND DEVICES PER HAGERM. REQUIREMENTS.
17. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO DEWATER ALL EXCAVATIONS DURING CONSTRUCTION. GROUNDWATER THE BOTTOM OF EXCAVATIONS DURING INSTALLATION AND TESTING OF ALL UTILITIES AND STRUCTURES.
18. CONSTRUCTION STAKING SHALL BE DONE USING THE CONTROL DATA CREATED AND SET IN THE FIELD BY QUADRANT CONSULTI GRADES ON THE DESIGN SHEETS WERE BASED ON THE TOPOGRAPHICAL SURVEY COMPLETED BY QUADRANT CONSULTING, INC.,
19. CONTRACTOR TO COORDINATE WITH IDAHO POWER ON INSTALLING NEW ELECTRICAL SERVICE TO PUMP STATION SITE. THE OWNI POWER FEES. CONTRACTOR SHALL PROVIDE AND INSTALL METER CAN NEAR PUMP STATION TRANSFORMER PROVIDED BY IDAH

PIPELINE CONSTRUCTION NOTES:

1. THE CONTRACTOR WILL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE REQUIRED PIPELINE TESTING. ALL TESTING SHA ACCORDANCE WITH SECTION 401 OF ISPWC. PIPELINE SHALL BE TESTED TO 165 PSI AT THE PUMP STATION. CONTRACTOR TO ENGINEER 48 HOURS PRIOR TO CONDUCTING TESTING. THE ENGINEER OR DESIGNATED REPRESENTATIVE WILL BE PRESENT FOR
2. CONTRACTOR TO USE AND PLACE NATIVE BEDDING AND MATERIAL 6 INCHES OVER PIPE. NATIVE MATERIAL SHALL CONTAIN NO R MATTER, OR MATERIALS LARGER THAN 2"ø, PER DETAIL 4/M-501.
3. CONTRACTOR TO USE NATIVE TRENCH BACKFILL MATERIAL ABOVE THE BEDDING ZONE FREE FROM CINDERS, ASHES, REFUSE, OF MATERIAL, ROCKS, 8" OR LARGER, OR OTHER UNSUITABLE MATERIALS. BACKFILL AND COMPACTION PRACTICES SHALL BE TYPE C OF THE ISPWC PER DETAIL 4/M-501.
4. PIPELINE SHALL HAVE A MINIMUM BURY DEPTH OF 3 FEET.
5. INSTALL PIPE WITH UNIFORM SLOPES AND STRAIGHT ALIGNMENTS, AVOID LOCALIZED HIGH AND LOW POINTS (TYP).
6. POLYETHYLENE ENCASE ALL BURIED DUCTILE IRON AND STEEL PIPING, JOINTS, BOLTS AND RESTRAINING DEVICES.
7. PIPELINE MATERIAL SHALL BE 24-INCH DIPS, SDR 11 AND 17 HDPE, PE4710.
8. COMBINATION AIR VALVES SHALL BE INSTALLED PER DRAWINGS, APCO MODEL 145C OR EQUAL. INSTALL VALVES IN 4'ø MANHOL 1/M-501 (LOCAL) OR 2/M-501 (REMOTE).
9. BURIED VALVES TO BE HENRY PRATT GROUNDHOG CLASS 150B FOR BURIED SERVICE RUBBER SEATED BUTTERFLY VALVES WITH BOX.
10. INSTALL THRUST BLOCKS PER DETAIL 5 ON SHEET M-501 FOR ALL PIPE FITTINGS AND ACCESSORIES.
11. VALVE BOXES AND LIDS SHALL BE PER ISPWC STANDARD DETAIL SD-406. CONCRETE COLLAR REQUIRED.
12. FOR ASPHALT ROAD CROSSING, CUT AND SURFACE REPAIR PER HAGERMAN HIGHWAY DISTRICT REQUIREMENTS, REFER TO DETAIL
13. CONTRACTOR SHALL VERIFY EXISTING LOCATIONS, ELEVATIONS, AND MATERIAL TYPES OF ALL UTILITIES AND FEATURES WHERE PR IMPROVEMENTS CONNECT. NOTIFY ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.

EROSION AND SEDIMENT CONTROL (ESC) NOTES:

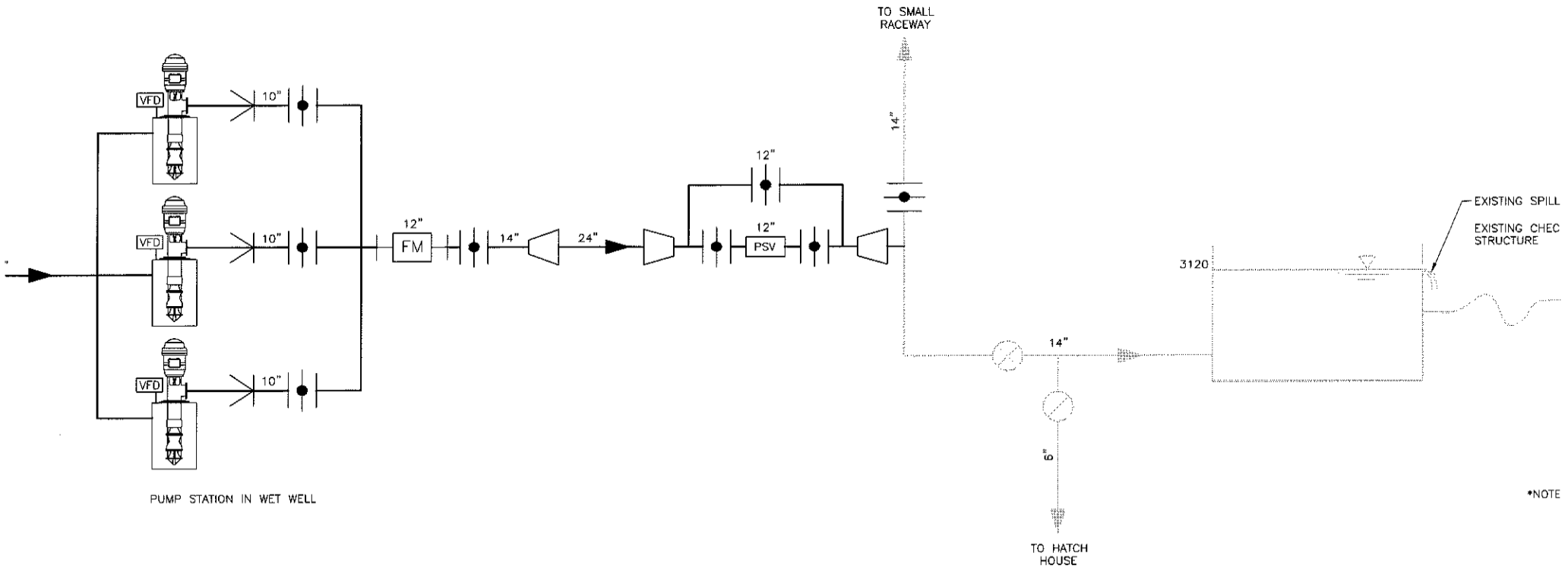
1. CONTRACTOR SHALL PROVIDE, MAINTAIN, AND BE RESPONSIBLE FOR ALL ESC STRUCTURES, PRACTICES, AND PLANS TO MEET AL AND FEDERAL REQUIREMENTS FOR WATER QUALITY AND EROSION AND SEDIMENT CONTROL. THE FOLLOWING ARE SUGGESTIONS, BMPS AND PRACTICES MAY BE APPROPRIATE AND SHOULD BE NOTED ON THE CONTRACTOR'S ESC PLAN.

2. CONTRACTOR SHALL UTILIZE ESC BEST MANAGEMENT PRACTICES (BMPS) PER THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUAL

PUMP STATION

RANGEN SMALL RACEWAY

RANGEN BOX



PROCESS FLOW DIAGRAM

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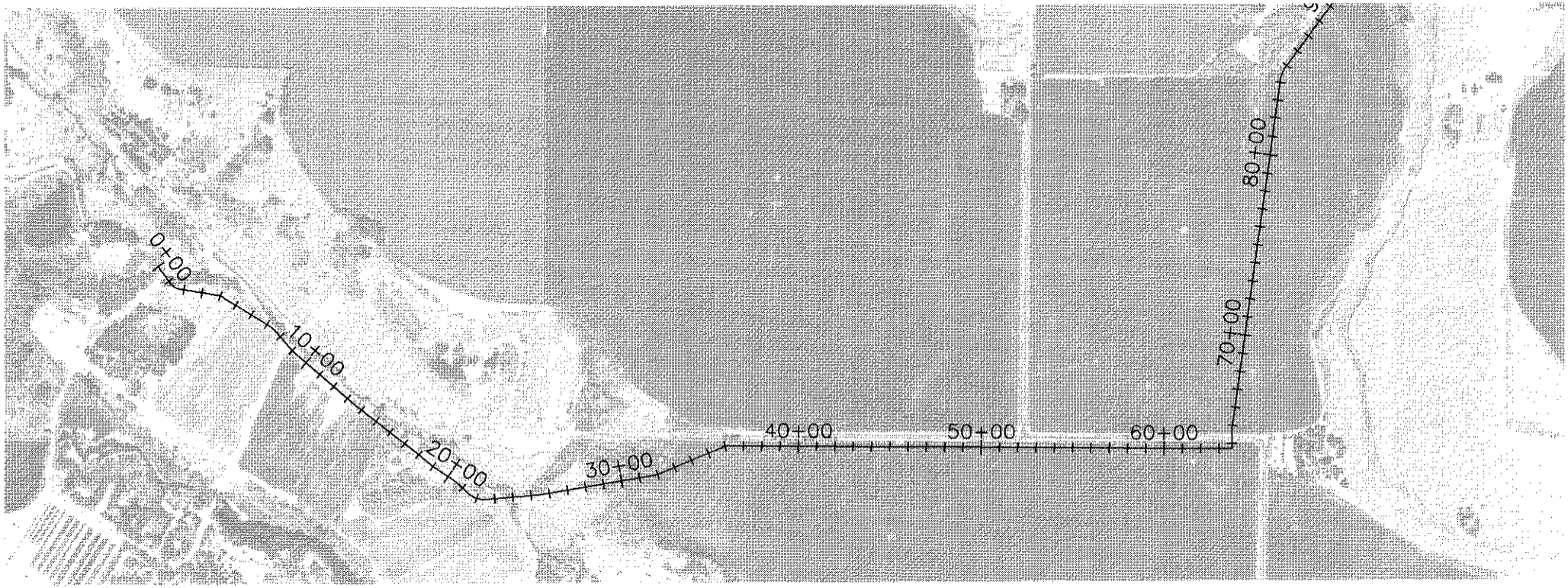
0+00
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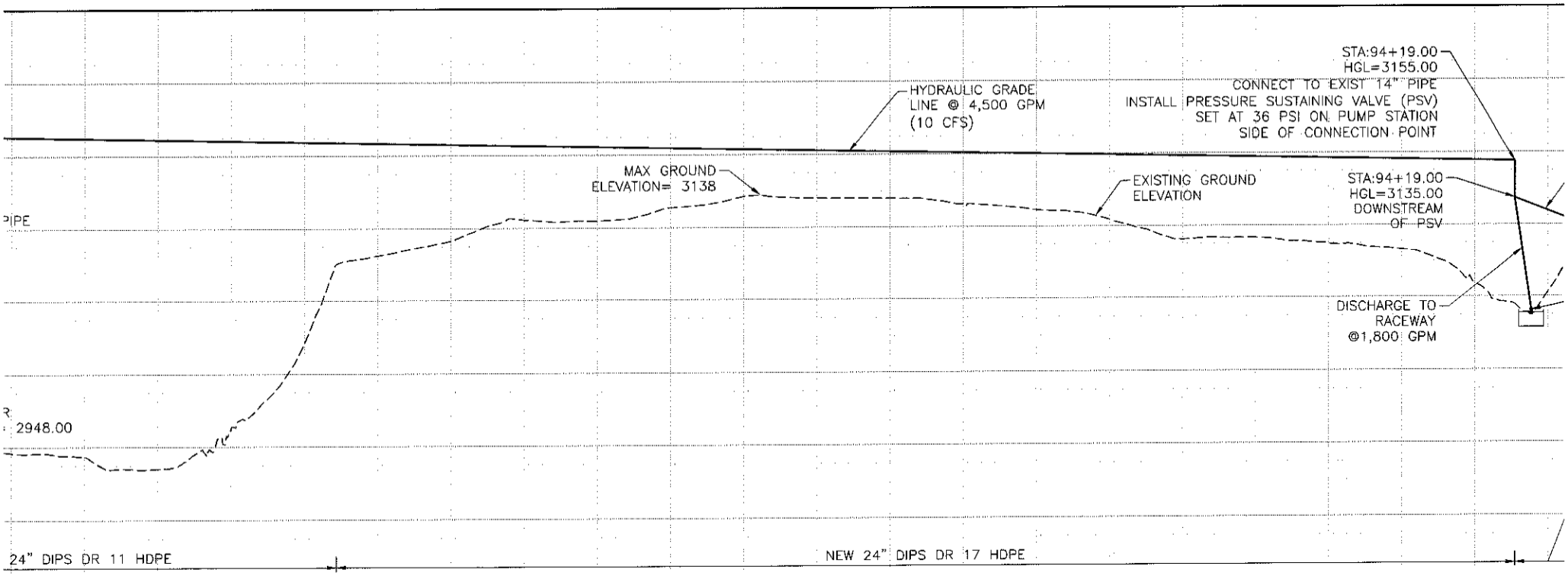
HYDRAULIC GRADE
LINE @ 4,500 GPM
(10 CFS)
STA:94+19.00
HGL=3155.00
CONNECT TO EXIST 14" PIPE
INSTALL PRESSURE SUSTAINING VALVE (PSV)
SET AT 36 PSI ON PUMP STATION
SIDE OF CONNECTION POINT
MAX GROUND
ELEVATION= 3138
EXISTING GROUND
ELEVATION
STA:94+19.00
HGL=3135.00
DOWNSTREAM
OF PSV
DISCHARGE TO
RACEWAY
@1,800 GPM
2948.00
24" DIPS DR 11 HDPE
NEW 24" DIPS DR 17 HDPE

C-102
C-103
10+00
C-104
20+00
C-105
C-106
30+00
C-107
40+00
C-108
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C-109
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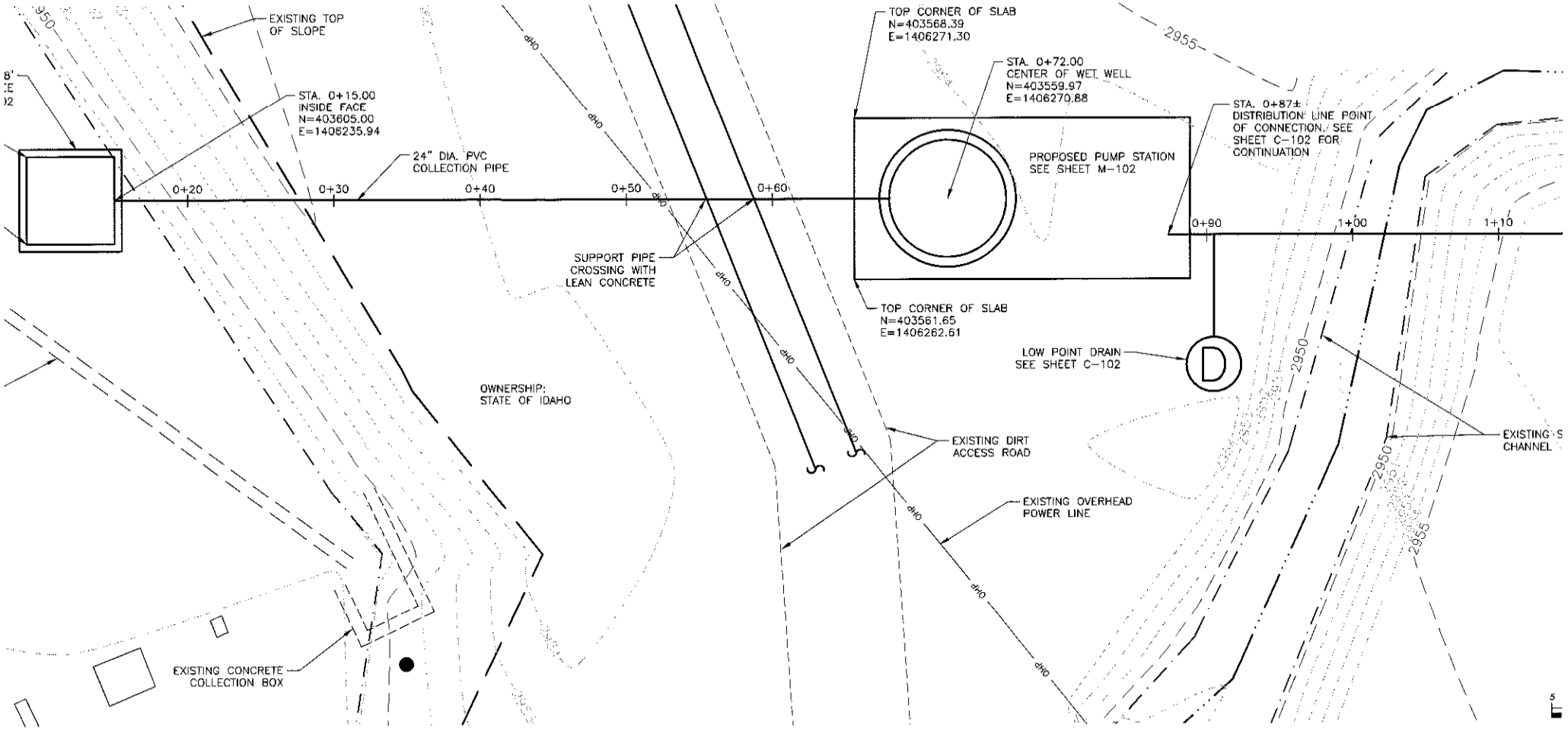
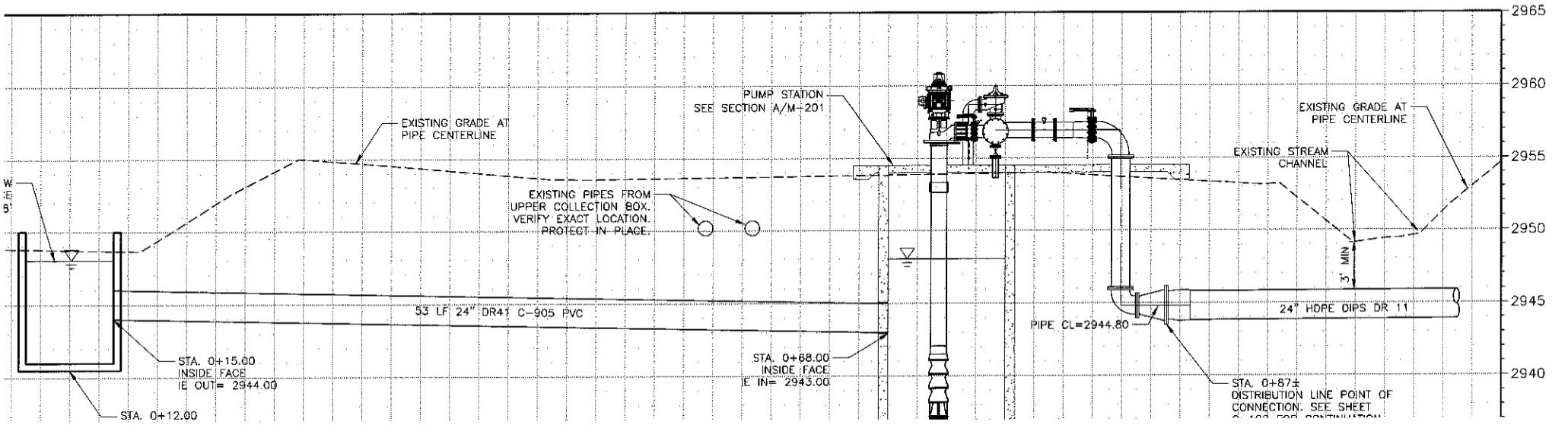
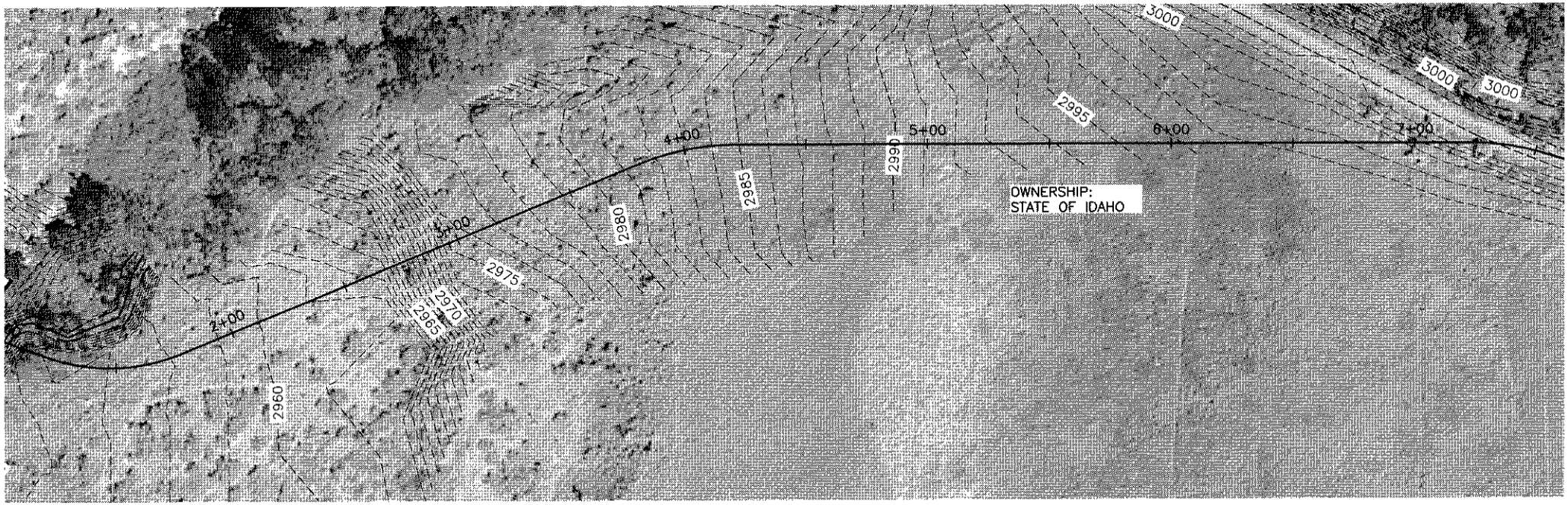
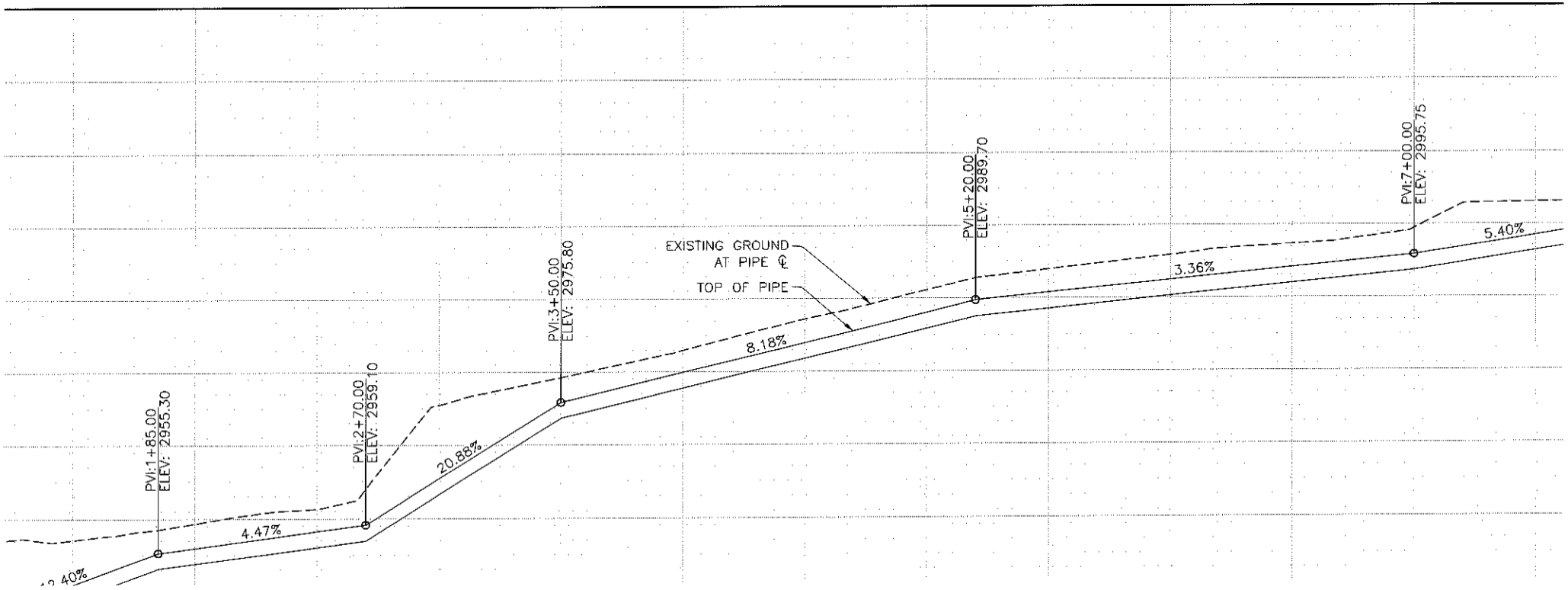
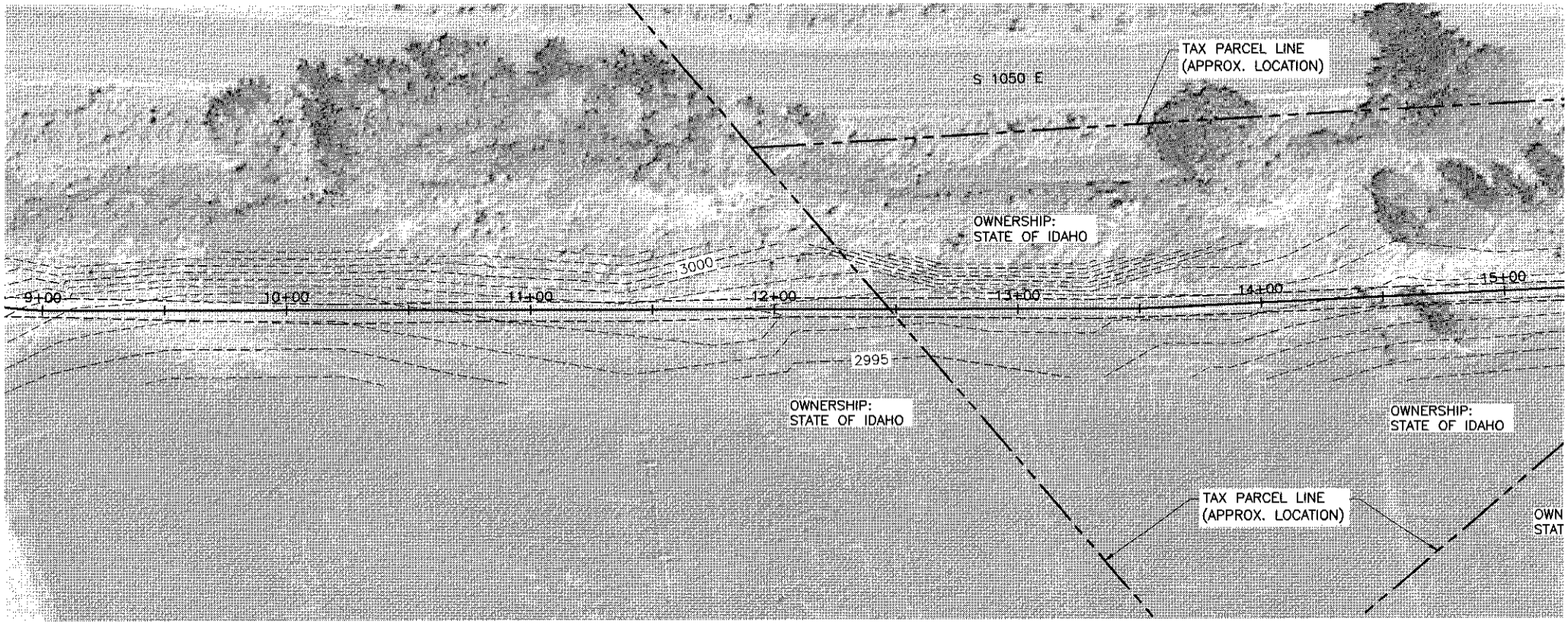
C-112
80+00
C-113
90+00
C-114

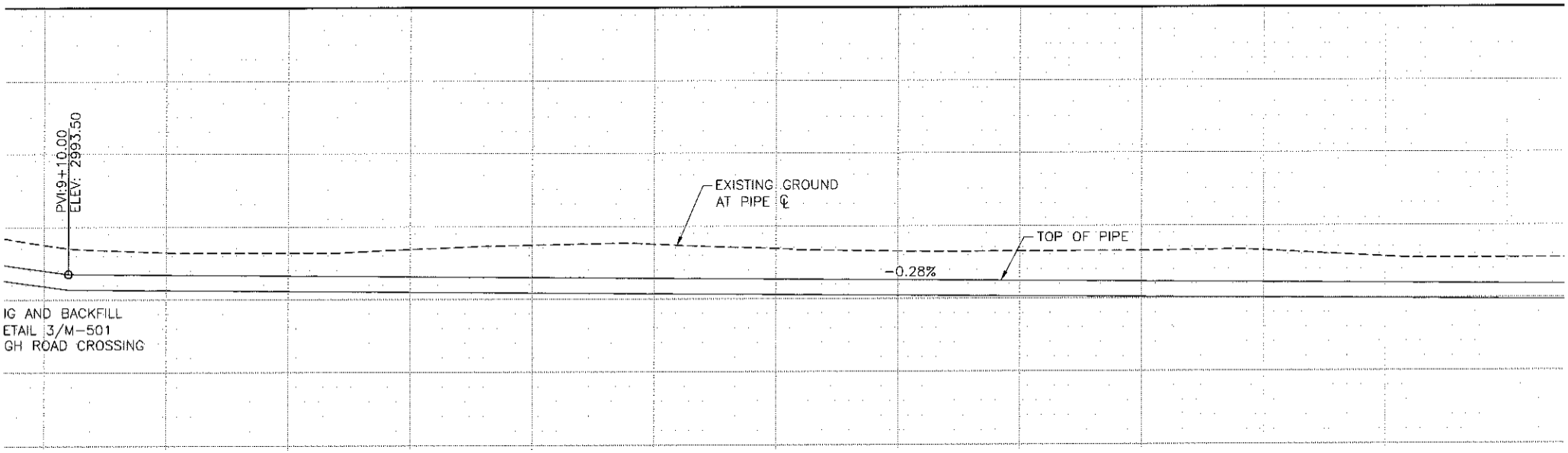

EXISTING TOP OF SLOPE
STA. 0+15.00
INSIDE FACE
N=403605.00
E=1406235.94
24" DIA. PVC COLLECTION PIPE
0+20
0+30
0+40
0+50
0+60
SUPPORT PIPE CROSSING WITH LEAN CONCRETE
TOP CORNER OF SLAB
N=403568.39
E=1406271.30
STA. 0+72.00
CENTER OF WET WELL
N=403559.97
E=1406270.88
PROPOSED PUMP STATION
SEE SHEET M-102
TOP CORNER OF SLAB
N=403561.65
E=1406262.61
STA. 0+87± DISTRIBUTION LINE POINT OF CONNECTION. SEE SHEET C-102 FOR CONTINUATION
0+90
1+00
1+10
LOW POINT DRAIN
SEE SHEET C-102
OWNERSHIP:
STATE OF IDAHO
EXISTING DIRT ACCESS ROAD
EXISTING OVERHEAD POWER LINE
EXISTING CONCRETE COLLECTION BOX
EXISTING S CHANNEL
2950
2955
dHO


EXISTING GRADE AT PIPE CENTERLINE
PUMP STATION
SEE SECTION A/M-201
EXISTING GRADE AT PIPE CENTERLINE
EXISTING STREAM CHANNEL
EXISTING PIPES FROM UPPER COLLECTION BOX. VERIFY EXACT LOCATION. PROTECT IN PLACE.
3' MIN
53 LF 24" DR41 C-905 PVC
24" HDPE DIPS DR 11
PIPE CL=2944.80
STA. 0+15.00
INSIDE FACE
IE OUT= 2944.00
STA. 0+68.00
INSIDE FACE
IE IN= 2943.00
STA. 0+87± DISTRIBUTION LINE POINT OF CONNECTION. SEE SHEET
STA. 0+12.00
2965
2960
2955
2950
2945
2940

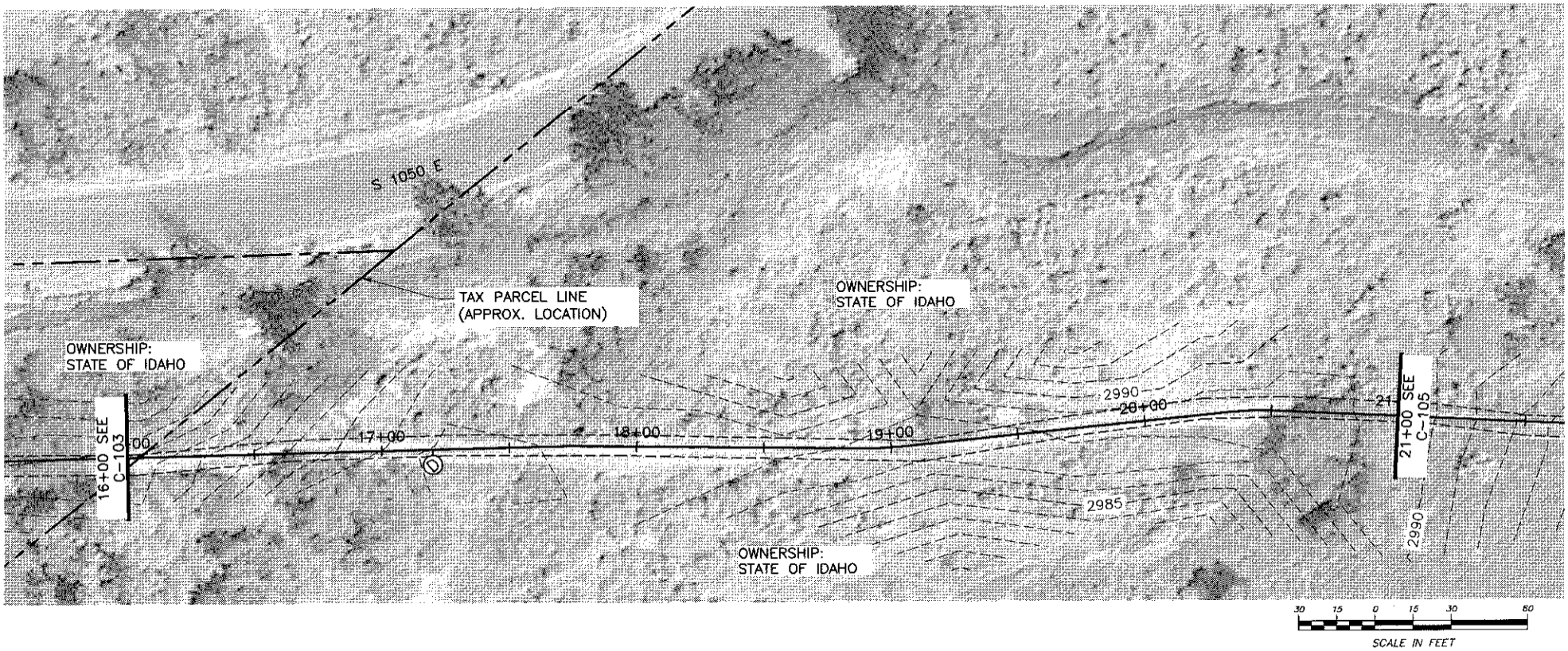

3000
3000
3000
2995
2990
2985
2980
2975
2970
2965
2960
1+00
2+00
3+00
4+00
5+00
6+00
7+00
OWNERSHIP:
STATE OF IDAHO

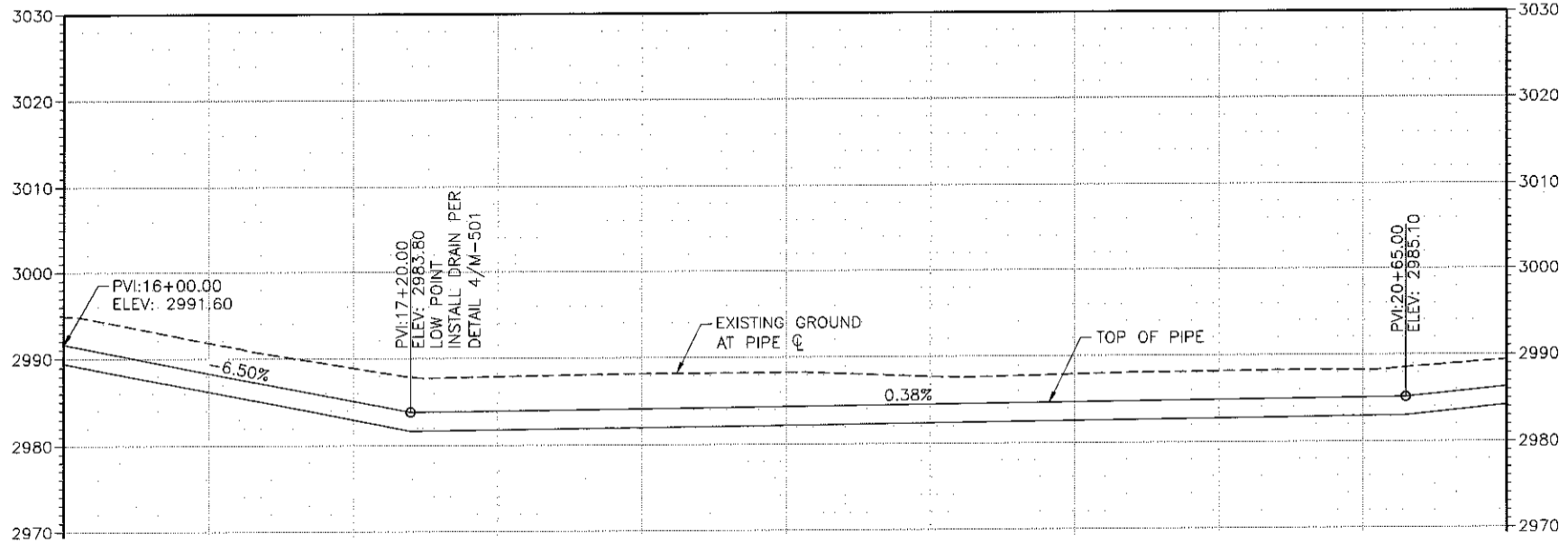

PVI:1+85.00
ELEV: 2955.30
PVI:2+70.00
ELEV: 2959.10
PVI:3+50.00
ELEV: 2975.80
PVI:5+20.00
ELEV: 2989.70
PVI:7+00.00
ELEV: 2995.75
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
4.47%
20.88%
8.18%
3.36%
5.40%

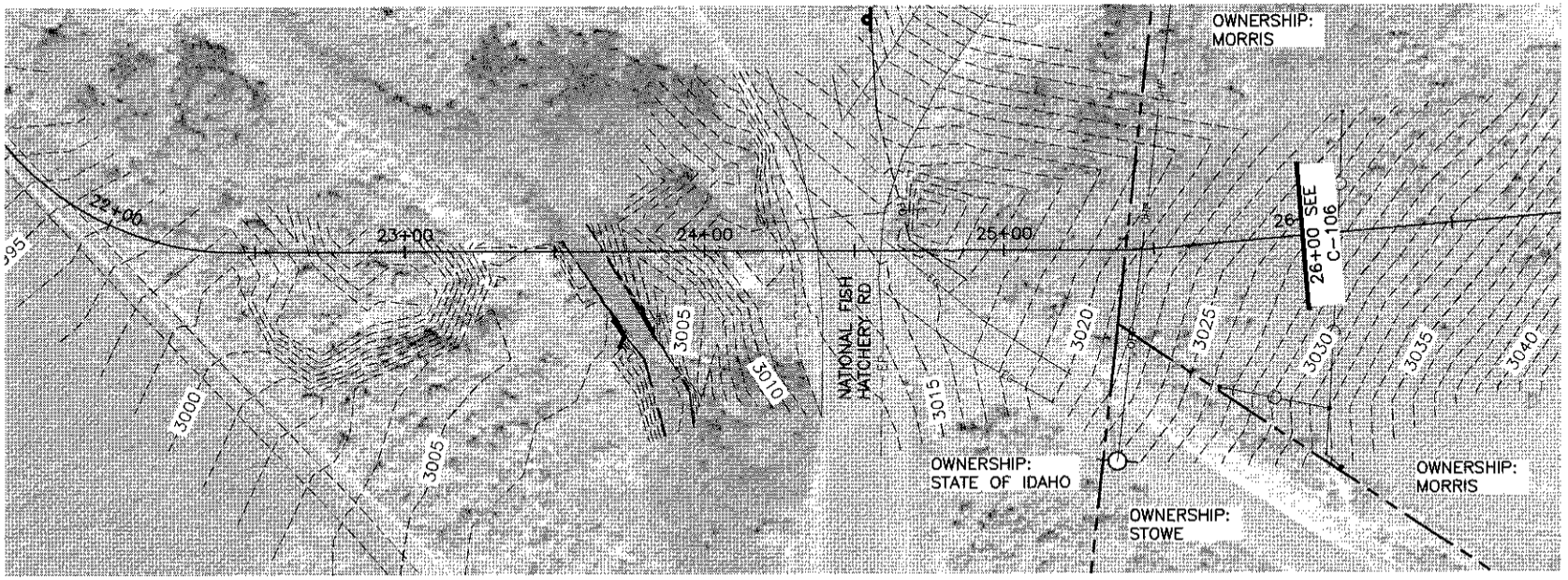




IG AND BACKFILL
ETAIL 3/M-501
GH ROAD CROSSING


S 1050 E
TAX PARCEL LINE
(APPROX. LOCATION)
OWNERSHIP:
STATE OF IDAHO
OWNERSHIP:
STATE OF IDAHO
OWNERSHIP:
STATE OF IDAHO
16+00 SEE C-103
21+00 SEE C-105
17+00
18+00
19+00
20+00
2990
2985
30 15 0 15 30 60
SCALE IN FEET

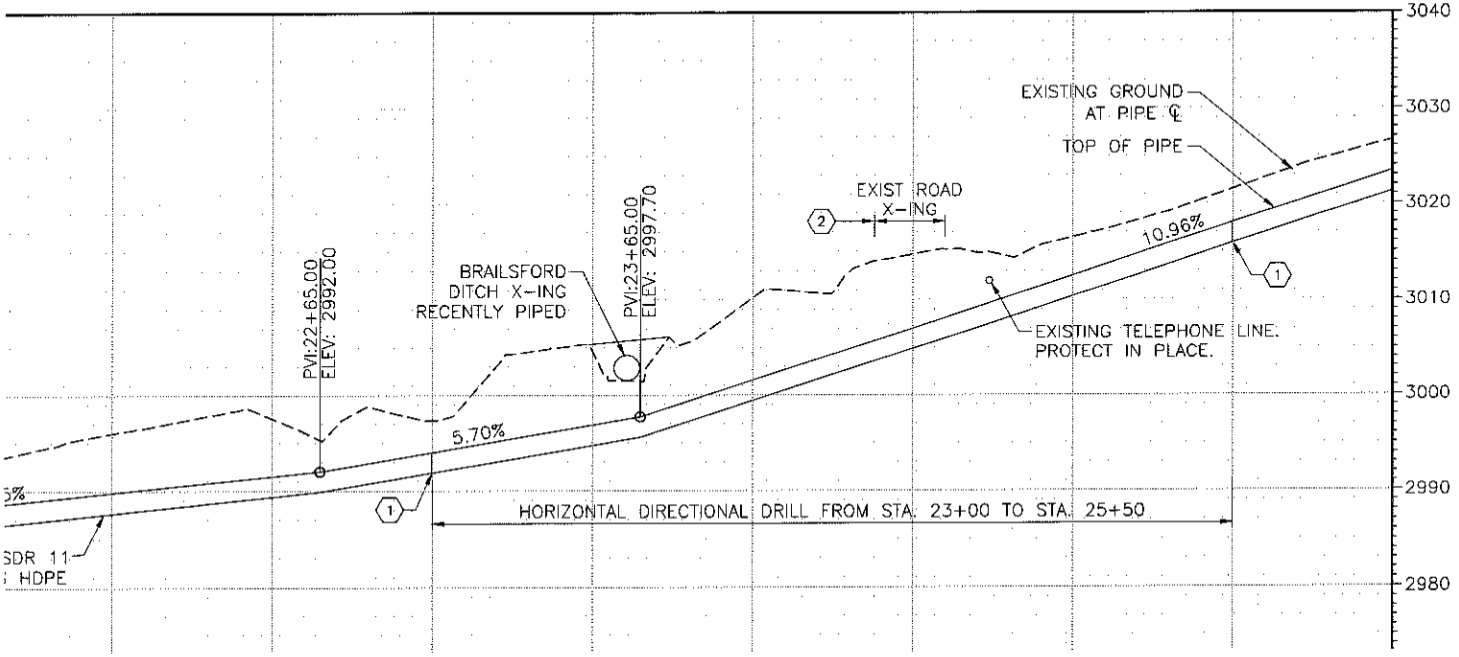

3030
3020
3010
3000
2990
2980
2970
PVI:16+00.00
ELEV: 2991.60
6.50%
PVI:17+20.00
ELEV: 2983.80
LOW POINT
INSTALL DRAIN PER
DETAIL 4/M-501
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
0.38%
PVI:20+65.00
ELEV: 2985.10

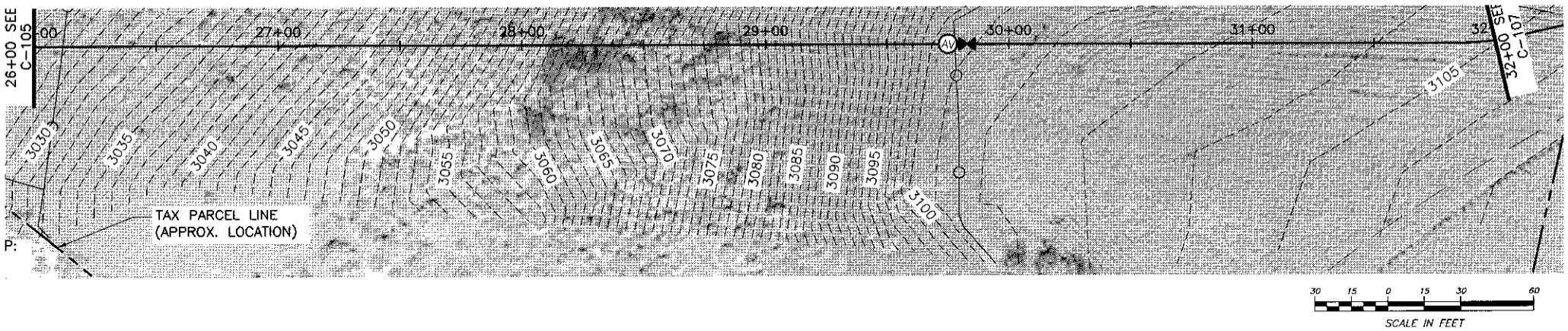


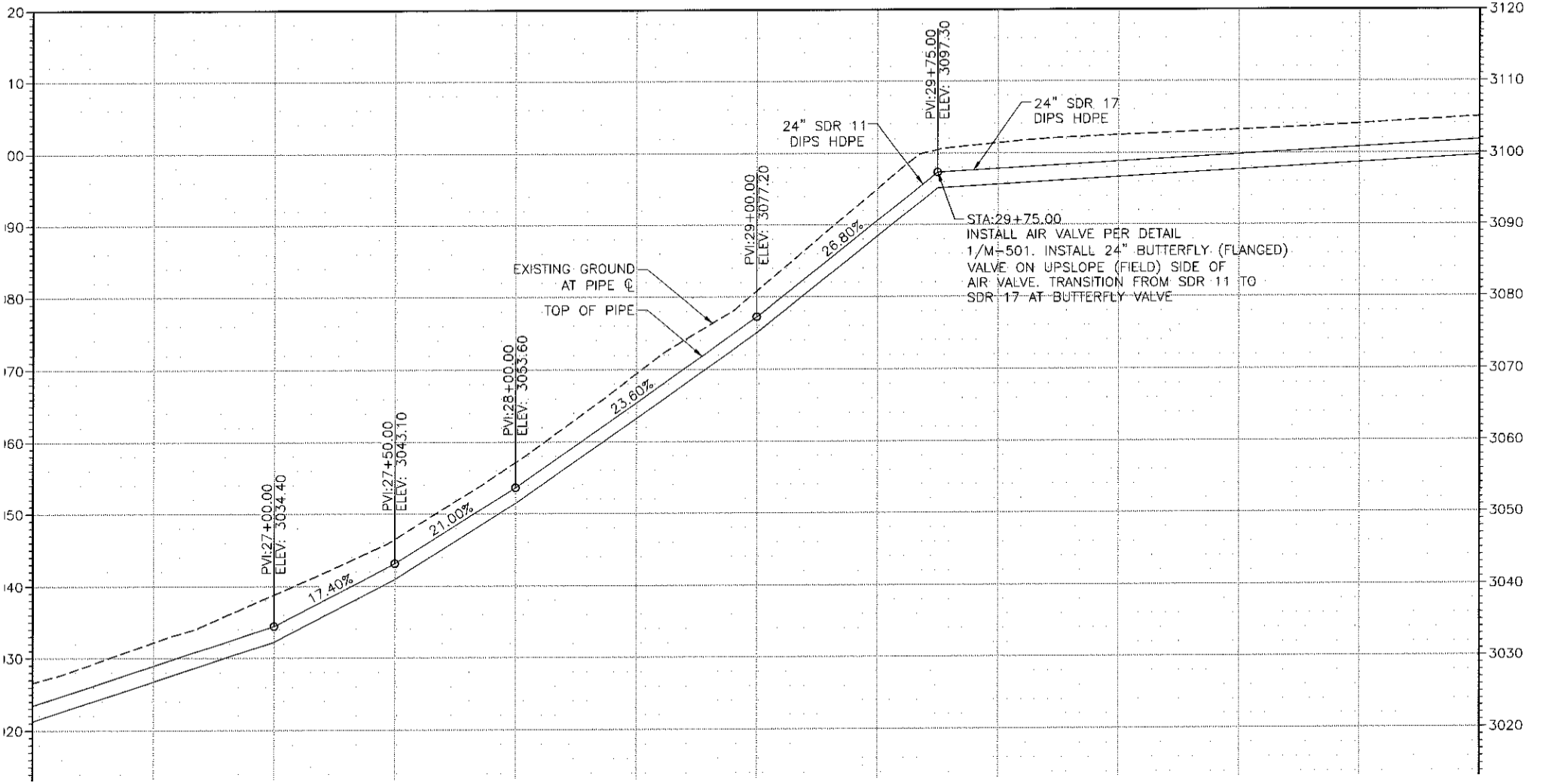
CONSTRUCTION KEYNO

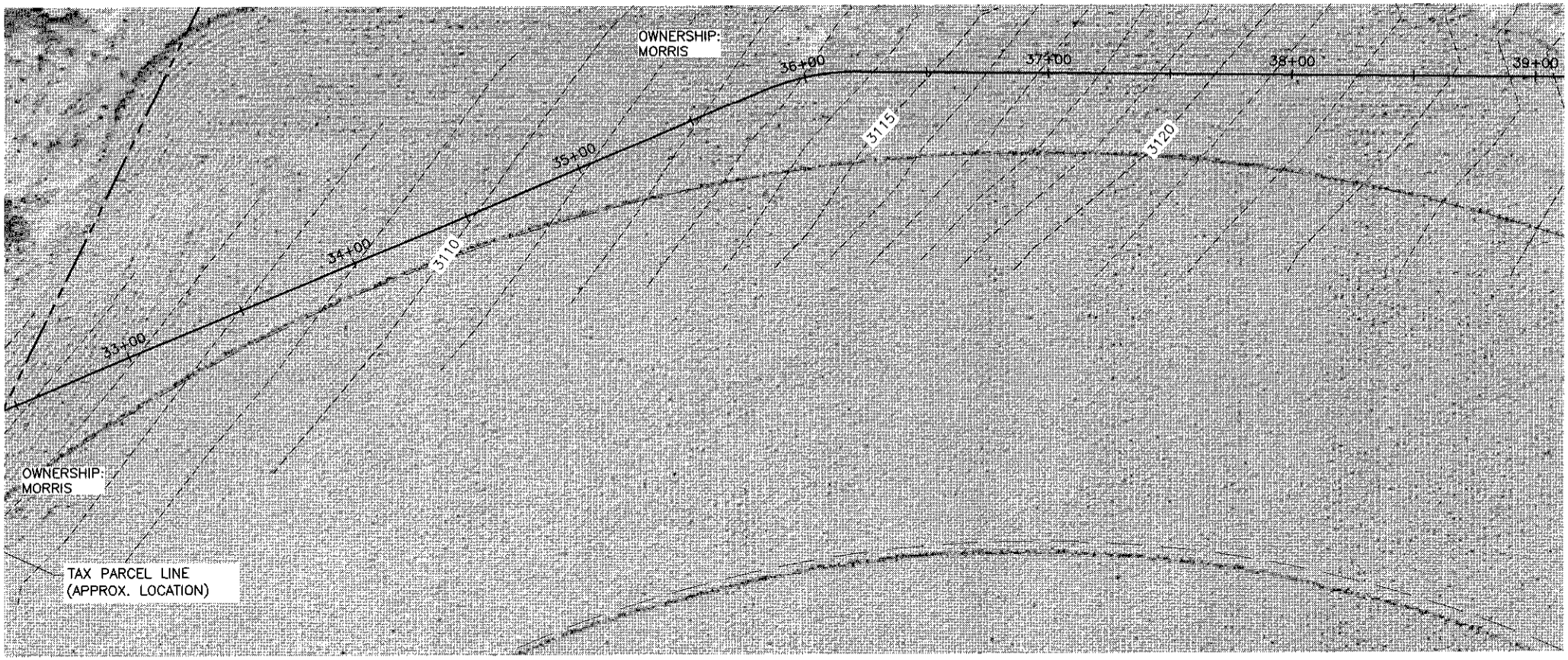
1. CONNECT TO HORIZONTAL DIRECT FUSION CONNECTION IF POSSIBLE IS NOT PRACTICAL, AN ELECTROFI (TYP. 2 PLACES).

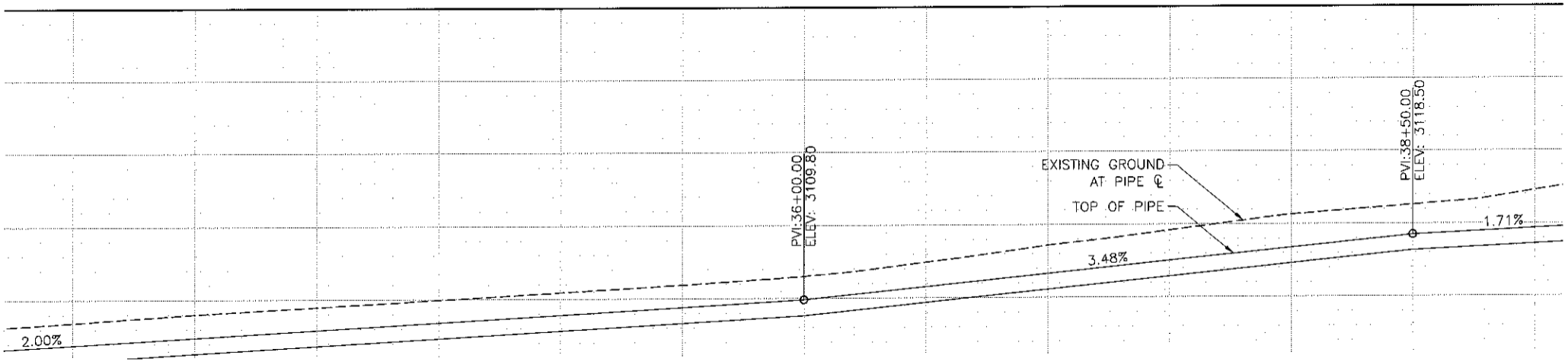
2. CONTRACTOR TO OBTAIN AND P APPLICABLE PERMITS, INCLUDIN(FROM THE HAGERMAN HIGHWAY CROSSINGS AND OTHER APPURT ROW.

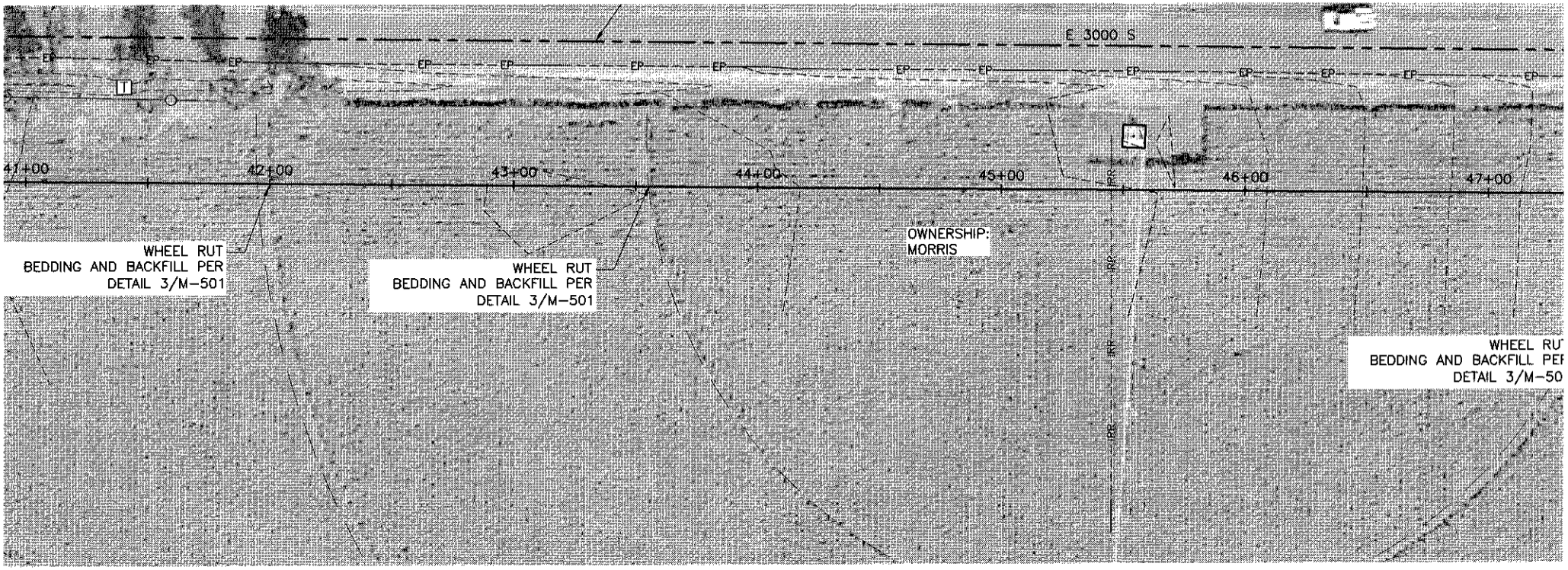


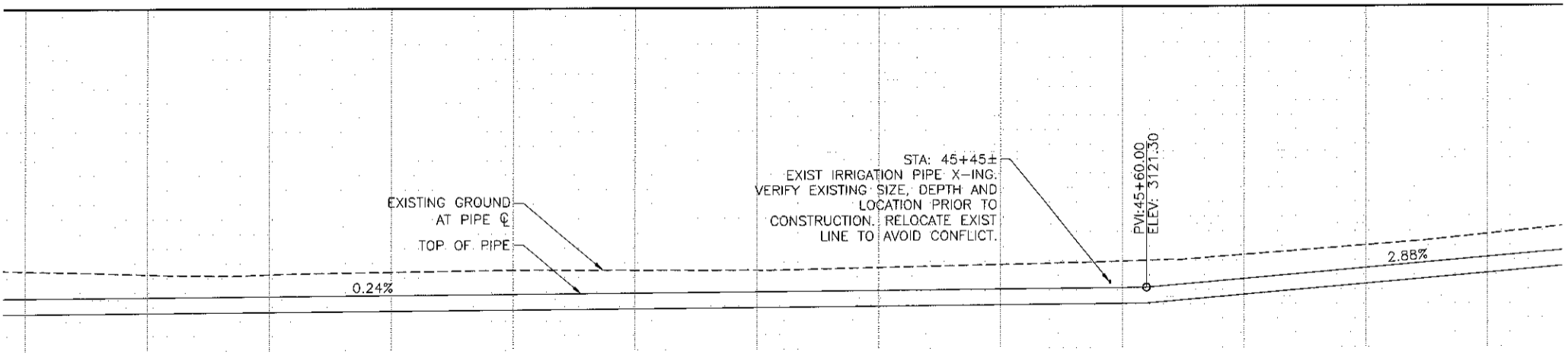

26+00 SEE C-105
27+00
28+00
29+00
30+00
31+00
32+00 SEE C-107
AV
3030
3035
3040
3045
3050
3055
3060
3065
3070
3075
3080
3085
3090
3095
3100
3105
TAX PARCEL LINE
(APPROX. LOCATION)
30 15 0 15 30 60
SCALE IN FEET

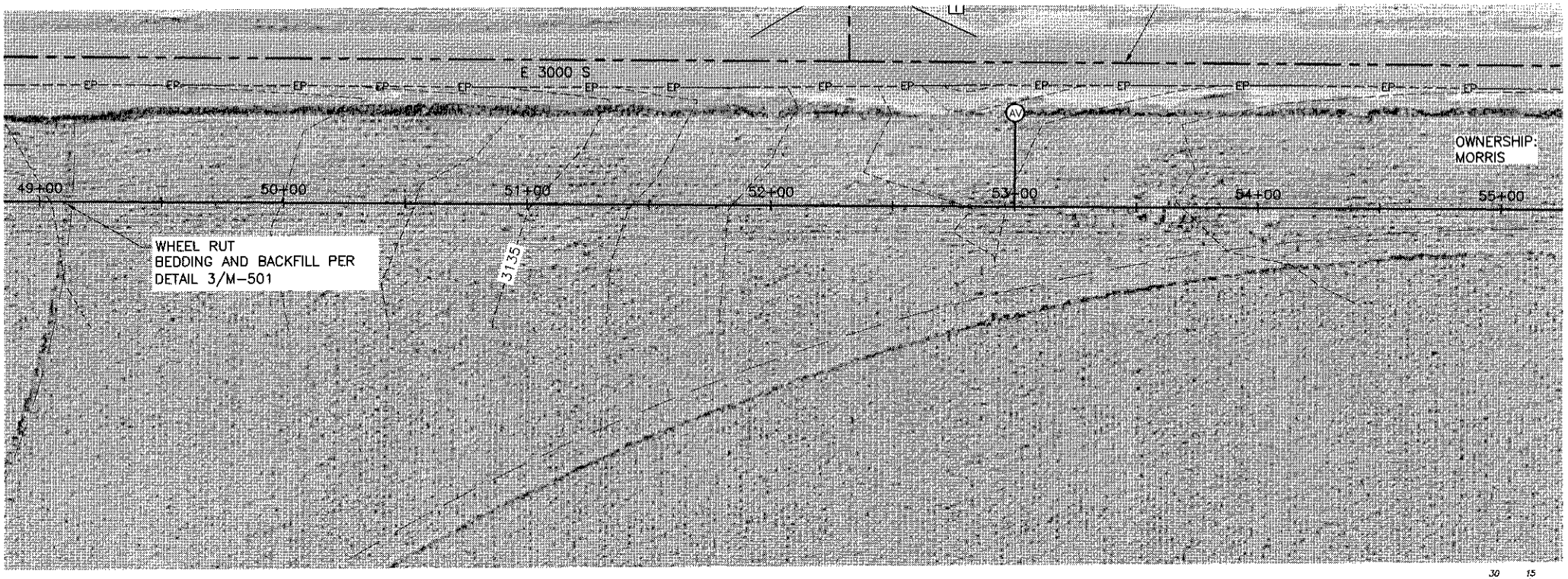

PVI:27+00.00
ELEV: 3034.40
PVI:27+50.00
ELEV: 3043.10
PVI:28+00.00
ELEV: 3053.60
PVI:29+00.00
ELEV: 3077.20
PVI:29+75.00
ELEV: 3097.30
17.40%
21.00%
23.60%
26.80%
24" SDR 11
DIPS HDPE
24" SDR 17
DIPS HDPE
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
STA:29+75.00
INSTALL AIR VALVE PER DETAIL
1/M-501. INSTALL 24" BUTTERFLY (FLANGED)
VALVE ON UPSLOPE (FIELD) SIDE OF
AIR VALVE. TRANSITION FROM SDR 11 TO
SDR 17 AT BUTTERFLY VALVE
20
10
00
90
80
70
60
50
40
30
20
3120
3110
3100
3090
3080
3070
3060
3050
3040
3030
3020

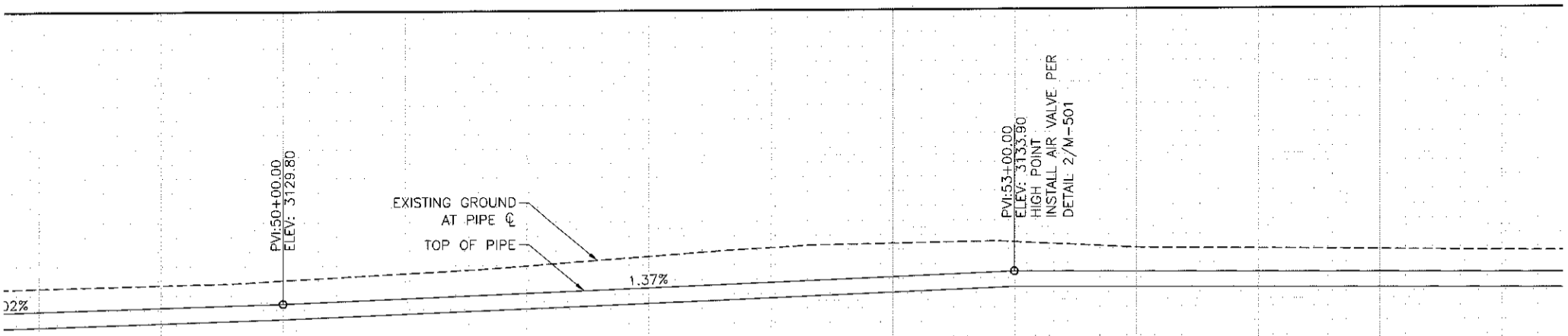

OWNERSHIP:
MORRIS
36+00
37+00
38+00
39+00
35+00
34+00
33+00
3115
3120
3110
OWNERSHIP:
MORRIS
TAX PARCEL LINE
(APPROX. LOCATION)

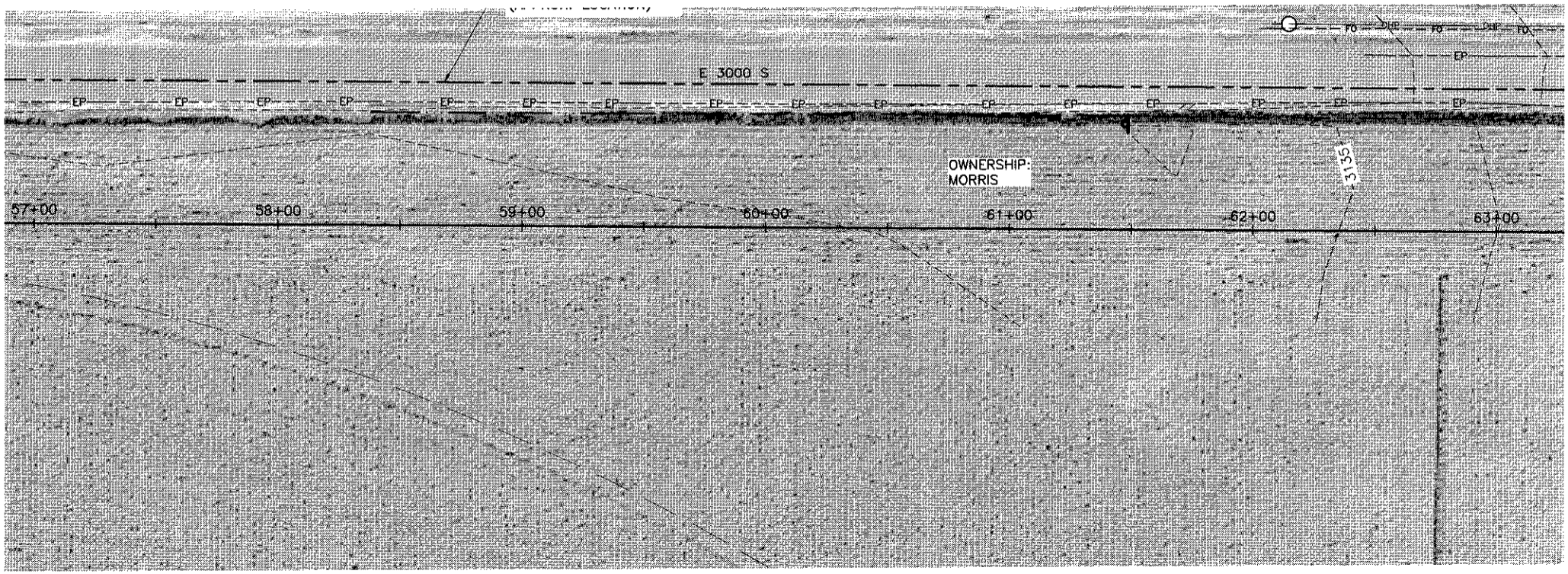

PVI:36+00.00
ELEV: 3109.80
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
PVI:38+50.00
ELEV: 3118.50
1.71%
3.48%
2.00%

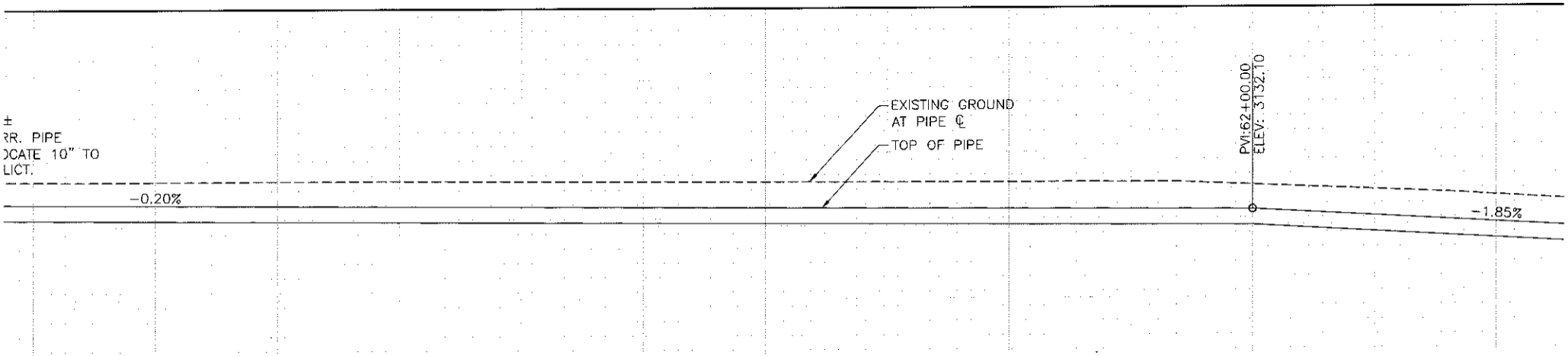

E 3000 S
EP
41+00
42+00
43+00
44+00
45+00
46+00
47+00
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
OWNERSHIP:
MORRIS
WHEEL RU
BEDDING AND BACKFILL PE
DETAIL 3/M-50

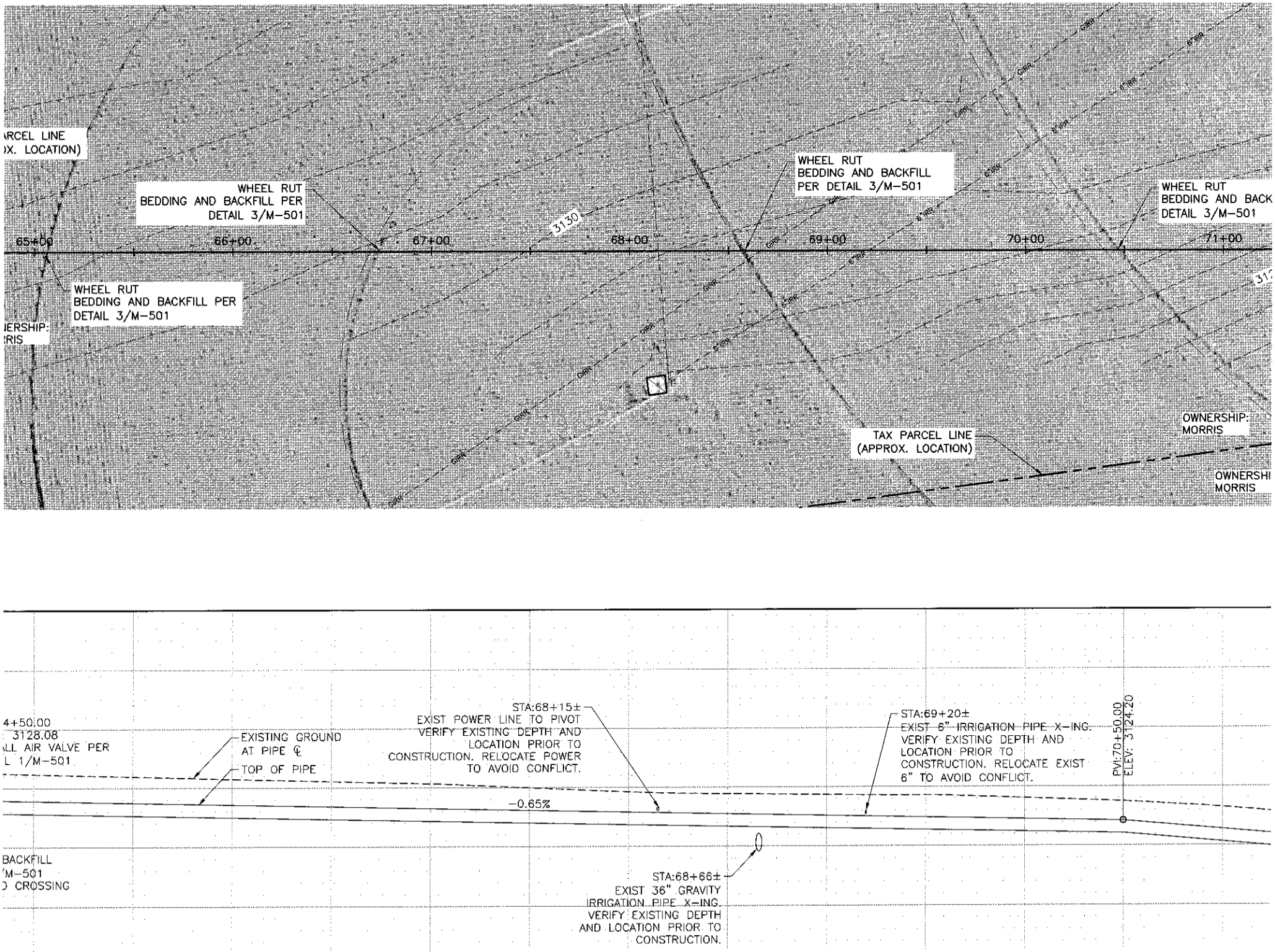

EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
0.24%
STA: 45+45±
EXIST IRRIGATION PIPE X-ING.
VERIFY EXISTING SIZE, DEPTH AND
LOCATION PRIOR TO
CONSTRUCTION. RELOCATE EXIST
LINE TO AVOID CONFLICT.
PVI:45+60.00
ELEV: 3121.30
2.88%


E 3000 S
EP
AV
OWNERSHIP:
MORRIS
49+00
50+00
51+00
52+00
53+00
54+00
55+00
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
3135
30
15

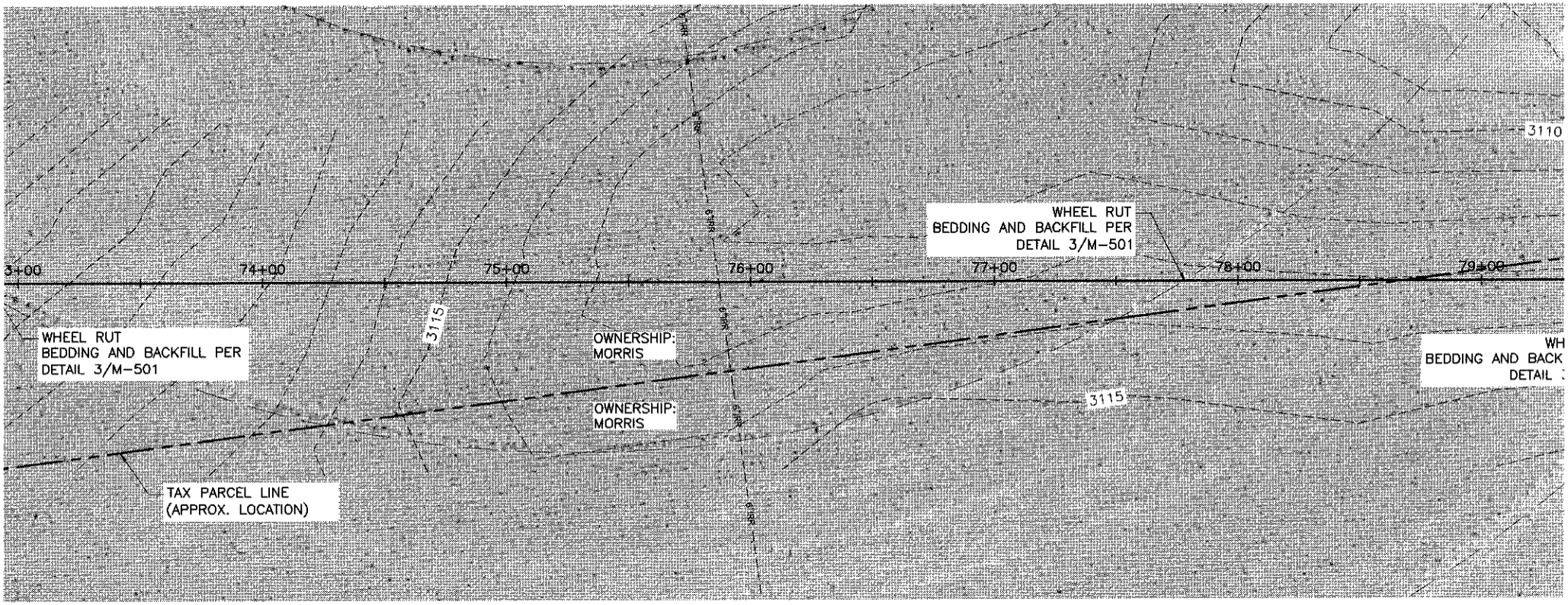

PVI:50+00.00
ELEV: 3129.80
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
1.37%
PVI:53+00.00
ELEV: 3133.90
HIGH POINT
INSTALL AIR VALVE PER
DETAIL 2/M-501

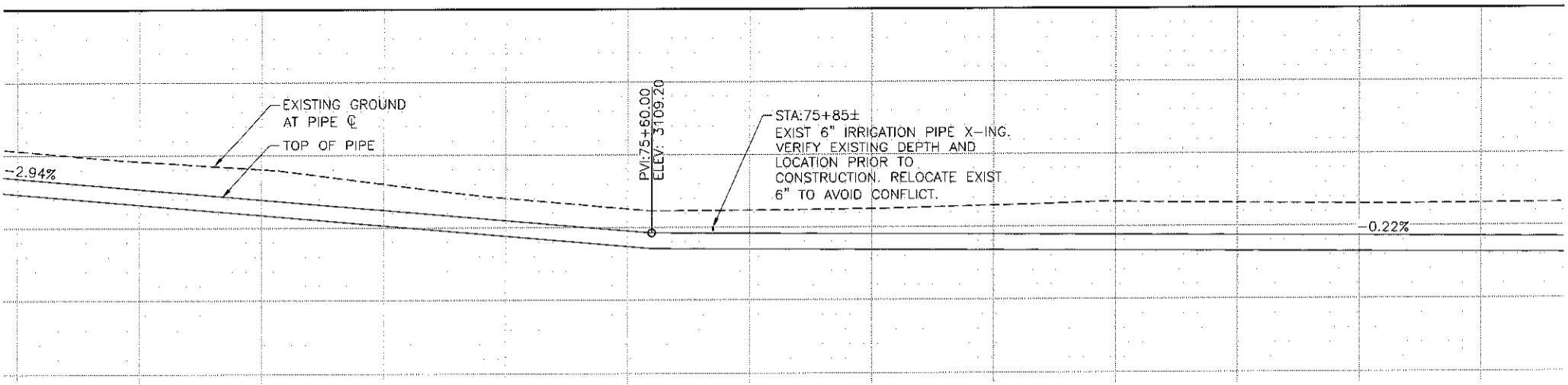

E 3000 S
EP
FO
OHP
OWNERSHIP:
MORRIS
57+00
58+00
59+00
60+00
61+00
62+00
63+00
3135

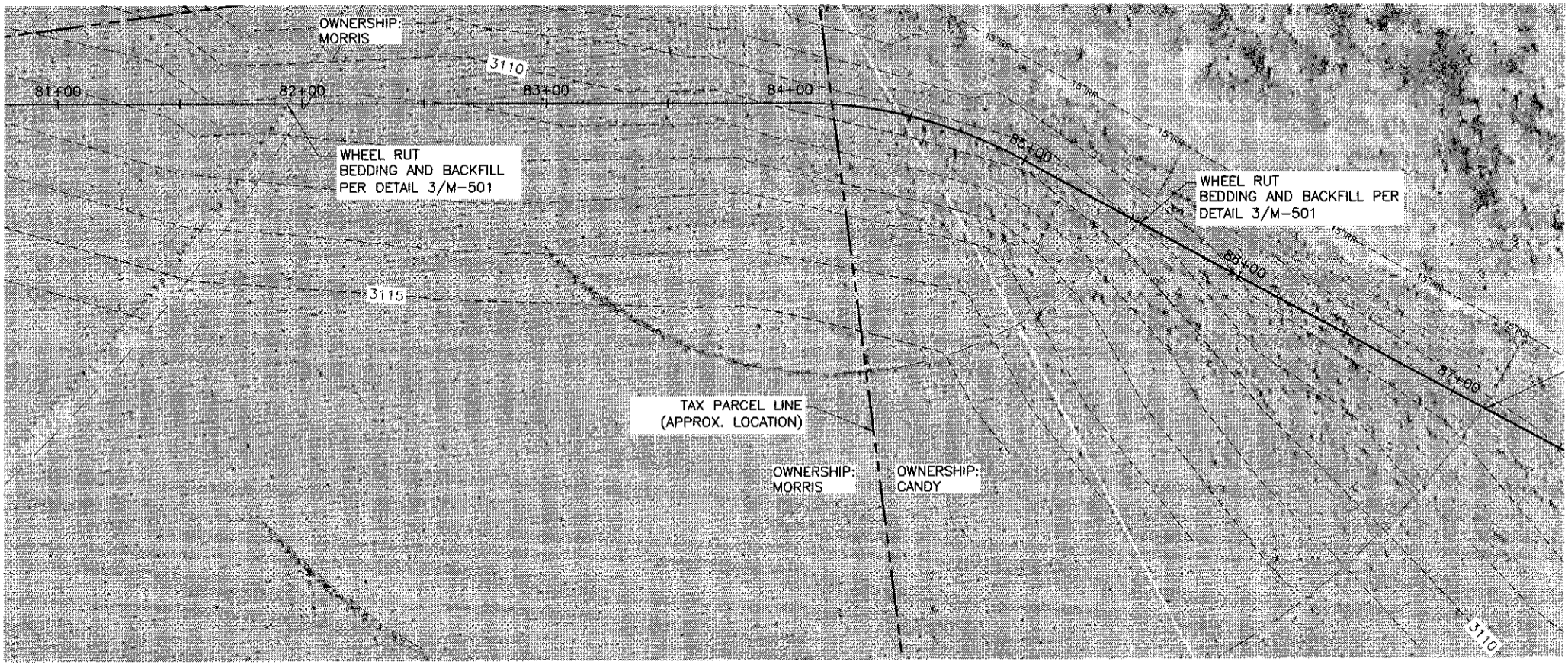

±
RR. PIPE
OCATE 10" TO
LICT.
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
PVI 62+00.00
ELEV: 3132.10
-0.20%
-1.85%

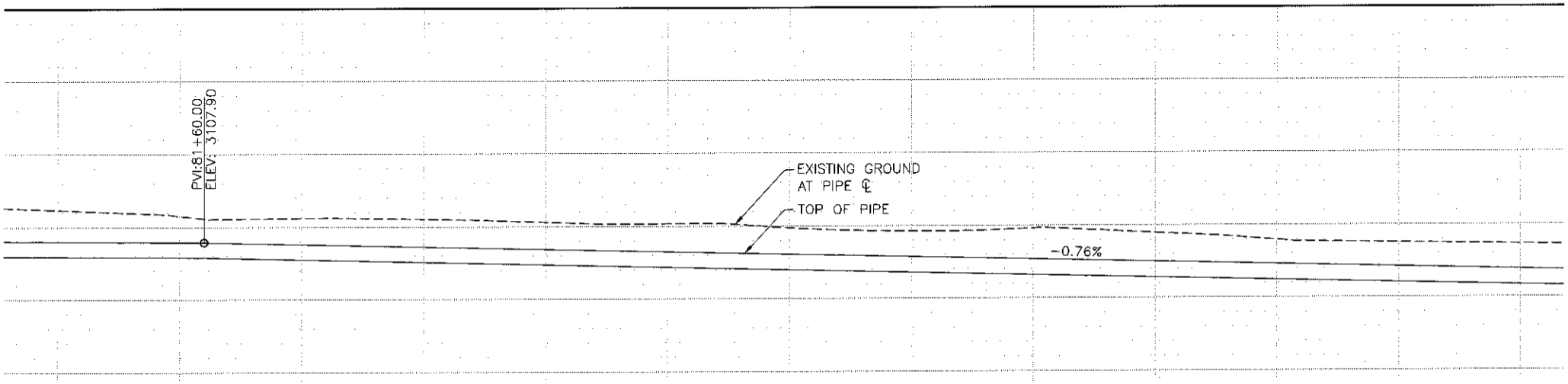


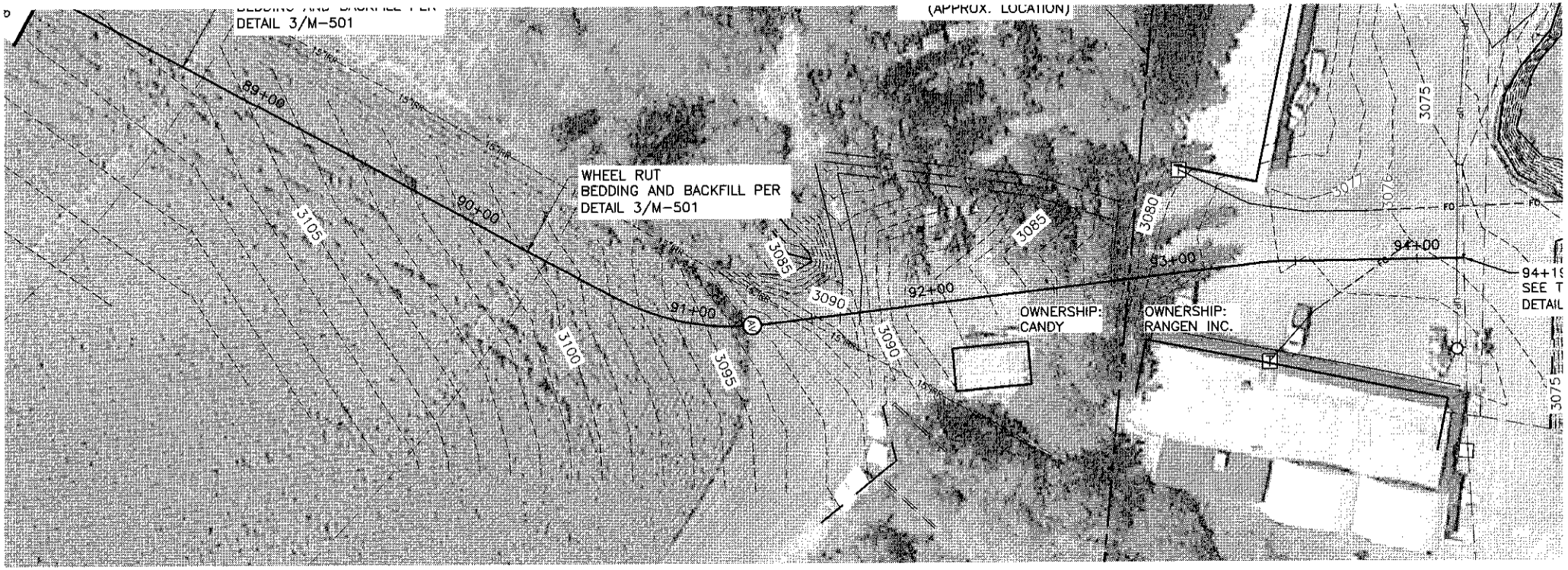
RCEL LINE
X. LOCATION)
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
WHEEL RUT
BEDDING AND BACKFILL
PER DETAIL 3/M-501
WHEEL RUT
BEDDING AND BACK
DETAIL 3/M-501
3130
65+00
66+00
67+00
68+00
69+00
70+00
71+00
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
ERSHIP:
RIS
OWNERSHIP:
MORRIS
TAX PARCEL LINE
(APPROX. LOCATION)
OWNERSHI
MORRIS
4+50.00
3128.08
LL AIR VALVE PER
L 1/M-501
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
STA:68+15±
EXIST POWER LINE TO PIVOT
VERIFY EXISTING DEPTH AND
LOCATION PRIOR TO
CONSTRUCTION. RELOCATE POWER
TO AVOID CONFLICT.
STA:69+20±
EXIST 6" IRRIGATION PIPE X-ING.
VERIFY EXISTING DEPTH AND
LOCATION PRIOR TO
CONSTRUCTION. RELOCATE EXIST
6" TO AVOID CONFLICT.
PVI:70+50.00
ELEV: 3124.20
-0.65%
BACKFILL
M-501
CROSSING
STA:68+66±
EXIST 36" GRAVITY
IRRIGATION PIPE X-ING.
VERIFY EXISTING DEPTH
AND LOCATION PRIOR TO
CONSTRUCTION.

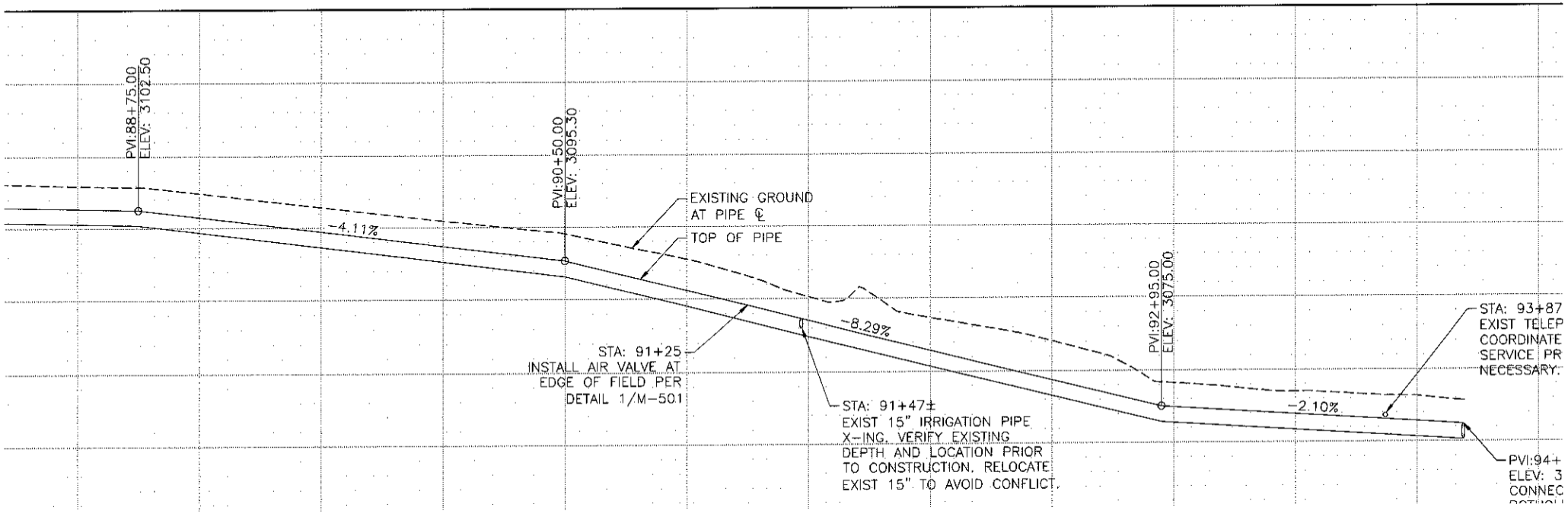

3110
3115
3115
3+00
74+00
75+00
76+00
77+00
78+00
79+00
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
OWNERSHIP:
MORRIS
OWNERSHIP:
MORRIS
TAX PARCEL LINE
(APPROX. LOCATION)


EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
-2.94%
PVI:75+60.00
ELEV: 3109.20
STA:75+85±
EXIST 6" IRRIGATION PIPE X-ING.
VERIFY EXISTING DEPTH AND
LOCATION PRIOR TO
CONSTRUCTION. RELOCATE EXIST
6" TO AVOID CONFLICT.
-0.22%


OWNERSHIP:
MORRIS
3110
81+00
82+00
83+00
84+00
85+00
86+00
87+00
WHEEL RUT
BEDDING AND BACKFILL
PER DETAIL 3/M-501
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
15"RCP
3115
TAX PARCEL LINE
(APPROX. LOCATION)
OWNERSHIP:
MORRIS
OWNERSHIP:
CANDY
3110


PVI:81+60.00
ELEV: 3107.90
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
-0.76%


DETAIL 3/M-501
(APPROX. LOCATION)
WHEEL RUT
BEDDING AND BACKFILL PER
DETAIL 3/M-501
89+00
90+00
91+00
92+00
93+00
94+00
OWNERSHIP:
CANDY
OWNERSHIP:
RANGEN INC.
3105
3100
3095
3090
3085
3080
3075


PVI:88+75.00
ELEV: 3102.50
PVI:90+50.00
ELEV: 3095.30
PVI:92+95.00
ELEV: 3075.00
-4.11%
-8.29%
-2.10%
EXISTING GROUND
AT PIPE ℄
TOP OF PIPE
STA: 91+25
INSTALL AIR VALVE AT
EDGE OF FIELD PER
DETAIL 1/M-501
STA: 91+47±
EXIST 15" IRRIGATION PIPE
X-ING. VERIFY EXISTING
DEPTH AND LOCATION PRIOR
TO CONSTRUCTION. RELOCATE
EXIST 15" TO AVOID CONFLICT.
STA: 93+87
EXIST TELEP
COORDINATE
SERVICE PR
NECESSARY.

SHALL BE 255 FEET
SHALL BE 190 FEET
.L BE NOT LESS THAN 84 PERCENT
LL BE 200 HP
1,800 RPM
BE AS FOLLOWS:
H GLASS ENAMEL LINING
; 30
APER LOCKED

53, GRADE A

M
ASS 30

DED CARBON STEEL WITH A NOMINAL DIAMETER OF 10 INCHES AND A MINIMUM WALL THICKNESS OF 0.365 INCHES
SHALL
THE PIPE SHALL BE CONNECTED WITH THREADED SLEEVE TYPE STEEL COUPLINGS.
BRICATED, WITH AN OPEN SLEEVE AND CONNECTED WITH THREADED COUPLINGS. THE LINESHAFT SHALL BE
M LENGTHS.
MINIMUM DIAMETER OF 1.50 INCHES AND BE CAPABLE OF TRANSMITTING THE REQUIRED POWER AND CARRYING THE
HOUT
IESHAFT SHALL BE SUCH THAT ELONGATION DUE TO HYDRAULIC THRUST WILL NOT EXCEED THE AXIAL CLEARANCE OF
S.
'ACING SHALL NOT EXCEED 5 FEET.
NOMINAL DIAMETER OF 14 INCHES. IMPELLERS SHALL BE ENCLOSED, TAPER LOCKED, TRIMMED TO 8.75 INCHES.
BE
E STRAINER SHALL BE ATTACHED TO THE SUCTION BELL.
ALL BE SUITABLE FOR WATER LUBRICATED OPEN LINESHAFT WITH AN ABOVE GROUND DISCHARGE. THE DISCHARGE
METER
AD SHALL BE PROVIDED WITH A PACKED BOX.
RJHC, 4 STAGES, OR APPROVED EQUAL.
L HOLLOW SHAFT, SUITABLE FOR ACROSS-THE-LINE STARTING AND SOLID STATE STARTING, DESIGNED FOR AND RATED
RTZ
OR SPEED SHALL BE 1,800 RPM. THE NOMINAL MOTOR HORSEPOWER SHALL BE 200 HP. THE MOTOR SHALL HAVE

OTOR SHALL BE FURNISHED WITH CLASS F INSULATION. ENCLOSURE SHALL BE WEATHER PROTECTED TYPE 1 (WP1).

TOP SHAFT ADJUSTING NUT, A LOCK BAR TO HOLD SHAFT DURING ADJUSTMENT, A NON-REVERSE-TYPE MECHANISM
PIN,
UIT BOX OF THE SPLIT TYPE.
EMIUM EFFICIENT, WITH A MOTOR EFFICIENCY OF AT LEAST 95%.
OMPATIBLE WITH THE PUMP AND FULLY WARRANTED FOR OPERATION WITH A VARIABLE FREQUENCY DRIVE AT SPEEDS
OF
HALL BE SUCH THAT AT ALL LISTED DESIGN POINTS IT WILL NOT BE LOADED BEYOND THE NAMEPLATE FLA RATING AND

RVICE FACTOR.
D BY U.S. MOTORS OR APPROVED EQUAL.

NTROL PANEL SHALL BE A PACKAGED SYSTEM MANUFACTURED BY A SINGLE MANUFACTURER. ALL REQUIRED SYSTEM
ND
RY, WITH THE EXCEPTION OF THE TURBINE PUMPS WHICH SHALL BE INSTALLED ON SITE. THE PUMP STATION SYSTEM
)
L AT SITE. PUMP STATION SHALL BE SKID-MOUNTED AND APPROPRIATE FOR INSTALLATION ON A CONCRETE PAD WITH

LL RESPONSIBILITY FOR THE FURNISHING AND FUNCTIONAL OPERATION OF THE COMPLETE PUMP SYSTEM, INCLUDING
THE
DESIGN, ASSEMBLY, TESTING, AND ERECTION OF THE UNITS AS SPECIFIED HEREIN.

TURBINE PUMPS, LINESHAFTS, MOTORS, AND VFDS AS SPECIFIED
IIFOLD WITH ADEQUATE SUPPORTS
H OF THE DISCHARGE LINES FROM EACH PUMP
F THE DISCHARGE LINES FROM EACH PUMP
MMON DISCHARGE MANIFOLD
SURE GAUGE WITH ISOLATION VALVE ON THE COMMON DISCHARGE MANIFOLD
IGH POINT OF THE COMMON DISCHARGE MANIFOLD
ITCH
ED TO WET WELL
HE COMMON DISCHARGE MANIFOLD
ON THE COMMON DISCHARGE MANIFOLD
ER LEVEL SHUTDOWN
IED

ATION
PURTENANCES, AND ENCLOSURE WILL BE COATED WITH A BAKED ON POWDER COATING. SPRAY ON COATINGS WILL
E
STRUCTED OF STEEL MODULAR PANELS AND HINGED FRONT DOORS. NO COMPONENTS SHALL BE OUTSIDE THE

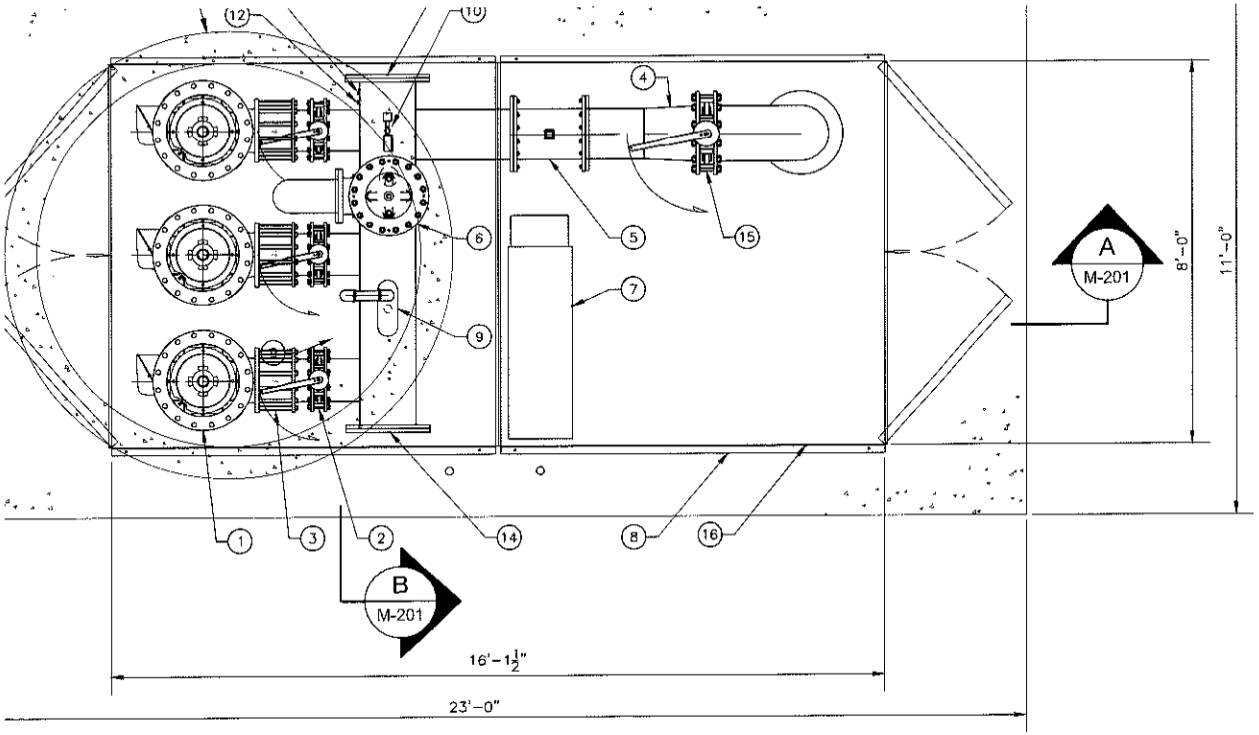
D AND HEATED TO PREVENT FREEZING, AND PROVIDED WITH THERMOSTAT CONTROLLED VENTILATION FANS. THE
OF

TALIZING AND INSTANTANEOUS MAGNETIC FLOW METER ON THE PUMP STATION DISCHARGE. THE FLOW METER SHALL BE
HE
LOPING. THE FLOW METER SHALL BE PROVIDED WITH ADEQUATE STRAIGHT PIPE LENGTH UPSTREAM AND DOWNSTREAM
RE
ER SHALL BE CAPABLE OF TRANSMITTING A SIGNAL TO THE PUMP STATION PLC FOR FLOW-PACING OF VFDS. THE
ON
) CONDUIT FLOW METERS APPROVED BY THE IDAHO DEPARTMENT OF WATER RESOURCES.
SS STEEL AND RATED FOR OPERATION IN THE 0 TO 150 PSIG PRESSURE RANGE, AND SHALL BE ACCURATE TO WITHIN

INSTRUCTIONS SHALL INCLUDE STEP-BY-STEP TROUBLE SHOOTING PROCEDURES WITH ALL MAJOR EQUIPMENT.
12. THE CONTRACTOR SHALL FURNISH AND INSTALL ALL ELECTRICAL AND CONTROLS ITEMS NECESSARY TO MAKE THE SYSTEM OPER
AND WORK SHALL CONFORM TO
APPLICABLE PROVISIONS OF CITY, COUNTY, STATE, AND NATIONAL ELECTRIC CODES. THE CONTRACTOR SHALL ACQUIRE ALL REQ
AND INSPECTIONS.
13. THE CONTRACTOR SHALL INITIATE DISCUSSIONS AND COORDINATE ALL WORK RELATED TO IDAHO POWER (IPCO) INSTALLING THE I
STATION INCLUDING CONDUCTOR,
TRANSFORMER, AND METER. THE OWNER WILL PAY THE IPCO FEE DIRECTLY. THE CONTRACTOR SHALL INSTALL THE METER CAI

PUMP CONTROL PANEL

1. THE PUMP STATION WILL RUN CONTINUOUSLY AND OPERATE TO MAINTAIN A CONSTANT FLOW RATE THAT CAN BE OPERATOR-AD.
SHALL BE EQUIPPED WITH THREE (3)
TURBINE PUMPS, EACH CONTROLLED BY A VFD. THE STATION SHALL BE PROGRAMMED TO ALTERNATE PUMP OPERATION SUCH
OPERATE CONTINUOUSLY, WITH THE THIRD
PUMP ON STANDBY. PUMP ALTERNATION SHALL OCCUR ON A SCHEDULE DETERMINED BY THE OWNER.
2. PUMP STATION SHALL INCLUDE INTEGRAL PUMP CONTROL PANEL WITH A VFD FOR EACH PUMP, A PROGRAMMABLE LOGIC CONTR
MACHINE INTERFACE (HMI). THE
CONTROL PANEL SHALL BE UL-LISTED, AND SHALL BE MANUFACTURED BY THE PUMP STATION MANUFACTURER. POWER SUPPLY
PROVIDED TO PUMP STATION METER CAN
BY IPCO. THE PUMP CONTROL PANEL SHALL BE COMPLETELY MANUFACTURED AND TESTED PRIOR TO DELIVERY TO THE JOB SI
3. A FULL-COLOR WIRING DIAGRAM SCHEMATIC AND A NAMEPLATE WITH SERIAL NUMBER SHALL BE PERMANENTLY AFFIXED TO THE
THE NAMEPLATE SHALL IDENTIFY THE
MOTOR HORSEPOWER AND AMPERAGE OF THE PUMPS THAT THE PUMP CONTROL PANEL IS INTENDED TO OPERATE.
4. THE CONTROL PANEL SHALL ALSO INCLUDE:
a. SERVICE ENTRANCE RATED EXTERNAL DISCONNECT
b. VOLTAGE/PHASE MONITOR
c. POWER STATUS INDICATOR LIGHTS
d. PUMP STATUS INDICATOR LIGHTS
e. SYSTEM FAULT/TRIP INDICATOR LIGHTS
f. HAND-OFF-AUTO (HOA) SWITCH FOR EACH PUMP
g. LIGHTNING AND SURGE PROTECTION
h. MOTOR OVERLOAD PROTECTION
i. VOLTAGE, PHASE LOSS, IMBALANCE PROTECTION
j. MANUAL RESET BUTTON
k. MANUAL VFD SPEED CONTROL DIAL
5. THE MOTOR CONTROL FOR EACH OF THE PUMPS SHALL BE A VFD. THE VFD SHALL BE:
a. CAPABLE OF ACCEPTING START AND STOP SIGNALS EITHER MANUALLY AT THE CONTROL PANEL (HAND MODE) OR AUTOMATICAL
b. ABLE TO AUTOMATICALLY REGULATE PUMP SPEED BASED ON A 4-20 MA CURRENT SIGNAL FROM A FLOW METER, WITH THE O
SIGNAL FROM A PRESSURE TRANSDUCER
c. ABLE TO PROVIDE SOFT START AND STOP, WITH ADJUSTABLE ACCELERATION/DECELERATION TIMES TO MINIMIZE HYDRAULIC SUR
d. ABLE TO VARY SPEED WITH SMOOTH ACCELERATION OR DECELERATION, WITHOUT VIBRATION OR SHOCK LOADING, TO MEET THE
THE EQUIPMENT SPECIFICATIONS,
WITHOUT OVERLOADING OR OVERHEATING THE DRIVE OR MOTOR
e. RATED FOR THE MAXIMUM LOAD THE PUMP MOTOR CAN PRODUCE
f. PROVIDED WITH THE NECESSARY HARMONIC MITIGATION TO MEET REQUIREMENTS OF IEEE-519
g. MANUFACTURED BY ABB ACS SERIES, OR APPROVED EQUAL
6. THE PLC SHALL BE INSTALLED, PROGRAMMED, AND SERVICED BY THE PUMP STATION MANUFACTURER. THE PLC SHALL BE FULI
PUMP PANEL INSTALLATION. THE
TECHNICIAN INSTALLING AND PROGRAMMING THE PLC IS TO BE FACTORY TRAINED AND CERTIFIED BY THE PLC MANUFACTURER.
PERFORM THE FOLLOW FUNCTIONS:
a. PROGRAMMED SYSTEM START-UP ROUTINE FOR INITIAL START-UP
b. VARIABLE START-UP ROUTINES FOR POWER OUTAGES
c. LOG MOTOR RUN HOURS
d. INDIVIDUAL PUMP RUN TIME MONITORING
e. TIMING AND ALTERNATION FUNCTIONS FOR PUMPS; PUMP ALTERNATION SHALL HAVE A FLEXIBLE SCHEDULE THAT CAN BE MOD
f. OPERATE NUMBER AND SPEED OF PUMPS NECESSARY TO MAINTAIN SET FLOW RATE
g. LOW AND HIGH PRESSURE SHUTDOWN
h. LOW FLOW SHUT-DOWN
i. LOW WATER LEVEL SHUTDOWN FOR THE WET WELL WITH AUTOMATIC RESTART
j. SYSTEM FAULT DIAGNOSTICS WITH VISUAL INPUT/OUTPUT FAULT INDICATORS FOR TROUBLESHOOTING
k. VOLTAGE MONITORING AND SHUTDOWN WITH AUTOMATIC RE-START ROUTINE UPON RETURN TO NORMAL
l. FUTURE TIMING AND CONTROLS CHANGES THAT MAY BE REQUIRED TO FINE TUNE THE PUMP STATION
m. RECEIVE A 4-20 MA OR PULSE SIGNAL FROM A FLOW METER AND A PRESSURE TRANSDUCER
n. TRANSMIT REAL-TIME SYSTEM PROCESSES INCLUDING PUMP RUN PRESSURE, FLOW (INSTANTANEOUS AND TOTALIZED), LEVEL A
ALARMS INCLUDING LOW AND HIGH
PRESSURE, NO FLOW, LOW WATER LEVEL, SYSTEM FAULTS
7. THE SYSTEM SHALL INCLUDE A HMI WITH A MINIMUM 5.7" TOUCH-SCREEN DISPLAY UNIT LOCATED ON THE FRONT OF THE PANE
FEATURES AND FUNCTIONS:
a. USER ADJUSTABLE REAL TIME CLOCK DISPLAY
b. ONE LINE, SIMPLE TERM DECLARATION OF CURRENT SYSTEM STATUS INCLUDING ANY CURRENTLY OCCURRING FAULTS
c. RESET BUTTON TO RESTART THE SYSTEM AFTER A SYSTEM SHUTDOWN
d. FAULT LOG CAPABLE OF STORING UP TO 256 FAULTS INCLUDING INITIAL FAULT TIME & DATE AND RECOVERY TIME
e. REAL-TIME DISPLAY OF ALL SYSTEM PROCESSES INCLUDING PRESSURE, FLOW (INSTANTANEOUS AND TOTALIZED), LEVEL AND TI
f. DISPLAY STATUS FOR EACH PUMP (STOPPED, RUNNING, FAULTED, IDLE) INCLUDING SPEED
g. DISPLAY TOTAL PUMP RUN HOURS WITH RESET BUTTON AND DATE OF LAST RESET
h. ALLOW USER ADJUSTMENT OF ALL SETTINGS RELATING TO THE OPERATION AND PREPROGRAMMED SAFETY FUNCTIONS OF THE
8. THE PUMP CONTROL SYSTEM SHALL MEET IEEE-519 STANDARDS FOR HARMONICS MITIGATION AS DEFINED AND ENFORCED BY ID
9. PANEL SHALL BE VENTILATED AND/OR COOLED TO PREVENT HIGH AMBIENT TEMPERATURES. THE COOLING SYSTEM SHALL PREVI
REACHING HIGH AMBIENT TEMPERATURES,
WHICH WILL CAUSE TEMPERATURE FAULTS OR WARNINGS AND SHALL BE RATED FOR A MAXIMUM AMBIENT TEMPERATURE OF 104
SHALL START AUTOMATICALLY WHENEVER
THE PANEL IS IN OPERATION AND SHUT DOWN AUTOMATICALLY WHEN THE PANEL IS IN SLEEP MODE OR TURNED OFF.



PUMP STATION PLAN

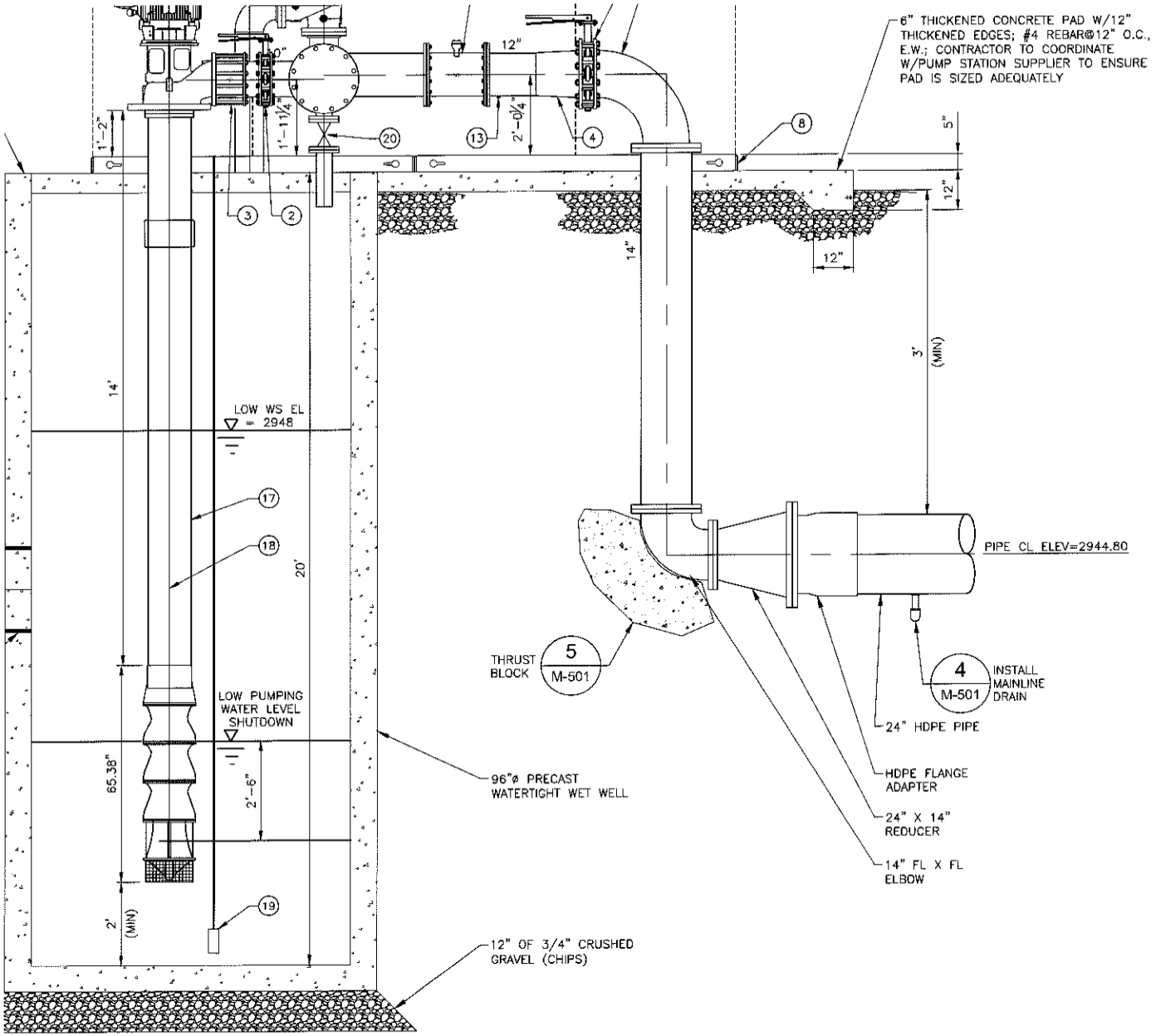
1000 500 0 1 2 3 4

Scale in mm : Scale in Feet

SCALE: 1/2"=1'-0"

EQUIPMENT SCHEDULE

ITEM	DESCRIPTION	SIZE
1	TURBINE PUMP, GOULDS 14 RJHC, 8.75" IMPELLER, 4-STAGE, 200 HP	
2	BUTTERFLY VALVE	10"
3	SILENT CHECK VALVE	10"
4	REDUCER	14"X1
5	MAGNETIC FLOW METER	12"
6	HIGH PRESSURE RELIEF VALVE	8"
7	PUMP CONTROL PANEL	
8	POWDER COATED SKID	
9	COMBINATION AIR VALVE W/ ISOLATION VALVE	2"
10	PRESSURE TRANSMITTER AND PRESSURE GAUGE W/ ISOLATION VALVE	1/4
11	HIGH PRESSURE CUT-OFF SWITCH	1/2
12	HALF COUPLER (MISC)	3/4
13	HALF COUPLER (MISC)	1"
14	BLIND FLANGE	14"
15	BUTTERFLY VALVE	14"
16	PUMP STATION ENCLOSURE W/ HEATER AND VENTILATION	
17	COLUMN PIPE	10"
18	STAINLESS STEEL LINESHAFT	1.5'
19	WET WELL LEVEL SENSOR	
20	MANIFOLD DRAIN VALVE	4"

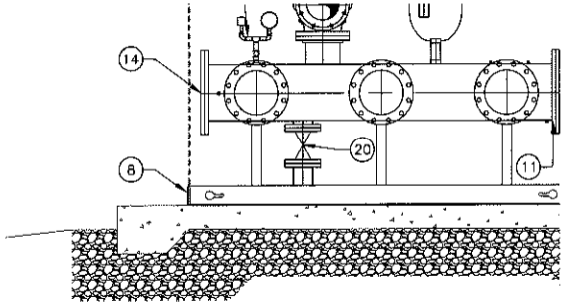


A M-101 PUMP STATION SECTION

1000 500 0 1 2 3 4

Scale in mm Scale in Feet

SCALE: 1/2"=1'-0"



B M-101 PUMP STATION SECTI

1000 500 0 1 2 3

Scale in mm Scale in Feet

SCALE: 1/2"=1'-0"

EQUIPMENT SCHEDULE		
ITEM	DESCRIPTION	
1	TURBINE PUMP, GOULDS 14 RJHC, 8.75" IMPELLER, 4-STAGE, 200 HP	
2	BUTTERFLY VALVE	
3	SILENT CHECK VALVE	
4	REDUCER	1
5	MAGNETIC FLOW METER	
6	HIGH PRESSURE RELIEF VALVE	
7	PUMP CONTROL PANEL	
8	POWDER COATED SKID	
9	COMBINATION AIR VALVE W/ ISOLATION VALVE	
10	PRESSURE TRANSMITTER AND PRESSURE GAUGE W/ ISOLATION VALVE	
11	HIGH PRESSURE CUT-OFF SWITCH	
12	HALF COUPLER (MISC)	
13	HALF COUPLER (MISC)	
14	BLIND FLANGE	
15	BUTTERFLY VALVE	
16	PUMP STATION ENCLOSURE W/ HEATER AND VENTILATION	

— 4"x12"x12" CONCRETE BLOCK (TYP.)

INF.
TOP

MAXIMIZE DEPTH

2" THREADED BRASS NIPPLE

2" BRASS 90° ELBOW W/SCREEN

2" THREADED BRASS NIPPLE

2" COMBINATION AIR VALVE, APCO MODEL 145C OR EQUAL

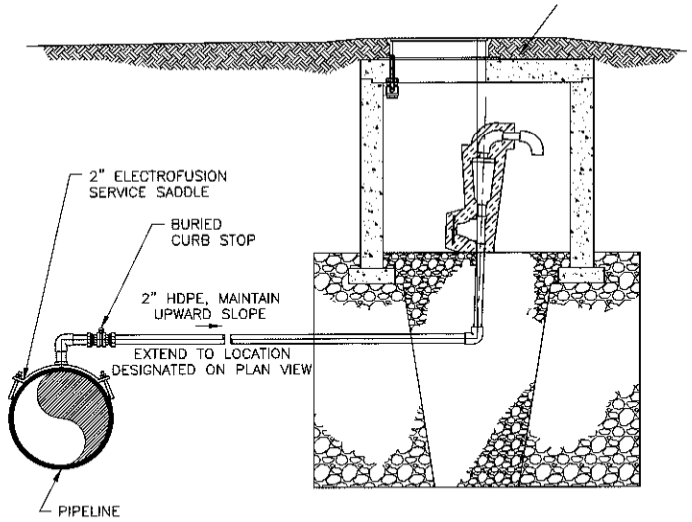
2" THREADED BALL VALVE

2" ELECTROFUSION SERVICE SADDLE

2" MINUS COMPACTED GRAVEL UNDER CONCRETE BLOCKS

2" MINUS WASHED
UNDER AND
ND MAIN

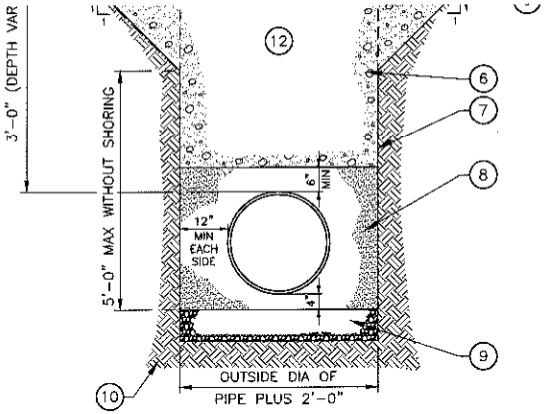
R VALVE



NOTE:

1. PLACE FIBERGLASS MARKER TO IDENTIFY LOCATION OF MANHOLE.

2 VAR REMOTE AIR VALVE
NOT TO SCALE



HAGERMAN HIGHWAY DISTRICT NOTES FOR ASPHALT ROADWAY CUT:

1. ALL LOOSE AND FOREIGN MATERIALS SHALL BE REMOVED FROM THE FACE OF THE EXISTING BITUMINOUS SURFACE-CUT.
2. ANY FRACTURED BITUMINOUS SURFACE BEYOND THE FACE OF THE SURFACE-CUT SHALL BE REMOVED.
3. THE FACE OF THE BITUMINOUS SURFACE-CUT MUST BE PRIMED BEFORE APPLYING PATCH.
4. PATCH SHALL NOT OVERLAP THE EXISTING BITUMINOUS SURFACE.
5. THE PATCH THICKNESS SHALL BE 4" OR EQUAL TO THE EXISTING ASPHALT THICKNESS, WHICHEVER IS GREATER.
6. PATCH SURFACE SHALL BE OF COMPACTED HOT MIX ASPHALT.

(9) FOUNDATION STABILIZATION MAY VARY P SECTION-304)

(10) UNDISTURBED SOIL (TYP)

(12) COMPACTION ZONE

ROAD CROSSINGS:

(1) LOCAL CUT BACK 3' BEYOND INITIAL SU

(2) SURFACE REPAIR WIDTH, TRENCH WIDTH

(3) EXISTING ASPHALT PAVEMENT

(4) EXISTING BASE

(6) IMPORTED BACKFILL-8" MINUS UNCRUSH

(8) TYPE III BEDDING (SAND); INSTALLED US ISPWC

(11) SURFACE REPAIR AND BASE; TYPE C FC ASPHALT PER ISPWC

(13) SAW CUT IN NEAT, STRAIGHT LINE

(14) MINIMUM 1' OF 3/4" MINUS COMPACTEI

PIVOT WHEEL CROSSINGS:

(6) NATIVE TRENCH BACKFILL; TYPE C PER

(8) TYPE I BEDDING TO SPRINGLINE AND TY INSTALLED USING CLASS C-1 BEDDING

3 VAR TYPICAL TRENCH DETAIL
NOT TO SCALE

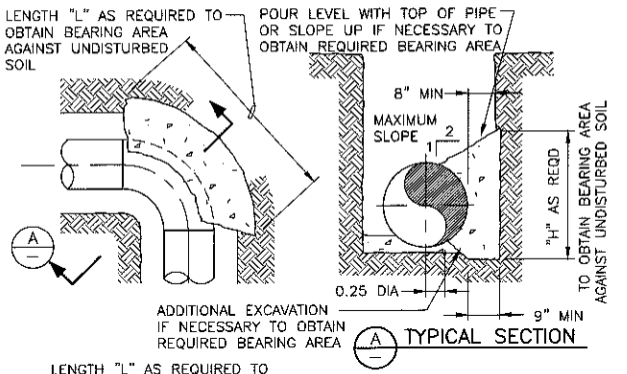
RD MANHOLE
AND COVER

— 24" O.D. CONCRETE PIPE, LENGTH AS REQUIRED

— 2" NIPPLE W/2" COUPLING W/PLUG

— 2" SCH 40 GIP TEE

— 2" CURB STOP (TYP OF 2)



NOTES:

1. BEARING AREA IS THE AREA REQUIRED TO OBTAIN A MAXIMUM SOIL

P)

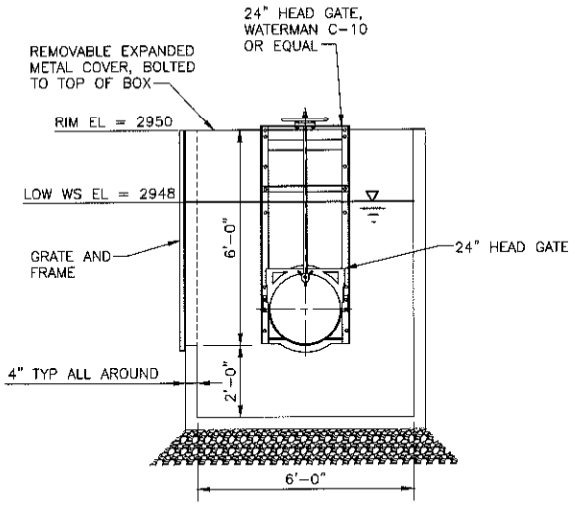
1 DETAIL

HEAD GATE,
RMAN C-10
QUAL

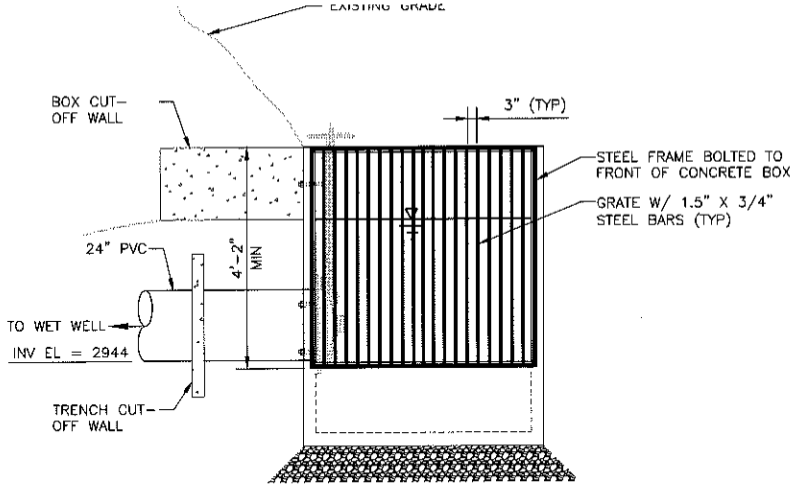
1

B

LOW



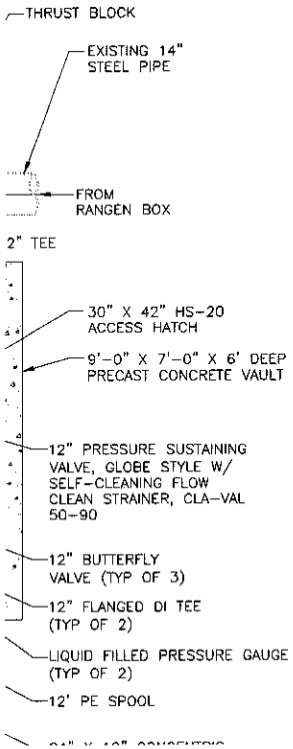
A SECTION



B ELEVATION

S.

8 SPRING COLLECTION BOX
NOT TO SCALE



NOTES:

1. NEED TO VERIFY LOCATION, DEPTH, SIZE, MATERIAL, AND CONDITION OF EXISTING PIPELINE. DEPTH MAY IMPACT DEPTH OF PRECAST CONCRETE VAULT.
2. PRE-FABRICATE ASSEMBLY BEFORE CUTTING INTO EXISTING PIPE.
3. PRESSURE SUSTAINING VALVE SHALL BE HYDRAULICALLY OPERATED, MODULATING TO MAINTAIN A CONSTANT UPSTREAM PRESSURE. THE VALVE SHALL OPEN FAST IN RESPONSE TO AN INCREASE IN UPSTREAM LINE PRESSURE BUT CLOSE SLOWLY IN RESPONSE TO A DECREASE IN UPSTREAM LINE PRESSURE TO PREVENT SURGES.
4. PRESSURE SUSTAINING VALVE SHALL BE GLOBE-STYLE AND FLANGED, WITH A DUCTILE IRON VALVE BODY AND COVER (ASTM A536), 150 PRESSURE CLASS. TRIM SHALL BE BRONZE, DISC SHALL BE RUBBER, AND STEM AND NUT SHALL BE STAINLESS STEEL. PILOT CONTROL SHALL BE BRONZE ASTM B62, TRIM SHALL BE TYPE 303 STAINLESS STEEL, AND TUBING SHALL BE COPPER.
5. A SELF-CLEANING STRAINER SHALL BE INSTALLED IN THE MAIN VALVE INLET BODY BOSS TO PROTECT THE PILOT SYSTEM FROM FOREIGN PARTICLES. ISOLATION VALVES SHALL BE PROVIDED TO ISOLATE THE PILOT SYSTEM FROM MAINLINE PRESSURE. THE VALVE SHALL BE PROVIDED WITH CLOSING SPEED CONTROL THAT CAN BE ADJUSTED TO CONTROL THE CLOSING SPEED OF THE VALVE. VALVE SHALL BE PROVIDED WITH A VALVE POSITION INDICATOR.
6. PRESSURE SETPOINT SHALL BE EASILY ADJUSTABLE IN THE FIELD. DESIGN SETPOINT SHALL BE 36 PSI. CONTRACTOR SHALL ADJUST SETPOINT IN FIELD AS NECESSARY TO ACHIEVE DESIRED OPERATING CONDITIONS.
7. PRESSURE GAUGES SHALL BE INSTALLED UPSTREAM AND DOWNSTREAM OF THE PRESSURE SUSTAINING VALVE AND ON THE VALVE COVER PILOT. PRESSURE GAUGES SHALL BE STAINLESS STEEL, OIL-FILLED, 2.5 INCHES IN DIAMETER, AND SHALL HAVE A PRESSURE RANGE OF 0 TO 100 PSI. ISOLATION VALVES SHALL BE PROVIDED FOR EACH OF THE GAUGES.
8. PRESSURE SUSTAINING VALVE SHALL BE CLA-VAL 50-90, OR APPROVED EQUAL.
9. ALL JOINTS NEED TO BE MECHANICALLY RESTRAINED, PLUS CONCRETE THRUST BLOCK BEHIND TEE.
10. MECHANICAL PIPING INSIDE VAULT SHALL BE CONSTRUCTED SO THE PRESSURE SUSTAINING VALVE CAN BE REMOVED WHILE WATER IS FLOWING IN THE BY-PASS LINE.
11. MECHANICAL PIPING INSIDE VAULT SHALL BE PROPERLY SUPPORTED WITH AND

APPENDIX B: WATER RIGHT TRANSFER APPLICATION

Rev. 07/13

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) North Snake GWD, Magic Valley GWD, Southwest ID on behalf of the owner, State of Idaho, Dept. of Fish & Game Phone 208-232-6101

Mailing address See attached mailing list for each applicant Email rcb@racinelaw.net
tjb@racinelaw.net

☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1.**

☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a.**

☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b.**

☑ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3.**

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Randall C. Budge, T.J. Budge Phone 208-2332-6101

Mailing address PO Box 1391, Pocatello, ID 83204 Email rcb@racinelaw.net;tjb@racinela

☐ Send all correspondence for this application to the representative and not to the applicant.
OR
☑ Send original correspondence to the applicant and copies to the representative.

☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
☑ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4.**

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Randall C. Budge — Signature of Applicant or Authorized Representative
Randall C. Budge/T.J. Budge — Print Name and Title if applicable
Date

Signature of Applicant or Authorized Representative
Print Name and Title if applicable
Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☑ Change nature of use ☐ Add diversion point(s) ☐ Change period of use ☑ Change place of use ☐ Other

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2.**

See narrative Attachment 1 - Part 1.A.2.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1. All or Part	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☐ ☑	36-2055 A	54 cfs	Fish Propagation	1/1 to 12/31	Upper Tucker Springs/Riley
☐ ☑	36-2055B	10 cfs transfe	Fish Prop./Mitigation	1/1 to 12/31	Upper Tucker Springs/Riley
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 64 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed up to 10 cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

☑ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	14E	31			M/F	M/F													
		32							M/F										
(See	Attach	2)																	

Total Acres (for irrigation use)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:
The Districts will pump and pipe water from Tucker Springs located at the Hagerman State Fish Hatchery to the head of Billingsley Creek at or near the Rangen hatchery. Detailed plans and specifications include pumps, motors, measuring device and controlling works per engineering submitted in Second Mitigation Plan, CM-MP-2014-001.

b. Who owns the property at the point(s) of diversion? State of Idaho Department of Fish & Game ("IDFG")
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Letter of Intent signed by Districts, IDFG and IWRB; and, IDFG Letter of Consent, copies attached.

c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6.** List the name of the entity and type of lien: N/A

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
IDFG water right nos. 36-2055, 36-2056, 36-2159, 36-7249 are diverted from Tucker Springs and used for fish propagation at the Hagerman State Hatchery. Rangen has (5) decreed water right nos. 36-00134B, 36-135A, 36-15501, 36-02551, 36-07694 diverted from the Martin-Curren Tunnel tributary to Billingsley for fish propagation, irrigation and domestic uses.

f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

☐ ☑ undergone a period of five or more consecutive years of non-use,
☐ ☑ currently leased to the Water Supply Bank,
☐ ☑ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☑ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 1.
Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: 36-2055

1. amount 64 CFS (cfs/ac-ft) for Fish Propogation purposes from 1/1 to 12/31
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____
   amount ____ (cfs/ac-ft) for ____ purposes from ____ to ____

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres (for irrigation use) ____

Page _____ of _____

STATE OF IDAHO

DEPARTMENTOF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2B

IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

☑ Complete and attach one copy of **Part 2B** for each right for which only a portion is proposed to be changed.

Right Number: 36-2055

1. amount 64 cfs (cfs/ac-ft) for Fish Propagation purposes from 1/1 to 1/31
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	13E	1		F															

Total Acres (for irrigation use) _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

☑ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.

☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b.** If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

B. CHANGES IN NATURE OF USE (Water Balance)

☑ If you propose to change the nature of use or period of use of all or part of the rights(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Preliminary check by _____ Date _____

Fee paid _____ Date _____ Receipted by _____ Receipt # _____

Add'l fee paid _____ Date _____ Receipted by _____ Receipt # _____

Attachment
Part 1A.2.
Purpose of Transfer

ATTACHMENT

PART 1A.2. – Purpose of Transfer

The purpose of the Transfer Application is to change the place of use for up to 10 CFS of water under IDFG's Water Right No. 36-2055 (Attachment Part 2 A)from Tucker Springs at the Hagerman State Hatchery: (1) to the head of Billingsley Creek and/or the Rangen Hatchery raceways for fish propagation and mitigation pursuant to the District's Second Mitigation Plan ("Plan") pending in Case No. CM-MP-2014-001 (Attachment 4); and (2) to the Hagerman Valley downstream on Billingsley Creek for mitigation because the water delivered to Rangen and used non-consumptively will augment supplies to other water rights downstream. The Plan is one of several alternatives for delivering mitigation water to Rangen to enable junior ground water users to avoid curtailment under the Director's January 29, 2014 *Final Order regarding Rangen Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights June to July 13, 1962* ("Curtailment Order").

The Plan provides for the use of up to 10 CFS of spring water discharged from the ESPA at Tucker Springs to be pumped via buried pipeline approximately 1.7 miles to Rangen's place of use near the head of Billingsley Creek. This water is currently used for fish production year round and would be delivered to Rangen for fish production and mitigation year round. The Plan includes the design and construction of a pump station with pumps, motors and related equipment including necessary redundancy to continuously pump up to a maximum of 10.0 CFS water from Tucker Springs to Rangen.

A copy of the Letter of Intent with IDFG and IWRB is Attachment 3. Attachment 7a is an aerial map depicting the location of Tucker Springs, the pipeline and the new place of use at the head of Billingsley Creek. Attachment Part 1.B.4 is the supplemental description and Attachment 7b a map of the place of use for mitigation downstream from Rangen on Billingsley Creek.

The transfer and delivery would occur on an "as needed" basis to meet the mitigation obligation to Rangen, which is phased in over five years up to a maximum of 9.1 CFS. The maximum 9.1 CFS obligation to Rangen may be reduced by future orders of the Director or Courts, by other mitigation credits and/or other mitigation plans to Rangen. These credits and other direct deliveries may vary over time and may include such things as credits for CREP, conversions and recharge as well as other direct water deliveries to Rangen under other mitigation plans. Based on known credits at this time, it is estimated that approximately 6.0 CFS is the maximum amount of water that would be delivered from Tucker Springs to Rangen in the future. The transfer is requested for up to a maximum of 10 CFS which substantially exceeds the present present and most likely exceeds all future mitigation obligations to Rangen to provide excess that might be needed for mitigation in the future at Rangen or downstream along Billingsley Creek.

The transferred water right will remain under the ownership of IDFG and all transferred water will continue to be used by IDFG at the Hagerman State Hatchery unless and until it is needed to meet mitigation obligation to Rangen not satisfied by other means.

The approval of the transfer requested is contingent upon:

A. IGWA and/or the Districts securing an Order from IDWR approving the Second Mitigation Plan providing for the delivery of 10 CFS from the Hagerman State Hatchery's Tucker Springs water rights to satisfy the mitigation obligation to Rangen;

B. IGWA and/or the Districts proceeding to construct the Tucker Springs project and implement the Second Mitigation Plan.

C. The existence of a continuing mitigation obligation to Rangen not satisfied by other means.

This Transfer Application supports the Plan and is an integral part of the *Thousand Springs Water Supply Settlement Framework* proposed by the State of Idaho, Attachment 5.

Attachment
Part 1.B.4
(Supplement)

APPLICATION FOR TRANSFER
PART 1.B.4
SUPPLEMENTAL DESCRIPTION

PLACE OF USE: MITIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2			X L 2	X L 1				X L 3	X L 6			X L 7	X	X	X	X	
07S	13E	10													X L 4			X L 5	
07S	13E	11	X	X	X	X	X L 2		X L 3	X	X	X	X	X	X	X	X	X	
07S	13E	12						X	X	X	X	X	X	X	X	X	X	X	
07S	13E	13	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	14	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	15	X L 1	X L 2	X	X	X L 3		X L 5	X	X	X	X	X	X	X	X	X	
07S	13E	16													X L 3		X L 6		
07S	13E	21		X L 1		X L 5									X L 6		X L 9		
07S	13E	22	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	23	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	24	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	25	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	26	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	27	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	13E	28	X	X		X				X L 4	X			X	X	X	X	X	
07S	13E	33	X	X	X	X	X L 1			X L 4	X L 5				X	X	X L 8	X	
07S	13E	34	X	X	X	X	X	X	X	X	X L 3	X	X				X L 2	X L 1	
07S	13E	35	X	X	X	X	X	X	X	X	X	X	X L 2	X L 1	X	X	X	X	
07S	13E	36	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
07S	14E	7											X L 4						
07S	14E	18					X	X L 1	X L 2	X	X	X L 3	X L 4	X					
07S	14E	19					X	X L 1	X L 2	X	X	X L 3	X L 4	X			X		
07S	14E	30		X	X		X	X L 1	X L 2	X	X	X L 3	X L 4	X	X	X	X	X	
07S	14E	31	X	X	X	X	X	X L 1	X L 2	X	X	X L 3	X L 4	X	X	X	X	X	

07S 14E	32							X	X	X	X	X	X	X	X								
08S 13E	1	X L 1	X L 2	X	X	X	X	X	X							X	X						
08S 13E	2	X	X			X																	
08S 13E	3						X L 6																
08S 13E	4		X L 5																				
08S 14E	5					X L 3	X L 4	X	X			X	X										
08S 14E	6	X L 1	X L 2	X	X	X L 3	X L 4	X L 5	X			X L 6			X L 7	X	X	X L 9	X L 8				
08S 14E	8						X L 1																

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S 14E 31		26.1	26.0	10.0		3.0	30.0	32.0	40.0	34.0	12.0	33.0	20.0	35.0	39.0	40.0	380.1
07S 14E 32							1.0			14.0	12.0						27.0
08S 14E 6	40.0	40.0	8.0	40.0	15.0												143.0
07S 13E 36	30.0		5.0	40.0									26.0				101

Total Acres: 651.1

Attachment
Part 2A

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

3/11/2014

WATER RIGHT NO. 36-2055

Owner Type	Name and Address
Current Owner	STATE OF IDAHO DEPT OF FISH & GAME PO BOX 25 BOISE, ID 83707 (208)287-2714

Priority Date: 09/16/1947
Basis: Decreed
Status: Active

Source	Tributary
UPPER TUCKER SPRINGS	RILEY CREEK

Beneficial Use	From	To	Diversion Rate	Volume
FISH PROPAGATION	1/01	12/31	64 CFS	
Total Diversion			64 CFS	

Location of Point(s) of Diversion:

UPPER TUCKER SPRINGS	NWSESE	Sec. 36	Township 07S	Range 13E	GOODING County

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION GOODING County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08S	13E	1	2	NWNE										

Conditions of Approval:

1.		USE OF THIS RIGHT WITH RIGHT NOS. 36-02159, 36-02706 & 36-07249 IS LIMITED TO A TOTAL COMBINED FACILITY VOLUME OF 335,160 CU. FT.
2.		FISH PROPAGATION, HATCHERY CAPACITY 335,160 CUBIC FEET
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:
Licensed Date:
Decreed Date: 12/29/1997
Permit Proof Due Date:
Permit Proof Made Date:
Permit Approved Date:
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal: S
Owner Name Connector: And
Water District Number: 36A
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit:
Combined Volume Limit: 335160
Combined Rate Limit:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Attachment

7a

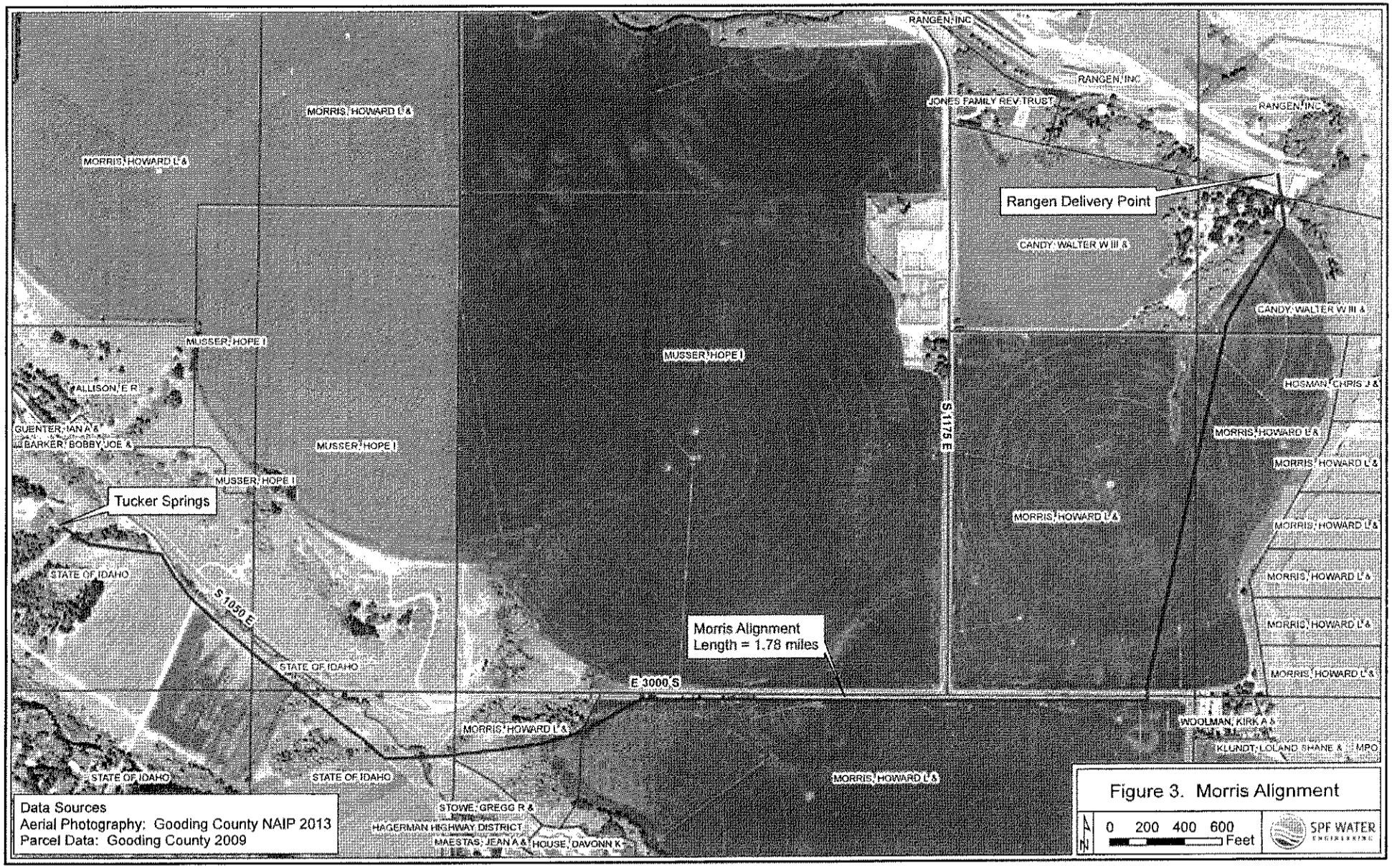
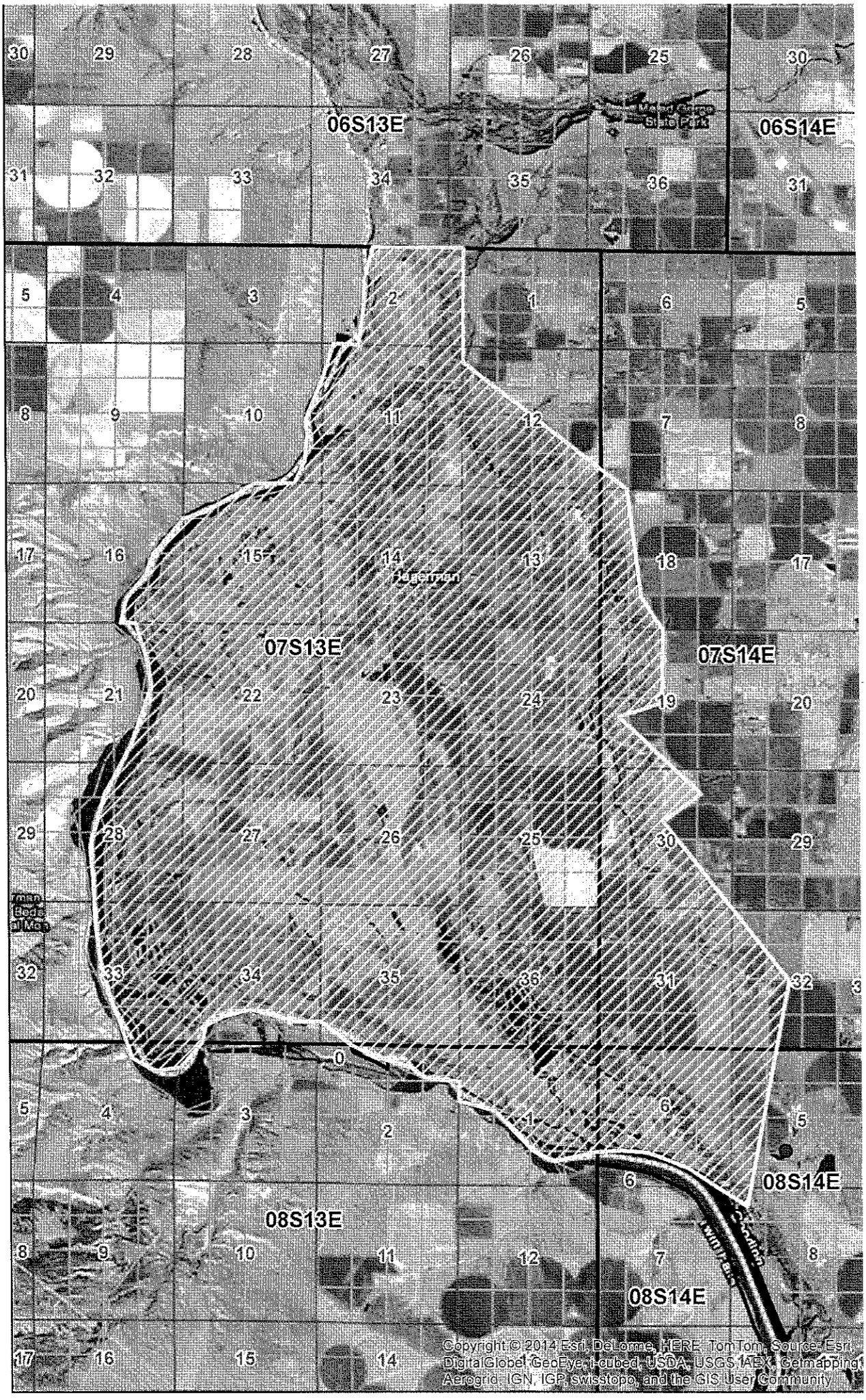


Figure 3. Morris Alignment

Attachment 7b



Ground Water Districts Application for Transfer -- Place of Use

RACINE
OLSON
NYE
BUDGE
BAILEY

Attachment

1

Mailing List

ATTACHMENT 1

APPLICANT'S ADDRESSES AND CONTACT INFORMATION

North Snake Ground Water District
Lyn Carlquist, Chairman
c/o Joyce Moreno, Secretary
152 E Main St
Jerome, ID 83338
nsgwd@safelink.net
carlquil@yahoo.com

Magic Valley Ground Water District
Dean Stevenson, Chairman
c/o Emily Haynes, Secretary
PO Box 430
Paul, ID 83347
desteve@pmt.org
mvgwd@hotmail.com

Southwest Irrigation District
c/o William Parsons, Attorney
137 W 13th St
Burley, Idaho 83318
wparsons@pmt.org
csearle@pmt.org

Attachment

2

Consent Letter

IDFG Letterhead

May ___, 2014

Idaho Ground Water Appropriators, Inc.
North Snake Ground Water District
Magic Valley Ground Water District
Southwest Irrigation District
c/o Randall C. Budge
P.O. Box 1391
Pocatello, Idaho 83204-1391
rcb@racinelaw.net

RE: Letter of Intent between IDFG, IDWRB and IGWA
Ground Water Districts Application for Transfer Re: Water Right No. 36-2055

To Whom It May Concern,

Consent Letter

This Letter of Consent is provided to the Idaho Ground Water Appropriators, Inc. ("IGWA"), North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District (collectively "Districts") to provide the consent of the Idaho Department of Fish and Game ("IDFG") to the filing of the foregoing Application for Transfer by the Districts pertaining to IDFG Water Right No. 36-2055. This consent is provided consistent with and as a part of the Letter of Intent entered into between IGWA, IDFG and the Idaho Water Resource Board pertained to the use of water from the Hagerman State Hatchery.

_____
Virgil Moore, Director

Attachment

3

Letter of Intent

LETTER OF INTENT

USE OF WATER FROM THE HAGERMAN STATE HATCHERY, CONSTRUCTION OF PUMP STATION AND PIPELINE AND CONSTRUCTION OF IMPROVEMENTS AT THE AQUA LIFE AQUACULTURE FACILITY

This Letter of Intent ("LOI") is entered into by and between Idaho Ground Water Appropriators, Inc. ("IGWA"), and the State of Idaho, by and through the Idaho Department of Fish and Game ("IDFG") and the Idaho Water Resource Board ("IWRB").

RECITALS

A. In response to Rangen, Inc.'s ("Rangen") water delivery call, the Idaho Department of Water Resources ("IDWR") determined in its January 29, 2014 order that holders of ground water rights junior to July 13, 1962 must provide 9.1 cfs of direct flow to Rangen.

B. IGWA represents ground water districts whose members consist of irrigators, municipalities, and commercial and industrial entities with ground water rights. Many of the ground water districts' member's water rights are junior to Rangen's water rights and are subject to curtailment unless a mitigation plan is approved providing replacement water.

C. IDFG owns and operates the Hagerman State Hatchery ("HSH") and is willing to make available to IGWA ten (10) cfs of its Tucker Springs Water Rights as needed to meet the mitigation obligation to Rangen.

D. IDFG's offer to make available the use of 10 cfs of its HSH water to IGWA is subject to transfer of the Aqua Life Aquaculture Facility ("Aqua Life") by IWRB to IDFG, and subsequent modifications to Aqua Life to be funded by IGWA to a condition acceptable to IDFG.

E. IWRB, IDFG and IGWA intend to commence negotiation of a final agreement consistent with the terms set forth below.

TERMS

The Agreement shall have the following terms and conditions:

1. The Agreement will be contingent upon IDFG acquiring title to Aqua Life from IWRB. IDFG, IWRB and IGWA acknowledge that House Bill 644, adopted by the Sixty-second Legislature of the State of Idaho during its Second Regular Session in 2014 authorizes Idaho Parks and Recreation to sell Aqua Life to the IWRB.

2. IDFG will lease ten (10) cfs of water from the HSH to IGWA for an annual lease fee in an amount to be determined.

3. IGWA will pay all costs to design, construct, operate and maintain the water collection and intake system pump station, pipeline and other facilities necessary to deliver 10 cfs of water from the HSH to the head of Billingsley Creek directly up gradient from the Rangen hatchery. IGWA will ensure that the diversion structure to be constructed will not interfere with IDFG's remaining diversion to HSH. IGWA shall be responsible to secure from IDWR approval of a transfer application to change the point of diversion and place of use as needed to accomplish the delivery of HSH's Tucker Springs water rights to Billingsley Creek.

4. IDFG will grant IGWA a permanent easement at its HSH to design, construct, operate and maintain the water intake and collection facilities, pump station, pipeline and other facilities as necessary for the delivery of the 10 cfs of water to Billingsley Creek. IDFG will convey to IGWA a permanent easement to access and maintain the pump station and water supply pipeline.

5. IGWA will pay for costs to upgrade the Aqua Life to a condition acceptable to IDFG for use as a hatchery.

6. IDFG and IWRB will cooperate with IGWA and provide all necessary documents to conduct such investigation as it shall deem appropriate.

7. All transaction fees for closing and all recording fees will be shared equally by IDFG, IGWA and IWRB. Each party will be responsible to pay its own legal fees.

8. The Agreement will be contingent upon: (a) IGWA securing an order from IDWR approving a mitigation plan providing for the delivery of 10 cfs from HSH's Tucker Springs water rights to satisfy the mitigation obligations to Rangen; (b) IGWA securing an order from IDWR approving the transfer of the point of diversion and place of use of the 10 cfs from HSH's Tucker Springs water rights to the head of Billingsley Creek and, (c) IGWA proceeding to implement the plan.

This LOI may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same agreement. Delivery of an executed counterpart of this LOI via facsimile transmission shall be as effective as delivery of an original signed copy. Thereafter, the parties shall exchange executed originals of this LOI.

This LOI is intended as a general expression of the terms and conditions, under which the parties are willing to proceed to prepare, negotiate and if acceptable to all parties in their respective sole discretion, execute a final Agreement. Neither this LOI nor the execution hereof as provided below, shall be binding on any party until the formal Agreement is executed by all parties.

Please indicate your acceptance and agreement with the terms of this LOI and desire to proceed to negotiate a final Agreement incorporating the terms and conditions as outlined above by executing the enclosed copy of this LOI in the space provided below and return such executed copy to the other parties.

Sincerely,

Idaho Ground Water Appropriators, Inc

By: _____

AGREED AND ACCEPTED this _____ day of _____, 2014.

Idaho Department of Fish and Game

_____

Director

AGREED AND ACCEPTED this _____ day of _____, 2014.

Idaho Water Resource Board

_____

Chairman

Attachment

4

Second Mitigation Plan

Randall C. Budge (ISB# 1949)
Thomas J. Budge (ISB# 7465)
RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED
201 E. Center St. / P.O. Box 1391
Pocatello, Idaho 83204
(208) 232-6101 – phone
(208) 232-6109 – fax
rcb@racinelaw.net
tjb@racinelaw.net

Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

RECEIVED
MAR 10 2014
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION PLAN FILED BY THE IDAHO GROUND WATER APPROPRIATORS FOR THE DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 AND 36-07694 IN THE NAME OF RANGEN, INC.

Docket No. CM-MP-2014-001

IGWA's Second Mitigation Plan and Request for Hearing

INTRODUCTIONS

Idaho Ground Water Appropriators, Inc. (IGWA), through counsel, acting for and on behalf of its members and non-member participants in IGWA's mitigation activities, submits this mitigation plan pursuant to Conjunctive Management Rule 43 to provide additional alternative means of providing direct water flow to Rangen, Inc. (Rangen) to avoid curtailment of junior-priority groundwater rights under the Director's January 29, 2014, *Final Order Regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Curtailment Order"). This is the second mitigation plan submitted by IGWA in response to the Curtailment Order. This plan proposes an additional means of mitigation by delivery water directly to Rangen from Tucker Springs to Rangen. As with the mitigation alternatives outlined in IGWA's first mitigation plan dated February 12, 2014, the mitigation alternative set forth below enables the Director to exercise his authority and discretion in evaluating the factors to be considered under CM Rule 43.

DESCRIPTION OF MITIGATION PLAN

This mitigation plan, referred to herein as the "Tucker Springs Project," will benefit Rangen's water right numbers 36-2551 and 36-7694 which have as their source the Martin-Curren Tunnel. If this plan is approved, IGWA will attempt to acquire the right to use up to 9.1 cfs of water from Tucker Springs owned and operated by the State of Idaho Department of Fish & Game, which would be pumped approximately 1.3 miles to Rangen's place of use near Billingsley Creek. This would enable spring water discharged from the ESPA at Tucker Springs and currently used for fish production year-round to be delivered to Rangen's facilities for fish production year-round. The Tucker Springs Project would require the following which would be timely competed by IGWA at its expense:

(1) Acquisition of Tucker Springs water rights owned by the State of Idaho;
(2) Design and construction of a pump station with pumps, motors, and related equipment including necessary redundancy to continuously pump water from Tucker Springs to Rangen;
(3) Design and construction of approximately 1.3 miles of pipeline to deliver water from Crystal Springs to Rangen;
(4) Acquisition by purchase or condemnation of the necessary rights of way for the above described facilities and pipeline;
(5) Permission from Rangen to access its property for engineering and design purposes; and
(6) An easement from Rangen to construct and operate the pipeline and other facilities necessary to deliver water to Rangen's property.

REQUEST FOR HEARING

Pursuant to CM Rule 43.02, IGWA requests that this mitigation plan be promptly processed and advertised, and that an expedited scheduling conference be set with notice given to the parties to discuss this mitigation plan and schedule necessary hearings. As this mitigation plan is similar in concept to the other direct water delivery proposals set forth in IGWA's first mitigation plan scheduled for hearing to commence March 17, 2014, IGWA asks that testimony and evidence on this plan be accepted at the same time and preserved to promote efficiency and economy since the same parties are involved.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By: Randall C. Budge
RANDALL C. BUDGE
Attorneys for IGWA

March 10, 2014
Date

CERTIFICATE OF MAILING

I certify that on this 10th day of March, 2014, the foregoing document was served on the following persons in the manner indicated.

Randall C. Budge

Signature of person mailing form

Director, Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, ID 83720-0098 Deborah.Gibson@idwr.idaho.gov	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☒ Hand Delivery ☒ E-mail
Garrick Baxter Chris Bromley Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov chris.bromley@idwr.idaho.gov	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-mail
Robyn M. Brody Brody Law Office, PLLC PO Box 554 Rupert, ID 83350 rbrody@cableone.net robynbrody@hotmail.com	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-mail
Fritz X. Haemmerle Haemmerle & Haemmerle, PLLC PO Box 1800 Hailey, ID 83333 fxh@haemlaw.com	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-mail
J. Justin May May, Browning & May, PLLC 1419 West Washington Boise, ID 83702	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery

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Sarah Klahn Mitra Pemberton WHITE JANKOWSKI, LLP 511 16th St., Suite 500 Denver, Colorado 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-Mail
Dean Tranmer City of Pocatello PO Box 4169 Pocatello, ID 83201 dtranmer@pocatello.us	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-Mail
C. Thomas Arkoosh Arkoosh Law Offices PO Box 2900 Boise, ID 83702 tom.arkoosh@arkoosh.com	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-Mail
John K. Simpson Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson 195 River Vista Place, Suite 204 Twin Falls, ID 83301-3029 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-Mail
W. Kent Fletcher Fletcher Law Office PO Box 248 Burley, ID 83318 wkf@pmt.org	☐ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ E-Mail

Attachment

5

Thousand Springs Water Supply Settlement Framework

4/17/18

THOUSAND SPRINGS WATER SUPPLY SETTLEMENT FRAMEWORK

I. OBJECTIVES

A. Maintain spring flows at level sufficient to sustain Swan Falls minimum flows;
B. Mitigate for material injury to senior spring water rights caused by diversion under junior ground water rights;
C. Provide safe harbor for junior ground water users from delivery calls;
D. Minimize economic impact on individual water users and the state economy arising from water supply shortages; and
E. Develop adaptive management plan to respond to changes in the ESPA water supply.

II. INTERMEDIATE WATER SUPPLY MEASURES

A. Mitigation Measures for Hagerman Valley. Junior ground water users will implement mitigation measures to offset material injury to senior spring water rights in Hagerman Valley.
B. Enhance flows in Billingsley Creek by 25 CFS.
   1. Direct delivery of 10 cfs of water from Tucker Springs to Billingsley Creek
   2. Curren Ditch water exchange – provide Riley Creek, Snake River or ground water supply to Curren ditch users in lieu of Curren Ditch diversions from Billingsley Creek.
   3. Line selected ditches or change points of diversion to provide additional water supply for users at lower end of Billingsley Creek
C. Hatchery pump back projects to mitigation for material injury to hatcheries (20 CFS)
E. Birch Creek waste water reroute to Birch Creek Trout (4 CFS)
F. Riley Creek (Big Bend being investigated)

III. LONG TERM ESPA STABLIZATION GOAL (ESPA Water Budget Goal)

A. Managed recharge program between Minidoka and Milner dams (100 KAF)
B. Little Wood River managed recharge (15 KAF)
C. North Side Canal Company waste water capture projects
D. Direct delivery of water through Sandy pipeline
E. Hard conversions

IV. ADAPTIVE WATER MANAGEMENT MEASURES

A. Develop a process for forecasting spring flow trends
B. Develop adaptive management plan for responding to changes in spring flow trends

V. SAFE HARBOR – No ground water user participating in the Thousand Springs plan will be subject to a delivery call by water users below the rim as long as the provisions of the plan are being implemented.

EASTERN SNAKE PLAIN AQUIFER

Preliminary Draft – Managed Recharge Plan
4/9/14

Goal: Stabilize the Eastern Snake Plain Aquifer, consistent with the CAMP recharge goals of 100,000 acre-feet average annual volume through 2017, and 250,000 acre-feet average annual volume thereafter. Metric of success is sustaining aquifer volumes and spring discharges.

Problem: The Eastern Snake Plain Aquifer is currently losing approximately 200,000 acre-feet per year from aquifer storage. The total loss from storage since 1952 is 12 million acre-feet. This has resulted in declining aquifer levels and spring flows from the aquifer.

Water Availability (natural flow) for Recharge: The available water supply for recharge occurs as winter-time flows (November-March) and as spring run-off flows (March-April). The Snake River winter-time flows are usually a minimum of 500 cfs and are available for diversion from the Milner Pool. There is also a relatively consistent winter-time flow in the Little Wood River.

- Snake River at Milner: Median annual volume of 500,000 acre-feet
- Snake River above American Falls: Median annual volume of 6,000 acre-feet
- Wood River system: Median annual volume of 20,000 acre-feet

Strategy:

1. Utilize winter-time flows that would otherwise spill past Milner Dam for recharge to provide for a "base-load" for recharge. This will require development of dedicated, winter-operational recharge facilities diverting from the Milner Pool that operate independent of canal companies.
2. Utilize the canal systems and off-canal facilities, to the extent available in any given year, to help catch and divert the spring run-off flows for recharge.
3. Develop a winter-operational facility to utilize the Little Wood River water supplies.
4. In above-average water years when recharge will not interfere with filling the reservoir system, recharge into Upper Valley canals (above American Falls).

Sideboards:

1. Recharge above American Falls can occur when 2700 cfs is passing Minidoka and natural flow spilling past Milner.
2. Non-interference with reservoir fill.

Existing Facilities and Program: The existing facilities available for recharge below American Falls can accomplish approximately 40,000 acre-feet annually. Deliveries at each location are variable depending on canal company priorities for maintenance and repairs. These facilities include:

1. Milner Gooding Canal (including Shoshone and Milepost 31 recharge sites)
2. Northside Canal
3. Southwest Irrigation District – West Cassia Pipeline

Additional Down-Canal Facilities: These additional down-canal facilities are expected to increase capacity by approximately 20,000 acre-feet annually. Deliveries at each location are variable depending on canal company priorities for maintenance and repairs.

1. Milner-Gooding Canal
    a. Milepost 31 Build-Out
2. Northside Canal
    a. Large off-canal recharge site (K-Canal or Neilson site) & utilization of Wilson Lake

Walcott Recharge Site: 100-cfs direct diversion project from the Walcott Pool. Engineering and environmental compliance is underway. This site is expected to increase capacity by 18,000 acre-feet annually. This site will be independent of canal company operations but will have variable deliveries based on water availability.

Southwest Irrigation District-West Cassia Pipeline Modifications: Modifications to allow continuous winter-time operations. This will increase capacity by approximately 7,000 acre-feet annually. This project would require cooperation from SWID, but would provide a system independent of canal operations that could operate all winter.

Direct Diversion Projects from Milner Pool: Construct up to 4 pumping plant-to-recharge projects each with 100 cfs capacity that operate through the winter. These sites would increase capacity by approximately 100,000 acre-feet annually and provide a "base-load" for recharge. Capacity will be independent of canal company operations and utilize winter-time water supplies.

Little Wood River Recharge Capacity: Construct winter-operational recharge site to utilize winter-time flows (50 cfs) available in the Little Wood River. This site would provide a "base-load" for recharge that is independent of canal company operations and utilize winter-time water supplies.

Water Quality Monitoring: a program of water quality monitoring, beyond current efforts, will be established in coordination with DEQ.

Staffing Needs:

1. ESPA Manages Recharge Program Manager – must be capable of managing and leading a multi-million dollar effort. Capable of understanding the importance of recharge to aquifer stabilization, and the importance of aquifer stabilization to the state, the water users, the power company, and others. Must be capable of negotiating with potential partners.
2. Project Engineer – capable of taking planning-level project layouts and cost estimates through to completed facilities. Will manage multiple design and construction projects at same time.

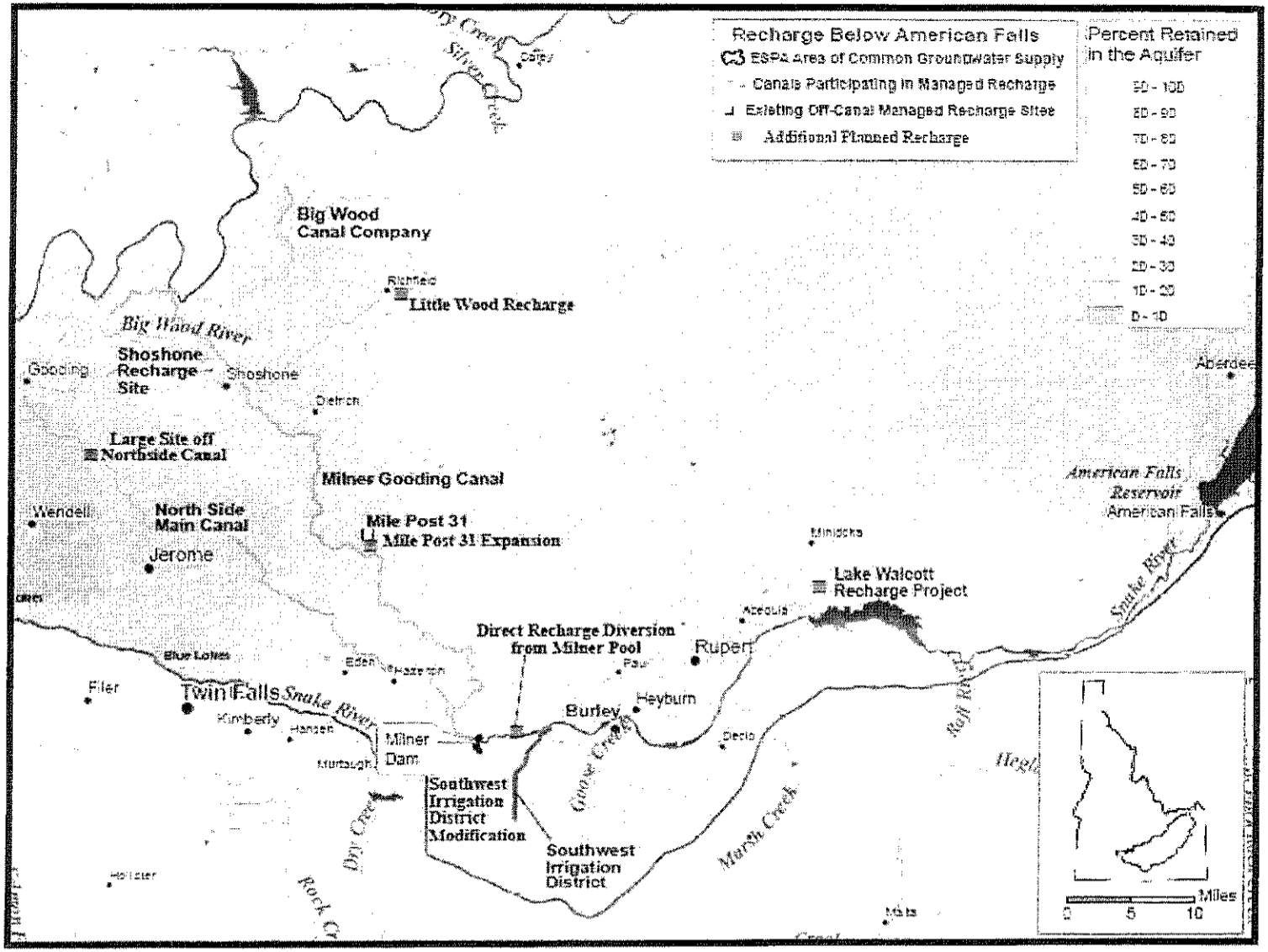
Recharge Component	Construction	Annual O&M	Annual Average AF	
Existing Lower Valley Facilities				
Milner-Gooding Canal inc. Shoshone and MP31 recharge sites				
Northside Canal				
Southwest Irrigation District Pipeline				
Existing Lower Valley Facilities	N/A	$130,000	40,000 AF	• Dependent on Canal Company cooperation • Variable deliveries
Additional Lower Valley Down-Canal Facilities				
MP 31 build-out on Milner Gooding Canal	$200,000			
Large off-canal site on Northside Canal (K-Canal or Nielson Sites)	$300,000			
Additional Lower Valley Down-Canal Facilities		$70,000	20,000 AF	• Dependent on Canal Company cooperation • Variable deliveries
Walcott Recharge Site	$5M	$100,000	18,000 AF	• Direct diversion from Walcott pool – not reliant on canal companies • Variable deliveries • Engineering/environmental investigations underway
Southwest Irrigation District Pipeline modifications for winter operations	$2M	$150,000	7,000 AF	• Divert winter-time(Nov-Mar) Milner spill (500 cfs) to recharge thru dedicated facilities • "Base-load" for recharge • Direct diversion from Milner Pool – not reliant on canal companies & below Minidoka hydropower
Direct diversion projects from Milner Pool	$20M	$600,000	100,000 AF	• Divert winter-time(Nov-Mar) Milner spill (500 cfs) to recharge thru dedicated facilities • "Base-load" for recharge • Direct diversion from Milner Pool – not reliant on canal companies & below Minidoka hydropower
Little Wood River Recharge	$3M	$80,000	15,000 AF	• Divert winter-time(Nov-Mar) flows (50 cfs) to recharge thru dedicated facilities • "Base-load" for recharge
Water Quality monitoring		$100,000		
Project Management		$160,000		
Contingency 20%	$6.1M	$288,000		
TOTALS	**$36.6M**	**$1.73M/yr**	**200,000 AF**	

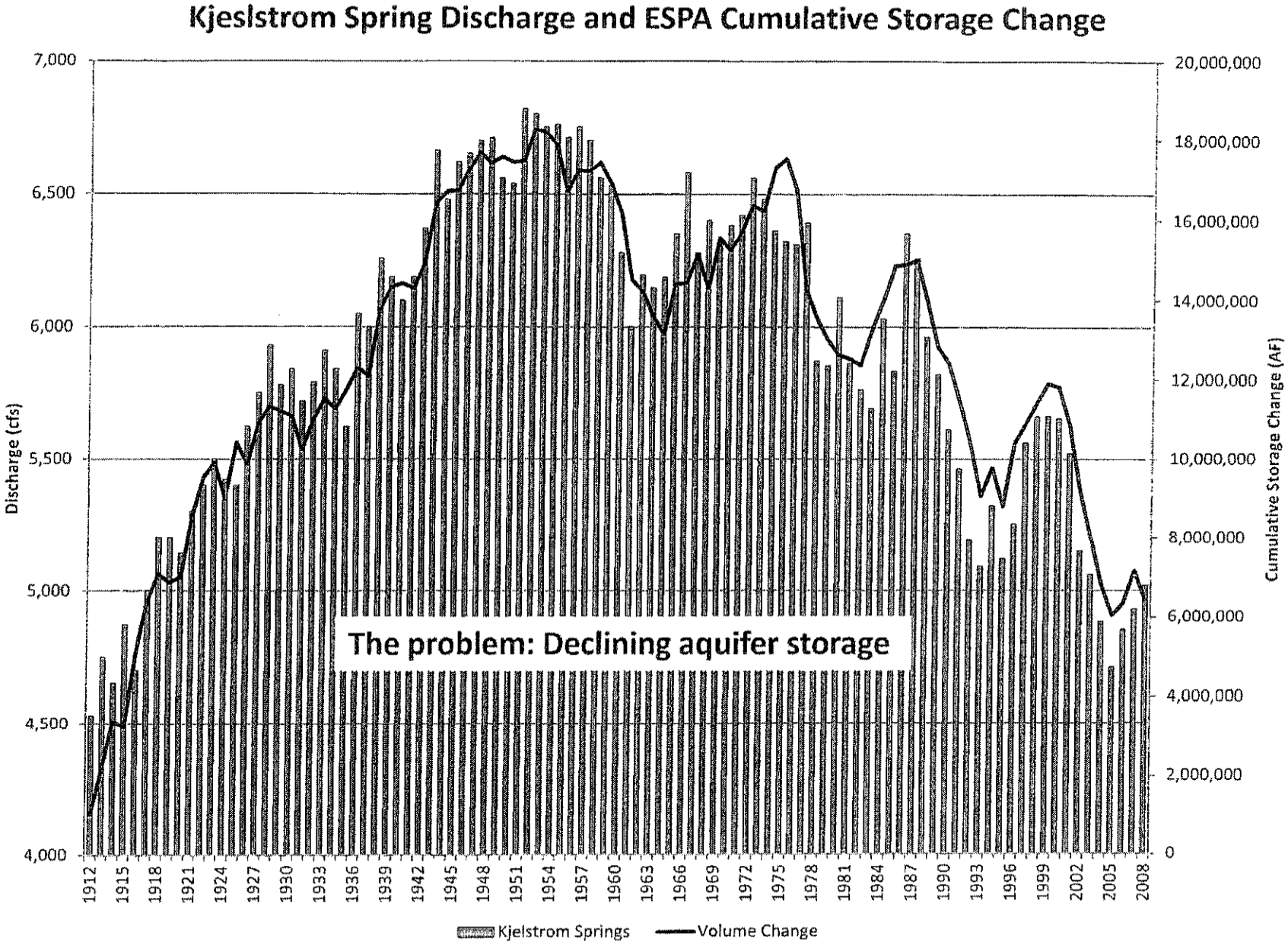
Estimated Build-Out Schedule

					YEAR					
	1	2	3	4	5	6	7	8	9	10
Milepost 31 Build-out	Construction									
Northside Large Site	Engineering	construction								
Southwest Pipeline		Engineering	construction							
Walcott	Land and env	Engineering		construction						
Direct Milner Diversions	select potential sites & test drilling									
	Site 1	acquire land	Engineering		Construction					
	Site 2		acquire land	Engineering		Construction				
	Site 3			acquire land	Engineering		Construction			
	Site 4				acquire land	Engineering		Construction		
Little Wood recharge						acquire land	Engineering		Construction	

Estimated	**Expenditures**									
Select sites & test drilling	$200,000	$200,000								
Aquire lands & environmental	$200,000	$200,000	$200,000	$200,000	$200,000	$200,000				
Engineering	$50,000	$800,000	$800,000	$800,000	$800,000	$800,000	$500,000			
Construction	$100,000	$350,000	$4,150,000	$4,350,000	$4,000,000	$4,000,000	$4,000,000	$2,250,000	$1,250,000	
Water Quality Monitoring	$10,000	$20,000	$30,000	$40,000	$50,000	$60,000	$70,000	$80,000	$90,000	$100,000
Operations & Management	$130,000	$260,000	$570,000	$640,000	$740,000	$890,000	$1,040,000	$1,190,000	$1,340,000	$1,340,000
Contingency	$138,000	$366,000	$1,150,000	$1,206,000	$1,158,000	$1,190,000	$1,122,000	$704,000	$526,000	$288,000
Total by Year	**$828,000**	**$2,196,000**	**$6,900,000**	**$7,236,000**	**$6,948,000**	**$7,174,000**	**$6,730,000**	**$4,224,000**	**$3,206,000**	**$1,728,000**

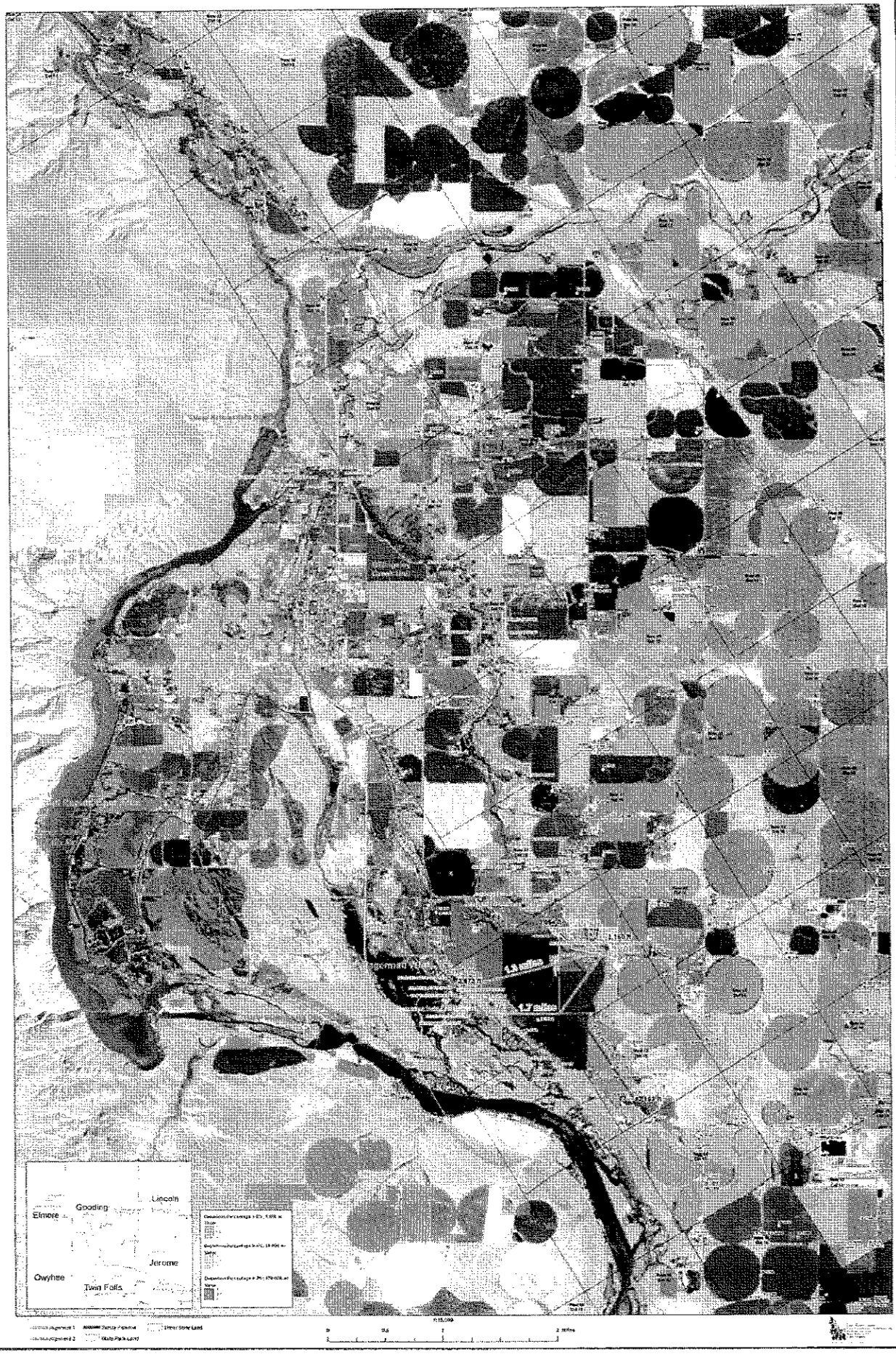
Total 10-Year Expenditures $39,290,000


Recharge Below American Falls
ESPA Area of Common Groundwater Supply
Canals Participating in Managed Recharge
Existing Off-Canal Managed Recharge Sites
Additional Planned Recharge
Percent Retained in the Aquifer
90 - 100
80 - 90
70 - 80
60 - 70
50 - 60
40 - 50
30 - 40
20 - 30
10 - 20
0 - 10
Big Wood Canal Company
Little Wood Recharge
Big Wood River
Shoshone Recharge Site
Gooding
Shoshone
Dietrich
Large Site off Northside Canal
Milner Gooding Canal
North Side Main Canal
Wendell
Jerome
Mile Post 31
Mile Post 31 Expansion
American Falls Reservoir
American Falls
Aberdeen
Minidoka
Lake Walcott Recharge Project
Snake River
Direct Recharge Diversion from Milner Pool
Rupert
Twin Falls
Snake River
Filer
Kimberly
Hansen
Milner Dam
Burley
Heyburn
Declo
Southwest Irrigation District Modification
Southwest Irrigation District
Goose Creek
Marsh Creek
Dry Creek
Rock Creek
Hollister
Miles
0
5
10


Kjeslstrom Spring Discharge and ESPA Cumulative Storage Change
7,000
6,500
6,000
5,500
5,000
4,500
4,000
Discharge (cfs)
20,000,000
18,000,000
16,000,000
14,000,000
12,000,000
10,000,000
8,000,000
6,000,000
4,000,000
2,000,000
0
Cumulative Storage Change (AF)
1912
1915
1918
1921
1924
1927
1930
1933
1936
1939
1942
1945
1948
1951
1954
1957
1960
1963
1966
1969
1972
1975
1978
1981
1984
1987
1990
1993
1996
1999
2002
2005
2008
The problem: Declining aquifer storage
Kjelstrom Springs
Volume Change

Spring Diversions in Hagerman Valley

NAIP Images 2013



APPENDIX C: AMEC TEMPERATURE ANALYSIS

MEMORANDUM

To: Bob Hardgrove, SPF Water Engineering

From: Emily LoDolce, P.E.

Subject: Calculations to determine change in temperature of water in pipe from Tucker Springs to Rangen Fish Hatchery

Date: May 12, 2014

This memorandum summarizes the calculations by AMEC to determine the rise in temperature of water piped from Tucker Springs to Rangen Fish Hatchery. The maximum expected rise in temperature is 0.22 degrees Fahrenheit.

Methodology

The pipeline design from Tucker Springs to Rangen calls for 9,400 ft of buried high-density polyethylene pipe and two pumps. Equations from a Department of Energy document titled "Heat Transfer Model of Above and Underground Insulated Piping Systems" (Kwon, 1998) were used to approximate temperature change in the pipeline. These equations take into account such variables as pipe wall conduction, soil type, soil moisture content, fluid travel time in the pipe, and total length of pipe. To calculate the rise in water temperature due to the two pumps, the equation for temperature rise under steady state conditions was used (Karassik et al., 1976). This equation uses the total design head, specific heat of water, and pump efficiency, and assumes that all the heat equivalent to the losses remains in the fluid. Table 1 shows the variables used for the calculations and the source. The variables that have the greatest impact on the temperature change of water in the pipe are the length of pipe, soil temperature, and design flow rate.

Table 1. Variables and Sources for Heat Change Calculations.

Variable	Value	Units	Source	Notes
Soil temperature	73.2	°F	Agrimet station in Aberdeen, ID	Summer temperature, highest average monthly temp (August)
Minimum burial depth	4	ft	SPF	Depth to pipe centerline
Pipe lengths	Various	ft	SPF	
Initial water temperature	16.1	°C	SPF	Using corrected field temperature
Flow rates	10	cfs	SPF	Design flowrate
HDPE DIPS - OD	25.8	in	SPF	Pipe material and nominal size
HDPE DIPS DR 11 - ID	20.83	in	SPF	Pipe material and nominal size
HDPE DIPS DR 17 - ID	22.58	in	SPF	Pipe material and nominal size
Thermal conductivity - high density polyethylene	0.269	BTU/hr ft °F	http://www.engineeringtoolbox.com/thermal-conductivity-d_429.html	
Pump efficiency	0.84	unitless	Gould pump Model 14RJHC efficiency curve	
Soil type	Sandy Loam	N/A	NRCS online soil survey	
Soil conductivity	1.12	W/mK	http://soil.scijournals.org/cgi/content/short/64/4/1285	Assumed on high end for high moisture content

AMEC Environment & Infrastructure
1002 Walnut Street, Suite 200
Boulder, Colorado 80302

Tel: 303.443.7839
Fax: 303.442.0616

Table 1. Variables and Sources for Heat Change Calculations.

Variable	Value	Units	Source	Notes
Film coefficient	1182	BTU/hr ft °F	Kwon, 1998	

Results

From the Tucker Springs to the Rangen facility, the estimated maximum increase in water temperature is 0.22 degrees Fahrenheit. This is the change expected during the summer, when soil temperatures are at the highest.

References

Karassik, Igor, William Krutzsch, Warren Fraser, and Joseph Messina. Pump Handbook. McGraw-Hill. 1976.

Kwon, K.C. "Heat Transfer Model of Above and Underground Insulated Piping Systems." Westinghouse Savannah River Company, Savannah River Site, Aiken, South Carolina, 29808. DOE Contract No. DE-AC09-96SR18500. 1998.

Heat Transfer by Conduction

Heat Loss/Gain for a Buried Pipe Carrying Water

Reference: Kwon, WSRC-MS-98-00318

Data Requirements

Symbol	Value	Units	Description
dh	4	ft	burial depth of pipe centerline
do	2.15	ft	pipe OD - DR 11
di	1.736	ft	pipe ID - DR 11
ks	0.65	Btu/hr ft F	soil conductivity
Lt	3000	ft	total pipe length
Ts	73.2	F	soil temperature
h	1182	Btu/hr ft F	fluid film coefficient
C	1	Btu/lb F	specific heat of water
Q	10	cfs	flowrate
To	60.98	F	initial water temperature
rho	62.36	lb/ft3	density of water
hp	0.269	Btu/hr ft F	pipe conductivity
ro	1.075	ft	outer radius of pipe
A1	16360	sf	inner surface area of pipe
M	442724	lbs	mass of fluid per one interval pipe length
t	0.2	hr	time for moving fluid to travel the distance of pipe interval

Assumptions

1 Steady State Flow, Single Pipe, Uninsulated

Computations

R1	5.171E-08	hr F/Btu	=1/(h*A)	core fluid resistance (thermal resistance of film convection)
R2	0	hr F/Btu		core pipe inner fouling (thermal resistance of wall conduction)
R3	4.706E-05	hr F/Btu		core pipe wall resistance (thermal resistance of wall conduction)
R7	1.623E-04	hr F/Btu		thermal resistance of underground pipe
R	1.623E-04	hr F/Btu		Total Resistance
Q/dT	6.161E+03	Btu / hr F	=1/R	Heat Flow per delta T
Tf	61.00	F		Mean Temperature
Te	61.01	F		Ending Temperature

Heat Transfer by Conduction

Heat Loss/Gain for a Buried Pipe Carrying Water

Reference: Kwon, WSRC-MS-98-00318

Data Requirements

Symbol	Value	Units	Description
dh	4	ft	burial depth of pipe centerline
do	2.15	ft	pipe OD - DR 17
di	1.882	ft	pipe ID - DR 17
ks	0.65	Btu/hr ft F	soil conductivity
Lt	6400	ft	total pipe length
Ts	73.2	F	soil temperature
h	1182	Btu/hr ft F	fluid film coefficient
C	1	Btu/lb F	specific heat of water
Q	10	cfs	flowrate
To	61.01	F	initial water temperature
rho	62.36	lb/ft3	density of water
hp	0.269	Btu/hr ft F	pipe conductivity
ro	1.075	ft	outer radius of pipe
A1	37833	sf	inner surface area of pipe
M	1109842	lbs	mass of fluid per one interval pipe length
t	0.5	hr	time for moving fluid to travel the distance of pipe interval

Assumptions

1 Steady State Flow, Single Pipe, Uninsulated

Computations

R1	2.236E-08	hr F/Btu	=1/(h*A)	core fluid resistance (thermal resistance of film convection)
R2	0	hr F/Btu		core pipe inner fouling (thermal resistance of wall conduction)
R3	1.318E-05	hr F/Btu		core pipe wall resistance (thermal resistance of wall conduction)
R7	7.608E-05	hr F/Btu		thermal resistance of underground pipe
R	7.608E-05	hr F/Btu		Total Resistance
Q/dT	1.314E+04	Btu / hr F	=1/R	Heat Flow per delta T
Tf	61.05	F		Mean Temperature
Te	61.08	F		Ending Temperature

Heat Transfer by Conduction

Heat Loss/Gain for Water in a Centrifugal Pump

Reference: Karassik, Krutzsch, Fraser, and Messina. Pump Handbook. McGraw-Hill, 1976.

Data Requirements

Symbol	Value	Units	Description
H	243	ft	total design head
Cp	1	Btu/lb F	specific heat of water
n	0.84	none	pump efficiency

$$\Delta T = \frac{H}{778\, C_p}\left(\frac{1}{n} - 1\right)$$

Computations

T	0.059	deg F	temperature rise through one pump, equilibrium conditions

Ending temperature: **61.20**

0.22 deg F temperature rise through two lengths of pipe and two pumps

APPENDIX D: HAGERMAN HIGHWAY DISTRICT APPROVAL

From: Jason Thompson
To: Bob Hardgrove
Subject: FW: Preliminary approval
Date: Thursday, May 15, 2014 1:28:14 PM

From: bhaghwydist@northrim.net [mailto:bhaghwydist@northrim.net]
Sent: Wednesday, May 14, 2014 11:44 AM
To: Jason Thompson
Subject: Preliminary approval

HAGERMAN HIGHWAY DISTRICT
P.O. BOX 411
HAGERMAN, ID 83332
PHONE/FAX 208-837-9110

Jason Thompson, P.E.
SPF Water Engineering, LLC
300 E. Mallard Drive, Suite 350
Boise, ID 83706
jthompson@spfwater.com

May 14, 2014

Mr. Jason Thompson,

The Hagerman Highway Commissioners grant preliminary approval for construction within the Hagerman Highway District ROW associated with the proposed Tucker Springs pipeline project.

Hagerman Highway District Commissioners

Fred Mavencamp
Almer (Bud) Huntley
Howard (Butch) Morris

APPENDIX E: IDFG, IGWA, & IWRB LETTER OF INTENT

LETTER OF INTENT

USE OF WATER FROM THE HAGERMAN STATE HATCHERY, CONSTRUCTION OF PUMP STATION AND PIPELINE AND CONSTRUCTION OF IMPROVEMENTS AT THE AQUA LIFE AQUACULTURE FACILITY

This Letter of Intent ("LOI") is entered into by and between Idaho Ground Water Appropriators, Inc. ("IGWA"), and the State of Idaho, by and through the Idaho Department of Fish and Game ("IDFG") and the Idaho Water Resource Board ("IWRB").

RECITALS

A. In response to Rangen, Inc.'s ("Rangen") water delivery call, the Idaho Department of Water Resources ("IDWR") determined in its January 29, 2014 order that holders of ground water rights junior to July 13, 1962 must provide 9.1 cfs of direct flow to Rangen.

B. IGWA represents ground water districts whose members consist of irrigators, municipalities, and commercial and industrial entities with ground water rights. Many of the ground water districts' member's water rights are junior to Rangen's water rights and are subject to curtailment unless a mitigation plan is approved providing replacement water.

C. IDFG owns and operates the Hagerman State Hatchery ("HSH") and is willing to make available to IGWA ten (10) cfs of its Tucker Springs Water Rights as needed to meet the mitigation obligation to Rangen.

D. IDFG's offer to make available the use of 10 cfs of its HSH water to IGWA is subject to transfer of the Aqua Life Aquaculture Facility ("Aqua Life") by IWRB to IDFG, and subsequent modifications to Aqua Life to be funded by IGWA to a condition acceptable to IDFG.

E. IWRB, IDFG and IGWA intend to commence negotiation of a final agreement consistent with the terms set forth below.

TERMS

The Agreement shall have the following terms and conditions:

1. The Agreement will be contingent upon IDFG acquiring title to Aqua Life from IWRB. IDFG, IWRB and IGWA acknowledge that House Bill 644, adopted by the Sixty-second Legislature of the State of Idaho during its Second Regular Session in 2014 authorizes Idaho Parks and Recreation to sell Aqua Life to the IWRB.

2. IDFG will lease ten (10) cfs of water from the HSH to IGWA for an annual lease fee in an amount to be determined.

3. IGWA will pay all costs to design, construct, operate and maintain the water collection and intake system pump station, pipeline and other facilities necessary to deliver 10 cfs of water from the HSH to the head of Billingsley Creek directly up gradient from the Rangen hatchery. IGWA will ensure that the diversion structure to be constructed will not interfere with IDFG's remaining diversion to HSH. IGWA shall be responsible to secure from IDWR approval of a transfer application to change the point of diversion and place of use as needed to accomplish the delivery of HSH's Tucker Springs water rights to Billingsley Creek.

4. IDFG will grant IGWA a permanent easement at its HSH to design, construct, operate and maintain the water intake and collection facilities, pump station, pipeline and other facilities as necessary for the delivery of the 10 cfs of water to Billingsley Creek. IDFG will convey to IGWA a permanent easement to access and maintain the pump station and water supply pipeline.

5. IGWA will pay for costs to upgrade the Aqua Life to a condition acceptable to IDFG for use as a hatchery.

6. IDFG and IWRB will cooperate with IGWA and provide all necessary documents to conduct such investigation as it shall deem appropriate.

7. All transaction fees for closing and all recording fees will be shared equally by IDFG, IGWA and IWRB. Each party will be responsible to pay its own legal fees.

8. The Agreement will be contingent upon: (a) IGWA securing an order from IDWR approving a mitigation plan providing for the delivery of 10 cfs from HSH's Tucker Springs water rights to satisfy the mitigation obligations to Rangen; (b) IGWA securing an order from IDWR approving the transfer of the point of diversion and place of use of the 10 cfs from HSH's Tucker Springs water rights to the head of Billingsley Creek and, (c) IGWA proceeding to implement the plan.

This LOI may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same agreement. Delivery of an executed counterpart of this LOI via facsimile transmission shall be as effective as delivery of an original signed copy. Thereafter, the parties shall exchange executed originals of this LOI.

This LOI is intended as a general expression of the terms and conditions, under which the parties are willing to proceed to prepare, negotiate and if acceptable to all parties in their respective sole discretion, execute a final Agreement. Neither this LOI nor the execution hereof as provided below, shall be binding on any party until the formal Agreement is executed by all parties.

Please indicate your acceptance and agreement with the terms of this LOI and desire to proceed to negotiate a final Agreement incorporating the terms and conditions as outlined above by executing the enclosed copy of this LOI in the space provided below and return such executed copy to the other parties.

Sincerely,

Idaho Ground Water Appropriators, Inc

By: Dick P. Dey

AGREED AND ACCEPTED this 1st day of May, 2014.

Idaho Department of Fish and Game

Sharon W. Kiefer for Virgil Moore

Director

AGREED AND ACCEPTED this 7th day of May, 2014.

Idaho Water Resource Board

Roger Chase

Chairman