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Attorneys for Respondents-Respondents

IN THE SUPREME COURT FOR THE STATE OF IDAHO

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

RANGEN, INC.,

Petitioner-Appellant,

v.

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

Respondents-Respondents,

and

Supreme Court Docket No. 42772-2015

Snake River Basin Adjudication
No. CV-2014-1338
(Consolidated Gooding County
Case No. CV-2014-179)

AFFIDAVIT OF GARRICK L. BAXTER IN SUPPORT OF MEMORANDUM OF COSTS AND ATTORNEY FEES

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

Intervenors-Respondents.

STATE OF IDAHO)
) ss.
County of Ada)

I, GARRICK L. BAXTER, being first duly sworn, depose and say:

1. I am a Deputy Attorney General representing the Idaho Department of Water Resources ("IDWR") and Gary Spackman in his official capacity as Director of IDWR in this matter. I am a competent adult over the age of eighteen years, and the statements made herein are based upon my own personal knowledge and belief of the events described.

2. Co-counsel for IDWR in this matter was Deputy Attorney General Emmi L. Blades.

3. An itemization of attorney fees, including the date that the services were rendered, the personnel providing the services, the type of service, the time expended, and the total dollar charge, is attached as Exhibit A to this Affidavit. Based upon the review and information described below, to the best of my knowledge and belief, Exhibit A accurately summarizes the work this office performed and the time this office expended in defending this matter.

4. The hourly rate set forth in Exhibit A is based upon the policy of the Attorney General as set forth in the Idaho Attorney General's Employee Handbook, and is consistent with the Boise market rate for attorneys with equal experience and awards in recent cases. A true and correct copy of the Idaho Attorney General's Policy on Recovery of Attorney Fees and Costs is attached as Exhibit B to this Affidavit. The hourly rate for attorneys with 11-20 years' experience is $125.00 per hour. I have practiced law in Idaho for 15 years. The hourly rate for attorneys with 0-5 years' experience is $95.00 per hour. Emmi L. Blades has practiced law in Idaho for 4.5 years.

DATED this 8TH day of March 2016.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

GARRICK L. BAXTER
Deputy Attorney General
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the state of Idaho, employed by the Attorney General of the state of Idaho and residing in Boise, Idaho; and that, unless otherwise noted, I served a true and correct copy of the foregoing document on the persons listed below by United States mail, first class, with the correct postage affixed thereto on this 8TH day of March 2016.

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GARRICK L. BAXTER
Deputy Attorney General

EXHIBIT A
Rangen, Inc. v. IDWR, et al.
Supreme Court Docket No. 42772-2015

Attorney Fees Garrick L. Baxter

Date	Description	Time	Total
5/21/2015	Review Rangen opening brief	2.50	$312.50
5/22/2015	Review Rangen opening brief; review record including IDWR and District Court orders and District Court appellate briefs	3.50	$437.50
5/24/2015	Review and revise draft Respondents' brief; conduct research; discuss draft with E. Blades	4.50	$562.50
5/25/2015	Review and revise draft Respondents' brief; discuss draft with E. Blades	3.20	$400.00
5/26/2015	Review final draft	1.00	$125.00
11/29/2015	Oral Argument Prep: Review briefs filed in case; prepare outline of argument	4.50	$562.50
11/30/2015	Oral Argument Prep: Review briefs filed in case; further develop and refine outline of argument; review record; review cases cited	5.50	$687.50
12/1/2015	Oral Argument Prep: Further refine arguments in outline; research; presentation preparation	2.00	$250.00
12/2/2015	Oral Argument Prep: Moot Court re: Rangen appeal	1.50	$187.50
12/3/2015	Oral Argument Prep: Revise outline	1.00	$125.00
12/4/2015	Oral Argument Prep: Presentation preparation	1.50	$187.50
12/7/2015	Oral Argument Prep and Oral Argument	1.80	$225.00
	Total Fees:	**32.5**	**$4,062.50**

Attorney Fees Emmi L. Blades

Date	Description	Time	Total
5/11/2015	Review Rangen opening brief; outline arguments	3.00	$285.00
5/12/2015	Review Rangen opening brief; review record including IDWR and District Court orders and District Court appellate briefs	5.00	$475.00
5/13/2015	Draft Respondents' Brief	4.50	$427.50
5/14/2015	Draft Respondents' Brief	6.50	$617.50
5/15/2015	Draft Respondents' Brief	6.00	$570.00
5/18/2015	Draft Respondents' Brief	6.50	$617.50
5/24/2015	Review and discuss draft Respondents' Brief with G. Baxter; revise Respondents' Brief	6.00	$570.00
5/25/2015	Review and discuss draft Respondents' Brief with G. Baxter; revise Respondents' Brief	7.00	$665.00
	Total Fees:	**44.5**	**$4,227.50**

19.0 RECOVERY OF ATTORNEY FEES AND COSTS

It is the policy of the OAG to seek the award of attorney fees whenever the State or one of its agencies is a prevailing party in litigation or is otherwise entitled to attorney fees. Additionally, it is the policy of the OAG to seek the maximum recovery of costs available under the appropriate rule or statute. Certain client-agencies may have policies that dictate a waiver of attorney fees.

In litigation, where there is the possibility of an award of attorney fees, the Deputy Attorney General who is counsel of record on the case shall keep accurate time records. It is imperative that all time records be kept on a *contemporaneous* basis and that they be accurate because, at the conclusion of the case, the attorney of record will be required to submit an affidavit to the court stating that the time records submitted are accurate and were made contemporaneously with the work performed.

For those attorneys defending federal civil rights actions, it is important to keep accurate time records, even when the State is not likely to be the prevailing party. The best defense to a plaintiff's request for attorney fees is to show the court the amount of time spent defending the matter. If accurate and contemporaneous time records are not kept, the State cannot present this type of defense when the attorney's fee bill is argued.

Based upon a study of the market rates charged by local firms and fee awards in recent cases, the following hourly rates have been established for this office:

Attorney General	$175.00 Per Hour
Attorneys with More than Twenty Years' Experience	$150.00 Per Hour
Attorneys with 11-20 Years' Experience	$125.00 Per Hour
Attorneys with 6-10 Years' Experience	$110.00 Per Hour
Attorneys with 0-5 Years' Experience	$95.00 Per Hour
Law Clerks and Paralegals	$50.00 Per Hour

Last Change: March 11, 2005