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

RANGEN, INC., an Idaho Corporation, Petitioner, vs. IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN, in his official capacity as Director of the Idaho Department of Water Resources, Respondent.	Case No. CV-2014-4970 AFFIDAVIT OF J. DEE MAY IN SUPPORT OF MOTION FOR RECONSIDERATION OF ORDER GRANTING STAY OF CURTAILMENT ORDER

STATE OF IDAHO)
) ss
County of Twin Falls)

J. Dee May, being first duly sworn on oath, deposes and says:

1 My name is J. Dee May. I am an attorney licensed to practice law in the State of Idaho. The matters contained in this affidavit are based on my personal knowledge.

2 Attached hereto as Exhibit 1 is a true and correct copy of the transcript of the hearing conducted in this matter on January 22, 2015.

3 Attached hereto as Exhibit 2 is a true and correct copy of the IGWA/IWRB lease documents provided by IGWA and IDWR on January 23, 2015.

4 Attached hereto as Exhibit 3 is a true and correct copy of the IGWA/IWRB rental documents provided by IGWA and IDWR on January 23, 2015.

5 Attached hereto as Exhibit 4 is a true and correct copy of an email sent from Deputy Attorney General John Homan on January 23, 2015.

6 Attached hereto as Exhibit 5 is a true and correct copy of *Rangen's Closing Brief in Opposition to IGWA's Fourth Mitigation Plan.*

7 Attached hereto as Exhibit 6 is a true and correct copy of *Rangen's Closing Brief* submitted in In the Matter of Application for Transfer No. 79560 in the Name of North Snake Ground Water District, Magic Valley Ground Water District, and Southwest Irrigation District.

8 Attached hereto as Exhibit 7 is a true and correct copy of excerpts of the transcript from the hearing on IGWA's Tucker Springs Mitigation Plan, CM-MP-2014-003, held on June 4, 2014.

9 Attached hereto as Exhibit 8 is a true and correct copy of the *Order Approving IGWA's Fourth Mitigation Plan*, CM-MP-2014-006.

10 Attached hereto as Exhibit 9 is a true and correct copy of *Rangen's Protest* to Transfer Application No. 79560.

11 Attached hereto as Exhibit 10 is a true and correct copy of the *Notice of Prehearing Conference* issued by Hearing Officer James Cefalo in Transfer Application No. 79560.

12 Attached hereto as Exhibit 11 is a true and correct copy of the *Notice of Hearing and Scheduling Order* issued by Director Spackman in Transfer Application No. 79560.

13 Attached hereto as Exhibit 12 is a true and correct copy of the transcript of the December 19, 2014 hearing on Transfer Application No. 79560.

DATED THIS 26st day of January, 2015.

J. Dee May

SUBSCRIBED AND SWORN to before me this 26th day of January, 2015

SHERI L. MITCHELL NOTARY PUBLIC STATE OF IDAHO

Notary Public for the State of Idaho
Residing at: Jerome
My Commission Expires Oct 26, 2017

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 26th day of January, 2015 he caused a true and correct copy of the foregoing document to be served upon the following as indicated:

Original: State of Idaho SRBA District Court 253 3rd Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707 Facsimile: (208) 736-2121	Hand Delivery ☑ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☐
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 chris.bromley@idwr.idaho.gov kimi.white@idwr.idaho.gov	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑
Randall C. Budge TJ Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED 201 E. Center Street P.O. Box 1391 Pocatello, ID 83204 rcb@racinelaw.net tjb@racinelaw.net	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑

by J. Justin May

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

RANGEN INC., an Idaho Corporation, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN, in his official capacity as Director of the Idaho Department of Water Resources, Respondent.	CASE CV 2014-4970 REPORTER'S TRANSCRIPT
IDAHO GROUND WATER APPROPRIATORS, INC., Petitioners, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN, in his official capacity as Director of the Idaho Department of Water Resources, Respondents.	CASE CV 2015-237
IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 (RANGEN, INC.) IDWR NO. CM-DC-2011-004	

REPORTED BY:
Sabrina Vasquez, CSR #377

MOTION TO STAY CURTAILMENT
January 22, 2015

HON. ERIC WILDMAN
DISTRICT JUDGE

APPEARANCES:

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Attorneys on behalf of IDWR.

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Attorneys on behalf of Millenkamp Properties and Tessenderlo Kerley

REPORTED BY:
SABRINA VASQUEZ, CSR #377

COURTROOM OF THE SRBA COURT
Twin Falls County, Twin Falls, Idaho
Thursday, January 22, 2015

THE COURT: So, with that, we'll go ahead and go on the record in Twin Falls County Case No. CV 2014-4970 and CV 2015-237. Today's date is January 22nd, 2015. It's approximately 1:30 P.M., and before the Court is a motion to stay a curtailment order that was filed in both of the cases that I just addressed.

I'll start by identifying the parties. I have T.J. Budge present in the courtroom on behalf of the Idaho Ground Water Appropriators; Fritz Haemmerle and Robyn Brody present in the courtroom on behalf of Rangen, Inc.; and participating via video-teleconferencing, we have Garrick Baxter and Emmi Blades from the department.

Now is there anyone on the telephone who wishes to make a record of their appearance in this matter?

MR. FLETCHER: Your Honor, this is Kent Fletcher, but I'm not participating today, and I'm going to put my phone on mute now.

MR. PARSONS: This is Bill Parsons and Dave Shirley. We won't be participating, but we'll just be

listening, representing the city of Burley and Southwest Irrigation District.

MR. RIGBY: Your Honor, Jerry Rigby, I'll be participating likewise.

MR. MAY: Your Honor, Justin May on behalf of Rangen.

(Several attorneys speaking at once.)

THE COURT: Excuse me, one at a time.

Travis Thompson?

MR. THOMPSON: Yes, Your Honor. Thank you.

THE COURT: And I heard Candice McHugh.

MR. BROMLEY: Chris Bromley and Candice McHugh, Your Honor. Thank you.

THE COURT: You're listening in? You're not participating?

MR. BROMLEY: That's correct, Your Honor. We're listening in.

THE COURT: And the same with you, Mr. Thompson?

MR. THOMPSON: Yes. Thank you, Your Honor.

MS. PEMBERTON: Your Honor, this is Mitra Pemberton for the city of Pocatello. I'm similarly listening in.

THE COURT: Anyone else?

MR. WEAVER: Your Honor, this is Matt Weaver with the Department of Water Resources. I also plan to

just listen in.

THE COURT: Is there anyone on the phone who wishes to make an appearance in this matter?

I noticed right before I walked in --

MR. CREAMER: Your Honor, this is Mike Creamer. Can you hear me in the court, Your Honor?

THE COURT: Yes.

MR. CREAMER: Apparently it wasn't coming through earlier. This is Mike Creamer, and I'm appearing today for Millenkamp Properties, LLC and Tessenderlo Kerley, Inc., and we have filed, just literally moments ago, Your Honor, pleadings with the Court requesting a petition to intervene and submit supported by a declaration of Steven Sailors and an affidavit of William Millenkamp. I have -- so we're requesting appearance and to be heard today.

THE COURT: Okay. We'll get to that in just a minute.

Anybody else?

(No response.)

THE COURT: Okay. Then, I'll state for the record, by way of background, Idaho Ground Water Appropriators, Inc. filed a motion to stay curtailment order in these two matters on January 20th, 2015. The motion moves the Court to stay implementation of the

director's order granting Rangen's motion to determine Morris exchange water credit; second amended curtailment order that was issued on November 21st, 2014. Specifically, that the Court stay curtailment of certain junior ground water rights under the director's order until February 7th, 2015. The motion is made pursuant to Idaho Code 67-5274 and Idaho Rule of Civil Procedure 84(m), and it's supported by the affidavits of T.J. Budge, Charles Brendecke, Robert Hardgrove, and Rick Naerebout.

IDWR filed a response in opposition to IGWA's motion in case number CV 2015-237 on January 21st, 2015, and Rangen filed a response in opposition to the motion in both cases on that same day. Rangen filed the affidavit of Justin May in support of its response. Rangen has also filed a motion to strike, requesting that the affidavits of Robert Hardgrove and Charles Brendecke be stricken from the record.

And before we begin, like I mentioned, we have two cases -- before I begin, I want to address the fact that IGWA filed its motions to stay in two separate cases that are presently before the Court. I have some concern with taking up the motion in Twin Falls County Case No. CV 2015-237, which is the

petition for judicial review, in that the matter was filed on January 20th, 2015, and IGWA filed the notice of service with the Court today indicating that it only served its motion to stay on a list of the parties, which the Court assumes to be the parties to the underlying administrative proceeding in that matter.

As a result, there has not been sufficient time to define the world of parties that may appear and participate in the matter. The Court hasn't even issued a procedural order. It was just assigned yesterday to this Court. So the parties to the underlying administrative proceeding have not had the opportunity, nor have they been required to filed cross petitions or motions to intervene in the matter.

So, with those concerns, I'll hear from you, Mr. Budge.

MR. BUDGE: Thank you, Your Honor.

Concerning the case that was recently filed, the parties to that underlying action are here. It's Rangen and the Department of Water Resources. This is an appeal of the director's denial of the motion for stay that we filed last Friday afternoon, and the parties to that proceeding were Rangen and the Department of Water Resources.

I know Rangen has raised an objection in their response that all of the parties to the original delivery call must be parties to every subsequent proceeding, and that's not how it's worked in practice. So when we had the delivery call case, there were quite a few parties that were involved in that. And then in subsequent proceedings, those parties weren't all the same or involved.

In fact, Rangen's most recent appeal to this Court that we're dealing with, the 2014 case, you'll notice on their petition for judicial review it does not, in its certificate of service, include all of the parties to the original case.

So, as a matter of practice, each of these different proceedings before the department have had different parties, and our motion for stay pertains to Rangen, who is the potential beneficiary of a curtailment, and the Department of Water Resources, who is administering it. I didn't anticipate the other parties. I didn't consider them parties to this proceeding and didn't name them.

I will say that in response to Rangen's concern, and in an abundance of caution, I did serve all of those documents this morning on all of the other parties by e-mail, which in those prior cases the

parties that were involved had all agreed to service by e-mail, and so they have been served.

But as far as the proceeding before this Court, the parties are the department and Rangen. That's who participated in the motion before the department last Friday. So I do believe we have all the appropriate parties here today.

THE COURT: I do believe of those parties we do have Jerry Rigby on the phone. We do have city of Pocatello. We have the Surface Water Coalition, Kent Fletcher. We have Bill Parsons, Travis Thompson. So the two that are not participating would be Kathy McKenzie and Gary Lemmon.

MR. BUDGE: Mr. Lemmon is here today. I don't believe Kathy McKenzie has walked in. I've not seen her, but Mr. Lemmon is in the audience today.

THE COURT: Okay. Any response, Mr. Haemmerle or Ms. Brody?

MR. HAEMMERLE: Judge, are you addressing only the Court's concerns in the most recent filing, the 2015 case as well as the 2014 case, or just the 2015 case?

THE COURT: Just the 2015.

MR. HAEMMERLE: I'll leave it, our objections will stand in our papers, Judge.

I do have some objections with regard to

Mr. Creamer's proposed intervention.

THE COURT: We'll get to that.

Okay. Well, your objection is noted, but we will move forward with hearing the motion in both cases based on the representation that the underlying action was the proceedings before the department on this day. The other parties that were parties to the original delivery call action are all present either in the courtroom or participating listening in telephonically, with the exception of Kathy McKenzie.

MR. BAXTER: Your Honor?

THE COURT: Yes.

MR. BAXTER: This is Garrick Baxter. If you wouldn't mind moving your microphone a little bit closer to you.

THE COURT: Is that better?

MR. BAXTER: Much better. Thank you.

THE COURT: Okay. With that, we'll take up the motion to intervene that was filed in the CV 2014-4970 case. As I indicated earlier, the Court just received a copy of this ten minutes before coming into the courtroom.

Has counsel even had an opportunity to see this?

MR. HAEMMERLE: Judge, I first saw these

pleadings on the way down, driving on the way down looking at my cellphone. Probably doing it inappropriately, I'm sure. And, you know, I don't have paper copies. That's why I have my cellphone out right now, Judge. I have not seen these papers. I did talk to Mr. Creamer about an hour ago.

I could say that we would object to their participation. First and foremost, neither one of these parties was a party to the underlying action. They have never been a party to any underlying action in this entire case. They certainly didn't participate in this case at all.

And I haven't had a chance to even address their motion to intervene. There's complicated issues of whether the issues that they're presenting would be raised by other parties, all of those kinds of things. I can't possibly address those based on reviewing their pleadings on my cellphone. So I would object to their participation.

THE COURT: Mr. Creamer.

MR. CREAMER: Thank you, Your Honor.

I can appreciate Mr. Haemmerle's objection, but I would also ask the Court to recognize that this is an incredibly expedited proceeding, and we have only just learned about what are significantly changed

circumstances that now have the potential to directly impact the rights of our clients, their water rights.

Certainly, if there is going to be a proceeding, they should be allowed to intervene as a right because the decision is going to directly impact them. They hold water rights that would be subject to the immediate curtailment that's pending here. And given the shortness of time, we have not had a great opportunity to apprise ourselves of all of the facts and to really understand the posture of the case.

I guess to that extent also, Your Honor, our clients would need to be participating in both of these cases, rather than just the 2014 case, we would move to amend the pleadings, be able to amend the pleadings to state their desire to intervene into both.

When we talk about the posture of the case, Your Honor, clearly, no matter how you look at it, from what we've seen, this really is an action in equity, and the equities weigh in favor of the people who are going to be turned off having an opportunity to apprise the Court of what the impacts of that would be, and that's the purpose for their intervention.

There are harms that need to be considered, and I know Rangen will have and will tell the Court that certainly they are a party with water rights they

believe have been and are being harmed. In that balance of harms, we believe that our clients have a right to apprise the Court of where they stand in that balance. That's the purpose of the intervention. That's the purpose of our petition to intervene and the affidavits.

THE COURT: You've got to speak up, Mr. Creamer.

MR. CREAMER: I hope you didn't miss all of that, Your Honor.

THE COURT: No. I caught it, but if you were going to say anything further, I would need some help.

MR. CREAMER: Thank you.

THE COURT: Mr. Budge.

MR. BUDGE: I don't have any objection to Mr. Creamer making his arguments today given the expedited nature of things, but I tend to agree with Mr. Haemmerle that there ought to be an opportunity to evaluate and respond to the motion to intervene that can be decided at a later date.

THE COURT: Anything from the department?

MR. BAXTER: No, Your Honor. The department takes no position as to the motion to intervene.

THE COURT: Okay. Well, Mr. Creamer, I'm going to go ahead and rule. I'm not going to -- I'll deny the motion to intervene at this time. We can notice it

up and set it for a hearing, if need be, at a later date.

I appreciate that this was set on short notice. The case does have a long history. The deadline for curtailment was set sometime back. I think the director did notify parties that were subject to the curtailment previously that they would be subject to curtailment. And the Court in this case did issue a procedural order in the 4970 case, and it set the deadline for filing an appearance, as well as a motion to intervene.

So, to go forward, to allow you to proceed at this stage and the parties not having the opportunity to meaningfully respond to your motion and the affidavits that were filed in response, I will go ahead and deny the motion to intervene at this time.

MR. CREAMER: Your Honor, I'll remain on the line.

THE COURT: Okay. Then before we get to the merits of IGWA's motion to stay, the Court will address the motion to strike filed by Rangen.

MR. HAEMMERLE: Judge, at the time that I filed the motion -- you're going to hear the motions to strike first?

THE COURT: Yes.

MR. HAEMMERLE: At the time I filed that, the only two affidavits I had in hand at that time were the affidavits of Bob Hardgrove and the affidavits of Charles Brendecke. After I prepared our objection, Your Honor, I did receive the affidavit of Mr. Naerebout. So I would, in addition, seek to strike his affidavit.

The basis of my motion, Judge, is I think we have to remember why we're here today. This is an appeal under the Idaho Administrative Procedures Act, and the Administrative Procedures Act is quite specific on what the court can look at. What it says is the court can look at the record, and that's what the court is confined to look at.

There is a Section 67-5276, which defines how the court could possibly take additional evidence, and that is if there has been showing that the evidence is: Number one, material; and, number two, that there has been good cause shown for failure to present the evidence to the agency, or that there were irregularities in the procedure below.

Now, I think IGWA has come before the Court thinking that this is some standard lawsuit where they can just file willy-nilly whatever affidavits they want and the Court will consider those.

Again, this is an appeal. There has been no showing by IGWA why these documents could not have been presented to the agency and, really, if these are to be considered, it's not for you, Judge, to consider them for what they're worth. Really, where they should have been presented is to the director when the original stay was requested. So if this is new evidence that is material, probably it should be considered by the director himself and not by this Court today.

THE COURT: But doesn't the rule and the statute allow the party to file with either the director or the district court for purposes of filing a motion to stay?

MR. HAEMMERLE: All that rule says is that they can file a motion to stay. That's it. There's nothing specific about the motion to stay rule that says they can file additional evidence. There's a rule that says that any matter on appeal is to be considered on the record. Period. And that's -- and the only additional evidence that can be considered is this way.

So, if it is material and they can show good cause why it wasn't presented to the agency, the Court can say, well, maybe , maybe it will come back, but I'm going to send it back to the director and see what he thinks about it. That would be the proper way of doing it. Otherwise, to consider this evidence,

Judge, all you're doing is usurping, really, the authority of the department.

THE COURT: But the affidavits were filed for purposes of the Court granting the stay, not for second-guessing, not for second-guessing the director.

MR. HAEMMERLE: Judge, I don't think under the APA that there is a separate mechanism to bring other evidence before the Court. I just don't. So I have to respectfully disagree and tell the Court that that's our position.

THE COURT: Understood.

MR. HAEMMERLE: Thank you.

THE COURT: Mr. Budge.

MR. BUDGE: Yes. Thank you, Your Honor.

You, I think, took some of the words out of my mouth, but this is an equitable relief that we're seeking. I don't believe there's a restriction on our ability to support our motion for equitable relief with affidavits. Those are permitted under the plain language of the rules.

As far as this being new evidence, I'll say this is more detailed evidence, but certainly not new evidence. There is nothing in the Hardgrove affidavit or the Brendecke affidavit that were not discussed in the motion that was presented to the

director.

Just for the Court's benefit, we discovered, my recollection was, around 1:00 Friday of this problem with the temporary pipe, and that created an emergency, as you might imagine. So it was in a very short time frame that a motion for stay was prepared and an affidavit of Bob Hardgrove was submitted containing most of the information that's in the affidavit before this Court.

The argument was also made to the director that curtailment will not provide any water to Rangen by the time this pipe is complete, and Mr. Brendecke's affidavit simply reaffirms that.

So, in response to the motion to strike, I would argue, first, that the Court does have discretion to accept these affidavits given the nature of this proceeding and, alternatively, the Court has discretion to allow additional evidence to be presented. And under the circumstances and time frames that we're dealing, I do believe good cause has been shown and that there's no prejudice to Rangen from these affidavits.

Thank you.

MR. HAEMMERLE: May I be reheard briefly?

THE COURT: Yes.

MR. HAEMMERLE: Thank you, Judge.

I've heard Mr. Budge refer to some rule that allows the Court to allow these affidavits in. If he can cite to that rule, I would love to respond to it. Otherwise, I don't think there is an independent rule that would allow that.

Secondly, on the Naerebout affidavit, really, all that affidavit does is speak about economic harm and the consequences of curtailment. I think this Court is well aware that the higher courts have spoke that with regard to curtailment that's not an issue. So it's not even material to this Court's decision in any way.

Secondly, I hear this characterized as an equitable proceeding. This is an appeal based on law and fact, not equity. So we are still here to consider law and fact. To be sure, I don't think the affidavit of Mr. Naerebout has anything to do with any decision before the Court. So this one, in particular, is not material.

THE COURT: Anything from the department?

MR. BAXTER: Your Honor, I don't know if we so much have a dog in this fight, but I will jump in and say that I do think that the Court has the authority, as pointed out under both the Rules of Civil Procedure and under the APA, to grant a stay. I think implicit

in that authority to grant that stay is to allow the submission of affidavits.

To explain that, from my standpoint I don't see this as IGWA trying to come in and back door an appeal or somehow leverage an appeal. What they are seeking is relief from the order that is subject to that appeal, and the rule allows them to seek that relief and come to you for that.

So that's my two cents on this issue, Your Honor.

THE COURT: Does that raise anything with you, Mr. Haemmerle?

MR. HAEMMERLE: It does not.

THE COURT: Okay. Well, then I'm going to go ahead and make a ruling. In the exercise of discretion, I'm considering these affidavits for the purposes of the stay. I'm not ruling on the director's determination regarding the pipe or the basis for denying the stay, the request for the stay. I'm simply considering the affidavits for ruling on the motion to stay.

But I'm going to deny the motion to strike with respect to the affidavits of Robert Hardgrove and Charles Brendecke. Those affidavits were filed on January 20th, 2015, and Rangen was given the opportunity

to respond to those affidavits. The Court notes that Rangen has submitted its own affidavit in support of response and opposition to the motion to stay, and the Court will consider that affidavit in conjunction with the Hardgrove and Brendecke affidavits.

But with respect to the affidavit of Rick Naerebout, the Court will grant Rangen's motion to strike that affidavit. It wasn't filed until January 21st, 2015, and although Rangen has had the opportunity to respond in court, my order was to have the materials filed and have Rangen have the opportunity to respond in writing; therefore, I will grant the motion to strike with respect to the Naerebout affidavit.

With that, Mr. Budge, we'll proceed with the motion to stay the curtailment order.

MR. BUDGE: Thank you, Your Honor.

Let me first thank the Court again for making time today to hear this motion. I mentioned this Tuesday, but we certainly did not anticipate being here before the Court and requesting a stay. We definitely did not plan on it. And it's been an unfortunate turn of events which brings us here, which is regrettable, but it is what it is. I very much appreciate the Court's willingness to hear this on an

expedited basis. I appreciate Rangen accommodating that expedited decision as well.

I should start by saying that I don't believe there have been any wells shut off as of this moment, so I still think the motion is being heard on a timely basis, and the Court's in a position to grant meaningful relief.

I would note that the department sent out curtailment notices Tuesday advising people of the curtailment, and they also produced a spreadsheet that summarizes the scope of the curtailment. I just want to point out what the department has demonstrated. There is approximately, by their accounting, 474 water rights that are scheduled to be curtailed: 181 of those are dairy water rights; 57 are other stock water rights; 43 of those are multi-housing domestic rights, so apartment complexes and things of that nature. Of those 43, five of those water rights include fire protection. There are 30 municipal water rights and 10 industrial rights. There's also a number of other uses that may be curtailed, but those are the major categories.

These numbers, it's important to point out, are limited to water rights west of the Great Rift. As the Court is aware, the Great Rift trim line has been

ordered eliminated by this Court. The remand from this Court took effect last Friday, so the same day we discovered this issue with the pipe, and the department has not yet acted on that remand. So the curtailment the department is undertaking as we speak assumes effectively the Great Rift is in place. It's limited to the area west of the Great Rift. There has been no action on the remand. A motion was filed with the director asking him to deal with the remand first before he enforced the curtailment. That's not been acted on either.

There are some constitutional problems, we believe, with enforcing a curtailment order that a substantial element of has been set aside, and we don't believe it's appropriate for the department to march forward with a curtailment without addressing the remand, but they are, and so we're here requesting a stay.

As this Court is well aware, and I know from past experiences read the briefs and the affidavits, the Court knows we're requesting a very temporary stay of curtailment until we can finish our Magic Springs mitigation project. That's expected to be done the first week of February. So that's about 10 to 15 days from where we are today.

Before I get into the merits of the motion, I first want to discuss the Court's authority, which has been touched on this morning, and the nature of the relief we're requesting. A stay is an equitable remedy. The constitution, in fact, gives this Court authority to exercise equitable authority. That's in Article V Section 20. I certainly understand there would be a concern about stepping on the director's toes or making a different decision the director made on essentially the same motion. I appreciate that and I appreciate that respect, and I agree that that respect is due and well deserved.

I do want to point out that the legislature has given this Court oversight responsibility for agency actions, not only the Department of Water Resources but others. And it is a very important responsibility to provide a review function and for this Court to make a decision that it believes is most appropriate.

The statute that allows this motion, the Court is aware of, 67-5274, it simply says that the court may grant a stay upon appropriate terms. The statute does not define what appropriate terms are. We found no case law, in Idaho anyway, that defines what appropriate terms are. But this Court is certainly aware of the general criteria that governs stays before

in typical district court proceedings.

And we've cited these in our brief, and we've cited a few cases. The Haley v. Clinton case explains that a stay is appropriate where there are equitable grounds for it. And then the McHan decision explains the rule that this Court is familiar with, and I'll quote it, "A stay is appropriate when it is entirely possible that refusal to grant a stay would injuriously affect appellate, and it is likewise apparent that granting such a stay will not be seriously injurious to respondent."

Given the equitable nature of the relief, there is a balancing of the equities and evaluating the circumstances that are presented to the Court.

I also want to point out that as I continue to look for standards to guide this Court's decision, there is a discussion in a secondary source, American Jurisprudence 2d, and Section 490 of that treatise addresses administrative law. It actually deals -- it discusses the very circumstances that we find ourselves in today, and that is where an agency has either granted or denied a stay and then a court is being asked to review that decision.

What I found interesting is, at least under this authority, the court is instructed to consider

whether the applicant is likely to prevail on the merits of the appeal only if the agency decision was expressly based on a threat of -- a threat to the public health, safety, or welfare.

If the agency's decision is not based on those standards, then what AmJur says, the court must grant relief if it finds in its independent judgment that the agency's action on the application for stay was unreasonable in the circumstances.

So as was mentioned earlier, we are not asking the Court to make a legal ruling on our appeal. We're asking the Court to exercise its equitable authority and use its independent judgment to determine whether a stay is appropriate under the circumstances.

Now let me turn just to the equities in this case. And this Court has read the affidavits of Mr. Hardgrove and Dr. Brendecke and our motion, and I'm not going to go through those piece by piece. I could simply summarize them in three key factors that we think warrants a stay under the circumstances.

The first is that the districts have done everything they could to get this pipeline done, and I'll discuss that further, and it's going to be done, by all indications, the first week of February. If the weather holds out and things go well, it will be very

close to the first of the week. But as everyone here, I think, understands, construction projects sometimes have speed bumps, and so as late as the end of the week; although, we are certainly optimistic it will be sooner.

The second factor --

THE COURT: Let me ask you this, Mr. Budge: That's with the steel pipe, the permanent?

MR. BUDGE: Yeah. So if you recall the photographs attached to Mr. Hardgrove's affidavit --

THE COURT: Yes.

MR. BUDGE: -- there is a vertical cliff the steel pipe goes down, and then there's this kind of steep, rocky slope. We call that the talus slope. The steel pipe, since Monday when I prepared that, had been installed up the vertical section of the cliff. So they have now moved on, the engineer told me yesterday, to the section down lower. Then they have to connect it to the pump station at the bottom.

So all hands are on deck in getting that done, and our engineering firm, SPF, has multiple people out there working. And the contractor, for obvious reasons, is doing everything it can to get that completed, and as of yesterday still on track to have that done, hopefully, towards the beginning of the

first week of February.

The second factor, which is equally important, is that curtailing people between now and then will not provide any water to Rangen. This was addressed in the Brendecke affidavit, but it was also actually discussed in a recent decision by the director relating to a mitigation plan submitted by the Coalition of Cities.

The Coalition of Cities had entered into a stipulated mitigation plan with Rangen that would excuse them from providing mitigation until later this year when they can do some recharge. And the director noted there that the cities use such a small amount of water that it's not likely to have much impact on Rangen, and also pointed out that it's ironic that Rangen would give a free pass, so to speak, to the cities, while trying to hold the ground water pumpers' feet to the fire. And, ultimately, the director denied that mitigation plan in part saying that there can be no mitigation credit until the recharge occurs. So the cities are still at risk of curtailment, but it also demonstrates that Rangen apparently was not particularly concerned with the small amount of water that the -- the small amount of impact caused by the cities.

So the second factor, and maybe the most

important, is that curtailing the dairies and the cities and the industries for two weeks provides no benefit to Rangen. It helps nobody.

And then the third factor is that as soon as we get this steel pipe done, we can make up the difference. We can provide more water. So it's sized to provide additional water, and we are certainly willing to. We have in the past even offered to deliver excess water to make up for the shortfall, and we're certainly prepared to do that as well as soon as that pipe is done.

THE COURT: What would that shortfall be for the 19 days?

MR. BUDGE: The motion that was submitted to the department, the motion for stay -- and I thought that was in the motion to this Court -- but in the motion to the department, we did calculate that. My recollection is our mitigation obligation goes from 5.5 cfs to 6.1. I'm going off memory here.

THE COURT: I think it was 6.1 for one week and 7.5 for 3 weeks.

MR. BUDGE: That may be right.

THE COURT: Okay.

MR. BUDGE: The pipe system is designed to deliver the ultimate full mitigation requirement of 9.1,

so it certainly has the capacity to do that.

Now I want to speak to the timing. This has been mentioned by the department and by Rangen, and I understand it, but the complaint is raised that, hey, we've had six or seven months to know about this deadline, and that was really the only rationale given by the director when he denied our motion for stay. He did not discuss or even mention the equities, the impact to juniors, the impact to seniors. There is no mention of that in the director's decision. All he said is, well, you've known about this for seven months and I'm not going to give you any more time. And we have. We have known about it for some time.

I don't think many people appreciate what it takes to develop and implement a mitigation project of this magnitude. Before I discuss what it takes, I'll point out that we did have a mitigation plan approved to pump water from a different set of springs known as Tucker Springs. That was approved earlier, and at the time we were moving forward on all fronts, but we discovered later that there's a threatened snail that has to be dealt with. Because of this threatened snail, we were not going to be able to meet the deadline with the Tucker Springs project. That necessitated an alternative, which is the Magic Springs

project.
I'll tell you what that takes. First, you have to identify a source of mitigation water. You have to find someplace where water even exists to mitigate with. Then you have to make an agreement with the owner of the water rights on that source to let you take some of their water. Then you have to prepare a mitigation plan and file that and hire an engineering firm and have them go out on-site and evaluate the engineering feasibility of it. If they determine it's feasible -- and you saw the cliff that we have to go up and so we weren't quite sure -- then they can begin designing and engineering it. They do that in stages. They have a 10 percent engineering stage, then they move to 60 percent, and 100 percent.
We had to go through a contested case before the department because Rangen opposes every effort we made to deliver water to them. We had to go through another contested case on the water right transfer for the same reasons, and that involves discovery and expert reports and briefing and all that comes with that.
THE COURT: Where is that process?
MR. BUDGE: That process is completed. The transfer application has not been decided, but we did, as a safeguard, we did a water supply bank transfer, a

temporary application. That has been approved by the department. So the authority to pump the water is there. It's been processed through the water bank. The transfer, we expect a decision any time on, but, nonetheless, that was a major undertaking as well.
The surveying has to be done for all of the easements. Easements had to be acquired from a number of landowners.
MR. HAEMMERLE: Judge, I'm going to object to this whole line of argument. It has nothing to do with the failure to provide water on January 19th, which was to have new pipe. I hear IGWA saying it was difficult to get the mitigation plan in place. It was. But they didn't appeal any single aspect of it.
So we're not here arguing about the difficulty of obtaining any of these mitigation plans. It's about their failure to have new pipe as they were ordered to have. That's the reason that delivery of water wasn't had on the 19th, in addition to the other reasons that we cited. So I don't know the relevance of any of this kind of argument.
THE COURT: Okay. Well, your objection is noted.
You may proceed.
MR. BUDGE: Thank you.
It certainly is relevant because Rangen is

going to say we should have had it done, and I'm explaining the effort that it takes to get a project of this magnitude done.
You have to put it out for bids, hire contractors, build the pipe, obtain the easements. We also had to negotiate an agreement with the state of Idaho to utilize another water source in conjunction with this known as the Aqualife Fish Hatchery, build a pump station, nearly two miles of pipe, all the connections and pressure treat it.
As I explained in our brief, it's actually ready to go today with the temporary pipe, but it's sitting dormant. It has been pressure tested and is ready to go, with the exception of the steel pipe.
Now let me talk about what we've done to expedite that process. When the engineers first designed this, they told us, oh, boy, I hope we can get this done by April 1st. That's going to be an aggressive schedule, but they think we can do it. When we went to the hearing, they made that testimony as well.
The director did not give us any breaks on that front. He says you've got to have it done by January 19th or you're out of luck. So that created a hurdle that initially we didn't think we could pass,

but there are some things that maybe have saved us, or had saved us, we thought. One was that before the director even decided the Magic Springs mitigation plan, IGWA and its ground water district members, they committed to spend the money to build the project.
So the engineering didn't wait until we had a decision from the director, but they pressed forward to complete the engineering, to prepare for construction, prepare the bids, and move forward even before we had assurance that would be approved. That was, I think, a risky decision, but one that had to be made given the constraints.
They employed additional staff. They pre-ordered materials and supplies. They hired multiple contractors to build different parts of the project. And we built financial incentives into the contracts so that all the contractors had a significant motivation to be done by the 19th. They worked holidays. They worked weekends. They worked extended hours. They've been workings all hours to get this steel pipe done.
So one thing is for sure is that we've done everything we could to try to meet that day. We don't deny for a second that we stubbed our toe at the end. That was not intentional; certainly not by IGWA. It was not intentional by the contractor or by the

engineer. Mistakes happen, especially with a project of this magnitude on a very short time frame, and a mistake happened. And we are as frustrated about that as anybody else, but we can't turn back the clock and redo that. We have to deal with the facts that are handed to us, and this Court's decision is going to have to be based on the circumstances that exist as of today.

The decision is not dependent upon who's at fault and who gets the blame for that. The decision is based on the standards that I discussed before. Does it make any sense? Is it reasonable? That's the question for this Court. Does it make sense to curtail the water to 14 cities, 82 dairies for two weeks when there will be no benefit to Rangen?

I don't know where the 70- or 80,000 cattle that I'm told will be out of water, where they would get that. The other stock water rights, they're being used. I don't know what you do with those animals.

THE COURT: Well, Mr. Budge, let me ask you this: What other impediments are there towards completing the pipeline? I mean, you talked about getting the 400-foot section of steel pipe in there, but are there other impediments that are existing out there?

MR. BUDGE: Yeah. So there's two things -- and I talk to the engineer almost daily and I have for a few weeks so I'm quite familiar, but I'm not the expert. The two things that they are doing is they are installing the steel pipe, and they are building the thrust blocks into the concrete structures that hold the steel pipe in place.

There's one thrust block at the bottom of the cliff that they are still constructing, but my understanding, it's completing that thrust block at the bottom and installing the steel pipe. The pump station is there. It's operational. They pressure tested everything. So it's ready to go once the steel pipe is in place.

THE COURT: Well, I think what the frustration is, is that every time there's a curtailment delayed, I understand that the immediate effects of curtailment during the non-irrigation season may not produce a significant, if any, amount of water to Rangen during that period, but the problem is, is that you get to February 7th and you are not done and there is another continuance and there is another continuance and then you've prolonged curtailment. Rangen is suffering injury, and it takes time for curtailment to yield any benefit or substantial benefit to Rangen. So every time

there's a delay, it's causing problems.

MR. BUDGE: Yeah, I certainly understand that. All I can say is that I told the engineers if we get a stay, we're not getting any others. So if we tell the Court that the pipe is going to be done by a certain date, we need your assurance that it's going to be done by a certain date. So they told us they're shooting to have it done by February 1st, but they know how these projects go, and they are very confident it will be done by February 7th. That's all I can say. Absent an act of God or something like that, I'm confident that they'll do that.

They've done a really phenomenal job, despite the issue with the pipe, and it's quite remarkable that they are to this point. I can't foresee the future, but I know that we're only asking for a stay until the first week of February or when the pipe is done, whenever is soonest.

THE COURT: I believe Rangen also mentioned the director had ordered an insurance policy.

MR. BUDGE: Yes, that's a nonissue. So at the time we submitted those materials -- let me back up. The districts sought bids from two different companies. At the time we submitted the materials, we had a commitment for insurance from one, and they are waiting

on the bid from the other.

But I'll assure the Court that the insurance will be in place and a certificate provided to Rangen and the director before we pump water. We've understood that all along, and we're not trying to circumvent that by any means. The water bank application is approved. The insurance will be in place. We just need to finish the pipe.

When you weigh the equities, and I understand that Rangen has waited, and I'm sure they'll speak more to that, but it's really difficult for people to understand in Burley or Rupert or Twin Falls or Gooding or Wendell why their well is going to be shut off for two weeks or three weeks when it does no benefit to Rangen. If this project wasn't 90 percent done, that would be one thing, but we've got everything done. We're right at the finish line and there's no reason to think that it won't be done the first week of February.

THE COURT: And IGWA would be planning on delivering the additional water consistent with what was represented to the director? I believe it was the 7.5 cfs as opposed to the 5.5 cfs?

MR. BUDGE: Absolutely.

THE COURT: Okay. Anything further?

MR. BUDGE: No. Thank you, Your Honor.
THE COURT: Mr. Haemmerle.
MR. HAEMMERLE: Judge, I would like to, I guess, start out by saying that this is a huge monumental day for the prior appropriation doctrine and the state of Idaho. This is where the rubber meets the road. Today. Is conjunctive management real? Is the prior appropriation doctrine real? That's what we're talking about.
I've heard a lot from IGWA's attorneys over the course of this case. It has been a difficult case. They always come before the director, before the Court saying how difficult it was for them.
Rangen has been at this, Judge, since 2003 when we filed our first water call. Initially, there was a curtailment decision or a finding of material injury to Rangen, and then subsequent decisions by the department jacked us around, Judge. So we had to fight since 2003 to get those decisions. We initially had a favorable decision, and out of the blue comes two unfavorable decisions. So from 2003 to 2011 we fight for a hearing, and we can't get a hearing. Finally, we're able to file our second delivery call in 2011.
Now, Judge, I have been a part of many cases in my life, but this one is monumental. I think

I took probably 50 depositions in this case. We had a two and a half week hearing on our water call, and that was in May of 2013. Now I suppose the department could have issued a quicker decision, but it didn't. It enabled IGWA to get through an entire irrigation season, and the department issued -- or the director issued his decision in 2014, January 29th, to be specific.
So it took 11 years of hard fighting and a lot of money for us to get where we got. That was a massive amount of determination. What happened next is interesting because then, Judge, we had to go through several mitigation plans proposed by IGWA. Actually, there has been now five because they have another one pending before the department. So we had to wade our way through four separate mitigation plan hearings to get to where we got to on January 19th of this year.
I think it's helpful, before I go to the legal issues where I intended to start, but I'm so angry at the way that this has been postured, I have to get here first. We had the first mitigation plan was proposed February 21st, and without any evaluation of that plan, the department stayed curtailment based on the filing of a mitigation plan. That was the first mitigation plan.
There was a second stay issued April 28th,

2014, again, based on the filing of a second mitigation plan. A plan, by the way, Judge, that IGWA never moved forward on. So we wasted a lot of time hearing those things.
And the so-called snail that IGWA said stopped them is the snail that we found during the process. They didn't even bother to find out if those problems existed. Those problems existed because we found the problem.
Then there was the Tucker Springs recalculation, I think, June 20th, where the director set the hard date of January 19th, the drop-dead date. IGWA is told at that time you better have water.
So the next important decision I think is really the crux of the whole thing is that the department issued its decision on the so-called Morris exchange credit on November 21st, and under the first mitigation plan IGWA was able to keep pumping because of that credit, but their credit was recalculated. And the department concluded that Rangen or IGWA ran out of their credit as of October 2nd.
What he did, Judge, is he said Rangen ran out of -- or IGWA, you ran out of your credit October 1st. Rangen was out of water as of October 2nd. So what he did was, he said, You know, it's against my

better judgment; I don't know if I should do this, but I'm going to give all the affected junior pumpers, junior users, 60 additional days to get their act together. He said that it would have been unfair for me to curtail as of October 2nd.
So the director, after hearing all the evidence said, on paragraph five of his conclusions, page four of his decision, dairies, ground water pumpers, stock users, I'm giving you an additional 60 days to get your act together. What I'm doing is I'm telling you, on January 19th, I'm going to curtail. Period.
The reason I think he issued that strong decision is we spent a whole year of jacking around with mitigation plans. So I think it became very frustrating for the department to hear these mitigation plans, some of which were real, some of which were fantasy, before we got to this point.
Now at the hearing, I believe on the fourth mitigation plan, the director made some comments, some additional comments that said, IGWA, I'm telling you I'm going to curtail you on January 19th. Come hell or high water, I'm doing it. So he did.
Now, Judge, you haven't been part of the two and a half week trial that we had, all the pretrial

motions that we had, all the mitigation plan hearings that we had. You haven't heard all the evidence that the director heard, but he heard enough to say, I'm not doing this any more, because you know what? The prior appropriation doctrine does mean something. It does.

It's harsh. I think Judge Wood said it best. It's draconian, but there are winners and there are losers. And it's time that someone in the state of Idaho, I think the court is the best one to do it, is to say it's real. I'm not going to be jacked around by the politicians. I'm going to enforce the constitution of the state of Idaho. The time to do that is now.

Now I'm going to go to the bare law, I suppose, is where I should have started this thing. The bare law in my book is, is IGWA likely to prevail on the petition for review which they filed? I think, really, that's the only issue before the Court on the stay.

So the two issues are: Did the director err not amending the fourth mitigation plan? That's one. And there's an IDAPA rule that says if the order is on appeal, he can't change it. So within the scope of review of 67-5279, Judge, how are you going to change that decision? You can't. No grounds.

The second issue is: Did the director err in not granting the stay? There's an IDAPA rule which says the director may or may not grant a stay. Period. So he elected not to. Again, Judge, he's the one who sat through every single hearing that we sat through. He's heard IGWA's whining, incessant complaining for too long.

He understands, based on the law, the constitution, that the one who's truly injured is Rangen. We've been injured for 50 years, probably, since our rights have diminished slowly year after year because of ground water pumping. We are the ones who suffer. There was a finding of material injury a year ago.

Now, Judge, it's almost like when you have a child who misbehaves. At some point in time you've got to put your foot down and say enough is enough. We've suffered through four stays. Time to stop, Judge. Time has run out. And that's what the director decided. He heard it all, and he's heard enough.

Is the prior appropriation doctrine real or is it fake? Are courts going to stand up for senior users' rights or not? That's what this case is about, and this may be the biggest day of the prior appropriation doctrine and the constitution of the

state of Idaho in our 100-plus year history. The time is now. We've heard enough. We've been stayed enough.

And why would this Court exercise its discretion to stay when the department didn't? Do you honestly think that decision was wrong? Can you sit there and say that, based on this evidence? No. Time has come today.

If the Court has any questions, I would be happy to answer.

THE COURT: I can appreciate Rangen's frustration, but, I mean, this isn't a situation where the pipeline is still in the planning stages or on the drafting room floor. It's, you know, if you accept IGWA's word for it that it's going to be ready by February 7th, what is to be gained by three weeks of curtailment, or less than three weeks of curtailment for Rangen if there's going to be little or no benefit to the spring?

MR. HAEMMERLE: I don't think that you're looking at it all correctly, Judge. You have to understand that the finding of material injury was one year ago. We have been injured. There was a finding of material injury that they caused it a year ago. The Court -- or the director has heard all the evidence, and he decided that in his own estimation that didn't

matter. That didn't matter.

So, you know, Judge, I don't think that you were hired to be the second director of the Department of Water Resources. You're a court of law and, primarily, in these kind of cases on judicial review, you're here to determine whether the agency erred under 5279.

So if you look at all of those factors, Judge, can you say that the decision was wrong? No, you can't. It was an exercise of discretion.

I think the Court, you can appreciate that every discretionary call the trial court makes, the higher court will say, was the decision based on discretion? Yes. Did the trial court recognize its discretion? Yes. And if so, the appellate court has no authority to reverse you. So why are you treating the director any differently?

THE COURT: Well, there is a rule, Civil Procedure 84(m) and an administrative statute that allows the District Court to stay the order of the director.

MR. HAEMMERLE: I think, though, Judge, you would have to say and find, was he out of line in not granting the stay in any way? Can you say that? He certainly had the authority to do it. He's heard

everything that there is to hear. And he's the one, Judge, who found that their credits ran out October 1st, and he gave them 60 additional days, and he said you better have the water on January 19th.

Are we ever going to curtail in the state of Idaho? And let's face it, Judge, if it's two weeks, do you think the Department of Water Resources is going to run out and start curtailing people? They made the decision. Let them deal with it.

I think it's entirely wrong for a court of law to exercise its discretion to say, you, agency, in exercising your discretion, were wrong. No way. It doesn't work like that.

So, let's stop the fakery of conjunctive management. Let's determine that it's real, and let's recognize the rights of the senior for once. There has never been curtailment, Judge.

THE COURT: Yeah, but there has been mitigation.

MR. HAEMMERLE: No. Their mitigation ran out months ago.

THE COURT: You're talking about the state of Idaho. This isn't the only delivery call that I deal with.

MR. HAEMMERLE: Yeah. And that director heard everything he heard. He heard a lot more than you did.

He had to sit through this process daily, and he's the one that decided enough was enough.

So having sat through this on a daily basis, why is this Court in a better position to grant the stay? Why are you and your decision, why are you better placed to make that decision? You're not, in all due respect. It's not the proper province of the Court to reverse discretionary calls. Enough.

Judge, if you feel you have the free will and the authority to second-guess agencies, you're going to get a lot more of this in the future. So I suggest you shouldn't micromanage. You should respect the decision of the agency and find like we do. We're tired of it. We're tired of appearing like this, begging for someone to do something.

Does the Court have any other questions?

THE COURT: No, I don't.

Mr. Baxter.

MR. BAXTER: Yes, Your Honor.

First, I would like to say that as to the motion in case number 2014-4970, the department does take no position with regards to the request for stay there because I think appropriately the issue has been framed there. I think correctly the analysis is laid out there for the Court to determine whether in its own

consideration it believes that there's justification for a stay in that particular matter.

Now, it's different, the department takes a different position with regards to the case of 2015-237 I believe is the case number of the most recently filed case. Because I think contrary to what IGWA argues here today, they are asking the Court to make a decision up front as to whether or not the director acted within his discretion in denying the appeal.

I think it's an important distinction here. In one case they're asking the Court to make an independent decision, and in the other case they're asking the judge to reverse the director's decision as to that. I think in that case the analysis as laid out in our briefing there, Your Honor, is the correct one.

In that case IGWA argues that the director abused his discretion when he denied the motion to stay curtailment. Idaho courts are clear that a decision to grant or deny a stay is discretionary.

As the Supreme Court stated in the Clear Foods case, that when the court is trying to determine whether the director acted within his role, the court must determine whether, first, the agency perceived the issue in question is discretionary, the first test; whether the director acted within the outer limits of

his discretion; and, third, then reach its own decision through an exercise of reason.

In this case the director specifically did identify that this is one of discretion, and he considered the request by IGWA, as he pointed out, that there had been enough, approximately seven months for IGWA to come in and implement the mitigation in this proceeding. Given that IGWA had so much time to come up with a solution to mitigate, the director declined to grant the extension of time.

So, in this circumstance, the director acted within the limits of its discretion and reached his decision within an exercise of reason. So IGWA's attempt to link in and challenge that decision itself and ask the Court to overturn that specific decision, I would distinguish from a request that they're asking you to make your own independent decision under a different standard.

Now I would also point out that in its opening today here, IGWA raised a new argument that they did not address in the briefing about the status of the remand proceeding in the underlying delivery call case. They seemed to suggest that the director cannot implement a curtailment order pending that remand proceeding. I think it's helpful to go back and take a

look at what the Court did do in that case.

The District Court did remand back to the director the issue of curtailment of those water users east of the Great Rift, finding that the director cannot limit curtailment east of the Great Rift based upon the justifications laid out in the order.

I think it's important to highlight what the Court did not do. The Court did not reverse the director's determination as to curtailment as to those water users west of the Great Rift, and the Court did not stay implementation of that order. So from the director's standpoint, it is appropriate to move forward with curtailment of those water users west of the Great Rift.

Now I don't want to leave the Court with the impression that things are not happening on remand. You might get that impression from counsel for IGWA. The matter is set for status conference on Tuesday of next week, and the director plans to move forward with that status conference and discuss with the parties how to move forward in the proceeding. So the director is actively implementing the remand proceeding that is required by the District Court.

So, I guess in closing, Your Honor, I guess the department does agree that the Court can consider a

request for stay under the Rules of Civil Procedure and under the rules of the APA, and disagree that you need to somehow reach a conclusion that the director erred or was out of line in reaching his decisions. Again, I think the Court can issue and reach that decision on an independent exercise of its own determination of the request for stay.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Baxter.

Mr. Budge.

MR. BUDGE: Thank you, Your Honor.

Counsel for Rangen has certainly taken some liberties in quoting the director. I didn't see any of those quotes in their brief, and I was at every one of those hearings. I never heard the DIRECTOR say, "I'm curtailing come hell or high water. That's the last chance. Never again."

We certainly understood January 19th was the date, and we've been doing everything we can to meet that day, but I do take exception to some of the representations that were made.

Now let me talk about this argument about whether conjunctive management is real because this has been a theme of Rangen for the last year. They say this in every hearing. Conjunctive management is fake.

It's not real. It doesn't mean anything. And to our clients who have spent almost ten years dealing with delivery calls, curtailment notices, mitigation, and done everything they can this year, it's extremely offensive.

What makes it even worse is the curtailment order that was issued almost a year ago had two curtailments. It ordered curtailment of junior ground water rights, and it said Rangen does not have a valid water right from Billingsley Creek. Two days later, a notice of violation and a cease and desist order came out from the department that told Rangen, you cannot use water from Billingsley Creek.

We proposed, director, allow Rangen to use water from Billingsley Creek. That's 10 cfs there. Our obligation is 3.4. Allow Rangen to do that so we have some time to get a mitigation plan in place. Rangen opposed that. They were more interested in 3.4 cfs of mitigation than 10 cfs from Billingsley Creek.

The prior appropriation doctrine is about water. Rangen's case has never been about water. It's been about curtailment, and that's what it's about today. They don't want water. If they wanted water, we would have had water before we ever went to the first hearing, or we would have had water much sooner

this year, but what we've had to do is scratch and claw to get a mitigation plan approved, to get water right transfers approved, to get new permits approved because Rangen opposes every effort we make to give them water.

And they use water from Billingsley Creek so the director says, Rangen, we're not going to enforce the curtailment against you on Billingsley Creek, go ahead and use it. So for 11 months Rangen uses 10 cfs from Billingsley Creek, and then they come in here and say prior appropriation is unjust. It doesn't exist. The juniors are always let off the hook. Well, that January curtailment order was only applied one way. It was enforced against junior ground water users. It's not for one day been enforced against Rangen. If you want to talk equity, that is completely inequitable.

We've been working like dogs to develop mitigation plans, spending all kinds of money, jumping through moving hoops with different mitigation obligations to meet this deadline, while Rangen gets a free pass. And we're here asking for two weeks, and to avoid curtailment that will make no difference. They'll get no water from curtailment.

I don't want to be the department person who's out there telling people they're curtailed who

know curtailment will not make a lick of difference to Rangen. There will be no benefit.

Now when you look at the director's decision -- and I appreciate the director is as frustrated as we are that we didn't meet the January 19th date, and I think that weighed heavily on the director's mind, as it did ours. And I understand the director is upset that we didn't meet that date. He was no more upset than we were, but we can't fix that right now. All we can do is finish our project.

I do think that the Court has plenty of reasons to find the director erred. The director made two decisions. First, he said you can't use the pipe that's in place because I don't think I have authority to amend my order. We've got a pipe that's there and ready to pump water. It was ready to go Saturday. As far as I know, it's there today; although, I haven't asked the engineer that today. And the director said he has no authority to amend his curtailment order. Well, he has amended his curtailment order twice already. So we don't understand how in two other cases he can amend his curtailment order, and this time he can't. We don't understand that.

You've got to apply the law equally. If he has authority to amend his order as circumstances

changed, then he has authority to amend his order as circumstances changed, and circumstances changed.

The other factor is whether he erred in denying the stay. As I mentioned, the director said, I've given you seven months. I'm not giving you any more. The criteria that govern his decision are the equities, the same ones we discussed today. Those criteria are not even mentioned in his order. They're not discussed. So if there was a reasoned basis for applying those criteria, we don't know what those are.

We think the Court is going to rule in our favor on that appeal. The reality is the Court's decision today is not to make that ruling. You're not deciding the merits of our appeal. You're simply deciding if whether a stay is equitable under the circumstances.

And it boils down to this: Curtailment is going to be devastating. Livestock with no water. Dairies, no milk. Food producers, no supply. People who live in apartment complexes, no water. Fire hydrants, no water for two weeks, for no benefit.

If Rangen wanted water, they would be making a deal with us to deliver them more than is required under the mitigation order, and we would gladly do that, but they don't want water. They want

curtailment. The prior appropriation doctrine is about water.

The equities could not be any more compelling, and so we would again ask the Court to grant our stay until the 7th of February, and we're confident we'll have it done. If we don't, we don't anticipate being back.

Thank you.

MR. HAEMMERLE: May I have two or three minutes, Judge?

THE COURT: Go ahead.

MR. HAEMMERLE: Judge, again, the equities have run out a long time ago. I advised the process that we went through. We had a hearing in May of 2013. The director took one whole irrigation season to issue his decision, and took another irrigation season to finally arrive at the January 19th date.

I must admit I probably took some liberties with what the director said, but not too much. If you look at Exhibit 2 of Mr. May's affidavit, at the very conclusions of hearing the, I believe it was the fourth mitigation plan, wherein the date to provide water was established and all the other criteria, for example, a new pipe and those things were decided, IGWA didn't file any appeal of anything.

So at the very end when we're talking about delivery of water, those kinds of things, the director said at the very end of the transcript, and I'll quote, "And so what I've done is I've allowed the seniors to be injured without assurance that something absolutely will be in place. And I can't do that. I don't see how I could do that. I need to address the material injury that's occurring in the time of injury. And that's what I see coming down in court decisions, and I need to adhere to it and protect the seniors.

"So I guess I want to emphasize again, I view the January 19th as a drop-dead deadline, and April 1st as a drop-dead deadline. And the subsequent benchmarks as well.

"Okay. We'll close the record. Thanks for coming."

So, again, Judge, the director heard it all. And on what planet would a court ever grant a stay on any court proceeding at all if there wasn't any likelihood of prevailing on the substantive issues?

So how are they going to prevail on the failure to amend? The rule says if it's on appeal, I can't do that. How are they ever going to prevail on a discretionary call when the director says I've heard it all, I'm not doing it? So, how are they going to win

that issue?

I think Mr. Baxter stated the test better than anyone has said. Was it an exercise of discretion? Did he recognize it? Did he act within the bounds of his discretion? Yes, he did.

So why would this Court say something different? Why would you? It just puts you in a position of second-guessing the director endlessly, and these parties will be back here in droves doing this same thing.

So the director has heard it all. He made his decision, and he expected that date to happen.

Thank you.

THE COURT: Mr. Budge, I'll give you the last word.

MR. BUDGE: I would simply point out that in the American Falls Reservoir District No. 2 decision that's frequently cited, it was the case that analyzed whether the conjunctive management rules are facially constitutional, the court pointed out the important role that judges play in providing oversight of agencies. It's a bit offensive that Mr. Haemmerle would say courts should not exercise that responsibility. That they should rubber stamp everything any agency ever does.

We would simply ask the Court to use its best judgment, under the circumstances that are presented before it today, in making its decision.

Thank you.

THE COURT: Okay then. Well, obviously, this is something where the Court can't take under advisement and issue a written opinion because of the exigencies of what's going on. So, let me take a recess, and I'll come back out and make a ruling.

(Court recessed and reconvened.)

THE COURT: Be seated, please.

All right. In this case the director approved IGWA's mitigation plan subject to a firm deadline. The logistics for providing the mitigation water in this case obviously are far more complex than the situation that we dealt with such as in the Surface Water Coalition call where storage water can be leased and delivered to the injured senior. In this case we're dealing with water quality issues and delivery issues via pipeline.

This is not a situation, where despite approval of the mitigation plan, there was no possibility that the pipeline would be completed by the ordered deadline. Nor, as I stated earlier, is it a situation where the pipeline is still in its early

stages of development or on the planning room floor. I mean, IGWA has been in good faith constructing the pipeline and, in fact, the pipeline was complete until they had discovered right before the deadline that a section of the pipe did not comply with the director's order requiring the use of new pipe.

But all of that being said, you know, good faith and herculean efforts to meet the deadline are alone not enough to disregard the injury to the senior right, nor is the potential impact to junior users. However, the Court has to reasonably and objectively look at the impact that the additional delay and curtailment of 19 days would have on Rangen's water rights if the pipeline is completed and delivering water by February 7th.

The majority of the impact to Rangen's rights results from irrigation pumping. I believe the curtailment order calls for the curtailment of 157,000 acres, but irrigation pumping isn't taking place at this time and will not begin prior to February 7th. The curtailment of stock water, commercial, and industrial rights for a 19-day period, pending the completion of the pipeline, is likely to produce little or any measurable benefit to Rangen's rights.

The flip side to that, of course, is if the

pipeline is not delivering wet water to Rangen by February 7th, then the realized benefits of curtailment are delayed further and out-of-priority pumping exists.

The impacts of ground water pumping took a long time to be realized, and it will take a long time to be corrected if administration is through curtailment as opposed to mitigation. Thus, any delays in curtailment continue to delay the increase of spring flows to which Rangen is entitled to under its water rights.

IGWA has represented to the Court that the pipeline can be completed to the director's specifications and delivering wet water to Rangen by February 7th. Therefore, I'm going to take IGWA at its word that the pipeline will be delivering wet water to Rangen on or before February 7th, 2015.

So, I will rule as follows, and pursuant to Idaho Rule of Civil Procedure 84(m) and Idaho Code 67-5274, and in the exercise of the Court's independent discretion under those rules and for the reasons I just stated, I will grant the stay until February 7th, but I'm also going to order that the pipeline be completed and delivering wet water by that date. I'm also going to order that IGWA provide water for the 7.81 cfs of water to make up for the 19-day delay.

I'll hold you to your word, Mr. Budge, that not only will it be completed, but that you will not be back in here, at least in this matter.

With that, anything further?

(No responses.)

THE COURT: We'll be adjourned. I will issue a written order to that effect.

Thanks, Counsel.

(Court recessed.)

REPORTER'S CERTIFICATE

STATE OF IDAHO)
)
County of Twin Falls)

I, SABRINA VASQUEZ, duly appointed, qualified and acting official reporter of the Fifth Judicial District of the State of Idaho, DO HEREBY CERTIFY that I reported in stenotype the evidence and proceedings adduced in the above and foregoing cause, and that I thereafter transcribed said stenotype notes in longhand typewriting, and that the within and foregoing constitutes and is a true and correct copy of the transcript of said proceedings, said transcript consisting of pages 1 through 64, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of January, 2015.

Official Reporter
Fifth Judicial District
Twin Falls, Idaho
CSR #377

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective January 1, 2015, between the Idaho Water Resource Board ("**Board**"), and

Lessor: SEAPAC OF IDAHO
PO BOX 546
BUHL ID 83316
208-837-6541

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.

2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.

3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS**: The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right	Lease Rate	Lease Volume	Acre Limit	Total Leased Acres
36-7072	5.5 CFS	Not Stated	N/A	N/A
Combined Lease Totals:	**5.5 CFS**	**Not Stated**	**N/A**	**N/A**

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 01/01 to 12/31

2. **COMPENSATION**: The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE**: This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2016.

4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**: The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

5. **DUPLICATE ORIGINAL**: This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

SEAPAC OF IDAHO
PO BOX 546
BUHL ID 83316

By _____ Date 1/15/15

Printed Name _____ Title _____

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By _____ Date January 15, 2015
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 1/15/2015

ATTACHMENT A

WATER RIGHT NO. 36-7072

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: SEAPAC OF IDAHO
PO BOX 546
BUHL ID 83316
208-837-6541

Priority Date: 09/05/1969

Source: THOUSAND SPRINGS **Tributary to: SNAKE RIVER**

BENEFICIAL USE	From	To	Diversion Rate	Volume
FISH PROPAGATION	01/01	12/31	5.5 CFS	Not Stated
		Total:	**5.5 CFS**	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

SPRINGS SE¼SE¼SE¼ Sec. 6 Twp 08S Rge 14E GOODING County

TWO POINTS OF DIVERSION LOCATED IN T08S, R14E, S06, LOT 8 SESESE

PLACE OF USE TO BE IDLED UNDER THIS LEASE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	14E	5											H						
08S	14E	6																H L8	
08S	14E	8						H L1											

Total Acres:

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.

7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
    a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
    b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
    c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The unleased portion of this right and water right 36-8356 are limited to a combined diversion rate of 142.7 cfs.
13. Fish propagation is for a commercial hatchery.

Form 42-1761-1 1/14

RECEIVED
DEC 15 2014
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

WATER SUPPLY BANK LEASE OR SALE APPLICATION CHECKLIST

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant SeaPac of Idaho

Water Right No. 36-7072
One water right per application

All items must be checked as either *Attached* (Yes) or *Not Applicable* (N/A)

Attachment	N/A	YES	
		☑	Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
		☑	Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
		☑	Application filing fee of $250.00. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is $500.00.
1A	☐	☑	Contact information for ***all owners*** of the water right that is being leased or sold on this application.
1B		☑	An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
1C	☑	☐	*Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
1D	☐	☑	Written consent from irrigation district or water delivery company.
1E	☐	☑	Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
2	☐	☑	Description of a water right portion offered to the Water Supply Bank.
3D	☑	☐	Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
4		☑	A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (http://maps.idwr.idaho.gov/mapall/) to locate a water right place of use or point of diversion.

Department Use Only			
Fee Amount $ 250.00	Received By: CS	Date Received: 12/15/14	Receipt # C099693
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9:	SeaPac of Idaho, Inc

Robyn M. Brody (ISB No. 5678)
Brody Law Office, PLLC
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Rupert, ID 83350
Telephone: (208) 420-4573
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Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE FOURTH MITIGATION PLAN FILED BY THE IDAHO GROUND WATER APPROPRIATORS FOR THE DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 IN THE NAME OF RANGEN, INC. "MAGIC SPRINGS PROJECT"	Docket No. CM-MP-2014-006 **RANGEN, INC.'S AMENDED NOTICE OF ACCEPTANCE OF DELIVERY OF WATER UNDER IGWA'S FOURTH MITIGATION PLAN**

WHEREAS, on October 29, 2014, the Director of the Idaho Department of Water Resources ("Director") issued an *Order Approving IGWA's Fourth Mitigation Plan ("Order");*

WHEREAS, the Order conditionally approved IGWA's Fourth Mitigation Plan subject to approval of IGWA's September 10, 2014 Application for Transfer of Water Right to add the Rangen Facility as a new place of use for up to 10 cfs from water right number 36-7072 or an

authorized lease through the water supply bank. Approval is also conditioned upon all necessary agreements or options contracts being reduced to final written agreements. (*Order*, p.20-21); and

WHEREAS, the Director ordered IGWA to deliver Magic Springs water to Rangen no later than January 19, 2015 (*Order*, p.21);

WHEREAS, over Rangen's objection to IGWA's Fourth Mitigation Plan, the Director ordered Rangen to accept this water and allow construction on its land related to placement of the delivery pipe, and if not accepted, IGWA's mitigation obligation would be suspended (*Order*, p. 21);

NOW THEREFORE, RANGEN HEREBY PROVIDES NOTICE that Rangen, Inc. will comply with the Director's Order and accept the water to be delivered under the Fourth Mitigation Plan and allow construction of the pipeline on its land. By delivering this Notice, Rangen does not waive any right to seek judicial review of the Order. Rangen also does not waive any cause of action it may have against IGWA, its Districts, the Department, or the State of Idaho including, but not limited to, compensation for the condemnation of its real property, damages resulting from the implementation of the Mitigation Plan such as fish loss or the introduction of disease, pathogens, parasites, or other organisms harmful to Rangen's operation, or damages resulting from the failure to deliver water for any reason whatsoever. Rangen also reserves the right to reject the water in the event it determines the delivery of water is causing harm to Rangen's operation.

DATED this 6th day of November, 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 6th day of November, 2014, I caused a true and correct copy of the foregoing document to be served using the method indicated upon the following:

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 emmi.blades@idwr.idaho.gov	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑
Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑
Kathy McKenzie P.O. Box 109 Hagerman, ID 83332 knbmac@q.com	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑

J. Justin May

Form 42-1761-1 1/14

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

1. CONTACT INFORMATION

A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant SeaPac of Idaho Email Address seapac@seapacofidaho.com

Mailing Address PO Box 546, Buhl, ID 83316 Phone Number 208.837.6541

☑ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

B. Has the designated applicant completed an IRS Form W-9 (Attachment 1B)? Yes ☑ No ☐

C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☑ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

D. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☑
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 1D).

E. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☑
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1E).

Name of Representative Thomas J. Budge Organization IGWA

Professional Title _____ Email Address rcb@racinelaw.net

Mailing Address P. O. Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☑ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 36-7072 ☐ The full water right is being offered to the Bank.

OR

☑ A part of the water right is being offered to the Bank.
(If a portion of a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

A. Please provide a description of the current water diversion system.
Pump and pipe system currently being installed to delivery water from the Magic Springs Fish Hatchery own by SeaPac to the Rangen Fish Hatchery on Billingsley Creek.

B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.
SeaPac water right no. 36-8356

C. Will the present place of use continue to receive water from any other source? Yes ☑ No ☐
If yes, describe. Magic Springs, under water right no. 36-8356 and the remaining portion of 36-7072 that is not being leased into the Bank.

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☑
If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

E. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☑ No ☐
If yes, describe. IGWA's 4th Mitigation Plan; Application for Transfer No.79560.

4. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☑?
If lease, for a period from 1/19/15 (Month / Day / Year) to 1/19/16* (Month / Day / Year) (maximum lease period 5 years).
*Terminable upon approval of Transfer 79560.

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the ank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant	Printed Name	Date
Signature of Authorized Representative	Thomas J. Budge Printed Name	12/12/14 Date

Mail to:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

C. Will the present place of use continue to receive water from any other source? Yes ☑ No ☐
If yes, describe. Magic Springs, under water right no. 36-8356 and the remaining portion of 36-7072 that is not being leased into the Bank.

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☑
If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

E. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☑ No ☐
If yes, describe. IGWA's 4th Mitigation Plan; Application for Transfer No.79560.

4. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☑?
If lease, for a period from 1/19/15 (Month / Day / Year) to 1/19/16* (Month / Day / Year) (maximum lease period 5 years).
*Terminable upon approval of Transfer 79560.

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the ank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant	Printed Name	Date
	Ken Ackley	1/15/15
Signature of Authorized Representative	Printed Name	Date
	Thomas J. Budge	12/12/14

Mail to:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Form 42-1761-1 1/14

STATE OF IDAHO
WATER RESOURCE BOARD

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to a Water Supply Bank Lease Application however only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

Water Right No. 36-7072

	Designated Applicant	Applicant #2	Applicant #3
Name	SeaPac of Idaho		
Mailing Address	PO Box 546, Buhl, ID 83316		
Phone Number	208-837-6541		
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

The undersigned hereby appoints the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, my/our true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow them to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on my/our behalf.

DATED this 2nd day of May, 2014.

IDAHO GROUND WATER APPROPRIATORS, INC. (IGWA) acting for and on behalf of its Ground Water District members

By: _____
Name: Tim Deeg
Title: President

STATE OF IDAHO)
:ss
County of Bannock)

On this 2nd day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Tim Deeg, known or identified to me to be the President of the company that executed the instrument or the person who executed the instrument on behalf of said company, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

TESSA P. SPARROW NOTARY PUBLIC STATE OF IDAHO

_____
NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, ID
Commission expires: 10/05/2015

LETTER OF INTENT

USE OF WATER FROM SEAPAC OF IDAHO, INC'S MAGIC SPRINGS FACILITY, CONSTRUCTION OF PUMP STATION AND PIPELINE IN EXCHANGE FOR WATER FROM THE AQUA LIFE FACILITY

This Letter of Intent ("LOI") is entered into by and between Idaho Ground Water Appropriators, Inc. ("IGWA"), acting for and on behalf of North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District (collectively "Districts"), and SeaPac of Idaho, Inc. ("SeaPac").

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. Other delivery calls are pending or may be filed by other Hagerman Valley water right holders seeking to curtail junior ground water users.

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 and certain other water rights in the Thousand Springs reach of the Hagerman Valley and are subject to curtailment unless a mitigation plan is approved providing replacement water.

C. IGWA and SeaPac support the concepts and implementation of the State of Idaho's *Thousand Springs Water Supply Settlement Framework* designed to provide recharge and other means to stabilize the aquifer, to improve water supplies in the Hagerman Valley and to resolve conflicts between junior and senior water right holders.

D. The Idaho Water Resource Board ("IWRB") owns and operates the Aqua Life Aquaculture Facility Hatchery ("Aqua Life") and has entered into a Letter of Intent with IGWA to make available to IGWA by lease or purchase up to ten (10) cfs of its Aqua Life water rights from adjacent springs as needed to meet the mitigation obligation to Rangen and others in the Hagerman valley. IGWA has entered into negotiations with IWRB seeking to lease and acquire ownership of all of Aqua Life.

E. SeaPac currently has a short-term lease of Aqua Life from IWRB and desires to continue its Aqua Life operations by securing ownership and/or a long-term lease.

F. IGWA desires to secure water from SeaPac's Magic Springs to provide a supply of water for mitigation purposes to Rangen and to other senior rights in the Hagerman Valley.

G. IGWA and SeaPac desire to enter into this Letter of Intent ("LOI") to set forth their intent to commence negotiation of a final agreement providing for the exchange of Magic Springs water for Aqua Life water consistent with the terms set forth below.

TERMS

The Agreement shall have the following terms and conditions:

1. SeaPac will lease or sell to IGWA up to ten (10) cfs of first use water from its Magic Springs water right nos. 36-7072 and 36-8356 and also will provide access to allow IGWA to utilize all discharge water from its Magic Springs facilities as needed to provide mitigation to other water right holders in the Hagerman valley.

2. In exchange for water from Magic Springs, IGWA will secure ownership or control of Aqua Life water right nos. 36-1044, 36-2734, 36-15476, 36-2414, and 36-2338 by long-term lease or purchase from IWRB and make them available to SeaPac.

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 up to 10 cfs of first use water together with discharge water from Magic Springs to the head of Billingsley Creek directly up gradient from the Rangen hatchery and/or other locations in the Hagerman valley for mitigation purposes. IGWA will ensure that the diversion and delivery facilities to be constructed will not interfere with the use of SeaPac's remaining water rights at Magic Springs.

4. IGWA shall be responsible to secure from IDWR approval of such mitigation plans, transfer applications and other permits as may be required to change the point of diversion and place of use to accomplish the delivery of Magic Springs water for mitigation purposes. SeaPac hereby grants consent to IGWA to file and process such mitigation plans, transfer applications based on this LOI, with the approvals made subject to this LOI and the contemplated final Agreement between the parties.

5. SeaPac will grant IGWA permanent easements at Magic to design, construct, operate and maintain the water intake and collection facilities, pump station, pipeline and other facilities as necessary for the delivery of water to other locations for mitigation purposes.

6. IWRB will cooperate with IGWA and provide all necessary documents to conduct such investigation as it shall deem appropriate.

7. The Agreement will be contingent upon: (a) IGWA securing an order from IDWR approving mitigation plans providing for the delivery SeaPac's Magic Springs water rights to satisfy the mitigation obligations to Rangen and/or others in the Hagerman valley; (b) IGWA

securing an order from IDWR approving the transfer of the point of diversion and place of use (as necessary) from SeaPac to Rangen and other locations for mitigation; (c) IGWA proceeding to construct and implement the pump and pipeline facilities pursuant to an approved mitigation plan; and IGWA securing ownership or control by long-term lease of Aqua Life and providing it to SeaPac.

8. 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.

9. 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.

10. Upon execution of this LOI SeaPac will provide access to IGWA to begin engineering work, IGWA will proceed to file and process with IDWR mitigation plans and transfer applications as contemplated and the parties will proceed to negotiate a final Agreement incorporating the terms and conditions as outlined above.

Idaho Ground Water Appropriators, Inc.

By: _____
Tim Deeg, President

SeaPac of Idaho, Inc.

By: _____

Form 42-1761-1 1/14

STATE OF IDAHO
WATER RESOURCE BOARD

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. Water Right Number | Amount (cfs/ac-ft) | Nature of Use | Period of Use

Water Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use
36-7072	5.50 cfs	Fish Propagation/Mitigation	1/1 to 12/31
			to
			to
			to
			to
Total Amount:	5.50 cfs		

2. Source of water Thousand Springs tributary to Snake River

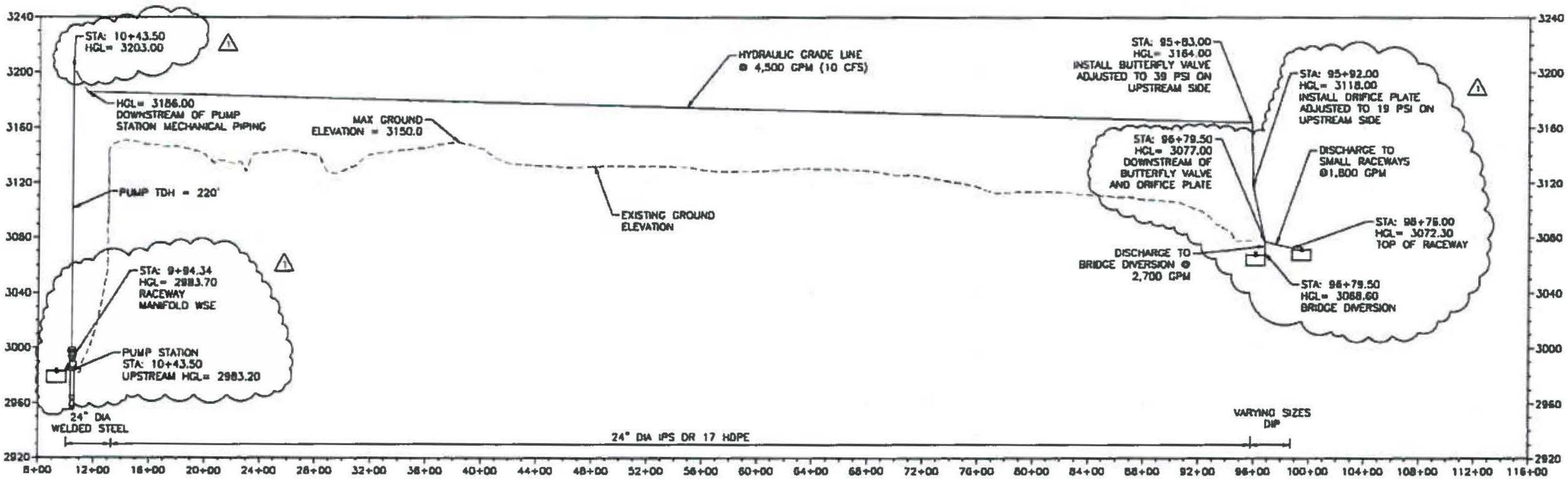
3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8S	14E	5			SW	SW	Gooding
8S	14E	6			SE	SE	Gooding
8S	14E				NW	NW	Gooding

4. Lands irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** N/A



R&J PUMP STATION
HYDRAULIC PROFILE

DESIGN CRITERIA

1. TOTAL DELIVERY TO RANGEN= 10 CFS (4,500 GPM)
2. TOTAL DELIVERY TO SMALL RACEWAY= 4 CFS (1,800 GPM)
3. TOTAL DELIVERY TO BRIDGE DIVERSION= 6 CFS (2,700 GPM)

HORZ 0 400 800
VERT 0 40 80
SCALE IN FEET

SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

MAGIC SPRINGS PROJECT
PUMP STATION AND PIPELINE

HYDRAULIC PROFILE

VERIFY SCALE

PROJECT: 535.0150
DESIGNED: P2C
DRAWN: P2C
CHECKED: RRH

G-005

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 16, 2015

SEAPAC OF IDAHO
PO BOX 549
BUHL ID 83316

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 36-7072

Dear Lessor:

Water Rights **36-7072** was leased into the Water Supply Bank on January 1, 2015 in accordance with the executed original Lease Contract enclosed. **Your water right as described on the Lease Contract is considered leased into the Bank and should remain unused until it is formally released from the Bank.**

The right will automatically be released from the Bank on **December 31, 2016,** unless the right is released earlier by the Board, or upon your request. **Please note your right may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

> "While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

Jean Hersley

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Racine Olson Nye Budge Bailey
IDWR Southern Region

RACINE
OLSON
NYE
BUDGE
BAILEY

201 E. Center St.
P.O. Box 1391
Pocatello, ID 83204
O 208.232.6101
F 208.232.6109
racinelaw.net

RANDALL C. BUDGE
rcb@racinelaw.net

December 12, 2014

Water Supply Bank
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Applications

To Whom It May Concern:

Enclosed are companion applications to lease and rent 5.5 cfs from Magic Springs to be delivered to the Rangen Fish Hatchery on Billingsley Creek pursuant to the *Order Approving IGWA's Fourth Mitigation Plan* issued by the Director on October 29, 2014. Page 20 of the Order explains that IGWA must obtain approval of Application for Transfer No. 79560 or the enclosed Water Supply Bank Applications by no later than January 19, 2015. We ask that the enclosed applications be approved immediately in case proceedings on Transfer No. 79560 are not completed by that date.

The lease submitted is for one year, with the ability to terminate upon approval of Transfer 79560 with the understanding that fees will be refunded pro rata.

Should you have any questions please give me a call.

Sincerely,

RANDALL C. BUDGE

RCB:ts
Enclosures

MEMORANDUM

To: Water Right No(s). 36-7072

From: Remington Buyer

Date: December 31, 2014

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

---

PURPOSE/NARRATIVE: On December 15, 2014, an application was received from Thomas J. Budge, legal counsel for the Idaho Ground Water Appropriators (IGWA). Through Mr. Budge, IGWA is proposing to lease into the Bank 5.5 cfs from water right 36-7072 before renting it for mitigation and fish propagation purposes at the nearby Rangen fish facility (Rangen).

Mr. Budge has submitted an application for transfer (TX #79560) that proposes to split off 10 cfs of water from 36-7072 and utilize it for fish propagation and mitigation purposes at Rangen's facility. The transfer has been protested. This lease rental application is being submitted due to the protesting of the transfer application. As a matter of avoiding duplicative work, the Water Supply Bank tends not to consider lease and rental applications where transfers are pending, and the Bank avoids considering a lease/rental if an associated transfer is protested. This lease/rental transaction however is being proposed to accomplish mitigation activities approved by an order of the Director of IDWR (IGWA's Fourth Mitigation Plan) and the mitigation activities are sanctioned by the IWRB, thus the Bank will consider this transaction.

AUTHORITY TO FILE: The lease application has been completed and submitted by IGWA, acting through Mr. Budge, however the current owner of the water right is SeaPac of Idaho. A signed Letter of Intent between IGWA and SeaPac contemplates this lease proposal being submitted and has been included with the lease application. There are no concerns about the authority to file the application, however SeaPac's signature is missing from the lease application. Either SeaPac will need to sign the lease application and lease contract, or IGWA can sign the lease if they can provide evidence that they have in fact obtained through purchase or lease from SeaPac the 5.5 cfs from water right 36-7072.

WATER RIGHT VALIDITY: Water right was decreed in 1997 and SeaPac has been and continues to use water authorized under this right. Validity of the right is not a concern.

INJURY TO OTHER WATER RIGHTS: Water right 36-7072 authorizes diversion of water that emerges from the ESPA via nine springs, collectively known as Magic Springs. Water is diverted for fish propagation, a non-consumptive use of water, before flowing into the Snake River. Except for the lessor of water right 36-7072, there are no other known water users who divert water from the Magic Springs, nor are there any known downstream water users who use waste water from 36-7072 prior to it flowing into the Snake River. No injury is apparent from leasing this water right into the Water Supply Bank.

ENLARGEMENT OF USE: No enlargement is evident through the lease.

LOCAL PUBLIC INTEREST: The lease (and subsequent rental) of this water right through the Bank is in support of an IDWR approved and IWRB sanctioned mitigation plan (IDWR Order Approving IGWA's Fourth Mitigation Plan, October 29, 2014). IGWA's Fourth Mitigation Plan

contemplates a lease/rental through the Bank to accomplish their mitigation activities. The mitigation plan is approved by IDWR to address the curtailment of ESPA ground water rights. Approval of this lease (and associated rental) is in support of accomplishment of IGWA's mitigation plan and are thus in the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease is consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Water District 130 watermaster comments were obtained. There are no concerns with leasing this water into the Bank however there are additional considerations to be considered on the rental.

RECEIVED
JAN 15 2015
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

This is to certify that: **IDAHO GROUND WATER APPROPRIATORS**
C/O THOMAS J. BUDGE
PO BOX 1391,
POCATELLO, ID 83204
(208) 232-6101

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right	Priority Date	Source	Tributary	Rented Rate	Annual Rented Volume	Acre Limit	Total Rented Acres
36-7072	09/05/1969	Thousand Springs	Snake River	5.5 cfs	3982 af	N/A	N/A
Annual Rental Total				**5.5 cfs**	**3982 af**	**N/A**	**N/A**

Term of Rental: **January 1, 2015 to December 31, 2016**
Annual Rental Fee: **$6769.40**

The fee for rental of the above-described water is $67,694.00, however you have a private agreement with the lessor of water right 36-7072 where you only need to pay for the administrative fee associated with the rental of that water right. The fee that will be retained by the Department to offset administrative costs is 10% of the total, or $6769.40.

No rental fees will be refunded once the fee is collected and the start date for a Rental Agreement has passed.

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Signature of Renter	Printed Name and Title*	Date
	Attorney for IGWA	1.14.15

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

for By _____ Date January 15, 2015
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION
THOUNSAND SPRINGS SE¼SE¼SE¼ Sec. 6 Twp 08S Rge 14E GOODING County
TWO POINTS OF DIVERSION LOCATED IN T08S, R14E, S06, LOT 8 SESESE

BENEFICIAL USE

FISH PROPAGATION

SEASON OF USE

01/01 TO 12/31

RENTER'S PLACE OF USE: FISH PROPAGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	14E	31			H	H													
07S	14E	32							H										

Total Acres:

CONDITIONS APPLICABLE TO ALL RENTED WATER RIGHTS

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
5. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
6. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
7. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
8. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
9. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
10. The water right(s) referenced above is accepted into the bank and rented in accordance with a private agreement formulated between the lessor and the renter. Administrative fees will be paid based on the current rental rate.

11. All conditions specified and ordered by the Director of Water Resources in the Order Approving IGWA's Fourth Mitigation Plan are relevant and apply to this rental agreement.

12. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.

13. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the pipeline delivering water to the Rangen Facility.

Form 42-1761-2 07/13

RECEIVED
DEC 15 2014
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) IGWA, acting for and on behalf of NSGWD, MVGWD, Southwest Irr Dist. (collectively "Districts")

Mailing Address c/o Randall C. Budge, PO Box 1391, Pocatello, ID 83204

Phone 208-232-6101 Email rcb@racinelaw.net

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) / Maximum Volume (ac-ft) / Nature of Use / Period of Use

Maximum Flow Rate (cfs)	Maximum Volume (ac-ft)	Nature of Use	Period of Use
5.5 cfs		Fish Propagation/Mitigation	1/1 to 12/31
			to
			to
Total: 5.5 cfs			

2. Source of water Magic Springs tributary to Snake River

3. Point(s) of Diversion:

TWP	RGE	SEC	GOVT LOT	¼	¼	¼	County
8S	14E	5			SW	SW	Gooding
8S	14E	6			SE	SE	Gooding
8S	14E	8			NW	NW	Gooding

4. Lands to be irrigated or place of use:

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									FM								
7S	14E	32										FM							

If the use is for irrigation, show total number of acres proposed through rental. Total Acres N/A

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☐ No ☑

   If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. SeaPac of Idaho, Inc. Letter of Intent is attached.

2. Do you own the land at the proposed place of use? Yes ☐ No ☑

   If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. Rangen, Inc., PO Box 706, Buhl, ID : Order Approving IGWA's Fourth Mitigation Plan

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

D. GENERAL INFORMATION

1. Please provide a description of the proposed diversion system.
   The Districts will pump and pipe water from Magic Springs facility to the Rangen hatchery.

2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.
   Rangen water right nos. 36-134B, 36-135A, 36-15501, 36-2551, 36-7694 are also used for fish propagation at the Rangen Fish Hatchery.

3. Will the proposed place of use receive water from any other source? Yes ☑ No ☐
   If yes, describe. Martin-Curren Tunnel

4. If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of water required. Attach additional sheets if needed. Mitigation for fish propagation pursuant to IGWA's Fourth Mitigation Plan, CM-MP-2014-006.

5. Are there any other applications pending before the Department, such as an application for permit or transfer, for the same use(s) proposed by this rental? Yes ☑ No ☐
   If yes, describe. Transfer Application #79560 and Permit Application for Waste Water.

6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation? Yes ☐ No ☑
   If yes, describe.

E. RENTAL TERM

Do you wish to rent water from the Board's bank for more than one (1) year? Yes ☑ No ☐

If yes, please specify the number of years desired through proposed rental. 1*

*terminable upon approval of Transfer #79560

I hereby assert that 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.

If this application is approved, the applicant agrees to the following:

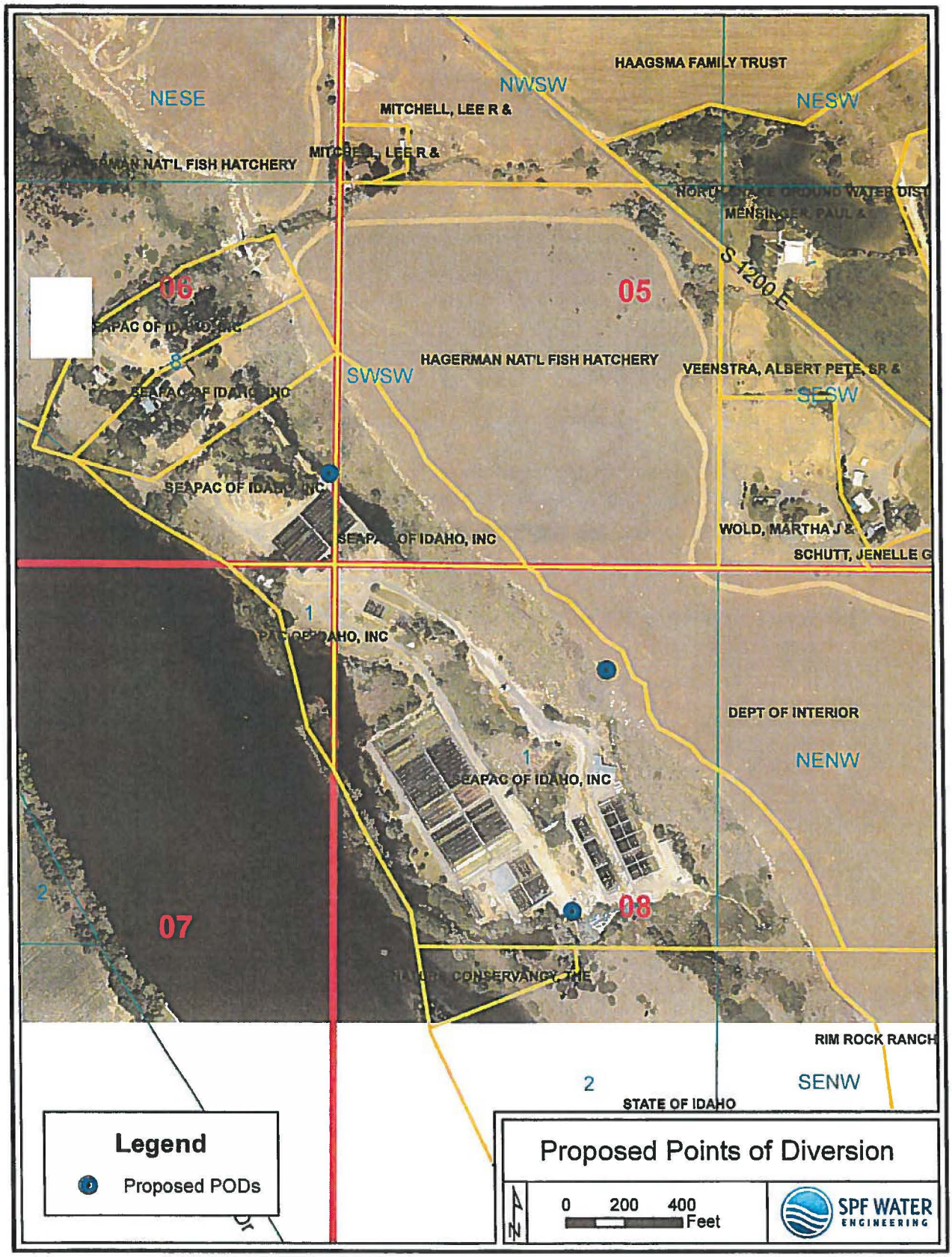
1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. Renter shall comply with all applicable state and federal laws while using water under this agreement.
3. Renter shall hold the Board, the Director, and the state of Idaho harmless from all liability on account of negligent acts of the renter.
4. The Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
5. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
6. Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director.

Signature of Applicant	Printed Name and Title*	Date
	Thomas J. Budge, Attorney for Renter	12/12/14

Signature of Applicant | Printed Name and Title* | Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098


HAAGSMA FAMILY TRUST
NESE
NWSW
NESW
MITCHELL, LEE R &
MITCHELL, LEE R &
HAGERMAN NAT'L FISH HATCHERY
S 1200 E
06
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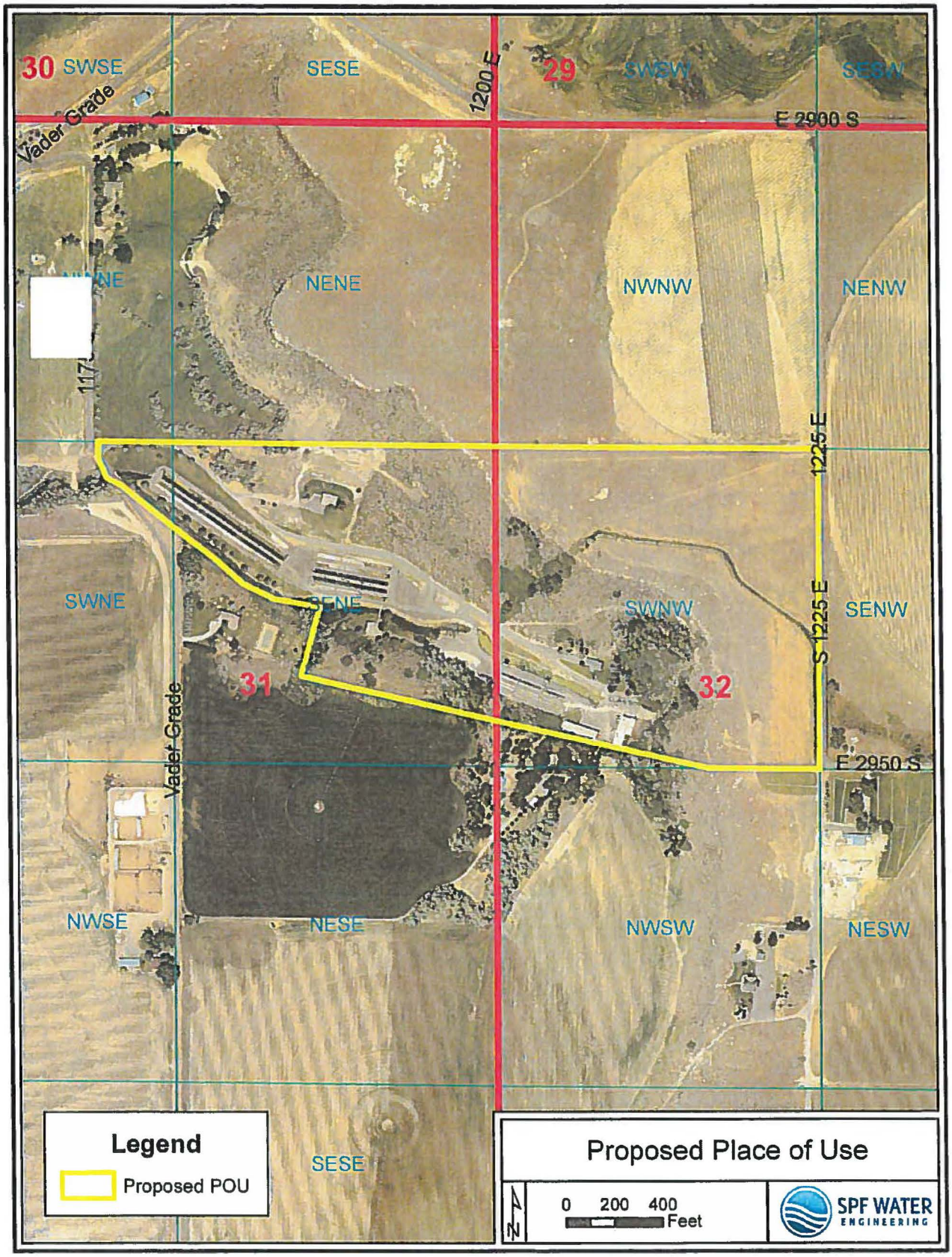
HAGERMAN NAT'L FISH HATCHERY
VEENSTRA, ALBERT PETE, SR &
SESW
SEAPAC OF IDAHO, INC
SEAPAC OF IDAHO, INC
WOLD, MARTHA J &
SCHUTT, JENELLE G
1
DEPT OF INTERIOR
NENW
SEAPAC OF IDAHO, INC
2
07
08
CONSERVANCY, THE
RIM ROCK RANCH
2
SENW
STATE OF IDAHO
Legend
Proposed PODs
Proposed Points of Diversion
0 200 400
Feet
SPF WATER ENGINEERING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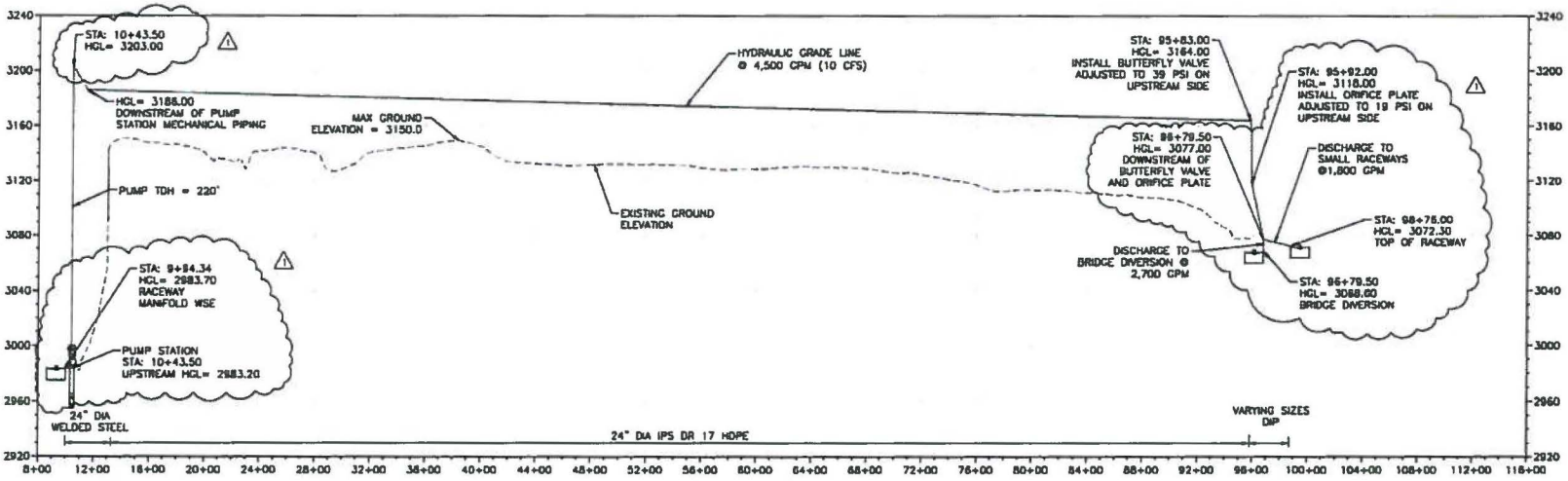

I&J PUMP STATION
HYDRAULIC PROFILE

DESIGN CRITERIA

1. TOTAL DELIVERY TO RANGEN= 10 CFS (4,500 GPM)
2. TOTAL DELIVERY TO SMALL RACEWAY= 4 CFS (1,800 GPM)
3. TOTAL DELIVERY TO BRIDGE DIVERSION= 6 CFS (2,700 GPM)

HORZ 0 400 800
VERT 0 40 80
SCALE IN FEET

SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

MAGIC SPRINGS PROJECT
PUMP STATION AND PIPELINE

HYDRAULIC PROFILE

REV	DESCRIPTION	DATE
A	90% SUBMITTAL	9/10/14
B	ISSUED FOR BIDDING	11/7/14

VERIFY SCALE
BAR MEASURES 2" on Full Size Drawing

PROJECT:	536.8150
DESIGNED:	PJC
DRAWN:	PJC
CHECKED:	RRH

G-005

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 16, 2015

IDAHO GROUND WATER APPROPRIATORS
C/O THOMAS BUDGE
PO BOX 1391
POCATELLO ID 83204

RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 36-7072

Dear Renter:

Please find enclosed a receipt in the amount of **$6769.40** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 3982 acre-feet of water for fish propagation during 2015. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you have a private agreement with the lessor of the right(s).

If you have any questions, please contact me at (208) 287-4944.

Sincerely,

for Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Enclosure(s): Receipt No. C099824
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Allen Merritt – IDWR Southern Regional Office
Cindy Yenter – State Water District No. 130

RACINE
OLSON
NYE
BUDGE
BAILEY

201 E. Center St.
P.O. Box 1391
Pocatello, ID 83204
OFFICE 208.232.6101
FAX 208.232.6109
racinelaw.net

Thomas J. Budge
tjb@racinelaw.net

January 15, 2015

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street, Boise, ID, 83720

Re: IGWA Water Supply Bank Rental Agreement

Dear Remington:

Enclosed please find the following:

1. Water Bank Lease Application with SeaPac's signature as designated applicant.
2. Lease Contract signed by SeaPac.
3. Rental Contract signed by IGWA.
4. $6,769.40 check for administrative fee.

Please feel free to contact me with any questions.

Sincerely,

T. J. BUDGE

MEMORANDUM

To: Water Right No(s). 36-7072

From: Remington Buyer

Date: January 2, 2015

Re: Review of Applications to Rent Water Rights from the Water Supply Bank

---

PURPOSE/NARRATIVE: On December 15, 2014, an application was received from Thomas J. Budge, attorney for the Idaho Ground Water Appropriators (IGWA), who propose to lease into the Bank 5.5 cfs from water right 36-7072, and who desire to rent the 5.5 cfs for fish propagation and mitigation purposes at the Rangen fish facility (Rangen). IGWA desires to rent water to provide mitigation to the Rangen facility which is currently experiencing injury due to water shortages emanating from the Eastern Snake Plane Aquifer (ESPA), caused by the diversions of ground water from the ESPA by IGWA members. IGWA is renting the water to provide mitigation water for Rangen. Rangen will ostensibly then be able to use any additional water supplied by the rental for fish propagation purposes.

The rental application specifies renting water from Magic Springs located in section 6 of Township 8S Range 14E and piping the water to Rangen via the I&J pipeline proposal (specified in the IDWR Order Approving IGWA's Fourth Mitigation Plan, dated October 29, 2014). A conversation with Mr. Budge on January 2, 2015 confirmed that IGWA is seeking to rent water under 36-7072 utilizing the I&J pipeline plan.

AUTHORITY TO FILE: IGWA, acting through Mr. Budge, does not own the land where the intended use of rental water will be accomplished. The rental place of use is owned by Rangen. A letter dated November 6, 2014 from Rangen's attorney Justin May confirms that Rangen consents to provide IGWA access to their property in order to lay pipe that is necessary to deliver the rental water. Additionally, Rangen has consented to the delivery of rental water as approved per the conditions of the Director of IDWR's Order Approving IGWA's Fourth Mitigation Plan.

WATER RIGHT VALIDITY: Water right 36-7072 has been leased into the Bank without concerns of validity and is available to rent.

INJURY TO OTHER WATER RIGHTS: Water right 36-7072 non-consumptively utilizes water that emerges from the ESPA at Magic Springs before it flows into the Snake River. The use of rental water from Magic Springs for the purposes of fish propagation at Rangen should be non-consumptive; water will exit Rangen's facility and flow into Billingsley Creek, a tributary to the Snake River. Though water from this rental should ultimately flow back to the Snake River, water delivered to Billingsley Creek could be diverted and/or consumptively used by other water users on Billingsley Creek before returning to the Snake River. The IWRB minimum stream flow water rights 2-201, 2-223 and 2-224 safeguard flows in the Snake River of 3,900 cfs from April 1 through Oct 31 and 5,600 cfs from Nov 1 through Mar 31. Injury to the MSF water rights is possible, however the IWRB is aware of this rental and the rental can be approved with standard conditioning that it is subject to reduction or cancelation if injury is proven.

ENLARGEMENT OF USE: The rental request was made for both fish propagation and mitigation. Rented water is intended to be utilized by Rangen for fish propagation however IGWA's rental of the water is specifically to satisfy mitigation requirements for the impacts to Rangen's water supply, caused by the diversion of ground water by members of IGWA. A recent application for permit proposing the same uses of fish propagation and mitigation (permit 36-16976) was approved only as mitigation due to the fact that IGWA will not be rearing fish with the water, but instead only providing water for mitigation, and any authorization of their use of water for fish propagation purposes would be speculative. Though IGWA is renting water to satisfy mitigation requirements, the intended beneficial use of water is for fish propagation and no enlargement will occur if water right 36-7072 is rented for fish propagation. This rental is thus being drafted for the beneficial use of fish propagation.

LOCAL PUBLIC INTEREST: The rental of water right 36-7072 is to cover mitigation activities specifically identified in IDWR's order approving IGWA's fourth mitigation plan. The mitigation plan is in the local public interest. No concerns about this rental. There is a concern that water from diverted from Magic Springs to Billingsley Creek may ultimately be appropriated within the Billingsley Creek drainage and not return to the Snake River, thus reducing water flowing to the Snake River. The rental of this water through the Bank is thus subject to the right of the prior appropriators to petition for the reduction or cancelation of the rental if injury caused by this rental is proven.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: Fish propagation is a recognized beneficial use of water in Idaho. No concerns.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Comments were sought from Southern Region staff member and Water District 130 Watermaster Cindy Yenter. Mrs. Yenter did not object to the rental, however she has requested that a condition requiring measuring devices be added to the rental agreement, and she stressed the importance of ensuring that the rental be subject to reduction or cancelation if injury to prior appropriators on the Snake River downstream of Magic Springs can be attributed to this rental.

Robyn Brody

From: Homan, John <John.Homan@idwr.idaho.gov>
Sent: Friday, January 23, 2015 2:55 PM
To: robynbrody@hotmail.com
Cc: Baxter, Garrick
Subject: Rangen Lease / Rental
Attachments: IGWA Rental.pdf; SeaPac Lease.pdf

Dear Ms. Brody,

Here are the documents on file with the Water Supply Bank at this time. I understand that new documents are being prepared by IGWA due to the need to provide additional flow to Rangen. If you need something additional, please let me know what it is you are looking for and I'll track it down and send it to you.

John Homan

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Hailey, ID 83333
Telephone: (208) 578-0520
Facsimile: (208) 578-0564
fxh@haemlaw.com

Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE FOURTH MITIGATION PLAN FILED BY THE IDAHO GROUND WATER APPROPRIATORS FOR THE DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 IN THE NAME OF RANGEN, INC. "MAGIC SPRINGS PROJECT"	Docket No. CM-MP-2014-006 **RANGEN, INC.'S CLOSING BRIEF IN OPPOSITION TO IGWA'S FOURTH MITIGATION PLAN**

Rangen, Inc., through its attorneys, submits the following Closing Brief in Opposition to IGWA's Fourth Mitigation Plan.

I. INTRODUCTION

IGWA filed its Fourth Mitigation Plan on August 27, 2014. *See IGWA' Fourth Mitigation Plan and Request for Expedited Hearing.* The Fourth Mitigation Plan has two components: (1) a temporary pipeline to divert .5 cfs from Magic Springs to Rangen's Research

Hatchery from January 19, 2015 – April 1, 2015; and (2) a permanent pipeline to divert up to 9.1 cfs from Magic Springs to Rangen's Research Hatchery beginning April 1, 2015. The Director conducted a hearing on IGWA's Fourth Mitigation Plan on October 8, 2014. At the end of the hearing, the Director told the parties that he was inclined to deny the temporary pipeline, but approve the permanent pipeline. (Tr., p. 258, l. 5 – p. 259, l.12).

Rangen respectfully requests that the Director deny both components of the Magic Springs Project because: (1) it is inconsistent with the conservation of resources and public interests and other factors set forth in CM Rule 43.03.j.; (2) it places all risk of non-delivery on Rangen and has no contingency provisions to protect Rangen's senior interests as required by CM Rule 43.03.c; (3) there is no way to administer the plan because IGWA has failed to provide even the most basic information as required by CM Rule 43.01.b; and (4) it will not satisfy IGWA's current mitigation obligation. IGWA has not carried its burden of demonstrating that the Magic Springs Project will prevent, or compensate for, the material injury caused by junior-priority ground water pumping. In fact, if the Fourth Mitigation Plan is implemented, it will actually turn non-consumptive water rights into consumptive rights and allow junior-priority ground water pumping to continue unabated in the Eastern Snake Plain Aquifer ("ESPA") despite the material injury it is causing. For these reasons, Rangen requests that IGWA's Fourth Mitigation Plan be denied.

II. ARGUMENT

A. The Magic Springs Project is Inconsistent with the Conservation of Resources, Public Interests, and other CM Rule 43.03.j. Criteria.

The CM Rules and the doctrine of prior appropriation mandate that upon a determination of material injury, out-of-priority pumping may only be allowed pursuant to a properly approved "mitigation plan." *In the Matter of Distribution of Water to Various Water*

Rights, 155 Idaho 640, 653, 315 P.3d 828, 841 (2013); IDAPA 37.03.11.040.01. Mitigation Plans are governed by CM Rule 43. Subsection three of the Rule sets forth the criteria that the Director must use to evaluate whether the Magic Springs Project should be approved. Rule 43.03.j. states in relevant part:

> Factors that may be considered by the director in determining whether a proposed mitigation plan will prevent injury to senior rights include, but are not limited to, the following:
>
> 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.

IDAPA 37.03.11.43.03.j.

The Magic Springs Project does not satisfy the 43.03.j. criteria and should be denied on that basis. The Plan is inconsistent with the conservation of water resources, will likely injure other water rights, and will allow junior-priority ground water pumping to continue at a rate that exceeds the rate of future natural recharge of the ESPA.

Frank Erwin is the water master of Water District 36A where Rangen's Research Hatchery is located. (Tr., p. 5, ll. 17-18). Rangen took Mr. Erwin's deposition on September 25, 2014, and his testimony was submitted as Exhibit 2013 at the Hearing. Mr. Erwin explained during his deposition that the Fourth Mitigation Plan involves the lease or purchase of water rights from the Magic Springs facility owned by SeaPac and the delivery of a portion of that water (up to 9.1 cfs) through a pipeline to Rangen. (Tr., p. 6, l. 17 – p. 7, l. 4). The water rights involved in the lease or purchase show "fish propagation" as the beneficial use on their partial decrees. (Tr., p. 8, l. 25 – p. 9, l. 13). "Fish propagation" rights are "non-consumptive" rights. (*Id.*).

The SeaPac facility is located close to the Snake River (Tr., p. 10, ll. 8-11). There is

no dispute that the Magic Springs water is used by SeaPac in its raceways and the water then flows to the Snake River. During his deposition, Mr. Erwin was asked to address whether the water diverted from SeaPac, if delivered through a pipeline to Rangen's Research Hatchery, would make its way to the Snake River. Mr. Erwin explained that it would not during the irrigation season:

> Q. I want you to walk through with me, Frank -- and this whole discussion today is about if 10 cfs is delivered to the Rangen facility, what happens to the 10 cfs of water. Okay?
>
> A. Okay.
>
> Q. All right. Frank, I want you to walk through with me -- I want to get an opinion whether the delivery of this nonconsumptive water to the Rangen facility would, in fact, make its way down to the Snake River through Billingsley Creek.
>
> A. From my standpoint, as a watermaster, I would assume that once the 10 cubic foot per second of water, or whatever quantity was provided, left the Rangen facility and entered Billingsley Creek, I would assume that that -- at that point, it would become waters of the State of Idaho, and it would be up to the watermaster to administer it by priority.
>
> So therefore, that water would be diverted to the particular diversions that are in priority and in season with the water rights. ***So part of the year, I would assume that that water would not make it to the Snake River, it would be diverted and used for either irrigation or other beneficial uses, possibly.***
>
> Q. ***So you said during a given "part of the year." I take it you mean the irrigation season?***
>
> A. ***Yes.***

(Tr., p. 10, l. 18 – p. 11, l. 19) (emphasis added).

Mr. Erwin went on to explain that where the water would actually be used depended on how much water was being delivered through the proposed pipeline and when. (Tr., p. 11, l. 20 – p. 12, l. 12). He explained that during the Spring and Fall most of the water would likely be used in the Curren Ditch after it left Rangen's Research Hatchery. (Tr., p. 12, l. 23 –

p. 13, l. 17). He explained that the water would likely be used by the Buckeye and very little of it would return to the Snake River. (Tr., p. 14, l. 23 – p. 15, l. 5).

Mr. Erwin testified that during the Summer months if the water were delivered down Billingsley Creek it would likely be consumed by irrigation before it reached the Snake River. (Tr., p. 19, l. 15 – p. 20, l. 12). He explained that the Billingsley Creek water users are short of water. (Tr., p. 22, ll. 15-18). He has been able to avoid delivery calls by Billingsley Creek water users in the past only because of agreements to rotate water use. (Tr., p. 23, ll. 9-16). Mr. Erwin testified that he has no way to ensure the delivery of the additional 10 cfs from Rangen's Research Hatchery to the Snake River. (Tr., p. 20, l. 13 – p. 21, l. 1). The bottom line of Mr. Erwin's testimony is as follows:

> Q. ***If you were required to deliver by priority beginning 2015, do you have an opinion as to whether the 10 cfs that we're talking about of additional water from Magic Springs would ever make it to the Snake River?***
>
> A. ***I don't believe that it would, no.***

(Tr., p. 23, l. 22 – p. 24, l. 1) (emphasis added).

Mr. Erwin's testimony makes it clear that if the Fourth Mitigation Plan is approved and actually implemented by IGWA, it will effectively turn a 10 cfs non-consumptive right that supplies the Snake River into a consumptive right that does not make its way to the river. That is an improper enlargement of the existing right that is prohibited under CM Rule 43.03.i. The impact of the enlargement is that the Snake River, which is presently flowing at historically low levels, will be short an additional 10 cfs of water and ground water users will continue to pump even though the rate of aquifer depletion exceeds the rate of natural recharge. The Director found in his *Final Order* on Rangen's Delivery Call that:

> 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.

(Exh. 2001, p. 16, ¶ 75). This means that so long as junior-priority ground water pumping is allowed to continue unabated, spring flows will continue to decline and the Snake River flows will continue to be reduced.

Minimum stream flows are guaranteed by the State of Idaho to Idaho Power Company through the Swan Falls Agreement (*see Clear Springs v. Spackman*, 150 Idaho 790, 252 P.3d 71 (2011) for a discussion of the Swan Falls Agreement). The Department of Water Resources recognizes that it has an obligation to manage the ESPA-Snake River system to ensure compliance with the Swan Falls Agreement and avoid injuring trust water rights. *See IDWR Actions Related to the Swan Falls Agreement*, presented by Brian Patton on August 6, 2013 to the Legislative Natural Resources Interim Committee (attached hereto as Appendix A). The Fourth Mitigation Plan does nothing to address the injury caused by junior-priority ground water pumping within the ESPA. The Fourth Mitigation Plan runs afoul of the Department's obligation to manage and protect the ESPA and, is, therefore, contrary to public interests and the conservation of resources.

The Magic Springs Project does not add any new water to the Hagerman Valley and does not reduce ground water pumping. In fact, the Plan, if actually implemented, further exacerbates the water shortage because it takes water from an area that is already short and puts it in a Snake River tributary where it will be consumed before it reaches the river. Rather than mitigating for the impact of ground water pumping, the Fourth Mitigation Plan compounds that impact and would allow continued mining of the ESPA. The Director may not disregard the injury that continues to be done to the ESPA and allow junior ground water

pumping to continue under such a plan.

If unappropriated water were available at Magic Springs and IGWA applied for a new water right to pump water from Magic Springs to the head of Billingsley Creek for the purpose of raising fish and irrigating, such a water right would almost certainly be denied. There is currently a moratorium on such new consumptive rights. *April 30, 1993 Amended Moratorium Order.* If the Department were to approve such a new water right, it would require mitigation for the impact of the new water right.

Because the Fourth Mitigation Plan is inconsistent with public interests and the conservation of resources and allows ground water pumping in the ESPA to continue at a rate that exceeds natural recharge, the Director should deny IGWA's Fourth Mitigation Plan.

B. The Magic Springs Plan Puts All Risks on Rangen and Does Not Provide Any Contingency Provisions.

Conjunctive Management Rule 43.03.c. requires that a mitigation plan have a **"contingency provision"** to protect the senior user in the event that mitigation water becomes unavailable. *See* IDAPA 37.03.11.43.03.c. This is a mandatory part of any approved mitigation plan. *In the Matter of Distribution of Water to Various Water Rights,* 155 Idaho 640, 315 P.3d 828 (2013). In its September 26, 2014 Memorandum Decision and Order on Petitions for Review, the SRBA invalidated the Director's Methodology Order in the Surface Water Coalition's delivery call because the Director's decision did not have a contingency plan to protect the senior's interests. *See, e.g., Memorandum Decision and Order on Petitions for Judicial Review, In The Matter of Distribution of Water to Various Water Rights Held By or For the Benefit of 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*, CV-2010-382, pp. 13, 15. The Director stated

during the hearing on IGWA's Fourth Mitigation Plan that given the SRBA Court's recent decision, he feels a "heightened" obligation to protect senior users such as Rangen. (Tr., p. 131, l. 18 – p. 132, l. 6).

As the proponent of the Fourth Mitigation Plan, IGWA had the burden of showing at the hearing that the Magic Springs Project satisfies the criteria of CM Rule 43.03 and should be approved so that out-of-priority ground water pumping can continue. At the close of the evidence, IGWA's proposed plan raises more questions than it answers:

* **Who is going to acquire the water rights from SeaPac and who will be the owner/holder of those rights?** The Letter of Intent specifies that IGWA is going to acquire the water rights from SeaPac (Exh. 1003 at ¶ 1). The Transfer Application shows that the applicant is "IGWA for North Snake GWD, Magic Valley GWD, and Southwest ID". Who will be shown as the owner/holder of the rights? IGWA? The Districts? This is important and needs to be the same as the party constructing and operating the proposed pipelines.

* **What are the terms of the water acquisition from Sea Pac?** The only document that IGWA submitted at the hearing was a "Letter of Intent" with SeaPac. *See* Exh. 1003. The Letter of Intent is not a contract. It does not specify whether the water will be leased or purchased and does not spell out any of the terms or conditions. Although Lynn Carlquist, the Chairman of the North Snake Ground Water District and the IGWA Board Member who testified at the hearing, offered the opinion that he expected to sign an agreement "in the near future," he acknowledged that IGWA and the Districts have not yet agreed upon a price with SeaPac. (Tr., p. 39, l. 23 – p. 40, l. 22). IGWA also presented no evidence of how long the agreement with SeaPac would last.

* **What are the terms of the lease of the Aqua Life facility from the Idaho Water Resource Board?** Part of the anticipated agreement with SeaPac also requires IGWA to obtain a long-term lease of the Aqua Life facility that it will then assign to SeaPac. (Tr., p. 41, ll. 9-13). Mr. Carlquist acknowledged that IGWA has yet to agree on a price with the Idaho Water Resource Board for the lease of the Aqua Life facility. (Tr., p. 89, l. 18 – p. 90, l. 20). No lease agreement was offered as evidence.

* **How does IGWA propose to construct the pipelines across the various parcels of land?** The Magic Springs Project involves the construction of a pipeline that is nearly two miles in length. This will require multiple easements which have not yet been secured. For example, IGWA produced two option agreements for easements signed by the Candys and Butch Morris. (Exhs. 1012 and 1013). Those option agreements, however, are specific to the Tucker Springs Mitigation Plan that IGWA submitted and do not give IGWA the option to build the Magic Springs pipeline over the property belonging to the Candys or Morris. (*See id.* at ¶¶ 1, 3 & 4 of Water Delivery Agreement).

* **Who is responsible for constructing the pipelines?** IGWA? The Districts? IGWA did not address this issue.

* **If IGWA is going to be responsible for constructing the pipelines, how will it fund construction?** No evidence was submitted. Mr. Carlquist testified that the three impacted Districts will pay for the pipelines, but who are they going to pay? The contractors? IGWA?

* **What is the agreement among the three impacted Districts for sharing those costs and how can it be enforced and by whom?** No evidence was submitted.

* **What remedy does IGWA or the Districts have if one of the Districts does not pay its share of construction?** No evidence was submitted.

* **Did the Districts approve the construction of the pipelines?** No evidence was submitted.

* **Have the Districts approved to pay for the construction of the pipelines**? No evidence was submitted. The only evidence submitted was the testimony of Lynn Carlquist that the North Snake Ground Water District has increased its assessments by approximately $170,000 per year. (Tr., p. 111, ll. 6-8).

* **How will the funds be raised to pay for construction of the pipelines?** Mr. Carlquist's testimony that they have been discussing a loan with the Idaho Water Resource Board and are not worried about funding the project either through private or public loans is not sufficient for the Director to determine that they have the capital necessary to construct and maintain the pipelines. (*See* Tr., p. 108, l. 4 – p. 109, l. 13).

* **Who is going to own the pipelines**? No evidence was submitted.

* **Who is going to control the operation of the pipeline and decide how much water is delivered to Rangen and when?** No evidence was submitted.

* **Who is going to pay for the electricity to operate the pipelines?** No evidence was submitted.

* **Who is responsible for maintaining the pipelines?** No evidence was submitted.

* **Who is responsible for monitoring the pipelines?** No evidence was submitted.

* **Who is going to pay for on-going monitoring and maintenance?** No evidence was submitted.

* **Who is responsible for obtaining and paying for insurance for the pipeline?**

No evidence was submitted.

* **Who is responsible for obtaining and paying for insurance for any damages sustained by Rangen in the event of a pipeline failure of any kind?** No evidence was submitted.

* **Who is responsible for paying for damages suffered by Rangen in the event water is not delivered through the pipelines for some reason that is not covered by insurance (e.g., electricity is turned off for non-payment)?** No evidence was submitted.

Even with all of these unanswered questions, IGWA expects the Director to "conditionally" approve the Fourth Mitigation Plan. There is no provision within the Conjunctive Management Rules authorizing "conditional" approval. Even if such an approval could be given, it should not be given because the Fourth Mitigation Plan does not have any "contingency provisions" to protect Rangen's interests as required by CM Rule 43.03.c.

Unfortunately, under the Fourth Mitigation Plan, Rangen bears all of the risk associated with non-performance, including the risk that the Magic Springs Project will not be built, that one or more components of the project will fail after construction, and that pumping will cease in the future because the proponents of the plan lose interest in the project or there are disputes among the proponents or there are financial problems. The disdain with which IGWA has treated the Director's conditional approval of the Second Mitigation Plan illustrates the issues and risks with allowing continued pumping under a "conditionally approved" plan. According to Bob Hardgrove, IGWA abandoned the Second Mitigation Plan shortly after the hearing on the plan, maybe even before the Director issued an order approving the plan. (Tr., p. 189, l. 15 – p. 190, l. 9). Now that IGWA is willing to acknowledge the Second Mitigation Plan will never be built, Lynn Carlquist and the other irrigators are not concerned with curtailment because they have already gotten through yet another irrigation season and won't turn on their pumps until next year. (Tr., 80, l. 23 – 81, l. 15). IGWA admitted at the beginning of the

hearing that it will not be delivering the mitigation water that it is obligated to deliver beginning January 19, 2015, and bluntly stated that it would not be surprised if a curtailment order were issued for the non-irrigation rights that are pumping at that time. IGWA is not concerned about curtailment at that time because it knows the irrigators will not be affected:

> MR. RANDY BUDGE: We're not surprised. We won't be surprised if the Director has to issue a curtailment order on that date. ***We don't have the ability and we're not intending to by this plan expect to fully satisfy it by the January 19th day. It's just the practical reality is that the curtailment order would affect those that could be pumping at that time.*** We're attempting to provide mitigation for those that could be curtailed, which is essentially the nonirrigation rights.

(Tr., p. 15, ll. 5-14) (emphasis added).

Just like the Second Mitigation Plan that was conditionally approved, IGWA could simply decide not to implement the Fourth Mitigation Plan. They may have already done so. If IGWA decides to try to construct this project they may be unable to do so. IGWA's transfer application has not been approved and they have not obtained all of the necessary easements. Even if the project is built, IGWA could simply decide at some point in the future not to continue paying the power bill, the maintenance costs, or to pay for necessary repairs. Rangen bears all of the risks and there are no provisions in the Fourth Mitigation Plan to address these issues.

Joy Kinyon, the General Manager of Rangen's aquaculture division, testified at the hearing that Rangen will have to make significant changes to its operation to gear up for the delivery of 9.1 cfs of water. (*See* Tr., p. 238, l. 2 – p. 239, l. 9). It will have to hire additional professional and technical personnel and make capital investments in the facility itself. (*See id.*). Mr. Kinyon testified that he cannot start planning to make those changes because he has no idea when the water will be delivered, how much water will be delivered, or how long the

company can expect that water to continue. (Tr., p. 240, ll. 2-9). Mr. Kinyon explained that it would impact Rangen substantially if it made these types of investments and then the water was not delivered. (Tr., p. 239, l. 19 – p. 240, l. 1).

The Director should not simply accept the notion that IGWA will work out all of the details related to its Fourth Mitigation Plan after it is conditionally approved. Even if IGWA were prepared to answer all of the questions outlined above, the Plan is still fundamentally flawed because it does not have a contingency provision to deliver water to Rangen. Just by way of example, what remedy does Rangen have if the permanent pipeline is approved and water is delivered for a period of two years, but then there is a disagreement within IGWA or among the Districts concerning the payment of electricity and the pumps are shut off in January, 2017? Fish will be dead within a very short period of time and Rangen will be out of water because there is no backup delivery plan. Moreover, curtailment of junior-priority ground water pumping in January in this type of situation is simply inadequate to protect Rangen's interests.

The Director recognized some of the risks of the Magic Springs Project in his closing remarks:

> But, Mr. Budge, in response to your suggestion that there's some parallel reasoning that I should apply to this latest proposal, I guess I would turn around and say I view it as just more of the same. And I'm not perhaps being as disparaging about it as Mr. Haemmerle is, but what I guess my problem is that I'm not certain with an April 1 deadline that Rangen will -- or that IGWA will have the pipeline half built or a third built or that any of it will be built at all.

(Tr., p. 262, ll. 16-21). Because the Fourth Mitigation Plan does not have contingency provisions to protect Rangen's interests, the Plan should be denied.

C. The Department cannot administer the Fourth Mitigation Plan because IGWA has failed to provide basic information related to who is covered.

Conjunctive Management Rule 43.01.b. provides that a mitigation plan identify the

water rights for which benefit the mitigation plan is proposed. *See* IDAPA 37.03.11.043.01.b. IGWA has not submitted any information related to the identities of those who will be covered by the Plan. This is problematic because the Plan has been submitted by IGWA "acting for and on behalf of its members and non-member participants in mitigation activities." *See IGWA's Fourth Mitigation Plan and Request for Expedited Hearing*, p. 1. Who are IGWA's members and non-member participants? How can this Mitigation Plan be administered by the Department if it were approved? How does a ground water pumper who diverts under junior-priority rights, but who does not initially participate in the Fourth Mitigation Plan, participate on an equitable basis in this Plan as required by CM Rule 43.03.m? IGWA's failure to provide this basic administrative information is grounds for denying the Plan.

D. The temporary pipeline to deliver .5 cfs beginning January 19, 2015 will not satisfy IGWA's current mitigation obligation.

The Director recognized and commented on the obvious technical problems with IGWA's proposed temporary pipeline (e.g., lack of security, inability to regulate temperature, etc.), and in fact, invited IGWA to convince him that his concerns were unwarranted. (Tr., p. 13, l. 23 – p. 14, l. 21). While the technical problems alone certainly justify the denial of IGWA's plan, the proposal should also be rejected because it will not deliver the mitigation water to which Rangen is entitled.

The Director told IGWA during the hearing that the proposed temporary pipeline will not satisfy its current obligation to deliver 2.2 cfs of water to Rangen as of January 19, 2015. (Tr., p. 13, lines 8-15; p. 133, ll. 6-23; p. 258, l. 7 – p. 259, l. 13). He commented that any proposal to mitigate only for those ground water rights that are in use in January will not be approved and that he viewed the temporary pipeline "very dimly." (Tr., p. 13, l. 8 – p. 14, l. 24; p. 259, ll. 7-14). The Director's analysis of the proposed temporary pipeline is correct,

and that portion of IGWA's Fourth Mitigation Plan should be denied.

III. CONCLUSION

Backup generators may provide some insurance against a mechanical failure of the proposed pipelines, but they do not protect against a problem like a financial dispute among IGWA and/or its Districts to pay for the construction of the pipelines or the ongoing maintenance and electrical costs. The Fourth Mitigation Plan is fundamentally flawed because it fails to provide contingency provisions to protect Rangen. IGWA has failed to carry its burden of demonstrating that it satisfies the criteria set forth in CM Rule 43.03, and, for the reasons set forth above, Rangen respectfully requests that the Fourth Mitigation Plan be denied.

DATED this 15th day of October, 2014.

MAY, BROWNING & MAY, PLLC

By: _____
J. Justin May

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 15th day of October, 2014, I caused a true and correct copy of the foregoing document to be served using the method indicated upon the following:

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 ☑
Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑
Kathy McKenzie P.O. Box 109 Hagerman, ID 83332 knbmac@q.com	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑

J. Justin May

APPENDIX A

IDWR Actions Related to the Swan Falls Agreement

Water Management Implications of the Swan Falls Agreement

Brian Patton, Idaho Department of Water Resources

Presentation to the Legislative Natural Resources Interim Committee

August 6, 2013

IDWR Actions Related to Swan Falls Agreement - Water District 2

- Snake River from Milner Dam to Swan Falls Dam
- Created in July 2012
- Purpose is administration of water rights in this reach of river
  - ensure delivery of water according to water rights
  - Measurement and reporting of diversions
- About 150 diversions with irrigation rights totaling more than 3,000 cfs
- Phased in measurement device installation on diversions through 2016

IDWR Actions Related to Swan Falls Agreement – Streamflow Measurement & Monitoring Plan

- Measurement & monitoring protocol for delivery of water to minimum flows at Murphy gage
- Main issue is how to adjust for effects of Idaho Power's operations on minimum flow at Murphy gage
  - Load following operations (increase or decrease flows based on power demands) can occur at Lower Salmon, Bliss, C.J. Strike, and Swan Falls
  - Requires measurement of change in storage at these reservoirs
  - Consider time lag effects on flows at Murphy gage
- Protocol being developed with together Idaho Power, water user representatives, and USGS as technical advisor

IDWR

IDWR Actions related to Swan Falls Agreement – Streamflow Measurement & Monitoring Plan

- Considerable effort on how best to measure change in storage
  - Flow method: requires many more gages than we have
  - Reservoir-Stage method: susceptible to wave and wind action; needs accurate bathometry

- Next steps
  - Implement protocol using reservoir-stage method
  - Install several new gages
  - Implement flow method and compare with reservoir-stage method
  - Work with USGS to quantify uncertainty for both methods

IDWR

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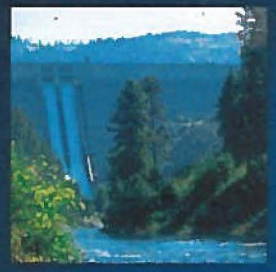

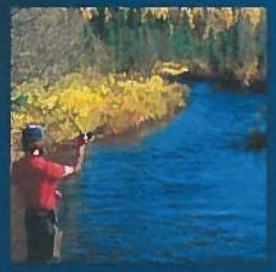

Swan Falls Agreement

State obligation to ensure minimum flows at Murphy Gage just below Swan Falls Dam of:

- ✓3,900 cfs (4/1 through 10/31) and
- ✓5,600 cfs (11/1 through 3/31)

Swan Falls Dam

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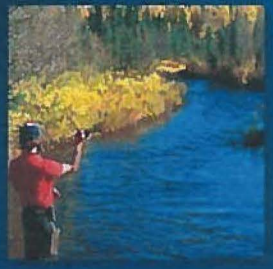
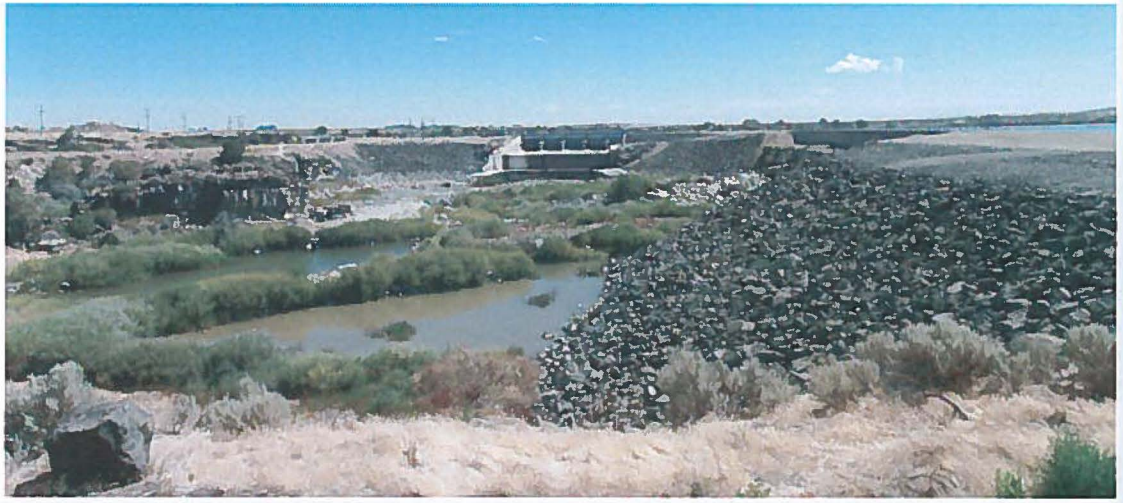


However, 180 miles Upstream at Milner Dam

- Water planning, policy, and practice provides for full development of Snake River above Milner Dam

- At times this practice reduces Snake River flow at Milner Dam to zero



Milner Dam

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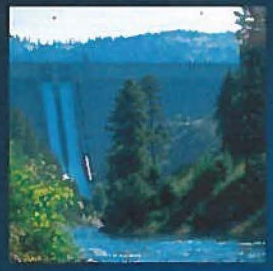
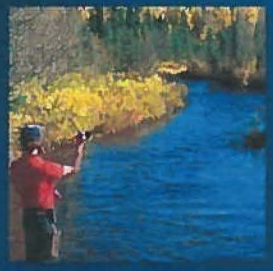
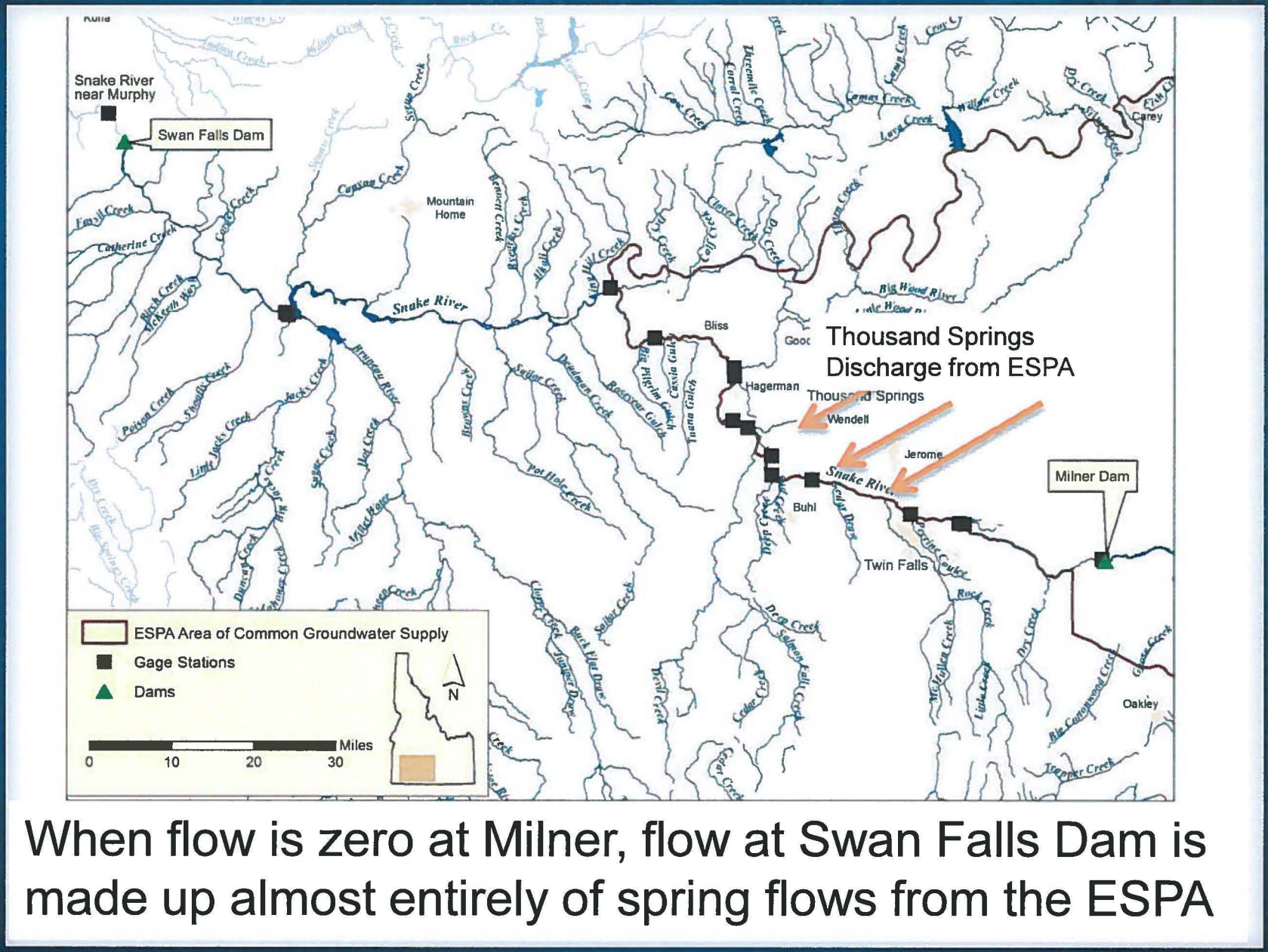
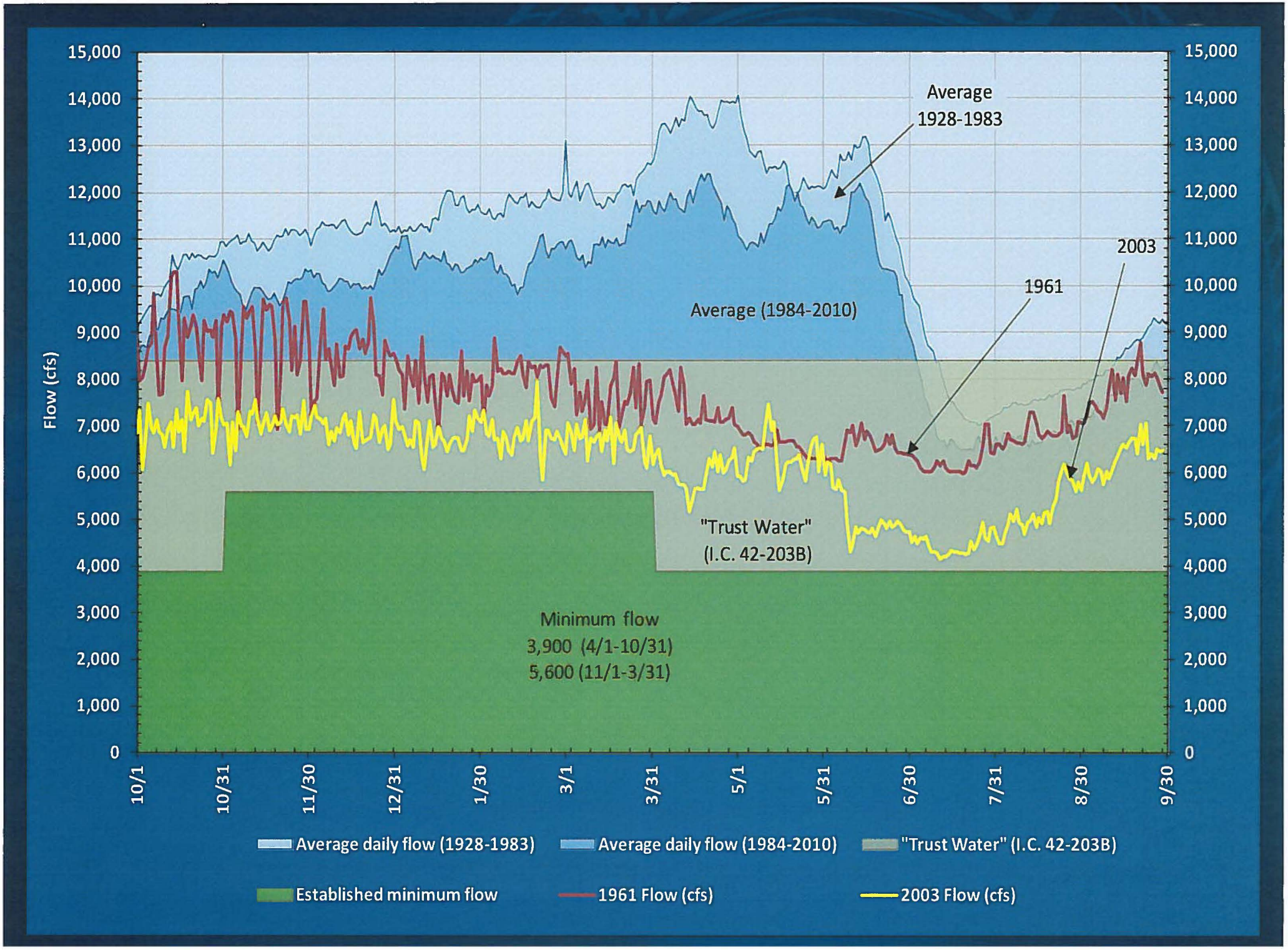






When flow is zero at Milner, flow at Swan Falls Dam is made up almost entirely of spring flows from the ESPA


Flow (cfs)
15,000
14,000
13,000
12,000
11,000
10,000
9,000
8,000
7,000
6,000
5,000
4,000
3,000
2,000
1,000
0
10/1
10/31
11/30
12/31
1/30
3/1
3/31
5/1
5/31
6/30
7/31
8/30
9/30
Average
1928-1983
Average (1984-2010)
1961
2003
"Trust Water"
(I.C. 42-203B)
Minimum flow
3,900 (4/1-10/31)
5,600 (11/1-3/31)
Average daily flow (1928-1983)
Average daily flow (1984-2010)
"Trust Water" (I.C. 42-203B)
Established minimum flow
1961 Flow (cfs)
2003 Flow (cfs)

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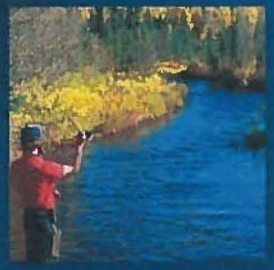

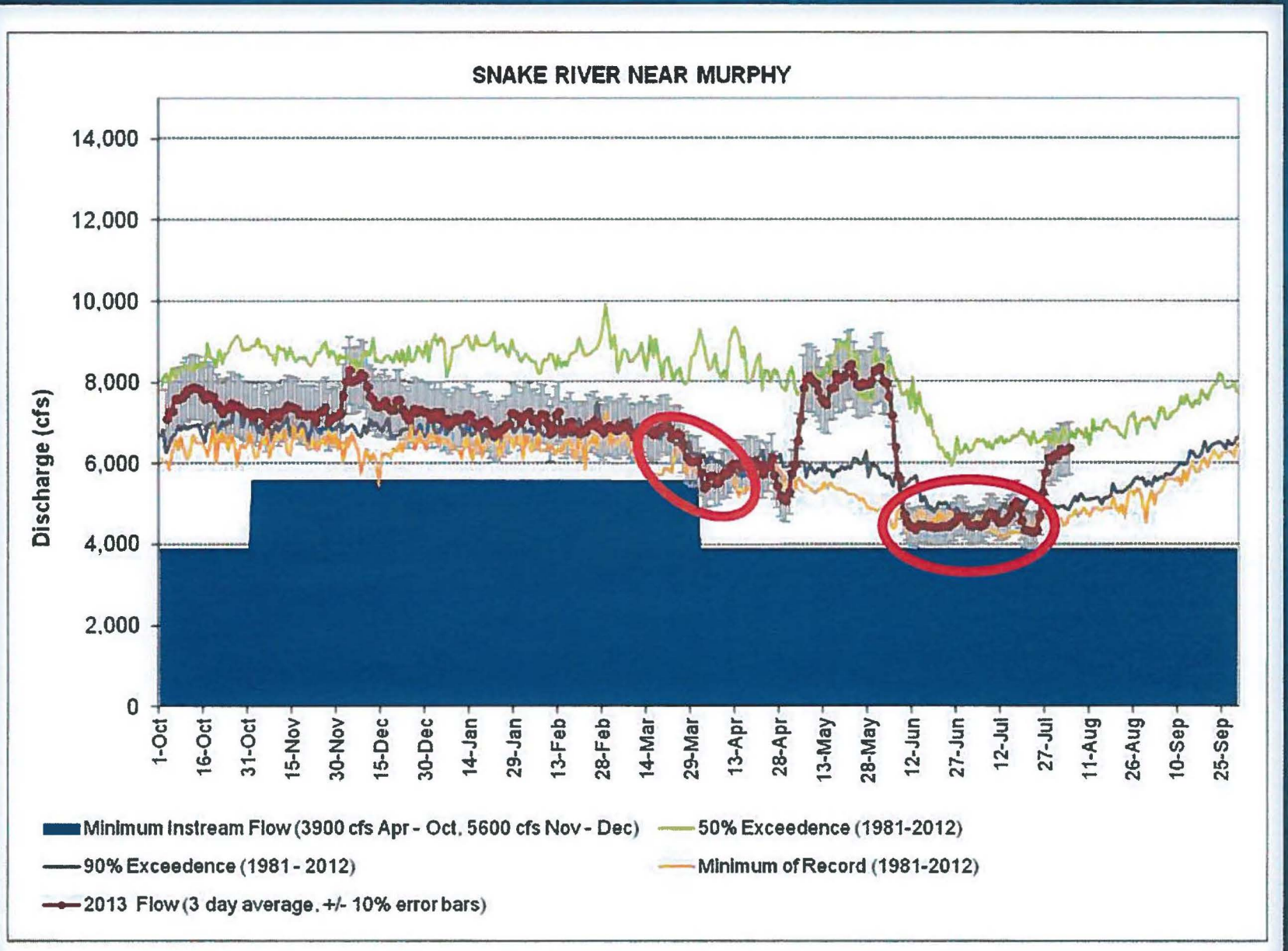

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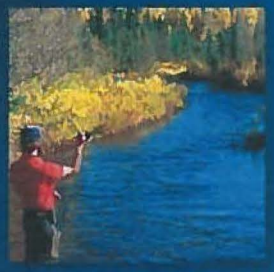


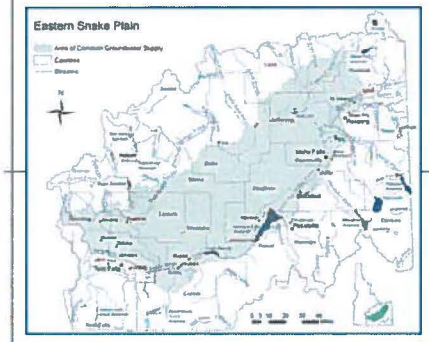
Implications of Swan Falls Agreement Combined with Milner Zero Flow Policy

- ESPA must be managed to sustain spring flows sufficient to meet the Swan Falls minimum flows

  ✓Few junior-priority trust rights in river that could be curtailed

  ✓Curtailment of junior trust rights in ESPA not good solution – delayed timing means effects don't reach river when needed and causes economic damage in process

Thousand Springs Discharge and Eastern Snake Plain Aquifer Cumulative Storage Change



1912 – 1952 Change +17,000,000 AF

1952 – 2008 Change -12,000,000 AF

Average annual 1952-2008 loss of aquifer storage is 214,000 AF

The problem: Declining aquifer storage

Aquifer storage and flows from the Thousand Springs are directly correlated

Discharge (cfs)

7,000
6,500
6,000
5,500
5,000
4,500
4,000

Cumulative Storage Change (AF)

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

1912 1914 1916 1918 1920 1922 1924 1926 1928 1930 1932 1934 1936 1938 1940 1942 1944 1946 1948 1950 1952 1954 1956 1958 1960 1962 1964 1966 1968 1970 1972 1974 1976 1978 1980 1982 1984 1986 1988 1990 1992 1994 1996 1998 2000 2002 2004 2006 2008

Total Thousand Springs Flows

Volume Change

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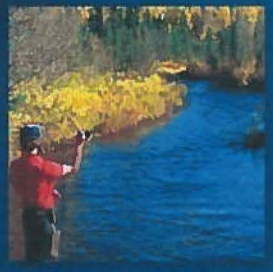


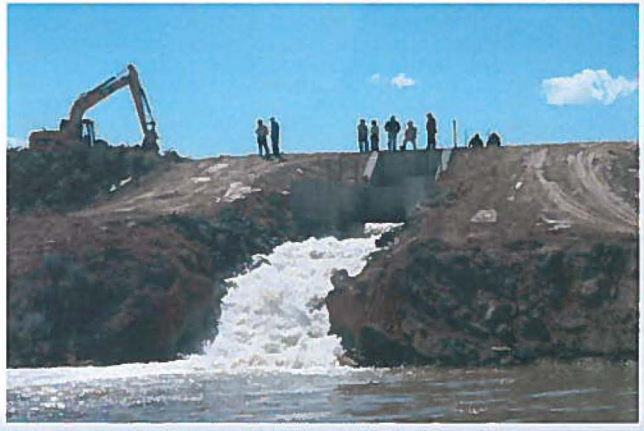
What tools are available to sustain spring flows?

✓Managed aquifer recharge

✓Ground water-to-surface water conversion projects

✓Demand reduction (ground water use)

✓Weather modification – more streamflow results in less supplemental ground water pumping



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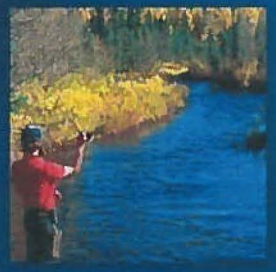


How does CAMP fit into the equation?

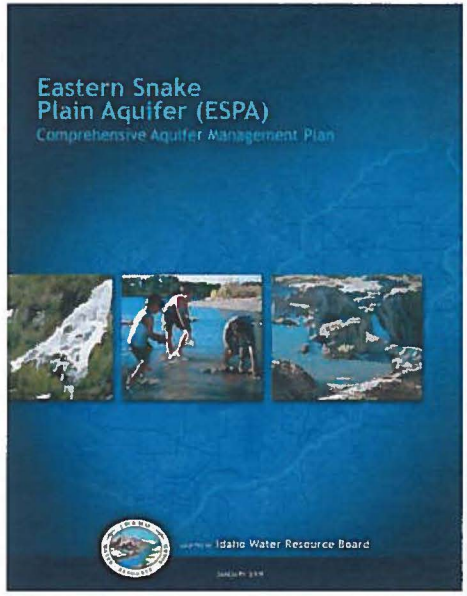
✓CAMP lays out a goal for ESPA water budget change through a series of management actions

✓Phase 1 of CAMP (200-300 KAF water budget change) is designed to stabilize aquifer storage - this should stabilize spring flows

✓Phase 2 (600 KAF water budget change) is designed to recover some aquifer storage – this should recover some spring flows

✓CAMP funding system not enacted

✓Progress being made by using some IWRB funds to leverage water user funds and securing federal grants



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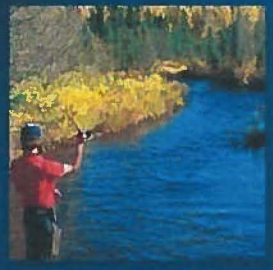

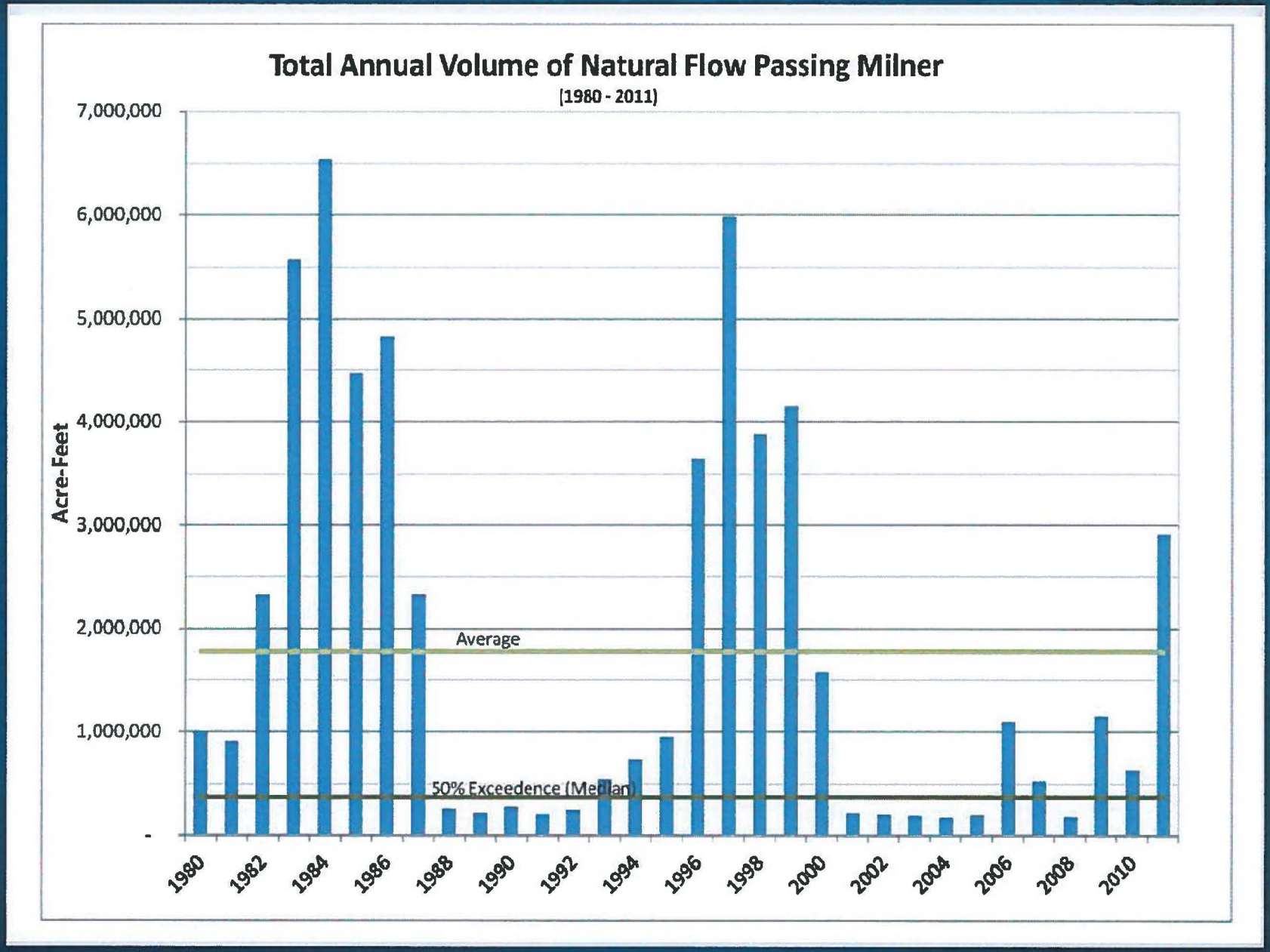

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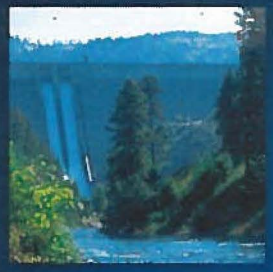

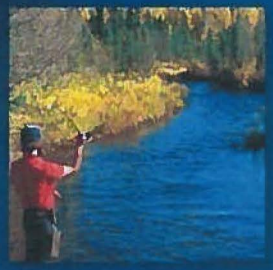

How does CAMP fit into the equation?

CAMP Progress:

	Phase 1 CAMP Target	Progress 2009-2012
Recharge	100,000 AF/yr	117,111 AF/yr average
GW-SW Conversions	100,000 AF/yr	Projects installed on 11,612 acres. Should reduce GW pumping by 15,000 AF/yr
Demand Reduction	95,000 AF/yr	42,000 AF/yr (CREP)
Cloud Seeding	Pilot program – analyze results	19 remote-operated generators installed. IPCO estimates current operations will produce average of 124,000 AF/yr additional flow

Real test of success will be aquifer stabilization!

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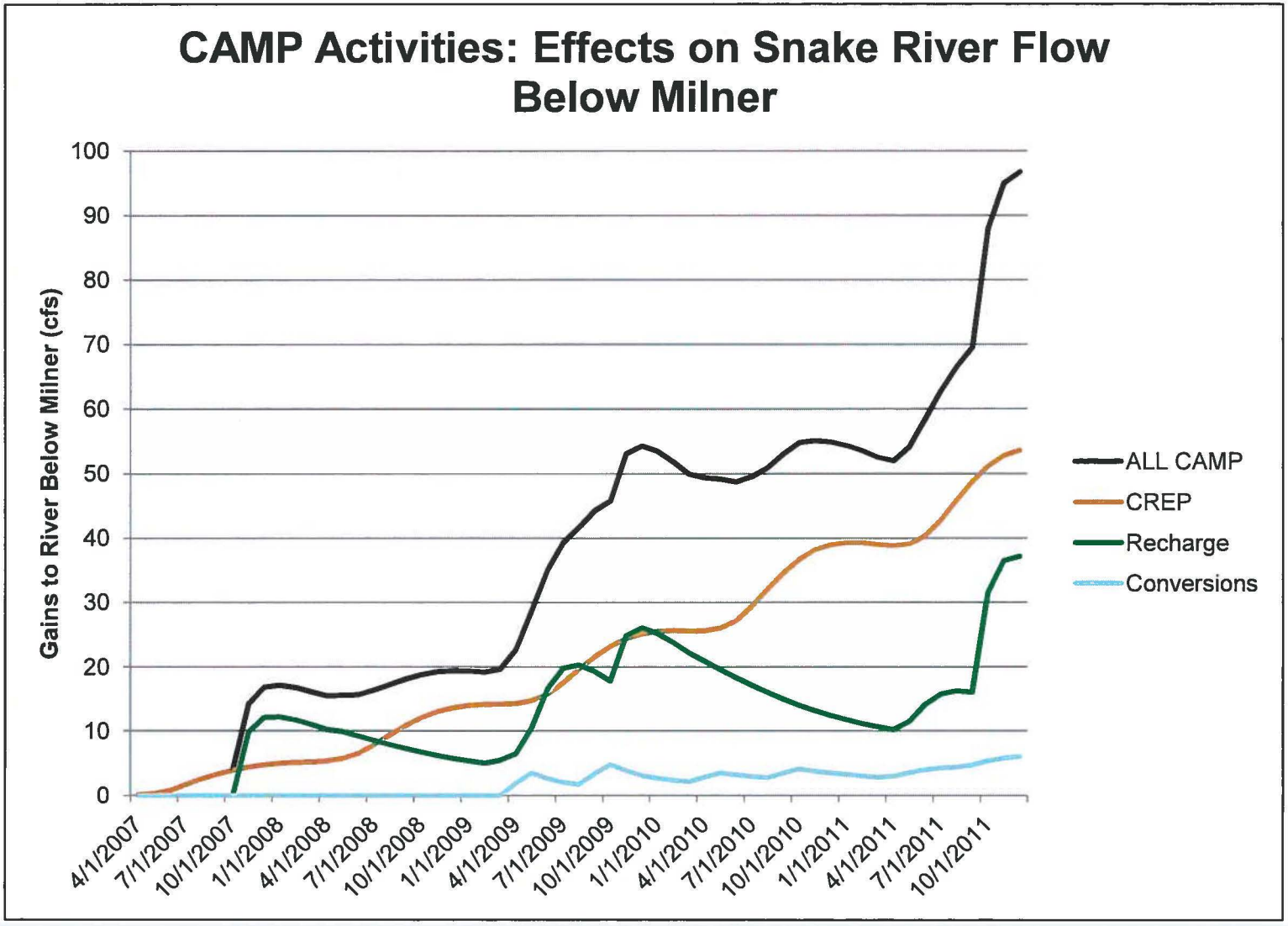
How does CAMP fit into the equation?



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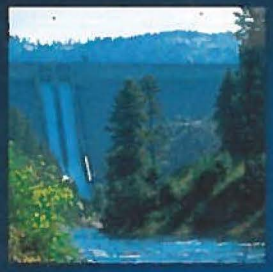

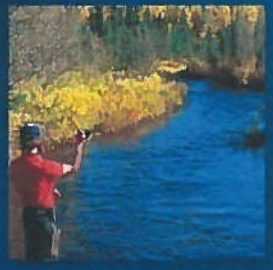

How Does the Milner to King Hill Part B State Water Plan Fit into the Equation?

- Adopted in 1992 - focused on protected river designations for remaining free-flowing rapids

- Pressure from proposed hydropower development in reach

- Policy statement in plan calls for sending more water over Milner – does not reflect current understanding of agreements and legislation

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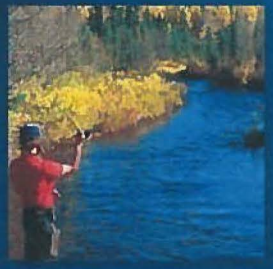

How Does the Milner to King Hill Part B State Water Plan Fit into the Equation?

- Could be revised and re-structured to lay out how state will maintain Swan Falls minimum flows:
  - ✓Tie minimum flow obligations together with spring flow outcomes from CAMP
  - ✓Develop predictive tools to forecast potential breaches of minimum flows
  - ✓Use of IWRB's Palisades storage & acquisition or development of additional storage
  - ✓Other projects that may be necessary to maintain minimum flows

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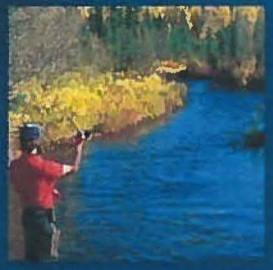

How Does the Milner to King Hill Part B State Water Plan Fit into the Equation?

- Goal is to be proactive and have a unified plan for managing the combined ESPA-Snake River system to sustain multiple state objectives:

  - ✓Stabilize ESPA
  - ✓Milner Zero Flow (full development above Milner)
  - ✓Swan Falls minimum flows

- Have opportunity to forestall problem

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Water Resource Board

Questions?

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Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR TRANSFER OF WATER RIGHT NO. 36-7072 (TRANSFER APPLICATION #79560) IN THE NAME OF IGWA FOR NORTH SNAKE GWD, MAGIC VALLEY GWD, SOUTHWEST IRRIGATION DISTRICT ON BEHALF OF THE OWNER, SEAPAC OF IDAHO, INC.	**RANGEN, INC.'S CLOSING BRIEF**

Rangen, Inc., by and through its attorneys, submits the following Closing Brief in accordance with Director Spackman's verbal order on December 18, 2014.

I. INTRODUCTION

On September 12, 2014, an Application for Transfer of Water Right No. 36-7072 (Transfer Application No. 79560) in the Name of IGWA for North Snake Ground Water District, Magic

Valley Ground Water District and Southwest Irrigation District on Behalf of the Owner, SeaPac of Idaho, Inc.("Transfer Application") was filed to change the place of use from SeaPac to Rangen.

Rangen timely filed a Protest to the approval of the Transfer Application. A hearing on the Transfer Application was held December 18, 2014.

II. STANDARD FOR APPROVING

Section 42-222 of the Idaho Code governs transfers. In order to approve a transfer:

> [t]he director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B , Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates.

I.C. § 42-222(1). "Regardless of whether or not an application for transfer is protested, Section 42-222, Idaho Code, requires that the department evaluate whether there would be injury to other water rights, there would be an enlargement in use of the original right." (Exh 5017). Accordingly, the burden is on the applicant to show non-injury and no enlargement.

III. ARGUMENT

A. THE TRANSFER FAILS TO MAINTAIN STREAM CONDITIONS.

One of the foundational tenets of the prior appropriation doctrine is that subsequent appropriators have a vested interest in the maintenance of the stream as it was at the time of their appropriation:

> "A subsequent appropriator has a vested right against his senior to insist upon the continuance of the conditions that existed at the time he made his appropriation. 'A second appropriator has a right to have the water continue to flow as it flowed when he made his appropriation.' The subsequent appropriator is entitled to the surplus, and any attempt of the prior appropriator to make a sale of such surplus to

> someone else to the injury of existing appropriators, though subsequent, is of no avail."

Bennett v. Nourse, 22 Idaho 249, 125 P. 1038 (1912) (quoting *WIEL ON WATER RIGHTS*, 3d ed., sec. 302), *citing Baer Bros. etc. Co. v. Wilson*, 38 Colo. 101, 88 P. 265; *Handy Ditch Co. v. Louden Irr. Canal Co.*, 27 Colo. 515, 62 P. 847; MILLS' IRRIGATION MANUAL, p. 68; *see also, Farmers Highline Canal & Reservoir, Co. v. City of Golden*, supra, 272 P.2d at 361. *Fuller v. Mining Co.*, 12 Colo. 12, 19 P. 836; *Strickler v. City of Colorado Springs*, 16 Colo. 61, 26 P. 313; *Cache La Poudre Irr. Co. v. Larimer & Weld Reservoir Co.*, 25 Colo. 144, 53 P. 318; Kin. Irr. §§ 175, 231, 248; BLACK, POM. WATER RIGHTS, § 69; *Junkans v. Bergin,* 67 Cal. 267, 7 P. 684; *Hague v. Irrigation Co.*, 16 Utah 421, 52 P. 765, 41 L.R.A. 311; *Last Chance Min. Co. v. Bunker Hill & S. Min. & Concentrating Co. (C. C.)* 49 F. 430; *Mining Co. v. Holter*, 1 Mont. 296; *Kidd v. Laird*, 15 Cal. 161 (Cal. 1860).

This does not mean that a water right may not be changed in any way. Courts recognized very early that appropriators must be allowed to make changes to the character of water rights while maintaining priority. *Fuller v. Swan River Placer Min. Co., 19 P. 836 (Colo. 1888), Farmers Highline Canal & Reservoir, Co. v. City of Golden*, 272 P.2d 629, 631 (Colo. 1954). These changes can include moving the place of diversion or even the place of use. *Id.* ***The caveat is that the relative priorities of water rights must be maintained so that junior appropriators are not injured.*** *Id.* (Emphasis added).

Once there are junior water rights present on a stream, a prior appropriator may not expand its appropriation, consumptive use, or alter the pattern of return flow if such a change impacts the availability of water to junior appropriators or expands the original appropriation. *Baer Bros. Land & Cattle Co. v. Wilson*, 88 P. 265 (Colo. 1906).

> If appellant was the only appropriator, it would have the right to change the point of diversion or place of use of the water as frequently as desired, because there would be none having rights which might be affected; but, when a subsequent appropriator makes his diversion, he acts under the belief that the water appropriated by his senior will continue to be used as it was at the time of the making of the appropriation of the junior. So a subsequent appropriator has a vested right as against his senior to insist upon the continuance of the conditions that existed at the time he made his appropriation.

Id. at 265. There is no requirement that the expansion or change in pattern of return flow cause any particular junior appropriator to suffer a shortage of water as a direct result of the transfer. There is not even a requirement that the stream be over appropriated. The issue is maintenance of the relative priorities between appropriations of water. The focus of the analysis is on the historic original use of the water by the senior and whether that has changed. Even if the change would not presently cause an actual shortage of water for any particular junior, the change from the original use permanently alters the relative priorities of water rights on the stream. In a future shortage, a junior that might not otherwise have been out-of-priority may be curtailed.

The injury is the expansion of use or change of historic patterns of return flows. This is why the inquiry is directed to the "enlargement in use of the **original right**." *See,* Idaho Code § 42-222(1) (emphasis added). The historical consumptive use and return flows upon which the water right was obtained are what subsequent appropriations are entitled to rely upon. Even if the water right were later transferred again, the appropriate inquiry would be whether the later transfer changed the impact from use of the original right. Expansion of consumption or other reduction of the quantity of water which returns to the stream under a senior water right effectively changes the relative priorities on the stream. That change in relative priority is what causes the injury to junior appropriators. If the proposed change would expand the use of the water and yet not cause a shortage of water downstream, the appropriate action would be to issue a new water right with a

new priority date for the new use. There is no such unappropriated water in this case and the transfer should simply be denied. (Exh 5007).

In this case, the GWDs have failed to prove that the Application protects the original stream conditions. As set forth below, all the evidence establishes that the original stream conditions are not protected by the Application, and, therefore it should be denied.

B. THE MAGIC SPRINGS PROJECT CAUSES INJURY TO OTHER WATER USERS.

The most fundamental and primary issue in this transfer is whether the GWDs' Application can be approved since the return flows to the Snake River are not protected. Well-established case law provides that return flows to a steam should be protected in transfer cases. In this transfer, the GWDs cannot show that return flows will remain the same, and therefore, injury has occurred.

Colorado has substantial case law addressing this issue. For example, in *City of Thornton v. Bijou Irrigation Co.*, 926 P.2d 1 (Colo. 1996), the Colorado Supreme Court explained:

> One of the basic tenets of Colorado water law is that junior appropriators are entitled to maintenance of the conditions on the stream existing at the time of their respective appropriations. Equally well established is the principle that a change of water rights cannot be approved if the change will injuriously affect the vested rights of other water users. This protection extends not only to surface water users but to users of all water tributary to a natural stream, including appropriators of tributary underground water. Furthermore, this protection extends to junior appropriators' rights in return flows: **It has been fundamental law in this state that junior appropriators have rights in return flow to the extent that they may not be injured by a change in the place of use of the irrigation water which provides that return flow.**

Id. at 80. (Emphasis added).

Out of this statement of law comes the proposition that in order to approve a transfer, the applicant must prove that: (1) the consumptive use of the water is the same; and (2) that the amount

of return flows remains the same.[1] These principles were discussed in *Farmers Highline Canal & Reservoir, Co. v. City of Golden*, 272 P.2d 629 (Colo. 1954), an oft cited case under Colorado water law. In that case, the City of Golden purchased an irrigation right for which the City sought to change the point of diversion and purpose of use. *Id.* at 630. The original right had been conveyed out of Clear Creek from the Swadley Ditch. The transfer sought to move the point of diversion from the Swadley Ditch to the Clear Creek Ditch, a point five miles upstream from the original point of diversion. The users of the Swadley Ditch protested the transfer, arguing among other things that the "petitioner had not sustained its burden of proof by a sufficient showing that the vested rights of protestants would not be injuriously affected by said change; [and] that the trial court had in effect attempted to place said burden upon the protestants to prove injury." *Id.* at 631.

The Colorado Supreme Court reversed the trial court's decision to grant the application, finding that there was insufficient evidence in the record to sustain the decision. There were two problems with the trial court's decision. The first problem was that there was insufficient evidence in the record as to whether the use of water under the original right was "excessive." Specifically, the court noted that "[t]he extent of needed use in original location is the criterion in considering change of point of diversion." *Id.* 635.

The second problem with the transfer was that there was insufficient evidence in the record on "return flows." The Court held:

> In addition to the duty of water in change of point of diversion cases, **due consideration also must be [] had with the amount of return flow, both before**

[1] Many of these principles have been codified in statutes. However, these principles predate statutory adoption and have been recognized under constitutional provisions similar or identical to Idaho's Constitutional Provisions, Art. XV, Sections 1 through 5, or the principles have their origination in common law. *See e.g., Kidd v. Laird*, 15 Cal. 161 (Cal. 1860).

> **and after the change, that the stream may remain as it was, and not suffer depletion,** nor yet that the user at the point of changed location be obliged to add thereto. The first is not permissible and the latter not required. Where it appears that the change sought to be made will result in depletion to the source of supply and result in injury to junior appropriators therefrom, the decree should contain such conditions as are proper to counteract the loss, and should be denied only in such instances as where it is impossible to impose reasonable conditions to effectuate this purpose.

Id. (Citations omitted). (Emphasis added).

In this case, the GWDs have not established their burden of proof with respect to the consumptive use elements of the original right versus the transferred right, and they have not shown that the return flow to the Snake River is the same. As to the return flow, the original right is used in SeaPac's Magic Springs facility and immediately returned to the Snake River. Under the proposed transfer the water will flow through Rangen's Research Hatchery and then down Billingsley Creek. Both Frank Erwin and Cindy Yenter, Department witnesses, opined or testified that the Magic Springs water, if the transfer is granted, will not return to the Snake River. (Tr. p. 24, l. 16-18; p. 26, l. 14-18) (Exh 4014). Frank Erwin also testified that it would be impossible to administer the transfer in such a way to ensure that the Magic Springs water would ever return to the Snake River. (Tr. p. 24, l. 19 – p. 26, l. 13).

Scott King, the GWDs' engineering expert who testified, did not testify that the same amount of water would enter the Snake River before and after the transfer. To the contrary, King testified that he agreed with Frank Erwin's testimony and that it was unlikely that any water delivered to the head of Billingsley Creek would return to the Snake River:

> Q. And you heard his testimony that none of it would make it back to the Snake River? Do you understand that?

A. I think Mr. Erwin described parts of the years it would make it to the Snake River and parts of the years it wouldn't. And it would depend on the quantity of water, and perhaps not all of it would make it back to the Snake River.

Q. Okay. I don't want to fight with you. He said most likely that most of it, if not all of it, would not make it back to the Snake River. That was his testimony; correct?

A. Yes, during the irrigation season.

Q. Okay. And you don't have any specific facts in your quiver that you could disagree with Mr. Erwin's testimony; correct?

A. No, I do not.

Q. So Mr. Erwin's testimony is in fact correct; correct?

A. Yes.

(Tr. p. 93, l. 4-23).

Sophia Sigstedt, another engineering expert for the GWDs who practices in Colorado and is obviously familiar with the case law discussed above, recognized that maintaining the return flow to the Snake River is essential for a transfer. She testified:

Q. In terms of looking at how this water would actually be used, the only thing that you looked at was evaporation?

A. That's the only thing that matters in terms of the transfer from the way that I look at it, ***because what we're trying to make sure that we don't change is how this water enters the Snake River, so before it entered directly at Magic Springs.***

***

(Tr. p. 165, l. 19 – p. 166, l. 1) (Emphasis added). In response to whether she disagreed with Frank Erwin's testimony, the best opinion she could give was, "I honestly do a little – I do disagree with it in sum." (Tr. p. 165, l. 11-12).

Even her evaporation analysis was flawed. She merely calculated the evaporation loss of the 10 cfs of water while located in Billingsley Creek. She failed to consider the many diversions

from Billingsley Creek, and she failed to consider all the other parts of a consumptive use analysis as set forth under Idaho Code § 42-202B(1). Under that Section, "consumptive use" is defined as follows: "'Consumptive use' means that portion of the annual volume of water diverted under a water right that is transpired by growing vegetation, evaporated from soils, converted to nonrecoverable water vapor, incorporated into products, or otherwise does not return to the waters of the state." By only looking at the evaporation of water in Billingsley Creek, Ms. Sigstedt did not even perform a correct analysis of "consumptive use" under Idaho law. As such, her testimony should be disregarded.

In order to attempt to address the injury caused by the proposed transfer, Ms. Sigstedt attempted to provide evidence that the GWDs have previously mitigated for the transfer through recharge. There are legal and factual problems with this position. As a matter of law, the type of recharge credit envisioned by the GWDs was rejected by Judge Wildman in his decision on the First Mitigation Plan because there is no guarantee that such recharge activities will continue. *Rangen v. IDWR et al.*, CV-2014-2446, *Memorandum Decision and Order on Petition for Judicial Review*. The proposed mitigation is also not the type of "mitigation" envisioned by the Department in its own Transfer Memo. *See*. Exh. 5017, pp. 24-26.

Additionally, as a matter of fact, the recharge activities do not, in any way, mitigate for the continued damage caused by the GWDs' pumping in the ESPA. In calculating the recharge credit, Ms. Sigstedt failed to calculate the net effect of continued groundwater pumping:

> Q. Okay. And what we are addressing is we've got a situation where we've got groundwater pumping that is occurring -- okay? -- and that is impacting all of these springs that you are calculating reach gains for.
>
> A. Right.

Q. And it's reducing each of those springs.

A. Right.

Q. And you accept that?

A. I accept that, but I –

Q. And you accept that it's reducing those springs; correct?

A. Yes.

Q. Okay. There's a reduction there?

A. That's correct.

Q. And there has been a little bit of mitigation that has occurred, and that reduces the impact to those springs by a certain amount; correct?

A. That's correct.

Q. Okay. And so what you're looking at in your calculation is not the net effect of what that pumping is, but you're looking at just the gains that are there; correct?

A. That's right.

(Tr. p. 171, l. 9-25; p. 172, l. 1-7).

It seems entirely reasonable that if the GWDs are evaluating credits, they should also be required to evaluate the debits on the other side of the accounting equation. Contrary to the methodology employed by Ms. Sigstedt, Dr. Brockway performed a full accounting of credits and debits (i.e., continued groundwater pumping). Dr. Brockway testified the effects of groundwater pumping on the individual streams far exceeds the benefits of recharge:

A. We ran the ESPAM-2.1 model for – and looked at the simulated steady-state benefit to the six model cells that contribute spring water to Billingsley Creek using the 2013 IGWA mitigation efforts as outlined by IDWR, and the benefits to those six model cells, there's about 2.83 cfs.

Q. Okay.

> A. Then if you -- using the same model and the same six model cells, if you look at the impact of junior groundwater pumping with the -- with the Great Rift trim line in there, the impact is 33.3 cfs to the Rangen model cell.

(Tr. p. 213, l. 18-28; p. 214, l. 1-4). *See also*, Exh. 5019.

To summarize, the GWDs, based on the testimony of their two expert witnesses, have failed to satisfy their burden of showing non-injury by the transfer. All of the Department and Rangen witnesses, on the other hand, affirmatively stated and showed, based on the actual and historical use of water in Billingsley Creek, that 10 cfs of water transferred to the head of Billingsley Creek under this transfer would not make it to the Snake River.

Furthermore, based on the testimony of Frank Erwin and Charles Brockway, there is no way to provide any type of condition to transfer which would guarantee that the 10 cfs of water would ever make it to the Snake River.

> Q. Okay. So just so I understand your testimony, Frank, I think you previously told me that it's not possible that that 10 cfs of water would return to the Snake River during the irrigation season?
>
> A. I don't believe it would, no.

(Tr. p. 26, l. 14-18). *See also*, Brockway testimony. (Tr, pgs. 190-191).

Mr. Erwin also testified that because of the lack of adequate measuring devices, the inability to provide 24/7 surveillance, and the inability to calculate conveyance loss from all of the Billingsley Creek diversions, it would be currently "impossible" to make sure the 10 cfs of water delivered to Rangen would ever make its way back to the Snake River. (Tr. pgs. 25-26). Because it would be impossible to currently deliver the 10 cfs of water to the Snake River, this transfer should be denied because return flows to the Snake River cannot be guaranteed.

C. THE TRANSFER RESULTS IN AN ENLARGEMENT OF THE ORIGINAL RIGHT.

Idaho Code § 42-222(1) provides that transfers may be allowed if the transfer "does not constitute an enlargement in use of the original right." As previously discussed, based on the second use of water after it leaves the Rangen facility and before the water enters the Snake River, the evidence is that the water will be consumed by other users in the Billingsley Creek system. Cindy Yenter, the Wastermaster for Water District 130, in opposing the Application stated in her recommendation: "it is not unreasonable to predict that 10 cfs injected at the head of Billingsley Creek will not be returned to the Snake River, but will be consumed by downstream creek diversions. Consequently this proposal is changing a non-consumptive use of water to one which is ultimately consumptive to the original source and tributary." (Exh. 4014).

Based on Ms. Yenter's recommendation, the Department considers enlargement to be defined as whether the transfer is "consumptive to the original source and tributary." This definition of "enlargement" is consistent with all the authority in Idaho and other jurisdictions which state that the return flows to a stream or river must be protected. *City of Thornton v. Bijou Irrigation Co*, supra; *Farmers Highline Canal & Reservoir, Co. v. City of Golden*, supra. In this case, as demonstrated by the testimony of Frank Erwin and Dr. Brockway, the 10 cfs of water under the original water right was wholly non-consumptive because all of the water from Magic Springs made it to the Snake River.

The right as transferred to the head of Billingsley Creek is wholly, or mostly, consumptive because little, if any, of the water makes it back to the Snake River. Because the water right is consumptive, it means the original right has been enlarged. Even if the water was not consumed, the transfer alters the conditions of the stream flow in the Snake River as to junior appropriators

and, therefore, violates the juniors' rights to stream conditions which existed at the time of those original appropriations. At the very least, the GWDs have not met their burden of proving that the transfer does not alter the stream conditions with respect to the rights of junior appropriators. Because enlargements are prohibited, there is no condition which might allow the Director to approve the transfer.

D. THE PROPOSED TRANFER SHOULD NOT BE APPROVED BECAUSE IT INJURES TRUST WATER RIGHTS.

The Magic Springs water was originally appropriated in 1969 to raise fish at the Magic Springs facility. (Exh. 4000, p. 21). Fish propagation does not consumptively use any water. The water simply flows through the Magic Springs facility and is discharged directly into the Snake River. Since the time that the Magic Springs water was appropriated, subsequent appropriators downstream have appropriated the water in the Snake River including the return flow from the Magic Springs rights for a variety of beneficial uses. Additionally, in October 1984, Idaho Power Company and the State of Idaho entered into the Swan Falls Agreement. (attached hereto as Appendix A). Among other things, the Agreement provided that Idaho Power's hydropower water rights are subordinated to upstream water rights in existence in October 1984. *See,* Appendix A, 7(D). The Agreement together with implementing legislation also provided that Idaho Power's water rights in excess of a seasonal minimum stream flows and less than the decreed quantity of Idaho Power's water rights be placed in a trust. *See,* Appendix A, 7(A); Idaho Code § 42-203B. The water rights are "held in trust by the state of Idaho, by and through the governor, for the use and benefit of the user of the water for power purposes, and of the people of the state of Idaho; . . .." Idaho Code § 42-203B. The Idaho Power water rights held in trust are commonly referred to as "Trust Water."

Trust Water is subject to appropriation for future upstream beneficial use. Water rights obtained for the use of the Trust Water occurring after October 1984 are commonly referred to as "Trust Water Rights." Idaho Power's water rights are subordinated to such Trust Water Rights; however, if flows are reduced below the seasonal minimum stream flows, Trust Water Rights are subject to curtailment. Water Rights in existence in October 1984 are not subject to curtailment based upon the seasonal minimum stream flows. Appendix A, 7(D).

The relative priorities of the various water rights in this system are incredibly complex. This transfer would affect those relative priorities. As discussed above, each of the water rights holders has a vested interest in the stream conditions existing at the time of their respective appropriations. The effect of this transfer would be to eliminate approximately 10 cfs of return flow that has historically flowed into the Snake River from Magic Springs. Because the Magic Springs water right has a priority date of 1969, this would have the same practical effect as granting a new fully consumptive water right with a retroactive 1969 priority date. Each of the users in this system whose rights are either junior or subordinated to such a new water right are injured by such an insertion. This right is senior to each of the Trust Water Rights and reduces the quantity of Trust Water available for subsequent appropriation. This additional water right would also not be subject to the seasonal minimum stream flows at the Murphy Gage. The retroactive insertion of a new fully consumptive 1969 priority water right injures these subsequent appropriators regardless of whether the use of that water right would directly lead to a reduction in flow of water below the level of seasonal minimum stream flows.

E. THE TRANSFER SHOULD NOT BE APPROVED BECAUSE IT IS SPECULATIVE.

Rangen argued previously in the hearing on the GWDs' attempt to appropriate the talus slope spring water at the Research Hatchery (Permit No. 36-16976 hereinafter "Permit Case") that the permit should not be granted because it was speculative. Some of those same principles apply to transfer cases such as this one.

The "anti-speculation" doctrine previously cited by Rangen in the Permit Case is equally applicable to this proposed transfer. *High Plains A&M, LLCV v. Southeastern Colorado Conservancy District*, 120 P.3d 710 (Colo. 2005). The anti-speculation doctrine in transfer cases is invoked to make sure that a transferred water right is "sufficiently described actual beneficial use to be made at an identified location or locations under the change decree." *Id.* at 721. The notion that each water right needs an identified beneficial use and place of use is also consistent with Idaho law in that for every water right, there must be an actual diversion and application of water to a beneficial use. *United States v. Pioneer Irrigation Water District*, 144 Idaho 106, 113, 157 P.3d 600 (2007).

In this case, the right is claimed for "fish propagation/mitigation." (Exh. 4000). Cindy Yenter recommended that the transfer be disallowed because the term "mitigation" was too speculative to determine. (Exh.4014). Mr. King, the GWDs' water right specialist who worked for the Department for 15 years, could not characterize what this use or uses mean. "I am not sure if it is one or two uses." (Tr. p. 104, l. 21-22). Contrary to his testimony in the permit case, Mr. King testified that "mitigation is always associated with some other use."

> Q. Okay. Where is the place of use in your mind, Mr. King, for the -- now, you understand that there are two -- well, you tell me, because I don't understand it. The purpose of use is described as fish propagation slash mitigation; correct?

A. Correct.

Q. Is that one or two uses?

A. Mitigation is an interesting concept in a use, in that mitigation is generally associated with some other use. Our other use here is fish propagation. IGWA is proposing a mitigation use to be delivered to Rangen for fish propagation.

Q. That's interesting. So your testimony is that mitigation is usually associated with some other use like mitigation for fish propagation; correct?

A. Correct.

(Tr. p. 102-103).

Just like the Permit Case, no one knows what the term "mitigation" means. Rangen previously argued in the permit case that the use "mitigation" cannot stand alone, because the term is too speculative. Mr. King, now in this case, evidently agrees with that analysis. The fact remains that the terms "fish propagation/mitigation" is too speculative. If a purpose of use is subject to conflicting interpretations as claimed, it is simply too speculative for the Director to allow. If the GWDs intend that the "mitigation" right may be used in other places to satisfy other users in Billingsley Creek for future mitigation responsibilities, this right as claimed is too speculative to allow.

Furthermore, the GWDs have not shown sufficient rights to the place where the water is to be transferred to, namely, the Rangen facility. (Exh. 5017) (Transfer Memo, p. 18 – "Applicant Does not Own the Place of Use"). Just like the Permit Case, the GWDs must show that they are authorized to use the place of use. To date, the GWDs have only sent a Letter of Intent to File Eminent Domain, which is not sufficient. *See, Lemmon v. Hardy*, 95 Idaho 778, 780, 519 P.2d 1168 (1974), *citing Bassett v. Swenson,* 51 Idaho 256, 5 P.2d 722 (1931). *See also*, Joyce *Livestock v. U.S.A.*, 144 Idaho 1, 18, 156 P.3d 502, (2007); *Branson v. Miracle*, 107 Idaho 221, 227, 687 P.2d 1348 (1984). Also, the GWDs lack the legal authority to condemn under I.C. §42-5224(13)

because the authority to condemn is not broad enough to condemn Rangen's property for the purposes they seek.[2]

F. THE PROPOSED TRANSFER IS NOT CONSISTENT WITH THE PUBLIC'S INTERESTS.

Minimum stream flows are guaranteed by the State of Idaho to Idaho Power Company through the Swan Falls Agreement (*see Clear Springs v. Spackman*, 150 Idaho 790, 252 P.3d 71 (2011) for a discussion of the Swan Falls Agreement). The Department of Water Resources recognizes that it has an obligation to manage the ESPA-Snake River system to ensure compliance with the Swan Falls Agreement and avoid injuring trust water rights. *See IDWR Actions Related to the Swan Falls Agreement*, presented by Brian Patton on August 6, 2013 to the Legislative Natural Resources Interim Committee (attached hereto as Appendix B). The Fourth Mitigation Plan does nothing to address the injury caused by junior-priority ground water pumping within the ESPA. The Fourth Mitigation Plan runs afoul of the Department's obligation to manage and protect the ESPA and, is, therefore, contrary to public interests and the conservation of resources.

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[2] Idaho's condemnation statutes specify the three distinct property interests which may be obtained by eminent domain These three interests are as follows:

> 7-702. ESTATES SUBJECT TO TAKING. The following is a classification of the estates and rights in lands subject to be taken for public use:
>
> 1. A fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams and permanent flooding occasioned thereby, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine.
>
> 2. An easement, when taken for any other use.
>
> 3. The right of entry upon, and occupation of, lands, and the right to take therefrom such earth, gravel, stones, trees and timber as may be necessary for some public use.

The Magic Springs Project does not add any new water to the Hagerman Valley and does not reduce ground water pumping. In fact, the Plan, if actually implemented, further exacerbates the water shortage because it takes water from an area that is already short and puts it in a Snake River tributary where it will be consumed before it reaches the river. Rather than mitigating for the impact of ground water pumping, the Fourth Mitigation Plan compounds that impact and would allow continued mining of the ESPA. The Director may not disregard the injury that continues to be done to the ESPA and allow junior ground water pumping to continue under such a plan.

If unappropriated water were available at Magic Springs and IGWA applied for a new water right to pump water from Magic Springs to the head of Billingsley Creek for the purpose of raising fish and irrigating, such a water right would almost certainly be denied. There is currently a moratorium on such new consumptive rights. *April 30, 1993 Amended Moratorium Order.* If the Department were to approve such a new water right, it would require mitigation for the impact of the new water right.

Because the Fourth Mitigation Plan is inconsistent with public interests and the conservation of resources and allows ground water pumping in the ESPA to continue at a rate that exceeds natural recharge, the Director should deny the proposed transfer application.

G. THE DIRECTOR SHOULD NOT CONDITION THE PERMIT ON "SHEPHERDING" THE WATER TO THE SNAKE RIVER.

Every person who testified at the hearing recognized that if water is pumped from Magic Springs to the Research Hatchery it will not make its way to the Snake River. The water will be consumed by irrigators on Billingsley Creek. *See,* Section B and C, *infra.* Recognizing this issue, the GWDs implicitly argued that the Director could address the problem by ordering the watermaster of District 36A to "shepherd" the water down Billingsley Creek to ensure that it was

not used and was put back in the Snake River. The GWDs' argument is factually and legally flawed.

To begin with, there are serious practical problems with trying to measure the water flows of Billingsley Creek to ensure that the water from Magic Springs actually makes its way to the Snake River. The GWDs contend that shepherding the water is just a matter of improving some diversion structures and adding some measuring devices on Billingsley Creek, but the problem is actually much more complex. When asked if improvements to diversion structures or measuring devices could make "shepherding" the water more feasible, Mr. Erwin explained:

> Q. But there could be improvements made to the diversion structures or measuring devices that would make that more feasible?
>
> A. I would -- I would say this much in answer to that question: As far as the diversions away from the stream, we have, I think at least, good control and good measuring devices. I think the problem would be to put gauging stations along the creek, on the creek so that we could determine how much water we were losing or gaining in a particular reach so that we had some idea of how much of that 10 got to that next gauging station.
>
> Right now as far as the deliveries, the majority of the main diversions on Billingsley Creek are all at the very end of it. The Curren Ditch is the only one that diverts towards the upper end of the natural streambed.
>
> And because of that, the Department or the District and the watermaster, I, we have one gauging station on the creek that is above those downstream diversions. And that is where I determine how much water I have to distribute to those approximate 11 downstream diversions, and that's how I determine who's going to end up in priority and who's not.
>
> The thing that -- other thing that makes that complicated is, for example, a lot of the rotations that we've done in the past. That is done just so that there are -- or some of the downstream fish propagation people can stay in business, otherwise all the water in the creek would be consumed in the neighborhood of around 1904 to 1906 in priority. So if everybody took their full allotment during the heat of the summer away from the stream and we didn't rotate it in a little bit, then those fish people would realistically be out of business.

> The other aspect you have to understand or realize on the creek itself is from four o'clock in the afternoon in July and August until four o'clock in the morning there can be as much as a 20 cfs variance in the end of the creek. And in other words, what I'm telling you is there are times if you go there at four o'clock in the morning, you'll see 10 or 15 running into the river. If you go there at four o'clock in the afternoon, and it will be dry. So it's very difficult for those folks there to be able to stay in business.
>
> As a footnote, one of the companies there keeps a diesel-powered pump for recirculation when the creek does go dry. And it does. And they do use the pump. So like I said, to figure out what to do with this 10 is going to be really difficult. I just don't know how I can do that.
>
> Q. If you had another gauging station on Billingsley Creek down lower, would that enable you to do that?
>
> A. I think realistically -- and I haven't looked at it from that perspective, but realistically I'm going to say we would almost need a gauging station below every one of those 11 diversions, otherwise I wouldn't have any idea how much water I had left for each one of them. And I -- honestly at this point I don't know how to accomplish that --
>
> Q. Okay.
>
> A. – physically on the ground.

(Tr., p. 27, l. 18 – p. 30, l. 6).

Even if the water could be "shepherded" to the Snake River, the GWDs miss the point that doing so would ignore the prior appropriation doctrine because the water will be in the stream, but the Billingsley Creek users would not be able to use it. Even Scott King recognized that shepherding the water to the Snake River would require the watermaster to ignore the prior appropriation doctrine. (Tr., p. 133, l. 4-15).

Mr. Erwin explained the problems the "shepherding" concept would create from a practical standpoint:

> I guess the first problem I'd have if it's running by an irrigation diversion and they're short, they're going to want to take it. So it's going to be very difficult to try to keep that water within the Billingsley Creek proper.

(Tr., p. 16, l. 21-25).

Mr. Erwin further explained:

A. I'd put it this way: If I had enough deputies to keep their eye on them, maybe. But like I said, if there's a farmer there irrigating, there's water going by and he can't get his pump on, I think you'll have a hard time keeping that headgate closed down. I'm not saying legally I couldn't do it, but that's -- that's going to be difficult and live in the Valley. You may have to find another watermaster. I don't know.

Q. Are you saying that the water users may make it difficult for you to do that because they may be turning their headgates on at times when they're out of priority?

A. I wouldn't say they'd be out of priority. I would say that that water going by to them is in the natural streambed, and as far as they're concerned, it's there for prior appropriation. I don't know how you're going to educate all those guys that that might not be their water. That's going to be a difficult task.

(Tr., p. 32, l.12- p. 33, l 6)

When counsel for the GWDs pressed Mr. Erwin as to why "shepherding" the water would be factually impossible, Mr. Erwin explained:

I think the part I find troubling is, if I'm understanding your testimony correctly, you're saying that you're unable to assure administration by priority because people may open their headgates whether you've instructed them to do that or not?

A. I wouldn't phrase it quite that way. I think the issue here is you're talking about the 10 cubic foot per second of water that you're putting in at Rangen's into Billingsley Creek. From the aspect that I look at that and what's going to happen with it, as it goes downstream, it's going to be co-mingled with all the other spring sources that feed the creek. So to isolate that and to be able to deliver that to a specific location or a specific spot, then it -- and I'm probably out of school here, but it would be my take on it to if you wanted that water to end up in a specific spot, put it in a conduit when it leaves Rangen's and deliver it to that spot.

Q. What's the --

A. I'm not trying to shun my duties as delivering the water. But what I'm trying to say is is I'm not sure that there's anyone, whether it was me as the watermaster or you or anyone else, would have the ability to deliver a set amount during a set period of time at a set location on that system. I just would like to see somebody accomplish that.

(Tr., p. 34, l. 8 – p. 35, l. 9) (emphasis added).

Finally, the concept of "shepherding" the water is legally flawed because it creates a de facto minimum stream flow in contravention of I.C. § 42-222(1) and § 42-1504. If the watermaster of District 36A is ordered to deliver a prescribed amount of water down Billingsley Creek and not allow other users to divert it, the order would, in effect, establish a minimum stream flow for Billingsley Creek. Section 42-222(1) expressly prohibits the establishment of a minimum stream flow under the public interest criterion of the laws governing transfers. It states in relevant part: "Provided however, minimum stream flow water rights may not be established under the local public interest criterion, and may only be established pursuant to chapter 15, title 42, Idaho Code." There is a set procedure for establishing a minimum stream flow. Under the law, the only entity that can establish a minimum stream flow is the Idaho Water Resource Board. *See* I.C. § 42-1504. Neither the GWDs nor IDWR on its own has the authority to establish a minimum stream flow. As such, the Director should not issue a permit conditioned on the concept that the Magic Springs water be "shepherded" to the Snake River.

IV. CONCLUSION

IGWA has failed to carry its burden of demonstrating that it satisfies the criteria set forth in I.C. §42-222, and, for the reasons set forth above, Rangen respectfully requests that the Transfer Application be denied.

DATED This 2nd day of January, 2015.

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 2nd day of January, 2015, I caused a true and correct copy of the foregoing document to be served using the method indicated upon the following:

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 emmi.blades@idwr.idaho.gov	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑
Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☑
North Snake Ground Water District Lyn Carlquist, Chairman c/o Joyce Moreno, Secretary 152 East Main Street	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐

Jerome, ID 83338 nsgwd@safelink.net	E-Mail	☑
Magic Valley Ground Water District Dean Stevenson, Chairman c/o Emily Haynes, Secretary P.O. Box 430 Paul, ID 83347 desteve@pmt.org mvgwd@hotmail.com	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☐ ☐ ☐ ☑
Southwest Irrigation District c/o William A. Parsons, Attorney 137 West 13th Street Burley, ID 83318 wparsons@pmt.org csearle@pmt.org	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☐ ☐ ☐ ☑
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J. Justin May

Rangen H2O

MP2 6/4/2014

6/4/2014

Annotation Digest - All Annotations

Issue Filter: Director's Duty Injury

Prepared by:

Justin May
May, Browning & May

Friday, January 23, 2015

TextMap Annotation Digest Report

Case Name: Rangen H2O
Transcript: [6/4/2014] MP2 6/4/2014
Issue Filter: Director's Duty Injury

Pg: 32 Ln: 14 - Pg: 34 Ln: 2

Annotation:

prohibited from being presented at the hearing itself.
And I will tell you that with respect to the issue of injury that -- and, TJ, you stated this yourself, that the Director had in the past ruled and referred to the conjunctive management rules that require that the Director consider injury in its review of -- or in his review of the mitigation plan.
Now, the distinction, I guess, I draw is that the issue of injury and the presentation of evidence doesn't -- in a mitigation hearing does not need to rise to the level of proof that would be required in a transfer proceeding. And I don't want to mischaracterize that standard, other than to say that the issue, in my opinion, should be is there a reasonable possibility that -- or is there a way in which the mitigation plan can be implemented so that it does not cause injury to other water users or IGWA in general.
So when I started my narrative here, I said that I would not rule on the issues. But at least with respect to injury, the Director has a responsibility to consider injury as part of the mitigation hearing, and I will consider injury and take evidence related to that subject.
Now, I think in that particular motion there was also an argument that Rangen should not be able to present evidence on behalf of other individuals or entities that might be injured. You didn't talk about that particular subject, at least directly, although indirectly I think you did, TJ.
And my response is that the Director's responsibility is much broader than in a court of law. The Director has a responsibility to review the issue of injury. And I can't just exclude those kinds of issues from an evidentiary presentation.
So to the extent that Rangen wants to call witnesses who are water users and could be injured by the mitigation plan, I will allow it. I'll allow it into evidence.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE FOURTH MITIGATION PLAN FILED BY THE IDAHO GROUND WATER APPROPRIATORS FOR THE DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02551 & 36-07694 IN THE NAME OF RANGEN, INC.	Docket No. CM-MP-2014-006 **ORDER APPROVING IGWA'S FOURTH MITIGATION PLAN**

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").[1] 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, 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* ("First Mitigation Plan") to avoid curtailment imposed by the Curtailment Order. The First Mitigation Plan proposed nine possible mitigation activities for junior-priority ground water pumpers to satisfy mitigation obligations.

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 First Mitigation Plan until a decision was issued on the First Mitigation Plan.

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[1] The Curtailment Order is currently on appeal in *Rangen, Inc., v. IDWR*, Twin Falls County Case No. CV-2014-1338. Judge Wildman issued his *Memorandum Decision and Order on Petitions for Judicial Review* ("Memorandum Decision") on October 24, 2014, which affirmed the Director on a number of issues, but held the Director erred by applying a trim line to reduce the zone of curtailment. *Memorandum Decision* at 28. The Memorandum Decision is not yet final, but given that time is of the essence in this matter, this order should not be delayed. Depending on the outcome of the appeal in Case No. CV-2014-1138, aspects of this order may need to be revisited and the mitigation obligation may increase.

On March 17-19, 2014, the Director conducted a hearing for the First Mitigation Plan 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* ("First Mitigation Plan Order"). In the First Mitigation Plan Order, the Director approved two of the nine proposed components of the First Mitigation Plan: (1) credit for current and ongoing mitigation activities (collectively referred to as "aquifer enhancement activities"), and (2) delivery of water directly to Rangen that otherwise would have been delivered in priority to Howard "Butch" Morris ("Morris") but for North Snake Ground Water District ("NSGWD") delivering surface water to Morris through the Sandy Pipeline ("Morris exchange agreement"). The Director rejected the other seven components of the First Mitigation Plan. The Director recognized 1.2 cfs of mitigation credit for IGWA's aquifer enhancement activities and 1.8 cfs of mitigation credit for delivery of water to Rangen as a result of the Morris exchange agreement. The Director recognized a total mitigation credit of 3.0 cfs, 0.4 cfs short of the 3.4 cfs mitigation required for the time period from April 1, 2014, through March 31, 2015. To satisfy the 0.4 cfs mitigation deficiency, the Director ordered curtailment of ground water rights bearing priority dates junior or equal to July 1, 1983, during the 2014 irrigation season. *First Mitigation Plan Order* at 21.[2]

On March 10, 2014, during the pendency of the First Mitigation Plan proceeding, IGWA filed with the Department *IGWA's Second Mitigation Plan and Request for Hearing* ("Second Mitigation Plan") in response to the Curtailment Order. The Second Mitigation Plan proposed delivery of up to 9.1 cfs of water from Tucker Springs, a tributary to Riley Creek, through a 1.3 mile pipeline to the fish research and propagation facility owned by Rangen ("Rangen Facility"). *Second Mitigation Plan* at 2.

On April 17, 2014, IGWA filed *IGWA's Second Petition to Stay Curtailment, and Request for Expedited Decision* ("Second Petition"). The Second Petition asked the Director to "stay implementation of the [Curtailment Order], . . . 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." *Second Petition* at 1. On April 28, 2014, the Director issued an *Order Granting IGWA's Second Petition to Stay Curtailment* stating the Director would revisit the stay at the time a decision on IGWA's Second Mitigation Plan was issued.

On June 4-5, 2014, the Director conducted a hearing for the Second Mitigation Plan at the Department's state office in Boise, Idaho. On June 20, 2014, the Director issued an *Order Approving IGWA's Second Mitigation Plan; Order Lifting Stay Issued April 28, 2014; Second Amended Curtailment Order* ("Second Mitigation Plan Order"). To dovetail the First Mitigation Plan into the Second Mitigation Plan, the Director recalculated the period of time over which the

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[2] On April 25, 2014, Rangen filed *Rangen's Motion for Reconsideration of Order Re: IGWA's Mitigation Plan; Order Lifting Stay; Amended Curtailment Order* ("Motion for Reconsideration") challenging the Director's method of determining mitigation credit for the Morris exchange water. *Motion for Reconsideration* at 1-6. On May 16, 2014, the Director issued both the Order on Reconsideration denying Rangen's Motion for Reconsideration and the Amended Mitigation Plan Order. The Director's method of calculating mitigation credit was not altered. *Amended Mitigation Plan Order* at 21.

volume of water provided by the Morris exchange agreement was averaged to equal the number of days the water would provide full mitigation to Rangen. *Second Mitigation Plan Order* at 6-7. The Director required curtailment or additional mitigation from IGWA under the Second Mitigation Plan after the time full mitigation credit under the First Mitigation Plan expires. *Id.* Specifically, the Director calculated that 2.2 cfs of mitigation water must be delivered to Rangen by the Morris exchange agreement to provide full mitigation during the first year of phased-in mitigation. The Director calculated the 2.2 cfs mitigation obligation by subtracting the 1.2 cfs mitigation credit from aquifer enchancement activities from the 3.4 cfs first year phase-in mitigation obligation. In the Second Mitigation Plan Order, the Director recognized mitigation credit for the Morris exchange agreement at an average rate of 2.2 cfs for the 293-day period between April 1, 2014 and January 18, 2015. As of January 19, 2015, IGWA must begin providing water to Rangen at a rate of 2.2 cfs by other means to meet the 3.4 cfs annual obligation for April 1, 2014 through March 31, 2015. *Id.* at 18. Accordingly, the Director ordered that the April 28, 2014, stay was lifted and failure to deliver 2.2 cfs to Rangen from Tucker Springs by January 19, 2015, will result in curtailment of water rights junior or equal to August 12, 1973, unless another mitigation plan has been approved and is providing the required water to Rangen. *Id.*

On August 27, 2014, IGWA filed *IGWA's Fourth Mitigation Plan and Request for Expedited Hearing* ("Fourth Mitigation Plan").[3] The Fourth Mitigation Plan consists of the "Magic Springs Project." *Fourth Mitigation Plan* at 2. Rangen and Kathy McKenzie separately filed protests to the Fourth Mitigation Plan on September 19, 2014.

The Magic Springs Project is comprised of multiple components including: lease or purchase of 10.0 cfs of water right nos. 36-7072 and 36-8356 owned by SeaPac of Idaho ("SeaPac"); long-term lease or purchase from the Idaho Water Resource Board ("IWRB") of water right nos. 36-4011[4], 36-2734, 36-15476, 36-2414, and 36-2338 to make available to SeaPac; design, construction, operation, and maintenance of the water intake and collection facilities, pump station, and pipeline to transport water from SeaPac's Magic Springs facility to the head of Billingsley Creek directly up gradient from the Rangen Facility; acquisition of permanent easements at Magic Springs for the water intake and collection facilities, pump

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[3] On June 10, 2014, IGWA filed *IGWA's Amended Third Mitigation Plan and Request for Hearing* ("Third Mitigation Plan"). The five components of the Third Mitigation Plan were identified as: 1) Sandy Ponds recharge and Sandy Pipe delivery; 2) improvements to the Curren Tunnel diversion; 3) direct delivery of water right no. 36-16976; 4) recirculation of Rangen water rights; and 5) the Aqua Life project. On August 19, 2014, the Director issued an *Order Denying Rangen's Motion to Dismiss Proposals One, Two, Three, and Four of IGWA's Amended Third Mitigation Plan.* After entry of that order, the only proposals remaining for consideration at the hearing regarding IGWA's Third Mitigation Plan are IGWA's request for mitigation credit for Sandy Ponds recharge, recirculation of Rangen water rights, and the Aqua Life project. On September 25, 2014, IGWA filed *IGWA's Motion to Vacate Hearing* requesting that the hearing scheduled for the Third Mitigation Plan be vacated. On October 7, 2014, IGWA filed *IGWA's Request for Hearing on Sandy Ponds/Sandy Pipe Component of Plan* requesting a hearing on only the Sandy Ponds/Sandy Pipe component of the Third Mitigation Plan, thereby bifurcating it from any hearing that may be held on the remaining components. On October 9, 2014, the Director issued an *Order Granting IGWA's Motion to Vacate Hearing and Notice of Third Status Conference.* A hearing date of February 18 & 19, 2015, for the Sandy Ponds/Sandy Pipe component of the Third Mitigation Plan was determined at a status conference on October 21, 2014.

[4] This water right was mistakenly identified as 36-1044 in the Fourth Mitigation Plan.

station, pipeline, and other necessary features for delivery of water to the head of Billingsley Creek; and approval of a transfer application to change the place of use from SeaPac to Rangen. The Director held a hearing for the Fourth Mitigation Plan on October 8, 2014, at the Department's State office in Boise, Idaho.

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 Magic Springs Project 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.

FINDINGS OF FACT

Rangen's Existing System

1. The Rangen Facility is located in the Thousands Springs area near Hagerman, Idaho. The Rangen Facility is situated below a canyon rim at the headwaters of Billingsley Creek.

2. Immediately east of the Rangen Facility, water emanates from numerous springs on the talus slopes just below the canyon rim. Water also emanates from the Curren Tunnel. The tunnel is a large, excavated conduit constructed high on the canyon rim and extends approximately 300 feet into the canyon wall.

3. 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. The concrete box is commonly referred to as the "Farmers' Box."

4. 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. Water is then delivered from the Rangen Box via a steel pipe to the small raceways. The water diverted by Rangen can then be routed from the small raceways down through the large and CTR raceways at the Rangen Facility. Water can also be spilled out the side of the Rangen Box and returned to the talus slope.

5. In the early 1980's, Rangen built a six-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.

Magic Springs Project

6. IGWA's Fourth Mitigation Plan proposes direct delivery of up to 10 cfs of "first use" water from SeaPac's Magic Springs facility to the Rangen Facility. *Fourth Mitigation Plan* at 2; Ex. 1009 at 4.

7. SeaPac owns two water rights for fish propagation at its Magic Springs facility: 36-7072 which authorizes the diversion of 148.2 cfs for fish propagation from Thousand Springs with a priority date of September 5, 1969, and 36-8356 which authorizes the diversion of 45 cfs for fish propagation from springs with a priority date of May 9, 1988. Ex. 2013, attachments 4 & 5. The two water rights combined may not exceed a total diversion rate of 148.2 cfs. *Id.*

8. A letter of intent executed by IGWA and SeaPac states that SeaPac will agree to lease or sell to IGWA up to 10 cfs of "first use" water from its Magic Springs water rights (36-7072 and 36-8356) for mitigation purposes ("IGWA/SeaPac agreement"). Ex. 1003 at 2.

9. SeaPac currently has a short-term lease of the Aqua Life Aquaculture Facility Hatchery ("Aqua Life") from the IWRB, which owns and operates Aqua Life and water right numbers 36-4011, 36-2734, 36-15476, 36-2414, and 36-2338. SeaPac desires to continue its Aqua Life operations by securing ownership and/or a long-term lease of Aqua Life. Ex. 1003 at 1-3.

10. The IGWA/SeaPac agreement is contingent upon 1) IGWA securing an approval of its Fourth Mitigation Plan from the Department, 2) IGWA securing an order approving the transfer of the point of diversion and place of use (as necessary) from SeaPac to Rangen, 3) IGWA constructing the pump and pipeline facilities and delivering Magic Springs water pursuant to an approved mitigation plan, and 4) IGWA owning or controlling Aqua Life water right numbers 36-4011, 36-2734, 36-15476, 36-2414, and 36-2338 by long-term lease or purchase from the IWRB and making them available to SeaPac. Ex. 1003 at 2-3.

11. The Magic Springs Project will be designed to deliver a maximum flow of 10 cfs of spring water associated with water right 36-7072 to Rangen. IGWA will divert Magic Springs water from a point of diversion authorized by water right number 36-7072. Ex. 1009 at 4.

12. IGWA, on behalf of NSGWD, Magic Valley Ground Water District, and Southwest Irrigation District, submitted an Application for Transfer of Water Right to the Department on September 10, 2014, to add the Rangen Facility as a new place of use for up to 10 cfs from water right number 36-7072. Ex. 1009 at 64-70.

13. On July 18, 2014, prior to filing of the Fourth Mitigation Plan, the IWRB executed a letter of intent with IGWA to make available to IGWA by long-term lease or purchase up to 10 cfs of its Aqua Life water rights as needed to satisfy the mitigation obligation to Rangen ("IGWA/IWRB agreement"). Ex. 1002 at 2.

14. IGWA and the IWRB are negotiating to finalize the details of a thirty-year lease of the Aqua Life water rights and facility. IGWA intends to assign the lease to SeaPac and gain access to the Magic Springs water. Tr. p. 38-40; 87-89.

Engineering Design

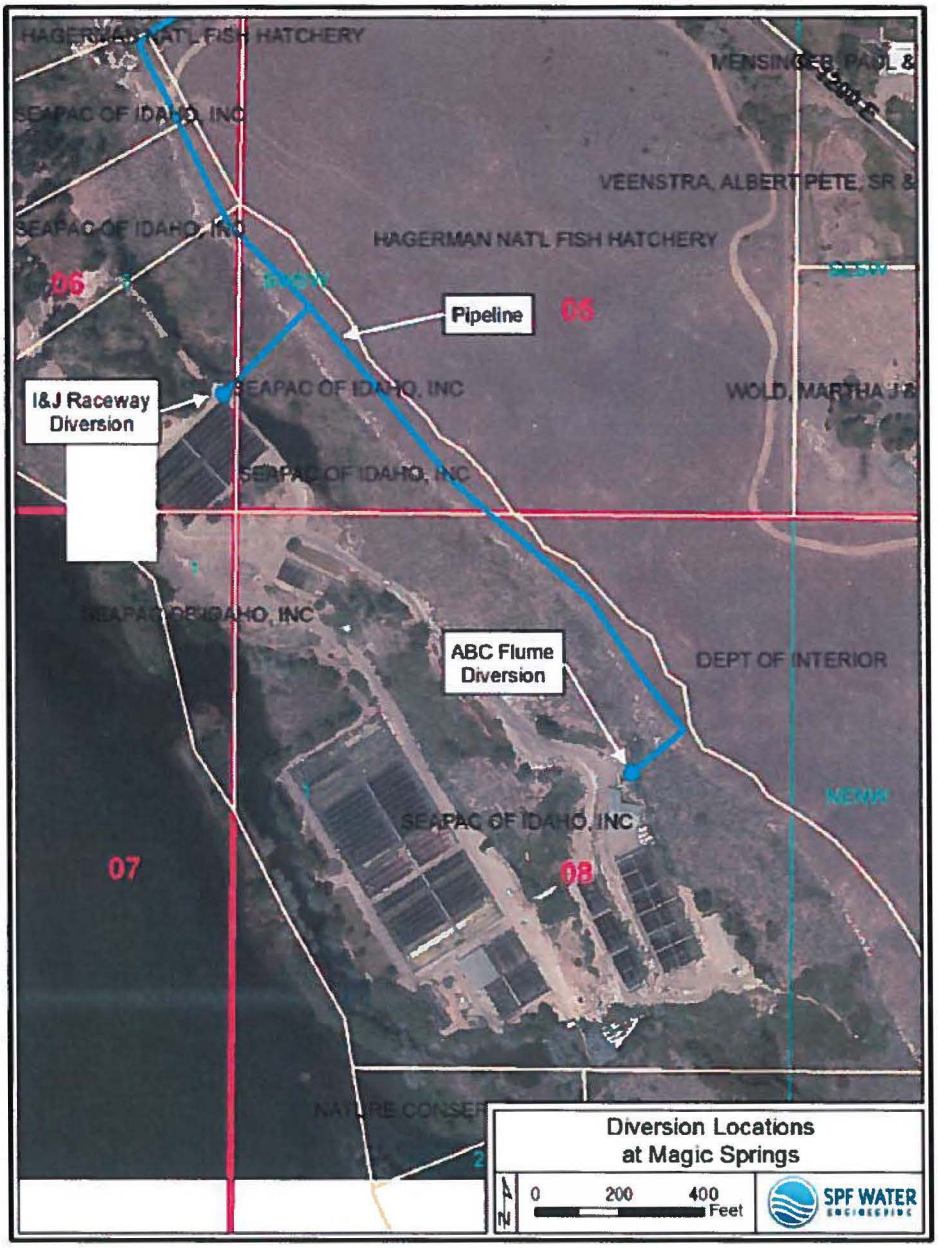
15. Engineers for IGWA have completed sixty percent of the engineering design necessary to construct the full Magic Springs Project ("engineering design"). Ex. 1009. The engineering design calls for the construction of a permanent pump station and pipeline system "to reliably deliver 9.1 cfs from Magic Springs to the Rangen [F]acility." *Id.* at 10.

16. The engineering design also calls for the construction of a temporary pump and pipeline system to deliver water to Rangen by January 19, 2015, when the Morris exchange agreement will no longer provide full mitigation to Rangen as set forth in the Second Mitigation Plan Order.[5] Ex. 1009 at 7-9. The design plans call for the delivery of 0.5 cfs to Rangen by January 19, 2015, but Bob Hardgrove ("Hardgrove"), the design engineer for IGWA, testified that the temporary system design could be modified to provide up to 2.2 cfs of water. Tr. p. 152-53.

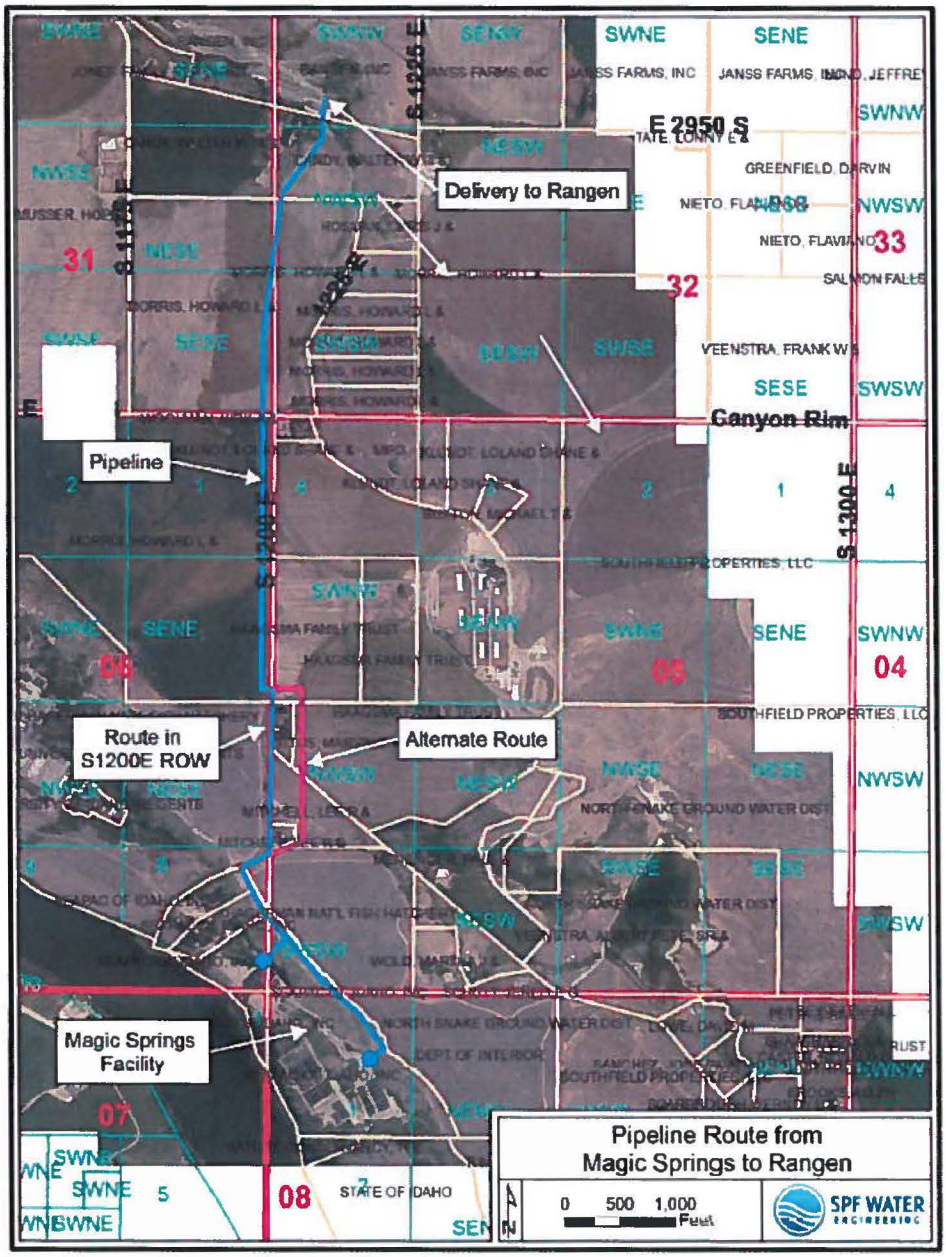
Permanent Pump Station and Pipeline System

17. The following figure taken from Exhibit 1009 at 13 displays two potential diversion points that have been identified below the rim at the Magic Springs facility: the I&J Raceway Diversion ("I&J Diversion") and the ABC Flume Diversion ("ABC Diversion").

[5] On October 1, 2014, Rangen filed a motion in limine seeking to exclude presentation of evidence regarding the temporary pump and pipeline system at the October 8, 2014, hearing on the Fourth Mitigation Plan. The Director verbally denied the motion at the commencement of that hearing.



18. The pipeline alignments for the I&J Diversion and the ABC Diversion eventually intersect on top of the rim within SeaPac property, and from that point to the Rangen Facility, the alignment for both points of diversion is the same. Ex. 1009 at 10. The following figure taken from Exhibit 1009 at 11 depicts the proposed pipeline alignments:



- ABC Diversion, Pipeline, and Pump Station

19. The ABC Diversion, an authorized point of diversion under SeaPac's water right 36-7072, will connect to an existing concrete flume that carries ABC spring water to raceways at the Magic Springs facility. Ex. 1009 at 12. A 24-inch diameter and approximately 120 foot long gravity pipeline constructed of welded steel pipe will carry water from the flume to the pump station. *Id.* at 14. This pipeline will be installed above-ground and will connect to the flume via a new concrete collection box. *Id.* A head gate will be installed on the upstream end of the pipeline to isolate the feed to the pump station for maintenance. *Id.*

20. The proposed pipeline from the ABC Diversion to Rangen is approximately 1.9 miles long. Ex. 1009 at 16. In addition to the 120 feet of welded steel pipe for the gravity line from the ABC flume to the pump station, approximately 360 feet of exposed, above-ground welded 24-inch diameter steel pipe will convey water from the pump station to the top of the rim. *Id.* at 16, 27. Once to the top of the rim, the pipeline will change to 24-inch diameter high-density polyethylene pipe ("HDPE pipe"). *Id.* The HDPE pipe will be buried for approximately 9,440 feet. The HDPE pipe will be connected using a butt-fusion welding machine and interior welds will be de-beaded resulting in a fully restrained and leak-free pipeline. *Id.*

21. A minimum of three feet of cover is required for the pipeline installation. Ex. 1009 at 16. Combination air valves will be installed at the high points and pipeline drains will be installed at the low points. *Id.*

22. The engineering design calls for a skid-mounted packaged pump station including pumps, mechanical piping, valves, flow meter, variable frequency drives ("VFDs"), and associated controls, generators, and enclosure. Ex. 1009 at 14.

23. The pump station will include three short-set line-shaft turbine pumps. Ex. 1009 at 14. Two of the pumps will be duty pumps and one will be on standby to ensure that two pumps can operate at all times. Ex. 1009 at 14. The pumps will be placed in individual 24-inch diameter pump cans that will be approximately seven feet below existing ground surface. *Id.* The 24-inch diameter gravity line from the ABC flume will deliver water to the pump cans. *Id.*

24. The pump station will be enclosed for protection from weather and to reduce sound. Ex. 1009 at 12. The insulated enclosure will be heated and ventilated. *Id.* The pump station enclosure will be lockable and durable. *Id.*

25. To deliver 9.1 cfs to Rangen[6] from the ABC Diversion, the pump station must produce approximately 200 feet of total dynamic head ("TDH"). Ex. 1009 at 15. The pumps will require nominal 150-hp motors that will be controlled by VFDs to maintain any operator-adjustable flow rate up to 10 cfs. *Id.* System operation will be controlled by a programmable logic controller with remote monitoring and auto-restart capabilities. *Id.* The packaged pump station will include an isolation and check valve on each pump, a mainline butterfly valve, pressure relief, combination air valve, and a flow meter. *Id.*

26. Three-phase power is available at Magic Springs to power the ABC pump station. Ex. 1009 at 15; Tr. p. 158. Idaho Power can supply the pump station with the necessary electrical service without any upgrades. *Id.*

27. A generator is proposed to provide emergency power. Ex. 1009 at 15. The generator will automatically start within seconds of a power outage. Tr. p 158-59. While the pumps will need to be slowly ramped up, the full pumping capacity can be restored within two or three minutes. *Id.* The generator proposed by IGWA is the type used by municipal water systems, semiconductor facilities, and hospitals. *Id.* at 159.

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[6] The design plans for the project state that "IGWA has requested SPF design a 10-cfs pumping and pipeline system to reliably deliver 9.1 cfs from Magic Sprigs to the Rangen [F]acility." Ex. 1009 at 10.

28. The redundant pump, remote monitoring and alarming capabilities, auto-restart, proposed standby power generator and auto-transfer switch, and lockable and durable pump station enclosure make the pump station dependable, and will minimize downtime due to maintenance and power outages. Ex. 1009 at 15.

- I&J Diversion, Pipeline, and Pump Station

29. The I&J Diversion, if chosen as the point of diversion, will divert water from the manifold at the head of the I&J raceway, eliminating the need to construct new spring collection infrastructure. Ex. 1009 at 16. The I&J Diversion is directly adjacent to the spring water source pond and is upstream of any commercial use within the raceway. *Id.*

30. A 24-inch diameter ductile iron pipe buried for approximately forty-five feet, will convey water from the I&J raceway to the pump station. Ex. 1009 at 17. A head gate will be installed on the upstream end of the gravity line to isolate the feed to the pump station for maintenance. *Id.*

31. The total pipeline length from the I&J Diversion to Rangen is 1.6 miles. Ex. 1009 at 19. A 24-inch diameter exposed, above-ground steel pipe 365 feet long will convey Magic Springs water from the I&J Diversion to the top of the rim. Approximately 7,980 feet of buried 24-inch diameter HDPE pipe will convey water from the top of the rim to the Rangen Facility. Ex. 1009 at 19. The HDPE pipe will be connected using a butt-fusion welding machine and interior welds will be de-beaded resulting in a fully restrained and leak-free pipeline. *Id.*

32. A minimum of three feet of cover is required for the pipeline installation. Ex. 1009 at 19. Combination air valves will be installed at the high points and pipeline drains will be installed at the low points. *Id.*

33. The engineering design calls for a skid-mounted packaged pump station including pumps, mechanical piping, valves, flow meter, VFDs, and associated controls, generators, and enclosure. Ex. 1009 at 18.

34. The pump station will include three short-set line-shaft turbine pumps. Ex. 1009 at 18. Two of the pumps will be duty pumps and one will be on standby to ensure that two pumps can operate at all times. *Id.* The pumps will be placed in individual 24-inch diameter pump cans that will be approximately twelve feet below existing ground surface. *Id.* The 24-inch diameter gravity line from the I&J raceway will deliver water to the pump cans. *Id.*

35. To deliver 10 cfs to Rangen from the I&J Diversion, the pump station must produce approximately 220 feet of TDH. Ex. 1009 at 18. The pumps will require nominal 200-hp motors that will be controlled by VFDs to maintain any operator-adjustable flow rate up to 10 cfs. *Id.* System operation will be controlled by a programmable logic controller with remote monitoring and auto-restart capabilities. *Id.* The pump station for the I&J Diversion will be designed to be a reliable and secure facility including a redundant pump, remote monitoring and

alarming capabilities, auto-restart, and a proposed standby power generator and auto-transfer switch. *Id.*

36. Three-phase power is available at Magic Springs to power the I&J pump station. Ex. 1009 at 18-19. Idaho Power can supply the pump station with the necessary electrical service without any upgrades. *Id.*

Temporary Pump and Pipeline System

37. IGWA proposes a temporary pump and pipeline system to deliver water from Magic Springs to the Rangen Facility. The engineering design proposes delivery of 0.5 cfs to Rangen, but at the hearing, Hardgrove testified the system design could be changed to deliver up to 2.2 cfs through the temporary system. Ex. 1009 at 7; Tr. p. 152-53.

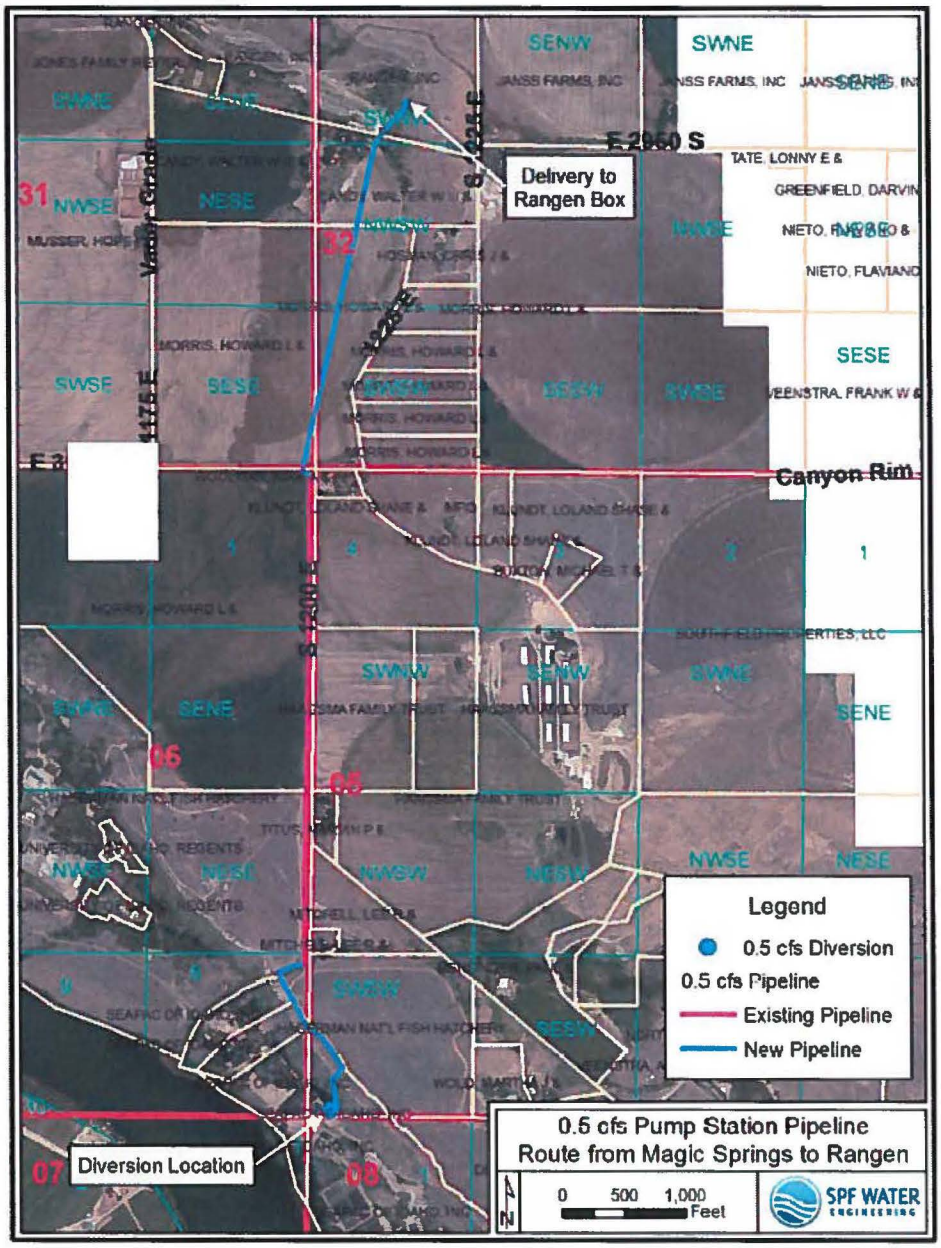
38. Delivery of 0.5 cfs to Rangen by January 19, 2015, will result in a remainder mitigation obligation of 1.7 cfs (3.4 cfs total mitigation obligation for the time period of April 1, 2014, through March 31, 2015, minus 1.2 cfs for aquifer enhancement activities, minus 0.5 cfs via IGWA's temporary pipeline).

39. The engineering design calls for a temporary end-suction pump that will be constructed to pump water directly from the upstream end of the I&J raceway at the Magic Springs facility. Ex. 1009 at 7. The pump will be designed with a manual priming pump and foot valve on the suction line. The design plans call for a pump to be sized for a TDH of 200 feet and a flow of 225 gpm (0.5 cfs) and will require a twenty-hp motor. *Id.* A larger pump can be used if IGWA decides to deliver 2.2 cfs to Rangen. Tr. p. 152-53.

40. IGWA alludes there will be some manual monitoring of the pump to ensure it is operating correctly: "Pump monitoring during the day will be completed by the general contractor selected for the pump installation." Ex. 1009 at 7. SeaPac staff that live on-site at the Magic Springs facility will be available during non-working hours for pump monitoring. *Id.* Hardgrove testified that backup pumps and power could be added to the temporary system to address concerns about backup power and reliability. Tr. p. 208-09.

41. The engineering design explains the proposed temporary pipeline alignment will parallel the permanent pipeline alignment. Ex. 1009 at 7. The design plans call for a six-inch diameter SDR 9 HDPE pipe to be placed on top of the ground from the pump to the top of the rim. *Id.* A 10 inch diameter pipe would be used if IGWA decides to increase the amount of water to 2.2 cfs. Tr. p. 152-53. The pipe will be hung, above-ground, from the rim and will be restrained across the talus slope with sand bags. Ex. 1009 at 7. Once on top of the rim, the pipe will be placed on top of the ground north to property owned by Lee and Mary Mitchell ("Mitchell"). *Id.* From the south end of the Mitchell property north to E 3000 S, water will be delivered through existing pipe owned by Morris. *Id.* New pipe will be buried under E 3000 S. *Id.* From the north side of the road to the Rangen property, pipe will be placed on top of the ground through dormant fields owned by Morris and Walter Candy. *Id.* The pipe will then follow the existing above grade piping up the talus slope and discharge into the existing Rangen

Box. *Id.* This described alignment is depicted in the following figure taken from Exhibit 1009 at 9[7]:



42. Once full build-out of the permanent pump station and pipeline occurs and the permanent piping is successfully delivering water to Rangen, the temporary piping facilities will be removed. Ex. 1009 at 8.

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[7] The engineering design and Hardgrove explained that additional portions of buried piping network that belong to Morris and idle above ground six-inch aluminum irrigation pipe have the potential to be used, which would result in a reduction of the amount of new pipe required for the temporary pipeline project. Ex. 1009 at 8-9; tr. p. 201-04. However, further investigation would be needed to confirm reliability, location, and materials of those existing pipes. *Id.*

Required Property Crossings for Permanent and Temporary Pipeline Alignments

43. Pursuant to the IGWA/SeaPac agreement, SeaPac will grant IGWA permanent easements at its Magic Springs facility to access design, construct, operate and maintain the water in-take and collection facilities, pump station, pipeline, and other facilities as necessary to divert and deliver water for mitigation purposes. Ex. 1003 at 2.

44. Once the proposed pipelines exit SeaPac property, the proposed alignments to the Rangen Facility cross properties owned by the following: Mitchell, North Side Canal Company, Hagerman Highway District, Howard "Butch" and Rhonda Morris (hereinafter collectively referred to as "Morris"), Walter and Margaret Candy ("Candy"), and Rangen.

45. IGWA and Mitchell entered into an option agreement on October 4, 2014, to allow IGWA an exclusive and irrevocable option and right to purchase an easement to construct, own, and operate a buried pipeline through Mitchell's property to convey 10 cfs of water from Magic Springs to the head of Billingsley Creek for mitigation purposes. Ex. 1034 at 1, 7.

46. North Side Canal Company has given IGWA verbal assurances that IGWA may run pipeline through North Side Canal Company's property. Tr. p. 103, 148.

47. The Hagerman Highway Commissioners held a meeting on September 26, 2014, and approved "the proposed main pipeline alignment within the S1200E right of way." Ex. 1014.

48. IGWA executed option agreements with Morris and Candy to purchase easements for the construction/placement of a pipeline through those properties to deliver Tucker Springs water to the Rangen Facility as part of the Second Mitigation Plan. Ex. 1012 & 1013. Morris is willing to provide and utilize the same option agreement to allow an easement for purposes of the Magic Springs Project. Tr. p. 50. The pipeline alignment through the Candy property for the Magic Springs Project is the same alignment proposed for the Tucker Springs Project. Tr. p. 51.

Tie-in to Rangen's Delivery System

49. The pipeline from Magic Springs will connect to the existing pipeline between the hatch house and the small raceway at the Rangen Facility. Ex. 1009 at 19. Redundant butterfly valves will be installed immediately upstream of the tie-in point to maintain minimum upstream pressure in the pipeline under all static and operating conditions. *Id.* Throttling the butterfly valve will ensure a full pipeline upstream of the valve and that enough pumping head is developed to transport water over the mainline high-point without creating a vacuum condition. *Id.* Only one throttling valve will be utilized at a time and should the active valve need replaced, the other valve could be used to maintain delivery of water to Rangen. *Id.* Isolation valves will be installed on either side of each butterfly valve to allow for maintenance or replacement. *Id.* The butterfly valves will be housed in a buried vault on Rangen's property. *Id.*

50. Directly downstream of the valve vault, the new pipeline will connect by a tee to the existing buried steel pipeline between the hatch house and small raceway at the Rangen

Facility. Ex. 1009 at 19. A butterfly valve will be installed on the small raceway leg of the tee to allow control of flow into the small raceway. *Id.* An existing valve located in a vault near the hatch house could be used to control flow from or to the Rangen Box. *Id.* There is also an existing valve and lateral that could deliver water from the buried pipeline to the hatch house. *Id.*

51. Hardgrove testified that the tie-in design could be modified to satisfy the needs of Rangen. Tr. p. 164.

Project Schedule

52. Figure 5 on page 20 of Exhibit 1009 is IGWA's project schedule. The target date to deliver water to Rangen via the temporary pump and pipeline system is January 19, 2015. The target date to deliver up to 10 cfs to Rangen via the permanent pump and pipeline system is April 1, 2015. IGWA's project schedule does not take into account the time for processing IGWA's September 10, 2014, transfer application to add the Rangen Facility as a new place of use for up to 10 cfs from water right number 36-7072.

Project Costs

53. The engineering design provides estimated design and construction costs for the ABC Diversion and I&J Diversion alignment options, but not the proposed temporary pipeline. For the I&J Diversion alignment, the estimated design and construction cost is $2,217,000. *Id.* at 22. For the I&J Diversion, annual system operational costs were estimated to be $176,392. *Id.* For the ABC Diversion alignment, the estimated design and construction cost is $2,349,000. Ex. 1009 at 21. Annual system operational costs for the ABC Diversion alignment were estimated to be $163,966. *Id.* at 24.

54. Rangen raised concerns at the October 8, 2014, hearing regarding how design, construction, and annual system operational costs would be paid for. Tr. p. 108-09. Lynn Carlquist ("Carlquist"), chairman of the board of NSGWD, explained assessments to NSGWD members have been increased for the upcoming budget year in order to help pay for mitigation costs. Tr. p. 108. He also testified that informal discussions revealed money could be borrowed from the IWRB in order to fund the Magic Springs Project. *Id.*; Tr. p. 124-25. Carlquist stated "But I'm not too worried about finding the funds for this, either privately or from the Water Resource Board." *Id.* at 109.

Insurance

55. Carlquist testified that, as an additional protective measure, IGWA can acquire insurance to insure against aquaculture production losses due to pumping system failures. Tr. p. 53-54; Ex. 1016.

Water Quality Issues

56. The engineering design presents water quality field analysis done at both Magic Springs and Rangen, which focused on temperature, pH, electrical conductivity, specific conductance, and dissolved oxygen. Ex. 1009 at 6.

Temperature

57. The temperature of Magic Springs water is very similar to temperature readings at Rangen. Ex. 1009 at 6. The temperature of Magic Springs water is suitable for rearing trout. *Id.*

58. An AMEC temperature analysis revealed that, with use of the ABC diversion system, the maximum expected rise in temperature from the diversion to the Rangen Facility is 10.96 degrees Fahrenheit for uninsulated steel pipe and 0.08 degrees Fahrenheit for insulated steel pipe. Ex. 1009, Appendix C. With use of the I&J diversion system, the maximum expected rise in temperature is 8.8 degrees Fahrenheit for uninsulated steel pipe and 0.06 degrees Fahrenheit for insulated steel pipe. *Id.* IGWA will insulate the permanent pipeline regardless of the chosen point of diversion in order to keep the water temperature within an acceptable range for delivery to the Rangen Facility. Tr. p. 160; Tr. p. 248-49.

59. Rangen raised concerns at the hearing regarding the potential for water temperature to rise to an unacceptable range if transported through the temporary pipeline. Tr. 249. IGWA's expert Hardgrove testified: "This is the January/February/March time frame, so external temperatures will not have any heating effects on the water, more than likely, if people are concerned about an increase in temperature." Tr. p. 152.

Water Chemistry

60. IGWA gathered and analyzed water quality field data regarding dissolved oxygen, conductivity, and pH of the water at Magic Springs and Rangen. Ex. 1009 at 6. In general, the Magic Spring water had a pH and dissolved oxygen concentration similar to that found at Rangen. *Id.* The electrical conductivity and specific conductance had slightly higher readings than the water at Rangen. *Id.*

61. In its answer to interrogatory number five, Rangen stated that dissolved oxygen and pH of the water at Magic Springs as set forth in the engineering design appear to be within acceptable ranges. Ex. 1032 at 4. Hardgrove testified that, if deemed necessary, infrastructure including packed columns or aeration structures or degassing facilities could be added at the Rangen site. Tr. p. 145. Rangen raised no concerns regarding electrical conductivity or specific conductance.

62. The engineering design concludes there are no critical water quality disparities between the Magic Springs and Rangen water sources and that water from Magic Springs will be suitable for raising trout at Rangen. Ex. 1009 at 7. Rangen has previously purchased fingerlings from Magic Springs to stock in ponds and raise at the Rangen Facility. Tr. p. 219; 247. The water quality at Magic Springs is suitable for raising trout at the Rangen Facility.

63. With respect to the temporary pipeline system, Rangen raised concerns that, if used irrigation pipe delivers water to Rangen, there is a risk of contamination of water delivered from Magic Springs to the Rangen Facility. Tr. p. 241, 252.

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"). 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 factors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights.

5. The Director concludes IGWA's Fourth Mitigation Plan is an acceptable mitigation plan under the CM Rules and conditionally approves the plan. The Fourth Mitigation Plan adequately describes the actions that will be taken by IGWA to mitigate material injury to Rangen by pumping water from Magic Springs to the Rangen Facility for the beneficial purpose of fish propagation. CM Rule 43.01.d. The plan is in compliance with Idaho law. CM Rule 43.03.a. The plan has been geographically located and engineered. While IGWA has not finalized some aspects of the plan, for instance IGWA offered two possible points of diversion and also offered at least two alternative pipeline alignments, this does not render the plan unapprovable. In fact, because some aspects of the plan have not yet been finalized, this will

provide Rangen an opportunity to offer additional input on issues such as how to integrate the Magic Springs water into Rangen's system.

6. If implemented, the plan will provide water to Rangen "at the time and place required by the senior-priority water right… ." CM Rule 43.03.b.

7. The permanent pipeline system proposed in the Fourth Mitigation Plan satisfies the necessary standard of temperature, water chemistry, reliability, and biosecurity. Should dissolved oxygen levels become an issue once the permanent pipeline system is constructed and operating, IGWA will be required to install an aeration system to oxygenate the water. Similarly, should it appear that gas supersaturation is an issue once the system is constructed and operating, IGWA will be required to address the issue.

8. The redundancy built into the permanent pumping and power system are the same type and design as those used by municipalities and hospitals and are of sufficient protection to justify approval of the Fourth Mitigation Plan. The system design is reliable. CM Rule 43.03.h. If IGWA builds the temporary pipeline, IGWA must provide similar redundancy for pumping and power systems.

9. While the system design near the proposed points of diversion at Magic Springs is open (i.e. there is no netting surrounding the headwaters of the springs and points of diversion), this is similar to the open systems at other fish hatcheries. Tr. p. 217-19. The open nature of these delivery systems does not cause problems for operations of fish facilities. *Id.* The system design provides adequate protection.

10. With respect to the temporary pipeline system, because the pipeline will be above ground, IGWA will be required to monitor the temperature of water delivered to the Rangen Facility through the pipeline to ensure temperatures remain within a suitable range for raising trout at the Rangen Facility.

11. Concerns were raised by Rangen about any potential contamination through the use of existing pipe to develop the temporary pipeline system. If IGWA decides to develop a temporary pipeline system, IGWA must build the pipeline using new pipe.

12. The Fourth Mitigation Plan should be approved conditioned upon the approval of the IGWA's September 10, 2014, Application for Transfer of Water Right to add the Rangen Facility as a new place of use for up to 10 cfs from water right number 36-7072 or an authorized lease through the water supply bank. The consideration of a transfer application is a separate administrative contested case evaluated pursuant to the legal standards provided in Idaho Code §§ 42-108 and 42-222. Issues of potential injury to other water users due to a transfer are most appropriately addressed in the transfer contested case proceeding.

13. An additional condition of approval is that all necessary agreements or options contracts must be reduced to final written agreements including:

a. The IGWA/SeaPac agreement;

b. The IGWA/IWRB agreement;
c. Easements with Mitchell, North Side Canal Company, Hagerman Highway District, Morris, and Candy.

14. IGWA is required to pay for all costs of building, operating, maintaining, and monitoring the pipeline(s). As an additional contingency, IGWA is also required to purchase an insurance policy for the benefit of Rangen to cover any losses of fish attributable to the failure of the temporary or permanent pipeline system to the Rangen Facility. CM Rule 43.03.c

15. IGWA is entitled to know whether Rangen will refuse the replacement water. It appears Rangen will accept water provided from Magic Springs:

> Question by Randy Budge, Attorney for IGWA: If [the water is] the quality of Magic [Springs], according to the tests and the testimony of Mr. Hardgrove, and according to the interrogatory answers of Rangen, that it's suitable to raise fish, if it comes in that form will you in fact begin to ramp up and change your operations and utilize it, or will you wait until April 1 when you know you have a constant supply of 5 or 6 [cfs], whatever is required, from that point on?
>
> Response by Joy Kinyon, Rangen Manager: I think I've already answered that. But yes, if its suitable water, we will use that water for raising fish.

Tr. R. p. 253. However, to be certain, Rangen should be afforded an opportunity to consider and formally notify IGWA of its intent. Within seven (7) days from the date of this order, Rangen must state, in writing, whether it will accept the water delivered pursuant to the Magic Springs Project.

16. IGWA shall provide the 100 percent engineering design to the Department and Rangen upon its completion of the design. Objections to the 100 percent design must be filed within seven (7) days of receipt of the design. If no objections are received, the final engineering design will be deemed acceptable.

17. This approval does not modify the deadline established in the Director's approval of the Second Mitigation Plan. IGWA must provide the full 2.2 cfs mitigation required when credit for the Morris exchange agreement expires on January 19, 2015, or junior-priority ground water pumpers will face curtailment to satisfy the mitigation deficiency unless another mitigation plan has been approved and is providing water to Rangen at its time of need.

ORDER

Based upon and consistent with the foregoing, the Director hereby orders as follows:

IT IS ORDERED that the Fourth Mitigation Plan is conditionally approved. It is approved conditioned upon approval of IGWA's September 10, 2014, Application for Transfer of Water Right to add the Rangen Facility as a new place of use for up to 10 cfs from water right number 36-7072 or an authorized lease through the water supply bank. Approval is also

conditioned upon all necessary agreements or options contracts being reduced to final written agreements.

IT IS FURTHER ORDERED that, should dissolved oxygen levels become an issue once the permanent pipeline system is constructed and operating, IGWA will be required to install an aeration system to oxygenate the water. Similarly, should it appear that gas supersaturation is an issue once the system is constructed and operating; IGWA will be required to address the issue.

IT IS FURTHER ORDERED that, if IGWA builds the temporary pipeline, IGWA must provide similar redundancy for the pumping and power system as proposed for the permanent pipeline pumping and power system. IGWA must also monitor the temperature of water delivered to the Rangen Facility through the temporary pipeline to ensure temperatures remain within a suitable range for raising trout at the Rangen Facility. In addition, if IGWA decides to construct a temporary pipeline system, IGWA must build the pipeline with new pipe.

IT IS FURTHER ORDERED that IGWA is required to purchase an insurance policy for the benefit of Rangen to cover any losses of fish attributable to the failure of the temporary or permanent pipeline system to the Rangen Facility.

IT IS FURTHER ORDERED that, within seven (7) days from the date of this order, Rangen must state, in writing, whether it will accept water delivered pursuant to the Magic Springs Project. Rangen must submit its written acceptance/rejection to the Department and IGWA. The written acceptance/rejection must state whether Rangen will accept the Magic Springs water and whether Rangen will allow construction on its land related to placement of the delivery pipe. If the Fourth Mitigation Plan is rejected by Rangen or Rangen refuses to allow construction in accordance with an approved plan, IGWA's mitigation obligation is suspended.

IT IS FURTHER ORDERED that IGWA shall provide the 100 percent engineering design to the Department and Rangen upon its completion of the design. Objections to the 100 percent design must be filed within seven (7) days of receipt of the design. If no objections are received, the final engineering design will be deemed acceptable.

IT IS FURTHER ORDERED that failure to provide water by January 19, 2015, to Rangen to satisfy the 2.2 cfs mitigation deficiency will result in curtailment of junior water rights, unless another mitigation plan has been approved and is providing water to Rangen at its time of need. If IGWA fails to satisfy this obligation, at 12:01 a.m. on or before January 19, 2015, users of ground water holding consumptive water rights bearing priority dates junior to August 12, 1973, 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 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 A to this order. The water rights on the list bear priority dates equal or junior to August 12, 1973. 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 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.

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 29th day of October 2014.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 29th, 2014, I served a true and correct copy of the *ORDER APPROVING IGWA'S FOURTH MITIGATION PLAN* on the persons listed below by the method indicated.

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☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☒ Email

FRITZ X HAEMMERLE
HAEMMERLE HAEMMERLE
PO BOX 1800
HAILEY ID 83333-1800
fxh@haemlaw.com

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☒ Email

KATHY MCKENZIE
PO BOX 109
HAGERMAN ID 83332
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☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☒ Email

Deborah J. Gibson
Deborah Gibson
Administrative Assistant to the Director

ATTACHMENT A

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
2+RANCH LLC	36-16161	8/9/1975	2.97	IRRIGATION, MITIGATION	395.5
2+RANCH LLC	36-16163	8/9/1975	0.02	MITIGATION	
4 BROS DAIRY INC	37-20613	12/19/1974	1.12	STOCKWATER, COMMERCIAL	
4 BROS DAIRY INC	37-20614	12/19/1974	0.58	STOCKWATER, COMMERCIAL	
4 BROS DAIRY INC	37-22653	5/16/1980	0.02	STOCKWATER, COMMERCIAL	
4 BROS DAIRY INC	37-7033	7/5/1988	2.16	IRRIGATION	211
4 BROS DAIRY INC	37-7278	9/10/1973	6	IRRIGATION	390.9
4 BROS DAIRY INC	37-7575	3/28/1977	2.21	IRRIGATION	349
4 BROS DAIRY INC	37-8813	10/14/1983	0.13	STOCKWATER, COMMERCIAL	
4 BROS DAIRY INC	37-8814	7/10/1983	0.1	STOCKWATER, COMMERCIAL	
93 GOLF RANCH	36-7573	10/31/1975	2.92	IRRIGATION	188
A & B IRRIGATION DISTRICT; UNITED STATES OF AMERICA ACTING THROUGH	36-15127B*	4/1/1984	28.89	IRRIGATION	82610
A & B IRRIGATION DISTRICT; UNITED STATES OF AMERICA ACTING THROUGH	36-15193B*	4/1/1965	0.31	IRRIGATION	82610
A & B IRRIGATION DISTRICT; UNITED STATES OF AMERICA ACTING THROUGH	36-15194B*	4/1/1968	2.51	IRRIGATION	82610
A & B IRRIGATION DISTRICT; UNITED STATES OF AMERICA ACTING THROUGH	36-15195B*	4/1/1978	2.24	IRRIGATION	82610
A & B IRRIGATION DISTRICT; UNITED STATES OF AMERICA ACTING THROUGH	36-15196B*	4/1/1981	0.08	IRRIGATION	82610
AARDEMA FARMS LTD PARTNERSHIP	36-10225F	5/1/1985	0.01	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-14035B	5/26/1976	0.42	STOCKWATER, COMMERCIAL	
AARDEMA FARMS LTD PARTNERSHIP	36-15256C*	3/15/1975	0.92	IRRIGATION	401.6
AARDEMA FARMS LTD PARTNERSHIP	36-15256D	3/15/1975	0.11	STOCKWATER, COMMERCIAL	
AARDEMA FARMS LTD PARTNERSHIP	36-15563	2/26/1979	1.91	IRRIGATION	608
AARDEMA FARMS LTD PARTNERSHIP	36-16275	5/28/1974	0.19	IRRIGATION	302.7
AARDEMA FARMS LTD PARTNERSHIP	36-16277	2/4/1976	0.17	IRRIGATION	302.7
AARDEMA FARMS LTD PARTNERSHIP	36-16279	2/22/1978	0.57	IRRIGATION	302.7
AARDEMA FARMS LTD PARTNERSHIP	36-16281	12/11/1978	0.03	IRRIGATION	302.7
AARDEMA FARMS LTD PARTNERSHIP	36-16283*	5/1/1985	0.17	IRRIGATION	302.7
AARDEMA FARMS LTD PARTNERSHIP	36-16449	5/26/1976	0.19	STOCKWATER, COMMERCIAL	
AARDEMA FARMS LTD PARTNERSHIP	36-16891	1/10/1997	0.06	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-16893	11/1/1979	0.02	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-16896	5/26/1976	6.03	IRRIGATION	435.1
AARDEMA FARMS LTD PARTNERSHIP	36-16897	5/26/1976	0.23	STOCKWATER, COMMERCIAL	
AARDEMA FARMS LTD PARTNERSHIP	36-7477F	5/28/1974	0.01	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-7606F	2/4/1976	0.01	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-7734	3/11/1977	1	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	30
AARDEMA FARMS LTD PARTNERSHIP	36-7779F	2/22/1978	0.02	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-7832F	12/11/1978	0.01	STOCKWATER	
AARDEMA FARMS LTD PARTNERSHIP	36-8169	4/6/1983	0.26	STOCKWATER, COMMERCIAL	
AARDEMA FARMS LTD PARTNERSHIP	36-8517	4/3/1990	0.04	STOCKWATER, COMMERCIAL	
AARDEMA, CORNELIA; AARDEMA, FRANS; BOX CANYON LAND HOLDINGS LLC; HEIDA, MARY JANE; HEIDA, THOMAS	36-15181*	3/15/1982	0.23	IRRIGATION	54
AARDEMA, CORNELIA; AARDEMA, FRANS; BOX CANYON LAND HOLDINGS LLC; HEIDA, MARY JANE; HEIDA, THOMAS	36-7387D	10/27/1973	0.15	STOCKWATER, COMMERCIAL	
AARDEMA, CORNELIA; AARDEMA, FRANS; BOX CANYON LAND HOLDINGS LLC; HEIDA, MARY JANE; HEIDA, THOMAS	36-7650A	7/30/1976	1.22	IRRIGATION	220

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AARDEMA, CORNELIA; AARDEMA, FRANS; BOX CANYON LAND HOLDINGS LLC; HEIDA, MARY JANE; HEIDA, THOMAS	36-8305	2/14/1986	1.9	IRRIGATION	95
AARDEMA, CORNELIA; AARDEMA, FRANS; BOX CANYON LAND HOLDINGS LLC; HEIDA, MARY JANE; HEIDA, THOMAS	36-8362	6/3/1988	1	STOCKWATER, COMMERCIAL	
AARDEMA, DONALD J	36-8548	5/11/1990	0.06	STOCKWATER	
AARDEMA, DONALD JOHN	36-10225H*	5/1/1985	0.01	IRRIGATION	3
AARDEMA, DONALD JOHN	36-7477H	5/28/1974	0.01	IRRIGATION	3
AARDEMA, DONALD JOHN	36-7606H	2/4/1976	0.01	IRRIGATION	3
AARDEMA, DONALD JOHN	36-7779H	2/22/1978	0.01	IRRIGATION	3
AARDEMA, DONALD JOHN	36-7832H	12/11/1978	0.01	IRRIGATION	3
AARON BALL FARMS INC	36-8183	5/12/1983	0.66	STOCKWATER, COMMERCIAL	
ABC AGRA LLC	36-8484	12/11/1989	0.08	COMMERCIAL, DOMESTIC	
ADKINS, GINA; ADKINS, RICK	36-8525	3/2/1990	0.06	IRRIGATION, DOMESTIC	1
AKL PROPERTIES LLC	36-16944	12/11/1981	1.72	IRRIGATION	295.7
ALLEN, BETTY; ALLEN, BUD	37-21225	1/29/1974	0.02	IRRIGATION	1
ALLEN, HERB; ALLEN, MARY CHUGG; LLOYD, DANIEL; TIERNEY LLOYD, MONA LISA	36-8523	4/25/1990	1.89	IRRIGATION	115
ALLEN, JANE C; ALLEN, WAYNE R	36-7418	12/11/1973	3.48	IRRIGATION	217
ALLEN, PATRICIA; ALLEN, STEPHEN B	37-21226	1/29/1974	2.72	IRRIGATION	154
ALLEN, REX	36-7649	10/19/1976	0.26	IRRIGATION, DOMESTIC	12
ALLIANCE LAND & LIVESTOCK LLC	45-13520*	3/15/1976	0.23	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-14104	6/30/1985	0.09	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-14105	6/30/1985	0.01	STOCKWATER, COMMERCIAL	
ALLIANCE LAND & LIVESTOCK LLC	45-14254	5/16/1980	0.08	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-14255*	5/26/1971	0.02	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-14256	9/12/1973	0.24	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-14257	5/4/1978	0.51	STOCKWATER, COMMERCIAL	
ALLIANCE LAND & LIVESTOCK LLC	45-7243	7/1/1975	2.19	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-7482A	11/24/1981	2.18	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-7482B	11/24/1981	1.99	IRRIGATION	3088.3
ALLIANCE LAND & LIVESTOCK LLC	45-7513	10/13/1982	0.31	IRRIGATION	3088.3
ALLRED, JACKSON W; SMITH, MIRIAM ALLRED	45-11142	6/30/1985	3.11	IRRIGATION	2073
ANDERLAND LLC	45-14070	2/6/1979	0.01	IRRIGATION	8.4
ANDERSEN, ALAN H; ANDERSEN, NORMA	45-13394	2/6/1979	0.05	STOCKWATER, COMMERCIAL	
ANDERSON, DONALD M; ANDERSON, JOAN	36-8285	6/14/1985	0.04	IRRIGATION	2
ANDERSON, GEORGE; ANDERSON, MARILYN	36-7777	2/7/1978	1.33	IRRIGATION	75
ANDERSON, SHERRY; HARRIS, STEVEN; JENSEN, CINDY	36-7897	2/25/1980	2.84	IRRIGATION	203
ANDRESEN DAIRY LLC	36-16381	9/12/1973	0.08	STOCKWATER, COMMERCIAL	
ANDRESEN DAIRY LLC	36-8215	6/22/1983	0.07	STOCKWATER, COMMERCIAL, DOMESTIC	
ANDRESEN DAIRY LLC	36-8735	1/10/1992	0.04	STOCKWATER, COMMERCIAL	
ANDREWS, GERALD CLINTON; ANDREWS, MARIAN J	36-15227*	8/27/1973	0.7	IRRIGATION	163
ARKOOSH, KAREN A; ARKOOSH, WILLIAM	37-7570	3/9/1977	4.29	IRRIGATION	277
ASTLE, DOUGLAS D; ASTLE, JANIS L	37-8296	5/11/1987	4.01	IRRIGATION	357.2
ASTLE, GERALDINE; ASTLE, SEM D	37-7538	11/2/1976	4.18	IRRIGATION	285

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ASTLE, MICHELE	37-8125	6/23/1983	0.04	STOCKWATER, COMMERCIAL, DOMESTIC	
ASTLE, RICK J; ASTLE, TANYA R	37-7264	8/21/1973	3.42	IRRIGATION	192
ASTORQUIA, FRANK	37-7475	2/12/1976	0.7	IRRIGATION	35
ASTORQUIA, FRANK	37-8338	5/19/1994	0.6	IRRIGATION	72
ASTORQUIA, FRANK; ASTORQUIA, JOSEPHINE	37-7460	7/3/2002	3.33	IRRIGATION	258
B & H FARMING	36-11643*	4/1/1981	1	IRRIGATION	448
B & H FARMING	36-15226*	6/15/1973	0.36	IRRIGATION	658
B & H FARMING	36-16206	4/14/1983	1.91	IRRIGATION	152
B & H FARMING	36-4264*	4/1/1974	2	IRRIGATION	455
B 4 DAIRY	36-7732B	10/21/1977	0.4	STOCKWATER, COMMERCIAL	
B 4 DAIRY	36-7732C	10/21/1977	2.64	IRRIGATION	132
B 4 DAIRY	36-7732D	10/21/1977	0.34	STOCKWATER, COMMERCIAL	
B-4 DAIRY LLC	36-8050	12/11/1981	2.34	IRRIGATION	403.3
BAAR, ANNA E; BAAR, THEODORE; NORTHWEST FARM CREDIT SERVICES FLCA	36-8478	11/7/1989	0.47	STOCKWATER, COMMERCIAL, DOMESTIC	
BAILEY, CALVIN M; BAILEY, DE ANN W	36-7735	7/25/1977	1.75	IRRIGATION	105
BAILEY, CARL W; BAILEY, STEPHANIE G	36-16981	3/4/1976	1	IRRIGATION	50
BAILEY, CARL W; BAILEY, STEPHANIE G	36-7615	3/4/1976	1.6	IRRIGATION	203
BAILEY, PATSY J; BAILEY, QUINN W	36-7941	9/17/1980	0.13	STOCKWATER, COMMERCIAL	
BAKER, DARRELL JAMES	36-13065A	3/15/1981	0.66	IRRIGATION	260.7
BAKER, DARRELL JAMES	36-13065B	3/15/1981	0.16	IRRIGATION	634.4
BAKER, DWAINE D; BAKER, LINDA	45-4216B	6/30/1985	0.01	IRRIGATION	7
BANDY, BONNIE; BANDY, BRADLEY W	36-7473	5/14/1974	0.1	IRRIGATION	5
BANNOCK PAVING CO	36-7470	4/26/1974	0.33	INDUSTRIAL	
BARNES, T H; COLLINS, LARRY	36-8780	4/17/1998	0.04	IRRIGATION, DOMESTIC	1
BARRYMORE EST SUBDIVISION WATER USERS	36-8155	3/4/1983	0.07	STOCKWATER, DOMESTIC	
BARRYMORE, BLAKE; BARRYMORE, DEBORAH	37-8145	7/7/1983	0.17	COMMERCIAL	
BAXTER, DAVID W; BAXTER, ELIZABETH R	36-7948	11/21/1980	0.87	IRRIGATION	160
BECK, BART L; BECK, DANENE	45-7263	3/30/1976	3	IRRIGATION	997.5
BECK, DAVID; BECK, SUSAN K	45-13907*	4/13/1971	0.11	STOCKWATER	
BECK, DAVID; BECK, SUSAN K	45-14304*	4/13/1971	2.14	IRRIGATION	1766
BECK, PAIGE	45-10679*	4/1/1977	0.22	IRRIGATION	301.8
BECK, PAIGE	45-10777B*	3/15/1976	0.23	IRRIGATION	151
BECK, SCOTT W	45-14448*	4/1/1977	0.3	IRRIGATION	427.7
BECKLEY, BONNIE B; BECKLEY, RON K	37-8138	6/29/1983	0.12	STOCKWATER, COMMERCIAL	
BEEM, DONNA L; BEEM, KENNETH C	36-7695	4/13/1977	1	IRRIGATION	50
BEEM, STEVEN G	36-7609	2/19/1976	3.18	IRRIGATION, STOCKWATER	295
BENNETT, CAROLE R; BENNETT, JOHN D	37-20931	5/5/2003	0.12	IRRIGATION	4.3
BEORCHIA PROPERTIES & HOLDINGS LLC	36-8108	8/16/1982	0.03	IRRIGATION, STOCKWATER, DOMESTIC	5
BETTENCOURT, LUIS M	36-10821A	6/1/1979	2.45	IRRIGATION	138
BETTENCOURT, LUIS M	36-10821B	6/9/1979	10.2	IRRIGATION	626.5
BETTENCOURT, LUIS M	36-15161*	3/15/1977	0.14	IRRIGATION	258
BETTENCOURT, LUIS M	36-15174A	11/21/1973	3.08	IRRIGATION	154
BETTENCOURT, LUIS M	36-15174B	11/21/1973	0.12	IRRIGATION	128
BETTENCOURT, LUIS M	36-15354	1/6/1975	2.3	IRRIGATION	193.4
BETTENCOURT, LUIS M	36-7368B	8/16/1973	0.04	STOCKWATER, COMMERCIAL	
BETTENCOURT, LUIS M	36-7373	8/31/1973	4.46	IRRIGATION	258

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BETTENCOURT, LUIS M	36-7499B	9/4/1974	0.12	IRRIGATION	128
BETTENCOURT, LUIS M	36-7605	2/4/1976	1.04	IRRIGATION, MITIGATION	29.6
BETTENCOURT, LUIS M	36-7608	2/24/1976	0.82	IRRIGATION	128
BETTENCOURT, LUIS M	36-8081	3/7/1983	0.42	IRRIGATION	22
BETTENCOURT, LUIS M	36-8135	11/5/1983	0.06	STOCKWATER, DOMESTIC	
BETTENCOURT, LUIS M	36-8302	11/14/1985	0.96	IRRIGATION	193.4
BETTENCOURT, LUIS M	36-8739	5/10/1995	1	IRRIGATION	108.6
BETTENCOURT, LUIS M	36-8740	5/10/1995	0.53	IRRIGATION	126.5
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-14595A*	5/1/1978	1.31	IRRIGATION	414.8
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-14595B*	5/1/1978	0.1	STOCKWATER, COMMERCIAL	
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-16162	8/9/1975	0.01	STOCKWATER, COMMERCIAL	
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-7591D	12/29/1975	5.54	IRRIGATION	414.8
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-7591E	12/29/1975	0.52	STOCKWATER, COMMERCIAL	
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-8062	2/9/1982	0.05	STOCKWATER, COMMERCIAL, DOMESTIC	
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	36-8411	4/18/1989	0.5	STOCKWATER, COMMERCIAL	
BETTENCOURT, LUIS M; BETTENCOURT, SHARON L	37-8865	3/25/1974	0.24	STOCKWATER, COMMERCIAL	
BHB FARMS INC	36-7494	8/12/1974	3.2	IRRIGATION	160
BHB FARMS INC	36-8144	2/2/1983	0.84	IRRIGATION	42
BICKETT, HARVEY B; BICKETT, MYRNA	37-8366	7/14/1988	0.06	IRRIGATION, DOMESTIC	0.8
BIG SKY DAIRY	36-7366B	8/13/1973	0.11	STOCKWATER	
BIG SKY DAIRY	36-7367C	8/13/1973	0.33	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7367G	8/13/1973	0.66	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7367K	8/13/1973	2.62	IRRIGATION	451.3
BIG SKY DAIRY	36-7367L	8/13/1973	2.52	IRRIGATION	762.6
BIG SKY DAIRY	36-7381C	9/19/1973	0.05	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7381G	9/19/1973	0.11	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7381K	9/19/1973	0.43	IRRIGATION	451.3
BIG SKY DAIRY	36-7381L	9/19/1973	0.42	IRRIGATION	762.6
BIG SKY DAIRY	36-7402	11/8/1973	2.78	IRRIGATION	451.3
BIG SKY DAIRY	36-7445C	2/21/1974	0.1	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7445G	2/21/1974	0.19	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7445K	2/21/1974	0.77	IRRIGATION	451.3
BIG SKY DAIRY	36-7445L	2/21/1974	0.74	IRRIGATION	762.6
BIG SKY DAIRY	36-7480D	5/31/1974	0.21	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7480H	5/31/1974	0.43	STOCKWATER, COMMERCIAL	
BIG SKY DAIRY	36-7480L	5/31/1974	1.73	IRRIGATION	451.3
BIG SKY DAIRY	36-7480M	5/31/1974	1.66	IRRIGATION	762.6
BIG SKY DAIRY	37-7388	9/30/1974	0.78	IRRIGATION	39
BIG SKY DAIRY	37-7419B	1/29/1975	0.14	IRRIGATION	7
BIG SKY DAIRY	37-7419C	1/29/1975	2.02	IRRIGATION	762.6
BIG SKY DAIRY	37-7435A	4/22/1975	0.74	IRRIGATION	762.6
BIG SKY DAIRY	37-7440A	5/31/1974	1.47	IRRIGATION	762.6
BIG SKY DAIRY	37-7488	4/15/1976	1.98	IRRIGATION	99
BIG SKY DAIRY	37-7639A	7/8/1977	2.76	IRRIGATION	762.6
BIG SKY DAIRY	37-7805	3/25/1975	0.78	IRRIGATION	39
BIG SKY DAIRY	37-8054	7/1/1983	3.34	IRRIGATION	167

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BIG SKY DAIRY	45-13549*	8/21/1978	0.76	IRRIGATION, STOCKWATER, COMMERCIAL	863
BIG SKY DAIRY	45-13853	6/30/1985	2.27	IRRIGATION	2077
BIG SKY DAIRY	45-13854	6/30/1985	1.66	IRRIGATION	2077
BIG SKY DAIRY	45-7258	2/2/1976	4.49	IRRIGATION	880
BIG SKY DAIRY	45-7276	10/13/1976	3	IRRIGATION	880
BIG SKY DAIRY	45-7335	9/19/1978	6.68	IRRIGATION, STOCKWATER, COMMERCIAL	863
BIG SKY DAIRY	45-7340A	2/2/1978	2.93	IRRIGATION	880
BIG SKY DAIRY	45-7355	8/21/1978	6.4	IRRIGATION, STOCKWATER, COMMERCIAL	863
BINGHAM II, WALLACE S; BINGHAM, NANCY L	36-7802B	6/16/1978	1.4	IRRIGATION	522.5
BINGHAM, LAVERLE M	36-8425	6/23/1989	0.88	IRRIGATION	105
BINGHAM, MARJORIE J; BINGHAM, THOMAS O	37-7473	2/4/1976	3.46	IRRIGATION	439
BLACK BUTTE HILLS LLC	36-15233*	4/6/1980	0.73	IRRIGATION	180
BLAINE COUNTY SCHOOL DISTRICT #61	37-21742	4/17/2006	0.8	IRRIGATION	20
BLAINE COUNTY SCHOOL DISTRICT #61	37-22542	4/30/2010	3.65	HEATING, COOLING	
BLALACK, JOANN K; SCHMIDT, CHESTER A	36-8208	5/20/1985	0.1	IRRIGATION, DOMESTIC	2
BLINCOE FARMS INC	36-15362*	4/1/1981	2.8	IRRIGATION	960
BLINCOE FARMS INC	36-7413	11/30/1973	5.18	IRRIGATION	960
BLIND CANYON AQUA RANCH INC	36-8299	10/21/2001	14.2	FISH PROPAGATION	
BLISS ACRES LLC; BOSMA, JACOB F	37-8487B	1/25/1989	0.18	STOCKWATER, COMMERCIAL	
BLISS LLC	37-7381	9/11/1974	0.8	IRRIGATION	40
BLISS LLC	37-7761A	5/8/1980	0.07	STOCKWATER, DOMESTIC	
BLISS LLC	37-7761B	5/8/1980	1.21	IRRIGATION	146
BLISS, GARY B	36-8459	9/22/1989	0.04	IRRIGATION	2.4
BLUE LAKES COUNTRY CLUB INC	36-8439	8/17/1989	0.18	COMMERCIAL	
BLUE SKY RANCH; KRUCKER, KATHLEEN; KRUCKER, ROBERT	36-16184	6/30/1983	0.13	STOCKWATER, DOMESTIC	
BLUE SKY RANCH; KRUCKER, KATHLEEN; KRUCKER, ROBERT	36-8482	11/7/1989	0.05	STOCKWATER	
BOER DAIRY LLC	36-7617	3/11/1976	10	IRRIGATION	920
BOER JR, ADRIAN K; BOER, LINDA M; NORTHWEST FARM CREDIT SERVICES FLCA	36-8359	6/15/1988	0.29	STOCKWATER, COMMERCIAL	
BOKMA, FLORA; BOKMA, HARRY B	36-8662	5/26/1992	0.18	STOCKWATER, COMMERCIAL	
BOLDT, LAWRENCE P; BOLDT, MARCY M	45-7370	1/24/1979	0.11	IRRIGATION, STOCKWATER	5.6
BONAWITZ, DANI; BONAWITZ, DUKE	36-8065	2/17/1982	0.12	IRRIGATION, DOMESTIC	5
BOOT JACK DAIRY PARTNERSHIP	37-20395	3/16/1982	2.1	IRRIGATION	277.4
BOOT JACK DAIRY PARTNERSHIP	37-20396	3/16/1982	0.08	STOCKWATER, COMMERCIAL	
BORBA, JOSE; BORBA, MARIA	36-16240	1/7/1974	0.01	STOCKWATER, COMMERCIAL	
BORBA, JOSE; BORBA, MARIA	36-8731	7/13/1994	0.08	STOCKWATER, DOMESTIC	
BORBA, JOSE; BORBA, MARIA	37-21318	1/7/1974	0.13	IRRIGATION, MITIGATION	4.5
BOSMA, JACOB F	37-8487C	1/25/1989	0.48	IRRIGATION	97.9
BOTHOF, GERALDA; BOTHOF, ROGER W	36-8805	10/31/2000	0.03	IRRIGATION	0.8
BOTT, BRIAN; BOTT, KELLI	36-16621	7/3/1974	2.32	IRRIGATION	135
BOWEN THEATRE CO	36-8631	11/7/1991	0.04	DOMESTIC	
BOWMAN, GARY F	37-7465B	12/1/1975	2.22	IRRIGATION	132
BOX CANYON DAIRY	36-8713	8/6/1993	0.04	STOCKWATER	
BOX CANYON LAND HOLDINGS LLC	36-10044*	3/1/1984	0.55	IRRIGATION	124
BOX CANYON LAND HOLDINGS LLC	36-15991	11/29/1973	0.08	STOCKWATER, COMMERCIAL	

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BOX CANYON LAND HOLDINGS LLC	36-16274	5/28/1974	0.29	IRRIGATION	444
BOX CANYON LAND HOLDINGS LLC	36-16276	2/4/1976	0.29	IRRIGATION	444
BOX CANYON LAND HOLDINGS LLC	36-16278	2/22/1978	0.86	IRRIGATION	444
BOX CANYON LAND HOLDINGS LLC	36-16280	12/11/1978	0.08	IRRIGATION	444
BOX CANYON LAND HOLDINGS LLC	36-16282*	5/1/1985	0.26	IRRIGATION	444
BOX CANYON LAND HOLDINGS LLC	36-16497	11/29/1973	1.24	IRRIGATION	126.2
BOX CANYON LAND HOLDINGS LLC	36-16498	11/29/1973	0.16	STOCKWATER, COMMERCIAL	
BOX CANYON LAND HOLDINGS LLC	36-7387A	10/27/1973	0.44	IRRIGATION	33.7
BOX CANYON LAND HOLDINGS LLC	36-7387C	10/27/1973	0.17	IRRIGATION	33.7
BOX CANYON LAND HOLDINGS LLC	36-7450A	3/6/1974	5.2	IRRIGATION	261
BOX CANYON LAND HOLDINGS LLC	36-7585	12/9/1975	0.52	IRRIGATION	97
BOX CANYON LAND HOLDINGS LLC	36-7713A	8/13/1977	0.85	IRRIGATION	107
BOX CANYON LAND HOLDINGS LLC	36-7713B	8/13/1977	0.13	STOCKWATER, COMMERCIAL	
BOX CANYON LAND HOLDINGS LLC	36-7871	9/24/1979	1	IRRIGATION, STOCKWATER, COMMERCIAL	40
BRADLEY, DAWN ANN; BRADLEY, R BRUCE	36-8112	9/7/1982	0.04	IRRIGATION, COMMERCIAL, DOMESTIC	1
BRANCHFLOWER, KATHERINE L; BRANCHFLOWER, MICHAEL G	36-8581	3/13/1991	0.74	IRRIGATION	39
BRANDSMA, ANN; BRANDSMA, HILL A	36-16028	5/28/1974	0.21	IRRIGATION	318
BRANDSMA, ANN; BRANDSMA, HILL A	36-16030	2/4/1976	0.19	IRRIGATION	318
BRANDSMA, ANN; BRANDSMA, HILL A	36-16032	2/22/1978	0.61	IRRIGATION	318
BRANDSMA, ANN; BRANDSMA, HILL A	36-16034	12/11/1978	0.05	IRRIGATION	318
BRANDSMA, ANN; BRANDSMA, HILL A	36-16036*	5/1/1985	0.18	IRRIGATION	318
BRANDSMA, ANN; BRANDSMA, HILL A	36-7574	10/30/1975	1.5	IRRIGATION	108
BRANDSMA, ANN; BRANDSMA, HILL A	36-7576	11/17/1975	1.97	IRRIGATION	140
BRANDSMA, ANN; BRANDSMA, HILL A	36-7799	6/27/1978	0.8	IRRIGATION	40
BRANDSMA, ANN; BRANDSMA, HILL A	36-8140	1/21/1983	0.11	STOCKWATER, COMMERCIAL	
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-7513	11/29/1974	1.73	IRRIGATION	152
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-8252D	10/17/1984	0.52	STOCKWATER, COMMERCIAL	
BRANDSMA, DEBRA K; BRANDSMA, KENNETH A	36-8787	1/22/1999	1.05	IRRIGATION	152
BRANDSMA, HILL A	36-8063D	3/18/1982	0.28	STOCKWATER, COMMERCIAL	
BRETZ, WAYNE E	37-7376	8/14/1974	0.09	IRRIGATION, STOCKWATER, DOMESTIC	5
BROWN II, ROBERT BURTON; BROWN, MARIA CHRISTENSEN	45-14189*	3/15/1968	0.01	IRRIGATION	3
BROWN, AUSTIN; BROWN, REED	36-7484	6/12/1974	0.18	IRRIGATION, DOMESTIC	13
BROWN, JAY A; BROWN, MARIE H	36-8111	8/20/1982	0.76	IRRIGATION	309.8
BROWNING FAMILY LLC	36-10123*	4/1/1977	1.78	IRRIGATION	429
BUERKLE, ARLEN E; BUERKLE, MARY LEE	36-8519	4/10/1990	0.09	IRRIGATION, COMMERCIAL	1.5
BURLEY IRRIGATION DISTRICT	45-7720	9/27/1993	0.09	DOMESTIC	
BURLEY WEST INVESTMENTS LLC	45-13522*	3/15/1976	1.05	IRRIGATION	358.6
BURTON, JERRY; BURTON, SUZANNE	36-8181	4/28/1983	0.09	IRRIGATION, DOMESTIC	1.5
BUSMAN, JOHN R; BUSMAN, SHERRY A	36-10640	6/1/1978	0.04	STOCKWATER, DOMESTIC	
BUSMAN, JOHN R; BUSMAN, SHERRY A	36-16182	1/7/1974	0.04	STOCKWATER, COMMERCIAL	
BUSMAN, JOHN R; BUSMAN, SHERRY A	37-21134	1/7/1974	0.31	IRRIGATION, MITIGATION	18.9
BUTTARS FAMILY LTD PARTNERSHIP	36-8453	9/21/1989	0.04	COMMERCIAL	
BUTTERFIELD, LEE	45-7200	11/19/1974	0.33	IRRIGATION	29
BUXTON, ANNA LEE; BUXTON, BILL W	36-7496	8/13/1974	0.33	IRRIGATION	27
C DE KRUYF DAIRY PARTNERSHIP	36-15993	7/31/1974	0.52	IRRIGATION	116

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C DE KRUYF DAIRY PARTNERSHIP	36-7491	7/31/1974	1.64	IRRIGATION	120
C DE KRUYF DAIRY PARTNERSHIP	36-8539	4/13/1990	0.27	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	1
CALDERON, DAVID	36-8463	9/18/1989	0.02	COMMERCIAL	
CALKINS, LAWRENCE L	37-20382	3/1/2001	0.07	DOMESTIC	
CALKINS, LAWRENCE L	37-20383	3/12/2001	0.07	DOMESTIC	
CALKINS, LAWRENCE L	37-22596	2/15/2011	0.07	DOMESTIC	
CALKINS, LAWRENCE L; CALKINS, SANDRA L	37-21384	12/6/2004	0.07	DOMESTIC	
CALLEN, JERRY; CALLEN, PATRICIA	36-7384	10/4/1973	2.26	IRRIGATION	130
CALLEN, JERRY; CALLEN, PATRICIA	36-7975	3/20/1981	0.03	STOCKWATER	
CALVARY BAPTIST CHURCH	45-14173	5/16/1980	0.01	IRRIGATION	
CAMPBELL, ANNIE M; CAMPBELL, WILLIAM ROY	36-8535	4/12/1990	0.13	IRRIGATION, DOMESTIC	4
CANYONSIDE DAIRY	36-7947	11/28/1980	0.13	IRRIGATION, STOCKWATER, DOMESTIC	4
CARLQUIST BROTHERS	36-7527	3/26/1975	0.6	IRRIGATION	528.5
CARNEY FARMS	36-16395	12/8/1981	0.62	IRRIGATION	524
CARNEY FARMS	36-7501	9/18/1974	0.8	IRRIGATION	40
CARNEY FARMS	36-7949	2/4/1981	1.41	IRRIGATION	524
CARNEY, BARBARA J; CARNEY, GARY	36-7408	11/21/1973	1.84	IRRIGATION	779
CARNEY, BARBARA J; CARNEY, GARY	36-7560	3/3/1976	5.45	IRRIGATION	779
CARNEY, BARBARA J; CARNEY, GARY	36-7603	1/29/1976	1.76	IRRIGATION	779
CARRELL, F DUANE	36-8342	1/5/1988	0.02	COMMERCIAL	
CARRILLO, CUTBERTO	36-8407	1/19/1989	0.08	IRRIGATION, DOMESTIC	3
CASSIA JOINT SCHOOL DISTRICT #151	45-7207	3/22/1975	0.36	IRRIGATION	18
CASSIA JOINT SCHOOL DISTRICT #151	45-7208	12/19/1974	0.22	IRRIGATION	11
CASSIA JOINT SCHOOL DISTRICT #151	45-7236	4/28/1975	0.13	IRRIGATION	6.6
CASSIA JOINT SCHOOL DISTRICT #151	45-7741	11/12/1998	0.45	IRRIGATION	11.7
CASTLE, NICOLE R; CASTLE, SCOTT A	37-7621D	6/7/1977	0.77	IRRIGATION	39
CATMULL, KAY E	36-8496	10/24/1989	0.03	COMMERCIAL	
CENARRUSA, JANICE M; CENARRUSA, JERRY	37-7517	9/7/1976	2.04	IRRIGATION	160
CENARRUSA, JANICE M; CENARRUSA, JERRY	37-7593A	5/4/1977	2.2	IRRIGATION	110
CENARRUSA, JOHN L	37-7593B	5/4/1977	1.88	IRRIGATION	94
CHAMBERS, DEANNA; CHAMBERS, FERRELL J	36-7715	5/26/1977	3.63	IRRIGATION	257
CHAMBERS, DEANNA; CHAMBERS, FERRELL J	36-7885	12/28/1979	0.74	IRRIGATION	257
CHISHOLM, DONALD J	45-7564	11/20/1984	0.02	HEATING, COOLING	
CHRISTENSEN, PAUL; CHRISTENSEN, PERRY G	45-14188*	3/15/1968	0.17	IRRIGATION	389.6
CHRISTIANSON FAMILY REVOCABLE TRUST	45-11180	6/30/1985	0.27	IRRIGATION	307
CHURCH OF LIFE	36-8504	2/20/1990	0.01	STOCKWATER, DOMESTIC	
CIOCCA, ANN A; CIOCCA, EDWARD M	36-7448	2/27/1974	2.23	IRRIGATION	139.1
CIOCCA, ANN A; CIOCCA, EDWARD M	36-8219	6/30/1983	1.72	IRRIGATION	86
CIOCCA, ANN A; CIOCCA, EDWARD M; NORTHWEST FARM CREDIT SERVICES FLCA	36-8672	9/23/1992	0.06	STOCKWATER	
CIOCCA, TONY M; CIOCCA, TRINA A	36-8255	12/7/1984	1.16	IRRIGATION	154
CITY OF BLISS	37-8886	11/24/1998	0.45	MUNICIPAL	
CITY OF BURLEY	36-8154	2/24/1983	1.2	INDUSTRIAL	

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CITY OF BURLEY	45-13411	10/22/2001	7.8	MUNICIPAL	
CITY OF BURLEY	45-7269	5/25/1976	3.56	MUNICIPAL	
CITY OF BURLEY	45-7436	2/15/1980	0.69	MUNICIPAL	
CITY OF BURLEY	45-7686	2/11/1991	1.75	MUNICIPAL	
CITY OF BURLEY	45-7735	9/3/1996	4.46	MUNICIPAL	
CITY OF CAREY	37-20384	3/20/2001	0.7	MUNICIPAL	
CITY OF CAREY	37-21243	12/25/2003	0.6	MUNICIPAL	
CITY OF CAREY	37-21355	9/23/2004	1.29	MUNICIPAL	
CITY OF CAREY	37-22661	8/18/2011	1.45	MUNICIPAL	
CITY OF CAREY	37-7766	2/21/1979	0.71	MUNICIPAL	
CITY OF DECLO	45-7726	2/16/1995	2.23	MUNICIPAL	
CITY OF DIETRICH	37-22751	6/1/2012	0.2	MUNICIPAL	
CITY OF GOODING	37-11221	4/20/1977	5.9	MUNICIPAL	
CITY OF GOODING	37-7597	5/5/1977	1.07	IRRIGATION	78
CITY OF HAZELTON	36-7634B	7/23/1976	0.14	IRRIGATION	7
CITY OF HAZELTON	36-7858	6/12/1979	1	MUNICIPAL, DOMESTIC	
CITY OF HEYBURN	36-8550	5/29/1990	6.67	MUNICIPAL	
CITY OF HEYBURN	36-8738	5/22/1995	3.3	MUNICIPAL	
CITY OF JEROME	36-16938	8/20/1982	0.01	IRRIGATION	2.2
CITY OF JEROME	36-8234	1/11/1984	1.23	IRRIGATION, COMMERCIAL, DOMESTIC, RECREATION	14
CITY OF JEROME	36-8237	12/22/1983	2.71	MUNICIPAL	
CITY OF PAUL	36-7899	2/27/1980	0.78	MUNICIPAL	
CITY OF PAUL	36-8763	10/18/1999	2.75	MUNICIPAL	
CITY OF RICHFIELD	37-22431	1/13/2009	1.19	MUNICIPAL	
CITY OF RICHFIELD	37-8402	9/22/1988	1.63	MUNICIPAL	
CITY OF RUPERT	36-7862	10/11/1985	1.15	MUNICIPAL	
CITY OF RUPERT	36-7863	6/30/1979	3.83	MUNICIPAL	
CITY OF SHOSHONE	37-7432	5/6/1975	2	MUNICIPAL	
CITY OF SHOSHONE	37-7662	8/30/1977	2.01	MUNICIPAL	
CITY OF WENDELL	36-7440	2/6/1974	0.22	INDUSTRIAL	
CITY OF WENDELL	36-7722	6/20/1977	2.67	MUNICIPAL	
CITY OF WENDELL	36-8421	9/14/1998	2.76	MUNICIPAL	
CITY OF WENDELL	36-8764	3/28/1997	1.27	MUNICIPAL	
CLARK, BETTE L; CLARK, RAYMOND G	36-15253*	3/15/1985	0.34	IRRIGATION	211
CLARK, BETTE L; CLARK, RAYMOND G	36-7644	9/22/1976	3.34	IRRIGATION	211
CLARK, RAYMOND G	36-8286	6/26/1985	0.21	IRRIGATION	225
CLAYSON, CASEY; CLAYSON, SHANE	45-7496	1/27/1982	0.06	IRRIGATION, DOMESTIC	0.7
CLAYTON, CARRIE L; CLAYTON, DOUGLAS M	45-13400	7/7/1986	0.06	IRRIGATION	2
CLEAR LAKE COUNTRY CLUB	36-8369	7/6/1988	0.07	COMMERCIAL	
CLEAR SPRINGS FOODS INC	36-16156	4/9/2003	1.34	INDUSTRIAL, DOMESTIC	
CLEAR SPRINGS TROUT CO	36-8639	2/18/1992	0.04	COMMERCIAL, DOMESTIC	
CLIFFORD SEARLE FAMILY TRUST	45-14415	5/4/1978	0.65	IRRIGATION	4389
CLOYD R SEARLE FAMILY TRUST	45-14416	5/4/1978	0.66	IRRIGATION	4389
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7315A	11/7/1973	3.05	IRRIGATION	422
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7379	9/21/1974	3.96	IRRIGATION	300
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7419D	1/29/1975	0.18	IRRIGATION	422
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7420A	1/29/1975	1.48	IRRIGATION	422

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COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7420B	1/29/1975	0.58	STOCKWATER, COMMERCIAL	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7435B	4/22/1975	0.06	IRRIGATION	422
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7438	5/13/1975	3	IRRIGATION	153
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7440B	5/31/1974	0.13	IRRIGATION	422
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7470	12/9/1975	3.12	IRRIGATION	422
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7476	1/7/1976	1.4	IRRIGATION	300
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7545	2/1/1977	0.18	STOCKWATER, COMMERCIAL	
COLEMAN, CAROLYN F; COLEMAN, GARY R	37-7639B	7/8/1977	0.13	IRRIGATION	422
COOK, TYSON; COOK, VALERIE B	36-7927	7/15/1980	0.07	IRRIGATION, DOMESTIC	1
COOMBS, MICHAEL R	36-15565	2/5/2001	0.08	DOMESTIC	
CORP OF THE PRESIDING BISHOP	36-7782	3/10/1978	2.43	IRRIGATION	132
CORP OF THE PRESIDING BISHOP	36-8145	2/14/1983	0.04	IRRIGATION, DOMESTIC	0.5
CORP OF THE PRESIDING BISHOP	36-8428	6/7/1989	0.02	IRRIGATION	0.5
CORP OF THE PRESIDING BISHOP	36-8429	6/7/1989	0.12	IRRIGATION	4
CORP OF THE PRESIDING BISHOP	36-8430	6/7/1989	0.04	IRRIGATION, DOMESTIC	0.8
CORP OF THE PRESIDING BISHOP	37-7076	10/24/1988	0.09	IRRIGATION, DOMESTIC	1
CORP OF THE PRESIDING BISHOP	45-10984	6/30/1985	0.78	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-11867	6/30/1985	0.29	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-13471	6/30/1985	0.69	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-13472	6/30/1985	0.7	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-13781	6/30/1985	2.43	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-13782	6/30/1985	1.47	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-13798	6/30/1985	0.2	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-13811	6/30/1985	0.93	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-4216A	6/30/1985	4.99	IRRIGATION	7502
CORP OF THE PRESIDING BISHOP	45-7535	6/10/1983	0.08	IRRIGATION	2.5
COUNTRY CLUB ESTATES WATER ASSN INC	36-8607	11/18/1991	0.5	STOCKWATER, DOMESTIC, FIRE PROTECTION	
CRANE, CALVIN C	45-7303	5/10/1977	1.28	IRRIGATION, STOCKWATER	62
CRANE, SARA D	36-8282	6/13/1985	2	IRRIGATION	108
CRANER, DAVID A; CRANER, HELEN B	45-7442	4/4/1980	0.12	IRRIGATION	4
CRANNEY BROTHERS	45-13550	6/30/1985	8.14	IRRIGATION	3605
CRANNEY BROTHERS	45-7150	8/17/1973	6.2	IRRIGATION, STOCKWATER	3605
CRANNEY BROTHERS	45-7242	6/27/1975	4.8	IRRIGATION	3605
CRANNEY BROTHERS	45-7307	5/11/1977	4.48	IRRIGATION	3605
CRANNEY LAND CO LLC	45-13999	1/7/1975	1.72	IRRIGATION	255
CRANNEY RANCHES	45-13599*	6/11/1981	0.42	IRRIGATION	344
CRESPO TRUCKING INC	37-8355	8/9/1988	0.04	COMMERCIAL, DOMESTIC	
CRESPO, ATILANO	37-7694	1/9/1978	0.1	IRRIGATION	5
CROCKER, BRENT; CROCKER, TONIA	36-8375	7/18/1988	0.04	IRRIGATION, DOMESTIC	2
CULLEY, JUDITH; CULLEY, RYAN D	36-8563	10/18/1990	0.07	IRRIGATION, DOMESTIC	1
DALLEY, RICHARD B; DALLEY, SHAUNA H	36-16129	11/8/1973	1.24	IRRIGATION	813.6
DALLEY, RICHARD B; DALLEY, SHAUNA H	36-4263*	3/15/1974	0.74	IRRIGATION	352
DANSIE, BERTHA D; DANSIE, ELVOY H	37-8363	8/6/1988	0.05	STOCKWATER, COMMERCIAL, DOMESTIC	

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DARRINGTON, MARK L; DARRINGTON, VERLA	45-7249	10/28/1975	4.54	IRRIGATION	227
DARRINGTON, MARK L; DARRINGTON, VERLA	45-7501	4/7/1982	2	IRRIGATION	108
DARRINGTON, MARK L; DARRINGTON, VERLA	45-7551	7/26/1983	0.6	IRRIGATION	30
DARRINGTON, MARK L; KOEPNICK, KENNY D; KOEPNICK, TAMMERA L	45-7455	10/30/1980	0.11	IRRIGATION	5.8
DARRINGTON, MARK L; KOEPNICK, KENNY D; KOEPNICK, TAMMERA L	45-7552A	7/19/1983	0.19	IRRIGATION, DOMESTIC	10
DAVIDSON, JOSEPH E	36-8790	4/12/1999	0.05	DOMESTIC	
DAVIS, STACI ; DAVIS, TRENT W	36-7457	3/20/1974	1.18	IRRIGATION	59
DAVIS, STACI ; DAVIS, TRENT W	36-7458	3/20/1974	0.8	IRRIGATION	40
DDARK PROPERTIES	36-8441A	9/12/1989	0.04	IRRIGATION	1
DDARK PROPERTIES	36-8441B	9/12/1989	0.02	COMMERCIAL	
DE FILIPPIS, EARL H; DE FILIPPIS, JOAN A	36-7864	6/18/1979	0.03	IRRIGATION	1
DE KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-10082A*	3/15/1976	0.21	IRRIGATION	162.7
DE KRUYF, ALICE RUTH; DE KRUYF, CALVIN	36-8530	4/5/1990	0.54	STOCKWATER, COMMERCIAL, DOMESTIC	
DE KRUYF, CALVIN; DE KRUYF, MARK A	36-10082B	3/15/1976	0.06	STOCKWATER, COMMERCIAL	
DE KRUYF, CALVIN; DE KRUYF, MARK A	36-8481	12/4/1989	0.34	STOCKWATER	
DE MOSS, GARY A; DE MOSS, HELEN	37-22168	9/20/1974	1.73	IRRIGATION, STOCKWATER	808
DE VRIES, KRISTY; DE VRIES, WIETZE	36-15711	12/8/1981	0.06	STOCKWATER, COMMERCIAL	
DE WIT DAIRY	36-8661	5/21/1992	0.26	STOCKWATER, COMMERCIAL	
DE WIT, MELINDA; DE WIT, NEIL	36-7714B	5/19/1977	1.44	IRRIGATION	144
DE WIT, NEIL	36-7714A	5/19/1977	2.79	IRRIGATION	188
DE WIT, NEIL	36-8388	5/8/2003	0.17	STOCKWATER, COMMERCIAL	
DEL RIO ESTATES HOMEOWNERS ASSN INC	45-7647	6/6/1989	0.2	DOMESTIC	
DELIS FARMS INC	36-7371	8/23/1973	2.9	IRRIGATION	1275
DELIS FARMS INC	36-7652	10/29/1976	5.06	IRRIGATION	283
DELIS FARMS INC	36-8489	10/11/1989	0.02	COMMERCIAL	
DEVELOPMENT WEST CORP	37-8379	8/22/1988	0.36	IRRIGATION, DOMESTIC	17
DEWIT DAIRY PARTNERSHIP	36-8491	10/31/1989	0.33	STOCKWATER, COMMERCIAL	
DICKINSON, DALE; DICKINSON, MARSHA	36-8681	10/16/1992	0.03	IRRIGATION, DOMESTIC	1
DILWORTH, PAMLA; DILWORTH, REED W	36-8114	6/16/1982	0.04	IRRIGATION, DOMESTIC	3
DIMOND, CAROLYN T; DIMOND, HAROLD	36-7401	11/7/1973	3.52	IRRIGATION	343
DIMOND, DEAN T; DIMOND, EDEN C	36-7614	5/8/1976	1.26	IRRIGATION	322
DINIS, MANUEL A; DINIS, MARIA	36-10656	3/1/1981	0.04	STOCKWATER, COMMERCIAL	
DINIS, MANUEL A; DINIS, MARIA	36-7460S	3/25/1974	0.11	STOCKWATER, COMMERCIAL	
DINOS LLC; DINOS LLC	36-8680	10/21/1992	0.1	DOMESTIC	
DOUBLE A DAIRY	37-22613	9/29/1976	0.1	IRRIGATION	335.1
DOUBLE A DAIRY	37-22614	9/29/1976	0.19	STOCKWATER, COMMERCIAL	
DOUBLE A DAIRY	37-7533B	9/29/1976	0.12	STOCKWATER, COMMERCIAL	
DOUBLE V LLC	36-7582	1/1/1976	1.6	IRRIGATION	138
DOUBLE V LLC	36-8247	6/12/1984	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
DOUBLE V LLC	36-8543	6/15/1990	0.08	STOCKWATER, COMMERCIAL	
DOUBLE V LLC	37-7453	8/27/1975	2.14	IRRIGATION, STOCKWATER	146
DOUBLE V LLC	37-8756A	2/4/1987	2.41	IRRIGATION	146.5
DOUBLE V LLC	37-8756B	2/4/1987	2.41	IRRIGATION	146.5
DOUBLE V LLC	37-8757	2/4/1987	2.56	IRRIGATION	160
DOUBLE V LLC; VANDERVEGT, RAY	36-7377B	9/7/1973	0.11	STOCKWATER, COMMERCIAL	

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DOUBLE V LLC; VANDERVEGT, RAY	36-7460G	3/25/1974	0.19	IRRIGATION	32
DOUBLE V LLC; VANDERVEGT, RAY	36-7547B	5/13/1975	0.09	STOCKWATER, COMMERCIAL	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047B	12/9/1981	0.17	STOCKWATER, COMMERCIAL	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047D	12/9/1981	0.26	STOCKWATER, COMMERCIAL	
DOUBLE V LLC; VANDERVEGT, RAY	36-8047E	12/9/1981	0.8	IRRIGATION	81
DOUBLE V LLC; VANDERVEGT, RAY	36-8047F	12/9/1981	0.09	STOCKWATER, COMMERCIAL	
DOUBLE V LLC; VANDERVEGT, RAY	36-8313B	8/20/1986	0.32	IRRIGATION	16
DRAKOS, CHRIS	45-13469	6/30/1985	0.16	IRRIGATION	318
DRISCOLL BROTHERS PARTNERSHIP	36-8466	10/4/1989	0.03	COMMERCIAL	
DUFFIN, DON D	45-7696	1/3/1992	0.02	IRRIGATION	0.5
DUGAN FAMILY FARMS LLC	36-7704A	5/12/1977	1.58	IRRIGATION	79
DUGAN FAMILY FARMS LLC	36-7704B	5/12/1977	0.18	STOCKWATER, COMMERCIAL	
DUNCAN PARTNERSHIP TRUST	45-7232C	3/13/1975	0.17	IRRIGATION	274
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-13531*	4/1/1979	0.42	IRRIGATION	341
DUNCAN PARTNERSHIP TRUST; DUNCAN, KATHY F; DUNCAN, PAUL H	36-15458*	12/31/1978	0.05	IRRIGATION	158
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15200*	3/15/1980	1.01	IRRIGATION	296
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15979	3/13/1975	0.02	IRRIGATION	256
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15980	3/13/1975	0.24	IRRIGATION	256
DUNCAN PARTNERSHIP TRUST; PKD PROPERTIES LC	36-15981	2/10/1981	0.65	IRRIGATION	256
DUNCAN, JACK F; WALTON, DANIEL C	45-7658	7/8/1989	0.02	COMMERCIAL	
DUNCAN, KATHY F; DUNCAN, PAUL H	45-4241B*	8/20/1976	0.3	IRRIGATION	271
DURAND, DANIEL G; DURAND, VICKY S	37-8410	10/4/1988	0.03	STOCKWATER, COMMERCIAL, DOMESTIC	
DURFEE, BRENDA J; DURFEE, JAMES M	36-8367	6/21/1988	0.11	STOCKWATER, COMMERCIAL	
DURFEE, DEWEY D	36-7641	5/19/1983	1.19	IRRIGATION	64
DUTCHMEN MFG INC	45-7512	9/28/1982	1.57	COMMERCIAL	
EAMES, CARI H; EAMES, TIMOTHY R	36-7460N	3/25/1974	0.2	STOCKWATER, COMMERCIAL	
EAMES, CARI H; EAMES, TIMOTHY R	36-8231	9/27/1983	0.04	RECREATION	
EAST RIDGE MILK LLC	45-14020	2/10/1981	0.04	STOCKWATER	
EAST RIDGE MILK LLC	45-7462B	2/10/1981	0.22	STOCKWATER	
EDDINGS, RE NAE; SPURGEON-EDDINGS, JASON T	45-7615	6/17/1987	0.07	IRRIGATION, DOMESTIC	1
EDWARDS, KENT F	36-8628	11/26/1991	0.18	IRRIGATION, STOCKWATER, DOMESTIC	8
EKINS, CHRIS; EKINS, ERNESTINE	45-7634	4/12/1993	0.06	COMMERCIAL	
ESTATE OF RAY CHUGG	36-8266	3/18/1985	0.12	STOCKWATER, COMMERCIAL, DOMESTIC	
ESTATE OF TED LENO	36-7607	2/20/1976	4.5	IRRIGATION	289
EVANS GRAIN & ELEVATOR CO	36-8436	9/8/1989	0.11	COMMERCIAL	
EVANS GRAIN & ELEVATOR CO	37-8573	11/6/1989	0.03	COMMERCIAL	
EVARD LLC	45-13573	5/19/2003	0.11	STOCKWATER, COMMERCIAL	
EVERS BROTHERS PARTNERSHIP; NORTHWEST FARM CREDIT SERVICES FLCA	36-8584	2/26/1991	2.08	IRRIGATION	144
EVERS, DARLENE; EVERS, J RAY	36-7668	1/13/1977	1.22	IRRIGATION	76
FARMLAND RESERVE INC	36-11278*	4/1/1977	2.55	IRRIGATION	1610
FARMLAND RESERVE INC	36-15564	2/26/1979	0.96	IRRIGATION	307
FARMLAND RESERVE INC	36-8239	1/12/1984	0.88	IRRIGATION	630

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FARMLAND RESERVE INC	45-14175	6/30/1985	1.03	IRRIGATION	3832.6
FARMLAND RESERVE INC	45-7238	5/2/1975	6.4	IRRIGATION	3832.6
FARMLAND RESERVE INC	45-7363	1/8/1979	1.66	IRRIGATION	3832.6
FARMLAND RESERVE INC	45-7374	4/11/1979	3.1	IRRIGATION	3832.6
FASSETT, LYLE A	36-12650	3/15/1979	0.08	IRRIGATION	146
FASSETT, LYLE A	36-8046	12/11/1981	0.62	IRRIGATION	202.5
FASSETT, LYLE A	36-8446	9/26/1989	0.2	IRRIGATION	10
FATTIG, PATSY; FATTIG, WAYNE	36-7524	3/5/1975	4.36	IRRIGATION	232
FATTIG, PATSY; FATTIG, WAYNE	36-8637	12/6/1991	0.23	IRRIGATION	245
FAULKNER LAND & LIVESTOCK CO INC	37-7808	11/16/1979	3.26	IRRIGATION	163
FAULKNER LAND & LIVESTOCK CO INC	37-8005B	3/20/1982	2.02	IRRIGATION	264
FAULKNER LAND & LIVESTOCK CO INC	37-8005C	3/20/1982	1.6	IRRIGATION	264
FAULKNER LAND & LIVESTOCK CO INC	37-8005D	3/20/1982	0.41	IRRIGATION	264
FAULKNER LAND & LIVESTOCK CO INC	37-8487D	1/25/1989	0.86	IRRIGATION	112
FAULKNER LAND & LIVESTOCK CO INC	37-8720	4/23/1991	3.2	IRRIGATION	324
FEARLESS FARRIS STINKER STATIONS	36-8332	10/12/1987	0.04	COMMERCIAL	
FED AGRIBUSINESS LLC	45-10164	6/30/1985	2.47	IRRIGATION	515
FED AGRIBUSINESS LLC	45-7201	11/18/1974	5.72	IRRIGATION	936
FIELDS, KAREN C; FIELDS, VIRGIL	37-7699	2/23/1978	0.2	STOCKWATER, DOMESTIC	
FIRST PRESBYTERIAN CHURCH	45-7529	4/13/1983	0.03	IRRIGATION	1
FLAT TOP SHEEP CO	36-8273	7/4/1985	0.68	IRRIGATION	447
FLAT TOP SHEEP CO	36-8275A	5/9/1985	2.44	IRRIGATION	447
FLAT TOP SHEEP CO	36-8641	8/25/1983	0.08	STOCKWATER, DOMESTIC	
FORD, JOYCE A; FORD, THOMAS RAY	36-14617*	5/1/1982	0.9	IRRIGATION	378
FORD, JOYCE A; FORD, THOMAS RAY	36-14619*	5/1/1965	1.32	IRRIGATION	311
FORSYTH, DANNY R	36-16639	2/26/1980	1.1	IRRIGATION	59
FORSYTH, DANNY R; FORSYTH, GINGER	36-8531	4/24/1990	0.05	IRRIGATION, DOMESTIC	0.8
FOUR + RANCH INC	37-8729	6/11/1991	2	IRRIGATION	120
FOWLER, GARY; SOMSEN, G FRANK; SOMSEN, KRISTINE P	45-7192	10/7/1974	0.36	IRRIGATION, STOCKWATER	18
FRANCIS, MARK	36-8371	7/20/1988	0.06	IRRIGATION, DOMESTIC	2
FRAZIER FAMILY TRUST DTD 6/19/80 4% UNDIVIDED INT; FRAZIER, JAMES F; FRAZIER, JEFFREY W; FRAZIER, JOE K; FRAZIER, JORDAN P	36-7745	8/15/1977	4.5	IRRIGATION	292
FRAZIER FAMILY TRUST DTD 6/19/80 4% UNDIVIDED INT; FRAZIER, JAMES F; FRAZIER, JEFFREY W; FRAZIER, JOE K; FRAZIER, JORDAN P	36-8049	12/21/1981	0.94	IRRIGATION	47
FREDERICKSEN, GENE D; FREDERICKSEN, JUDI K	36-7359	9/27/1973	2.18	IRRIGATION	143
FRENCH III, JAMES A; FRENCH, PATRICIA A	36-16404	11/14/1991	0.02	IRRIGATION, DOMESTIC	0.5
FRENCH JR, JAMES A; FRENCH, KARI D	36-16405	11/14/1991	0.03	IRRIGATION, STOCKWATER	1.5
FUNDERBURG, DENISE K; FUNDERBURG, GARY L	36-7357	8/26/1973	0.08	IRRIGATION, DOMESTIC	2
FUNK, DARRELL M	45-13657	1/1/1983	0.06	STOCKWATER	
FUNK, DARRELL M	45-4103	6/30/1985	1.6	IRRIGATION	305
FUNK, DARRELL M; FUNK, PATRICIA M	45-13910	8/19/1976	5.07	IRRIGATION	277
FUNK, DARRELL M; FUNK, PATRICIA M	45-13911	8/19/1976	0.64	STOCKWATER, COMMERCIAL	
FUNK, DARRELL M; FUNK, PATRICIA M	45-13917	6/8/1982	0.06	STOCKWATER, COMMERCIAL	
G & G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-14834	12/12/1979	0.04	DOMESTIC	

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G & G DAIRY; GILTNER, BILL; GRIFFITH, MIKE	36-8532	4/10/1990	0.18	STOCKWATER	
G & H DAIRY LLC	36-7409A	11/21/1973	2.19	IRRIGATION	268
G & H DAIRY LLC	36-7631A	6/23/1976	3.17	IRRIGATION	268
G & H DAIRY LLC	36-7847	3/28/1979	0.56	STOCKWATER, COMMERCIAL	
G & H DAIRY LLC	36-8396	10/20/1992	0.2	STOCKWATER, COMMERCIAL	
GALLEGOS, GEORGE	36-8201	5/31/1983	0.12	IRRIGATION, DOMESTIC	5.5
GALOW, MOLLY; GALOW, ROGER A	36-8448	9/28/1989	0.05	IRRIGATION	1.5
GARDNER TRUST	36-16841	3/13/1989	0.05	IRRIGATION	20
GARDNER TRUST	36-16847	7/13/1987	0.01	IRRIGATION	20
GARDNER TRUST	36-16855	4/6/1978	0.01	IRRIGATION	20
GARDNER TRUST	36-7479	7/8/1974	0.65	IRRIGATION	354
GARDNER TRUST	36-7588	1/12/1976	0.4	IRRIGATION	354
GARNER, BEVERLY; GARNER, GARY B	36-12043*	7/31/1987	0.25	IRRIGATION	308
GARNER, ELDON I; GARNER, MARIE	36-8195	9/1/1989	0.08	IRRIGATION, DOMESTIC	1.5
GARRARD, KATHLEEN; GARRARD, THOMAS E	45-12460A	6/30/1985	0.46	IRRIGATION	149
GARRARD, KATHLEEN; GARRARD, THOMAS E	45-12460B	6/30/1985	0.47	IRRIGATION	151
GBD LLC	36-8467	12/15/1989	0.12	COMMERCIAL	
GERMAN, DONALD H	36-7460X	3/25/1974	0.25	STOCKWATER, COMMERCIAL	
GIBBY, REED	45-13990	2/10/2006	0.09	DOMESTIC	
GILLETTE, CINDY; GILLETTE, RANDY	36-11412*	4/1/1984	0.84	IRRIGATION	1108
GILLETTE, CINDY; GILLETTE, RANDY	36-7435	1/25/1974	5.03	IRRIGATION	1108
GILLETTE, JERRY; GILLETTE, ROANNE	36-11413*	4/1/1984	0.13	IRRIGATION	274
GILLETTE, JERRY; GILLETTE, ROANNE	36-7626	6/3/1976	5.14	IRRIGATION	308
GILLETTE, PERRY	36-7542	5/7/1975	5.36	IRRIGATION	268
GILLEY, KAREN; GILLEY, PHILLIP N	36-8018	11/12/1981	0.06	IRRIGATION, COMMERCIAL, DOMESTIC	0.5
GILTNER, HOLLY L; GILTNER, SCOTT R; MCCOY, LUKE; MCCOY, TANI; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-14988	12/31/1983	0.07	STOCKWATER, COMMERCIAL, DOMESTIC	
GILTNER, HOLLY L; GILTNER, SCOTT R; MCCOY, LUKE; MCCOY, TANI; PITTOCK, BRIAN M; PITTOCK, SANDY L	36-7460AG	3/25/1974	0.18	STOCKWATER, COMMERCIAL	
GLANBIA FOODS	36-16217	5/16/1980	0.96	MITIGATION	
GLANBIA FOODS	36-16219*	5/26/1971	0.33	MITIGATION	
GLANBIA FOODS INC	37-21136	7/24/2003	8	IRRIGATION	1422.7
GLANBIA FOODS INC	37-7380A	9/5/1974	3.03	IRRIGATION	983.7
GLANBIA FOODS INC	37-7380C	9/5/1974	4.38	IRRIGATION	983.7
GLANBIA FOODS INC	37-7576	3/29/1977	2.5	IRRIGATION	983.7
GLANBIA FOODS INC	37-7677	9/15/1977	2	IRRIGATION	622
GLANBIA FOODS INC	37-8903	9/17/1999	1.67	COMMERCIAL	
GLEN CAPPS INC	36-8176	3/31/1983	0.04	COMMERCIAL, DOMESTIC	
GLENN WARD DAIRY LLC; WARD LAND & LIVESTOCK LLC	45-7733	8/27/1979	0.33	STOCKWATER, COMMERCIAL	
GLOBAL AG PROPERTIES USA LLC	36-15165*	3/15/1970	2.2	IRRIGATION	2785
GLOBAL AG PROPERTIES USA LLC	36-16421	12/30/1983	0.13	IRRIGATION	2785
GLOBAL AG PROPERTIES USA LLC	36-16425*	5/1/1976	0.15	IRRIGATION	2785
GLOBAL AG PROPERTIES USA LLC	36-4200*	3/15/1974	0.84	IRRIGATION	2785
GLOBAL AG PROPERTIES USA LLC	36-8403	11/28/1988	0.31	IRRIGATION	2785
GOCHNOUR, JIM W; GOCHNOUR, MARILYN A	45-7461	2/5/1981	0.73	IRRIGATION	36.5

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GOEDHART, HUGO C; GOEDHART, MARY	36-7460AD	3/25/1974	0.06	STOCKWATER, COMMERCIAL	
GOEDHART, HUGO; GOEDHART, MARY	36-8774	3/10/1998	0.13	STOCKWATER, DOMESTIC	
GOLDEN ACRES LLC	37-7458B	10/14/1975	1.23	IRRIGATION	142.5
GOLDEN RAIL MOBILE HOME COURT	45-7458	12/16/1980	0.22	IRRIGATION, DOMESTIC	8.1
GOOCH, BEATRICE; GOOCH, ELLIS	37-8839	11/22/1994	0.06	STOCKWATER	
GOTT, MIKE	36-8534	4/27/1990	0.1	IRRIGATION, DOMESTIC	2.5
GRANT 4 D FARMS	36-16130	11/8/1973	0.05	IRRIGATION	264
GRANT 4 D FARMS	36-2194	9/10/1984	3.18	IRRIGATION	264
GRANT 4 D FARMS	36-7850C	3/30/1979	0.39	IRRIGATION	290
GRANT 4 D FARMS	36-8106C	8/10/1982	1.26	IRRIGATION	290
GRANT 4 D FARMS	36-8187	5/27/1983	1.4	IRRIGATION	310
GRANT 4 D FARMS; RLDR FARM LLC	36-7850D	3/30/1979	0.04	IRRIGATION	591
GRANT 4 D FARMS; RLDR FARM LLC	36-8106D	8/10/1982	0.13	IRRIGATION	591
GRANT JR, ROBERT	36-7516	12/13/1974	5.35	IRRIGATION	420
GRANT, DUANE R; GRANT, LAURA A	36-16549	4/21/1989	0.16	IRRIGATION	16.1
GRANT, DUANE R; GRANT, LAURA A	36-16800	4/21/1989	1.23	IRRIGATION	126.7
GRANT, DUANE R; GRANT, LAURA A	36-16801	4/21/1989	0.07	IRRIGATION	305
GRANT, DUANE R; GRANT, LAURA A	36-7932	8/14/1980	0.8	IRRIGATION	40
GRAVES, FRANCES M; GRAVES, RICHARD L	37-7371	7/31/1974	6.49	IRRIGATION, STOCKWATER, DOMESTIC	320
GREAVES, ALAN; GREAVES, COLLEEN	36-8479	11/13/1989	0.04	IRRIGATION	1.5
GREEN, DONALD L; GREEN, MARY S	37-7621G	6/7/1977	0.59	IRRIGATION	30
GREENE, DOUGLAS E; GREENE, GLORIA V	36-8438	7/24/1989	0.09	IRRIGATION	4.5
GREENER, BARNEY; GREENER, SHERRIE	45-14352	6/20/2011	0.02	HEATING, COOLING	
GUILLORY, CAMERON; GUILLORY, IDA	36-7382	9/20/1973	0.1	IRRIGATION, DOMESTIC	5
GULICK, LARRY	36-8507	2/1/1990	0.06	STOCKWATER, COMMERCIAL	
GULLEY, JUDY L; GULLEY, WILLIAM F	36-7425	12/28/1973	0.8	IRRIGATION	130
GULLEY, JUDY L; GULLEY, WILLIAM F	36-8789	3/23/1999	0.39	IRRIGATION	12
GUNNING, F F; GUNNING, G C	36-8063A	2/16/1982	2.14	IRRIGATION	329
GZMAC LLC	36-7431	1/18/1974	0.54	IRRIGATION	122
HAAGSMA FAMILY TRUST	36-7337B	11/25/1977	1.34	IRRIGATION	138
HAAGSMA FAMILY TRUST	36-8345	4/9/2001	0.08	STOCKWATER, COMMERCIAL	
HANCHETT, AUREL K; HANCHETT, PHYLLIS	36-15355*	3/23/1971	0.4	IRRIGATION	139
HANDY TRUCK LINES INC	36-8510	2/14/1990	0.04	COMMERCIAL	
HANEY SEED CO	36-8416	3/30/1989	0.04	COMMERCIAL	
HANEY SEED CO	45-7639	3/30/1989	0.04	COMMERCIAL	
HANSEN QUALITY JERSEYS LLC	36-16760*	9/23/1967	0.37	IRRIGATION	263
HANSEN QUALITY JERSEYS LLC	36-16761*	9/23/1967	0.03	STOCKWATER, COMMERCIAL	
HANSEN, CREG; HANSEN, LETA	37-7621F	6/7/1977	2.53	IRRIGATION	129
HANSEN, GARY L	36-11508*	3/15/1978	0.31	IRRIGATION	110
HARDY PROPERTIES L P	36-7510	11/7/1974	1.1	IRRIGATION	55
HARMS, BOYD L	36-16904	8/21/1973	0.08	IRRIGATION	3.9
HARPER, CLINT; HARPER, KEVIN; HARPER, LAYNE R	36-7960A	1/26/1981	0.9	IRRIGATION	1194
HARPER, CLINT; HARPER, KEVIN; HARPER, LAYNE R	36-7960B	1/26/1981	0.9	IRRIGATION	1194
HARPER, CLINT; HARPER, LAYNE R	36-7412	11/30/1973	4.01	IRRIGATION	460
HARTLEY, DOUGLAS D; HARTLEY, RENEA N	36-7529E	3/28/1975	0.42	IRRIGATION	312
HARTWELL, JANET L; HARTWELL, JIMMY	45-14437	10/30/1980	0.01	IRRIGATION	0.6
HATFIELD DAIRY LLC	37-21628	9/25/1979	0.11	STOCKWATER, DOMESTIC	

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HAWKER, FRED	45-7339A	2/2/1978	2.3	IRRIGATION	154
HAYDEN, DONALD D; HAYDEN, SHARON	36-8470	9/12/1989	0.08	IRRIGATION	2.5
HEIDA, MARY JANE; HEIDA, THOMAS	36-7597A	1/13/1976	0.7	IRRIGATION	114
HEIDA, MARY JANE; HEIDA, THOMAS	36-7597B	1/13/1976	1.18	IRRIGATION	79
HEIDA, MARY JANE; HEIDA, THOMAS	36-7610	2/27/1976	2.4	IRRIGATION	120
HEIDA, MARY JANE; HEIDA, THOMAS	36-7682	2/14/1977	1.24	IRRIGATION	78
HEIDA, MARY JANE; HEIDA, THOMAS	36-8276	6/6/1985	0.14	IRRIGATION	121
HENRY FARMS	36-15163*	5/1/1981	0.66	IRRIGATION	286
HENRY FARMS	36-7698	4/22/1977	2.36	IRRIGATION	160
HENRY FARMS	36-8568	11/7/1990	0.79	IRRIGATION	240
HENRY, AUDREY; HENRY, ROBERT P	36-14844*	3/15/1983	0.25	IRRIGATION	94
HEPWORTH FAMILY LANDHOLDINGS LLC	45-14245	6/30/1985	4.27	IRRIGATION	1887
HEPWORTH FAMILY LANDHOLDINGS LLC	45-7330	11/30/1977	4	IRRIGATION	601
HEPWORTH, BONNIE B; HEPWORTH, WILLIAM M	45-7160	12/13/1973	3.11	IRRIGATION	229
HEPWORTH, BONNIE B; HEPWORTH, WILLIAM M	45-7187	9/16/1974	0.36	IRRIGATION, STOCKWATER	229
HERNANDO, EDWARD O; HERNANDO, TERESA C	36-16493	8/25/1977	0.11	IRRIGATION, IRRIGATION STORAGE, IRRIGATION FROM STORAGE, STOCKWATER, DIVERSION TO STORAGE	2.5
HEWARD LANDS LTD	45-7668	11/7/1989	0.5	IRRIGATION	25
HEWARD, DORA W; HEWARD, GERALD B	45-13564	10/12/1973	1.53	IRRIGATION	185.4
HEWARD, DORA W; HEWARD, GERALD B	45-7166A	2/3/1974	1.53	IRRIGATION	185.4
HIDDEN VALLEY LAND CO LLC	36-10174*	3/15/1968	0.74	IRRIGATION	377
HIDDEN VALLEY LAND CO LLC	36-8528	3/16/1990	0.6	IRRIGATION	421.5
HILT, ARIE; HILT, CECIL; HILT, HENRIETTA	36-8265	3/7/1985	0.15	STOCKWATER, COMMERCIAL	
HILT, DARYL; HILT, ELAINE	37-8055	10/28/1982	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
HIRAI, GREGORY; HIRAI, JENNIFER	36-7793	6/1/1978	2.26	IRRIGATION	144
HIRAI, GREGORY; HIRAI, JENNIFER	36-7946	1/8/1981	0.05	STOCKWATER, COMMERCIAL	
HIRAI, JACK J; MATTHEWS, J W	36-8585	8/11/1988	0.22	IRRIGATION	171
HOBSON, DAVID MARK	45-14434	3/13/1976	0.2	IRRIGATION	84.5
HOBSON, DAVID MARK	45-14435*	3/15/1976	0.21	IRRIGATION	84.5
HOLT, RONALD; HOLT, SHARON	36-7876	10/26/1979	0.88	IRRIGATION	48
HOLTON, RONALD	36-12588*	3/1/1974	0.44	IRRIGATION	147
HOLTZEN FARMS INC	36-8603	6/14/1991	0.14	STOCKWATER	
HONDO FARMS	45-13602	6/30/1985	2.87	IRRIGATION	737.4
HONDO FARMS	45-7465A	4/15/1981	1.91	IRRIGATION	737.4
HOOPER, CYNTHIA ANN; HOOPER, LAURA KAY; HOOPER, TIMOTHY E	37-7279	9/13/1973	1.23	IRRIGATION, STOCKWATER	74
HRUZA, EUGENE	36-8290	6/24/1985	1.88	IRRIGATION	277
HRUZA, RONALD L	36-7878	10/30/1979	1.43	IRRIGATION	76
HUBSMITH, IRIS B; HUBSMITH, LOUIS L	37-8093	3/17/1984	0.08	STOCKWATER, COMMERCIAL	
HUETTIG, ELLEN M; HUETTIG, MYRON A	36-7639	8/24/1976	1.45	IRRIGATION	511
HUETTIG, ELLEN M; HUETTIG, MYRON A	36-8147	3/1/1983	1.6	IRRIGATION	511
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16203	8/21/1973	2.6	IRRIGATION	387.5
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16902	8/21/1973	0.73	IRRIGATION	387.5
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-16903	8/21/1973	3.11	IRRIGATION	307.6
HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-7817	10/14/1978	1.1	IRRIGATION	307.6

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HULTS , JOSEPH; HULTS, DAVID; HULTS, KAY A; HULTS, NICOLE	36-7877	12/21/1979	0.83	IRRIGATION	307.6
HULTS , JOSEPH; HULTS, KAY A	36-16399	8/24/1973	0.01	IRRIGATION	9
HULTS, JOSEPH ; HULTS, KAY A	36-10547*	4/1/1980	0.25	IRRIGATION	154
HULTS, JOSEPH ; HULTS, KAY A	36-16400	8/24/1973	0.01	IRRIGATION	142
HULTS, JOSEPH ; HULTS, KAY A	36-8200	5/26/1983	0.28	IRRIGATION	154
HUNT, DUANE W; HUNT, MARGARET	36-11079*	3/15/1973	0.05	IRRIGATION	163
HURTADO, GRICELDA; HURTADO, JESUS	36-7508B	11/5/1974	2.42	IRRIGATION	132
HURTADO, GRICELDA; HURTADO, JESUS	36-8736	5/19/1992	0.52	STOCKWATER, COMMERCIAL	
HUTCHISON, W JAY	45-7158	11/13/1973	1.4	IRRIGATION	70
IDA GOLD FARMS GENERAL PARTNERSHIP; NORTHWEST FARM CREDIT SERVICES FLCA	45-7680	10/15/1990	1.22	STOCKWATER, COMMERCIAL	
IDA GOLD FARMS GENERAL PARTNERSHIP; NORTHWEST FARM CREDIT SERVICES FLCA	45-7684	12/11/1990	0.14	STOCKWATER, DOMESTIC	
IDAHO ACRES DAIRY	36-11110*	3/15/1968	1	IRRIGATION	408
IDAHO ACRES DAIRY	36-8412	3/1/1989	0.95	IRRIGATION	408
IDAHO AG INC	36-7493	8/8/1974	3.84	IRRIGATION	974
IDAHO AG INC	36-7883A	1/15/1980	5.64	IRRIGATION	678
IDAHO FRESH PAK INC	36-15553*	3/15/1974	0.06	COMMERCIAL	
IDAHO FRESH PAK INC	36-8456	9/21/1989	0.27	COMMERCIAL	
IDAHO POWER CO	36-8761	1/23/1997	0.11	DOMESTIC	
IDAHO POWER CO	37-8484	1/17/1989	0.02	COMMERCIAL	
IDAHO WATER CO LLC	36-16537	5/16/1980	0.05	STOCKWATER, COMMERCIAL	
IDAHO WATER CO LLC	36-16540*	5/26/1971	0.02	STOCKWATER, COMMERCIAL	
IDAHO WATER CO LLC	36-16629	5/16/1980	0.04	MITIGATION	
IDAHO WATER CO LLC	36-16766	9/12/1973	0.11	IRRIGATION	160
IDAHO WATER CO LLC	36-16878*	10/31/1986	0.02	IRRIGATION	4
IDAHO WATER CO LLC	36-16879	1/27/1976	0.06	IRRIGATION	4
IDAHO WATER CO LLC	36-16909	9/12/1973	0.06	IRRIGATION	485
IDAHO WATER CO LLC	36-16911	9/12/1973	0.1	IRRIGATION	485
IDAHO WATER CO LLC	37-22446	9/12/1973	0.1	STOCKWATER, COMMERCIAL	
IDAHO WATER CO LLC	37-22452	9/12/1973	0.12	STOCKWATER, COMMERCIAL	
IDAHO WATER CO LLC	45-13988	5/16/1980	0.03	STOCKWATER, COMMERCIAL	
IDAHO WATER CO LLC	45-13989*	5/26/1971	0.01	STOCKWATER, COMMERCIAL	
IDAHO WATER RESOURCE BOARD	36-8094	6/28/1982	7	POWER	
IDAHO YOUTH RANCH INC	36-8256	12/6/1984	0.55	IRRIGATION, STOCKWATER, DOMESTIC	58.9
INFANGER, DEBRA A; INFANGER, JOHN N	37-20800	9/10/2002	0.12	DOMESTIC	
INTERSTATE MFG	36-8454	9/14/1989	0.04	COMMERCIAL	
J D HEISKELL HOLDINGS LLC	37-22665	9/12/1973	0.02	COMMERCIAL	
J D HEISKELL HOLDINGS LLC	37-22666	9/12/1973	0.02	COMMERCIAL	
J D HEISKELL HOLDINGS LLC	37-7380D	9/5/1974	0.05	COMMERCIAL	
J R SIMPLOT CO	36-7636	7/27/1976	0.49	INDUSTRIAL	
J R SIMPLOT CO	36-8469	10/12/1989	0.28	IRRIGATION	16
J R SIMPLOT CO	36-8471	10/4/1989	0.18	COMMERCIAL	
JACKSON FARMS INC	45-4241A*	8/20/1976	0.3	IRRIGATION	294
JACKSON, IRIS; JACKSON, MICHAEL	45-7353A	8/9/1978	0.02	IRRIGATION, DOMESTIC	1.4
JACKSON, JAMES EARL	36-8605	5/23/1991	0.04	IRRIGATION	1.4
JACKSON, LAVAR R; VEENSTRA, FRANK W; VEENSTRA, MARY JANE	36-8101	7/13/1982	0.8	IRRIGATION	40
JADE INVESTMENTS LTD PARTNERSHIP	45-7232E	3/13/1975	1.36	IRRIGATION	68

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JANSS FARMS	36-16705	3/25/1974	5.72	IRRIGATION	321
JANSS FARMS	37-7351	4/12/1974	0.14	STOCKWATER	
JAROLIMEK, LEROY; JAROLIMEK, PEGGY	45-11196*	3/15/1968	2.04	IRRIGATION	884
JAROLIMEK, LEROY; JAROLIMEK, PEGGY	45-14403	6/30/1985	0.3	IRRIGATION, MITIGATION	1035.5
JENTZSCH KEARL FARMS	36-16420	12/30/1983	1.95	IRRIGATION	995
JENTZSCH KEARL FARMS	36-16424*	5/1/1976	0.85	IRRIGATION	995
JENTZSCH KEARL FARMS	36-16773	3/13/1989	4.93	IRRIGATION	2508.5
JENTZSCH KEARL FARMS	36-16779*	7/13/1987	1.3	IRRIGATION	2508.5
JENTZSCH KEARL FARMS	36-16787	4/6/1978	0.63	IRRIGATION	2508.5
JENTZSCH KEARL FARMS	36-16925	7/25/1987	0.03	COMMERCIAL	
JENTZSCH KEARL FARMS	36-16980	7/25/1987	0.29	IRRIGATION	995
JENTZSCH KEARL FARMS	36-8622	12/4/1991	0.02	COMMERCIAL	
JENTZSCH, RODNEY A; JENTZSCH, SHIRLEY S	36-15536*	4/1/1964	3.44	IRRIGATION	1201
JENTZSCH, RODNEY A; JENTZSCH, SHIRLEY S	36-16554	3/21/1989	0.34	IRRIGATION	1201
JENTZSCH, RODNEY A; JENTZSCH, SHIRLEY S	36-16622	7/3/1974	2.95	IRRIGATION	172
JENTZSCH, RODNEY A; JENTZSCH, SHIRLEY S	36-16827	9/13/1984	0.1	IRRIGATION	15.3
JENTZSCH, RODNEY A; JENTZSCH, SHIRLEY S; KEARL, JOSEPH; KEARL, MELYNDA	36-16826	9/13/1984	2.34	IRRIGATION	1257
JENTZSCH, RODNEY A; JENTZSCH, SHIRLEY S; KEARL, JOSEPH; KEARL, MELYNDA	36-16924	7/25/1987	2.74	IRRIGATION	1257
JEROME CHEESE CO	36-16380	9/12/1973	0.11	MITIGATION	
JEROME CHEESE CO	36-7337F	11/25/1977	0.66	COMMERCIAL	
JEROME COUNTRY CLUB INC	36-8344	2/12/1988	0.41	IRRIGATION	104
JEROME COUNTY ROD & GUN CLUB	36-8620	11/14/1991	0.02	IRRIGATION, COMMERCIAL	0.5
JEROME RECREATION DISTRICT	36-7525	3/20/1975	0.2	DOMESTIC, RECREATION	
JEROME SCHOOL DISTRICT #261	36-16440	8/31/2006	1.07	HEATING	
JEROME SCHOOL DISTRICT #261	36-16441	8/31/2006	0.45	HEATING	
JEROME SCHOOL DISTRICT #261	36-16898	6/8/2011	1.1	HEATING, COOLING	
JESSE, LYDIA MARIA; JESSE, ROBERT LEE	36-8447	10/10/1989	0.12	IRRIGATION	6
JOHN A STEVENSON & ELAINE G STEVENSON TRUST	36-16872	3/28/1975	0.01	IRRIGATION	3.2
JOHN A STEVENSON & ELAINE G STEVENSON TRUST	36-16873	3/28/1975	0.01	IRRIGATION	3.2
JOHN A STEVENSON & ELAINE G STEVENSON TRUST	36-7529G	3/28/1975	2.18	IRRIGATION	946
JOHN R SEYMOUR & EVELYN LOIS SEYMOUR FAMILY TRUST	45-13542*	3/15/1976	1.28	IRRIGATION	479
JOHN, GLORIA; JOHN, KIT M	37-8346	6/21/1988	0.03	COMMERCIAL	
JOHNSON JR, ELMER F; JOHNSON, JUDY	36-7462	4/3/1974	0.89	IRRIGATION	80
JOHNSON, BECKY; JOHNSON, CHARLES; NELSON, JACK; NELSON, KATHY	37-21644	2/2/2006	0.12	DOMESTIC	
JOHNSON, JODIE; JOHNSON, MITCH	36-7929	8/4/1980	0.06	IRRIGATION, DOMESTIC	1
JOHNSON, WALTER B	45-7632	3/27/1996	1.13	IRRIGATION	79
JONES, RONALD S ; JONES, TAMMY	36-8056A	1/21/1982	4.79	IRRIGATION	312
JONES, RONALD S ; JONES, TAMMY	36-8110A	8/19/1982	0.8	IRRIGATION	312
JOSEF & RITA EHRLER TRUST	45-7377	5/26/1979	0.15	IRRIGATION	12
JOUGLARD SHEEP CO INC	36-8462	10/11/1989	0.16	STOCKWATER, DOMESTIC	

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JUDD, ALENE L; JUDD, GLENN C	45-7536	6/9/1983	0.02	COMMERCIAL, DOMESTIC	
JURGENSMEIER, RALPH	36-7616	3/4/1976	0.22	IRRIGATION	11
K & W DAIRY	36-10225D	5/1/1985	0.06	STOCKWATER, COMMERCIAL	
K & W DAIRY	36-10225K*	5/1/1985	0.58	IRRIGATION	1064.7
K & W DAIRY	36-7477D	5/28/1974	0.06	STOCKWATER, COMMERCIAL	
K & W DAIRY	36-7477K	5/28/1974	0.66	IRRIGATION	1064.7
K & W DAIRY	36-7606D	2/4/1976	0.06	STOCKWATER, COMMERCIAL	
K & W DAIRY	36-7606K	2/4/1976	0.61	IRRIGATION	1064.7
K & W DAIRY	36-7779D	2/22/1978	0.19	STOCKWATER, COMMERCIAL	
K & W DAIRY	36-7779K	2/22/1978	1.93	IRRIGATION	1064.7
K & W DAIRY	36-7832D	12/11/1978	0.02	STOCKWATER, COMMERCIAL	
K & W DAIRY	36-7832K	12/11/1978	0.16	IRRIGATION	1064.7
K & W DAIRY	36-8175	4/1/1984	0.17	STOCKWATER, COMMERCIAL	
K L BLACK TRUST	36-7726	6/23/1977	4	IRRIGATION	261
KEARL, JOSEPH; KEARL, MELYNDA	36-16553	3/21/1989	0.48	IRRIGATION	160
KEARL, JOSEPH; KEARL, MELYNDA	36-8205	6/15/1983	0.6	IRRIGATION	30
KEARL, JOSEPH; KEARL, MELYNDA	36-8595	7/10/1991	0.11	IRRIGATION	5.3
KEARL, JOSEPH; KEARL, MELYNDA	36-8624	12/10/1991	0.21	IRRIGATION	160
KENNEDY, BRENDA; KENNEDY, TRACY S	36-7471	5/3/1974	0.08	IRRIGATION, STOCKWATER	10
KENT SEARLE FAMILY TRUST	45-7317	7/11/1977	3.35	IRRIGATION	4389
KERBS OIL CO INC	45-7643	5/19/1989	0.04	COMMERCIAL	
KERBS OIL CO INC	45-7644	5/22/1989	0.04	COMMERCIAL	
KERBS, WILLIAM	36-16688	5/22/1974	1.52	IRRIGATION	113
KERNER, HERSHEL	37-8361	6/16/1988	0.03	COMMERCIAL	
KING, CORY; KING, VICKY	36-16971	1/4/2013	0.12	HEATING, COOLING, DOMESTIC	
KING, FERRIL; KING, RENE	36-8440	9/7/1989	0.02	COMMERCIAL	
KIRCHER, JAMES; KIRCHER, RACHEL	45-7511	8/27/1982	0.07	IRRIGATION, DOMESTIC	1.1
KLOSTERMAN, KENT L	36-7974	3/25/1981	2.6	IRRIGATION	201
KLOSTERMAN, KENT L	36-8432	6/22/1989	4.01	IRRIGATION	277
KOCH AGRI SERVICE	36-8476	11/6/1989	0.01	COMMERCIAL	
KOCH AGRI SERVICE	36-8477	11/6/1989	0.06	COMMERCIAL	
KOCH, DENISE K; KOCH, MITCHELL L	37-7755	12/4/1978	0.04	IRRIGATION, DOMESTIC	2
KORB, LONNIE; KORB, LOVENIA	45-7689	2/22/1991	0.14	IRRIGATION	7
KULHANEK, DENNIS; KULHANEK, MAXINE	36-8503	2/21/1990	0.04	IRRIGATION	2
KUNSMAN, SHIRLEY	36-8249	7/12/1984	0.09	IRRIGATION, DOMESTIC	2.5
KUNSMAN, SHIRLEY	36-8306	2/26/1986	0.08	IRRIGATION	2.5
L & S LAND HOLDINGS LLC	36-7539	6/10/1975	7.6	IRRIGATION	449.3
L M DAIRY	36-8224	6/29/1983	0.17	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	2
LAKE MEAD ENTERPRISES	45-7439B	2/29/1980	3.92	IRRIGATION	921.3
LAMBERT PRODUCE CO INC	45-13470	6/30/1985	0.1	IRRIGATION	186
LAMBERT PRODUCE CO INC	45-13777	6/30/1985	11.22	IRRIGATION	4983
LAMBERT PRODUCE INC	45-4041	6/30/1985	0.5	IRRIGATION	749
LAMBERT PRODUCE INC	45-7439A	2/29/1980	1.46	IRRIGATION	118.8
LANIER, BLANCHE; LANIER, MELVIN	36-8501	2/21/1990	0.07	IRRIGATION, DOMESTIC	1.5
LAZY P FARMS; PAULS, DEBBRAH; PAULS, EMIL V; PAULS, RONALD	37-8147	6/27/1983	0.04	IRRIGATION, STOCKWATER, DOMESTIC	1.8
LCSC ENTERPRISES LLC	45-13776	6/30/1985	1.81	IRRIGATION	449
LCSC ENTERPRISES LLC	45-7189	9/16/1974	3.53	IRRIGATION	476
LCSC ENTERPRISES LLC	45-7277	10/4/1976	1.11	IRRIGATION	476
LEAVELL, ALONZO B	37-22164	9/20/1974	0.05	IRRIGATION	4.1
LEAVELL, ALONZO B	37-22165	9/20/1974	0.05	IRRIGATION	2
LEAVELL, ALONZO B	37-22166	9/20/1974	0.3	IRRIGATION	21.6

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LEAVELL, ALONZO B	37-22167	9/20/1974	0.4	IRRIGATION	31
LEDBETTER, GREG; LEDBETTER, JANE F	36-16186	10/28/1977	0.75	IRRIGATION	154
LEDBETTER, JANE F; MILLER, TED	36-8223	3/11/1984	0.62	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	5
LEDERER, PAUL H; LEDERER, SHARON	36-7592	1/6/1976	2.44	IRRIGATION	178
LEDERER, PAUL H; LEDERER, SHARON	36-7939A	11/29/1980	0.84	IRRIGATION	69.5
LEDERER, PAUL H; LEDERER, SHARON	36-7939B	11/29/1980	0.05	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	0.5
LEE, MARTIN R	36-8410	2/10/1989	0.03	COMMERCIAL	
LEED CORP	37-21952	10/11/2006	0.44	DOMESTIC	
LG GILLETTE INVESTMENTS LC	37-8742	3/28/1991	4.21	IRRIGATION	995.5
LIND, ELDEN; LIND, MELBA JEAN	36-8583	2/22/1991	3.99	IRRIGATION	238.9
LITTLE SKY FARMS	37-7480	2/24/1977	9.83	IRRIGATION	844.4
LLOYD, JANICE	36-8580	2/19/1991	0.7	IRRIGATION	35
LONG VIEW DAIRY	36-16185	6/30/1983	2.03	IRRIGATION	131
LONG VIEW DAIRY	36-8061	2/9/1982	0.2	STOCKWATER, COMMERCIAL	
LUND, JEFFREY A	36-15211*	1/30/1970	0.33	IRRIGATION	75
LUND, JEFFREY A	36-8649	1/25/1978	1.47	IRRIGATION	73.5
LUXTON, JORDAN; LUXTON, MARJORIE	36-8078	4/14/1982	0.02	DOMESTIC, FIRE PROTECTION	
MAGIC VALLEY GROWERS LTD	37-7591	5/30/1979	5.21	IRRIGATION	260.4
MAGIC VIEW CALVES LLC	37-21144	1/7/1974	0.17	IRRIGATION, MITIGATION	4
MAHLER, ALPHA; MAHLER, EDWIN	36-8442	9/14/1989	0.03	IRRIGATION	1
MALAD ESTATES WATER USERS	37-8892	6/28/2000	0.2	DOMESTIC	
MART PRODUCE CORP	36-8457	9/20/1989	0.16	COMMERCIAL	
MART PRODUCE CORP	36-8458	9/20/1989	0.01	COMMERCIAL	
MC CABE, LINDA JOY; MC CABE, ROBERT	37-20747*	4/1/1978	0.56	IRRIGATION	300
MC CAIN FOODS USA INC	45-7241	5/27/1975	0.25	COMMERCIAL, FIRE PROTECTION	
MC CAUGHEY, MARGARET; MC CAUGHEY, WALTER L	36-7438	1/31/1974	2	IRRIGATION	100
MC CAUGHEY, MARGARET; MC CAUGHEY, WALTER L	36-8579	2/8/1991	0.68	IRRIGATION	52
MC CLELLAN, TOM	45-7533	4/26/1983	0.09	IRRIGATION	3
MC CLYMONDS, MICHAEL J	36-7873	9/27/1979	0.08	IRRIGATION, DOMESTIC	4.5
MC DONALD, FRANK F	36-8516	3/2/1990	0.11	IRRIGATION, DOMESTIC	3
MC KAY, BRYAN; MC KAY, SHAWNA	36-7456A	3/20/1974	2.1	IRRIGATION, STOCKWATER	182
MC KAY, BRYAN; MC KAY, SHAWNA	36-7456B	3/20/1974	0.89	IRRIGATION	77.5
MC KEAN, EDWARD; MC KEAN, LYNETTE	36-8186	5/17/1983	0.04	COMMERCIAL, DOMESTIC	
MC KNIGHT, SPARR	37-22201	7/5/2007	0.04	DOMESTIC	
MC MANUS, JANINE B; MC MANUS, WILLIAM D	36-8226	7/23/1983	0.74	IRRIGATION	37
MC MANUS, JANINE B; MC MANUS, WILLIAM D	36-8288	7/21/1985	0.58	IRRIGATION	29
MC MANUS, JANINE B; MC MANUS, WILLIAM D	45-7548	7/3/1983	1.44	IRRIGATION	103.8
MC MANUS, WILLIAM D	45-7264	3/23/1976	3.78	IRRIGATION	189
MC MINN, DALE M	36-16109	11/19/1979	0.06	IRRIGATION, DOMESTIC	2
MC REITS LLC	36-8382	8/16/1988	0.67	STOCKWATER, COMMERCIAL, DOMESTIC	
MEEKS FAMILY LTD PARTNERSHIP	36-7684	3/2/1977	1.41	IRRIGATION	180
MEEKS, DIANE SAWYER; MEEKS, JAMES D	36-7336	8/8/1986	0.88	IRRIGATION	87
MENDOZA, BERTHA; MENDOZA,	45-14343	12/29/1989	0.07	IRRIGATION	3.3

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MENSINGER, PAUL; VOGT, EVELYN	36-16136	11/25/1977	0.36	IRRIGATION	18
MERENZ, MAX H	36-7396	10/29/1973	0.15	IRRIGATION, DOMESTIC	5.5
MESSNER, ROBERT; MESSNER, SHIRLENE	36-16547	9/12/1973	1.6	IRRIGATION	160
METZ, JOHN B	36-16492	8/25/1977	0.11	IRRIGATION, IRRIGATION STORAGE, IRRIGATION FROM STORAGE, STOCKWATER, DIVERSION TO STORAGE	5
MEYERS, KATHI L; MEYERS, ROBERT J	36-7459	3/20/1974	2.45	IRRIGATION	160
MEYERS, KATHI L; MEYERS, ROBERT J	37-7611	5/23/1977	2.18	IRRIGATION, STOCKWATER	112
MEYERS, ROBERT J	36-7854	2/16/1990	2.71	IRRIGATION	142
MEYERS, ROBERT J	37-8801	10/20/1992	0.1	DOMESTIC	
MILLENKAMP PROPERTIES	36-16927	11/26/1974	1.06	IRRIGATION	217.8
MILLENKAMP PROPERTIES LLC	36-16914	4/24/1990	0.06	IRRIGATION	3
MILLENKAMP PROPERTIES LLC	36-16915	4/24/1990	1.36	STOCKWATER, COMMERCIAL	
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	36-16916	4/24/1990	0.88	IRRIGATION	217.8
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	36-16926	11/26/1974	1.18	IRRIGATION	79
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	45-11912*	11/6/1981	0.71	IRRIGATION	277
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	45-7290	7/26/1977	3.78	IRRIGATION	189
MILLENKAMP, SUSAN; MILLENKAMP, WILLIAM J	45-7331	10/12/1978	4.7	IRRIGATION	277
MILLER, CARLEEN; MILLER, GERALD	36-8232	9/27/1983	0.09	IRRIGATION, COMMERCIAL, DOMESTIC	1
MILLER, CARLEEN; MILLER, GERALD	36-8233	12/17/1991	0.06	HEATING, RECREATION	
MILLER, DIANE M; MILLER, GUS E	37-8373	8/10/1988	0.04	IRRIGATION, STOCKWATER, DOMESTIC	2
MILLER, GARY W; MILLER, TERESA S	37-7491	6/8/1976	0.06	IRRIGATION, DOMESTIC	2
MILLER, JOLENE R; MILLER, TERRY D	36-7823A	9/8/1978	1.31	IRRIGATION	331
MILLER, JOLENE R; MILLER, TERRY D	36-7823B	9/8/1978	0.23	IRRIGATION	130
MILLER, KALVIN W; MILLER, PAMELLA K	36-12953*	3/9/1979	1.25	IRRIGATION	320
MILLERCOORS LLC	45-7641	6/8/1989	0.04	COMMERCIAL	
MINIDOKA COUNTY FIRE PROTECTION DISTRICT	36-16364	8/15/2005	0.04	DOMESTIC, FIRE PROTECTION	
MINIDOKA FARMS LLC	36-7403	11/8/1973	1.35	IRRIGATION	632
MINIDOKA FARMS LLC	36-8133	12/31/1982	0.21	IRRIGATION	632
MINIDOKA LUMBER CO	36-12643*	3/15/1973	1.7	IRRIGATION	793
MINIDOKA LUMBER CO	36-16208	10/29/1973	0.16	COMMERCIAL	
MINIDOKA LUMBER CO	36-16209	10/29/1973	4.36	IRRIGATION	634
MINIDOKA LUMBER CO	36-8493	12/19/1989	2.7	IRRIGATION	793
MIPAD LTD PARTNERSHIP	36-8538	6/1/1990	0.27	STOCKWATER, COMMERCIAL	
MIPAD LTD PARTNERSHIP	37-8867	11/25/1977	0.14	STOCKWATER, COMMERCIAL	
MIRKIN, JON F; MIRKIN, SHANNAN R	36-16634	4/8/1975	0.09	COMMERCIAL	
MITCHELL, DELL N; MITCHELL, LYNN N	45-14334	10/20/1980	0.31	IRRIGATION	23.8
MITCHELL, DELL N; MITCHELL, LYNN N	45-14336	2/14/1991	0.11	IRRIGATION	7
MITCHELL, DELL N; MITCHELL, SUSAN L	45-7454	10/20/1980	1.32	IRRIGATION	102.6
MITCHELL, DELL N; MITCHELL, SUSAN L	45-7688	2/14/1991	0.56	IRRIGATION	35.6
MITCHELL, JAN R; MITCHELL, LYNN N	45-14333	10/20/1980	0.17	IRRIGATION	13.6
MITCHELL, JAN R; MITCHELL, LYNN N	45-14335	2/14/1991	0.15	IRRIGATION	9.4
MITCHELL, RALPH M	45-7640	5/23/1989	0.07	IRRIGATION, DOMESTIC	1.5

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MOLYNEUX, CLYDE L; MOLYNEUX, TERESA L	37-8065	1/14/1983	0.09	IRRIGATION, DOMESTIC	1.5
MONSON, LEO DEAN	36-16205	4/14/1983	0.09	IRRIGATION	7
MONTGOMERY, DARLENE M; MONTGOMERY, LLOYD J	36-12464*	5/1/1981	0.11	IRRIGATION	76.2
MOO VIEW COW PALACE	45-13905	11/16/1974	0.3	STOCKWATER, COMMERCIAL	
MOOSMAN, MARK C; MOOSMAN, SHANILLE H	45-11635	6/26/1978	0.04	DOMESTIC	
MORGAN, CODY G; MORGAN, KATHY J	36-16094	3/10/1992	0.03	STOCKWATER	
MORGAN, CODY G; MORGAN, KATHY J	36-16407	3/10/1992	1.53	IRRIGATION	390.5
MORGAN, CODY G; MORGAN, KATHY J	36-16408	3/10/1992	0.08	STOCKWATER, COMMERCIAL	
MORRIS, AUDREY; MORRIS, HOWARD L; MORRIS, JEREMY; MORRIS, RHONDA K	37-20838	2/6/1974	1.15	IRRIGATION	376
MORRIS, AUDREY; MORRIS, HOWARD L; MORRIS, JEREMY; MORRIS, RHONDA K	37-8500	2/22/1989	0.09	IRRIGATION	3
MORRIS, HOWARD L; MORRIS, RHONDA	36-7367M	8/13/1973	3.52	IRRIGATION	421
MORRIS, HOWARD L; MORRIS, RHONDA	36-7381M	9/19/1973	0.59	IRRIGATION	421
MORRIS, HOWARD L; MORRIS, RHONDA	36-7445M	2/21/1974	1.03	IRRIGATION	421
MORRIS, HOWARD L; MORRIS, RHONDA	36-7480N	5/31/1974	2.32	IRRIGATION	421
MORRIS, HOWARD L; MORRIS, RHONDA	37-7315B	11/7/1973	0.15	IRRIGATION	126.8
MORRIS, HOWARD L; MORRIS, RHONDA	37-7316	11/7/1973	3.1	IRRIGATION	155
MORRIS, HOWARD L; MORRIS, RHONDA	37-7363	5/31/1974	1.64	IRRIGATION	117
MORRIS, HOWARD L; MORRIS, RHONDA	37-7531	10/6/1976	0.66	IRRIGATION	33
MOSS GREENHOUSES INC; MOSS, CAROLYN A	36-8298	9/23/1985	0.27	COMMERCIAL	
MOSS PRODUCE LLC	36-8426	7/18/1989	0.02	COMMERCIAL	
MOSS, CAROLYN A; MOSS, DE WITT A	36-7898	2/27/1980	0.06	COMMERCIAL, DOMESTIC	
MOSS, DEAN H; MOSS, MARSHA	45-14436	10/30/1980	0.04	IRRIGATION, DOMESTIC	2.2
MOUNTAIN VIEW LAND LP	36-7460L	3/25/1974	0.55	STOCKWATER, COMMERCIAL	
MOUNTAIN VIEW LAND LP	36-7646	9/24/1976	1.05	STOCKWATER, COMMERCIAL	
MOUNTAIN VIEW LAND LP	36-7945	10/20/1980	0.5	IRRIGATION	25
MOUNTAIN VIEW WATER CORP	37-21278	3/22/2004	0.06	DOMESTIC	
MOUNTAIN VIEW WATER CORP	37-7469	3/14/1976	0.67	DOMESTIC	
MOYLE, ALLEN; MOYLE, KARLA	36-8418	3/16/1989	0.48	STOCKWATER, COMMERCIAL, DOMESTIC	
MOYLE, ALLEN; MOYLE, KARLA	36-8768	6/16/1997	0.17	STOCKWATER, COMMERCIAL	
MOYLE, LEE	36-8450	9/21/1989	0.02	COMMERCIAL	
MPD HOLDING LLC	37-7259	9/12/1973	3.64	IRRIGATION	182
MPD HOLDING LLC	37-8707	3/26/1991	2	IRRIGATION	100
MUNSEE, AMY; MUNSEE, MARK W	36-8559	9/4/1990	1.86	IRRIGATION	93
MURPHY, LA VERN A	36-8361	5/31/1988	0.09	IRRIGATION	3
MUSSMANN, MILDRED; MUSSMANN, BERWYN	36-7700	5/2/1977	0.73	IRRIGATION, STOCKWATER	88
MVCP LLC	45-13904	11/16/1974	10.07	IRRIGATION	4389
MVCP LLC	45-13981	5/4/1978	4.6	IRRIGATION	4389
MVCP LLC	45-7186A	12/7/1974	6.12	IRRIGATION	4389
NALLEY, TINA L	37-8750	7/12/1991	0.13	IRRIGATION, STOCKWATER, DOMESTIC	6
NAPIER, DIANNA K	36-8521	12/19/1991	0.03	IRRIGATION, DOMESTIC	1
NEIBAUR, MACK W	36-11893*	7/23/1985	0.08	IRRIGATION	79
NEIBAUR, MACK W	36-7529H	3/28/1975	0.35	IRRIGATION	79
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-15212*	3/15/1975	0.33	IRRIGATION	310

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NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-15213*	3/15/1980	0.13	IRRIGATION	310
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-16955*	7/23/1985	0.07	IRRIGATION	79
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7490	7/30/1974	4	IRRIGATION	310
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7529A	3/28/1975	0.9	IRRIGATION	541.8
NEIBAUR, MITCHELL D; NEIBAUR, RACHEL H	36-7529B	3/28/1975	1.47	IRRIGATION	541.8
NEIBAUR, STEVE	36-15375*	4/1/1978	1.25	IRRIGATION	427
NEILSON, GLENN	36-8487	9/27/1989	0.22	DOMESTIC	
NELLIS, CARL H; NELLIS, JANE	36-7481	6/4/1974	0.04	IRRIGATION	2
NELSEN DAIRY	36-8745	11/7/1995	0.14	STOCKWATER, COMMERCIAL	
NELSON, JACK; NELSON, KATHY	37-8717	3/1/1991	0.08	IRRIGATION	2.6
NELSON, JACK; NELSON, KATHY	37-8740	3/14/1991	0.09	IRRIGATION	3
NESBIT, BERVA DAWN; NESBIT, LARRY R	36-8124	9/30/1982	0.16	IRRIGATION, STOCKWATER	7
NEUMANN, DAVID A; NEUMANN,	37-7837	6/24/1980	0.1	IRRIGATION, STOCKWATER	5
NEWCOMB, BRUCE C	45-7184	8/6/1974	5.57	IRRIGATION	614.1
NEWCOMB, BRUCE C	45-7507	6/16/1982	1.93	IRRIGATION	614.1
NEWCOMB, LONNA; NEWCOMB, MARK T	36-7890	1/17/1980	1.48	IRRIGATION	144
NEWCOMB, MARK T	45-12439	7/28/1978	11.15	IRRIGATION, STOCKWATER	629
NEWCOMB, MARK T	45-12440	5/14/1976	4.28	IRRIGATION	237
NEWCOMB, MARK T	45-14069	2/6/1979	0.37	IRRIGATION	269.6
NEWCOMB, MARK T	45-7252	7/2/1976	4.56	IRRIGATION	842
NEWCOMB, MARK T	45-7268B	5/14/1976	0.61	IRRIGATION	842
NEWCOMB, MARK T	45-7318	7/14/1977	3.38	IRRIGATION	200
NIELSEN, A DIANE; NIELSEN, RICHARD G	36-8474	9/29/1989	0.04	COMMERCIAL	
NORTH RIM FAIRWAYS OWNERS ASSN INC	36-8399	1/5/1995	0.41	DOMESTIC	
NORTH SNAKE GROUND WATER	36-16178	11/25/1977	0.26	IRRIGATION	13
NORTHSIDE DAIRY	36-7529F	3/28/1975	0.27	IRRIGATION	312
NORTHSIDE DAIRY	36-8490	11/7/1989	0.27	STOCKWATER, COMMERCIAL, DOMESTIC	
NORTHSIDE DAIRY; VERBREE JR, JACK; VERBREE LAND HOLDINGS LLC	36-16747	8/16/1973	0.38	IRRIGATION	100
NORTHSIDE DAIRY; VERBREE LAND HOLDINGS LLC	36-16633	4/8/1975	2.2	IRRIGATION	211.5
NORTHSIDE RANCH CO LLC	36-13986	3/1/1978	0.2	STOCKWATER, DOMESTIC	
NORTHWEST FARM CREDIT SERVICES FLCA; ROTH INVESTMENTS LLC	36-8417	3/1/1989	0.76	STOCKWATER, DOMESTIC	
NORTHWEST FARM CREDIT SERVICES FLCA; ROTH INVESTMENTS LLC	37-8685	9/20/1990	0.84	STOCKWATER, INDUSTRIAL	
NORTHWEST FARM CREDIT SERVICES FLCA; VAN BEEK, JOHN W	36-8165	4/7/1983	0.88	STOCKWATER, COMMERCIAL	
NORTHWEST FARM CREDIT SERVICES FLCA; VAN DYK, MARIE C; VAN DYK, RICHARD B	36-8547	4/25/1990	0.33	STOCKWATER, COMMERCIAL, DOMESTIC	
NORTHWEST FARM CREDIT SERVICES FLCA; VERBREE LAND HOLDINGS LLC	36-8667	7/10/1992	0.27	STOCKWATER, COMMERCIAL, DOMESTIC	
NORTHWEST FARM CREDIT SERVICES PCA; TABER, BEVERLY; TABER, DONALD E	37-8401	9/20/1988	3	IRRIGATION	248

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NORTHWEST FARM CREDIT SERVICES PCA; TAYLOR, JACK; VERBREE LAND HOLDINGS LLC	36-7882A	12/7/1979	2.06	IRRIGATION	200
NOTCH BUTTE FARMS LLC	36-16139*	3/15/1974	0.18	IRRIGATION	188
NOTCH BUTTE FARMS LLC	36-7648	9/29/1976	0.44	IRRIGATION	667
NOTCH BUTTE FARMS LLC	37-20816	11/12/1981	0.49	IRRIGATION	195.4
NOTCH BUTTE FARMS LLC	37-20817	11/12/1981	0.47	IRRIGATION	187
NOTCH BUTTE FARMS LLC	37-22612	9/29/1976	0.11	IRRIGATION	335.1
NOTCH BUTTE FARMS LLC	37-8909*	3/15/1974	0.02	STOCKWATER	
NUNES BROTHERS DAIRY	36-8552	6/28/1990	0.12	STOCKWATER, COMMERCIAL, DOMESTIC	
O DONNELL, JOSEPH A; O DONNELL, JOYCE M	36-7662	1/8/1977	0.08	IRRIGATION, DOMESTIC	2
OAK VALLEY LAND CO LLC	45-10777A*	3/15/1976	0.47	IRRIGATION	463
OAK VALLEY LAND CO LLC	45-13591*	3/15/1979	0.26	IRRIGATION	241
OAK VALLEY LAND CO LLC	45-13923	11/24/1981	0.49	IRRIGATION	267.1
OAK VALLEY LAND CO LLC	45-13928	6/11/1979	6	IRRIGATION	3694.1
OAK VALLEY LAND CO LLC	45-13929	6/11/1979	0.4	IRRIGATION	267.1
OAK VALLEY LAND CO LLC	45-13930	6/30/1985	1.29	IRRIGATION	3694.1
OAK VALLEY LAND CO LLC	45-13931	6/30/1985	0.08	IRRIGATION	267.1
OAK VALLEY LAND CO LLC	45-13934	6/30/1985	2.3	IRRIGATION	3694.1
OAK VALLEY LAND CO LLC	45-13935	6/30/1985	0.15	IRRIGATION	267.1
OAK VALLEY LAND CO LLC	45-13945	11/24/1981	1.24	STOCKWATER, COMMERCIAL	
OAK VALLEY LAND CO LLC	45-14005*	4/1/1978	0.33	IRRIGATION	265.1
OAK VALLEY LAND CO LLC	45-14006*	4/1/1978	0.1	STOCKWATER, COMMERCIAL	
OAK VALLEY LAND CO LLC	45-14310	11/24/1981	5.07	IRRIGATION	3694.1
OAK VALLEY LAND CO LLC	45-14311	11/24/1981	1.02	STOCKWATER, COMMERCIAL	
OAK VALLEY LAND CO LLC	45-4176*	3/15/1976	0.18	IRRIGATION	463
OAK VALLEY LAND CO LLC	45-7339B	2/2/1978	0.8	IRRIGATION	371.7
OAK VALLEY LAND CO LLC	45-7672	12/29/1989	0.43	IRRIGATION	371.7
OLIVER, DEBBY; OLIVER, ROGER K	45-7545	6/29/1983	0.05	IRRIGATION	1.5
OLIVER, JIMMY R	45-7650	6/21/1989	0.06	IRRIGATION, DOMESTIC	1
OLSON, CHRISTIAN CHAD	37-8377	8/19/1988	0.03	IRRIGATION	1
OPPIO LAND & LIVESTOCK LLC	37-19848*	4/15/1987	0.29	IRRIGATION	142.4
OPPIO LAND & LIVESTOCK LLC	37-8010	12/5/1982	2.52	IRRIGATION	142.4
OPPIO LAND & LIVESTOCK LLC	37-8756C	2/4/1987	1.34	IRRIGATION	67
ORLO H MAUGHAN FAMILY REVOCABLE TRUST	36-7669	1/17/1977	2.36	IRRIGATION	1100
ORLO H MAUGHAN FAMILY REVOCABLE TRUST	36-7883B	1/15/1980	1.49	IRRIGATION	1100
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-15191	6/15/1981	0.45	IRRIGATION	1100
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-7964A	2/9/1981	2	IRRIGATION	1100
ORLO H MAUGHAN FAMILY REVOCABLE TRUST DTD 02/03/1978	36-7964B	2/9/1981	3.7	IRRIGATION	1100
PALACIO, THOMAS R	37-7629	6/14/1977	1.3	IRRIGATION	76
PARKINSON, ROBERT J	36-8591	3/6/1991	1	IRRIGATION	66
PARNELL, KEVIN	36-16207	2/27/1979	0.02	STOCKWATER, COMMERCIAL	
PARNELL, KEVIN	37-21266	2/27/1979	0.07	IRRIGATION, MITIGATION	3.6
PARR, LOVELLE L; PARR, ROLLIN	36-7541	5/7/1975	0.19	IRRIGATION	25
PATTCO LLLP	45-13398*	3/15/1987	0.66	IRRIGATION	133
PATTCO LLLP	45-13399*	3/15/1976	0.97	IRRIGATION	305
PATTCO LLLP	45-7164	1/17/1974	1.2	IRRIGATION	133

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PATTCO LLLP	45-7261	3/13/1976	0.7	IRRIGATION	305
PATTCO LLLP	45-7603	7/9/1986	1.26	IRRIGATION	72
PATTERSON BROTHERS	36-8022B	11/19/1981	0.04	COMMERCIAL	
PATTERSON FARMS OF IDAHO INC	36-7718	6/1/1977	1.68	IRRIGATION	84
PATTERSON LAND & LIVESTOCK CO INC	37-7357	4/25/1974	2.9	IRRIGATION	170
PATTERSON LAND & LIVESTOCK CO INC	37-7952	11/18/1981	0.15	IRRIGATION	10
PATTERSON, ARNOLD F; PATTERSON, CECILIA S	36-7687	4/4/1977	2.8	IRRIGATION	199
PATTERSON, ARNOLD F; PATTERSON, CECILIA S	36-8022A	11/19/1981	0.15	STOCKWATER	
PATTERSON, E F; PATTERSON, PHYLLIS	36-8449	10/12/1989	0.03	IRRIGATION	1
PATTERSON, LISA E; PATTERSON, RUSSELL V	36-16499*	4/1/1984	0.04	IRRIGATION	466.5
PATTERSON, LISA E; PATTERSON, RUSSELL V	36-16526*	4/1/1955	0.31	IRRIGATION	466.5
PAUL CEMETERY MAINTENANCE	36-8586	4/24/1991	0.2	IRRIGATION	10
PAYTON, BROOKE; PAYTON, STEVEN R	36-7483	6/7/1974	0.12	IRRIGATION	6
PEARSON, DONALD N; PEARSON, MARY L	36-16727	3/7/1978	0.07	IRRIGATION	3.6
PELICAN POINT SUBDIVISION ASSN INC	36-8772	1/16/1998	0.73	DOMESTIC	
PERRINE RANCH INVESTMENT GROUP	36-8017	12/24/1981	0.06	STOCKWATER, DOMESTIC	
PERRY GILLETTE FARMS INC	36-15552	3/15/1974	0.86	IRRIGATION	282.6
PETE & JANE REITSMA LIVING TRUST	36-16651	12/17/1974	1.54	IRRIGATION	76.9
PETE & JANE REITSMA LIVING TRUST	36-16652	12/17/1974	0.06	STOCKWATER, COMMERCIAL	
PETE & JANE REITSMA LIVING TRUST	36-8378	7/23/1997	0.07	STOCKWATER, COMMERCIAL	
PETERS, THOMAS R	36-8577	2/28/1991	1.68	IRRIGATION	94
PETTA, DANIEL FREDRICK	36-16144	11/25/1977	0.02	IRRIGATION	1
PETTERSON, REBECCA L; PETTERSON, TIM	36-7460AH	3/25/1974	0.49	STOCKWATER, COMMERCIAL	
PETTERSON, REBECCA L; PETTERSON, TIM	36-8533	4/11/1990	0.1	STOCKWATER, COMMERCIAL, DOMESTIC	
PICKET, KIRK	45-7635	4/12/1993	0.08	COMMERCIAL	
PICKETT RANCH & SHEEP CO	45-13658	6/30/1985	0.34	IRRIGATION	475
PIERSON, MARGARET A; PIERSON, MARVIN E	37-7649	7/27/1978	2.99	IRRIGATION	181
PILKINTON, C R; PILKINTON, THOMAS R	36-7650B	7/30/1976	0.08	IRRIGATION	4
PIRES, JOHN; PIRES, LUCIA	36-10664	6/23/1976	0.05	IRRIGATION	1.6
PKD PROPERTIES LC	45-14019	2/10/1981	2.05	IRRIGATION	104
PKD PROPERTIES LC	45-7159	11/13/1973	2.36	IRRIGATION	118
PKD PROPERTIES LC	45-7292	4/25/1977	2.6	IRRIGATION	180
PKD PROPERTIES LC	45-7299	5/4/1977	3.18	IRRIGATION	165
PKD PROPERTIES LC	45-7433	12/28/1979	0.83	IRRIGATION	140
PKD PROPERTIES LC	45-7508	7/12/1982	1.62	IRRIGATION	112
PKD PROPERTIES LC; TLD PROPERTIES LLC	45-13475	6/30/1985	3.66	IRRIGATION	2040
POPA, DAN; POPA, PAM	36-8197	6/7/1983	0.08	IRRIGATION, DOMESTIC	2.5
POSTMA, LAURA; POSTMA, RAYMOND	37-7447B	7/30/1975	0.31	IRRIGATION	16
POTEET, HERBERT W; POTEET, RICHARD F	36-7600	1/19/1976	3.88	IRRIGATION	308
PRESCOTT, ALICE M; PRESCOTT, GWENNA R; PRESCOTT, MARVIN L; PRESCOTT, WADE L	37-7620	6/2/1977	3.31	IRRIGATION, IRRIGATION STORAGE, IRRIGATION FROM STORAGE, DIVERSION TO STORAGE	450.4
PRICE, BERTHA; PRICE, EUGENE F	45-10000*	4/1/1971	0.74	IRRIGATION	202.1
PRINCE, CARI L; PRINCE, JAMES J	36-16100	5/9/1988	0.09	STOCKWATER, COMMERCIAL	

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PRINCE, CARI L; PRINCE, JAMES J	36-8395	9/23/1988	0.11	STOCKWATER, COMMERCIAL	
PRINCE, CARI L; PRINCE, JAMES J	36-8505	2/23/1990	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
QUAD CAPITAL LLC	36-8221	7/9/1983	0.02	COMMERCIAL	
R J LLC	36-7523	2/26/1975	2.68	IRRIGATION, DOMESTIC	660
R J LLC	36-7835	12/22/1978	3.13	IRRIGATION	660
R J LLC	36-7934	8/19/1980	2.68	IRRIGATION	660
RANGEN INC	36-8048	12/21/1981	0.41	IRRIGATION	20.2
RAVENSCROFT, HARRIETT B; RAVENSCROFT, VERNON F	37-7343	3/3/1974	1.8	IRRIGATION	90
RED BRIDGE FARMS LLC	36-14285*	5/1/1977	0.32	IRRIGATION	274
RED BRIDGE FARMS LLC	36-14394*	6/28/1967	0.16	IRRIGATION	618
REMSBERG, JOHN D; REMSBERG, JUDY	36-16728	3/7/1978	0.71	IRRIGATION	35.4
REMSBERG, JOHN D; REMSBERG, JUDY	36-7730	7/1/1977	4	IRRIGATION	400
RICHAN, CLYDE L; RICHAN, ELVERA L	36-8486	9/19/1989	0.03	COMMERCIAL, DOMESTIC	
RICHARDS, BETH N; RICHARDS, JACKSON H	36-16110	11/19/1979	0.06	IRRIGATION	3
RIDDLE, LEN H; VEENSTRA, FRANK W	36-7376	9/29/1973	2.75	IRRIGATION	185
RIETKERK, GEORGE; RIETKERK, NANCY	36-7888	1/10/1980	0.07	IRRIGATION, STOCKWATER, DOMESTIC	1
RIETKERK, JOHN H; RIETKERK, RHONDA	36-7691	3/22/1977	0.7	IRRIGATION	220
RITCHIE, JAMES M; RITCHIE, KARLYN	36-7394	11/14/1973	4.56	IRRIGATION	330
RITCHIE, JAMES M; RITCHIE, KARLYN	36-7752	9/28/1977	3.58	IRRIGATION	251
RITCHIE, JAMES M; RITCHIE, KARLYN	36-8077	7/12/1984	1.6	IRRIGATION	330
RIVERSIDE CEMETERY DISTRICT	36-15341*	8/20/1976	0.12	IRRIGATION	9
RIVERSIDE ELECTRIC CO	36-8492	11/13/1989	0.01	COMMERCIAL	
ROBERTSON LAND CO LLC	36-7674	1/28/1977	4.74	IRRIGATION	400
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16840	3/13/1989	0.02	IRRIGATION	7.7
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16846	7/13/1987	0.01	IRRIGATION	7.7
ROBERTSON, COLLETTE; ROBERTSON, LOGAN	36-16854	4/6/1978	0.01	IRRIGATION	7.7
ROBERTSON, PAUL	36-7690A	4/6/1978	2.24	IRRIGATION	1140
ROCHA DAIRY	36-7460AB	3/25/1974	0.6	STOCKWATER, COMMERCIAL, DOMESTIC	
ROCHA DAIRY	36-8379	8/19/1988	0.38	STOCKWATER, COMMERCIAL, DOMESTIC	
RODNEY HANSEN FARMS INC	36-11147*	3/15/1968	0.27	IRRIGATION	500
ROGERS, DOROTHY; ROGERS, WAYNE	36-7428	1/10/1974	0.4	IRRIGATION	30
ROLLER KING TRUST	36-8419	4/4/1989	0.04	COMMERCIAL	
ROLLING ROCK DAIRY FARM LLC	36-8546	5/15/1990	0.08	STOCKWATER, COMMERCIAL	
ROSA, EDWARD M; ROSA, KAREN R	37-7447A	7/30/1975	0.29	IRRIGATION	15
ROSS, PAULINE	37-8112	6/2/1983	0.02	COMMERCIAL, COOLING	
ROTH INVESTMENTS LLC	36-16683	2/26/1980	18.39	IRRIGATION	1151.5
ROTH INVESTMENTS LLC	36-16684	2/26/1980	0.37	STOCKWATER, COMMERCIAL	
ROTH INVESTMENTS LLC	36-16886*	7/5/1985	0.49	IRRIGATION	220
ROTH INVESTMENTS LLC	36-16887*	7/5/1985	0.03	STOCKWATER, COMMERCIAL	
ROTH INVESTMENTS LLC	36-7894B	2/26/1980	0.31	STOCKWATER, COMMERCIAL	
ROTH INVESTMENTS LLC	36-7906A	3/26/1980	0.35	IRRIGATION	234
ROTH INVESTMENTS LLC	36-7906B	3/26/1980	0.11	STOCKWATER, COMMERCIAL	
ROTH INVESTMENTS LLC	36-8468	9/26/1989	0.86	COMMERCIAL	
ROTH, JAMES D	36-7395	10/24/1973	3.18	IRRIGATION	314

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ROTH, JAMES D	36-7705	5/16/1977	2.09	IRRIGATION	167
ROWSER, JUSTIN	45-13519*	3/15/1976	0.01	IRRIGATION	27
ROYCE, DAN; ROYCE, JO ANNE	36-8609	10/21/1991	0.02	IRRIGATION, STOCKWATER, DOMESTIC	2.5
RUBY RANCH INC	36-7860	6/20/1979	1.01	IRRIGATION	51
RUBY, HAROLD J; RUBY, LINDA L	36-7508A	11/5/1974	0.61	IRRIGATION	33
RUBY, KENNETH E	36-7794	4/28/1978	0.38	IRRIGATION	19
RUBY, KENNETH E; RUBY, MARY LOU	37-7442	7/11/1975	6.47	IRRIGATION, STOCKWATER, DOMESTIC	320
RUDY, THOMAS A	45-7278	12/6/1976	0.24	DOMESTIC	
RUPERT ANIMAL HOSPITAL	36-8460	10/11/1989	0.05	COMMERCIAL	
RURAL ELECTRIC CO	36-8435	8/11/1989	0.04	COMMERCIAL	
RYAN, EDWARD G	37-7313	11/2/1973	1.11	IRRIGATION	75
SABALA, JANE M; SABALA, JERRY	36-7515	12/12/1974	0.73	IRRIGATION	38
SACCOMAN, MARK M	36-7380	9/19/1973	0.32	IRRIGATION	16
SAGEBRUSH SPUDS	36-8366	6/15/1988	0.02	COMMERCIAL	
SALMON FALLS LAND & LIVESTOCK CO INC	36-10033*	3/15/1975	1.07	IRRIGATION	370
SALMON FALLS LAND & LIVESTOCK CO INC	36-10035*	3/15/1981	0.47	IRRIGATION	370
SALMON FALLS LAND & LIVESTOCK CO INC	36-10037*	3/15/1974	1.65	IRRIGATION	404
SAND SPRINGS LP	36-7452	3/11/1974	0.5	IRRIGATION	235
SAND SPRINGS LP	36-7453	3/11/1974	1.34	IRRIGATION	67
SAND SPRINGS RANCH PARTNERSHIP	36-7499A	9/4/1974	2.26	IRRIGATION	113
SAWTOOTH SHEEP INC	37-8702	1/31/1991	2.5	IRRIGATION	260
SCARROW, JIM D	36-15328	7/6/1974	5.19	IRRIGATION	263
SCARROW, JIM D	36-7337K	11/25/1977	1.3	STOCKWATER, COMMERCIAL	
SCARROW, JIM D	36-7386	10/9/1973	3.2	IRRIGATION	160
SCARROW, JIM D	36-7563	9/26/1974	4.38	IRRIGATION	219
SCARROW, JIM D	36-7572	10/14/1975	2.64	IRRIGATION	132
SCARROW, JIM D	36-8164	6/27/1985	2.08	IRRIGATION	104
SCARROW, JIM D	36-8263	2/3/1985	0.85	IRRIGATION	128
SCARROW, JIM D	37-8152	6/30/1983	0.25	STOCKWATER	
SCARROW, JIM D	37-8901	11/25/1977	0.2	STOCKWATER	
SCHAEFFER, DAN; SCHAEFFER, JAMES K	36-8220B	2/7/1990	1.2	IRRIGATION	162
SCHENK, ROBERT W; STEWART, REID S; ZOLLINGER, C S	36-10030*	4/1/1975	1.3	IRRIGATION	462
SCHMID, JOHN; SCHMID, PATRICIA	36-8434	7/31/1989	0.03	IRRIGATION	1
SCHOTH, PAMELA S	36-8589	5/9/1991	0.13	IRRIGATION, DOMESTIC	2.7
SEARLE, CLIFFORD; SEARLE, CLOYD R; SEARLE, CRAIG; SEARLE, KELLY; SEARLE, KENT R; SEARLE, RAYMOND C	45-13946	5/4/1978	0.35	STOCKWATER, COMMERCIAL	
SEARLE, SCOTT O	45-7151	8/29/1973	1.38	IRRIGATION	458
SEARLE, SCOTT O	45-7338	1/31/1978	1.54	IRRIGATION	458
SEARLE, SCOTT O	45-7358B	3/20/1979	1.54	IRRIGATION	458
SEARS, CODY J; SEARS, NATALIE N	36-8372	8/3/1988	0.06	IRRIGATION	3
SERR, KAREN B; SERR, MAX A	36-15364*	4/1/1985	0.06	IRRIGATION	214
SERR, KAREN B; SERR, MAX A	36-7965	12/29/1980	1.18	IRRIGATION	59
SHADY GROVE DAIRY PROPERTIES LLC	37-7458A	10/14/1975	1.25	IRRIGATION	145
SHADY GROVE DAIRY PROPERTIES LLC	37-8751	6/11/1991	0.11	STOCKWATER, COMMERCIAL, DOMESTIC	

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SHAW, ACEY RYAN; SHAW, JALYN BELLE; SHAW, RITA S; SHAW, WILLIAM HUBERT	37-21264	2/27/1979	0.63	IRRIGATION	31.5
SHAW, ACEY RYAN; SHAW, JALYN BELLE; SHAW, RITA S; SHAW, WILLIAM HUBERT	37-21425	1/7/1974	2.65	IRRIGATION	133
SHAW, DEAN B	36-7702	5/5/1977	2.32	IRRIGATION	116
SHAW, EUGENE L; SHAW, JOYCE	37-7314	11/5/1973	2.8	IRRIGATION	180
SHAW, EUGENE L; SHAW, JOYCE	37-7726	8/10/1978	0.8	IRRIGATION	180
SHAW, RITA S; SHAW, WILLIAM HUBERT	37-7716	5/22/1978	0.78	IRRIGATION	39
SHAW, WILLIAM HUBERT	37-7394	12/1/1974	5.94	IRRIGATION, STOCKWATER	1892
SHAW, WILLIAM HUBERT	37-7768	2/28/1979	0.18	STOCKWATER	
SHAW, WILLIAM HUBERT	37-7814	12/12/1979	0.14	IRRIGATION	1892
SHAW, WILLIAM HUBERT	37-8705	2/21/1991	7	IRRIGATION	1892
SHEPARD, JANET C; SHEPARD, ROBERT	36-14202*	5/1/1975	0.2	IRRIGATION	130
SHEPARD, JANET C; SHEPARD, ROBERT	36-7737A	7/29/1977	1.42	IRRIGATION	120
SHEPARD, JANET C; SHEPARD, ROBERT	36-7737B	7/29/1977	0.16	IRRIGATION	142
SHOSHONE JOINT SCHOOL DISTRICT	37-7498	6/25/1976	0.3	IRRIGATION	18
SIMPSON, JOYE	45-7333B	1/19/1978	0.08	IRRIGATION	8
SIMPSON, JOYE; TURNER, LOVELL J; TURNER, RONALD J	45-7731	2/12/1996	1.21	IRRIGATION	110.9
SINCLAIR OIL CORP	45-7657	6/30/1989	0.02	COMMERCIAL	
SINNOTT, EDGAR L	37-8869	2/3/1998	0.04	DOMESTIC	
SIRUCEK, MIKE	36-8569	12/10/1990	0.46	IRRIGATION	67
SKAAR, KELLI JO	36-7434	3/21/1974	0.17	IRRIGATION, STOCKWATER	8.5
SLADE, DELILAH; SLADE, KEVIN L	36-15229*	8/17/1972	0.3	IRRIGATION	153
SLADE, WILLIAM J; SLADE, WYLENE	36-15228*	3/15/1973	0.1	IRRIGATION	459
SLIGAR, KEITH	36-7619	8/16/1976	4.15	COMMERCIAL, RECREATION, FIRE PROTECTION	
SLIMAN, MICHAEL E; SLIMAN, MIKE G	37-8060	12/9/1982	0.01	COMMERCIAL	
SLIMAN, MICHAEL E; SLIMAN, MIKE G	37-8061	12/9/1982	0.07	IRRIGATION, DOMESTIC	1
SLUDER, GILBERT T; SLUDER, GONDA O; SLUDER, RONALD E	37-8108	6/1/1983	0.08	DOMESTIC	
SMITH, CLIFFORD L	36-8522	4/11/1990	0.14	IRRIGATION, STOCKWATER, DOMESTIC	5
SMITH, DAVID RA	37-7484	3/22/1976	2.88	IRRIGATION	144
SMITH, GEORGE E; SMITH, NANCY L	45-7541	7/29/1983	0.03	IRRIGATION	1
SMITH, JAMES M; SMITH, SHERRI	45-7180	7/15/1974	0.62	IRRIGATION, DOMESTIC	38
SMITH, JEREMY S	36-16967	5/2/1977	0.05	IRRIGATION	26.4
SMITH, JEREMY S	36-16969	3/15/1981	0.02	IRRIGATION	26.4
SMITH, JEREMY S; SMITH, LISA G; SMITH, RANAE GRIFFIN	36-16664	11/15/1973	0.17	IRRIGATION	51
SMITH, JEREMY S; SMITH, LISA G; SMITH, RANAE GRIFFIN	36-16666*	5/1/1984	0.07	IRRIGATION	51
SMITH, JOHN E	45-7353B	8/9/1978	0.04	IRRIGATION, STOCKWATER, DOMESTIC	2.8
SMITH, RONNIE D; SMITH, SHARLENE M	36-8333	8/25/1987	2.91	IRRIGATION	146
SOARES, JOHN C	36-8803	7/13/2000	0.13	STOCKWATER, COMMERCIAL	
SODERQUIST, CHRISTIE; SODERQUIST, KEITH EDWIN	36-7416C	2/22/1974	4.78	IRRIGATION	310.4
SODERQUIST, CHRISTIE; SODERQUIST, KEITH EDWIN	36-7416D	2/22/1974	4	IRRIGATION	310.4

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SORENSON, ESMERALDA J; SORENSON, GREGORY J	37-20361	1/9/2001	0.06	STOCKWATER	
SOUTH IDAHO LEASING INC	36-7768	11/28/1977	3.42	IRRIGATION	171
SOUTH VIEW DAIRY	36-14035D	5/26/1976	0.14	COMMERCIAL	
SOUTH VIEW DAIRY	36-16611	5/28/1974	0.16	IRRIGATION	236.2
SOUTH VIEW DAIRY	36-16612	5/28/1974	0.01	STOCKWATER, COMMERCIAL	
SOUTH VIEW DAIRY	36-16613	2/4/1976	0.15	IRRIGATION	236.2
SOUTH VIEW DAIRY	36-16614	2/4/1976	0.01	STOCKWATER, COMMERCIAL	
SOUTH VIEW DAIRY	36-16615	2/22/1978	0.18	IRRIGATION	236.2
SOUTH VIEW DAIRY	36-16616	2/22/1978	0.01	STOCKWATER, COMMERCIAL	
SOUTH VIEW DAIRY	36-7681A	2/14/1977	0.9	IRRIGATION	56.7
SOUTH VIEW DAIRY	36-7681B	2/14/1977	0.08	STOCKWATER, COMMERCIAL, DOMESTIC	
SOUTH VIEW DAIRY	36-8578	2/8/1993	0.25	STOCKWATER, COMMERCIAL	
SOUTHERN IDAHO REGIONAL SOLID WASTE DISTRICT	45-7221B	1/7/1975	0.46	IRRIGATION, STOCKWATER, INDUSTRIAL, DOMESTIC	640
SOUTHFIELD DAIRY	36-8387	8/31/1988	2.48	IRRIGATION	149
SOUTHFIELD PROPERTIES LLC	36-10666*	5/1/1987	0.19	IRRIGATION	142
SOUTHFIELD PROPERTIES LLC	36-2907	4/26/1990	0.8	IRRIGATION	436
SOUTHFIELD PROPERTIES LLC	36-7295A	12/11/1973	2.43	IRRIGATION	177
SOUTHFIELD PROPERTIES LLC	36-7295B	12/11/1973	2.8	IRRIGATION	190.9
SOUTHFIELD PROPERTIES LLC	36-7295C	12/11/1973	0.32	STOCKWATER, COMMERCIAL	
SOUTHFIELD PROPERTIES LLC	36-7377D	9/7/1973	0.79	STOCKWATER, COMMERCIAL	
SOUTHFIELD PROPERTIES LLC	36-7377F	9/7/1973	0.24	IRRIGATION	141
SOUTHFIELD PROPERTIES LLC	36-7377G	9/7/1973	1.04	IRRIGATION	139
SOUTHFIELD PROPERTIES LLC	36-7377H	9/7/1973	0.05	IRRIGATION	7
SOUTHFIELD PROPERTIES LLC	36-7460B	3/25/1974	1.04	IRRIGATION	99
SOUTHFIELD PROPERTIES LLC	36-7460E	3/25/1974	0.13	IRRIGATION	8
SOUTHFIELD PROPERTIES LLC	36-7460F	3/25/1974	0.12	IRRIGATION	8
SOUTHFIELD PROPERTIES LLC	36-7533A	3/27/1975	1.13	IRRIGATION	72
SOUTHFIELD PROPERTIES LLC	36-7533B	3/27/1975	1.12	IRRIGATION	81
SOUTHFIELD PROPERTIES LLC	36-7533C	3/27/1975	0.42	IRRIGATION	30
SOUTHFIELD PROPERTIES LLC	36-7547D	5/13/1975	1.14	STOCKWATER, COMMERCIAL	
SOUTHFIELD PROPERTIES LLC	36-7547F	5/13/1975	0.35	IRRIGATION	141
SOUTHFIELD PROPERTIES LLC	36-7547G	5/13/1975	1.51	IRRIGATION	139
SOUTHFIELD PROPERTIES LLC	36-7547H	5/13/1975	0.08	IRRIGATION	7
SOUTHFIELD PROPERTIES LLC	36-7575	10/31/1975	0.43	IRRIGATION, STOCKWATER	37
SOUTHFIELD PROPERTIES LLC	36-7583	12/9/1975	0.22	IRRIGATION	142
SOUTHFIELD PROPERTIES LLC	36-7584	12/9/1975	1.08	IRRIGATION	154
SOUTHFIELD PROPERTIES LLC	36-7672	1/27/1977	1.77	IRRIGATION	103
SOUTHFIELD PROPERTIES LLC	36-8063C	2/21/1982	0.3	IRRIGATION	99
SOUTHFIELD PROPERTIES LLC	36-8252E	10/17/1984	0.1	IRRIGATION	99
SOUTHFIELD PROPERTIES LLC	36-8313A	8/20/1986	1.2	IRRIGATION	60
SOUTHFIELD PROPERTIES LLC	36-8529	4/5/1990	0.66	IRRIGATION	33
SOUTHFIELD PROPERTIES LLC	36-8560A	9/7/1990	1.03	IRRIGATION	135
SOUTHFIELD PROPERTIES LLC	36-8560B	9/7/1990	0.12	IRRIGATION	6
SOUTHFIELD PROPERTIES LLC	36-8582	2/20/1991	0.46	IRRIGATION	23
SOUTHFIELD PROPERTIES LLC	36-8608	9/3/1991	0.86	IRRIGATION, STOCKWATER, COMMERCIAL, DOMESTIC	2
SOUTHFIELD PROPERTIES LLC	36-8760	12/4/1990	1.52	IRRIGATION	436
SOUTHFIELD PROPERTIES LLC	37-7370	7/22/1974	3.26	IRRIGATION	576
SOUTHFIELD PROPERTIES LLC	37-7572	3/21/1977	2.53	IRRIGATION	576
SOUTHFIELD PROPERTIES LLC	37-7634	5/23/1977	1.31	IRRIGATION	576
SOUTHFIELD PROPERTIES LLC	37-8326	1/6/1988	1.36	IRRIGATION	602

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SOUTHFIELD PROPERTIES LLC	37-8732	4/13/1991	3	IRRIGATION	587
SPENCER, GLEN D	36-8536	4/12/1990	0.03	IRRIGATION, DOMESTIC	1
SPRING CREEK TERRACES INC	45-7286	3/22/1977	0.27	DOMESTIC	
SPRINGDALE ACRES HOMEOWNERS ASSN	45-7697	1/9/1992	0.31	IRRIGATION, DOMESTIC	11
SPRINGDALE ACRES HOMEOWNERS ASSN INC	45-13513	12/6/2002	0.29	HEATING, COOLING	
SPRINGDALE ACRES HOMEOWNERS ASSN INC	45-7375	4/12/1979	0.12	DOMESTIC	
STANDING 16 RANCH LAND CO LLC	36-16707	4/26/1990	0.03	STOCKWATER, COMMERCIAL	
STANDING 16 RANCH LAND CO LLC	36-16708	4/26/1990	0.06	STOCKWATER, COMMERCIAL	
STANDING 16 RANCH LAND CO LLC	36-16767	9/12/1973	0.16	STOCKWATER, COMMERCIAL	
STANDING 16 RANCH LAND CO LLC	36-7337H	11/25/1977	0.3	STOCKWATER, COMMERCIAL	
STANDLEE FAMILY LTD PARTNERSHIP	36-15119*	3/1/1975	1.31	IRRIGATION	534
STANDLEE FAMILY LTD PARTNERSHIP	36-15178*	3/1/1975	0.04	IRRIGATION	456
STANDLEE FAMILY LTD PARTNERSHIP	36-16500*	4/1/1984	0.51	IRRIGATION	345
STAR FALLS AG INC	36-7417	12/11/1973	0.51	IRRIGATION	200
STAR FALLS FARMS LLC	36-16947	8/24/1976	0.52	IRRIGATION	511
STAR FALLS FARMS LLC	36-8289	6/26/1985	0.04	IRRIGATION	511
STARGAZER LAND & CATTLE LP	36-15152*	8/30/1984	0.08	IRRIGATION	633
STARGAZER LAND & CATTLE LP	36-7554	7/5/1975	5.35	IRRIGATION	633
STARGAZER LAND & CATTLE LP	36-7620	3/15/1976	1.76	IRRIGATION	137
STARGAZER LAND & CATTLE LP	36-7829	11/9/1978	4.8	IRRIGATION	633
STATE OF IDAHO	36-15958	10/16/2001	0.2	DOMESTIC	
STATE OF IDAHO	37-20853	9/20/1974	0.13	MUNICIPAL	
STATE OF IDAHO	37-22570	5/5/2010	0.06	DOMESTIC	
STATE OF IDAHO	37-7457	10/1/1975	0.05	DOMESTIC	
STATE OF IDAHO; STATE OF IDAHO	37-7372	6/30/1999	6.54	IRRIGATION, STOCKWATER	320
STATE OF IDAHO; STATE OF IDAHO DEPT OF TRANSPORTATION	37-20852	9/20/1974	0.09	IRRIGATION	4.7
STEVE NEIBAUR FARMS INC	36-15209*	3/15/1970	0.71	IRRIGATION	335
STEVENSON BROTHERS FARMS	36-7495	8/13/1974	4.58	IRRIGATION	320
STEVENSON BROTHERS FARMS	36-7529C	3/28/1975	4.28	IRRIGATION	316
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-7956A	1/16/1981	2.15	IRRIGATION	884
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-7956B	1/16/1981	0.15	IRRIGATION	884
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-8619A	11/13/1991	1.13	IRRIGATION	884
STEVENSON, DEAN F; STEVENSON, ELLEN W	36-8619B	11/13/1991	0.2	IRRIGATION	884
STEVENSON, JOHN A	36-7529Q	3/28/1975	0.69	IRRIGATION	158
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-16461	2/15/1974	0.04	IRRIGATION	5.1
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-7651	10/28/1976	4.5	IRRIGATION	316
STEVENSON, SCOTT A; STEVENSON, TAMARA LYNN	36-8161	3/31/1983	1.8	IRRIGATION	446
STEWART, CAROLYN L; STEWART, DENNIS G	37-7628	6/16/1977	3.4	IRRIGATION	170
STODDARD, NEIL	36-8744	12/22/1995	0.12	IRRIGATION, DOMESTIC	0.3
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-13865	12/26/1973	8.84	IRRIGATION	2034.6

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STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-13866	12/26/1973	0.72	STOCKWATER, COMMERCIAL	
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-13871	3/20/1979	1.54	IRRIGATION	2034.6
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-13872	3/20/1979	0.13	STOCKWATER, COMMERCIAL	
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-13900	10/16/1987	2.09	IRRIGATION	2034.6
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-13901	10/16/1987	0.17	STOCKWATER, COMMERCIAL	
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-14102	5/4/1978	1.36	IRRIGATION	2034.6
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-14250	5/4/1978	1.41	STOCKWATER, COMMERCIAL	
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-7161B	12/26/1973	0.3	STOCKWATER, COMMERCIAL	
STOKER, BRENT; STOKER, LAVEL ; STOKER, MARLA ; STOKER, WENDY	45-7358D	3/20/1979	1.59	IRRIGATION, STOCKWATER	2034.6
STOKES, SHIRLEY W	36-8409	1/23/1989	0.2	IRRIGATION	10
STOUDER HOLSTEINS LLP	36-8225A	11/19/1983	0.54	IRRIGATION, STOCKWATER, COMMERCIAL	1.5
STOUDER HOLSTEINS LLP	36-8225B	11/19/1983	0.18	STOCKWATER	
STOUDER HOLSTEINS LLP	36-8350	4/5/1988	0.31	STOCKWATER, COMMERCIAL	
STRICKLAND, CAROL; STRICKLAND, JERRY A	36-7450B	3/6/1974	0.76	IRRIGATION	37
STROUD, JAMES L; STROUD, LORIEN E	36-13645	12/31/1978	0.08	STOCKWATER, DOMESTIC	
STROUD, JAMES L; STROUD, LORIEN E	36-16210	5/4/1978	0.11	STOCKWATER, COMMERCIAL	
SUCHAN, CHEYENNE B; SUCHAN, RUSSELL F	36-12454*	7/4/1974	0.51	IRRIGATION	800
SUCHAN, FRANK J	36-7629	6/24/1976	2	IRRIGATION	240
SUCHAN, FRANK J	36-7828	10/23/1978	2.32	IRRIGATION	156
SUCHAN, FRANK J	36-7839	1/19/1979	0.8	IRRIGATION	156
SUHR, DANIEL A; SUHR, DONNA DEE	36-14317*	3/20/1976	0.67	IRRIGATION	153
SUN VALLEY POTATOES INC	36-8349	7/20/1988	0.29	COMMERCIAL	
SUNDANCE INC	36-15992	7/31/1974	0.42	IRRIGATION	94
SUNRISE ORGANIC DAIRY LLC	36-16045	10/19/1981	1.95	IRRIGATION	1520
SUNRISE ORGANIC DAIRY LLC	36-16046	10/19/1981	0.05	STOCKWATER, COMMERCIAL	
SUNRISE ORGANIC DAIRY LLC	36-16055	12/8/1981	4.12	IRRIGATION	1520
SUNRISE ORGANIC DAIRY LLC	36-16056	12/8/1981	0.61	STOCKWATER, COMMERCIAL	
SUNRISE ORGANIC DAIRY LLC	36-16396	12/8/1981	0.75	STOCKWATER, COMMERCIAL	
SUNRISE ORGANIC DAIRY LLC	36-7688	4/6/1977	8.36	IRRIGATION	513
SUNRISE ORGANIC DAIRY LLC	36-7801	8/24/1978	0.89	STOCKWATER, COMMERCIAL	
SUNRISE ORGANIC DAIRY LLC	36-8005B	12/8/1981	0.27	STOCKWATER, COMMERCIAL	
SUNRISE ORGANIC DAIRY LLC	36-8008	12/8/1981	0.84	IRRIGATION	1520
SUNRISE ORGANIC DAIRY LLC	36-8011A	12/24/1981	0.15	DOMESTIC	
SUNRISE ORGANIC DAIRY LLC	36-8011B	12/24/1981	0.14	STOCKWATER	
SUNRISE ORGANIC DAIRY LLC	36-8014	11/4/1981	0.26	STOCKWATER, COMMERCIAL, DOMESTIC	
SUNRISE ORGANIC DAIRY LLC	36-8015	12/24/1981	0.46	STOCKWATER, COMMERCIAL	
SUNRISE ORGANIC DAIRY LLC	36-8401	11/28/1988	0.68	IRRIGATION	520
SUNRISE ORGANIC DAIRY LLC	36-8402	11/28/1988	0.84	IRRIGATION	1520
SWEET, WILLIAM G	37-7692	12/21/1977	4	IRRIGATION	196
SWISHER, JERRY S	45-7652	6/5/1989	0.06	IRRIGATION, DOMESTIC	2.1

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SYBRANDY, ANNA; SYBRANDY, IDA; SYBRANDY, SIMON	36-8408	1/19/1989	0.31	COMMERCIAL, DOMESTIC	
SYDNOR, CARLA; SYDNOR, CHARLES	45-7661	6/29/1989	0.05	IRRIGATION, DOMESTIC	2
TABER FAMILY LLC	37-7465A	12/1/1975	2.67	IRRIGATION	160
TABER FAMILY LLC	37-7504	7/22/1976	3.3	IRRIGATION, STOCKWATER	178
TABER FAMILY LLC	37-7772	1/11/1980	0.71	IRRIGATION	38
TABER, BEVERLY	37-7877A	2/5/1981	0.02	IRRIGATION	1
TABER, BEVERLY; TABER, DONALD E	37-7617A	6/2/1977	3.64	IRRIGATION	186
TABER, BEVERLY; TABER, DONALD E	37-7617B	6/2/1977	0.14	STOCKWATER, COMMERCIAL	
TABER, DONALD C; TABER, LYNDA L	37-8078	5/15/1983	2	IRRIGATION	116
TABER, DONALD E	37-10158*	4/1/1974	1.78	IRRIGATION	466
TAJO LLC	45-7214	12/24/1974	1	IRRIGATION	50
TANNER, BARBARA; TANNER, ROBERT	36-8512	2/27/1990	0.02	COMMERCIAL	
TAT FARMS LLC	45-13490	6/30/1985	0.74	IRRIGATION	385
TAT FARMS LLC	45-13491	6/30/1985	4.02	IRRIGATION	1261.1
TATEOKA, JIM; TATEOKA, KO T	36-7522	1/29/1975	2.15	IRRIGATION	307
TED MILLER DAIRY	36-16187	10/28/1977	0.75	IRRIGATION	150
TEIXEIRA, HUMBERTO AZEVEDO	36-16732	8/21/1973	0.16	IRRIGATION	8
TELFORD, MICHAEL S	36-10024*	5/31/1976	1.15	IRRIGATION	298.8
TELFORD, MICHAEL S	36-10025*	5/31/1976	0.77	IRRIGATION	238
TELFORD, MICHAEL S	36-15984	12/7/1979	2.91	IRRIGATION	444
TELFORD, MICHAEL S	36-15984	12/7/1979	2.91	IRRIGATION	444
TELFORD, MICHAEL S	36-15985	12/7/1979	0.94	IRRIGATION	308
TELFORD, MICHAEL S	36-15985	12/7/1979	0.94	IRRIGATION	308
TELFORD, MICHAEL S	36-8189	5/11/1983	0.96	IRRIGATION	48
TELFORD, MICHAEL S	36-8191	5/11/1983	1.97	IRRIGATION	98.3
TELFORD, MICHAEL S	37-7650	9/4/1977	0.17	STOCKWATER, DOMESTIC	
TELFORD, MICHAEL S	37-7949	11/4/1981	0.25	STOCKWATER, COMMERCIAL	
TELFORD, MICHAEL S; TELFORD, ROBERT	37-8212	5/11/1983	0.01	STOCKWATER, COMMERCIAL	
TERRONEZ, EUGENE THOMAS; TERRONEZ, JUDITH J	36-7924	6/30/1980	0.08	IRRIGATION, STOCKWATER, DOMESTIC	1
TESSENDERLO KERLEY INC	45-7465C	4/15/1981	0.14	IRRIGATION	9
TESSENDERLO KERLEY INC	45-7465D	4/15/1981	0.56	INDUSTRIAL	
TEXAS MUNICIPAL PLAN CONSORTIUM LLC	36-16140*	3/15/1974	0.01	IRRIGATION	11.3
THAIN, CORY S	36-16702	3/13/1981	0.86	IRRIGATION	43
THAIN, GREG S	36-16701	3/13/1981	0.3	IRRIGATION	15
THAIN, GREG S; THAIN, JOHN T	36-8413	3/2/1989	1	IRRIGATION	183.5
THE ALTON & PAULA HUYSER TRUST	37-7268	8/23/1973	3.06	IRRIGATION	489
THE ALTON & PAULA HUYSER TRUST	37-7268	8/23/1973	3.06	IRRIGATION	489
THE ALTON & PAULA HUYSER TRUST	37-7454	9/8/1975	3.94	IRRIGATION	489
THE ALTON & PAULA HUYSER TRUST	37-7602	5/4/1977	2.62	IRRIGATION	489
THE ALTON & PAULA HUYSER TRUST	37-8679	8/23/1990	0.16	IRRIGATION	489
THE AMALGAMATED SUGAR CO LLC	36-8364	6/10/1988	0.22	INDUSTRIAL	
THE BAKER FAMILY TRUST	36-7405	11/8/1973	1.16	IRRIGATION	240
THE BENEDICTINE MONKS OF IDAHO INC	36-7904	3/26/1980	0.38	IRRIGATION	425
THIBAULT, DONALD F; THIBAULT, PHYLLIS N	36-7447	2/21/1974	3.91	IRRIGATION	282
THOMPSON, DEBORAH M; THOMPSON, GARY C	36-11839*	3/15/1976	0.25	IRRIGATION	317
THOMPSON, KURT; THOMPSON, LINDA B	36-8615	10/30/1991	0.05	IRRIGATION	1.5
THOMSON, JOHN S	36-8675	9/14/1992	0.03	STOCKWATER	
TLD PROPERTIES LLC	36-16663	11/15/1973	3.03	IRRIGATION	929

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TLD PROPERTIES LLC	36-16665*	5/1/1984	1.19	IRRIGATION	929
TOLEDO, JOHN B; TOLEDO, MARIA R	36-7460AF	3/25/1974	0.2	STOCKWATER, COMMERCIAL	
TOONE, MARK S; TOONE, SALLY J	37-7412	12/18/1974	2.25	IRRIGATION	247
TOONE, MARK S; TOONE, SALLY J	37-7816	12/26/1979	2.25	IRRIGATION	138
TRACY, CHARLES R	36-7733	7/22/1977	0.12	IRRIGATION, DOMESTIC	3.5
TRAU, GARRETT E; TRAU, HELEN	36-8464B	10/12/1989	0.16	IRRIGATION, STOCKWATER	5
TRAVELERS OASIS TRUCK PLAZA; WILLIE, DANIEL L	36-8766	6/8/1997	0.1	COMMERCIAL	
TRIPLE C CONCRETE INC	36-8791	6/17/1999	1.68	INDUSTRIAL	
TRIPLE C CONCRETE INC	36-8792	6/17/1999	1.68	INDUSTRIAL	
TRIPLE T FARMS	36-7882B	12/7/1979	7.85	IRRIGATION	639.5
TROST, KEN R; TROST, PAM J	36-7996	7/24/1981	0.22	IRRIGATION	11
TURNER, CHARLES K; TURNER, STACEY	37-7415A	1/6/1975	1.39	IRRIGATION	69.4
TURNER, CHARLES K; TURNER, STACEY	37-7415B	1/6/1975	0.21	STOCKWATER, COMMERCIAL	
TURNER, DALE N; TURNER, NILENE M	45-7334	6/7/1978	1.78	IRRIGATION	160
TURNER, LOVELL J	45-13548	1/19/1978	0.03	IRRIGATION	5.6
TURNER, RONALD J	45-7333A	1/19/1978	0.44	IRRIGATION	97.3
TURNEY, JAMES O; TURNEY, VICKIE	45-7674	4/9/1990	0.03	IRRIGATION	0.8
TWIN STOCK LLC	36-7699	5/2/1977	2.15	IRRIGATION	107.5
UNIT 3 WATER ASSN INC	36-8090	6/16/1982	0.51	IRRIGATION, STOCKWATER, DOMESTIC, FIRE PROTECTION	24
UNIT 3 WATER ASSN INC	36-8727	5/5/1994	0.45	DOMESTIC	
UNITED ELECTRIC COOP INC	36-8797	11/5/1999	0.21	HEATING, COOLING	
UNITED STATES OF AMERICA ACTING THROUGH	36-16183	6/18/2003	0.03	STOCKWATER, WILDLIFE	
UNITED STATES OF AMERICA ACTING THROUGH	36-16583*	3/15/1987	0.03	IRRIGATION	4
UNITED STATES OF AMERICA ACTING THROUGH	36-16691	9/10/1984	2.68	IRRIGATION	133.8
UNITED STATES OF AMERICA ACTING THROUGH	36-7497	8/21/1974	0.05	STOCKWATER, WILDLIFE	
UNITED STATES OF AMERICA ACTING THROUGH	36-7611A	2/25/1977	1.67	IRRIGATION	119
UNITED STATES OF AMERICA ACTING THROUGH	36-7830A	11/9/1978	0.67	IRRIGATION	119
UNITED STATES OF AMERICA ACTING THROUGH	36-8056B	1/21/1982	0.7	IRRIGATION	46
UNITED STATES OF AMERICA ACTING THROUGH	36-8110B	8/19/1982	0.12	IRRIGATION	46
UNITED STATES OF AMERICA ACTING THROUGH	37-20839	2/6/1974	0.19	IRRIGATION	64
UNITED STATES OF AMERICA ACTING THROUGH	37-20849	10/6/1977	0.42	IRRIGATION	30
UNITED STATES OF AMERICA ACTING THROUGH	37-20851*	3/15/1983	0.02	IRRIGATION	30
UNITED STATES OF AMERICA ACTING THROUGH	45-7340B	2/2/1978	0.97	IRRIGATION	80
UR FARMS LTD PARTNERSHIP	36-16192	1/7/1974	0.03	STOCKWATER, COMMERCIAL	
UR FARMS LTD PARTNERSHIP	36-16378	1/7/1974	0.1	STOCKWATER, COMMERCIAL	

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UR FARMS LTD PARTNERSHIP	36-8549	6/28/1990	0.09	STOCKWATER, COMMERCIAL	
UR FARMS LTD PARTNERSHIP	37-21142	1/7/1974	0.08	IRRIGATION, MITIGATION	4.9
UR FARMS LTD PARTNERSHIP	37-21160	2/27/1979	0.12	MITIGATION	
US DEPARTMENT OF INTERIOR BUREAU OF RECLAMATION	36-16928	2/1/2012	0.2	HEATING, COOLING	
US DEPARTMENT OF THE INTERIOR	45-14305*	4/13/1971	0.69	IRRIGATION	130.5
US DEPT OF INTERIOR	36-16062	8/12/2002	0.02	DOMESTIC, FIRE PROTECTION	
US DEPT OF INTERIOR	36-8575	12/24/1990	0.07	STOCKWATER, WILDLIFE	
US DEPT OF INTERIOR	36-8750	3/13/1996	0.04	DOMESTIC	
V & L DAIRY	36-7569	9/24/1975	6.02	IRRIGATION	302
V & R FARMS LLC	45-13950	8/15/1975	1.16	IRRIGATION	120
V & R FARMS LLC	45-13962	8/29/1991	7.35	IRRIGATION	367.4
V & R FARMS PARTNERSHIP	45-13963	8/29/1991	0.22	IRRIGATION	120
VALLEY COOPS INC	36-8452	8/22/1989	0.16	COMMERCIAL	
VALLEY SCHOOL DISTRICT #262	36-16299	9/22/2004	1.52	DOMESTIC, FIRE PROTECTION	
VAN BEEK, DIANNE; VAN BEEK, JACK	36-7958	1/9/1981	5.8	IRRIGATION	290
VAN BEEK, DIANNE; VAN BEEK, JOHN	36-16719*	3/15/1975	0.08	STOCKWATER, COMMERCIAL	
VAN BEEK, DIANNE; VAN BEEK, JOHN	36-16720*	3/15/1975	0.05	STOCKWATER, COMMERCIAL	
VAN BEEK, DIANNE; VAN BEEK, JOHN	36-8021	1/2/1982	0.22	STOCKWATER, COMMERCIAL	
VAN BEEK, DIANNE; VAN BEEK, JOHN	36-8398	2/14/1995	0.51	STOCKWATER, COMMERCIAL	
VAN DYK & SONS A GENERAL PARTNERSHIP	36-7454	3/11/1974	0.28	IRRIGATION	74
VAN DYK, MARIE C; VAN DYK, RICHARD B	36-7738	9/7/1977	2.5	IRRIGATION	125
VAN DYK, RICHARD B; VAN DYK, TAMMY D	36-7760	11/7/1977	2.3	IRRIGATION	222
VAN DYK, RICHARD B; VAN DYK, TAMMY D	36-8389	9/1/1988	0.18	STOCKWATER, COMMERCIAL	
VAN STRAALEN, ALICE; VAN STRAALEN, ARIE	36-16506	4/8/1975	0.05	COMMERCIAL	
VAN STRAALEN, ALICE; VAN STRAALEN, ARIE	36-16510	8/16/1973	0.08	STOCKWATER, COMMERCIAL	
VAN TASSELL, AFTON; VAN TASSELL, GAIL	36-7512	11/25/1974	9.2	IRRIGATION	837
VAN TASSELL, AFTON; VAN TASSELL, GAIL	36-7966	2/23/1981	0.37	IRRIGATION	837
VAN TASSELL, PERRY	36-7784A	3/17/1978	3.23	IRRIGATION	272
VAN TASSELL, PERRY	36-7784B	3/17/1978	1.11	IRRIGATION	305
VANDEN BOSCH SR, MARVIN L; VANDEN BOSCH, JEANNETTE	36-7954	12/30/1980	0.07	IRRIGATION, DOMESTIC	2
VANDERHAM BROTHERS DAIRY	36-7379A	9/18/1973	1.96	IRRIGATION	132
VANDERHAM BROTHERS DAIRY	36-7379B	9/18/1973	0.27	STOCKWATER, COMMERCIAL	
VANDERHAM BROTHERS DAIRY	36-8554	5/13/1990	0.23	STOCKWATER, COMMERCIAL, DOMESTIC	
VANDERHAM, DANNY C	36-8636	9/23/1997	1	STOCKWATER, COMMERCIAL, DOMESTIC	
VANDERVEGT, RAY	36-7460J	3/25/1974	1.23	IRRIGATION	69
VANDERVEGT-GIBSON, IRENE	36-7517	12/17/1974	4	IRRIGATION	556
VASQUAZ, DUFIA; VASQUAZ, J REUBEN	36-10243*	5/1/1985	0.4	IRRIGATION	205
VEENHOUWER FAMILY FARMS LLC	36-8060	2/9/1982	0.2	COMMERCIAL	
VEENHOUWER FAMILY FARMS LLC	36-8422	4/20/1989	0.2	STOCKWATER, COMMERCIAL	
VEENSTRA FAMILY LTD PARTNERSHIP	36-16706	3/25/1974	2.34	IRRIGATION	132

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VEENSTRA, FRANK W	36-15077*	4/1/1982	0.91	IRRIGATION	198.5
VEENSTRA, FRANK W	36-16748	8/16/1973	0.05	STOCKWATER, COMMERCIAL	
VEENSTRA, FRANK W	36-7666A	1/5/1977	1.64	IRRIGATION	82
VEENSTRA, FRANK W	36-7666B	1/5/1977	0.66	STOCKWATER, COMMERCIAL	
VEENSTRA, FRANK W; VEENSTRA, MARY	36-15207	7/29/1988	0.04	DOMESTIC	
VEENSTRA, FRANK W; VEENSTRA, MARY	36-7472	5/8/1974	2.16	IRRIGATION	157
VEENSTRA, FRANK W; VEENSTRA, MARY	36-7526	3/24/1975	5.08	IRRIGATION	306
VEENSTRA, FRANK W; VEENSTRA, MARY JANE	36-8100	7/13/1982	0.15	IRRIGATION, STOCKWATER, DOMESTIC	5
VEENSTRA, FRANK; VEENSTRA, MARY JANE	36-15206	7/29/1988	0.24	STOCKWATER	
VERBREE LAND HOLDINGS LLC	36-15998	4/8/1975	0.38	IRRIGATION	211.5
VERBREE LAND HOLDINGS LLC	36-15999	4/8/1975	0.3	STOCKWATER, COMMERCIAL	
VERBREE LAND HOLDINGS LLC	36-16460	2/15/1974	7.3	IRRIGATION	471.5
VERBREE LAND HOLDINGS LLC	36-7535	4/9/1975	4.34	IRRIGATION	305
VERBREE LAND HOLDINGS LLC	36-7571	10/14/1975	1.5	IRRIGATION	305
VERBREE LAND HOLDINGS LLC	36-7604	3/11/1976	5.74	IRRIGATION	906
VERBREE LAND HOLDINGS LLC	36-7640	10/8/1976	2.13	IRRIGATION	108
VERBREE LAND HOLDINGS LLC	36-7706	5/25/1977	1.45	IRRIGATION	136
VERBREE LAND HOLDINGS LLC	36-7788A	4/8/1978	1.94	IRRIGATION	889
VERBREE LAND HOLDINGS LLC	36-7788B	4/8/1978	0.28	IRRIGATION	500
VERBREE LAND HOLDINGS LLC	36-8079	4/15/1982	0.06	STOCKWATER, COMMERCIAL, DOMESTIC	
VERBREE LAND HOLDINGS LLC	36-8199	6/15/1983	0.2	STOCKWATER, COMMERCIAL	
VERBREE LAND HOLDINGS LLC	36-8351	6/15/1988	0.19	STOCKWATER, COMMERCIAL, DOMESTIC	
VERBREE LAND HOLDINGS LLC	36-8666	7/10/1992	0.27	STOCKWATER, COMMERCIAL, DOMESTIC	
VICTOR, SALLY; VICTOR, STEVE	36-8128	12/30/1982	0.03	COMMERCIAL	
VILLAGE ENTERPRISES LLC	45-7662A	8/2/1989	0.6	IRRIGATION, COMMERCIAL, DOMESTIC, RECREATION	5
VILLAGE ENTERPRISES LLC	45-7662B	8/2/1989	0.46	IRRIGATION, RECREATION	20
VIRGIL & AMA LEE BROCKMAN FAMILY TRUST	36-7623	4/13/1976	0.64	IRRIGATION, COMMERCIAL	27
VISSER, CAROL; VISSER, TONY	36-7366A	8/13/1973	2.83	IRRIGATION	141.5
W 4 DAIRY	36-16569	2/8/1977	2.89	IRRIGATION	308
W 4 DAIRY	36-16578	2/20/1990	0.42	IRRIGATION	308
W 4 DAIRY	36-16587*	3/15/1987	0.03	IRRIGATION	308
WAHLSTROM, LESLIE; WAHLSTROM,	36-8612	10/24/1991	0.03	IRRIGATION	1
WALKER, AUSTIN RAY; WALKER, JONI	45-7235	4/4/1975	0.83	IRRIGATION	170.6
WALL, DIANA R; WALL, LARRY G	36-8451	9/28/1989	0.02	COMMERCIAL	
WARD, ALLAN	45-14340	6/30/1985	0.01	IRRIGATION	27.9
WARD, AMY RAE; WARD, STANLEY	37-7695	2/7/1977	2.59	IRRIGATION	198
WARD, DANIEL G; WARD, KARLA	36-16333	5/16/1980	0.05	STOCKWATER, COMMERCIAL	
WARD, DANIEL G; WARD, KARLA	36-16335*	5/26/1971	0.02	STOCKWATER, COMMERCIAL	
WARD, DANIEL G; WARD, KARLA	36-7717	5/26/1977	0.07	STOCKWATER, COMMERCIAL	
WARD, DANIEL G; WARD, KARLA	45-14425	6/30/1985	0.25	IRRIGATION	294.8
WARD, DANIEL G; WARD, KARLA	45-7259	2/9/1976	4.03	IRRIGATION	313
WARNER, GARALD; WARNER, SARA	37-7679	9/23/1977	0.12	IRRIGATION	6
WARNER, THOMAS	36-7486	6/27/1974	2.4	IRRIGATION	120
WARNER, THOMAS	36-7498	8/19/1974	0.8	IRRIGATION	40
WARREN, DAVID L; WARREN, SANDRA L	45-13567*	11/14/1983	0.21	IRRIGATION	163
WARTLUFT, HAROLD; WARTLUFT, LOIS	37-8375	8/11/1988	0.15	IRRIGATION, DOMESTIC	3.5
WATERS, LINDA K; WATERS, TIM H	36-7613	2/26/1976	1.6	IRRIGATION	701

* Enlargement right subordinate to rights earlier than April 12, 1994

Water Rights Subject to Curtailment - Rangen Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
WATERS, LINDA K; WATERS, TIM H	36-7703	5/10/1977	3.57	IRRIGATION	198
WAUNA VISTA PARK HOMEOWNERS ASSN	36-8720	2/4/1994	0.03	IRRIGATION	0.7
WAYMENT FARMS INC	45-13413	6/30/1985	0.75	IRRIGATION	791.8
WAYNE C ANDERSEN LLC	45-10310*	5/1/1978	4.04	IRRIGATION	1265
WAYNE C ANDERSEN LLC	45-11728	6/30/1985	1.25	IRRIGATION	465
WAYNE C ANDERSEN LLC	45-14246	6/30/1985	2.13	IRRIGATION	941.5
WAYNE C ANDERSEN LLC	45-7347	6/29/1978	4.5	IRRIGATION	1265
WAYSIDE ESTATES INC	36-7970	3/10/1981	0.2	DOMESTIC	
WEBER, JEFF L; WEBER, KERI JO	37-20848	10/6/1977	8.28	IRRIGATION	634
WEBER, JEFF L; WEBER, KERI JO	37-20850*	3/15/1983	0.4	IRRIGATION	634
WEL IDAHO REAL ESTATE LLC	37-8289	2/23/1987	0.11	COMMERCIAL	
WENDELL CEMETERY DISTRICT	36-8242	4/10/1984	0.2	IRRIGATION	10
WERT, LOREN; WERT, RITA	36-8000	9/11/1981	0.8	IRRIGATION	40
WEST ONE BANK IDAHO	36-15215*	3/15/1972	1.1	IRRIGATION	609
WEST ONE BANK IDAHO	36-7528	3/27/1975	1.08	IRRIGATION	609
WEST SLOPE FARMS INC	45-11022*	5/1/1966	0.37	IRRIGATION	884
WEST SLOPE FARMS INC	45-14404	6/30/1985	0.02	IRRIGATION	884
WEST, JIM	37-8222	8/5/1985	0.03	STOCKWATER	
WESTERN DAIRYMEN COOPERATIVE INC	36-7492B	7/31/1974	3.96	IRRIGATION	198
WESTERN FARM SERVICE INC	36-8341	11/25/1987	0.08	COMMERCIAL	
WESTERN FARM SERVICE INC	45-7648	6/13/1989	0.2	COMMERCIAL	
WESTERN IDAHO POTATO PROCESSING CO	36-8324	4/3/1987	2	FIRE PROTECTION	
WESTERN MORTGAGE & REALTY CO	36-10863A*	5/1/1970	2.57	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-10863B*	5/1/1970	0.03	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-11290*	5/1/1985	0.06	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-11340*	4/1/1972	0.97	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-15234*	3/15/1971	1.14	IRRIGATION	2969.3
WESTERN MORTGAGE & REALTY CO	36-15264A*	8/24/1966	0.68	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-15264B*	8/4/1979	0.71	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-15567	2/20/1990	1.54	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-15616*	7/13/1971	0.17	IRRIGATION	260
WESTERN MORTGAGE & REALTY CO	36-15617*	7/13/1971	0.03	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-15621	2/8/1977	3.34	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-16456*	3/15/1984	0.1	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-16582*	3/15/1987	0.09	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-16585*	3/15/1987	0.96	IRRIGATION	2969.3
WESTERN MORTGAGE & REALTY CO	36-16689	5/22/1974	4.68	IRRIGATION	2969.3
WESTERN MORTGAGE & REALTY CO	36-16690	9/10/1984	5.52	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-16692	9/10/1984	0.11	IRRIGATION	5.4
WESTERN MORTGAGE & REALTY CO	36-16814	2/20/1990	11.33	IRRIGATION	2969.3
WESTERN MORTGAGE & REALTY CO	36-16815	2/20/1990	3.9	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-16816	2/20/1990	0.16	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-4006*	7/14/1977	1.7	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7391	10/12/1973	0.11	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7476B	5/22/1974	1.8	IRRIGATION	2969.3
WESTERN MORTGAGE & REALTY CO	36-7580B	11/21/1975	0.07	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7580C	11/21/1975	3.53	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7580D	11/21/1975	0.32	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7611B	2/25/1977	4.29	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7627	6/7/1976	5.57	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-7795A	5/26/1978	1.58	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-7795B	5/26/1978	0.06	IRRIGATION	8627.4

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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
WESTERN MORTGAGE & REALTY CO	36-7830B	11/9/1978	1.71	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8068B	3/4/1982	0.05	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8068D	3/4/1982	0.04	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8068E	3/4/1982	2.17	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8068F	3/4/1982	0.05	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8069N	3/4/1982	0.03	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8069P	3/4/1982	3.34	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8069Q	3/4/1982	0.05	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8227	6/30/1983	1.91	IRRIGATION	5063
WESTERN MORTGAGE & REALTY CO	36-8274A	7/4/1985	0.28	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8274B	7/4/1985	2.04	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8275B	5/9/1985	2.46	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8404	3/1/1989	2.1	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8475	10/31/1989	2.64	IRRIGATION	8627.4
WESTERN MORTGAGE & REALTY CO	36-8777	3/4/1982	1.12	IRRIGATION	8627.4
WESTWAY TRADING	36-8765	4/7/1997	0.04	DOMESTIC	
WG FARMS LLC	36-15356A*	6/30/1973	0.22	IRRIGATION	4382.7
WG FARMS LLC	36-15380*	4/1/1974	0.26	IRRIGATION	4382.7
WG FARMS LLC	36-7393	10/12/1973	0.78	IRRIGATION	312
WG FARMS LLC	36-7399	10/30/1973	4.83	IRRIGATION	4382.7
WG FARMS LLC	36-7531	3/31/1975	1.6	IRRIGATION	80
WG FARMS LLC	36-8107	8/10/1982	0.76	IRRIGATION	312
WG FARMS LLC	36-8212	6/22/1983	1.16	IRRIGATION	4382.7
WG FARMS LLC	36-8213	6/22/1983	2.04	IRRIGATION	4382.7
WG FARMS LLC	36-8257	12/6/1984	4.42	IRRIGATION	4382.7
WG FARMS LLC	36-8258	12/6/1984	8.7	IRRIGATION	4382.7
WG FARMS LLC	36-8259	12/6/1984	5.2	IRRIGATION	4382.7
WHEELER, DEE RAY	36-8601	9/5/1991	0.06	IRRIGATION	2
WHEELER, DEE RAY; WHEELER, LINDA	36-8488	10/10/1989	0.03	COMMERCIAL	
WHITBY, BEVERLY A; WHITBY, ROBERT D	37-7581	1/9/1978	5.1	IRRIGATION	460
WHITELEY BROTHERS LLC	45-10414	6/30/1985	3.14	IRRIGATION	1426
WHITTAKER, JAMES A	37-8063	1/6/1983	2	IRRIGATION	658
WHITTAKER, KEITH	36-8553	7/9/1990	0.13	IRRIGATION	4.3
WHITWORTH, BOYD	45-7638	3/10/1989	0.06	INDUSTRIAL	
WICKEL, ARDEL W; WICKEL, JUDY M	45-13773*	3/15/1968	0.66	IRRIGATION	849
WICKEL, ARDEL W; WICKEL, JUDY M	45-7336	1/24/1978	4.38	IRRIGATION	849
WICKEL, ARDEL W; WICKEL, JUDY M	45-7449	7/15/1980	0.41	IRRIGATION, STOCKWATER	849
WICKEL, ARDEL W; WICKEL, JUDY M	45-7471	5/22/1981	1.36	IRRIGATION	849
WILCOX, FRANCIS; WILCOX, MARGARET	36-8515	3/2/1990	0.03	IRRIGATION	1
WILD WEST INC	37-21719	3/22/2006	0.11	DOMESTIC	
WILFERTH, CONNIE; WILFERTH, DON E	36-7594	12/16/1975	0.14	IRRIGATION	7
WILLIE, DANIEL L	36-16116	5/16/1980	0.07	MITIGATION	
WILLIE, DANIEL L	36-16124*	5/26/1971	0.03	MITIGATION	
WILSON, DIANA J; WILSON, ROBERT E	36-7892	2/4/1980	0.06	IRRIGATION, DOMESTIC	1.4
WISE, EARL; WISE, INEZ	36-8638	1/7/1992	0.04	IRRIGATION, DOMESTIC	1
WLR LC	36-16568	2/8/1977	10.14	IRRIGATION	1076
WLR LC	36-16577	2/20/1990	1.5	IRRIGATION	1076
WLR LC	36-16586	3/15/1987	0.09	IRRIGATION	1076
WOOD RIVER RANCH CO INC	36-8312	8/15/1986	0.05	STOCKWATER	
WOODLAND, ALAN; WOODLAND, DEBRA	36-16517*	3/15/1984	0.93	IRRIGATION	307
WOODLAND, ALAN; WOODLAND, DEBRA	36-16518*	3/15/1984	0.12	IRRIGATION	32
WOODLAND, MICHAEL D	36-7930	8/11/1980	3.68	IRRIGATION	200
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-15179*	3/15/1975	0.94	IRRIGATION	531

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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
WOODLAND, MICHAEL D; WOODLAND, PATRICIA	36-7461	3/26/1974	8.35	IRRIGATION	548
WOODWARD, ARLEN; WOODWARD,	36-8194	5/24/1983	0.03	IRRIGATION	1
WOODWARD, RODGER; WOODWARD, RUTH	36-8214	6/27/1983	0.04	IRRIGATION, DOMESTIC	1
WRIGHT, CECELIA W; WRIGHT, JOHN W	36-7562C	1/21/1974	0.6	IRRIGATION	30
WRIGHT, CECELIA W; WRIGHT, JOHN W	36-7562D	1/21/1974	0.12	STOCKWATER, COMMERCIAL	
WRIGHT, CECELIA W; WRIGHT, JOHN W	36-7562E	1/21/1974	0.15	IRRIGATION	30
WRIGHT, CECELIA W; WRIGHT, JOHN W	36-7562F	1/21/1974	0.05	STOCKWATER, COMMERCIAL	
WRIGHT, CECELIA W; WRIGHT, JOHN W	36-7622A	4/29/1976	0.45	IRRIGATION	30
WRIGHT, CECELIA W; WRIGHT, JOHN W	36-7622B	4/29/1976	0.15	STOCKWATER, COMMERCIAL	
WRIGLEY, DON; WRIGLEY, EDITH; WRIGLEY, MAVIS; WRIGLEY, RICK; WRIGLEY, VERLA	45-7155A	10/12/1973	2.29	IRRIGATION	296
WRIGLEY, DON; WRIGLEY, EDITH; WRIGLEY, MAVIS; WRIGLEY, RICK; WRIGLEY, VERLA	45-7166B	2/3/1974	2.29	IRRIGATION	296
WRIGLEY, DON; WRIGLEY, GALE; WRIGLEY, JAYE; WRIGLEY, RICK	45-7166D	2/3/1974	2	IRRIGATION	172.5
WRIGLEY, EDITH; WRIGLEY, RICK	45-13565	10/12/1973	2.18	IRRIGATION	280
WRIGLEY, EDITH; WRIGLEY, RICK	45-7166C	2/3/1974	2.18	IRRIGATION	280
WYATT, GRANT M	45-13541	6/30/1985	2.09	IRRIGATION	479
WYBENGA DAIRY LLC	45-13418	10/31/1974	5.24	IRRIGATION	1223
WYBENGA DAIRY LLC	45-13440	1/4/1975	2.11	IRRIGATION	1223
WYBENGA DAIRY LLC	45-13442	10/31/1974	5.45	IRRIGATION	1223
WYBENGA DAIRY LLC	45-13444	6/30/1978	2.31	IRRIGATION	1223
WYBENGA DAIRY LLC	45-7196B	1/4/1975	2.03	IRRIGATION	1223
WYBENGA DAIRY LLC	45-7345B	6/30/1978	2.22	IRRIGATION	1223
WYBENGA, DARLA; WYBENGA, STEVE	45-13423	1/4/1975	0.25	STOCKWATER, COMMERCIAL	
WYBENGA, DARLA; WYBENGA, STEVE	45-13425	10/31/1974	0.63	STOCKWATER, COMMERCIAL	
WYBENGA, DARLA; WYBENGA, STEVE	45-13427	6/30/1978	0.27	STOCKWATER, COMMERCIAL	
WYBENGA, DARLA; WYBENGA, STEVE	45-13976	1/4/1975	0.06	STOCKWATER, COMMERCIAL	
WYBENGA, DARLA; WYBENGA, STEVE	45-13978	10/31/1974	0.16	STOCKWATER, COMMERCIAL	
WYBENGA, DARLA; WYBENGA, STEVE	45-13980	6/30/1978	0.07	STOCKWATER, COMMERCIAL	
WYNN DEWSNUP FAMILY REVOCABLE TRUST	36-15217*	3/15/1968	0.76	IRRIGATION	176
YERION, GEORGE A; YERION, SUSAN F	37-20717	4/29/2002	0.1	IRRIGATION	3.3
YOUNG, ELIZABETH A	37-7782	6/5/1979	0.14	IRRIGATION, DOMESTIC	3
YOUNG, KAREN W; YOUNG, ROSS M	37-7621E	6/7/1977	0.67	IRRIGATION	34
ZION LUTHERAN CHURCH	45-7167	2/13/1974	0.06	IRRIGATION	2.1

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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.

COPY

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Attorneys for Rangen, Inc.

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DEPT OF WATER RESOURCES
SOUTHERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR TRANSFER OF WATER RIGHT NO. 36-7072 (TRANSFER APPLICATION #79560) IN THE NAME OF IGWA FOR NORTH SNAKE GWD, MAGIC VALLEY GWD, SOUTHWEST ID ON BEHALF OF THE OWNER, SEAPAC OF IDAHO, INC.	**NOTICE OF PROTEST BY RANGEN, INC. TO WATER RIGHT TRANSFER APPLICATION NO. 79560**

Rangen, Inc. ("Rangen"), P.O. Box 706, 115 13th Avenue South, Buhl, Idaho 83316, by and through its attorneys, and pursuant to Idaho Code Section 42-222, or as otherwise provided by administrative rules, hereby files its protest to Transfer Application No. 79560 (the "Application").

PROTEST

1. The Application violates the criteria of I.C. § 42-222.

2. The current use for water right 36-7072 is fish propagation. This is a non-consumptive use.

3. The Application proposes to transfer water discharged from the ESPA at Magic Springs by pumping via buried pipeline approximately 2.5 miles to Rangen's place of use near the head of Billingsley Creek. The water will be consumed in Billingsley Creek and will not return to the Snake River.

4. There may be diseases present in Magic Springs that are not present at the head of Billingsley Creek. The transfer of water will result in transfer of disease.

5. The transfer will be detrimental to fish and wildlife, fish rearing and spawning habitat, fish passage, waterfowl habitat, and aesthetic beauty and therefore is not in the best interest of the general public of the State of Idaho.

6. Other water rights will be injured by the transfer and the change constitutes an enlargement in use of the original right, in violation of the criteria of I.C. § 42-222.

7. The transfer will change this water right from a non consumptive water right to a consumptive water right in violation of the criteria of I.C. § 42-222.

8. The transfer is not consistent with the conservation of water resources within the state, in violation of the criteria of I.C. § 42-222.

9. The transfer is not in the local public interest as defined in section 42-202B, Idaho Code, in violation of the criteria of I.C. § 42-222.

10. For all the reasons contained herein, the Application should be denied.

11. For such other and further reasons as may be discovered or set forth at the hearing of this matter. Protestant reserves the right to amend this protest as necessary.

WHEREFORE, the Protestant prays for the following relief:

1. That the Permit be denied in all respects.

2. For attorney's fees and costs as may be allowed by law.

3. For any other relief as deemed just and equitable.

RESPECTFULLY SUBMITTED this ___ day of October, 2014.

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at either address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

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 17th day of October, 2014 he caused a true and correct copy of the foregoing document to be served by the method indicated upon the following:

North Snake Ground Water District Lyn Carlquist, Chairman c/o Joyce Moreno, Secretary 152 E. Main Street Jerome, ID 83338 nsgwd@safelink.net calquil@yahoo.com	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☑ ☐ ☐ ☑
Magic Valley Ground Water District Dean Stevenson, Chairman c/o Emily Haynes, Secretary P.O. Box 430 Paul, ID 83347 desteve@pmt.org mvgwd@hotmail.com	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☑ ☐ ☐ ☑
Southwest Irrigation District c/o William A. Parsons, Attorney 137 W. 13th St. Burley, ID 83318 wparsons@pmt.org csearle@pmt.org	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☑ ☐ ☐ ☑
Idaho Ground Water Appropriators, Inc. (IGWA) c/o Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED 201 E. Center St. P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	Hand Delivery U.S. Mail Facsimile Federal Express E-Mail	☐ ☑ ☐ ☐ ☑

for J. Justin May

Idaho Department of Water Resources Receipt

Receipt ID: S034347

Payment Amount	$25.00	Date Received	10/17/2014 4:42 PM	Region	SOUTHERN
Payment Type	Check	Check Number	17430		

Payer MAY BROWNING & MAY

Comments NOTICE OF PROTEST FILED ON BEHALF OF RANGEN, INC. AGAINST APP. FOR TRANSFER 79560 (IGWA - NORTH SNAKE G.W.D., et al)

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
$25.00	PROTESTS	64103	0229	21		1155

Signature Line (Department Representative)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 79560 IN THE NAME OF NORTH SNAKE GROUND WATER DIST., MAGIC VALLEY GROUND WATER DIST. AND SOUTHWEST IRRIGATION DISTRICT	)))))	**NOTICE OF PRE-HEARING CONFERENCE**

On September 12, 2014, North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District filed Application for Transfer No. 79560 with the Idaho Department of Water Resources (department). A protest was filed by Rangen, Inc., represented by Fritz Haemmerle of Haemmerle & Haemmerle.

The department has scheduled this case for pre-hearing conference on November 5, 2014, beginning at 10:00 AM. This conference will be held at 650 Addison Ave West, Ste 110, Twin Falls, Idaho.

Agenda items for the pre-hearing conference will include:

1. Review of the application.

2. Identify issues of protest.

3. Designate target date for conducting administrative hearing if resolution is not possible during the pre-hearing conference.

4. Set dates for discovery and pre-hearing disclosures.

The department encourages the applicant and protestants to discuss and resolve the protests before the pre-hearing conference. If private discussions are not possible or do not resolve the protests, the department's Rules of Procedure provide for a pre-hearing conference to be held before scheduling a formal hearing.

The pre-hearing conference provides another informal opportunity for the applicant and protestants to meet. The parties often settle their differences at the pre-hearing conference. If a formal hearing is needed to resolve the protests, the pre-hearing conference serves as an opportunity to formulate or simplify the issues, obtain concessions of fact or identification of documents to avoid unnecessary proof, schedule discovery (when discovery is allowed), arrange for the exchange of proposed exhibits or prepared testimony, limit witnesses, schedule hearings, establish procedure at hearings, and address other matters that may expedite orderly conduct and disposition of the proceeding.

It is important for all parties to give considerable thought to each of these matters before appearing at the pre-hearing conference and to make the most of the opportunity to resolve the dispute informally.

The pre-hearing conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the pre-hearing conference, please notify the department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Sharla Cox, (208)525-7161.

Dated this 27th day of October, 2014

James Cefalo
Water Resources Program Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of October, 2014, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

Document Served: Notice Of Pre-Hearing Conference
Hearing Procedure for Application for Transfer

Rangen, Inc.
c/o Haemmerle & Haemmerle
Attn: Fritz Haemmerle
PO Box 1800
Hailey ID 83333

Brody Law Office
Robyn M. Brody
PO Box 554
Rupert ID 83350

J. Justin May
May Browning & May
1419 W. Washington
Boise ID 83702

Racine Olson Nye Budge & Bailey
TJ Budge
PO Box 1391
Pocatello ID 83204-1391

Sharla Cox
Administrative Assistant

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues for the department to consider in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. If the proposed transfer is for a municipal use, is it necessary to provide reasonably anticipated future needs for a municipal service area and is the planning horizon consistent with Sections 42-222 and 42-202B, Idaho Code?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the prehearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 79560 IN THE NAME OF NORTH SNAKE GROUND WATER DIST., MAGIC VALLEY GROUND WATER DIST. AND SOUTHWEST IRRIGATION DISTRICT	**NOTICE OF HEARING AND SCHEDULING ORDER**

NOTICE OF HEARING

On September 12, 2014, North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District filed Application for Transfer No. 79560 with Idaho Department of Water Resources (Department). A protest was filed by Rangen, Inc.

A prehearing conference was held on November 5, 2014. The parties determined that a formal hearing should be held to resolve these protested matters.

The Department has scheduled the matter for hearing on **December 18 and 19, 2014 beginning at 9:00 AM,** at the Idaho Department of Environmental Quality, 650 Addison Ave W. Ste 110, Twin Falls, Idaho.

The presiding officer at the hearing will be Gary Spackman, Director of the Department, whose mailing address is P.O. Box 83720, Boise ID 83720-0098.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the department's Rules of Procedure (IDAPA 37.01.01), and the department's Water Appropriation Rules (IDAPA 37.03.08). A copy of the code and rules may be obtained from the department's website, www.idwr.idaho.gov, or upon request.

All parties appearing in the matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the contested application.

The hearing will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the conference, please notify the department no later than (10) days prior to the hearing. Inquiries about scheduling or hearing facilities should be directed to Deborah Gibson at (208) 287-4803.

SCHEDULING ORDER

The parties agreed that the application is at issue in this matter. The schedule agreed to by the parties is as follows:

Discovery will continue to the hearing date.

December 2, 2014	Expert Reports Disclosure
December 2, 2014	List of Witnesses and Exhibits Due
December 12, 2014	Expert Reports Rebuttal
December 18 & 19, 2014	Hearing

Dated this 18th day of November, 2014.

Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of November, 2014, true and correct copies of the document described below was served on the parties by placing a copy of the same with the United States Postal Service, as certified mail with return receipt requested, postage prepaid and properly addressed to the following:

Document Served: Notice of Hearing and Scheduling Order

CERTIFIED MAIL

Randall C. Budge
T.J. Budge
Racine Olson Nye Budge & Bailey
PO Box 1391
Pocatello ID 83204-1391

Fritz Haemmerle
Haemmerle & Haemmerle
PO Box 1800
Hailey ID 83333

J. Justin May
May Browning & May
1418 W. Washington
Boise ID 83702

US MAIL

Idaho Dept of Environmental Quality
Attn: Sandy Gritton
650 Addison Ave Ste W Ste 110
Twin Falls ID 83301-3380

Deborah J. Gibson

Deborah Gibson
Admin. Assistant for the Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION	)	
FOR TRANSFER NO. 79560 IN THE NAME	)	Docket No.
OF NORTH SNAKE GROUND WATER	)	Unassigned
DISTRICT, MAGIC VALLEY GROUND WATER	)	
DISTRICT, AND SOUTHWEST IRRIGATION	)	
DISTRICT	)	
_____	)	

BEFORE

HEARING OFFICER: GARY SPACKMAN

Date: December 18, 2014 - 9:05 a.m.

Location: Idaho Department of Environment Quality
650 Addison Avenue West, Suite 110
Twin Falls, Idaho

REPORTED BY:

JEFF LaMAR, C.S.R. No. 640

Notary Public

APPEARANCES:

For Rangen, Inc.:
HAEMMERLE & HAEMMERLE, PLLC
BY MR. FRITZ X. HAEMMERLE
Post Office Box 1800
Hailey, Idaho 83333
-and-
MAY, BROWNING & MAY
BY MR. J. JUSTIN MAY
1419 West Washington
Post Office Box 6091
Boise, Idaho 83707
-and-
BRODY LAW OFFICE, PLLC
BY MS. ROBYN M. BRODY
Post Office Box 554
Rupert, Idaho 83350

For Idaho Groundwater Appropriators:
RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED
BY MR. THOMAS J. BUDGE
Post Office Box 1391
201 East Center Street
Pocatello, Idaho 83204

///
///

APPEARANCES (Continued):

For Idaho Department of Water Resources:
OFFICE OF ATTORNEY GENERAL
IDAHO DEPARTMENT OF WATER RESOURCES
BY MS. EMMI L. BLADES
322 East Front Street
Boise, Idaho 83720

I N D E X

W I T N E S S E S

///

I N D E X (Continued)

W I T N E S S E S

E X H I B I T S

NO.	MARKED	RECEIVED
4000	***	52
4002	***	157
4003	***	157
4004	***	***
4005	***	***
4006	***	157
4007	***	157
4008	***	157
4009	***	48
4010	***	157
4011	***	157
4012	***	59
4013	***	56
4014	***	60
4015	***	139

I N D E X (Continued)

E X H I B I T S

NO.	MARKED	RECEIVED
4018	232	232
5007	***	111
5015	***	216
5017	***	184
5018	***	181
5019	***	216

THE HEARING OFFICER: Good morning, everyone. My name is Gary Spackman. I'm the Director of the Idaho Department of Water Resources. And I know most everyone here, and I'm acquainted with, I think, if not all of you, a good share of you.

This is the time and place for a hearing regarding an application for transfer filed by several groundwater districts, and it proposes to change the point of diversion for a -- water rights that are derived or diverted presently from Magic Springs. And this is a follow-up to a Fourth Mitigation Plan and a hearing related to the plan that I conducted some couple of months ago.

And I've just started recording immediately because I've looked through the record and the information that I have. We've scheduled two days for hearing today. But I want to be optimistic and hope we can finish in one, looking at the materials we have. So I wanted to start in as quickly as we could this morning.

Let's have the parties introduce themselves, if we can.

Mr. Budge.

MR. BUDGE: Thank you.

My name is TJ Budge. I'm an attorney with

the Racine law firm in Pocatello. I represent the applicants, who are the groundwater districts, North Snake and Magic Valley, as well as Southwest Irrigation District.

MR. HAEMMERLE: Fritz Haemmerle, Rangen.

MR. MAY: Justin May representing Rangen.

MS. BRODY: Robyn Brody with Rangen.

MS. BLADES: Emmi Blades, the Department of Water Resources.

THE HEARING OFFICER: Okay. And we have a familiar court reporter with us here today as well.

All right. Are there preliminary matters we need to cover this morning?

MR. HAEMMERLE: I think there's one, Director. We need to make sure -- and I think we have an agreement, that the entire administrative record from MP 2014-006, which is the Fourth Mitigation Plan, will be considered part of the record in this particular transfer case.

THE HEARING OFFICER: Mr. Budge?

MR. BUDGE: That's correct.

THE HEARING OFFICER: And the stipulation is that the entire record, including the transcript testimony and exhibits?

MR. HAEMMERLE: All of it, Director.

THE HEARING OFFICER: Okay. All right. Well, to shorten the matter, I'll accept the record in the Fourth Mitigation Plan into the record for this matter. It makes me responsible for it, which I know it was voluminous, but nonetheless, I'm familiar with it. So I think that helps us move along.

Other preliminary matters? Okay. Shall we launch?

Mr. Budge.

MR. BUDGE: Thank you, Director.

The districts will call as their first witness Frank Erwin.

THE HEARING OFFICER: Mr. Erwin, you know our routine, don't you?

MR. ERWIN: Yes, sir.

THE HEARING OFFICER: Raise your right hand, please.

FRANK ERWIN,

having been called as a witness by IGWA and duly sworn to tell the truth relating to said cause, testified as follows:

THE HEARING OFFICER: Thank you. Please be seated.

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You may examine.

DIRECT EXAMINATION

BY MR. BUDGE:

Q. Frank, I appreciate you taking time out of your schedule to be here today. We're not going to keep you here very long, but I do appreciate you being here.

For the record, will you please state your name and address.

A. Frank Erwin, 711 East Avenue North, Hagerman, Idaho.

Q. And would you please spell your last name.

A. Last name is E-r-w-i-n.

Q. Thank you.

Frank, I understand you're the watermaster for Water District 36A.

A. Yes, sir.

Q. How long have you been the watermaster?

A. 18 years.

Q. And could you please describe the boundaries of Water District 36A.

A. It includes all the water that is delivered from Billingsley Creek and Riley Creek and all the springs that feed those two streams.

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Q. In front of you, Mr. Erwin, there is a binder labeled "IGWA Exhibits."

Do you see that?

A. Yes, sir.

Q. Would you please open that to Exhibit 4000. It's the first exhibit in the binder. Turn behind tab 4000 and you should see a transfer application. Transfer No. 79560.

Do you see that?

A. Yes, sir.

Q. This is the transfer application we're addressing in this hearing.

Have you, by chance, seen this before?

A. I've seen it before. I've not studied it real close, so I don't have it what you would call memorized. But I've look at it, yes.

Q. Thank you.

And you understand that this application seeks to transfer a 10 cfs portion of one of SeaPac's Magic Springs water rights to the Rangen fish hatchery on Billingsley Creek?

A. Yes, sir.

Q. And if this transfer is approved, that 10 cfs will then be injected into Billingsley Creek, which you manage as the watermaster; is that correct?

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A. Yes.

Q. The reason we've called you as a witness is just to help us understand what may happen to that water once it gets into Billingsley Creek. Okay?

I understand that Billingsley Creek is administered by priority like every other water source in the state; is that correct?

A. Yes, sir.

Q. And my recollection from the Fourth Mitigation Plan hearing and your deposition that you took there was that you anticipate that once this 10 second-feet gets into Billingsley Creek it would be distributed by priority to the other water users unless you were instructed otherwise by the Department; is that correct?

A. Yes, sir.

Q. Okay. Thank you.

I wanted to ask that assuming you're administering by priority, are there times of the year when this 10 second-feet would not be diverted out of Billingsley Creek but would simply flow down to the Snake River?

A. At this point in time it would -- it would be diverted from the creek. I guess to begin with, during the irrigation season it would be diverted down

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the Curren Ditch to satisfy the Buckeye water right of a priority of approximately 1917.

They also have a winter water right there or an aesthetic wildlife right there on the same diversion that belongs to the Buckeye that may or may not be in priority. But in other words, it could be delivered there, or it may be demanded by the fish process or the fish propagation water rights at the very end of the creek. So it may flow clear to the end of Billingsley Creek. And then, of course, it would flow into the river.

It would depend on the demand of the fish producers at the end of the creek whether they needed the water to keep their facility in production or whether -- if they couldn't put it to beneficial use, then I would have to divert it to the Buckeye.

Q. That's helpful. So let's see if I understand you correctly.

It sounds like during the irrigation season you anticipate it would go down the Curren Ditch to the Buckeye, and during the nonirrigation season it could either go down the Curren Ditch to the Buckeye or it could stay in the Snake River to satisfy fish rights at the tail end of Billingsley Creek?

A. Yes.

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Q. Okay. I appreciate that. I've provided -- I brought with me a large aerial photograph of the Hagerman Valley and the Buckeye drainage -- or excuse me, the Billingsley Creek drainage. And it's here posted on an easel behind you.

Do you recognize the area depicted on that map, Frank?

A. Yes, I do.

Q. What I think may be helpful for the Director and others is just to have you point on that map where the Curren Ditch diversion is.

And anyone who would like to walk up and see where he's pointing is welcome to do that.

THE HEARING OFFICER: Can we turn the easel a little this direction, TJ. It's a little obscure. Thanks.

Can you see it, Fritz, Justin?

MR. HAEMMERLE: I don't need to see it.

THE HEARING OFFICER: Okay. Thanks.

MR. MAY: Well enough.

THE WITNESS: I want to say approximately right here where it's marked "Curren Ditch."

Q. (BY MR. BUDGE): And could you explain where water goes once it's diverted into the Curren Ditch.

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A. It flows downstream to approximately Nevada Omahundros' property. And at that point it is divided. A portion of it goes to the south pipeline, which delivers the water directly to the Buckeye Farm. And the rest of the water goes to the north on down in what we call the Curren Ditch and is diverted either in the north pipeline or continues on to the northwest and delivers irrigation water rights to other water right owners on downstream.

Q. Okay. Does the Curren Ditch discharge either back into Billingsley Creek or the Snake River?

A. There may be a portion of it from the north pipeline and the south -- the end of north pipeline and the end of the south pipeline that could possibly return to the Snake River. During the irrigation season I would say that none of it actually ever can get to the river. It's all consumed.

Q. Okay. And during the nonirrigation season some of it does flow to the Snake River?

A. I would say that through the Buckeye, the south pipeline, that it's a possibility some of it could, yes.

Q. Okay. Thank you. That's helpful.

So, Frank, just to make sure I'm clear on the testimony you just offered, are you explaining that

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if this water is diverted into the Curren Ditch during the irrigation season you expect most or all of it would be consumed through irrigation use?

A. Yes.

Q. And if it's diverted into the Curren Ditch during the nonirrigation season, you anticipate some of it would return flow to the Snake River?

A. It's possible that some of it could.

Q. Okay. That's helpful. And I appreciate that explanation.

The only other question I have is that if the Director of the Department instructed you during the irrigation season to leave that water in Billingsley Creek and not divert it down the Curren Ditch, could you do that? And I mean could you shepherd that water through Billingsley Creek until it reaches the Snake River?

A. I would say this much: It would be very difficult to be able to deliver, less the conveyance loss, that exact amount of water to the Snake River.

I guess the first problem I'd have if it's running by an irrigation diversion and they're short, they're going to want to take it. So it's going to be very difficult to try to keep that water within the Billingsley Creek proper.

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I guess the second problem I see with it is to try to come up with some way to determine what the losses may or may not be and gauging stations to determine whether I was actually delivering the proper quantity into the Snake River or not. I don't know how we would accomplish that.

Q. You mentioned previously that there's times when you don't turn water into the Curren Ditch because there's demand for it by the fish rights at the tail end of Billingsley Creek?

A. Well, there are times during the winter when there is enough water at the Curren diversion to satisfy the winter demands there and allow some of it to go ahead and go on downstream to help with the fish producers at the very end of the creek.

I would phrase it this way: That is done on a neighborly rotation basis. That's not done by delivering the water by priority, because if I was to deliver it by priority, during the wintertime that water would have to go to the fish producers at the end of the -- at the end of the creek.

And there are times during the winter when -- I'll phrase it this way: Those facilities now are established as sturgeon-producing facilities. They base their production on what water is deliverable

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during the irrigation season. Sturgeon, of course, is different than trout. It's a constant, year-round use. And during the wintertime those folks really can't put any more water to beneficial use than what they are able to obtain during the irrigation season.

So most of the time those folks at the end of the creek don't demand that water, even though they would have it coming in priority. They allow their neighbor to go ahead and put it to beneficial use. So it is done on a -- on a friendly exchange amongst the water right owners on the system.

Q. Thank you for that explanation.

Frank, it's my understanding that there are some diversions from the Curren Ditch, such as the Paget Ditch diversion, that get curtailed during the summer for the benefit of the some of the downstream fish rights; is that correct?

A. The situation with the Paget Ditch diversion, the Paget Ditch has several very senior irrigation rights, but it has a relatively junior fish-propagation right in relation to the downstream facilities, the downstream water right owners for fish propagation.

A part of the problem is the fact that once the water is diverted out the Paget diversion, that

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water does not return back to Billingsley Creek for the use of the downstream users. Once it goes down the Paget Ditch, it return flows to the Snake River.

Because of that fact and the downstream fish propagation rights are senior and the water at the end of the creek is becoming so low or the depletion factor there in the flow of the creek, to be able to provide those senior water right owners water during the summertime, there are times when that fish right on the Paget Ditch has to be curtailed to be able to deliver the water downstream.

And of course, it's the same situation there, that is a surgeon operation. So unless they have the water year-round, they're not able to actually use the facility.

Q. And so when you curtail the Paget Ditch diversion for the benefit of the downstream sturgeon operations, you are able to shepherd that water from the Paget Ditch down to those fish farms?

A. Yes.

Q. And couldn't you do the same thing with water that's injected into Billingsley Creek from Magic Springs, that you could regulate the diversions on Billingsley Creek to allow that water to flow down to the fish farms?

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A. I guess I would phrase it this way: I could -- wherever we could put measuring devices and diversion works to control the water, we would be able to convey a portion of it at least downstream. Like I said, it would have to be under the Director's direction so that I knew the conditions of what I had to work with to be able to deliver that water to the downstream users.

Q. If the Director were to instruct you to take out some amount for conveyance loss and deliver the remainder to the tail end of Billingsley Creek, you could do that, although it sounds like you may need to make some improvements to your diversion or measuring devices?

A. I think -- I think, yes, we would have to make several improvements to be able to actually accomplish that.

Q. With those improvements it could be done, though?

A. I think it's a possibility, yes.

MR. BUDGE: I have no further questions.

CROSS-EXAMINATION

BY MR. HAEMMERLE:

Q. Good morning, Frank. Frank, I don't know

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if you recall, but you and I had a chance to talk about this 10 cfs transfer way back on September 25th, 2014.

Do you recall me talking to you about that?

A. Yes.

Q. Okay. I know you've testified quite a few times, so it's hard to keep some of these things straight.

Frank, along Billingsley Creek and all in 36A you've had a chance over the years to kind of administer water through some good neighborly policies and handshake deals; is that a fair statement?

A. Yes, it is.

Q. And over the years that ability has become increasingly difficult; correct?

A. Yes, it is.

Q. And I believe through some of your prior testimony you testified that your board has instructed you or wants you to deliver water first in time, first in right; correct?

A. Yes, it is.

Q. Now, during our last discussion on this we talked about where 10 cfs of water might go if it was transferred to Billingsley Creek.

Do you recall that discussion?

A. Yes.

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Q. And I think during that time you stated that during the early part of the irrigation season from March through the first week in June the 10 cfs of water would likely be diverted down the Curren Ditch.
A. Yes.
Q. Do you recall that?
A. Uh-huh.
Q. And that's a true statement?
A. Yes.
Q. And then I think you testified during a majority of the summer months, through the second week of June through late August or early September, the water would be diverted down Billingsley Creek; correct?
A. Very likely, yes.
Q. Okay. And then after the first week in September, that 10 cfs would then be diverted again down the Curren Ditch?
A. Very likely, yes.
Q. Okay. So part of the season the water would go down the Curren Ditch and part of the season it would go down Billingsley Creek; correct?
A. Yes.
Q. Okay. Now, I think I talked to you about the likelihood, and we talked a lot about the water

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going to the Snake River through either one of those diversions.
Do you recall that discussion?
A. I think so.
Q. Okay. I think you stated that if water is diverted down the Curren Ditch it would likely be used in the Buckeye or by Buckeye; correct?
A. Yes.
Q. All right. And you testified that if water is diverted down the Curren Ditch I think your testimony was very little would return to the Snake River.
Is that a true statement?
A. During the irrigation season?
Q. Yes.
A. Yes.
Q. Okay. And then we talked about if water went down Billingsley Creek.
Now, Frank, do you know how many diversions there are on Billingsley Creek?
A. Downstream of the Curren? Or --
Q. Yeah, downstream of the Curren.
A. I'm going to say there's approximately 11.
Q. Downstream of --
A. Downstream of the Curren.

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Q. Okay. And then within Billingsley Creek, I think your testimony is something like 230 diversions?
A. Water rights, yes.
Q. Okay. And many of those are senior to the Curren Ditch; true?
A. Many of those are senior to the Buckeye water right in the Curren Ditch.
Q. Okay.
A. Most of them are close or very similar in priority date to the 1884 Curren water right.
Q. Now, if -- and we talked a lot about this. If the 10 cfs of water was diverted down Billingsley Creek, it would be consumed by all those 230-plus water users; correct?
A. Yes, it would.
Q. And I think your testimony is that little, if any, would return to the Snake River; correct?
A. During the irrigation season, yes.
Q. Okay. Now, there was some testimony about, you know -- and Counsel, Mr. Budge, has asked you if the Director ordered you to make sure that 10 cfs of water could get to the Snake River, you couldn't do that today, could you?
A. It's very unlikely that I could get that done.

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Q. Okay. I believe your testimony is that today it would be impossible to do that?
A. Well, I -- I just don't think I could get it there. Without some major improvements on the system, today I don't think it's possible.
Q. Okay. In order to do that you'd have to be able to measure it and calculate it and see where that 10 cfs of water goes; correct?
A. I'd have to be able to -- how should I say it? -- monitor it as it travels downstream through the natural streambed. There are places along Billingsley Creek where we have, depending on the time of year, terrific losses due to seepage and evaporation. And there are places, of course, along the creek where it loses very little water and may even gain some water.
So it's -- like I said, it's going to be a very difficult task to be able to actually track that water and take it down the creek.
Q. All right. So the problem is that there aren't enough measuring devices for you to parse out that water and kind of shepherd it downstream to make sure it gets to the Snake River; correct?
A. That would be a part of the problem, yes.
Q. What would be the other part of the problem?

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A. I think trying to calculate the conveyance losses. I don't know how -- I don't know how to do that. I wouldn't be able to figure out how much of that 10 should actually be delivered to the river. I don't have any way of doing that.
Q. Okay. And part of the impossibility is that the water gets diverted by an irrigator, the water goes in the field, some of it evaporates, some of it returns, some of it percolates and returns, some doesn't --
A. Yes.
Q. -- all that stuff; correct?
A. Oh, yes, uh-huh.
Q. Okay. So just so I understand your testimony, Frank, I think you previously told me that it's not possible that that 10 cfs of water would return to the Snake River during the irrigation season?
A. I don't believe it would, no.
MR. HAEMMERLE: Okay. Thanks, Frank.
THE HEARING OFFICER: Redirect, Mr. Budge?
MR. BUDGE: Yeah, just a few follow-up questions.
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///
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REDIRECT EXAMINATION
BY MR. BUDGE:
Q. Frank, I appreciate that Billingsley Creek is kind of complex and there's gaining and losing reaches of the river. I'm familiar with a number of other rivers that are that way, whether it's the Big Lost or others, and that adds some challenge to water distribution. But I do want to just make sure the record's clear concerning your last statement.
It's accurate to say that as the measuring devices -- given the measuring devices that are in place today, it would be very difficult to shepherd that 10 second-feet or 9 second-feet, whatever you were instructed to shepherd, to the tail end of Billingsley Creek; is that a fair characterization of your testimony?
A. Yes.
Q. But there could be improvements made to the diversion structures or measuring devices that would make that more feasible?
A. I would -- I would say this much in answer to that question: As far as the diversions away from the stream, we have, I think at least, good control and good measuring devices. I think the problem would be to put gauging stations along the creek, on the creek

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so that we could determine how much water we were losing or gaining in a particular reach so that we had some idea of how much of that 10 got to that next gauging station.
Right now as far as the deliveries, the majority of the main diversions on Billingsley Creek are all at the very end of it. The Curren Ditch is the only one that diverts towards the upper end of the natural streambed.
And because of that, the Department or the District and the watermaster, I, we have one gauging station on the creek that is above those downstream diversions. And that is where I determine how much water I have to distribute to those approximate 11 downstream diversions, and that's how I determine who's going to end up in priority and who's not.
The thing that -- other thing that makes that complicated is, for example, a lot of the rotations that we've done in the past. That is done just so that there are -- or some of the downstream fish propagation people can stay in business, otherwise all the water in the creek would be consumed in the neighborhood of around 1904 to 1906 in priority. So if everybody took their full allotment during the heat of the summer away from the stream and we didn't rotate it

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a little bit, then those fish people would realistically be out of business.
The other aspect you have to understand or realize on the creek itself is from four o'clock in the afternoon in July and August until four o'clock in the morning there can be as much as a 20 cfs variance in the end of the creek. And in other words, what I'm telling you is there are times if you go there at four o'clock in the morning, you'll see 10 or 15 running into the river. If you go there at four o'clock in the afternoon, and it will be dry. So it's very difficult for those folks there to be able to stay in business.
As a footnote, one of the companies there keeps a diesel-powered pump for recirculation when the creek does go dry. And it does. And they do use the pump. So like I said, to figure out what to do with this 10 is going to be really difficult. I just don't know how I can do that.
Q. If you had another gauging station on Billingsley Creek down lower, would that enable you to do that?
A. I think realistically -- and I haven't looked at it from that perspective, but realistically I'm going to say we would almost need a gauging station

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below every one of those 11 diversions, otherwise I wouldn't have any idea how much water I had left for each one of them. And I -- honestly at this point I don't know how to accomplish that --

Q. Okay.

A. -- physically on the ground.

Q. You mentioned that there is a gauging station on the creek that you use to figure out how much water is available for the diversions below that gauging station?

A. Yes.

Q. And based on the readings at that gauging station, you are able to distribute water between the diversion points downstream, the ones that are there today?

A. Yes.

Q. And you're able --

A. That tells me how much total volume I have at that point in time to deliver by priority.

Q. Okay.

A. So in other words, I can kind of gauge which -- which diversion is going to get how much for that week.

Q. Right. And you do that in some respects by determining which is the most downstream diversion

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structure that's in priority?

A. Yes.

Q. Seeing that it gets its water and then allocating what's left to those diversion structures above it?

A. Actually, most of them are similar in priority at the very end of the creek on most of those diversions. The main difference in the exchange or the control would be to the actual fish propagation diversions. In other words, most of the irrigation diversions we try to keep those as constant as we can, otherwise the fluctuation drives the irrigators nuts. Can't keep their pumps running.

So as the watermaster if you don't want too many phone calls, you try to keep enough water at those diversions to keep everybody working. The ones that actually take the fluctuation and the hit are the fish diversions.

Q. I see.

A. So there are times that, for example, the Boyer diversion has approximately a 10 cubic foot per second water right. They are the most senior at the end of the creek. Their diversion will fluctuate from 3 to 11 cfs. And that can happen during the day in one 24-hour period.

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The hard one to overcome is when it drops down for around 3 or 3 1/2, because if it gets much lower you have several hundred thousand dollars worth of sturgeon tipped upside down, so...

Q. I guess the thing I'm confused about is it seems to me that if you took the lowermost diversion and you put a gauging station right below it and you were instructed to make sure there was a certain amount of water passing that gauging station, couldn't you do that and then allocate every bit that's left to the diversions above it the same way you have historically?

A. I'd put it this way: If I had enough deputies to keep their eye on them, maybe. But like I said, if there's a farmer there irrigating, there's water going by and he can't get his pump on, I think you'll have a hard time keeping that headgate closed down. I'm not saying legally I couldn't do it, but that's -- that's going to be difficult and live in the Valley. You may have to find another watermaster. I don't know.

Q. Are you saying that the water users may make it difficult for you to do that because they may be turning their headgates on at times when they're out of priority?

A. I wouldn't say they'd be out of priority.

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I would say that that water going by to them is in the natural streambed, and as far as they're concerned, it's there for prior appropriation. I don't know how you're going to educate all those guys that that might not be their water. That's going to be a difficult task.

Q. Do you not regulate all those diversions?

A. Yes, I do.

Q. And do you not control when they turn on and off?

A. I'll put it this way: The majority of the time the lateral managers actually control the headgates, but they do it under my supervision. And they -- turn on and turn off periods. They notify me when they're -- when they're going to make a change or, for example, a maintenance issue or anything like that.

Also included in that on the larger diversions -- for example, the Buckeye Ditch diversion -- there is approximately five individuals that they notify prior to any changes on that. And the reason is is so that the fish propagation people can make the proper adjustments. And it's all on a time situation, so everybody knows when to be there to reregulate their water supply.

So like I said, it's a very complicated

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system. And the more you tamper with it, the worse it gets. It's better to try to -- we try to actually just adjust it on a weekly basis.

Q. Okay. And I appreciate the complexity, and I certainly appreciate the neighbors working together to help each other. That's how it should be and how it's done most places.

I think the part I find troubling is, if I'm understanding your testimony correctly, you're saying that you're unable to assure administration by priority because people may open their headgates whether you've instructed them to do that or not?

A. I wouldn't phrase it quite that way. I think the issue here is you're talking about the 10 cubic foot per second of water that you're putting in at Rangen's into Billingsley Creek.

From the aspect that I look at that and what's going to happen with it, as it goes downstream, it's going to be co-mingled with all the other spring sources that feed the creek. So to isolate that and to be able to deliver that to a specific location or a specific spot, then it -- and I'm probably out of school here, but it would be my take on it to if you wanted that water to end up in a specific spot, put it in a conduit when it leaves Rangen's and deliver it to

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that spot.

Q. What's the --

A. I'm not trying to shun my duties as delivering the water. But what I'm trying to say is is I'm not sure that there's anyone, whether it was me as the watermaster or you or anyone else, would have the ability to deliver a set amount during a set period of time at a set location on that system. I just would like to see somebody accomplish that.

Q. What's the most senior irrigation right on Billingsley Creek?

A. I believe, if I remember right, it's around 1881.

Q. Who owns that right?

A. I believe it goes to Lynn Cliff in the Paget Ditch.

Q. And what's the lowest diversion on Billingsley Creek?

A. The very lowest would be the Eckells Ditch as far as an irrigation diversion. The very lowest as far as fish propagation would be Peter Sturdivant.

Q. If the Lynn Cliff -- is the Lynn Cliff right, the 1881, is that an irrigation right?

A. That's an irrigation right.

Q. If the 1881 irrigation right of Lynn Cliff,

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if Lynn Cliff -- is that a 10 second-foot right?

A. No. It's approximately two-and-a-half, I believe, or something like that. And I don't remember exactly, but I think there's a portion of it that's subordinated.

Q. Okay. Assuming it's unsubordinated --

A. Uh-huh.

Q. -- if Lynn Cliff sold that two-and-a-half second-foot right to somebody on the Eckells Ditch, could you deliver that right to the Eckells Ditch instead of allowing Lynn Cliff to divert it at the Paget?

A. I would phrase it this way: The Eckells Ditch is quite a ways downstream. And through that particular section of Billingsley Creek, I think there are some loss factors, in other words, it's -- from there on down it's running right across the old Bonneville Flood rock and gravel. And there's bound to be some losses in that -- in that streambed. So to deliver it that far downstream I think would be difficult to deliver the entire quantity. A portion of it, yes.

Q. And I appreciate that. And I understand there may need to be some work done to calculate gains and losses. But I just wanted to confirm that taking

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those losses into account, if we knew what those were, you could deliver that Lynn Cliff irrigation right down to the lowest diversion on the Eckells Ditch?

A. Yes.

MR. BUDGE: Thank you. I have no further questions.

THE HEARING OFFICER: Recross, Mr. Haemmerle?

MR. HAEMMERLE: None.

THE HEARING OFFICER: Okay. I just have a couple of questions, Mr. Erwin.

EXAMINATION

BY THE HEARING OFFICER:

Q. You talked about the Paget Ditch, and I think testified that water does not return to Billingsley Creek once it's diverted into Paget Ditch?

A. That's correct.

Q. Is it possible that -- well, what's the capacity of the Paget Ditch? Do you know?

A. I'm going to say it would carry approximately 12 cubic foot per second.

Q. Is it a possibility that this 10 cfs could be delivered down the Paget Ditch and reach the Snake River?

A. The 10 cfs --

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Q. Yes.
A. -- from Rangen's?
Q. Yes. Well, that's proposed to be delivered from Magic, but it would come out of Rangen.
A. I would have to say this much: There's a possibility a portion of the 10 could be delivered down that Paget Ditch or diverted at the Paget Ditch headgate.
Q. Okay. The other question I have is with respect to your knowledge about the gains and losses to Billingsley Creek.
So if we start at the Curren Ditch --
A. Uh-huh.
Q. -- diversion, downstream from there do you have any idea what portions are gaining or losing in Billingsley Creek? You've talked generally about it, but...
A. I think generally from the Curren diversion to the Fisheries Development facility, which is at the old railroad fill or just above the old CC Camp --
Q. Could you show me where that is on the map. It would be helpful.
A. All right.
Q. Is it labeled?
A. The Fisheries Development is right in this

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area right here [indicating].
Q. Is it labeled?
A. Yes, it is.
Q. And what's the label on it?
A. "Fisheries Development."
Q. Okay. All right. Thanks.
A. "Billingsley."
Q. Yeah.
A. And then there's also another one that says "Fisheries Development springs," because they have one water right on the creek and one water right on springs that are developed there.
Q. Okay.
A. From the Curren Ditch down to this particular location, I'm going to say due to the fact that the majority of the streambed is gravel all right, but underneath is a silty deposit, that the losses are minimal, and the gains are -- actually, there are gains due to the fact of there's some springs coming in and seepage water coming from.
From Fisheries Development clear to Highway 30 is pretty much the section where we lose the most of the water, and the reason is the creek is relatively flat, it loses its fall. It is also overgrown with huge amounts of bulrush, tules, those

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sorts of things. It -- it's kind of a difficult situation there.
But to give you an idea at the very -- and that stretch is approximately a mile long. From winter to summer we actually have more water going through there in the wintertime, and the creek will actually recede and run within its banks.
During the summertime when we have far less water running through there, I have a spot where I can gauge the change in elevation. At the very upper end of that stretch, it will raise in elevation approximately 2 foot and just flood out. And like I said, it grows a huge amount of bullrush and tules.
Because of that fact, we have a huge loss through that section. And that's the one that would be hard to quantify or determine how much loss we really have there.
I think there's times, like I said -- I can't remember the exact year, but I think it was around 2005 or 2006 when we could tell at the very end of the creek on an estimation that we would have approximately a 20 cfs quantity of water run into the river, and you go there at four o'clock in the afternoon and the creek would be bone dry. Wouldn't be any water running.

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So I'll put it this way: In that particular year -- and I'm not sure that was the year, but during that particular period of time the heat was excessive, the demand for the tules was excessive, so they drank a lot of water. That's not the case every year.
But I guess what I'm trying to explain here is that makes it very difficult to determine how to manage that tail end there. Those losses are great.
Q. And the 11 points of diversion that you referred to, are they located -- what's their location in relationship to Highway 30?
A. There would be four of them above Highway 30, and all of rest of them are just downstream.
Q. But the four above are both located close to or just upstream from Highway 30?
A. Just upstream, yes.
Q. And there's also a hydropower facility there on Billingsley Creek, is there not?
A. Yes. That hydropower facility is actually the old original -- built on the old original site of the dam for the John Bell and the Buckeye Ditches. And prior to that there was another ditch there that's been abandoned. They called it the Granger Ditch. And the

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water rights in the Granger Ditch actually now go down the Buckeye Ditch.
Q. And the powerplant is located just above Highway 30 as well?
A. Yes. Yes, it is. They actually take what water that doesn't go down the two irrigation ditches, and of course they have a certain amount with their permit that they have to run down the old channel, and then the rest of the water goes through the powerplant and delivers right back into the Billingsley Creek, but that's upstream of any other diversions.
Q. Okay. All right.
A. And that -- and like I said, the four there on the North Side would be John Bell and the Paget, and on the south side would be the Buckeye and the EM Bell.
Q. And when you say on the north and south side, those are the four diversions that are above Highway 30?
A. Yes.
Q. Okay. And those diversions are located above the powerplant, then?
A. Just two of them.
Q. Oh.
A. Two of them are below, two of them are above.

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Q. Okay. All right.
A. But the powerplant puts the water back into the creek above the two lower diversions.
THE HEARING OFFICER: Okay. Other questions based on what I've asked?
Mr. Budge?
MR. HAEMMERLE: I've just got a couple.
THE HEARING OFFICER: Do you have questions, Mr. Budge? Let go in order here. So Mr. Budge.
MR. BUDGE: Yeah.

FURTHER REDIRECT EXAMINATION
BY MR. BUDGE:
Q. Frank, you spoke of this losing stretch of Billingsley Creek.
A. Yes.
Q. Are those losses just from the plants, the bulrushes consuming water, or is there also seepage through the bottom of the creek in that area?
A. I think when it backs up as high as it does, that particular stretch of Billingsley Creek -- I shouldn't admit to it, but I've disturbed the bottom a time or two installing an irrigation line across the creek there. All of that -- and it flows right along what's now Billingsley Creek State Park. That entire

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area through there is all based on top of lava sand deposit that evidently came from an old, old, old volcano.
And all I can say is that the seepage through -- or the losses through that lava sand when that water backs up and gets out of the original streambed and floods out there in those bulrushes, the bulk of the land that's under there is nothing more than just lava sand.
And I'll put it this way: You can dig a posthole in that lava sand, put a garden hose with approximately 50 pounds pressure on it and put it in that posthole that you dug by hand, and it may or may not fill up until the next day. In other words, the point I'm making is the seepage losses there, in my opinion, are terrific. And of course, what happens, the water just seeps down through the sand, and then runs underneath the creek probably clear to the river. In other words, we just lose it.
I'll say this much about that stretch: There has been a movement by some of the downstream irrigators, especially on the Buckeye diversion and those on downstream that have visited, that particular stretch of the creek belongs to Idaho Fish and Game. And I have visited with them as far as the possibility

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of maybe doing some rehabilitation work to try to keep the stream within its banks.
What it amounts to, it's just aquatic growth that literally just backs it up. No different than it would in a canal lateral or anything else.
Q. I appreciate that. You also mentioned that if the 10 second-feet were diverted into the Paget Ditch a portion of it would make it to the Snake River.
Is that because there's also evaporation and seepage out of the Paget Ditch?
A. Yes.
Q. And if the 10 second-feet were diverted into the Curren Ditch, could that be more easily shepherded to the Snake River that way?
A. No, it wouldn't. If it went down the Curren Ditch, it would be more difficult, actually, to get it to the river.
MR. BUDGE: Okay. That is all I have. Thank you.
THE HEARING OFFICER: Mr. Haemmerle?
MR. HAEMMERLE: Thank you.

RECROSS-EXAMINATION
BY MR. HAEMMERLE:
Q. Frank, Mr. Budge and the Director have

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asked you all sorts of hypotheticals about whether if you delivered water this way, that way, or the other way would it get back to the Snake River.

Have they asked any hypotheticals that changed your testimony to me that if water was delivered down the Curren Ditch it would not make it back to the Snake? Is that still your testimony?

A. Yes, it is.

Q. And likewise, given all the hypotheticals that are presented to you, is it still your testimony that water delivered down Billingsley Creek would not make it back to the Snake River?

A. I don't think that it would, no.

MR. HAEMMERLE: Thank you. Thanks, Frank, for everything.

THE HEARING OFFICER: Thank you, Mr. Erwin. Next witness, Mr. Budge.

MR. BUDGE: Scott King.

THE HEARING OFFICER: Mr. King, if you'll come forward, please. Raise your right hand.

SCOTT KING,

having been called as a witness by IGWA and duly sworn to tell the truth relating to said cause, testified as follows:

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THE HEARING OFFICER: Thank you. Please be seated.

Mr. Budge.

DIRECT EXAMINATION

BY MR. BUDGE:

Q. Scott, thank you for being here today.

Would you please state your name and business address for the record.

A. Name is Scott King, K-i-n-g. I'm employed by SPF Water Engineering in Boise, 300 East Mallard, Suite 350.

Q. And what's your educational background?

A. I have a bachelor's in general engineering from Idaho State University and a master's in civil engineering from the University of Idaho.

Q. In front of you there's a binder labeled "IGWA Exhibits."

Would you please turn to Exhibit 4009.

A. Okay.

Q. Is this a current copy of your resumé?

A. Yes.

Q. Does it accurately reflect your education and experience?

A. Yes, it does.

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MR. BUDGE: Move to admit Exhibit 4009 into the record.

MR. HAEMMERLE: No objection.

THE HEARING OFFICER: Document marked as Exhibit 4009 is received into evidence.

(Exhibit 4009 received.)

Q. (BY MR. BUDGE): Scott, turning to page 2 of that exhibit, it looks like you worked at the Department from 1990 to 2004.

Did any of your -- well, why don't you explain what positions you held while you were at the Department.

A. My first employment with the Department of Water Resources was as a summer field examiner in the eastern region for several months, and then moved to the State office in Boise where I was with the energy division for several years, and then went into the Allocation Bureau and worked for water distribution for a number of years. And that's when we started on this groundwater measurement program and the water measurement districts and the groundwater districts were formed on the Eastern Snake Plain Aquifer.

And then spent a number of years working in the Adjudication Bureau. And finished my work with the Department of Water Resources in the western region

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doing safety of dam inspections.

Q. Did you have any involvement with transfer applications at the Department?

A. Some experience with transfer applications, mostly in reviewing those applications to see how they could be administered when I was working with water districts or reviewing those when we were working on the groundwater measurement program, generally in the position of reviewing an approved transfer.

Q. And --

A. There was -- just a second. There was a little bit of experience with other employees that were reviewing a transfer for approval, and it asked for a little bit of my input as to how maybe some administration would work in some certain areas.

Q. Okay. How long have you been with SPF Water Engineering?

A. Nine-and-a-half years.

Q. And what's your area of expertise with this firm?

A. My primary area of expertise is with water rights, water permit applications, transfer applications, mitigation plans, and many of the other processes that we help our clients work with through the Department of Water Resources.

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I also have experience in surface water hydrology, water measurement, pipe-flow measurement, a little bit of well design and pump design and irrigation system efficiency assessments.

Q. Okay. How often are you engaged in transfer applications at SPF?

A. I'd say I wind up reviewing probably 70 percent of the applications submitted by SPF. I think I'm probably integrally involved with about 30 percent of the applications that we submit to the Department of Water Resources. Several a month, a couple a month is approximately what we might be submitting. I haven't looked at that recently. But I know we submit quite a few transfers to the Department of Water Resources.

Q. Okay. What were you asked to do in this case?

A. My -- I was asked by groundwater users, you, to review the transfer application and provide an opinion as to whether this would be what I would assume -- what my opinion would be if the transfer is an approvable transfer by the Department of Water Resources or if there are any issues in it that might question its approvability.

Q. And what have you done in connection with

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that review?

A. Reviewed the transfer application, reviewed the other documents associated with this mitigation plan. I've discussed it with you. I've discussed it internally within our office. I prepared an expert report that was provided about my opinions on the transfer, and then reviewed subsequent expert reports by Brockway Engineering and provided a rebuttal report.

Q. Are you familiar with the pipeline that's being constructed to deliver water from Magic Springs to Rangen?

A. Yeah.

Q. It's your firm that's engineered and carrying out that project?

A. Correct.

Q. If you'll turn in your binder of IGWA's exhibits in front of you to Exhibit 4000. It's the first exhibit in the binder.

A. Okay.

Q. You'll see this identified as transfer No. 79560.

This is the transfer application that you've reviewed; correct?

A. Correct.

MR. BUDGE: Director, I'm certain this is in the

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record, but I'd like to have it admitted as Exhibit 4000 just for convenience purposes in referencing it.

MR. HAEMMERLE: No objection.

THE HEARING OFFICER: Document marked as Exhibit 4000 is received into evidence.

(Exhibit 4000 received.)

Q. (BY MR. BUDGE): And then if you'll turn to Exhibit 4002.

A. Okay.

Q. This is an SPF Water Engineering report dated December 2nd, 2014. Looks like your engineering stamp on that.

This is the initial expert report you submitted in this case; correct?

A. Correct.

Q. What I'd like to do is walk through this report and have you explain the analyses that you undertook and the conclusions that you reached. You begin on page 2 with an overview. It's going to be page 4 of the exhibit of the water right being transferred. It's water right No. 36-7072.

Could you just briefly describe how that water right is presently used.

A. My understanding is this water right is

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diverted through a series of nine points of diversion, Magic Springs, and is used for fish propagation at the SeaPac facility. After it goes through the fish hatchery, it returns to the Snake River.

Q. And how does the application seek to change the 10 second-foot portion of this water right?

A. The transfer application seeks to pump water that sources from two of those nine points of diversion and pump that water over to the Rangen facility where it would be delivered to Rangen for use in their fish facility.

Q. I understand there's been some ambiguity concerning the points of diversion that are authorized under water right 36-7072.

Could you explain that ambiguity and what you discovered during your review of the water right.

A. Yes. When we first look at the license or the decree, it might appear that there might be six points of diversion. And further looking at that and those conditions, it looks like there's actually nine points of diversion that are on that water right.

The license includes a map, and Watermaster Cindy Yenter's opinion also included a map and a description. I think Cindy very well laid this out that there are actually nine points of diversion.

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There's some ambiguity in the GIS -- Idaho Department of Water Resources GIS .shp files for the points of diversion. In there I believe it shows three or four of them. And some of them appear to be maybe nominal points of diversion that don't exactly identify the location that is shown in that licensing map.

Q. If you'll turn in your exhibit binder to Exhibit 4012.

MR. HAEMMERLE: Director, I'm going to object to any testimony on any aspect of water right 7072 that is outside the scope of the decree itself. The decree speaks for itself. That states the number of diversions. And I object going outside the decree to determine any aspect of 7072.

THE HEARING OFFICER: Mr. Budge.

MR. BUDGE: That would be fine.

THE HEARING OFFICER: Okay. What?

MR. BUDGE: Yeah, that would be fine.

THE HEARING OFFICER: Okay. Sustained, then.

Q. (BY MR. BUDGE): Scott, will you please turn to Exhibit 4013.

A. Okay.

Q. Do you see -- do you recognize this as the partial decree for water right 36-7072?

A. Yes, I do.

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Q. And do you see in the point of diversion element of the water right it's got legal descriptions for it looks like four different government lots?

A. Correct.

Q. And then there's an explanation below that that some of those lots contain multiple points of diversion.

A. Correct.

Q. I'd like to walk through this with you. The first statement says, "Two points of diversion are located in 8 south, 14 east, lot 8."

Do you see that?

A. Yes, I do.

Q. And then the second line says there's two points of diversion in the northwest northwest northwest of lot 1.

Do you see that?

A. Yes.

Q. And then the third line says there's four points of diversion in the southeast northwest northwest of lot 1.

Do you see that?

A. Yes.

Q. And if we add those points of diversion up, along with the legally described point of diversion in the northeast northwest northwest of lot 1, you get a total of nine points of diversion; is that correct?

A. That's correct.

Q. Okay. Thank you.

Will you turn back to Exhibit 4012.

A. Okay.

MR. BUDGE: And, Director, may I first offer Exhibit 4013 into the record.

THE HEARING OFFICER: Mr. Haemmerle.

MR. HAEMMERLE: That is the partial decree for 7072?

MR. BUDGE: Correct.

MR. HAEMMERLE: No objection.

THE HEARING OFFICER: Document marked as Exhibit 4013 is received into evidence.

(Exhibit 4013 received.)

Q. (BY MR. BUDGE): Mr. King, back to Exhibit 4012.

Do you recognize that as an IDWR .shp file for water right 36-7072?

A. I recognize this as a map. I would not classify this as a .shp file. Although the .shp files from IDWR system might be depicted on this map.

Q. You mentioned previously that the Department's record or their GIS data shows four points

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of diversion.

Is this what you're referring to?

A. Yes.

Q. And when you discuss ambiguity, you're noting that the -- there being only four points of diversion in this GIS data is not consistent with the partial decree; is that correct?

A. Correct, insofar that there are four points of diversion identified on the map and nine points of diversion identify on the partial decree. So there are apparently five others that are within the same government lots, but are not apparently depicted on this map.

Q. And I appreciate that explanation. So it's fair to say that the Department's GIS diversion point data does not encompass all of the diversion points shown on the decree?

A. It doesn't clearly depict where those locations are. It appears to include the same quarter-quarter quarters that are listed on the partial decree.

Q. Okay. Thank you.

I'd offer Exhibit 4012 into evidence.

THE HEARING OFFICER: Mr. Haemmerle.

MR. HAEMMERLE: Can I ask questions in aid of

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objection?
THE HEARING OFFICER: Sure.

VOIR DIRE EXAMINATION
BY MR. HAEMMERLE:
Q. Mr. King, have you actually been on site where the diversions are depicted in 4012?
A. I have been on site. And I have seen some of the diversions, but not all of the diversions.
Q. The decree evidently depicts either eight or nine diversions.
Do you know in fact whether there are eight or nine diversions on the site for 7072?
A. As I have not visited all the diversions on site, I don't know in fact that there are eight or nine. I'm relying on the information that's in the water rights record.
Q. How many diversions have you actually seen?
A. We visited the points that are identified as Nos. 1 and 2 on the map that is included in Cindy Yenter's report and attached to the license. That would include the one in section 6 here in the southeast southeast area of section 6.
Q. So the place where this water is intended to be taken, you've seen that point of diversion

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yourself?
A. Yes.
Q. Is that one of the points of diversion depicted in this map on 4012?
A. Yes.
Q. And if you could tell me which one it is in 4012.
A. That would be the one in section 6 in the southeast southeast corner of section 6. It would be the northwestern most point shown on there. And again, that point apparently represents two points of diversion that are actually used to divert --
Q. Have you seen one or two in that location?
MR. BUDGE: Director, I'm not sure how these questions relate to the request to admit this exhibit into evidence.
MR. HAEMMERLE: I'll save it for cross. I have no objection to admission of 4012.
THE HEARING OFFICER: Okay. So the document marked as Exhibit 4012 is received into evidence.
(Exhibit 4012 received.)

DIRECT EXAMINATION CONTINUED
BY MR. BUDGE:
Q. Scott, please turn to Exhibit 4014.

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A. Okay.
Q. You mentioned a watermaster recommendation of Cindy Yenter.
Is this the document you were referring to?
A. Yes, it is.
MR. BUDGE: Director, this was also filed in this matter as a pleading, I guess you would call it.
But again, I would ask that it be admitted into evidence as Exhibit 4014 for ease of future reference.
MR. HAEMMERLE: No objection.
THE HEARING OFFICER: Document marked as Exhibit 4014 is received into evidence.
(Exhibit 4014 received.)
Q. (BY MR. BUDGE): And, Scott, if you turn to page 3 of that exhibit, there's a diagram.
Do you see that?
A. Yes, I do.
Q. When you were testifying previously about Cindy Yenter's diagram, the points of diversion, is this the diagram you were referring to?
A. Yes, it is.
Q. And does this depict nine points of diversion on it?
A. Yes.

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Q. Scott, turning back to Exhibit 4000, which is the transfer application.
A. Okay.
Q. If you look down to part 1, section A of the transfer where it identifies the purpose of the transfer, you see there's a number of boxes that the applicants could check?
A. Yes.
Q. There's a box marked "Change point of diversion" that has not been checked.
Do you see that?
A. I do.
Q. So as you understand, this transfer does not seek to change any of the points of diversion under this water right?
A. That's my understanding, yes.
Q. Does this mean, then, that the 10 second-feet can be diverted from any of the authorized points of diversion under the water right?
A. Yes.
Q. You mentioned that your firm has engineered the pipeline from Magic Springs to Rangen, and that it is presently designed to divert from diversion points one and two; is that correct?
A. Diversion points one and two as depicted on

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that map and the watermaster's recommendation, yes.
Q. Okay. But the transfer application is broad enough to allow diversion from other points of diversion if that became necessary in the future?
A. Yes.
Q. Let's turn back to your opening report, Exhibit 4002.
A. Okay.
Q. Under part 2 of your report, you talk about injury to other water rights.
Are there any diversions from Magic Springs that are downstream from the SeaPac fish hatchery?
A. None that I'm aware of.
Q. So there would be no injury to water rights on Magic Springs from the transfer; is that correct?
A. Correct.
Q. Would the transfer reduce the quantity of water available to any water rights on Billingsley Creek?
A. No.
Q. Then is that the basis for the statement in your report that there would be no injury to water rights on Billingsley Creek?
A. Yes. Or from Magic Springs.
Q. Okay. But under part 2.1 of your report,

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you do state that if Snake River flows fall below the minimum requirements at the Murphy gauge, other irrigation rights could be negatively impacted.
Could you explain that.
A. That's correct. In the event that the Snake River flows drop low enough that the minimum stream flow requirements at the Murphy gauge to support Idaho Power's water rights under the Snake River -- or the Swan Falls agreement, if those minimum stream flows were violated, then upstream consumptive use water rights are expected to be curtailed to provide water to that minimum stream flow.
As we discussed, if we take water from Magic Springs which would otherwise flow to the Snake River and put it in Billingsley Creek where Watermaster Erwin described it could be consumptively used, there could be a loss in the system so that that 10 cfs wouldn't be returning to the Snake River. And thereby that 10 cfs of consumption upstream would theoretically be impacting other irrigation diversions junior, water rights between that point and this -- or anywhere upstream of Swan Falls, the minimum stream flow.
Q. And can you describe what the Swan Falls minimum stream flows are.

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A. Oh, I don't have those off the top of my head.
Q. Not the numbers, but how those operate.
A. My understanding is there are two minimum stream flows. We have one lower threshold that runs during the summertime months, and then a higher threshold that runs during the wintertime months or out of the nonirrigation season.
Q. Is that the only water right on the Snake River that you're aware of that could be injured as a result of this transfer?
A. There's another minimum stream flow water right downstream at Weiser theoretically, I suppose. If water rights dropped low enough, perhaps that one could be injured. But that's the one we point to primarily as being the first one, the one that would be expected to be injured during a low-flow situation.
Q. If the flows in the Snake River at the Murphy gauge which define whether the Swan Falls agreement is being complied with, as long as the flows at the Murphy gauge are equal or greater to the minimums that you just discussed, is it correct to say there would be no injury to other water rights as a result of this transfer?
A. I could identify no other water rights that

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would be injured.
Q. So the risk of injury from this transfer only exists in the event the Swan Falls minimum flows are violated; is that correct?
A. Yes.
Q. Under part 2.2 of your report, you discuss ways that that injury could be mitigated. And you first explain that stream administration could be used to minimize the amount of water that's consumed once it reaches Billingsley Creek after being piped from Magic Springs.
Could you explain what you mean by that.
A. I think much of that was discussed earlier during Watermaster Erwin's testimony, that if water was discharged to Rangen and flowed out of their facility into Billingsley Creek, we would expect that administration could be able to convey a large amount of that water to the Snake River, likely through Billingsley Creek. As Mr. Erwin discussed, taking it through the Curren Ditch would make it very difficult to get to the Snake River.
And so theoretically with proper administration and measurement, we would be able to convey that water down through -- past headgates and take it to the Snake River.

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Q. So when you use the term "administration," you're talking about regulating the headgates on Billingsley Creek to allow that water to flow down to the Snake River?
A. That's correct.
Q. Mr. Erwin, you were here for his testimony where he discussed the challenges of doing that.
Are you familiar with water administration on Billingsley Creek at all?
A. Yes. Not in detail, but I am familiar with it.
Q. How so?
A. Prior to Mr. Erwin's employment as watermaster there, we worked with the prior watermaster to help improve water delivery and administration on Billingsley Creek. So I worked with George Lemmon --
MR. HAEMMERLE: Object to foundation. I don't know who with or what time these discussions occurred.
THE HEARING OFFICER: Mr. Budge.
MR. BUDGE: I can lay additional foundation.
THE HEARING OFFICER: Thank you.
Q. (BY MR. BUDGE): Mr. King, what was the time period when you were working with the prior watermaster to improve administration on Billingsley Creek?

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A. This would be in the early to mid-'90s when I was working in the water distribution section with Water Resources.
Q. This was during the time you were employed by the Department?
A. Correct.
Q. And had Mr. Lemmon requested assistance from the Department to improve administration on Billingsley Creek?
A. I'm not sure who requested the assistance. It may have been Mr. Lemmon or it may have been other water users on the system.
Q. One way or the other, you were -- assisted with that assignment?
A. Correct.
Q. And explain what you did with Mr. Lemmon.
A. We looked at a number of the diversions and the measurement --
MR. HAEMMERLE: Object to foundation.
Who is "we"? I don't know if there was another party who was present during these discussions. I just want to know who "we" is.
THE HEARING OFFICER: Well, if you want to lay foundation. Otherwise, he's working for the Department. I think the reference is general.

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Overruled.
Mr. Budge.
Q. (BY MR. BUDGE): Go ahead, Scott.
A. George Lemmon and I and perhaps other employees of the Department of Water Resources, Tim Luke is one that I recall being there on some instances, reviewed diversions from Billingsley Creek and other sources within Water District 36A and assessed the water measurement devices that were being used to determine if these were standard devices and if there were improvements that could be made.
We may have made other measurements using instruments like a current meter to check the accuracy of some of the devices and made recommendations for improving some of the measuring devices. We worked our way down through a number of them on Billingsley Creek. George Lemmon and I, and perhaps others with the Department of Water Resources, particularly some of those towards the lower end, as Mr. Erwin was describing, the power --
MR. HAEMMERLE: Director, I'm going to object on one more basis too. None of this testimony about this prior visit, prior evaluation of Billingsley Creek system is nowhere contained anywhere in Mr. King's report. This is all new. Haven't seen it before.

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Wasn't aware of it. And so I'd object to any of his testimony on prior evaluations of Billingsley Creek.
THE HEARING OFFICER: Mr. Budge.
MR. BUDGE: Yes. Director, if you look in front of you to Exhibit 4002, page 5, there is a section of Mr. King's report labeled "Section 2.2.1 Administration." And in there Mr. King explains that administration could be used to limit consumptive losses in Billingsley Creek.
And had Rangen's counsel deposed Mr. King, they could have asked him how administration could be used. I'm simply asking why Mr. King believes administration could be used and laying the foundation for him to explain how it could be used to minimize consumptive losses.
THE HEARING OFFICER: You're trying to establish, though, at least through these questions, the foundation for Mr. King's knowledge about the water deliveries in Billingsley Creek?
MR. BUDGE: Exactly.
THE HEARING OFFICER: Okay. Overruled.
THE WITNESS: So I think I was explaining that we visit a number of diversions from Billingsley Creek, particularly those where the water was diverted out for irrigation use. Mr. Erwin was describing the ones by

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the power production facility, were some that I remember that we were looking at.

At that time there were a number of these diversions that could have used some significant improvements on the ability to accurately measure the water. I'm not sure the status of those measurements today. They may have been improved beyond what they were in those early '90s.

Q. (BY MR. BUDGE): Would you agree with Mr. Erwin's testimony that Billingsley Creek does have some complexity because of the gaining and losing reaches of the stream?

A. Yes.

Q. Are you familiar with other waterways in Idaho that are -- that have similar complexities?

A. Yes.

Q. Can you provide some examples.

A. Many waterways in the state of Idaho have gaining and losing reaches. We can look, as you discussed earlier, the Big Lost River, the Snake River, the Boise River, and a lot of times the watermasters work to gain an understanding of those gaining and losing reaches and bring that into their management of the system.

Q. As an engineer, do you believe those

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complexities could be addressed in a reasonable manner that would allow this 10 second-feet minus losses to be shepherded down Billingsley Creek to the Snake River?

A. Yes.

MR. HAEMMERLE: I'd object to that. I object to that opinion on foundation. That's an opinion without any basis at all. There's no testimony from his meeting way back in the '90s and what he did or didn't do to give that kind of opinion. I suggest that whatever opinion he has on other streams unidentified are completely irrelevant. And there's no basis for Mr. King giving that kind of opinion, based on that testimony.

THE HEARING OFFICER: Mr. Budge.

MR. BUDGE: I could lay some additional foundation.

THE HEARING OFFICER: Okay. Thank you.

Q. (BY MR. BUDGE): Mr. King, you testified that during the time you worked at the Department you were engaged in the water distribution section, if I recall?

A. Correct.

Q. Explain the types of work you did for the Department in that capacity relative to water administration.

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A. Yes. In particular, I worked with the watermasters on Challis Creek and on the Big Lost River and making measurements along sections of those systems and establishing gauging stations or helping those watermasters understand losses or gains through sections of the system so that they could better administer the water diverted out of those systems.

Q. And were you involved in developing protocol to enable those watermasters to more accurately distribute water on those waterways?

A. Yes.

Q. And you were engaged in efforts to try to figure out how much gain and loss there is at different gaining and losing reaches of those waterways?

A. Yes.

Q. And could similar protocol and exercises be undertaken on Billingsley Creek to figure out gains and losses and better administer water on Billingsley Creek?

A. I would expect they could.

MR. HAEMMERLE: Objection. Same objection. Same foundation.

THE HEARING OFFICER: Overruled. I recognize, however, that in what Mr. King has said that I'm not -- I can't identify in his testimony any -- any experience

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with delivery of water all the way through the system and back to the ultimate water source to which we're expecting discharge, Mr. Budge, which I think adds -- adds a level of complexity.

MR. BUDGE: Understood.

Q. Mr. King, you've never served as the watermaster for Billingsley Creek?

A. That's correct.

Q. Your opinion is as an engineer and based on experience in other waterways that given the knowledge you do have of Billingsley Creek that water measurements and other calculations could be made that would enable the watermaster to more accurately distribute water on Billingsley Creek?

A. I would expect so.

Q. And --

MR. HAEMMERLE: Same objection, Director. There's no testimony -- I'll just -- if I could have a standing objection on this. There's no showing that this particular man has ever conducted any scientific analysis of water running down Billingsley Creek to give this kind of testimony.

THE HEARING OFFICER: Well, he is -- although we, I guess, haven't gone through the exercise of qualifying him as an expert, but I had assumed that

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that recognition was in place. And as an expert he's entitled to express an opinion.
MR. HAEMMERLE: But, Director, I hate to interrupt, but there's no basis for the opinion. He can give an opinion. I get that. But he has to have a basis of the opinion that satisfies you that it's relevant testimony. There's nothing he's given that shows he has any experience on if you took 10 cfs of water, delivered it to Rangen, would it get to the end of the river. He has not done that and can't testify to it today.
THE HEARING OFFICER: He's entitled to rely on his experience with water distribution in other basins and other streams to express an opinion.
Overruled.
Go ahead.
Q. (BY MR. BUDGE): Mr. King, you're not testifying that you have in fact went out and operated all of the headgates and made the improvements you discussed and you have in fact shepherded 10 second-feet from Rangen to the Snake River; correct?
A. Not at all.
Q. You're testifying that based on your experience in water administration elsewhere and your understanding of Billingsley Creek that you don't

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believe it's so complex that with some improvements to measurements and some calculations of reach gains and losses, in your opinion you believe water could be shepherded down Billingsley Creek to the Snake River?
A. That is correct.
Q. Thank you.
Let's move on in your report. The next section you also discuss evaporation. And I guess this goes to the discussion earlier by Mr. Erwin that a part of the water that would be piped from Magic Springs to Billingsley Creek, even if left in the creek would evaporate.
Is that a fair description of your report?
A. Yeah, that's correct. We'd expect evaporation not only from the surface of the stream, but it would also feed some of the riparian areas that we'd have evaporation from the vegetation.
Q. Did you make an attempt to calculate evaporation -- which portion of the 10 second-feet would be evaporated once it gets to Billingsley Creek?
A. I made a very cursory calculation, but I relied on AMEC to make the final calculation.
Q. And -- and there's a memo to you from AMEC attached to your report making that calculation; correct?

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A. That's correct.
Q. I will save that discussion for Ms. Sigstedt, who will have testifying later who did those calculations.
You next talk about mitigating for the consumptive effect of -- or the amount of consumption of the Magic Springs water that's piped to Billingsley Creek.
Could you explain what you mean when you explain that IGWA's mitigation activities mitigate for evaporation and other consumption?
A. Yes. IGWA has enacted a number of mitigation programs. And it describes here we have recharge conversions, CREP, and we also have some dry-ups. Those activities have resulted, based on calculations performed by AMEC, increased discharges to springs that would flow directly or indirectly to the Snake River. Those calculations indicate that those increases in flows well exceed 10 cfs.
Q. And if we'd turn to the AMEC memo attached to your report. As I mentioned before, I'm not going to ask you about how the calculations were made, but your report does rely on those calculations in reaching the opinion that IGWA's mitigation activities more than offset the consumption of water piped from Magic

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Springs to Billingsley Creek.
And I want you to explain how you reached that conclusion. And I'll let you make that explanation.
MR. HAEMMERLE: Director, I'm going to object to that for the reason that we have the AMEC employee here today to testify to those things. I predict that Mr. King's just going to rely on those calculation that were done by AMEC. So instead of going through that whole process, the hearsay testimony, he's just going to rely on those calculations. I think we could just have that witness testify to what those calculations were.
MR. BUDGE: That would be fine.
THE HEARING OFFICER: Mr. Budge, sustained.
Q. (BY MR. BUDGE): Scott, let's move to page 6 of Exhibit 4002, your opening reported. The next section is section 3. You state, "The transfer will not result in enlargement of the water right."
Explain how you reached that conclusion.
A. A portion -- the 10 cfs portion of water right 36-7072 that is proposed to be pumped from the Magic Springs facility over to Rangen will be diverted -- delivered to Rangen and be used for fish propagation or mitigation for fish propagation as

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described in the transfer application.
There is not an enlargement in the use of that water right. It's going to have 10 cfs being used for fish propagation at Magic, 10 cfs additional at Rangen, and it's for the same use.
Q. Do you recall in the watermaster recommendation that a concern was raised about adding mitigation as a use and that may constitute an enlargement?
A. Yes.
Q. Could you speak to that, please.
A. Yes. Very often when we have a transfer application that adds a use to a water right, that can be viewed as an enlargement. We can't add uses to a water right that we're getting more beneficial use out of it.
In this case we're adding mitigation as a use. And so I think the watermaster was construing that addition of a use to perhaps be an enlargement of the water right.
The mitigation being proposed is for fish propagation, the same use it's being used in Magic Springs. Maybe there could be some contention that this mitigation could be provided for other uses besides fish propagation, and therefore could be an

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enlargement. I think that the water right could be conditioned appropriately so that that mitigation is for fish propagation only, and therefore would not constitute an enlargement.
Q. You also mentioned that the Department could simply approve the enlargement use only so there's not, you know, a second beneficial use for this 10 second-feet.
Could you explain that.
A. Could approve the enlargement use only or the fish propagation use only?
Q. Or excuse me. Approve the mitigation use only.
A. Yes. The Department could approve mitigation. But again, I think that mitigation is for fish propagation, to ensure that there's no enlargement of the mitigation use.
Q. Okay. I think you've answered that adequately.
Turning to part 4, you explain that the transfer is consistent with the conservation of water use resources within the state of Idaho.
Could you explain that as well.
A. Yeah. Yes. What right 36-7072 is currently being used for fish propagation. That is a

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beneficial use within the state of Idaho. And the proposed new use would ultimately be fish propagation also. That's how the water would be used also, a beneficial use. The water is not being conveyed outside of the state or used in a wasteful way.
Q. Thank you.
Next, part 5 you conclude the transfer is in the local public interest.
Please explain.
A. I think fish propagation is recognized as a beneficial use and within the local public interest. Again, if it's being used for fish propagation at Rangen, it would be in the locality public interest. And I think more importantly, the mitigation aspect of this to allow the groundwater pumpers to continue their beneficial uses of water is very much in the local public interest to keep the economy of the area more intact.
Q. Okay. And I think that answer also addressed part 6 of your report on the next page relating to the effect on the local economy. And you've also explained that mitigation and fish propagation are established beneficial uses.
I want to ask you to turn now to your rebuttal report, which is Exhibit 4003.

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A. Okay.
Q. And I think in the interest of efficiency, we'll just address your response to some of the concerns that the Brockway report raised. If you'd turn to page 4 of that exhibit, there's a discussion of the water source and the points of diversion.
I believe we've covered that previously, unless you have anything to add in that regard.
A. I do not.
Q. Turning to page 5, you again discuss injury to other water rights and enlargement.
Does our prior discussion cover the points you've made there?
A. Yes, I believe it does.
Q. Turning to page 6, you discuss the transfer not being contrary to the Eastern Snake Plain moratorium. And that, I believe, was in responses to Dr. Brockway's discussion of the moratorium.
Why don't you explain your conclusion in that regard.
A. As I reviewed the moratorium order, on its face and in front it applies to applications for permits or permits within the Eastern Snake Plain. It also included the Boise River basin at one time, but that was excluded.

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Later on I think in points 10 or 11 or 11 and 12 of the moratorium order, it discusses also being applicable to transfers in the Mud Lake area and the Big Lost River area.

And my interpretation of that is that it speaks specifically to transfers in those two areas for which this one is not. We also know that we regularly transfer water around the Eastern Snake Plain Aquifer. So it appears to me that this moratorium order is not a moratorium on transfers.

Q. Okay. Thank you.

Under part 3.4 of your rebuttal report, you address Dr. Brockway's assertion that the transfer will not improve spring flows.

Could you explain your opinion in that regard.

A. Yes. This transfer proposes to convey water from one spring to the Rangen facility. It is not proposing to increase spring flows to the Rangen facility, nor to diminish spring flows from the Rangen facility. We're merely compensating for declined spring flows through mitigation.

Q. Okay. And I'm looking through the rest of this, I think we've covered this in your prior testimony, so I won't ask you to go through that again.

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Let me just simply ask if your reports that were filed with the Department in this case are consistent with the testimony you've provided today?

A. Yes.

MR. BUDGE: I would move to admit Exhibits 4002 and 4003 into evidence.

THE HEARING OFFICER: Mr. Haemmerle.

MR. HAEMMERLE: I have no objection to either one of those reports, but there are documents that are attached, I believe, mostly to -- probably both reports from AMEC, and they're here to testify. So until they've testified, I would object to those portions being admitted at this time.

THE HEARING OFFICER: Why don't we withhold the ruling on admission until we finish the testimony from the AMEC representative, Mr. Budge, if that's okay.

MR. BUDGE: That would be just fine.

THE HEARING OFFICER: Okay. Thanks.

Q. (BY MR. BUDGE): In conclusion, Mr. King, based on your review of the application, do you believe it should be approved or denied by the Department?

A. I believe it should be approved.

MR. BUDGE: I have nothing further. Thank you.

THE HEARING OFFICER: Okay. Are we at about the time for a morning break, or do you want to forge ahead with cross-examination? I don't care.

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THE WITNESS: I would like a break.

THE HEARING OFFICER: All right.

MR. HAEMMERLE: Whatever makes Mr. King happy.

THE HEARING OFFICER: Yeah, well, we don't want him to be uncomfortable. Let's break for ten minutes.

(Recess.)

THE HEARING OFFICER: Okay. We're on. Mr. Haemmerle.

MR. HAEMMERLE: Thank you, Director.

CROSS-EXAMINATION

BY MR. HAEMMERLE:

Q. Morning, Mr. King.

A. Good morning.

Q. Mr. King, I'd like to just -- we'll start out where this water is diverted from and then where it gets diverted to, and we'll just go through the process.

Okay?

A. Okay.

Q. Now, the original water right 7072 is diverted from something called the Magic Springs; correct?

A. That's my understanding, yes.

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Q. And you have actually visited that site, I take it?

A. Yes.

Q. Now, water from the Magic Springs -- how far is that from the Snake River?

A. I've not measured exactly the distance.

Are you talking about from the points of diversion or the discharge from the fish hatchery?

Q. Do you have Exhibit 4000 in front of you?

A. Yes.

Q. There is an attachment, Attachment 7A. I'd ask that you find that. It's described "Points of diversion map, place of use."

A. What page is that on?

Q. Well, it's the -- I didn't put this thing together, and it's the --

MR. BUDGE: 33.

Q. (BY MR. HAEMMERLE): Page 33.

A. Thank you.

Q. I don't think it's marked 33.

A. Attachment 7A, "Points of diversion map, place of use map"?

Q. Right.

A. Okay.

Q. Do you have that in front of you?

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A. Yes, I do.
Q. Do you see the Magic Springs anywhere located on Exhibit 7A of Exhibit 4000?
A. I don't see the words "Magic Springs," but I do see the facilities and the place of use here, some points of diversion depicted.
Q. How far is the point of diversion under 7072 from the Snake River?
A. Based on this, I'd say less than a quarter mile.
Q. Okay. And in fact, for the delivery of water under current 7072, the water comes out of the Magic Springs facility or Magic Springs; correct?
A. Yes.
Q. And is diverted into the SeaPac facility; correct?
A. That's my understanding, yes.
Q. And the SeaPac facility is depicted on Exhibit 7A of Exhibit 4000?
A. Yes.
Q. And then the water is then immediately discharged into the Snake River; correct?
A. Yes.
Q. And I believe you previously testified that there are no intervening irrigation nor consumptive

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uses of any kind between Magic Springs and the Snake River; correct?
A. None that I've been able to identify.
Q. Well, I assume you did your homework for this.
Did you identify any?
A. I said no, I did not.
Q. Do you believe there are any?
A. No.
Q. From looking at the pictures on 7A, does it make sense that there would be any?
A. No.
Q. Now, the plan on this, Mr. King, is to -- instead of diverting the water out of the Magic Springs where it goes a quarter mile into the Snake River, the plan is to divert it some miles to the Rangen facility; correct?
A. Correct.
Q. And then the water would be delivered into the Rangen facility and then into Billingsley Creek; correct?
A. Correct.
Q. Do you know how many miles it is from the Rangen facility down Billingsley Creek to the point where water is discharged in the Snake River?

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A. AMEC has determined that to be 13 kilometers, based on their table.
Q. Okay. That's approximately 7 miles?
A. Approximately.
Q. Now, there are, in fact, Mr. King -- you heard Mr. Erwin's testimony, I take it; correct?
A. Yes, I did.
Q. And I think he testified that there are some 230 active water rights in Billingsley Creek?
A. Okay.
Q. Do you accept that?
A. I recall him saying there were 200-and-some-odd. I don't remember the exact number.
Q. Have you personally conducted an evaluation of how many active water rights there are at Billingsley Creek?
A. No, I have not.
Q. You have not. You haven't studied any of the diversions in Billingsley Creek?
A. Yes, I have.
Q. What documents did you look at in giving your opinion today?
A. The documents that I looked at, I reviewed the .shp files for the points of diversion from Billingsley Creek, and I reviewed the other

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documents -- I don't think there were any documents in the transfer that I recall. Primarily the .shp files from the points of diversion from Billingsley Creek.
Q. You reviewed all 230 separate .shp files from Billingsley Creek?
A. There are not 230 separate .shp files.
Q. How many are there?
A. Well, there might be separate .shp files, but many of them identify the exact same point of diversion. And I think Mr. Erwin described there being approximately 14 points of diversion from Rangen to the Snake River. I think I counted somewhere between 20 and 25 points of diversion, but some of those points of diversion might have been injection or rediversion because they did not appear to be right along Billingsley Creek proper.
Q. Okay. And you studied all those particular diversions to determine in your mind whether there would be any injury or enlargement for this transfer; correct?
A. That might have been part of why I studied them.
Q. Okay. And given your opinion, did you talk to any of the water users within Billingsley Creek, any of the 230 separate water rights that are --

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A. No.
Q. You didn't talk to any of the users?
A. No.
Q. You didn't talk to Frank Erwin, did you?
A. No, I have not.
Q. Okay. Did you talk to any other agent of the Department of Water Resources about how water is delivered down Billingsley Creek?
A. No, I have not.
Q. Did you discuss it with any -- any people who live along Billingsley Creek at all?
A. No.
Q. Did you conduct a personal examination of the creek by actually walking the creek or doing any of those kinds of things?
A. Yesterday we visited a number of the points of diversion so I could give Sophia an idea of how water flowed down through Billingsley Creek, but I did not walk the creek.
Q. So you didn't do any of those things when you drafted your reports, did you?
A. No.
Q. So it's fair to say that in giving your opinion that you gave to Mr. Budge on direct examination you were relying, I guess, mostly on what

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you knew about your 1990 visit?
A. Not only my 1990 visit, but also experience with other water systems. There's a number of very complex water systems in Idaho where the water districts and the watermasters have determined how to administer water through the system.
Q. I'm talking about Billingsley Creek only, Mr. King.
Do you understand my question?
A. Yes.
Q. Okay. So you didn't -- you haven't talked to those users down there.
You don't understand the current water situation that they have or the difficulties they have?
A. No.
Q. Have you reviewed any of the water records down there?
A. What water records might you --
Q. Any water records at all.
A. As part of this?
Q. Correct.
A. No.
Q. Okay. So based on your '90 visit and your broad experience on other systems, you gave the opinion that you gave on your direct testimony, and that's the

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basis of your direct testimony?
A. That's correct.
Q. Okay. Now, you did hear the testimony of Mr. Erwin who was actually the watermaster in that district, and particularly on Billingsley Creek; correct?
A. Yes, I did.
Q. And he gave an opinion that if 10 cfs of water was delivered into Billingsley Creek and diverted down the Curren Ditch, it's very likely that none of that water would be -- make it to the Snake River.
Did you hear his testimony?
A. Correct. And I think he said particularly during the irrigation season.
Q. Do you agree with that testimony?
A. I agree that that was his testimony.
Q. Do you agree with the testimony?
A. I have no specific knowledge of how water would be used down the Curren Ditch and if it would make it to the Snake River or not.
Q. Okay. You don't have any knowledge yourself, so Mr. Erwin who does it every day would likely be correct; correct?
A. That's correct.
Q. Now, you heard Mr. Erwin's testimony about

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what would happen if you delivered 10 cfs of water down Billingsley Creek; correct?
A. Yes.
Q. And you heard his testimony that none of it would make it back to the Snake River? Do you understand that?
A. I think Mr. Erwin described parts of the years it would make it to the Snake River and parts of the years it wouldn't. And it would depend on the quantity of water, and perhaps not all of it would make it back to the Snake River.
Q. Okay. I don't want to fight with you. He said most likely that most of it, if not all of it, would not make it back to the Snake River.
That was his testimony; correct?
A. Yes, during the irrigation season.
Q. Okay. And you don't have any specific facts in your quiver that you could disagree with Mr. Erwin's testimony; correct?
A. No, I do not.
Q. So Mr. Erwin's testimony is in fact correct; correct?
A. Yes.
Q. Now, you've had a chance to, I take it, review Ms. Yenter's report?

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A. Yes.
Q. I take it you've worked with Ms. Yenter a lot in your career with IDWR?
A. Yes. Ms. Yenter and I worked significantly together when I was in the water distribution section.
Q. All right. And she opposes -- she opposes this particular transfer based on the fact that she believes it's speculative and an enlargement; correct?
A. Yes.
Q. You just disagree that there's an enlargement; correct?
A. I disagree that there is an enlargement.
Q. So you believe Ms. Yenter is not correct?
A. That's correct.
Q. You did have a chance to review Dr. Brockway's report as well?
A. Yes.
Q. You understand that he is going to give the opinion that this transfer represents an enlargement of the use of the water right; correct?
A. Yes.
Q. So you disagree with Dr. Brockway as well?
A. That's correct.
Q. Now, before we get into the nuts and bolts of this, Mr. King, you do understand that if there is

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an enlargement the transfer has to be denied; correct?
A. Yes.
Q. All right. Let's go through just so I understand your opinion.
Your opinion is that this is not an enlargement because of the way it's used within the Rangen facility; correct?
A. There is not an enlargement of the water right when it's used in the Rangen facility, yes.
Q. Well, what's the basis of your opinion that this is not an enlargement?
A. As I explained before, the use is for the same use, fish propagation, and there's not an increase in the rate of diversion or the volume of the use of water where it's being used at the facility.
Q. Okay. And part of that opinion, I take it, as well as your injury analysis, assumes that you can shepherd that 10 cfs somehow down Billingsley Creek or the Curren Ditch and get it to the Snake River; correct?
A. No.
Q. Okay. So you're not -- none of your analysis was done on how that water is used after it leaves the Rangen facility?
A. My analysis understands that the water

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might be subsequently used after it leaves the Rangen facility.
Q. Okay. So you understand that, and even though we've had the testimony that the water is not going to make it back to the Snake River and you agree with that analysis, you're still of the opinion that that is not an enlargement of the water right?
A. That's correct.
Q. To do that, do you have to ignore all the second uses of the water?
A. I'm looking at the use of that water right as it is. After that water right leaves its use and it's no longer in the control, it's not being used as that water right, there may be subsequent uses of the wastewater of that water right. And I don't deny that.
Q. Okay. Do you know, what is the use for this transfer?
A. As I recall, the use is listed as fish propagation and mitigation.
Q. Okay. Do you have Exhibit 4000 in front of you?
A. Yes.
Q. Let's just wade through Exhibit 4000 for a moment. Going to the second page under category A at the bottom, it says "Purpose of transfer."

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Do you see that?
A. Yes.
Q. And it says -- it checked "Changed nature of use."
Do you see that?
A. Yes.
Q. Okay. Let's go to page 6 where it says at the top "Application for transfer of water right part 3."
Do you see that?
A. Yes.
Q. Do you see category B where it says "Change in nature of use/water balance"?
A. Yes.
Q. Now, that is not checked; correct?
A. That's correct.
Q. But on the other page I showed you, it is to change the nature of use of this water right?
A. Correct.
Q. All right.
MR. BUDGE: Excuse me, Counsel, can you explain again where you are in the application.
MR. HAEMMERLE: Page 6, "Application for transfer of water right, part 3."
MR. BUDGE: Thank you.

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Q. (BY MR. HAEMMERLE): Again, that box is not checked; correct, Mr. King?
A. Which box are you referring to?
Q. It says, "B. Changes in nature of use/water balance."
A. Correct.
Q. Do you see that?
And it says, "If you propose a change in nature of use or period of use for part of the rights, you have to attach the extent of beneficial use of the right." You can read it yourself.
A. Yes.
Q. Do you see that?
Do you know if any of those documents were attached to this transfer application?
A. Not that I recall.
Q. Okay. But since we are in fact changing the nature of use, that should have been done; correct?
A. I suppose arguably so, as I see this -- the use is still fish propagation. Mitigation is included as a use also. So yes. Maybe those documents should have been included.
Q. All right. Now, have you been involved in the Hagerman term sheets and those political types of discussions?

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A. No.
Q. You understand that IGWA has proposed to deliver water to Billingsley Creek through pumps like this and pipes like this where the intent of it is that the water will be used within Billingsley Creek? Do you understand that?
A. I've heard secondhand discussions of those proposals, yes.
Q. Okay. And you understand that in fact that it's the intent of IGWA to deliver the mitigation water to potential users in Billingsley Creek? Do you understand that?
A. Yes, I suppose so, only through secondhand, vague discussions.
Q. And of course, you've reviewed carefully the transfer application, Exhibit 4000?
A. Yes.
Q. Let's just go through that.
Justin, if you could pull up Exhibit 4000. We'll go to page 17. Maybe if we could have someone dim those lights over there.
Now, this is -- you understand I didn't put together this application; correct?
A. That's correct.
Q. IGWA and you've reviewed it; correct?

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A. [No audible response.]
Q. One of the attachments they put on here is a Letter of Intent for Sea-Pac facility and Magic Springs facility.
Do you see that?
A. Yes.
Q. And you can read that yourself. And the intent of that is -- we can just substitute Magic Springs for Aqua Life. See that? "To make available to IGWA by lease or purchase up to 10 cfs of its Aqua Life water rights from adjacent springs as needed to meet the mitigation obligation to Rangen and others in the Hagerman Valley."
Do you see that?
A. Yes.
Q. I assume the "and others" would be other users within Billingsley Creek; correct?
A. Yes.
Q. Let's go to page 24. I'll represent to you, Mr. King -- and this is the so-called Thousand Spring water supply framework.
And do you see category 2 where it says "Enhance flows in Billingsley Creek by 25 cfs"?
A. Yes.
Q. It says, "Direct delivery of 10 cfs of

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water from Tucker Springs to Billingsley Creek." We can just substitute Magic Springs.
Do you see that?
A. I see this. I'm not sure why you say we can just substitute Magic Springs, although I think I see where you're going here.
Q. Okay.
A. I don't know if a document says that somewhere.
Q. All right. Let's go to page 37. And I'll direct your attention specifically, Mr. King, to this particular document, which is in fact IGWA's Fourth Mitigation Plan.
And you studied the Fourth Mitigation Plan, I take it?
A. I've reviewed it.
Q. And it's page 37 of 4000.
Do you see the plan right there, "The water delivered to Rangen is nonconsumptive and will increase water in Billingsley Creek to provide mitigation to other locations in the Hagerman Valley"?
A. Yes.
Q. Okay. And you have reviewed all those documents carefully; correct?
A. No.

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Q. Okay. Let's go to Exhibit 4000, page 45. Now, I'll represent to you that this particular document, Mr. King, is a report from your office created by Mr. Hardgrove. This is the technical memorandum on the pipe from Magic Springs to Rangen facility.
A. Yes, dated August 26th, 2014.
Q. It says, "It is anticipated the project will be designed to deliver 10 cfs of water to Rangen"; correct?
A. Yes.
Q. "And additional water delivered downstream of Rangen would likely be accomplished under this water right."
Do you see that?
A. Yes.
Q. So it's fully intended that -- and understood that this water will be used by other diverters in Billingsley Creek in addition to Rangen; correct?
A. Based on those documents, it appears so, yes.
Q. Okay. Where is the place of use in your mind, Mr. King, for the -- now, you understand that there are two -- well, you tell me, because I don't

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understand it.
The purpose of use is described as fish propagation slash mitigation; correct?
A. Correct.
Q. Is that one or two uses?
A. Mitigation is an interesting concept in a use, in that mitigation is generally associated with some other use. Our other use here is fish propagation. IGWA is proposing a mitigation use to be delivered to Rangen for fish propagation.
Q. That's interesting. So your testimony is that mitigation is usually associated with some other use like mitigation for fish propagation; correct?
A. Correct.
Q. And that's how mitigation is used; correct?
A. That's how some mitigation is used.
Q. All right.
A. I don't know that it's all used that way.
Q. Well, I'm kind of confused, I must confess, Mr. King, because in the permit application previously you stated that one could have a -- just a mitigation purpose of use without anything associated with it.
A. Which permit application are you referring to?
Q. The other one that you and I testified to,

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IGWA's application for the talus slope, the last time that I inquired of you.
A. Okay. And in that one the water right had a use of mitigation. And that mitigation was to provide water to Rangen for fish propagation.
Q. For fish propagation; right?
A. To provide -- to mitigate Rangen's loss of water that is used for their fish propagation.
Q. Well, I'm kind of confused, Mr. King. Can you have just a mitigation right? Or you just testified mitigation's usually associated with some other use. What is it?
A. Both. You can have just a mitigation use on a water right. And that mitigation is usually, my experience, associated with some use that it's mitigating. It's associated with some other water right or use.
Q. The way that the purpose of use is described in this particular application, is it one or two uses?
A. It's mitigation -- I'm not sure if it's one or two uses.
Q. Okay. You don't know; correct?
A. I know that the application describes mitigation and that the mitigating supply, the water,

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will be provided to Rangen for fish propagation.
Q. Where is the place of use for this mitigation right?
A. Place of use is at the point where the water will be delivered to Rangen.
Q. Okay. In your prior testimony when you were describing the mitigation use, you said it was in the fish raceways?
A. That's correct. And the Department has directed that the place of use is actually the place where the water is diverted or delivered for mitigation.
Q. Okay. So you're relying on the Department's interpretation, not your own prior testimony on that?
A. My prior testimony and the Department's decision.
Q. Okay. Nevertheless, we do know that it's the intent that this water that gets delivered by -- to Rangen will be used by others within Billingsley Creek.
You get that; right?
A. That after Rangen uses the water under that water right, yes, it will return to Billingsley Creek, where we expect it to be used.
Q. Okay. And I'm a little confused because

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you said in your testimony that there was no enlargement and no injury caused by this transfer.
A. There is no enlargement in the use of the right itself. There is going to be some subsequent use of the water after the right has been used. There could be injury, as we discussed earlier, if we have a Swan Falls minimum stream flow violation.
Q. Two separate things. I'll talk to you about that in a second.
Now, why did you then or why did AMEC put in the calculations of the consumptive use component of water that gets evaporated out of Billingsley Creek?
A. Because that's identified as part of the fate of the water leaving Rangen's facility prior to reaching the Snake River. So therefore, if the watermaster was to convey the water leaving, the 10 cfs portion leaving Rangen's facility to the Snake River, we do acknowledge that there will be an evaporative portion of that, so that not all of the 10 cfs could be delivered to the Snake River on times of those years when we have positive evaporation.
Q. The testimony is that all of the water will not be delivered to the Snake. I believe that's the testimony.
A. By who?

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Q. By Mr. Erwin.
A. Okay.
Q. You and I just talked about that.
A. Now --
Q. I'm just trying to figure out if you agree with it or not.
A. That not all of the 10 cfs will not return to the Snake?
Q. Right.
A. Correct.
Q. Okay. And so you did that calculation, evaporative calculation, and you determined whether there's injury; correct?
A. AMEC performed that calculation. And I don't know if it was to determine injury, but it was to identify the portion of the 10 cfs that could be -- have consumptively used through evaporation before it reached the Snake.
Q. Well, of course it's for injury, because you did a calculation of the consumptive use and did a determination of other activities done by IGWA to say that those offset and there would be no injury.
So the calculation was done for injury purposes?
A. Yes.

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Q. Okay. Now, you said a potential injury component would be the potential violation of the Swan Falls agreement; correct?
A. That's correct.
Q. Our testimony to date is the 10 cfs that did go in the Snake will not go in the Snake anymore after this transfer; correct?
A. All or a portion of that 10 cfs, correct.
Q. Okay. So if we kept doing things like this, Mr. King, don't you think it's a lot more likely that we're going to violate that Swan Falls agreement, taking water out of the Snake River that doesn't get back there?
A. Potentially so.
Q. When do we stop doing these kinds of things?
A. Well, I think there's been very much effort put towards reducing the consumptive uses of water that's tributary to the Snake River above Swan Falls. I'm not quite sure what you mean by "when do we quit doing these types of things?" There's very limited opportunity to do these types of things.
As I see it, someone on Billingsley Creek --
Q. I'm just trying to come up with some kind

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of rationale for this transfer.
If I was just a farmer, could I stick a pipe in the Snake River and pump out 5 cfs?
A. I believe not, above Swan Falls.
Q. Okay. Because that would be a consumptive use, it wouldn't get back to the Snake River; correct?
A. That's correct, it would be in violation of the trust water agreement and rules.
Q. And the more you do things, transfers like this, it's the more likely that that agreement will be violated; correct?
A. That's correct.
Q. So when do we stop doing things like this?
MR. BUDGE: Objection. Foundation.
THE HEARING OFFICER: Well, Mr. Haemmerle.
MR. HAEMMERLE: I made my point, Director.
THE HEARING OFFICER: Well, I'll sustain the objection. It asks him for a conclusion that he's unable to really reach.
Q. (BY MR. HAEMMERLE): Do you know what the purpose -- the purpose of the moratorium, Mr. King, is that there should be no new permits for water rights for consumptive uses; correct?
MR. BUDGE: Objection. Foundation.
THE HEARING OFFICER: Overruled.

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THE WITNESS: Yes, I believe so. And I think there's a portion in there that says unless they're determined to be within the public interest. I'd have to go back and review the moratorium order again, though.

Q. (BY MR. HAEMMERLE): Okay. So the purpose -- it's fair to say the purpose of the moratorium is to enhance stream flows within the Snake River so they're not reduced; correct?

A. Maybe we should look at the moratorium order to see what the purpose is.

Q. I think it's in there. You can look all day long.

A. Can you refresh my memory where that's at?

Q. I think it's part of Rangen's 5007.

Do you see that, Mr. King?

MR. BUDGE: Objection. Director, other than spend time with Mr. King reading the order, it speaks for itself.

MR. HAEMMERLE: Well, I just offer Exhibit 5007, then.

THE HEARING OFFICER: Mr. Budge.

MR. BUDGE: That's the amended moratorium order?

MR. MAY: That's right.

MR. BUDGE: Yeah, no objection.

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THE HEARING OFFICER: Document marked as Exhibit 5007 is received into evidence.

(Exhibit 5007 received.)

Q. (BY MR. HAEMMERLE): All right. Mr. King, do you recall my prior hypothetical about just someone sticking a pipe in the Snake River and taking out 10 cfs and using it where it doesn't get back to the river --

A. Yes.

Q. -- under a new permit?

A. Yes.

Q. What's the effective difference, in your mind, between that case, which is admittedly a permit, and this case, which is a transfer wherein the water doesn't get back to the Snake?

A. The difference here is because the purpose of this transfer is to provide Rangen with water. Rangen receives the mitigation that it needs.

Q. Okay. So we're carving out a special exemption to say that if you're doing this for mitigation purposes you can potentially violate the Swan Falls agreement?

A. No.

Q. What's the difference between the permit taking 10 cfs out, just sticking a pump in the river,

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and this transfer?

A. The purpose of this transfer is to use water for a nonconsumptive use. It's providing it to Rangen. And admittedly there will be some consumptive use that will happen below that. I think IGWA has identified, through the calculations of AMEC, that they are able to mitigate for that additional consumptive use by additional flows into the Snake River through springs and other facilities which will reach the Snake that offset any consumptive use.

Q. Okay. So you are in fact looking at what happens in that water once it's in Billingsley Creek to determine injuries and those kinds of things; correct?

A. I think that's fair, yes.

Q. Okay. Now, the local public interest is kind of an amorphic concept.

Do you agree with that?

A. I'm not sure I have know what the word "amorphic" means.

Q. Without boundaries.

A. Okay.

Q. Kind of vague. Can you articulate what the local public interest is?

A. Not concisely, no, I can't.

Q. Okay. But you said -- and you can't

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articulate it, but you gave an opinion that this transfer doesn't violate the local public interest?

A. Yes, because based on my opinion there are many things that get weighed within the local public interest. There are objections that were made by Rangen that talked about it not being in the local public interest, and other arguments made by IGWA that it is.

And as I see these local public interest issues, they're often weighed together. Some may be against the public interest, some may be more. But we're looking is it overall in the local public interest.

Q. Is it in the local public interest for IGWA to curtail their pumping to increase water levels in the ESPA?

A. IGWA does take measures to reduce pumping to increase water levels. I'm not sure if you're asking for -- me the question, though, is it in the local public interest to shut off hundreds of thousands of acres of pumping to increase water levels, is that in the local public interest?

Q. Is it?

A. Say -- there would certainly be arguments both ways on that. And I'm not going to make a

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determination of it's absolutely in the public interest or not. I'd say that from the thousands of acres, hundreds of thousands of acres of groundwater pumping in the economy, that would not be in the local public interest. Although Rangen might argue it's in their local public interest to have the water there instead.

Q. Well, is it in the local public interest to maximize water levels in the ESPA, or is it in the local public interest to deplete water levels in the ESPA?

A. I think it's in the local public interest to make the economic development of the water resources in the state. We also have a priority doctrine. We can't argue that that's just one or the other is the local public interest.

Q. Okay. So in the name of economic development, in your mind it's okay to keep pumping so long as you can mitigate?

A. As long as senior water users are kept whole, as the Department has determined as required, yes.

MR. HAEMMERLE: No further questions, Director.

THE HEARING OFFICER: Okay. Thank you. Redirect?

MR. BUDGE: Yes. Thank you, Director.

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REDIRECT EXAMINATION

BY MR. BUDGE:

Q. Thank you, Scott.

I want to go back, and I'm just going to go through some notes I made during your cross-examination by Mr. Haemmerle. And I first want to address the complexities of administering water on Billingsley Creek.

Is it fair to say that you do not disagree with the watermaster's conclusion that it's difficult to accurately distribute water down Billingsley Creek with the measuring devices are in place today?

A. That's correct.

Q. Yet you rendered the opinion that with improvements to the measuring devices and diversion structures you could distribute water -- regulate diversions accurately enough to shepherd water from Rangen down to the Snake River; is that correct?

A. That's correct.

Q. And this testimony was based on your experience with the Department's water distribution section; correct?

A. It's based on that, as well as Mr. Erwin himself, his testimony earlier.

Q. So it's based on probably various factors,

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one would be your experience with the water distribution section, another would be your experience dealing with other complex water systems, another would be your familiarity with Billingsley Creek and its diversions, and then lastly would be your experience as an engineer.

Those would all contribute to that opinion?

A. That's correct.

Q. So Mr. Haemmerle tried to criticize your opinion because you had not spoken with every water user on Billingsley Creek.

Do you believe that speaking with every water user on Billingsley Creek is necessary for you to render that opinion?

MR. HAEMMERLE: Object to the form of the question. There's ten questions in that question. Object to the form of the question. Seriously.

THE HEARING OFFICER: Sustained, Mr. Budge.

Q. (BY MR. BUDGE): Mr. King, Mr. Haemmerle criticized your not speaking with every water user. He characterized it as 230 water users on Billingsley Creek.

Do you recall that?

A. I think he characterized it as 230 water rights. There are surely fewer water users than 230.

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Q. Do you recall him criticizing you for not speaking with all those water users?

A. Yes.

Q. Do you believe that speaking with those water users is necessary for you to render your opinion concerning the ability to distribute water down Billingsley Creek?

A. No. I believe that discussing with some of the water users would be important. They're an integral part of the system. I don't think it's necessary to discuss it with every single water user on the system.

Q. Okay. Let's turn the page to the discussion between enlargement and injury. And as far as I could tell, Mr. Haemmerle does not draw any distinction between the two, and in asking you questions, I think, confused the record and your testimony.

MR. HAEMMERLE: Objection. Misstates my question. But I apologize for interrupting.

THE HEARING OFFICER: Sustained.

Q. (BY MR. BUDGE): Mr. King, in your report -- and you can turn to it if you'd like -- Exhibit 4002, there is a part of your report dealing with injury.

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It's part 2; is that correct?
A. Yes.
Q. And in that part of your report you acknowledge that there could be consumption of water in Billingsley Creek through evaporation; correct?
A. Yes.
Q. And you acknowledge that there could be water consumed by irrigation rights; correct?
A. Yes.
Q. And you agreed that that consumption is relevant to the injury inquiry; is that correct?
A. That's correct.
Q. And your opinion was that as long as that consumption is mitigated, then that overcomes the injury criterion for approval of the transfer?
A. That's correct.
Q. Okay. Now turning to part 3 of your report where you discuss the separate criterion of enlargement.
In that context you did not discuss consumption of water in Billingsley Creek; correct?
A. That's correct.
Q. Is it fair to say that your view is that enlargement is measured by the use of water made by the appropriator and not people downstream of the

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appropriator?
A. That's correct.
Q. So to summarize your testimony, you're agreeing that consumption is relevant to the injury inquiry, but not necessarily to the enlargement inquiry?
A. Yes.
Q. And let me qualify that question.
Consumption by persons other than the appropriator is relevant to the injury inquiry but not to the enlargement inquiry?
A. That's correct.
Q. Let me have you turn to the application, Exhibit 4000. And if you'll turn to page 3 of the exhibit.
A. Okay.
Q. You see the table that has the place of use?
A. Yes.
Q. And it identifies a few different quarter sections.
Do you understand that to be the Rangen fish hatchery?
A. Yes.
Q. And is this consistent with your testimony

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that the purpose of the mitigation is to provide water to the Rangen fish hatchery?
A. Yes.
Q. And so when you rendered the opinion that there's no enlargement, is that because the mitigation water beneficial use will be used for fish propagation at the Rangen hatchery instead of fish propagation at the Magic Springs, and therefore will not cause an enlargement?
A. That's correct.
Q. If you'll turn to page 37 of that exhibit. This is IGWA's Fourth Mitigation Plan. And Rangen highlighted a portion of this, but that portion certainly didn't tell the whole story.
Do you see the second-to-last paragraph on that page beginning "The water delivered to Rangen"?
A. Yes.
Q. Do you see the last sentence in that paragraph that says "However, no mitigation plan for approval is sought by this plan other than for Rangen"?
A. Yes.
Q. You understand that while there may be mitigation obligations elsewhere in the Billingsley Creek drainage, that the purpose of this water-right transfer is to mitigate for Rangen specifically?

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A. That's my understanding based on review of the transfer, yes.
Q. Do you recall Mr. Haemmerle's questions about there being two identified uses, one for mitigation and one for fish propagation?
A. Yes.
MR. HAEMMERLE: Objection. Misstates. My question was whether there was one or two. He misstated my question. Objection.
MR. BUDGE: I can rephrase the question.
THE HEARING OFFICER: Okay.
Q. (BY MR. BUDGE): Do you recall the discussion you had with Mr. Haemmerle about mitigation as a beneficial use and also fish propagation as a beneficial use?
A. Yes.
Q. Do you recognize that in Idaho what constitutes a beneficial use changes over time, meaning there are some beneficial uses that are recognized now that may not have been in the past?
A. Yes, I do recognize that.
Q. Do you recognize mitigation is a more recent development of water use in Idaho?
A. Yes, certainly.
Q. And would you agree that the Department's

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protocol and policies for mitigation is still being developed?
A. Yes. And that's my experience based on applications that we filed, that things are continuing to change over time.
Q. Okay. Well, one way or the other, it's certainly clear by the application in the record that the purpose of this transfer is to provide mitigation for Rangen and its fish hatchery?
A. Yes.
Q. Let me ask you about the discussion you had about the Swan Falls agreement. And you'll recall Mr. Haemmerle asking questions about or hypotheticals about new appropriations and the effect they may have on the Swan Falls minimum flows.
Do you recall that discussion?
A. Yes, I do.
Q. And he asked you "What's the difference between a new appropriation and this transfer application?"
Do you recall that discussion?
A. Yes, I do.
Q. And I think I understood your testimony there, but I wanted to make sure the record is clear on that.

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A. Okay.
Q. Was it your testimony that the significant element of this transfer is that the consumption that occurs as a result of piping water from Magic Springs to Billingsley Creek is mitigated for?
A. Yes.
Q. Could I have you turn to Exhibit 4004.
A. Okay.
Q. And turn to page 32 of that exhibit. Actually, let's turn to page 28 of that exhibit.
A. Okay. This is the moratorium?
MR. HAEMMERLE: Counsel, if I could make a suggestion. We had that referred to already as a stand-alone exhibit. It was 5000-something.
MR. BUDGE: Yeah. For the record, Exhibit 4004, pages 28 through 34, is the amended moratorium order, which is also identified separately as Exhibit 5007.
Q. Mr. King, do you recognize this as the amended moratorium order?
THE HEARING OFFICER: Where are we at on this? I think what Mr. Haemmerle was trying to do was to separate and essentially say let's not refer to Dr. Brockway's testimony or his expert report, because then it mixes us up, and just wanted to refer back to the stand-alone. It seems to me that's proper.

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MR. MAY: The stand-alone is 5007.
MR. BUDGE: Is that in the binder you provided today?
MR. MAY: Yeah.
THE HEARING OFFICER: So let's just refer to 5007.
MR. MAY: It's right there too.
MR. BUDGE: This? Okay. I apologize. I didn't have Rangen's exhibits when I left town yesterday, so I'm not as familiar with their organization.
Q. Mr. King, if you could turn to the binder with Rangen's exhibits.
A. Yes.
Q. I think there's a tab 7. That's how it is in mine.
Do you see that?
A. I have found that.
Q. And that's Exhibit 5007.
Do you recall discussing this with Mr. Haemmerle?
A. Yes.
Q. If you were to turn to page 5 of that order.
A. Okay.
Q. Do you see paragraph 9?

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A. Yes.
Q. Did you review this paragraph in conjunction with preparing your report in this matter?
A. Yes.
Q. You understand that the moratorium order is not an absolute prohibition on permits, and that under paragraph 9 the Department can allow new permits if they're in the public interest or mitigation is provided?
A. Yes.
Q. And so even if the moratorium order did apply to transfers, which there's some question, is this, in part, the basis for your opinion that there's no injury as a result of the mitigation provided by the districts?
A. As we discussed, there's mitigation being provided that could meet the consumptive use, and that's addressed in this moratorium order, this part 9. So yes, this was included as part of my opinion.
Q. And I probably didn't ask that question the way I should have. Let me ask it this way.
Based on your understanding of the moratorium order, even if it did apply to transfers, do you understand that this paragraph 9 allows the Director to approve the transfer we're discussing today

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because of the mitigation that the districts provide?
A. Yes.
MR. BUDGE: I've got no further questions. Thank you.
THE HEARING OFFICER: Okay. Recross examination, Mr. Haemmerle?
MR. HAEMMERLE: None.
THE HEARING OFFICER: I have just a couple of questions, Mr. King.

EXAMINATION
BY THE HEARING OFFICER:
Q. So, Mr. King, you heard the testimony of Watermaster Frank Erwin today about the complexity of delivering 10 cfs through Billingsley Creek be discharged into the Snake River?
A. Correct.
Q. And in listening to his testimony, there were additional measures or installations that would be required as a result of that complexity.
Do you agree?
A. Yes.
Q. And as you recall, what would need to be done generally?
A. The primary change that I -- as I

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understand it, was measurement of discharge, as Mr. Erwin described, below points of diversion. So he would have a better understanding as to how much went to a diversion as to how much stayed in a stream. Maybe that would be a measurement above, maybe that would be a measurement below.
But it's my understanding is he has questions or is not confident about the quantity of water that's remaining in the stream between one point of diversion and another.
Q. Okay. So you agree that generally there would have to be installations that could better measure the water, both diverted and remaining in the stream?
A. Yes.
Q. And would you also agree that the oversight and review of the information coming from those installations would have to increase to ensure that the water is delivered to the Snake River?
A. Certainly.
Q. And my last question, then, is, do you have an opinion about who should be responsible, not only for evaluating those complexities, but also for standing the cost of those additional complexities?
A. I think this is a transfer that changes the

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status quo on Billingsley Creek. And that change, my opinion, should be bore by the applicant of the transfer if it's required to convey that water to the Snake River, if that extra management is necessary.
There might be some additional management that Billingsley Creek might require, even without this transfer, to appropriately deliver the water. But I think this certainly brings in a change.
Q. And can you describe for me statutorily how the Department of Water Resources can require that additional cost to be borne by the applicant in this case?
A. No, I can't.
THE HEARING OFFICER: Okay. I don't have any further questions.
Mr. Budge or Mr. Haemmerle.
MR. BUDGE: Just a few just to clarify the testimony.

FURTHER REDIRECT EXAMINATION
BY MR. BUDGE:
Q. Mr. King, do you know who's responsible for maintaining diversion and measuring devices within a water district?
A. Generally, the users of those devices are

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responsible for maintaining the -- their own measuring devices out of their system.
Q. So if a user's measuring device is not sufficiently accurate or maybe in disrepair, then the water district or the Department can require that user to improve their measuring device?
A. Yes. And in my experience, the Department can also -- I should back us up and say, the water districts, in my experience, have provided instructions for the watermaster to curtail diversions of water to water users who have not maintained or will not install a measuring device that meets the requirements.
Q. So to the extent necessary to distribute water in priority as it stands today, the water district could require water -- excuse me, the water district could require individual water users to improver their diversion structures --
A. Correct.
Q. -- or measuring devices?
But to the extent -- is it fair to say that to the extent additional measurements and calculations may be required to shepherd the 10 second-feet from Rangen to Billingsley Creek, your testimony is that the applicant ought to bear that added cost?
A. Yes, it is, because that wasn't a cost that

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the District had prior to this change.
MR. BUDGE: Thank you. No further questions?
THE HEARING OFFICER: Mr. Haemmerle.

FURTHER CROSS-EXAMINATION
BY MR. HAEMMERLE:
Q. So you get here, Mr. King, that -- Mr. Erwin's testimony that part of the complexity is the additional spring sources that are hard to identify up and down Billingsley Creek; correct?
A. I'm not sure that it was exactly the way he said it. But I do understand that other spring sources to the Billingsley Creek increased this complexity, yes.
Q. Okay. So in order to do what I think has been suggested, you'd have to be able to measure all those small spring sources in addition to the diversions from Billingsley Creek; correct?
A. No, I don't believe so.
Q. No? Now, part of this equation of shepherding water down Billingsley Creek assumes that the water will not be diverted; correct?
A. If we're going to shepherd 10 cfs of water from Rangen to the Snake River, then either it wouldn't be diverted from the system or it sounds like there was

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a possibility for it maybe to go and be diverted into one system and yet return to the Snake River.
Q. If the goal is to get it to the Snake River, there would have to be some kind of order that it would not be diverted; correct?
A. Based on the discussion I heard earlier, it could be diverted, as long as that system was able to convey it back to the Snake River. I think the Paget Ditch was one that was discussed earlier.
Q. Okay. But otherwise, we're going to void the first in time, first in right principle to get that water down to the Snake River; correct?
A. I'm not following what your question is.
Q. Well, in order to get the water down the Snake River, you could have a million different measuring devices and all that, but the goal is to administer the water first in time, first in right; correct?
A. It's still a complex question. If I understand, you're saying "We want to convey this 10 cfs of extra water to the Snake River, but all of the other water in the Billingsley Creek system is" --
Q. I'm not -- you misconstrued my question. I'm not saying -- it's not my goal to get it to the Snake River. I think the testimony is it can't get

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there. But your assumption is, and the questions have been, can you get the 10 cfs of water back to the Snake River.
You understood the Director's questions, didn't you?
A. Yes.
Q. You understood the goal of doing those devices is to somehow get the water back to the Snake River; correct?
A. Correct.
Q. Okay. And in order to do that, you'd need the good measuring devices, as has been suggested, and secondly, you'd have to ignore the delivery of that junior water right to senior users; correct?
A. We would have to have good measuring devices, yes. We would have to ignore the delivery of that water to other users? I'm not quite following what that question --
Q. Well, it goes in Billingsley Creek, it's subject to appropriation, it could be appropriated by anyone in there; right?
A. If they have a water right to appropriate, yes.
Q. Yeah. And you heard Mr. Erwin's testimony it would be appropriated and it would be gone; correct?

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A. Unless -- unless the watermaster was instructed to convey that water to the Snake River, based on his testimony, yes, it would be diverted.
Q. Okay. So the idea -- one of the conditions of this approval would be "Mr. Erwin, you ignore first in time, first in right priority, you ignore the seniors who are in need of the water, and deliver that 10 cfs back to the Snake River"?
A. I suppose if that's what the Department directed the watermaster to do, yes.
Q. And that's your suggestion as a condition; correct?
A. If it's needed in times to meet injury of the Swan Falls flow requirements, minimum stream flows, yes.
MR. HAEMMERLE: No further questions.
MR. BUDGE: Just two.
THE HEARING OFFICER: Mr. Budge.

FURTHER REDIRECT EXAMINATION
BY MR. BUDGE:
Q. Just two follow-up questions, Mr. King.
First, Mr. Haemmerle asked you about ignoring first in time.
You understand that the water that would be

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piped from Magic Springs to Billingsley Creek would be new water in Billingsley Creek?
A. Yes.
Q. And if it were -- if the Department instructed the watermaster to shepherd that to the Snake River, minus losses, and had the measuring devices needed to do that, the rest of the water rights could still be administered in priority; is that correct?
A. That's my understanding and expectation, yes.
Q. So it wouldn't be -- it's not fair to say the Department's ignoring first in time, it's just that it's shepherding this new water down to the Snake River?
A. Correct.
Q. And then you mentioned -- and I think this is clear in your report -- that none of this is even necessary as long as the Swan Falls minimum is satisfied; is that right?
A. That is correct.
Q. So as long as the Swan Falls minimum is satisfied, there's no need to shepherd water or anything like that, the Billingsley Creek users are free to use this 10 second-feet?

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A. That's correct. And --
Q. Go ahead.
A. And I think we've also demonstrated that there are other measures that IGWA has done that contribute more than 10 cfs into the Snake River in other locations.
MR. BUDGE: Okay. No further questions.
THE HEARING OFFICER: Mr. Haemmerle?
MR. HAEMMERLE: No further questions.
THE HEARING OFFICER: Thank you, Mr. King. About lunchtime. Shall we break for lunch? Time back?
MR. HAEMMERLE: 1:30, Director? I think we can get 'er all done in one day.
THE HEARING OFFICER: You want an hour and a half?
MR. BUDGE: 1:15? 1:30?
MR. HAEMMERLE: 1:15.
MR. BUDGE: 1:15.
THE HEARING OFFICER: 1:15.
MR. BUDGE: And are we all in agreement that we're going to finish up today?
MR. HAEMMERLE: I'd like to.
MR. MAY: We're certainly going to try.
MR. BUDGE: All I've got is Sophia Sigstedt.

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MR. MAY: Okay.
MR. BUDGE: And then the time is yours. And hers will be real short.
MR. HAEMMERLE: Okay.
THE HEARING OFFICER: Okay. Great. 1:15.
(Lunch recess.)
THE HEARING OFFICER: We're back on the record after lunch break.
Mr. Budge, next witness.
MR. BUDGE: Sophia Sigstedt.
THE HEARING OFFICER: Ms. Sigstedt, if you'll come forward, please. If you'll raise your right hand.
THE WITNESS: I do.

SOPHIA SIGSTEDT,
having been called as a witness by IGWA and duly sworn to tell the truth relating to said cause, testified as follows:

THE HEARING OFFICER: Thank you. Please be seated.
You may examine the witness, Mr. Budge.
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DIRECT EXAMINATION
BY MR. BUDGE:
Q. Sophia, thanks for being here today and coming all this way.
Would you please state your name and spell your last name for the record.
A. Sophia Sigstedt, spelled S-i-g-s-t-e-d-t.
Q. What's your business address, Sophia?
A. I work at AMEC at 1002 Walnut Street, Suite 200, Boulder, Colorado 80302.
Q. Great. Tell me what your position is there.
A. I'm a hydrogeologist.
Q. And does part of your work involve groundwater modeling?
A. Yes. Most of my work is focused around numerical groundwater modeling, primarily with regards to state administration.
Q. Could you just tell me a little bit about the different models that you have experience with, groundwater models.
A. Sure. I think the ones that are probably most pertinent to this case would be -- I've done -- they would be regional scale groundwater models. One I did for the Salt Basin for the New Mexico State

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engineer's office. The purpose of that model is primarily to determine appropriable water for the state.

I did one for the Zuni Basin in New Mexico. That was done for the Navajo Nation, similar to determine appropriable water for the state.

And I've done a Laramie County groundwater model for the Wyoming State engineer's office. The purpose of that model was also to determine appropriable water for the state, but also to run some consumptive use, predictive future simulations and impact analysis.

Q. Great. Thanks.

And do you have experience with the ESPA model?

A. Yes. I've been working with the ESPAM model for probably two, two-and-a-half years, something like that.

Q. Okay. Great. And if you'll look in front of you, there's a binder that says "IGWA's Exhibits." And if you'll turn to tab 16. That's Exhibit 400- -- excuse me, tab 15. That's Exhibit 4015.

A. Okay.

Q. Is this a current copy of your resumé, Sophia?

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A. Yes.

Q. Does it accurately reflect your educational and professional experience?

A. It looks complete.

MR. BUDGE: I would move to admit Exhibit 4015 into the record.

MR. MAY: No objection, Director.

THE HEARING OFFICER: Thank you, Mr. May.

The document marked as Exhibit 4016 is received into evidence.

MS. BLADES: 4015, not 4016.

THE HEARING OFFICER: 16 is what was identified; right?

MR. BUDGE: I corrected that to 4015.

THE HEARING OFFICER: Oh, I'm sorry. 4015. I didn't hear that. So stand corrected.

The document marked 4015 is received into evidence.

(Exhibit 4015 received.)

Q. (BY MR. BUDGE): Sophia, could you please explain what you've been asked to do in this case.

A. Sure. I was asked to come up with the potential evaporation on Billingsley Creek from the additional 10 cfs from the Magic Springs transfer, and to look at some ESPAM model predictions from IGWA's

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current mitigation projects and see how those reach gains may potentially offset the evaporation.

Q. Okay. Great. I want to talk to you about both of those calculations that you've done. And to do that, let me have you turn in your book to Exhibit 4007.

A. Okay.

Q. For the record, Exhibit 4007 is an AMEC memorandum. It's also attached to the SPF Engineering report that is Exhibit 4002. But we'll focus here on Exhibit 4007.

Sophia, this is a memo addressed to Scott King, who testified previously, to you and Chuck Brendecke.

And it's my understanding that this memo explains the methodology used to calculate evaporation and to calculate reach gains; is that correct?

A. That's correct.

Q. What I'd like you to first do is just explain how you calculated evaporation of the 10 second-feet that would be transferred to Billingsley Creek.

A. Sure. To do an evaporation calculation, the two components that you need are to come up with an evaporation rate, which is usually length per time,

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feet per day, something like that. And then you need to apply that rate to the surface area of a water body, in this case Billingsley Creek. So we needed to determine length, width, and calculate an area for that.

Q. So how did you calculate the length and width of Billingsley Creek?

A. The length in Billingsley Creek was determined in a GIS analysis where we can go in and digitize a stream or digitize a poly line along the stream, and the spatial analyst gives you a length of that.

Q. Okay. And how about the width?

A. The width is trickier because it needs to be a representative width. So in this case we broke -- or I broke the stream down into several sections and took basically what's called a weighted average to come up with the representative width. In this case we used 25 feet. Billingsley Creek, I think, probably varies in width from anywhere from 1 to 2 feet or 3 feet to maybe 200 feet, so...

Q. Okay. And then you said that a second component is an evaporation rate.

Explain how you arrived at that.

A. For the evaporation rate, we just went to

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ET Idaho's data, which is shown in that Table 1 of the memo there. And here we're using 2010 Hagerman station data for open water shallow systems. And we're using a precipitation deficit, which means that it's a net of evaporation after the -- after the rain.

Q. Okay. If you'll turn to Exhibit 4011. And you'll see a document up in the upper-left-hand corner, it's labeled "ET Idaho 2012."

Is this the source of the evaporation data you utilized?

A. Yes, it is.

Q. And this is what you got from what you called the ET Idaho website?

A. That's correct.

Q. And then why don't you explain what Table 1 shows.

A. Sure.

Q. Excuse me. Table 1 of Exhibit 4007, which is the table attached to your December 2nd memo.

A. So this table outlines the evaporation calculation on Billingsley Creek. The first row across is straight from that previous exhibit you showed. It's the ET at Idaho's data monthly in inches per month throughout the year. And then it's annualized at the end, and for the purpose of the calculation it's

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converted to feet per year in that annual number and the 2.97.

Then you'll see that there's the Billingsley Creek length that I talked about, 13 kilometers; the Billingsley Creek width, that's 25 feet. You can see that those two are multiplied together to get the surface area in feet squared.

Then we can take that feet per year and apply it over the area squared and convert that to acre-feet per year or cfs.

Q. So am I reading this correctly that based on these figures there are 72.69 acre-feet of total evaporation annually from Billingsley Creek?

A. That's correct.

Q. And then how did you calculate the additional amount of evaporation that could occur by adding 10 second-feet to Billingsley Creek?

A. Right. So that has to do with the fact that there's also current evaporation going on in Billingsley Creek. And the water that we're adding, it's not like that water is going to magically float on top of all the old water on top of the surface.

So part of the evaporation in the previous calculation is from the creek that's already been there, and then a proportion of that would be

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attributed to the new transferred 10 cfs.

So to determine what that proportion is, we looked at some of the most recent Billingsley Creek stream gauge data. I think we used a March 6th, 2012 date here. For the discharge it was a little -- it was 15.7 cfs. So if we take the 10 cfs we're adding and take the proportion of the total 25.7 cfs, then we get about 39 percent.

And so I took that cfs number that I went over with you just before and just applied 39 percent, and that's the proportion that would be attributed to the transfer.

Q. Okay. Let me back up just a minute. And let's turn from Exhibit 4008 a few tabs earlier to Exhibit 4006.

You mentioned that you utilized some USGS flow data.

Is that reflected in Exhibit 4006?

A. Yes, that's correct.

Q. And explain where this came from.

A. This comes from the USGS stream flow website where -- this is their water data report from 2012.

Q. Okay. And this figure 15.7 cubic feet per second, then, is included in Table 1 to your memo in

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Exhibit 4007; is that right?

A. That's right.

Q. And so looking back at Table 1, am I correct in understanding that you've calculated the added evaporation by adding 10 cfs to the 15.7?

A. That's correct.

Q. And proportionally, 10 cfs would make up 39 percent of that 25.7 figure?

A. That's right.

Q. Thank you.

Okay. And then explain the 28.3 figure again.

A. So that's just a conversion. So you're -- well, actually, you don't even have to apply conversions, so that would be the same as taking the 72.69 acre-feet per year in the section above and multiplying it by .39, and then doing the same thing for the cfs calculation.

Q. Okay. And so based on your calculations, that .39, that's the amount -- the portion of the 10 cfs that would be lost due to evaporation?

A. No. That -- you said that a little bit wrong. The .39 is the proportion. And it's funny that the numbers work out this way, but the evaporation attributed to the transfer is the .039 cfs.

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Q. Okay. So there would be .039 cfs of the 10 cfs that would be lost to evaporation based on these calculations?
A. That's right.
Q. Okay. Thank you for explaining that. I think I understand that.
Let's now turn to Table 2 of Exhibit 4007. This is labeled, "Predicted mitigation benefit to spring cells."
And I understand this reflects your calculation of the reach gains, or some of the reach gains, to the Snake River from IGWA's mitigation activities; is that correct?
A. That's correct.
Q. Could you explain how you made these calculations.
A. Sure. These calculations were taken from a series of seven model runs that the Department did. It was referenced in the amended final order and finding of fact for the Rangen case.
And here they did the model runs primarily to determine what IGWA's mitigation benefits to the Curren Tunnel were. And I just took those same model files and tabulated the reach gains for these major springs shown in Table 2.

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Q. And do these make up all of the springs between Milner Dam and the Murphy gauge?
A. No, these do not. They're just a select set of some of the major springs that we were able to get through in time for this memo.
Q. Okay. And just to summarize, so you essentially ran the model based on the conversions and CREP and recharge that IGWA's been doing to predict the gains to the Snake River from those -- to these springs?
A. That's partially correct. I didn't actually have to run the model, because the Department provided all of their model files. So I was really just processing their output.
Q. Okay. Thank you. That's helpful.
Let me now have you turn to Exhibit 4005.
A. Okay.
Q. Well, hold on. Before we do that, let's turn over to Exhibit 4008.
That's another memo to Scott King from you and Chuck Brendecke dated ten days later, December 12th, 2014. And this memo, for the record, is attached to the SPF rebuttal report labeled Exhibit 4003.
Sophia, could you explain what you did for

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the rebuttal report that's different or in addition to what you had provided to Scott for his initial report?
A. Sure. This wasn't really to address anything in the rebuttal report. It was noted in our December 2nd memo that we were only able to get through the springs that we showed in Table 2 and time limited us from processing the rest of the data.
So this is a follow-up memo. There's nothing different about the methodology or anything here. The only difference is we reproduced Tables 1 and 2 from the December 2nd memo, and then we added Table 3, which is -- which goes through and it processes kind of in a few different groups.
The first section all of those -- all of those springs that you see are -- in ESPAM they're classified as the class A and B springs. It has to do with the quality of data and how they can use them as targets in the model. They're the largest springs. So we went through and finished all the springs that we hadn't done for the December 2nd memo and added them to that.
And then we also went through and processed all of the class C springs that are -- we separated these into two groups. One, the class C springs that are tributary to the Billingsley Creek, and then

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another group that are just the rest of the class C springs from Kimberly to King Kill.
And then we also went in and a processed what the reach gains to the general head boundaries from Kimberly to King Hill are as well. And the general head boundaries are basically -- they account for not -- they account for tributary underflow that would flow to the Snake River that doesn't outcrop as springs.
Q. Okay. Thank you.
And so if I'm understanding you correctly, Table 1 on Exhibit 4008 is the same -- it's identical to Table 1 in Exhibit 4007?
A. That's correct.
Q. And same with Table 2?
A. That's correct.
Q. And Table 3 just builds on Table 2 by adding the spring gain or reach gain data from some additional model cells below Milner Dam?
A. That's right.
Q. And so if I'm looking at the data in Table 3, if I go down to that very bottom line, "Total Snake River gains below Milner," it shows 48, 52, 54, 56, 58.
That's the cumulative gains to the Snake

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River from IGWA's various mitigation activities over -- at least over this five-year period?
A. That's correct.
Q. Okay. Thank you.
All right. Now let's turn back to Exhibit 4005. And you can turn -- well, first we'll turn to the first page there. The beginning there's a pleading Rangen filed in this case that says "Disclosure of expert witness rebuttal," and then if you turn a few pages back you'll see the rebuttal expert report of Chuck Brockway.
Have you reviewed this, Sophia?
A. I have. Yeah, I have.
Q. Okay. And what I'd like you to do is turn to page 7 of his report. That's page 11 of the exhibit.
A. Okay.
Q. And you'll recall that in this portion of Dr. Brockway's report he discusses your evaporation calculation. And midway through that page he states that "Your calculation procedure assumes two premises that are incorrect."
Do you remember reviewing this?
A. Yes, I do.
Q. And the first one is he says, "You assume

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no change in open water area as a result of an increase in discharge."
Is that an accurate statement of the assumption you made?
A. Yes, that's true.
Q. Why did you make that assumption?
A. If you wanted to determine what the change in the surface area was, you'd have to know what the cross-section of Billingsley Creek was all the way through to be able to see how that change in volume of water added to the creek is -- extends the surface area along that cross-section. That's really not available.
So in this case we're assuming rectangular width for a stream, which is a very standard assumption in hydrologic analysis. The MODFLOW model behind ESPAM, it represents river cells with a rectangular geometry.
Q. Okay. Thank you.
And then the second assumption Dr. Brockway mentions is that the evaporation cfs is calculated for the entire year, not the peak or summertime evaporation.
Is that a correct assumption as well -- a correct statement of your assumption as well?
A. That's correct.

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Q. But if we look at the following sentence, Dr. Brockway agrees that the magnitude of additional evaporation is small, and will be small, even if you tried to calculate it differently.
Do you see that?
A. I do.
Q. And do you agree with Dr. Brockway's assessment that these assumptions don't have a significant effect on the calculations?
A. Yes, I agree that the magnitude would be small. I don't agree that peak evaporation would be the correct evaporation rate to use here because the purpose of the evaporation calculation was to compare it specifically to the reach gains coming out of the ESPAM model.
The ESPAM model has a monthly stress period, just like the monthly average mean that we use in the evaporation calculation. And if you use the peak average across the entire year, your mass balance for that year would be incorrect.
Q. Okay. Thank you. That's helpful.
Let's now turn to Exhibit 4010.
This is an aerial or satellite image of the Snake River, it appears; is that correct?
A. Yes. This is a map made in GIS, and it

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does have satellite imagery behind it.
Q. Did you prepare this map?
A. I did.
Q. Why don't you explain what this map shows.
A. Sure. This map is really just to demonstrate where those gains in Tables 2 or 3 of our December 2nd or December 12th memo. So what I'm showing here are the point locations of all the class A and B springs in the ESPAM model. And then I have overlaid where the ESPAM model spring cells, their drain cells in reality, are in the model for each reach color coated by reach.
And the other thing that's shown on this are, for instance, the Covington and Weaver mapped springs. And you can see that those are sort of representative of all these unnamed class C springs that come in along these reaches.
Q. Okay. Thank you.
Now, you explain in your report that most of the springs listed in Table 3, which I guess are most of the springs depicted on this map, discharge directly into the Snake River without being rediverted by irrigators or others?
A. That's right.
Q. How did you figure that?

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A. It's a spatial analysis, and then looking at the points of diversion. And some of them it's really obvious that after the fish hatcheries, which are typically the use on these springs, you can see where they directly discharge to the river.

Or in the other case, then there's Malad or Thousand Springs, which are power operations. And you can see where those directly discharge to the river.

In some cases the springs that are tributary to Billingsley Creek and the springs that are tributary to the National Fish Hatchery, there's definitely possibilities for diversion there.

And looking at the maps at places like Blue Lakes or Clear Springs, in between some of the hatcheries it looks like maybe there could be a field that is potentially irrigated or something like that.

Q. Okay. So you figured that kind of by looking at the different springs and whether they flow to the Snake River at diversions?

A. That's right. It was a case-by-case basis.

Q. Okay. Thank you very much.

So turning back to Exhibit 4008, which is your December 12th memo.

In the tables that are attached to it, you mentioned at the beginning of your testimony that your

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task was to calculate evaporation and calculate reach gains to see how they compare. And I guess we can compare that just by comparing the bottom line in Table 3 with the total evaporation in Table 1 to see that there's -- I mean can we make the conclusion there's a great -- exponentially more water coming in from recharge conversions and CREP than would be evaporated?

A. I think we can definitely make that statement. The evaporation is .039. Here we're looking at almost four order -- or at least three orders of magnitude difference.

MR. BUDGE: Okay. I don't have any further questions, but before I finish up, Director, I want to go back through the exhibits that I discussed with Sophia and offer those to be admitted. And I'll just do those one at a time so Rangen's counsel has an opportunity to object if they wish.

First would be Exhibit 4007, which is AMEC's first memo to SPF, dated December 12th.

MR. MAY: No objection.

MR. BUDGE: 400- --

THE HEARING OFFICER: That's fine. We can go through them and we'll just recite.

MR. BUDGE: 4008 is the second AMEC memo, dated

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December 12th.

THE HEARING OFFICER: What number?

MR. MAY: Which number is that?

MR. BUDGE: I apologize. That's 4008.

MR. MAY: No objection.

THE HEARING OFFICER: Okay.

MR. BUDGE: The next would be Exhibit 4010, which was the map that showed all of the spring discharges and the spring cells.

MR. MAY: No objection.

MR. HAEMMERLE: I don't recall seeing a 400- -- was that 4011, Counsel?

MR. MAY: I think we did 4010 as the last one we were looking at.

THE HEARING OFFICER: Okay. 4010?

MR. HAEMMERLE: I stand corrected. Sorry.

THE HEARING OFFICER: Okay.

MR. BUDGE: There was no objection there, Justin?

MR. MAY: No objection.

MR. BUDGE: 4011 is the ET Idaho data for Hagerman evaporation.

MR. MAY: No objection.

THE HEARING OFFICER: Okay.

MR. BUDGE: And then it looks like I missed one.

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4006 is the USGS data that we referred to.

MR. MAY: No objection.

MR. BUDGE: And then Director, you'll recall when we were discussing Mr. King's reports we withheld admitting those until reviewing AMEC's calculations.

And so I would offer Exhibits 4002 and 4003 at this time, which are the SPF reports.

MR. MAY: I guess I was thinking those were Fritz', but no objection to either of those.

THE HEARING OFFICER: Okay.

MR. BUDGE: Okay. Thank you, Sophia.

THE HEARING OFFICER: That's a complete list of the exhibits you wish to offer?

MR. BUDGE: Yes. Thank you.

THE HEARING OFFICER: Okay. So I have the documents marked as 4002, 4003, 4006, 4007, 4008, 4010, and 4011. The documents are received into evidence.

(Exhibits 4002, 4003, 4006-4008, 4010, and 4011 received.)

THE HEARING OFFICER: Did I --

MR. BUDGE: Perfect.

THE HEARING OFFICER: Okay.

MR. HAEMMERLE: I think 4015 was previously admitted. I don't know.

MR. MAY: Yeah.

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MR. BUDGE: It was admitted earlier in her testimony.
THE WITNESS: Yes.
THE HEARING OFFICER: Yeah, that's correct. Okay. No further questions?
MR. BUDGE: No. Thank you.
THE HEARING OFFICER: Cross-examination.
MR. MAY: Thank you, Director.

CROSS-EXAMINATION

BY MR. MAY:

Q. Ms. Sigstedt, am I pronouncing that correctly?
A. Yeah. Sigstedt, like homestead.
Q. Do you mind if I call you "Sophia"?
A. No, that's fine.
Q. Okay. My name is Justin May. I represent Rangen in this matter. I understand that your -- the task that you were given was to calculate the evaporation and to calculate reach gains from some activities that were done.
You do understand as part of that that the overall reason for performing those calculations is in the context of a transfer to mitigate for some -- the impact from pumping; correct?

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A. Yes.
Q. So the reason why IGWA is going through this exercise of transferring the water and moving it from Magic Springs to Rangen's facility is in order to mitigate for the impact of junior groundwater pumping?
A. That's right.
Q. And you were looking at one small portion of the consumptive use that would result from transferring that water to the Rangen facility; correct?
A. Say that again.
Q. You were tasked with looking at one small portion, the evaporation that would result in Billingsley Creek, one small portion of that additional consumptive use in Billingsley Creek, just the evaporation?
A. That's right.
Q. Did you do any analysis with regard to anything other than evaporation?
A. For consumptive use?
Q. Yes.
A. I'm familiar with the water rights, but...
Q. Okay. So you didn't look at the additional consumptive use that would be created by, for instance, the transpiration in the plants and the stream?

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A. I believe that the evaporation data -- do you remember what exhibit that was?
MR. BUDGE: 4011.
THE WITNESS: Yeah. So you'll see that the title of this, "ET Idaho 2012 Evapotranspiration." So the rate here is evaporation plus transpiration. And that's anything that would go through plants.
Q. (BY MR. MAY): Okay. So you are suggesting that the calculation that you did took into account not only the amount that would be lost due to evaporation from the surface area, but also from the plants in the stream?
A. The evaporation is representative of the evaporation off of a surface water body, like a shallow stream like that.
Q. Okay. And in doing that calculation, I understood that the first step that you took was to calculate just the surface water of Billingsley Creek?
A. Right.
Q. Okay. Did you visit Billingsley Creek before making that calculation?
A. No, I did not.
Q. And I think we learned from Scott King today that maybe you visited it for the first time yesterday?

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A. I have, yeah. I went through all the crossings, stream crossings.
Q. Okay. You were here for Frank Erwin's testimony earlier today?
A. I was.
Q. Did you -- were you here for his discussion of the portions of the stream, for instance, where there are a number of reeds and various different --
A. Yeah, and I've seen that.
Q. -- plants?
Did you take those into calculation when you were doing your evaporation analysis?
A. To really fully answer that question, I would have to have a better understanding of how ET Idaho comes up with its evapotranspiration rate. I'm not sure what all goes into that calculation.
Q. And you didn't make any attempt to determine that?
A. I assumed that whatever that they put into that calculation is representative for a system like this, yeah.
Q. Okay. What kind of investigation did you do to determine whether that was the case?
A. I mean -- what investigation did I do? I looked at all the different possibilities of the

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evapotranspiration rates that you can choose off of a site like ET Idaho, or you could use a pan evaporation rate from American Falls or something like that. And I looked at several of those and I used my professional judgment to choose the most applicable, and that's this one.

Q. You listened to both Scott King and Frank Erwin today talking about the complexity of Billingsley Creek and how difficult it would be to manage.

If I'm understanding correctly, you did not look at anything specific with regard to Billingsley Creek and the various different reaches to determine how much water might be actually lost in the various different stretches of Billingsley Creek; correct?

A. From diversion or seepage?

Q. From seepage, from -- from evaporation, from any source.

A. I didn't consider seepage because, in my opinion, any seepage that occurs along that reach would eventually accrue to the Snake River. So that's not a consumptive use.

In terms of evaporation, obviously I did that calculation.

And in terms of diversions, I looked at Brockway's report where I think he said something like

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there's 230 diversions on Billingsley Creek. I went into the Water Resource database, and when you search on the source for Billingsley Creek, I got that same number. When I filter those for irrigation, I got something like 158 irrigation rights. You can filter that down and -- to just -- so that's irrigation with other uses. You can look at only the irrigation rights. That's about 101 irrigation rights.

And I wanted to just kind of see what the magnitude of some of those rights are. And so I think in Brockway's report he said something like around 80 cfs could be attributed to the water -- the irrigation rights in Billingsley Creek. Of that 80, I think like 39 cfs probably goes directly to Buckeye Farms, which we've talked about -- or I mean Frank Erwin and everybody has talked about.

Then of the remaining, the amount of irrigation rights that are below 1 cfs is 85 percent of those rights. The rights that are below .05 cfs is something like 55 percent -- I mean 55 percent.

And so in my opinion, looking at those rights, what I see are very, very small diversions associated with the irrigation rights, aside from Buckeye.

Q. So -- but you would agree -- I'm assuming

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you would agree with Frank Erwin and with Scott King, who testified earlier today, that the water would not actually get back to Billingsley Creek?

MR. BUDGE: Objection. Beyond the scope of direct.

MR. MAY: May I respond to that?

THE HEARING OFFICER: Mr. May.

MR. MAY: Well, she's talking about evaporation in terms of the consumptive use and giving an opinion that the additional consumptive use is mitigated. And so I think I'm entitled to explore what she looked at there.

THE HEARING OFFICER: Sustain the objection.

Q. (BY MR. MAY): You did not consider seepage to be consumptive use, so that's not included in your calculation?

A. No, I don't consider that consumptive use.

Q. Okay. And you did not consider the use that would be made by farmers and irrigators and other appropriators down on Billingsley Creek or the Curren Ditch to be consumptive use, and you did not calculate that -- or figure that into your calculation?

A. Similar to Frank Erwin, I don't know how I would be able to attribute what portion of the Magic Springs transfer water would go to what portion of

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irrigable lands.

Q. Right. And again, Frank Erwin testified that none of the water, or very little of the water, would get back to the Snake River; correct?

A. That's correct that he said that.

Q. Okay. And Scott King agreed with him?

A. That was less clear to me as to whether or not Scott King agreed with that.

Q. And you're not disagreeing with that, I'm assuming?

A. I honestly do a little -- I do disagree with it in sum.

Q. Okay. And in terms of the analysis that you did for this particular project, you did not look at anything other than evaporation?

A. And reach gains, yeah.

Q. Right. And reach gains are the other side of something, which we'll get to in a while.

In terms of looking at how this water would actually be used, the only thing that you looked at was evaporation?

A. That's the only thing that matters in terms of the transfer from the way that I look at it, because what we're trying to make sure that we don't change is how this water enters the Snake River, so before it

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entered directly at Magic Springs.
So now we have this path that it can flow along Billingsley Creek. And the only thing that is different -- because those other consumptive uses aren't part of the transfer, in my mind. The only thing that is different along there is the evaporation that could occur along that extra travel, that extra distance until it reaches the Snake River.
Q. And you recognize that that additional use that is -- or that additional loss due to evaporation needs to be factored in?
A. Well, you saw how small it was. I mean for instance, the Swan Falls agreement, which I think we're looking at minimums related to that, they don't even take into account evaporations off of those reservoir systems.
Q. Right. Because the amount that you're talking about for the one very small part that you chose to look at is .039, and you ignored everything else. You ignored seepage?
A. Seepage is nonconsumptive.
Q. You -- okay. You consider seepage nonconsumptive?
A. Yes.
Q. Okay. And you ignored that?

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A. I don't know if I ignored it.
Q. Is it in your calculation?
A. It's a nonconsumptive use, so you can't calculate a consumption on it.
Q. Okay. So you just don't think that's relevant to the calculation at all?
A. I think that the Snake River isn't injured by the seepage, because it accrues to the Snake River eventually.
Q. Okay. And did you not consider any other uses that would be on the -- that would take place lower, any other irrigation or any other use?
A. I don't see how that's part of the application.
Q. Is the answer no?
A. No. Yes.
Q. Okay. And having concluded that the loss due just to evaporation from that stream was .039, you were also tasked with looking at reach gains?
A. Right.
Q. In looking in your analysis on reach gains, what activities did you look at that are being performed to put into your calculation for reach gains?
A. Well, like I said, I didn't tabulate the activities. This is a Department model run. What

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they -- like I said, they did seven model runs. So they broke them up into the model runs that they did for IGWA, and they broke them up into the model runs that they did for Southwest.
So for IGWA, they did a run on their recharge activities, they did a run on their CREP activities, and they did a run on their conversions.
For SWID, they did a run on their recharge activities, they did a run or their conversion activities, they did a run on their CREP activities, and they have an additional run on what they call voluntarily curtailment, which are dry-ups.
Q. And these runs that you're talking about, they were done as part of the analysis of the First Mitigation Plan?
A. They were referenced in that amended final order.
Q. Okay. So you don't know --
A. I'm not that familiar --
Q. -- exactly where they came from?
A. -- with the First Mitigation Plan.
Q. And I assume by your answer, then, you're not that familiar, and possibly not familiar at all, with regard to which specific activities we're talking about?

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A. It's not fair to say that I'm not familiar at all. I've seen them mapped out.
Q. Okay. And you've seen them mapped out.
Who -- for instance the CREP acres, which CREP acres are we talking about?
A. The Department has .shp files. And they provided them with these runs, these model runs that I'm talking about. They have .shp files for where their conversions are, where their CREP acres are, and where the voluntarily dry-ups are.
Q. And do you have any knowledge or did you do any investigation to see whether we're talking about activities that took place in the past or whether we're talking about activities that might take place in the future?
A. The Department run started tabulating the mitigation benefits. It's a transient run, so it's a different stress period for each year. And so they started in 2005, and they calculated the mitigation activities for each year through 2013. And then their run does assume that 2013 activities go on.
Q. Right. So you are making that assumption just like the Department did, you're making the assumption that the activities that took place in 2013 will continue on in the future?

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A. I used the same model runs.
Q. With regard to those mitigation activities, you understand that the mitigation activities are undertaken or have been undertaken, in part, in response to various different calls that have been made; correct?
A. I do.
Q. Did you make any attempt to determine what the actual impact from groundwater pumping is on those -- on the reaches that you were trying to determine the gains on?
A. No. But I saw that Brockway's rebuttal report did have a run associated with that concept.
Q. Right. So when you're talking about the benefit from this mitigation, you understand that the mitigation that's gone on is an attempt to mitigate for a great deal of groundwater pumping that's going on in the ESPA; correct?
A. That's right.
Q. Okay. And so do you disagree with Dr. Brockway's calculations with regard to what the impact of that pumping would be on those reaches?
A. I can't agree or disagree. I haven't reviewed any of those model files.
Q. So you didn't make any attempt to -- for

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instance, for the Blue Lakes Spring that you had a calculation for, you were just looking at the mitigation side of it? You made no attempt to figure out what the actual reduction -- or excuse me, what the impact of the pumping that is going to occur would be; correct?
A. It doesn't seem applicable to this case where we're addressing the Rangen call.
Q. Okay. And what we are addressing is we've got a situation where we've got groundwater pumping that is occurring -- okay? -- and that is impacting all of these springs that you are calculating reach gains for.
A. Right.
Q. And it's reducing each of those springs.
A. Right.
Q. And you accept that?
A. I accept that, but I --
Q. And you accept that it's reducing those springs; correct?
A. Yes.
Q. Okay. There's a reduction there?
A. That's correct.
Q. And there has been a little bit of mitigation that has occurred, and that reduces the

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impact to those springs by a certain amount; correct?
A. That's correct.
Q. Okay. And so what you're looking at in your calculation is not the net effect of what that pumping is, but you're looking at just the gains that are there; correct?
A. That's right.
Q. You understand that if this transfer goes through one of the purposes for the transfer is to allow all of that pumping to occur?
A. I don't know that I know that that's the purpose of this transfer.
Q. Okay. You don't understand that the purpose -- the reason why IGWA is going through this process of transferring water from Magic Springs to the Rangen facility is to allow groundwater pumping to continue --
MR. BUDGE: Objection. Relevance.
Q. (BY MR. MAY): -- that it's mitigation?
MR. BUDGE: Objection. Relevance.
THE HEARING OFFICER: Overruled for now.
THE WITNESS: I agree that the mitigation that this transfer is associated with for the Rangen call is to make up for injured water rights.
Q. (BY MR. MAY): Okay. Injured water rights

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caused by that junior groundwater pumping?
A. They -- a portion of that was attributed to the junior groundwater pumping in the case.
Q. And in fact, the only portion that's being mitigated in this case is the portion that was attributed to junior groundwater pumping?
A. Because it's being mitigated by the juniors, that makes sense.
Q. Okay. And so having said all of that, the reason for this transfer is to mitigate for -- or excuse me, is to allow that groundwater pumping to occur. Okay? So we have a situation where that's what's happening, we are mitigating in order to allow that groundwater pumping to occur.
And in your calculations you are ignoring that impact; correct? You don't take that into consideration? You made no attempt to calculate what the impact was on the springs?
A. We know what the impact is on the spring of concern here. And that's specifically what we're mitigating.
Q. Okay. And in order to be able to do that, in order to be able to do that transfer, you are saying that in order to do the transfer IGWA needs to mitigate for some injury that will occur due to -- and you're

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saying the additional evaporation?
A. That's what they would be -- is the consumptive use that's specifically associated with this transfer would be the evaporation of Billingsley Creek because of the different path.
Q. And you are suggesting that the mitigation that is used in order to do that calculation is the gains in those springs due to some mitigation activities, but ignoring the impact from the groundwater pumping?
A. Well, let's put it in perspective here. The evaporation off of the creek that we calculated, that .039 cfs, that could be mitigated from the benefit of the Curren Tunnel alone; right?
Q. Okay.
A. From the Department runs 1.5 cfs. So you don't need to even take any account any of those other streams.
Q. Okay.
A. Springs.
Q. So in terms of that, what's the impact to, for instance, the Curren Tunnel? Or let's take the cell where Rangen is located, what's the impact from groundwater pumping?
MR. BUDGE: Objection. Beyond the scope of

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direct.
THE HEARING OFFICER: Mr. May.
MR. MAY: Well, your Honor, she's -- she's testifying with regard to some supposed reach gains in these reaches. And I think that we're entitled to examine whether or not there's any gains.
THE HEARING OFFICER: Sustain the objection.
Q. (BY MR. MAY): With regard to the mitigation activities that you are making your calculations on -- just to go back to this -- you understand that those mitigation activities change every year?
A. Just as they do in the model run.
Q. And they're not consistent?
A. [No audible response.]
Q. And you, from your standpoint, you have no knowledge about whether or not those activities are going to continue in the future?
A. Pretty limited knowledge.
Q. Okay. And your testimony in this particular case is limited to suggesting that the impact from evaporation is small, .039, and in any case is mitigated by those what you're calling reach gains to the Snake River?
A. That's right.

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Q. And you are assuming that with the exception of that evaporation none of the rest of the losses that would occur in Billingsley Creek are consumptive uses? You're only looking at evaporation?
A. That's right.
MR. MAY: That's all I've got.
THE HEARING OFFICER: Redirect?
MR. BUDGE: Yeah, just a few questions, Sophia. Thank you.

REDIRECT EXAMINATION
BY MR. BUDGE:
Q. And I just want to make sure the record is clear on this, and you've explained this, I think, in your opening testimony, but one of your assignments, you said, was to calculate the portion of the 10 cfs that would be evaporated as it flowed down Billingsley Creek; is that right?
A. That's correct.
Q. You were not asked to try and calculate how much of that would be consumed in the event it was diverted out of Billingsley Creek instead of staying in the creek; correct?
A. That's correct.
Q. And then regarding the District's

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mitigation activities, I think you explained that the consumption from evaporation or otherwise could potentially affect Snake River flows at Murphy gauge; correct?
A. That's correct.
Q. And Table 3 to your December 12th report, which showed the reach gains from IGWA's various mitigation activities, that's water that would not be in the Snake River but for the District's undertaking those activities?
A. That's correct. That's new water.
MR. BUDGE: Okay. I have nothing further. Thank you.
THE HEARING OFFICER: Recross, Mr. May?
MR. MAY: No.
THE HEARING OFFICER: Okay. Thank you, Ms. Sigstedt.
Next witness, Mr. Budge.
MR. BUDGE: The Districts have no further witnesses.
THE HEARING OFFICER: Okay. Do you want a moment to prepare, or do you want to launch?
MR. MAY: It's up to everyone. We're ready to go.
MR. BUDGE: Take a short break. Only one

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witness left; right?
MR. MAY: One witness, yeah.
THE HEARING OFFICER: Okay. Let's break until 2:30.
(Recess.)
THE HEARING OFFICER: Okay. We're back on the record after a short break.
And, Mr. Budge, the applicants have rested.
So, Mr. Haemmerle.
Okay. Justin.
MR. MAY: Director, Rangen would call Dr. Chuck Brockway.
THE HEARING OFFICER: Okay. Dr. Brockway, if you'll come forward, please.

CHARLES E. BROCKWAY,
having been called as a witness by Rangen, Inc., and duly sworn to tell the truth relating to said cause, testified as follows:

THE HEARING OFFICER: Thank you. Please be seated.
Mr. May, you may examine Mr. Brockway.
MR. MAY: Thank you, Director.
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DIRECT EXAMINATION
BY MR. MAY:
Q. Chuck, we are here, as you know, and you've sat through the testimony thus far to talk about the transfer application to transfer water from the Magic Springs into the Rangen facility.
Are you familiar with that transfer application?
A. Yes.
Q. Okay. And how did you become familiar with that transfer application?
A. Well, I think you sent it to me.
Q. Okay. And you're here because Rangen has asked you to give an opinion with regard to that transfer application; correct?
A. Yes.
Q. Okay. And in what capacity has Rangen asked you to give an opinion on that transfer application? What have they asked you to do?
A. Well, they asked me to evaluate the transfer and the associated documents relative to whether it met the requirements for the Department of Water Resources for acceptance and what the impacts would be to the water systems around Billingsley Creek from implementation of that transfer.

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Q. And did you do that? Did you make that analysis?
A. Yes.
Q. Before we go into that, I want to talk a little bit -- I know you've testified in a number of these actions so I won't belabor it.
But I am going to ask you if you generally recognize what I've got up here on the screen and what you've got in the documents in front of you as Exhibit 5018?
A. Yes, I recognize that one.
Q. Okay. And what is it?
A. It is a copy of my resumé of experience and education and other stuff.
Q. Okay. And is that curriculum vitae or resumé correct, as you sit here today?
A. Well, I think there's more to it.
Is there more than one page?
Q. Certainly there's potentially more than one page. There's the second page.
A. Oh, yeah.
Q. And keep going through, there's more pages.
A. It looks -- it looks like it may not be entirely up to date.
Q. Okay. Is there anything that you'd want to

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add to it specifically, as you sit here today, or is it generally correct?
A. Well, I think I'm a little older now than I was when I put that together.
Q. Okay. Anything else?
A. Nothing else.
MR. MAY: Okay. Director, I'd move for the admission of Exhibit 5018.
MR. BUDGE: No objection.
THE HEARING OFFICER: Document marked as 5018 is received into evidence.
(Exhibit 5018 received.)
Q. (BY MR. MAY): Chuck, in addition to your professional experience which is listed there on your curriculum vitae, are you familiar with the Rangen facility?
A. Yes.
Q. And how did you become familiar with the Rangen facility?
A. Well, Brockway Engineering has been retained by Rangen for several years for various water projects and concerns. And in the process of doing that, we have evaluated the Rangen facility, the Rangen water supply. So I'm pretty familiar with what they do.

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Q. Okay. And you're also familiar, I understand, with the Billingsley Creek?
A. Yes.
Q. Okay. And how did you become familiar with Billingsley Creek?
A. Well, just by living in the Magic Valley. We have -- "we," being Brockway Engineering, have done quite a few projects that deal with Billingsley Creek and clients who utilize Billingsley Creek and/or spring flows entering Billingsley Creek. And we have worked for the Buckeye Ranch, the other hunt club there, City of Hagerman, Jones -- Bill Jones' fish facility, Fisheries Development. So I know Billingsley Creek.
Q. Okay. And you know it from -- it flows where it begins up near the Rangen facility or on Rangen's property and flows down to the Snake River; correct?
A. Yes.
Q. And you're familiar with basically the entire length of it?
A. Yes.
Q. Okay. And during your analyses of Billingsley Creek for your clients, I understand that you've had occasion to visit Billingsley Creek a number of times?

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A. Yes.
Q. Okay. How often would you say that you go to Billingsley Creek?
A. I don't know. Six, seven times a year.
Q. Are you also -- Dr. Brockway, are you also familiar with the Department's transfer procedures?
A. Yes.
Q. Okay. And how did you become familiar with the Department's transfer procedures?
A. Well, we, Brockway Engineering, does a lot of water right evaluations and preparation of applications for permits and transfers, so I just -- that's what I work with.
Q. And I understand that you've done that for a number of years; correct?
A. Yes.
Q. Okay. I'm going to show you what we have marked as Exhibit 5017. And I'll represent to you that this is what I -- at least what I refer to as the Department's transfer memorandum.
Are you familiar with this document?
A. Yes.
Q. And what is your understanding of what this document is?
A. We call this Jeff's memorandum facetiously.

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Q. Okay.
A. It's memorandum No. 24, which is the latest directive or guidelines that I know of that IDWR has put out to help understand the criteria and the requirements for transfer processing and policies and procedures.
Q. And is this one of the documents that you reviewed in connection with your analysis and review of this particular transfer memorandum?
A. Yes.
MR. MAY: Director, I'd move for the admission of 5017.
MR. BUDGE: No objection.
THE HEARING OFFICER: Document marked as Exhibit 5017 is received into evidence.
(Exhibit 5017 received.)
Q. (BY MR. MAY): As a result of your analysis that Rangen asked you to perform in this case, did you provide any written reports in that regard?
A. I wrote two formal reports.
Q. Okay. And those two reports -- I'm going to show you what's been marked as Exhibit 5015. And I'll represent to you that I believe this to be your opening report in this matter.
Do you recognize that document?

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A. Yes.
Q. Okay. And you said you wrote two reports. I'm also going to show you what's been marked as 5019. And I'll represent to you that I believe this to be your rebuttal report which was filed by you.
Do you recognize this document?
A. Yes.
Q. And these two reports that you prepared in this case, do these reports reflect your opinions in this matter?
A. Yes.
MR. MAY: Director, I would move for the admission of 5015 and 5019.
THE HEARING OFFICER: Mr. Budge.
MR. BUDGE: Object until Dr. Brockway testifies to the contents in the reports.
THE HEARING OFFICER: I guess that's fair, Mr. May.
MR. MAY: Okay.
THE HEARING OFFICER: Let's defer the offer.
MR. MAY: Okay. We can certainly talk about his opinions.
THE HEARING OFFICER: Okay.
Q. (BY MR. MAY): Chuck, in these reports did you come up with an opinion on this particular transfer

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as to whether it would constitute an enlargement?
A. I did.
Q. Okay. And could you tell me your opinion with regard to whether or not it's an enlargement?
A. I can.
Q. Okay. And what is that opinion?
A. I believe that the use, as I understand it, from the transfer in question will result in an enlargement in consumptive use as a result of the change of place of use of the water from Magic Springs.
Q. Okay. And why do you believe that it will result in an enlargement in consumptive use?
A. Well, the first use, as I understand it -- well, let me go back. The -- the type of use or the nature of use asked for in the transfer is -- it's part mitigation, perhaps, and part fish propagation. It's fish propagation slash mitigation, which is by itself not a recognized beneficial use.
Fish propagation is, and mitigation is a recognized -- are recognized beneficial uses. But the combined term of fish propagation slash mitigation is not listed as a nature of use, beneficial use.
Q. Okay. And so when you're talking about the nature of use in the context of enlargement, what's the nature of use in the Magic Springs facility? What's

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the current nature of use for this transfer?
A. Fish propagation.
Q. Okay. And it's going to be changed to what?
A. Fish propagation slash mitigation, according to the transfer app.
Q. Okay. And you testified that you believe that to be an enlargement of the use.
What did you mean by that?
A. Well, I think the proposed use in the transfer application is to transfer 10 cfs of nonconsumptive fish propagation water, put it in the Rangen facility, use it initially for fish propagation, and then it will flow into Billingsley Creek.
And when it gets in Billingsley Creek, it will either be diverted into the canal that essentially goes down to Buckeye or it will go on down Billingsley Creek and be utilized, in my opinion, by other senior users who are now short of water. So that use will be primarily irrigation, which is consumptive.
So my opinion, we're changing the nature of use from a nonconsumptive fish propagation right to, at least partly, to an irrigation use, which is consumptive.
Q. Right now the use of that water is

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nonconsumptive use you indicated for fish propagation?
A. Yes.
Q. And where does the water go right now when it leaves the Magic Springs facility?
A. It goes directly into the Snake River.
Q. Okay. And when it is transferred to the Rangen facility and the use is changed there, in your opinion, how does that enlarge the use?
A. Well, my understanding is that if you change place of use and nature of use, which in my opinion this transfer does, it changes it from strictly a nonconsumptive fish propagation use at Magic Springs to another use that includes fish propagation and will result in additional consumptive use from diversions to irrigation.
Q. And you were here for Mr. Erwin's testimony; correct?
A. Yes.
Q. Did you agree with his analysis that it's unlikely that much of this water would re-enter the Snake River?
A. I agree with that, yes.
Q. Okay. And in what ways would the water be used or consumed in Billingsley Creek?
MR. BUDGE: Objection. Foundation.

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THE HEARING OFFICER: Mr. May.
MR. MAY: Well, Director, he's testified about his familiarity with Billingsley Creek and the water rights on Billingsley Creek having been there and worked there for a number of years. I think he is well qualified to give an opinion about what would happen to the water, obviously.
THE HEARING OFFICER: In the interest of time, overruled.
THE WITNESS: The question was?
Q. (BY MR. MAY): The question was, in your opinion, how -- you testified that the water would be consumed in Billingsley Creek.
And I'm asking you how, in what ways would it be consumed?
A. Well, after that 10 cfs, or whatever it is, is -- is put into Billingsley Creek at the end of the Rangen facility, it will either go into the Curren Ditch, which is the major ditch diverting from Billingsley Creek, and it conveys water essentially to the north. Part of that water goes into the south pipe, which is primarily the Buckeye Farm water right, which is usually short.
The Buckeye uses it for irrigation. And they have a nonconsumptive right also. The remainder

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of that water goes essentially on down the Curren Ditch to the south pipe. The south pipe goes across Highway 30 to the hunt club. They irrigate with it. And they're short of water.

Any water that the hunt club does not use flows off of their land into the Big Bend Ditch, which goes essentially east and then turns and flows back toward the Buckeye, or there is a way of putting some of that water in the Buckeye Ditch, which goes directly to the Buckeye Ranch and other users. So in my opinion, that water isn't going to get to the Snake River.

Q. Okay. And that's consistent with what Mr. Erwin testified to here today?

A. I believe so, yeah.

Q. Okay.

A. If the water goes -- doesn't go in the Curren Ditch to meet the shortages there, it will go down -- on down Billingsley Creek. And in my opinion, it will be diverted likely into the major ditches like the Buckeye and the Sands Ditch and the Paget Ditch and the Bell Ditch from Billingsley Creek to primarily irrigation water rights that are short or to some fish propagation rights that are short.

So the probability, in my opinion, of that

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water getting back to the Snake River is very small.

Q. And because of that, as you indicate, you believe that there's an enlargement of the consumptive use that would result from this transfer; right?

A. Yes.

Q. And on that basis, is this a transfer application that can be approved?

A. Well, I believe the transfer guidelines would assure that it not be approved.

Q. Because it's an increase in -- or an enlargement --

A. Yes.

Q. -- of use, consumptive use?

In addition to the issue of an enlargement -- and the enlargement issue that you've just testified about is something that you have in your report that we just talked about; correct?

A. Yes.

Q. The related issue of injury, did you analyze whether or not there would be water rights that would be injured as a result of this transfer?

A. Yes.

Q. Okay. And did you come up with an opinion as to whether there would be such injury?

A. Yes.

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Q. Okay. And that opinion with regard to injury is something that is in your reports, both your report and your rebuttal report; correct?

A. Yes.

Q. Okay.

A. Can I talk about that a minute?

Q. Yes, you can.

A. I do this every time I testify. I don't know what injury really is from the standpoint of the law.

Q. Okay.

A. I do know what major impacts are hydrologically as a result of water use.

Q. Okay.

A. So when I opine that there's probably injury, it's my opinion, based on quite a few years of doing this sort of thing, that the impact, the hydrologic impact is significant enough that probably warrants a determination of injury.

Q. Okay. And in your determination of injury that we'll talk about in a minute that you've included in your reports, you considered what you just talked about, as well as your experience with the Department in analyzing various different transfers?

A. Yes.

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Q. And based upon your experience in analyzing transfers and your understanding of the Billingsley Creek system and Magic Springs and the Rangen facility that you've already talked about, do you have an opinion about whether or not there would be injury to other water rights caused by this transfer?

A. Yes, I do.

Q. Okay. And what is that opinion?

A. That -- that there would be injury to water rights primarily that divert out of the Snake River, because I believe that that 10 cfs of Magic Springs water is not going to get back in total to the Snake River. And that will then promulgate downriver, and that 10 cfs will not show up at the Murphy gauge.

The Swan Falls agreement says that the State is responsible for maintaining the minimum flow in the Snake River at the Murphy gauge during the wintertime and during the summertime. And it's a State responsibility.

So if there is a breach or a violation of the minimum stream flow at Murphy, the State likely will, and has in the past, at least issue warning orders relative to those diverters upstream of Murphy, both tributaries and the main river, that the minimum flow at Murphy is either violated or is close to

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violation.
So what I'm saying is that we have in the -- we, the State, has in the past observed flows on -- at the Murphy gauge that are approaching the 3900 required minimum stream flow at that site. If things still go down, Snake River flows, this 10 cfs deficiency really increases the risk to other water-right holders, diverters upstream of Murphy.
And to me, that increase in risk is a cloud on the water right and an increase in -- and an injury essentially to that water right.
Q. So you're suggesting that the increased risk associated with taking this water out of the Snake River is an injury to those water rights?
A. Yes.
Q. One of the things that was suggested by Scott King with regard to how that might be mitigated was to try and make sure that the water that you put in at the Rangen facility makes its way back to the Snake River.
Were you here for that testimony?
A. Yes.
Q. Okay. And he suggested that it might be possible to shepherd that water down to the Snake River; correct?

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A. I heard that.
Q. And you were also here, I understand, for Frank Erwin's testimony talking about some of those difficulties --
A. Yes.
Q. -- of getting the water down there?
What is your opinion with regard to whether or not it would be possible to shepherd that water down to the Snake River?
A. Well, if you're going to attempt to administer water rights in a stream like Billingsley Creek where you have a myriad of inflows, many of which you can't see, and you have a myriad of users of all different priorities of water rights and types of use, you really have to understand the hydraulics of the system.
We don't understand that, and I don't think Frank does, in Billingsley Creek, because there's not enough data and not enough measurements to really understand the inflows and the outflows and stack that up with the priority system and do an equitable and fair job of administering the water rights.
Q. Have you yourself been involved in any kind of effort to make some of those determinations with regard to stretches of Billingsley Creek in terms of

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what water comes in and what goes out and those kind of things?
A. Well, yeah, we have.
Q. Okay. When?
A. The last attempt was this summer. We realized that if we could document the reach gains in Billingsley Creek, it would give us a better idea of whether or not you could administer the water rights, in this case, not by priority, because in order to shepherd that 10 cfs down to the -- to the Snake River, you have to abrogate the priority system, at least for that 10 cfs.
And so we made an attempt to measure the flow in Billingsley Creek at certain stations so we could get an idea where the reach gains were and the losses and the whole thing.
Q. Okay. And where specifically were you trying to measure?
A. We started at the Curren Ditch diversion, went downstream. First station was at the -- the highway or the road from Wendell to -- to Hagerman, which is above Jones' fish hatchery. Then we went down to Jones' fish hatchery.
Q. Okay. So let's stop for just a minute.
So the first segment you looked at was

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between the Curren Ditch and where?
A. Essentially right at the road that goes from Wendell down to Highway 30.
Q. And what did you discover with regard to that stretch there?
A. We were able to measure the flow. It -- just above that road. As I recall, we got a gain of about .8 cfs.
Q. And then you did that, and then you went down further from there.
Where did you go from there?
A. Down to the road crossing just above Bill Jones' fish hatchery.
Q. Okay. And with regard to that stretch, what did you discover there?
A. We discovered it was difficult to measure. I think we did get a measurement. I can't remember exactly what it was.
Q. Okay. And why did you discover that it was difficult to measure in that stretch?
A. Well, the stream is somewhat braided there, and it just wasn't a good section.
Q. Okay.
A. So then we went down below Jones' fish hatchery, and in that reach between above the hatchery

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and below the hatchery, the Hoagland Tunnel -- some Hoagland Tunnel water comes in, water comes out and through the hatchery there, the raceways, through a weir and into Billingsley Creek. And that's a mixed up mess.
Q. Okay. And that would also be difficult to measure?
A. We didn't measure it.
Q. Okay. From there -- where did you go from there to try and --
A. Then we went on down Billingsley Creek, which is about three-quarters of a mile, to the next main road that goes across Billingsley Creek. The water depth there was about 12 feet. We didn't have a 12-foot wading rod or a bridge current meter device.
And if we had that, we wouldn't have gotten a good measurement anyway. So we bagged that one. And we went on down the creek essentially to Vader Grade, I think it is. It was the next road down.
And the flow situation there was such that there was about 2 feet of weeds or moss in the bottom. And the approach section to where we thought we could measure was at an angle. We just didn't think we could get a good measurement there, and we wouldn't have. And that's the way it is clear on down Billingsley

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Creek.
Q. So based upon those attempts that you made, do you agree with Frank that it would be difficult to make the measurements in order to shepherd that water down Billingsley Creek?
A. I -- I think using the term "difficult" is a misnomer. I don't think you could do it and get the kind of accuracy you would need to shepherd 10 cfs, or any other amount, down the creek.
Q. It has been -- or it was suggested that you -- that it might not be important to know the quantity of water that's flowing in, for instance, from the various springs along Billingsley Creek.
Do you agree with that?
A. You mean not to know what the spring flows are?
Q. Yeah.
A. I don't agree with that.
Q. Okay. And why do you need to know what the inflows into Billingsley Creek are in order to administer?
A. Well, even if you're able to measure the flow in the stream, you got to know where it's coming from, where the reach gain is coming from. And there are water rights, for instance, that have the point of

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diversion at a specific spring, but they don't divert from the spring. They divert from Billingsley Creek, but their water right is from the spring. So if you don't measure that, how can you know whether that's part of your 10 cfs or not?
Q. And so that's an analysis that you -- and measurement that you think would be performed in order to --
A. I think you would need to measure the springs, yes.
Q. And so, again, just your -- it's your opinion, based upon the fact that the water would then be used in Billingsley Creek, would be consumed in Billingsley Creek before it got back to the Snake River, that there would be injury to other water users?
A. I don't think it would be consumed in Billingsley Creek.
Q. Okay.
A. It would be diverted from Billingsley Creek to established water rights for irrigation that are already short.
Q. Would any of the water be consumed in Billingsley Creek? Would you have losses in Billingsley Creek?
A. Billingsley Creek, in my opinion, loses in

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certain reaches from seepage and evaporation, and it gains in other reaches. But you don't know that unless you can measure the flows in the stream.
Q. You understand that there is a moratorium in effect for new water rights on the Eastern Snake Plain; correct? Are you familiar with that?
A. Yes.
Q. And did you have any opinion as to whether or not that moratorium has any impact or has any relevance for considering this particular transfer?
A. I do.
Q. Okay. And what's that opinion?
A. I believe that implementation of this transfer violates the -- it violates the moratorium in place on the Snake River Plain for new water rights or new consumption of water, because the purpose of the moratorium, which was implemented, I think, in '92 and amended in '93, was because the State recognized that the water supplies, both groundwater and surface water, were going down, and we didn't want any more impact, the State didn't, on those water rights or water supplies, so they developed a moratorium on conjunctive use.
Q. Conjunctive? Conjunctive or consumptive?
A. Well, excuse me, not conjunctive.

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Consumptive use primarily, because the moratorium doesn't apply to nonconsumptive uses.
Q. And in this particular case we've gone through your analysis that you believe that the water is going to be consumed, diverted out of Billingsley Creek.
And as to the Snake River, this would be consumed, correct, once it's transferred?
A. Yes.
Q. Okay. And so based upon that consumption in Billingsley Creek, do you have an opinion as to whether or not this transfer should be treated any differently under the moratorium than a new water right?
A. Well, the effect is the same. Now, the fact that you don't call it a permit -- in my opinion, it's the same thing as a new permit for consumptive water from -- either from the Snake River or from an aquifer that is directly tributary to the Snake River. There's a depletion in the Snake River, whatever you call it.
Q. And if this was a new permit to do the same thing, take the water from Magic Springs where it used to flow directly into the Snake River and pump the water up to the Rangen facility, do you believe that

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that's a new water -- a new permit to appropriate water that would be approved by the Department?
A. Well, it's a new use, a new consumptive use either way. You could -- if you call it a permit, maybe IDWR will treat it differently. If you call it a transfer that results in additional consumptive use, maybe they'd treat it in a different way. I think they're the same.
Q. And for the reasons that you've described, you believe that the permit ought to be denied?
A. Yes.
Q. Or I mean excuse me, not the permit, the transfer?
A. The transfer should not be allowed.
Q. We went through earlier with Ms. Sigstedt the calculations that AMEC had done with regard to evaporation losses in reach gains as a result of these transfers.
A. Yeah.
Q. Are you familiar with those reports?
A. Yes.
Q. Did you get an opportunity to review those?
A. I had an opportunity to review the first AMEC report and memo.
Q. Okay. And your analysis of that, I would

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understand, is included in your rebuttal report, which is --
A. Yes.
Q. -- Exhibit 5019; correct?
A. Yes.
Q. Did you also have a chance to review the second memorandum?
A. I did not.
Q. Okay.
A. I did listen to Ms. Sigstedt's explanation of it.
Q. Okay.
A. So I think I know what she did.
Q. Okay. And you understand from her testimony that she did the same thing in the second memorandum that she did in the first; correct?
A. Except she used different springs, yeah.
Q. With regard to that analysis -- and I want to focus on the first part of that analysis, which is just the evaporation, the consumptive use due to the evaporation.
Do you recall that testimony that she gave in her report?
A. Yes.
Q. And did you form an opinion with regard to

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the analysis she did with regard to evaporation?
A. I did.
Q. Okay. And is that opinion contained within your rebuttal expert report, 5019?
A. Yes.
Q. Okay. And could you tell us just briefly what your opinion was with regard to how that analysis was performed.
A. It appears from the memo and the AMEC report that there was -- the attempt was to estimate the additional evaporation from the surface of Billingsley Creek as a result of adding 10 cfs of water at the head of Billingsley Creek and then assuming that it stayed in Billingsley Creek clear to the Snake River.
Q. Okay.
A. So --
Q. And what methodology did she use to get there, to your understanding?
A. Well, it was just pretty much simple arithmetic.
Q. Okay.
A. She determined the length of the creek from GIS procedures, and about 8 miles, 13 kilometers, and then she made an estimate of the width -- the average

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weighted width of the open water of Billingsley Creek by estimating widths at various stations down the stream and doing a weighted average. And she got 25 feet.

Q. Okay.

A. So then she said that square footage, length times the width, is evaporating. So she went to ET Idaho and took the total annual evaporation -- and I think she used a net evaporation from ET Idaho -- and essentially multiplied that average annual ET times the area that she got from a previous calculation. And --

Q. And based upon your knowledge and your experience with Billingsley Creek, do you believe that that's an adequate way to estimate the evaporation loss in Billingsley Creek from the addition of 10 cfs?

A. Well, it's certainly simple. If you had a lot of time and money, you could do better by actually attempting to look at the hydraulics of the stream and the change in the hydraulics or the depth and the width as a result of adding 10 more cfs to -- to a measured discharge of the stream at one point.

You could -- again, if you had a lot of time and money -- and apparently they didn't -- you could look at attempting, again, to measure the discharge at various sites and estimating the hydraulic

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parameters of the stream so you could look at the additional width from adding 10 cfs, and depth, and just refining the arithmetic a little bit and get a different number.

And then you could also make an attempt to look at the evapotranspiration from the riparian vegetation along the edges of the stream.

Q. And do you believe that the use of the ET Idaho data that Ms. Sigstedt used is appropriate to account for or does account for that vegetation that you just described?

A. It does not.

Q. Okay. And why do you say that, it does not?

A. Well, what she used was the what's -- from ET Idaho, there is a -- there is a table in there that -- for Hagerman that says "Open water evaporation or ET." And that's just what it says. It's from shallow ponds, open water. It does not account for the riparian vegetation ET.

Q. So if you were going to attempt a similar analysis to what she did, you would not use the ET data that she did, you would use something different?

A. I think I would use the open water ET. But I would also use on -- for the fringe of the stream and

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the riparian vegetation, I would use an estimate of the width of that and the area of that, and then the ET Idaho table that deals with wetland vegetation.

Q. Okay. And in the context of what we're looking at here -- we're just trying to figure out the additional consumptive use created by this transfer -- do you believe that that evaporation is the only thing you need to look at?

A. No. No. In fact, I'm not sure why they looked at it.

Q. Okay.

A. In my opinion, the bulk of the -- of the consumptive use is going to occur from diversion of water to irrigated fields and not in the prism of the water in Billingsley Creek. So -- and I think AMEC's determination that the use, the evaporation from Billingsley Creek, is only .039 cfs, it just shows you that it's really not very big and it's not the tail wagging the dog here.

And even if -- even if you elaborated, in my opinion, on the method of evaluating the evaporation within the stream corridor, it wouldn't make any difference in your conclusion.

Q. And that conclusion is that the evaporation is just a small part of what would be lost?

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A. That's right.

Q. I want to shift just briefly with regard to the second part of what Ms. Sigstedt testified about in her memorandum, and that is the so-called reach gains.

Do you recall that portion of her report and testimony?

A. Yes.

Q. Okay. And with regard to the analysis that Ms. Sigstedt did for reach gains as a result of the mitigation activities, did you review her calculations there?

A. Yes.

Q. Okay. And you're familiar with how she came up with those reach gains?

A. Yes.

Q. Have you looked at or done any kind of analysis with regard to the question that I was asking her, which is, setting aside what might result from mitigation, what is the impact of pumping on the same reaches that she looked at? Are you familiar with the model results there?

A. Yeah. We -- in the AMEC report there was a citation for the data that IDWR had used and the results of the ESPAM model that IDWR came up with to calculate the benefits from IGWA, CREP, and conversions

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and recharge on the aquifer.
And the results are all there for all of the model cells, including the Blue Lakes cell, Crystal Springs, and the other major springs that were selected for the first evaluation. That's there. We reran that. We could not duplicate the table --
Q. Do you need to look at something?
A. Table 1 -- Table -- the table that showed the benefits to the various springs, the first table. Table 2 or Table 1? I can't remember.
Q. Just one minute. Are you looking at this table?
A. Yeah. Table 2.
Q. Okay. Table 2. And I'm looking at Exhibit 4007, page 3.
Is this the table that you're talking about?
A. Yes.
Q. Okay. And what do you mean by you could not duplicate those results?
A. Well, if you look at the citation down below the table, it tells you where to find that groundwater model transient run that resulted in these numbers.
Q. Uh-huh.

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A. We have that. And we -- we ran that model with the -- actually, with the 2013 data, as I remember.
Q. Okay.
A. And it appeared that the calculated or simulated benefit to the various springs on the left is really a result of the IGWA efforts to mitigate with CREP and conversion and recharge, but it includes the Southwest Idaho -- or the Southwest Irrigation District efforts also.
Q. Okay.
A. And we were under the impression that this was only a result of IGWA's efforts.
Q. Okay.
A. So we reran this, and we got a somewhat lower numbers than these are.
Q. Okay. In terms of the benefit from the same --
A. Yes.
Q. -- activities?
A. Yeah.
Q. In terms of -- when you look at each of these particular springs, you understand that the purpose of this transfer is to try and mitigate for groundwater pumping, for the effect of groundwater

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pumping; correct?
A. Yes.
Q. Does groundwater pumping have an impact itself on these particular springs that are listed in Table 2?
A. You better believe it, yes.
Q. Okay. And have you looked at the effect of groundwater pumping on various springs throughout the ESPA to compare to this?
A. Well, I have in previous evaluations. I didn't look at those specifically for this proceedings. I only looked essentially at what AMEC had provided.
Q. Okay.
A. But that has been run and we know the numbers.
Q. Okay. And for instance, let's just look at some numbers that you would know. Let's look at the cell that contains Rangen's spring.
Are you familiar with that cell?
A. Yes.
Q. Okay. And with that cell do you have an understanding of what the impact, just looking at groundwater pumping junior to 1962, for instance, what the impact is on that particular cell?
MR. BUDGE: Objection. Director, this line of

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questioning goes beyond anything that was disclosed in any of Dr. Brockway's expert reports.
THE WITNESS: These numbers I'm going to tell you are in the report.
Q. (BY MR. MAY): They're in the rebuttal report; right?
A. Yes.
THE HEARING OFFICER: Okay. Overruled, at least for now.
Q. (BY MR. MAY): Here's your rebuttal report, Dr. Brockway.
Which page?
A. I'm not sure what page it is if you're going to go to it. Keep going. I think it's C5, yeah.
Q. Page 7 right there.
A. Yeah. If you look at the last paragraph.
Q. Okay.
A. We ran the ESPAM-2.1 model for -- and looked at the simulated steady-state benefit to the six model cells that contribute spring water to Billingsley Creek using the 2013 IGWA mitigation efforts as outlined by IDWR, and the benefits to those six model cells, there's about 2.83 cfs.
Q. Okay.
A. Then if you -- using the same model and the

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same six model cells, if you look at the impact of junior groundwater pumping with the -- with the Great Rift trim line in there, the impact is 33.3 cfs to the Rangen model cell.

And if you remember, there was a 63 percent modification of the simulated impact on that model cell just to estimate what the Curren Tunnel impact was. So those are the relative magnitudes of impacts we're looking at and benefits. And the -- as I understand it, the proposed IGWA mitigation benefits that make up the evaporation in Billingsley Creek is only .039 cfs.

Q. Right. And so when we're looking at this kind of relationship between the 2.83 and the 33.3, in your experience with looking at the model runs and things that you've seen, would you expect that that same type of relationship between the impact from pumping and the benefit that might be obtained from those mitigation activities would hold for those other model cells?

A. They're pretty close, yes.

Q. And so given here that -- it appears that we're looking at mitigation for other mitigation activities in kind of a circular situation going on; correct?

A. Well, if the contention is that the

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benefits to those major springs from IGWA's efforts mitigates for the impact on these six model cells that contribute to Billingsley Creek, that's incorrect. It can't.

Q. And if you could, I've -- up on the screen I've got the next page of that Exhibit 5019, which is page 8 of your report.

A. Yes.

Q. Look there at that paragraph and tell me about your conclusion based upon what we just talked about.

A. Well, I'll just say it again, that the simulated improvement in the springs in the non-Rangen model cells don't really mitigate for the potential cfs loss from putting this water in Billingsley Creek.

MR. MAY: Director, I would move once again for the admission of Dr. Brockway's reports. And I'm going to get my numbers here. It looks like 5015, which was his initial report, and 5019, which is the follow-up report.

MR. BUDGE: I have no objection as long as I'm permitted to ask Dr. Brockway about any contents of those reports, even if Mr. May didn't ask him about them.

MR. MAY: And I have no problem with that.

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THE HEARING OFFICER: Yeah. Documents marked as Exhibits 5015 and 5019 are received into evidence.

(Exhibits 5015 and 5019 received.)

MR. MAY: I'm sorry. I was looking at something else.

Those two exhibits are admitted; correct?

THE HEARING OFFICER: Yes, they are.

MR. MAY: Okay. With that, I have no further questions.

THE HEARING OFFICER: Okay. Do you want to break or do you want to cross-examine, Mr. Budge?

MR. BUDGE: I can start. But if anybody else would like a break, that would be fine. I'm ready to go.

THE HEARING OFFICER: Are you okay, Dr. Brockway?

THE WITNESS: Am I okay?

MR. MAY: Are you okay to keep going, or do you need a break?

THE WITNESS: I'm fine.

THE HEARING OFFICER: Okay. I'm okay.

You're okay?

THE WITNESS: I'm okay.

THE HEARING OFFICER: Okay. Cross-examine, Mr. Budge.

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CROSS-EXAMINATION

BY MR. BUDGE:

Q. Thank you, Dr. Brockway.

Dr. Brockway, you're here as a representative of Rangen; is that correct?

A. Yes.

Q. You understand this transfer will put more water in Rangen's raceways?

A. I understand that.

Q. You understand Rangen will be able to raise more fish with more water in its raceways?

A. I would assume that.

Q. You understand that if there's a breach of the Swan Falls minimum flow, Rangen's water rights will not be curtailed because they're nonconsumptive?

A. I understand that.

Q. So is it fair to say that your testimony here is not really to protect Rangen, but as a benevolent representative of Idaho Power or other water users?

A. I think that's incorrect.

MR. MAY: Object to the form of the question. It's argumentative and beyond the scope of his report.

THE HEARING OFFICER: Overruled. This is cross-examination.

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MR. BUDGE: I'll move on.
Q. Dr. Brockway, you mentioned that if this 10 second-feet is put into Rangen's fish hatchery and then discharged into Billingsley Creek it could be diverted by other water users with water rights from Billingsley Creek; correct?
A. Yes.
Q. And as long as the Swan Falls minimum flow is not breached, that's not a problem; right?
A. I think it's a problem anyway.
Q. As long as the Swan Falls minimum is met, would you agree that no other water rights will be injured as a result of this transfer?
A. I think I explained that, that in my opinion if this transfer is implemented and others could be implemented, and if -- and it's "if" the Swan Falls flow gets down very close to 3900 and this 10 cfs depletion drops it below that, there will be pink slips sent out by the Department. There was previously. They were prepared. I don't know that they were ever sent.
Q. Okay. I appreciate that answer.
A. So that's an increased risk, in my opinion.
Q. Okay. Let me re-ask the question.
If the Swan Falls minimum is not breached

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and it's not close -- let's say that flows at Murphy gauge are 4,000 cfs or greater -- you would agree that this transfer will not result in injury to any other water rights?
MR. MAY: Objection. It was asked and answered.
THE HEARING OFFICER: This is cross-examination. Overruled.
THE WITNESS: Well, I can't say no on that.
Q. (BY MR. BUDGE): Which water rights would be injured?
A. I don't know which ones will be injured. But you haven't put any sideboards on your hypothetical, so I can't answer it.
Q. Let me re-ask it.
The flows at Murphy gauge are 4,000 cfs.
A. Okay.
Q. This transfer has been approved and there's 10 second-feet going from Magic Springs to Billingsley Creek.
No other water rights are injured as a result of that delivery from Magic Springs to Billingsley Creek?
A. No other water rights will be curtailed.
Q. Okay. Are you contending there is injury even if no other water rights are being curtailed?

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A. I'm saying that this procedure and this particular transfer increases the risk to other water-right holders on Snake River and tributaries above Murphy to potential curtailment because of the Swan Falls agreement.
Q. I appreciate that. You understand, Dr. Brockway, that the statutory criteria is injury to other water rights?
A. Yes.
Q. Are you saying that a risk of injury is sufficient to prevent a transfer from being approved, or does it require actual injury?
A. I think the State is required to look at it because of the Swan Falls agreement and evaluate what the risk is.
Q. And I don't disagree with you one bit. I agree the State ought to look at that. But what I can't understand is which water rights are injured if the flows at the Murphy gauge are 4,000 cfs.
Can you tell me which water rights are injured?
A. If the flow with the implementation of this transfer doesn't go below 3900, it's my opinion that IDWR won't send out curtailment orders. I'm just saying that those people, those owners of water rights

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upstream, are going to sleep less at night as you creep closer to that 3900 because they don't want curtailment orders.
To me, that's not a real tenable thing, and IDWR ought to really evaluate that, not just for this -- this proceedings. But this proceedings, depending on how it goes, will provide some precedent that may bind IDWR in the future.
Q. So it's your opinion, then, Dr. Brockway, that the Department should not approve any actions that would add water to Billingsley Creek?
A. I didn't say that.
Q. It's your opinion, then, that the Department should not approve any water-right transfer that would add new water to Billingsley Creek?
A. You just said that. And I said I didn't say that.
Q. Well, I'm confused, then. What you said is that by adding water to Billingsley Creek, a portion of which may be consumed by irrigation, it will injure others.
So any transfer that seeks to add new water to Billingsley Creek, a portion of which may be consumed, in your view results in injury?
A. No, I don't -- I don't think so. I think

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the State has the responsibility to evaluate them.
Q. Okay.
A. I also think that if the State determines through the proper proceedings that there is an expansion of a water right, that's not allowed.
Q. Okay. And I'm not asking about enlargement, which is a separate criterion and I'll address that separately. I'm just asking about injury.
A. Not in this proceeding it's not separate.
Q. So I'm not asking you about enlargement in use. I'm asking you about injury to other water-right holders.
And am I understanding your testimony, then, that it's not your opinion that any transfer that adds water to Billingsley Creek results in injury just because some of that water may be consumed?
A. I'm not -- I -- I'm not saying that that's automatically injury. I'm saying the State has a responsibility to evaluate the expansion or enlargement and the injury that could result from it.
Q. Okay. I appreciate that. I think that clears things up a little bit.
Let me ask you about water that's consumed in Billingsley Creek.
Of this 10 second-feet, you'll admit that

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as long as -- if that water could be shepherded down the creek, the only consumption would be evaporation and consumption by the willows and bulrush and things of that nature, vegetation?
A. If the watermaster can get it down there, with the exception of in-stream evaporation and riparian evapotranspiration, then -- then there is no significant impact on the Snake River, but those losses ought to be mitigated.
Q. Okay. You mentioned that -- and I appreciate your testimony -- that the -- the amount of evaporation that occurs in Billingsley Creek is insignificant.
A. I don't know what "insignificant" means. It depends on who's using the word. It's very small.
Q. Okay.
A. And it wouldn't -- if it was twice what was calculated by AMEC, it wouldn't change the opinion, in my opinion, as to its significance.
Q. Okay. So you mentioned during questioning about AMEC's evaporation calculations that they could do better if they had a bunch of time and a bunch of money to do some more detailed analysis.
A. I did, yes.
Q. Do you remember that?

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And you mentioned they could have done some analysis of the incremental addition of riparian area that consumes some of that water?
A. Yes.
Q. But it's still accurate to say that whatever additional evaporation that would result in is something very small?
A. I haven't done it, but I just don't believe it would change the calculations that have been done significantly to change anybody's opinion.
Q. Okay. I appreciate that. Dr. Brockway, you attached to one of your reports the Department's transfer processing memo.
Do you recall that?
A. I did.
Q. Are you familiar with the Department's guidelines on groundwater transfers?
A. Yes.
Q. You understand that when a groundwater transfer is processed a model run has to be run to determine impact to impacted river reaches?
A. Yes.
Q. And you understand that if that impact is less than 10 percent that it's deemed insignificant or de minimis?

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A. You got to qualify the 10 percent. That's 10 percent at steady state of the total. There are some other constraints, like the 2 acre-feet change in reach gains with a transient run and all that stuff. I'm familiar with that.
Q. Okay. So there's the other condition, I think, with the 2 acre-foot limitation.
But assuming that threshold is not breached, as long as the impact to the connected surface water reach is less than 10 percent, then it's deemed insignificant or de minimis?
A. With the correct model run, yes.
Q. Okay. So you agree, then, if the Department were to apply that same 10 percent standard to this transfer, that as long as less than 1 percent -- or excuse me, 1 cfs is consumed in Billingsley Creek, then by that standard anyways that would be insignificant or de minimis?
A. I think you're comparing apples and oranges. The transfer guidelines for ESPA are essentially to evaluate changes in points of diversion of groundwater in the ESPA, points of diversion and places of use.
We don't have a change in point of diversion necessarily here. And we don't have

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groundwater. So I'm not sure it's applicable.
Q. And I understand one is surface and one is ground. I just want you to confirm that if we were to treat surface and groundwater the same, that that 10 percent threshold would mean as long as less than 1 cfs is consumed in Billingsley Creek, then it's a de minimis or insignificant amount.
You would agree with that, wouldn't you?
A. Well, are we talking about these proceedings or are we talking just hypothetically, or what are we doing? I don't believe, based on what I know about Magic Springs and the Rangen facility and Billingsley Creek, that that memorandum or that guideline applies to this proceedings.
Q. Okay. I appreciate that explanation. I don't believe that answered my question. But fair enough.
Let me ask you, Dr. Brockway, you mentioned that you had been down and done some measurements in Billingsley Creek this summer.
A. Yeah, we tried.
Q. When you say "we," who are you referring to?
A. Oh, Brockway Engineering and a guy named Zach Leythem, who works for us.

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Q. Okay. And who hired you to do that work?
A. Rangen.
Q. So Rangen hired you to calculate water administration downstream from its point of diversion?
A. We were retained to see if we could do current meter measurements on Billingsley Creek to find out the distribution of reach gains within the creek.
Q. Was that for the purpose of opposing this transfer application?
A. I can't -- I can't remember exactly what it was for.
Q. I'm just confused why Rangen is so concerned about water administration downstream from its point of diversion.
A. Well, as I recall, it was when we were -- we were looking at the potential impacts of Mitigation Plan No. 3.
Q. So it would have been to oppose the mitigation plans, then?
A. Well, it would -- it would have been in aid of understanding the Mitigation Plan and the impacts of them.
Q. Okay. Let me ask you a few questions about your opinion concerning enlargement in use.
You understand that if an irrigation right

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water right decree allows the irrigation of 80 acres, enlargement would occur if the appropriator wanted to irrigate 90 acres or 100 acres, something like that?
A. Not if he wanted to. If he did.
Q. Okay. And if he increased his rate of diversion, that would result in an enlargement?
A. Yes.
Q. If he increased the season of use that he was using water, that would result in an enlargement?
A. If it was outside the parameters of the established irrigation period, yes.
Q. Okay. And you would agree that this transfer does not seek to increase the rate of diversion under the water right?
A. That's my understanding.
Q. It does not seek to increase the season of use?
A. Well, I think on its face it does not.
Q. And that the use of water within Rangen's fish hatchery does not result in an enlargement in use?
A. Would not.
Q. So just so I'm clear, your opinion is that after the water leaves the control of the appropriator that enlargement can still occur because of what happens to that unused water?

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A. I think in some cases it can.
MR. BUDGE: Director, can I approach the easel and draw a diagram to ask a few further questions?
THE HEARING OFFICER: Yes.
The map is not a marked exhibit that I'm aware of, Mr. Budge, at least it's not been offered.
MR. BUDGE: Yeah. And I'm not going to put it in the record, if that's okay, since it's my only one.
THE HEARING OFFICER: Okay. You're not marking on the map; right?
MR. BUDGE: No.
Q. Dr. Brockway, I'm going to give you a hypothetical and make sure I understand your testimony. And I've drawn on the easel on a large piece of paper a diagram. And you'll see in red are water deliveries. There's a river flowing from the upper-left corner to the lower right-hand corner. There is a pipe that diverts from that river. And then that pipe splits into two separate pipes that are of equal length and they serve fields of the same size. There's field A; it's 40 acres. There's field B; it's 40 acres. Both those fields discharge overflow water into the same waste ditch, which then returns to the river. There's no intervening points of diversion and no downstream water users.

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So the hypothetical is this with those assumptions: If there's a water right for field A that authorizes irrigation of the full 40 acres and the appropriator files a transfer application to irrigate the field B, which is also 40 acres, the diversion rate is not going to change, the season of use is not going to change, the number of acres irrigated is not going to change, and the crops raised are not going to change.

Because field B is located further up the waste ditch, Dr. Brockway, you'd agree that there would be more evaporation of wastewater that comes off of field B than comes off of field A? Do you agree with that?

A. There would be more wastewater coming off of field B?

Q. Equal amount of wastewater coming off both fields, but a larger portion of the wastewater off of field B would evaporate as it traveled down the waste ditch?

A. Likely, yes, unless it's lined.

Q. But it's your opinion here today that that creates an enlargement in use and the Department would have to deny that transfer?

A. No, that's not my opinion. They need to

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look at it, if they're going to evaluate the transfer, whether there's a protest or not. The statute says they will evaluate expansion.

Q. Is it your opinion that that creates an enlargement in use, the -- because of the additional evaporation of wastewater?

A. I don't believe that hypothetical does, no.

Q. You are admitting that there would be a larger portion of the wastewater evaporated?

A. Yeah, it would be small.

Q. A small amount?

A. Yeah.

Q. So I'm confused, because I understood from your direct testimony in response to questioning from Mr. May that any amount of consumption of water transferred to Billingsley Creek results in an enlargement in use.

A. Any diversion to additional irrigated area is an enlargement. I think that's what I said.

Q. Okay. So the evaporation that occurs in Billingsley Creek you'll agree is not an enlargement, then?

A. I think the State, IDWR, has to evaluate that. In my opinion, it's quite small, and they probably won't require mitigation for that small amount

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of evaporation. But I'm not making that decision.

Q. Okay. So -- and this adds some clarity, I think.

Is it your opinion, then, that the State has to at least consider consumption but it has the discretion to decide whether it's significant and requires mitigation or insignificant and does not require mitigation?

A. I think that's been their practice historically.

MR. BUDGE: Okay. I would move to mark the diagram on the easel as Exhibit No. 4018 and admit it into evidence.

MR. MAY: No objection, Director.

MR. BUDGE: Off the record for a moment.

THE HEARING OFFICER: Yes.

(Recess.)

(Exhibit 4018 marked.)

THE HEARING OFFICER: We're back on, Mr. Budge.

And let me just note that based on the exchange between the parties or the attorneys, document marked as 4018 is received into evidence.

(Exhibit 4018 received.)

Q. (BY MR. BUDGE): Dr. Brockway, I want to ask you some questions about the application listing

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both fish propagation and mitigation as beneficial uses.

And if I understood your testimony -- and I just want to make sure I understood that -- your testimony is that you could have one or the other, but not both?

A. I didn't say that. I said I don't understand what it means to have fish propagation slash mitigation.

Q. Do you understand the purpose of the transfer is to deliver mitigation water to Rangen to use in its fish hatchery?

A. I understand that, yes.

Q. Do you know of any Department memos or agency rules that clearly explain how transfers of this nature that are using water for mitigation should describe the nature of use?

A. I think that's a problem that IDWR has.

Q. So given that there's not a real clear guideline, would it be reasonable for the districts, in your view, to list both mitigation and fish propagation, and then let the Department determine what nature of use is most appropriate?

A. No.

Q. You don't think so?

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A. I think the application should have been explicit as to what the intent was to use that water in total.
Q. Let me ask you about the water that's delivered from Magic to Billingsley Creek and then diverted for irrigation. I think we all recognize that is likely to happen, absent some effort to deliver it down Billingsley Creek.
You would agree, Dr. Brockway, that that additional water isn't likely to be used to break new land out, I mean bring more land under irrigation than exists down there now; right?
A. I don't think it would be used for that. I don't think there's much left to break out.
Q. So this water is just going to go to fill existing irrigation rights?
A. I would think that, yes.
Q. And as long as -- strike that.
Let me have you turn for a moment to the moratorium order which is attached to your first report. That's Exhibit 5015, 5,015.
A. Is that in here?
MR. MAY: Which one are you looking for, Chuck?
MS. BRODY: 5015.
MR. MAY: 5015 is your main one, Chuck.

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THE WITNESS: Oh, I know where that is. Okay.
Q. (BY MR. BUDGE): Please turn to page 4 of the order.
A. Of the moratorium order?
Q. Yeah.
A. Okay.
Q. You'll see midway through page 4, there's a heading, all caps, it says "Order," and then below that the second paragraph down says "It is further hereby ordered."
Do you see that?
A. Yes.
Q. I'll read that. "It is further hereby ordered that a moratorium is established on the processing and approval of presently pending and new applications for permits."
Do you see that?
A. Yes.
Q. It's your testimony today that this moratorium also governs transfers, even though they're not mentioned here?
A. I believe the intent was for it to, yes.
Q. Okay. Turn the page to page 5. You'll see paragraph 9.
Even if that were the intent, even though

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the order doesn't speak to transfers, are you familiar with paragraph 9, which allows the Director to approve new permits under the moratorium?
A. Well, I believe he could because it allows him to review them.
Q. So if the Director reviews an application and under 9(a) determines it's in furtherance of the public interest, you agree that he could approve it under the moratorium?
A. Well, I think the Director has pretty broad discretionary powers.
Q. Okay.
A. And then he could use those in this case.
Q. Okay. And then under 9(b), it also says "If mitigation" -- excuse me, "If there's insignificant consumption or mitigation is provided to offset injury, the Director could also approve an application."
Do you see that?
A. Yes.
Q. So you'd agree that the moratorium does allow the Director to approve applications if the Director determines that either of these exceptions are satisfied?
A. I'm sorry. I didn't catch all of the question.

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Q. Yeah. I'll restate it. If the Director determines that this transfer application is in the public interest or that there's insignificant consumption or that mitigation is provided, you agree that even under the moratorium order it could be approved?
A. That's what it says, or apparently says.
Q. Okay. Let me ask you about the provision of mitigation. There was some questioning by Mr. May about mitigating the effects of groundwater pumping on Billingsley Creek.
Do you remember that discussion?
A. Well, we talked about the impact of groundwater pumping, junior groundwater pumping --
Q. And you calculate --
A. -- on Billingsley Creek.
Q. You calculated the effect of junior groundwater pumping on Billingsley Creek; right?
A. We ran the ESPAM-2.1 model, yes.
Q. Now, you understand that this transfer adds water to Billingsley Creek?
A. Yes.
Q. This transfer is not going to injure any Billingsley Creek water rights.
You understand that?

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A. I understand that.
Q. The potential injury is to flows in the Snake River.
Do you understand that?
A. I understand that.
Q. So I am confused why -- let me ask the question this way.
Don't you agree that any mitigation that the districts provide that increases flows in the Snake River could be used to offset depletion of the 10 second-feet that are transferred to Billingsley Creek under this transfer?
A. Don't I agree that there would be more water in Billingsley Creek? Yes.
Q. A portion of the water transferred to Billingsley Creek will be consumed, either by evaporation or irrigation?
A. I believe so.
Q. Don't you agree that the groundwater districts could mitigate for that?
A. Could mitigate for the mitigation water?
Q. Could mitigate for the evaporation or consumptive use of this 10 second-feet.
A. I think it can be mitigated for, yes.
Q. And would you agree that conducting

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recharge would be a suitable way to mitigate for that, recharge that benefits the flows in the Snake River?
A. No.
Q. Would you agree that leasing water from a storage reservoir and delivering it down the Snake River would be an acceptable way to mitigate for the impact in flows in the Snake River?
A. In the Snake River proper?
Q. Uh-huh.
A. Yeah, you could do that.
Q. But you don't agree that adding water to the Snake River through recharge would be suitable?
A. Well, I think that's an approved approach to increasing the reach gains in the Snake River.
Q. Okay. So if we all agree that some portion of this 10 second-feet is consumed -- let's say hypothetically that half of it's consumed, 5 second-feet, and so flows in the Snake River are reduced by 5 second-feet -- you would agree that conducting recharge to increase Snake River flows by an equal amount, by 5 second-feet or more, would be suitable mitigation?
A. For the Snake River.
Q. Okay. So you would agree, then, that the recharge, conversion, and CREP activities that the

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districts have undertaken, they do adequately mitigate flows in the Snake River from the effects of this transfer?
A. I don't believe so. You better state that again.
Q. So you recall that AMEC calculated that the recharge conversions and CREP activities the districts have undertaken, that those collectively increase flows in the Snake River around 30 to 50 cfs?
A. I think that was their calculation, yes.
Q. And if the districts provide 30 to 50 cfs more water in the Snake River, wouldn't you agree that that fully mitigates for whatever amount of this 10 second-feet is consumed by irrigation?
A. It would mitigate the depletion in the Snake River.
Q. Okay. Let me have you turn to Exhibit 5015, which I believe is the one in front of you. It's your December 2nd report. And if you turn to page 5 of that report, you'll see a subheading labeled D4.
MR. MAY: I'm sorry. What page, TJ?
THE WITNESS: What page was that?
Q. (BY MR. BUDGE): It's page 5.
A. Oh, I'm sorry.

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MR. MAY: 5 of the report?
THE WITNESS: Yes.
Q. (BY MR. BUDGE): And my understanding is the complaint you raise there is that this transfer will not increase the flow of springs discharging from the ESPA.
Is that a fair assessment of that section of your report?
A. Well, did you say D5 or --
Q. Oh, D4. I apologize.
A. D4. I'm sorry.
I see that, yeah.
Q. So are you advocating that the Director should deny this transfer because it does not increase spring discharge from the ESPA?
A. I'm not saying that. I'm just stating that this transfer, which is meant to -- to mitigate for the effect of pumping on the ESPA, doesn't change anything in the ESPA. It allows the pumpers to continue to do exactly what they're doing and deplete the springs going into Rangen and all the other springs going into Billingsley Creek.
Q. So you've made an assumption that the purpose of this transfer is to mitigate for all groundwater depletions to the ESPA?

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A. I didn't say that. You did. I didn't make that assumption. I just stated a fact.
Q. Okay. You understand that the mitigation is to mitigate material injury to Rangen specifically?
A. That's my understanding.
Q. Okay. And if you'd turn the page, Dr. Brockway, to part E of your report.
A. E?
Q. Yes.
A. Yes.
Q. That section relates to eminent domain. And there's -- I guess the third paragraph down begins "Application for transfer 79560."
Do you see that?
A. Yes.
Q. And at the end of that you say "The applicant has not pursued the acquisition by eminent domain or other required permits and there's no apparent attempt to comply with the requirement for reasonable diligence."
Do you see that?
A. Yes.
Q. Are you aware that the districts have sent a letter to Rangen notifying them that they are pursuing eminent domain?

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A. I heard that -- I haven't read the letter, but I heard that they had sent it.
Q. Okay. Are you familiar with the surveying activities that the districts have undertaken to further the condemnation process?
A. You mean for the pipeline?
Q. To condemn the easements, easements they need through Rangen's property.
A. I'm not aware of the surveys.
Q. Are you aware of appraisal activities the districts have undertaken to further the condemnation process?
A. I don't have access to that either.
Q. You're not really in a position to opine as to what the districts have or haven't done concerning eminent domain?
A. I think at the time I wrote this, this was the knowledge that I had.
Q. Okay.
A. I don't know when the surveys were done or when the appraisals were done, but I don't think it was before December 2nd.
Q. Okay. Let me have you turn -- on that same page we're discussing part F, which refers to the use of water rights for mitigation. And I'm confused by

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the last -- second to the last sentence, which is on page 7. So if you'll turn the page to page 7. You make this statement that "The transfer proposes diversion the water from the same source, the ESPA, to mitigate for anticipated injury to water rights diverting from the same source."
You understand that this transfer proposes to use water from Magic Springs; right?
A. Yes.
Q. To mitigate water rights from the Curren Tunnel?
A. Yes.
Q. You understand those are different sources of water?
A. They are all within the ESPA.
Q. You understand those are different sources of water?
A. What? The ESPA?
Q. Magic Springs and the Curren Tunnel.
A. They're different springs, uh-huh.
Q. You'll recall during the hearing on Rangen's delivery call there was a discussion as to whether the Curren Tunnel was a surface water source or a groundwater source?
A. All springs have that same problem.

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Q. Do you recall rendering the opinion that once the water leaves the aquifer it is no longer groundwater, it's in a different source, a surface water source?
A. That is a determination by IDWR that if it leaves the ground it becomes surface water. But it still has a source in the ESPA.
Q. Okay. Let me have you turn -- later in your report you have an attachment that is a hydrograph of Snake River flows at the Murphy gauge.
A. Yes.
Q. It's identified as Figure 5. You'll just have to flip back until you can find that.
A. Yes.
Q. And my understanding is the purple line are water flows at Murphy gauge?
MR. HAEMMERLE: He doesn't have a color copy.
THE WITNESS: The top line?
MR. BUDGE: Oh.
THE WITNESS: The middle line?
MR. HAEMMERLE: Hang on, Chuck.
MR. BUDGE: Let's go off the record for a minute.
THE HEARING OFFICER: Go off the record.
(Recess.)

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MR. BUDGE: Are we on the record?
THE HEARING OFFICER: Yes.
MR. BUDGE: Thank you.
Q. Dr. Brockway, do you see the purple line depicted on that graph?
A. Yes.
Q. And am I correct in understanding that's the measured flow of water at the Murphy gauge?
A. In 2003.
Q. 2003. Dr. Brockway, have you been involved in the Swan Falls technical working group that has been charged with coming up with a protocol to calculate Murphy gauge flows taking into account Idaho Power reservoir operations and other factors?
A. I'm aware of that, yes. I have not been at the meetings, but I know what they're doing.
Q. Okay. Were you involved in the stream-flow measurement and monitoring plan that that group issued on May 30th of this year?
A. No.
Q. Are you aware of the adjustments that are made to Murphy gauge flows to account for Idaho Power reservoir operations and other factors?
A. Yes.
Q. And is it true that this purple line does

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not make those adjustments?
A. I believe they do. We took this off the IDWR website.
Q. Are you aware that this purple line does not use any multi-day averaging, but is instead just a daily flow measurement?
A. I'm not sure. I'm not sure whether these are daily flows or three-day averages.
Q. So do you know or not that the three-day average during this period, the lowest three-day average in 2003, was greater than 4300 cfs?
A. I don't know that, no.
Q. Let me shift gears slightly a minute.
Do you recall during Mr. May's questioning the discussion of the Snake River reach gains calculated by AMEC?
A. Yes.
Q. And I believe you state in your rebuttal report that you thought reach gains attributable to Southwest Irrigation District's activities should not be considered?
A. I was under the -- in reading the AMEC report, it appeared to me that the -- that the groundwater model run was one run by IDWR that had as input only the IGWA mitigation procedures, CREP and

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conversions and recharge.
We ran the model with that data, and we could not duplicate the AMEC increases in flow at those springs. But we could if we -- if we took the -- if we took the Southwest Irrigation District efforts out of the input file. So we concluded that perhaps that run that was used by AMEC included the Southwest Irrigation District efforts.
Q. And I believe Ms. Sigstedt explained that it did.
Do you understand that Southwest Irrigation District is one of the applicants on this transfer application?
A. Yes.
Q. Will you turn to Exhibit 5014, which is your rebuttal report. And then flip to page 7.
MR. MAY: 5014 or 5019?
MS. BRODY: 5019.
MR. BUDGE: Is it 19?
MR. HAEMMERLE: It is 5019.
MR. BUDGE: 5019. I apologize. I can't read my own handwriting.
THE WITNESS: I have it.
Q. (BY MR. BUDGE): On that last paragraph it says that "Brockway Engineering did a report to

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simulate the" --
A. What page?
MR. HAEMMERLE: What page?
Q. (BY MR. BUDGE): Page 7. I apologize.
A. Okay.
Q. The last paragraph on page 7 explains that "Brockway Engineering did a report to simulate benefits of IGWA's mitigation efforts."
Is that to all six cells in Billingsley Creek? The -- let me clarify my question.
It says that you -- your model run produced a benefit of 2.83 cfs.
Do you see that?
A. Yes, uh-huh.
Q. So am I correct in understanding that IGWA's mitigation efforts provide a benefit to Billingsley Creek alone of 2.83 cfs?
A. Yes.
Q. And this would not include all of the benefits to other springs that are tributary to the Snake River, outside of the Billingsley Creek drainage?
A. Only the six ground model cells that have springs in them that contribute to Billingsley Creek.
Q. Okay. Okay. I only have just a couple other questions, and I don't want to spend a lot of

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time on it. But it relates to shepherding the flow of water down Billingsley Creek. And I understand that if the Swan Falls minimums are satisfied, we'll never need to do this. But I want to ask you some questions about the possibility of doing that and just make sure I understand your testimony in that regard.

How long have you been an engineer working in -- with water rights in the state of Idaho?

A. 48 years.

Q. And I suspect you're familiar with a lot of the major streams and rivers in central and eastern Idaho?

A. Yes.

Q. And you would agree that many of these rivers have gaining and losing reaches?

A. They do.

Q. Many of these rivers are braided in places?

A. Some.

Q. To cut to the chase, isn't it fair to say that your testimony is some additional hydraulic understanding would be needed to accurately distribute water in Billingsley Creek by priority?

A. Well, additional information and understanding of the reach gains in Billingsley Creek would help administer however you did it.

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Q. Okay. But you would agree that if someone were willing to put in the time and the effort and the money that you could figure it out, and you could reasonably administer the water in Billingsley Creek by priority if you put the effort and time into it?

A. Well, the watermaster does it now by priority. I think he would testify that he could do it better if he had better data. And I agree with that.

Q. So if we got to the point where the District felt it was important to shepherd the 10 second-feet down Billingsley Creek because of the risk of a breach of the Swan Falls minimum, wouldn't you agree that if your firm, for example, was hired to do it, and given the resources, you could figure out how to shepherd that 10 second-feet down to the Snake River in a reasonable fashion?

A. You're using those lawyer words again, "reasonable."

In my opinion -- and it would cost a lot of money and a lot of time -- to instrument Billingsley Creek and the springs to the point where you could administer water rights with reasonable accuracy, and, in my opinion, if you tried to somehow get that 10 cfs down there without encroaching on it or without having somebody encroach on it, you probably couldn't do it

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reasonably.

Q. Because someone might steal it?

A. Well, someone might steal it. But you just -- you just can't measure water that good in a stream like that. That's my opinion.

Q. Couldn't you put a measuring device in the stream below the most downstream irrigation diversion and just make sure that you're bypassing -- maybe one above the irrigation diversions and one below and make sure you're bypassing the right amount?

A. You could put measuring devices at those two points, and you could -- you could, if the watermaster had a suit of armor, you could adjust diversions until you got 10 cfs at the Snake River.

MR. BUDGE: No further questions.

THE HEARING OFFICER: Redirect, Mr. May? Do we have a lot of questions?

MR. MAY: I don't think so. I don't think I have a lot.

THE HEARING OFFICER: Okay.

REDIRECT EXAMINATION

BY MR. MAY:

Q. Chuck, I just want to start with the last thing that you just talked about. And I don't want to

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belabor this either. But this idea that you can just put a measuring device above and below and make sure you have 10 cfs at the river.

And what I don't fully understand -- and I think this is part of your reluctance as well -- is how do you figure out how much of that 10 cfs should still be left at the river?

A. Very difficult.

Q. Because some of that 10 cfs is going to be lost along the way; correct?

A. Some of it is. And keep in mind when you divert water, say to the Buckeye, a major diverter from Billingsley, you are diverting in that case to probably 50 to 55 individual water-right holders with different priorities. So just figuring out who's on and who's off is a difficult job.

And then you run into the situation where you have a user, either out of Billingsley Creek or even out of one of the -- of the major canals that has a water right in three springs. And you got to get it to him, by priority. Well, Frank is good, but he's not that good.

Q. And so what I hear you suggesting -- and I guess I heard Frank suggesting -- is it's just not as simple as saying "Let's put a measuring device at the

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bottom and get 10 cfs there"?
A. No, that's why I say he needs a suit of armor. Because the minute he turns a headgate, somebody is going to say "You're cutting off my water."
Q. I want to look a little bit at this idea that somehow IGWA is putting 30 to 50 cfs into the Snake River. There seems to be some confusion back and forth between you and Mr. Budge.
As I understand it, where the 30 to 50 cfs comes from is by taking the results of recharge and various different activities that may or may not take place on the ESPA and calculating what the effect just of those would be in various different reaches; correct? Is that how you understand it?
A. That's what the model run does. That water isn't there now. It's simulated steady-state benefits from estimated water use changes on the aquifer.
Q. And the reason why you had those changes was, in part, to implement various different mitigation plans and things like that, those changes were to mitigate for groundwater pumping; correct?
A. That's my understanding of why IGWA does them like that.
Q. Right. And so that groundwater pumping can continue?

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A. Yeah.
Q. So we're saying that there's 30 to 50 cfs there, what's being called these reach gains.
The reality is if you look at the combined impact of the pumping and the small amount that's being mitigated, the impact from the pumping still far outweighs any benefit from the mitigation; correct?
A. That's what the model will tell you, yes.
Q. And what we're talking about here -- and this is where it keeps getting more and more confusing -- is we're talking about mitigation for mitigation.
So we've got a mitigation plan that itself requires more mitigation; correct?
A. That's what I think this whole transfer is about.
Q. Right. And so the reality is when you factor in the true impact of what the transfer is attempting to accomplish, which is keeping groundwater pumping, there's not an additional 30 to 50 cfs going into the river, is there, into the Snake River?
A. Right now?
Q. Right.
A. No.
Q. And there's not an additional 30 to 50 cfs,

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again, when you factor in the groundwater pumping that's going to continue?
A. Well, there's certainly not a net 50 or 30, or whatever the number is, going into the Snake River. That's the incremental -- that's the -- that's the simulated incremental increase in these springs as a result of mitigating using the 2013 mitigating efforts at steady state.
Q. Right.
A. 150 years.
Q. And again, when you're talking the net impact, that's the net against what the -- I mean they're only mitigating a portion of what the impact actually is, a portion of the damage; correct?
A. That's correct. But I think the question that was asked of me, is that more than 10 cfs.
Q. And mathematically it is?
A. And simulated, yes.
Q. I want to talk a little bit about the idea that no one is injured unless the Murphy gauge actually drops below the minimum flow rate, because that seems to be the position that's being taken.
Is the moratorium only in effect when the Murphy gauge drops below 3900?
A. The moratorium is independent of the Swan

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Falls agreement.
Q. Okay. And the moratorium is in effect why?
A. Why?
Q. Yeah.
A. Because the State determined in 1992 that water supplies were going down, water levels in the aquifer were going down, and it was determined that there should a moratorium to additional use of water on the Eastern Snake Plain.
Q. And that moratorium on additional consumptive use is consistent with what you're talking about, which is this -- this transfer now, regardless of whether the Murphy gauge immediately drops below 3900, injures other water users; correct?
A. I believe it does, even just on the Snake River, because it increases the risk of losing my water.
Q. And that increased risk is in and of itself an injury to those water users?
A. I believe it is. And I believe the State has a responsibility to evaluate the increased consumptive use from a transfer like this or a permit or whatever within the moratorium area.
Q. And again, even though this is not a new water right which is on its face covered under that

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moratorium, it is, nevertheless, taking a water right that is nonconsumptive right now and moving it in a manner that will turn it into essentially a fully consumptive right; correct?
A. I think that's what this transfer does. It changes the nature of use of a water right, and it enlarges the consumptive use under that same water right.
Q. And so in your opinion given that, do you believe it should be treated any differently than if you were to try and get a new consumptive water right to do the exact same thing?
A. The hydrologic impact is the same.
Q. There was a great deal of discussion about enlargement. And I believe what we've -- we've got this picture up here that's Exhibit 4018.
Do you believe that that is analogous to the transfer that we're talking about here?
A. Absolutely not.
Q. And Mr. Budge discussed a number of different changes that might result in an enlargement, one of which was conspicuously absent, which is an increase in consumptive use.
Is increase in consumptive use an enlargement of a water right?

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A. Yes.
Q. Okay. And in this particular case, the increased consumptive use encompasses the evaporation, correct?
A. Yes.
Q. Which is what Mr. Budge focused on and seemed to try and limit it to.
But it also includes other things, such as the use that's going to be made by irrigators; correct?
A. I believe so, yes.
Q. And so in terms of the increase in consumptive use -- we're not just talking about .039 cfs -- in terms of increased consumptive use, we're talking about essentially all of it, this water is all going to be consumed in Billingsley Creek; correct?
A. That's right. That's why this is incorrect [indicating].
Q. Right. And just to go back to the analysis that we walked through and why you were on Billingsley Creek trying to make those measurements.
Does it refresh your recollection at all to -- if I were to tell you that it's possible you were down there evaluating the Aqua Life transfer and how much might get back to Aqua Life? Do you recall going

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down to Billingsley Creek?
A. Isn't that No. 3?
Q. It might have been part of No. 3. But it was in terms of getting the water from the Rangen facility --
A. Yeah.
Q. -- and how much might get back to Aqua Life; correct?
A. Yeah. Aqua Life was the focus.
Q. And that's why you were down there, was to try and figure out how much water --
A. Yeah.
Q. -- would get back to Aqua Life?
That's all I've got, Director.
THE HEARING OFFICER: Okay.
MR. BUDGE: Nothing further.
THE HEARING OFFICER: Okay. Thank you, Dr. Brockway.
THE WITNESS: Thank you.
THE HEARING OFFICER: Further witnesses, Mr. May?
MR. MAY: Could we just take a quick break?
THE HEARING OFFICER: Yeah. Ten.
(Recess.)
THE HEARING OFFICER: We're back on the record

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after a brief recess.
Mr. May, further witnesses?
MR. MAY: No. Rangen rests, Director.
THE HEARING OFFICER: Okay. Mr. Budge, rebuttal witnesses?
MR. BUDGE: None. Thank you.
THE HEARING OFFICER: Okay.
MR. HAEMMERLE: Director, we'd like to discuss a reasonable briefing schedule. We'd like -- we think it would be reasonable two weeks simultaneous briefs.
THE HEARING OFFICER: Okay. Is that acceptable, Mr. Budge?
MR. BUDGE: That would be fine. It's certainly time sensitive, but that's reasonable.
THE HEARING OFFICER: Okay. Two weeks. I want to talk to you just briefly about some concerns I have that may not have been voiced or identified, and I'll talk to you about three of them, if I can, just quickly.
And so if I turn to 42-222, which is the statute that describes the filing of applications for transfer, how the Department should review them. And there is one particular provision -- I'm looking in the code, but this is -- sorry, everybody else probably doesn't have their volumes with them. But this is

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subsection (1), last sentence in subsection (1). It's a long subsection.
MR. BUDGE: In 222?
THE HEARING OFFICER: In 222.
And it says, the last sentence, "Provided, however, minimum stream flow water rights may not be established under the local public interest criterion and may only be established pursuant to Chapter 15, Title 42, Idaho code."
And I just want to ask the question whether asking a watermaster to shepherd 10 cfs from Rangen to the mouth of Billingsley Creek establishes a de facto minimum stream flow and perhaps is prohibited by 42-222? I don't know the answer. I just ask the question.
This question has come up in a couple of other contested case hearings that I've held. And at least in one of them that I think factually was farther away from characterization of a minimum stream flow where we required a bypass flow.
There were those in the legal community and the water community who pointed to this and wondered whether I had established a minimum stream flow. That particular approval did not propose to shepherd water through an entire reach. This one does.

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There's another provision, and we've talked about the enlargement of use. And I just -- I look at the criterion, and so I just want to read it.
MR. HAEMMERLE: I'm sorry, Director. What section are you on?
THE HEARING OFFICER: This is the same subsection (1). It's very long.
MR. HAEMMERLE: Okay.
THE HEARING OFFICER: And it sets out the criteria or the factors that the Director must consider. And one of them, of course, is the enlargement of use criterion. And it says, "The change does not constitute an enlargement in use of the original right."
I'm not sure I know what that means, "in use of the original right." And so the issue has really been set up well here. And I understand the differences. But it really is in the interpretation of, I think, what an enlargement in use of the original right means. What does that mean? I don't know, in the context in looking at these facts.
And -- but I recognize -- and it troubles me a little, frankly, that we could propose approving an application for transfer that would -- that would not result in an enlargement use -- enlargement of use

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if we look myopically at a portion of the total use that would result but ignore the rest of it. But again, I just -- I look at it, and I don't know what that term means.
The last question that I want to ask is -- and it hinges, I guess, on this interpretation of what an enlargement of use is. But either way, we interpret the enlargement of use, at least from the testimony, without some careful regulation and very difficult regulation on Billingsley Creek. There will be an increase of consumptive use. And from my perspective, that increase in consumptive use will be very difficult or almost impossible to avoid.
And so then my next question is, is the water that will be consumed, is it trust water? Is it actually trust water, water that's been placed in trust and held by the State of Idaho? And would that increased consumption invoke the other provisions of trust water? Now, I know it refers to it in 202 -- 42-202, and I think it's (c), and talks about the appropriation of water. But is it trust water?
And those are, I guess, questions or issues we didn't talk about today, but ones that I think I need to look at in the evaluation of the application. And I just wanted to throw them out to everybody

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because I think I have an obligation.
MR. HAEMMERLE: I will say, Director, in 120 years of jurisprudence in the state of Idaho, it's an honor to be involved in these issues, because I think they are probably first-time issues.
THE HEARING OFFICER: Okay. There you go. So I don't have anything else.
Do the parties have anything?
MR. HAEMMERLE: Thanks for the direction, Director.
THE HEARING OFFICER: Yeah. I don't want to write a decision that surprises the parties somehow. I want you to know that I'll look at those matters and issues that I at least detailed for you.
MR. BUDGE: Appreciate that.
THE HEARING OFFICER: Okay. Other matters?
Do we have all the exhibits?
I assume we'll take the exhibits that were referred to as the originals. The copies we'll return to the parties, if that's okay, plus the illustration.
Okay. Anything else?
Emmi?
Jeff?
Okay.
MR. HAEMMERLE: You don't want those right

there, Director?
THE HEARING OFFICER: No, we'll take the originals.
MR. HAEMMERLE: Oh, okay.
MR. MAY: I don't know if there's any that are really designated originals.
THE HEARING OFFICER: Well, maybe there aren't any differences. We'll take one set.
MR. MAY: Okay.
THE HEARING OFFICER: I don't know that we need more than that.
MR. MAY: They're all identical, as far as I know.
THE HEARING OFFICER: Thanks for your help. The record will be closed. Thanks.
(Hearing concluded at 4:51 p.m.)
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REPORTER'S CERTIFICATE

I, JEFF LaMAR, CSR No. 640, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me.

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction.

That the foregoing is a true and correct record of all testimony given, to the best of my ability.

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 29th day of December, 2014.

JEFF LaMAR, CSR NO. 640
Notary Public
Eagle, Idaho 83616
My commission expires December 30, 2017

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