

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF)
WATER TO WATER RIGHT NOS. 36-02551) Docket No.
AND 36-07694) CM-DC-2011-004
)
(RANGEN, INC.)) VOLUME I
_____) (Pages 1-298)

C O N F I D E N T I A L

Pursuant to Protective Order Dated August 31, 2012

BEFORE

HEARING OFFICER: GARY SPACKMAN

Date: May 1, 2013 - 8:23 a.m.

Location: Idaho Department of Water Resources
322 East Front Street
Boise, Idaho

REPORTED BY:

JEFF LaMAR, C.S.R. No. 640

Notary Public

1 ranks and when.

2 A. As controller, I was responsible for the
3 administration of the company. I had accounts payable,
4 accounts receivable, data processing, human resources,
5 and general administration would report to me.

6 In 1996 I was promoted to executive vice
7 president slash controller. So for a period of time I
8 held both positions. And then a couple years later I
9 hired a controller, and I gave up the position of
10 controller. And I am now the executive vice president.

11 Q. Wayne, do you know when Rangen, Inc., was
12 started?

13 A. Rangen was started in 1925. And it has
14 been in business for 88 years now. We were
15 incorporated in 1935. And Rangen is -- has been owned
16 by the same family for three generations now.

17 Q. Wayne, as the executive vice president, are
18 you familiar with all aspects of what Rangen, Inc.,
19 does?

20 A. Yes, I am.

21 Q. What is the business of Rangen, Inc.?

22 A. Rangen is an agricultural company. We're
23 involved in several different aspects of agricultural.
24 Aquaculture is one aspect of the agricultural part of
25 the business.

1 Q. Wayne, are there separate divisions then --
2 well, if you could just go through the number of
3 divisions that Rangen has.

4 A. Okay. Rangen has a commodities division.
5 And as commodities, that's generally dry edible beans,
6 grains. We have a general feeds division. General
7 feeds is the manufacturing of animal feeds for land and
8 air animals.

9 We have an aquaculture division. And the
10 aquaculture division is broken up into Buhl
11 aquaculture, hatchery, research, and Texas aquaculture.
12 We have a logistics division that does brokering for
13 truckloads. We have a maintenance division. And we
14 have an administration division.

15 Q. Wayne, do each one of those divisions
16 within aquaculture have their own separate budgets?

17 A. Yes. Every one of them has a separate
18 budget, every one has a separate accounting.

19 Q. Wayne, where is the Rangen hatchery
20 facility located?

21 A. Our Rangen hatchery facility is located
22 in -- or south of Hagerman.

23 Q. Wayne, I'm showing you --

24 MR. MAY: Can I make a suggestion? Can we turn
25 off the light so we can see better?

1 about the issue of how this survey may affect the
2 decree. I'll allow that objection to come in if it's
3 raised. Thanks.

4 (Exhibit 1004 received.)

5 Q. (BY MR. HAEMMERLE): Wayne, I take it that
6 Rangen, Inc., has the so-called hatchery facility
7 within the survey contained in 1004?

8 A. Yes, we do.

9 Q. Wayne, what do you call that facility?

10 A. We call it the Rangen Aquaculture Research
11 Center, also known as the hatchery research.

12 Q. Could we pull up 1006.

13 Wayne, I'm showing you what's been marked
14 as Exhibit 1006.

15 Do you recognize that photograph?

16 A. Yes, I do.

17 Q. What is the photograph in 1006?

18 A. It's an aerial photograph of the facility
19 showing the rim and then the water flows out towards
20 the end of the facility underneath the culvert to the
21 Billingsley Creek.

22 Q. The so-called talus slope that we referred
23 to throughout these proceedings, that would generally
24 be at the bottom of the picture where the shade is?

25 A. It would be at the bottom right-hand

1 A. Oh, yeah, excuse me. That's correct. My
2 eyes aren't much better than my ears.

3 Yeah. "The circle figures are estimates
4 and not actual measurements," with my signature.

5 Q. Okay. All right. Justin, let's go ahead
6 and take 1123 down. Take that down. Now leave the
7 bubble chart up. And with 1029 what I'd like to do now
8 is go to page 52. And let's go to the date of --
9 actually, the date and header of this exhibit.

10 Mr. Babington, this is page 52 of
11 Exhibit 1029.

12 And would you read the date at the top of
13 the letter.

14 A. December 14th, 1978.

15 Q. Okay. And then, Justin, let's go back.
16 Yeah.

17 And do you see your name down there at the
18 bottom of the letter?

19 A. Yes.

20 Q. Do you remember what this letter was all
21 about?

22 And, Justin, why don't you go ahead and
23 increase the text.

24 A. That was after Gary had been out -- Gary
25 Funderberg had been out and did his field exam and had

1 different -- well, using a standard suppressed weir
2 formula with a coefficient of 3.3.

3 Q. Okay. So to the best of your knowledge, no
4 one from the Department, either before 2003 or after
5 2003, has come to Rangen's and said you're measuring
6 water wrong; correct?

7 A. It's not documented, no.

8 Q. Certainly you didn't take that opportunity
9 after 2003, did you?

10 A. No.

11 Q. And you're not aware of anyone else from
12 the Department who did; correct?

13 A. No.

14 Q. And to be sure, no one from the Department
15 prior to 2003 or after 2003 came to Rangen and said
16 "Gee, based on the way you're measuring water, you're
17 using unappropriated -- or flows that exceed your water
18 rights"; correct?

19 A. No, I don't recall that. Not at the
20 hatchery.

21 Q. Tim, you testified that for purposes of
22 water calls, I think using your words, there should be
23 some sort of higher standard.

24 Do you recall your testimony?

25 A. In a deposition?

1 Rangen is allowed to take the measurements at the CTR
2 dam and at the dam in the pond is that there's no other
3 way to measure the many spring flows that come into the
4 Rangen facility; correct?

5 A. Well, currently there's no other way,
6 that's correct.

7 Q. Okay. And to be sure, the way Rangen
8 collects water they collect water not only from the
9 Curren Tunnel, but all the spring sources located on
10 the talus slope; correct?

11 A. Yes.

12 Q. And all that water that's taken out of the
13 Curren Tunnel and the talus slope is measured at the
14 two points I just described; correct?

15 A. Yes.

16 MR. HAEMMERLE: Thank you, Mr. Luke. No other
17 questions.

18 THE HEARING OFFICER: IGWA?

19 MS. MCHUGH: Yes. Thank you, Mr. Director.

20

21 CROSS-EXAMINATION

22 BY MS. MCHUGH:

23 Q. Good afternoon, Mr. Luke. I'm Candice
24 McHugh, and I represent the Idaho Groundwater
25 Appropriators.

1 Q. And the last phrase there is, "IDWR
2 measured heads in a manner that minimized error."

3 Do you see that?

4 A. Yes.

5 Q. So that refers to error in the head
6 measurement, not error in flow; correct?

7 A. That's correct.

8 MS. KLAHN: That's all I have. Thank you.

9 THE HEARING OFFICER: Recross, Mr. Haemmerle?
10

11 RECROSS-EXAMINATION

12 BY MR. HAEMMERLE:

13 Q. Mr. Luke, Ms. McHugh asked you if part of
14 one of your duties is compliance to make sure people
15 are using their water rights as they're decreed or
16 licensed or permitted; correct?

17 A. Correct.

18 Q. And Ms. McHugh asked certain questions
19 about if you had to move your point of diversion or
20 otherwise; correct?

21 A. Yes.

22 Q. Now, again, the full time you've been
23 observing Rangen, you know that all the water that's
24 collected off the slope goes through their facility?
25 You're aware of that?

1 A. Yes.

2 Q. IDWR is aware of that; correct?

3 A. Yeah. They're diverting the water the same
4 as they always have. And the water rights used to
5 be -- at one time they didn't say Curren Tunnel. They
6 said springs.

7 Q. And so, Mr. Luke, there's been no purpose
8 or occasion by you or anyone else to say "Rangen,
9 you're using your water rights illegally"? No one's
10 ever done that, have they?

11 A. No, not to my knowledge.

12 MR. HAEMMERLE: Thank you.

13 THE HEARING OFFICER: Recross, Ms. McHugh?

14 MS. MCHUGH: No, thank you.

15 THE HEARING OFFICER: Mr. Simpson?

16 Okay. Mr. Luke, I have one question for
17 you.

18

19 EXAMINATION

20 BY THE HEARING OFFICER:

21 Q. You were asked by Mr. Haemmerle a question,
22 and he asked you -- and let me say it as best I can. I
23 hope I'm not paraphrasing too much. "Is it true that
24 there is no other way to measure the flows through the
25 Rangen facility?"