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Robyn M. Brody (ISB No. 5678)
Brody Law Office, PLLC
P.O. Box 554
Rupert, ID 83350
Telephone: (208) 434-2778
Facsimile: (208) 434-2780
robynbrody@hotmail.com

J. Justin May (ISB No. 5818) DEPT OF WATER RESOURCES
May, Browning & May, PLLC SOUTHERN REGION
1419 W. Washington
Boise, ID 83702
Telephone: (208) 429-0905
Facsimile: (208) 342-7278
jmay@maybrowning.com

Fritz X. Haemmerle (ISB No. 3862)
Haemmerle & Haemmerle, PLLC
P.O. Box 1800
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
APPLICATION FOR TRANSFER OF
WATER RIGHT NO. 36-2338
(TRANSFER APPLICATION #79498) IN
THE NAME OF IGWA FOR NORTH
SNAKE GWD, MAGIC VALLEY GWD,
SOUTHWEST ID ON BEHALF OF THE
OWNER, IDAHO WATER RESOURCE
BOARD

**NOTICE OF PROTEST BY
RANGEN, INC. TO WATER RIGHT
TRANSFER APPLICATION NO.
79498**

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. 79498 (the "Application") for the transfer of the Place of Use for up to 10 cfs of Water Right No. 36-2338 owned by Idaho Water Resource Board ("IWRB") from Big Springs/Aqualife for delivering mitigation water pursuant to the District's Third Mitigation Plan pending in Case No. CM-MP-

2014-005 to the head of Billingsley Creek and/or the Rangen, Inc. Hatchery Raceways to satisfy in part the Director of Idaho Department of Water Resources' *Final Order regarding Rangen, Inc.'s Petition for Delivery Call; Curtailing Ground Water Rights Junior to July 13, 1962* ("Curtailment Order") in the Rangen delivery call case, CM-DC-2011-004.

PROTEST

1. The Application violates the criteria of I.C. § 42-222.
2. The current use for water right 36-2338 is fish propagation. This is a non-consumptive use.
3. The Application proposes to transfer water discharged from the ESPA at Big Springs/Aqualife by pumping via buried pipeline approximately 2.7 miles to Rangen's place of use near the head of Billingsley Creek. Some of the water will not return to Billingsley Creek near Big Springs/Aqualife.
4. There may be diseases present in Big Springs/Aqualife 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 in Billingsley Creek and Fisher Lake as well as the Spring, and therefore is not in the best interest of the general public of the State of Idaho.
6. Other water rights are 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 change is not consistent with the conservation of water resources within the state, in violation of the criteria of I.C. § 42-222.

8. 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.

9. For all the reasons contained herein, the Application should be denied.

10. 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 5th day of September, 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 5th day of September, 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 152 E. Main Street Jerome, ID 83338	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☐
Magic Valley Ground Water District P.O. Box 430 Paul, ID 83347	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☐
Southwest Irrigation District William A. Parsons P.O. Box 910 Burley, ID 83318	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☐
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 ☒


J. Justin May

FOR OFFICE USE ONLY

Fee: \$25.00

Receipt No. 5034284

Receipt by: P. SKINNER

Date Received: 9/5/2014