



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 20, 2014

RE: Application for Permit 36-16976, North Snake River GWD et al., 12 cfs
Application for Permit 36-17002, Rangen Inc., 59 cfs

Dear Parties:

At the pre-hearing conference held on May 13, 2014, we discussed the need for both of the applicants to provide additional information under Rule 40.05 of the Department's Water Appropriation Rules (IDAPA 37.03.08). The additional information described in Rule 40.05 is required for all applications proposing diversion rates greater than 5.00 cfs. A copy of Rule 40.05 is enclosed with this letter.

Please submit the information required by Rule 40.05 to IDWR by **June 20, 2014**. If you believe that a particular subsection is not relevant to your application, please explain why. A current financial statement is not required under Rule 40.05.f (Information Relative to Financial Resources), if construction of your project will cost less than \$5000.00. Please send a copy of your responses to the other parties in your contested case.

We have scheduled a telephone status conference for these applications to be held on:

July 27, 2014 at 10:00 AM
Telephone: 1-888-706-6468
Participant Code: 265275#

During the pre-hearing conference, the parties also asked whether IDWR could identify an employee who is qualified to discuss other permits which have been issued describing "mitigation" as a beneficial use. After consulting with legal staff, it was determined that Shelley Keen of the IDWR Main Office in Boise would be a good person to contact about such permits.

In the interest of preserving valuable staff time, I would like the parties to coordinate a single meeting with Mr. Keen where all parties who wish to participate are present. Please contact Mr. Keen directly to coordinate the meeting. He can be reached at 208-287-4800. It would also be helpful to provide Mr. Keen a list of possible questions prior to the meeting so he can conduct a search of IDWR's water rights database.

Please feel free to contact this office if you have any questions.

Sincerely,

James Cefalo

Water Resources Program Manager

Enclosure: Water Appropriation Rule 40.05 (copy)

Sent to:

Hammerle & Hammerle
Fritz Hammerle
PO Box 1800
Hailey ID 83333

Racine Olson Nye Budge & Bailey
Randall C. Budge / T.J. Budge
PO Box 1391
Pocatello ID 83204-1391

Blind Canyon Aquaranch Inc.
c/o Gary Lemmon
2757 South 1050 East
Hagerman, ID 83332

Craig Hobdey
PO Box 176
Gooding, ID 83330

05. Additional Information Requirements. (7-1-93)

a. For untested applications and permits being reprocessed, the additional information required by Subsection 040.05.c. shall be submitted within thirty (30) days after the Director notifies the applicant that the application or permit is being reviewed for decision. The Director may extend the time within which to submit the information upon request by the applicant and upon a showing of good cause. Failure to submit the required information within the time period allowed will be cause for the Director to void an application or to advance the priority of a permit being reprocessed by the number of days that the information submittal is late. The Director will provide opportunity for hearing as provided in Section 42-1701A, Idaho Code. (7-1-93)

b. For protested applications or protested permits being reprocessed, the information required by Subsection 040.05.c. may be requested by the Director to be submitted within thirty (30) days after notification by the Director, may be made a part of the record of the hearing held to consider the protest, or may be made available in accordance with any pre-hearing discovery procedures. Failure to submit the required information within the time period allowed will be cause for the Director to void an application or to advance the priority of a permit being reprocessed by the number of days that the information submittal is late. (7-1-93)

c. The following information shall be submitted for applications to appropriate un-appropriated water or trust water and for permits being reprocessed for trust water. The additional information submittal requirements of this rule are waived for filings which seek to appropriate five (5) cfs or less or storage of five hundred acre-feet (500 AF) or less and for filings seeking reallocation of trust water which the Director determines will reduce the flow of the Snake River measured at Murphy Gauge by not more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than two hundred (200) acres will be irrigated. However, the Director may specifically request submittal of any of the following information for any filing, as he determines necessary. Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows: (7-1-93)

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted. (7-1-93)
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well. (7-1-93) iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights. (7-1-93)

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows: (7-1-93)

- i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year. (7-1-93)

- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source. (7-1-93)

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows: (7-1-93)

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code. (7-1-93)
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials. (7-1-93)

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows: (7-1-93)

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed. (7-1-93)
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications. (7-1-93)

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows: The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the Director. (7-1-93)

h. The following information Relative to the Public Interest Criteria of Section 42-203C(2), Idaho Code, shall be submitted by an applicant seeking reallocation of trust water for a project which the Director determines will reduce the flow of the Snake River by more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than two hundred (200) acres will be irrigated. The Director may request any or all of the following information for any filing seeking the reallocation of trust water. (7-1-93)

- i. A project design and estimate of cost of development shall be submitted. For applications appropriating more than twenty-five (25) cfs, or ten thousand (10,000) AF of storage, or generating more than five (5) megawatts, the information shall be prepared and submitted by a qualified engineer licensed under the provisions of Chapter 12, Title 54, Idaho Code, unless waived by the

Director. The design shall be definite enough to reflect the project's impacts and implications as required in subsequent rules. (7-1-93)

- ii. If the project proposes development for irrigation purposes, information shall be submitted on crop rotation, including acreages, for lands when newly developed. (7-1-93)
- iii. Information shall be submitted concerning the number and kinds of jobs that will be created or eliminated as a direct result of project development including both the construction and operating phases of the project. If jobs are seasonal, the estimated number of months per year of employment shall be submitted. (7-1-93)
- iv. For applications or permits being reprocessed for more than twenty-five (25) cfs, or more than ten thousand (10,000) AF of storage, or more than five (5) megawatts, information shall be submitted concerning the changes to community services that will be required during the construction and operation phases of the project including, but not limited to, changes to schools, roads, housing, public utilities and public health and safety facilities, if any. (7-1-93)
- v. Information shall be submitted concerning the source of energy for diverting and using water for the project, the estimated instantaneous demand and total amount of energy that will be used, the efficiency of use, and energy conservation methods. (7-1-93)
- vi. Information shall be submitted concerning the location, amount, and quality of return flow water, and any water conservation features of the proposed project. (7-1-93)
- vii. If the project proposes irrigation as a use, information shall be submitted concerning the kinship, if any, of the operator of the land to be irrigated by the project to the applicant, the location and acreage of other irrigated lands owned, leased, or rented by the applicant, the names, addresses and number of shares held by each shareholder if the applicant is a corporation, evidence of tax-exempt status if a corporation is so claiming, a soil survey prepared in accordance with the U.S. Soil Conservation Service irrigatable land classification system, and a schedule for bringing into production the project lands. (7-1-93)