

Jerry R. Rigby, ISBN 2470
 Hyrum Erickson, ISBN 7688
 Robert H. Wood, ISBN 8229
 RIGBY, ANDRUS & RIGBY, *Chartered*
 Attorneys at Law
 25 North Second East
 Rexburg, Idaho 83440
 Telephone: 208-356-3633

Attorney for Fremont-Madison Irrigation District, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
 OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF)	CASE NO. CM-DC-2011-004
WATER TO WATER RIGHT NOS. 36-02551)	
AND 36-07694)	FREMONT-MADISON IRRIGATION
)	DISTRICT'S PETITION TO BE
(RANGEN, INC.))	DESIGNATED AS RESPONDENT
)	OR ALTERNATIVELY TO
)	INTERVENE
_____)	

Comes now, Fremont-Madison Irrigation District, Inc. (hereinafter, Fremont-Madison), through its attorney of record, and, pursuant to Procedure Rules 154, and 350-352, petitions the Department of Water Resources (hereinafter the Department) to designate it as a respondent in the above captioned matter. In the alternative, Fremont-Madison petitions to intervene in the above captioned matter.

1. Fremont-Madison is a Respondent to the Rangen Delivery Call.

On December 13, 2011, Rangen Inc. (Rangen) filed a Petition for Delivery Call with the Department. Rangen alleges that its ability to receive the water from water rights 36-02551 and

36-07694 has been materially injured by “junior-priority ground water pumping in the areas encompassed by the East Snake Plain Aquifer Model Version 2.0 (“ESPAM2”).” Rangen Petition ¶ 15. Rangen seeks to curtail the pumping of ground water rights junior to its rights in all areas encompassed by ESPAM2. Rangen Petition ¶ 18(c). Rangen’s most senior right at issue has a priority date of July 13, 1962. Rangen Petition ¶ 6.

Fremont-Madison is a respondent to the Rangen Petition pursuant to Procedure Rule 154, which defines *respondents* as “[p]ersons against whom complaints are filed or about whom investigations are initiated[.]” Fremont-Madison is an irrigation district located within the boundaries of ESPAM2. Fremont-Madison pumps water from the East Snake Plain Aquifer and has substantial ground water rights junior to the Rangen rights. Fremont-Madison has two substantial ground water rights with priority dates after July 13, 1962 – 22-13505 and 22-13506. If Rangen is successful with its delivery call, these rights could be subject to curtailment. As such, Fremont-Madison is a respondent to the Rangen Petition and requests that it be designated and allowed to participate as such.

2. Alternatively, Fremont-Madison Should be Permitted to Intervene.

If the Department determines that Fremont-Madison is not a respondent, it petitions to intervene. Fremont-Madison’s petition to intervene is governed by Procedural Rule 353, which reads as follows:

If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding.

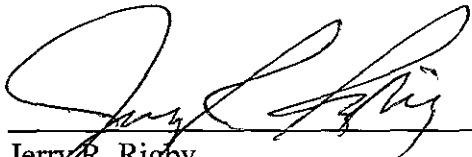
FREMONT-MADISON IRRIGATION DISTRICT’S PETITION TO BE DESIGNATED AS RESPONDENT OR ALTERNATIVELY TO INTERVENE - Page - 2

As required for intervention, Fremont-Madison has a “direct and substantial interest” in this proceeding. *Procedure Rule 351*. Fremont-Madison has water rights that are potentially subject to curtailment. Fremont-Madison’s intervention would not unduly broaden the issues as it seeks only to address the effect of the Rangen Petition on its ground water rights. Fremont-Madison’s position is not adequately represented by other parties. No other participant has authorization or reason to speak directly for Fremont-Madison or protect its rights.

Conclusion

Fremont-Madison is a respondent pursuant to Procedure Rule 154. It should be designated and participate as such. In the alternative, Fremont-Madison should be allowed to intervene.

DATED this 21st day of August, 2012.




Jerry R. Rigby
of RIGBY, ANDRUS & RIGBY, Chartered

CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the persons named below, at the addresses set out below their name, either by mailing, hand delivery or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 21st day of August, 2012.

RIGBY ANDRUS & RIGBY, Chartered


Jerry R. Rigby

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, ID 83720
208-287-6700

[] Mail
[] Hand Delivery
[X] Facsimile

Robyn Brody
Brody Law Office
P.O. Box 554
Rupert, ID 83350

[X] Mail
[] Hand Delivery
[] Facsimile

Randy Budge
Candice McHugh
Racine Olson
P.O. Box 1391
Pocatello, ID 83204

[X] Mail
[] Hand Delivery
[] Facsimile

J. Justin May
May Browning
1419 W. Washington
Boise, ID 83702

[X] Mail
[] Hand Delivery
[] Facsimile

Fritz Haemmerle
Haemmerle Haemmerle
P.O. Box 1800
Hailey, ID 83333

Mail
 Hand Delivery
 Facsimile

Sarah Klahn
Mitra Pemberton
White & Jankowski
511 16th St., Ste. 500
Denver, CO 80202

Mail
 Hand Delivery
 Facsimile

Law Offices

RIGBY, ANDRUS & RIGBY
Chartered

Ray W. Rigby
G. Rich Andrus
Jerry R. Rigby
Michael S. Kam (1954-2001)
Hyrum D. Erickson
Robert H. Wood

P.O. Box 250
25 North Second East
Rexburg, ID 83440

Telephone: (208) 356-3633
Facsimile: (208) 356-0768

FAX Transmission Sheet

Date: August 21, 2012

To: Gary Spackman, Director

Fax No: 208-287-6700

From: Jerry R. Rigby



Sent By: Mandy

Subject: In the Matter of Distribution of Water to Water Right Nos. 36-02551 and 36-07694
Fremont-Madison Irrigation District's Petition to be Designated as Respondent or
Alternatively to Intervene

Fremont-Madison Irrigation District's Expert Witness Disclosure

You should receive **14** page(s) including this cover sheet.

COMMENTS:

If transmission was incomplete or not legible, please call the sender at 208-356-3633.

CONFIDENTIALITY NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the US Postal Service. Thank you.