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ATTORNEYS FOR THE CITY OF POCATELLO

**BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION)
OF WATER TO WATER RIGHT NOS.) Docket No. CM-DC-2011-004
36-02551 AND 36-07694)
) **CITY OF POCATELLO’S PETITION TO BE**
(RANGEN, INC.)) **DESIGNATED AS RESPONDENT OR**
_____) **ALTERNATIVELY TO INTERVENE**

TO THE IDAHO DEPARTMENT OF WATER RESOURCES AND ALL INTERESTED PARTIES:

The City of Pocatello (“Pocatello”), by and through its counsel, White & Jankowski, LLP, hereby petitions to be designated as a “respondent,” or alternatively to intervene in the above-captioned proceeding, pursuant to Rules of Procedure of the Idaho Department of Water Resources (“Department’s Rules”) 154, 156, and 350 through 354. IDAPA 37.01.01.

On December 13, 2011 Rangen, Inc. (“Rangen”) filed a *Petition for Delivery Call* (“Rangen’s Petition”), alleging material injury by diversions of water by junior priority ground water rights.

Rule 154 of the Department's Rules defines "respondents" as "[p]ersons against whom complaints are filed or about whom investigations are initiated." IDAPA 37.01.01.154. Rule 156 defines "intervenor" as "[p]ersons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354." IDAPA 37.01.01.156. Rule 350 states that

[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding.

IDAPA 37.01.01.350. Under Rule 352 petitions to intervene are timely if they are filed at least fourteen (14) days before the date set for a formal hearing or prior to a prehearing conference.

IDAPA 37.01.01.352. Rangen's Petition is currently pending before the Director and a Prehearing Conference is currently set for May 22, 2012 at 9:00 a.m. No hearing has been set in this matter. As such, Pocatello's petition is timely.

Pursuant to the Department's Rules, a timely filed petition to intervene shall be granted if the petitioner "shows [a] direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues . . . unless the applicant's interest is adequately represented by existing parties." IDAPA 37.01.01.353.

Pocatello is a municipal corporation of the State of Idaho which diverts its municipal water supply from wells in the Eastern Snake Plan Aquifer ("ESPA") within Water District 120. Pocatello also owns and operates associated surface water rights, including rights to water stored in Palisade Reservoir. Some of Pocatello's rights are among those which Rangen asserts are causing it injury in the current proceeding. As a result Pocatello is a party "about whom investigations are initiated" under Rule 154. Furthermore, Pocatello has a direct and substantial

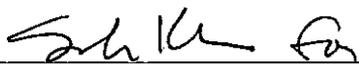
interest in future water use and development of hydraulically-connected reaches of the Snake River and ESPA. Pocatello's participation will not unduly broaden the issues in this proceeding.

Further, Pocatello's interests are specific and localized in nature, and cannot be adequately protected by the existing parties in these proceedings. IDAPA 37.01.01.353. Pocatello is not a member of the Idaho Ground Water Appropriators, Inc.—as such, without intervention Pocatello has no way of protecting its water rights from administration and potential curtailment. Pocatello's water rights are separate and distinct property rights that can only be adequately represented by Pocatello. If Pocatello is not allowed to participate in this proceeding, it would be deprived the opportunity to defend its water rights before the Department.

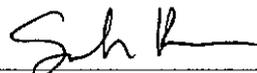
Pocatello meets the definition of a respondent, and should be designated and permitted to participate as such. Alternatively, Pocatello has met the standards set forth under Rules 352 and 353 of the Department's Rules and should be allowed to intervene in the above-captioned action.

Respectfully submitted this 21st day of May, 2012.

CITY OF POCATELLO ATTORNEY'S OFFICE

By 
A. Dean Tranmer

WHITE & JANKOWSKI, LLP

By 
Sarah A. Klahn

ATTORNEYS FOR CITY OF POCATELLO

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2012, I caused to be served a true and correct copy of the foregoing **City of Pocatello's Petition to be Designated as Respondent or Alternatively to Intervene** for **Docket No. CM-DC-2011-004** upon the following by the method indicated:



Sarah Klahn, White & Jankowski, LLP

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