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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.

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.

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**FREMONT-MADISON IRRIGATION DISTRICT'S PETITION TO BE DESIGNATED
AS RESPONDENT OR ALTERNATIVELY TO INTERVENE - Page - 4**

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FAX Transmission Sheet

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Fremont-Madison Irrigation District's Petition to be Designated as Respondent or
Alternatively to Intervene

Fremont-Madison Irrigation District's Expert Witness Disclosure

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