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DEPARTMENT OF  
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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 RESPONSE TO**  
(RANGEN, INC.) ) **BUCKEYE FARMS, INC.'S PETITION FOR**  
\_\_\_\_\_ ) **LIMITED INTERVENTION**

The City of Pocatello ("City" or "Pocatello"), by and through its attorneys White & Jankowski, LLP, hereby opposes Buckeye Farms, Inc.'s ("Buckeye") August 14, 2012 Petition for Limited Intervention in the above-captioned matter ("Petition") pursuant to Idaho Department of Water Resources Rule of Procedure 354. The grounds for said opposition are stated below.

1. On August 14, 2012 the Director of the Idaho Department of Water Resources ("Director") issued an Order Granting SWC's Petition for Limited Intervention in the

above-captioned proceeding (“Order”).

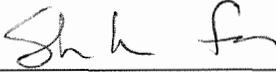
2. The Director found that A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (collectively, “SWC”) have a “direct and substantial interest” in this matter because “the SWC has its own active delivery call and now seeks to participate in the first proceeding to apply ESPAM 2.0 because this proceeding will likely have an impact on how ESPAM 2.0 may be applied in its call proceeding.” Order at 3.
3. Buckeye’s Petition admits that Buckeye has no pending delivery call before the Director, but argues that any “future” administration of Buckeye’s rights will involve ESPAM 2.0. Petition at 3. The scope of this proceeding should not be expanded to include questions about how ESPAM 2.0 will be used in hypothetical “future” delivery call proceedings that Buckeye has given no indication it intends to file in the near future. IDAPA 37.01.01.352.
4. Further, contrary to Buckeye’s contention, the Petition is not timely and Buckeye has failed to provide the Director with an explanation of good cause for the untimely filing. Order at 2 (petitions to intervene filed after January 19, 2012 are not timely).

*Id.*

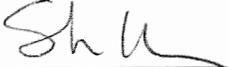
WHEREFORE, Pocatello respectfully requests that the Director deny Buckeye’s Petition in the above-captioned matter.

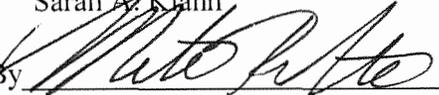
Respectfully submitted this 21st day of August, 2012.

CITY OF POCA TELLO ATTORNEY'S OFFICE

By   
A. Dean Tranmer

WHITE & JANKOWSKI

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Sarah A. Klahn

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ATTORNEYS FOR CITY OF POCA TELLO

## CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2012, I caused to be served a true and correct copy of the foregoing **City of Pocatello's Response to Buckeye Farms, Inc.'s Petition for Limited Intervention** for **Docket No. CM-DC-2011-004** upon the following by the method indicated:



\_\_\_\_\_  
Sarah Klahn, White & Jankowski, LLP

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