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DEPARTMENT OF  
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Wendell

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

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHT NOS. 36-  
02551 AND 36-07694

(RANGEN, INC.)

CM-DC-2014-004

**COALITION OF CITIES' PETITION TO  
BE DESIGNATED A RESPONDENT OR  
ALTERNATIVELY TO INTERVENE**

COME NOW the cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell ("Cities") by and through their counsel and, pursuant to the Idaho Department of Water Resources' ("IDWR") *Rules of Procedure*, IDAPA 37.01.01, hereby move the Director to designate the Cities as respondents, or alternatively to grant intervention, in Rangen, Inc.'s ("Rangen") June 27, 2014 *Petition for Delivery Call* ("Petition").

## ARGUMENT

### **I. The Cities Should Be Designated Respondents Because They Own Junior-Priority Ground Water Rights That Will Be Subject To Curtailment If Rangen Is Successful In Its Delivery Call**

According to IDWR's Rule of Procedure 154, a respondent is defined as: "Persons against whom complaints are filed or about whom investigations are initiated . . ." IDAPA 37.01.01.154. Under IDWR's *Rules for Conjunctive Management of Surface and Ground Water Resources*, IDAPA 37.03.11 *et seq.*, the Director is authorized to curtail junior-priority ground water rights for the benefit of senior-priority water rights.

By way of its Petition, Rangen seeks delivery of water right nos. 36-134B (October 9, 1884), 36-135A (April 1, 1908), and 36-15501 (July 1, 1957).<sup>1</sup> In order to supply its senior-priority water rights, Rangen demands "immediate curtailment before any hearing is held" of ground water rights, bearing priority dates junior to October 9, 1884, *Petition* at 10, that pump from the Eastern Snake Plain Aquifer ("ESPA"), "including, but not limited to junior-priority ground water pumping in Water Districts 1, 34, 100, 110, 120, 130 and 140." *Petition* at 8. As shown in Exhibit A, attached hereto, the Cities hold decreed and licensed ground water rights, bearing priority dates junior to October 9, 1884, that pump from the ESPA. If Rangen is successful in its delivery call, the Cities' junior-priority ground water rights will be curtailed. Because the Cities hold water rights that are subject to curtailment, the Cities are parties "against whom complaints are filed" and should be designated respondents in accordance with Rule 154. Designating the Cities as respondents is consistent with past practice by IDWR. *Compare Order Designative City of Pocatello a Respondent*, CM-DC-2011-004 (May 12, 2012) (designating the

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<sup>1</sup> Rangen's prior delivery call, filed on December 13, 2011, concerned delivery of water right nos. 36-2551 (July 13, 1962) and 36-7694 (April 12, 1977). *In the Matter of Distribution of Water to Water Right Nos. 36-02551 and 36-07694 (Rangen, Inc.)*, CM-DC-2001-004.

City of Pocatello, which holds junior-priority ground water rights that were subject to curtailment, a respondent) *with Order Granting IGWA's Petition to Intervene*, CM-DC-2011-004 (January 13, 2012) (granting the Idaho Ground Water Appropriators, Inc. intervention because the entity did not hold water rights).

## **II. Alternatively, The Cities Should Be Granted Intervention Because They Have A Direct And Substantial Interest In The Delivery Call**

According to IDWR's 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. Here, no dates have been set for a formal hearing or prehearing conference in Rangen's most recent delivery call. Therefore, the Cities' petition for intervention is timely.

According to IDWR's Rule 353, a timely filed petition to intervene shall be granted if a the petitioner "shows 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.

Here, the Cities have a "direct and substantial interest" in issues such as curtailment of municipal water rights, use of the Eastern Snake Plain Aquifer Model, the scope of curtailment, Rangen's request for immediate curtailment before a hearing is convened, and other issues that will undoubtedly be raised during the course of the proceedings. Furthermore, the Cities' water rights are separate and distinct property rights that can only be adequately represented by the owners of the water rights. If the Cities are not allowed to participate in this proceeding, they will be deprived of the opportunity to defend their water rights from curtailment. The Cities' interests are specific, cannot be adequately protected by other water right holders that may become parties to this proceeding, and, as such, the Cities' participation will not unduly broaden

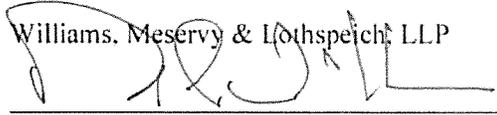
the issues. In the event the Cities are not designated respondents, the Cities should be granted intervention because of their "direct and substantial interest" in the outcome.

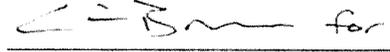
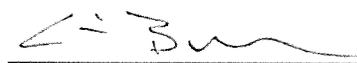
### CONCLUSION

Because the Cities own junior-priority ground water rights that will be subject to curtailment if Rangen is successful, the Cities should be designated respondents. IDAPA 37.01.01.154. Alternatively, if the Director determines that the Cities do not meet the requirements of Rule 154, the Cities should be granted intervention because of their direct and substantial interest in the Petition. IDAPA 37.01.01.352, -353.

RESPECTFULLY SUBMITTED.

DATED this 3<sup>rd</sup> day of July, 2014.

Williams, Meservy & Lothspeich LLP  
  
\_\_\_\_\_  
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McHugh Bromley, PLLC  
 for  
\_\_\_\_\_  
CANDICE M. MCHUGH  
  
\_\_\_\_\_  
CHRIS M. BROMLEY

# **EXHIBIT A**

Coalition of Cities' Water Rights							
Water Right	Status	Source	Priority Date	Authorized Diversion			Use
				Rate (cfs)	Rate (gpm)	Vol (AFA)	
<b>City of Bliss</b>							
37-4305	Dec	GW	8/1/1960	0.12	54	n/a	Mun
37-4306	Dec	GW	2/1/1960	0.15	67	n/a	Mun
37-8886	Lic	GW	11/24/1998	0.45	202	n/a	Mun
<b>City of Burley</b>							
1-7082	Dec	Snake River	2/24/1983	1.60	717		WQ
1-7099	Lic	Snake River	6/20/1989	1.19	534		Irrig
36-2648A	Dec	GW	4/6/1966	1.96	879		Ind
36-2648B	Dec	GW	4/6/1966	0.70	314		Ind
36-2729	Dec	GW	3/3/1964	0.56	251		Ind
36-4080	Dec	GW	8/7/1961	0.91	408		Mun
36-4180	Dec	GW	8/1/1962	0.02	9		Irrig
36-4181	Dec	GW	9/8/1962	0.02	9		Irrig
36-4182	Dec	GW	10/1/1962	0.02	9		Ind
36-8154	Dec	GW	2/24/1983	1.20	538		Ind
45-2179	Dec	GW	9/22/1930	1.51	677	302.8	Irrig
45-2719	Dec	GW	5/9/1966	0.30	135	219	Ind
45-4085	Dec	GW	12/31/1959	0.89	399		Mun
45-4087	Dec	GW	6/1/1940	0.12	54		Mun
45-4088	Dec	GW	6/1/1939	0.04	18		Dom
45-4089	Dec	GW	5/31/1947	1.23	552		Mun
45-4090	Dec	GW	4/1/1943	2.01	901		Mun
45-4091	Dec	GW	4/1/1955	1.72	771		Mun
45-4092	Dec	GW	4/1/1928	1.34	601		Mun
45-4093	Dec	GW	12/31/1934	2.00	897		Mun
45-4094	Dec	GW	12/31/1949	1.66	744		Mun
45-4095	Dec	GW	4/1/1917	1.11	498		Mun
45-4096	Dec	GW	12/31/1917	1.34	601		Mun
45-4097	Dec	GW	4/14/1905	0.89	399		Mun
45-4098	Dec	GW	9/30/1960	2.67	1,197		Mun
45-4099	Dec	GW	12/31/1941	2.67	1,197		Mun
45-7002	Dec	GW	8/24/1967	2.15	964		Irrig
				4.00	1,794		Com
				0.40	179		Dom
45-7092	Dec	GW	3/10/1972	0.44	197		Mun
45-7114	Dec	GW	12/7/1972	0.18	81		Mun
45-7269	Dec	GW	5/25/1976	3.56	1,596		Mun
45-7436	Dec	GW	2/15/1980	0.69	309		Mun
45-7735	Lic	GW	9/3/1996	4.46	2,000		Mun
45-11133	Dec	GW	12/31/1954	0.89	399		Mun
45-13895	Dec	GW	10/30/1926	0.89	399		Mun
45-14083	Dec	GW	3/31/1939	1.34	601		Mun

Coalition of Cities' Water Rights							
Water Right	Status	Source	Priority Date	Authorized Diversion			Use
				Rate (cfs)	Rate (gpm)	Vol (AFA)	
45-14290	Dec	GW	4/1/1944	0.44	197		Mun
45-7686	Permit	GW	2/11/1991	1.75	785		Mun
45-13411	Permit	GW	10/22/2001	7.80	3,498		Mun
<b>City of Carey</b>							
37-7766	Dec	GW	2/21/1979	0.71	318	n/a	Mun
37-20384	Lic	GW	3/20/2001	0.70	314	n/a	Mun
37-21243	Lic	GW	12/25/2003	0.60	269	56.4	Mun
37-21355	Lic	GW	9/23/2004	1.29	578	n/a	Mun
37-22661	Lic	GW	8/18/2011	1.45	650	n/a	Mun
<b>City of Declo</b>							
45-2676	Dec	GW	12/8/1961	1.11	498	n/a	Mun
45-7726	Lic	GW	2/16/1995	2.23	1,000	n/a	Mun
45-11024	Dec	GW	12/31/1945	0.15	67	13.2	Irrig
<b>City of Dietrich</b>							
37-20729	Dec	GW	12/31/1910	0.37	166	n/a	Mun
37-22751	Per	GW	6/1/2012	0.20	90	n/a	Mun
<b>City of Gooding</b>							
37-262A	Dec	LWR	2/22/1883	3.16	1,417		GW Rech
37-271A	Dec	LWR	6/30/1882	0.32	143		
37-282	Dec	LWR	4/1/1877	1.00	448		
37-662	Dec	LWR	6/15/1885	1.42	637		
37-709A	Dec	LWR	2/22/1883	0.74	332		
37-960A	Dec	LWR	4/1/1883	0.57	256		
37-4080	Dec	GW	9/28/1928	2.80	1,256		Mun
37-4087	Dec	GW	6/1/1948	0.04	18	2,500 gpd	Dom
37-7597	Dec	GW	5/5/1977	1.07	480	312	Irrig
37-11221	Dec	GW	4/20/1977	5.90	2,646		Mun
37-22850	Per	GW	8/27/2013	7.21	3,233	1,846	Mun
<b>City of Hazelton</b>							
36-2282	Dec	GW	4/25/1955	0.20	90	n/a	Mun
				0.11	49	3.6	Dom
36-4250	Dec	GW	6/21/1917	0.28	126	n/a	Mun
				0.11	49	3.6	Dom
36-7634A	Dec	GW	7/23/1976	0.19	85	27 AFA, 13k gpd	Dom
36-7634B	Dec	GW	7/23/1976	0.14	63	28	Irrig
36-7858	Dec	GW	6/12/1979	1.00	448	n/a	Mun
				0.11	49	3.6	Dom
<b>City of Heyburn</b>							
36-4210	Dec	GW	7/1/1953	0.03	13	4	Irrig
36-8550	Lic	GW	5/29/1990	6.67	2,991	n/a	Mun
36-8738	Lic	GW	5/22/1995	3.30	1,480	n/a	Mun

Coalition of Cities' Water Rights							
Water Right	Status	Source	Priority Date	Authorized Diversion			Use
				Rate (cfs)	Rate (gpm)	Vol (AFA)	
<b>City of Jerome</b>							
36-2518	Dec	GW	9/14/1961	1.11	498	n/a	Mun
36-2526	Dec	GW	10/27/1961	5.68	2,547	492.8	Mun
36-4195	Dec	GW	12/31/1907	0.39	175	n/a	Mun
36-4196	Dec	GW	7/4/1957	5.68	2,547	n/a	Mun
36-8234	Per	GW	1/11/1984	0.28	126	2 AF/day consump- tive	Irrig
				0.28	126		Com
				0.50	224		Dom
				0.17	76		Rec
36-8237	Dec	GW	12/22/1983	2.71	1,215	n/a	Mun
36-15361	Dec	GW	12/31/1930	2.87	1,287		Mun
36-16938	Dec	GW	8/20/1982	0.01	4		Irrig
<b>City of Paul</b>							
36-4083	Dec	GW	4/27/1920	0.67	300	n/a	Mun
36-7206	Dec	GW	8/9/1971	1.06	820	58	Mun
36-7899	Dec	GW	2/27/1980	0.78	400	n/a	Mun
36-8763	Lic	GW	10/18/1999	2.75	1,500	n/a	Mun
36-12179	Dec	GW	1/1/1942	0.22	465	n/a	Dom
<b>City of Richfield</b>							
37-4084	Dec	GW	6/1/1914	0.15	67	n/a	Mun
37-4085	Dec	GW	6/1/1956	0.14	63	n/a	Mun
37-8042	Lic	GW	9/22/1988	1.63	731	n/a	Mun
37-8336	Per	Waste Water	4/19/1988	0.12	54	n/a	WQ Improv
37-22431	Per	GW	1/13/2009	1.19	534	n/a	Mun
<b>City of Rupert</b>							
36-4075	Dec	GW	12/31/1955	27.00	12,108	n/a	Mun
36-7115	Dec	GW	3/15/1970	2.40	1,076	n/a	Mun
36-7656	Dec	GW	9/18/1962	3.44	1,543	n/a	Mun
36-7862	Dec	GW	10/11/1985	1.15	516	n/a	Mun
36-7863	Dec	GW	6/30/1979	3.83	1,717	n/a	Mun
36-8198	Lic	Waste Water	6/10/1983	n/a	n/a	1,500	Irrig Stor
				n/a	n/a	780	Irrig from Stor
36-15488	Dec	GW	4/10/1913	0.67	300	n/a	Mun
36-15489	Dec	GW	11/29/1917	2.95	1,323	n/a	Mun
36-15490	Dec	GW	4/1/1952	0.06	27	6.8	Irrig
				0.01	4	4.2	Aesth
36-15491	Dec	GW	12/31/1934	6.00	2,691	n/a	Mun

Coalition of Cities' Water Rights							
Water Right	Status	Source	Priority Date	Authorized Diversion			Use
				Rate (cfs)	Rate (gpm)	Vol (AFA)	
<b>City of Shoshone</b>							
37-560A	Dec	Little Wood River	11/28/1882	0.40	179	n/a	Irrig
37-560B	Dec	Little Wood River	11/28/1882	0.14	63	n/a	Irrig
37-606C	Dec	Little Wood River	11/28/1882	1.00	448	n/a	Irrig
37-691G	Dec	Little Wood River	4/1/1885	1.136	509	n/a	Irrig
37-4173	Dec	GW	10/1/1951	4.12	1,848	n/a	Mun
37-7432	Dec	GW	5/6/1975	2.00	897	n/a	Mun
37-7662	Dec	GW	8/30/1977	2.01	901	n/a	Mun
<b>City of Wendell</b>							
36-2509	Dec	GW	8/25/1961	1.50	673	n/a	Irrig
36-7440	Dec	GW	2/6/1974	0.22	99	53.1	Ind
36-7722	Dec	GW	6/20/1977	2.67	1,197	n/a	Mun
36-8421	Lic	GW	9/14/1998	2.76	1,238	n/a	Mun
36-8764	Lic	GW	3/28/1997	1.27	570	n/a	Mun
39-11276	Dec	GW	4/27/1951	1.33	596	n/a	Mun
36-11277	Dec	GW	12/31/1929	0.67	300	n/a	Mun

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY That on this  7  day of July, 2014, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

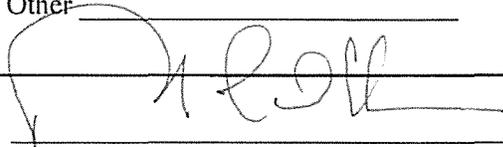
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