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DEPARTMENT OF  
WATER RESOURCES

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Candice M. McHugh (ISB #5908)  
Chris Bromley (ISB #6530)  
380 S. 4<sup>th</sup> St., Ste. 103  
Boise, ID 83702  
Telephone: (208) 287-0991  
Facsimile: (208) 287-0864  
[cmchugh@mchughbromley.com](mailto:cmchugh@mchughbromley.com)  
[cbromley@mchughbromley.com](mailto:cbromley@mchughbromley.com)

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

IN THE MATTER OF THE SECOND  
MITIGATION PLAN FILED BY THE  
COALITION OF CITIES FOR THE  
DISTRIBUTION OF WATER TO WATER  
RIGHT NOS. 36-02551, 36-07694 &  
36-15501, IN THE NAME OF RANGEN, INC.

**CM-MP-2014-004  
CM-MP-2014-007  
CM-DC-2011-004  
CM-DC-2014-004**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHT NOS. 36-02551  
& 36-07694 (RANGEN, INC.)  
IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHT NOS.  
36-00134B, 36-00135A, AND 36-15501

**COALITION OF CITIES' PETITION  
FOR RECONSIDERATION AND/OR  
CLARIFICATION OF THE FINAL  
ORDER CONDITIONALLY  
APPROVING CITIES' SECOND  
MITIGATION PLAN AND REQUEST  
FOR STAY**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHT NOS. 36-02551 &  
36-07694 (RANGEN, INC.)

The Coalition of Cities ("Cities"), by and through its attorneys of record, Candice M. McHugh, of the firm McHugh Bromley, PLLC, respectfully petitions the Director of the Idaho Department of Water Resources ("Director" or "IDWR") to reconsider and/or clarify the *Final Order Conditionally Approving Cities' Second Mitigation Plan* ("Order"), dated January 16, 2015.

The Cities seeks clarification of Finding of Fact 11:

The ESPA ground water model predicts that the Curren Tunnel, the source for Rangen's water rights, will accrue little or no benefit from the recharge activities during the approximate one month time period between the beginning of the recharge and March 31, the end of the first year of mitigation. The delivery of the recharge water will have contributed no water to mitigate for depletions caused by the Cities' pumping during the 11 months (approximately) of the first mitigation year (April 1, 2014 through March 31, 2015) when mitigation was required.

The Cities seek clarification of the basis of this fact and what "little or no benefit" equals.

The amount of depletion from pumping under the Cities' junior-priority rights is hardly measureable. *See Affidavit of Christian Petrich in Support of Coalition of Cities' Petition for Reconsideration and/or Final Order Conditionally Approving Cities' Second Mitigation Plan and Request for Stay* ("Petrich Affidavit").

The Cities also seek clarification of Conclusion of Law 14:

After reviewing the Cities' Second Mitigation Plan, the CM Rules, and the proceedings herein, the Cities' Second Mitigation Plan should be conditionally approved. If the mitigation water recharges the aquifer in late February or March of 2015, mitigation will be recognized at the earlier of: (a) the date the modeled transient benefits of the recharge activities to the Curren Tunnel equal the modeled depletions to the Curren Tunnel caused by the Cities' diversions, or (b) April 1, 2015, the beginning of the next mitigation "phase-in" year as established in previous orders.

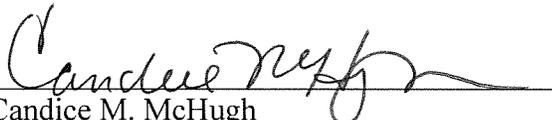
The depletion under junior-priority municipal water rights was not included in the curtailment run that developed the January 19, 2015 curtailment deadline. *See Petrich Affidavit*. Therefore, any recharge the Cities do far exceeds the known benefit to Rangen. *Id.* Furthermore, the benefits of curtailing the Cities' junior-priority water rights will not immediately accrue to the Curren Tunnel. *Id.* As a result, the Cities should be allowed to recharge water after the January 19, 2015 curtailment date. Recharge is especially warranted given the fact that the 1,500 acre-feet that is to be recharged, and the benefits derived therefrom, will greatly exceed the depletive effect of the Cities' junior-priority groundwater pumping during

that same period of time. *Id.*

Given the fact that the Order, which essentially denies the Cities' Second Mitigation Plan, was not issued until shortly before noon on the Friday before a holiday and the date of curtailment, and given the above requests for clarification, the Cities respectfully request a stay of curtailment until a hearing on the above requests and a factual record can be developed in support of the Cities' Second Mitigation Plan.

Submitted this 16<sup>th</sup> day of January, 2015.

MCHUGH BROMLEY, PLLC

  
Candice M. McHugh  
Attorneys for Coalition of Cities

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16<sup>th</sup> day of January, 2015, 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:

Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720	<input type="checkbox"/> US Mail, Postage Paid <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Hand-Delivered <input type="checkbox"/> Electronic Mail
Deputy Attorney General Attn: Garrick L. Baxter IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720-0098 Fax: 208-287-6700 <a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a> <a href="mailto:kimi.white@idwr.idaho.gov">kimi.white@idwr.idaho.gov</a>	<input type="checkbox"/> US Mail, Postage Paid <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Hand-Delivered <input type="checkbox"/> Electronic Mail
J. Justin May MAY BROWNING & MAY, PLLC 1419 W Washington Boise, ID 83702 Fax: (208) 342-7278 <a href="mailto:jmay@maybrowning.com">jmay@maybrowning.com</a>	<input type="checkbox"/> US Mail, Postage Paid <input type="checkbox"/> Facsimile <input type="checkbox"/> Hand-Delivered <input checked="" type="checkbox"/> Electronic Mail
Robyn M. Brody ATTORNEY AT LAW PO Box 554 Rupert, ID 83350 Fax: (208) 434-2780 <a href="mailto:robynbrody@hotmail.com">robynbrody@hotmail.com</a>	<input type="checkbox"/> US Mail, Postage Paid <input type="checkbox"/> Facsimile <input type="checkbox"/> Hand-Delivered <input checked="" type="checkbox"/> Electronic Mail
Fritz X. Haemmerle HAEMMERLE & HAEMMERLE, PLLC PO Box 1800 Hailey, ID 83333 Tel: (208) 578-0520 Fax: (208) 578-0564 <a href="mailto:fxh@haemlaw.com">fxh@haemlaw.com</a>	<input type="checkbox"/> US Mail, Postage Paid <input type="checkbox"/> Facsimile <input type="checkbox"/> Hand-Delivered <input checked="" type="checkbox"/> Electronic Mail

<p>Randall C. Budge  Thomas J. Budge  RACINE OLSON NYE BUDGE &amp; BAILEY  PO Box 1391  Pocatello, ID 83204-1391  Fax: (208) 232-6109  <a href="mailto:rcb@racinelaw.net">rcb@racinelaw.net</a>  <a href="mailto:tjb@racinelaw.net">tjb@racinelaw.net</a></p>	<p><input type="checkbox"/> US Mail, Postage Paid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Hand-Delivered  <input checked="" type="checkbox"/> Electronic Mail</p>
<p>Sarah Klahn  Mitra Pemberton  WHITE &amp; JANKOWSKI  511 16<sup>th</sup> Street, Suite 500  Denver, CO 80202  <a href="mailto:sarahk@whitejankowski.com">sarahk@whitejankowski.com</a>  <a href="mailto:mitrap@whitejankowski.com">mitrap@whitejankowski.com</a></p>	<p><input type="checkbox"/> US Mail, Postage Paid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Hand-Delivered  <input type="checkbox"/> Electronic Mail</p>
<p>Jerry R. Rigby  RIGBY ANDRUS &amp; RIGBY  25 North Second East  Rexburg, Idaho 83440  <a href="mailto:jrigby@rex-law.com">jrigby@rex-law.com</a></p>	<p><input type="checkbox"/> US Mail, Postage Paid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Hand-Delivered  <input checked="" type="checkbox"/> Electronic Mail</p>
<p>John K. Simpson  BARKER ROSHOLT &amp; SIMPSON  P.O. Box 2139  Boise, Idaho 83701  <a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a></p>	<p><input type="checkbox"/> US Mail, Postage Paid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Hand-Delivered  <input checked="" type="checkbox"/> Electronic Mail</p>
<p>Travis L. Thompson  BARKER ROSHOLT &amp; SIMPSON  195 River Vista Place, Suite 204  Twin Falls, Idaho 83301  <a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a></p>	<p><input type="checkbox"/> US Mail, Postage Paid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Hand-Delivered  <input checked="" type="checkbox"/> Electronic Mail</p>

  
CANDICE M. MCHUGH