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*Attorneys for Thousand Springs Water Users
Association, Inc. & Robert & Susan Gisler*

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

IN THE MATTER OF THE MITIGATION
PLAN FILED BY THE IDAHO GROUND
WATER APPROPRIATORS FOR THE
DISTRIBUTION OF WATER TO WATER
RIGHT NOS. 36-02551 AND 36-07694
IN THE NAME OF RANGEN, INC.

Docket No. CM-MP-2014-05

**JOINT MOTION TO AMEND AND
CONTINUE HEARING SCHEDULE**

COME NOW, Thousand Springs Water Users Association, Inc. and Robert & Susan Gisler (“Protestants”) and hereby move the Director for an Order amending and continuing the hearing schedule in this matter. The Protestants request the Director to move the hearing currently scheduled for September 8 – 10, 2014 to either September 11-12, 2014 or another acceptable date in September for the reasons set forth below. This motion is filed pursuant to IDAPA 37.01.01.260 and 561 and I.C. § 42-1701A.

MOTION

Counsel for the Protestants have several unavoidable conflicts set for September 8 – 10, 2014. Counsel attempted to address these at these at the status conference in July but failed to identify all of the pending conflicts.

First, counsel for TSWUA (Mr. Thompson) has regular client board meetings that he must attend, including two out-of-town, on September 8, 9, and 10th. Counsel for Gisler (Mr. Arrington) also has a regular out-of-town client board meeting on September 9th. Further counsel for Gisler has another out-of-town client meeting on September 10th. Finally, both counsel represent different protestants in the contested case entitled *In the Matter of Applications for Permit No. 37-22682 and 37-22852 in the name of: Innovative Mitigation Solutions LLC*, which had a previously set pre-hearing conference for September 8th at IDWR's Twin Falls office. *See Notice of Consolidated Pre-Hearing Conference and Order Authorizing Discovery* (April 16, 2014). No other counsel in the firm can handle the case and cover the hearing set for September 8 – 10th.

Due to these conflicts counsel for the Protestants respectfully requests the Director to amend and continue the hearing to September 11-12, 2014 or another acceptable date in September. Protestants have a legal right to have their counsel present at the hearing in this matter to satisfy their right to due process. *See Aberdeen-Springfield Canal Co. v. Peiper*, 133 Idaho 82 (1999); *Friends of Minidoka v. Jerome County*, 153 Idaho 298, 311 (2012) (due process provides the right to a hearing to be held at a “meaningful time and in a meaningful manner”).

Counsel for Rangenand the Musser Living Trust do not oppose this proposed change in schedule. Further, counsel for IGWA (T.J. Budge) has represented that he proposed moving the recirculation component of the 3rd Plan to consideration with the Curren Tunnel component at a later hearing. This action would make it even more likely that the hearing could be completed in two rather than three days. Counsel for IGWA (Randy Budge) believed 3 days was necessary for the hearing and that moving the hearing would interfere with a personal trip to Sun Valley (estate planning CLE) on September 12th. However, neither counsel for IGWA represented that one or the other could not cover the hearing if it is moved to September 11 and 12th or another acceptable date in September.

For the foregoing reasons the Protestants respectfully request the Director to grant this motion. No oral argument is requested.

DATED this 19th day of August, 2014.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Paul L. Arrington

*Attorneys for Thousand Springs Water Users
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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 2014, I served a copy of the foregoing **JOINTMOTION TO AMEND AND CONTINUE HEARING SCHEDULE**, to be served upon the following by the indicated method:

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