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Attorneys for Respondents

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

RANGEN, INC.,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES and GARY SPACKMAN, in
his capacity as Director of the Idaho
Department of Water Resources,

Respondents,

IDAHO GROUND WATER
APPROPRIATORS, INC., FREMONT
MADISON IRRIGATION DISTRICT,
BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT,
AMERICAN FALLS RESERVOIR
DISTRICT #2, MINIDOKA IRRIGATION
DISTRICT, NORTH SIDE CANAL

Case No. CV-2014-1338

(Consolidated Gooding County Case No.
CV-2014-179)

**CORRECTION TO RESPONSE IN
OPPOSITION TO MOTION TO
AUGMENT RECORD**

COMPANY, TWIN FALLS CANAL
COMPANY, AND THE CITY OF
POCATELLO,

Intervenors.

Come now respondents Idaho Department of Water Resources and Gary Spackman, Director of the Idaho Department of Water Resources (collectively referred to as “Department”), and file this *Correction to Response in Opposition to Motion to Augment Record* (“Correction to Response”). Information has come to the attention of counsel for the Department which necessitates a correction to the Department’s *Response in Opposition to Motion to Augment Record* (“Response”).

On June 26, 2014, the Department filed its Response to IGWA’s *Motion to Augment Record*. On page 5 of the Response, the Department states:

There have not been any hearings related to the pending delivery calls indentified [sic] in Table 1 [of the Bredecke Affidavit]. *Sukow Affidavit*, ¶ 11. There have been no determinations of material injury for the water rights listed, no determinations of whether the calling parties are using water consistent with the conjunctive management rules, no decisions on whether curtailment of junior groundwater pumping would result in a benefit to the calling party, and no determinations regarding whether full curtailment to the water right priority date would be required to fulfill a given water right.

Paragraph 11 of the *Affidavit of Jennifer S. Sukow* provides, “To my knowledge, no hearings have been held and the Director has not issued any orders deciding the validity of the pending delivery calls listed in the Bredecke Affidavit.”

After the Response was filed, the Department found an order related to the Billingsley Creek Ranch delivery call, one of the pending delivery calls identified in Table 1 of the Bredecke Affidavit. *Baxter Affidavit*, ¶ 4. A copy of the Order is attached to the Affidavit of

Garrick L. Baxter, filed herewith. While no hearing was held, former Director Karl Dreher did reach a determination regarding the applicability of the conjunctive management rules to Billingsley Creek Ranch's water rights. He denied the delivery call filed by Billingsley Creek Ranch, concluding that the beneficial use authorized by senior water right 36-10870 was "occurring using other sources of water under other water rights held by Billingsley Creek Ranch by employing efficient water management practices." *Order* at 22. As to the two junior water rights, 36-2379 and 36-2465, Director Dreher concluded that the call was futile as "[o]nly a portion of any increase in the overall spring discharge in the Thousand Springs to Malad Gorge spring reach would accrue to the springs that provide the supply of water to the rights held by Billingsley Creek Ranch." *Id.*

This Correction to Response is submitted to correct the characterization of the status of the Billingsley Creek Ranch delivery call in the Response. At the time the Response was filed, the Department believed that no orders had been issued related to the Billingsley Creek Ranch delivery call and made characterizations of the status of the delivery call in the Response based on that understanding. The Department now understands that Director Dreher did issue an order on the Billingsley Creek Ranch delivery call. The text from page 5 of the Response quoted above should not be considered to extend to the Billingsley Creek Ranch water rights listed on Table 1 of the Brendecke Affidavit.

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DATED this 27th day of June, 2014.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Chief, Natural Resources Division

A handwritten signature in blue ink, appearing to read "GBx", is written over a horizontal line.

GARRICK L. BAXTER
EMMI L. BLADES
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Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27TH day of June, 2014, I caused a true and correct copy of the foregoing **CORRECTION TO RESPONSE IN OPPOSITION TO MOTION TO AUGMENT RECORD** to be filed with the Court and served on the following parties by the indicated methods:

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