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Department of Water Resources
Southern Region

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BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION
OF WATER TO WATER RIGHT NOS.
36-15501, 36-02551, AND 36-07694.

PETITION CONTESTING
MARCH 10, 2004 AMENDED
ORDER

COMES NOW, Rangen, Inc. ("Rangen"), by and through its attorneys, May, Sudweeks & Browning, LLP and files this Petition contesting the Amended Order in the above-entitled matter issued March 10, 2004 by the Director of the Department of Water Resources.

The contested Order was issued in response to Rangen's demand for delivery of water made by letter dated September 23, 2003. The contested Order recognizes that Rangen's water rights are not being fully satisfied and provides for the curtailment of ground water rights within Water District 130 junior to July 13, 1962. Curtailment was to begin on April 1, 2004 absent mitigation as specified in the Order. While the Order acknowledges that Rangen is not receiving sufficient water to fully satisfy its various rights, the Order fails to recognize and protect the full extent of Rangen's water rights according to Idaho Law and the doctrine of prior appropriation.

On March 11, 2004, the Idaho Dairymen's Association filed its Petition Requesting an Idaho Code Section 42-1701A Hearing, Request for Stay of Delivery Call

PETITION CONTESTING MARCH 10, 2004
AMENDED ORDER - 1

Order, and Petition to Intervene. Various others have subsequently filed petitions and objections contesting the order on a number of different grounds. There is therefore already a contested case in this matter.

Rangen and various other interested parties including the State of Idaho have negotiated a one-year agreement that provides among other things for mitigation that is different from the required mitigation specified in the contested Order. The agreement also provides that Rangen and other spring water users will not make or pursue calls during the period of the Agreement. This Eastern Snake Plain Aquifer Mitigation, Recovery, and Restoration Agreement has been submitted as a replacement for the mitigation plan proposed by the Ground Water Districts and this Matter has been consolidated with the contested case considering that mitigation plan for the limited purpose of considering that plan. The Director has indicated that this matter will be stayed until March 15, 2005, the period covered by the Agreement.

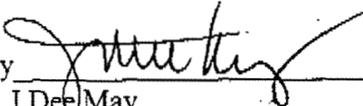
Rangen has executed the Agreement and consented to the stay in this matter and limited consolidation in order to allow for time to provide a long term solution for everyone. However, Rangen continues to maintain that the contested Order does not fully recognize the extent of Rangen's water rights as determined in the SRBA and that the contested order and the Conjunctive Management Rules pursuant to which it was issued violate Idaho Law and the doctrine of prior appropriation. Neither the mitigation provided for in the contested Order nor the mitigation provided in the Agreement fully mitigates the affect of junior water rights upon Rangen's senior priority water rights. Rangen reserves the right to respond to the various petitions and objections that have been or will be filed by other potential parties to this matter.

This petition is filed with the expectation and understanding that the Director will issue an order staying these proceedings until March 15, 2005 and that no hearing on Rangen's objections will be held until such a stay expires or is otherwise lifted. Rangen has entered into the Agreement and consented to the stay in this matter with the

expectation and based upon representations that its rights to object and be heard and to respond to other objections are fully preserved.

DATED This 15th day of March, 2004.

MAY, SUDWEEKS & BROWNING, LLP

By 

J. Dee May
Attorneys for Rangen, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2004, the above and foregoing was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

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