BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-15501, 36-02551, AND 36-07694	)	**ORDER OF LIMITED CONSOLIDATION**
IN THE MATTER OF THE APPLICATION OF THE NORTH SNAKE GROUND WATER DISTRICT AND MAGIC VALLEY GROUND WATER DISTRICT FOR APPROVAL OF A PRELIMINARY MITIGATION PLAN	)	

On February 25, 2004, the Director of the Department of Water Resources ("Director" or "Department") issued an *Order* in response to a water delivery call made October 6, 2003, by Rangen, Inc. in the *Matter of Distribution of Water to Water Rights Nos. 36-15501, 36-02551, and 36-07694.* The Director issued an *Amended Order* on March 10, 2004. The *Amended Order* requires the holders of certain consumptive ground water rights subject to administration in Water District 130 not to divert ground water beginning April 1, 2004, unless sufficient replacement water is provided as set forth in the *Amended Order*. On March 11, 2004, the Director issued a *Notice of Contested Case* for the Rangen call proceeding in response to multiple requests for an administrative hearing on the *Amended Order* pursuant to the provisions of Idaho Code § 42-1701A(3). The Director conducted a status conference in the Rangen call proceeding on March 18, 2004.

On October 10, 2003, the North Snake Ground Water District and Magic Valley Ground Water District (the "Ground Water Districts") submitted an *Application for Approval of*

Preliminary Mitigation Plan ("Application") to the Department. The Application proposes a plan to mitigate for injury to earlier priority surface water rights that may result from depletions under later priority ground water rights by delivering replacement water to augment spring flows from the Thousand Springs area tributary to the Snake River. The Department published notice of the Application and the Department's intent to process the Application pursuant to the Department's Conjunctive Management Rules (IDAPA 37, Title 03, Chapter 11). Approximately 60 protestants and intervenors filed pleadings in response to the notice of the Application. The Director conducted a prehearing conference in the proceeding on December 9, 2003 and a status conference on March 5, 2004.

On March 20, 2004, the Ground Water Districts entered into an agreement with the State of Idaho and the spring users in the Thousand Springs area. The agreement is entitled *The Eastern Snake Plain Aquifer Mitigation, Recovery and Restoration Agreement for 2004* (the "Agreement"). The Agreement provides that the signatory spring users shall stay all pending delivery calls against the Eastern Snake Plain Aquifer ("ESPA") and not make additional delivery calls against the aquifer for the period from March 15, 2004 through March 15, 2005. In return, the Ground Water Districts agreed to implement specified mitigation and compensatory measures for the benefit of the spring users, and the State of Idaho agreed to undertake specified funding and implementation measures aimed at increasing spring flows and providing other benefits for the spring users.

The Director hereby takes official notice of the Agreement, which in addition to being approved by the Ground Water Districts and the spring users has been executed on behalf of the State by the Governor, the Speaker of the House, and the President Pro Tem of the Senate. The Agreement shall be treated as submitted to the Director for approval as an interim mitigation

plan in the above-captioned proceeding initiated by the Ground Water Districts for approval of a preliminary mitigation plan.

In order to facilitate the expeditious review of the Agreement by both the parties to the proceeding on the Ground Water Districts' Application for a preliminary mitigation plan, and the parties to the above-captioned proceeding initiated in response to the Rangen delivery call, the Director hereby consolidates the two proceedings for the limited purpose of considering the Agreement for approval as an interim mitigation plan for the period from March 15, 2004 through March 15, 2005.

IT IS SO ORDERED.

Dated this 22nd day of March 2004.

Karl J. Dreher
Director