

A. Dean Tranmer (ISB # 2793)
City of Pocatello
P. O. Box 4169
Pocatello, ID 83201
(208) 234-6149
(208) 239-6986 (Fax)
dtranmer@pocatello.us

Sarah A. Klahn (ISB # 7928)
Mitra M. Pemberton
J. Ryland Hutchins
White & Jankowski, LLP
511 Sixteenth Street, Suite 500
Denver, CO 80202
(303) 595-9441
(303) 825-5632 (Fax)
sarahk@white-jankowski.com

ATTORNEYS FOR CITY OF POCATELLO

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

IN THE MATTER OF DISTRIBUTION) Docket No. CM-DC-2011-004
OF WATER TO WATER RIGHT NOS.)
36-02551 AND 36-07694) **CITY OF POCATELLO’S MOTION FOR**
) **DECLARATORY ORDER REGARDING**
(RANGEN, INC.)) **RANGEN’S LEGAL OBLIGATION TO**
_____) **INTERCONNECT**

COMES NOW, City of Pocatello (“Pocatello”), by and through its attorneys, and moves the Director pursuant to Rules 260 and 565 of the Department’s Rules of Procedure, for a Declaratory Order that as a matter of Idaho law Rangen must make reasonable steps to interconnect its existing water supplies, or show that such interconnection is financially or technically infeasible, prior to seeking curtailment of junior ground water users. There are no disputes of material fact and, as discussed within, judgment is correct as a matter of law.

Under Idaho law, Rangen has an obligation to:

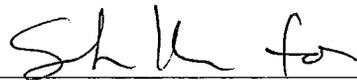
take reasonable steps to maximize the use of that flexibility to move water within the system before it can seek curtailment or compensation from junior users....

A&B Irrigation Dist. v. Spackman, 153 Idaho 500, 284 P.3d 225, 241 (2012). Filed contemporaneously in support of this Motion are Pocatello's Memorandum in Support of Motion for Declaratory Order Regarding Interconnection and the March 8, 2013 Affidavit of Sarah Klahn, Esq.

WHEREFORE, Pocatello seeks a declaratory order that, as a matter of law, Rangen has a legal duty to show the Director it has made reasonable efforts to maximize interconnection of its diversion and conveyance system or show that interconnection is financially or technically infeasible before it can request curtailment of junior water users.

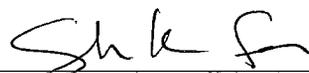
Respectfully submitted this 8th day of March, 2013.

CITY OF POCATELLO ATTORNEY'S OFFICE

By 
A. Dean Tranmer

WHITE & JANKOWSKI

By 
Sarah A. Klahn

By 
Mitra M. Pemberton

ATTORNEYS FOR CITY OF POCATELLO

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of March, 2013, I caused to be served a true and correct copy of the foregoing **City of Pocatello's Motion for Declaratory Order regarding Rangen's Legal Obligation to Interconnect** for Docket No. **CM-DC-2011-004** upon the following by the method indicated:



Sarah Klahn, White & Jankowski, LLP

<p>Gary Spackman, Director State of Idaho, Dept of Water Resources 322 E Front St PO Box 83720 Boise ID 83720-0098 deborah.gibson@idwr.idaho.gov</p>	<p><input checked="" type="checkbox"/> Original sent via U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail – Federal Express <input type="checkbox"/> Facsimile – 208-287-6700 = Phone – 208-287-4803 <input checked="" type="checkbox"/> Email</p>
<p>J. Justin May May Browning 1419 W Washington Boise ID 83702 jmay@maybrowning.com</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile – 208-342-7278 <input checked="" type="checkbox"/> Email</p>
<p>Robyn Brody Brody Law Office PO Box 554 Rupert ID 83350 robynbrody@hotmail.com</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile - 208-434-2780 = Phone 208-434-2778 <input checked="" type="checkbox"/> Email</p>
<p>Fritz Haemmerle Haemmerle Haemmerle PO Box 1800 Hailey ID 83333 fxh@haemlaw.com</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile – 208-578-0564 <input checked="" type="checkbox"/> Email</p>
<p>Garrick L. Baxter Chris M. Bromley Deputy Attorneys General – IDWR PO Box 83720 Boise ID 83720-0098 garrick.baxter@idwr.idaho.gov chris.bromley@idwr.idaho.gov kimi.white@idwr.idaho.gov</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile - 208-287-6700 <input checked="" type="checkbox"/> Email</p>
<p>Randall C. Budge Candice M. McHugh Racine Olson Nye Budge & Bailey 101 S Capitol Blvd Ste 300 Boise ID 83702 rcb@racinelaw.net cmm@racinelaw.net bjh@racinelaw.net</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile – 208-433-0167 <input checked="" type="checkbox"/> Email</p>
<p>Dean Tranmer City of Pocatello PO Box 4169 Pocatello ID 83201 dtranmer@pocatello.us</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile – 208-234-6297 <input checked="" type="checkbox"/> Email</p>

<p>C. Thomas Arkoosh Arkoosh Eiguren LLC PO Box 2900 Boise ID 83701 tom.arkoosh@aelawlobby.com erin.cecil@aelawlobby.com</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile 208-343-5456 <input checked="" type="checkbox"/> Email</p>
<p>John K. Simpson Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson 195 River Vista Place Ste 204 Twin Falls ID 83301-3029 flt@idahowaters.com jks@idahowaters.com pla@idahowaters.com jf@idahowaters.com</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile 208-735-2444 <input checked="" type="checkbox"/> Email</p>
<p>W. Kent Fletcher Fletcher Law Office PO Box 248 Burley, ID 83318 wkf@pmt.org</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile 208-878-2548 <input checked="" type="checkbox"/> Email</p>
<p>Jerry R. Rigby Hyrum Erickson Robert H Wood Rigby Andrus & Rigby PO Box 250 Rexburg ID 83440-0250 jrigby@rex-law.com herickson@rex-law.com rwood@rex-law.com</p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile 208-356-0768 <input checked="" type="checkbox"/> Email</p>