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Attorneys for the State of Idaho

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

In Re SRBA

Case No. 39576

)
) Subcase No. 92-23

)
) **STATE OF IDAHO'S MOTION TO**
) **STRIKE AFFIDAVIT OF GREG**
) **PANTER**

COMES NOW the State of Idaho, by and through its counsel of record, and pursuant to Idaho Rule of Civil Procedure 56(e) moves this Court for an order striking the Affidavit of Greg Panter which was submitted in support of Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment.

Mr. Panter's affidavit fails to meet the requirements of IRCP 56(e) because the affidavit:

- (1) is not made based upon personal knowledge;
- (2) does not set forth facts that would be admissible in evidence; and
- (3) fails to affirmatively show that Mr. Panter is competent to testify to the matters stated therein.

This Motion is supported by the arguments set forth on pages 26 through 28 of the State's Reply in Support of State of Idaho's Motion for Partial Summary Judgment which is filed contemporaneously herewith.

The State requests oral argument on this motion.

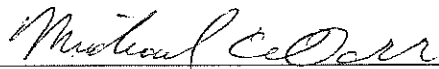
DATED this 15th day of February, 2008.

LAWRENCE G. WASDEN
Attorney General

STEVEN L. OLSEN
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Chief, Civil Litigation Division

KARL T. KLEIN
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of February 2008, I caused to be served a true and correct copy of the foregoing STATE OF IDAHO'S MOTION TO STRIKE AFFIDAVIT OF GREG PANTER to the following parties by the indicated methods:

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253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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Boise, ID 83707

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Environment & Natural Resources
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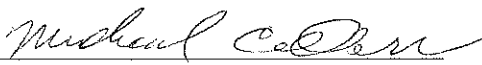
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