

A&B files this motion pursuant to Idaho Rules of Civil Procedure 84(o) and 12(f). Rule 12(f) states:

Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within twenty (20) days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

I.R.C.P. 12(f).

A&B submits that the *Affidavit of Chris M. Bromley* is immaterial to this proceeding and therefore should be stricken. As explained in *A&B's Response to IDWR's Motion to Dismiss*, filed concurrently herewith, the Director was required to dispose of A&B's petition for reconsideration within 21 days of its submittal, in this case June 1, 2011.

On June 1, 2011, the Director issued an order "granting" A&B's petition and allegedly extending his time to respond to the petition. As explained in the *Response*, this action was *ultra vires* and thus void. Under the plain language of the controlling statutes, the Director had until June 1, 2011 to issue an order disposing of the petition. Accordingly, his subsequent orders on June 9, 2011 and June 30, 2011 were the products of *ultra vires* actions and are therefore void as a matter of law.

The *Affidavit of Chris M. Bromley in Support of IDWR's Motion to Dismiss* was merely a conduit to admit these *ultra vires* Orders. It has no other relevance to these proceedings and should also be stricken.

For the above stated reasons, the *Affidavit of Chris M. Bromley in Support of IDWR's Motion to Dismiss*, with its attachments, should be stricken from the record. A&B respectfully

requests that this *Motion to Strike* be heard at the currently scheduled August 4, 2011 Hearing on IDWR's *Motion to Dismiss*, set for 1:30 P.M.

DATED this 21st day of July 2011.

BARKER ROSHOLT & SIMPSON LLP



Sarah W. Higer

Attorneys for Petitioner A&B Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of July, 2011, I served true and correct copies of *A&B's Motion to Strike the Affidavit of Chris M. Bromley in Support of IDWR's Motion to Dismiss* upon the following by U.S. Mail, postage prepaid:

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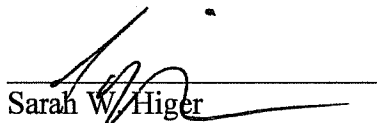
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