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Attorneys for Cummins Farm, Inc.

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 Nos: 45-02583, 45-02689, 45-07020,
45-07035, 45-07110, 45-07238, 45-07374

AFFIDAVIT OF KEVIN J. BEATON IN
SUPPORT OF MOTION TO VACATE
TRIAL

STATE OF IDAHO)
): ss.
County of Ada)

Kevin J. Beaton, being first duly sworn upon oath, deposes and says:

1. I am an attorney with the law firm of Stoel Rives LLP in Boise Idaho, and I make this affidavit based on my own personal knowledge of the facts set forth herein.

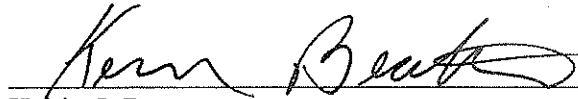
2. On July 17, 2006, a Complaint for Money Due, For Foreclosure of Mortgages and Security Interests, For Deficiency Judgment; For Appointment of Receiver; and for Injunctive Relief ("Foreclosure") was filed in the District Court for the Fifth Judicial District of the State of Idaho, In and For the County of Twin Falls, Civil Case No: 06 3354. This Foreclosure against

Cummins Farms, Inc. involves the property to which the water rights in this proceeding are appurtenant.

3. On July 24, 2005, I spoke to Deputy Attorney General, Chris M. Bromley who represents the Idaho Department of Water Resources ("IDWR") in this action and requested IDWR's consent to vacate the August 4, 2006 trial based on the uncertainties raised by the recent foreclosure action. Mr. Bromley consented to Cummins' filing of a motion to vacate the trial.

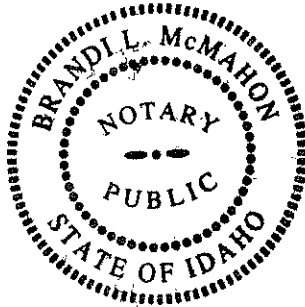
DATED: July 27th, 2006.

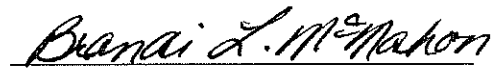
STOEL RIVES LLP



Kevin J. Beaton
Attorneys for Cummins Farms, Inc.

SUBSCRIBED AND SWORN TO before me this 27th day of July, 2006.



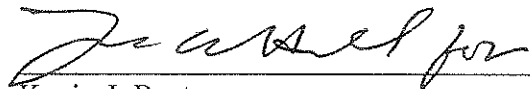

NOTARY PUBLIC FOR Idaho
Residing at: ~~Boise~~ Middleton
My Commission Expires: 9/4/07

CERTIFICATE OF SERVICE

I certify that on July 21st, 2006, I caused to be served true and correct copies of this Affidavit of Kevin J. Beaton in Support of Motion to Vacate Trial, to the following persons, in the manner indicated and addressed as follows:

Director of Idaho Dept. of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

☐ Overnight Delivery
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile



Kevin J. Beaton