

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA	)	
and	)	
STATE OF NEW MEXICO, <i>ex rel.</i> STATE	)	
ENGINEER,	)	
	)	
Plaintiffs,	)	
	)	No. 01cv00072 BB/WDS
and	)	
	)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,	)	ADJUDICATION
	)	
Plaintiffs in Intervention,	)	Subfile No. ZRB-2-0015
	)	
v.	)	
	)	
A & R PRODUCTIONS, et al.	)	
	)	
Defendants.	)	
_____	)	

**MOTION FOR DEFAULT JUDGMENT**

The Plaintiffs United States of America (“United States”) and New Mexico ex rel. State Engineer (“State”), pursuant to Fed. R. Civ P. 55(b)(2), move the Court to enter its order granting default judgment against the following defendant:

<b>ESTATE OF DEREK OSBORNE BEATON</b>	<b>Subfile No. ZRB-2-0015</b>
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by filed service of summons on the ESTATE OF DEREK OSBORNE BEATON (Doc. No. 1218).

2. ESTATE OF DEREK OSBORNE BEATON was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-2-0015, Defendant ESTATE OF DEREK OSBORNE BEATON was subject to the Special Master's September 27, 2006 *Order Granting Joint Motion to Amend Procedural and Scheduling Orders and Establish or Revise Deadlines for Defendants to Return Requests for Consultation and Submit Subfile Answers* (Doc. No. 837)("Procedural and Scheduling Order"), which established a deadline of January 23, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-2-0015 were never extended.

5. Defendant ESTATE OF DEREK OSBORNE BEATON failed to submit a request for consultation, file a subfile answer, or return a signed Consent Order for Subfile ZRB-2-0015 in accordance with the Procedural and Scheduling Order or other applicable scheduling orders. In addition, this Defendant failed to waive service of a summons and, after being served, failed to serve and file an answer as required by the summons and Federal Rule of Civil Procedure 12(a)(1)(A)(i).

6. Defendant ESTATE OF DEREK OSBORNE BEATON is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-2-0015 within the time limitations imposed by the Federal Rules of Civil Procedure, applicable Procedural and Scheduling Orders, or Orders of the Court extending deadlines, as shown by the Clerk's Certificate of Default filed December 13, 2007 (Doc. No. 1418).

7. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 9 and 10*, as amended, the right(s) of ESTATE OF DEREK

OSBORNE BEATON to divert and use the public waters of the Zuni River Stream System, Sub-area 9 and 10, should be as set forth below:

**ESTATE OF DEREK OSBORNE BEATON**  
**Subfile No. ZRB-2-0015**

**WELL**

**Map Label:** 10A-6-W05

**OSE File No:** None

**Priority Date:** 3/13/1994

**Purpose of Use:** Domestic & Livestock

**Well Location:** As shown on Hydrographic Survey Map 10A-6

**S. 4 T. 04N R. 18W 1/4, 1/16, 1/64: SE SE SE**

**X (ft): 2,455,733 Y (ft): 1,308,941**

New Mexico State Plane Coordinate System, West Zone, NAD 1983

**Amount of Water (ac-ft per annum):** Historical beneficial use not to exceed  
1.036 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against ESTATE OF DEREK OSBORNE BEATON, incorporating the terms of the Consent Order proposed for Subfile ZRB-2-0015 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 9 and 10* *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended.

Dated: January 25, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
1961 Stout Street - 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1359

COUNSEL FOR THE UNITED STATES

          (approved 1/25/2008)  
EDWARD BAGLEY  
Office of the State Engineer, Legal Division  
P.O. Box 25102  
Santa Fe, NM 87504  
(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO  
EX REL. STATE ENGINEER

