

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-ACE
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	Sub-areas 9 & 10
)	
v.)	Subfile ZRB-2-0015
)	
A&R PRODUCTIONS, et al.)	
)	
Defendants.)	
_____)	

MOTION FOR SUBSTITUTION OF PARTY

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Court pursuant to Fed. R. Civ. P. 25(a) to issue its order substituting the ESTATE OF DEREK OSBORNE BEATON for defendant DEREK OSBORNE BEATON in these proceedings. As grounds for this motion, Plaintiffs state as follows:

1. Pursuant to the Special Master’s December 14, 2005 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 9 and 10 of the Zuni River System* (Doc. No. 436) and based upon information obtained from Cibola County records for the Hydrographic Survey of Sub-areas 9 and 10, the United States, on January 24, 2006, filed a *Motion To Join Additional Parties Defendant* (Doc. No. 468), requesting the Court to join

Derek Osborne Beaton, among others, as a party defendant in this case. The Court granted the motion on January 26, 2006. (Doc. No. 470).

2. Also pursuant to the Special Master's procedural and scheduling order, the United States mailed a proposed Consent Order for Subfile ZRB-2-0015, signed by counsel for the United States and the State, to Derek Osborne Beaton. The service packet, mailed on February 2, 2006, was returned by the post office as undeliverable.

3. On July 26, 2006, Ronald Boyett provided counsel for the United States with copies of the May 16, 2006 *Order of Presumed Death and Intestacy, Determination of Heirs and Appointment of Personal Representative without Bond in a Supervised Administration* entered on the record of In the Matter of Derek Osborne Beaton, Missing and Presumed Dead, No. D-0728-PB-2006-005 (7th Dist., N.M.),¹ together with a certified copy of the June 15, 2006 *Statement of Acceptance of Appointment as and Duties of the Office of Personal Representative* filed in that action by Mr. Boyett.²

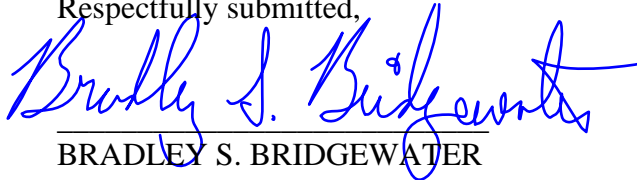
WHEREFORE, the Plaintiffs respectfully move the Court to enter its order substituting the ESTATE OF DEREK OSBORNE BEATON for defendant DEREK OSBORNE BEATON in these proceedings.

DATED: August 8, 2006

¹ Attached to this motion as "Exhibit A."

² Attached as "Exhibit B."

Respectfully submitted,



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

COUNSEL FOR THE UNITED STATES

_____ (approved via email 8/3/2006)

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

CERTIFICATE OF SERVICE

I hereby certify that, on August 8, 2006, a copy of the foregoing *Motion For*

Substitution Of Party was mailed to the following persons:

By regular mail:

Special Master Vickie L. Gabin
U.S. District Court
District of New Mexico
P.O. Box 2384
Santa Fe, NM 87504-2384

Edward Bagley
Office of the State Engineer, Legal Division
P.O. Box 25102
Santa Fe, NM 87504

By certified mail, restricted delivery:

Ronald Boyett, Personal Representative
Estate of Derek Osborne Beaton
35 San Fernando Road
Peralta, NM 87042

A handwritten signature in blue ink, reading "Bradley L. Boyett", is written over a horizontal line. The signature is cursive and includes a long horizontal stroke at the end.