

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-3-0018
)	
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 defendants:

RICHARD BROOKS & BEVERLY BROOKS	Subfile No. ZRB-3-0018
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed waiver of service of summons of BEVERLY BROOKS (No. 727) and RICHARD BROOKS (No. 727)

2. RICHARD BROOKS & BEVERLY BROOKS were provided the documents listed in the Declaration of Yvonne Marsh (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0018, Defendants RICHARD BROOKS & BEVERLY BROOKS were subject to the Special Master's May 3, 2011 *Order Setting Scheduling Conference* (No. 2654), which required these Defendants to appear at a scheduling conference on May 31, 2011 and stated: "**Failure to appear without good cause may result in a default order which incorporates the Plaintiffs' proposed consent order(s).**"

4. Defendants RICHARD BROOKS & BEVERLY BROOKS did not appear at the May 31, 2011 scheduling conference, were never excused from the requirement to so appear, and have not otherwise shown good cause for their failure to appear.

5. Defendants RICHARD BROOKS & BEVERLY BROOKS are in default for failure to appear or otherwise defend in Subfile No. ZRB-3-0018 within the time limitations imposed by the Orders of the Court, as shown by the Clerk's Certificate of Default filed August 31, 2011 (No. 2699).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended, the right(s) of RICHARD BROOKS & BEVERLY BROOKS to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

RICHARD BROOKS & BEVERLY BROOKS
Subfile No. ZRB-3-0018

WELL

Map Label:	7B-3-W25
OSE File No:	G 0914
Priority Date:	12/22/1998

Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD
Well Location: As shown on Hydrographic Survey Map 7B-3
S. 18 T. 08N R. 15W 1/4, 1/16, 1/64: NE SE NW
X (ft): 2,537,234 **Y (ft):** 1,428,564
New Mexico State Plane Coordinate System, West Zone, NAD 1983
Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.7 acre-feet per annum.

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against RICHARD BROOKS & BEVERLY BROOKS, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0018 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: September 7, 2011

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

(approved 9/7/2011)

EDWARD BAGLEY

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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 September 7, 2011, I filed the foregoing *Motion for Default Judgment* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

AND I FURTHER CERTIFY that a copy of the foregoing was mailed to the following parties who are not CM/ECF Participants:

BEVERLY BROOKS
RICHARD BROOKS
P.O. BOX 576
RAMAH, NM 87321

 /s/
Bradley S. Bridgewater