

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 MV/LFG
)	
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	Subfile No. ZRB-2-0026
)	
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:

KENNETH BRUTON	Subfile No. ZRB-2-0026
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named Defendant as shown by the filed waiver of service of summons of KENNETH BRUTON (No. 527).

2. KENNETH BRUTON was provided the documents listed in the Declaration of Karmen Miller (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-2-0026, Defendant KENNETH BRUTON was subject 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 Stream System* (Doc. No. 436) and the 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 Orders"), which established a deadline of April 18, 2006 for this Defendant to submit a Request for Consultation or return a signed Consent Order, and which required this Defendant to either sign and return the last-offered Consent Order or to file and serve a Subfile Answer within 20 days of service of a *Notice That the Consultation Period Has Ended* for Subfile ZRB-2-0026.

4. These deadlines for Subfile ZRB-2-0026 were never extended. Defendant KENNETH BRUTON submitted a timely Request for Consultation. However, following the conclusion of the consultation this Defendant failed to either sign and return the last-offered Consent Order or to file and serve a Subfile Answer within 20 days of service of the December 5, 2011 *Notice That the Consultation Period Has Ended* (Doc. No. 2734).

5. Defendant KENNETH BRUTON is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-2-0026 within the time limitations imposed by applicable Procedural and Scheduling Orders, or Orders of the Court extending deadlines, as shown by the Clerk's Certificate of Default filed October 31, 2012 (No. 2812).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended, the right(s) of KENNETH BRUTON to divert and use the public waters of the Zuni River Stream System, Sub-Areas 9 and 10, should be as set forth below:

KENNETH BRUTON
Subfile No. ZRB-2-0026

WELL

Map Label: 10B-5-W37

OSE File No: G 02622

Priority Date: 3/27/2007

Purpose of Use: 72-12-1 DOMESTIC & LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10B-5

S. 8 T. 05N R. 17W 1/4, 1/16, 1/64: SW SW SW

X (ft): 2,474,508 Y (ft): 1,335,739

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

Amount of Water: Historical beneficial use not to exceed 1.54 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against KENNETH BRUTON, incorporating the terms of the Consent Order proposed for Subfile ZRB-2-0026 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended.

Dated: November 14, 2012

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

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(approved 11/9/2012)

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