

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-3-0024
)	
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:

CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION	Subfile No. ZRB-3-0024
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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 service of process on CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION (Doc. No. 1502).

2. CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0024, Defendant CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION 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 December 30, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-3-0024 were never extended. In addition, the 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).

5. Defendant CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0024 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 March 3, 2008 (Doc. No. 1618).

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

CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION
Subfile No. ZRB-3-0024

WELL

Map Label: 7A-3-W16

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7A-3

S. 22 T. 08N R. 16W 1/4, 1/16, 1/64: SW SE NW

X (ft): 2,518,868 **Y (ft):** 1,420,940

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 CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0024 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: March 20, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

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(approved 3/14/2008)

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EX REL. STATE ENGINEER

