

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-4-0052
)	
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:

ANNETTE FERNANDEZ & MARC FERNANDEZ	Subfile No. ZRB-4-0052
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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 service of summons on MARC FERNANDEZ (Doc. No. 1223) and ANNETTE FERNANDEZ (Doc. No. 1225).

2. ANNETTE FERNANDEZ & MARC FERNANDEZ were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0052, Defendants ANNETTE FERNANDEZ & MARC FERNANDEZ were subject to the Special Master's September 28, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 1, 2, and 3 (Excluding Ramah) of the Zuni River Stream System* (Doc. No. 838)("Procedural and Scheduling Order"), which established a deadline of January 9, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0052 were never extended.

5. Defendants ANNETTE FERNANDEZ & MARC FERNANDEZ are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0052 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 November 18, 2008 (Doc. No. 1973).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended, the right(s) of ANNETTE FERNANDEZ & MARC FERNANDEZ to divert and use the public waters of the Zuni River Stream System, Sub-Areas 1, 2 and 3 (excluding Ramah), should be as set forth below:

MARC FERNANDEZ and ANNETTE FERNANDEZ
Subfile No. ZRB-4-0052

WELL

Map Label: 3B-4-W150

OSE File No: None

Priority Date: 1/1/1984

Purpose of Use: NON 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 3B-4

S. 18 T. 11N R. 15W 1/4, 1/16, 1/64: SE NE SE

X (ft): 2,538,088 **Y (ft):** 1,522,202

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 ac-ft per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against ANNETTE FERNANDEZ & MARC FERNANDEZ, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0052 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended.

Dated: December 16, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

(approved 12/8/2008)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 16, 2008, 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:

Marc Fernandez and Annette Fernandez
1016 6th Street
Rio Ranch, NM 87124

 /s/
Bradley S. Bridgewater