

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-4-0063
)	
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:

ZUNI MOUNTAIN LTD.	Subfile No. ZRB-4-0063
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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 ZUNI MOUNTAIN, LTD (Doc. No.362).

2. ZUNI MOUNTAIN LTD. was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0063, Defendant ZUNI MOUNTAIN LTD. was 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 15, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0063 were never extended.

5. Defendant ZUNI MOUNTAIN LTD. is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0063 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 ZUNI MOUNTAIN LTD. 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:

ZUNI MOUNTAIN, LTD
Subfile No. ZRB-4-0063

POND

Map Label: 3B-3-SP002

Priority Date: 10/6/1997

Purpose of Use: LIVESTOCK

Source of Water: Well

Point of Diversion: Fills from well 3B-3-W005 (Location X(ft): 2,517,413; Y(ft):
1,544,296);

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 1,591

Storage Impoundment Volume (ac-ft): 0.088

Pond Location: As shown on Hydrographic Survey Map 3B-3

S. 28 T. 12N R. 16W 1/4, 1/16, 1/64: NE SE SE

X(ft): 2,517,409 **Y(ft):** 1,544,255

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

Dam height (if greater than 9 ft):

WELL

Map Label: 3B-3-W005

OSE File No: G 1549

Priority Date: 12/31/1960

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

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

S. 28 T. 12N R. 16W 1/4, 1/16, 1/64: NE SE SE

X (ft): 2,517,413 **Y (ft):** 1,544,296

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

Amount of Water (ac-ft per annum): 0.112

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against ZUNI MOUNTAIN LTD., incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0063 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

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(approved 12/8/2008)
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EX REL. STATE ENGINEER

