

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-4-0103
)	
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:

PETER M. COLE & DIANE K. COLE	Subfile No. ZRB-4-0103
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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 waivers of service of summons of PETER M. COLE and DIANE K. COLE (Doc. No. 875).

2. PETER M. COLE & DIANE K. COLE were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0103, Defendants PETER M. COLE & DIANE K. COLE 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 12, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0103 were never extended.

5. Defendants PETER M. COLE & DIANE K. COLE are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0103 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 PETER M. COLE & DIANE K. COLE 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:

PETER M. COLE and DIANE K. COLE
Subfile No. ZRB-4-0103

WELL

Map Label: 3B-4-W067

OSE File No: None

Priority Date: 3/13/1994

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: NW NE SW

X (ft): 2,534,622 **Y (ft):** 1,524,591

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 PETER M. COLE & DIANE K. COLE, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0103 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 30, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 12/30/2008)

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EX REL. STATE ENGINEER

