

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-4-0156
)	
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:

MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS	Subfile No. ZRB-4-0156
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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 summons on the MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS (Doc. No. 1996).

2. MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0156, Defendant MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS 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 May 25, 2008 for the filing of a Subfile Answer or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0156 were never extended.

5. Defendant MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS, submitted a Request for Consultation but, after consulting with the Plaintiffs, failed to file a Subfile Answer, or return a signed last-offered Consent Order for Subfile ZRB-4-0156 within twenty (20) days after being served with a Notice That The Consultation Period Has Ended (Doc. No. 1738).

6. Defendant MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0156 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 December 17, 2008 (Doc. No. 2013).

7. 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 MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS 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:

MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001,
FBO JEANNE FUHS
Subfile No. ZRB-4-0156

POND

Map Label: 3B-1-SP050

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 7.0

Surface Area (sq.ft): 1,590

Storage Impoundment Volume (ac-ft): 0.426

Pond Location: As shown on Hydrographic Survey Map 3B-1

S. 7 T. 13N R. 15W 1/4, 1/16, 1/64: SW SW NW

X(ft): 2,531,807 **Y(ft):** 1,589,418

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

Dam height (if greater than 9 ft):

POND

Map Label: 3B-2-SP025

Purpose of Use: LIVESTOCK

Priority Date: 10/6/1997

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft) : 4,388

Storage Impoundment Volume (ac-ft): 0.181

Pond Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: SW SW NW

X(ft): 2,536,892 **Y(ft):** 1,568,161

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

Dam height (if greater than 9 ft):

POND

Map Label: 3B-2-SP030

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1940

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 1,193

Storage Impoundment Volume (ac-ft): 0.183

Pond Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: NW NW SE

X(ft): 2,537,475 **Y(ft):** 1,572,367

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

Dam height (if greater than 9 ft):

POND

Map Label: 3B-2-SP031

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 3,912

Storage Impoundment Volume (ac-ft): 0.898

Pond Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: NW NW NW

X(ft): 2,536,934 **Y(ft):** 1,572,592

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

Dam height (if greater than 9 ft):

POND

Map Label: 3B-2-SP032

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1930

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 1,940

Storage Impoundment Volume (ac-ft): 0.445

Pond Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: NW SW SE

X(ft): 2,537,238 **Y(ft):** 1,570,370

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

Dam height (if greater than 9 ft):

POND

Map Label: 3B-2-SP033

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 946

Storage Impoundment Volume (ac-ft): 0.145

Pond Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: NW SE SE

X(ft): 2,539,066 **Y(ft):** 1,570,617

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

Dam height (if greater than 9 ft):

WELL

Map Label: 3B-1-W038

OSE File No: NONE

Priority Date: 1/1/1890

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

Well Location: As shown on Hydrographic Survey Map 3B-1

S. 7 T. 13N R. 15W 1/4, 1/16, 1/64: SW SW NW

X (ft): 2,531,905 **Y (ft):** 1,589,816

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.011 ac-ft per annum

WELL

Map Label: 3B-1-W039

OSE File No: None

Priority Date: 1/1/1947

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

Well Location: As shown on Hydrographic Survey Map 3B-1

S. 7 T. 13N R. 15W 1/4, 1/16, 1/64: SW SW SE

X (ft): 2,532,203 **Y (ft):** 1,589,117

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.011 ac-ft per annum

WELL

Map Label: 3B-2-W021

OSE File No: G 2047

Priority Date: 1/1/1970

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

Well Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: NW NW NW

X (ft): 2,536,845 **Y (ft):** 1,572,388

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.195 ac-ft per annum

WELL

Map Label: 3B-2-W022

OSE File No: G 2109

Priority Date: 12/31/1899

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

Well Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: SW NE NE

X (ft): 2,538,927 **Y (ft):** 1,569,696

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.195 ac-ft per annum

WELL

Map Label: 3B-2-W023

OSE File No: G 2049

Priority Date: 12/31/1899

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

Well Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: SW SE NW

X (ft): 2,538,013 **Y (ft):** 1,568,402

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.195 ac-ft per annum

WELL

Map Label: 3B-2-W024

OSE File No: G 2106

Priority Date: 12/31/1990

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

Well Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: SW NW SW

X (ft): 2,537,112 **Y (ft):** 1,569,122

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.195 ac-ft per annum

WELL

Map Label: 3B-2-W026

OSE File No: NONE

Priority Date: 1/1/1940

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

Well Location: As shown on Hydrographic Survey Map 3B-2

S. 32 T. 13N R. 15W 1/4, 1/16, 1/64: NW SE NW

X (ft): 2,537,540 **Y (ft):** 1,572,026

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed

3.195 ac-ft per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against MICHAEL AND JEANNE FUHS REVOCABLE TRUST UTA, DATED MARCH 8, 2001, FBO JEANNE FUHS, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0156 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended.

Dated: January 29, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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