

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-5-0049
)	
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:

MARYAH L. MAKI & BRIAN P. MAKI	Subfile No. ZRB-5-0049
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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 MARYAH L. MAKI (Doc. No. 1226) and BRIAN P. MAKI (Doc. No. 1226).

2. MARYAH L. MAKI & BRIAN P. MAKI were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-5-0049, Defendants MARYAH L. MAKI & BRIAN P. MAKI were subject to the Special Master's January 11, 2007 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims* (Doc. No. 954) ("Procedural and Scheduling Order"), which established a deadline of June 12, 2007 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-5-0049 were never extended.

5. Defendants MARYAH L. MAKI & BRIAN P. MAKI are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-5-0049 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 April 3, 2009 (Doc. No. 2253).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area Ramah*, as amended, the right(s) of MARYAH L. MAKI & BRIAN P. MAKI to divert and use the public waters of the Zuni River Stream System, Sub-Area Ramah, should be as set forth below:

MARYAH L. MAKI and BRIAN P. MAKI
Subfile No. ZRB-5-0049

WELL

Map Label: 3B-5-W095

OSE File No: G 1589

Priority Date: 12/31/1981

Purpose of Use: NON 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 3B-5C

S. 34 T. 11N R. 16W 1/4, 1/16, 1/64: SE NE SW

X (ft): 2,521,431 **Y (ft):** 1,506,397

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 MARYAH L. MAKI & BRIAN P. MAKI, incorporating the terms of the Consent Order proposed for Subfile ZRB-5-0049 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area Ramah*, as amended.

Dated: April 9, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 4/6/2009)

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EX REL. STATE ENGINEER

