

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-1-0181
)	
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:

JOSE MONTOYA	Subfile No. ZRB-1-0181
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and as grounds therefore Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by the filed service of summons on JOSE MONTOYA (Doc. No. 2306).

2. JOSE MONTOYA was provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0181, Defendant JOSE MONTOYA was subject to the Special Master's September 27, 2006 *Order Granting Joint Motion to Amend Procedural and Scheduling Orders and Establish or Revise Deadlines for Defendants to Return Requests for Consultation and Submit Subfile Answers* (Doc. No. 837) ("Procedural and Scheduling Order"), which established a deadline of January 22, 2009 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-1-0181 were never extended.

5. Defendant JOSE MONTOYA is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0181 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 August 13, 2009 (Doc. No. 2396).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-Areas 4 and 8*, as amended, the right(s) of JOSE MONTOYA to divert and use the public waters of the Zuni River Stream System, Sub-Areas 4 and 8, should be as set forth below:

JOSE MONTOYA
Subfile No. ZRB-1-0181

WELL

Map Label: 8B-1-W15

OSE File No: G 2418

Priority Date: 10/1/2005

Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD

Well Location: As shown on Hydrographic Survey Map 8B-1

S. 4 T. 09N R. 13W 1/4, 1/16, 1/64: SE NW SE

X (ft): 2,610,339 **Y (ft):** 1,468,811

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

acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against JOSE MONTOYA, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0181 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-Areas 4 and 8*, as amended.

Dated: August 31, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

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(approved 8/19/2009)

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EX REL. STATE ENGINEER

