

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-4-0042
)	
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:

ANNA M. BERUBE TRUST & STEVEN BERUBE TRUSTEE	Subfile No. ZRB-4-0042
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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 Proof of Service of Process by Publication for Steven Berube, Trustee (Doc. No. 2379) and filed Summons for Anna Berube Trust (Doc. No. 1869).

2. ANNA M. BERUBE TRUST & STEVEN BERUBE TRUSTEE were provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0042, Defendant ANNA M. BERUBE TRUST & STEVEN BERUBE TRUSTEE is 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 10, 2007 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0042 were never extended.

5. Defendant ANNA M. BERUBE TRUST & STEVEN BERUBE TRUSTEE is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0042 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: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended, the right(s) of ANNA M. BERUBE TRUST & STEVEN BERUBE TRUSTEE 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:

ANNA M. BERUBE TRUST AND STEVEN BERUBE TRUSTEE
Subfile No. ZRB-4-0042

WELL

Map Label: 3B-4-W125

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 3B-4

S. 13 T. 11N R. 16W 1/4, 1/16, 1/64: SW SW SE

X(ft): 2,529,076 **Y(ft):** 1,520,625

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 ANNA M. BERUBE TRUST & STEVEN BERUBE TRUSTEE, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0042 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended.

Dated: September 4, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

(approved 9/1/2009)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 4, 2009, I filed the foregoing *Motion for Default Judgment* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

AND I FURTHER CERTIFY that a copy of the foregoing was mailed to the following parties who are not CM/ECF Participants:

Anna M. Berube Trust and Steven Berube Trustee
1333 South Copias Way
Tuscon, AZ 85713

 /s/
Bradley S. Bridgewater