

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 MV/LFG
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	Subfile No. ZRB-3-0029
)	
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:

ERNEST CHAVEZ	Subfile No. ZRB-3-0029
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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 waiver of service of summons of ERNEST CHAVEZ (No. 362).

2. ERNEST CHAVEZ was provided the documents listed in the Declaration of Karmen Miller (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0029, Defendant ERNEST CHAVEZ was subject to the Special Master's March 7, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Area 7 of the Zuni River Adjudication* (Doc. No. 561) and the 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 Orders"), which established a deadline of July 14, 2006 for this Defendant to submit a Request for Consultation or return a signed Consent Order, and which required this Defendant to either sign and return the last-offered Consent Order or to file and serve a Subfile Answer within 20 days of service of a *Notice That the Consultation Period Has Ended* for Subfile ZRB-3-0029.

4. These deadlines for Subfile ZRB-3-0029 were never extended. Defendant ERNEST CHAVEZ submitted an untimely Request for Consultation which Plaintiffs nonetheless agreed to consider. However, following the conclusion of the consultation this Defendant failed to either sign and return the last-offered Consent Order or to file and serve a Subfile Answer within 20 days of service of the January 30, 2012 *Notice That the Consultation Period Has Ended* (Doc. No. 2749).

5. Defendant ERNEST CHAVEZ is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0029 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 October 31, 2012 (No. 2812).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended, the right(s) of ERNEST CHAVEZ to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

ERNEST CHAVEZ
Subfile No. ZRB-3-0029

STOCK POND

Map Label: 7A-4-SP16
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 7,465

Storage Impoundment Volume (ac-ft): 0.308

Pond Location: As shown on Hydrographic Survey Map 7A-4

S. 6 T. 07N R. 16W 1/4, 1/16, 1/64: SW NW NW

X(ft): 2,501,588 **Y(ft):** 1,406,405

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-4-SP17

Purpose of Use: LIVESTOCK

Priority Date: 10/6/1997

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 15,045

Storage Impoundment Volume (ac-ft): 1.243

Pond Location: As shown on Hydrographic Survey Map 7A-4

S. 6 T. 07N R. 16W 1/4, 1/16, 1/64: SW NE NW

X(ft): 2,502,929 **Y(ft):** 1,406,464

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-4-SP18

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 26,330

Storage Impoundment Volume (ac-ft): 1.451

Pond Location: As shown on Hydrographic Survey Map 7A-4

S. 6 T. 07N R. 16W 1/4, 1/16, 1/64: SW NE NW

X(ft): 2,503,107 **Y(ft):** 1,406,469

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-4-SP19

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 1,693

Storage Impoundment Volume (ac-ft): 0.047

Pond Location: As shown on Hydrographic Survey Map 7A-4

S. 6 T. 07N R. 16W 1/4, 1/16, 1/64: SW NE NE

X(ft): 2,503,397 **Y(ft):** 1,406,829

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-4-SP20
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 25,162

Storage Impoundment Volume (ac-ft): 2.080

Pond Location: As shown on Hydrographic Survey Map 7A-4

S. 6 T. 07N R. 16W 1/4, 1/16, 1/64: SE NE SE

X(ft): 2,506,023 **Y(ft):** 1,405,748

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7A-4-W22

OSE File No: G 1568

Priority Date: 9/22/1980

Purpose of Use: NON 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7A-4

S. 6 T. 07N R. 16W 1/4, 1/16, 1/64: SW NW NE

X (ft): 2,502,430 **Y (ft):** 1,406,354

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

Amount of Water: 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 ERNEST CHAVEZ, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0029 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: November 16, 2012

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 11/15/2012)
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