

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-1-0191
	)	
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:

<b>KARLENE ZAJICEK &amp; KEVIN ZAJICEK</b>	<b>Subfile No. ZRB-1-0191</b>
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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 waivers of service of summons of KEVIN ZAJICEK (No. 2696) and KARLENE ZAJICEK (No. 2696).

2. KARLENE ZAJICEK & KEVIN ZAJICEK were provided the documents listed in the Declaration of Yvonne Marsh (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0191, Defendants KARLENE ZAJICEK & KEVIN ZAJICEK were 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 October 26, 2010 for these Defendants to submit a Request for Consultation or return a signed Consent Order, and which required these Defendants 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-1-0191.

4. These deadlines for Subfile ZRB-1-0191 were never extended. Defendants KARLENE ZAJICEK & KEVIN ZAJICEK submitted a timely Request for Consultation. However, following the conclusion of the consultation these Defendants 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 October 4, 2012 *Notice That the Consultation Period Has Ended* (Doc. No. 2806).

5. Defendants KARLENE ZAJICEK & KEVIN ZAJICEK are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0191 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 February 7, 2013 (No. 2845).

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

**KARLENE ZAJICEK & KEVIN ZAJICEK**  
**Subfile No. ZRB-1-0191**

**WELL**

**Map Label:** 8B-2-W15

**OSE File No:** G 02573

**Priority Date:** 9/12/2006

**Purpose of Use:** NO RIGHT

**Well Location:** As shown on Hydrographic Survey Map 8B-2

**S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: SE NE NW**

**X (ft): 2,600,337 Y (ft): 1,432,644**

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

**Amount of Water (ac-ft per annum): 0.0**

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against KARLENE ZAJICEK & KEVIN ZAJICEK, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0191 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: February 12, 2013

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 2/11/2013)

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EX REL. STATE ENGINEER

