IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA, and)	
STATE OF NEW MEXICO, ex rel. STATE)	
ENGINEER,)	
)	
Plaintiffs,)	
)	
and) No. 01-cv-0072 MV/WP	L
)	
ZUNI INDIAN TRIBE, NAVAJO NATION,) ZUNI RIVER BASIN	
) ADJUDICATION	
Plaintiffs in Intervention,)	
)	
v.) Subfile No. ZRB-1-0077	7
)	
A & R PRODUCTIONS, et al.,)	
)	
Defendants.	•	

ORDER GRANTING PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT

This matter is before the Court on the joint motion for default judgment filed by the United States and the State of New Mexico on August 25, 2016. (Doc. 3309.) Defendants Colin E. O'Neill, Johanne F. O'Neill, and Gregory C. Frank failed to respond to the motion within the prescribed time. Accordingly, the Court finds that the motion is well-taken and is hereby granted. The Court finds:

The Defendants have been legally served with process or have waived service of summons. (Doc. 504 (waiver of service of summons filed by Gregory C. Frank); Doc. 513 (waiver of service of summons filed by Colin E. O'Neill); Doc. 514 (waiver of service of summons filed by Johanne F. O'Neill).)

2. Each Defendant has failed to comply with the applicable procedural and scheduling orders, and failed to appear, answer, or otherwise defend in this subfile action. The Defendants are in default. (*See* Doc. 3307 (Clerk's Certificate of Default).)

3. The portions of the Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 4 and 8, prepared by Natural Resources Consulting Engineers, Inc. under contract to the United States, relating to the water rights of each subfile Defendant have been introduced into the record and are hereby incorporated as the evidentiary basis of the water rights described herein.

4. The right of the Defendants—Colin E. O'Neill, Johanne F. O'Neill, and Gregory C. Frank—to divert and use the public waters of the Zuni River Stream System, Subareas 4 and 8, is as set forth below:

WELL

Map Label: 4B-3-W26

OSE File No: G 00828

Priority Date: 10/8/1997

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

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

S. 30 T. 10N R. 13W 1/4, 1/16, 1/64 NE NW SE

X (ft): 2,599,620 **Y** (ft): 1,481,803

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

Amount of Water: Historical beneficial use not to exceed 0.7 ac-ft per annum

4) The Defendants have no right to divert and use the public waters of the Zuni River

Stream System, Sub-areas 4 and 8, except as set forth in this Order and other Orders entered by

the Court in this cause;

5) The Defendants, their successors, representatives, heirs, and assigns, are enjoined from

any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 4 and 8,

except in strict accordance with this Order and other orders of the Court in this cause; and

6) The water right described herein is adjudicated as between the United States, the State

of New Mexico, and the Defendants, subject to the right of any other water right claimant with

standing to object prior to the entry of a final decree in this cause.

7) The Clerk of Court is ordered to mail a copy of this Order to the Defendants at the

TES DISTRICT JUDGE

following address:

Johanne F. and Colin E. O'Neill Gregory C. Frank 343 Baker Lane Erie, CO 80516

IT IS SO ORDERED.

3