

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,)	
)	
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:

Randell J. Barrow	ZRB-1-0003
Freddie E. Montoya	ZRB-1-0071
Linda Montoya	ZRB-1-0071
Jean Proper	ZRB-1-0082
Roland Carter	ZRB-1-0116
Isabelle Carter	ZRB-1-0116

and as grounds therefore Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants, established by the service of summons on Randell J. Barrow on January 30, 2006 (Doc. No. 664), Freddie E. Montoya on February 15, 2006 (Doc. No. 639), Linda Montoya on February 15, 2006 (Doc. No. 640), Jean Proper on February 3, 2006 (Doc. No. 654), Roland Carter on January 24, 2006 (Doc. No. 652), and Isabelle Carter on January 24, 2006 (Doc. No. 651).

2. Deadlines for Defendants Randell J. Barrow (ZRB-1-0003), Freddie E. Montoya and Linda Montoya (ZRB-1-0071), Jean Proper (ZRB-1-0082), and Roland Carter and Isabelle Carter (ZRB-1-0116) were initially established by the Special Master's *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-areas 4 and 8 of the Zuni River Stream System* (Doc. No. 387), but were extended by the *Order Granting Motion to Extend Time for Persons Served with a Summons to File Subfile Answers* (Doc. No. 442). The deadline to file a subfile answer was extended to 20 days after service of summons and the Amended Complaint.

3. Defendants Randell J. Barrow (ZRB-1-0003), Freddie E. Montoya and Linda Montoya (ZRB-1-0071), Jean Proper (ZRB-1-0082), and Roland Carter and Isabelle Carter (ZRB-1-0116), failed to appear, answer, or otherwise defend within twenty days from the date served with the summons.

4. The defendants named above are in default for failure to appear, answer, or otherwise defend in the indicated subfiles within the time limitations imposed by applicable Procedural and Scheduling Orders, as shown by the Clerk's Certificate of Default filed August 28, 2007 (Doc.No. 1233).

5. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey*

Report for Sub-areas 4 and 8, as amended, the right(s) of the defendants to divert and use the public waters of the Zuni River Stream System should be as set forth below:

RANDELL J. BARROW, Subfile No. ZRB-1-0003

WELL

Map Label: 4B-3-W23

OSE File No: G 0663

Priority Date: 4/18/1996

Purpose of Use: 72-12-1 DOMESTIC

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

S. 29 T. 10N R. 13W 1/4, 1/16, 1/64: NE NE NW

X (ft): 2,605,190 **Y (ft):** 1,482,615

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

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

FREDDIE E. MONTOYA and LINDA MONTOYA, Subfile No. ZRB-1-0071

STOCK POND

Map Label: 8C-1-SP02

Source of Water: Surface Runoff

Purpose of Use: LIVESTOCK

Priority date: 10/6/1997

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.5

Surface Area (sq.ft): 6,899

Storage Impoundment Volume (ac-ft): 0.143

Pond Location: As shown on Hydrographic Survey Map 8C-1

S. 7 T. 09N R. 12W 1/4, 1/16, 1/64: NW SW SE

X(ft): 2,628,654 **Y(ft):** 1,464,439

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

Dam height (if greater than 9 ft):

WELL

Map Label: 8C-1-W04

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: DOMESTIC

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

S. 7 T. 09N R. 12W 1/4, 1/16, 1/64: NW SW NW

X (ft): 2,628,011 **Y (ft):** 1,465,162

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

Amount of Water (ac-ft): Historical beneficial use not to exceed 0.7 acre-feet

per annum

JEAN PROPER, Subfile No. ZRB-1-0082

WELL

Map Label: 4A-3-W17

OSE File No: G 1206

Priority Date: 3/21/2003

Purpose of Use: 72-12-1 DOMESTIC

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

S. 8 T. 10N R. 14W 1/4, 1/16, 1/64: NE NE NE

X (ft): 2,574,648 **Y (ft):** 1,498,565

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

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

ROLAND CARTER and ISABELLE CARTER, Subfile No. ZRB-1-0116

STOCK POND

Map Label: 8A-1-SP10

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 2,981

Storage Impoundment Volume (ac-ft): 0.082

Pond Location: As shown on Hydrographic Survey Map 8A-1

S. 22 T. 09N R. 14W 1/4, 1/16, 1/64: SW NE NW

X(ft): 2,581,933 **Y(ft):** 1,453,793

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

Dam height (if greater than 9 ft):

WHEREFORE, the plaintiff requests the Court to enter orders granting default judgment against the above-named defendants, incorporating the terms of the proposed Consent Orders and in conformance with the July 14, 2004, *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 4 and 8*.

Dated: September 7, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

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COUNSEL FOR THE UNITED STATES

(approved via email 8/31/2007)

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COUNSEL FOR THE STATE OF NEW
MEXICO EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 7, 2007, I filed the foregoing *Motion for Default Judgment* electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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I further certify that on September 7, 2007, a copy of the foregoing was served by first class mail on each of the parties set forth below.

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