

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-1-0102
)	
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:

WALLACE E. THARP	Subfile No. ZRB-1-0102
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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 WALLACE E. THARP (Doc. No. 362).

2. WALLACE E. THARP was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0102, Defendant WALLACE E. THARP was subject to the Special Master's September 8, 2005 *Amended 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)("Procedural and Scheduling Order"), which established a deadline of January 10, 2006, for the submission of a Request for Consultation, return of a Consent Order, or the filing of a form Subfile Answer.

4. These deadlines for Subfile ZRB-1-0102 were never extended.

5. Defendant WALLACE E. THARP failed to submit a request for consultation, file a subfile answer, or return a signed Consent Order for Subfile ZRB-1-0102 in accordance with the Procedural and Scheduling Order or other applicable scheduling orders.

6. Defendant WALLACE E. THARP is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0102 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 28, 2007 (Doc. No. 1233).

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

WALLACE E. THARP
Subfile No. ZRB-1-0102

WELL

Map Label: 4B-3-W03

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: DOMESTIC

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

S. 19 T. 10N R. 13W 1/4, 1/16, 1/64: NW SE NE

X (ft): 2,597,914 **Y (ft):** 1,486,706

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

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against WALLACE E. THARP, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0102 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: November 13, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 11/1/2007)

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EX REL. STATE ENGINEER

