

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-1-0024
	)	
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>CARMEN KAY JOHNSTON &amp; LUELLA L. CLAWSON</b>	<b>Subfile No. ZRB-1-0024</b>
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by filed waiver of service of summons of CARMEN KAY JOHNSTON (Doc. No. 415), and LUELLA L. CLAWSON (Doc. No. 415).

2. CARMEN KAY JOHNSTON & LUELLA L. CLAWSON were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0024, Defendants CARMEN KAY JOHNSTON & LUELLA L. CLAWSON were 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 return of a Consent Order, or the filing of a form Subfile Answer.

4. These deadlines for Subfile ZRB-1-0024 were never extended.

5. Defendants CARMEN KAY JOHNSTON & LUELLA L. CLAWSON failed to submit a request for consultation, file a subfile answer, or return a signed Consent Order for Subfile ZRB-1-0024 in accordance with the Procedural and Scheduling Order or other applicable scheduling orders.

6. Defendants CARMEN KAY JOHNSTON & LUELLA L. CLAWSON are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0024 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 CARMEN KAY JOHNSTON & LUELLA L. CLAWSON to divert and use the public waters of the Zuni River Stream System, Sub-Areas 4 and 8, should be as set forth below:

**LUELLA L. CLAWSON and CARMEN KAY JOHNSTON**  
**Subfile No. ZRB-1-0024**

**STOCK POND**

**Map Label:** 4A-4-SP45

**Purpose of Use:** LIVESTOCK

**Priority date:** 9/1/1958

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 8,491

**Storage Impoundment Volume (ac-ft):** 0.351

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

**S. 22 T. 10N R. 14W 1/4, 1/16, 1/64:** NE NW SW

**X(ft):** 2,583,255 **Y(ft):** 1,487,124

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP46

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 4.0

**Surface Area (sq.ft):** 6,223

**Storage Impoundment Volume (ac-ft):** 0.343

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

**S. 22 T. 10N R. 14W 1/4, 1/16, 1/64:** SE NE SW

**X(ft):** 2,584,544 **Y(ft):** 1,484,909

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP47

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1960

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 4,673

**Storage Impoundment Volume (ac-ft):** 0.097

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

**S. 22 T. 10N R. 14W 1/4, 1/16, 1/64:** SE SW SW

**X(ft):** 2,583,183 **Y(ft):** 1,483,228

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP48

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 10,142

**Storage Impoundment Volume (ac-ft):** 0.279

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

**S. 22 T. 10N R. 14W 1/4, 1/16, 1/64:** SE SE SW

**X(ft):** 2,584,158 **Y(ft):** 1,483,181

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP49

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1961

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 16,779

**Storage Impoundment Volume (ac-ft):** 0.347

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

**S. 22 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW SW

**X(ft):** 2,580,187 **Y(ft):** 1,483,418

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

**Dam height (if greater than 9 ft):**

**WELL**

**Map Label:** 4A-4-W10

**OSE File No:** G 1693

**Priority Date:** 12/31/1962

**Purpose of Use:** DOMESTIC

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

**S. 22 T. 10N R. 14W 1/4, 1/16, 1/64:** NE NW SW

**X (ft):** 2,582,914 **Y (ft):** 1,487,338

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 CARMEN KAY JOHNSTON & LUELLA L. CLAWSON, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0024 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: December 13, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER  
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COUNSEL FOR THE UNITED STATES

(approved 11/15/2007)  
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COUNSEL FOR THE STATE OF NEW MEXICO  
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 13, 2007, I filed the foregoing *Motion for Default Judgment* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

I further certify that on December 13, 2007, a copy of the foregoing was served by first class mail on each of the parties set forth below.

Luella L. Clawson & Carmen Kay Johnston  
P.O. Box 103  
Ramah, NM 87321

\_\_\_\_\_  
/s/  
Bradley S. Bridgewater