

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-2-0078
)	
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:

KENNETH OWENS	Subfile No. ZRB-2-0078
----------------------	-------------------------------

and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by filed waiver of service of summons of KENNETH OWENS (Doc. No. 549).

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

3. With respect to Subfile ZRB-2-0078, Defendant KENNETH OWENS was subject to the Special Master's December 14, 2005 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 9 and 10 of the Zuni River Stream System* (Doc. No. 436) ("Procedural and Scheduling Order"), which established a deadline of April 10, 2006, for the filing of a Subfile Answer, or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-2-0078 were never extended.

5. Defendant KENNETH OWENS is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-2-0078 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 December 13, 2007 (Doc. No. 1418).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended, the right(s) of KENNETH OWENS to divert and use the public waters of the Zuni River Stream System, Sub-Areas 9 and 10, should be as set forth below:

KENNETH OWENS
Subfile No. ZRB-2-0078

WELL

Map Label: 10B-4-W22

OSE File No: G 1107

Priority Date: 4/29/2000

Purpose of Use: 72-12-1.1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NE SW NW

X (ft): 2,466,701 **Y (ft):** 1,344,498

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

STOCK POND

Map Label: 10B-4-SP40

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 22,591

Storage Impoundment Volume (ac-ft): 1.867

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NW NW SW

X(ft): 2,464,044 **Y(ft):** 1,345,514

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP45

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 3,358

Storage Impoundment Volume (ac-ft): 0.093

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NW NE NW

X(ft): 2,465,735 **Y(ft):** 1,346,076

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP46

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 12,103

Storage Impoundment Volume (ac-ft): 0.333

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NW NE SW

X(ft): 2,465,420 **Y(ft):** 1,345,307

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP47

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 13,478

Storage Impoundment Volume (ac-ft): 0.371

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NW NE SW

X(ft): 2,465,790 **Y(ft):** 1,345,343

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP48

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 4,316

Storage Impoundment Volume (ac-ft): 0.119

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NW NE NE

X(ft): 2,466,288 **Y(ft):** 1,345,614

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP51

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 15,849

Storage Impoundment Volume (ac-ft): 0.437

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NE NW NW

X(ft): 2,466,700 **Y(ft):** 1,345,595

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP52

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.0

Surface Area (sq.ft): 920

Storage Impoundment Volume (ac-ft): 0.013

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NE NW NE

X(ft): 2,467,368 **Y(ft):** 1,345,987

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP53

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 35,596

Storage Impoundment Volume (ac-ft): 0.981

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NE NE SW

X(ft): 2,468,219 **Y(ft):** 1,345,150

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-4-SP54

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 16,854

Storage Impoundment Volume (ac-ft): 0.696

Pond Location: As shown on Hydrographic Survey Map 10B-4

S. 1 T. 05N R. 18W 1/4, 1/16, 1/64: NE NE SE

X(ft): 2,468,804 **Y(ft):** 1,345,039

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

Dam height (if greater than 9 ft):

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against KENNETH OWENS, incorporating the terms of the Consent Order proposed for Subfile ZRB-2-0078 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended.

Dated: January 7, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
U.S. Department of Justice
1961 Stout Street - 8th Floor
Denver, CO 80294
(303) 844-1359

COUNSEL FOR THE UNITED STATES

(approved via email 1/4/2008)
EDWARD BAGLEY
Office of the State Engineer, Legal Division
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 7, 2008, 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 January 7, 2008, a copy of the foregoing was served by first class mail on each of the parties set forth below.

Kenneth Owens
P.O. Box 4121
Roswell, NM 88202

_____/s/_____
Bradley S. Bridgewater