

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-1-0067
)	
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:

GENE MIRABAL & VERA MIRABAL	Subfile No. ZRB-1-0067
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by filed service of summons on GENE MIRABAL (Doc. No. 660) and VERA MIRABAL (Doc. No. 659).

2. GENE MIRABAL & VERA MIRABAL were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0067, Defendants GENE MIRABAL & VERA MIRABAL 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 the return of a Consent Order, or the filing of a form Subfile Answer.

4. These deadlines for Subfile ZRB-1-0067 were extended by the Order Granting Motion to Extend Time for Persons Served with a Summons to File Subfile Answers (Doc. No. 442), which extended the deadline to file a subfile answer to 20 days after service of summons and the Amended 2003 Complaint.

5. Defendants GENE MIRABAL & VERA MIRABAL are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0067 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).

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

GENE MIRABAL and VERA MIRABAL
Subfile No. ZRB-1-0067

WELL

Map Label: 8B-1-W06

OSE File No: G 1821

Priority Date: 10/16/2003

Purpose of Use: 72-12-1.1 DOMESTIC

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

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

X (ft): 2,595,799 **Y (ft):** 1,470,055

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 GENE MIRABAL & VERA MIRABAL, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0067 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: January 15, 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 1/14/2008)

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

