

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-1-0070
	)	
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:

<b>EUSEBIO MONTOYA JR.</b>	<b>Subfile No. ZRB-1-0070</b>
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by filed service of summons on EUSEBIO MONTOYA, JR. (Doc. No. 638).

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

3. With respect to Subfile ZRB-1-0070, Defendant EUSEBIO MONTOYA JR. 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 return of a Consent Order, or the filing of a form Subfile Answer.

4. These deadlines for Subfile ZRB-1-0070 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. Defendant EUSEBIO MONTOYA JR. is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0070 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 EUSEBIO MONTOYA JR. to divert and use the public waters of the Zuni River Stream System, Sub-Areas 4 and 8, should be as set forth below:

**EUSEBIO MONTOYA, JR.**  
**Subfile No. ZRB-1-0070**

**STOCK POND**

**Map Label:** 8B-1-SP20

**Purpose of Use:** LIVESTOCK

**Priority date:** 10/6/1997

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 57,378

**Storage Impoundment Volume (ac-ft):** 1.185

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

**S. 4 T. 09N R. 13W 1/4, 1/16, 1/64:** NW SW SW

**X(ft):** 2,606,657 **Y(ft):** 1,469,931

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

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

**STOCK POND**

**Map Label:** 8C-1-SP01

**Purpose of Use:** LIVESTOCK

**Priority date:** 10/6/1997

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 63,438

**Storage Impoundment Volume (ac-ft):** 1.748

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

**S. 12 T. 09N R. 13W 1/4, 1/16, 1/64:** NE SW SW

**X(ft):** 2,626,907 **Y(ft):** 1,464,700

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

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

**STOCK POND**

**Map Label:** 8C-1-SP09

**Purpose of Use:** LIVESTOCK

**Priority date:** 10/6/1997

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 1,845

**Storage Impoundment Volume (ac-ft):** 0.051

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

**S. 12 T. 09N R. 13W 1/4, 1/16, 1/64:** SE NW SE

**X(ft):** 2,625,965 **Y(ft):** 1,463,044

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

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

**STOCK POND**

**Map Label:** 8C-1-SP22

**Purpose of Use:** LIVESTOCK

**Priority date:** 10/6/1997

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 6.0

**Surface Area (sq.ft):** 3,473

**Storage Impoundment Volume (ac-ft):** 0.287

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

**S. 12 T. 09N R. 13W 1/4, 1/16, 1/64:** SE NE NW

**X(ft):** 2,626,295 **Y(ft):** 1,463,841

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

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

**WELL**

**Map Label:** 8C-1-W01

**OSE File No:** None

**Priority Date:** 3/13/1994

**Purpose of Use:** COMMERCIAL

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

**S. 12 T. 09N R. 13W 1/4, 1/16, 1/64:** NE NW SE

**X (ft):** 2,625,647   **Y (ft):** 1,465,905

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 EUSEBIO MONTOYA JR., incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0070 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

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EX REL. STATE ENGINEER

