

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-2-0025
)	
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:

BEULAH BRUTON	Subfile No. ZRB-2-0025
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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 BEULAH BRUTON (Doc. No. 1157).

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

3. With respect to Subfile ZRB-2-0025, Defendant BEULAH BRUTON 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 deadlines of March 10, 2006, for the submission of a Request for Consultation, and of April 10, 2006, for the return of a signed Consent Order, or filing of a Subfile Answer.

4. These deadlines for Subfile ZRB-2-0025 were never extended. In addition, the Defendant failed to waive service of a summons and complaint and, after being served, failed to file an answer as required by the summons.

5. Defendant BEULAH BRUTON is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-2-0025 within the time limitations imposed by the Federal Rules of Civil Procedure, 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 BEULAH BRUTON to divert and use the public waters of the Zuni River Stream System, Sub-Areas 9 and 10, should be as set forth below:

BEULAH BRUTON
Subfile No. ZRB-2-0025

WELL

Map Label: 10B-5-W08

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: Domestic

Well Location: As shown on Hydrographic Survey Map 10B-5

S. 13 T. 05N R. 18W 1/4, 1/16, 1/64: NE NE NE

X (ft): 2,468,791 Y (ft): 1,335,385

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 BEULAH BRUTON, incorporating the terms of the Consent Order proposed for Subfile ZRB-2-0025 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended.

Dated: January 17, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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 (approved 1/16/2008)
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EX REL. STATE ENGINEER

