

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-2-0094
	)	
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>DANIEL A. WHITE &amp; EVELYN WHITE</b>	<b>Subfile No. ZRB-2-0094</b>
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the voluntary appearance of DANIEL A. WHITE (Doc. No. 248), and the filed service of summons on EVELYN WHITE (Doc. No. 1220).

2. DANIEL A. WHITE & EVELYN WHITE were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-2-0094, Defendants DANIEL A. WHITE & EVELYN WHITE were 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 Defendants to submit a Request for Consultation, and of April 10, 2006, for Defendants to return a signed Consent Order or file a Subfile Answer.

4. These deadlines for Subfile ZRB-2-0094 were never extended. In addition, the Defendant EVELYN WHITE failed to waive service of a summons and, after being served with such, failed to serve and file an answer as required by the summons and Federal Rule of Civil Procedure 12(a)(1)(A)(i).

5. Defendants DANIEL A. WHITE & EVELYN WHITE are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-2-0094 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 DANIEL A. WHITE & EVELYN WHITE to divert and use the public waters of the Zuni River Stream System, Sub-Areas 9 and 10, should be as set forth below:

**DANIEL A. WHITE and EVELYN WHITE**  
**Subfile No. ZRB-2-0094**

**STOCK POND**

**Map Label:** 10B-3-SP19

**Purpose of Use:** Livestock

**Priority Date:** 1/1/1972

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 4.0

**Surface Area (sq.ft):** 16,405

**Storage Impoundment Volume (ac-ft):** 0.904

**Pond Location:** As shown on Hydrographic Survey Map 10B-3

**S. 17 T. 06N R. 17W 1/4, 1/16, 1/64:** NE SW NE

**X(ft):** 2,478,306 **Y(ft):** 1,365,247

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 DANIEL A. WHITE & EVELYN WHITE, incorporating the terms of the Consent Order proposed for Subfile ZRB-2-0094 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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BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
1961 Stout Street - 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1359

COUNSEL FOR THE UNITED STATES

          (approved 1/16/2008)  
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

