

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-3-0045
)	
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:

WANDA J. DAVIS & CHARLES W. DAVIS	Subfile No. ZRB-3-0045
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed waivers of service of summons of WANDA J. DAVIS and CHARLES W. DAVIS (Doc. No. 737).

2. WANDA J. DAVIS & CHARLES W. DAVIS were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0045, Defendants WANDA J. DAVIS & CHARLES W. DAVIS were subject to the Special Master's March 7, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Area 7 of the Zuni River Stream System* (Doc. No. 561)("Procedural and Scheduling Order"), which established deadlines of June 12, 2006, for the submission of a Request for Consultation, and of August 12, 2006, for the return of a signed Consent Order, or filing of a Subfile Answer.

4. These deadlines for Subfile ZRB-3-0045 were never extended.

5. Defendants WANDA J. DAVIS & CHARLES W. DAVIS are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0045 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 March 3, 2008 (Doc. No. 1618).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended, the right(s) of WANDA J. DAVIS & CHARLES W. DAVIS to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

WANDA J. DAVIS & CHARLES W. DAVIS
Subfile No. ZRB-3-0045

STOCK POND

Map Label: 7C-1-SP20

Purpose of Use: Livestock

Priority Date: 10/6/1997

Source of Water: Well

Point of Diversion: Fills from well 7C-1-W12 (Location X(ft): 2,552,627; Y(ft): 1,464,651);

Amount of Water:

Depth (ft): 1.0

Surface Area (sq.ft): 827

Storage Impoundment Volume (ac-ft): 0.011

Pond Location: As shown on Hydrographic Survey Map 7C-1

S. 10 T. 09N R. 15W 1/4, 1/16, 1/64: SE NE NW

X(ft): 2,552,644 **Y(ft):** 1,464,632

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7C-1-W12

OSE File No: G 1823

Priority Date: 1/1/1950

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 7C-1

S. 10 T. 09N R. 15W 1/4, 1/16, 1/64: SE NE NW

X (ft): 2,552,627 **Y (ft):** 1,464,651

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

Amount of Water (ac-ft per annum): 0.112

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against WANDA J. DAVIS & CHARLES W. DAVIS, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0045 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: March 20, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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EX REL. STATE ENGINEER

