

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-3-0052
)	
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:

I. JEAN ELKINS	Subfile No. ZRB-3-0052
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by the filed waiver of service of summons of I. JEAN ELKINS (Doc. No. 737).

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

3. With respect to Subfile ZRB-3-0052, Defendant I. JEAN ELKINS was 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-3-0052 were never extended.

5. Defendant I. JEAN ELKINS is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0052 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 I. JEAN ELKINS to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

I. JEAN ELKINS
Subfile No. ZRB-3-0052

STOCK POND

Map Label: 7C-1-SP17

Purpose of Use: Livestock

Priority Date: 1/1/1963

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.5

Surface Area (sq.ft): 31,410

Storage Impoundment Volume (ac-ft): 1.514

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

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

X(ft): 2,549,804 **Y(ft):** 1,466,422

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7C-1-SP18

Purpose of Use: Livestock

Priority Date: 10/6/1997

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.0

Surface Area (sq.ft): 937

Storage Impoundment Volume (ac-ft): 0.013

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

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

X(ft): 2,550,286 **Y(ft):** 1,466,707

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7C-1-W11

OSE File No: None

Priority Date: 1/1/1978

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: NW NE NE

X (ft): 2,550,607 **Y (ft):** 1,467,329

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

Amount of Water (ac-ft per annum): 0.247

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against I. JEAN ELKINS, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0052 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

