

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-3-0083
	)	
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>SANDY ORTON &amp; MIKE ORTON</b>	<b>Subfile No. ZRB-3-0083</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 filed waivers of service of summons of SANDY ORTON and MIKE ORTON (Doc. No. 724).

2. SANDY ORTON & MIKE ORTON were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0083, Defendants SANDY ORTON & MIKE ORTON 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-3-0083 were never extended.

5. Defendants SANDY ORTON & MIKE ORTON are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0083 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 SANDY ORTON & MIKE ORTON to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

**SANDY ORTON & MIKE ORTON**  
**Subfile No. ZRB-3-0083**

**STOCK POND**

**Map Label:** 7A-7-SP48

**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):** 8,812

**Storage Impoundment Volume (ac-ft):** 0.485

**Pond Location:** As shown on Hydrographic Survey Map 7A-7

**S. 6 T. 05N R. 16W 1/4, 1/16, 1/64:** SW NW NE

**X(ft):** 2,501,948 **Y(ft):** 1,342,666

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

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

**STOCK POND**

**Map Label:** 7A-7-SP49

**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):** 5,318

**Storage Impoundment Volume (ac-ft):** 0.293

**Pond Location:** As shown on Hydrographic Survey Map 7A-7

**S. 6 T. 05N R. 16W 1/4, 1/16, 1/64:** NW SE SW

**X(ft):** 2,502,511 **Y(ft):** 1,343,589

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

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

**WELL**

**Map Label:** 7A-7-W05

**OSE File No:** None

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

**Purpose of Use:** DOMESTIC & LIVESTOCK

**Well Location:** As shown on Hydrographic Survey Map 7A-7

**S. 6 T. 05N R. 16W 1/4, 1/16, 1/64:** SW SW NE

**X (ft):** 2,501,901 **Y (ft):** 1,341,759

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

**Amount of Water (ac-ft per annum):** Historical beneficial use not to exceed

1.372 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against SANDY ORTON & MIKE ORTON, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0083 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: March 31, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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