

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-3-0112
)	
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:

BONNIE I. MYERS & MARTIN L. MYERS	Subfile No. ZRB-3-0112
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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 MARTIN L. MYERS and BONNIE I. MYERS (Doc. No. 737).

2. BONNIE I. MYERS & MARTIN L. MYERS were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0112, Defendants BONNIE I. MYERS & MARTIN L. MYERS 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-3-0112 were never extended.

5. Defendants BONNIE I. MYERS & MARTIN L. MYERS are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0112 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 BONNIE I. MYERS & MARTIN L. MYERS to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

BONNIE I. MYERS & MARTIN L. MYERS
Subfile No. ZRB-3-0112

STOCK POND

Map Label: 7A-2-SP05

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 2,879

Storage Impoundment Volume (ac-ft): 0.079

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,519,872 **Y(ft):** 1,462,665

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-2-SP06

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 9,368

Storage Impoundment Volume (ac-ft): 0.258

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,521,054 **Y(ft):** 1,462,448

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-2-SP07

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): 20,024

Storage Impoundment Volume (ac-ft): 1.103

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,521,421 **Y(ft):** 1,462,751

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-2-SP08

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 15,696

Storage Impoundment Volume (ac-ft): 0.649

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,521,567 **Y(ft):** 1,460,740

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-2-SP09

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Well

Point of Diversion: Fills from well 7A-2-W01 (Location X(ft): 2,517,139; Y(ft):
1,459,040);

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 3,548

Storage Impoundment Volume (ac-ft): 0.147

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,517,204 **Y(ft):** 1,459,010

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-2-SP10

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 4,429

Storage Impoundment Volume (ac-ft): 0.122

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,516,641 **Y(ft):** 1,458,472

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7A-2-SP11

Purpose of Use: Livestock

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 4,114

Storage Impoundment Volume (ac-ft): 0.113

Pond Location: As shown on Hydrographic Survey Map 7A-2

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

X(ft): 2,518,202 **Y(ft):** 1,458,490

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7A-2-W01

OSE File No: G 1577

Priority Date: 12/31/1920

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 7A-2

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

X (ft): 2,517,139 **Y (ft):** 1,459,040

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

Amount of Water (ac-ft per annum): 0.336

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against BONNIE I. MYERS & MARTIN L. MYERS, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0112 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: April 14, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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