

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-3-0164
)	
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:

RODGER D. VAUGHN & CHERYL L. VAUGHN	Subfile No. ZRB-3-0164
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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 proof of service of summons on CHERYL L. VAUGHN and RODGER D. VAUGHN (Doc. No. 1218).

2. RODGER D. VAUGHN & CHERYL L. VAUGHN were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0164, Defendants RODGER D. VAUGHN & CHERYL L. VAUGHN 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-3-0164 were never extended. In addition, the Defendants failed to waive service of a summons and, after being served, 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 RODGER D. VAUGHN & CHERYL L. VAUGHN are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0164 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 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 RODGER D. VAUGHN & CHERYL L. VAUGHN to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

RODGER D. VAUGHN & CHERYL L. VAUGHN
Subfile No. ZRB-3-0164

WELL

Map Label: 7B-3-W08

OSE File No: None

Priority Date: 1/1/1999

Purpose of Use: 72-12-1.1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7B-3

S. 8 T. 08N R. 15W 1/4, 1/16, 1/64: NW SW NW

X (ft): 2,538,364 **Y (ft):** 1,433,859

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.7
acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against RODGER D. VAUGHN & CHERYL L. VAUGHN, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0164 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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 (approved 4/11/2008)
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EX REL. STATE ENGINEER

