

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-3-0165
)	
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:

WHITE BUFFALO FOUNDATION	Subfile No. ZRB-3-0165
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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 proof of service of summons on WHITE BUFFALO FOUNDATION (Doc. No. 1220).

2. WHITE BUFFALO FOUNDATION was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0165, Defendant WHITE BUFFALO FOUNDATION 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-3-0165 were never extended. In addition, the Defendant 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. Defendant WHITE BUFFALO FOUNDATION is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0165 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 WHITE BUFFALO FOUNDATION to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

WHITE BUFFALO FOUNDATION
Subfile No. ZRB-3-0165

WELL

Map Label: 7A-3-W15

OSE File No: None

Priority Date: 1/1/1996

Purpose of Use: 72-12-1.1 DOMESTIC

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

S. 22 T. 08N R. 16W 1/4, 1/16, 1/64: SW NE SE

X (ft): 2,519,233 Y (ft): 1,421,738

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

WELL

Map Label: 7A-4-W20

OSE File No: None

Priority Date: 11/16/1998

Purpose of Use: 72-12-1.1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7A-4

S. 34 T. 08N R. 16W 1/4, 1/16, 1/64: SW SW SW

X (ft): 2,517,505 Y (ft): 1,409,895

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

WELL

Map Label: 7B-3-W35

OSE File No: G 0936

Priority Date: 11/16/1998

Purpose of Use: 72-12-1.1 DOMESTIC

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

S. 23 T. 08N R. 16W 1/4, 1/16, 1/64: NE SE SW

X (ft): 2,526,647 **Y (ft):** 1,423,002

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 WHITE BUFFALO FOUNDATION, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0165 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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EX REL. STATE ENGINEER

