

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-3-0109 |
| |) | |
| 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:

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| DENISE B. MCRAE & SCOTT W. MCRAE | Subfile No. ZRB-3-0109 |
|---|-------------------------------|

and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed waiver of service of summons of SCOTT W. MCRAE and DENISE B. MCRAE (Doc. No. 727).

2. DENISE B. MCRAE & SCOTT W. MCRAE were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0109, Defendants DENISE B. MCRAE & SCOTT W. MCRAE 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-3-0109 were never extended.

5. Defendants DENISE B. MCRAE & SCOTT W. MCRAE are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0109 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 DENISE B. MCRAE & SCOTT W. MCRAE to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

SCOTT W. MCRAE & DENISE B. MCRAE
Subfile No. ZRB-3-0109

STOCK POND

Map Label: 7C-1-SP01

Purpose of Use: Livestock

Priority Date: 4/4/2002

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 166

Storage Impoundment Volume (ac-ft): 0.007

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

S. 3 T. 09N R. 15W 1/4, 1/16, 1/64: NW NE SE

X(ft): 2,550,931 **Y(ft):** 1,471,803

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7C-1-W01

OSE File No: G 1321

Priority Date: 4/4/2002

Purpose of Use: 72-12-1.1 DOMESTIC

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

S. 3 T. 09N R. 15W 1/4, 1/16, 1/64: SW SW NW

X (ft): 2,551,297 **Y (ft):** 1,471,355

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 DENISE B. MCRAE & SCOTT W. MCRAE, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0109 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

BRADLEY S. BRIDGEWATER
U.S. Department of Justice
1961 Stout Street - 8th Floor
Denver, CO 80294
(303) 844-1359

COUNSEL FOR THE UNITED STATES

 (approved 4/11/2008)
EDWARD BAGLEY
Office of the State Engineer, Legal Division
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

