

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-3-0025
)	
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:

CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT	Subfile No. ZRB-3-0025
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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 CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT (Doc. No. 1652).

2. CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0025, Defendant CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT 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-3-0025 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 CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0025 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 June 18, 2008 (Doc.No. 1788).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended, the right(s) of CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT
Subfile No. ZRB-3-0025

WELL

Map Label: 7A-3-W20

OSE File No: G 0948

Priority Date: 6/5/2001

Purpose of Use: 72-12-1.1 SANITARY & COMMERCIAL

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

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

X (ft): 2,520,658 Y (ft): 1,420,310

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 CANDY KITCHEN VOLUNTEER FIRE DEPARTMENT, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0025 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: June 25, 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 6/24/2008)
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

