

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-5-0050
)	
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:

RICHARD DAVIS MALLERY REVOCABLE TRUST	Subfile No. ZRB-5-0050
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by filed Entry of Appearance (Doc. No. 84).

2. The Defendant RICHARD DAVIS MALLERY REVOCABLE TRUST was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-5-0050, Defendant RICHARD DAVIS MALLERY REVOCABLE TRUST was subject to the Special Master's January 11, 2007 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims* (Doc. No. 954)("Procedural and Scheduling Order"), which established a deadline of February 1, 2008, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-5-0050 were never extended.

5. Defendant RICHARD DAVIS MALLERY REVOCABLE TRUST is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-5-0050 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 June 18, 2008 (Doc.No. 1788).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area Ramah*, as amended, the right(s) of the Defendant RICHARD DAVIS MALLERY REVOCABLE TRUST to divert and use the public waters of the Zuni River Stream System, Sub-Area Ramah, should be as set forth below:

RICHARD DAVIS MALLERY REVOCABLE TRUST
Subfile No. ZRB-5-0050

WELL

Map Label: 3B-5-W038

OSE File No: G 2180

Priority Date: 12/31/1960

Purpose of Use: COMMERCIAL

Well Location: As shown on Hydrographic Survey Map 3B-5C

S. 34 T. 11N R. 16W 1/4, 1/16, 1/64: SE SW SE

X (ft): 2,520,713 **Y (ft):** 1,504,698

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

Amount of Water (ac-ft per annum): 3.000

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against the Defendant RICHARD DAVIS MALLERY REVOCABLE TRUST, incorporating the terms of the Consent Order proposed for Subfile ZRB-5-0050 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area Ramah*, as amended.

Dated: June 25, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

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_____ (approved 6/24/2008)

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EX REL. STATE ENGINEER

