

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-3-0151 |
|   | ) |                        |
| 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:

|                       |                               |
|-----------------------|-------------------------------|
| <b>ADRIAN STEWART</b> | <b>Subfile No. ZRB-3-0151</b> |
|-----------------------|-------------------------------|

and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by the filed waiver of service of summons of ADRIAN STEWART (Doc. No. 362).

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

3. With respect to Subfile ZRB-3-0151, Defendant ADRIAN STEWART 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-3-0151 were extended by the Order Granting Motion to Extend Deadline For Requests For Consultation (Doc. No. 735), which extended the deadline by which defendants must return a Request for Consultation to July 12, 2006; and further extended by Order Granting Motion to Amend Procedural and Scheduling Orders and Establish or Revise Deadlines for Defendants to Return Requests for Consultation and Submit Subfile Answers (Doc. No. 837), which extended the deadline by which defendants must file a Subfile Answer or sign and return the last-offered Consent Order within twenty (20) days after being served with a Notice That The Consultation Period Has Ended.

5. Defendant ADRIAN STEWART failed to file a Subfile Answer, or return a signed last-offered Consent Order for Subfile ZRB-3-0151 within twenty (20) days after being served with a Notice That The Consultation Period Has Ended (Doc. No. 1533).

6. Defendant ADRIAN STEWART is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0151 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).

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

**ADRIAN STEWART**  
**Subfile No. ZRB-3-0151**

**WELL**

**Map Label:** 7B-3-W03

**OSE File No:** None

**Priority Date:** 1/1/1975

**Purpose of Use:** DOMESTIC

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

**S. 6 T. 08N R. 15W 1/4, 1/16, 1/64:** SE SW NE

**X (ft):** 2,536,094 **Y (ft):** 1,436,841

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-W04

**OSE File No:** RG 68194

**Priority Date:** 8/14/1997

**Purpose of Use:** 72-12-1 DOMESTIC

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

**S. 6 T. 08N R. 15W 1/4, 1/16, 1/64:** SE SW NE

**X (ft):** 2,536,430 **Y (ft):** 1,436,524

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

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

1.212 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against ADRIAN STEWART, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0151 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: July 3, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 7/3/2008)

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EX REL. STATE ENGINEER

