

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-3-0180
)	
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:

BRIANNA CLARK & MARCIA LUDDEN & SEAN LUDDEN	Subfile No. ZRB-3-0180
--	-------------------------------

and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed waivers of service of summons of SEAN LUDDEN and BRIANNA CLARK (Doc. No. 1484) and filed proof of service of summons on MARCIA LUDDEN (Doc. No. 1732).

2. BRIANNA CLARK & MARCIA LUDDEN & SEAN LUDDEN were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0180, Defendants BRIANNA CLARK & MARCIA LUDDEN & SEAN LUDDEN were subject to the Special Master's September 27, 2006 *Order Granting Joint 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) ("Procedural and Scheduling Order"), which established a deadline of February 3, 2008, for the return of a signed Consent Order or submission of a Request for Consultation.

4. These deadlines for Subfile ZRB-3-0180 were never extended. In addition, the Defendant MARCIA LUDDEN 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. Defendants BRIANNA CLARK & MARCIA LUDDEN & SEAN LUDDEN are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0180 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 BRIANNA CLARK & MARCIA

LUDDEN & SEAN LUDDEN to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

SEAN LUDDEN, MARCIAL LUDDEN & BRIANNA CLARK
Subfile No. ZRB-3-0180

WELL

Map Label: 7C-1-W29

OSE File No: G 2539

Priority Date: 3/30/2007

Purpose of Use: 72-12-1 DOMESTIC

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

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

X (ft): 2,561,835 **Y (ft):** 1,471,523

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 BRIANNA CLARK & MARCIA LUDDEN & SEAN LUDDEN, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0180 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: August 6, 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 8/5/2008)
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

