

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-1-0117
)	
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:

DAN ALLEN	Subfile No. ZRB-1-0117
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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 service of summons on DAN ALLEN (Doc. No. 1886).

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

3. With respect to Subfile ZRB-1-0117, Defendant DAN ALLEN was subject to the Special Master's September 8, 2005 *Amended Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 4 and 8 of the Zuni River Stream System* (Doc. No. 387)("Procedural and Scheduling Order"), which established a deadline of January 10, 2006, for the return of a signed Consent Order or the submission of a Request for Consultation.

4. These deadlines for Subfile ZRB-1-0117 were extended by the Order Granting Motion to Extend Time for Persons Served with a Summons to File Subfile Answers (Doc. No. 442), which extended the deadline to file a subfile answer to 20 days after service of summons and the Amended 2003 Complaint.

5. Defendant DAN ALLEN is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0117 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 October 8, 2008 (Doc. No. 1908).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended, the right(s) of DAN ALLEN to divert and use the public waters of the Zuni River Stream System, Sub-Areas 4 and 8, should be as set forth below:

DAN ALLEN
Subfile No. ZRB-1-0117

STOCK POND

Map Label: 8B-3-SP24

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 4,529

Storage Impoundment Volume (ac-ft): 0.125

Pond Location: As shown on Hydrographic Survey Map 8B-3

S. 17 T. 08N R. 13W 1/4, 1/16, 1/64: SW NE NE

X(ft): 2,603,575 **Y(ft):** 1,427,202

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

Dam height (if greater than 9 ft):

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against DAN ALLEN, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0117 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: October 17, 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 10/17/2008)
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

