

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-3-0081
)	
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:

SANDRA L. HOWARD & JOHN L. HOWARD	Subfile No. ZRB-3-0081
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed service of summons on SANDRA L. HOWARD (Doc. No. 1850) and the filed waiver of service of summons of JOHN L. HOWARD (Doc. No. 958).

2. SANDRA L. HOWARD & JOHN L. HOWARD were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0081, Defendants SANDRA L. HOWARD & JOHN L. HOWARD were 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 a deadline of August 12, 2006, for the return of a signed Consent Order or the filing of a Subfile Answer.

4. These deadlines for Subfile ZRB-3-0081 were never extended.

5. Defendants SANDRA L. HOWARD & JOHN L. HOWARD are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0081 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-area 7*, as amended, the right(s) of SANDRA L. HOWARD & JOHN L. HOWARD to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

JOHN L. HOWARD and SANDRA L. HOWARD
Subfile No. ZRB-3-0081

WELL

Map Label: 7A-4-W04

OSE File No: None

Priority Date: 12/11/1979

Purpose of Use: DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 7A-4

S. 27 T. 08N R. 16W 1/4, 1/16, 1/64: NE NW SE

X (ft): 2,520,799 **Y (ft):** 1,418,828

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

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

0.722 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against SANDRA L. HOWARD & JOHN L. HOWARD, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0081 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: October 17, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

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COUNSEL FOR THE UNITED STATES

_____ (approved 10/17/2008) _____

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EX REL. STATE ENGINEER

