

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-1-0040
)	
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:

GRACE FAMILY, LLC	Subfile No. ZRB-1-0040
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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 GRACE FAMILY, LLC (Doc. No. 1852).

2. GRACE FAMILY, LLC was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0040, Defendant GRACE FAMILY, LLC was 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 September 17, 2007, for the return of a signed Consent Order or the submission of a Request for Consultation.

4. These deadlines for Subfile ZRB-1-0040 were never extended.

5. Defendant GRACE FAMILY, LLC is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0040 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 November 3, 2008 (Doc. No. 1938).

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

GRACE FAMILY, LLC
Subfile No. ZRB-1-0040

STOCK POND

Map Label: 8B-2-SP15

Purpose of Use: LIVESTOCK

Priority date: 1/1/1965

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.5

Surface Area (sq.ft): 26,708

Storage Impoundment Volume (ac-ft): 0.920

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 12 T. 08N R. 14W 1/4, 1/16, 1/64: NW SW NW

X(ft): 2,591,150 **Y(ft):** 1,433,712

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP16

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.5

Surface Area (sq.ft): 7,552

Storage Impoundment Volume (ac-ft): 0.364

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: SW NW NE

X(ft): 2,597,335 **Y(ft):** 1,432,313

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP18

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Well

Point of Diversion: Fills from well 8B-2-W11 (Location X(ft): 2,597,716; Y(ft):
1,435,920);

Amount of Water:

Depth (ft): 2.5

Surface Area (sq.ft): 4,849

Storage Impoundment Volume (ac-ft): 0.167

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW SE SW

X(ft): 2,597,824 **Y(ft):** 1,435,755

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP21

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): 15,291

Storage Impoundment Volume (ac-ft): 0.421

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW SE NE

X(ft): 2,598,887 **Y(ft):** 1,436,260

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP28

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 2,354

Storage Impoundment Volume (ac-ft): 0.097

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 5 T. 08N R. 13W 1/4, 1/16, 1/64: SW SW NE

X(ft): 2,602,801 **Y(ft):** 1,436,152

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP31

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 29,531

Storage Impoundment Volume (ac-ft): 2.441

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 9 T. 08N R. 13W 1/4, 1/16, 1/64: NW NE NE

X(ft): 2,609,330 **Y(ft):** 1,434,994

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP32

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 19,229

Storage Impoundment Volume (ac-ft): 1.324

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 9 T. 08N R. 13W 1/4, 1/16, 1/64: NW NE NE

X(ft): 2,609,126 **Y(ft):** 1,435,104

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP44

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 6,503

Storage Impoundment Volume (ac-ft): 0.269

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW NE SE

X(ft): 2,598,767 **Y(ft):** 1,436,799

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP46

Purpose of Use: LIVESTOCK

Priority date: 1/1/1963

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 8,013

Storage Impoundment Volume (ac-ft): 0.552

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: NW SW SE

X(ft): 2,597,192 **Y(ft):** 1,433,326

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP51

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 5,226

Storage Impoundment Volume (ac-ft): 0.288

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: NE SE NW

X(ft): 2,600,511 **Y(ft):** 1,433,352

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP52

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.5

Surface Area (sq.ft): 1,473

Storage Impoundment Volume (ac-ft): 0.030

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: NE SE NW

X(ft): 2,600,418 **Y(ft):** 1,433,449

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-2-SP53

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.5

Surface Area (sq.ft): 1,389

Storage Impoundment Volume (ac-ft): 0.029

Pond Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: NE SE NW

X(ft): 2,600,458 **Y(ft):** 1,433,515

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP08

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 11,205

Storage Impoundment Volume (ac-ft): 0.772

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: NW SE SW

X(ft): 2,598,047 **Y(ft):** 1,427,830

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP09

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Well

Point of Diversion: Fills from well 8B-3-W03 (Location X(ft): 2,596,355; Y(ft):
1,428,214);

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 2,364

Storage Impoundment Volume (ac-ft): 0.065

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: NW SW SW

X(ft): 2,596,424 **Y(ft):** 1,428,204

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP10

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): 2,037

Storage Impoundment Volume (ac-ft): 0.056

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: NW SW SW

X(ft): 2,596,454 Y(ft): 1,428,109

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP11

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): 1,800

Storage Impoundment Volume (ac-ft): 0.050

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: NW SW SW

X(ft): 2,596,433 Y(ft): 1,428,029

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP26

Purpose of Use: LIVESTOCK

Priority date: 1/1/1967

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.5

Surface Area (sq.ft): 4,907

Storage Impoundment Volume (ac-ft): 0.169

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

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

X(ft): 2,606,599 **Y(ft):** 1,429,170

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP37

Purpose of Use: LIVESTOCK

Priority date: 1/1/1950

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 6,622

Storage Impoundment Volume (ac-ft): 0.274

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: SE NW NW

X(ft): 2,599,261 **Y(ft):** 1,427,042

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 8B-3-SP38

Purpose of Use: LIVESTOCK

Priority date: 1/1/1950

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 2,777

Storage Impoundment Volume (ac-ft): 0.077

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: NE SW SW

X(ft): 2,599,383 **Y(ft):** 1,427,714

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

Dam height (if greater than 9 ft):

WELL

Map Label: 8B-2-W02

OSE File No: None

Priority Date: 1/1/1967

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW SW SE

X (ft): 2,597,640 **Y (ft):** 1,435,904

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

Amount of Water (ac-ft per annum): 0.234

WELL

Map Label: 8B-2-W04

OSE File No: G 2058

Priority Date: 12/31/1990

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 8B-2

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

X (ft): 2,608,181 **Y (ft):** 1,435,425

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

Amount of Water (ac-ft per annum): 0.234

WELL

Map Label: 8B-2-W05

OSE File No: G 2056

Priority Date: 12/31/1951

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW NW NW

X (ft): 2,596,365 **Y (ft):** 1,438,459

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

Amount of Water (ac-ft per annum): 0.234

WELL

Map Label: 8B-2-W06

OSE File No: G 2053 S-2

Priority Date: 12/31/1984

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW NW NW

X (ft): 2,596,566 **Y (ft):** 1,438,277

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: 8B-2-W07

OSE File No: G 2053

Priority Date: 12/31/1951

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW NW NW

X (ft): 2,596,696 **Y (ft):** 1,438,368

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: 8B-2-W08

OSE File No: G 2053 S

Priority Date: 12/31/1984

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: SW NW NE

X (ft): 2,597,032 **Y (ft):** 1,432,722

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: 8B-2-W09

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 7 T. 08N R. 13W 1/4, 1/16, 1/64: NW SW SE

X (ft): 2,597,199 **Y (ft):** 1,432,862

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: 8B-2-W10

OSE File No: G 2059

Priority Date: 12/31/1949

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 9 T. 08N R. 13W 1/4, 1/16, 1/64: NW NW SE

X (ft): 2,607,776 **Y (ft):** 1,434,250

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: 8B-2-W11

OSE File No: G 2054

Priority Date: 12/31/1903

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SW SE SW

X (ft): 2,597,716 **Y (ft):** 1,435,920

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

Amount of Water (ac-ft per annum): 0.234

WELL

Map Label: 8B-2-W12

OSE File No: G 2055

Priority Date: 12/31/1990

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 8B-2

S. 6 T. 08N R. 13W 1/4, 1/16, 1/64: SE NE SE

X (ft): 2,601,414 **Y (ft):** 1,436,727

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: 8B-3-W03

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: LIVESTOCK

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

S. 18 T. 08N R. 13W 1/4, 1/16, 1/64: NW SW NW

X (ft): 2,596,355 **Y (ft):** 1,428,214

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

Amount of Water (ac-ft per annum): 0.234

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against GRACE FAMILY, LLC, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0040 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: November 18, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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