

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-1-0187 |
|   | ) |                        |
| 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:

|   |                               |
|---|-------------------------------|
| <b>JAMES THOMAS &amp; WANDA WALLACE</b> | <b>Subfile No. ZRB-1-0187</b> |
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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 JAMES THOMAS (Doc. No. 1996) and WANDA WALLACE (Doc. No. 1996).

2. JAMES THOMAS & WANDA WALLACE were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0187, Defendants JAMES THOMAS & WANDA WALLACE 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 October 17, 2008, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-1-0187 were never extended.

5. Defendants JAMES THOMAS & WANDA WALLACE are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0187 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 December 17, 2008 (Doc. No. 2013).

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

**JAMES THOMAS and WANDA WALLACE**  
**Subfile No. ZRB-1-0187**

**WELL**

**Map Label:** 4B-3-W34

**OSE File No:** G 1841

**Priority Date:** 10/17/2005

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

**Well Location:** As shown on Hydrographic Survey Map 4B-3

**S. 19 T. 10N R. 13W 1/4, 1/16, 1/64:** SE SE SW

**X (ft):** 2,600,226 **Y (ft):** 1,483,450

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

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

0.932 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against JAMES THOMAS & WANDA WALLACE, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0187 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: January 14, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER

U.S. Department of Justice  
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(303) 844-1359

COUNSEL FOR THE UNITED STATES

(approved 1/8/2009)

EDWARD BAGLEY

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P.O. Box 25102

Santa Fe, NM 87504

(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO

EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 14, 2009, I filed the foregoing *Motion for Default Judgment* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

AND I FURTHER CERTIFY that a copy of the foregoing was mailed to the following parties who are not CM/ECF Participants:

James Thomas & Wanda Wallace  
HC 61, Box 5031  
Ramah, NM 87321

/s/  
Bradley S. Bridgewater