

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-1-0133 |
|   | ) |                        |
| 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:

|                         |                               |
|-------------------------|-------------------------------|
| <b>MARIA R. MIRABAL</b> | <b>Subfile No. ZRB-1-0133</b> |
|-------------------------|-------------------------------|

and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by the filed waiver of service of summons of MARIA R. MIRABAL (Doc. No. 362).

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

3. With respect to Subfile ZRB-1-0133, Defendant MARIA R. MIRABAL 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 60 days after delivery of a service packet for the return of a signed Consent Order or the submission of a Request for Consultation.

4. These deadlines for Subfile ZRB-1-0133 were never extended.

5. Defendant MARIA R. MIRABAL is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0133 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 February 5, 2009 (Doc. No. 2097).

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

**MARIA R. MIRABAL**  
**Subfile No. ZRB-1-0133**

**STOCK POND**

**Map Label:** 4A-4-SP05

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 4.0

**Surface Area (sq.ft):** 147,667

**Storage Impoundment Volume (ac-ft):** 8.136

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 35 T. 10N R. 14W 1/4, 1/16, 1/64:** NW SE SW

**X(ft):** 2,586,997 **Y(ft):** 1,475,746

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP34

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 4.5

**Surface Area (sq.ft):** 37,562

**Storage Impoundment Volume (ac-ft):** 2.328

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** NE SE SW

**X(ft):** 2,579,186 **Y(ft):** 1,480,896

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP35

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 5,873

**Storage Impoundment Volume (ac-ft):** 0.243

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE NW

**X(ft):** 2,576,196 **Y(ft):** 1,480,485

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP36

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3 .0

**Surface Area (sq.ft):** 18,555

**Storage Impoundment Volume (ac-ft):** 0.767

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** NW SE NW

**X(ft):** 2,576,701 **Y(ft):** 1,481,784

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP37

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 8,349

**Storage Impoundment Volume (ac-ft):** 0.230

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 21 T. 10N R. 14W 1/4, 1/16, 1/64:** NW SE NE

**X(ft):** 2,577,342 **Y(ft):** 1,486,479

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP50

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 13,744

**Storage Impoundment Volume (ac-ft):** 0.568

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** NE NW NW

**X(ft):** 2,583,065 **Y(ft):** 1,482,871

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP51

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 5.5

**Surface Area (sq.ft):** 12,543

**Storage Impoundment Volume (ac-ft):** 0.950

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** NE NE SW

**X(ft):** 2,584,248 **Y(ft):** 1,482,308

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP52

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 7.0

**Surface Area (sq.ft):** 5,616

**Storage Impoundment Volume (ac-ft):** 0.541

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** NE NE SE

**X(ft):** 2,585,168 **Y(ft):** 1,481,824

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP53

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 5,017

**Storage Impoundment Volume (ac-ft):** 0.138

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NW NW

**X(ft):** 2,580,594 **Y(ft):** 1,480,318

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

**Dam height (if greater than 9 ft):**



**STOCK POND**

**Map Label:** 4A-4-SP54

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 7.0

**Surface Area (sq.ft):** 23,326

**Storage Impoundment Volume (ac-ft):** 2.249

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NW NW

**X(ft):** 2,580,486 **Y(ft):** 1,479,890

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP55

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.5

**Surface Area (sq.ft):** 10,855

**Storage Impoundment Volume (ac-ft):** 0.523

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NW SW

**X(ft):** 2,580,664 **Y(ft):** 1,479,406

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP81

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 10,884

**Storage Impoundment Volume (ac-ft):** 0.300

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW NE

**X(ft):** 2,580,856 **Y(ft):** 1,479,206

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP82

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 1,692

**Storage Impoundment Volume (ac-ft):** 0.035

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NW SE

**X(ft):** 2,580,878 **Y(ft):** 1,479,364

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP83

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 765

**Storage Impoundment Volume (ac-ft):** 0.016

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NW SE

**X(ft):** 2,580,855 **Y(ft):** 1,479,518

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP84

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 5.0

**Surface Area (sq.ft):** 14,593

**Storage Impoundment Volume (ac-ft):** 1.005

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 27 T. 10N R. 14W 1/4, 1/16, 1/64:** SE NW NW

**X(ft):** 2,582,980 **Y(ft):** 1,479,912

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP86

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 9,333

**Storage Impoundment Volume (ac-ft):** 0.257

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** NW SW NE

**X(ft):** 2,575,799 **Y(ft):** 1,481,511

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP92

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 4.0

**Surface Area (sq.ft):** 3,648

**Storage Impoundment Volume (ac-ft):** 0.201

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** SE NW NE

**X(ft):** 2,578,437 **Y(ft):** 1,480,410

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP94

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 0.5

**Surface Area (sq.ft):** 1,383

**Storage Impoundment Volume (ac-ft):** 0.010

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE NE

**X(ft):** 2,576,870 **Y(ft):** 1,479,871

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4A-4-SP95

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 3,773

**Storage Impoundment Volume (ac-ft):** 0.156

**Pond Location:** As shown on Hydrographic Survey Map 4A-4

**S. 29 T. 10N R. 14W 1/4, 1/16, 1/64:** NW NW NE

**X(ft):** 2,570,771 **Y(ft):** 1,482,952

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4B-3-SP05

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 5.0

**Surface Area (sq.ft):** 707

**Storage Impoundment Volume (ac-ft):** 0.049

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

**S. 25 T. 10N R. 14W 1/4, 1/16, 1/64:** NW NE NW

**X(ft):** 2,592,316 **Y(ft):** 1,482,578

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 4B-3-SP20

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1970

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 4,333

**Storage Impoundment Volume (ac-ft):** 0.179

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



**S. 25 T. 10N R. 14W 1/4, 1/16, 1/64:** NW NE NE

**X(ft):** 2,592,638 **Y(ft):** 1,482,555

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

**Dam height (if greater than 9 ft):**

**WELL**

**Map Label:** 4A-4-W12

**OSE File No:** G 1721

**Priority Date:** 9/23/2003

**Purpose of Use:** 72-12-1 LIVESTOCK WATERING

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

**S. 28 T. 10N R. 14W 1/4, 1/16, 1/64:** NE SW NE

**X (ft):** 2,578,366 **Y (ft):** 1,481,169

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

**Amount of Water (ac-ft):** 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 MARIA R. MIRABAL, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0133 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: February 10, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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EX REL. STATE ENGINEER

