

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-5-0024 |
| |) | |
| 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:

| | |
|---|-------------------------------|
| CARLETT DANIELS & KELSEY DANIELS | Subfile No. ZRB-5-0024 |
|---|-------------------------------|

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 CARLETT DANIELS (Doc. No. 1228) and KELSEY DANIELS (Doc. No. 1228).

2. CARLETT DANIELS & KELSEY DANIELS were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-5-0024, Defendants CARLETT DANIELS & KELSEY DANIELS were subject to the Special Master's January 11, 2007 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims* (Doc. No. 954) ("Procedural and Scheduling Order"), which established a deadline of June 11, 2007 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-5-0024 were never extended.

5. Defendants CARLETT DANIELS & KELSEY DANIELS are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-5-0024 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 March 13, 2009 (Doc. No. 2194).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area Ramah*, as amended, the right(s) of CARLETT DANIELS & KELSEY DANIELS to divert and use the public waters of the Zuni River Stream System, Sub-Area Ramah, should be as set forth below:

CARLETT DANIELS and KELSEY DANIELS
Subfile No. ZRB-5-0024

WELL

Map Label: 3B-5-W094

OSE File No: G 1314

Priority Date: 11/1/2001

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

Well Location: As shown on Hydrographic Survey Map 3B-5C

S. 34 T. 11N R. 16W 1/4, 1/16, 1/64: SE SE NW

X (ft): 2,521,644 **Y (ft):** 1,505,442

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 ac-ft
per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against CARLETT DANIELS & KELSEY DANIELS, incorporating the terms of the Consent Order proposed for Subfile ZRB-5-0024 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area Ramah*, as amended.

Dated: March 24, 2009

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 3/24/2009)

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

