

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-2-0060
)	
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:

THE UNKNOWN HEIRS OF EUGENIO LANDAVAZO	Subfile No. ZRB-2-0060
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and as grounds therefore Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed Proof of Service of Process by Publication (Doc. No. 2379).

2. Pursuant to the to the Special Master's December 14, 2005 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 9 and 10 of the Zuni River Stream System* (Doc. No. 436)("Procedural and Scheduling Order"), the United States mailed the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1), on the dates indicated, to Eugenio Landavazo, the owner of record of the property involved in Subfile ZRB-2-0060. The only response received to the service packet was a Waiver of Service of Summons in the name of Eugenio Landavazo which was signed and dated February 6, 2006 by Vedna Landavazo (Doc. No. 542). Handwritten comments on the waiver indicated Vedna Landavazo was the wife of Eugenio Landavazo and that he was deceased. Subsequently, on August 13, 2007, counsel for the United States wrote to Mrs. Landavazo requesting additional information concerning the disposition of her late husband's estate. The certified mail receipt for that letter (attached to Exhibit 1) indicates Mrs. Landavazo received that correspondence on August 15, 2007. However, the United States has received no response to the letter.

3. A locator database consulted by the United States independently corroborates that Eugenio Landavazo is deceased. However, the United States has been unable to obtain any information concerning the disposition of Eugenio Landavazo's estate, and the latest deed on file with Cibola County for the property involved in Subfile ZRB-2-0060 indicates the property remains titled in the name of Eugenio Landavazo only.

4. The Procedural and Scheduling Order established a deadline of April 10, 2006 for the submission of a Request for Consultation or the return of a signed Consent Order.

5. These deadlines for Subfile ZRB-2-0060 were never extended. In addition, the Defendants THE UNKNOWN HEIRS OF EUGENIO LANDAVAZO failed to

appear and defend in this matter before June 30, 2009 as required by the Notice of Lawsuit and Summons approved by the Court and duly published by the United States as required by the Court's May 12, 2009 *Order Granting Motion To Allow Service By Publication* (Doc. No. 2357).

6. Defendants THE UNKNOWN HEIRS OF EUGENIO LANDAVAZO are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-2-0060 within the time limitations imposed by applicable Procedural and Scheduling Orders, or other Orders of the Court, as shown by the Clerk's Certificate of Default filed August 13, 2009 (Doc.No. 2396).

7. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended, the right(s) of THE UNKNOWN HEIRS OF EUGENIO LANDAVAZO to divert and use the public waters of the Zuni River Stream System, Sub-Areas 9 and 10, should be as set forth below:

THE UNKNOWN HEIRS OF EUGENIO LANDAVAZO
Subfile No. ZRB-2-0060

WELL

Map Label: 10B-3-W03

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 10B-3

S. 18 T. 06N R. 17W 1/4, 1/16, 1/64: NE SW SW

X (ft): 2,472,200 **Y (ft):** 1,365,069

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

Amount of Water (ac-ft): Historical beneficial use not to exceed 0.902 ac-ft per Annum

STOCK POND

Map Label: 10B-3-SP12
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Well
Point of Diversion: Fills from well 10B-3-W03 (Location X(ft): 2,472,200: Y(ft): 1,365,069);

Amount of Water:

Depth (ft): 3.0

Surface Area (sq. ft): 2,517

Storage Impoundment Volume (ac-ft): 0.104

Pond Location: As shown on Hydrographic Survey Map 10B-3

S. 18 T. 06N R. 17W 1/4, 1/16, 1/64: NE SW SW

X (ft): 2,472,216 Y (ft): 1,365,127

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-3-SP133
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not applicable

Amount of Water:

Depth (ft): 1.0

Surface Area (sq.ft): 11,710

Storage Impoundment Volume (ac-ft): 0.161

Pond Location: As shown on Hydrographic Survey Map 10B-3

S. 18 T. 06N R. 17W 1/4, 1/16, 1/64: NE SW NE

X (ft): 2,472,777 **Y (ft):** 1,365,291

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

Dam height (if greater than 9 ft):

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against THE UNKNOWN HEIRS OF EUGENIO LANDAVAZO, incorporating the terms of the Consent Order proposed for Subfile ZRB-2-0060 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-areas 9 and 10*, as amended.

Dated: September 29, 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 8/19/2009)

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 29, 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:

The Unknown Heirs of Eugenio Landavazo
c/o Vedna Landavazo
P.O. Box 721
Zuni, NM 87327

 /s/
Bradley S. Bridgewater