

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-1-0128
)	
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:

FRED SCOTT	Subfile No. ZRB-1-0128
-------------------	-------------------------------

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 FRED SCOTT (Doc. No. 1997).

2. FRED SCOTT was provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0128, Defendant FRED SCOTT was subject to the Special Master's September 8, 2005 *Amended Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 4 and 8 of the Zuni River Stream System* (Doc. No. 387) ("Procedural and Scheduling Order"), which established a deadline of January 10, 2006 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-1-0128 were never extended.

5. In addition, Defendant FRED SCOTT failed to answer after being served with a summons.

6. Defendant FRED SCOTT is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0128 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 December 17, 2008 (Doc. No. 2013).

7. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended, the right(s) of FRED SCOTT to divert and use the public waters of the Zuni River Stream System, Sub-Areas 1, 2 and 3 (excluding Ramah), should be as set forth below:

FRED SCOTT
Subfile No. ZRB-1-0128

WELL

Map Label: 8A-2-W05

OSE File No: None

Priority Date: 1/1/1967

Purpose of Use: NON 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7B-3

S. 33 T. 09N R. 14W 1/4, 1/16, 1/64: SE NE NE

X (ft): 2,579,655 Y (ft): 1,442,761

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;

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against FRED SCOTT, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0128 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 AND 8*, as amended.

Dated: January 5, 2010

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 1/4/2010)
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

