

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA, and )  
STATE OF NEW MEXICO ex rel. STATE )  
ENGINEER, )  
) )  
Plaintiffs, )  
) )  
and )  
) )  
ZUNI INDIAN TRIBE, NAVAJO NATION, )  
) )  
Plaintiffs in Intervention, )  
) )  
v. )  
) )  
A & R PRODUCTIONS, et al., )  
) )  
Defendants. )  
) )  
\_\_\_\_\_ )

**No. 01CV00072-MV/WPL**  
ZUNI RIVER BASIN  
ADJUDICATION  
Subfile No. ZRB-4-0168

**ORDER GRANTING PLAINTIFFS’ MOTION FOR DEFAULT JUDGMENT**

This matter is before the Court on the joint motion for default judgment filed by the United States and the State of New Mexico on May 12, 2016. (Doc. 3263.) Defendants John and Earnestine Tolman failed to respond to the motion within the prescribed time. Accordingly, the Court finds that the motion is well-taken and is hereby granted. The Court finds:

1. The Defendants have been legally served with process. (Doc. 3227 (proof of service of summons of John and Earnestine Tolman); Doc. 3149 (substitution of party).)

2. Each Defendant has failed to comply with the applicable procedural and scheduling orders, and failed to appear, answer, or otherwise defend in this subfile action. The Defendants are in default. (*See* Doc. 3256 (Clerk's Certificate of Default).)
3. The portions of the Zuni River Basic Adjudication Hydrographic Survey Report for Sub-areas 1, 2, and 3 (excluding Ramah), prepared by Natural Resources Consulting Engineers, Inc. under contract to the United States, relating to the water rights of each subfile Defendant have been introduced into the record and are hereby incorporated as the evidentiary basis of the water rights described herein.
4. The right of the Defendants, John and Earnestine Tolman, to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 (excluding Ramah), is as set forth below:

**JOHN AND EARNESTINE TOLMAN**  
**Subfile No. ZRB-4-0168**

**WELL**

**Map Label:** 3C-4-W006

**OSE File No:** G 01666

**Priority Date:** 3/7/1994

**Purpose of Use:** NON 72-12-1 DOMESTIC

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

S. 17 T. 11N R. 15W 1/4, 1/16, 1/64: NW SW NE

X (ft): 2,539,192 Y (ft): 1,523,929

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

**Amount of Water:** 0.7 ac-ft per annum

5. The Defendants, their successors, representatives, heirs, and assigns, are enjoined from any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 9 and 10, except in strict accordance with this Order and other orders of the Court in this cause; and
6. The water right described herein is adjudicated as between the United States, the State of New Mexico, and the Defendants, subject to the right of any other water right claimant with standing to object prior to the entry of a final decree in this cause.
7. The Clerk of Court is ordered to mail a copy of this Order to John and Earnestine Tolman at the following address:

JOHN TOLMAN  
EARNESTINE TOLMAN  
515 W. GREENS RD  
8TH FLOOR  
HOUSTON, TX 77067

IT IS SO ORDERED.

  
\_\_\_\_\_  
MARTHA NAZQUEZ  
UNITED STATES DISTRICT JUDGE