

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-1-0063
	)	
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>DIANA MCGUERTY</b>	<b>Subfile No. ZRB-1-0063</b>
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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 by DIANA MCGUERTY (Doc. No. 362).

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

3. With respect to Subfile ZRB-1-0063, Defendant DIANA MCGUERTY 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, return of a Consent Order, or the filing of a form Subfile Answer.

4. These deadlines for Subfile ZRB-1-0063 were never extended.

5. Defendant DIANA MCGUERTY failed to submit a request for consultation, file a subfile answer, or return a signed Consent Order for Subfile ZRB-1-0063 in accordance with the Procedural and Scheduling Order or other applicable scheduling orders.

6. Defendant DIANA MCGUERTY is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0063 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 August 28, 2007 (Doc. No. 1233).

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

**DIANA McGUERTY**  
**Subfile No. ZRB-1-0063**

**WELL**

**Map Label:** 4B-3-W05

**OSE File No:** None

**Priority Date:** 3/13/1994

**Purpose of Use:** DOMESTIC

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

**S. 30 T. 10N R. 13W 1/4, 1/16, 1/64:** SW SE NW

**X (ft):** 2,597,538 **Y (ft):** 1,478,837

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 DIANA MCGUERTY, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0063 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: November 13, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 11/1/2007)

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EX REL. STATE ENGINEER

