

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-1-0001
	)	
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:

<b>JACK W. ARAGON &amp; VIRGINIA ARAGON</b>	<b>Subfile No. ZRB-1-0001</b>
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by filed service of summons on JACK W. ARAGON (Doc. No. 649) and VIRGINIA ARAGON (Doc. No. 650).

2. JACK W. ARAGON & VIRGINIA ARAGON were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0001, Defendants JACK W. ARAGON & VIRGINIA ARAGON were 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-1-0001 were extended by the Order Granting Motion to Amend Procedural and Scheduling Orders and Establish or Revise Deadlines for Defendants to Return Requests for Consultation and Submit Subfile Answers (Doc. No. 837), which extended the deadline by which defendants must sign and return the proposed Consent Order or return a Request for Consultation to sixty (60) days after delivery of the service packet, and further required defendants to file a Subfile Answer or sign and return the last-offered Consent Order within twenty (20) days after being served with a Notice That The Consultation Period Has Ended.

5. Defendants JACK W. ARAGON & VIRGINIA ARAGON, submitted a Request for Consultation but, after consulting with the Plaintiffs, failed to file a Subfile Answer, or return a signed last-offered Consent Order for Subfile ZRB-1-0001 within twenty (20) days after being served with a Notice That The Consultation Period Has Ended (Doc. No. 1297). In addition, these Defendants failed to waive service of a summons and, after being served, failed to

serve and file an answer as required by the summons and Federal Rule of Civil Procedure 12(a)(1)(A)(i).

6. Defendants JACK W. ARAGON & VIRGINIA ARAGON are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0001 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 13, 2007 (Doc. No. 1418).

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

**JACK W. ARAGON and VIRGINIA ARAGON**  
**Subfile No. ZRB-1-0001**

**STOCK POND**

**Map Label:** 8C-1-SP27

**Purpose of Use:** LIVESTOCK

**Priority date:** 10/6/1997

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 6,772

**Storage Impoundment Volume (ac-ft):** 0.140

**Pond Location:** As shown on Hydrographic Survey Map 8C-1

**S. 12 T. 09N R. 13W 1/4, 1/16, 1/64:** NW NW SW

**X(ft):** 2,622,629 **Y(ft):** 1,465,712

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

**Dam height (if greater than 9 ft):**

**WELL**

**Map Label:** 8C-1-W15

**OSE File No:** None

**Priority Date:** 1/1/1930

**Purpose of Use:** DOMESTIC

**Well Location:** As shown on Hydrographic Survey Map 8C-1

**S. 12 T. 09N R. 13W 1/4, 1/16, 1/64:** NW NW NW

**X (ft):** 2,622,577 **Y (ft):** 1,466,947

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 JACK W. ARAGON & VIRGINIA ARAGON, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0001 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: January 17, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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