

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-4-0023
)	
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:

MARK KENNETH BACA	Subfile No. ZRB-4-0023
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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 service of summons on MARK KENNETH BACA (Doc. No. 1222).

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

3. With respect to Subfile ZRB-4-0023, Defendant MARK KENNETH BACA was subject to the Special Master's September 28, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 1, 2, and 3 (Excluding Ramah) of the Zuni River Stream System* (Doc. No. 838)("Procedural and Scheduling Order"), which established a deadline of July 20, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0023 were never extended.

5. Defendant MARK KENNETH BACA is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0023 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 November 3, 2008 (Doc. No. 1938).

6. 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 MARK KENNETH BACA 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:

MARK KENNETH BACA
Subfile No. ZRB-4-0023

WELL

Map Label: 3B-4-W010

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: NON 72-12-1 DOMESTIC

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

S. 18 T. 11N R. 15W 1/4, 1/16, 1/64: SW SW SW

X (ft): 2,533,369 **Y (ft):** 1,520,888

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 ac-ft per annum;

WELL

Map Label: 3B-4-W011

OSE File No: G 0822

Priority Date: 9/11/1997

Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD

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

S. 18 T. 11N R. 15W 1/4, 1/16, 1/64: SW SW SW

X (ft): 2,533,334 **Y (ft):** 1,520,690

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 ac-ft per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against MARK KENNETH BACA, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0023 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended.

Dated: November 17, 2008

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 11/14/2008)
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

