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,)) No. 01cv00072 BB/WDS
and)
ZUNI INDIAN TRIBE, NAVAJO NATION,) ZUNI RIVER BASIN) ADJUDICATION
Plaintiffs in Intervention,) Subfile No. ZRB-4-0125
)
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:

JOYCE DINAPOLI	Subfile No. ZRB-4-0125

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 of JOYCE DINAPOLI (Doc. No. 362).

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

3. With respect to Subfile ZRB-4-0125, Defendant JOYCE DINAPOLI 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 January 8, 2007, for the submission of a Request for Consultation or the return of a signed Consent Order.

> 4. These deadlines for Subfile ZRB-4-0125 were never extended.

5. Defendant JOYCE DINAPOLI is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0125 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 December 17, 2008 (Doc. No. 2013).

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 JOYCE DINAPOLI 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:

JOYCE DINAPOLI Subfile No. ZRB-4-0125

WELL

Map Label: 3B-3-W017

OSE File No: G 1230

Priority Date: 5/4/2001

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

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

S. 27 **T.** 12N **R.** 16W **1/4, 1/16, 1/64:** SW SE SW

X (**ft**): 2,519,138 **Y** (**ft**): 1,541,238

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 JOYCE DINAPOLI, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0125 and in conformance with the Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah), as amended.

Dated: January 14, 2009

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 1/13/2009) 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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 14, 2009, I filed the foregoing Motion for Default Judgment electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

AND I FURTHER CERTIFY that a copy of the foregoing was mailed to the following parties who are not CM/ECF Participants:

Joyce Dinapoli 4980 Quailridge NW Albuquerque, NM 87114

Bradley S. Bridgewater