

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-3-0116 |
| |) | |
| 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:

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| KEITH A. MULLENNIX & CONNIE MULLENNIX | Subfile No. ZRB-3-0116 |
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed proof of service of summons on KEITH A. MULLENNIX and CONNIE MULLENNIX (Doc. No. 1218).

2. KEITH A. MULLENNIX & CONNIE MULLENNIX were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0116, Defendants KEITH A. MULLENNIX & CONNIE MULLENNIX were subject to the Special Master's March 7, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Area 7 of the Zuni River Stream System* (Doc. No. 561)("Procedural and Scheduling Order"), which established a deadline of August 12, 2006, for the return of a signed Consent Order or the filing of a Subfile Answer.

4. These deadlines for Subfile ZRB-3-0116 were never extended.

5. Defendants KEITH A. MULLENNIX & CONNIE MULLENNIX are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0116 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 March 3, 2008 (Doc. No. 1618).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended, the right(s) of KEITH A. MULLENNIX & CONNIE MULLENNIX to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

KEITH A. MULLENNIX and CONNIE MULLENNIX
Subfile No. ZRB-3-0116

STOCK POND

Map Label: 7B-3-SP46

Purpose of Use: Livestock

Priority Date: 1/1/1978

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 17,960

Storage Impoundment Volume (ac-ft): 0.495

Pond Location: As shown on Hydrographic Survey Map 7B-3

S. 18 T. 08N R. 15W 1/4, 1/16, 1/64: SW NE SW

X(ft): 2,534,548 **Y(ft):** 1,426,496

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

Dam height (if greater than 9 ft):

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against KEITH A. MULLENNIX & CONNIE MULLENNIX, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0116 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: February 27, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
U.S. Department of Justice
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COUNSEL FOR THE UNITED STATES

 (approved 2/27/2009)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on February 27, 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:

Keith A. Mullennix & Connie Mullennix
HC 61, Box 2027
Ramah, NM 87321

 /s/
Bradley S. Bridgewater