

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-3-0131
	)	
	)	
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>TIMOTHY H. POINTER &amp; PATSY POINTER</b>	<b>Subfile No. ZRB-3-0131</b>
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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 service of summons on TIMOTHY H. POINTER (Doc. No. 2156) and PATSY POINTER (Doc. No. 2156).

2. TIMOTHY H. POINTER & PATSY POINTER were provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0131, Defendants TIMOTHY H. POINTER & PATSY POINTER 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 submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-3-0131 were never extended.

5. Defendants TIMOTHY H. POINTER & PATSY POINTER are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0131 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 April 3, 2009 (Doc. No. 2253).

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

**TIMOTHY H. POINTER and PATSY POINTER**  
**Subfile No. ZRB-3-0131**

**WELL**

**Map Label:** 7B-3-W43

**OSE File No:** None

**Priority Date:** 1/1/1991

**Purpose of Use:** NON 72-12-1 DOMESTIC

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

**S. 24 T. 08N R. 16W 1/4, 1/16, 1/64:** SW NW SE

**X (ft):** 2,528,616 **Y (ft):** 1,421,740

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 TIMOTHY H. POINTER & PATSY POINTER, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0131 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-Area 7*, as amended.

Dated: April 9, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 4/6/2009)

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