

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-1-0096
	)	
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>IRENE P. SOUTH &amp; BYRON SOUTH</b>	<b>Subfile No. ZRB-1-0096</b>
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and as grounds therefore Plaintiffs state:

1. The Court has jurisdiction over the above-named defendants as shown by the filed service of summons on IRENE P. SOUTH (Doc. No. 2032) and BYRON SOUTH (Doc. No. 2032).

2. IRENE P. SOUTH & BYRON SOUTH were provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0096, Defendants IRENE P. SOUTH & BYRON SOUTH 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 or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-1-0096 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 IRENE P. SOUTH AND BYRON SOUTH, submitted a Request for Consultation but, after consulting with the Plaintiffs, failed to file a Subfile Answer with the Court, or return a last-offered Consent Order for Subfile ZRB-1-0096 within twenty (20) days after being served with a Notice That The Consultation Period Has ended (Doc. No. 1296). 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 Rules of Civil Procedure 12(a)(1)(A)(i).

6. Defendants IRENE P. SOUTH & BYRON SOUTH are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0096 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 August 13, 2009 (Doc. No. 2396).

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

**IRENE P. SOUTH and BYRON SOUTH**  
**Subfile No. ZRB-1-0096**

**STOCK POND**

**Map Label:** 4A-3-SP07

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 1,517

**Storage Impoundment Volume (ac-ft):** 0.031

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE NW

**X(ft):** 2,576,574 **Y(ft):** 1,501,366

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

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

**STOCK POND**

**Map Label:** 4A-3-SP13

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 12,661

**Storage Impoundment Volume (ac-ft):** 0.262

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NW NE

**X(ft):** 2,575,899 **Y(ft):** 1,501,361

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

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

**STOCK POND**

**Map Label:** 4A-3-SP14

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 2,466

**Storage Impoundment Volume (ac-ft):** 0.051

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE NW

**X(ft):** 2,576,633 **Y(ft):** 1,500,832

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

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

**STOCK POND**

**Map Label:** 4A-3-SP15

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Well

**Point of Diversion:** Fills from well 4A-3-W08 (Location X(ft): 2,576,344; Y(ft):  
1,500,654);

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 4,549

**Storage Impoundment Volume (ac-ft):** 0.188

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE SW

**X(ft):** 2,576,258 **Y(ft):** 1,500,698

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

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

**STOCK POND**

**Map Label:** 4A-3-SP16

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 9,068

**Storage Impoundment Volume (ac-ft):** 0.250

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE SW

**X(ft):** 2,576,538 **Y(ft):** 1,500,645

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

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

**STOCK POND**

**Map Label:** 4A-3-SP18

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1963

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 16,656

**Storage Impoundment Volume (ac-ft):** 0.688

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SE NW NW

**X(ft):** 2,577,549 **Y(ft):** 1,501,357

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

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

**STOCK POND**

**Map Label:** 4A-3-SP19

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 28,311

**Storage Impoundment Volume (ac-ft):** 0.780

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW NW

**X(ft):** 2,575,001 **Y(ft):** 1,499,833

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

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

**STOCK POND**

**Map Label:** 4A-3-SP20

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 4,025

**Storage Impoundment Volume (ac-ft):** 0.083

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW NE

**X(ft):** 2,575,953 **Y(ft):** 1,499,935

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



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

**STOCK POND**

**Map Label:** 4A-3-SP21

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 5,018

**Storage Impoundment Volume (ac-ft):** 0.104

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW NE

**X(ft):** 2,575,966 **Y(ft):** 1,499,773

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

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

**STOCK POND**

**Map Label:** 4A-3-SP35

**Purpose of Use:** LIVESTOCK

**Priority date:** 1/1/1955

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 4.0

**Surface Area (sq.ft):** 2,059

**Storage Impoundment Volume (ac-ft):** 0.113

**Pond Location:** As shown on Hydrographic Survey Map 4A-3

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW NW

**X(ft):** 2,574,837 **Y(ft):** 1,499,797

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

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

**WELL**

**Map Label:** 4A-3-W08

**OSE File No:** None

**Priority Date:** 1/1/1975

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

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

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW NE SW

**X (ft):** 2,576,344 **Y (ft):** 1,500,654

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

**Amount of Water (ac-ft per annum):** Historical beneficial use not to exceed

0.924 acre-feet per annum

**WELL**

**Map Label:** 4A-3-W20

**OSE File No:** None

**Priority Date:** 1/1/1975

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

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

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW SW

**X (ft):** 2,575,210 **Y (ft):** 1,499,189

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

**Amount of Water (ac-ft per annum):** Historical beneficial use not to exceed  
0.924 acre-feet per annum

**WELL**

**Map Label:** 4A-3-W21

**OSE File No:** None

**Priority Date:** 12/31/1899

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

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

**S. 4 T. 10N R. 14W 1/4, 1/16, 1/64:** SW SW NW

**X (ft):** 2,574,859 **Y (ft):** 1,499,837

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

**Amount of Water (ac-ft per annum):** Historical beneficial use not to exceed  
0.924 acre-feet per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against IRENE P. SOUTH & BYRON SOUTH, incorporating the terms of the Consent

Order proposed for Subfile ZRB-1-0096 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-Areas 4 and 8*, as amended.

Dated: August 31, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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