

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-3-0111
	)	
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:

<b>ROY EDDIE MERRILL</b>	<b>Subfile No. ZRB-3-0111</b>
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and as grounds therefore Plaintiffs state:

1. The Court has jurisdiction over the above-named defendant as shown by the filed waiver of service of summons of ROY EDDIE MERRILL (Doc. No. 362).

2. ROY EDDIE MERRILL was provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0111, Defendant ROY EDDIE MERRILL was subject to the Special Master's September 27, 2006 *Order Granting Joint 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) ("Procedural and Scheduling Order"), which established a deadline of May 20, 2009 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-3-0111 were never extended.

5. Defendant ROY EDDIE MERRILL is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0111 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).

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

**ROY EDDIE MERRILL**  
**Subfile No. ZRB-3-0111**

**WELL**

**Map Label:** 7C-1-W22

**OSE File No:** G 0905

**Priority Date:** 11/18/1998

**Purpose of Use:** 72-12-1.1 DOMESTIC ONE HOUSEHOLD

**Well Location:** As shown on Hydrographic Survey Map 7C-1

**S. 12 T. 09N R. 15W 1/4, 1/16, 1/64:** NW NW SE

**X (ft):** 2,559,843 **Y (ft):** 1,466,065

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 ROY EDDIE MERRILL, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0111 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-Area 7*, as amended.

Dated: August 31, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER

U.S. Department of Justice  
1961 Stout Street - 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1359

COUNSEL FOR THE UNITED STATES

(approved 8/19/2009)

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

