

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-1-0049
	)	
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>MAUREEN KEARNS AND ROBERT KAMMERER TRUST</b>	<b>Subfile No. ZRB-1-0049</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 Proof of Service of Process by Publication (Doc. No. 2379).

2. The MAUREEN KEARNS AND ROBERT KAMMERER TRUST was provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0049, Defendant MAUREEN KEARNS AND ROBERT KAMMERER TRUST 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 December 5, 2007 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-1-0049 were never extended.

5. Defendant MAUREEN KEARNS AND ROBERT KAMMERER TRUST is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0049 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 Areas 4 and 8*, as amended, the right(s) of the MAUREEN KEARNS AND ROBERT KAMMERER TRUST to divert and use the public waters of the Zuni River Stream System, Sub-Areas 4 and 8, should be as set forth below:

**Maureen Kearns and Robert Kammerer Trust**  
**Subfile No. ZRB-1-0049**

**STOCK POND**

**Map Label:** 8A-1-SP23  
**Purpose of Use:** LIVESTOCK  
**Priority Date:** 1/1/1963  
**Source of Water:** Surface Runoff  
**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.5

**Surface Area (sq. ft):** 7,432

**Storage Impoundment Volume (ac-ft):** 0.358

**Pond Location:** As shown on Hydrographic Survey Map 10B-3

**S. 8 T. 09N R. 14W 1/4, 1/16, 1/64:** SW NW NW

**X (ft):** 2,569,605 **Y (ft):** 1,464,054

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

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

**STOCK POND**

**Map Label:** 8A-1-SP24  
**Purpose of Use:** LIVESTOCK  
**Priority Date:** 10/6/1997  
**Source of Water:** Surface Runoff  
**Point of Diversion:** Not applicable

**Amount of Water:**

**Depth (ft):** 1.5

**Surface Area (sq.ft):** 11,832

**Storage Impoundment Volume (ac-ft):** 0.244

**Pond Location:** As shown on Hydrographic Survey Map 10B-3

**S. 18 T. 09N R. 14W 1/4, 1/16, 1/64:** SW SW NW

**X (ft):** 2,569,881 **Y (ft):** 1,462,808

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

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

**WELL**

**Map Label:** 8A-1-W14

**OSE File No:** G 1435

**Priority Date:** 12/10/2002

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

**Well Location:** As shown on Hydrographic Survey Map 8A-1

**S. 8 T. 09N R. 14W 1/4, 1/16, 1/64:** SW NW SE

**X (ft):** 2,570,267 **Y (ft):** 1,463,540

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

**Amount of Water (ac-ft):** 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 the MAUREEN KEARNS AND ROBERT KAMMERER TRUST, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0049 and in

conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: September 4, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER  
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COUNSEL FOR THE UNITED STATES

(approved 9/1/2009)  
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COUNSEL FOR THE STATE OF NEW MEXICO  
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 4, 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:

Maureen Kearns and Robert Kammerer Trust  
551 School Road  
McKinleyville, CA 95519

                    /s/                      
Bradley S. Bridgewater