

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-3-0092
)	
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:

DARLA NICOLL	Subfile No. ZRB-3-0092
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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. DARLA NICOLL was provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0092, Defendant DARLA NICOLL is 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 June 12, 2006 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-3-0092 were never extended.

5. Defendant DARLA NICOLL is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0092 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 DARLA NICOLL to divert and use the public waters of the Zuni River Stream System, Sub-Area 7, should be as set forth below:

DARLA NICOLL
Subfile No. ZRB-3-0092

STOCK POND

Map Label:	7A-2-SP12
Purpose of Use:	Livestock
Priority Date:	10/6/1997
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 22,141

Storage Impoundment Volume (ac-ft): 1.220

Pond Location: As shown on Hydrographic Survey Map 7A-2

S. 21 T. 09N R. 16W 1/4, 1/16, 1/64: NE NE NE

X(ft): 2,516,286 **Y(ft):** 1,457,508

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7A-2-W02

OSE File No: None

Priority Date: 12/31/1955

Purpose of Use: DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 7A-2

S. 21 T. 09N R. 16W 1/4, 1/16, 1/64: NW SE NW

X(ft): 2,512,731 **Y(ft):** 1,455,858

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 1.058 acre-feet per annum;

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against DARLA NICOLL, incorporating the terms of the Consent Order proposed for

Subfile ZRB-3-0092 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: September 4, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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:

Darla Nicoll
P.O. Box 69
Ramah, NM 87321

 /s/
Bradley S. Bridgewater