

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-6-0001
)	
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:

TONY ERIACHO JR. & LEO ERIACHO	Subfile No. ZRB-6-0001
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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 Proof of Service of Process by Publication for Leo Eriacho (Doc. No. 2379) and filed Notice of Filing Proof of Service of Summons on Tony Eriacho Jr (Doc. No. 1997).

2. TONY ERIACHO JR. & LEO ERIACHO were provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-6-0001, Defendants TONY ERIACHO JR. & LEO ERIACHO were subject to the Special Master's April 23, 2008 *Supplemental Procedural and Scheduling Order for the Adjudication of Certain Water Rights Claims in Sub-Area 6 of the Zuni River Stream System* (Doc. No. 1733)("Procedural and Scheduling Order"), which established a deadline of June 28, 2008 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-6-0001 were never extended. In addition, Defendants TONY ERIACHO JR. & LEO ERIACHO failed to appear and defend in this case within 20 days of service of a summons, or by June 30, 2009, as required by the Court-approved *Notice of Lawsuit and Summons* served by publication.

5. Defendants TONY ERIACHO JR. & LEO ERIACHO are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-6-0001 within the time limitations imposed by the Federal Rules of Civil Procedure, 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*, as amended, the right(s) of TONY ERIACHO JR. & LEO ERIACHO to divert and use the public waters of the Zuni River Stream System, Sub-Area 6, should be as set forth below:

TONY ERIACHO JR. & LEO ERIACHO
Subfile No. ZRB-6-0001

WELL

Map Label: 6B-2-W002

OSE File No: G 1830

Priority Date: 1/1/1890

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 6B-2

S. 3 T. 08N R. 17W 1/4, 1/16, 1/64: NW SE SW

X(ft): 2,487,879 **Y(ft):** 1,439,402

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 TONY ERIACHO JR. & LEO ERIACHO, incorporating the terms of the Consent Order proposed for Subfile ZRB-6-0001 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report*, as amended.

Dated: September 4, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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 (approved 9/1/2009)
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EX REL. STATE ENGINEER

