

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-4-0459
	)	
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>MAJELLA MANNING &amp; GERALD BACA</b>	<b>Subfile No. ZRB-4-0459</b>
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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 service of summons for MAJELLA MANNING (Doc. No. 2494) and GERALD BACA (Doc. No. 2494).

2. MAJELLA MANNING & GERALD BACA were provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0459, Defendants MAJELLA MANNING & GERALD BACA were subject to the Special Master's September 28, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 1, 2, and 3 (Excluding Ramah) of the Zuni River Stream System* (Doc. No. 838) ("Procedural and Scheduling Order"), which established a deadline of September 28, 2009 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0459 were never extended.

5. Defendants MAJELLA MANNING & GERALD BACA are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0459 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 January 19, 2010 (Doc. No. 2512).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended, the right(s) of MAJELLA MANNING & GERALD BACA to divert and use the public waters of the Zuni River Stream System, Sub-Areas 1, 2 and 3 (excluding Ramah), should be as set forth below:

**MAJELLA MANNING AND GERALD BACA**  
**Subfile No. ZRB-4-0459**

**WELL**

**Map Label:** 3B-3-W036

**OSE File No:** G 02465

**Priority Date:** 2/9/2006

**Purpose of Use:** 72-12-1 DOMESTIC ONE HOUSEHOLD

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

**S. 28 T. 12N R. 16W 1/4, 1/16, 1/64:** NW NE NE

**X (ft):** 2,514,409 **Y (ft):** 1,546,018

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 MAJELLA MANNING & GERALD BACA, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0459 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended.

Dated: February 4, 2010

Electronically Filed

/s/ Bradley S. Bridgewater

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\_\_\_\_\_ (approved 2/4/2010)

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EX REL. STATE ENGINEER

