

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-3-0032
	)	
v.	)	
	)	
A & R PRODUCTIONS, et al.	)	
	)	
Defendants.	)	
_____	)	

**RENEWED 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>CIBOLA COUNTY</b>	<b>Subfile No. ZRB-3-0032</b>
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and as grounds therefor Plaintiffs state:

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

2. CIBOLA COUNTY was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-3-0032, Defendant CIBOLA COUNTY was 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 deadlines of June 12, 2006, for the submission of a Request for Consultation, and of August 12, 2006, for the return of a signed Consent Order, or filing of a Subfile Answer.

4. These deadlines for Subfile ZRB-3-0032 were never extended.

5. Defendant CIBOLA COUNTY is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-3-0032 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 March 3, 2008 (Doc. No. 1618).

6. Plaintiffs previously filed a *Motion for Default Judgment* concerning Defendant CIBOLA COUNTY for Subfile ZRB-3-0032, on March 20, 2008 (No. 1660). However, subsequent communications with non-record counsel for the Defendant persuaded Plaintiffs that there may have been an error in the water rights description contained in their motion. Accordingly, on March 28, 2008, Plaintiffs filed a motion to withdraw their motion for default judgment (No. 1679) in order to conduct a further investigation. The motion to withdraw was granted on April 3, 2008 (No. 1691).

7. The Plaintiffs subsequent investigation, which included a second field inspection of the well on Defendant's property and additional research in State and County

records, resulted in an amendment to the hydrographic survey of Subfile ZRB-3-0032, and the offer of a revised consent order which was transmitted, with an explanation, to Defendant on April 12, 2011, and the Postal Service Form 3811 return receipt (Exhibit 2) indicates the transmittal was received on April 14, 2011. Defendant has never responded to that transmittal.

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

**CIBOLA COUNTY**  
**Subfile No. ZRB-3-0032**

**WELL**

**Map Label:** 7B-3-W23

**OSE File No:** None

**Priority Date:** 3/13/1994

**Purpose of Use:** NO RIGHT

**Well Location:** As shown on Hydrographic Survey Map 7B-3

**S. 18 T. 08N R. 15W 1/4, 1/16, 1/64:** NW NE SE

**X (ft):** 2,534,764 **Y (ft):** 1,429,493

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

**Amount of Water (ac-ft per annum):** 0.0

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against CIBOLA COUNTY, incorporating the terms of the Consent Order proposed for Subfile ZRB-3-0032 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended.

Dated: January 30, 2012

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER

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COUNSEL FOR THE UNITED STATES

(approved 1/11/2012)

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(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO

EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 30, 2012, I filed the foregoing *Renewed 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:

I further certify that on January 30, 2012, a copy of the foregoing was served by first class mail on each of the parties set forth below.

Cibola County  
515 W. High St.  
Grants, NM 87020

                    /s/                      
Bradley S. Bridgewater