

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA, and)
STATE OF NEW MEXICO ex rel. STATE)
ENGINEER,)
))
Plaintiffs,)
))
and)
))
ZUNI INDIAN TRIBE, NAVAJO NATION,)
))
Plaintiffs in Intervention,)
))
v.)
))
A & R PRODUCTIONS, et al.,)
))
Defendants.)
))
_____)

No. 01CV00072-MV/WPL

**ZUNI RIVER BASIN
ADJUDICATION**

MOTION FOR DEFAULT JUDGMENT

The United States of America and State of New Mexico, pursuant to Fed. R. Civ P. 55(b)(2), respectfully move the Court to enter an order granting default judgment against the following Defendants:

UNKNOWN HEIRS OF DORIS CHICK	Subfile No. ZRB-3-0031
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As grounds supporting the Motion, Plaintiffs state:

1. The Court has jurisdiction over the above-named Defendants as shown by the *Order Granting Motion to Join Additional Parties Defendant* (Doc. No. 1899) and the *Proof of Service of Process by Publication* (Doc. No. 2379).

2. The UNKNOWN HEIRS OF DORIS CHICK were provided the documents listed in the Declaration of Karmen Miller (Exhibit 1) on the dates indicated.

3. With respect to Subfile No. ZRB-3-0031, the UNKNOWN HEIRS OF DORIS CHICK were subject to the Federal Rules of Civil Procedure and the Procedural and Scheduling Orders entered in this case.

4. The UNKNOWN HEIRS OF DORIS CHICK did not appear or defend as required, were never excused from the requirement to so appear, and have not otherwise shown good cause for their failure to appear.

5. The UNKNOWN HEIRS OF DORIS CHICK are in default for failure to appear or otherwise defend in Subfile No. ZRB-3-0031 within the time limitations imposed by the Orders of the Court and the Federal Rules of Civil Procedure, as shown by the *Clerk's Certificate of Default* filed June 7, 2016 (Doc. No. 3281).

6. The UNKNOWN HEIRS OF DORIS CHICK jointly own, along with Defendants L.B. Tarry, Wayne Childers, Barbara O'Bryon, Winona Walton, Olivia Carney, Cynthia Lewis, Roberta Hay, and Frank Tarry, the real property located within Sub-area 7 of the Zuni River Basin associated with Subfile No. ZRB-3-0031.

7. All of the co-owners, with the exception of the UNKNOWN HEIRS OF DORIS CHICK, have agreed to the terms of a Consent Order (Exhibit 2) setting forth the co-owners' right(s) to divert and use the public waters of the Zuni River Stream System, Sub-area 7, as amended.

8. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub-area 7*, as amended, the right(s) of the UNKNOWN HEIRS OF DORIS

CHICK to divert and use the public waters of the Zuni River Stream System, Sub-area 7, should be consistent with the terms of the Consent Order (Exhibit 2), as set forth below:

UNKNOWN HEIRS OF DORIS CHICK

Subfile No. ZRB-3-0031

STOCK POND

Map Label: 7A-8-SP01
Purpose of Use: Livestock
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:

Depth (ft) 6.0
Surface Area (sq.ft): 23,370
Storage Impoundment Volume (ac-ft): 1.931

Pond Location: As shown on Hydrographic Survey Map 7A-8

S. 17 T. 05N R. 16W 1/4, 1/16, 1/64 NW SE NE

X(ft) 2,508,505 **Y(ft):** 1,333,524

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 7A-8-SP02
Purpose of Use: Livestock
Priority Date: 1/1/1972
Source of Water: Well

Point of Diversion: Fills from Well 7A-8-W02 (Location X(ft): 2,507,662; Y(ft): 1,330,491)

Amount of Water:

Depth (ft) 3.0

Surface Area (sq.ft): 1,046

Storage Impoundment Volume (ac-ft): 0.043

Pond Location: As shown on Hydrographic Survey Map 7A-8

S. 17 T. 05N R. 16W 1/4, 1/16, 1/64 SW SE SW

X(ft) 2,507,650 **Y(ft):** 1,330,478

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

Dam height (if greater than 9 ft)

WELL

Map Label: 7A-8-W01

OSE File No.: None

Priority Date: 1/1/1971

Purpose of Use: NON 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7A-8

S. 18 T. 05N R. 16W 1/4, 1/16, 1/64 SW SW NW

X(ft) 2,501,206 **Y(ft):** 1,330,933

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

Amount of Water: 0.7 ac-ft per annum

WELL

Map Label: 7A-8-W02

OSE File No.: None

Priority Date: 1/1/1940

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 7A-8

S. 17 T. 05N R. 16W 1/4, 1/16, 1/64 SW SE SW

X(ft) 2,507,662 Y(ft): 1,330,491

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

Amount of Water: 0.672 ac-ft per annum

WHEREFORE, the Plaintiffs respectfully request that the Court enter an order granting default judgment against the UNKNOWN HEIRS OF DORIS CHICK, incorporating the above-described terms of the Consent Order (Exhibit 2) to which the other co-owners of the real property associated with Subfile ZRB-3-0031 have agreed, in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-area 7*, as amended.

Dated: June 8, 2016

Respectfully submitted,

/s/ Samuel D. Gollis
Samuel D. Gollis
U.S. Department of Justice
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
(303) 844-1351

Andrew "Guss" Guarino
Bradley S. Bridgewater
U.S. Department of Justice
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
(303) 844-1343

Approved: 6/8/2016

EDWARD BAGLEY

Office of the State Engineer, Legal Division

P.O. Box 25102

Santa Fe, NM 87504

(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 8, 2016, 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:

Via Regular Mail

Ree Ann Cole
Ray Chick
3220 Reina Dr. NE
Albuquerque, NM 87111-5038

Olivia Carney
P.O. Box 761
Fence Lake, NM 87315-0761

Barbara O'Bryon
296 NorthWood Terrace
Williamstown, WV 26187

Wayne Childers
P.O. Box 121
Helen, NM 87002

L. B. Tarry
611 Laguna
Belen, NM 87002

Roberta Hay
P.O. Box 163
Adrian, OR 97901-0163

Frank Tarry
6 Yucca Drive
Belen, NM 87002

Cynthia Lewis
P.O. Box 711
Ramah, NM 87321-0711

Winona Walton
1523 12th Avenue
Safford, AZ 85546

/s/ Samuel D. Gollis