

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 MV/LFG
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	Subfile No. ZRB-4-0470
)	
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:

MICHAEL PASICH	Subfile No. ZRB-4-0470
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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 proof of service of summons on MICHAEL PASICH (No. 2494).

2. MICHAEL PASICH was provided the documents listed in the Declaration of Yvonne M. Marsh (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0470, Defendant MICHAEL PASICH was 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 26, 2009 for this Defendant to submit a Request for Consultation or return a signed Consent Order, and which required this Defendant to either sign and return the last-offered Consent Order or to file and serve a Subfile Answer within 20 days of service of a *Notice That the Consultation Period Has Ended* for Subfile ZRB-4-0470.

4. These deadlines for Subfile ZRB-4-0470 were never extended. Defendant MICHAEL PASICH failed to submit either a Request for Consultation or a signed Consent Order. In addition, this Defendant, after being served with a summons and complaint, failed to serve and file a responsive pleading within 21 days as required by Fed.R.Civ.P. 12(a)(1)(A)(i).

5. Defendant MICHAEL PASICH is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0470 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 1, 2013 (No. 2851).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended, the right(s) of MICHAEL PASICH 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:

MICHAEL PASICH
Subfile No. ZRB-4-0470

WELL

Map Label: 2A-1-W041
OSE File No: G 02434
Priority Date: 2/15/2007
Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD
Well Location: As shown on Hydrographic Survey Map 2A-1
S. 29 T. 12N R. 18W 1/4, 1/16, 1/64: NW SE SE
X (ft): 2,446,065 Y (ft): 1,545,062
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

7. The United States mailed a copy of the February 28, 2013 *Motion for Entry of Default* (No. 2850) to the last-known address of record of Defendant MICHAEL PASICH, but that mailing was returned by the Post Office marked “Return to Sender, Attempted – Not Known, Unable to Forward.” As indicated by the Declaration of Yvonne M. Marsh (Exhibit 1), the United States has never received a Change of Address notification from this Defendant, as required by the Procedural and Scheduling Order. The United States is unaware of whether the Defendant has advised the Clerk, in writing, of a change of address, as required by D.N.M.LR-Civ. 83.6.

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against MICHAEL PASICH, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0470 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended.

Dated: March 12, 2013

Electronically Filed

/s/ Bradley S. Bridgewater

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EX REL. STATE ENGINEER

