

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-4-0381
)	
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:

THE RIVARD FAMILY TRUST	Subfile No. ZRB-4-0381
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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 THE RIVARD FAMILY TRUST (No. 891).

2. THE RIVARD FAMILY TRUST was provided the documents listed in the Declaration of Karmen Miller (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0381, Defendant THE RIVARD FAMILY TRUST 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 January 20, 2007 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-4-0381.

4. These deadlines for Subfile ZRB-4-0381 were never extended. Defendant THE RIVARD FAMILY TRUST submitted a timely Request for Consultation. However, following the conclusion of the consultation this Defendant failed to either sign and return the last-offered Consent Order or to file and serve a Subfile Answer within 20 days of service of the February 2, 2012 *Notice That the Consultation Period Has Ended* (Doc. No. 2760).

5. Defendant THE RIVARD FAMILY TRUST is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0381 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 October 31, 2012 (No. 2812).

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 THE

RIVARD FAMILY TRUST 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:

THE RIVARD FAMILY TRUST
Subfile No. ZRB-4-0381

WELL

Map Label: 3B-4-W064
OSE File No: G 1789
Priority Date: 10/17/2003
Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD
Well Location: As shown on Hydrographic Survey Map 3B-4

S. 7 T. 11N R. 15W 1/4, 1/16, 1/64: SE SE SE

X (ft): 2,538,051 Y (ft): 1,526,017

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

Amount of Water: Historical beneficial use not to exceed 0.7 ac-ft per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against THE RIVARD FAMILY TRUST, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0381 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended.

Dated: December 11, 2012

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

U.S. Department of Justice

South Terrace, Suite 370

999 18th Street

Denver, CO 80202

(303) 844-1359

COUNSEL FOR THE UNITED STATES

(approved 12/10/2012)

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

