

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-4-0160
	)	
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:

<b>AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997</b>	<b>Subfile No. ZRB-4-0160</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 service of summons on the AVRAN GARCIA REVOCABLE TRUST UTA DATED APRIL 28, 1997 (Doc. No. 1869).

2. AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997 was provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0160, Defendant AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997 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 February 20, 2007 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0160 were never extended.

5. Defendant AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997 is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0160 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 August 13, 2009 (Doc. No. 2396).

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 AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997 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:

**AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997**  
**Subfile No. ZRB-4-0160**

**WELL**

**Map Label:** 2A-1-W013

**OSE File No:** G 1393

**Priority Date:** 6/12/2002

**Purpose of Use:** 72-12-1 SANITARY IN CONJUNCTION WITH A  
COMMERCIAL USE

**Well Location:** As shown on Hydrographic Survey Map 2A-1

**S. 29 T. 12N R. 18W 1/4, 1/16, 1/64: SW NE NE**

**X (ft): 2,445,847 Y (ft): 1,544,347**

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  
ac-ft per annum

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against AVRAN GARCIA REV. TRUST UTA DATED APRIL 28, 1997, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0160 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended.

Dated: August 31, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
1961 Stout Street - 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1359

COUNSEL FOR THE UNITED STATES

          (approved 8/19/2009)  
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

