

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-4-0126
)	
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 Defendants:

MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP	Subfile No. ZRB-4-0126
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and as grounds therefor Plaintiffs state:

1. The Court has jurisdiction over the above-named Defendants as shown by the filed waiver of service of summons of MT. BALDY LTD. PTNS. (No. 362) and the February 23, 2007 Order granting Plaintiffs' motion to substitute parties defendant (No. 1008).

2. MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP were provided the documents listed in the Declaration of Yvonne Marsh (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0126, Defendants MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP were 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 November 9, 2007 for these Defendants to submit a Request for Consultation or return a signed Consent Order, and which required these Defendants 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-4-0126.

4. These deadlines for Subfile ZRB-4-0126 were never extended. Defendants MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP submitted a timely Request for Consultation. However, following the conclusion of the consultation these Defendants 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 September 13, 2010 *Notice That the Consultation Period Has Ended* (Doc. No. 2587).

5. Defendants MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0126 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 MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP 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:

MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP
Subfile No. ZRB-4-0126

WELL

Map Label: 3B-2-W012
OSE File No: G 1494
Priority Date: 6/16/2003
Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD
Well Location: As shown on Hydrographic Survey Map 3B-2

S. 12 T. 12N R. 16W 1/4, 1/16, 1/64: SE SE NE

X (ft): 2,533,401 Y (ft): 1,557,919

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 MT. BALDY LTD. PTNS. & BOA SORTE LIMITED PARTNERSHIP & VIEL GLUCK LIMITED PARTNERSHIP & BEN FATTO LIMITED PARTNERSHIP, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0126 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended.

Dated: November 14, 2012

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 11/9/2012)

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EX REL. STATE ENGINEER

