

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-1-0011
)	
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:

DIRECT PATH INVESTMENTS, LLC	Subfile No. ZRB-1-0011
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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 DIRECT PATH INVESTMENTS, LLC (Doc. No. 1928).

2. DIRECT PATH INVESTMENTS, LLC was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-1-0011, Defendant DIRECT PATH INVESTMENTS, LLC was subject to the Special Master's September 27, 2006 *Order Granting Joint Motion to Amend Procedural and Scheduling Orders and Establish or Revise Deadlines for Defendants to Return Requests for Consultation and Submit Subfile Answers* (Doc. No. 837)("Procedural and Scheduling Order"), which established a deadline of March 18, 2008, for the return of a signed Consent Order or the submission of a Request for Consultation.

4. These deadlines for Subfile ZRB-1-0011 were never extended.

5. Defendant DIRECT PATH INVESTMENTS, LLC is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-1-0011 within the time limitations imposed by the Federal Rules of Civil Procedure, applicable Procedural and Scheduling Orders, or Orders of the Court extending deadlines, as shown by the Clerk's Certificate of Default filed November 3, 2008 (Doc. No. 1938).

6. In accordance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended, the right(s) of DIRECT PATH INVESTMENTS, LLC to divert and use the public waters of the Zuni River Stream System, Sub-Areas 4 and 8, should be as set forth below:

DIRECT PATH INVESTMENTS, LLC
Subfile No. ZRB-1-0011

STOCK POND

Map Label: 8A-1-SP18

Purpose of Use: LIVESTOCK

Priority date: 10/6/1997

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.5

Surface Area (sq.ft): 4,914

Storage Impoundment Volume (ac-ft): 0.102

Pond Location: As shown on Hydrographic Survey Map 8A-1

S. 4 T. 09N R. 14W 1/4, 1/16, 1/64: NW NW SW

X(ft): 2,574,984 **Y(ft):** 1,471,823

Dam height (if greater than 9 ft):

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against DIRECT PATH INVESTMENTS, LLC, incorporating the terms of the Consent Order proposed for Subfile ZRB-1-0011 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 4 and 8*, as amended.

Dated: November 12, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

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 (approved 11/12/2008)
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EX REL. STATE ENGINEER

