

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-4-0434
	)	
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>CARMEN REY SILVA</b>	<b>Subfile No. ZRB-4-0434</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 CARMEN REY SILVA (Doc. No. 2061).

2. CARMEN REY SILVA was provided the documents listed in the Declaration of Gary A. Durr (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0434, Defendant CARMEN REY SILVA 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 August 25, 2007 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0434 were never extended.

5. Defendant CARMEN REY SILVA is in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0434 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 13, 2009 (Doc. No. 2194).

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 CARMEN REY SILVA 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:

**CARMEN REY SILVA**  
**Subfile No. ZRB-4-0434**

**POND**

**Map Label:** 3B-2-SP026

**Purpose of Use:** LIVESTOCK

**Priority Date:** 1/1/1988

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 8,142

**Storage Impoundment Volume (ac-ft):** 0.336

**Pond Location:** As shown on Hydrographic Survey Map

**S. 25 T. 13N R. 16W 1/4, 1/16, 1/64:** SW SE SE

**X(ft):** 2,528,146 **Y(ft):** 1,573,317

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

**Dam height (if greater than 9 ft):**

**POND**

**Map Label:** 3B-2-SP027

**Purpose of Use:** LIVESTOCK

**Priority Date:** 1/1/1980

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 17,021

**Storage Impoundment Volume (ac-ft):** 0.703

**Pond Location:** As shown on Hydrographic Survey Map

**S. 25 T. 13N R. 16W 1/4, 1/16, 1/64:** SE NW NW

**X(ft):** 2,528,705 **Y(ft):** 1,574,625

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

**Dam height (if greater than 9 ft):**

**POND**

**Map Label:** 3B-2-SP028

**Purpose of Use:** LIVESTOCK

**Priority Date:** 1/1/1988

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 6,848

**Storage Impoundment Volume (ac-ft):** 0.283

**Pond Location:** As shown on Hydrographic Survey Map

**S. 25 T. 13N R. 16W 1/4, 1/16, 1/64:** SE SW SE

**X(ft):** 2,529,286 **Y(ft):** 1,572,901

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

**Dam height (if greater than 9 ft):**

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against CARMEN REY SILVA, incorporating the terms of the Consent Order

proposed for Subfile ZRB-4-0434 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report for Sub Areas 1, 2 and 3 (excluding Ramah)*, as amended.

Dated: March 23, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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EX REL. STATE ENGINEER

