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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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United States of America,

No. CV-07-1796-PHX-LOA

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Plaintiff,

**NOTICE OF ASSIGNMENT
AND ORDER**

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vs.

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Richmond American Homes of Arizona,

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Defendant.

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Pursuant to Local Rule ("LRCiv") 3.8(a), Rules of Practice, effective December 1, 2006, all civil cases are, and will be, randomly assigned to a U.S. district judge or to a U.S. magistrate judge. This matter has been assigned to the undersigned U.S. Magistrate Judge.

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As a result of the aforesaid Local Rule and assignment, if all parties consent in writing, the case will remain with the assigned Magistrate Judge pursuant to 28 U.S.C. 636(c)(1) for all purposes, including trial and final entry of judgment. If any party chooses the district judge option, the case will be randomly reassigned to a U.S. district judge. To either consent to the assigned magistrate judge or to elect to have the case heard before a district judge, the appropriate section of the form, entitled Consent To Exercise Of Jurisdiction By United States Magistrate Judge¹, must be completed, signed

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¹The consent/election form may be obtained directly from the Clerk of the Court or by accessing the District of Arizona's web site at www.azd.uscourts.gov. To find the consent/election form on the District's web site, click on "Local Rules" at the top of the page, then click on "Forms" on the left side of the page and then click on and print the appropriate

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1 and filed. The party filing the case or removing it to this Court is responsible for serving
2 all parties with the consent forms. Each party must file a completed consent form and
3 certificate of service with the Clerk of the Court not later than 20 days after entry of
4 appearance, and must serve a copy by mail or hand delivery upon all parties of record in
5 the case.

6 Any party is free to withhold consent to magistrate judge jurisdiction
7 without adverse consequences. 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.; *Anderson*
8 *v. Woodcreek Venture Ltd.*, 351 F.3d 911, 913-14 (9th Cir. 2003) (pointing out that
9 consent is the "touchstone of magistrate judge jurisdiction" under 28 U.S.C. §636(c). "A
10 party to a federal civil case has, subject to some exceptions, a constitutional right to
11 proceed before an Article III judge." *Dixon v. Ylst*, 990 F.2d 478, 479 (9th Cir. 1993)
12 (citing *Pacemaker Diagnostic Clinic of Am. Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541
13 (9th Cir. 1984) (*en banc*)).

14 A review of the Court's file indicates that Plaintiff United State of
15 America, acting at the request of the Administrator of the United States Environmental
16 Protection Agency, filed its Complaint on September 20, 2007. (docket #1) Plaintiff also
17 filed a Notice of Lodging of Consent Decree Pending 30-day Public Comment Period and
18 attached a copy of the proposed Consent Decree signed by all parties named in Plaintiff's
19 Complaint. (docket #2) Plaintiff shall have until October 11, 2007 within which to make
20 its selection to either consent to magistrate judge jurisdiction or elect to proceed before a
21 United States district judge. It is unknown if a copy of the appropriate consent form
22 electronically transmitted to Plaintiff's counsel on September 21, 2007 by the Clerk's
23 office was served with the Complaint per the written instructions from the Clerk.

24 Accordingly,

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27 _____
28 form.

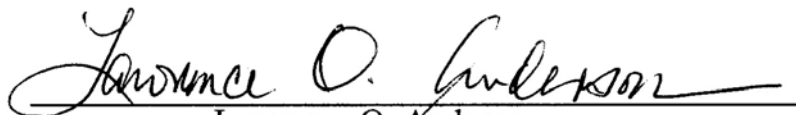
1 **IT IS ORDERED** that Plaintiff shall file on or before **October 11, 2007**
2 its written election to either consent to magistrate judge jurisdiction or elect to proceed
3 before a United States district judge.

4 **IT IS FURTHER ORDERED** that Plaintiff shall serve upon
5 Defendant Richmond American Homes of Arizona, Inc., the appropriate consent form
6 provided at the time of the filing of its Complaint within five days of the date of this
7 Notice and Order.

8 **IT IS FURTHER ORDERED** that Defendant Richmond American
9 Homes of Arizona, Inc., shall either consent to magistrate judge jurisdiction or elect to
10 proceed before a district judge on or before **October 17, 2007**.

11 **IT IS FURTHER ORDERED** that counsel and any party, if
12 unrepresented, shall hereinafter comply with the Rules of Practice for the United States
13 District Court for the District of Arizona, as amended on December 1, 2006. The
14 District's Rules of Practice may be found on the District Court's internet web page at
15 www.azd.uscourts.gov/. All other rules may be found as www.uscourts.gov/rules/. The
16 fact that a party is acting pro se does not discharge this party's duties to "abide by the
17 rules of the court in which he litigates." *Carter v. Commissioner of Internal Revenue*, 784
18 F.2d 1006, 1008 (9th Cir. 1986).

19 DATED this 21st day of September, 2007.

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21 Lawrence O. Anderson
22 United States Magistrate Judge