

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-4-0454
)	
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:

HENRY AXTELL & SHARON AXTELL	Subfile No. ZRB-4-0454
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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 Notice of Filing Summons Served by Mail for Henry and Sharon Axtell (Doc. No. 2369).

2. HENRY AXTELL & SHARON AXTELL were provided the documents listed in the Declaration of Khaleelah E. Jones (Exhibit 1) on the dates indicated.

3. With respect to Subfile ZRB-4-0454, Defendants HENRY AXTELL & SHARON AXTELL 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 May 16, 2009 for the submission of a Request for Consultation or the return of a signed Consent Order.

4. These deadlines for Subfile ZRB-4-0454 were never extended.

5. Defendants HENRY AXTELL & SHARON AXTELL are in default for failure to appear, answer, or otherwise defend in Subfile ZRB-4-0454 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: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended, the right(s) of HENRY AXTELL & SHARON AXTELL 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:

HENRY AXTELL AND SHARON AXTELL
Subfile No. ZRB-4-0454

WELL

Map Label: 3B-4-W173

OSE File No: G 2673

Priority Date: 9/6/2007

Purpose of Use: 72-12-1 DOMESTIC ONE HOUSEHOLD

Well Location: As shown on Hydrographic Survey Map 3B-4

S. 11 T. 11N R. 16W 1/4, 1/16, 1/64: SW NE NW

X(ft): 2,524,151 **Y(ft):** 1,527,965

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 acre-feet per annum;

WHEREFORE, the Plaintiffs request the Court to enter an order granting default judgment against HENRY AXTELL & SHARON AXTELL, incorporating the terms of the Consent Order proposed for Subfile ZRB-4-0454 and in conformance with the *Zuni River Basin Adjudication Hydrographic Survey Report: Sub-areas 1, 2, and 3 (Excluding Ramah)*, as amended.

Dated: September 4, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER

U.S. Department of Justice
1961 Stout Street - 8th Floor
Denver, CO 80294
(303) 844-1359

COUNSEL FOR THE UNITED STATES

(approved 9/1/2009)

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

