

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the)	
relation of State Engineer,)	
)	
Plaintiff,)	
)	69cv07941-BB
-v-)	
)	RIO CHAMA STREAM SYSTEM
ROMAN ARAGON et al.,)	
)	Subfile No. CHCB-005-0004
Defendants.)	
_____)	

NOTICE OF EX PARTE CONTACT

THIS MATTER is before the Special Master on her own motion, and is entered to provide a record of an *ex parte* contact with Defendant Mario R. Martinez on October 29, 2008.

An evidentiary hearing on Mr. Martinez’s Request for Hearing and Response to Order to Show Cause (Docket Nos. 9261, 9297) was held October 29, 2008, at 1:30 p.m.. Plaintiff State of New Mexico, ex rel. State Engineer (State) appeared, but Mr. Martinez did not. The record indicates that Mr. Martinez had failed to file a short and precise statement of his position regarding his claims and failed to exchange evidence with the State by October 13, contrary to my September 24, 2008, Order (No. 9293). The Order states that the failure to comply with the order would be grounds for the entry of a subfile order incorporating the State’s description of the nature and extent of Defendant’s water rights. The Court’s September 23, 2008, Order (No. 9292) which remanded the matter to me states that the failure to comply with the Court’s order and subsequent orders of the Court and Special Master would result in the entry of a subfile order incorporating the State’s description of the nature and extent of Defendant’s water rights.

At the hearing, Mr. Newville, counsel for the State, stated his intention to submit a proposed subfile order pursuant to the orders entered by the Court. Tr. at 3, 4. The hearing was adjourned

at 1:37 p.m.

At approximately 1:45 p.m., I was in the Clerk's Office, speaking with the deputy clerk. Mr. Martinez entered. He explained that he was late because he couldn't find the courthouse, couldn't find a parking place, and did not have the court's telephone number to alert me to his late arrival. He had received copies of the orders relevant to this hearing, but didn't understand what he was required to do. I stated that I was unable to hear his objection to the Court's order to show cause because he had failed to comply with the previous court orders, and because the hearing had been adjourned. Mr. Martinez asked what he should do. I informed him that I could not give him legal advice, but he might consider calling Mr. Newville and discussing the matter, or he could apply to the Court for relief.

Vickie L. Gabin

SPECIAL MASTER