

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

STATE OF NEW MEXICO, ex rel. the —
State Engineer,

Plaintiff,

v.

JOHN ABBOTT, *et al.*,

Defendants.

68cv7488 BB-ACE
70cv8650 BB-ACE
Consolidated

Rio Santa Cruz and Rio Truchas
Stream Systems

Pueblo Claims Subproceeding II

OHKAY OWINGEH'S PRIVILEGE LOG
ACCOMPANYING
RESPONSE TO THE REQUEST OF TRUCHAS ACEQUIAS
FOR PRODUCTION OF DOCUMENTS

TO: Humphrey and Odé PC
P.O. Box 1574
El Prado, NM 87529

Objection to Request #1:

Date	What	From	To	Subject	Grounds for Withholding
6/29/05	Letter	Lee Bergen	Kurt Anschuetz	Solicitation	Attorney Work Product; Non-testifying Expert; Trial Preparation

Objection to Request #2:

Date	What	From	To	Subject	Grounds for Withholding
6/29/05	Letter	Lee Bergen	Thomas Merlan	Solicitation	Attorney Work Product Expert retained for Trial Preparation

Objection to Request #3:

Date	What	From	To	Subject	Grounds for Withholding
6/30/05	Letter	Lee Bergen	Richard I. Ford	Solicitation	Attorney Work Product; Expert retained for Trial Preparation

Objection to Request #4:

Date	What	From	To	Subject	Grounds for Withholding
Oct.05	Contract, incl. Scope of Work	Ohkay Owingeh	Kurt Anschuetz	Consulting Services	Non-testifying Expert Attorney Work Product
Sept.05	Agreement	Ohkay Owingeh	Kurt Anschuetz	Confidentiality	Non-testifying Expert Attorney Work Product

Objection to Request #5:

Date(s)	What	From	To	Subject	Grounds for Withholding
10/18/05	Letter	Thomas Merlan	Lee Bergen	Contract	Expert retained for Trial Preparation
11/8/05	Contract, incl. Scope of Work	Ohkay Owingeh	Thomas Merlan	Research Service	Attorney Work Product; Expert retained for Trial Preparation

Objection to Request #7:

Date	What	From	To	Subject	Grounds for Withholding
2005-2009	Invoices	Kurt Anschuetz	Ohkay Owingeh	Services & billing	Non-testifying Expert; Trial Preparation

Objection to Request #8:

Date	What	From	To	Subject	Grounds for Withholding
11/30/05 - 1/30/06	Invoices. Timesheets, Progress Reports	Thomas Merlan	Ohkay Owingeh	Services & billing; Results of Research	Expert retained for Trial Preparation

Objection to Request #10:

Date	What	From	To	Subject	Grounds for Withholding
2005- 2009	No Payment Records yet found	Kurt Anschuetz	Ohkay Owingeh	Services & billing	Non-testifying Expert Trial Preparation

Objection to Request #13:

Date	What	From	To	Subject	Grounds for Withholding
2005- 2009	E-mails and attached memos	Kurt Anschuetz	Tim Vollmann	Case preparation, incl. budgets, hiring experts, case strategy, evidence evaluation, merits of various defenses, evaluation of expert reports; discussions of meetings, incl. scheduling of field trips; contracts	Non-testifying Expert
2005- 2009	E-mails and attached memos	Tim Vollmann	Kurt Anschuetz	Case preparation, including theories of recovery, eval. of evidence (expert, Pueblo elders, field trips, documents), merits of various defenses, political issues re land & water use	Non-testifying Expert; Attorney work product
2005- 5/1/06	E-mails	Kurt Anschuetz	Thomas Merlan	Discussions of research needs; contracts, billing, aboriginal rights theory	Non-testifying expert & expert retained for Trial Prep

Date	What	From	To	Subject	Grounds for Withholding
2005-5/1/06	E-mails	Thomas Merlan	Kurt Anschuetz	Discussions of research needs; contracts, billing, aboriginal rights theory, field trips to adjudication area	Non-testifying expert & expert retained for Trial Prep
2005-5/1/06	E-mails	Kurt Anschuetz	Richard Ford	Discussions of theory of aboriginal claims, research needs, contracts, archaeological fieldwork, interviews with Pueblo elders, field trips	Non-testifying expert & expert retained for Trial Prep
2005-5/1/06	E-mails	Richard Ford	Kurt Anschuetz	Discussions of theory of aboriginal claims, research needs, contracts, archaeological fieldwork, interviews with Pueblo elders, field trips	Non-testifying expert & expert retained for Trial Prep
2006-2008	E-mails	Kurt Anschuetz	Joseph Moquino	Status reports & field trips; speaking w/elder interviewees	Non-testifying expert
2006-2007	E-mails	Kurt Anschuetz	Sueellen Jacobs	Interviewing Pueblo elders; contract terms, meetings	Non-testifying experts
2006-2007	E-mails	Sueellen Jacobs	Kurt Anschuetz	Interviewing Pueblo elders; contract terms, meetings	Non-testifying experts
4/24/06	E-mail	Kurt Anschuetz	Herman Agoyo	Discussion of cultural sites	Non-testifying expert

Objections to Requests #14, #15, #16, and #17:

Date	What	From	To	Subject	Grounds for Withholding
1/30/06	Preliminary, Confidential Report for legal evaluation	Thomas Merlan	Tim Vollmann	Histories of various laws from 1500 to present, incl. Indian Claims Commission Act, Pueblo Lands Act, and Treaty of Guadalupe Hidalgo	Expert Retained for Trial Preparation
2005 - 5/1/06	E-mails	Thomas Merlan	Tim Vollmann	Discussions of theory of aboriginal claims; legal strategies; research needs; opponents' experts	Expert Retained for Trial Preparation
2005- 5/1/06	E-mails	Tim Vollmann	Thomas Merlan	Discussions of theory of aboriginal claims; legal strategies; research needs; opponents' experts	Expert Retained for Trial Preparation; Attorney Work Product
11/27/07- 12/30/07	E-mails	Lee Bergen	Thomas Merlan	Research project (not for Abbott case)	Lack of relevance
12/30/08 - 6/17/09	Memo & e-mails	Thomas Merlan	Tim Vollmann	Review of reports of S.Hordes & E. Hall	Trial preparation
2005- 5/1/06	E-mails	Richard Ford	Tim Vollmann	Discussions of theory of aboriginal claims; legal strategies; research needs; opponents' experts	Expert retained for Trial Preparation

Date	What	From	To	Subject	Grounds for Withholding
2005-5/1/06	E-mails & attached memos	Tim Vollmann	Richard Ford	Discussions of theory of aboriginal claims; legal strategies; research needs; opponents' experts	Expert retained for Trial Preparation; Attorney Work Product
3/19/09	E-mails & memos	Richard Ford	Tim Vollmann	Review & evaluations of Eiselt and Adler reports	Trial Preparation
3/19/09	E-mails & memos	Richard Ford	Kurt Anschuetz	Review & evaluations of Eiselt and Adler reports	Trial Preparation

Objection to Request #18:

Date	What	From	To	Subject	Grounds for Withholding
12/06	MOU	Ohkay Owingeh	Santa Clara Pueblo	Efforts to resolve possible conflicts of aboriginal claim areas	Fed. Rule of Evidence 408

Objections to Request #19:

Date	What	From	To	Subject	Grounds for Withholding
1998-2009	Attorney contracts	Ohkay Owingeh	Ussery & Parrish, Nordhaus Law Firm, Sonosky, Chambers Law Firm, Bergen Law Office	Contracts for legal representation	Attorney-client privileged
2006-2007	Contract	Ohkay Owingeh	Dr. Sueellen Jacobs	Interviews of Pueblo elders	Non-testifying expert retained for trial preparation

Dated: November 11, 2009

Respectfully submitted,

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