

New Mexico v. Abbott
Pueblo Claim Subproceeding II

Exhibit CC

to

**OHKAY OWINGEH's REPLY IN SUPPORT OF ITS
MOTION FOR PARTIAL SUMMARY JUDGMENT
THAT IT POSSESSED ABORIGINAL TITLE
TO THE RIO DE TRUCHAS BASIN IN 1598**

Report of Dr. Michael Adler

"A Report on Archaeological Research in the Santa Cruz River Basin"

p. 39

A Report on Archaeological Research In the Santa Cruz River Basin

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Signature

Date

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This report has been prepared for the Rio Quemado, Rio Frijoles, Rio en Medio and
Santa Cruz Stream Systems Community Ditch Association

Under NAGPRA, a federally recognized tribe, Native Hawaiian organization or Native Alaskan corporation with the closest cultural affiliation to an item is entitled to control its ultimate disposition. In order to prove a claim of cultural affiliation, the statute identifies nine lines of potential evidence – geography, biology, archaeology, anthropology, linguistics, kinship, folklore, oral tradition, and history – as well as a tenth catch-all category defined as “other relevant information or expert opinion.” Thus any argument asserting ties of cultural affiliation between a past and present group should address as many of the nine major lines of evidence as are available and pertinent.

There is insufficient space to consider the entire corpus of ethnographic and oral historical evidence discussed in Marshall and Walt (2007) and Ford (2007), much of which addresses information from Harrington (1916) and others regarding use of the Santa Cruz River basin and the surrounding uplands by occupants of historic and present day Ohkay Owingeh. These discussions present lines of evidence commonly utilized in NAGPRA claims of cultural affiliation, and as such are certainly applicable to the present case. What is lacking from their otherwise comprehensive discussions are explicit material links from the archaeological record that clearly make a case for cultural affiliation ties between the sites, ceramics, agricultural features and other archaeological resources in the study area, and the community of Ohkay Owingeh. In addition, there is no evidence of irrigation or water diversion features from the archaeological record in their reports, and hence no argument proposed that the prehistoric ancestors of present day Ohkay Owingeh were utilizing the waters of the Santa Cruz River for irrigation. The only direct evidence discussed in support of Ohkay Owingeh cultural affiliation with the archaeological sites in the area is ceramics found on the settlements throughout the region. I address this issue of ceramic manufacture, cultural identity and cultural affiliation below.

Ceramics and Identity During the Historic Period

There is no question that temporally distinctive ceramic types were made and used by Hispanic settlers and indigenous Puebloan peoples throughout the historic period. These ceramic types (Table 9) have been recovered from archaeological contexts at historic Pueblo sites, including those with Spanish missions (Quarai, Abo, Pecos). The types have also been recovered at settlements founded and occupied primarily by