

1996 Defendants Exhibit EE. 9/16/96 (Dr. Francis Levine) Here are excerpts:

Page 1. Priority was only one of the many social factors weighed in rights established under Spanish and Mexican law (Meyer 1984:145-167). The elements of rights under Spanish and Mexican law underscore the importance of communal accessibility to limited natural resources in a subsistence economy. Many of these principles remain central to water use customs in Northern New Mexico communities. Since many of the Northern New Mexico communities are among the oldest in the region, they might be thought to have the most secure water rights. Yet these are the very communities that often face the greatest losses through the water rights adjudication process. At least part of the threat to community Acequias comes from historically inaccurate dates. [And I might add; the Acequia is the community. This is a community that was established on August 11, 1598 and is still in continual operation to this very day.]

How is the priority date established? All rights established by the beneficial use of water in New Mexico prior to March 19, 1907, were recognized and confirmed by the State Constitution at the time of its adoption. Their priority dates are defined as the dates of initiation of such rights whether by filing, [History] by survey, or by actual start of construction [August 11, 1598] State Engineer 1953:18

1996, I [Levine] was hired...RCAA...defense of priority dates...For many of the Parciantes on the community Acequias, the dates offered were in marked contrast to what they understood to be the history and legacy of their communities. Expert historian for the court, Baxter and expert historian for the RCAA Hordes reached an agreement on priority dates assigned to a majority of the community Acequias in this case. [What are historians doing assigning priority dates, pray tell? And didn't the affected parties, Parciantes, have a seat at the table? State calls them sub-files.]

Priority dates for three of the oldest and largest ditches on the lower Rio Chama remain at issue. [The 3 oldest are also at the end of the Rio Chama]

Previous Research in the Study Area

Previous research in the area consists of legal proceedings over land-uses, historical and archaeological studies of the Onate settlement.

(p8) Adolph F. Bandelier (1892) performed some of the earliest anthropological and historical studies in the Chamita area more than 100 years ago in an attempt to locate the site of the Onate colony. Bandelier surveyed the area of Chamita and interviewed local residents in his attempts to identify the exact location of the early Spanish colony. His final report states the following conclusion:

All has disappeared; yet the tradition exists that at Chamita the first settlement of whites in New Mexico took place and very old people still remember that the site was formerly called "San Gabriel del Yunque" (Bandelier 1892:59-60)

The site of San Gabriel del Yunque was declared a National Historic Landmark by the United States Department of the Interior on July 19, 1968. **(Defendants Exhibit Y)** A historical marker, located along State Road 74, identifies the location as the site of San Gabriel, the headquarters set up by Juan de Onate in 1598. [The capitulating "experts" come along June 8, 1995 and begin to revise the history of my Acequia. And the burden of proof falls on the Acequia? It is established history. They offer no proof, only opinion.]

Chamita, the study concludes, was the village originally known as San Gabriel and was the site of the first Spanish capital. (Weigle 1974:168) The study also notes that "Chamita is claimed by local residents to be one of the few settlements made up almost entirely of the descendants of the Onate colony". (Weigle 1974:172)

The studies that have been performed in the study area over the last century have not gone unnoticed by local people. Many grew up hearing stories from their ancestors about the antiquity of Spanish settlement in the area. Many knew of the court challenges to their land titles, and knew of the victories and losses. Through popular histories, promotional materials lawsuits and scholarly study, the lower Rio Chama communities have been able to trace their roots to the earliest Spanish settlement. These studies and trials have helped to document the cultural heritage of these communities and influence the local reaction to priority offers.

Research Findings: Perspectives on Settlement History and Priority Dates

The oral interviews revealed the deep emotional, historical and genealogical bonds of the people to the lands and settlements in the area served by the Chamita, Hernandez and Salazar ditches. The information can be broadly characterized as focusing on four topics;

First, community members spoke proudly about the depth of their ancestral connections to the land and to the people who settled the lower Chama Valley during the colonial period.

Secondly, many of the people were familiar with the historical and archaeological documentation of colonial settlement in the area. These two areas of local concern gave rise to the third and fourth areas revealed by the interviews:

Third, that, the community members identify strongly with a cultural heritage that connects them to their ancestors.

Fourth, the struggles that their ancestors faced in settling the region.

Lastly, the concern that to lose the recognition of their long history through the assignment of historically incorrect priority dates would deepen the erosion of rights that the Hispanic people have faced since the American conquest.

Family History and Family lands: *Herencia*

(T)he importance of tracing one's heritage back to colonial roots:

The descendants of the 1598 Don Juan de Onate settlers and the descendants of the 1693 Don Diego de Vargas settlers can be as proud or prouder than the descendants of the Eastern United States settlers who have been incorrectly credited with many of the United States historical mileposts..."

See Ortiz genealogy: Doc.9917 [back to New Spain and Spain, soldiers who came with Onate in 1598.] I irrigated from on an Acequia at my Grandfather Frank Ortiz place in Santa Fe on Daniel St, north of San Francisco, It is now lost history. His name is on the above document. Destiny has brought me back to San Gabriel where my ancestors first settled.

A Legacy of Loss

The loss of language, lands and the loss of recognition of the antiquity of Acequia. To lose their lands, or to lose the ability to keep their lands in production, would be to lose an important part of their identity. Many of the *Parciantes* talked about land and water, not merely as resources or commodities, but as part of the legacy of their families. (My wife, sons, daughters and grandchildren now help me.)

Preserving Cultural Heritage-Sustaining a way of Life

(T)he viability of the agricultural land uses and the Acequia system (community) are affirmation of their heritage. Many Commissioners expressed concern that to lose their early water rights would relegate the Acequias to the status of artifacts or vestiges of a way of life. Locally there are strong fears that the water will be moved out and water rights will be severed from the lands, moved to the urban areas. This, it is feared, will destroy the communities. **To be a parciante, a mayordomo, or a commissionado, (of the Acequia) is to accept a place in the life of the community and a set of responsibilities to the land and to the community.**

[The Historical, traditional and cultural roots of the people; our roots here are deep, watered by the Acequia, now 415 years old.]

Many of the Hispanic families residing in the area today trace their roots back to the Onate colony of 1598. To lose more of their heritage, more of their important place in history, would be a grave injustice, a disenfranchisement. They suggest the courts do not believe in their traditions or their understanding of history. [And I might add some imported paid historians have added to the courts disbelief.] They suggest that the courts [and lawyers] have continually devised ways to diminish the claims that Hispanic [Acequia] communities can make to land and water.

Francis Levine did an excellent case study, and then capitulates with the two “expert” historians, forgetting all that passed before her eyes and what she had just finished writing. Did you see the evidence or just the “experts”? Shame on you, Francis, you did what you said shouldn’t be done.

(T)o accommodate the cultural heritage embodied in the earliest form of irrigation institution in New Mexico, the Acequia; a clear message for the courts; the earliest documented established Historical date, traditions and cultural heritage of the settlers who established the Acequia de Chamita preserve their

heritage, as well as their rightful and lawful place as the first European water-management institution of the Southwest and the United States of America.
August 11, 1598