

**Opinion No. 14-1366**

October 23, 1914

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** Mr. Walter N. Daugherty, Clerk, Artesian Well Board, Artesia, New Mexico.

**VACANCIES.**

Vacancies in artesian well board.

**OPINION**

{\*226} I am in receipt of your letter of the 19th inst. in which you state that one of the members of the Eddy County Artesian Well Board has tendered his resignation, which has not been accepted, as the other members of the Board are not sure as to how such a vacancy could be filled.

On February 4, 1914, this office addressed a communication to the Artesian Well Inspector at Roswell upon a number of subjects, and among others, the one to which you refer. I enclose a copy of that letter herewith for your information, calling special attention to pages 3 and 4 thereof. It has occurred to me, in addition to what is stated in the letter of February 4th, that your Board might refuse to accept the resignation tendered, and in case the member who desires to resign shall fail to attend meetings of the Board, yet there would be a quorum with the two other members in attendance, and business could be legally transacted. Upon the first Monday of February, as provided by Section 12, Chapter 81 of the Laws {\*227} of 1912, the resignation could be accepted and some person elected to fill the vacancy.

Authorities are numerous to the effect that while an officer may resign, without acceptance, his resignation is nothing and he remains in office, and that while it has grown to be a common notion that an officer may resign as a matter of right, yet such is not the case. In any event, however, I can see no objection to your Board following the plan outlined above and continue to transact business with only two members present.