

## Opinion No. 15-1479

March 24, 1915

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Luis M. Ortiz, Chamita, New Mexico.

**As to vacancies in the board of commissioners of the acequia.**

### OPINION

{\*62} I have received your letter of the 22nd instant, but I am not quite sure that I understand just what the difficulty is about which you write. You say that Narciso Sanchez, one of the commissioners of the acequia, having resigned, you desire to know if the two other commissioners can fill the vacancy, which you say they have done, so as to have a majority in the commission, and they want to select a mayordomo who is not satisfactory to you and about sixty-five out of one hundred owners of the acequia.

It does not appear to me that a vacancy in the commission can be filled by the other members. You will find the law on this subject in Section 9 of the Compiled Laws of 1897, which provides that the officers shall consist of three commissioners and one mayordomo, and that they shall be elected annually on the first Monday in December. There is no provision in this law about how vacancies shall be filled. It is true in Chapter 32 of the Laws of 1903 there appears to be an amendment of this section which does provide for the filling of vacancies by the two other commissioners and the mayordomo, but by the last section of that act it is provided that no part of it shall apply or be in force in a number of counties named, one of which is Rio Arriba. If that act is not in force in {\*63} Rio Arriba County, then we are remitted to the old law in the Compiled Laws of 1897 above cited.

You further say that they want to employ a mayordomo at a higher salary than the mayordomo whom you now have. As to this, the pay of mayordomos must be determined by a majority of the owners of the land irrigated by the acequia, as you will see by reference to Section 31 of the Compiled Laws of 1897, and this would still be true even if the act of 1903 were in force in Rio Arriba County, as Section 7 of that act provides that the mayordomo shall receive such compensation for his services as may be mutually fixed between him and a majority of the owners of the ditch.

If the foregoing does not fully answer what you desire to know about, please write me again.