

Opinion No. 17-2011

June 28, 1917

BY: HARRY L. PATTON, Attorney General

TO: Hon. Neill B. Field, Albuquerque, New Mexico.

It Is the Duty of Acequia Owners to Build Bridges, and of County Commissioners to Maintain Same

OPINION

I am in receipt of your letter of recent date, in which you ask for an opinion from this office with reference to the duty of maintaining bridges over acequias crossing public highways in Bernalillo County.

I assume from your letter that this is a community ditch. Sections 5772 et seq., Codification of 1915, relate to the construction of bridges over community ditches at the crossing of a public highway. These sections are a part of a chapter relating to community ditches, which excludes Bernalillo and other counties, and has no application to acequias in your county.

Section 2692 requires Mayor Domos of acequias to construct bridges across acequias where the acequia is crossed by a road. Section 5708 makes it the duty of the owner or owners of any ditch or canal to construct a substantial bridge where the same crosses any public road, with a passageway not less than fourteen feet wide. The section further provides that after the construction of such bridge, the same shall be maintained by the County Commissioners. The section last referred to is, in my opinion, the one that applies to bridges across acequias on public roads in Bernalillo County. In my opinion, you are correct in your conclusion that it is the duty of the owners of the acequia to construct a bridge, and that it is the duty of the County to maintain and keep in repair such bridge, when so placed.