

**Opinion No. 19-2439**

November 29, 1919

**BY:** N. D. MEYER, Assistant Attorney General

**TO:** Mr. Ursulo Medina, Alcalde, New Mexico.

Votes in Community Ditch Elections.

**OPINION**

We have your letter of November 25th, in which you ask this office for information in regard to how many votes persons holding water rights in a community ditch are entitled to, and if the votes are in proportion to their interest in the ditch or water.

Section 5753 of the Code of 1915 specifies that elections for community ditch officers shall be held by the outgoing commissioners under rules and regulations prescribed by them; and that only those having water rights shall be entitled to vote, and that such vote shall be in proportion to the interest that the voter has in the ditch or water.

It would seem from this section of the Code that the voter who has, for instance, ten acres, would be entitled to cast twice as many votes as one who holds only five acres. The section gives the commissioners authority to prescribe rules and regulations for the holding of said elections. Therefore, I am further of the opinion that it would be within the power of the commissioners to adopt such a rule as would give each voter one vote for each acre of land or fraction thereof which he has under irrigation, and for which he is entitled to water from the ditch, or adopt some other method by which the votes cast would be in proportion to the interest of the voter in the ditch or the water.

Trusting that the foregoing will answer your question satisfactorily, I beg to remain