

## Opinion No. 21-3210

December 10, 1921

**BY:** A. M. EDWARDS, Assistant Attorney General

**TO:** Matias Velarde, Velarde, New Mexico.

### Qualification Electors at Election for Officers of Acequia.

#### OPINION

{\*105} This office has your letter of December 7th, in which you ask for a construction of Chapter 129, Laws 1921. This Chapter amends Section 5753 and 5789 of the 1915 Codification.

As amended these sections now provide that at elections for acequia or community ditch officers only those having water rights in the ditch who are not delinquent in the payment of their assessments at the election shall be allowed to vote. It is further provided that votes shall be cast only in proportion to the interest of the voter in the ditch, or water, or in proportion to the number or amount of his water rights.

The only further restriction is that a voter shall not vote his water rights in excess of the lands which he had under irrigation during the previous year.

The amount of labor done by a water user has nothing to do {\*106} with his right to vote except insofar as this labor may indicate that he has paid his assessments.

The plain meaning of the law is that each water user shall vote at these elections in proportion to the amount of water he owns and which he has used during the preceding year. If he owns more water than he used upon his land he is restricted in his voting to the water rights actually used by him.

Each Acequia or community ditch has some unit of measurement by which the interests of the various members of the community ditch are established and regulated. This unit should be used as the measure of the rights of each water user when he offers to vote.

If the unit of measurement is the number of inches of water allowed to each water user during the season, that standard should be applied to the right to vote. If the unit of measurement is the number of days labor required by each water user, that standard should be applied. If the unit of measurement is the number of acres of land to which water is applied by each water user, that standard should be used.

The members of your ditch who contend that the old law is in force by which each water user has a right to one vote, regardless of the amount of water he uses, are wrong.

Beginning with the year 1921, elections for community ditch officers must be conducted under the provisions of the law as above explained.

Trusting that this will satisfactorily answer your questions, I am