

Opinion No. [29-121]

November 16, 1929

BY: M. A. OTERO, JR., Attorney General

TO: Don Reyes Naranjo, Chimayo, New Mexico.

WATER -- Acequia election rules made by commissioners, who may vote.

OPINION

You have asked me the law with reference to the voting in Community Ditch elections and the powers of the acequia commissioners in such elections.

In reply I beg to call your attention to the provisions of Chapter 129 of the Laws of 1921, which read as follows:

"The election for acequia or community ditch officers under this article shall be held by the outgoing commissioners **under rules and regulations to be prescribed by them.**
* * *"

By this is meant that the outgoing commissioners shall make all rules and regulations respecting the actual conduct of the election, such as the particular place where the people shall come to cast their votes, and all that sort of thing. Naturally such rules and regulations as they shall make must be in conformity with the statute; in other words they cannot arbitrarily make just any rules and regulations which they may care to make regardless of whether or not they are in keeping with the law.

With respect to your question as to who is entitled to vote at such elections will say that the said statute goes on to provide as follows:

"Only those having water rights in the acequia or ditch, and who are not delinquent in the payment of their assessments shall be entitled to vote, but votes may be cast by written proxy. All votes shall be 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, which for election purposes, shall never exceed the lands under irrigation the outgoing year. * * *"

The foregoing language is perfectly plain and needs no interpretation.