

Opinion No. 65-32

February 17, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Wayne C. Wolf, Assistant Attorney General

TO: Senator C. D. Maestas, New Mexico State Senate, State Capitol Building, Santa Fe, New Mexico

QUESTION

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Who has authority to determine the location of the boundary line between Taos and Mora Counties?

CONCLUSION

See Analysis.

OPINION

{*57} ANALYSIS

The original determination of the location of the Taos and Mora County boundaries was made by the legislature. See Sections 15-18-1 and 15-18-2, N.M.S.A., 1953 Compilation. This boundary, however, is subject to change in accordance with the procedure outlined in Sections 15-33-1 through 15-33-17, N.M.S.A., 1953 Compilation.

Once the boundary lines are established the county surveyor may determine the physical location thereof in accordance with statutory standards. The surveyor of each county shall participate in the survey. Section 15-41-10, N.M.S.A., 1953 Compilation.

When there is a boundary dispute between two counties the dispute shall be settled in accordance with the procedure described in Sections 15-35-1 through 15-35-4, N.M.S.A., 1953 Compilation.

This procedure prescribes that in case of dispute between two counties as to the location of the county boundaries, a boundary commission consisting of five or six members shall be appointed. The commission consists of the chairman of the board of county commissioners of each county, the surveyor of each county and the district attorney for the judicial district in which each county is located. Both district attorneys serve on the commission if each county is located in a different judicial district. This commission causes a survey to be made and monuments set on the boundary. If the

dispute is not settled in this manner, the Attorney General may petition the district court to settle the matter.

It is, therefore, our conclusion that the boundary between Taos and Mora Counties is established by the legislature subject to annexation procedures by the people. The physical location of this boundary is determined by either the county surveyor or, in the case of dispute, by a boundary commission.

From our investigation it appears that the annexation procedures outlined in the statutes have never been used. The statutory description is, therefore, the latest official description of the boundary line between Taos and Mora Counties.

After considering the statutory description however, we doubt that a survey would help determine the physical location of the boundary as described in the statutes because the geographical descriptions are uncertain and conflicting. It is, therefore, our conclusion that the best solution to this problem would be legislation giving exact boundary descriptions.