

**Opinion No. [29-09]**

January 14, 1929

**BY:** E. C. WARFEL, Assistant Attorney General

**TO:** Hon. Carey Act Land Board, Santa Fe, New Mexico.

COLMOR LAND AND IRRIGATION COMPANY -- In re: Change of receiver. Application for Patents.

**OPINION**

In reply to your request of the 10th inst. this office is of the opinion that if such a contract as is provided for in § 5285 of the Codification of 1915 was entered into with the company and the said company has failed to carry out the provisions of said contract and is bankrupt, that the Board may properly ask for a receiver for such land irrigation company.

Of course, you understand that it is difficult for us to advise the best procedure when so few of the facts seem to be known even by the Board. If the present receiver was appointed as the result of an application from some of the land owners, then it would probably be better procedure to have these same land owners make the application for his removal and the appointment of the new one with more extended powers to meet the conditions that may be found by the court.

In regard to the patents on lands where settlers had made their payments and offered to prove their rights to patents, and proof could not be made because of inaction of the Board, it is very evident that these people would be entitled to patents as the mere inaction of the Board could not deprive them of their rights if they had fully performed their part of the contract.