

Opinion No. [30-113]

December 30, 1930

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

TO: Don Esquipula Baca, Pena Blanca, New Mexico.

WATERS -- Powers and duties of commissioners and mayordomos.

OPINION

You have asked me for an opinion as to the powers and duties of ditch commissioners and mayordomos of acequias in this state and I take great pleasure in quoting to you sections 5754 and 5755 of the Code of 1915, which sets this forth. These sections read as follows:

"§ 5754. Duties of commissioners and mayordomo. The commissioners shall assess fatigue work or tasks of all parties owning water rights in said community ditches or acequias, and shall have power to contract and be contracted with and also to make all necessary assessments to provide funds for the payment of the salary of the mayordomo and other legitimate expenses incident to the proper conduct and maintenance of the acquias under their charge, and also to make contracts for obtaining water for irrigation purposes in connection with their ditches, such contracts to be ratified by a vote of a majority of the owners of water rights in said ditches, and shall have general charge and control of all affairs pertaining to the same, together with the power to receive money in lieu of said fatigue or task work at a price to be fixed by them, and shall, immediately upon taking office, provide by-laws, rules and regulations not in conflict with the laws of the State for the government of said ditch or acequia, and a printed copy thereof shall be furnished to each owner of a water right in said ditch. The mayordomo or superintendent shall, under the direction of said commissioners, be the executive officer of said ditch and have the superintendence of all work thereon and the distribution of the waters thereof, with the collection of all work thereon and the distribution of the waters thereof, with the collection of fines, if any, and of amounts to be paid in lieu of fatigue or task work, and shall perform such other duties in connection with said ditch as may be prescribed by the rules and regulations of the same or as may be directed by the commissioners."

"§ 5755. Persons delinquent not to use water. No person who has, after due notice, failed or refused to do his work, or pay the amount assessed against him in lieu of said work upon said acequia or ditch, shall be allowed to take or use any water from the same or any contra acequia or lateral thereof, whilst default in such payment or failure to do such work continued."

You will see from the foregoing that the commissioners have full power and authority to make all necessary rules and regulations for the governing of the acequias under their

control, provided, of course, that the said rules and regulations come within the provisions of the law.

Trusting the foregoing gives you the information you desire and assuring you that if there is any other question about this proposition that you would like to know, I should be most happy to write you further, I beg to remain