Margarita de Luna vs. Zalasares, Abiquiu, 1770 Ditch Dispute

Sir Governor and Capitán General:

Margarita de Luna, widow of the military commander, Pedro Martín, appeared before your excellency in the best agreeable manner, and I state that last year your excellency was pleased to pass sentence on the dispute I had with the Zalasares with regard to my irrigation ditch, whereby you ordered them not to block or prevent me from using the necessary water I need for my cultivation, to which ditch I hold exclusive rights, and that as long as they helped me with the ditch cleaning they could use the water without prejudice on my part, and that if they did not allow me to pass the water I needed, they would be excluded from the ditch. And we were notified of this decision, and we consented to it. But it was not enough to contain the Zalasares with the order, as they prevented passage of my water, and for lack of irrigation I lost my crops. And being that neither through my pleading nor any other means did they allow passage of the water, I went to see the *alcalde* who was Don Antonio Joseph Ortiz. The testimony contained in the sentence was manifested, and since he was busy, he sent Don Salvador García who was the commander. He recognized my farmland and obligated the Zalasares to follow the order in the sentence, that which was executed by our commander, and seeing the field and finding it dry and lost, he told me that even if I were to irrigate it with holy water, it had no remedy. And therefore, they let me irrigate for eight days, or to water that part which could be salvaged and that afterwards I would let them irrigate for that year, to which I protested that the following year, which is the present, I would not consent to them irrigating from my ditch and that they would lose the condition of the sentence by having violated the order completely, and since last year the Zalasares had two or three dams. I could not irrigate my land as is presently the case in which many residents from Abiquiu find their lands flooded by the Zalasares, for which I ask and beg your excellency that the Zalasares be ordered not to use my ditch and that they dig their own or use another without prejudice to me with respect to the reasons which are already provided in said sentence which should be executed with mercy and justice. And I ask and swear not to possess malice in that which is necessary.

*Margarita de Luna*

*February, 1770*
Notes: Much of what is known about irrigation customs, especially during the Spanish colonial period, is attributable to the fact that disputes over any number of practices arose from time to time, causing the aggrieved parties to take their complaints to higher officials. This process of judicial administrative review helped to preserve fragments of written evidence, such as petitions, rulings, decrees, or other official documents, which provide insightful information on the customary laws acceptable to the society of the times. In this document, a widow from Abiquiu, Margarita de Luna, petitions by letter to the governor, reporting that his ruling in her favor a year earlier had fallen on deaf ears. The defendants and her neighbors in the case, the Zalasares, continued to block her use of irrigation waters, causing her to lose her yearly crops.

The English translation by Anselmo Arellano is based on Spanish language document, SANM II, Reel 10, Frames 619-623, New Mexico State Records and Archives Center.