

Water Users' Association. Incorporation, Articles Of. Fees for Recording Articles of Water Users' Association.

In order to entitle a water users' association to file its articles for the fee named in Chapter 66, Laws 1905, it is necessary that the powers and authority exercised by the association be strictly confined to those included in said Chapter 66, Laws 1905.

Helena, Montana, July 11, 1908.

Hon. A. N. Yoder,
Secretary of State,
Helena, Montana.

Dear Sir:—

I am in receipt from you of copy of articles of incorporation of the "Upper Milk River Water Users' Association," which have been transmitted to you for filing. The inquiry arising thereon is whether same can be properly filed for the ten dollar fee mentioned in Chapter 66, Session Laws 1905.

Said Chapter 66 recognizes water users' associations organized in conformity with the requirements of the act of congress of June 17th, 1902, and contains the provision that such association "which under the articles of incorporation is authorized to furnish water only to its stockholders, shall be exempt from the payment of" certain incorporation and franchise taxes, and that said articles of incorporation may be filed with the secretary of state upon the payment of the fee of ten dollars. It will be noticed that the associations which come under the ten dollar fee under the provisions of said chapter are those which are limited to furnishing "water only to its stockholders." The articles of the Upper Milk River Water Users' Association are very general in their nature and do not contain any limitations that would not be found in articles of incorporation for general purposes. The law of congress referred to (act of June 17, 1902) has reference to the irrigation of lands and the furnishing of water, as mentioned in said Chapter 66, is for such irrigation purposes and domestic or other purposes incidental thereto. Hence, the stockholders should own land requiring irrigation, or at least have such an interest in or to lands, or such a direct connection with the irrigation of lands as to bring him within the operation of the irrigation laws.

Articles of incorporation have heretofore been filed in your office by the Lower Milk River Water Users' Association and by Lower Yellowstone Water Users' Association. The articles of these two last named companies contain an enumeration of the powers and purposes somewhat similar to that found in Article IV of the Upper Milk River Association, but in addition thereto the articles now filed with you contain certain restrictions not found in the articles submitted. For example, no one can be a stockholder unless he is the owner of land, and the number of shares is limited by the number of acres of land, and the right to use the water on the land is a right which goes with the land in case of sale. No such limitations are found in the articles submitted, and I am therefore of the opinion that you cannot file the same for the ten dollar fee mentioned in said Chapter 66, Laws 1905.

If, however, to the articles submitted an additional section was added, substantially as follows:

"The power and authority of this corporation shall be limited by and strictly confined to the power and authority conferred upon water users' associations, as such, by the

provisions of Chapter 66, Session Laws 1905, of the state of Montana,"
the articles would then come within the meaning of said Chapter 66 and could be filed for the fee named therein.

Yours very truly,

ALBERT J. GALEN,

Attorney General.