

Irrigation District, Fee For Filing Petition—Fees, Petition For Irrigation District—County Clerk of Court, Fee For Petition For Irrigation District.

The county clerk of court must collect a fee of \$5.00 upon filing a petition for the creation of an irrigation district.

April 30, 1920.

Hon. H. S. McGraw,
State Examiner,
Building.

Dear Sir:

I am in receipt of your letter asking that I advise you what fees, if any, the Clerk of the District Court should charge for filing petition, etc., under Chapter 14 of the 16th Extraordinary Session, relating to creation of the Montana Irrigation Commissions, etc.

Chap. 14 Extra. Sess. 1919, contains no provision requiring any petition to be filed in the office of the Clerk of the District Court, the only reference to the filing of such a petition in such office being found in Sec. 4 which requires the Clerk of the Court in which a petition is filed to transmit a copy of such petition to the Secretary of the Montana Irrigation Commission.

Chap. 146 Sess. Laws 1909, providing for the creation of irrigation districts requires in Sec. 2, a petition to be filed in the office of the Clerk of the District Court of the County in which the lands are situated, and the provision in Sec. 4 of Chap. 14 Extra. Sess. 1919, simply refers to the petition required to be filed by Sec. 2, Chap. 146, Sess. Laws 1909, requiring the Clerk to transmit a copy of the Montana Irrigation Commission.

Section 3169 Rev. Codes, as amended by Chap. 88, Sess. Laws 1915, and which fixes the fees to be collected by the Clerk of the District Court, requires the Clerk to collect the sum of five dollars at the commencement of each action or proceeding. While the filing of a petition

for the creation of an irrigation district is not the commencement of an action, it is the commencement of a proceeding, consequently the Clerk of the Court must collect a fee of five dollars on the filing of such a petition.

Truly yours,

S. C. FORD,

Attorney General.