

Irrigation Districts—Fees—Protest—Clerk of District Court.

A fee of \$5 must be paid to the clerk of the district court for filing a petition for the creation of an irrigation district.

A fee of \$2.50 must be paid for filing a protest to the inclusion of certain lands in an irrigation district.

A fee of \$2.50 must be paid for the filing of the order creating an irrigation district.

L. Q. Skelton, Esq.,
State Examiner,
Helena, Montana.

December 26, 1924.

My dear Mr. Skelton :

Your letter reading as follows was received :

“Upon the filing of a petition for creating an irrigation district the clerk of the court charged a fee of \$5.00.

“Two parties not petitioners, but whose lands were included in the proposed district filed a written contest against the inclusion of their lands in the district. Should there be a fee charged for the filing of the contest?

“Order establishing the district excluding the lands of the contestants was entered. Is there any fee due for filing this order, if so in what amount?”

The clerk of court was correct in charging a fee of \$5.00 for filing the petition. This was so held by former Attorney General Ford in an opinion appearing in Volume 8, page 413.

There should also have been charged a fee of \$2.50 for the filing of the answer to the petition by the contestants, if they appeared jointly. If they appeared separately then a fee of \$2.50 for each of them should have been charged.

The order establishing the district is equivalent to a judgment, and, in my opinion, a fee of \$2.50 is due for the filing of the order, all of which is covered by section 4918, R. C. M. 1921.

The case of Crow Creek Irrigation District v. Crittenden, 227 Pac. 63, exempts irrigation districts from the payment of fees, but the effect of this decision is to exempt the district after its creation only.

Very truly yours,

L. A. FOOT.

Attorney General.