

Opinion No. 31-236

August 8, 1931

BY: E. K. Neumann, Attorney General

TO: Honorable Geo. M. Neel, State Engineer, Santa Fe, New Mexico.

{*96} Your letter of August 4th calls for an interpretation of Chapter 131 of the Session Laws of 1931 regarding the use of fees collected under that Act for defraying costs of administration such as inspections, printing of forms and supplying record books and materials.

Section 9 of said Chapter 131 empowers the State Engineer to establish fees but these must not exceed the reasonable cost of the **service** to be performed by the State Engineer. This **service**, under the law, can only be taken to mean the service required of the State Engineer upon a hearing on an objection or protest as prescribed in Section 3 paragraph 4 of the Act.

This is, of course, an item of expense which must be paid from the deposits made by the parties to the hearing as prescribed by said Section 9, and no part of the fees collected are to be used for this purpose.

Neither are we able to find any authority for such use of the fees as suggested in your letter and our answer to your inquiry is therefore necessarily in the negative.

By Frank H. Patton,

Asst. Attorney General