

**State Lands—Three-Mile Limit.**

In determining whether state land is within three miles of the limits of a town, the measurement should be taken from the nearest point shown upon the townsite plat and on a straight line.

H. V. Bailey, Esq.,  
Register State Lands,  
Helena, Montana.

My dear Mr. Bailey:

You have requested the opinion of this office as to whether, in determining whether state land is within the three-mile limit of any city or town as provided in Section 1 of Article XVII, of the Constitution, measurement should be made by section lines or by radius.

The provision of the Constitution applicable is a part of Section 1 of Article XVII, and is as follows:

“Fourth, lands within the limits of any town or city or within three miles of such limits;” \* \* \*

It is a general rule of law that distance is to be measured in a straight line in a horizontal plane unless there is a clear indication that another mode of measurement is to be adopted. 18 C. J. 1287, Note 20 (a).

There is no apparent reason why any other mode should be adopted in this case.

In *Davis v. Stewart*, 54 Mont. 429, our supreme court stated the following:

“The three-mile distance from the limits of the town would necessarily be measured from the nearest point shown upon the townsite plat.”

It is, therefore, my opinion that the three-mile limit should include all land within three miles (on a straight line) of the nearest point of approach to the line representing the city limits.

Very truly yours,  
WELLINGTON D. RANKIN,  
Attorney General.