

Cities and Towns—Analysis of Water—Water Cost.

Held under the facts stated in the opinion that the cost for making an analysis of water in the town of Valier should be borne by the town and not by the Valier Townsite Company.

Dr. W. F. Cogswell,
Secretary, Department of Public Health,
Helena, Montana.

My dear Dr. Cogswell:

You have requested my opinion as to whether the Valier Townsite Company of Valier, Montana, or the Town of Valier, must pay the statutory fee for an analysis of the water used by the Town of Valier.

You state that the Valier Townsite Company contends that it merely pumps the water for the Town of Valier, the town having its own water department and collecting its charges from the citizens and that the Town of Valier contends that it gets the water for 40c per thousand gallons and that any expense incurred in the delivery should be an expense on the part of the Valier Townsite Company.

The statute governing this matter is found in Section 2644 of the Revised Codes of 1921. This section provides as follows:

“The State Board of Health shall make and publish in the monthly bulletin of that board, rules and regulations for the collection of samples and analyses of water, either natural or treated, furnished by municipalities, corporations, companies, or individuals to the public, and shall fix the fees for such services rendered under said rules and regulations, to cover the cost of the service.”

The purpose of the analyses provided for by the above section is to see that the water furnished to the public is pure. It is a statute intended to promote the health of the public.

It would seem from the facts that you have stated that the Town of Valier is the party that furnishes the water to the public within the meaning of the above statute. The municipality purchases the water from the Valier Townsite Company with full knowledge of the source of the water supply. If the water is impure the duty would

devolve upon the Town of Valier to cause it to be purified before distributing it to the general public, and any regulations made by the Health Department concerning the condition of the water would necessarily affect the Town of Valier and not the Valier Townsite Company.

It is, therefore, my opinion that the fee for making an analysis should be borne by the Town of Valier and not by the Valier Townsite Company.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.