



## *Lands of the San Juan Basin*

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## LANDS OF THE SAN JUAN BASIN

By A. L. Duff, Jr., and J. V. Fritts  
Lease Brokers

## Introduction

The land-status pattern of the San Juan Basin is one of the most complex in the United States. About thirty land-status types are present, but these fall generally into five major categories: lands administered by the Department of Agriculture, the Department of the Interior, the War Department, the State of New Mexico, and privately owned lands.

The concept of land ownership and land titles, as we know it, commenced with the Spanish invasion. The Spanish Crown made numerous grants which were recognized later by the United States, which also recognized other rights to property which had been established during both the Spanish and Mexican regimes. In 1821 the Mexican government assumed control of New Mexico, and during this regime the land situation was further complicated, the correction of which was eventually to fall upon our own government. New Mexico became a territory of the United States in 1850, under the Treaty of Guadalupe-Hidalgo in 1848. Under the Enabling Act of 1910 the State of New Mexico was granted four sections in each township, where subject to conveyance. The remainder of the township, other than Spanish grants or other rights established during the Spanish-Mexican regimes, was retained by the United States and is known as Public Lands.

For the purpose of this discussion we have classified the various land-status types in the San Juan Basin as:

1. Public Lands
2. Indian Lands
3. State Lands
4. Railroad Lands
5. Patented Lands

## Public Lands

As Public Lands comprise the largest part of the land in the basin (about 45 per cent), it is fitting that they should be discussed first. Under the earlier laws governing entry for homesteads on the public domain, the mineral rights passed to the patentee, but under later acts, the mineral rights were ordinarily retained by the United States. Most of the Public Lands in the San Juan Basin have been patented out insofar as the surface rights are concerned (the United States retaining the mineral rights), but in some areas of the basin considerable

acreage will be found which never has been patented, and the United States therefore retains both surface and mineral rights.

The first attempt to develop oil and gas under Public Lands was under the Placer Law, dated May 10, 1872, designed as a mining law. Inasmuch as this was a mining law, there was considerable confusion under this act until the Mineral Leasing Act of February 25, 1920 was passed, which with subsequent amendments is the law under which present leases are issued. In the original Act of 1920 there was a sliding scale royalty reaching as high as 32 per cent for wells producing 2,000 barrels or more. This was adjusted by the Act of August 8, 1946, which is one of the last acts affecting Public Lands today. During the period of 1920 to 1946 several acts were passed, but one of the most important was perhaps the Act of March 4, 1931, known as the Unitization Act, which provided for the pooling of lands leased for development, subject to the approval of the Secretary of the Interior.

To obtain an oil and gas lease on Public Lands an application must be submitted to the Department of the Interior (Bureau of Land Management) for acreage not to exceed 2,560 acres per lease. Each citizen of the United States (as well as corporations) is allowed permits not to exceed 15,360 acres in any one state. One may, however, hold an additional 100,000 acres under option to do certain geological or geophysical work. Acreage committed to a Unit is not counted in the limitations. The term of the leases is for a period of five years with a preference right of extending the lease another five years. There is no bonus for the lease, but the rentals are 50 cents per acre for the first three years, and 25 cents per acre for the fourth and fifth years; if preference rights are exercised the rental will be 50 cents per acre per year for the next five years. All the above land must not be on any known or producing structure, as lands of this nature require competitive bidding to obtain leases. The Acquired Land Act of August 7, 1947 deals with Public Lands which have been purchased by the United States through agencies such as the Soil Conservation Service. An oil and gas lease may be obtained on this land through the Department of Interior, Washington, D. C. The lease issued is the same type as that issued on the public domain lands, with certain other obligations such as a drilling commitment.

## Indian Lands

A substantial portion of the San Juan Basin (about 38 per cent) falls in this category. There are three Indian Reservations in the San Juan Basin proper, the Ute to the north, the Apache to the east, and the Navajo to the west. These lands are known as tribal lands and each is governed by a Tribal

Council with approval of their decisions resting with the Indian Affairs Commission in Washington. Leases on these lands are secured by competitive bidding held by the various Indian Agencies, generally in the form of sealed bids. The Tribal Council reserves the right to reject all bids. Such sales may be held upon request by a prospective bidder or may be held upon the initiative of the council. The leases are given for ten-year periods with \$1.25 per acre yearly rentals to be paid in advance. Generally such leases call for the drilling of at least one well during the first five-year period. Regulations provide for a limitation of 25,000 acres for each individual or corporation on any one Indian Reservation in New Mexico.

In the southern part of the basin certain lands have been set aside in 160-acre tracts for qualified Indians to homestead (held in trust by the United States), being known as Indian Allotted Lands. Such lands are put up for competitive bid in the same manner as the Tribal Lands. The patentee or his heirs must sign the lease. Drilling of a well during the first five-year period has not been required in the leases issued so far on Allotted Lands. There is a limitation on the amount of acreage which can be held by an individual or corporation, but we are unable to state with certainty whether this is included in the tribal lands limitation.

Brief mention should be made of the Pueblo Indian Lands. A number of Indian pueblos and settlements in New Mexico are under the jurisdiction of the United Pueblos Indian Agency. Title to much of these lands stems from Spanish-Mexican grants, confirmed by the United States by federal patents. Portions of these have been granted the various pueblos as reservations and for their use, and smaller portions have been purchased by the pueblos. The titles of the pueblos have been complicated, and even today there is litigation. The Indian governments consist of a governor, his staff, and a council. Leases are negotiated through these governments, acting under the United Pueblos Indian Agency, a part of the Bureau of Indian Affairs in the Department of the Interior. Because these pueblos are actually reservations it is presumed that the acreage limitation of 25,000 acres per reservation will apply.

#### State Lands

Although under the Enabling Act the state was granted Sections 2, 16, 32 and 36 of each township, in many cases it was found that such sections were not available for conveyance to the state, making it necessary to select indemnity lands elsewhere in lieu thereof. Therefore, in some townships today the state may hold little or no acreage, whereas in other townships today the state may be the principal owner. It is estimated that about seven per cent of

the land in the basin is state owned. The state will sell its lands to individuals but will retain all mineral rights.

The Commissioner of Public Lands, located at Santa Fe, controls the leasing of state lands. For the purpose of oil and gas leases these lands are classified as "Restricted" or "Non-restricted". In the restricted areas, established by official proclamation, leases are obtained by competitive bidding (generally sealed bid but sometimes oral) at sales held on the 10th of each month at Santa Fe. In the non-restricted areas leases can be obtained by filing applications and paying the prevailing rental in advance. No lease issued shall cover more than 6,400 acres, and must fall within the area of a square 100 miles. However, there is no restriction on the total amount of acreage which may be held by an individual or corporation. In both types of areas, prevailing rental rates are set by the Commissioner, and these rates range from five cents per acre to \$1.00 per acre. The leases are issued for a term of ten years, a five-year primary term and a five-year secondary term. Generally the rental rate is doubled during the secondary term.

In the San Juan Basin, all of San Juan County is now classified as temporarily restricted, and leases are obtained by competitive bidding. There are certain small areas in this county, near production, which have been officially restricted, as well as one small area in McKinley County. The remainder of McKinley County and all of Sandoval and Rio Arriba Counties are classified as non-restricted, with leases obtained by application. All of San Juan and McKinley Counties are in the 25-cents per acre rental area, whereas in Rio Arriba and Sandoval Counties the prevailing rental is 10 cents per acre.

#### Railroad Lands

In the southwest part of the basin the Santa Fe Railroad owns a large amount of land. This land was given as an inducement to the railroad for the early development of our railway system through the West. In the intervening years the railroad has traded acreage with various government agencies in such a manner that its lands are fairly compact, resulting in its ownership of practically complete townships in some instances. About four per cent of the land in the basin is owned by the railroads. In the past it has been the policy of the Santa Fe, through a supervising office in Albuquerque, to encourage the drilling of test wells. A lease may be obtained by drilling a well. Drilling must be commenced within six months, and the payment of 50 cents per acre annual rentals must be made. The Santa Fe has its own type of lease, which in addition to the drilling clause and regular 1/8th royalty, contains \$100.00 per acre royalty payment out of an additional 1/8th on alternate 160-acre tracts.

### Patented Lands

The remainder of the lands in the San Juan Basin (about six per cent) are privately owned, including those lands patented out by the United States to individuals, Spanish grants, tax-deed lands, and county lands. The patented lands that are of interest to the oil fraternity are the ones which carry the mineral rights. About the most important thing to consider on the original patent is the act under which the patent was issued. Under the Act of December 29, 1916, the United States reserved all the mineral rights under the homesteads filed after this date. However, patents were often issued after 1916 conveying all the minerals, but in such cases the application and proof of occupancy were filed before the date of the Act of 1916.

Some of the Spanish grants in the basin have been repurchased by the United States Department of Agriculture, with the minerals now controlled by the Bureau of Land Management under the Acquired Lands Act. The ownership of the privately owned grants that remain in the basin are generally complicated. It is our understanding that leases must

be negotiated with trustees set up for the grants, although in a few instances complete ownership has passed to individuals.

In New Mexico, failure to pay taxes gives the county the right to sell Tax Certificates in the amount of the delinquent tax. The owner of the land has a period of two years to redeem these certificates by paying the certificate holder the amount of delinquent tax plus interest. If at the expiration of two years the certificates have not been redeemed the county may then give a tax deed to the certificate holder. If the certificate has been held by the county the land passes to the State of New Mexico after expiration of the two-year period. The State Tax Commission handles the land which thus passes to the state. No instances are known of the issuance of oil and gas leases by the State Tax Commission. Leases on such lands must be acquired from the purchasers of these lands from the State Tax Commission or from the county, or by purchasing leases from prior owners and redeeming the tax deeds where they are still held by the commission.

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### NOTES