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LANDS OF THE SAN JUAN BASIN

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

Introduction

Land ownership in the San Juan Basin is varied and, at times, confusing to newcomers in the area, (See Duff and Fritts, 1950). Part of the difficulty arises from the fact that the Federal Government, acting through various Departments, holds leasing rights to about 80% of the lands of the Basin. In general, we classify the various land-status types in the San Juan Basin as follows:

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

Public Lands

The Public Lands, also known as Public Domain lands, comprise about 45% of the Basin and are under the leasing control of the Department of the Interior (Bureau of Land Management). Under the earlier laws governing entry for homesteads on 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.

Commencing with the first attempts to develop oil and gas under what was primarily a mining law, considerable confusion existed until the Mineral Leasing Act of February 25, 1920 was passed. This Act, with subsequent amendments, is still in force and seems to be quite satisfactory insofar as this area is concerned.

To obtain an oil and gas lease on Public Domain 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. The rentals are 50 cents per acre for the first three years period 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 such lands must not be on any known or producing structure, as lands of this nature require competitive bidding to obtain leases. Rentals on competitive leases are \$1.00 per acre. Royalty is now a straight 12½%, although at one time there was a sliding scale royalty reaching as high as 32%. Unitization of Public Domain and Acquired lands is permitted.

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. Limitations on Acquired Lands are the same as Public Domain, but are separate.

Indian Lands

A substantial portion of the San Juan Basin (about 38 per cent) is Indian Land. There are three large 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 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 land 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 the North one-half of San Juan County is now classified as officially restricted with the remainder unofficially restricted, and leases are obtained by competitive bidding. With the exception of one small area, 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 calls for 25% royalty. If the acreage leased covers much area, it is this company's general policy to retain 160 acres out of each section leased.

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 Land 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.

Conclusion

During the field trip the conference will pass over examples of practically every type of land status described above. After leaving Albuquerque toward Correo you will be on a large Spanish Grant which is privately owned. Around Lucero Mesa and Correo will be found Indian Pueblo lands, Acquired and other type Federal holdings, and some State lands. The trip will continue in the midst of Pueblo lands until west of Laguna (which is a Pueblo, by the way). East of Mt. Taylor is another huge Spanish Grant, while near the mountain will be found both National Forest (minerals controlled by Department of Interior), fee lands and Public domain. Little Railroad Land will be encountered on the trip, since most of these holdings are consolidated in northern McKinley County, but between Grants and Gallup and in the Zuni Mountains will be found a great deal of Public domain, scattered State lands, some Forest land and possibly a few fee minerals. North of the highway from Prewitt to Gallup is a large area of Indian allotment lands, which, it will be remembered, are tracts held for individual Indians by the Federal Government under trust patents. Shortly after leaving Gallup on the north leg of the trip, the conference will enter the Navajo Indian Reservation, which occupies the west half of San Juan County as well as about thirty townships in McKinley County.

Selected References

- Duff, A. L. Jr. and Fritts, J. V. (1950) Lands of the San Juan Basin: New Mexico Geological Society Guidebook of the San Juan Basin, New Mexico and Colorado, pp.149-151.