

LAND TENURE IN NORTHEASTERN ARIZONA

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NAVAJO INDIAN LANDS

Tribal Lands

The present Navajo Reservation occupies 14,476,509 acres in northwestern New Mexico, northeastern Arizona, and southeastern Utah. The original reservation of 3,529,500 acres, divided almost equally between Arizona and New Mexico, was created in 1868 by treaty with the Navajos on their return from 5 years captivity at Ft. Sumner, New Mexico. Additions of 9,348,821 acres to the reservation have been made by a series of executive orders and acts of Congress, starting with an executive order in 1878 and culminating with the Indian Reorganization Act of June 14, 1934 (48 Stat. 960). 147,417 acres were added through donations and relinquishments, and 1,450,771 acres through other methods of acquisition.

Allotted Lands

Prior to the Indian Reorganization Act of June 14, 1934, under the general Indian Allotment Act of 1887 and its amendments, which provides for grants from unappropriated public domain of 160 acres of grazing lands to heads of qualified Indian families, 661,861 acres were allotted to individual Navajos.

Homestead Lands

By relinquishment of tribal rights and the guardian-ward relationship with the government, any qualified Indian had the same homestead rights prior to the act of June 14, 1934, as any other qualified citizen. Relatively few Indians availed themselves of this right to a homestead.

HOPÍ INDIAN LANDS

The Hopi Indian Reservation, occupying 631,194 acres, was created by executive order dated December 16, 1882. Individual Hopis had the same allotment and homestead rights as other Indians, but no such rights were exercised.

In addition to the recognized 631,194 acre reservation, the Hopis claim a large part of the Navajo Reservation adjoining the Hopi Reservation, but have been unsuccessful in validating the claim.

The Indian Reorganization Act of June 14, 1934 authorized tribal constitutions, to become effective upon ratification by a majority vote of the adult members of the tribes. The act provides a means for orderly organization of the various Indian tribes, but its provisions are not mandatory. Under authority of this act, the Hopis elected an administrative body effective December 19, 1936, and the Navajos elected a tribal council and operates under "Rules for Tribal Council" approved July 26, 1938. The Secretary of the Interior, and Commissioner of Indian Affairs, have supervisory authority over Indian affairs, including oil, gas and mineral leases on Indian lands of all categories; however, leases can be made only with the consent of the tribal councils, and, as to allotted lands, of the allottee and/or his heirs. The Navajo Tribe has granted many oil, gas, and mining leases at public sale on both tribal and allotted lands, but the Hopis as yet have not been disposed to offer their lands for leasing.

GOVERNMENT LANDS

Public domain consists of the unreserved, unappropriated, and unwithdrawn lands of the government. General administration of these lands is under the Bureau of Land Management, and includes, among other things, grazing leases, oil, gas, and mineral leases, timber sales, and sales of the lands themselves under certain circumstances.

So far as oil or gas is concerned, the public domain may be divided into two general classifications: (1) lands within the limits of producing oil and gas fields, and known geological structure of a producing oil or gas field, and (2) lands other than those hereinabove mentioned, commonly referred to as "wildcat" lands. In the latter classification, prospecting is necessary to determine whether the lands contain oil or gas in paying quantities, and the right to such prospecting may be secured by obtaining a "non-competitive" lease from the government. The word "non-competitive" is used, for want of a better term, to distinguish this type of lease from leases issued on lands within the limits of producing oil or gas fields, and, known geological structure of a producing oil and gas field.

STATE LANDS

Arizona and New Mexico have received large grants from the government, starting with awards for the support of the common schools. Four sections in each township have been allocated for this purpose. Sections 16 and 36 were reserved by the Organic Act Establishing the Territory of New Mexico (of which Arizona was then a part, not being separated until 1863) of September 30, 1850. Additional grants to both States to convey sections 2 and 32 were made upon their admission to statehood (Enabling Act for New Mexico and Arizona, June 30, 1910). In all instances indemnity lands were allowed for designated sections that had been appropriated before the grants were made. Moreover, both States received generous land grants for institutional and Educational support, such as universities, penal institutions, agricultural and mechanical colleges, public buildings, etc. Lands for each specific institutional grant could be selected from vacant public lands anywhere in the State, and the proceeds derived from leasing or selling them were to be allocated to a special fund to finance the institution for which the grant was made.

The total amount of land granted to Arizona, in round figures, was 10,500,000 acres consisting of 8,100,000 acres for the common schools and 2,400,000 acres for institutional aid. The total grant to New Mexico was 12,700,000 acres, of which 8,800,000 acres were for the common schools and 3,900,000 acres for the various institutions.

State lands in both States are subject to leasing for oil, gas and mineral exploration, grazing, and other purposes for which the lands may be suitable.

NATIONAL FOREST

Large National Forest Reserves have been created by law in both states, and parts of the Coconino National Forest and the Kaibab National Forest will be traversed by the field conference. Public domain lands within a national forest are subject to the issuance of oil, gas, and mining leases; however, because drilling and mining operations may interfere with the use of land for forestry purposes, if the Forest Service objects to the issuance of a lease the application for a lease will be rejected.

NATIONAL PARKS

Portions of two national parks will be traversed by the field conference — Petrified Forest National Park (a national monument until promoted to a national park by the present Congress), and Grand Canyon National Park. No oil, gas, or mining leases are issued on National Park lands, and licenses of any other nature are limited in pur-

pose and extent, each instance being determined on its merits with relation to its benefit to the national park system.

RAILROAD LANDS

The Atlantic & Pacific Railroad Co. was chartered by Congress, July 27, 1866, to construct a railroad from Springfield, Missouri to the Pacific Coast, via Albuquerque. As an aid in construction, Congress granted the railroad every odd-numbered section for 40 miles on either side of the line in territories, and 20 miles in states. In lieu of lands sold, granted or appropriated before construction of the railroad, the company could select indemnity lands from the odd-numbered sections lying within a belt 10 miles wide on either side of the 40-mile primary grant limits; consequently, some railroad lands may be situated 50 miles from the railroad. Most of the grant was forfeited in 1886, but it remained valid in the area from Albuquerque to the California east boundary (Colorado River), where more than 11,500,000 acres were patented under the terms of the act.

In 1876 the Atlantic & Pacific Railroad Company was taken over by the St. Louis & San Francisco Railway Co. (Frisco), and four years later a one-half interest in the venture was bought by the Atchison, Topeka & Santa Fe Railway Co. (Santa Fe). In 1884, one million acres of the grant in northeastern Arizona were sold to Aztec Land & Cattle Co., Ltd. In 1886, the company moved in over 30,000 wild Texas longhorns, and an aggregation of even wilder Texas cowpunchers from the Fort Belknap area on the Brazos River, and operated under the Hashknife brand until the early part of 1900.

The surface of the greater part of these Atlantic & Pacific Railroad Co. grant lands has long since been sold, with a reservation of oil, gas, and minerals; consequently, the mineral estate in these lands is still held mainly by

three owners — Santa Fe Pacific Railroad Co. (Santa Fe), New Mexico & Arizona Land Co., 50% of whose shares are owned by St. Louis-San Francisco Railway Co. (Frisco), and Aztec Land & Cattle Co., Ltd.

HOMESTEADS

Prior to the so-called Taylor Grazing Act, approved June 28, 1945, homesteading of tracts from 40 to 640 acres was authorized by various acts of Congress. All U. S. patents covering such homesteads, prior to the Stock Raising Homestead Act of December 29, 1916, conveyed the minerals along with the surface. The act referred to authorized entry of not exceeding 640 acres of lands, "the surface of which is chiefly valuable for grazing and raising forage crops," but provided that, "all entries made and patents issued under the provisions of this act shall be subject to and contain a reservation to the United States of all coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine and remove the same." A very small proportion of lands traversed by the field conference is homesteaded land, and a negligible portion of this land carries the oil, gas, and mineral rights.

SPANISH AND MEXICAN LAND GRANTS

The field conference will traverse no land grants from the Spanish crown or the Mexican Republic. There are only nine such grants in Arizona, eight of which are in the extreme southern part of the State.

CONCLUSION

Due to diversity of ownership among the various interests set out in this article, a land status map of some townships in the area resembles a patch-work quilt; however, assembly of a lease or drilling block is a relatively simple matter in comparison with agricultural areas in the Midcontinent region.