



## Chapter 13

# Federal Lands and Federal Oil and Gas Leases

## **THE ACQUISITION OF LANDS BY THE UNITED STATES GOVERNMENT**

In order to understand many of the title issues surrounding the ownership of land and/or minerals in the United States it is important to first grasp an understanding of how the United States acquired title to these lands from foreign nations. The acquisitions came either through treaty, purchase, annexation or conquest.

The first acquisition came from the hands of the British. Although the surrender at Yorktown in 1781 marked the end of the Revolutionary War, there were minor battles between the American colonists and the British for the next couple of years. It was not until February of 1783 that King George III issued his Proclamation of Cessation of Hostilities and the result was the Peace Treaty of 1783. The agreement formally ended the United States War for Independence and *transferred* to the United States *all lands claimed by England that were east of the Mississippi River*.

For the next two decades the boundary of our nation stayed the same, and it was not until 1803 that the United States *purchased* from France, for three (3) cents an acre, some 523 million acres of land which now comprise present day Nebraska, most of Kansas, and South Dakota, large portions of North Dakota, Montana and Wyoming, the northeastern portion of Colorado, Oklahoma, and those states bordering and lying just west of the Mississippi. This is known as the Louisiana Purchase.

Following this huge land acquisition, several other acquisitions occurred whereby The United States Government gained title to western lands from foreign nations.

In 1821 what is now known as Florida was purchased from Spain.

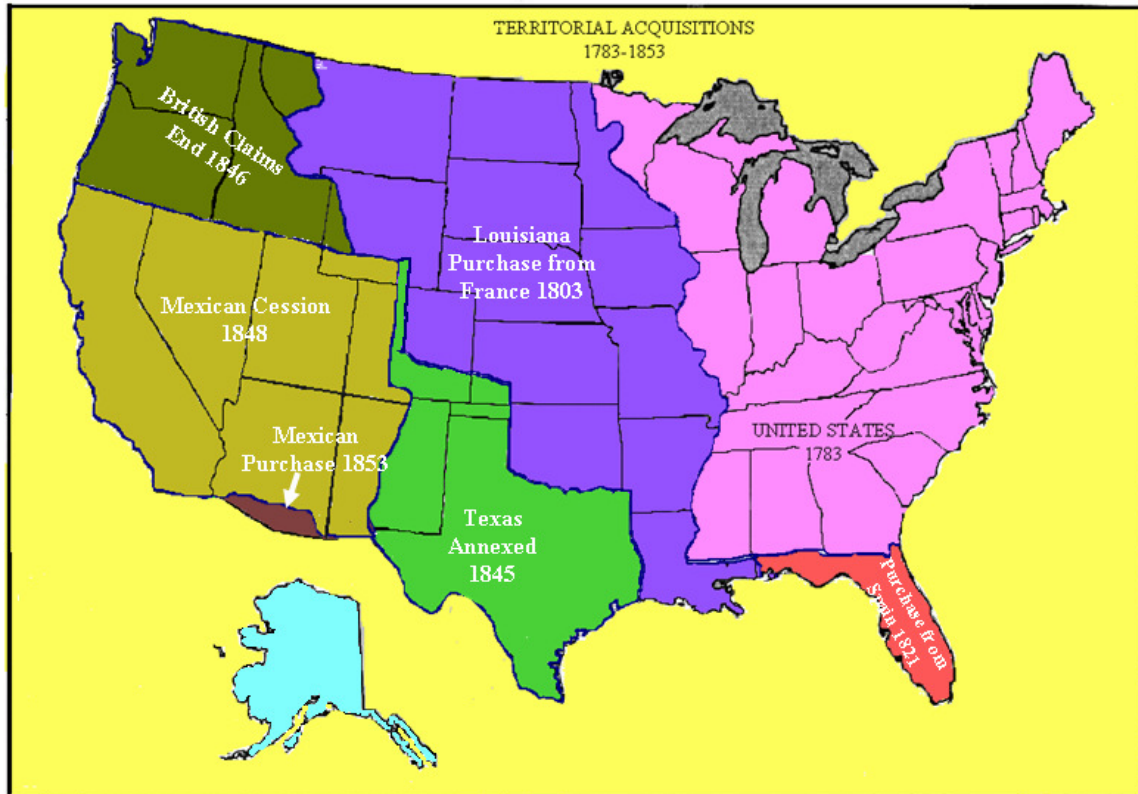
The Oregon Compromise of 1846 resolved the British-American dispute over the northwest boundary of the United States and added Washington, Oregon, Idaho, and lands in northwestern Montana and west central Wyoming to the rapidly growing nation.

Under the Treaty of Guadalupe Hidalgo (1848), Mexico agreed to sell, for \$15 million, to the United States all of what is now California, Nevada, Utah, and Arizona north of the Gila River, New Mexico west of the Rio Grande River, and parts of southwestern Colorado. The total land purchase totaled 334,479,360 acres.

Texas was annexed in 1845 and In 1850, sold to the United States 78,842,880 acres of its western lands for \$10 million, adding to the territories that became New Mexico, Oklahoma, Wyoming, Colorado and Kansas.

In 1853 James Gadsden negotiated the purchase from Mexico for \$10 million of a tract south of the Gila River in Arizona.

The United States purchased Alaska, containing 18,961,920 acres from Russia in 1867 for \$7 million.<sup>1</sup>



At the end of this expansion, the United States owned approximately 1.9 billion acres of land in the lower 48 states and an additional 365 million acres in Alaska. Of the 1.9 billion acres, 1.4 billion acres of land were considered vacant and unoccupied. Since the vast portion of these western frontier lands were unsettled, the government devised a plan in which to settle and make this area productive. That plan can best be summed up in what is today known as "Land Grants".

In the late 1780's Congress began to adopt policies that would oversee the creation of new states and set forth a course of action related to the granting of these vast lands. The General Land Ordinance of 1785 was the first to be passed. Two years later the Northwest Ordinance of 1787 was passed.

## THE CLASSIFICATION OF LANDS

At his point in time, most of these lands were owned by the government. In order to dispose of these lands through a granting process laws were enacted and portions of the frontier were opened for settlement. However, prior to the granting of any of these lands the government first classified the lands into one of two categories:

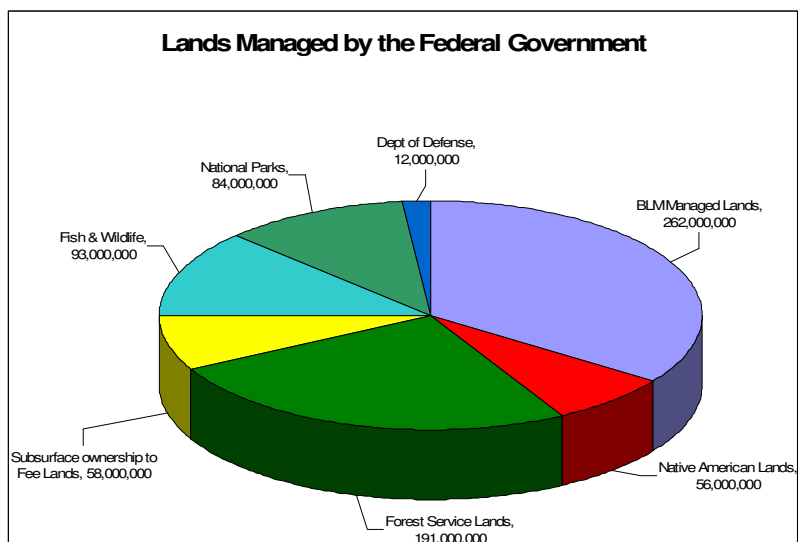
1. MINERAL LANDS
2. AGRICULTURAL LANDS

The congressional grants of these public lands were made under the agricultural entry laws and, for the most part, under state and railroad land grants *only* if the lands being granted were classified as non-mineral in character. For instance, the Land Ordinance of May 20, 1785, reserved to the United States one-third of all gold, silver, lead, and copper mines.<sup>2</sup>

One thing that is important to realize is that the government did not recognize the value of oil and gas minerals at the time of the classification of lands. Thus, in the early days of granting land, the surface owner received all right, title and interest in and to the oil and gas minerals associated with the land.

When the geographic boundaries of the frontier were being mapped out the federal government first reserved those lands classified as mineral in nature. They then reserved certain other lands called "Public Lands". Public lands contain vast portions of several states and are subject to the regulations outlined in the Code of Federal Regulations. The majority of these lands are held in trust for American citizens, such as national forest lands, wilderness lands, and national park and monument lands. As seen on the graph, millions of acres of surface and subsurface lands are owned and managed by the Federal Government.

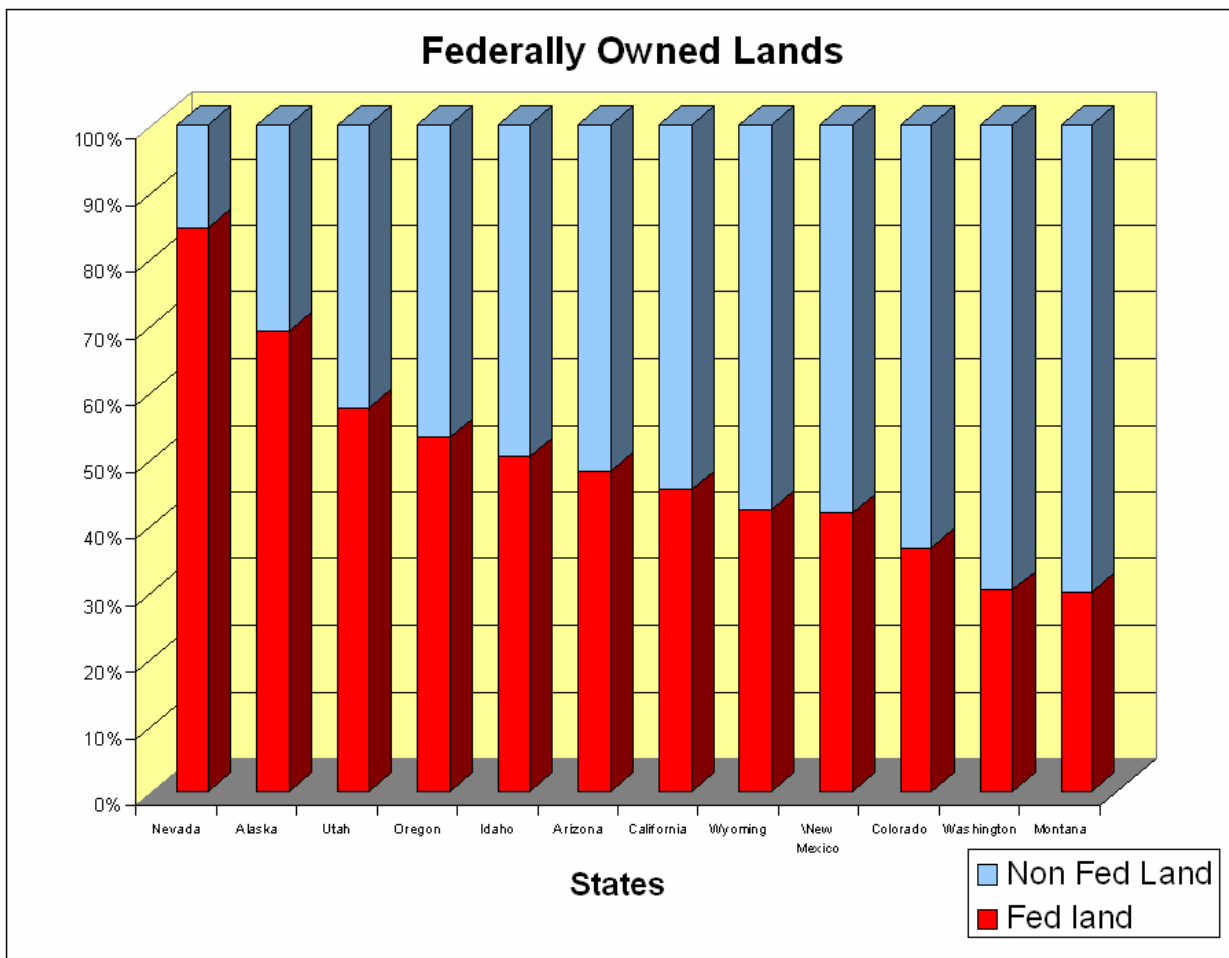
Today, different federal agencies oversee different public lands including the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service, the U.S. Forest Service, the National Park Service, the National Oceanic and Atmospheric Administration, the Bureau of Reclamation, and the Army Corps of Engineers. Typically, each of these agencies operates under



their own set of laws and rules establishing how the lands they govern may be used.

Not all lands that are currently owned by the government are lands that have been continuously owned since the state boundaries were established. Over time, the United States government has purchased tracts of land which are referred to as "Acquired Lands". Statutes include these lands as "Public Lands".

As can be seen on the graph, the Federal government still owns vast portions of several western states. 84.5% of Nevada, 69.1% of Alaska, 57.5% of Utah, and 50.2% of Idaho are still owned by the United States Government.<sup>3</sup>



## **THE GRANTING OF LANDS TO THE STATES**

Before the settlement of the western frontier, the federal government held title to over 80 percent of the 1.9 billion acres comprising the lower 48 states. The granting of lands has reduced that total to less than 30 percent of the same land area today. The 1.06 billion acres of land granted were conveyed to states, settlers, the railroads, and the Native American Indians received the right of occupancy to certain lands.

States were given lands for public buildings, penitentiaries, universities, and lands to help support schools and education. Between 1803 and 1858 only section 16 from each township and range was designated as school trust lands and granted to the states. Beginning in 1858, with the admission of Oregon to the union, two sections (section 16 and section 36) were designated as school trust lands and granted to the states. Later as Utah, Arizona and New Mexico were admitted to the union, four sections were granted as school trust lands to those states (sections 2, 16, 32 and 36).

### *States receiving only Section 16:*

Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, Missouri, Arkansas, Michigan, Florida, Iowa, Wisconsin, California, and Minnesota

### *States receiving Sections 16 & 36*

Oregon, Kansas, Colorado, Nebraska, Idaho, Oklahoma, Wyoming, Washington, Montana, North Dakota, and South Dakota

### *States receiving Section 2, 16, 32 & 36*

Utah, Arizona, and New Mexico

Nevada received 2,000,000 acres in lieu of specified sections.

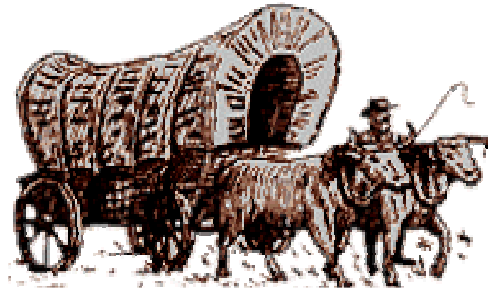
The important thing to remember is that when these lands were granted to the states oil and gas mineral reservations were seldom invoked by the federal government. Therefore, in most cases, these minerals passed to the states. During this period of settlement over eighty million acres of surface and mineral lands were granted into these state trust lands.

lot 4	lot 3	lot 2	lot 1	lot 4	lot 3	lot 2	lot 1	lot 4	lot 3	lot 2	lot 1	lot 4	lot 3	lot 2	lot 1	lot 4	lot 3	lot 2	lot 1	lot 4	lot 3	lot 2	lot 1
lot 5																							
lot 6	6			5				4				3				2							1
lot 7																<i>School Lands</i>							
lot 1																							N/2 of Section = 320 Ac
lot 2																							
lot 3	7			8				9				10				11						12	
lot 4																							
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A typical Township and Range for Utah

States were also given an implicit grant of the beds underlying inland navigable waters which were navigable at the date of statehood. The grant extended to the high-water mark of navigable streams and lakes. Navigable waters were not designated at the time of admission. As a result, a critical question of fact always arises as to whether the waters overlying lands in question were navigable at the date of statehood. Ordinarily, the title examiner cannot determine whether or not the waters overlying lands were or were not navigable at statehood. An abstract may show a perfect chain of title from the state, but, if the navigability inquiry is answered in the negative, the state's claim to title is destroyed.<sup>4</sup>

## THE GRANTING OF LANDS TO THE SETTLERS



In 1850, 1.4 billion acres of western frontier was primarily unoccupied. During this time, the government continued to promote the movement west and began to grant lands through a conveyance called a *land patent*. Patents were given to those individuals who meet the following criteria:

1. Meet the residence requirements
2. Meet the improvement to the land requirements
3. Had actual settlement and cultivation for 5 years

The significant patenting of western lands began with the Homestead Act of 1862. It allowed ownership in 160 acre tracts of land. The land was free, except for filing fees and opened land to any tracts where Indian title was deemed non-existent.

One type of improvement requirement came with the *Timber Culture Act of 1873*. The purpose of this act was to promote the growth of forests on the western frontier and allowed settlers to claim an additional 160 acres if they were able to plant and then cultivate 25% of the land in trees. Imagine planting 40 acres of trees on a tract of land that had only grown prairie grass for the last ten thousand years! Five years later the Desert Land Act was passed. This act provided for 640 acres of land if the settler could irrigate the land within 2 years. Imagine irrigating 640 acres of desert land! The improvement to the land requirement was often impossible.

Under the Homestead Act, and between 1862 and 1900, there was over 80 million acres of land granted to settlers.

# The United States of America,

To all to whom these presents shall come, Greeting:

Homestead Certificate No. 1275.  
Application 1714.

WHEREAS, There has been deposited in the GENERAL LAND OFFICE of the United States a Certificate of the Register of the Land Office at Sundance, Wyoming, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

**WALTER B. WILLIAMS**

has been established and duly consummated, in conformity to law, for the southeast quarter of the southwest quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of Section thirty-one in Township forty-seven north of Range sixty-seven west of the Sixth Principal Meridian, Wyoming, containing one hundred sixty acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said **Walter B. Williams**

the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto th

"...a right of way thereon for ditches or canals constructed by the authority of the United States."

and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, **Theodore Roosevelt**, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

(SEAL) GIVEN under my hand, at the City of Washington, the first day of October, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States the one hundred and thirty-third.

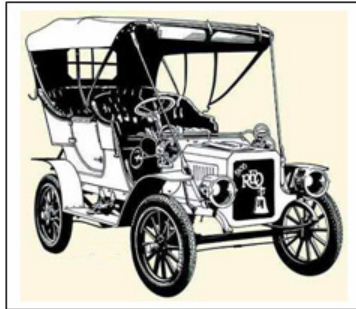
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By the President: *Theodore Roosevelt*  
By *M. W. Young*, Secretary.  
*O. H. ...*  
Recorder of the General Land Office.

Patent from the United States to Walter B. Williams  
Signed by Theodore Roosevelt, dated Oct. 1, 1908

This Patent reserved to the United States only "a right of way thereon for ditches or canals constructed by the authority of the United States". In such a Patent all mineral rights would have passed to the land owner.

## A CHANGE IN THE WAY THE U.S. GRANTED FEE LANDS



In 1909, the United States government changed the way they would grant fee lands to those folks moving west. What they did would significantly impact the ownership of oil and gas minerals.

In 1889, the first automobile was built and changed history. Prior to that date, few men dreamed of the wealth that would eventually come from the development of oil and gas minerals. However; in 1909, Congress, developed what they called the "*multiple use concept*". Simply put, the government now began to *reserve the minerals under lands that had previously been classified as Agricultural*.

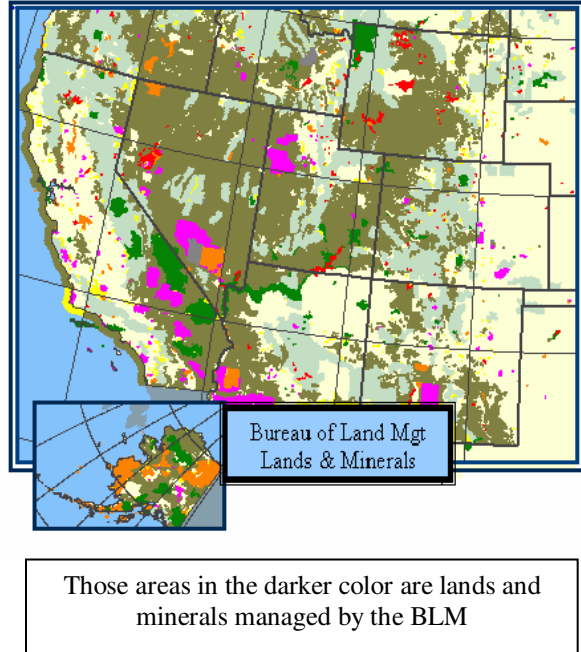
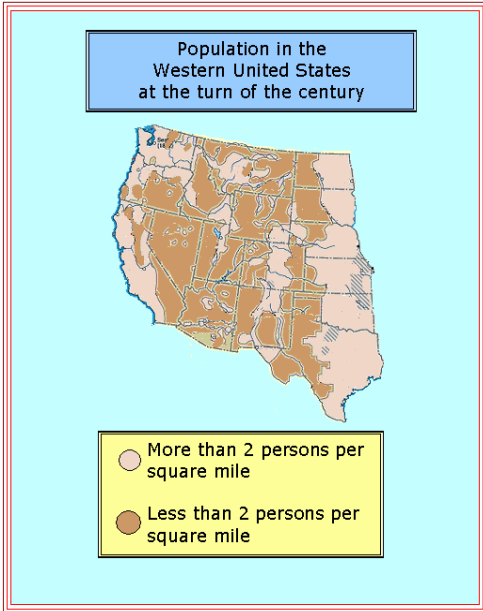
Prior to the act of 1909, in most cases, the United States would only reserve "ditches, canals or coal" when deeding lands. After 1909, in most cases, all coal and ***other minerals*** were reserved by the government. Today, this subsurface acreage is managed by the Bureau of Land Management.

## THE IMPACT OF MINERAL RESERVATIONS IN THE UNITED STATES

Following are two maps of the Western United States. The first shows the population in the year 1900 as to regions that contained more than 2 persons per square mile. The first map also shows regions with less than 2 persons per square mile. It would appear that much of these darker shaded areas were unpatented lands in 1900.

The second map is a current map of all those lands and/or minerals either owned by or managed by the Bureau of Land Management today.

In the first map most of Nevada, Wyoming, southeastern California and western Colorado were unsettled. Today the *minerals* are still owned and are being managed by the Bureau of Land Management.



Today, the federal government manages 262 million acres of public lands located primarily in the western United States and Alaska. They also manage an additional 380 million subsurface mineral acres located throughout the country in national parks and forest lands, 56 million subsurface acres of Native American Indian lands and 58 million subsurface acres of privately owned land. The total mineral acres they own or manage totals in excess of 756 million.<sup>5</sup>

# The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at **Denver, Colorado,**

has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862,

"To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of **James J. Conklin**

has been established and duly consummated, in conformity to law, for the **south half of the southeast quarter, the southeast quarter of the southwest quarter, the northwest quarter of the southwest quarter, the southeast quarter of the northwest quarter, and the southwest quarter of the northeast quarter of Section eight, the southwest quarter of the southwest quarter and the northeast quarter of the northwest quarter of Section nine, the northeast quarter of Section seventeen, and the southeast quarter of Section eighteen in Township one south**

of Range **se**  
taining **six**  
according to the Om

"Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented". "

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862).

IN TESTIMONY WHEREOF, I, **Herbert Hoover,**

President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the **TWENTY-NINTH** day of **NOVEMBER** in the year of our Lord one thousand nine hundred and **TWENTY-NINE** and of the Independence of the United States the one hundred and **FIFTY-FOURTH**

By the President: *Herbert Hoover*  
By *Viola B. Pugh*, Secretary.

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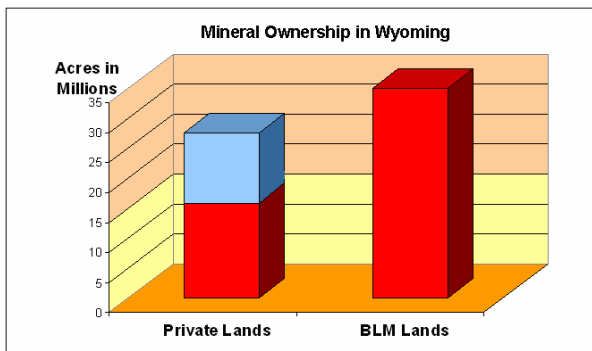
(SEAL)

Patent from the United States to James J. Conklin  
Signed by Herbert Hoover, dated Nov 29, 1929

This Patent is different than the one previously shown. It states, "Excepting and reserving, however, to the United States all the coal and *other minerals* in the lands so entered and patented". In such a Patent, James J. Conklin would have received the surface acres but no mineral rights.

## FEDERAL LANDS AND SPLIT ESTATE

In the early 1900's, certain acts, such as the Stock Raising Homestead Acts of 1914 and 1916, and the Agricultural Entry Act of 1914 created split estate ownership with federally owned lands. These acts allowed a private party, such as a farmer or rancher, to own the surface rights to a particular tract of land while the federal government reserved the rights of ownership to the minerals.



Of the privately owned land in Wyoming, 48% or 12 million acres of it is split estate lands.<sup>6</sup>

## THE NATIVE AMERICANS WERE GRANTED THE RIGHT OF OCCUPANCY TO CERTAIN LANDS



In light of the vast land grants given to the individual states and the settlers, how did the Native American Indians fare?

After the period of acquisition of the western lands from France and Britain, the United States began to settle treaties with the Native Americans. Although they recognized that these people had a right to the land they occupied, the government transferred these rights to themselves in order to hold portions of this land in trust for the native people.<sup>7</sup>

At times, these lands were set aside in order to establish reservations. These reservation lands also were held in trust and managed by the United States government.

Courts concluded that the United States stood in the shoes of the respective discovering European nations who had asserted ultimate dominion over the lands they discovered and since "land ownership" was a foreign concept to most Native Americans; they concluded the land should be held in trust on their behalf.

Courts also concluded that since the Indians retained only a right of occupancy, they did not possess the right to transfer title of the property to others.

Based upon this underlying rationale, the power of the United States to control the disposition of Indian lands has always been recognized by the courts of the United States.

The long and short of it was that 0% of these lands were granted to the Native American Indian. Instead lands were placed into two categories.

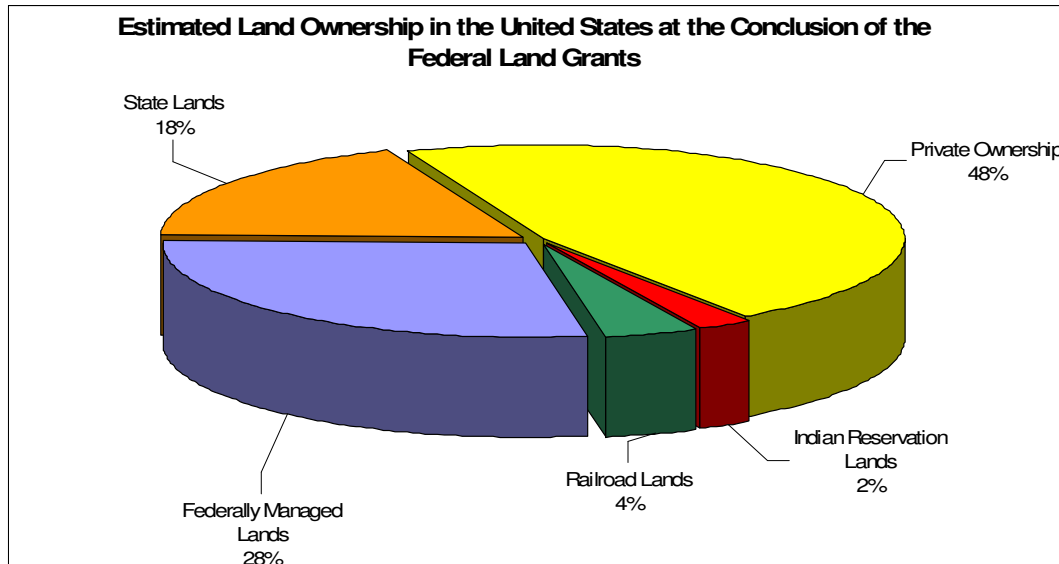
## **CATEGORIES OF INDIAN LANDS**

1. **Tribal Indian land** - is land owned by the United States as trustee for the use and benefit of a tribe, group, or band of Indians.
2. **Allotted Indian land** is land owned by the United States as trustee for the use and benefit of individual Indians. The Indian interest in tribal or allotted land is similar to the interest of a beneficiary under a trust.

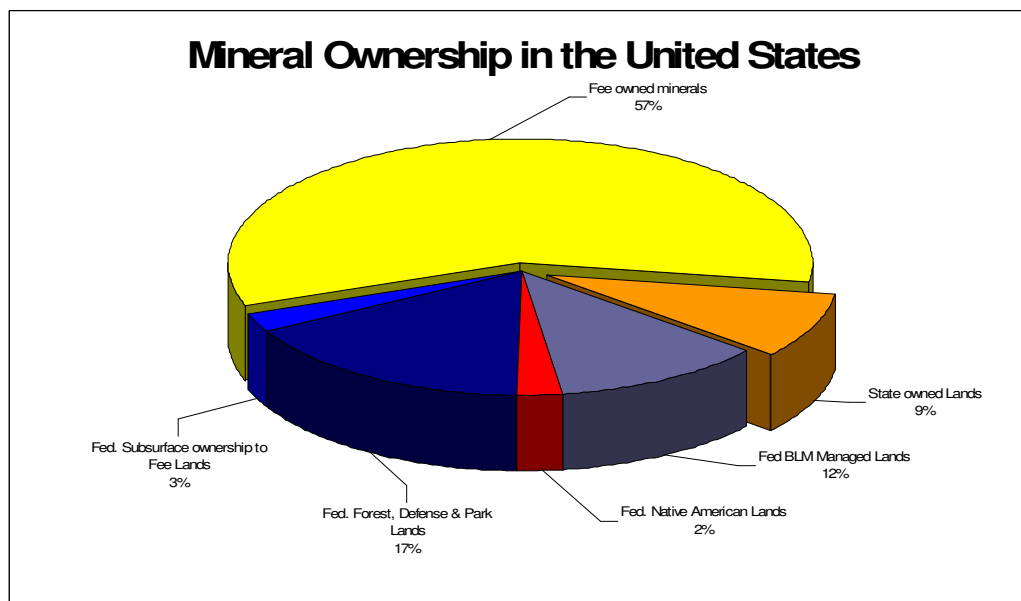
Today there are approximately 275 Native American land areas administered by the United States as Indian reservations. The Navajo Reservation in portions of Arizona, New Mexico and Utah encompasses the largest area with 16 million acres of land. The smallest reservation holds less than 100 acres. In total there are over 56 million acres of land that are held in trust by the United States for either tribes or individuals.<sup>8</sup> It is important to note that fee lands can also be located within the boundary of a reservation.

## OWNERSHIP IN THE UNITED STATES

The land mass of the United States totals close to 2.3 billion acres of land. The chart below gives an estimate of how the land ownership of the United States was owned at the conclusion of the Federal Land Grants.



Mineral ownership is quite another matter. The federal government reserved 58 million acres of subsurface minerals from the fee lands. States sold nearly half of their land to settlers and in many cases the minerals were conveyed with the surface. The railroads also sold great portions of their surface acreage keeping large portions of the minerals.



## **LEASING FEDERAL MINERAL LANDS**

As can be seen from the chart, nearly one-half of all minerals in the United States must be leased from either state or federal agencies. Prior to 1920, if an oil company wanted to lease federal oil and gas mineral lands, they could do so under the laws that already existed under the Mineral Leasing Act of 1920. This act was primarily enacted for mining purposes and was administrated by the Department of Interior.

*The Mineral Leasing Act of 1920* was amended to include not only oil and gas, but several other minerals. Excluded were the subsurface minerals in national parks, monuments, and Indian lands. Then in 1947, a law was passed that authorized oil & gas leases to be issued for Acquired Lands that were subject to the same laws as leases that were issued for Public Lands.

Today, the Bureau of Land Management is the agency that issues and maintains federal oil and gas leases. There are some limitations, however, when it comes to obtaining oil and gas leases on public lands. No one company or individual is allowed to lease more than 246,080 acres in any one state. In Alaska the maximum amount of leased lands per company is no more than 300,000 acres in two leasing districts.

## **QUALIFICATIONS OF LESSEES**

At times, different parties or entities may wish to obtain a federal oil and gas lease. Whether it is an individual, an association or corporation, the requirements outlined by the government must be met before a lease will be issued. Leases will only be issued to and can only be acquired by legal citizens of the United States, associations of said citizens and any corporation formed under the laws outlined by the United States for corporations. The only way an "alien" can acquire interest in a lease is:

*"through stock ownership, holding or control in a present or potential lessee that is incorporated under the laws of the United States or of any State or territory thereof, and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States."*<sup>9</sup>

Even if an individual meets the above requirements, a lease will not be granted if the person requesting a lease is considered a minor by the state where the lands are located. However, the minor's legal guardian or trustee, if they are a United States citizen, can act on the minor's behalf in acquiring an oil and gas lease.<sup>10</sup>

## **COMPETITIVE & NON-COMPETITIVE LEASES**

There are two general classifications of federal leases:

1. *Competitive*
2. *Noncompetitive*

*Competitive leases* have a primary term of ten (10) years and so long as oil or gas is produced in paying quantities. The maximum amount of acreage that can be included on a competitive lease is 2,560 acres for lands within the lower 48 states and 5,760 acres for lands in Alaska.

*Noncompetitive* federal leases also have a primary term of ten (10) years and so long as oil or gas is produced in paying quantities. The maximum acreage size for these leases is the same as for competitive leases.

Competitive lease sales occur quarterly if lands are available for leasing. Notices of such available lands will contain the royalty rate of the lease as well as the rental amount. A company wanting to acquire a competitive lease may only do so by bidding on the lease at a public auction of lands. The minimum dollar amount required for such bidding is \$2.00 per acre which is calculated on the gross acres in the tract of land not the net acres owned by the Federal government. An authorized officer from the BLM will accept bids from companies and has the right to reject any and all bids. The lease will be acquired by the company who has offered the highest bonus amount and must submit a payment that includes a \$75 administrative fee, the first year's rental of \$1.50 per acre (calculated on the gross acreage in the parcel), and the bonus amount (calculated on the gross acreage of the parcel).<sup>11</sup>

Noncompetitive leases are a little different. The only parcels available for noncompetitive leasing are those lands that received no bids during the competitive lease sale. These leases become available for leasing the first business day after the competitive sale and are available to be leased, unless withdrawn by the BLM, for a period of two years.<sup>12</sup>

## **RENTALS & ROYALTIES**

As with any oil and gas lease there are fees, rentals, and royalties that are associated with the lease ownership. If your company were to go to a sale of federal lands and competitively bid and win a lease, full payment of the first year's rental would be immediately due. If the United States owned less than 100% of the mineral rights in the leased lands, the payment is still based upon the total acreage on the lease.

Thereafter, the rentals for the lease must be paid on an annual basis on or before the anniversary date of the lease. If the payment is late, the lease will automatically terminate, by law. The rental amount for all leases issued after December 22, 1987, is \$1.50 per acre during the first five years of the lease and escalates to \$2.00 an acre for every year beyond the initial five years. These leases typically have a royalty rate of 12.5%.

Rentals are calculated on a per acre or fraction of an acre basis. For instance, if a federal lease contained 345.78 net acres and the rental was \$2.00 per acre, the acreage should be rounded up and the payment based on 346 acres. The rental payment would be \$692.00.

If for some reason the office in which payments are made is not open the day the rental is due, payment should be made on the following day that the office is open. Such a payment will be deemed a payment that was made on time and the lease will not have terminated. If a payment is mistakenly made to the wrong office, the payment submitted would be returned and the lease may be in danger of terminating. It is a good rule of thumb, to make rental payments at least thirty (30) to sixty (60) days before the rental is due.

Once oil or gas has been discovered on the leased lands in paying quantities, a minimum royalty payment is due at the expiration of each lease year unless the lease has been unitized, then the minimum royalty payments will be made only on participating acreage at a rate of \$1.00 per acre.<sup>13</sup>

## **RECORD TITLE OWNERSHIP**

The record title owner of a federal oil and gas lease is held liable for all lease obligations including: rental payments, royalty payments, compensatory royalty payments, the obligation to protect the lease from drainage and plugging and abandonment costs. The BLM will also hold the record title owner responsible for the compliance with the lease terms and conditions regardless of who conducts any actual lease operations. If record title is held jointly between more than one company, each company is held jointly liable for nonmonetary lease obligations; however, it is important to note that the BLM may hold any one company liable for 100% of the lease obligations if the other record title owner(s) default.<sup>14</sup>

## CONTINUATION OF PRODUCTION

The BLM will extend the primary term of the lease for two years if the lessee is diligently conducting actual drilling operations on the last day of the primary term of the lease and continues operations to a depth sufficient to penetrate at least one formation.<sup>15</sup>

If production ceases while the lease is in its secondary term, the lessee has 60 days in which to restore production, begin reworking operations, or commence additional drilling operations.

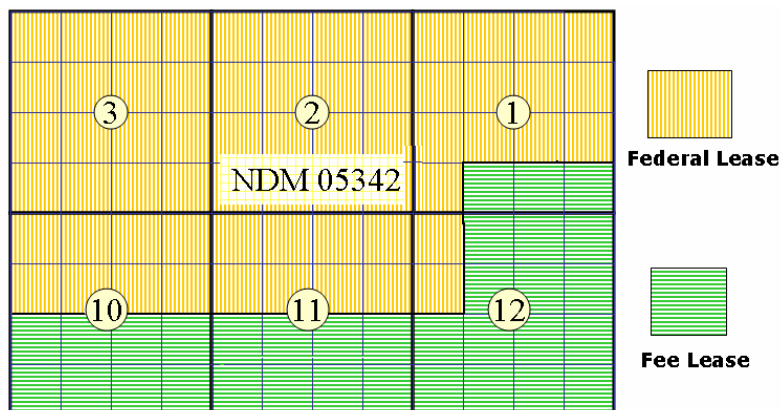
If a well is shut-in during the secondary term, the lessee has 60 calendar days to resume production after receiving the BLM notice to resume production. If production has not resumed within that period of time, the lease will automatically terminate.<sup>16</sup>

Once a federal lease is committed to a Communitization Agreement or a unit agreement, the lease continues into the secondary term as long as production is established within the agreement area.

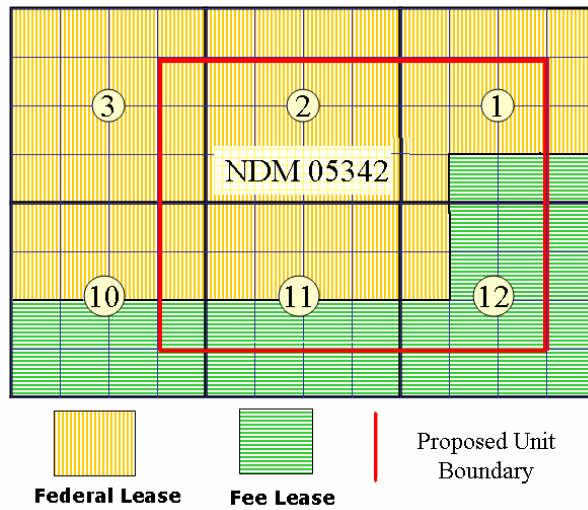
## SEGREGATION OF FEDERAL LEASES

If only a portion of the federal lease is committed to the unit area, the portion of the lease falling outside the unit area is automatically segregated from the original lease. For all practical purposes, when this happens, there are now two separate leases. The segregated portion receives an entirely new lease number. The effective date of the unit agreement to which part of the lease was committed becomes the effective date of the lease segregation. When segregation occurs, the BLM grants a two-year lease term extension for those lands outside the unit, if the original lease had less than two years left on its primary term. The effective date of the extension begins not with the original lease date but with the date of segregation.<sup>17</sup>

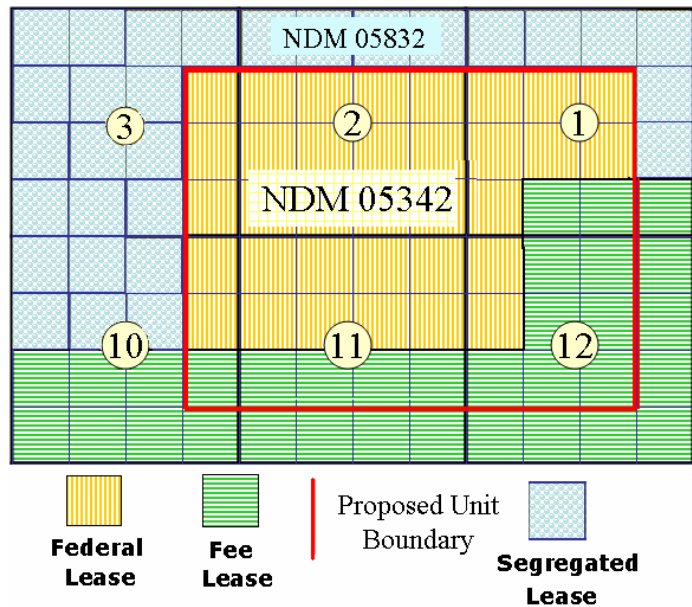
Generally, federal oil and gas leases cover many acres of land. In the example, federal lease #NDM 05342 covers all of Sections 2 and 3, most of Section 1, the N/2 of Section 10 and 11 and the W/2NW/4 of Section 12.



If a federal unit were proposed that only included a portion of federal lease #NDM 05342 then those lands outside the unit boundary would be segregated from the original lease.



When segregation occurs, the segregated portion of the lease receives an entirely new lease number. The effective date of the unit agreement to which part of the lease was committed becomes the effective date of the lease segregation.



## SUSPENSION OF FEDERAL LEASES

The BLM has the authority to suspend operations or production from a lease if the lessee is prevented from operating or producing a lease due to circumstances beyond their control. Once suspension is granted, the lease term and obligations are automatically extended by the length of time of the suspension.

Suspension of lease operations might be deemed necessary if an environmental study was being conducted on the migratory patterns of the Canadian goose. On the other hand, suspension of lease operations might be deemed necessary if a wild fire devastated the area of the lease.

The effective date of the suspension becomes either the date specified by the BLM or the first day of the month in which the lessee files an application for suspension. Once this occurs, any rental payments or minimum royalty payments are extended by the length of time of the suspension. A company's obligation to pay rental, royalty, or minimum royalty resume the first day the suspension is terminated.

## **GLOSSARY OF TERMS**

### **Acquired Federal Lands**

Lands in Federal ownership which have never been "Public Domain" and those lands in Federal ownership which have once been public lands but were disposed of and later reacquired by the United States through purchase, condemnation, or donation are considered acquired federal lands.

### **Public Domain**

The public domain is land acquired by the federal government by treaty.

### **Public Lands**

Land owned by the federal government and classified as either the public domain and acquired lands.

### **BLM**

Bureau of Land Management – a bureau of the United States Department of the Interior which administers the statute and regulations applicable to the leasing of land owned by the federal government for oil and gas purposes.

### **Fee Lands**

The title or ownership of land, short for "owned-in-fee" are considered fee lands.

## **Footnotes:**

<sup>1</sup>Mineral Title Examination II. Genesis and Evolution of Land and Mineral Ownership in the Western United States, Roscoe Walker, Jr., and Janet Harris, Rocky Mountain Mineral Law Foundation, April, 1982.

<sup>2</sup> Ibid.

<sup>3</sup>Federal Land and Buildings Ownership, Republican Study Committee, May 19, 2005, [www.house.gov/hensarling/rsc/doc/Federal\\_Land\\_Ownership](http://www.house.gov/hensarling/rsc/doc/Federal_Land_Ownership).

<sup>4</sup>Mineral Title Examination II. Genesis and Evolution of Land and Mineral Ownership in the Western United States, Roscoe Walker, Jr., and Janet Harris, Rocky Mountain Mineral Law Foundation, April, 1982.

<sup>5</sup> blm.gov/nhp/facts/acres.htm

<sup>6</sup>Landowners Association of Wyoming, [www.wyominglandowners.org](http://www.wyominglandowners.org).

<sup>7</sup>Land Ordinance of May 20, 1785, Documents of American History, pp. 123-124.

<sup>8</sup>answers.com/topic/indian-reservation-2.

<sup>9</sup>Department of Interior, Bureau of Land Management Federal Register, 43 CFR Part 3102.2, Aliens, 1998.

<sup>10</sup>Ibid, Part 3102.1; 3102.3, 1998.

<sup>11</sup>Ibid, CFR Part 3122, 1998.

<sup>12</sup>Ibid, Part 3123, 1998.

<sup>13</sup>Ibid, Part 3103.2-1, 3103.2-2, 3103.3, 1998.

<sup>14</sup>Ibid. Part 3101.12, 1998.

<sup>15</sup>Ibid, Part 3100, 1998.

<sup>16</sup>Ibid.

<sup>17</sup>Ibid.