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MAXWELL LAND GRANT

By

R. F. Pettit, Jr.

The following notes are from a report by R. F. Pettit, Jr. entitled "Mineral Resources of Colfax County, New Mexico". The present status of the report is that it is on Open File, State Bureau of Mines and Mineral Resources, Socorro, New Mexico. The illustrations that accompany the Open-File report have not been reproduced in this volume.

Roughly three-fifths of Colfax County is included in the Maxwell Land Grant. This is an estate originally granted to Carlos Beaubien and Guadalupe Miranda by the Mexican government, as represented by Manuel Armijo, the governor of New Mexico, on January 11, 1841. As finally confirmed by the United States in 1887, it contains 1,714,765 acres, of which 1,456,342 acres (85 percent) lie within Colfax County, the remainder being in Las Animas County, Colorado.

Many legal disputes arose before title was secured in the Maxwell Land Grant Company. The two original grantees were placed in possession by Don Cornelio Vigil, Justice of the Peace, on February 22, 1843, and the boundaries of the Grant, which were later in much dispute, were marked at that time. Complaints as to the advisability of making this grant were made, and the Grant was suspended on February 27, 1844, by Don Mariano Chavez, the interim governor. Armijo was reappointed governor on April 13, 1844, and the Grant was re-confirmed by council two days later. Beaubien and Miranda made only minor attempts at settlement, but Lucien B. Maxwell, son-in-law of Beaubien, established a ranch at the Rayado River in 1844.

The American Occupation wrested control of the government from Mexico in 1846, and by the treaty of Guadalupe Hidalgo the next year the American government became bound to respect all grant titles issued by the Mexican government. Beaubien and Miranda promptly put in their claim for recognition, and on September 25, 1857, Surveyor General Pelham declared it to be valid. On June 21, 1860, a congressional act confirmed the title, using for description the words of the original grant, which are to some degree ambiguous. Maxwell had, on April 7, 1858, become owner of Miranda's interest in the Grant, paying the sum of $2,745 for what was probably a one-half interest. Charles Bent, first governor of New Mexico after the American Occupation, acquired an interest in the Grant, which was held in a suit by his heirs to have been a one-fourth part. After Beaubien's death in 1864, Maxwell was the owner of one-half, and bought out the interests of the other claimants, becoming sole owner before 1869.

On January 17, 1869, John B. Dawson received a deed from Maxwell to an indefinitely described tract of land on the Vermejo River which figures later in the history of the Grant. On May 6, 1869, Maxwell gave an option on the undeeded remainder of the Grant to Jerome B. Chaffee, with whom was associated Wilson Waddingham; and to George M. Chilcott and Charles F. Holly. The option price was $650,000, and on April 30, 1870, the option was transferred to the newly-formed Maxwell Land Grant and Railway Company, an English and Dutch concern, and taken up for $1,350,000 on June 12, 1870. The home ranch of 1,000 acres, excluded from the first sale, was bought on August 24, 1870, for $75,000. The boundaries of the Grant had yet to be officially surveyed, and most of the lands included within the present Grant were thrown open as public lands by the Department of the Interior in 1874. By 1875 the original company was bankrupt and the land was in tax trouble. A reorganization of the company took place, with its stock fluctuating wildly on the London market. On March 11, 1878, a committee of bondholders foreclosed, and the final reorganization was completed May 3, 1880, with the transfer of title to the Maxwell Land Grant Company, chartered by the King of Holland, shortly after the final boundaries were defined in the patent from the United States government dated May 19, 1878. This patent was unusual in that it was a quitclaim deed only.

The new company's policies toward settlers and miners were ruthless and these men protested violently. Their most influential adherent, the Reverend O. P. McMains, was successful in persuading United States officials to institute suit against the company, charging fraud in enlarging the size of the granted area by the amount of 1,692,765 acres. The suit was carried to the United States Supreme Court which, on April 18, 1887, finally established title by affirming that the Congress of the United States had adjudged the land grant to be perfect, and that its legality could not be questioned by the courts. This in spite of the facts that the original boundary descriptions may well have been intended to convey a much smaller tract, and that these descriptions were the subject of the proceedings. The arguments presented to the court by Frank Springer, attorney for the company, are said to be remarkable for their brilliance. Settlers and miners were soon forced to leave, or to acquire their title rights from the Maxwell Land Grant Company. However, John B. Dawson, one of the early settlers, held a deed from Maxwell, and although the company attempted to evict him, his deed was held valid by the courts. His holdings, at first thought to be relatively small, were adjudged to contain 20,000 acres. This suit was commenced in 1891, decision rendered in 1901, and the Dawson ranch, except for a small holding, was sold to C. B. Eddy and associates, as the Dawson Fuel Company, on October 3, 1901, for $400,000. Eddy constructed the

El Paso and Northeastern Railroad to serve the new camp, and sold railroad and mines to the Phelps Dodge Company on July 1, 1905.*

During the period of Maxwell's ownership gold was discovered on the Grant, a gold rush ensued, and Elizabethtown was founded. Claims were freely staked under miner's regulations and the laws of the United States pertaining to public domain. Maxwell attempted to assert title to these lands, but apparently did not realize a great deal from the placers. Probably to avoid violence, he entered into partnerships with discoverers of lodes, and staked some claims himself. During 1869 claims were staked acknowledging ownership by Maxwell, and at least one lode claim was deeded by Maxwell, who signed himself "Proprietor, The Moreno Mining District". Although the discovery of the district is not credited to Maxwell, he undoubtedly knew of the presence of placer gold on his property years before the find just referred to. He participated in financing the "Big Ditch", which furnished water to the placers, and joined with the original claimants in the now famous Aztec mine, on his own property.

The Maxwell Land Grant and Railway Company immediately upon obtaining title, laid claim to a royalty from the gold production and stirred up a hornet's nest. The miners protested, held mass meetings, and refused to pay. Very few, if any, royalty payments were made to this company and the cream of the production had been skimmed before its successor company was in a position to enforce its demands. The contest over ownership also resulted in some secrecy, and the total value of metals produced in that time can only be estimated.

The Maxwell Land Grant Company early recognized that the mineral values present could only be developed by mining men, and commenced to encourage prospectors to a limited extent. As early as September 16, 1881, the company, under the authority of an act of the Territorial Legislature dated February 15, 1878, published a copy of the "Rules Governing the Acquisition of Titles to Mines within the Maxwell Grant." These rules provided for a gift of a 99-year lease for an undivided one-half interest in any mining claim discovered and located by any person discovering a lode or vein in place, if the discoverer located the claim on the ground within 20 days, marked its boundaries, posted notice of discovery, and filed a copy of the notice in the company offices at Cimarron. Within 3 years he must have sunk a shaft or driven a tunnel a total of 30 feet on the vein, caused the claim to be surveyed, and deposited a copy of the survey with the company. The dimensions of the claims were to be 1,500 feet by 300 feet, the end lines were required to be parallel, and the right of possession extended for the full depth of the lode, within the planes of the end lines extended downward. Failure to comply fully with the regulations not only worked a forfeiture as to the discoverer, but also operated as a perpetual withdrawal of the posted claim from further entry. No placer claims were contemplated.

* From *Maxwell Land Grant*, W. A. Keleher, 1942, and *The Fabulous Frontier*, W. A. Keleher, 1945.

On April 6, 1894, following the recommendations of Van Diest and St. Auburn, geologists employed to estimate the value of the minerals within the Grant, the regulations were liberalized, veins of coal and iron were excluded, and the area upon Iron Mountain was reserved from location. Discoverers were allowed to stake claims not less than 300 nor more than 600 feet in width, and not more than 1,500 feet in length along the vein or lode; and one of the end lines was required to be no more than 50 feet from the point of discovery. Sixty days were allowed in which to mark the boundaries of the claim, sink a discovery shaft at least 10 feet, post a notice, and file a copy with the company. One year from location was allowed for the completion of at least 20 feet of shaft or tunnel work upon the vein, and the filing of an application for official company survey of the claim (with payment of $95.00 expenses for the survey). The Maxwell Land Grant Company then laid claim to an extension of the claim from the end line nearest the point of discovery, thus withdrawing it from entry. After completion of the survey and publication of the application for a deed, and in the absence of the filing of an adverse claim, and upon payment of $10.00 per acre a title in fee passed to the claimant. Under this policy, the company designated much of its ground as mining land by surveying its extensions, and these have since been treated as mining claims, and sold and taxed under laws relating to mining claims, although many of them show no indication of valuable minerals.

Mill sites might be selected with the approval of the company, and surveyed and paid for in a manner similar to that provided for mining claims. Prospect tunnels might be run by special arrangement. Amendments to these regulations were published July 11, 1895, restricting the widths of claims under the foregoing to 300 feet or less. References are found in the mining claim records of the company to locations filed under Regulations published April 15, 1897, and April 12, 1899, but copies of these were not available. On December 5, 1901, further regulations appeared without material change except as follows. Methods of boundary marking were specified, all placer ground was positively reserved to the company, and the Maxwell extension claims were to revert to the status of unlocated land after one year from abandonment or forfeiture by the discovery claimant if survey had not been made, and after two years if survey had been made. Holders of undeeded claims were permitted to cut timber on the claims for use in development work. The last recorded claim under these regulations was located October 20, 1909, and recorded January 3, 1910. Since 1909 the company's policy has been to exclude their lands from all mineral locations, although recognized mining claims belonging to the company may be leased.

In 1879 the Santa Fe Railway reached the State at Raton, and 3 years later opened a coal mine at Blossburg (Dillon Canyon). In February 1881 the Raton Coal & Coke Company was formed by officials of the Maxwell Land Grant Company and the Santa Fe Railway (one-half interest each), and the new company took over the mines which had been operated by the Santa Fe. The Raton Coal &

Coke Company was succeeded on June 8, 1905, by the St. Louis, Rocky Mountain & Pacific Company. This concern acquired the fee title to 212,000 acres of land on the Grant, 150,000 of which are estimated to contain coal and 20,000 to be of workable thickness. It also acquired coal rights on 350,000 additional acres, of which 7,000 are estimated to contain workable coal. The Maxwell Land Grant Company today owns less ground within the Grant than the St. Louis, Rocky Mountain & Pacific Company, owning as of August 1946 approximately 180,000 acres outright, and controlling mineral rights in whole or in part on additional acreage as follows (to the nearest 1,000).

Type of lease	Acres
Coal	156,000
Minerals	166,000
Cement	126,000
Oil	184,000
Timber	56,000
Total	668,000