



CONTACT INFORMATION
Mining Records Curator
Arizona Geological Survey
3550 N. Central Ave, 2nd floor
Phoenix, AZ, 85012
602-771-1601
<http://www.azgs.az.gov>
inquiries@azgs.az.gov

The following file is part of the John E. Kinnison mining collection

ACCESS STATEMENT

These digitized collections are accessible for purposes of education and research. We have indicated what we know about copyright and rights of privacy, publicity, or trademark. Due to the nature of archival collections, we are not always able to identify this information. We are eager to hear from any rights owners, so that we may obtain accurate information. Upon request, we will remove material from public view while we address a rights issue.

CONSTRAINTS STATEMENT

The Arizona Geological Survey does not claim to control all rights for all materials in its collection. These rights include, but are not limited to: copyright, privacy rights, and cultural protection rights. The User hereby assumes all responsibility for obtaining any rights to use the material in excess of "fair use."

The Survey makes no intellectual property claims to the products created by individual authors in the manuscript collections, except when the author deeded those rights to the Survey or when those authors were employed by the State of Arizona and created intellectual products as a function of their official duties. The Survey does maintain property rights to the physical and digital representations of the works.

QUALITY STATEMENT

The Arizona Geological Survey is not responsible for the accuracy of the records, information, or opinions that may be contained in the files. The Survey collects, catalogs, and archives data on mineral properties regardless of its views of the veracity or accuracy of those data.

J. E. K.

MAY 24 1968

Background, San Xavier Case

As set forth by Kipps, Peel
in their brief of last fall (1967)

Legal issues involve deduction under Section 165 Internal Revenue Code 1954, concerning the acquisition of separate interests in the mineral rights of separate properties. They made these points:

1. Investment in one property cannot be considered as investment in some other property.
2. The San Xavier bonuses paid to individual indian allotments relinquished cannot be added to those bonuses paid to owners of allotments retained.
3. Allotments retained were not retained on the basis of data obtained from exploration of the abandoned properties.
4. Statutory scheme of taxation of mineral interests would be frustrated if either the government or the taxpayer were allowed to shift investments in one property to another property.
5. The bonuses paid were direct investment to acquire prospecting and option rights on his (the indian) property.
6. Investment in one property cannot be considered as investment in some other property.
7. Investment in properties abandoned are distinct, and no part thereof shall be considered an investment in properties retained. (This inclusive statement would not necessarily apply to all exploration prospects.)
8. Section 1011 I.R. Code 1954 defines mineral property as follows: (165(b) and 612), General Rule "... property means each separate interest owned by the taxpayer in each separate sector or parcel of land."

Exploration expense is also claimed as a justifiable deduction on the basis of regulation IT, ~~400 G~~^(400 G) of the IR Code. The following from this section seem pertinent.

"P-49. '...if property is acquired or obtained on the basis of data obtained from exploration, costs of exploration attributable to that property should be capitalized...' Also: Each project is usually begun with inexpensive-economic survey which can advantageously be explored as an integrated project of the entire area to locate those areas having the best possibilities. 'Each such separable, noncontiguous portion of the project area, identified by --- (this work) --- as possessing sufficient mineral producing potential to merit further exploration, is an area of interest.' '...for the purpose of allocating and capitalizing costs of further exploratory operations, the original project is considered subdivided into as many smaller projects as there are areas of interest.'

The key points as I see them, under Section 165 and ~~IT 400 G~~^{IT 400 G}, is that these areas of interest, prior to or developed during a drilling project, constitute separate areas of interest for tax purposes. Deduction of loss is then dependent on whether, or what part of, such cost is reasonably attributable to those lands retained. Thus, we acquire interest in the mineral rights of as many individual lands as there are claims or options of private lands, and these rights for tax purposes are best described by their individual areas and not by combining them into a single project, even though they may be explored for convenience as though they were combined. ~~IT 400 G~~^{IT 400 G} may also affect the cost of land acquisition, since we cannot have access to lands to drill without such costs.

)1)

1. San Xavier Tax Case.

Win or lose, proceedings furnished useful data for general procedure which could be applied prior and during all exploration programs, anticipating possible loss deduction of part of expense.

1 V2 Bsed on Section 165 property and IT 4006 ~~§~~ regarding exploration estimates. Gets ~~out~~^{et} investment on property.

2. Land Expense - Private, State claim, Federal claim.

a. Point of view.

b. Oriented to ^{explore to individual} ~~exploration units~~ units as: each claim, each option on private, etc.

3. Exploration Expense:

a. Drilling. Point of view oriented as above to explore individual lands. Combination as a group is expedient and practical way.

b. Surveying, Mapping, and Geophysical. Same as above.

4. Point of View. Acquire rights to mineral in the separate lands, and explore for mineral on the separate lands.

a. The exploration project then treats each separate land in combined effort as expedient way to explore each individual land.

b/ Data for accounting for above is collected routinely, and only needs to be segregated.

5. Concerning Tax Law (IT 4006), with reference to "areas of interest", and their separation or combination for tax purposes, the geologic or geophysic areas, for which a specific positive interest is generated before or during exploration, should be understood in the context of ~~the~~ tax law and perhaps stated in a memorandum for file record. ~~for tax~~ For tax purposes it appears these should be segregated to the most basic individual areas, consistent with record.

5.1/2 The Internal Revenue Service managed to obtain numerous letters which may, or could have been, damaging to San Xavier Case. I was impressed with a feeling that discretion should be ~~justified~~ ^{business} practiced in the amount of ^{business} detail that exploration people should place in writing, if the same is not necessary.

6. One thing is clear.

When request for review of exploration regarding a legal case, the writer should be completely sure of what is required by Asarco lawyers -- thus avoiding statements which may damage the case. Direct contact between lawyer and geologist making review is necessary for this.

7. Lacy's geophysical review regarding San Xavier had a philosophical statement on prospecting as introduction. Namely A) prospecting is elimination of area as much as evaluation of mineral deposits. B) Statements on the progress regarding buildup of geophysical - geologic cross reference ^{as} ~~or~~ working formula. If this is accepted ~~will~~ never deduct any exploration expense. C) Point of view is that we prospect for ore - not for worthless areas, knowledge of barren areas is gained during the course of, and as a by product of exploration.

8. In a future partial ~~write off~~ write off, the firmness of grounds on which such deductions are taken could be resolved prior to negotiation or litigation. This situation could easily arise during ~~the~~ ^{the} Uranium exploration, if a body is ever found, following ^{the} widespread land acquisition and drilling *that is likely to be done. E.g. Urovan District if we were now to find a deposit.*