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THE UNIVERSITY OF NEBRASKA

SAMUEL AVERY, Chancellor

The Nebraska Conservation and Soil
Survey

G. E. CONDRA, Director

BULLETIN 11

BLUE SKY vs. SQUARE DEALING
IN LAND AND OIL BUSINESS

BY

G. E. CONDRA

LINCOLN, NEBRASKA

1919

The State Conservation and Soil Survey, under the Regents of the University of Nebraska, covers the soil, forest, water, potash resources, road materials, industries, and the investigations of foreign realty sold in Nebraska.

The Survey is under the advisory authority of the State Conservation and Welfare Commission.

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BLUE SKY VS. SQUARE DEALING IN LAND AND OIL BUSINESS By G. E. CONDRA,

Director, Nebraska Conservation and Soil Survey

This is a state welfare paper based on our experience in administering the provisions of the Blue Sky Law relating to the sale of foreign realty in Nebraska. It should be of interest to the investing public and particularly to investors in land and oil properties. The purposes of the paper are to:

- (1) Review the provisions of the Blue Sky Law of Nebraska.
- (2) Show the methods used by promoters of unsound projects.
- (3) Point out the effects of bad investments in land deals.
- (4) Warn against dealing with persons who evade the law or mislead the public.
- (5) Review the elements of good business and safe investments in land and oil propositions.
- (6) Assist in conserving the state welfare.

Blue Sky vs. Business. The principles of conservation are permeating every branch of industry to improve processes, increase efficiency and promote square dealing. A by-product is the conservation of legitimate business against fraud.

Business proper stands for honesty, reliability, and permanence, whereas sharp practice, double dealing and doubtful promotion are elements of fraud which do not conserve the general welfare.

The terms "promoter" and "promotion" vary in meaning depending upon the purpose. Good and bad deals are promoted. Too often this activity is directed towards unsafe projects in which the organizers and those on the ground floor have too much advantage over the investors. This causes most people to look upon promotion enterprises with more or less suspicion and to place them about midway between business and blue sky.

The term "Blue Sky" has significant meaning and wide usage. It denotes nothing for something, error for truth, and fraud for business. Any proposition or transaction embodying one or more of these unfavorable elements is a Blue Sky deal—a deal without true merit.

Blue Sky Laws. There are many state and federal laws for the conservation of business. The federal government prosecutes persons who make fraudulent use of the mail. It is possible for one to recover under the law on account of misrepresentation and fraud. Federal laws recently enacted as a war measure require a proper showing before permits are given for the sale and issue of stock in excess of \$100,000. Several

states have enacted laws to regulate business and to prevent fraud. Some of the statutes are defective in that they stress the regulation of legitimate enterprises more than they prevent the operation of fraudulent enterprises.

Several states have created departments and agencies to prevent the operation of blue sky projects relating to land, minerals, oil, and stocks. These departments investigate projects and censure them through information requested by citizens and by publicity. Some states go further than this by registering the dealers and issuing permits to sell approved projects.

Administration of Blue Sky Law in Nebraska. Our state took the lead in opposing Blue Sky methods. The director of the Survey discussed this subject before National Conservation Congresses in Washington, Seattle and St. Paul before the well known act of Kansas was passed. Senator John Cordeal was the author of the Nebraska bill which has done so much to eliminate fraud from the state.

The State Conservation and Soil Survey has the duty of passing upon foreign lands sold in the state. This work covers the agricultural, grazing, mineral, and oil lands. The department serves also as a land information bureau.

The State Railway Commission acts upon all stock companies for which it is necessary to secure permits to operate in the state. When the stocks are based on land, the Conservation and Soil Survey is supposed to make the field investigation for the Railway Commission for final action.

The administration of the blue sky work relating to land is not complicated compared with stocks and the work of the Railway Commission. The State Conservation and Soil Survey is equipped with special maps, atlases, reports of state and federal soil surveys, weather bureau data, and other publications. It is in close touch with state and federal departments and receives valuable information from soil experts and geologists engaged in practical work. In passing upon a land deal, the department consults reliable sources of information bearing upon the case. Data are assembled and compared with the statements made by the dealer seeking to sell in Nebraska. If it is found that the project is bad, the promoters are directed to keep out of the state. If there is doubt, a field examination is made by some member of the department. This is done at state expense. Thus far in passing upon foreign projects, much of Wyoming, Kansas, and Oklahoma and parts of Montana, Colorado, Texas, Missouri, Arkansas, Mississippi, and Florida have been covered. Little time is given to the investigation of valuable agricultural lands. Nor does the department interfere with the work of reliable real estate men. Most attention is directed towards blue sky deals.

Three things stand out in the investigations made by the State Conservation and Soil Survey. First, inquiry is made of banks regarding

the credit and reliability of dealers. Second, the representations made in securing sale are scrutinized to see whether they tally with the facts shown by the investigations. Third, it is determined whether a good title is conveyed. As a rule, blue sky projects do not show up well under these investigations. Most of them fail on account of misrepresentation and are denied the privilege of operating in Nebraska.

It should be more generally understood that some land, oil, and stock deals though permitted do not offer good investments. Though correctly represented they may be risky. Censorship by the state is made primarily to reduce promotion and to eliminate the work of unscrupulous operators. It does not guarantee projects because there are other elements of success and failure which the state departments do not and should not attempt to control.

Dodging the Law. The land part of the blue sky work in Nebraska is principally a delegated service to be extended upon requests coming from citizens. The department takes the initiative in many cases, but according to the law, an investigation is supposed to start with an inquiring interested party in the state, i. e., with one who is thinking of buying land. Some dealers coach the would-be investors not to consult the Conservation and Soil Survey, claiming that the department is conservative and biased against foreign land deals.

The Railway Commission has a difficult work in passing upon stocks. Various methods are used to evade this commission, and some citizens are harsh in their criticism of its administration. The safe thing for dealers to do, however, is to comply with the law. If the law is defective, it should be amended. If unjust, it should be repealed. The law has been evaded as follows:

- (1) Many old charters have been revived in order to evade the law regulating the issue and sale of stock.
- (2) Some parties have attempted to under-write stock jobbing propositions, making it appear that they were selling private property. This procedure has not worked well for there are other statutes which cover such cases.
- (3) Many citizens have gone into other states to buy into blue sky projects, the sale of which is not permitted in Nebraska.
- (4) Promoters and blue sky concerns advertise in papers published in other states. The state law does not cover these cases.
- (5) The legal status of stocks sold in Nebraska without permit has not been fully determined in the courts. No doubt the dealers are violators of the law and the investors may be committing an offense.

Soil, a Basic Resource. Soil is the world's greatest natural resource. It is the primary source of life and industry and must be conserved in

a number of ways in order to support the human race. Everything must be done to maintain the productive capacity of the soil and nothing should be done to decrease its power to produce.

Drain from Home and State. Nebraska is fertile; the soils produce food of great value. Most of the returns from the soil and agriculture go to the development of farms, communities, the state and nation, but too much of it is dissipated through promotion and blue sky projects both in the state and outside the state.

It is not right to farm the land, cash-in soil fertility, and waste the proceeds. There is room for real conservation. Though our state has checked much of the drain caused by bad management and blue sky operators, there is room for further improvement in this line. The citizens generally should assist in solving the problem.

Many farmers, though remaining on the home places, lose enough in bad deals to improve homes or to put their sons and daughters through the high school and agricultural college. The drain is away from home and school, and persons losing through bad investments at long range become suspicious and critical of real business directed by reliable men in the community. Some are put out of business by fraud. The blue sky deals have taken millions of dollars from the state and returned only dollars and cents. They have taken away many well-to-do citizens and returned paupers.

Nature of the Realty Business. The land business is based on things fundamental. It relates to soil, production, distribution, and the people. Good service in this line is helpful and far reaching, but bad guidance is costly and destructive. The transfer of land has little consequence compared with the farmers and their families when they are taken from successful agriculture to impoverished land and unhealthful places where failure is inevitable.

Persons having no regard for the welfare of people and the country should not be permitted to engage in the land business because they do much harm if not restrained.

Reputable realty men render a useful and necessary service. They are in business—not fraud, and are in hearty accord with the welfare measures so generally opposed by blue sky dealers.

The realty business is on the advance. The dealers have organized in some places to suppress fraudulent operators and it would seem that the legislature should enact laws to conserve the interests of the dealers, investors, and the public. One of the first necessary steps in this line will be a qualification requirement of dealers. A second step would be the registration of dealers in foreign realty or that a showing be made concerning the land or project before it is offered for sale in the state.

Permanence of Families on Farms. Practically all farm land of the United States is privately owned. Some grazing land and small areas of dry farming land remain in public ownership.

Agriculture has been standardized in many places and the farmers have technical knowledge of the soils on their holdings and there is a growing tendency for families to stick with home places. The overflow of young people from the farm and in search of lands presents a big problem. Good land is all taken and held at a comparatively high price. There is opportunity to locate and build up ranches, but things have changed regarding the homesteading of farm land. Irrigation and drainage add small tracts each year, but not enough to meet the normal demand.

Our country is entering upon a period of intensive farming, more permanence of families on farms, and an increasing density of rural population. The permanent, successful farmer is a valuable asset. Anything that tends to keep him on a farm for a longer period is a move in the right direction, and anything that discourages him regarding his condition and success and causes him to move from the home place is working in the wrong direction as a rule.

Movements which assist renters to become owners of land and permanent tillers of the soil are constructive and helpful.

Agents who induce successful farmers to sell out and to move to new places where they cannot succeed do a criminal thing. We know of many persons who sold valuable farms in Nebraska and failed elsewhere. The damage done these unfortunate people is irreparable. There is no way to recover from the irresponsible persons who committed the fraud.

Some states have boomed the land business regardless of results. In much of this, more has been heard about increasing the population and of the success of land men than about the welfare of those who build homes on the land. Time has shown the error of such methods. The talk now relates to the welfare of farmers who live on the land, make it produce, and become good citizens. Any community or state not looking more to the welfare of its farmers than to the successful grafters is working absolutely in the wrong direction.

Blue Sky Methods. We recite under this heading a bird's-eye view of history enacted a few years ago. It has no particular bearing at this time, but may cover an occasional deal reverting to old methods.

Blue sky deals are interesting. A tract of inferior land, a mineral claim, or an undesirable oil lease is secured, probably by contract. The matter of title is not very important. The selling scheme is perfected. Agents and decoys are secured. Extravagant claims are made regarding the project. The influence of nationality, church, and fraternal order are used in selling. Decoys get a rake-off for their names and influence. Interests or stocks are offered at a price greatly advanced over cost. Re-

ductions are made to certain buyers in order to get them in on the deal. Persons filed with a greed for money and a desire to get-rich-quick become easy marks. The clean-up continues and no investor checks either the project or the promoter. This kind of thing was common in Nebraska before blue sky laws were enacted.

Over-valuation is a feature of blue sky deals. Not long since a prospectus was received from Oklahoma advertising mineral land at \$6.00 a block. There were 1,089 blocks in a tract of ten acres. If sold, this would clean up \$6,534. The writer is acquainted with the region in question and knows that large tracts of land can be purchased there for less than \$10.00 an acre, so the ten-acre tract should not have a value to exceed \$100.00. The difference between \$100.00 and \$6,534 represents over-valuation and promotion. The land was claimed to have great value and possibilities for the production of zinc and lead. The promoters used a statement of a geologist, showing that the formation carrying lead and zinc in the Joplin district, some thirty miles away, extends through the promoted land. Technically, this had no value whatsoever, yet it was used to sell the project. Nebraska told the promoters to keep out and it is our opinion that Oklahoma should not have permitted such fraud.

We have numerous statements from the citizens of Texas and Florida claiming that dealers in the north have promoted the south in numerous land deals. Two things stand out prominently in this connection, namely, that very little has been done by the southern states to prevent land frauds and that the north has permitted the grafters to do their work.

Dry Land Realty. There are considerable areas of dry land well suited for agriculture in such states as Wyoming, Colorado, Nebraska, Kansas, and Oklahoma. Some areas in these states have soils on which the sod should not be turned. Unscrupulous dealers do not distinguish between the qualities of soil making it suitable and unsuitable for cultivation. Some of them go too far in representing all land as being suitable for successful agriculture.

Buyers should examine the soil to see that it is drouth resistant. Four things are to be determined. First, the soil should be deep, fine textured, and fertile. Second, it should not be underlain near the surface by sand and gravel. Third, it should not be so loose and light as to blow when plowed. Fourth, the best land for dry farming has a relatively heavy layer in the subsoil at a depth of two to six feet below the surface. This prevents the percolation of water beyond the reach of crops and serves to store and hold the rainfall. There may be drouthy soils under heavy rainfall. This means that the amount of rainfall is not the only factor in dry farming.

Nebraska is trying to determine what land should be plowed and what should be retained in the native sod. The State Conservation and Soil Survey, in co-operation with the U. S. Bureau of Soils, is mapping

and describing the soils of all western counties. The work is being rushed at this time because much of the land should come under cultivation particularly for wheat raising. The published reports of the counties completed show the soil types and what is thought to be their best use and management. Such reports are of value to farmers, buyers, and dealers.

Much of western Nebraska is now cultivated to wheat, oats, rye, corn, alfalfa, and potatoes. Land values have shown a rapid advance the past few years. Tractors and combines are common and some of the best land where the rainfall is low sells above \$100 per acre. The tendency now is to buy in other areas. Some dealers, formerly of Nebraska, are operating in Colorado and other states. Some of the areas being sold are quite well suited for dry farming, but not so completely as on parts of Cheyenne and Box Butte tables of Nebraska where good crops have been grown for several years.

Heavy rainfall in the west and drouth in the east the past year may cause farmers in the eastern counties to sell at relatively low prices and to pay high prices for dry land soils better suited for grazing than farming. This should be safeguarded.

Some realty dealers have used misinformation regarding the dry lands. They have taken advantage of the most favorable years to sell the less desirable land. Among the points observed in this connection are:

(1) The claim that the rainfall increases on dry lands as the country is brought under cultivation, thus improving the condition. This claim is not well founded. It is true, however, that cultivation does change the climate of the soil.

(2) Advantage is taken of such fluctuations of rainfall as occur from year to year or by periods of years. Land is boomed at times of heaviest rainfall.

A good many Nebraskans file upon grazing land in such states as Wyoming, Colorado, and Montana, thinking that it is farm land. Some of them pay locaters \$100 per for assistance which might be extended by the government and probably with better results. Only those who know cattle raising or sheep raising and are in a position to block out ranches can succeed in this project.

Land Schemes in General. There are many land projects. Investments have been made by Nebraskans in the small tract propositions of Texas, Florida, and other states. Some of this land has value, but much of it is over-estimated and most investments have shown a loss.

The cut-over lands particularly of Louisiana, Michigan, and Texas though promoted from time to time, have not been a profitable investment for most Nebraskans. The department has several cases in which our people lost heavily.

The fruit land projects of the northwest and of the south have been good and bad. Those handled by promoters have failed with few exceptions.

The irrigation and drainage project of Washington, Idaho, Colorado, Texas, and other states, have taken much money from Nebraska. The returns have been favorable and unfavorable. Some of the irrigation projects have not had adequate water.

The very small oil and mineral tract projects are defective as a rule. They appeal to small investors, but are condemned by most practical operators.

Soil Surveys. The soil surveys are useful in the realty business. They show the land classification, drainage conditions, soils, agricultural developments, crops, land values, markets, and social conditions. Some states with most land promotion have done little with the soil survey.

Persons owning or thinking of purchasing land should secure and consult the soil survey reports. These are free upon request from the U. S. Bureau of Soils, Washington.

Things to Consider in Buying Land. A person thinking of buying land as an investment or to establish a home should consider the following points with reference to the land in question:

(1) See and study the land. Be sure to see the right piece of land. Get information about the place from disinterested farmers living in the region. Find out why it is for sale.

(2) Study the soil. Use a spade or an auger with which to determine the depth and the texture of the soil. See whether the soil is deep or shallow, light or heavy, fertile or impoverished. Does it require fertilizers to grow crops? What crops are profitably grown?

(3) Water supply. Make sure that there is an adequate supply of water for home and stock. In case of irrigation, see that there is a good water right.

(4) Consult the Weather Bureau and its reports. Determine the facts about rainfall, temperature, winds, storms, and seasons. If these elements are unfavorable, do not buy the land for agricultural purposes.

(5) Drainage and Topography. See that the land tallies with descriptions made by the dealer. Is it subject to overflow? Does it have too little or too much drainage? Does it wash badly? Is it too hilly for farming? (Again be sure that you see the right land.)

(6) Healthfulness. This relates particularly to climatic conditions and water supply. One should hesitate to buy in a community where provisions for sanitation are neglected.

(7) Social Conditions. How about the people—their nationality, schools, and churches?

(8) Markets and Transportation. Though the auto and the truck have brought the town and country close together, the buyer should keep in mind the fact that land values are determined in part by location with respect to railroads and markets.

(9) Interest Rates and Taxes. Some states have high interest and heavy taxes. These are influences to be considered.

(10) Price and Terms. The buyer should not be in a hurry to close a deal. It may not be a bargain. Deal only with known, reputable realty men. Secure a good buy or keep out. Buy land for a specific purpose and see that it is suited for that purpose. Neither overload nor assume an incumbrance that is too heavy.

(11) Make sure that a good title is secured and not a lawsuit. Have the title passed upon by a competent abstractor. Ho'd out most of the payment until the abstract is approved. Use the bank in closing the deal.

(12) Remember that one can scatter his land interests too much, and that it is better to invest at close range than by long distance.

ASPECTS OF THE OIL INDUSTRY

The United States is richly endowed with petroleum and natural gas occurring in a number of states. The oil industry is specialized. It relates to prospecting, production of crude, pipe line transportation, refining, and a number of by-products. The refined products serves many purposes in transportation, manufacture, agriculture, and war.

The oil industry is largely owned and operated by a few companies, some of them subsidiaries of the Standard Oil Company. These interests are well organized. They employ technical assistance in all departments, beginning with the geological field work and extending to the marketing and use of products.

Though Nebraska is not an oil producing state, its citizens are heavy investors in companies prospecting for oil, and in refineries.

The Lure of Oil. Since oil was discovered in Pennsylvania, the industry has been noted for its hazardous risks, dismal failures, and great successes. Failure has come to many and success to few. Notwithstanding this fact, hope is ever strong, and most persons dabbling in oil expect to "get rich quick." The success of Rockefeller is recited in most announcements of promotion companies. This is pleasing to those who like a risky project. To assist in the discovery of oil is the great ambition of many people.

Oil Promotion Schemes. Various schemes are used to interest the people in wildcatting, either at home or in other states. Many of the projects are organized and directed by promoters with no experience in oil prospecting.

Most promotion deals are started without regard for the technical details considered by oil companies. Some would-be oil man takes a fancy to the general appearance of the country or to some unessential feature of the land, and asserts that there is a strong indication for oil, perhaps at a shallow depth. He is at once a big man for everyone hopes to find oil. It may be that the newcomer has been in an oil region some time or some where. This makes him an authority and nothing more is needed. So a boom is started; a company is organized, and funds are raised for a test. The motives of the people who take part in this kind of thing in a community are commendable, but the methods are bad.

Some projects are organized wholly for a clean-up. A lease is secured near a well defined structure at the edge of an oil field. Dry holes are disregarded. Certain people are invited to take part in organizing a stock jobbing proposition. A prospectus is prepared and agents are sent forth to sell to unsuspecting persons. Soon a wildcat test is started. False reports are made from time to time to show that oil sands are reached and a big flow—always a gusher—may be reported within a few days. As a rule, such tests are off structure and condemned by experienced oil men. Those on good locations speak lightly of the stock jobbers saying that they are selling to suckers who do not know the oil game. Much money has gone from Nebraska to be squandered on bad deals of this kind.

Structure a Guide. The University of Nebraska has trained a number of competent geologists now in the employment of oil companies. These men have studied the stratigraphy of several oil regions. Persons similarly trained in other universities are also engaged in this work and every oil company of any consequence has its corps of oil geologists.

In the structure work relating to prospecting for oil and gas and the development, particular attention is given to the position of the outcrops in the region and to the age of formations. The geology is worked closely. Each member or bed is studied and mapped. Sections are made and the whole structure is described. The geologist looks for the formations known to contain oil. He wants to find places where the strata bend upward, from all directions, forming what are known as domes and anticlines, for these are where most oil is found. The result of the geological work are kept secret by the oil companies, because the structure shows where leasing should be done. A position of the strata favoring the accumulation of oil and gas, whether a dome, anticline, or terrace, is called an oil structure (Figures 1 and 2). Well defined structures have value for leasing and drilling, whereas locations off structure, even though it be for a short distance, are regarded as valueless.

The geology is the first consideration in prospecting. A geological report made by a competent person is taken at its value and followed closely, whereas a loose report made by some so-called geologist has no value and should not serve in making drilling locations or to induce people to subscribe for oil stock.

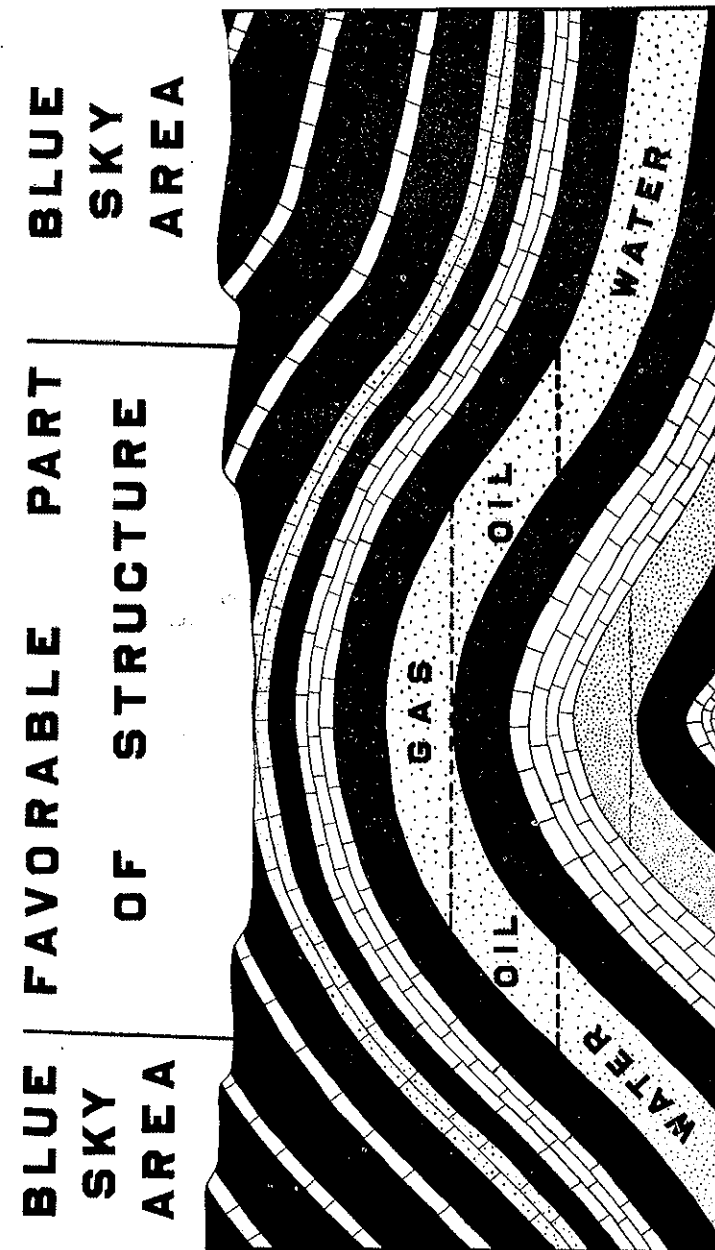


Figure 1. A generalized cross section showing the positions of oil and gas in a structure.

The writer has inspected a large number of promotion leases reported by geologists. Some of these leases were found to be described, and others, particularly those of Blue Sky companies, were at places having no chance for oil or gas. The loose geological report is misleading. In fact it may show where not to prospect. A fake geological report is unreliable and fraudulent.

Oil Fakers. The public has not only been misguided by well meaning oil promoters, stock jobbers, and fake geological reports, but it has been worked to a finish by oil fakers, i. e., by men claiming to possess the ability to locate oil by means of some physical device.

The oil faker has no particular knowledge of geology and of other things of value in prospecting yet he speaks glibly of structure, oil sands and domes. He selects a convenient location for his dome, usually near a town or if he has an anticline, it can pass through several towns to be promoted.

The writer has observed the bad work of oil fakers in Nebraska and other states. Nearly all the domes of these fellows are on their heads and not in the ground. Most of the men are poor and irresponsible. They are ready to direct the prospecting for an interest in the stock and for a good place to eat and sleep. When a prospect fails, the faker loses nothing. He moves on and the community is wiser as a result of its experience.

The man who assumes to locate a sure thing in the discovery of oil by means of a divining rod or similar device is a fraud. Oil is not found in this way.

Let it be known that oil interests are ready and willing to pay big money for any reliable hint that will lead to oil discovery. The faker would be a valuable man in the oil industry if he could guarantee his claims even in part. He does not make good where there is oil or among oil men, and we believe that Nebraska has had enough of such fraud.

Blue Sky and Promotion Oil Deals. We class under this head all propositions in which there is misrepresentation relating to structure, depth of oil sands, the number of oil sands, and the returns from investments. Many projects formerly sold in Nebraska were stock jobbing deals of the blue sky kind. Those now sold are good and bad. Though the state has laws to protect the investing public by preventing the sale of bad leases and bad oil stocks, there are those who dodge the law and induce citizens to invest in unreliable propositions.

Small Tract Projects. Much Nebraska money goes to small tract projects. These tracts are only a few square feet in area and should not be sold as separate units not related to the whole project in the way of co-operative management. The management of many projects is bad and the dealers operate principally through paid advertisements run in papers published in other states, but circulating in Nebraska.

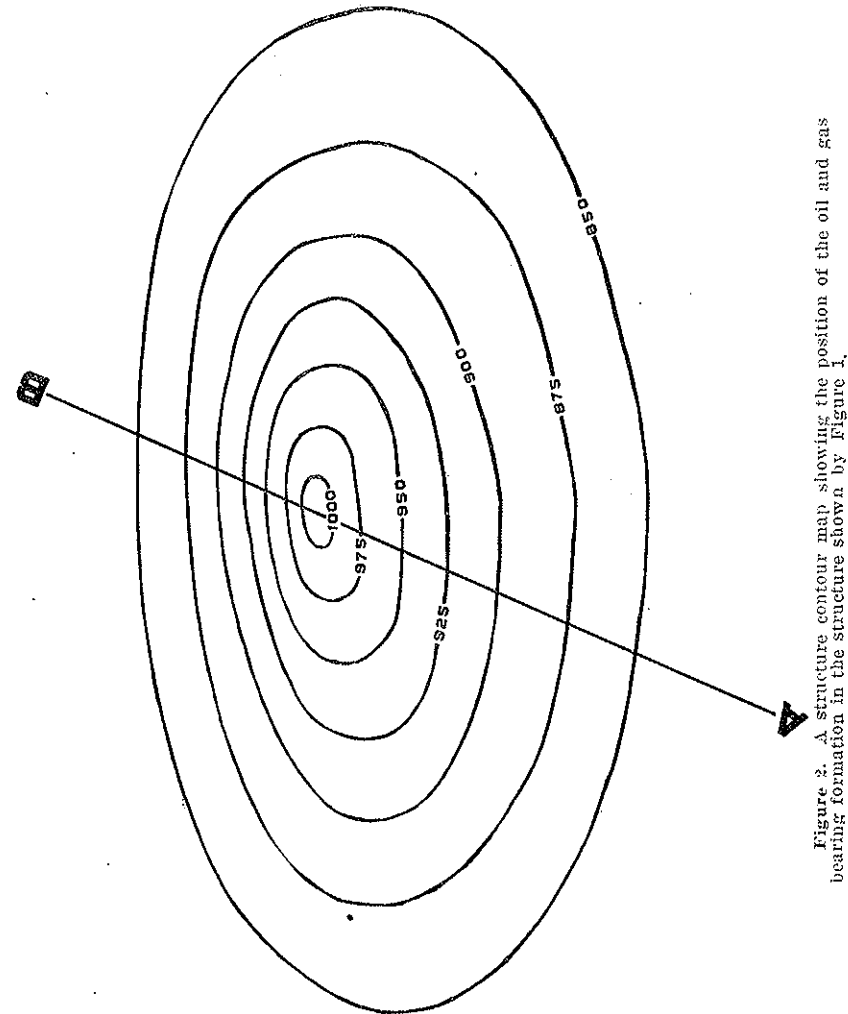


Figure 2. A structure contour map showing the position of the oil and gas bearing formation in the structure shown in Figure 1.

Ear Marks of a Safe Oil Project. Though it is not possible to definitely determine that oil and gas or both of these may be found at a given place, it is possible to reduce the risk in prospecting and development and to safeguard the investor. This being true, it should be more generally recognized that the best methods to follow are those used by the practical oil man and the larger companies. Some of the things to consider are as follows:

(1) As a general investor you cannot afford, as a rule, to become interested in extreme wildcat propositions. Only the going concerns, receiving money from production, can afford to engage in this work.

(2) Do not invest in a lease or in the stock of a company managed by strangers who control the majority of stock.

(3) Do not invest in an over-capitalized project.

(4) Make sure that wild-cat prospecting is done above formations known to carry oil and on good structure.

(5) Determine the standing of the person making the geological report. A sure-thing report should be rejected.

(6) If the lease is in an oil district or oil region, make inquiry regarding dry holes, depth of drilling, thickness of sands, production and life of wells, pipe line runs and the refining qualities of the crude.

(7) Deal only with men known to be honest and who are in a position to make good their contracts.

(8) Remember it is better to invest in oil projects near production, pipe lines and refineries than in a region located far from these developments.

(9) See that the agent selling oil stock has a permit from the Railway Commission and that the person selling oil land or an oil lease has made a good showing before the State Conservation and Soil Survey.

(10) Co-operate with the state departments in keeping fraudulent operators out of your community and out of Nebraska.

(11) Stand for the square deal in business and for state development along fundamental lines.