

Effective 5/8/2018

40-6-6.5 Pooling of interests for the development and operation of a drilling unit -- Board may order pooling of interests -- Payment of costs and royalty interests -- Monthly accounting.

(1) Two or more owners within a drilling unit may bring together their interests for the development and operation of the drilling unit.

(2)

(a) In the absence of a written agreement for pooling, including a joint operating agreement, the board may enter an order pooling all interests in the drilling unit for the development and operation of the drilling unit.

(b) The order shall be made upon terms and conditions that are just and reasonable.

(c) The board may adopt terms appearing in a joint operating agreement:

(i) for the drilling unit that is in effect between the consenting owners;

(ii) submitted by any party to the proceeding; or

(iii) submitted by its own motion.

(3)

(a) Operations incident to the drilling of a well upon any portion of a drilling unit covered by a pooling order shall be deemed for all purposes to be the conduct of the operations upon each separately owned tract in the drilling unit by the several owners.

(b) The portion of the production allocated or applicable to a separately owned tract included in a drilling unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from that tract by a well drilled on it.

(4)

(a)

(i) Each pooling order shall provide for the payment of just and reasonable costs incurred in the drilling and operating of the drilling unit, including:

(A) the costs of drilling, completing, equipping, producing, gathering, transporting, processing, marketing, and storage facilities;

(B) reasonable charges for the administration and supervision of operations; and

(C) other costs customarily incurred in the industry.

(ii) An owner is not liable under a pooling order for costs or losses resulting from the gross negligence or willful misconduct of the operator.

(b) Each pooling order shall provide for reimbursement to the consenting owners for any nonconsenting owner's share of the costs out of production from the drilling unit attributable to the nonconsenting owner's tract.

(c) Each pooling order shall provide that each consenting owner shall own and be entitled to receive, subject to royalty or similar obligations:

(i) the share of the production of the well applicable to the consenting owner's interest in the drilling unit; and

(ii) unless the consenting owner has agreed otherwise, the consenting owner's proportionate part of the nonconsenting owner's share of the production until costs are recovered as provided in Subsection (4)(d).

(d)

(i) Each pooling order shall provide that each nonconsenting owner shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the nonconsenting owner's interest in the drilling unit after the consenting owners have recovered from the nonconsenting owner's share of production the following amounts less any cash contributions made by the nonconsenting owner:

- (A) 100% of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping;
 - (B) 100% of the nonconsenting owner's share of the estimated cost to plug and abandon the well as determined by the board;
 - (C) 100% of the nonconsenting owner's share of the cost of operation of the well commencing with first production and continuing until the consenting owners have recovered all costs; and
 - (D) an amount to be determined by the board but not less than 150% nor greater than 400% of the nonconsenting owner's share of the costs of staking the location, wellsite preparation, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing, and the cost of equipment in the well to and including the wellhead connections.
- (ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is that interest which would have been chargeable to the nonconsenting owner had the nonconsenting owner initially agreed to pay the nonconsenting owner's share of the costs of the well from commencement of the operation.
 - (iii) A reasonable interest charge may be included if the board finds it appropriate.
- (e) If there is any dispute about costs, the board shall determine the proper costs.
- (5) If a nonconsenting owner's tract in the drilling unit is subject to a lease or other contract for the development of oil and gas, the pooling order shall provide that the consenting owners shall pay any royalty interest or other interest in the tract not subject to the deduction of the costs of production from the production attributable to that tract.
- (6)
 - (a) If a nonconsenting owner's tract in the drilling unit is not subject to a lease or other contract for the development of oil and gas, the pooling order shall provide that the nonconsenting owner shall receive as a royalty:
 - (i) the acreage weighted average landowner's royalty based on each leased fee and privately owned tract within the drilling unit, proportionately reduced by the percentage of the nonconsenting owner's interest in the drilling unit; or
 - (ii) if there is no leased fee or privately owned tract within the drilling unit other than the one owned by the nonconsenting owner, 16-2/3% proportionately reduced by the percentage of the nonconsenting owner's interest in the drilling unit.
 - (b) The royalty shall be:
 - (i) determined prior to the commencement of drilling; and
 - (ii) paid from production attributable to each tract until the consenting owners have recovered the costs specified in Subsection (4)(d).
- (7) Once the consenting owners have recovered the costs, as described in Subsection (6)(b)(ii), the royalty shall be merged back into the nonconsenting owner's working interest and shall be terminated.
- (8) The operator of a well under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with monthly statements specifying:
 - (a) costs incurred;
 - (b) the quantity of oil or gas produced; and
 - (c) the amount of oil and gas proceeds realized from the sale of the production during the preceding month.
- (9) Each pooling order shall provide that when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in Subsection (4)(d):

- (a) the relinquished interest of the nonconsenting owner shall automatically revert to him;
 - (b) the nonconsenting owner shall from that time:
 - (i) own the same interest in the well and the production from it; and
 - (ii) be liable for the further costs of the operation as if he had participated in the initial drilling and operation; and
 - (c) costs are payable out of production unless otherwise agreed between the nonconsenting owner and the operator.
- (10) Each pooling order shall provide that in any circumstance where the nonconsenting owner has relinquished his share of production to consenting owners or at any time fails to take his share of production in-kind when he is entitled to do so, the nonconsenting owner is entitled to:
- (a) an accounting of the oil and gas proceeds applicable to his relinquished share of production; and
 - (b) payment of the oil and gas proceeds applicable to that share of production not taken in-kind, net of costs.
- (11)
- (a) A pooling order may be made effective retroactively to the date of first production of a well to which the pooling order applies, subject to Subsection (11)(b).
 - (b) If the retroactive date predates the board's order establishing the drilling unit, the retroactive date is authorized only if:
 - (i) no party to the board's proceeding objects to the retroactive application; or
 - (ii) an objection is received by the board and the board finds a party has engaged in inequitable conduct prejudicing another party's correlative right.
 - (c) A pooling order made retroactive under this section is binding upon a party owning an interest in the drilling unit who receives proper notice of the board's proceeding.
- (12) Except as otherwise provided by a rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the terms and conditions of the board's initial order pooling all interests in a drilling unit, including the terms and conditions of a joint operating agreement as adopted by the board, shall apply to all subsequently drilled wells in the drilling unit, except as modified by:
- (a) an accounting for actual costs incurred for each subsequently drilled well in the drilling unit;
 - (b) an accounting for the consenting or nonconsenting status of the owner of each subsequently drilled well in the drilling unit; and
 - (c) the board after the filing of and hearing upon a petition filed by an affected owner desiring a modification.

Amended by Chapter 246, 2018 General Session