

RCW 78.52.250 Pooled interests in well in development unit—

Allocation of costs—Rights of owners. (1) Each such pooling order shall make provision for the drilling and operation of a well on the development unit, and for the payment of the reasonable actual cost thereof by the owners of interests required to pay such costs in the development unit, plus a reasonable charge for supervision and storage facilities. Costs associated with production from the pooled unit shall be allocated in the same manner as is production in RCW 78.52.245. In the event of any dispute as to such costs the department shall determine the proper costs.

(2) As to each owner who fails or refuses to agree to bear his or her proportionate share of the costs of the drilling and operation of the well, the order shall provide for reimbursement of those persons paying for the drilling and operation of the well of the nonconsenting owner's share of the costs from, and only from, production from the unit representing that person's interest, excluding royalty or other interests not obligated to pay any part of the cost thereof. The department may provide that the consenting owners shall own and be entitled to receive all production from the well after payment of the royalty as provided in the lease, if any, applicable to each tract or interest, and obligations payable from production, until the consenting owners have been paid the amount due under the terms of the pooling order or order settling any dispute.

The order shall determine the interest of each owner in the unit and shall provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the owner's interest in the unit, and, unless the owner has agreed otherwise, his or her proportionate part of the nonconsenting owner's share of the production until costs are recovered as provided in this subsection. Each nonconsenting owner is entitled to receive, subject to royalty or similar obligations, the share of production from the well applicable to the owner's interest in the unit after the consenting owners have recovered from the nonconsenting owner's share of production the following:

(a) In respect to every such well, one hundred percent of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent 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 these costs, with the intent that the nonconsenting owner's share of these costs and equipment will be that interest which would have been chargeable to the nonconsenting owner had he or she initially agreed to pay his or her share of the costs of the well from the beginning of the operation;

(b) One hundred fifty percent of that portion of the costs and expenses of staking the location, well site preparation, rights-of-way, rigging-up, drilling, reworking, deepening or plugging back, testing, and completing, after deducting any cash contributions received by the consenting owners, and also one hundred fifty percent of that portion of the cost of equipment in the well, up to and including the wellhead connections; and

(c) If there is a dispute regarding the costs, the department shall determine the proper costs and their allocation among working interest owners after due notice to interested parties and a hearing on the costs.

(3) The operator of a well under a pooling order in which there are nonconsenting owners shall furnish the nonconsenting owners with monthly statements of all costs incurred, together with the quantity of oil or gas produced, and the amount of proceeds realized from the sale of this production during the preceding month. If and when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in subsection (2) of this section, the relinquished interest of the nonconsenting owner shall automatically revert to him or her, and the nonconsenting owner shall own the same interest in the well and the production from it and be liable for the further costs of the operation as if he or she had participated in the initial drilling and operation.

(4) A nonconsenting owner of a tract in a development unit which is not subject to any lease or other contract for the development thereof for oil and gas shall elect within fifteen days of the issuance of the pooling order or such further time as the department shall, in the order, allow:

(a) To be treated as a nonconsenting owner as provided in subsections (2) and (3) of this section and is deemed to have a basic landowners' royalty of one-eighth, or twelve and one-half percent, of the production allocated to the tract, unless a higher basic royalty has been established in the development unit. If a higher royalty has been established, then the nonconsenting owner of a nonleased tract shall receive the higher basic royalty. This presumed royalty shall exist only during the time that costs and expenses are being recovered under subsection (2) of this section, and is intended to assure that the owner of a nonleased tract receive a basic royalty free of all costs at all times. Notwithstanding anything herein to the contrary, the owner shall at all times retain his or her entire ownership of the property, including the right to execute an oil and gas lease on any terms negotiated, and be entitled to all production subject to subsection (2) of this section; or

(b) To grant a lease to the operator at the current fair market value for that interest for comparable leases or interests at the time of the commencement of drilling; or

(c) To pay his or her pro rata share of the costs of the well or wells in the development unit and receive his or her pro rata share of production, if any.

A nonconsenting owner who does not make an election as provided in this subsection is deemed to have elected to be treated under (a) of this subsection. [1994 sp.s. c 9 s 833; 1983 c 253 s 19; 1951 c 146 s 27.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.