

Chapter 78.22 RCW
EXTINGUISHMENT OF UNUSED MINERAL RIGHTS

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RCW 78.22.010 Extinguishment of unused mineral rights authorized. Any mineral interest, if unused for a period of twenty years, may be extinguished by the surface owner as set forth in RCW 78.22.050 and 78.22.060. [1984 c 252 § 1.]

RCW 78.22.020 "Mineral interest" defined. A mineral interest means the interest which is created by an instrument transferring, either by grant, assignment, or reservation, or otherwise an interest, of any kind, in any subsurface mineral. [1984 c 252 § 2.]

RCW 78.22.030 Acts constituting use of mineral interest. A mineral interest is used if:

- (1) Any minerals produced have been in connection with the mineral interest;
- (2) Operations for injection, withdrawal, storage or disposal of water, gas, or other fluid substances have been conducted in connection with the mineral interest;
- (3) Rents or royalties have been paid for the purpose of delaying or enjoying the use or exercise of the mineral interest;
- (4) The use or the exercise of the mineral interest has been carried out on any tract with which the mineral interest may be unitized or pooled for production purposes;
- (5) In the case of coal or other solid minerals, minerals have been produced from a common vein or seam;
- (6) Taxes have been paid on such mineral interest;
- (7) Any use pursuant to or authorized by the instrument creating such mineral interest has been taken;
- (8) A sale, lease, mortgage, or other transfer of the mineral interest has been recorded in the county auditor's office in the county in which the land affected by the mineral interest is located prior to the end of the twenty-year period set forth in RCW 78.22.010 or within two years after June 7, 1984, whichever is later; or
- (9) A statement of claim has been filed by the owner of the mineral interest in the manner set forth in RCW 78.22.040 or 78.22.060. [1984 c 252 § 3.]

RCW 78.22.040 Statement of claim—Contents—Fees—Filing. The statement of claim referred to in RCW 78.22.030(9) shall be filed by the current owner of the mineral interest prior to the end of the twenty-year period set forth in RCW 78.22.010 or within two years after June 7, 1984, whichever is later. The statement of claim shall contain the name and address of the current owner of such interest, and the name of the original holder of the mineral interest substantially as that name is shown on the instrument that originally created the mineral interest and shall be accompanied by payment of the fees provided in RCW 36.18.010.

The statement of claim shall be filed in the county auditor's office in the county in which such land affected by the mineral interest is located. [1984 c 252 § 4.]

RCW 78.22.050 Extinguishment of mineral interest—Procedure.

(1) After the later of the expiration of the twenty-year period set forth in RCW 78.22.010 or two years after June 7, 1984, the surface owner may extinguish the mineral interest held by another person and acquire ownership of that interest by providing sixty days notice of intention to file a claim of abandonment and extinguishment of the mineral interest upon the current mineral interest owner. Notice shall be served by personal service or by mailing the notice by registered mail to the last known address of the current mineral interest owner. The county treasurer shall supply the name and address of the current mineral interest owner as they appear on the county property tax records to the surface owner without charge. If the current mineral interest owner is unknown to the county treasurer, and the current mineral interest owner cannot be determined after due diligence, the surface owner may serve the notice upon the current mineral interest owner by publishing the notice at least once each week for three consecutive weeks in a newspaper of general circulation published in the county in which the property interest is located, and if there is no newspaper of general circulation in the county, then in a newspaper of general circulation published in an adjoining county, and if there is no such newspaper in an adjoining county, then in a newspaper of general circulation published at the capital of the state.

(2) The notice of intention to file a claim of abandonment and extinguishment shall contain:

- (a) The name and address, if known, of the holder of the mineral interest, as shown of record;
- (b) A reference to the instrument originally creating the mineral interest, including where it is recorded;
- (c) A description of the lands affected by the mineral interest;
- (d) The name and address of the person giving notice;
- (e) The date of the first publication of the notice if notice is by publication; and

(f) A statement that a claim of abandonment and extinguishment of the mineral interest will be filed upon the expiration of a period of sixty days after the date of the last publication or the date service was perfected by personal service or registered mail on the current mineral interest owner, unless the current mineral interest owner files a statement of claim of mineral interest in the form prescribed in RCW 78.22.040.

(3) A copy of the notice of intention to file a claim of abandonment and extinguishment and an affidavit of publication shall

be submitted to the county auditor within fifteen days after the date of the last publication or the date service was perfected by personal service or registered mail on the current mineral interest owner.

(4) The affidavit of publication shall contain either:

(a) A statement that a copy of the notice has been personally served upon or mailed to the owner of the current mineral interest and the address to which it was mailed; or

(b) If a copy of the notice was not mailed, a detailed description, including dates, of the efforts made to determine with due diligence the address of the current owner of the mineral interest. [1984 c 252 § 5.]

RCW 78.22.060 Presumption of extinguishment—Conditions—

Statement of claim—Filing, recording, indexing. Upon payment of fees provided in RCW 36.18.010, and if the surface owner files the claim of abandonment and extinguishment, together with a copy of the notice and the affidavit of publication, as required in RCW 78.22.050, in the county auditor's office for the county where such interest is located then the mineral interest shall be conclusively presumed to be extinguished.

If a statement of claim of mineral interest is filed by the current mineral interest owner within the sixty-day period provided in RCW 78.22.050, together with payment of fees provided in RCW 36.18.010, the county auditor shall record, index, and make special notation in the index of the filing. [1984 c 252 § 6.]

RCW 78.22.070 Statement of claim—Notice and affidavit of

publication—Auditor's duties. Upon receipt, the county auditor shall record a statement of claim or a notice and affidavit of publication in the dormant mineral interest index. When possible, the auditor shall also indicate by marginal notation on the instrument originally creating the mineral interest the recording of the statement of claim or notice and affidavit of publication. The county auditor shall record a statement of claim by cross-referencing in the dormant mineral interest index the name of the current owner of the mineral interest and the name of the original holder of the mineral interest as set out in the statement of claim. [1984 c 252 § 7.]

RCW 78.22.080 Exemptions from claim of abandonment and

extinguishment. Mineral interests retained or owned by any public entity or mineral interests resulting from land exchanges between public and private owners shall not be subject to a claim of abandonment and extinguishment. [1984 c 252 § 8.]

RCW 78.22.090 Waiver prohibited.

The provisions of this chapter may not be waived at any time prior to the expiration of the twenty-year period under RCW 78.22.010. [1984 c 252 § 9.]