

Colorado Oil & Gas Association & Colorado Petroleum Council
Summary of Statutory Pooling

Rule of Capture

Oil and gas development in the United States began under a common law doctrine called the “rule of capture.” Every mineral owner, no matter how small its parcel of land, had the right to drill its own well and “capture” whatever oil and gas it could drain. In 1935, six states, including Colorado, established the Interstate Oil and Gas Compact in order to reduce surface impacts from untrammelled development and produce oil and gas more efficiently. These states adopted regulations to limit drilling through the formation of “spacing units.” Spacing units allow only a specified number of wells, and generally prescribe the location of such wells. For example, wells are set back from spacing unit boundaries so as not to drain oil and gas from adjoining lands. Because drilling is restricted, not every mineral owner in a spacing unit is allowed to drill a well on its parcel of land.

Establishment of Spacing Units/Well Density

The purpose of a spacing unit is to establish a specific area of land from which the underlying hydrocarbons can be efficiently developed in an integrated fashion. In recent years, many spacing units have been designed to accommodate multiple (often horizontal) wells on a limited number of well pads. This pattern of development reduces surface impacts and provides economic scale that enables use of best management practices such as vapor recovery systems and pipelines. Lessees and unleased mineral owners (each a “working interest” owner) receive notice of an Operator’s intent to establish a spacing unit and have standing to participate in COGCC review of the spacing application.

Multiple Owners in a Spacing Unit = Need to Utilize Pooling

- Upon establishment of a spacing unit, an operator must offer the other working interest owners the opportunity to participate in development of the unit. Such participation is either by partnering in the drilling program, or in the case of an unleased mineral owner, granting a lease to the operator.
- If an operator cannot obtain voluntary participation, statutory pooling is used to integrate the various interests in the spacing unit.
- All interest owners in a spacing unit receive notice of the application to pool the unit, and have standing to participate in the COGCC review process.
- Once the spacing unit is pooled, the operator is granted the right to recover 200% of drilling costs from the proportionate share of non-participating owners. This “risk penalty” compensates the operator for shouldering the burden of expending its capital on behalf of the non-participating owners. If the operator drills a dry hole or loses a well for mechanical reasons, it cannot recoup its losses from the non-participating parties.
- An unleased mineral owner is entitled by statute to a 12.5% “deemed” landowner royalty during the cost recovery period. After cost recovery is achieved, all the non-participating owners are treated as working interest owners just as if they had participated in the drilling project from the start.

Statutory Pooling is Not Condemnation or a Taking

- There is a misconception that a statutory pooling order from the COGCC results in a “taking” of a non-participating mineral owner’s interest. This is not the case. The unleased mineral owner retains ownership of 100% of its mineral interest at all times and is free to sell its mineral interests. The same is true with respect to leased (working interest) owners. And, as mentioned above, the unleased mineral owner is granted a statutory royalty while the operator is recovering those costs it advanced for the mineral owner’s benefit.

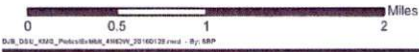


B Bill Barrett Corporation

Exhibit 1

Legend

- Lost Crk-Windmill Bore
- DJ Basin Pad Locations
- DJ Basin Pipelines
- EXISTING
- PROPOSED
- Approved
- Existing
- Proposed



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