

**Compulsory Pooling Study Group** chaired by Ray Covington. May 31, 2013 (MEC members:  
Jim Womack, Charles Holbrook)

*A subset of the Study Group will meet during the summer to tackle procedural issues and draft recommendations. All Study Groups report to full Mining & Energy Commission and are "finalizing" their recommendations to present to the Legislature by October 2013. Study Groups have numerous "invited" members representing various government sectors, public and private interests.*

- A) What members do not agree on:
  - a. Whether "unleased" owners "should" be compelled into a drilling unit (pool).
  - b. The percentage of owners (*tied to acreage?*) who must "agree" to be in the drilling unit before a pooling order can be issued...51%? 75%? 80%
- B) What members appear to agree on:
  - a. "Leased" owners can be compelled into a drilling unit (pool).
  - b. Operator must make a "fair and reasonable offer" to unleased owner (define "reasonable") before making a pooling request.
  - c. Cost sharing in production costs:
    - (1) Compelled owner can sign contract and "become" a participating owner
    - (2) Compelled owner can surrender "working interest" to operator in exchange for royalties
    - (3) Compelled owner assigned a "risk penalty" to cover their portion of costs of drilling, equipping, operating the well into production stage...up to 200%.

Time limitation on "pooling" order:

- (1) Expires one year after effective date if nothing happened
- (2) Dissolved six months after completion of dry hole
- (3) Dissolved six months after cessation of production

- C) Notification to surface owners about "subsurface entry": Existing law does not have any notification requirements. Possible recommendations: When operator seeks a "pooling order" from MEC, all mineral rights owners, all surface owners of compelled interests, as well as each mortgage lien holder on those compelled properties, as recorded with County Register of Deeds, would receive a notice of this order.
- D) Reporting on gas production to "compelled" mineral owners and mortgage lien holders. Possible recommendations: Provide sufficient identification information and calculation information so owners can determine if they are receiving "proper share"

of payments. Owners should have the right to audit “source” records used by the operator.

- E) Indemnification. Recommendations: Unleased owners should have NO liability, and have the “right” to indemnification for their own injuries and damaged economic interests. Leased owners should be indemnified through the terms of their joint operating agreement OR original lease, whichever indemnification is greater. If unleased owner chooses a “working interest,” then offer indemnification (same as “leased owner”) in the options approach.
  
- F) Any pooling order issued should include language to “require” the operator to pay to defend the unleased land owner if sued for damages by a third party.

*Diana Hales, retired*