# Oklahoma Pooling

The Corporation Commission forced pooling process · 52 O.S. § 87.1

## What pooling is

Oklahoma spacing rules generally allow only one well to be drilled and produced from a drilling and spacing unit until additional wells are authorized. Before an operator can drill, it has to bring the other owners in the unit into the well, either by lease or by joint operating agreement. When one or more owners will not lease and will not voluntarily join, the operator asks the Corporation Commission to force pool the unit. A pooling order compels every named owner either to participate in the well or to take a cash settlement, so a small holdout cannot block development. The authority is 52 O.S. § 87.1, and the procedure is set by the Commission's Oil and Gas Conservation rules in OAC 165:5 (pooling at 165:5-7-7, horizontal wells at 165:5-15-3).

Pooling follows spacing. A drilling and spacing unit has to exist first, or be applied for at the same time, because the pooling order distributes costs and revenue across the acreage in that unit.

## Before filing

The proposed operator has to make a good faith effort to lease or reach agreement with each owner it intends to pool, and it has to be able to show the Commission that a bona fide offer was made before the application is heard. The applicant prepares an Authority for Expenditure (AFE) setting out the estimated dry hole and completed well costs, and it develops the fair market value of the mineral interest from recent arm's length lease bonuses and royalties in the section and the eight sections surrounding it. Indian and State leases are not counted in that value. The applicant supports both the costs and the value by testimony at the hearing.

## Who can and cannot be pooled

| Interest | Treatment |
|---|---|
| **Can be pooled** | Working interest owners who have not agreed to participate, and mineral owners who have not leased, who cannot be located, who are deceased with unknown heirs, or who declined the operator's offer. |
| **Cannot be pooled** | Overriding royalty interests, restricted Indian minerals, and State-owned minerals fall outside the pooling and are not bound by the order. |

## The process

| Step | What happens |
|---|---|
| **Application filed** | The operator files a pooling application with the Commission and names every respondent owner on Exhibit A. The application identifies the unit, the common source of supply, and the relief requested, and asks for a pooling term, commonly 180 or 365 days, within which the well must be commenced. |

| Step | What happens |
| --- | --- |
| **Notice** | Respondents are served by restricted mail at least 15 days before the hearing, and notice is published at least 15 days ahead in Oklahoma County and in the county where the unit sits. Owners who cannot be located are covered by publication after a documented search. |
| **Hearing** | An Administrative Law Judge hears the application, confirms notice was proper, and takes testimony on the AFE costs, on fair market value drawn from arm's length lease transactions in and around the unit, and on any owner's objection. |
| **Pooling order** | The Commission issues an order that fixes the election options, the amounts, and the deadlines. The order binds every named owner whether or not they appeared, and the applicant mails it to each respondent within a few days, filing an affidavit of mailing. |
| **Election** | Each pooled owner elects one option in writing within the time the order sets, commonly 20 calendar days from the date of the order. If the deadline falls on a Sunday or holiday it runs to the next mailing day, and a U.S. postmark fixes the date. An owner who does not elect is bound by the default the order specifies. |
| **Payment** | Cash owed to owners who take a bonus option is tendered within the window the order sets, commonly around 35 days from the order. |
| **Protest and appeal** | A respondent may protest before or at the hearing, which moves the case to the protest docket. After the order, a party who objects may seek review by a Commission referee, then by the Commission sitting en banc, and ultimately by appeal to the Oklahoma Supreme Court. |

## Election options in a pooling order

A pooling order gives each pooled owner a choice between joining the well and being cashed out. The exact options and dollar figures are set in each order. They usually look like this.

| Option | What the owner gets |
| --- | --- |
| **Participate** | The owner joins the well as a working interest owner, pays a proportionate share of drilling and completion costs, and keeps a full working interest share of production. This is the option that keeps the upside, and the risk. |
| **Highest bonus, lowest royalty** | A larger cash bonus per net mineral acre paired with the lowest royalty offered in the order. The owner is treated as leased at that royalty and takes no part in costs. |
| **Higher royalty, little or no bonus** | A larger royalty, typically with a smaller cash bonus or none. The owner again takes no part in costs. The order sets each royalty tier and the bonus that goes with it. |
| **No election** | An owner who does not elect within the deadline is deemed to have accepted the option the order names as the default, usually the lowest cash bonus at the base royalty. The owner does not get to participate after the deadline passes. |

## Key terms

| Term | Meaning |
|---|---|
| **Drilling and spacing unit** | The tract the Commission establishes as the area to be developed by a well for a common source of supply. Costs and revenue in a pooling order are shared across this unit, and an owner shares in proportion to net acres in the unit wherever in the unit the well is drilled. |
| **Respondent / Exhibit A** | Every owner the operator seeks to pool is a respondent, named on the exhibit attached to the application. If an owner is left off, the order does not bind that owner's interest. |
| **Administrative Law Judge** | The Commission hearing officer who takes evidence on the application and recommends the order. |
| **Participate / carried** | To participate is to pay costs and hold a working interest. An owner who does not participate is carried, meaning cashed out under a bonus and royalty option instead. |
| **Force pooled** | Bound by the order without having signed a lease. A force pooled owner still owns the interest; the order fixes how that interest is paid. |

## Horizontal and multiunit wells

Oklahoma pooling works on a unit-wide basis, not well by well. An amendment effective May 20, 2022 lets a multiunit horizontal well overlay the smaller vertical units in the same section and formation, and it lets an election made under one pooling order carry over to bind the same owner under a later order for a horizontal well in that formation. In practice, an owner who elected not to participate in an earlier vertical well in a formation may have no new election right when a horizontal well is later drilled in that same formation under a different spacing unit and order. The rule reaches back to orders issued before May 20, 2022. The authority is 52 O.S. § 87.1(g) for multiunit horizontal wells and § 87.1(h) for the carryover of legacy elections, and the pooling affidavit is filed under § 87.4. Several questions about how these carryover elections affect title, assignments, and retained royalty are still unsettled, so read the specific orders and get counsel on a contested carryover.

## Notes for title work

| Topic | Note |
|---|---|
| **The order is a title instrument** | A pooling order affects the ownership and the revenue split in the unit. Pull the order, read Exhibit A, and confirm your owner was named and how that owner elected or defaulted. |
| **Find the affidavit of pooling** | After the election period closes, an affidavit of pooling is filed with the county clerk under 52 O.S. § 87.4 showing how each respondent elected. It is part of the record you check to see how an interest was treated. |
| **Unknown and unlocated heirs** | An operator may pool unknown or unlocated heirs, but the Commission has to be satisfied that a sufficient search was made for the pooling to bind those interests. A thin search leaves a gap as to the missing owner. See James Energy Co. v. HCG Energy Corp., 1992 OK 117. |

| Topic | Note |
|---|---|
| **Money held for missing owners** | Bonus and royalty owed to an owner who cannot be located are placed in the Commission's minerals owners escrow account. Unclaimed funds are held for five years, then turned over to the State as unclaimed property. That is where to trace payment for a pooled owner who never surfaced. |
| **Read the election and the deadline** | The order controls. Note the election period, the default option, and the payment window, and check whether the owner met the deadline, because a missed election changes what the owner receives. |
| **First well versus later wells** | An owner who is carried on the first well cannot participate in later wells drilled under the same order. New wells beyond the order's terms require their own relief. |
| **Life of the order** | A pooling order terminates if the well is not commenced within the term it sets. Non-production later does not end it automatically; a separate application is needed to vacate it. |
| **Pooling does not cure bad title** | A pooling order settles development and payment. It does not fix a broken chain of title or a missing conveyance. Curative still has to be worked separately. |

> This reference is prepared for use by landmen and title professionals as a working field tool. It is not legal advice and does not substitute for the advice of qualified Oklahoma oil and gas counsel. Pooling practice at the Corporation Commission turns on the facts of each application and on rules and case law that change over time, and contested matters should be handled by a licensed Oklahoma attorney. Statute and rule citations are to 52 O.S. § 87.1 and the Commission's Oil and Gas rules (OAC 165:5); verify against the current text and the specific pooling order.