

110000745

Instrument prepared by:

**VIRGINIA GAS AND OIL BOARD**

Order recorded under:

**CODE OF VIRGINIA  
§ 45.1-361.26**

**VIRGINIA:**

**BEFORE THE GAS AND OIL BOARD**

CNX Gas Company LLC on behalf of Harrison-Wyatt LLC and Dorlis Cook and Arron Cook; Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust; Harrison-Wyatt LLC and Rachel Cook .

**DOCKET NO.**

**90-0906-0017-01**

**APPLICANTS:**

**RELIEF SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds  
Action: Amending Prior Orders Affecting Drilling X-11. Tracts 3A, 3B and 3C  
(Referenced herein as "the Subject Drilling Unit")

Location: Buchanan County, Virginia

**Action Details:**

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit X11 by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling

**REPORT OF THE BOARD**

**FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on January 18, 2011 at the Russell County Government Complex, Conference Center, and 139 Highland Drive, Lebanon, VA.
2. **Appearances:** Mark A. Swartz, Esq. Swartz Law Offices PLLC appeared for the Unit Operator; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract subaccounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. The Board finds that: (1) while it **does not** have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it **does not** have jurisdiction to interpret agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, **the Board does have jurisdiction and authority to disburse funds from the Escrow Account** provided the Board has been provided with a final decision

of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein.

4. **Prior Proceedings**

- 4.1 (a) On October 17, 1990 the Board executed its order pooling interests in the Subject Drilling Unit. The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on October 26, 1990 in Deed Book 366, Page 429 to 448.  
(b) On May 5, 1993 the Board executed its Supplemental Order. The Supplemental Order was recorded with the Clerk of the Court of Buchanan County on June 10, 1993 at Deed Book 409, Pages 362 to 366.
- 4.2 To the extent claims to the gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, Harrison-Wyatt LLC and Dorlis Cook and Arron Cook; Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust; Harrison-Wyatt LLC and Rachel Cook in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order
- 4.3 The Unit Operator's Miscellaneous Petition regarding Tracts 3A, 3B and 3C, a copy of which is attached to and made a part hereof, states under oath that the Applicants have entered into an agreement with regards to Tracts 3A, 3B and 3C and that by the terms of the agreements escrow regarding these individual conflicting claims detailed herein is no longer required for these parties.
- 4.4 The Unit Operator gave notice to Harrison-Wyatt LLC and Dorlis Cook and Arron Cook; Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust; Harrison-Wyatt LLC and Rachel Cook that the Board would consider its disbursement authorization at its hearing on January 18, 2011 and consider whether to: (1) amend the Pooling Order to provide for the disbursement of funds on deposit in the Escrow Account attributable to Tracts 3A, 3B and 3C identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to Tract 3A, 3B and 3C for the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) close the escrow account under this docket number because there are no other parties subject to escrow.
- 4.5 The Unit Operator filed the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

4. **Findings:**

5.1. Va. Code 45.1-361.22.5 provides:

*The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.*

5.2 Applicant has certified and represented to the Board that:

- (1) Harrison-Wyatt LLC and Dorlis Cook and Arron Cook; Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust; Harrison-Wyatt LLC and Rachel Cook are the owners of the coal and gas acreage estate underlying Tracts 3A, 3B and 3C of the Subject Drilling Unit;

(2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement  
VGOB-900906-0017-01  
X-11

	Frac Interest	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
<b>Table 1</b>					
<b>3A, 3B, 3C</b>					
Tract					
<b>Disbursement Table</b>					
Totals				17.75000	
Harrison-Wyatt LLC		14.5800			
3A Harrison-Wyatt LLC / PO Box 11000 / Danville, VA 24543	1	14.5800	50.0%	7.290	41.0704%
Doris Cook et al					
3A Doris Cook, 23274 Golden View Dr., Abingdon, VA 24211	1/2	7.2900	50.0%	3.645	20.5352%
3A Aaron D. Cook, 515 Maplewood Dr., Vinton, VA 24179	1/2	7.2900	50.0%	3.645	20.5352%
Harrison-Wyatt LLC		1.6700			
3B Harrison-Wyatt LLC / PO Box 11000 / Danville, VA 24543		1.6700	50.0%	0.835	4.7042%
Morgan Living Trust					
3B Morgan Living Trust, C/O Ethel Morgan, 1093 Poe Town St., Grundy, VA 24614	5/6	1.3917	50.0%	0.696	3.9202%
3B Naaman J. Morgan Trust, c/o Carl Puckett, Trustee, 513 State St., Bristol, VA 24203	1/6	0.2783	50.0%	0.139	0.7840%
Harrison-Wyatt LLC		1.5000			
3C Harrison-Wyatt LLC / PO Box 11000 / Danville, VA 24543	1	1.5000	50.0%	0.750	4.2254%
3C Rachel Cook, P. O. Box 91, Vansant, VA 24656	1	1.5000	50.0%	0.750	4.2254%

5. **Relief Granted:**

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, **and**, because there are no other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to **CLOSE** the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

6. **Conclusion:**

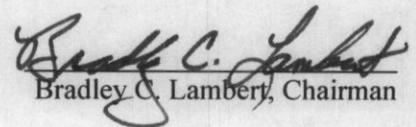
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

7. **Appeals:**

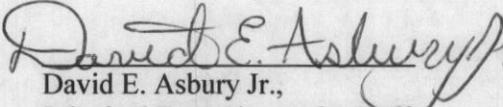
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

8. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 16 day of March, 2011 by a majority of the Virginia Gas and Oil Board.

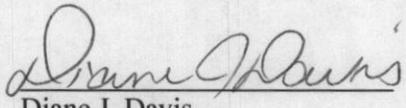
  
Bradley C. Lamber, Chairman

DONE AND PERFORMED this 16<sup>th</sup> day of March, 2011 by an Order of this Board.

  
David E. Asbury Jr.,  
Principal Executive to the Staff  
Virginia Gas and Oil Board

**COMMONWEALTH OF VIRGINIA )  
COUNTY OF RUSSELL )**

Acknowledged on this 16<sup>th</sup> day of March, 2011, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Diane J. Davis  
Notary Public #174394

My commission expires: 09 / 30 / 2013



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL  
DOCKET NO: VGOB 90-0906-0017-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM ESCROW REGARDING TRACT(S) 3A, 3B, and 3C (2) AND VACATE ORDER, DUE TO ALL PARTIES BEING LEASED AND ALL CONFLICTS RESOLVED (Royalties currently being paid under VP8SGU3, VGOB 06-0321-1598)

HEARING DATE: December 14, 2010

DRILLING UNIT: X-11

BUCHANAN COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Blvd., Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.
2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 3A, 3B, and 3C as depicted upon the annexed Exhibit A-1; and (2) Vacate current order due to all parties being leased and all conflicts resolved. (Royalties currently being paid under VP8SGU3, VGOB 06-0321-1598)
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.
4. **Type of well(s):** Coalbed methane.
5. **Factual basis for relief requested:** Harrison-Wyatt LLC and Dorlis Cook and Arron Dorlis Cook; Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust; Harrison-Wyatt LLC and Rachel Cook have entered into a royalty split agreement. The annexed Exhibit A-1, further, specifies how said royalties are to be divided and paid. Exhibits B-2 & B-3 dismisses all parties previously pooled necessary to Vacate the Order.
6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC  
BY IT'S PROFESSIONAL MANAGER  
CNX GAS COMPANY LLC, PETITIONER

By: \_\_\_\_\_

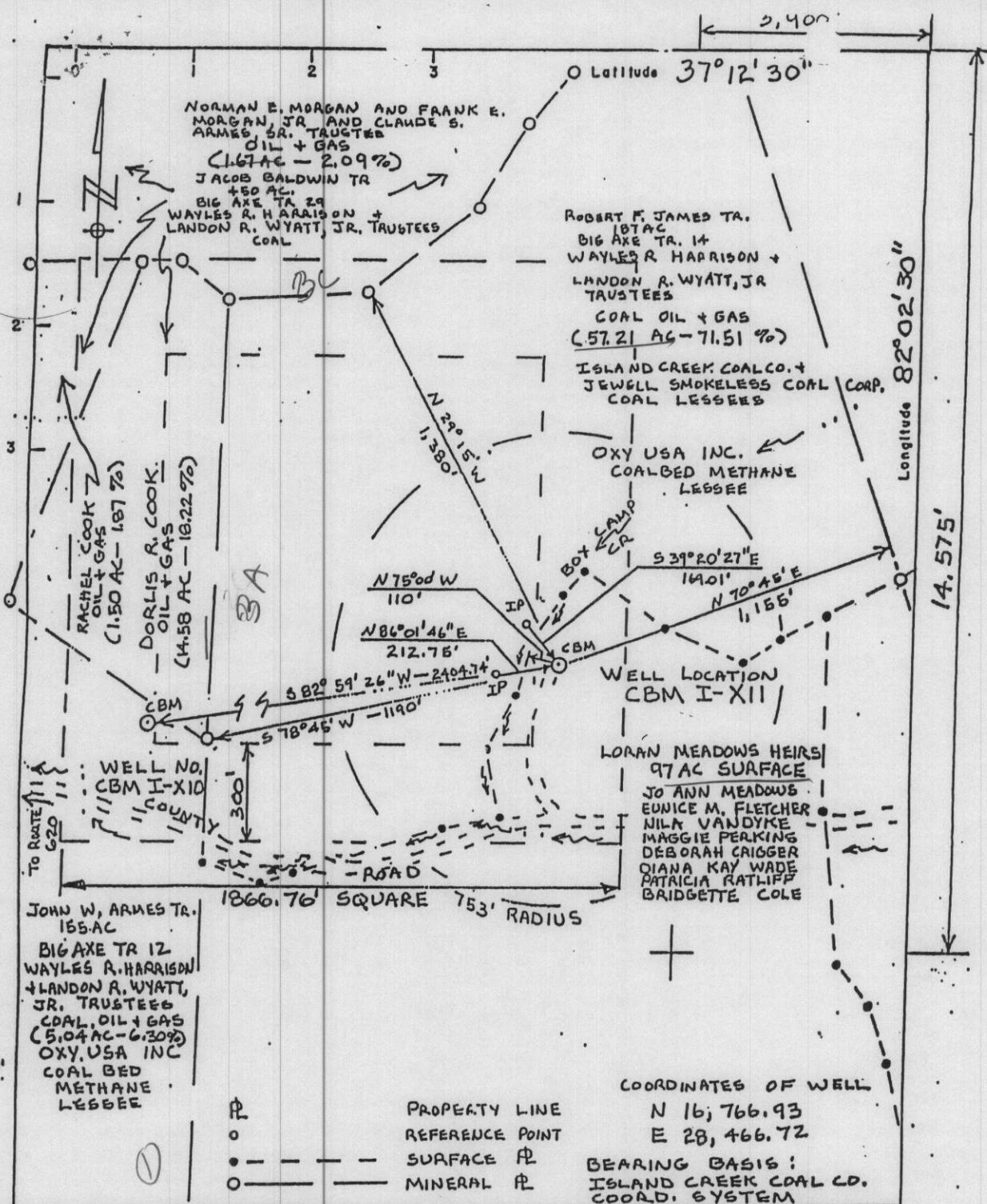
*Anita D. Duty*  
Anita D. Duty  
Pooling Supervisor  
CNX Gas Company LLC  
2481 John Nash Blvd.  
Bluefield, West Virginia 24701



Exhibit B-2  
Unit X-11  
VGOB #: 90-0906-0017-01  
List of all Owners/Claimants to be Dismissed

	Acres in Unit	Percent of Unit	Interest in 5-West 24.70025%	Interest in 6-West 13.99913%	Reason for Dismissal
<b>II. OIL &amp; GAS OWNERSHIP</b>					
<b><u>Tract #3A, 14.58 Acres</u></b>					
(1) Dorlis Cook, et al	14.58 acres	18.2250%	4.50162%	2.55134%	
(a) Dorlis Cook 23274 Golden View Drive Abingdon, VA 24211	7.29 acres 1/2 of 14.58 acres	9.1125%	2.25081%	1.27567%	Leased
(b) Arron Dorlis Cook 515 Maplewood Drive Vinton, VA 24179	7.29 acres 1/2 of 14.58 acres	9.1125%	2.25081%	1.27567%	Leased
<b><u>Tract #3B, 1.67 Acres</u></b>					
(1) Morgan Living Trust, et al. (N. Morgan, et al.) <i>(ICCC Tr. 215 - 450.00 Acre Tract)</i>	1.67 acres	2.0875%	0.51562%	0.29223%	
(a) Morgan Living Trust c/o Ethel V. Morgan 1093 Poe Town St. Grundy, VA 24614-9613	1.39 acres 5/6 of 1.67 acres	1.7396%	0.42968%	0.24353%	Leased
(b) Naaman J. Morgan Trust Carl Puckett, Trustee 513 State Street Bristol, VA 24203-0129	0.28 acres 1/6 of 1.67 acres	0.3479%	0.08594%	0.04871%	Leased
<b><u>Tract #3C, 1.50 Acres</u></b>					
(1) Rachel Cook P.O. Box 91 Vansant, VA 24656	1.50 acres	1.8750%	0.46313%	0.26248%	Leased

LP



COMPANY OXY USA INC  
 ADDRESS DRAWER Q, RICHLANDS, VA 21641  
 WELL NAME CBM I-XII  
 FARM BIG AXE TRACT #14  
 LEASE NO.            ELEVATION 1805.21  
 ACRES 187 QUADRANGLE VANSEANT  
 COUNTY BUCHANAN DISTRICT SOUTH GRUNDY  
 REG. ENGINEER VA REG. NO. 8540  
 CERT. LAND SURVEYOR            CERT. NO.             
 FILE NO. I-6 DRAWING NO.             
 DATE 07-12-90 SCALE 1" = 400'  
 This plat is  new  updated  
 This plat  is  is not based on a mine  
 coordinate system established for the areas  
 of the well location.

FORM 5

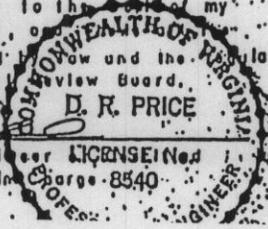
**WELL LOCATION MAP**  
 WELL NO. CBM I-XII

+ Denotes location of well on United States  
 Topographic Maps, scale 1 to 24,000, lat-  
 itude and longitude lines being represented  
 by border lines as shown.

**CERTIFICATION OF WELL PLAT**

I, the undersigned, hereby certify that  
 this plat is correct to the best of my  
 knowledge and belief, and that the  
 information required by the regulations  
 of the Va. Well Review Board.

D.R. PRICE  
 Registered Engineer LICENSE No. 8540  
 Land Surveyor in Charge



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Exhibit B-3  
Unit X-11  
Docket # VGOB - 90-0906-0017-01  
List of Unleased Owners/Claimants

Acres in Unit	Percent of Unit	Interest in 5-West	Interest in 6-West
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This unit is 100% Leased

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Exhibit E  
Unit X-11  
Docket # VGOB - 90-0906-0017-01  
List of Conflicting Owners/Claimants that require escrow

Acres in Unit	Percent of Unit	Interest in 5-West 24.70025%	Interest in 6-West 13.99913%
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Escrow Account is no longer required, all conflicts have been resolved

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Exhibit EE  
Unit X-11  
Docket # VGOB - 90-0906-0017-01  
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Percent of Unit	Interest in 5-West 24.70025%	Interest in 6-West 13.99913%	Percent of Escrow
<b><u>Tract #3A, 14.58 Acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1) Harrison-Wyatt, L.L.C. P.O. Box 11000 Danville, VA 24543	14.58 acres	18.2250%	4.50162%	2.55134%	41.0704%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1) Dorlis Cook, et al	14.58 acres	18.2250%	4.50162%	2.55134%	
(a) Dorlis Cook 23274 Golden View Drive Abingdon, VA 24211	7.29 acres 1/2 of 14.58 acres	9.1125%	2.25081%	1.27567%	20.5352%
(b) Arron Dorlis Cook 515 Maplewood Drive Vinton, VA 24179	7.29 acres 1/2 of 14.58 acres	9.1125%	2.25081%	1.27567%	20.5352%
<b><u>Tract #3B, 1.67 Acres</u></b>					
<b><u>COAL OWNERSHIP</u></b>					
(1) Harrison-Wyatt, L.L.C. P.O. Box 11000 Danville, VA 24543	1.67 acres	2.0875%	0.51562%	0.29223%	4.7042%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>					
(1) Morgan Living Trust, et al. (N. Morgan, et al.) (ICCC Tr. 215 - 450.00 Acre Tract)	1.67 acres	2.0875%	0.51562%	0.29223%	
(a) Morgan Living Trust c/o Ethel V. Morgan 1093 Poe Town St. Grundy, VA 24614-9613	1.39 acres 5/6 of 1.67 acres	1.7396%	0.42968%	0.24353%	3.9202%
(b) Naaman J. Morgan Trust Carl Puckett, Trustee 513 State Street Bristol, VA 24203-0129	0.28 acres 1/6 of 1.67 acres	0.3479%	0.08594%	0.04871%	0.7840%

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**Tract #3C, 1.50 Acres**

**COAL OWNERSHIP**

(1) Harrison-Wyatt, L.L.C.  
P.O. Box 11000  
Danville, VA 24543

1.50 acres

1.8750%

0.46313%

0.26248%

4.2254%

**OIL & GAS OWNERSHIP**

(1) Rachel Cook  
P.O. Box 91  
Vansant, VA 24656

1.50 acres

1.8750%

0.46313%

0.26248%

4.2254%

INSTRUMENT #110000745  
RECORDED IN THE CLERK'S OFFICE OF  
BUCHANAN COUNTY ON  
3-30-11 AT 11:00 AM  
BEVERLY S. TILLER, CLERK  
RECORDED BY: DA

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