

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****APPLICANTS:**

CNX Gas Company on behalf of Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust in Tract 1 of unit V-12.

DOCKET NO.**91-0618-0134-01****RELIEF SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds

Action: Amending Prior Orders Affecting Drilling Unit V-12, Tract 1 (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 V-12 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 Unit's Escrow Subaccount for **VGOB Tract(s) identified in Table 1.**

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 Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark A. Swartz of Swartz Law Offices appeared for the Applicant; 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 or a decision from a court appointed Arbitrator.

4. **Prior Proceedings:**

- 4.1 On July 19, 1991 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 July 19, 1991 in Deed Book 377, Page 432. The Supplemental Order was executed and recorded in with the Clerk of the Court, Buchanan County on July 13, 1992 in Deed Book 394, Page 710.
- 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, the coal ownership interests of Harrison-Wyatt LLC and the gas ownership interest of the Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust, were in conflict and became subject to the escrow requirements of the Pooling Order in the Subject Drilling Unit relative Tract 1.
- 4.3 The Unit Operator's Miscellaneous Petition regarding Tract 1, a copy of which is attached to and made a part hereof, states under oath that funds for Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust should be disbursed for Tract 1, and escrow regarding this individual claim detailed herein, is no longer required and monthly royalty payments are to be made direct to the parties based on the royalty split agreement (50% / 50%) between the parties herein described.
- 4.4 The Unit Operator gave notice to Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust 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 a portion of funds on deposit in the Escrow Account attributable to Tract 1, as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 1, the interests of Applicant 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 (Exhibit A) for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **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 Morgan Living Trust, et al including Morgan Living Trust and Naaman J. Morgan Trust are the owners of the gas and oil acreage estate underlying 56.407 acres in VGOB Tract 1, of the Subject Drilling Unit; V-12.

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

VGOB Approved Disbursement
 VGOB-91-0618-0134-01
 V-12

			Frac Interest	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
Table 1							
Item	Tract	Disbursement Table					
		Totals				56.40700	
		Harrison-Wyatt LLC		56.4070			
1	1	Harrison-Wyatt LLC / PO Box 11000 / Danville, VA 24543	1	56.4070	50.0%	28.204	50.0000%
		Morgan Living Trust et al					
2	1	Morgan Living Trust / Ethel V Morgan / 1093 Poe Town St / Grundy, VA 24614	5/6	47.0058	50.0%	23.503	41.6667%
3	1	Naaman J. Morgan Trust / Carl Puckett / 513 State Street / Bristol, VA 24203	1/6	9.4012	50.0%	4.701	8.3333%

6. **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.

7. **Conclusion:**

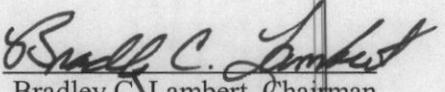
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. **Appeals:**

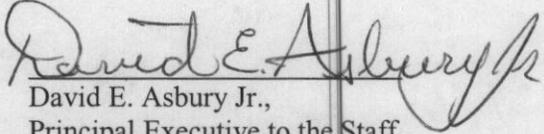
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated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

9. **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. Lambert, Chairman

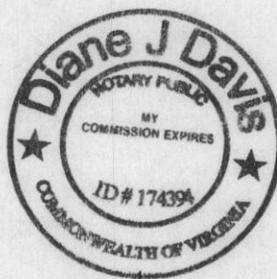
DONE AND PERFORMED this 16 day of March, 2011, by an Order of this Board.

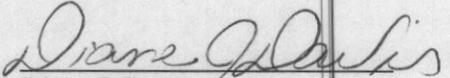

David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF RUSSELL)

Acknowledged on this 16th 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.

My commission expires: 09/30/2013




Diane J. Davis
Notary Public #174394

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 91-0618-0134-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 1
(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

January 18, 2011

DRILLING UNIT: V-12

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) 1 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 Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust 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.

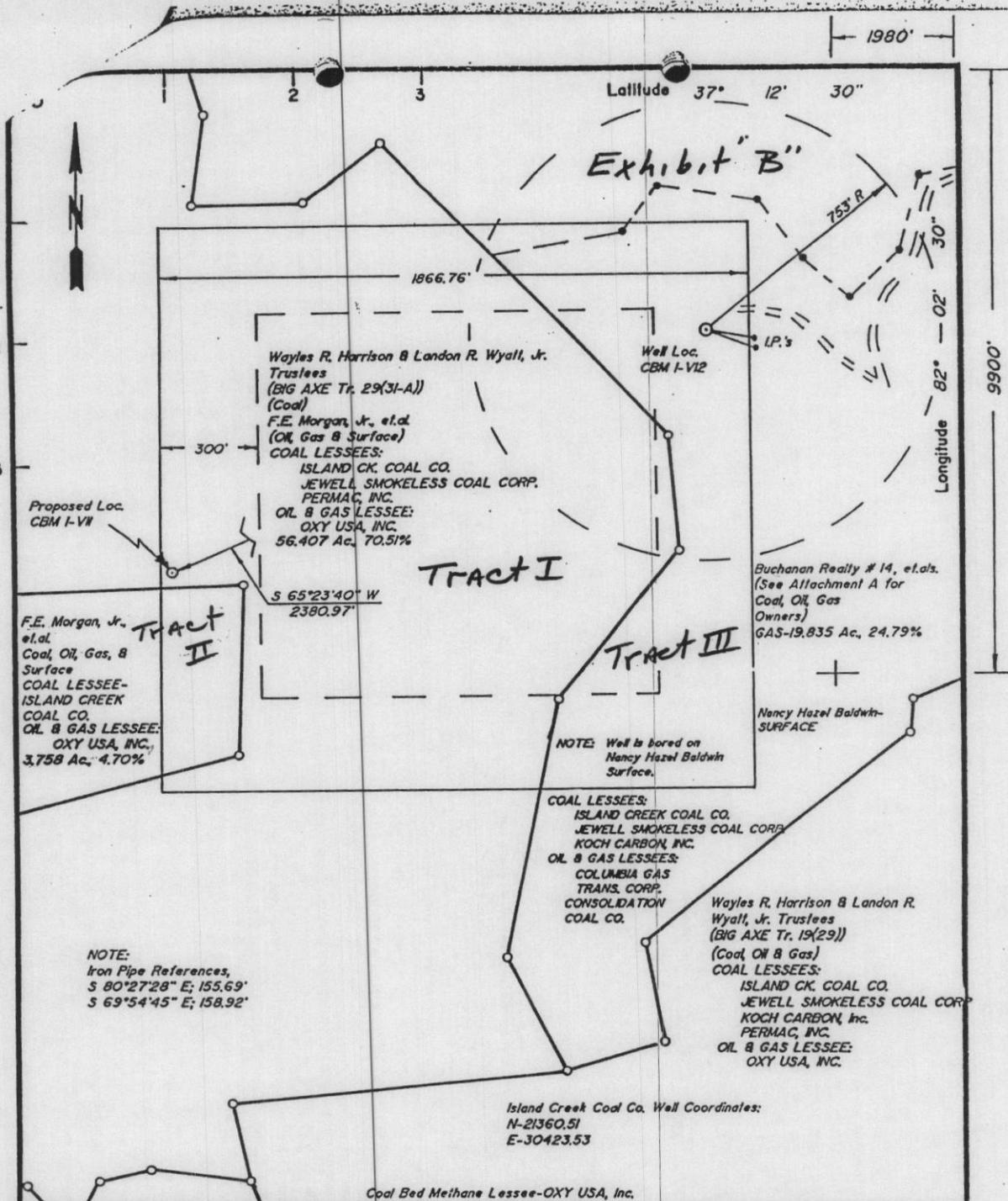
6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

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

By:


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





COMPANY Oxy USA, Inc.

ADDRESS Drawer Q, Richlands, VA 24641

WELL NAME CBM I-VI2

FARM Buchanan Realty TRACT 14

LEASE NO. _____ ELEVATION 2500.21

ACRES 228.74 QUADRANGLE Vansant

COUNTY Buchanan DISTRICT South Grundy

REG. ENGINEER X REG. NO. 6992

CERT. LAND SURVEYOR _____ CERT. NO. _____

FILE NO. _____ DRAWING NO. 2840

DATE April 23, 1991 SCALE 1" = 400'

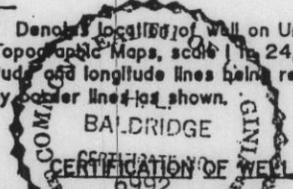
This plat is X new _____ updated

This plat X 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-VI:2

Denotes location of well on United States Topographic Maps, scale 1" = 24,000, latitude and longitude lines being represented by center 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 shows the information required by law and the regulations of the Va. Well Review Board.

A.A. Baldrige
Registered Engineer or Certified Land Surveyor in Charge

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Exhibit B-2
Unit V-12
Docket VGOB# 91-0618-0134-01
List of all Owners/Claimants to be Dismissed

	Acres in Unit	Percent of Unit	Reason for Dismissal
II. OIL & GAS OWNERSHIP			
<u>Tract #1, 56.407 Acres</u>			
(1) Morgan Living Trust, et al. (N. Morgan, et al.) (ICCC Tr. 215 - 450.00 Acre Tract)	56.407 acres	70.5088%	
(a) Morgan Living Trust Ethel V. Morgan 1093 Poe Town St. Grundy, VA 24614-9613	47.006 acres 5/6 of 56.407 acres	58.7573%	Leased
(b) Naaman J. Morgan Trust Carl Puckett, Trustee 513 State Street Bristol, VA 24203-0129	9.401 acres 1/6 of 56.407 acres	11.7515%	Leased

Exhibit B-3
Unit V-12
Docket VGOB# 91-0618-0134-01
List of Unleased Owners/Claimants

Acres in Unit	Percent of Unit
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This unit is 100% Leased

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Exhibit E
Unit V-12
Docket VGOB# 91-0618-0134-01
List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Percent of Unit
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Escrow Account is no longer required, all conflicts have been resolved

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Exhibit EE
Unit V-12
VGOB #: 91-0618-0134-01
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Percent of Unit	Percent of Escrow
<u>Tract #1, 56.407 Acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Harrison-Wyatt, LLC <i>(Big Ax Tract 31 - 450.00 acres)</i> P.O. Box 11000 Danville, VA 24543	56.407 acres	70.5088%	50.0000%
<u>OIL & GAS OWNERSHIP</u>			
<u>Tract #1, 56.407 Acres</u>			
(1) Morgan Living Trust, et al. (N. Morgan, et al.) <i>(ICCC Tr. 215 - 450.00 Acre Tract)</i>	56.407 acres	70.5088%	
(a) Morgan Living Trust Ethel V. Morgan 1093 Poe Town St. Grundy, VA 24614-9613	47.006 acres 5/6 of 56.407 acres	58.7573%	41.6667%
(b) Naaman J. Morgan Trust Carl Puckett, Trustee 513 State Street Bristol, VA 24203-0129	9.401 acres 1/6 of 56.407 acres	11.7515%	8.3333%

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Exhibit A-1
Tract-by-Tract Escrow Calculation
Account Balances as of 9/30/10

Disbursement will close this account

Unit V12

VGOB 91-0618-0134-01

Acres Escrowed: 56.407000

Owners	Tract #	Acres	Owner Acres	Interest	Owners' Percent of Escrow (50%)	Amount Due Owners
						\$179,070.20
Harrison-Wyatt LLC - Coal		56.4070			50.0000%	\$89,535.10
Morgan Living Trust, et al	1	56.407				
Morgan Living Trust			47.006	5/6	41.6667%	\$74,612.58
Naaman J. Morgan Trust			9.401	1/6	8.3333%	\$14,922.52

INSTRUMENT #110000744
RECORDED IN THE CLERK'S OFFICE OF
BUCHANAN COUNTY ON
MARCH 30, 2011 AT 11:00AM
BEVERLY S. TILLER, CLERK
RECORDED BY: DA

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