

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Jerry Raines and Phyllis Raines

RELIEF SOUGHT: Supplemental Order for Disbursement of Escrowed Funds on behalf of the above-captioned Applicants/Plaintiffs as provided for in paragraphs "e," "f" and "g" of the Application

DOCKET NUMBER: VGOB 92-1117-0283-01

LEGAL DESCRIPTIONS: Drilling Unit Number T-16, VGOB 92-1117-0283

NOTICE OF HEARING

HEARING DATE: January 18, 2005
PLACE: Virginia Higher Education Center
Virginia Highland Community College
Abingdon, Virginia 24210
TIME: 9:00 A.M.

COMMONWEALTH OF VIRGINIA: To all persons, known or unknown, owning or claiming an interest in oil and gas, coal or other minerals and to all other persons, known or unknown, who have or claim to have an interest in the coalbed methane gas in all coal seams below the Tiller Seam underlying and within the T-16 unit (hereinafter the "Unit"), and the lands described herein and in the application filed pursuant to Docket No. VGOB 92-1117-0283-01 in Buchanan County, Virginia (hereinafter "Subject Lands"), and adjacent lands, and in particular to the following persons, their known and unknown heirs, executors, administrators, devisees, trustees, assigns and successors, both immediate and remote:

Harrison - Wyatt, LLC, c/o J. Scott Sexton, Esquire, GENTRY, LOCKE, RAKES & MOORE, P. O. Box 40013, Roanoke, Virginia 24022-0013, CNX Gas, P. O. Box 947, Bluefield, Virginia 24605, and Jerry and Phyllis Raines, P. O. Box 132, Oakwood, Virginia 24631.

NOTICE IS HEREBY GIVEN that the Applicants are requesting that the Virginia Gas and Oil Board (hereinafter the "Board") issue an amended supplemental order amending all prior orders affecting the Unit which amended supplemental order will provide as follows:

- a. Determining the amount of funds attributable to the Applicants/Plaintiffs herein;
- b. Directing the Escrow Agent to determine the amount of funds attributable to Applicants/Plaintiffs herein, provide an accounting thereof, and disburse the funds on deposit with the Escrow Agent, including any applicable earnings, pertaining to the interests in the Unit shown above for distribution as provided in the Decision of the

Virginia Supreme Court on March 5, 2004, referenced in paragraph "g" of the application (hereinafter the "Decision");

- c. Directing the Operator to determine the amount of funds attributable to the Applicants/Plaintiffs herein, provide an accounting thereof, and disburse the funds in its hands, if any, subject to escrow but not then on deposit with the Escrow Agent, including any applicable earnings, at the time of the Supplemental Order requested herein is executed, attributable to the Applicants/Plaintiffs herein for distribution, as provided by the Decision;
- d. Directing the Operator to disburse the funds, including any applicable earnings, and provide an accounting thereof, which it may receive after the date of the execution of the amended supplemental order requested in this Application, if any, attributable to the Applicants/Plaintiffs herein, as provided by the Decision, and to discontinue the payment of such funds into escrow.
- e. Granting such other relief as is merited by the evidence and is just and equitable whether or not such relief has been specifically requested herein.

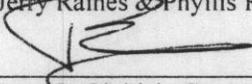
NOTICE IS FURTHER GIVEN THAT this cause has been set for hearing and the taking of the evidence before the Board at 9:00 a.m. on January 18, 2005, at the Virginia Higher Education Center, Virginia Highland Community College, Abingdon, Virginia and notice was published as required by law and the rules of the Board.

NOTICE IS FURTHER GIVEN THAT you may attend the hearing, with or without an attorney, and offer evidence or state any comments that you have. For further information, contact the Virginia Gas and Oil Board, State Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P. O. Box 1416, Abingdon, Virginia 24212-1416, (276) 676-5423 or the Applicant's counsel at the address shown below.

Dated this 17 day of December, 2004.

DONALD RATLIFF, et al
Jerry Raines & Phyllis Raines - Applicants

By: _____


Peter G. Glubiak, Counsel for Applicants
GLUBIAK LAW OFFICE
P. O. Box 144
11165 West River Road
Aylett, Virginia 23009
Telephone: (804) 769-1616
Facsimile: (804) 769-1897

CERTIFICATE

I hereby certify that on the 17 day of December, 2004, the foregoing NOTICE OF HEARING was sent, via certified mail, to all interested ~~parties as listed above.~~

Peter G. Glubiak, Esquire

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Jerry Raines and Phyllis Raines

DOCKET NUMBER: VGOB 92-1117-0283-01

RELIEF SOUGHT: Supplemental Order for Disbursement of Escrowed Funds on behalf of the above-captioned Applicants/Plaintiffs

LEGAL DESCRIPTIONS: Drilling Unit Number T-16 (Tract 1 & 2) (Big Axe Mineral Tract No. 19) consisting of wells T-16A and CBM-T16- 29, Created by Board Order dated January 29, 1993, VGOB 92-1117-0283 and amended by Order of Board dated February 12, 1993, VGOB 92-1215-0304 in the Hurricane District, Buchanan County, Virginia

HEARING DATE: January 18, 2005

APPLICATION

1. Party: Applicants herein are Jerry Raines and Phyllis Raines, (hereinafter "Plaintiffs"), whose address for the purpose hereof is Peter G. Glubiak Law Office, P. O. Box 144, Aylett, Virginia 23009, Telephone (804) 769-1616. The attorney for Applicants is Peter G. Glubiak, Glubiak Law Office, P. O. Box 144, Aylett, Virginia, Telephone: (804) 769-1616.

2. Facts:

- a. Consol, Inc. was designated as the Operator and Applicant's interests were Pooled in the **T-16 Unit** by Order of the Virginia Gas and Oil Board (hereinafter "Board") executed on January 29, 1993, pursuant to Docket No. VGOB 92-1117-0283 and recorded in the Circuit Court Clerk's Office of Buchanan County, Virginia on February 5, 1993, Deed Book 404, page 112 (hereinafter "Order"), and Order executed on February 12, 1993, pursuant to Docket No. VGOB 92-1215-0304 and recorded in the Circuit Court Clerk's Office of Buchanan County, Virginia on February 24, 1993, Deed Book 405, page 103 (hereinafter "Order"). Supplemental Order regarding elections, executed July 21, 1993, pursuant to Docket No. VGOB 92-1117-0283 and VGOB 92-1215-0304 recorded in the aforesaid Clerk's Office on July 29, 1993, Deed Book 412, Page 141 (hereinafter the "Supplemental Order").

- b. The Order and Supplemental Order required the Escrow Agent named and appointed therein to establish an interest-bearing escrow account for funds pertaining to the above-referenced Unit and subject to escrow pursuant to the terms of the Order.
- c. The Order and Supplemental Order further required the Operator to deposit bonus and royalty payments with the Escrow Agent which could not be made because the person(s) entitled thereto could not be made certain due to conflicting claims of ownership.
- d. Harrison – Wyatt, LLC was a conflicting claimant with the above-listed Plaintiffs with regard to Big Axe Tracts 18, 19, 20 and 56, also known as 5, 6 and 7. **(For this Application Big Axe Tract 19, which includes Unit T-16 (Tract 1 & 2) as created by Board Order as VGOB 92-1117-0283 And Amended Order VGOB 92-1215-0304, is the applicable tract).**
- e. To resolve this conflict, a Motion for Judgment, Pursuant to Declaratory Judgment Act, Virginia Code § 8.01-184 (attached hereto and incorporated herein as Exhibit “A”) was filed on August 14, 2000 by Plaintiffs in the Circuit Court of Buchanan County, Virginia, Styled DONALD RATLIFF, et al v. HARRISON-WYATT, LLC, Case Number: CL187-00.
- f. This case was set for a two-day bench trial and was heard on June 11, 2002 and June 12, 2002 before The Honorable Keary R. Williams, Chief Judge for the Circuit Court of Buchanan County, Courthouse, Main Street, Grundy, Virginia. Judge Williams rendered an Opinion Letter dated August 29, 2002 and an Amendment To Opinion Letter dated August 29, 2002, Page 7, Paragraph 2 dated December 6, 2002, in favor of the Plaintiffs as follows, “The Court holds that a grant of coal rights does not include title to the CBM absent an express grant of CBM, natural gases, or minerals in general; and that the surface owner holds the rights to the CBM once it has separated from the coal.”
- g. Defendant, Harrison-Wyatt, LLC, appealed Judge Williams’ Decision to the Virginia Supreme Court, which ultimately resulted in a unanimous 7-0 opinion of the court in favor of the Ratliff heirs. Escrowed funds are to be disbursed to the Plaintiffs.
- h. Therefore, by Decision of the Virginia Supreme Court, Applicants/Plaintiffs herein do hereby claim and warrant that they are the sole claimants of the above-listed interest within the Unit.

- i. The amounts deposited with the Escrow Agent regarding the Unit need to be determined and distributed accordingly.
- j. Any escrow amounts, not yet deposited to the escrow account, held by Operator should also be determined, and distributed to Applicants/Plaintiffs herein, accordingly.
- k. Applicants/Plaintiffs herein do hereby request that the Board enter amended supplemental order for the Unit directing the Escrow Agent and the Operator to disburse to the aforesaid Plaintiff's attorney the funds attributable to their previous conflicting claim with Harrison-Wyatt, LLC, held in escrow for the VGOB number as listed above.
- l. The Applicants certify that the matters set forth in this Application, to the best of their knowledge, information, and belief, are true and correct and that the form and content of this Application conform to the requirements of relevant Board regulations and orders.
3. Legal Authority: Va. Code Ann. §§ 45.1-361.1 *et seq.*, 4 VAC 25-160, and such other regulations and Board orders promulgated pursuant to law.
4. Relief Sought: Applicants request that the Board issue amended supplemental order amending all prior orders affecting the Unit which amended supplemental order will provide as follows:
 - a. Determining the amount of funds attributable to the Applicants/Plaintiffs herein.
 - b. Directing the Escrow Agent to determine the amount of funds attributable to Applicants/Plaintiffs herein, provide an accounting thereof, and disburse the funds on deposit with the Escrow Agent, including any applicable earnings, pertaining to the interests in the Unit shown above for distribution.
 - c. Directing the Operator to determine the amount of funds attributable to the Applicants/Plaintiffs herein, provide an accounting thereof, and disburse the funds in its hands, if any, subject to escrow but not then on deposit with the Escrow Agent, including any applicable earnings, at the time of the Supplemental Order requested herein is executed, attributable to the Applicants/Plaintiffs herein for distribution.
 - d. Directing the Operator to disburse the funds, including any applicable earnings, and provide an accounting thereof, which it may receive after the

date of the execution of the amended supplemental order requested in this Application, if any, attributable to the Applicants/Plaintiffs herein, and to discontinue the payment of such funds into escrow.

- e. Granting such other relief as is merited by the evidence and is just and equitable whether or not such relief has been specifically requested herein.

Dated this 16 day of December, 2004.

DONALD RATLIFF, et al
Jerry & Phyllis Raines - Applicants

By: 

Peter G. Glubiak, Counsel for Applicants
GLUBIAK LAW OFFICE
P. O. Box 144
11165 West River Road
Aylett, Virginia 23009
Telephone: (804) 769-1616
Facsimile: (804) 769-1897

CERTIFICATE

The foregoing application to the best of my knowledge, information and belief is true and correct. Notice was given pursuant to Va. Code Ann. § 45.1-361.19 (Michie Supp. 1997).


Peter G. Glubiak, Esquire

<u>Owner</u>	<u>Mineral Ownership</u>	<u>Net Acreage Within Unit</u>	<u>Undivided Net Interest Within Unit</u>
Tract <u>1</u>			
1.	Oil & Gas		
Tract <u>2</u>			
1.	Oil & Gas		
Tract <u>5 & 6</u>			
1. Cora S. Johnson 1054 Palm View Dayton Beach, Florida 32119	Oil & Gas	3.1287 acs	3.91087%
2. Etta Vandyke, successors, or assigns c/o Nell Delp 240 Trinity Church Road North East Maryland 21901	Oil & Gas	3.1287 acs	3.91087%
3. Elmer Reedy 1470 Clayton Street Perryville, Maryland 21903	Oil & Gas	1.56435 acs	1.95543%
4. Dorothy R. and Bruce Sodolski 1309 Independence Drive Orange Park, Florida 32065	Oil & Gas	1.56435 acs	1.95543%
5. Ernest Herford Address Unknown	Oil & Gas	1.56435 acs	1.95543%
6. Earl Herford Address Unknown	Oil & Gas	1.56435 acs	1.95543%
7. Leona and David Rose Post Office Box 106 Squire, West Virginia 24884	Oil & Gas	0.52155 acs	0.65194%
8. Ovella Griggs 55 Brooks Lane Elkton, Maryland 21921	Oil & Gas	0.52155 acs	0.65194%

T-16 Unit

December 16, 2004
 List of Conflicting Owners/Claimants

	Owner	Mineral Ownership	Net Acres in Unit	Undivided Net Int. in Unit %	Undivided Net Int. in VP8EM1EASTD At 15.725%
Tract 1		Surface, Oil & Gas			
Tract 2		Surface, Oil & Gas			
Tract 3	Jessie Childress Heirs	Surface, Oil & Gas	4.510000	5.637500	0.388497
(3)	Phyllis Everett 4472 Dike Road Winter Park, FL 32792		0.273333	0.341667	0.053727
(4)	Edith Prael 3425 Memorial Street Alexander, VA 22306		0.273333	0.341667	0.053727
(5)	Eleanor & Robert Hawkins 2719 Brookwood Drive Knoxville, TN 37917		0.273333	0.341667	0.053727
(6)	Medeline & Karl Tucker 1253 Cvington Road Jacksonville, FL 32216		0.273333	0.341667	0.053727
(7)	Verna & Joseph Taylor 5793 Lonepine Road Richmond, VA 23229		0.054667	0.368333	0.010745
(8)	Louise & Laster Agee 7901 Bull Run Road Manassas, VA 22110		0.054667	0.068333	0.010745
Tract 3	W.M. Reedy Heirs	Surface, Oil & Gas	34.730000	43.412500	6.826616
(9)	Laster Miller ADDRESS UNKNOWN		0.368250	1.035313	0.170665
(10)	Ada & Virgil Hamilton 5408 Turton Lane Port Orange, FL 32127		0.365869	0.462361	0.075851

VIRGINIA:

AFFIDAVIT

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE: Pertaining to Applicants/Plaintiffs, Jerry Raines and Phyllis Raines, Big Axe Tract 19, which includes Unit T-16 (Tract 1 & 2) as created by Board Order as VGOB 92-1117-0283

Application of Jerry Raines and Phyllis Raines Plaintiffs/Applicants resulting from action brought before the Buchanan County Circuit Court, styled Ratliff, et al v. Harrison Wyatt, LLC, for disbursement of escrowed funds on behalf of the Plaintiffs/Applicants in Unit T-16, (Tract 1 & 2) VGOB Docket No. 92-1117-0283-01 in the Hurricane District, Buchanan County, Virginia

AFFIDAVIT OF PETER G. GLUBIAK, COUNSEL FOR APPLICANTS LISTED ABOVE REGARDING SUPPLEMENTAL ORDER AND DISBURSEMENT OF FORCED POOLING UNIT FUNDS

Peter G. Glubiak (herein Affiant), being first duly sworn on oath, deposes and says:

1. That your Affiant, Peter G. Glubiak, Glubiak Law Offices, a discreet and competent attorney licensed in the State of Virginia, whose office is located at P. O. Box 144, Aylett, Virginia 23009; and that your Affiant is the attorney for the Applicants listed above and has been the attorney of record for Applicants throughout the judicial proceedings described below;
2. That pursuant to Order and Supplemental Order certain funds have been escrowed with regard to the Applicants above for Unit T-16 with the Virginia Gas and Oil Board;
3. Conflicting claim as shown on Orders and Supplemental Orders for the escrowed funds for above-referenced unit arose between Applicants and Harrison – Wyatt, LLC, coal owner underlying Applicants tracts of property as described below;
4. In order to resolve this conflict, a Motion for Judgment Pursuant to Declaratory Judgment Act, Virginia Code § 8.01-184 was filed on August 14, 2000 by Applicants listed above in the Circuit Court of Buchanan County, Virginia, Styled DONALD RATLIFF, et al v. HARRISON – WYATT, LLC, Case Number: CL187-00;
5. Pursuant to trial and Order of the Court, the Honorable Judge Keary R. Williams, Chief Judge of the Circuit Court of Buchanan County, Virginia rendered an Opinion Letter dated August 29, 2002, and an Amendment To Opinion Letter, Page 7, Paragraph 2 dated December 6, 2002, in favor of the Plaintiffs; and pursuant to statute, the Virginia Gas and Oil Board was Ordered to distribute the funds held in escrow attributable to the Applicants listed above;
6. The Decision of the Buchanan County Circuit Court was appealed to the Virginia Supreme Court and pursuant to Order dated March 5, 2004 the Decision of the Buchanan County Circuit Court was affirmed by unanimous opinion of the Virginia Supreme Court, resulting in a final non-appealable order pursuant to statute. It is the Order of the Virginia Supreme Court as well as the original Order of the Buchanan County Circuit Court under which Applicants,

represented by Affiant, apply for the distribution of funds held on escrow for the above-referenced Unit;

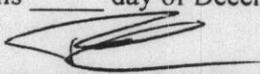
7. The interest in claims of all persons involved in the funds currently held in escrow by the Virginia Gas and Oil Board have been determined by a final non-appealable Order of Court and the ownership of the escrowed funds has also been the subject of a Circuit Court Order, which has subsequently been affirmed by the Virginia Supreme Court. It is Affiant's position that the matter has finally been determined and that therefore as the attorney on behalf of the Applicants listed above, he seeks distribution of all funds currently held in escrow for this unit, as well as those funds to be deposited at any later date pertaining to this unit;

8. Unit T-16, (Tract 1 & 2) created by Board Order as VGOB 92-1117-0283-01, is subject to disbursement of funds due to the Court's Decision regarding ownership; and

9. There are no other parties interested in these funds other than those who have previously been notified, including Harrison - Wyatt, LLC, by its Attorney, J. Scott Sexton, and CNX Energy, pursuant to the Orders and Supplemental Orders on file with the board.

Further saith Affiant not.

Dated at Aylett, Virginia, this 16 day of December, 2004.

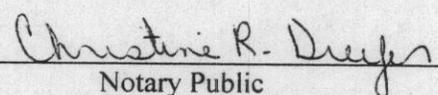


Peter G. Glubiak, Affiant

COMMONWEALTH OF VIRGINIA:
CITY/COUNTY OF King William, to-wit:

I, the undersigned, a Notary Public, in and for the County aforesaid, in the State of Virginia, do certify that, **PETER G. GLUBIAK**, Affiant, has acknowledged the foregoing writing before me in my County and State aforesaid.

Given under my hand this 16th day of December, 2004.



Notary Public

My commission expires: October 31, 2008