

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANT:	Buchanan Production Company)	DOCKET NO.
)	VGOB 92-1117-0291-01
RELIEF SOUGHT:	(1) Dismissal of Certain Respondents)	
	Heretofore Pooled; (2) Disbursements)	
	From Escrow Regarding Tract 4 of the)	
	Y-8 Drilling Unit; and (3) Authorization)	
	For Direct Payment of Royalties by)	
	Amending Prior Orders Affecting the)	
	Drilling Unit Y-8 located in the Oakwood)	
	Coalbed Methane Gas Field I,)	
	Buchanan County, VA (herein "Subject)	
	Drilling Unit")		

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 August 21, 2001 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark Swartz, Esq. of the firm Swartz and Stump L. C. appeared for the Unit Operator; and Sandra B. Riggs, 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 and subject to a pooling orders, and that 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. Further, 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 voluntary 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) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or (b) an agreement among all claimants owning conflicting estates in the tract in question or any undivided interest therein.
4. **Prior Proceedings:**
 - 4.1. On May 31, 1991, the Board executed its order pooling all interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code §§ 45.1-361.21 and 45.1-361.22 (herein "Original Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on May 31, 1991 in Deed Book 375 at Page 456. The Board designated Oxy USA, Inc. as the Unit Operator of the Subject Drilling Unit. The Original Pooling Order was amended by order entered by the Board on February 5, 1993 and filed with the Clerk of the Circuit Court of Buchanan County, VA on February 17, 1993 in Deed Book 404 at Page 627 (herein "Modified Pooling Order"), and Buchanan

Production Company became the Unit Operator. The Modified Pooling Order was amended and supplemented by the Board's Supplemental Order Regarding Elections executed on July 21, 1993 which was filed on July 29, 1993 in Deed Book 412 page 135 ("Supplemental Order") (herein the Modified Pooling Order and the Supplemental Order are collectively referred to as the "Pooling Order").

- 4.2 To the extent claims to the Gas were in conflict, pursuant to Va. Code § 45.1-361-22 payments attributable to said conflicting claims/interests were ordered deposited by the Unit Operator into the escrow account established by the Pooling Order (herein "Escrow Account"). According to the Petition filed by the Unit Operator in this matter, the oil and gas interests of Hubert & Evelyn Sue Vance Keen (herein "Keen") and the coal interests of Harrison-Wyatt, L.L.C. (herein "Harrison-Wyatt") a 11.61-acre tract, n/k/a VGOB Tract 4 of Subject Drilling Unit, were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3 Paragraph 5 of the Petition and the testimony given by the Unit Operator at the hearing of this matter state:

"When Unit Y-8 was pooled by Oxy USA Inc., the respondents listed at paragraph 2 above [James E. Watkins, Rosa B. Watkins, Robert Watkins, Samuel E. Watkins, Agnes Watkins and Annie Watkins and their respective heirs, devisees, successors and assigns] were noticed by publication and pooled as owners of the oil and gas under and within Tract 4. Subsequently, it was discovered that said respondents were not in fact oil and gas owners in Tract 4 of Unit Y-8 and that the oil and gas interests and claims to coalbed methane under and within Tract 4 were actually owned by Hubert and Evelyn Sue Vance Keen. Hubert and Evelyn Sue Vance Keen and Harrison-Wyatt, L.L.C. entered into a royalty split agreement on the 26th day of March, 2001. Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and, further, specifies how said royalties are to be divided and paid, to-wit: 7.25625 percent to Hubert and Evelyn Sue Vance Keen, 7.25625 percent to Harrison-Wyatt, L.L.C."

- 4.4 The Unit Operator filed the attached accounting 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 tract 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 The Unit Operator has certified and represented to the Board that:

- (1) Harrison-Wyatt is the sole owner of the coal estate underlying VGOB Tract 4 of the Subject Drilling Unit;

- (2) Keen is the sole owner of the oil and gas estate underlying VGOB Tract 4 of the Subject Drilling Unit;
- (3) that together Harrison-Wyatt and Keen claim to have and own, in the aggregate, the following Coalbed Methane Gas royalty interest in Subject Drilling Unit by virtue of their respective ownership interests in Tract4:

VGOB Tract #	Acres in Unit	Percent of Unit	Escrowed Fund Attributable To Harrison-Wyatt's/Keen's Conflicting Interests in Tract 4 as of 7/25/01
4	11.61	14.51250%	\$9,883.92

- (4) that Harrison-Wyatt and Keen have entered into an agreement whereby they have agreed to split on a 50/50 basis royalties attributable to their conflicting claims to coalbed methane gas underlying VGOB Tract 4 of Subject Drilling Unit and their conflicting claims to bonuses and/or royalties deposited by the Unit Operator in the Escrow Account which are attributable to said tract.

6. **Relief Granted:**

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting, the Escrow Agent is ordered to disburse: (1) fifty percent (50%) of the funds on deposit in the VGOB Tract 4 escrow subaccount as of the date of disbursement to Harrison-Wyatt, L.L.C., c/o Wyatt Buick Pontiac, P. O. Box 11000, Danville, VA 24543; and (2) fifty percent (50%) of the funds on deposit in the VGOB Tract 4 escrow subaccount as of the date of disbursement to Hubert & Evelyn Sue Vance Keen, Route 1, Box 101, Vansant, VA 246560. The Plat, Tract Identification Sheet(s), Exhibit B-3, and Exhibit E to the Pooling Order are deleted in toto and replaced with the attached Plat, Tract Identification Sheet(s), Exhibit B-3, Exhibit E; and the attached Exhibit EE is hereby made a part of the Pooling Order. Further, the Pooling Order filed in this cause is hereby modified to delete the requirement that payments attributable to Keen's and Harrison-Wyatt's conflicting coalbed methane gas ownership interests in VGOB Tract 4 be deposited by the Unit Operator into the Escrow Account. 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:**

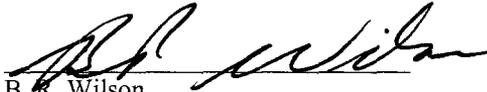
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated 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 24th day of October, 2001, by a majority of the Virginia Gas and Oil Board.

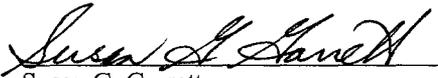

Chairman, Benny R. Wampler

DONE AND PERFORMED this 29th day of October, 2001, by an Order of this Board.


B. R. Wilson
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WISE)

Acknowledged on this 24th day of October, 2001, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Susan G. Garrett
Notary Public

My Commission expires: July 31, 2002

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 29th day of October, 2001, personally before me a notary public in and for the Commonwealth of Virginia, appeared B. R. Wilson, 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

My commission expires: September 30, 2005

Order Recorded Under Code of
Virginia Section 45.1-361.26

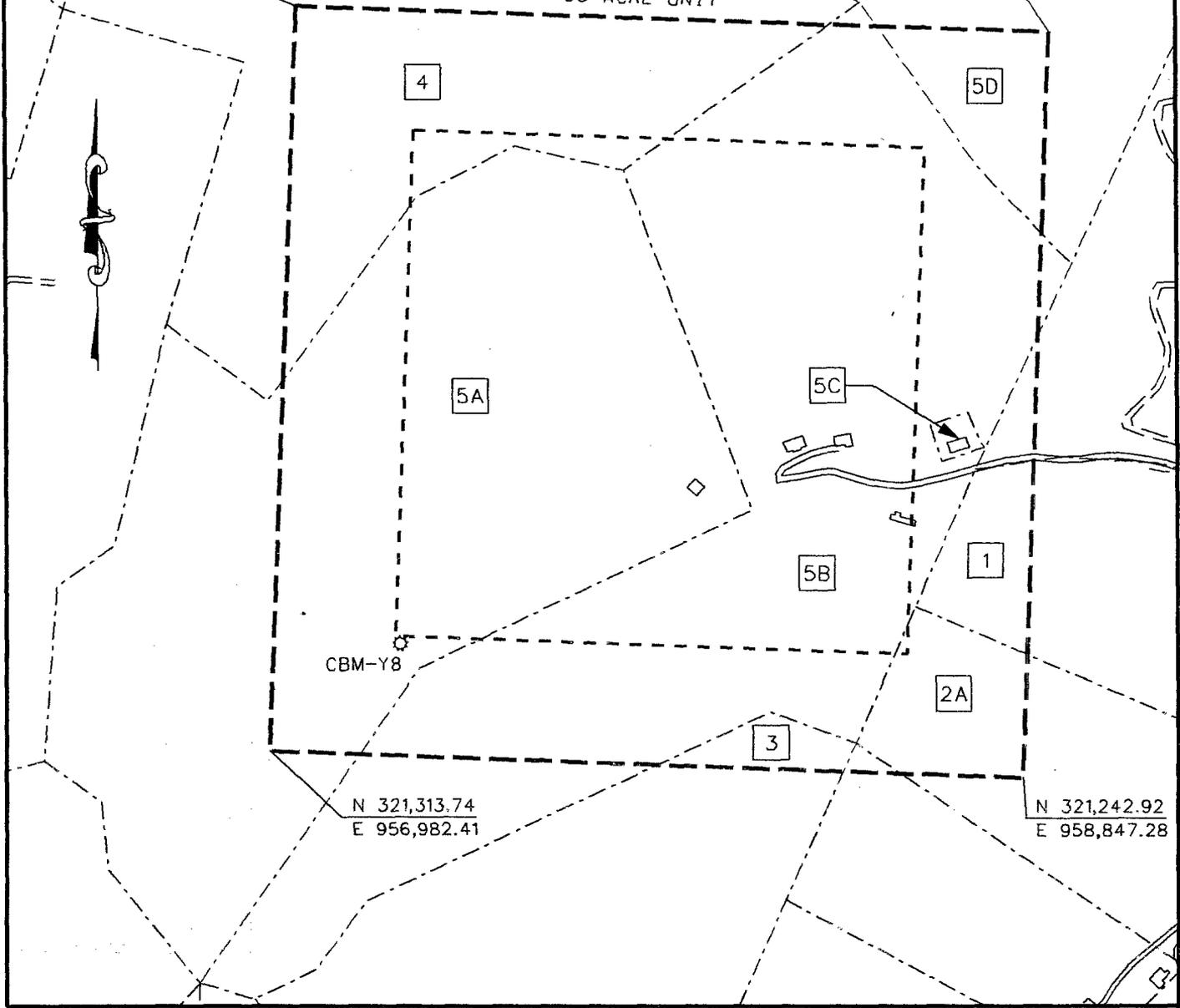
PROPERTY LINES SHOWN WERE TAKEN FROM MAPS PROVIDED BY CNX LAND RESOURCES, Inc. AND WERE NOT SURVEYED.

BOOK 551 PAGE 725

N 323,182.60
E 957,053.16

N 323,111.85
E 958,917.95

80 ACRE UNIT



CBM-Y8

N 321,313.74
E 956,982.41

N 321,242.92
E 958,847.28

EXHIBIT A
 OAKWOOD FIELD UNIT Y-8
 FORCE POOLING
 VGOB-92-1117-0291-01

Company CONSOL Energy Inc. Well Name and Number UNIT Y8

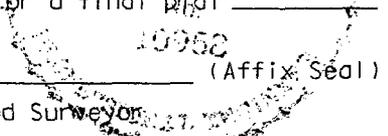
Tract No. _____ Elevation _____ Quadrangle Vansant

County Buchanan District Prater Scale: 1" = 400' Date 7/14/01

This plat is a new plat X ; an updated plat _____ ; or a final plat _____

Form DGD-GD-7
Rev. 9/91

Claude O. Moy
 Licensed Professional Engineer or Licensed Land Surveyor



**CONSOL Energy Inc.
UNIT Y-8
Tract Identifications**

1. Harrison-Wyatt, L.L.C. (Big Axe) Tr. 38 - Coal
 Island Creek Coal Co. - Coal Below Tiller Seam Leased
 Jewell Smokeless Coal Co. - Coal Above Jawbone Seam Leased
 Wellmore Coal Co. - Jawbone and Tiller Seams Leased
 Buchanan Production Co. - CBM Leased
 Eva Singleton, et al. - Oil & Gas
 Buchanan Production Co. - Oil, Gas & CBM Leased
 Drema Melton - Surface
 2.62 acres 3.2750 %

2. Harrison-Wyatt, L.L.C. (Big Axe) Tr. 51 - Coal, Oil & Gas
 Island Creek Coal Co. - Coal Below Tiller Seam Leased
 Jewell Smokeless Coal Co. - Coal Above Jawbone Leased
 Wellmore Coal Co. - Jawbone and Tiller Seams Leased
 Buchanan Production Co. - CBM Leased
 Buchanan Production Co. - Oil & Gas Leased
 3.14 acres 3.9250 %

- 2A. Unknown Surface Owner
- 2B. Unknown Surface Owner

3. Harrison-Wyatt, L.L.C. (Big Axe) Tr. 39 - Coal
 Island Creek Coal Co. - Coal Below Tiller Seam Leased
 Jewell Smokeless Coal Co. - Coal Above Jawbone Leased
 Wellmore Coal Co. - Jawbone and Tiller Seams Leased
 Buchanan Production Co. - CBM Leased
 Robert A. Rash - Oil & Gas
 Buchanan Production Co. - Oil, Gas & CBM Leased
 Unknown Surface Owner
 0.93 acres 1.1625 %

4. Harrison-Wyatt, L.L.C. (Big Axe) Tr. 27 - Coal
 Island Creek Coal Co. - Coal Below Tiller Seam Leased
 Jewell Smokeless Coal Co. - Coal Above Jawbone Leased
 Wellmore Coal Co. - Jawbone and Tiller Seams Leased
 Buchanan Production Co. - CBM Leased
 Hubert and Evelyn Sue Vance Keen - Surface, Oil & Gas
 Buchanan Production Co. - Oil, Gas & CBM Leased
 11.61 acres 14.5125 %

CONSOL Energy Inc.
UNIT Y-8
Tract Identifications

- 5. Harrison-Wyatt, L.L.C. (Big Axe) Tr. 37 - Coal
 - Island Creek Coal Co. - Coal Below Tiller Seam Leased
 - Jewell Smokeless Coal Co. - Coal Above Jawbone Leased
 - Wellmore Coal Co. - Jawbone and Tiller Seams Leased
 - Buchanan Production Co. - CBM Leased
 - Heirs, devisees, Successors or Assigns of Frank Howard - Oil & Gas (50%)
 - Heirs, devisees, Successors or Assigns of James A. Tiller - Oil & Gas (50%)
 - 61.70 acres 77.1250 %

- 5A. Riddle Colley Heirs - Surface
- 5B. Unknown Surface Owner
- 5C. Unknown Surface Owner
- 5D. Ronald Brents - Surface

	Acres in Unit	Percent of Unit
II. <u>OIL & GAS FEE OWNERSHIP</u>		
<u>Tract #1 - 2.62 acres</u>		
(1) W. R. & Mary Lester Heirs, Devisees, Successors or Assigns (William S. Price Tract)	2.62 acres	3.275%
(a) Eva Singleton P.O. Box 214 Myersville, MD 21773-0214	0.52 acres 1/5 of 2.62 acres	0.65500%
(b) Audrey Boyd Perkins Rt.1 Box 104 Vansant, VA 24656	0.0491 acres 3/160 of 2.62 acres	0.06141%
(c) Clayton Perkins Rt.1 Box 104 Vansant, VA 24656	0.0491 acres 3/160 of 2.62 acres	0.06141%
(d) Martin Edd & Virginia Boyd Rt.1 Box 109 Vansant, VA 24656	1.9978 acres 61/80 of 2.62 acres	2.49719%
<u>Tract #2 - 61.70 acres</u>		
Frank Howard Heirs, et al.	61.70 acres	77.12500%
(1) Frank Howard Heirs, Devisees, Successors or Assigns <i>Address Unknown</i>	30.85 acres 1/2 of 61.70 acres	38.56250%
(2) James A. Tiller Heirs, Devisees, Successors or Assigns <i>Address Unknown</i>	30.85 acres 1/2 of 61.70 acres	38.56250%

Exhibit E
UNIT Y-8
Docket# VGOB 92-1117-0291-01
List of Conflicting Owners/Claimants that require escrow

BOOK 551 PAGE 729

	Acres in Unit	Percent of Unit
<u>Tract #1 - 2.62 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C., Tr.38 c/o Wyatt Buick Pontiac P.O. Box 11000 Danville, VA 24543	2.62 acres	3.275%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) W. R. & Mary Lester Heirs, Devisees, Successors or Assigns (William S. Price Tract)	2.62 acres	3.275%
(a) Eva Singleton P.O. Box 214 Myersville, MD 21773-0214	0.52 acres 1/5 of 2.62 acres	0.65500%
(b) Audrey Boyd Perkins Rt.1 Box 104 Vansant, VA 24656	0.0491 acres 3/160 of 2.62 acres	0.06141%
(c) Clayton Perkins Rt.1 Box 104 Vansant, VA 24656	0.0491 acres 3/160 of 2.62 acres	0.06141%
(d) Martin Edd & Virginia Boyd Rt.1 Box 109 Vansant, VA 24656	1.9978 acres 61/80 of 2.62 acres	2.49719%
<u>Tract #3 - 0.93 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C., Tr.39 c/o Wyatt Buick Pontiac P.O. Box 11000 Danville, VA 24543	0.93 acres	1.16250%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Robert A. Rash P.O. Box 372 Pounding Mill, VA 24637	0.93 acres	1.16250%
<u>Tract #4 - 11.61 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C., Tr.27 c/o Wyatt Buick Pontiac P.O. Box 11000 Danville, VA 24543	11.61 acres	14.51250%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Hubert & Evelyn Sue Vance Keen Rt.1 Box 101 Vansant, VA 24656	11.61 acres	14.51250%

Exhibit E
UNIT Y-8
Docket# VGOB 92-1117-0291-01
List of Conflicting Owners/Claimants that require escrow

BOOK 551 PAGE 730

	Acres in Unit	Percent of Unit
<u>Tract #5 - 61.70 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C., Tr.37 c/o Wyatt Buick Pontiac P.O. Box 11000 Danville, VA 24543	61.70 acres	77.12500%
<u>OIL & GAS FEE OWNERSHIP</u>		
Frank Howard Heirs, et al.	61.70 acres	77.12500%
(1) Frank Howard Heirs, Deviseses, Successors or Assigns <i>Address Unknown</i>	30.85 acres 1/2 of 61.70 acres	38.56250%
(2) James A. Tiller Heirs, Deviseses, Successors or Assigns <i>Address Unknown</i>	30.85 acres 1/2 of 61.70 acres	38.56250%

Exhibit EE
UNIT Y-8

Docket# VGOB 92-1117-0291-01
List of Conflicting Owners/Claimants with Royalty Split Agreements **BOOK 551 PAGE 731**

	Acres in Unit	Percent of Unit
<u>Tract #4 - 11.61 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C., Tr.27 c/o Wyatt Buick Pontiac P.O. Box 11000 Danville, VA 24543	11.61 acres	14.51250%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Hubert & Evelyn Sue Vance Keen Rt.1 Box 101 Vansant, VA 24656	11.61 acres	14.51250%

VIRGINIA: In the Clerk's Office of the Circuit Court of Buchanan County. The foregoing instrument was this day presented in the office aforesaid and is, together with the certificate of acknowledgment annexed, admitted to record this 25th day of July, 2002 at 9:53 P M. The tax imposed by §§87.1-802 of the Code has been paid in the amount of \$.
Deed Book No. 551 and Page No. 21.
Returned to Alan Lewis TESTE: James M. Bevins, Jr., Clerk
TESTE: Deputy Clerk

12

INSTRUMENT #021002891
RECORDED IN THE CLERK'S OFFICE OF
BOGHANAN COUNTY ON
JULY 25, 2002 AT 02:53PM
JAMES H. PEVINS JR., CLERK

BY:

