

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Corbett Glen Anderson, Harry K. Anderson ) VIRGINIA GAS  
and Ruby Forcum ) AND OIL BOARD  
)  
RELIEF SOUGHT: Issuance of an Amended Supplemental ) DOCKET NO.  
Order Amending Prior Orders Affecting ) 94-1024-0481-01  
the Conventional Gas Drilling Unit Served )  
by Well P-308 Located in Dickenson )  
County, VA (herein "Subject Drilling )  
Unit") to provide: (1) for the Calculation of )  
Those Funds Unit Operator Has Deposited )  
Into the Escrow Account for Tract 12 of )  
Subject Drilling Unit; (2) Applicants a )  
Royalty Accounting of Those Escrowed )  
Funds Attributable to Their Gas and Oil )  
Interests In Subject Drilling Unit; (3) for )  
the Disbursement to Applicants of Any )  
Escrowed Funds Which Are Attributable )  
To Their Gas and Oil Interests in Tract 12 )  
Of Subject Drilling Unit; and (4) to amend )  
the Pooling Order to Authorize the Unit )  
Operator to Make Future Royalty Payments )  
Directly to Applicants as Their Interests )  
Appear )

**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 July 21, 2001 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. Appearances: Henry Keuling-Stout, Esquire, appeared for the Applicants; James Kaiser of the firm Wilhoit & Kaiser appeared for Equitable Production Company ("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, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account for each of the drilling units established by the Board pursuant to its pooling orders, and that

the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D into the applicable escrow account. Further, the Board finds that while it does not have jurisdiction to resolve conflicting ownership claims to the Gas produced by the Unit Operator from the well located on Subject Drilling Unit, pursuant to Va. Code § 45.1-361.21.D, the Board does have jurisdiction and authority to disburse funds from the Escrow Account when the Board is provided with a final decision of a court of competent jurisdiction adjudicating the ownership of said Gas as between the conflicting claimants.

4. Prior Proceedings:

4.1 On July 20, 1995, the Board executed its order pooling all interests in the Subject Drilling Unit for the production of conventional gas (herein "Gas") in accordance with the provisions of Va. Code § 45.1-361.21. The Pooling Order was filed with the Clerk of the Circuit Court of Dickenson County on July 26, 1995 in Deed Book 310 at Page 514, and rerecorded on August 22, 1995 at Deed Book 311 at Page 236 (herein "Pooling Order"). The Board designated Equitable Resources Exploration (n/k/a Equitable Production Company) as the Unit Operator of the Subject Drilling Unit. The Pooling Order was amended and supplemented by the Board's Supplemental Order Regarding Elections executed on February 1, 1996 that was filed on February 6, 1996 in Deed Book 315 at Page 015 (the Pooling Order and the Supplemental Order are herein collectively referred to as the "Pooling Order").

4.2 To the extent payments of bonus, royalty payments or other payments due and owing under the Pooling Order could not be made because the person entitled thereto could not be located or is unknown or uncertain, then such cash bonus, royalty payment or other payment was ordered deposited by the Unit Operator into an escrow account established by the Board (herein "Escrow Account"). While the Gas owners within Tract 12 of Subject Drilling Unit were known and certain, because of a cloud on their title, the Unit Operator was unable to determine who was entitled to receive said payment. Therefore, in accordance with the terms of its lease(s) with Applicants, the Unit Operator internally suspended royalty payments attributable to said tract pending resolution of the clouds on their title by a court of competent jurisdiction.

4.3 By letter dated February 27, 2001, Attorney for the Applicants notified the Board that Judge Keary Williams had entered a Final Decree and Order on January 29, 2001 (herein "Court Order") resolving the questions as to the title of the Unit Operator's lessors, Corbett Glen Anderson and Harry K. Anderson, as to Gas Well P-308, and requested that the Board bring on for hearing the Applicants' request for the disbursement to them of any escrowed funds attributable to their Gas interests in Subject Drilling Unit.

4.4 By letter dated March 19, 2001, the Board gave notice to Buddy H. Wallen, Guardian ad litem for Hazy a/k/a Hazei Anderson, deceased, Crissa a/k/a Crissey Anderson, deceased, and Mary a/k/a Polly Anderson, Deceased; Bill V. Anderson a/k/a, Billy Victor Anderson (Sr.); Paul Anderson; Virginia Anderson Treadway; Anita Anderson Belcher; Virginia Gas Company; Henry S. Keuling-Stout, attorney for Harry K. Anderson and C. Glen Anderson; Unit Operator; James Kaiser, Attorney for Unit Operator; and the Escrow Agent that the Board, on its own motion, would take the Court Order under consideration at its hearing on April 17, 2001, to consider whether to: (1) amend the Pooling Order to provide for the disbursement to Applicants, as their interests appear, of funds on deposit in the Escrow Account, if any, which were attributable to their Gas interests in Subject Drilling Unit; and (2) amend the Pooling Order to delete any requirement that the Unit Operator place future royalties attributable to Applicants' Gas interests in Subject Drilling Unit in the Escrow Account. Further, the Board ordered the Unit Operator to file with the Board a complete accounting of funds it had placed on deposit in the Escrow Account, if any. At the request of Applicants' attorney, at the April 17, 2001 hearing of this matter, it was continued until May 15, 2001; at the May 15, 2001 hearing, it was continued to June 19, 2001, and at the June 19, 2001 hearing the matter was continued to July 17, 2001 hearing of the Board.

5. Findings:

- 5.1 Through its Pooling Order, and the exhibits attached thereto, the Unit Operator certified and represented to the Board that the parties entitled to production payments attributable to Tract 12 of Subject Drilling Unit, as their respective interests appear, were either:
- a. Mary Anderson Estate, Hazy Anderson Estate and Chrissey Anderson Estate; or
  - b. Harry K. Anderson and Sharon K. Anderson, H/W and C. Glenn Anderson and Phillis Anderson, H/W
- 5.2 Applicants have provided to the Board a final order of a court of competent jurisdiction quieting title to the Gas in Tract 12 of Subject Drilling Unit in the Applicants
- 5.3 At the hearing of this matter, the Unit Operator testified that it had not placed funds attributable to Applicants' Gas interests in Tract 12 of Subject Drilling Unit on deposit in the Escrow Account, but Unit Operator had instead internally suspended said payments in accordance with the terms of its lease(s) with Applicants.

- 5.4 Paragraph 2 on Page 5 of the Court Order specifically provides that the Complainants Corbett Glen Anderson and Harry K. Anderson own in fee simple and absolutely and are entitled to quiet and peaceful possession of all the property granted in and described by Deed Book 260 Page 473, a deed dated August 1, 1989 [a deed conveying a portion of the Hazy Anderson 70 acre tract (sometimes described as a 61 acre tract)], and a portion of the Crissa or Chrissy Anderson 70 acre tract (sometimes described as a 90 acre tract) including without limitation all of the oil and gas subject to the rights as between Glen and Harry Anderson and Ruby A. Forcum described in the deed, except for the estate in the coal therein heretofore granted in Deed Book 18, Page 280.
- 5.5 Paragraph 4 on Page 6 of the Court Order specifically provides that all heirs, known and unknown, living and deceased, wheresoever situated, and of whatsoever status, be they competent, incompetent, majority, minority or otherwise of Hazy Anderson, Crissa Anderson, Mary Anderson and Charles H. Anderson, deceased, and his nine (9) children, namely: George Anderson, Elihu P. Anderson, Mary Anderson, Victor Anderson, Arlie Anderson, Grace Anderson, Florence Anderson, Stacy Anderson, and Edith Faye Anderson; the heirs of Elihu P. Anderson, including Victor Anderson, including Bill V. Anderson and Paul Anderson; and the heirs of Henry A. Anderson, have no estate, right title, lien or interests in the property granted in and described by the deed dated August 1, 1989, Dickenson County Deed Book 260, Page 473, nor in the property granted in and described by Dickenson County Deed Book 35, Page 3 (Hazy Anderson by special commissioner to John M. Skeen) or in Dickenson County Deed Book 29, Page 252 (Crissy Anderson by special commissioner to Trivitt & Pressley).
- 5.6 Paragraph 5 on Page 7 of the Court Order permanently enjoins all defendants in the suit from asserting any estate, title, lien or interest in or to said premises, the oil and gas estate therein, or any part thereof, except that the defendant Virginia Gas Company is not enjoined by said Decree from asserting its interests in the oil and gas estate created by the Lease dated February 13, 1992 by and between Virginia Gas Company and the complainants Glen and Harry Anderson.
- 5.7 At the hearing of this matter, counsel for Applicants requested that the Board order the Unit Operator to pay all internally suspended funds attributable to Tract 12 of Subject Drilling Unit, together with interest in the amount of \$50.00, as follows: 1/3 to Harry Anderson; 1/3 to Glen Anderson, and 1/3 to Ruby Forcum.
6. Relief Granted: For the reasons set forth in Paragraph 5 above, the Unit Operator has agreed to disburse to the Applicants those funds attributable to Tract 12 which it has internally suspended, being those funds designated in

the Supplemental Order as the "Harry K. Anderson and Sharon K. Anderson 1.24%" share and the "C. Glenn Anderson and Phillis Anderson 1.24% share" together with agreed upon interest in the amount of \$50.00:

1/3 to Harry Anderson, 112 Sullins Road, Spruce Pine, NC 28777.

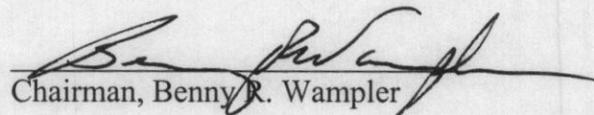
1/3 to Glen Anderson, 5482 Riverwalk Drive, Kings Mill, OH 45034.

1/3 to Ruby A. Forcum, c/o Glen Anderson, 5482 Riverwalk Drive, Kings Mill, OH 45034.

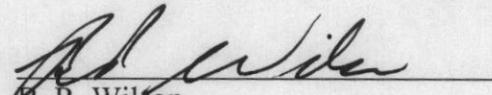
Further, the Pooling Order is hereby modified to clarify that any payments attributable to Applicants' Gas ownership interests in Subject Drilling Unit need not be deposited by the Unit Operator in the Escrow Account.

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 8<sup>th</sup> day of April, 2002, by a majority of the Virginia Gas and Oil Board.

  
Chairman, Benny R. Wampler

DONE AND PERFORMED this 15<sup>th</sup> day of April, 2002, 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 8<sup>th</sup> day of April, 2002 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  
Susan G. Garrett  
Notary Public

My commission expires July 31, 2002

COMMONWEALTH OF VIRGINIA )  
COUNTY OF WASHINGTON )

Acknowledged on this 15<sup>th</sup> day of April, 2002, 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  
Diane J. Davis  
Notary Public

Order Recorded Under Code of Virginia Section 45.1-361.26

My commission expires September 30, 2005

INSTRUMENT #020000757  
RECORDED IN THE CLERK'S OFFICE OF  
DICKENSON ON  
APRIL 15, 2002 AT 12:23PM  
JOE TATE, CLERK

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF DICKENSON COUNTY, 4/15, 2002. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 12:23 o'clock PM, after payment of \$ 0 tax imposed by Sec. 58.1-802.

Original returned this date to: Diane J. Davis

BY: Joe Tate TESTE: JOE TATE, CLERK D. CLERK