

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS:	Coal Mountain Mining Company Limited)	DOCKET NO.
	Partnership L.L.P. f/k/a Coal Mountain)	VGOB 95-04/18-0499-04
	Mining Company and as Coal Mountain)	
	Mining Trust (herein "Coal Mountain"),)	
	and Yukon Pocahontas Coal Company)	
	(herein "Yukon") (Coal Mountain and Yukon)	
	sometimes collectively referred to as)	
	"Applicants"))	
)	
RELIEF SOUGHT:	Issuance of an Amended Supplemental)	
	Order Amending Prior Orders Affecting)	
	W-29 Drilling Unit to Provide: (1) for the)	
	Calculation of Those Funds the)	
	Unit Operator Deposited into the Escrow)	
	Account for Tract 15 of the W-29 Drilling)	
	Unit;)	
	(2) to Provide to Applicants a Royalty)	
	Accounting; and)	
	(3) Disbursement to Coal Mountain and)	
	Yukon in Accordance with Their Split)	
	Agreement Those Funds Deposited)	
	by the Unit Operator into the W-29 Escrow)	
	Subaccount for Tract 15;	

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board's ("Board") upon the Board's own motion at 9:00 a.m. on January 16, 2001 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark Swartz of the firm Swartz & Stump, L.C. appeared in behalf of Pocahontas Gas Partnership, 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 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 subaccount. Further, the Board finds: (1) that 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. At the Board hearing held on October 24, 1995 the Board granted the relief sought by Pocahontas Gas Partnership (herein "PGP" or "Unit Operator") in VGOB Docket 95/04/18-0499 and 95/04/18-0499-01, and on April 1, 1996 the Board executed its order pooling all interests in the W-29 Drilling Unit located in the Oakwood Coalbed Methane Gas Fields I and II (herein "Subject Drilling Unit") in the Garden Magisterial District, Buchanan County, Virginia (herein "Subject Lands") for the production of occluded natural gas produced from coalbeds and rock strata associated therewith from frac wells, short holes, unsealed gob, and any additional wells that are authorized pursuant to Va. Code § 45.1-361.20 (herein "Gas") in accordance with the provisions of Va. Code §§ 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on December 19, 1995 in Deed Book 444 at Page 121 and pooled all Gas interests in all coalbed and coal seams below the Tiller Seam, including those portions of Consolidation Coal Company's Buchanan #1 Mine's 4 East Longwall Panel and 5 East Longwall Panel underlying Subject Drilling Unit (herein "Subject Formations") all pursuant to: (1) the permit provisions contained in Va. Code §§ 45.1-361.27 *et seq.*; (b) the Oakwood Coalbed Gas Field I Order No. OGCB 3-90 dated May 18, 1990; the Oakwood Coalbed Gas Field II Board Order 91-1119-0162 effective as of December 17, 1992; (d) §§480-05-22.1 *et seq.*, Gas and Oil Board Regulations; and (e) §§ 480-05-22.2 *et seq.*, Virginia Gas and Oil Board Regulations, all as amended from time to time. The Board named PGP as the Unit Operator of the W-29 Drilling Unit. The Pooling Order was amended and supplemented by: (1) the Board's Supplemental Order Regarding Elections executed on September 5, 1996 and filed on September 12, 1996 in Deed Book 453 Page 233 (herein "Supplemental Order") ,(2) the Board Order entered in Docket No. 95-0418-0499-02 on April 22, 1999 and filed April 30, 1999 in Deed Book 491 at Page 239 (herein "Amended Supplemental Order")¹, (3) the Board Order entered in Docket No. 95-0418-0499-03 on August 17, 1999 and filed in Deed Book 450 at Page 240 (herein "Second Amended Supplemental Order")², and (4) the Board Order entered in Docket No. 95-0418-0499-01 on November 17, 2000 and filed in Deed Book 515 at Page 727 (herein "Third Amended Supplemental Order")³ By letter dated November 21, 2000, the Board noticed the Applicants, the Unit Operator and the Escrow Agent of its intention to hear this matter on December 19, 2000, ordered the Unit Operator to file with the Board an accounting of funds placed on deposit in the Tract 15 escrow subaccount for the W-29 Drilling Unit, and ordered the Unit Operator and the Escrow Agent to reconcile their accountings with respect to same (herein "Accounting Order").

4.2. As instructed by the Board through the Pooling Order, the Supplemental Order and the Amended Supplemental Orders, the Escrow Agent established the Escrow Account for Subject Drilling Unit (herein "Escrow Account") with subaccounts for the tracts subject to escrow. Thereafter the Escrow Agent periodically received from the Unit Operator for deposit into the Escrow Account proceeds which were designated by the Operator through its royalty statements as being attributable to various tracts identified in the attached Accounting.

¹ By the Amended Supplemental Order funds attributable to 2.33 acres of the 22.88-acre tract designated as Tract 9 were disbursed to Torch Energy Advisors, Inc. and Consolidation Coal Company.

² By the Second Amended Supplemental Order funds attributable to a 37 .58-acres tract designated as Tracts 1&2 were distributed to Coal Mountain and Garden Realty Corp., and funds attributable to a 1.28-acre tract designated as Tract 5 were distributed to Torch Energy Advisors, Inc. and Garden Realty Corp.

³ By the Third Amended Supplemental Order the Unit Operator notified the Board that Applicants had entered into an agreement to split the escrowed funds attributable to their conflicting gas claims in Tract 15 of Subject Drilling Unit.

4.3. The Unit Operator sworn to the Board that:

- (1) Coal Mountain is the sole owner of the coal estate underlying Tract 15 of the W-29 Drilling Unit, and Yukon is the sole owner of the oil and gas estate underlying Tract 15 of the W-29 Drilling Unit.
- (2) that together Coal Mountain and Yukon claim to have and own, in the aggregate, the following Gas royalty interest in Subject Drilling Unit by virtue of their respective ownership interests in Tract 15:

Tract #	Acres	Percent of Unit	Funds On Deposit As of 11/30/00
15	0.73	0.91216%	\$444.18

- (3) that while at the time of the entry of the Pooling Order, as amended, Coal Mountain and Yukon had conflicting claims of ownership in Tract 15, subsequent to the entry of the Pooling Order, Coal Mountain and Yukon entered into a Split Agreement whereby Coal Mountain and Yukon are each entitled to receive a sum equal to fifty percent (50%) of funds due attributable to their conflicting interests, including, but not necessarily limited to such funds on deposit in the Tract 15 Escrow Subaccount.

4.4. In compliance with the Accounting Order, PGP presented to the Board an accounting as of November 30, 2000 of funds deposited into the Escrow Account for Tract 15, including interest accruing thereon and fees charged to the Escrow Account together with a reconciliation of PGP's records of Escrowed Funds to the records of the Escrow Agent, a copy of which accounting is attached hereto as Exhibit A (herein "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 Pursuant to the Applicants' Split Agreement, they have agreed to split on a 50/50 basis royalties attributable to their respective conflicting claims to coalbed methane gas, including but not limited to their conflicting claims to ownership of coalbed methane gas underlying Tract 15 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.

5.3 PGP has represented to the Board through the Accounting that as of November 30, 2000 the funds set forth in Paragraphs 4.3(2) above are those funds on deposit in the Tract 15 Escrow Subaccount.

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 attributable to the Tract 15 escrow subaccount on the date of disbursement to Coal Mountain Mining Company Limited Partnership L.L.P. f/k/a Coal Mountain Mining Company and as Coal Mountain Mining Trust, P. O. Box 675, Tazewell, VA 24651; and (2) fifty percent (50%) of the funds attributable to the Tract 15 escrow subaccount on the date of disbursement to Yukon Pocahontas Coal Company, P. O. Box 187, Tazewell, VA 24651. Further, the Supplemental Orders filed in this cause are hereby modified to delete the requirement that payments attributable to Applicants' conflicting coalbed methane gas ownership interests in Tract 15 be deposited by PGP into the Escrow Account. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:

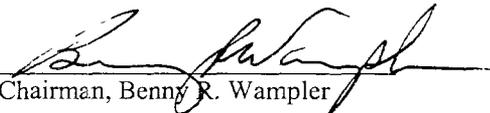
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

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 7th day of March, 2001, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

DONE AND PERFORMED this 9th day of March, 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 7th day of March, 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 9th day of March, 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, 2001

