

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Garden Realty Corporation and
Coal Mountain Mining Company Limited Partnership, LLP

RELIEF SOUGHT: Amended Supplemental Order for
Unit Number W-30

DOCKET NO.: VGOB-95/04/18-0502-02

LEGAL

DESCRIPTION: Drilling Unit Number W-30 as Created
by Board Order Dated as of December 11,
1995, VGOB-95/04/18-0502 in the
Oakwood Coalbed Gas Field II,
Keen Mountain Quadrangle,
Buchanan County, Virginia

HEARING DATE: July 20, 1999

APPLICATION

1. Parties: Applicants herein are GARDEN REALTY CORPORATION, a Virginia corporation (hereinafter "Garden"), whose address for the purpose hereof is 2370 Lyndhurst Avenue, Winston-Salem, NC 27103, Telephone (336) 721-1452, and COAL MOUNTAIN MINING COMPANY LIMITED PARTNERSHIP, LLP (hereinafter "Coal Mountain"), whose address for the purpose hereof is P.O. Box 675, Tazewell, VA 24651, Telephone (540) 988-6700. The attorney for Applicants is Jill Morgan Harrison, of the firm of PennStuart, P.O. Box 2288, Abingdon, Virginia, 24212-2288, Telephone: (540) 628-5151.

2. Facts:

- a. Pocahontas Gas Partnership was designated as the Unit Operator (hereinafter "Operator") and Applicants' interests were pooled in the W-30 Unit (hereinafter the "Unit") by Order of the Virginia Gas and Oil Board (hereinafter the "Board") executed on December 11, 1995, pursuant to Docket No. VGOB-95/04/18-0502, and recorded in the Circuit Court Clerk's Office of Buchanan County, Virginia, on December 19, 1995, in Deed Book 444, Page 16 (hereinafter the "Order"), as supplemented by Order of the Board executed on September 5, 1996, and recorded in the aforesaid Clerk's Office on September 12, 1996, in Deed Book 453, Page 256 (hereinafter the "Supplemental Order").

- b. The Order and the Supplemental Order required the Escrow Agent named and appointed therein to establish an interest-bearing escrow account for funds pertaining to the Unit and subject to escrow pursuant to the terms of paragraph 16 of the Order.
- c. The Order and the 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. Garden and Coal Mountain are conflicting claimants with regard to the tract listed below. Garden and Coal Mountain hereby warrant that the conflicting claims of Garden and Coal Mountain represent the following undivided interest(s) in the following tract in the Unit:

<u>Tract</u>	<u>Aggregate Undivided Interest in Tract</u>	<u>Aggregate Interest in Unit</u>
2	Coal Mountain - 100% of Coal Garden - 100% of Oil & Gas	0.18750%

- e. Garden and Coal Mountain do hereby claim and warrant that they are the sole claimants of the above-listed interest within the Unit.
- f. The amounts deposited with the Escrow Agent regarding the Unit and the amount attributable to the aggregate interests of Garden and Coal Mountain as conflicting claimants need to be determined. Such funds should be distributed according to the Agreement referenced at paragraph "h" below.
- g. Any escrow amounts, not yet deposited to the escrow account, held by Operator should also be determined. Such funds should be distributed according to the Agreement referenced at paragraph "h" below.
- h. Garden and Coal Mountain have by agreement dated August 11, 1998 (hereinafter the "Agreement"), agreed to a means whereby the funds on deposit with the Escrow Agent pertaining to their conflicting claims in the Unit may be distributed by the Escrow Agent and whereby the Operator may cease depositing such funds and disburse the same to Garden and Coal Mountain as set forth in the Agreement.
- i. Garden and Coal Mountain do hereby request that the Board enter an amended supplemental order directing the Escrow Agent and the Operator to disburse to Garden and Coal Mountain the funds attributable to their conflicting claims including any interest earned thereon.

- j. 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.*, VR 480-05-22.2, and such other regulations and Board orders promulgated pursuant to law.

4. Relief Sought: Applicants request that 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 conflicting claims of Garden and Coal Mountain;
- b. Directing the Escrow Agent to determine the amount of funds attributable to the conflicting claims of Garden and Coal Mountain, provide an accounting thereof, and disburse the funds on deposit with the Escrow Agent, including any applicable earnings, as provided in the Agreement;
- c. Directing the Operator to determine the amount of funds attributable to the conflicting claims of Garden and Coal Mountain, 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 the amended supplemental order requested herein is executed, as provided in the Agreement;
- 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 conflicting claims of Garden and Coal Mountain as provided in the Agreement and to discontinue the payment of such funds into escrow; and,
- 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.

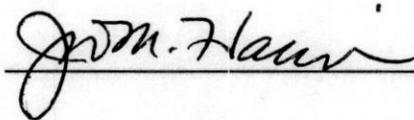
Dated this 18th day of June, 1999.

GARDEN REALTY CORPORATION and
COAL MOUNTAIN MINING COMPANY
LIMITED PARTNERSHIP, LLP
Applicants

By 
Jill M. Harrison, Counsel for
Applicants
PennStuart
P.O. Box 2288
Abingdon, Virginia 24212-2288
(540) 628-5151

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. 1998).



UNIT W-31
Docket # VGOB-95/04/18-0503-01
Exhibit E
List of Conflicting Owners/Claimants

BOOK 453 PAGE 269

	Acres in Unit	Percent of Unit	Division of Interest in		
			7 East 0.9110%	8 East 7.1320%	9 East 4.9500%
Tract No. 2, 1.24 Acres					
<u>COAL FEE OWNERSHIP</u>					
(1) Coal Mountain Mining Company Coal Mountain Trust P.O. Box 675 Tazewell, VA 24651	1.24 acres	1.55000%	0.01412%	0.11055%	0.07673%
<u>OIL & GAS FEE OWNERSHIP</u>					
(1) Consolidation Coal Company 1800 Washington Road Pittsburgh, PA 15241	1.24 acres	1.55000%	0.01412%	0.11055%	0.07673%
Tract No. 3, 8.73 Acres					
<u>COAL FEE OWNERSHIP</u>					
(1) Yukon Pocahontas Coal Company P.O. Box 187 Tazewell, VA 62451	8.73 acres	10.91250%	0.09941%	0.77828%	0.54017%
<u>OIL & GAS FEE OWNERSHIP</u>					
(1) Donald Shortt, et al 318 Kent's Ridge Road Richlands, VA 24641	8.73 acres	10.91250%	0.09941%	0.77828%	0.54017%
Tract No. 4, 3.25 Acres					
<u>COAL FEE OWNERSHIP</u>					
(1) Coal Mountain Mining Company Coal Mountain Trust P.O. Box 675 Tazewell, VA 24651	3.25 acres	4.06250%	0.03701%	0.28974%	0.20109%
<u>OIL & GAS FEE OWNERSHIP</u>					
(1) Consolidation Coal Company 1800 Washington Road Pittsburgh, PA 15241	3.25 acres	4.06250%	0.03701%	0.28974%	0.20109%
Tract No. 5, 17.19 Acres					
<u>COAL FEE OWNERSHIP</u>					
(1) Yukon Pocahontas Coal Company P.O. Box 187 Tazewell, VA 62451	17.19 acres	21.48750%	0.19575%	1.53249%	1.06363%
<u>OIL & GAS FEE OWNERSHIP</u>					
(1) Donald Shortt, et al 318 Kent's Ridge Road Richlands, VA 24641	17.19 acres	21.48750%	0.19575%	1.53249%	1.06363%

PennStuart

PENN, STUART & ESKRIDGE
ATTORNEYS AT LAW

Geo. E. Penn (1895-1931)
Wm. A. Stuart (1922-1976)

Wm. W. Eskridge
John B. Hemmings
Stephen M. Hodges
W. Challen Walling
Wade W. Massie ^{***}
Daniel H. Caldwell
Michael F. Blair
William M. Moffet
Mark L. Esposito
Elizabeth A. McClanahan ^{***}
Timothy W. Gresham [†]
H. Ashby Dickerson
Byrum L. Geisler

Jill Morgan Harrison ^{***}
Richard E. Ladd, Jr. [†]
W. Bradford Stallard
Ramesh Murthy [†]
Kenneth R. Russell, Jr. ^{***}
Karl K. Kindig ^{***}
Mark E. Frye [†]
Laura E. Wilson [×]
Elizabeth Roussel Walters
Eric R. Thiessen
Richard A. Mahevich
Leslie S. Blanchard
Sandra K. Fraley ^{**}

June 14, 1999



POST OFFICE BOX 2288
ABINGDON, VIRGINIA 24212-2288

208 E. MAIN STREET
ABINGDON, VIRGINIA 24210-2904

TELEPHONE 540/628-5151
FAX 540/628-5621

Offices in Abingdon
and Bristol, Virginia

ALL ATTORNEYS LICENSED IN VA
Additional bar memberships:

- [†] TN
- ^{**} KY
- ^{***} WV
- ^{***} PA
- [×] TN, KY
- ^{**} TN, GA
- ^{***} TN, WV, NC
- ^{***} TN, KY, WV, MD, DC

Byron T. Fulmer, Secretary
Virginia Gas & Oil Board
P.O. Box 1416
Abingdon, Virginia 24210

Re: Application for Withdrawal of Escrow Funds
Docket No.: VGOB-95/04/18-0502-02
PS&E Client No.: 3373-16

Dear Mr. Fulmer:

I have enclosed an application for the withdrawal of escrow funds from the W-30 unit for the May Board docket. I have enclosed the original and ten (10) copies of the application. Thank you.

Yours truly,

JILL M. HARRISON

JMH/tjd

Enclosures

cc: Betty Boyd King
George W. Williams

2141-3

CLERK'S OFFICE CIRCUIT COURT
BUCHANAN COUNTY, VIRGINIA

Filed and admitted to record, 96
this 12th day of Sept. 19 96
at 12:11 o'clock P.M.

Recorded Deed Book	Page
039 State Tax	
213 County Tax	
212 Transfer	
301 Recording	<u>17.00</u>
038 State Tax	
220 Local Tax	
145 VSLF	<u>1.00</u>
106 Tech Fund	
Total	<u>18.00</u>

Teste James M. Bevins, Jr., Clerk
By _____ D.C.

D.M.M. & E.