

INSTRUMENT NO. 06000204  
Recorded in the Clerk's Office  
of Dickenson County

BK 422 PG 393

INSTRUMENT PREPARED BY  
VIRGINIA GAS AND OIL BOARD

ORDER RECORDED UNDER CODE  
OF VIRGINIA SECTION 45.1-361.26

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: Pauline R. McCoy )

DOCKET NO.  
96-0820-0552-02

RELIEF SOUGHT: Issuance of an Amended Supplemental )  
Order Amending Prior Orders Affecting )  
Drilling Unit VC-3594 Located in the Nora )  
Coalbed Gas Field, Dickenson County, VA )  
(herein "Subject Drilling Unit: to Provide )  
(1) Calculation of Funds Unit Operator )  
Deposited into the Escrow Account for )  
Subject Drilling Unit by Tract Subaccounts; )  
(2) to Petitioner, a Royalty Accounting; and )  
(3) Disbursement to Petitioner )  
in Accordance with Their Ownership )  
Interests in Those Funds Deposited by the )  
Unit Operator into Subject Drilling Unit's )  
Escrow Subaccount for VGOB Tract.1 )

TAX MAP IDENTIFICATION  
NUMBERS: TAX MAP  
IDENTIFICATION NUMBERS  
FOR ALL PARCELS  
AFFECTED BY THIS ORDER  
ARE SHOWN ON EXHIBIT(S)  
WHICH IS/ARE  
ATTACHED TO AND A PART  
OF THIS ORDER.

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") on October 18, 2005 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Jim McCoy appeared for his mother, Pauline R. McCoy, Petitioner; and Sharon M. B. Pigeon, 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 that are subject to a Board pooling order. Further, 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. 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 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 final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tract in question or any undivided interest therein.
4. **Prior Proceedings:**

- 4.1. On September 5, 1996, 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 "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Dickenson County on September 17, 1996 in Deed Book 320 at page 146. The Board designated Equitable Resources Energy Company as the Unit Operator of the Subject Drilling Unit. The Pooling Order was modified by the Board's pooling Order executed on January 17, 1997 that was filed with the Dickenson County Circuit Court Clerk's Office on January 31, 1997 in Deed Book 323 at page 611 ("Supplemental Order"). The Pooling Order was amended and supplemented by the Board's Supplemental Order Regarding Elections executed on May 8, 1997 that was filed with the Clerk's Office on May 21, 1997 in Deed Book 326 at page 370 (Supplemental Order)(hereafter the 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 Pooling Order, the coalbed methane ownership of Pine Mountain Oil and Gas, Inc. and the oil and gas fee ownership of Pauline R. McCoy or her predecessors in title in a 11.7 acre tract known as VGOB Tract 1 in Subject Drilling Unit VC-3594 were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Petitioner's Miscellaneous Petition for the release of escrowed funds mailed to the Board by way of the Division of Gas and Oil on March 16, 2005, and considered by the Board on October 18, 2005, a copy of which is attached to and made a part hereof, and sworn testimony attested that Pine Mountain Oil and Gas, Inc. released its claim to the royalty proceeds in the subject Drilling Unit to Pauline R. McCoy and therefore the escrow regarding the conflicting claims of said parties was no longer required. By sworn testimony, the Unit Operator notified the Board that Pine Mountain Oil and Gas, Inc. had notified it of its relinquished claim regarding the Escrow Account for VGOB Tract 1 of the Subject Unit.
- 4.4. The Miscellaneous Petition requested that the Board: (1) enter an Order to release the escrow funds attributable to Tract 1 and the interests of Pauline R. McCoy being held by the Escrow Agent; and (2) delete the requirement that the Unit Operator place future royalties attributable to the above-named party in Tract 1 in the Escrow Account.
- 4.5. Sworn testimony presented to and accepted by the Board at its October 18, 2005 hearing confirmed the release of claim by Pine Mountain Oil and Gas, Inc. referred to in Paragraph 4.3 above.
- 4.6. The Unit Operator filed the attached accountings for Subject Drilling Unit's Escrow Account with the Board ("Accountings").

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 Petitioner have certified and represented to the Board that:

- (1) Pauline R. McCoy is the owner of 100% of the oil and gas estate underlying VGOB Tract 1 of the subject Drilling.
- (2) Pine Mountain Oil and Gas, Inc. has transferred to and relinquished to the Petitioner any and all rights, title and interest that it may have to all current and future royalties and accrued interest held in the Escrow Account pursuant to the Pooling Order.
- (3) The net interests attributable and to be disbursed to Pauline R. McCoy in Tract 1 are shown in Table 1, below.

TABLE-1		
Tract # 2 Owner Names	Net acres in Unit	% Interest in VGOB 96-0820-0552 balance
Pauline R. McCoy HC05 Box 424 Coeburn, Virginia 24230	11.7	34.4345%

6. **Relief Granted:**

For the reasons set forth in Paragraphs 4 and 5 above, and based upon the Accounting, the Escrow Agent is ordered to, within 10 days of receipt of this executed order: (1) Disburse escrowed funds attributable to VGOB Tract 1 to Pauline R. McCoy according to the percentages shown in Table 1, above, and mail attributable proceeds to the address shown in the table. Exhibits to the Pooling Order, showing owners subject to escrow, are deleted in toto and replaced with the Exhibit E attached hereto. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the oil and gas fee ownership of Pauline R. McCoy in Tract 1 be deposited by the Unit Operator into the Escrow Account for Subject Drilling Unit and, because there are other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. **Conclusion:**

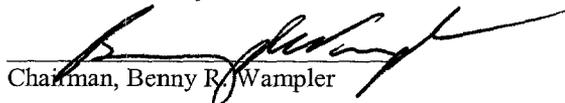
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

8. **Appeals:**

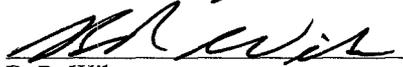
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated 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 2<sup>nd</sup> day of February 2006, by a majority of the Virginia Gas and Oil Board.

  
Chairman, Benny R. Wampler

DONE AND PERFORMED this 6<sup>th</sup> day of February 2006, 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~~ Washington )

Acknowledged on this 2<sup>nd</sup> day of February 2006, 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. Garret  
Notary Public

My Commission expires: 9/30/09

COMMONWEALTH OF VIRGINIA )  
COUNTY OF WASHINGTON )

Acknowledged on this 6<sup>th</sup> day of February, 2006, 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: 9/30/09

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Pauline McCoy

DOCKET NUMBER: VGOB 96-0820-0552-02

RELIEF SOUGHT: Supplemental Order for Disbursement of Escrowed Funds on behalf of Pauline McCoy

LEGAL DESCRIPTIONS: Drilling Unit Number VC-3594 created by Board Order Dated September 5, 1996, VGOB 96-0820-0552 in the Kenady District, Dickenson County, Virginia and Order Dated January 17, 1997, VGOB 96-0820-0552-01 in the Kenady District, Dickenson County, Virginia.

HEARING DATE: October 18, 2005

MISCELLANEOUS PETITION

1. Party: Applicants herein are Pauline McCoy, (hereinafter "Plaintiffs"), whose address is HC05, Box 424, Coeburn, Virginia 24226.
2. Facts:
  - a. Equitable was designated as the Operator and Applicants interests were Pooled in the VC-3594 Unit by Order of the Virginia Gas and Oil Board (hereinafter "Board") executed on September 5, 1996, pursuant to Docket No. VGOB 96-0820-0552 and recorded in the Circuit Court Clerk's Office of Dickenson County, Virginia on September 17, 1996, Deed Book 320, Page 146 and Order executed on January 17, 1997, pursuant to Docket No. VGOB 96-0820-0552-01 and recorded in the Circuit Court Clerk's Office of Dickenson County, Virginia on January 31, 1997, Deed Book 323, Page 611. (hereinafter "Orders").
  - b. The orders 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 Orders 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 hereto could not be made certain due to conflicting claims of ownership.
  - d. Pine Mountain Oil and Gas was a conflicting claimant with the above-listed Plaintiffs with regard to Tract One as created by Board Order as VGOB 96-0820-0552 and 96-0820-0552-01 is the applicable Tract.
  - e. To resolve this conflict, a Letter dated May 12, 2005 signed by Jerry Grantham, an officer of Pine Mountain Oil and Gas, Inc. is attached hereto and incorporated herein as Exhibit "A".
  - f. The amounts deposited with the Escrow Agent regarding the Unit need to be determined and distributed accordingly.

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- g. Any escrow amount, not yet deposited into the escrow account, held by Operator should also be determined, and distributed to Applicants/Plaintiffs herein, accordingly.
- h. 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 the funds attributable to the previous conflicting claim with Pine Mountain, held in escrow for the VGOB number as listed above.
  1. The Applicants certify that the matters set forth in the application, to the best of their knowledge, information, and belief, are true and correct and that the form and content of the Application and conform to the requirements of relevant Board regulations and orders.
  2. 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.
  3. Relief Sought: Applicants request that the Board issue amended supplement order amending all prior orders affecting the Unit which amended supplement 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 hereof, and disburse the funds on deposit with the Escrow Agent, including any applicable interest, pertaining to the interest 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 units in its hands, if any, subject to escrow but not then on deposit with the Escrow Agent, including any applicable interest, at the time of the Supplemental Order requested therein is executed, attributable to the Applicants/Plaintiffs herein for distribution.
    - d. Directing the Operator to disburse the funds, including any applicable interest, and provide an accounting thereof, which it may receive after the date of the execution of the amended supplemental order requested in the Application, if any, attributable to the Applicants/Plaintiff herein, and to discontinue the payment of such funds into Escrow.

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- 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 19<sup>th</sup> day of September, 2005.

By Pauline R. McCoy  
 Petitioner  
 Address: HC05, Box 424  
 Coeburn, VA 24226

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.

Pauline R. McCoy  
 Petitioner

State of Virginia  
 County of Wise

Personally appeared before me Pauline R. McCoy.  
 on September 19<sup>th</sup> 2005.

Letajhee  
 Notary:  
 uprel: 9/30/07

**PINE MOUNTAIN  
Oil and Gas, Inc.**

P.O. Box 2136  
129 Preston Street  
Abingdon, Virginia 24212



May 12, 2005

Ms. Melanie Freeman  
Equitable Production Company  
1710 Pennsylvania Avenue  
Charleston, WV 25302

Re: Escrowed Royalties – Well Numbers VC-3594 and VC-3595  
Pauline McCoy  
95 ac.

Dear Ms. Freeman:

It has come to our attention that the letter which we forwarded to you dated January 11, 2005, did not clearly reflect our intentions regarding the release of the royalty proceeds from the coalbed methane gas in the above-mentioned well units. Therefore, we would like to clarify our decision on this matter. First, as noted in our prior letter, we have determined that Ms. McCoy is the oil and gas owner on the 95 acre tract of land encompassed by the above-mentioned well units and, as such, should receive distribution of the proceeds of her portion of these coalbed methane wells.

As we noted in our prior letter, we had a 50/50 royalty split agreement in place with Ms. McCoy regarding Well No. VC-3595 until such time as final legislative determination had been made. Therefore, effective March 5, 2004, the date of the Supreme Court opinion, Ms. McCoy should begin to receive 100% of the proceeds of her portion of Well No. VC-3595.

We understand that the proceeds from Well No. VC-3594 are being held at the state level due to the unit being force pooled. As you are aware, we did not have a royalty split letter in place with Ms. McCoy regarding this well unit and, therefore, all proceeds of Ms. McCoy's portion of this well unit have been put into escrow. Due to the opinion dated March 5, 2004, and our decision that Ms. McCoy is the oil and gas and, therefore, the coalbed methane gas owner on this tract, any proceeds that are being held at the state level on Well No. 3594 in Ms. McCoy's name should be released 100% to Ms. McCoy.

By copy of this letter, we are notifying Ms. McCoy and Ms. Diane Davis of the Department of Mines, Minerals and Energy, of our action on this matter. If you have any questions or comments, please do not hesitate to contact us by phone at (276) 628-9001 or by e-mail at [dlouthian@gl-energy.com](mailto:dlouthian@gl-energy.com).

Sincerely,

PINE MOUNTAIN OIL & GAS, INC.

  
Jerry H. Grantham  
Exploration Manager

/dtl

Enclosures

cc: Ms. Pauline McCoy

Ms. Diane Davis



Hall, Don

**From:** Smith, Lesli  
**Sent:** Monday, October 17, 2005 4:52 PM  
**To:** Hall, Don  
**Cc:** Freeman, Melanie  
**Subject:** VC 3594 - VGOB 96-0820-0552-02

Well 703594
0.07227500 is being escrowed to the bank
0.02488750 of that amount belongs to Pauline McCoy
Her interest in the escrowed funds is calculated as follows:
$0.02488750/0.07227500=0.34434452 \times \$51,733.10 =\$17,814.01$
$0.02488750/0.07227500=0.34434452 \times \$2,730.49 =\$940.23$ in Interest
Total Due Ms. McCoy = \$18,754.24

EXHIBIT "E"  
703594  
VGOB-96-0820-0552  
Unleased Owners/Claimants Requiring Escrow

TRACT	LESSOR	LEASE STATUS	INTEREST WITHIN UNIT	GROSS ACREAGE IN UNIT	NET REVENUE INTEREST
			<u>Gas Estate Only</u>		
2	Nancy A. Hale Heirs Unknown <i>not assessed</i>	Unleased	5.260000%	3.0900	0.00657600 RI
			<u>Coal Estate Only</u>		
2	Pine Mountain Oil & Gas, Inc. Attn: Richard Brillhart P. O. Box 2136 Abingdon, VA 24212 <i>20087 20088</i>	Leased-EPC 241490 Tract T-78 & T-79	5.280000%	3.0900	0.00657500 RI
			<u>Gas Estate Only</u>		
6	David K. Rose, single 3408 Belair Road Baltimore, MD 21213 <i>4339</i>	Leased-EPC 245198.01	10.210000%	6.0000	0.01276250 RI
			<u>Gas Estate Only</u>		
	Virginia Vandergriff and Randall Vandergriff, W/H 120 Ranch Lake Blvd. Scott Depot, WV 26560 <i>4339</i>	Leased-EPC 245198.02	10.210000%	6.0000	0.01276250 RI
			<u>Coal Estate Only</u>		
6	Pine Mountain Oil & Gas, Inc. Attn: Richard Brillhart P.O. Box 2136 Abingdon, VA 24212 <i>191B-2212 (map #)</i>	Leased-EPC 244792 Tract TC-158	20.420000%	12.0000	0.20420000 RI
			<u>Gas Estate Only</u>		
7	Quentin M. McCoy, Single Route 1, Box 299 St. Paul, VA 24282 <i>#5013</i>	Unleased	12.230000%	7.1900	0.12230000 RI
			<u>Coal Estate Only</u>		
7	Pine Mountain Oil & Gas, Inc. Attn: Richard Brillhart P. O. Box 2136 Abingdon, VA 24212	Leased-EPC 244792 Tract TC-158	12.230000%	7.1900	0.01223000 RI

INSTRUMENT #060000204  
RECORDED IN THE CLERK'S OFFICE OF  
DICKENSON ON  
FEBRUARY 7, 2006 AT 02:45PM  
JOE TATE, CLERK  
RECORDED BY: JBM

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF DICKENSON COUNTY, Feb. 7, 2006 This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 2:45 o'clock PM, after payment of \$ \_\_\_\_\_ tax imposed by Sec. 58.1-802.

Original returned this date to: Diane Davis

TESTE: Joe Tate CLERK  
BY: Janice M... D. CLERK