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VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Hugh MacRae Land Trust (herein "Trust") and Garden Realty Corporation (herein ("Garden")) (Trust and Garden sometimes herein collectively referred to as "Applicants")

DOCKET NO.:
VGOB 97/04/15-0578

RELIEF SOUGHT: Accountings, Disbursements from Escrow Account, and Amendment of Board's Pooling Orders for Drilling Unit R-25 in Docket No. VGOB-95-1024-0523 entered October 25, 1995 and recorded October 31, 1995 in Deed Book 442, Page 64, and of the Board's Supplemental Order Regarding Elections entered February 1, 1996 and recorded February 14, 1996 in Deed Book 445, Page 444, all in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia (herein collectively "Pooling Order")

LEGAL DESCRIPTION: Drilling Unit Number R-25 as Created by Board Order Dated as of May 18, 1990, OGCB 3-90, as amended by Board Orders in Docket Nos. VGOB 93/02/16-0325 and VGOB 93/03/16-0348 (herein "Subject Drilling Unit") in the Oakwood Coalbed Gas Field I, Garden Magisterial District, Buchanan County, Virginia (herein "Subject Lands")

REPORT OF THE BOARD

FINDINGS AND ORDER

1. **Hearing Date and Place:** This matter came on for hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on April 15, 1997, Dickenson Conference Center, Southwest Virginia Education 4-H Center, Abingdon, Virginia.

2. **Appearances:** Jill M. Harrison, of PennStuart, appeared for the Applicant; and Sandra B. Riggs, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code Ann. § 45.1-361.1 *et seq.*, the Board finds that it has jurisdiction over the subject matter. Based upon the evidence presented by Applicant, the Board also finds that the Applicants: (1) have given notice of their application to the parties identified in the Pooling Order as the same are entitled by Va. Code Ann. §§ 45.1-361.19 and 45.1-361.22; and (2) have caused a notice of this hearing to be published in a local paper of general circulation as required by Va. Code Ann. § 45.1-361.19(B). Whereupon, the Board hereby finds that the notices given hereby satisfy all statutory requirements, Board rule requirements, and the minimum standards of state due process.
4. **Prior Proceedings:** At a previous Board hearing on February 18, 1992 in Docket No. VGOB 95-1024-0523, the Board granted the relief sought by the Pocahontas Gas Partnership (herein "Unit Operator") and pooled all the interests in Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith from a frac well (hereinafter collectively referred to as "Coalbed Methane Gas" or "Gas") pursuant to §§ 45.1-361.21 and 45.1-361.22, Code of Virginia. The Board entered its order on October 25, 1995, and recorded said Order in Deed Book 442, Page 64, in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia, on October 31, 1995. A Supplemental Board Order Regarding Elections was entered by the Board *sua sponte* on February 1, 1996, and recorded in Deed Book 445, Page 444, in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia, on February 14, 1996.
5. **Relief Requested:** Pursuant to Va. code Ann. § 45.1-361.22.A.5., the Applicants seek: (1) an accounting from the Escrow Agent of all sums attributable to Subject Drilling Unit which have been deposited by the Unit Operator into the Escrow Account pursuant to the requirements of the Pooling Order, together with any interest accruing thereon and credited thereto and (2) an accounting from the Unit Operator of all royalties attributable to Applicants' 15.4625 percent conflicting Gas royalty interest within Subject Drilling Unit, including any of such sums which have been escrowed with the Escrow Agent, escrowed and held by the Unit Operator pursuant to its voluntary agreements with the Applicants and/or heretofore paid directly to the Applicants. Further, Applicants request that: (3) in accordance with the voluntary agreement of Garden and Trust dated November 18, 1996, the Board direct the Escrow Agent to disburse fifty percent (50%) of the funds held by it which are attributable to Applicants' 15.4625 percent conflicting royalty interest in the Gas in Subject Drilling Unit to Garden, as the oil and gas owner/lessor, and to disburse fifty percent (50%) of the funds held by it which are attributable to Applicants' 15.4625 percent conflicting royalty interest in the Gas in Subject Drilling Unit to Trust, as the coal owner/lessor, and (4) the Board modify the Pooling Order to reflect that the Applicants' 15.4625 percent aggregate royalty interest in Subject Drilling Unit no

longer constitutes a conflicting claim which is subject to the escrow provisions of the Pooling Order, but instead is to be paid to Applicants in accordance with the terms of Applicants' respective leases and the voluntary agreement of the Applicants with respect to their conflicting claims as set forth in Paragraph 7.1 below.

6. **Relief Granted:** Pursuant to Va. Code Ann. §§ 45.1-361.1 *et seq.*, (1) the Unit Operator is hereby directed to immediately upon receipt of this Order determine and file with the Board an accounting of all royalties attributable to Garden's and Trust's conflicting Gas royalty interest in of Subject Drilling Unit and (2) Tazewell National Bank Trust Department, c/o Premier Bankshares Corporation (herein " Escrow Agent") is hereby directed to immediately upon receipt of this Order determine and file with the Board an accounting of any and all funds deposited by the Unit Operator with the Escrow Agent for Subject Drilling Unit pursuant to the requirements of the Pooling Order, together with an accounting of any interest accruing thereon and credited to the account of Subject Drilling Unit. Upon receipt of the above-required accountings from the Unit Operator and from the Escrow Agent, the Board will provide a copy of same to the Applicants with a copy of the Escrow Agent's accounting to the Unit Operator. Applicants and/or the Unit Operator shall have fifteen (15) days from receipt of these accountings within which to object in writing by asking for a hearing before the Board with respect to same. In the event the Unit Operator verifies through its accounting that Applicants' aggregate conflicting Gas royalty interest within Subject Drilling Unit is in fact 15.4625 percent, and provided the Applicants do not object to the accountings by requesting a hearing before the Board with respect to same before the Board, then the Applicants will be deemed to have agreed to the accountings, and the Board will immediately thereafter: (3) give notice *sua sponte* to the Escrow Agent to disburse fifty percent (50%) of the funds held by the Escrow Agent and attributable to Applicants' 15.4625 percent conflicting Gas royalty interest in Subject Drilling Unit (i.e., 7.73125%) to Trust, and to disburse fifty percent (50%) of the funds held by the Escrow Agent and attributable to Applicants' 15.4625 percent conflicting Gas royalty interest in Subject Drilling Unit (i.e., 7.73125%) to Garden, and (4) the giving of such notice to disburse to the Escrow Agent shall constitute a modification of the Pooling Order to reflect that the 15.4625 percent interest in Subject Drilling Unit which represents the aggregate of the conflicting Gas royalty interests of Garden and Trust shall no longer constitute a conflicting claim which is subject to the escrow requirements of the Pooling Order, and shall thereafter be paid by the Unit Operator to the Applicants in accordance with their agreements as provided at Paragraph 7.1 below. However, in the event the Unit Operator fails to verify to the Board that the Applicants' conflicting Gas royalty interest within Subject Drilling Unit is in fact 15.4625 percent, or if the Applicants or the Unit Operator object to the accounting filed by either the Unit Operator or the Escrow Agent, then the Board will on its own motion set the application filed herein down for further hearings before the Board.

7. **Special Findings:** The Board specifically and specially finds:

7.1 In their application to the Board, and at the Board hearing held on April 15, 1997, Garden and Trust warranted and represented to the Board that: (1) Garden, an oil and gas owner/lessor within Tract 6 of Subject Drilling Unit, and Trust, a coal owner/lessor within Tract 6 of Subject Drilling Unit, have and own in the aggregate a 15.4625 percent conflicting Gas royalty interest in Subject Drilling Unit and that they are the sole claimants to said 15.4625 percent interest, (2) Garden has heretofore entered into a voluntary lease with respect to its conflicting Gas interest in Subject Drilling Unit, (3) Trust has heretofore entered into a voluntary lease with respect to its conflicting Gas interests in Subject Drilling Unit (4) at the time of entry of the Pooling Order, Garden's and Trust's interests in Subject Drilling Unit constituted conflicting claims to royalties paid for Gas produced by Unit Operator from Subject Drilling Unit in accordance with the provisions of the Pooling Order, and (5) subsequent to the entry of the Pooling Order, Garden and Trust executed an agreement with respect to the division and apportionment of royalties that are derived from production of Gas pursuant to the Pooling Order whereby Garden is entitled to receive a sum equal to 50 percent (50%) of all royalties which are attributable to their 15.4625 percent conflicting interest (i.e. 7.73125% of Subject Drilling Unit), and Trust shall be entitled to receive a sum equal to 50 percent (50%) of all royalties which are attributable to their 15.4625 percent conflicting interest (i.e., 7.73125% of Subject Drilling Unit).

7.2 Va. Code Ann. § 45.1-361.22.A.5. provides that "[T]he Board shall order payment of principal and accrued interest from the escrow account to all persons legally entitled thereto pursuant to the provisions of § 45.1-361.21 and the order of the Board. Such order shall be issued within thirty days of receipt of notification of the final legal determination of entitlement thereto *or* upon agreements of all claimants.

7.3. The relief requested and granted is just and reasonable, is supported by substantial evidence, and based upon the agreement reached by the Applicants as to their conflicting Gas royalty interest in 15.4625 percent of Subject Drilling Unit, is required by Va. Code Ann. § 45.1-361.22.A.5. Therefore, the Board is entering an Order granting the relief set forth in Paragraph 6 above.

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

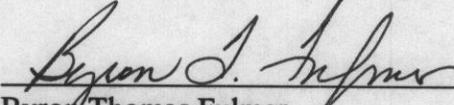
10. **Appeals:** Appeals of this Order are governed by the provisions of Va. Code Ann. § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court. Such appeals must be taken in the manner prescribed in the Administrative Process Act, Va. Code Ann. §§ 9-6.14:1 *et seq.*

11. **Effective Date:** This Order shall be effective as of April 15, 1997.

DONE AND EXECUTED this 23rd day of May, 1997, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

DONE AND PERFORMED this 23rd day of May, 1997, by a Order of this Board.


Byron Thomas Fulmer
Principal Executive To The Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WISE)

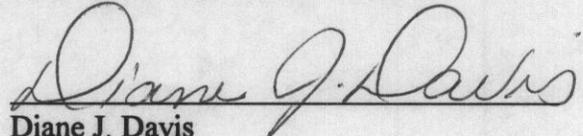
Acknowledged on this 23rd day of May, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Susan G. Garrett
Notary Public

My commission expires 7/31/98.

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON

Acknowledged on this 23rd day of May, 1997,
personally before me a notary public in and for the Commonwealth of Virginia, appeared Byron
Thomas Fulmer, 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 7/31/97.

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 1st day of June, 1997 2:06P. M.
Deed Book No. 463 and Page No. 208 TESTE: James M. Bevins, Jr., Clerk
Returned this date to: Dept of Mines TESTE: Beverly S. Jiles Deputy Clerk