

**VIRGINIA:**

**BEFORE THE VIRGINIA GAS AND OIL BOARD**

**APPLICANTS:** Hugh MacRae Land Trust (herein ) **DOCKET NO.**  
 "Trust") and Garden Realty Corporation ) **VGOB 97/04/15/-0579-01**  
 (herein "Garden") (Trust and Garden are )  
 sometimes herein collectively referred to as )  
 "Applicants") )

**RELIEF SOUGHT:** Further Accountings and Amendment of )  
 Board's Order in Docket No. VGOB )  
 97-0415-0579 entered June 16, 1997, )  
 and recorded July 8, 1997, in Deed Book )  
 464, Page 241 in the Office of the Clerk )  
 of the Circuit Court of Buchanan County, )  
 VA (herein "Disbursement Order") )

**LEGAL**

**DESCRIPTION:** Drilling Unit Number NELW10 as Created )  
 by Board Order Effective as of November )  
 19, 1991, Docket No. VGOB )  
 92/11/19-0160 as amended by Board )  
 Orders in VGOB Docket No. )  
 93/06/22-0384 (herein "Subject Drilling )  
 Unit") in the Hurricane Magisterial District, )  
 Buchanan County, Virginia (herein )  
 "Subject Lands") which Drilling Unit Was )  
 Pooled by: (1) Board Order in VGOB )  
 Docket No. VGOB 92/02/18-0190 )  
 entered April 29, 1992, and recorded )  
 May 1, 1992, in Deed Book 390, )  
 Page 656 as amended by Board Order )  
 entered June 9, 1992 and recorded July )  
 1, 1992 in Deed Book 393, Page 831 )  
 (herein collectively "Pooling Order"); and )  
 (2) Board's Supplemental Order Regarding )  
 Elections Entered December 20, 1994, and )  
 Recorded December 28, 1994 in Deed )  
 Book 431, Page 41 as amended by Amended )  
 Supplemental Order Regarding Elections )  
 entered May 8, 1997 and recorded May 13, )  
 in Deed Book 462, Page 412 (herein )  
 collectively "Supplemental Order") )

**REPORT OF THE BOARD****FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter originally came on for hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on April 15, 1997, and as a result of action taken by the Board on that date, the Board entered the Disbursement Order. Pursuant to Paragraph 6 of the Disbursement Order, the Applicants filed with the Board a Request for Hearing regarding the accountings which were provided by the Escrow Agency and/or the Unit Operator to the Applicants by letter dated September 12, 1997 from the Board's counsel. The Board, on its own motion, scheduled said further hearing for 9:00 a.m. on January 20, 1998, Dickenson Conference Room, Southwest Virginia Education 4-H Center, Abingdon, Virginia at which time Applicants' Request for Hearing came on before the Board.
2. **Appearances:** S. T. Mullins, Esquire, of the firm Street, Street, Street, Scott & Bowman, appeared in behalf of the Applicants; and Mark Swartz, Esquire, appeared in behalf of Pocahontas Gas Partnership, the Operator of Subject Drilling Unit appointed by the Board pursuant to the terms of the Pooling Order (herein "Unit Operator").
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. Notice of the hearing of this matter was 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 the Board's hearing on February 18, 1992, in Docket No. VGOB 92/02/18-0190, the Board granted the relief sought by Pocahontas Gas Partnership (herein "Unit Operator") and pooled the interests in the Subject Drilling Unit for the production of coalbed methane gas from active gob areas (hereinafter collectively referred to as "Coalbed Methane Gas" or "Gas") pursuant to §§ 45.1-361.21 and 45.1-361.22, Code of Virginia and named the Unit Operator, all pursuant to the terms of the Pooling Order. The Supplemental Order was entered by the Board *sua sponte* on December 20, 1994, and the amended Supplemental Order was entered by the Board on May 8, 1997, to comply with the requirements of the Board's Regulation 4 VAC 26-160.70.C. by supplementing the Pooling Order to complete the record regarding elections. By their application to the Board for the Disbursement Order, the Applicants warranted and represented to the Board that: (1) Garden is the oil and gas owner of Tract 47, a 115.3-acre tract representing 29.4802 percent of Subject Drilling Unit (herein "Tract 47"), and Tract 52, a 55-acre tract representing 14.0625 percent of Subject Drilling Unit (herein "Tract 52"), that Trust is coal owner of said tracts, and that together they have and own in the aggregate 43.5427 percent conflicting Gas royalty interest in Subject Drilling Unit and are the sole claimants to said 43.5427 percent interest; (2) that both Garden and Trust had theretofore entered into voluntary leases with the Unit Operator with respect to their respective conflicting Gas royalty interests in Subject Drilling Unit; (3) that at the time of entry of the Pooling Order, Applicant's interests in Subject

Drilling Unit constituted conflicting claims to royalties paid for Gas produced by the Unit Operator from Subject Drilling Unit, but that subsequent to the entry of the Pooling Order, Applicants executed with each other an agreement with respect to the division and apportionment of royalties attributable to their conflicting interests in Subject Drilling Unit (herein "Settlement Agreement") by which each of them is entitled to receive a sum equal to fifty percent (50%) of said royalties and bonuses (herein "Stipulated Gas Royalty Interest"); and (4) Applicants requested that the Board disburse to each of them those moneys held in the Escrow Account for Subject Drilling Unit (herein "Escrow Account") which are attributable to each of their Stipulated Gas Royalty Interest. The Board granted the relief sought by the Applicants by entering the Disbursement Order. By letter dated September 12, 1997, to the attorneys for the Applicants and the Unit Operator, counsel for the Board forwarded the accounting filed pursuant to the Disbursement Order by the Unit Operator (See Exhibit A hereto for Unit Operator's Accounting dated August 29, 1997 for deposits into escrow through May 31, 1997, herein referred to as "Unit Operator's Accounting") and the Escrow Agent (See Exhibit B hereto for the Escrow Agent's August 30, 1997 accounting, herein referred to as "Escrow Agent's Accounting"). On September 26, 1997, Applicants filed their Request for Hearing before the Board with respect to the Unit Operator's Accounting and the Escrow Agent's Accounting.

5. **Relief Requested:** By letter dated December 31, 1997, from Applicants' counsel to Unit Operator's counsel, they agreed to a statement of the issues before the Board with regard to Applicants' Request for Hearing as being:

"[a]dequacy of the accountings and information provided. The accountings do not provide any information concerning any deduction, expenses, allocations, etc., but simply give a "raw" number or numbers without any ability on the part of the royalty owner to correlate that information with the particular well or wells in question vis-a-vis production, etc.... would like to have a full accounting and not just an abbreviated statement of what is purportedly due them.

By letter dated January 16, 1998, the Unit Operator's counsel responded to Applicants' counsel by providing a sample of the type of information that Unit Operator routinely provides to the escrow agent when royalty payments are made and stated "I would assume that the escrow agent has all of these items available for inspection.

6. **Relief Granted:** Pursuant to Va. Code Ann. § 45.1-361.1 *et seq.*, and more particularly Va. Code Ann. § 45.1-361.15.A, the Unit Operator is hereby directed to:

6.1. Immediately upon receipt of this Order determine and file with the Board:

- (1) an historical, chronological and itemized accounting of all funds deposited by the Unit Operator into the Escrow Agent which are uniquely attributable to each of the Applicants' Stipulated Gas Royalty Interest, with said accounting to cover the period from commencement of production of Gas from Subject Drilling Unit and continuing through the last date the Unit Operator deposited into the escrow account moneys which were attributable to Applicants' interests, and after which

date the Unit Operator commenced paying the Applicants directly pursuant to the terms of their voluntary leases, the Settlement Agreement and the Disbursement Order. Said accountings shall contain for each Applicant the type and quality of information that is reflected in the Gas Royalty/Revenue Statement filed by the Unit Operator with the Escrow Agent as backup for deposits made into the Escrow Account, shall be unique to the interest of each Applicant, and shall only cover those payments attributable to each of the Applicant's interests that were actually deposited by the Unit Operator into the Escrow Account;

- (2) a certification of the total amount deposited into the Escrow Account which is attributable to each of the Applicants' Stipulated Gas Royalty Interest (herein "Principal"); and
- (3) a certified verification that each of the Applicants' Stipulated Gas Royalty Interest is equal to 22.43681 (.50 X 44.87362) percent of the balance which was on deposit upon the posting of the last deposit of royalties attributable to Applicants' aggregate interest into the Escrow Account.

6.2 File an updated affidavit and seek from the Board an amended supplemental order to properly reflect by tract number the identity and percentage of interests within the Subject Drilling Unit of each conflicting claimant who may have or claim an interest in the funds remaining and/or to be placed on deposit by the Unit Operator with the Escrow Agent once disbursement is made to the Applicants' of those funds attributable to their Stipulated Gas Royalty interests.

6.3 Commencing immediately and continuing for so long as there is a need for the Escrow Account, contemporaneously with the deposit of any funds into the Escrow Account, in addition to filing with the Escrow Agent a copy of the Gas Royalty/Revenue Statement for such escrowed sums, the Unit Operator shall file, by mail, a copy of each such statement with the Virginia Gas and Oil Inspector so that such statements are available for inspection by claimants in accordance with the provisions of Va. Code 45.1-361.21.C.6.

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

7.1 The Board has been made aware through these proceedings that with the commencement of production attributable to the Subject Drilling Unit and continuing through the date hereof, it has not been the Unit Operator's practice to mail to conflicting Gas claimants in Subject Drilling Unit a copy of the Gas Revenue/Royalty Statements applicable to their conflicting interests, but instead the Unit Operator has forwarded said statements to the Escrow Agent as backup documentation for each of its deposits into the Escrow Account. A review of the royalty statements filed by the Unit Operator with the Escrow Agent indicate that the last deposit made into the Escrow Account and attributable to Applicants' interests was the July 25, 1997 Deposit, and thereafter the Unit Operator purportedly commenced making payment of

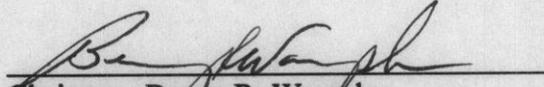
the Applicants' Stipulated Gas Royalty Interests directly to each of them in accordance with the terms of each of their voluntary leases with the Unit Operator, the Settlement Agreement and the Disbursement Order.

- 7.2 By letter dated March 13, 1998, to counsel for the Applicants, the attorney for the Board forwarded copies of each of the Gas Royalty/Revenue Statements applicable to Applicants' interest in Subject Drilling Unit which were on file with the Escrow Agent.
- 7.3 Notwithstanding the facts that (1) Paragraph 6 of the Unit Operator's affidavit attached as Exhibit A to the Amended Supplemental Order represented to the Board that only the unleased owners/claimants set forth on Exhibit B were subject to the escrow requirements of the Virginia Gas and Oil Act and the Pooling Order; (2) the Applicants' conflicting Gas royalty interests in Tracts 47 and 52 of Subject Drilling Unit were not reflected on Exhibit B-3 to the Affidavit attached as Exhibit A to the Amended Supplemental Order; and (3) the Supplemental Order represented to the Board that the conflicting Gas and coal interests in Tracts 47 and 52 were "to be escrowed in-house due to conflicting claims, presumably pursuant to the terms of Applicants' voluntary leases with the Unit Operator, the accounting attached hereto as Exhibit A reflects that funds have nonetheless been placed on deposit with the Escrow Agent by the Unit Operator.
- 7.4 Applicants represented to the Board in their application for the Disbursement Order that their aggregate interest in Subject Drilling Unit is 43.5427 percent of Subject Drilling Unit. The Unit Operator's Accounting indicates that said aggregate interests represents 44.87362 percent of funds on deposit with the Escrow Agent, and that through May 31, 1997, the principal sum of \$160,788.20 of the funds placed on deposit by the Unit Operator, exclusive of interest and fees, were attributable to Applicants' aggregate interests. However, this accounting does not appear to be a final accounting of funds on deposit which are attributable to Applicants' Stipulated Gas Royalty Interest since it reflects payments through May 31, 1997, when it appears from the Gas Royalty/Revenue Statements that deposits attributable to Applicants' conflicting interests in Tracts 47 and 52 were made to the Escrow Account by Unit Operator through the July 25, 1997 Deposit.
- 7.5 Based on information filed by the Unit Operator with the Board and/or its Escrow Agent, the Board and its Agents are unable to determine the dates and amounts of each Principal deposit made by the Unit Operator into the Escrow Account attributable to Applicants' respective Stipulated Gas Royalty Interest, the total of such Principal deposits, the interest accruing on the Escrow Account which is allocable to Applicants' respective interests or the fees chargeable to the Escrow Account which are allocable to Applicants' respective interests.
8. **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.

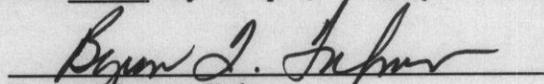
9. **Appeals:** Appeals of this Order are governed by the provisions of Va. Code Ann. § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court. Such appeals must be taken in the manner prescribed in the Administrative Process Act, Va. Code Ann.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

10. **Effective Date:** This Order shall be effective as of the date of its execution.

**DONE AND EXECUTED** this 15<sup>th</sup> day of April, 1998, by a majority of the Virginia Gas and Oil Board.

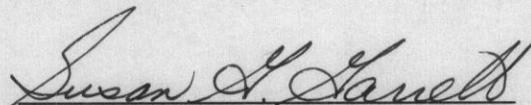
  
Chairman, Benny R. Wampler

**DONE AND PERFORMED** this 22<sup>nd</sup> day of April, 1998, by Order of this Board.

  
Byron Thomas Fulmer  
Principal Executive to the Staff  
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA     )  
COUNTY OF WISE                    )

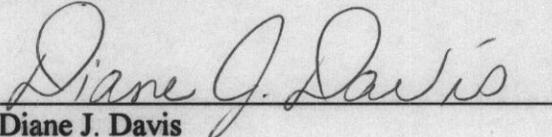
Acknowledged on this 15<sup>th</sup> day of April, 1998, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Susan G. Garrett  
Notary Public

My commission expires 7/31/98

COMMONWEALTH OF VIRGINIA )  
COUNTY OF WASHINGTON )

Acknowledged on this 22<sup>nd</sup> day of April, 1998, 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 September 30, 2001



\* ACTIVITY OF ACCOUNT FROM BEGINNING THROUGH AUGUST 30, 1997

	BEGINNING BALANCE	RECEIPTS	INTEREST	DISBURSEMENTS	TRANSFER OF FUNDS	FEE EXPENSE	GAIN/LOSS	ENDING BALANCE
ROYALTY INCOME		0.00	20591.04	211.94	0.00	-51.54	0.00	20751.44
BENCHMARK GOVERNMENT SELECT		0.00	20591.04	211.94	0.00	-51.54	0.00	20751.44
TOTAL		0.00	20591.04	211.94	0.00	-51.54	0.00	20751.44
ACCOUNT	0.00	20591.04	211.94	0.00	0.00	-51.54	0.00	20751.44
	[ TOTAL VESTED AMOUNT ]							

VIRGINIA GAS & OIL BOARD  
 PGP NEWM-10 95-0218-0190 ACTIVE  
 NEWM-10 #92-0218-0190  
 WAS CLOSED IN EARLY 1997  
 THIS IS REVISED ORDER

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 29th day of April, 1998 12597A M.  
 Deed Book No. 475 and Page No. 366  
 Returned this date to: Diane Davis TESTE: Jessie S. Keller James M. Bevins, Jr., Clerk  
 TESTE: Diane Davis Deputy Clerk

**VIRGINIA:**

**BEFORE THE VIRGINIA GAS AND OIL BOARD**

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

**DOCKET NO.:**  
VGOB 97/04/15-0579

**RELIEF SOUGHT:** Accountings, Disbursements from Escrow Account, and Amendment of Board's Pooling Orders for Drilling Unit NELW10 in Docket No. VGOB-92/02/18-0190 entered April 29, 1992 and recorded May 1, 1992 in Deed Book 390, Page 656, as amended by Board Order entered June 9, 1992 and recorded July 1, 1992 in Deed Book 393, Page 831, together with the Board's Supplemental Order Regarding Elections entered December 20, 1994 and recorded December 28, 1994 in Deed Book 431, Page 41, all in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia (herein collectively "Pooling Order")

**LEGAL DESCRIPTION:** Drilling Unit Number NELW10 as Created by Board Order Dated as of November 19, 1991, Docket No. VGOB-91/11/19-0160 as amended by Board Orders in VGOB Docket No. 93/06/22-0384 (herein "Subject Drilling Unit") in the Hurricane 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 and after the taking of testimony, said application for continued by the Board until its May 20, 1997 hearing when it again came on for hearing..

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 January 21, 1992 in Docket No. VGOB 92-02/18-0190, the Board granted the relief sought by the Pocahontas Gas Partnership (herein "Unit Operator") and pooled the interests in the Subject Drilling Unit for the production of coalbed methane gas and coalbed methane gas from active gob areas (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 April 29, 1992, and recorded said Order in Deed Book 390, Page 656, in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia, on May 1, 1992 (herein "Original Pooling Order"). The Original Pooling Order was amended and replaced in toto by the Board's Amended Order entered June 9, 1992 and recorded July 1, 1992 in Deed Book 393, Page 831, in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia (herein "Pooling Order"). A Supplemental Board Order Regarding Elections was entered by the Board *sua sponte* on December 20, 1994, and recorded in Deed Book 431, Page 41, in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia, on December 28, 1994..
5. **Relief Requested:** Pursuant to Va. Code Ann. § 45.1-361.22.A.5., the Applicants herein 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' aggregate 43.5427 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' aggregate 43.5427 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' aggregate 43.5427 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' aggregate 43.5427 percent 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 at 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 from the Unit Operator and from the Escrow Agent. Upon receipt of the above-required accountings, 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 its 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 43.5427 percent, and provided the Applicants do not object to the accountings by requesting a hearing before the Board with respect to same, 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 50 percent (50%) of the funds held by the Escrow Agent and attributable to Applicants' aggregate 43.5427 percent conflicting Gas royalty interest in Subject Drilling Unit (i.e., 21.77135%) to Trust, and to disburse fifty percent (50%) of the funds held by the Escrow Agent and attributable to Applicants' aggregate 43.5427 percent conflicting Gas royalty interest in Subject Drilling Unit ( i.e., 21.77135%) to Garden, and (4) the giving of such notice to disburse to the Escrow Agent shall also constitute a modification of the Pooling Order to reflect that the 43.5427 percent interest in Subject Drilling Unit which represents by the aggregate of the conflicting 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 agreement as provided at Paragraph 7.1 below.. However, in the event the Unit Operator fails to verify to the Board that the Applicants' aggregate conflicting Gas royalty interest within Subject Drilling Unit is in fact 43.5427 percent, or if the Applicants 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 hearings held on April 15, 1997 and on May 20, 1997, Garden and Trust warranted and represented to the Board that: (1) Garden, an oil and gas owner within Tracts 47 and 52 of Subject Drilling Unit, and Trust, a coal owner within Tracts 47 and 52 of Subject Drilling Unit, have and own in the aggregate 43.5427 percent conflicting Gas royalty interest in Subject Drilling Unit and that they are the sole claimants to said 43.5427 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 fifty percent (50%) of all royalties which are attributable to their aggregate 43.5427 percent conflicting interest (i.e. 21.77135% of Subject Drilling Unit), and Trust shall be entitled to receive a sum equal to fifty percent (50%) of all royalties which are attributable to their aggregate 43.5427 percent conflicting interest (i.e., 21.77135% 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.

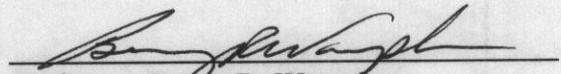
7.3. The relief requested and granted is just and reasonable, is supported by substantial evidence, and based upon the agreement reached by the Applicants as to their aggregate conflicting Gas royalty interest in 5.662 percent of Subject Drilling Unit, is required by Va. Code Ann. § 45.1-361.22.A.5. 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.

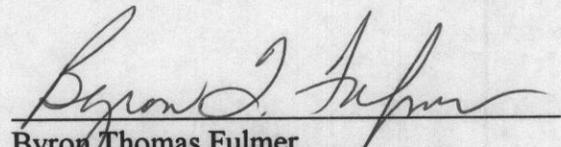
10. **Appeals:** Appeals of this Order are governed by the provisions of Va. Code Ann. § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court. Such appeals must be taken in the manner prescribed in the Administrative Process Act, Va. Code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

11. **Effective Date:** This Order shall be effective as of the date of its execution.

**DONE AND EXECUTED** this 16<sup>th</sup> day of June, 1997, by a majority of the Virginia Gas and Oil Board.

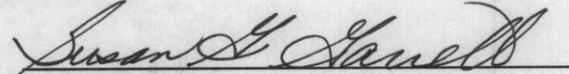
  
Chairman, Benny R. Wampler

**DONE AND PERFORMED** this 16<sup>th</sup> day of June, 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 16<sup>th</sup> day of June, 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 16<sup>th</sup> day of June, 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*  
Diane J. Davis  
Notary Public

My commission expires 9/30/97.

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 18<sup>th</sup> day of July, 1997, at 11:26 A. M.  
Deed Book No. 464 and Page No. 241 TESTE: James M. Bevins, Jr., Clerk  
Returned this date to: Diane Davis TESTE: Jessie S. Filler Deputy Clerk

RECORDS CLERK