

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANT:	Jerry Raines)	
)	
)	DOCKET NO.
)	97-0617-0587-01
RELIEF SOUGHT:	Issuance of an Amended Supplemental)	
	Order Amending Prior Orders Affecting)	
	Drilling Unit VP8SGU2 Located in)	
	Buchanan 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 Applicants a Royalty Accounting; and)	
	(3) Disbursement to Jerry Raines)	
	in Accordance with His Ownership)	
	Interests Those Funds Deposited by the)	
	Unit Operator into Subject Drilling Unit's)	
	Escrow Subaccount for VGOB Tract 16A.)	

REPORT OF THE BOARDFINDINGS AND ORDER

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on April 20, 2004 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Peter Glubiak, Esq. Appeared for the applicant, Mark Swartz, Esq. appeared for the Unit Operator; 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 November 6, 1997, 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 Buchanan County on November 13, 1997 in Deed Book 470 at Page 73. The Pooling Order was supplemented by the Board's Supplemental Order Regarding Elections executed on April 17, 1998 that was filed with the Clerk's Office on April 29, 1998 in Deed Book 475 at page 291 ("Supplemental Order") (hereafter the Pooling Orders and the Supplemental Order are collectively referred to as the "Pooling Orders"). On June 17, 2003, The Board executed an order without docket number amending all prior pooling orders that named Buchanan Production Company, Pocahontas Gas Partnership, Island Creek Coal Company or Consol Energy, Inc. as unit operator, and designated CNX Gas Company, LLC as operator. In Buchanan County, the amendment order was recorded with the Buchanan County Clerk in Deed Book 585, Page 65.
- 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 were ordered deposited by the Unit Operator into the escrow account established by the Pooling Order (herein "Escrow Account"). According to the Pooling Orders the coalbed methane claims of oil and gas fee owner Jerry Raines in a 12.55-acre tract known as VGOB Tract 16A in the Subject Drilling Unit was in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3 The Applicant's Affidavit Regarding Supplemental Order and Disbursement of Escrowed Funds dated April 1, 2004, a copy of which is attached to and made a part hereof, states under oath that Applicants were parties to a Motion for Judgment filed on August 14, 2000 in the Circuit Court of Buchanan County, Virginia styled DONALD RATLIFF, et al v. HARRISON-WYATT, LLC, Case Number: CL187-00; that the Court ruled in favor of plaintiffs; that the Decision was appealed to the Virginia Supreme Court; and that the Supreme Court, in final non-appealable order, affirmed the Circuit Court opinion.
- 4.4 Applicants gave notice to Harrison-Wyatt, LLC and CNX Gas Company, LLC that the Board would take the Affidavit referred to in Paragraph 4.3 above under consideration at its hearing on April 20, 2004 and consider whether to: (1) amend the Pooling Order to provide for the disbursement of funds on deposit in the Escrow Account attributable to Tract 16A and the interests of Jerry Raines, (2) delete the requirement that the Unit Operator place future royalties attributable to Tract 16A and the interests of Jerry Raines in the Escrow Account, and (3) continue the escrow account under this docket number because parties other than those seeking disbursement under this order are subject to escrow.
- 4.5 The Unit Operator filed the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("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 Applicant has certified and represented to the Board that:

- (1) Jerry Raines is the owner of 100% of oil and gas estate underlying VGOB Tract 16A of the Subject Drilling Unit;
- (2) Jerry Raines is a prevailing Plaintiff in Case Number CL187-00 described in the attached affidavit and in Paragraph 4.3, above,
- (3) Tract 16A of unit VP8SGU2 is subject to that decision which awards Plaintiffs all bonuses and/or royalties, if any, deposited by the Unit Operator in the Escrow Account which are attributable to said tracts,
- (4) Net interests attributable and to be disbursed to Applicants are shown in Table 1, below.

Tract # Owner Names	Net acres In unit	% interest in unit	% interest in 95-1024-0526 balance	Amount as of 2/25/04
Tract 16A Jerry Raines	12.55	0.73135	4.9212	\$4,167.51

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, within 10 days of receipt of this executed order: (1) disburse one hundred percent (100%) of the funds attributable to VGOB Tract 16A, being 4.9212 percent of funds on deposit in the escrow sub-account on the date of disbursement, to:

Peter Glubiak Law Offices and Jerry Raines
C/O Glubiak Law Office
P. O. Box 144
Aylett, VA 23009

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted in toto and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of Jerry Raines in VGOB Tract 16A be deposited by the Unit Operator into the Escrow Account, 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 26th day of July, 2004, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

DONE AND PERFORMED this 25th day of July, 2004, 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 20th day of July, 2004, 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~~ Diane Davis
Notary Public

My Commission expires: 9/30/05

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 20th day of July, 2004, 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: 9/30/05

Order Recorded Under Code of
Virginia Section 45.1-361.26

VIRGINIA:**EXHIBIT D****BEFORE THE VIRGINIA GAS AND OIL BOARD****IN RE:**

Application of Anna Pearl Ratliff, widow of Donald Ratliff, Deceased, Bill Ratliff and Geneva Ratliff, Ira Gordon Ratliff and Juanita Ratliff, Connie Sue Ratliff, Dianna L. Graham and Jerry Raines and Phyllis Raines, Plaintiffs/Applicants resulting from action brought before the Buchanan County Circuit Court, styled Ratliff, et al v. Harrison – Wyatt, LLC, for disbursement of escrowed funds on behalf of the Plaintiffs/Applicants in Unit VP-8-SGU-2, VGOB Docket No. 97-0617-0587-01 in the Hurricane District, Buchanan County, Virginia

AFFIDAVIT OF PETER G. GLUBIAK, COUNSEL FOR APPLICANTS LISTED ABOVE REGARDING SUPPLEMENTAL ORDER AND DISBURSEMENT OF FORCED POOLING UNIT FUNDS

Peter G. Glubiak (herein Affiant), being first duly sworn on oath, deposes and says:

1. That your Affiant, Peter G. Glubiak, Glubiak Law Offices, a discreet and competent attorney licensed in the State of Virginia, whose office is located at P. O. Box 144, Aylett, Virginia 23009; and that your Affiant is the attorney for the Applicants listed above and has been the attorney of record for Applicants throughout the judicial proceedings described below;
2. That pursuant to Order and Supplemental Order certain funds have been escrowed with regard to the Applicants above for Unit VP-8-SGU-2 with the Virginia Gas and Oil Board;
3. Conflicting claim as shown on Orders and Supplemental Orders for the escrowed funds for above-referenced unit arose between Applicants and Harrison – Wyatt, LLC, coal owner underlying Applicants tracts of property as described below;
4. In order to resolve this conflict, a Motion for Judgment Pursuant to Declaratory Judgment Act, Virginia Code § 8.01-184 was filed on August 14, 2000 by Applicants listed above in the Circuit Court of Buchanan County, Virginia, Styled DONALD RATLIFF, et al v. HARRISON – WYATT, LLC, Case Number: CL187-00;
5. Pursuant to trial and Order of the Court, the Honorable Judge Keary R. Williams, Chief Judge of the Circuit Court of Buchanan County, Virginia rendered an Opinion Letter dated August 29, 2002, and an Amendment To Opinion Letter, Page 7, Paragraph 2 dated December 6, 2002, in favor of the Plaintiffs; and pursuant to statute, the Virginia Gas and Oil Board was Ordered to distribute the funds held in escrow attributable to the Applicants listed above;
6. The Decision of the Buchanan County Circuit Court was appealed to the Virginia Supreme Court and pursuant to Order dated March 5, 2004 the Decision of the Buchanan County Circuit Court was affirmed by unanimous opinion of the Virginia Supreme Court, resulting in a final non-appealable order pursuant to statute. It is the Order of the Virginia Supreme Court as well as the original Order of the Buchanan County Circuit Court under which Applicants,

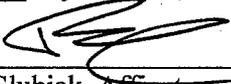
represented by Affiant, apply for the distribution of funds held on escrow for the above-referenced Unit;

7. The interest in claims of all persons involved in the funds currently held in escrow by the Virginia Gas and Oil Board have been determined by a final non-appealable Order of Court and the ownership of the escrowed funds has also been the subject of a Circuit Court Order, which has subsequently been affirmed by the Virginia Supreme Court. It is Affiant's position that the matter has finally been determined and that therefore as the attorney on behalf of the Applicants listed above, he seeks distribution of all funds currently held in escrow for this unit, as well as those funds to be deposited at any later date pertaining to this unit; and

8. There are no other parties interested in these funds other than those who have previously been notified, including Harrison – Wyatt, LLC, by its Attorney, J. Scott Sexton, and CNX Energy, pursuant to the Orders and Supplemental Orders on file with the board.

Further saith Affiant not.

Dated at Aylett, Virginia, this 1st day of April, 2004.

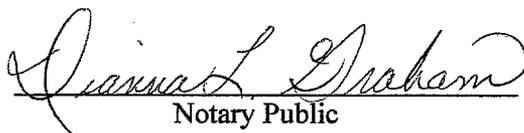


Peter G. Glubiak, Affiant

COMMONWEALTH OF VIRGINIA:
CITY/COUNTY OF King William, to-wit:

I, Dianna L. Graham, a Notary Public, in and for the County aforesaid, in the State of Virginia, do certify that, **PETER G. GLUBIAK**, Affiant, has acknowledged the foregoing writing before me in my County and State aforesaid.

Given under my hand this 1st day of April, 2004.



Notary Public

My commission expires: July 31, 2007

VP 8 - S G U 2
Docket No. VGOB-97/06/17-0587
Exhibit E
List of Conflicting Owners/Claimants that Require Escreow

BOOK 9598 PAGE 0041

	Net Acres in Unit	Interest in Unit
<u>TRACT #8 - 3.63 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Big Axe Land Company Tr 30 c/o Landon R. Wyatt, Jr. Wyatt Buick Sales Danville, VA 24541	3.63 acres	0.21154%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Island Creek Coal Company Drawer L Oakwood VA 24631	3.63 acres	0.21154%
<u>TRACT #10A- 51.45 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Big Axe Land Company Tr 1 c/o Landon R. Wyatt, Jr. Wyatt Buick Sales Danville, VA 24541	51.45 acres	2.99823%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Garden Realty Corporation c/o Betty Boyd King 3610 Winding Way Winston-Salem, NC 27106	51.45 acres	2.99823%
<u>TRACT #10B- 98.27 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Big Axe Land Company Tr 1 c/o Landon R. Wyatt, Jr. Wyatt Buick Sales Danville, VA 24541	98.27 acres	5.72666%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Oakwood Gathering Inc. Drawer L Oakwood, VA 24631	98.27 acres	5.72666%
<u>TRACT #10C- 44.53 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Big Axe Land Company Tr 1 c/o Landon R. Wyatt, Jr. Wyatt Buick Sales Danville, VA 24541	44.53 acres	2.59497%

	Net Acres in Unit	Interest in Unit
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Garden Realty Corporation c/o Betty Boyd King 3610 Winding Way Winston-Salem, NC 27106	44.53 acres	2.59497%
<u>TRACT #10D- 3.77 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Big Axe Land Company Tr 1 c/o Landon R. Wyatt, Jr. Wyatt Buick Sales Danville, VA 24541	3.77 acres	0.21970%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Garden Realty Corporation c/o Betty Boyd King 3610 Winding Way Winston-Salem, NC 27106	3.77 acres	0.21970%
<u>TRACT # 12 - 39.70 acres</u>		
(1) Big Axe Land Company Tr 8 c/o Landon R. Wyatt, Jr. Wyatt Buick Sales Danville, VA 24541	39.70 acres	2.31351%
(2) (Surface Owner CBM Claimant) B. F. McGlothlin Heirs, Devisees, Successors or Assigns		
(1) Bennie McGlothlin Rt. 1, Box 182 Hiltons, VA 24258		
(1) Bonnie McGlothlin Rt. 1, Box 182 Hiltons, VA 24258		
(1) Ralph Edward McGlothlin 94 Collins Crest Cedar Bluff, VA 24609		
(1) Robert D. McGlothlin Rt. 1 Box 273F Dublin, VA 24084		
(1) Ruby B. McGlothlin 207 West Fincastle Drive Tazewell, VA 24651		
(1) Helen E. Counts 1334 Augusta Street Bluefield, WV 24701		

	Net Acres in Unit	Interest in Unit
(1) Frankie Mae Street Heirs, Devisees, Successors or Assigns		
(a) N. D. Street, Trustee Will of Frankie Mae Street P. O. Drawer 2100 Grundy, VA 24614		
(b) H. A. Street, Trustee Will of Frankie Mae Street P. O. Drawer 2100 Grundy, VA 24614		
(c) Gaynell S. Fowler Rt. 2, Box 263 Moorehaven, FL 33471		
(d) James H. Street P. O. Box 2100 Grundy, VA 24614		
(e) Marcus A. Street Address Unknown		
(f) Robert D. Street Address Unknown		
(g) David A. Street Address Unknown		
(h) Lauren F. Street Address Unknown		
(i) Russell K. Street 110 Buford Avenue Anderson, SC 29621		
(j) Susan S. Hoffman 4215 Langley Avenue St. Bbernard, OH 45217		
(k) Colleen S. Mellors 17 Commercial Road Devizes, Wiltshire SNID-1UK		
(l) Stephen Street RD 1, Sunset Lake Road Richmond, OH 43944		
(m) Lisa Street RD 1, Sunset Lake Road Richmond, OH 43944		
(n) Nelgie Lane Street P. O. Bos 1460 Grundy, VA 24614		
(o) Barry Dale Norris P. O. Box 3328 CRS Johnson City, TN 37615		

	Net Acres in Unit	Interest in Unit
(p) Michael Norris 590 County Home Road Blountville, TN 37617		
(q) Ann Norris Reid 2924 SE Alder Street Portland, OR 97214		
(r) Frank Arthur Norris 2005 Sandlewood Drive Dunwoody, GA 20350		
(s) Dwight Douglas Norris Rt. 3, Brumley Circle Lebanon, VA 24266		
(t) Benjamin A. Street Rt. 2, Box 125 Vansant, VA 24656		
(u) Daniel S. Street Rt. 2, Box 125 Vansant, VA 24656		
(v) Jill Nicole Street Rt. 2, Box 125 Vansant, VA 24656		
(1) Joseph Blair McGlothlin P. O. Box 71 Cedar Bluff, VA 24609		
(1) Catherine M. Warren 2208 Wingfield Road Charlottesville, VA 22901		
(1) Nannie P. Lockhart Rt. 1 Box 79 Pounding Mill, VA 24637		
(1) Mary & D.A. McGlothlin, Sr. P.O. Box 904 Grundy, VA 24614		
(1) Billy Sue Dixon Rt. 1, 200 Heather Rd. Bristol, VA 24201		
(1) Peggy & Henry Durham 2232 Island Road Blountville, TN 37617		
(1) Rose Myrtle Wampler P. O. Box 70 Oakwood, VA 24631		
(1) Woodrow & Sally McGlothlin Box 266 Oakwood, VA 24631		

Net Acres
in Unit

Interest in
Unit

- (1) Doris Ann McGlothlin
P. O. Box 428
Raven, VA.24639
- (1) Francis Ann Borkey
503 Ridgley Lane
Richmond, VA 23229
- (1) James Lloyd McGlothlin
Rt. 3, Box 67
Cedar Bluff, VA 24609
- (1) Una Lee Mulligan Bailey
P. O. Box 51
Richlands, VA 24641
- (1) Cecil Earl McGlothlin
314 Toria Drive
Statesville, NC 28677
- (1) Norman McGlothlin
6107 63rd Place
Riverdale, MD 20737
- (1) Ann M. Mullins
3343 Notingham Drive
Tallahassee, FL 32312
- (1) Mike Mullins
1445 Westerly Terrace
Los Angeles, CA 90026
- (1) Charles Robert Dixon
106 West Park Drive
Kingsport, TN 37662
- (1) Gladys Jessee
413 North Street
Richlands, VA 24641

TRACT #16B- 1.12 acres

COAL FEE OWNERSHIP

- (1) Big Axe Land Company Tr 2
c/o Landon R. Wyatt, Jr.
Wyatt Buick Sales
Danville, VA 24541
1.12 acres
0.06527%

OIL & GAS FEE OWNERSHIP

- (1) Iris Lee Nunley
Rt. 3, Box 171-B
Lebanon, VA 24266
1.12 acres
0.06527%

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 25th day of July, 20 06 2:00 P.M.
Deed Book No. 598 and Page No. 39
Returned to: J.M.M.C.

TESTE: James M. Bevins, Jr., Clerk
TESTE: Jessie S. Wilcox, Deputy Clerk

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ENTERED

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RECORDED
JUL 21 2004
BIRMINGHAM COUNTY
JAMES H. BEVING, CLERK