

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

APPLICANTS: Charles B. Counts and Katherine Kirsch)
Counts; Connie Counts Godfrey;)
Cheri Lyn Simonenko; Nicole Lyn)
Simonenko-Connelly)

DOCKET NO.
97-0715-0593-02

RELIEF SOUGHT: Issuance of an Amended Supplemental)
Order Amending Prior Orders Affecting)
Drilling Unit Served by well VC-702975)
Located in Kenady District,)
Dickenson County, Virginia)
(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 applicants in)
Accordance with Their Royalty)
Agreement Those Funds Deposited by the)
Unit Operator into Subject Drilling Unit's)
Escrow Subaccount for VGOB Tract 3.)

TAX MAP IDENTIFICATION
NUMBERS: TAX MAP
IDENTIFICATION NUMBERS
FOR ALL PARCELS
AFFECTED BY THIS ORDER
ARE SHOWN ON EXHIBIT(S)
E 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") at 9:00 a.m. on September 19, 2006 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Jim Kaiser, Esquire appeared on behalf of 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 September 17, 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 Dickenson County on September 23, 1997 in Deed Book 329 at Page 698. The Board designated Equitable Resources Exploration as the Unit Operator of the Subject Drilling Unit. The Pooling Order was amended and supplemented by the Board's Supplemental Order Regarding Elections executed on January 23, 1998 that was filed with the Clerk's Office on January 27, 1998 in Deed Book 332 at page 632 ("Supplemental Order") (hereafter the Pooling Order and the Supplemental Order are collectively referred to as the "Pooling Order"). The Pooling Order was further amended and supplemented by the Board's Supplemental Order for disbursement of escrowed funds attributable to VGOB Tract 4 executed on June 22, 2006 that was filed with the Clerk's Office on July 6, 2006 in Deed Book 427 at page 292.
- 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 Order, the coal ownership interests of Pine Mountain Oil and Gas, Inc. and the oil and gas fee ownership of Applicants in an 2.5-acre tract known as VGOB Tract 3 were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Affidavit and Miscellaneous Petition dated August 18, 2006, a copy of which is attached to and made a part hereof, states under oath that Pine Mountain Oil and Gas, Inc. and Applicants have entered into a royalty agreement with regard to VGOB Tract 3, and that by the terms of the agreements, Pine Mountain Oil and Gas, Inc. has relinquished any and all claims to escrowed funds in Tract 3, and escrow regarding the conflicting claims detailed herein is no longer required.
- 4.4. The Unit Operator gave notice to Pine Mountain Oil and Gas, Inc. and Applicants that the Board would take the Affidavit referred to in Paragraph 4.3 above under consideration at its hearing on September 19, 2006 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 3 and the interest of Applicants in accordance with the terms of the royalty agreement, and (2) delete the requirement that the Unit Operator place future royalties attributable to Tracts 3 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 The Unit Operator has certified and represented to the Board that:

- (1) Pine Mountain Oil and Gas, Inc. is the owner of 100% of the coal owner claim to coalbed methane underlying VGOB Tract 3 of the Subject Drilling Unit;
- (2) Charles B. Counts and Katherine Kirsch Counts, Connie Counts Godfrey, Cheri Lyn Simonenko, and Nicole Lyn Simonenko-Connelly (Applicants) are the owners of 100% of oil and gas estate underlying VGOB Tract 3 of the Subject Drilling Unit;
- (3) that Pine Mountain Oil and Gas, Inc. and Applicants have entered into a royalty agreement regarding VGOB Tract 3, and that by that agreement, Pine Mountain Oil and Gas has agreed to waive all claims to bonuses and/or royalties, if any, deposited by the Unit Operator in the Escrow Account which are attributable to said tract.
- (4) that the net interests attributable and to be disbursed to applicants are shown in Table 1, Below.

TABLE 1		
Tract # Owner Names	% interest in tract	% interest in 97-0715-0593 balance
Tract 3 Charles B. Counts, Jr. Katherine K. Counts 3505 Arden Warren, MI 48092-3256	50.0%	16.9377%
Connie Counts Godfrey 1280 W. Oro Grande Dr. Pueblo West, CO 81007-6122	25.0%	8.4688%
Cheri Lyn Simonenko 612 Redwood Drive Troy, MI 48083	12.5%	4.2344%
Nicole Lyn Simonenko-Connelly 1744 Patterson Ave. Ortonville, MI 48462-9217	12.5%	4.2344%

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 fifty percent (50%) of the funds attributable to VGOB Tract 3, being 16.9377 percent of funds on deposit in the escrow sub-account on the date of disbursement, to:

Charles B. Counts, Jr.
Katherine K. Counts
3505 Arden
Warren, MI 48092-3256

and (2) disburse twenty-five percent (25%) of the funds attributable to the VGOB Tract 3, being 8.4688 percent of funds on deposit in the escrow sub-account on the date of disbursement, to:

Connie Counts Godfrey
1280 W. Oro Grande Dr.
Pueblo West, CO 81007-6122

and (3) disburse twelve-and-one-half percent (12.5%) of the funds attributable to the VGOB Tract 3, being 4.2344 percent of funds on deposit in the escrow sub-account on the date of disbursement, to:

Cheri Lyn Simonenko
612 Redwood Drive
Troy, MI 48083

and (4) disburse twelve-and-one-half percent (12.5%) of the funds attributable to the VGOB Tract 3, being 4.2344 percent of funds on deposit in the escrow sub-account on the date of disbursement, to:

Nicole Lyn Simonenko-Connolly
1744 Patterson Ave.
Ortonville, MI 48462-9217

Exhibits to the Pooling Order showing owners subject to escrow are 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 Pine Mountain Oil and Gas, Inc. and Applicants in VGOB Tract 3 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:**

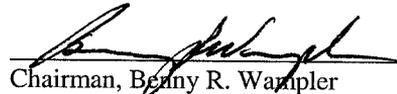
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

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 23rd day of February, 2007, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

DONE AND PERFORMED this 24th day of February, 2007, 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)

Acknowledged on this 23rd day of February 2007, 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: 12-31-2010

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 26th day of February, 2007, 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: Charles B. Counts, Jr. and Katherine Kirsch Counts,
Connie Counts Godfrey, Cheri Lyn Simonenko and
Nicole Lyn Simonenko-Connelly

DOCKET NUMBER: VGOB 97/07/15-0593-02

RELIEF SOUGHT: Supplemental Order for Disbursement of Escrowed
Funds on behalf of Charles B. Counts, Jr. and Katherine
Kirsch Counts, Connie Counts Godfrey, Cheri Lyn
Simonenko and Nicole Lyn Simonenko-Connelly

LEGAL DESCRIPTIONS: Drilling Unit Number VC-702975 created by Board
Order Dated September 17, 1997, VGOB 97/07/15-0593 in
the Kenady District, Dickenson County, Virginia.

HEARING DATE: September 19, 2006

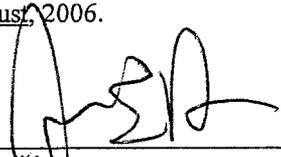
MISCELLANEOUS PETITION

1. Party: Applicants herein are Charles B. Counts, Jr. and Katherine Kirsch Counts, (hereinafter "Plaintiffs), whose address is 3505 Arden, Warren, MI 48092-3256, Connie Counts Godfrey (hereinafter "Plaintiffs), whose address is 1280 W Oro Grande Dr. Pueblo West, CO 81007-6122, Cheri Lyn Simonenko (hereinafter "Plaintiffs), whose address is 612 Redwood Drive, Troy, MI 48083, and Nicole Lyn Simonenko-Connelly (hereinafter "Plaintiffs), whose address is 1744 Patterson Ave., Ortonville, MI 48462-9217.
2. Facts:
 - a. Equitable was designated as the Operator and Applicants interests were Pooled in the VC-702975 Unit by Order of the Virginia Gas and Oil Board (hereinafter "Board") executed on September 17, 1997, pursuant to Docket No. VGOB 97/07/15-0593 and recorded in the Circuit Court Clerk's Office of Dickenson County, Virginia on September 23, 1997, Deed Book 329, Page 698-713 (hereinafter "Order").
 - b. The order 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 Order 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, Inc. was a conflicting claimant with the above-listed Plaintiffs with regard to Tract 3, as created by Board Order as VGOB 97/07/15-0593 is the applicable Tract.

- e. To resolve this conflict, a Letter dated June 26, 2006 signed by Jerry H. 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.
- 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.

- 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.

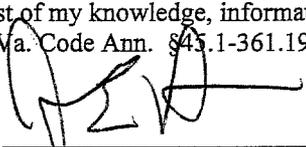
Dated this 18th day of August, 2006.

By: 

Petitioner
Address: 220 Broad Street, Suite 202
Kingsport, TN 37660

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.



Petitioner



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

P.O. Box 2136
406 W. Main Street
Abingdon, Virginia 24212
Phone: (276) 628-9001
Fax: (276) 628-7246



June 26, 20

*Received
in Fax date 7/20/06*

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

Re: Escrowed Royalties – Well Nos. VC-535915 & VC-702975
Charles B. Counts, Connie Godfrey, Cheri Simonenko, and Nicole
Connelly, joint owners

Dear Ms. Freeman:

It is our understanding that you are holding the royalty proceeds on the Charles B. Counts 34.42 and 140.58 acre portions of the above-mentioned well units in escrow due to the conflict in ownership issues regarding coalbed methane. We have received the enclosed letter from Mr. Charles B. Counts, requesting a royalty determination regarding the same. Mr. Counts indicates that he is a joint owner in the above-mentioned wells along with Connie Godfrey, Cheri Simonenko, and Nicole Connelly; however, we do not have contact information for anyone other than Mr. Counts and do not have any information as to the current ownership of the oil and gas on the applicable tracts. Pine Mountain waives its claim to escrowed royalties related to the Charles B. Counts 34.42 and 140.58 acre portions of these well units and would ask that the appropriate oil and gas owners receive their proportionate disbursement of the royalty proceeds from this portion of these well units.

By copy of this letter, we are notifying Mr. Charles B. Counts of our action on this matter. If you have any questions or comments, please do not hesitate to contact me by phone at (276) 619-2582 or by e-mail at dlouthian@gl-energy.com.

Sincerely,

PINE MOUNTAIN OIL & GAS, INC.

Jerry H. Grantham
Jerry H. Grantham
Vice President

Enclosures

cc: Mr. Charles B. Counts

VC-2975
VGOB 97/07/15-0593

<u>Owner Name and Address</u>	<u>Owner Net Interest</u>	<u>Total Net Interest</u>	<u>Total Amount in Escrow</u>	<u>Owner's Amount In Escrow</u>
<u>EPC Figures</u>				
1 Charles Bernard Counts, Jr and Katherine Kirsch Counts 3505 Arden Warren, MI 48092-3256	0.00265625	0.043825 0.0156875	\$37,001.91 \$185.92	\$2,242.70 \$31.48
2 Cheri Lyn Simonenko 612 Redwood Drive Troy, MI 48083	0.00066400	0.043825 0.0156875	\$37,001.91 \$185.92	\$560.62 \$7.87
3 Nicole Lyn Simonenko-Connolly 1744 Patterson Ave Ortonville, MI 48462-9217	0.00066400	0.043825 0.0156875	\$37,001.91 \$185.92	\$560.62 \$7.87
4 Connie Counts Godfrey 1280 W Oro Grande Dr Pueblo West, CO 81007-6122	0.00132825	0.043825 0.0156875	\$37,001.91 \$185.92	\$1,121.46 \$15.74
<u>Bank Figures</u>				
1 Charles Bernard Counts, Jr and Katherine Kirsch Counts 3505 Arden Warren, MI 48092-3256	0.00265625	0.043825 0.0156875	\$36,972.89 \$185.92 \$ 1,646.34	\$2,240.94 \$31.48 \$99.79 Interest
2 Cheri Lyn Simonenko 612 Redwood Drive Troy, MI 48083	0.00066400	0.043825 0.0156875	\$36,972.89 \$185.92 \$ 1,646.34	\$560.18 \$7.87 \$24.94 Interest
3 Nicole Lyn Simonenko-Connolly 1744 Patterson Ave Ortonville, MI 48462-9217	0.00066400	0.043825 0.0156875	\$36,972.89 \$185.92 \$ 1,646.34	\$560.18 \$7.87 \$24.94 Interest
4 Connie Counts Godfrey 1280 W Oro Grande Dr Pueblo West, CO 81007-6122	0.00132825	0.043825 0.0156875	\$36,972.89 \$185.92 \$ 1,646.34	\$1,120.58 \$15.74 \$49.90 Interest

* Check for \$185.92 was issued in Aug 06 and has not registered at the bank

EXHIBIT "E"
VC-702975
VGOB 97/07/15-0593
Unleased Owners/Claimants Requiring Escrow
7/30/2006

<u>TRACT</u>	<u>LESSOR</u>	<u>LEASE STATUS</u>	<u>INTEREST WITHIN UNIT</u>
<u>Gas Estate Only</u>			
Tax Map ID 148D-1085 5	Nora Counts, Widow HC 67, Box 354 Dante, VA 24237	Unleased Life Estate	0.00000000
	Retha Grizzle and Lee Grizzle, W/H Route 2, Box 559 Haysi, Va 24256	Unleased Remainderman	0.00518750
	Susie Deel and Carter Deel, W/H HC 67, Box 354 Dante, VA 24237	Unleased Remainderman	0.00518750

Oil Estate Only

5	Pine Mountain Oil & Gas, Inc. Attn: Jerry Grantham P.O. Box 2136 Abingdon, VA 24212	Leased-EPC 241490 Tract T-317	0.01037500
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INSTRUMENT #070000358
 RECORDED IN THE CLERK'S OFFICE OF
 DICKENSON ON
 FEBRUARY 27, 2007 AT 02:49PM
 JOE TATE, CLERK

RECORDED BY: TJB

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF DICKENSON COUNTY, 2/27, 2007. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 2:49 o'clock p M, after payment of \$ 0 tax imposed by Sec. 58.1-802.

Original returned this date to:

Diane Davis

BY:

Nancy Baker
 TESTE: JOE TATE, CLERK

D. CLERK