

090000725

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

**CODE OF VIRGINIA
§ 45.1-361.26**

VIRGINIA:

BEFORE THE GAS AND OIL BOARD

APPLICANTS:

CNX Gas Company on behalf of Hurt
McGuire Land Trust, Consolidation Coal
Company and Daisy Burke

DOCKET NO.

98-0324-0629-02

RELIEF SOUGHT:

Issuance: **A Supplemental Order for Disbursement of Escrowed Funds**
Action: **Amending Prior Orders Affecting Drilling W-36, Tracts 1C and 1I**
(Referenced herein as "the Subject Drilling Unit")
Location: **Buchanan County, Virginia**

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **W-36** by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's Escrow Subaccount for **VGOB Tract(s) identified in Table 1.**

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 June 19, 2007 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark Swartz 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 tracts in question or any undivided interest therein.

4. **Prior Proceedings:**

- 4.1. (a) **On June 1, 1998**, the Board executed its order pooling 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 SS 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 June 5, 1998, Instrument Number September 2, 1998, Instrument Number 980002284** (hereafter all orders are collectively referred to as the "Pooling Orders").
- 4.2 To the extent claims to the Gas were in conflict, pursuant to Va. Code S 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 Orders (herein "Escrow Account"). **According to the Pooling Orders and testimony, the coal estate ownership interests of Hurt McGuire Land Trust (Tracts 1C and II); and the gas ownership interests of Consolidation Coal Company (Tract 1C) and Daisy Burke (Tract II) in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order.**
- 4.3 The Unit Operator's Miscellaneous Petition **regarding Tract 1C and II**, a copy of which is attached to and made a part hereof, states under oath that Hurt McGuire Land Trust, Consolidation Coal Company and Daisy Burke have entered into split agreements with regards to Tract 1C and II and that by the terms of the agreements and escrow regarding these individual conflicting claims detailed herein, is no longer required.
- 4.4 The Unit Operator gave notice to the applicants that the Board would consider its disbursement authorization at its hearing on **June 2007** and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to **Tracts 1C and II as identified in the attached miscellaneous petition** (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said **Tracts 1C and II and the interests of Applicants identified in the miscellaneous petition in the Escrow Account**, and (3) **continue the escrow account under this docket number because there are other parties** under this order subject to continued payments in the 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 tracts 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) **Hurt McGuire Land Trust and Consolidation Coal Company are the owners of the coal estate and gas estate, respectively, underlying Tract 1C and Hurt McGuire Land Trust and Daisy Burke are owners of the coal estate and gas estate, respectively, underlying Tract II of the Subject Drilling Unit;**

(2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement
 98-0324-0629-02
 W-36

	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
Table 1				
Tracts 1C and 1I				
Disbursement Table				
Totals	40.53		66.69	
1C Hurt McGuire Land Trust, C/O Charles Green, P. O. Box 1067, Bluefield, VA 24605	31.8800	50.0%	15.940	23.9016%
Consolidation Coal Company, 2481 John Nash Blvd., Bluefield, WV 24701	31.8800	50.0%	15.940	23.9016%
1I Hurt McGuire Land Trust, C/O Charles Green, P. O. Box 1067, Bluefield, VA 24605	8.6500	50.0%	4.325	6.4852%
Daisy Burke, Box 354, Raven, VA 24639	8.6500	50.0%	4.325	6.4852%

6. Relief Granted:

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is **deleted 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 those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, **and**, because **there are no other owners subject to escrow** under the Supplemental Order, the Escrow Agent is directed to close the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:

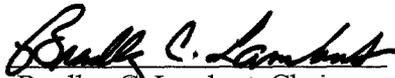
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. Appeals:

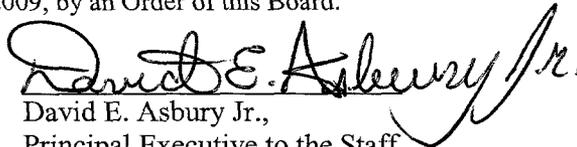
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated 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 day of Feb., 2009, by a majority of the Virginia Gas and Oil Board.


Bradley C. Lambert, Chairman

DONE AND PERFORMED this 2 day of February 2009, by an Order of this Board.


David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON

Acknowledged on this 2nd day of February 2009, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, 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 #174394

My commission expires: 09/30/09



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 98-0324-0629-02

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 1C and II
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: June 19, 2007

DRILLING UNIT: W-36

BUCHANAN COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Blvd., Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, SWARTZ LAW OFFICES, PLLC, P.O. Box 517, Abingdon, VA 24212.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 1C and II as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Hurt McGuire Land Trust and Consolidation Coal Company; Hurt McGuire Land Trust and Daisy Burke.

3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. **Type of well(s):** Coalbed methane.

5. **Factual basis for relief requested:** Hurt McGuire Land Trust and Consolidation Coal Company, Hurt McGuire Land Trust and Daisy Burke, have entered into a royalty split agreement. Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and Exhibit A, further, specifies how said royalties are to be divided and paid.

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY IT'S PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

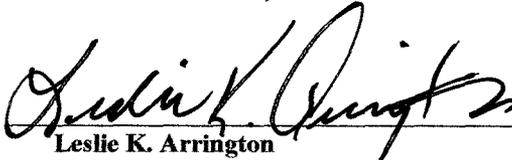
By: 
Leslie K. Arrington
Manager – Environmental Permitting
CNX Gas Company LLC
2481 John Nash Blvd.
Bluefield, West Virginia 24701
304/323-6500



Exhibit A
Tract-by-Tract Escrow Calculation
Account Balances as of 5/30/07

Unit W-36
 VGOB 98-0324-0629-02
 Acres Escrowed: 66.69

Owners	Tract #	Acres	Total Tract Percent of Escrow	Fractional Interest	Owners' Percent of Escrow (50%)	Amount Due Owners \$180,693.22
	1b	0.85	1.2746%	---	0.6373%	\$1,151.52
					0.6373%	\$1,151.52
Hurt McGuire Land Trust	1c	31.88	47.8033%	---	23.9016%	\$43,188.63
Consolidation Coal Company					23.9016%	\$43,188.63
	1e	18.62	27.9202%	---	13.9601%	\$25,224.98
					13.9601%	\$25,224.98
	1f	2.15	3.2239%	---	1.6119%	\$2,912.66
					1.6119%	\$2,912.66
	1g	0.97	1.4545%	---	0.7272%	\$1,314.08
					0.7272%	\$1,314.08
	1h	3.57	5.3531%	---	2.6766%	\$4,836.37
					2.6766%	\$4,836.37
Hurt McGuire Land Trust	1i	8.65	12.9705%	---	6.4852%	\$11,718.37
Daisy Burke					6.4852%	\$11,718.37

Information presented here is for reference use only, CNX is not responsible for determinations made using the data represented here.

This information is for estimation purposes only.

CP

Exhibit E
 Unit W-36
 Docket #VGOB 98-0324-0629
 List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #1B - 0.85 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	0.85 acres	1.0625%	1.2746%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Pocahontas Gas Partnership P. O. Box 947 Bluefield, VA 24605	0.85 acres	1.0625%	1.2746%
<u>Tract #1E - 18.62 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	18.62 acres	23.2750%	27.9202%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Oris Cantrell (option to purchase) HC-62 Box 86 Raven, VA 24639	18.62 acres	23.2750%	27.9202%
<u>Tract #1F - 2.15 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	2.15 acres	2.6875%	3.2239%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Elmer Pruitt Rt. 1, Box 203 Raven, VA 24639	2.15 acres	2.6875%	3.2239%
<u>Tract #1G - 0.97 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	0.97 acres	1.2125%	1.4545%

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Exhibit E
Unit W-36
Docket #VGOB 98-0324-0629
List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit	Percent of Escrow
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Oris Cantrell (option to purchase) HC-62 Box 86 Raven, VA 24639	0.97 acres	1.2125%	1.4545%
<u>Tract #1H - 3.57 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	3.57 acres	4.4625%	5.3531%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Rosella Pruitt Rt. 1, Box 203 Raven, VA 24639	3.57 acres	4.4625%	5.3531%

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Exhibit EE
Unit W-36
Docket #VGOB 98-0324-0629
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Net Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #1A - 1.52 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	1.52 acres	1.9000%	<i>Already Disbursed</i>
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Guster Clifton RR1 Box 184 Raven, VA 24639	1.52 acres	1.9000%	<i>Already Disbursed</i>
<u>Tract #1C - 31.88 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	31.88 acres	39.8500%	47.8033%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Consolidation Coal Company Attn: Anita Duty 2481 John Nash Blvd. Bluefield, WV 24701	31.88 acres	39.8500%	47.8033%
<u>Tract #1D - 3.43 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	3.43 acres	4.2875%	<i>Already Disbursed</i>
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Hubbard Osborne HC62 Box 89 Raven, VA 24639	3.43 acres	4.2875%	<i>Already Disbursed</i>
<u>Tract #1I - 8.65 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	8.65 acres	10.8125%	12.9705%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Daisy Burke Box 354 Raven, VA 24639	8.65 acres	10.8125%	12.9705%

V
B # \$ 619

INSTRUMENT #090000725
RECORDED IN THE CLERK'S OFFICE OF
BUCHANAN COUNTY ON
MARCH 12, 2009 AT 11:17AM

BEVERLY S. TILLER, CLERK
RECORDED BY: NKE