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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: Hurt McGuire Land Trust;)
Daisy Burke.)

DOCKET NO.
98-0324-0636-01

RELIEF SOUGHT: Issuance of an Amended Supplemental)
Order Amending Prior Orders Affecting)
Drilling Unit X-35 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 Applicants in)
accordance with their ownership interests)
Those Funds Deposited by the Unit Operator)
into Subject Drilling Unit's Escrow)
Subaccount for VGOB Tract 2B.)

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 July 17, 2007 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** 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 June 10, 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 §§ 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 16, 1998 in Deed Book 477 at Page 671. On August 28, 1998, the Board executed its Supplemental Order Regarding Elections which was filed with the Clerk on September 2, 1998 in Deed Book 481 at page 139. On June 1, 2004, the Board executed a revised supplemental order that was recorded with the Clerk on June 2, 2004 in Deed Book 594 at page 425 (hereafter all orders 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. The Unit Operator's Miscellaneous Petition, a copy of which is attached to and made a part hereof, sought disbursement from VGOB Tracts 2A and 2B. Sworn testimony before the Board stated, and Pooling Orders indicate, that VGOB Tract 2A was not subject to escrow and, as such, was withdrawn from the petition for disbursement.
- 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 Daisy Burke and coal fee owner Hurt McGuire Land Trust in a 1.60-acre tract known as VGOB Tract 2B 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 VGOB Tract 2B, a copy of which is attached to and made a part hereof, and testimony states under oath that Daisy Burke and Hurt McGuire Land Trust have entered into royalty split agreements and that by the terms of the agreements escrow regarding the conflicting claims of said parties is no longer required. By sworn testimony before the Board, the Unit Operator testified that VGOB Tract 2B and the interests of Daisy Burke and Hurt McGuire Land Trust are subject to the split agreement.
- 4.4 The Unit Operator gave notice to Daisy Burke and Hurt McGuire Land Trust that the Board would take the application referred to in Paragraph 4.3 above under consideration 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 2B and the interests of Daisy Burke and Hurt McGuire Land Trust; (2) delete the requirement that the Unit Operator place future royalties attributable to Tract 2B and the interests of Daisy Burke and Hurt McGuire Land Trust 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) Daisy Burke is the owner of 100% of oil and gas estate underlying VGOB Tract 2B of the Subject Drilling Unit;
- (2) Hurt McGuire Land Trust is the owner of 100% of coal estate underlying VGOB Tract 2B of the Subject Drilling Unit;
- (3) Daisy Burke and Hurt McGuire Land Trust have entered into a royalty split agreement specifying that escrowed funds are to be divided with 50% going to the gas owner and 50% going to the coal owner, and also specifying that future royalties be paid directly to the owners according to the split agreement.
- (4) Net interests attributable and to be disbursed to Applicants are shown in Table 1, Below.

TABLE 1		
Owners	Tract #	% interest in 98-0324-0636 sub-account
Daisy Burke – 50% Box 354 Raven, VA 24639	2B	3.4364%
Hurt McGuire Land Trust – 50% C/O Charles Green P. O. Box 1067 Bluefield, VA 24605	2B	3.4364%

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, disburse funds attributable to VGOB Tract 2B and the interests of Daisy Burke and Hurt McGuire Land Trust according to percentages shown in Table 1, above, and mail each recipients payment to the address shown in Table I, above.

Exhibit E to the Pooling Orders, 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 Daisy Burke and Hurt McGuire Land Trust in VGOB Tract 2B 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 18th day of October, 2007, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

DONE AND PERFORMED this 18th day of October, 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~~)

Washington 18th)
Acknowledged on this 18th day of October, 2006, 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: 9/30/09

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

18th)
Acknowledged on this 18th day of October, 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

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 98-0324-0636-01

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

HEARING DATE: June 19, 2007

DRILLING UNIT: X-35

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) 2A and 2B 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 X-35
VGOB 98-0324-0636-01
Acres Escrowed: 23.28

Owners	Tract #	Acres	Total Tract Percent of Escrow	Interest	Owners' Percent of Escrow	Amount Due Owners
Hurt McGuire Land Trust - Coal	2b	1.60	6.8729%	---	3.4364%	\$1,702.66
Daisy Burke - O&G					3.4364%	\$1,702.66
	2c	4.00	17.1821%	---	8.5911%	\$4,256.65
					8.5911%	\$4,256.65
	2d	8.47	36.3832%	---	18.1916%	\$9,013.46
					18.1916%	\$9,013.46
	2e	3.02	12.9725%	---	6.4863%	\$3,213.77
					6.4863%	\$3,213.77
	2f	2.42	10.3952%	---	5.1976%	\$2,575.27
					5.1976%	\$2,575.27
	2g	2.70	11.5979%	---	5.7990%	\$2,873.24
					5.7990%	\$2,873.24
	2h & 2i	0.98	4.2096%	---	2.1048%	\$1,042.88
					2.1048%	\$1,042.88
	2j	0.07	0.3007%	---	0.1503%	\$74.49
					0.1503%	\$74.49
	2k	0.02	0.0859%	---	0.0430%	\$21.28
					0.0430%	\$21.28

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.

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Exhibit E
Unit X-35
Docket No. VGOB-98-0324-0636
List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit	Division of Interest in			Percent of Escrow
			13-East 11.1083%	14-East 23.5724%	15-East 2.1831%	
<u>TRACT #2C - 4.00 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	4.00 acres	5.00000%	0.55541%	1.17862%	0.10915%	17.1821%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) E. James Owens Rt. 1, Box 200 Raven, VA 24639	4.00 acres	5.00000%	0.55541%	1.17862%	0.10915%	17.1821%
<u>TRACT #2D - 8.47 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	8.47 acres	10.58750%	1.17609%	2.49573%	0.23113%	36.3832%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) Ord Wade Heirs	8.47 acres	10.58750%	1.17609%	2.49573%	0.23113%	36.3832%
(a) Curtis E. Wade Rt. 1 Box 200 Raven, VA 24639	1.21 acres 1/7 of 8.47 acres	1.51250%	0.16801%	0.35653%	0.03302%	5.1976%
(b) Madge Patricia Dillon 1941 Lisbon Road Chesapeake, VA 23321	1.21 acres 1/7 of 8.47 acres	1.51250%	0.16801%	0.35653%	0.03302%	5.1976%
(c) Anna L. Bonhon P.O. Box 278 Oakwood, VA 24631	1.21 acres 1/7 of 8.47 acres	1.51250%	0.16801%	0.35653%	0.03302%	5.1976%
(d) Phyllis Jean Estep 402 Gentry Drive Gordonsville, VA 22942	1.21 acres 1/7 of 8.47 acres	1.51250%	0.16801%	0.35653%	0.03302%	5.1976%
(e) Dorothy E. Lowe P.O. Box 436 Cedar Bluff, VA 24609	1.21 acres 1/7 of 8.47 acres	1.51250%	0.16801%	0.35653%	0.03302%	5.1976%
(f) Ruth Stump P.O. Box 36 Faith Hill, NC 28041	2.42 acres 2/7 of 8.47 acres	3.02500%	0.33602%	0.71307%	0.06604%	10.3952%
<u>TRACT #2E - 3.02 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	3.02 acres	3.77500%	0.41934%	0.88986%	0.08241%	12.9725%

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Exhibit E
Unit X-36
Docket No. VGOB-98-0324-0636
List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit	Division of Interest in			Percent of Escrow
			13-East 11.1083%	14-East 23.5724%	15-East 2.1831%	
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) Anna L. Bohon P.O. Box 278 Oakwood, VA 24631	3.02 acres	3.77500%	0.41934%	0.88986%	0.08241%	12.9725%
<u>TRACT #2F - 2.42 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	2.42 acres	3.02500%	0.33602%	0.71307%	0.06604%	10.3952%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) William Larry Engardio Rt. 1, Box 198 Raven, VA 24639	2.42 acres	3.02500%	0.33602%	0.71307%	0.06604%	10.3952%
<u>TRACT #2G - 2.70 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	2.70 acres	3.37500%	0.37490%	0.79557%	0.07368%	11.5979%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) Chris Stump Rt. 1 Box 200 Raven, VA 24639	2.70 acres	3.37500%	0.37490%	0.79557%	0.07368%	11.5979%
<u>TRACT #2H & I - 0.98 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	0.98 acres	1.22500%	0.13608%	0.28876%	0.02674%	4.2096%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) K. E. T. Inc. P. O. Box 1080 Raven, VA 24639	0.98 acres	1.22500%	0.13608%	0.28876%	0.02674%	4.2096%
<u>TRACT #2J - 0.07 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	0.07 acres	0.08750%	0.00972%	0.02063%	0.00191%	0.3007%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) Danny Hinkle P. O. Box 571 Oakwood, VA 24631	0.07 acres	0.08750%	0.00972%	0.02063%	0.00191%	0.3007%

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Exhibit E
Unit X-35
Docket No. VGOB-98-0324-0636
List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit	Division of Interest in			Percent of Escrow
			13-East 11.1083%	14-East 23.5724%	15-East 2.1831%	
<u>TRACT #2K - 0.02 acres</u>						
<u>COAL FEE OWNERSHIP</u>						
(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	0.02 acres	0.02500%	0.00278%	0.00589%	0.00055%	0.0859%
<u>OIL & GAS FEE OWNERSHIP</u>						
(1) Hazel Elster P. O. Box 327 Oakwood, VA 24631	0.02 acres	0.02500%	0.00278%	0.00589%	0.00055%	0.0859%

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Exhibit EE
Unit X-35
Docket No. VGOB-98-0324-0636
List of Conflicting Owners/Claimants with Royalty Split Agreements

Net Acres in Unit	Interest in Unit	Division of Interest in			Percent of Escrow
		13-East 11.1083%	14-East 23.5724%	15-East 2.1831%	

Tract #2A - 45.24 acres

COAL FEE OWNERSHIP

(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	45.24 acres	56.5500%	6.2817%	13.3302%	1.2345%	<i>Direct Pay</i>
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OIL & GAS FEE OWNERSHIP

(1) Consolidation Coal Company Attn: Anita Duty 2481 John Nash Blvd. Bluefield, WV 24701	45.24 acres	56.5500%	6.2817%	13.3302%	1.2345%	<i>Direct Pay</i>
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Tract #2B - 1.60 acres

COAL FEE OWNERSHIP

(1) Hurt McGuire Land Trust c/o Charles Green P.O. Box 1067 Bluefield, VA 24605	1.60 acres	2.0000%	0.2222%	0.4714%	0.0437%	6.8729%
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OIL & GAS FEE OWNERSHIP

(1) Daisy Burke Box 354 Raven, VA 24639	1.60 acres	2.0000%	0.2222%	0.4714%	0.0437%	6.8729%
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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 acknowledgement annexed, admitted to record this 29th day of October,

20 07. Instrument No. 07 0004030

Returned to: DMME

TESTE: Beverly S. Tiller, Clerk

Beverly S. Tiller

~~_____~~ Clerk

BU

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ENTERED

RECORDED BY: 118

INSTRUMENT #070004430
RECORDED IN THE CLERK'S OFFICE OF
SHERMAN COUNTY ON
OCTOBER 29, 2007 AT 14:03PM
SHERLEY S. TILLEY, CLERK