

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

PETITIONERS: William C. Rose and Vonda E. Rose )

DOCKET NO.  
99-0420-0719-01

RELIEF SOUGHT: Issuance of an Amended Supplemental )  
Order Amending Prior Orders Affecting )  
Drilling Unit VC-3047 Located in the Nora )  
Coalbed Gas Field, Dickenson 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 Petitioners, a Royalty Accounting; and )  
(3) Disbursement to Petitioners )  
in Accordance with Their Ownership )  
Interests in Those Funds Deposited by the )  
Unit Operator into Subject Drilling Unit's )  
Escrow Subaccount for VGOB Tract 6 )

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") on June 21, 2005 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** William C. and Vonda E. Rose (Petitioners) appeared *pro se*; 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 16, 1999, 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 June 21, 1999 in Deed Book 346 at page 677. The Board designated Equitable Production Company 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 August 24, 1999 that was filed with the Dickenson County Circuit Court Clerk's Office on August 31, 1999 in Deed Book 348 at page 503 ("Supplemental Order")(hereafter the Pooling Order and the Supplemental Order are collectively referred to as the Pooling Order).
- 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/interests 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 coalbed methane ownership of Pine Mountain Oil and Gas, Inc. and the oil and gas fee ownership of William C. Rose and Vonda E. Rose or their predecessors in title in a 0.18 acre tract known as VGOB Tract 6 in Subject Drilling Unit VC-3047 were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Petitioners' Miscellaneous Petition for Release of Escrowed Funds mailed to the Board and received by the Division of Gas and Oil on June 1, 2005, and considered by the Board on June 21, 2005, a copy of which is attached to and made a part hereof, and sworn testimony attested that Pine Mountain Oil and Gas, Inc. released its claim to the royalty proceeds in the subject Drilling Unit to William C. Rose and Vonda E. Rose and therefore the escrow regarding the conflicting claims of said parties was no longer required. By sworn testimony, the Unit Operator notified the Board that Pine Mountain Oil and Gas, Inc. had notified it of its relinquished claim regarding the Escrow Account for VGOB Tract 6 of the Subject Unit.
- 4.4. The Miscellaneous Petition requested that the Board: (1) enter an Order to release the escrow funds being held by the Escrow Agent; and (2) delete the requirement that the Unit Operator place future royalties attributable to the above-named party in Tract 6 in the Escrow Account.
- 4.5. Sworn testimony presented to and accepted by the Board at its June 21, 2005 hearing confirmed the release of claim by Pine Mountain Oil and Gas, Inc. referred to in Paragraph 4.3 above.
- 4.6. The Unit Operator filed the attached accountings for Subject Drilling Unit's Escrow Account with the Board ("Accountings").

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 Petitioners have certified and represented to the Board that:

- (1) William C. Rose and Vonda E. Rose are the owners of 100% of the oil and gas estate underlying VGOB Tract 6 of the subject Drilling Unit.
- (2) Pine Mountain Oil and Gas, Inc. has transferred to and relinquished to the Petitioners any and all rights, title and interest that it may have to all current and future royalties and accrued interest held in the Escrow account pursuant to the Pooling Order.
- (3) The net interests attributable and to be disbursed to William C. Rose and Vonda E. Rose in Tract 6 are shown in Table 1, below.

TABLE-1		
Tract # 6 Owner Names	Net acres in Unit	% Interest in VGOB 99-0420-0719 balance
William C. Rose and Vonda E. Rose Route 1 Box 421 Clintwood, Virginia 24228	0.18000	0.7816%

6. **Relief Granted:**

For the reasons set forth in Paragraphs 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 escrowed funds attributable to VGOB Tract 6 to William C. Rose and Vonda E. Rose according to the percentages shown in Table 1, above, and mail attributable proceeds to the addresses shown in the table. Exhibits to the Pooling Order, showing owners subject to escrow, are deleted in toto and replaced with the Exhibit E attached hereto. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the oil and gas fee ownership of William C. Rose and Vonda E. Rose in Tract 6 be deposited by the Unit Operator into the Escrow Account for Subject Drilling Unit, 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 2<sup>nd</sup> day of February, 2006, by a majority of the Virginia Gas and Oil Board.

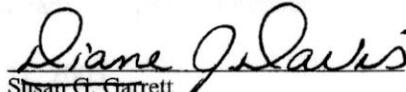
  
Chairman, Benny R. Wampler

DONE AND PERFORMED this 6<sup>th</sup> day of February, 2006, 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 6<sup>th</sup> day of February, 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 )

Acknowledged on this 6<sup>th</sup> day of February, 2006, 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

## Well 703074

Check #	Check Date	Check Amt
691371	09/20/04	\$ 11,963.35
695230	10/05/04	\$ 172.89
702481	11/03/04	\$ 147.64
709632	12/02/04	\$ 175.54
723304	01/06/05	\$ 240.33
730290	02/07/05	\$ 241.39
738120	03/04/05	\$ 188.08
745365	04/05/05	\$ 178.82
752481	05/06/05	\$ 196.40
759556	06/07/05	\$ 231.69
		<b>\$ 13,736.13</b>

## Well 504509

Check #	Check Date	Check Amt
500839	08/01/02	\$ 148.31
506925	08/28/02	\$ 178.58
514027	09/27/02	\$ 228.93
520657	10/28/02	\$ 334.29
527397	11/26/02	\$ 407.14
541943	12/31/02	\$ 645.04
547890	02/03/03	\$ 737.08
554807	03/06/03	\$ 771.98
564841	04/03/03	\$ 808.69
572074	05/02/03	\$ 1,378.80
578639	06/04/03	\$ 931.67
585904	07/02/03	\$ 755.82
592179	08/01/03	\$ 793.78
599240	09/03/03	\$ 473.58
605965	10/02/03	\$ 614.08
612690	11/03/03	\$ 710.13
619239	12/02/03	\$ 647.40
632927	01/03/04	\$ 620.30
639188	02/03/04	\$ 711.55
645735	03/04/04	\$ 790.79
652630	04/06/04	\$ 652.21
659514	05/07/04	\$ 753.43
666146	06/03/04	\$ 729.74
673213	07/06/04	\$ 834.63
679960	08/05/04	\$ 878.70
687156	09/02/04	\$ 816.83
694526	10/05/04	\$ 747.95
701824	11/03/04	\$ 632.93
708834	12/02/04	\$ 707.47
722624	01/06/05	\$ 1,000.46
729470	02/07/05	\$ 1,002.66
737401	03/04/05	\$ 775.75
744535	04/05/05	\$ 770.36
751687	05/06/05	\$ 846.81
758638	06/07/05	\$ 980.84
		<b>\$ 24,818.71</b>