

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 )

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 )

DOCKET NO.  
 99-0420-0719-01

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:**

07/14/05

- 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

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: William C. & Vonda E. Rose

DOCKET NUMBER: VGOB 99-0420-0719-01

RELIEF SOUGHT: Supplemental Order for Disbursement of Escrowed Funds on behalf of William C. & Vonda E. Rose

LEGAL DESCRIPTIONS: Drilling Unit Number VC-3047 created by Board Order Dated June 16, 1999, VGOB 99-0420-0719 in the Kenady District, Dickenson County, Virginia.

HEARING DATE: June 21, 2005

MISCELLANEOUS PETITION

1. Party: Applicants herein are William C. & Vonda E. Rose, (hereinafter "Plaintiffs), whose address is Rt. 1, Box 421, Clintwood, Virginia.24228.
2. Facts:
  - a. Equitable was designated as the Operator and Applicants interests were Pooled in the VC-3047 Unit by Order of the Virginia Gas and Oil Board (hereinafter "Board") executed on June 16, 1999, pursuant to Docket No. VGOB 99-0420-0719 and recorded in the Circuit Court Clerk's Office of Dickenson County, Virginia on June 21, 1999, Deed Book 346, Page 677 (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 me made because the person(s) entitled hereto could not be made certain due to conflicting claims of ownership.
  - d. Pine Mountain Oil & Gas was a conflicting claimant with the above-listed Plaintiffs with regard to Tract 6 as created by Board Order as VGOB 99-0420-0719.
  - e. To resolve this conflict, a Letter dated November 29, 2004 signed by Richard M. Brillhart, an officer at that time 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.

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- 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 30 day of May, 2005.

By: William C. Rose & Vanda Rose  
Petitioner  
Address: RT 1 Box 421  
CLINTWOOD, VA  
24228

**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.

William C. Rose & Vanda E. Rose  
Petitioner

PINE MOUNTAIN  
Oil and Gas, Inc.

P.O. Box 2136  
129 Preston Street  
Abingdon, Virginia 24212



November 29, 2004

Ms. Melanie Freeman  
Equitable Production Company  
1710 Pennsylvania Avenue  
P.O. Box 2347  
Charleston, WV 25328-2347

Re: Escrowed Royalties – Wells VC-504509, VC-3047 and VC-503042  
William C. and Vonda E. Rose

Dear Ms. Freeman:

As you are aware, we forwarded you a letter releasing any claim we had to the escrowed royalties in William C. and Vonda E. Rose's portion of the well units in well numbers VC-504509 and VC-3047, by letter dated May 12, 2004. We have again been contacted by Mr. and Mrs. Rose, owners of the oil and gas on a portion of the above-mentioned coalbed methane well units, requesting release of the escrowed portion of the proceeds from coalbed methane production from these operations. I have enclosed a copy of our May 12, 2004, letter to you as well as a copy of the letter dated November 23, 2004, which we received from Mr. and Mrs. Rose.

At this time, in addition to the funds which we have previously requested that you release to Mr. and Mrs. Rose, we would also like to notify you that when well number VC-503042 is drilled and producing, all royalties from Mr. and Mrs. Rose's portion of this well unit should be directly paid to them and not put into escrow.

Thank you very much for your prompt attention to this matter. If you have any questions or comments, please do not hesitate to contact me by phone at (276) 628-9001 or by e-mail at [rbrillhart@pmog.biz](mailto:rbrillhart@pmog.biz).

Sincerely,

PINE MOUNTAIN OIL & GAS, INC.

Richard M. Brillhart  
President

/dtl

Enclosures

cc: William C. and Vonda E. Rose

Ms. Carolyn Spaur

## 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>

Well 504509

.06008750 is being escrowed to the bank.

.03826250 of that amount belongs to William C. & Vonda E. Rose

Their interest in the escrowed funds is calculated as follows:

$$.03826250/.06008750 = .6367797 \times \$24,818.71 = \$15,804.05$$

Well 703047

.04957500 is being escrowed to the bank.

.00038750 of that amount belongs to William C. & Vonda E. Rose

Their interest in the escrowed funds is calculated as follows:

$$.00038750/.04957500 = .00781644 \times \$13,736.13 = \$107.37$$

**EXHIBIT "E"**  
**CONFLICTING CLAIMANTS REQUIRING ESCROW**  
**VC-3047**  
**VGOB 99-0420-0719**

TRACT	OWNER	INTEREST WITHIN UNIT	GROSS ACREAGE WITHIN UNIT
2	<u>Gas Estate</u> East Tennessee Natural Gas Route 1 Box 241 McClure, VA 24269	0.2800%	0.17
Not Assessed	<u>Coal Estate</u> Pine Mountain Oil and Gas P. O. Box 2136 Abingdon, VA 24212		
4	<u>Gas Estate</u> Laura Jean Cole & Leroy Cole, W/H 721 Emerald Bay Drive Suisun City, CA 94585	30.2400%	17.77
2211	<u>Coal Estate</u> Pine Mountain Oil and Gas P. O. Box 2136 Abingdon, VA 24212		
5	<u>Gas Estate</u> Equitable Production Company Cloverleaf Square, Bldg. B Big Stone Gap, VA 24219	8.830% (172D-2059)	5.19
18837	<u>Coal Estate</u> Pine Mountain Oil and Gas P. O. Box 2136 Abingdon, VA 24212		
<b>Totals</b>		<b>39.35%</b>	

INSTRUMENT #060000202  
RECORDED IN THE CLERK'S OFFICE OF  
DICKENSON ON  
FEBRUARY 7, 2006 AT 02:37PM  
JOE TATE, CLERK

RECORDED BY: JBM

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF DICKENSON COUNTY, Feb. 7, 2006. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 2:31 o'clock P.M., after payment of \$ \_\_\_\_\_ tax imposed by Sec. 58.1-802.

Original returned this date to: Diane Davis

TESTE: JOE TATE, CLERK  
BY: Joe Tate D. CLERK