

4. **Prior Proceedings:**

- 4.1. On April 27, 2000, 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 Buchanan County on May 3, 2000 in Deed Book 506 at Page 549. The Board designated Pocahontas Gas Partnership 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 16, 2000 that was filed with the Clerk's Office on August 24, 2000 in Deed Book 511 at page 799 ("Supplemental Order") (hereafter the Pooling Order and Supplemental Order are collectively referred to as "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, (1) the coal fee ownership of the Trust and the oil and gas fee ownership of Reserve in 0.747 acres of the .90-acre tract known as VGOB Tract 1 were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3 The Unit Operator's Affidavit Regarding Escrow and Supplemental Order dated July 11, 2002, a copy of which is attached to and made a part hereof, states under oath:
- "That after the pooling hearing held in the captioned matter, the Hurt McGuire Land Trust and Reserve Coal Properties have entered into royalty split agreements; that by the terms of said agreement escrow regarding the conflicting claims of the Hurt McGuire Land Trust and Reserve Coal Properties are no longer required."
- 4.4 By letter dated September 12, 2002, the Board gave notice to the Trust, Reserve, the Unit Operator and the Escrow Agent that on its own motion it would take the Affidavit referred to in Paragraph 4.3 above under consideration at its hearing on October 15, 2002 and consider whether to amend the Pooling Order to: (1) provide for the disbursement of funds on deposit in the Escrow Account attributable to a 633/763 portion of Tract 1 to the Trust and Reserve in accordance with the terms of their split agreement, and (2) delete the requirement that the Unit Operator place future royalties attributable to said portion of Tract 1 in the Escrow Account. Further, the Board ordered the Unit Operator to file with the Board a complete accounting of funds it has placed on deposit in the Escrow Account.
- 4.5 The Unit Operator filed the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("Accounting").
- 4.6 At its hearing on November 19, 2002, the Board approved disbursement of escrowed funds attributable to 633/763 of Tract 1.
- 4.7 The Unit Operator discovered an error in testimony regarding parties to receive disbursement and, after application to the Board and notification of affected parties, submitted corrected testimony at the hearing on March 18, 2003. Corrected affidavits and exhibits are attached and made a part hereof.

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) Trust is the sole owner of the coal estate underlying 633/763 of the .90 acres comprising VGOB Tract 1 of the Subject Drilling Unit;
- (2) Reserve is the sole owner of oil and gas estate underlying 633/763 of the .90 acres comprising VGOB Tract 1 of the Subject Drilling Unit;
- (3) that together Trust and Reserve claim to have and own, in the aggregate, the following conflicting Gas royalty interest in Subject Drilling Unit by virtue of their respective ownership interests in 633/763 of the .90 acres comprising VGOB Tract 1:

VGOB Tract #	Interest In Unit	Percent of Escrow	Escrowed Funds Attributable to Tract 1 as of 9/25/02
633/763 of Tract 1	0.93332%	82.9619%	\$ 539.68

- (4) that Trust and Reserve have entered into an agreement to split on a 50/50 basis royalties attributable to their conflicting claims to coalbed methane gas, including but not limited to their conflicting claims to ownership of coalbed methane gas underlying a 633/763 portion of VGOB Tract 1 of Subject Drilling Unit and their conflicting claims to bonuses and/or royalties deposited by the Unit Operator in the Escrow Account that are attributable to said 633/763 portion of said tract.

6. **Relief Granted:**

- 6.1. 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 order, (1) disburse fifty percent (50%) of the funds attributable to the 633/763 portion of VGOB Tract 1, being 41.48095 percent of funds on deposit in the Escrow Account, to the Hurt McGuire Land Trust, c/o Charles Green, P. O. Box 1067, Bluefield, VA 24605, and (2) disburse fifty percent (50%) of the funds attributable to the 633/763 portion of VGOB Tract 1, being 41.48095 percent of funds on deposit in the escrow account, to Reserve Coal Properties, P. O. Box 947, Bluefield, VA 24605. Further, because there are other owners in the tract who are subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for the subject tract and drilling unit.
- 6.2. The Exhibits E and EE to the Pooling Order are deleted in toto and replaced with the Exhibit E and EE attached to the Affidavit. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the Trust's and Reserve's conflicting coalbed methane gas ownership interests in a 633/763 portion of VGOB Tract 1. 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 8th day of April, 2003, by a majority of the Virginia Gas and Oil Board.

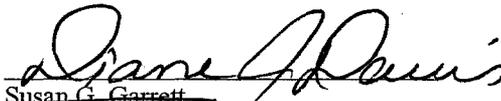

Chairman, Benny R. Wampler

DONE AND PERFORMED this 8th day of April, 2003, 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 8th day of April, 2003, 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: 9/30/05

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 8th day of April, 2003, 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: 9/30/05

VGOB Tract #		1 0.90 ac.	Check Total	Interest	Operator Balance	Bank Balance
Check Date						
	5/25/00	\$1.68	\$1.68		\$1.68	
	6/25/00	\$12.00	\$12.00		\$13.68	
	7/25/00	\$22.45	\$22.45		\$36.13	
	8/25/00	\$32.75	\$32.75		\$68.88	
	9/25/00	\$29.86	\$29.86		\$98.74	
	10/25/00	\$27.11	\$27.11		\$125.85	
	11/25/00	\$34.81	\$34.81		\$160.66	
	12/25/00	\$42.64	\$42.64		\$203.30	
	1/25/01	\$31.94	\$31.94	\$6.66	\$241.90	
	2/25/01	\$48.34	\$48.34	\$0.86	\$291.10	
	3/25/01	\$74.96	\$74.96	\$0.92	\$366.98	
	4/25/01	\$21.74	\$21.74	\$0.91	\$389.63	
	5/25/01	\$15.18	\$15.18	\$1.03	\$405.84	
	6/25/01	\$43.20	\$43.20	\$0.96	\$450.00	
	7/25/01	\$35.32	\$35.32	\$1.08	\$486.40	
	8/25/01	\$26.04	\$26.04	\$1.05	\$513.49	
	9/25/01	\$22.66	\$22.66	\$0.83	\$536.98	
	10/25/01	\$22.46	\$22.46	\$0.74	\$560.18	
	11/25/01	\$6.64	\$6.64	\$0.63	\$567.45	
	12/25/01	\$7.16	\$7.16	\$0.68	\$575.29	
	1/25/02	\$6.82	\$6.82	\$0.40	\$582.51	
	2/25/02	\$6.14	\$6.14	\$0.30	\$588.95	
	3/25/02		\$0.00	\$0.34	\$589.29	
	4/25/02		\$0.00	\$0.38	\$589.67	
	5/25/02		\$0.00	\$0.32	\$589.99	
	6/25/02		\$0.00	\$0.32	\$590.31	
	7/25/02	\$32.30	\$32.30	\$0.34	\$622.95	
	9/25/02	\$27.23	\$27.23	\$0.34	\$650.52	\$650.52

Note: Tract 1, disburse 82.96199% of escrow, 50% to each owner.
 The remaining 17.03801% will remain in escrow - conflicts not resolved.

VIRGINIA:

SUPPLEMENTAL AFFIDAVIT RE CBM UNIT P-44

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE: Application of Pocahontas Gas Partnership for Forced Pooling of Interests in CBM Unit P-44
VGOB-00-0321-0778 in the Garden District of Buchanan County, Virginia

AFFIDAVIT OF POCAHONTAS GAS PARTNERSHIP (herein "Designated Operator")
REGARDING ESCROW AND SUPPLEMENTAL ORDER

Leslie K. Arrington, being first duly sworn on oath, deposes and says:

That your affiant is employed by Consol Energy Inc. as a Gas Engineer and is duly authorized to make this affidavit on behalf of POCAHONTAS GAS PARTNERSHIP, the Designated Operator;

That the Order entered on August 16, 2000, by the Virginia Gas and Oil Board (hereinafter "Board") regarding the captioned CBM Unit required the Applicant to tender to the Escrow Agents funds attributable to the rights, interests and claims of the persons identified in the annexed Exhibit E as subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia;

That after the pooling hearing held in the captioned matter, the Hurt McGuire Land Trust and Reserve Coal Properties and Ronald Clyborne and Reserve Coal Properties have entered into royalty split agreements; that by the terms of said agreement escrow regarding the conflicting claims of the Hurt McGuire Land Trust and Reserve Coal Properties and Ronald Clyborne and Reserve Coal Properties are no longer required;

That annexed hereto are revised Exhibits E and EE;

That the Designated Operator has heretofore filed its petition seeking the disbursement from escrow of all funds on deposit attributable to the conflicting claims of the Hurt McGuire Land Trust and Reserve Coal Properties and Ronald Clyborne and Reserve Coal Properties or the Designated Operator is preparing its petition seeking disbursement from escrow of all funds on deposit attributable to the conflicting claims of said respondents and will file same at its earliest opportunity; and

That the annexed supplemental order provides that the payment of funds subject to the annexed royalty split agreement shall be made to the said parties thereto rather than to the Escrow Agent.

Dated at Tazewell, Virginia, this 24th day of March, 2003.


Leslie K. Arrington

Taken, subscribed and sworn to before me by Leslie K. Arrington as Gas Engineer of Consol Energy Inc., on behalf of the corporate Designated Operator, this 24th day of March, 2003.


Notary

My commission expires: 10/31/05

List of Conflicting Owner/Claimants that require escrow

	Acres in Unit	Percent of Unit
<u>TRACT #1 - 0.90 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hurt McGuire Land Trust c/o Charles Green P. O. Box 1067 Bluefield, VA 24605	0.90 acres	1.12500%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Reserve Coal Properties, et al	0.90 acres	1.12500%
(b) Curtis White P. O. Box 72 Whitewood, VA 24657	0.013 acres 1/72 of .90 acres	0.01563%
(c) Gerald V. Cantrell P. O. Box 47 Red Ash, VA 24640	0.016 acres 1/56 of .90 acres	0.02009%
(d) Lonnie Cantrell Sr. Rt. 1, Box 202N Cedar Bluff, VA 24609	0.016 acres 1/56 of .90 acres	0.02009%
(e) Marshall E. Cantrell Rt. 2, Box 330 New Castle, VA 24127	0.016 acres 1/56 of .90 acres	0.02009%
(f) Gayther L. Cantrell Sr. Rt. 2, Box 316 New Castle, VA 24127	0.016 acres 1/56 of .90 acres	0.02009%
(g) Glen D. Cantrell Rt. 2, Box 325A New Castle, VA 24127	0.016 acres 1/56 of .90 acres	0.02009%
(h) Deborah L. Hypes Rt. 2, Box 314H New Castle, VA 24127	0.016 acres 1/56 of .90 acres	0.02009%
(i) Linda White 7901 Boydton Plank Rd. #38 Petersburg, VA 23803	0.003 acres 1/336 of .90 acres	0.00335%
(j) Dale White 913 Hamilton Avenue Colonial Heights, VA 23834	0.003 acres 1/336 of .90 acres	0.00335%
(k) Diana Boone 457 Arrowhead Est. Rd. Staffordsville, KY	0.003 acres 1/288 of .90 acres	0.00391%
(l) Keith Clifton HC 66, Box 402 Jewell Ridge, VA 24622	0.003 acres 1/288 of .90 acres	0.00391%
(m) Lovis Beasley	0.019 acres	0.02344%

Docket #VGOB 00-0321-0778

List of Conflicting Owner/Claimants that require escrow

	Acres in Unit	Percent of Unit
Rt. 2, Box 165 Westfield, NC 27053	1/48 of .90 acres	
(n) Kenneth Harman HC 66, Box 330 Jewell Ridge, VA 24622	0.005 acres 1/192 of .90 acres	0.00586%
(o) Shelia Honaker HC 66, Box 330 Jewell Ridge, VA 24622	0.005 acres 1/192 of .90 acres	0.00586%
(p) Maesha Thomas HC 66, Box 331 Jewell Ridge, VA 24622	0.005 acres 1/192 of .90 acres	0.00586%

0.13600000

Exhibit EE
Unit P-44
Docket #VGOB 00-0321-0778
List of Conflicting Owner/Claimants with Royalty Split Agreements

BOOK 566 PAGE 412

		Acres in Unit	Percent of Unit	Percent of Escrow
<u>TRACT #1 - 0.90 acres</u>				
<u>COAL FEE OWNERSHIP</u>				
(1)	Hurt McGuire Land Trust c/o Charles Green P. O. Box 1067 Bluefield, VA 24605	0.90 acres	1.12500%	100.00%
<u>OIL & GAS FEE OWNERSHIP</u>				
(1)	Reserve Coal Properties, et al	0.90 acres	1.12500%	100.00%
(a)	Reserve Coal Properties P. O. Box 947 Bluefield, VA 24605	0.747 acres 633/763 of .90 acres	0.93332%	82.96199%
<u>TRACT #3 - 4.00 acres *</u>				
<u>COAL FEE OWNERSHIP</u>				
(1)	Reserve Coal Properties (Coal, Jawbone & Below) P. O. Box 947 Bluefield, VA 24605	4.00 acres	5.00000%	N/A
<u>OIL & GAS FEE OWNERSHIP</u>				
(1)	Ronald Clyborne 11201 Whitcomb Place Woodway, WA 98020	4.00 acres	5.00000%	N/A

* The disbursement for Tract 3 has already taken place.

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 acknowledgment annexed, admitted to record this 8th day of April, 2003 12:43P. M.
Deed Book No. 346 and Page No. 404.
Returned to: Diane TESTE: James M. Bevins, Jr., Clerk
Diane TESTE: James M. Bevins, Jr. Deputy Clerk