

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 Torch Oil & Gas Company (CBM Royalty Owner – Coal Only) and Jane Hale (Oil and Gas Owner) in Tract 1.

DOCKET NO.**01-0116-0854-01****RELIEF SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds

Action: Amending Prior Orders Affecting Drilling **Unit AV-113, Tract 1** (Referenced herein as “the Subject Drilling Unit”)

Location: **Buchanan County and Russell County, Virginia**

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **AV-113** 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 August 17, 2010, at the Russell County Government Complex, Conference Center, 139 Highland Drive, Lebanon, Virginia.
2. **Appearances:** Mark A. Swartz of Swartz Law Offices appeared for the Applicant; 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 On January 16, 2001, 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 Orders were filed with the Clerk of the Circuit Court of Buchanan County and Russell County on March 7, 2001, in Deed Book 520 (Instrument #010000568) and 521 (Instrument # 0000653) respectively. The Supplemental Orders were executed and recorded in with the Clerk of the Court, Buchanan County and Russell County on May 25, 2003, in Deed Book 524 (Instrument # 010001497) and Deed Book 526 (Instrument # 0001719).
- 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, Torch Oil & Gas Company (CBM royalty only – Coal Only) and Jane Hale (Oil and Gas Owner) in the Subject Drilling Unit and 16.41 acres in Tract 1 became subject to the escrow requirements of the Pooling Order.
- 4.3 The Unit Operator's Miscellaneous Petition regarding Tract 1, a copy of which is attached to and made a part hereof, states under oath that Torch Oil & Gas Company and Jane Hale have entered into a royalty split agreement for Tract 1, and escrow regarding this individual claim detailed herein, is no longer required and monthly royalty payments are to be made direct based on the terms of the split agreement.
- 4.4 The Unit Operator gave notice to Torch Oil & Gas Company and Jane Hale, that the Board would consider its disbursement authorization at its hearing on August 17, 2010, 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 Tract 1, as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 1, the interests of Applicant identified in the miscellaneous petition 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 continued payments in the escrow.
- 4.5 The Unit Operator filed the attached accounting (Exhibit A) 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) Torch Oil & Gas Company and Jane Hale are the owners of the coalbed methane gas estate underlying 16.41 acres estate in VGOB Tract 1, of the Subject Drilling Unit; AV-113.
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement
 VGOB-01-0116-0854-01
 AV-113

As Given			Acres	% of Escrowed
Acreage Fraction	Acreage Interest	Split Agreement		

Table 1

Table 1							Funds
Item	Tract	Disbursement Table					
		Tract 1					
						19.81000	
	1	Torch Oil & Gas Company		16.41			
1	1	Torch Oil & Gas Company / c/o Sue Ann Craddock / 670 Dona Ana Road SW / Deming	1	16.4100	50.0%	8.2050	41.4185%
2	1	Jane Hale / 1017 Runaway Lane / Oakwood, VA 24631	1	16.4100	50.0%	8.2050	41.4185%

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 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 9 day of Sept, 2010, by a majority of the Virginia Gas and Oil Board.

Bradley C. Lambert
Bradley C. Lambert, Chairman

DONE AND PERFORMED this 9 day of Sept, 2010, by an Order of this Board.

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

**COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON**

Russell
Acknowledged on this 9th day of September, 2010, 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.

My commission expires: 09/30/2013



Diane J. Davis
Diane J. Davis
Notary Public #174394

1002248

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, Sept 20, 2010. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 1:25 o'clock PM, after payment of \$ — tax imposed by Sec. 58.1-802.

Original returned this date to: VAL Gas & Oil

TESTE: AMN S. McREYNOLDS, CLERK
BY: *Jamie Fickell* D. CLERK

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 01-0116-0854-01

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

HEARING DATE: August 17, 2010

DRILLING UNIT: AV-113

BUCHANAN & RUSSELL COUNTIES, 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.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 1 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Torch Oil & Gas Company and Jane Hale.

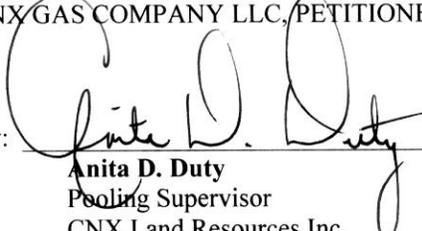
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

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

5. **Factual basis for relief requested:** Torch Oil & Gas Company and Jane Hale have entered into royalty split agreement(s). Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and the annexed Exhibit A, further, specifies how said royalties are to be divided and paid.

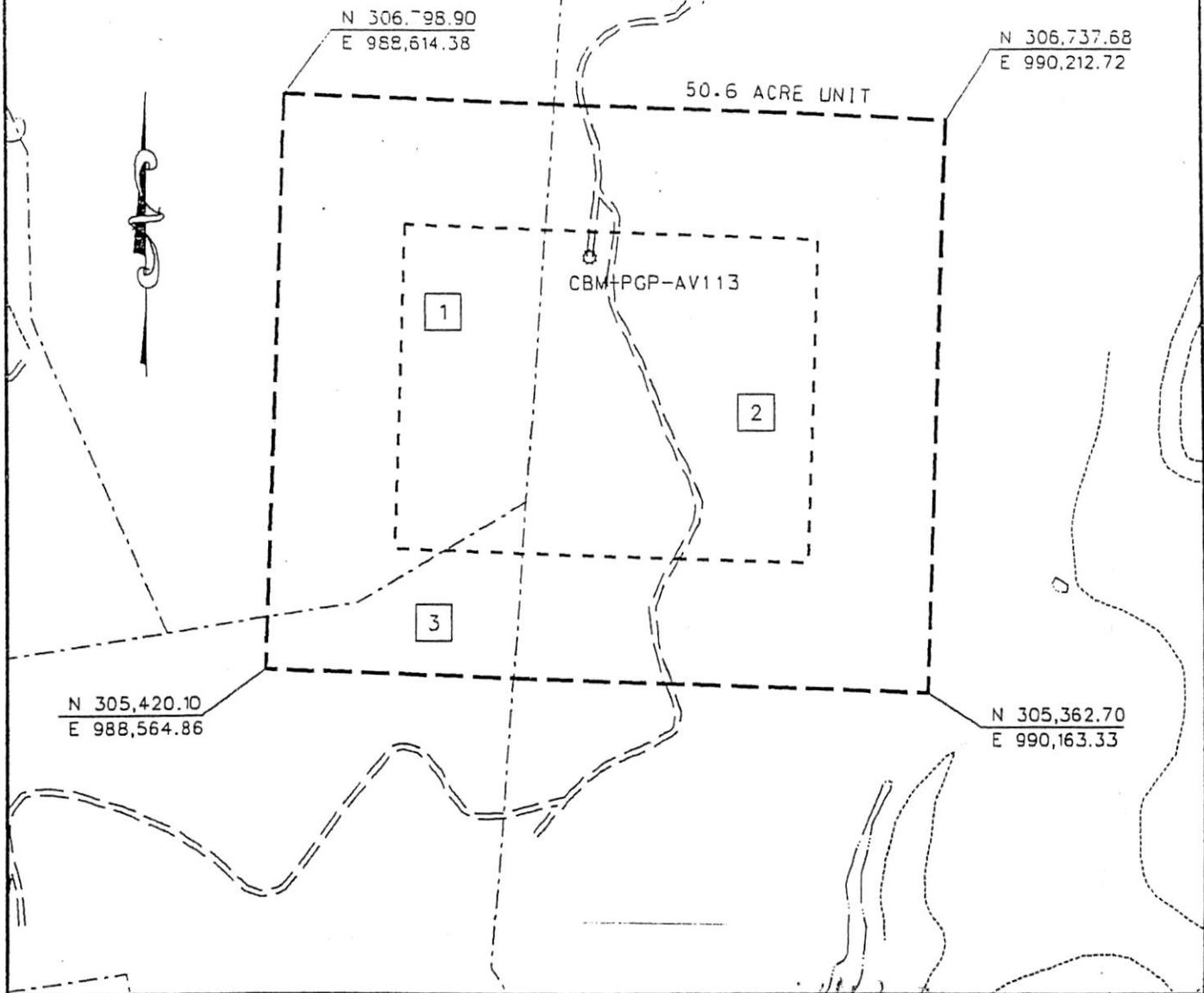
6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

By: 
Anita D. Duty
Pooling Supervisor
CNX Land Resources Inc.
2481 John Nash Blvd.
Bluefield, West Virginia 24701

PROPERTY LINES SHOWN WERE TAKEN FROM MAPS PROVIDED BY CONSOL Inc. AND WERE NOT SURVEYED.

BOOK - 725 PAGE 0584



Mud Ridge
 EXHIBIT A
 GAKWOOD FIELD UNIT AV-113
 FORCE POOLING
 VGOB-01-0116-0854

Company Pocahontas Gas Partnership Well Name and Number UNIT AV113
 Tract No. _____ Elevation _____ Quadrangle Honaker
 County Buchanan/Russell District Hurricane/New Garden Scale: 1" = 400' Date 12/13/00
 This plat is a new plat X ; an updated plat _____ ; or a final plat _____

Form DGO-GO-7 _____ (Affix Seal)
 Rev. 9/91 Charles D. May
 Licensed Professional Engineer or Licensed Land Surveyor

CP

—POCAHONTAS GAS PARTNERSHIP
CBM-PGP-AV-113
Tract Identifications
(50.6 Acre Unit)

1. Hugh MacRae Land Tr. - Tr. 9 - Coal
Consolidation Coal Company - Below Tiller coal Leased
Pocahontas Gas Partnership - CBM Leased
Arnold Hale - Surface, Oil & Gas
16.41 acres 32.4308 %

2. Buckhorn Coal Company - Tr. 7 - Fee
Consolidation Coal Company - Below Tiller coal Leased
Pocahontas Gas Partnership - CBM Leased
Pocahontas Gas Partnership - Oil & Gas Leased
30.79 acres 60.8498 %

3. Buckhorn Coal Company (Corns & Fletcher Tract) - Coal
Sandy Ridge Energy Company - Above Drainage Coal Leased
Pocahontas Gas Partnership - CBM Leased
H. C. Bostic Coal Co., Inc. or Heirs, Devisees, Successors or Assigns
 Of B. W. Stras, et al. - Oil & Gas
H. C. Bostic Coal Co., Inc. - Surface
3.40 acres 6.7194 %

Exhibit E
Unit AV113
Docket #VGOB 01-0116-0854-01
List of Conflicting Owners/Claimants that require escrow

BOOK - 725 PAGE 0536

	Acres in Unit	Interest in Unit
<u>Tract #3, 3.40 acres</u>		
<i>Escrow due to Title Conflict</i>		
<u>COAL OWNERSHIP</u>		
(1) Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	3.40 acres	6.7194%
<u>OIL & GAS OWNERSHIP</u>		
(1) H.C. Bostic Coal Co., Inc. P.O. Box 220 Swords Creek, VA 24649	3.40 acres	6.7194%
- AND/OR -		
(1) B.W. Stras, et al <i>Heirs Unknown</i>	3.40 acres	6.7194%

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Exhibit EE
Unit AV113
Docket #VGOB 01-0116-0854-01
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #1, 16.41 acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Hugh MacRae Land Trust, Tr.9 c/o Alan Siegel Esq Gump, Strauss, Akin LLP 1 Bryant Park New York, NY 10036-6715	16.41 acres	32.4308%	
(2) Torch Oil & Gas Company (CBM Royalty Owner - Coal Only) c/o Sue Ann Craddock 670 Dona Ana Road SW Deming, New Mexico 88030			41.4185%
<u>OIL & GAS OWNERSHIP</u>			
(1) Arnold S. Hale Heirs, Devisees, Successors or Assigns			
(a) Jane Hale (widow) 1017 Runaway Lane Oakwood, VA 24631	16.41 acres	32.4308%	41.4185%

Exhibit A
Tract-by-Tract Escrow Calculation
 Account Balances as of 5/31/10

Unit AV-113
 VGOB 01-0116-0854-01
 Acres Escrowed: 19.810000

Owners	Tract #	Acres	Owner Acres	Total Tract Percent of Escrow	Owners' Percent of Escrow (50%)	Amount Due Owners
Torch Oil & Gas Company- CBM Royalty Owner - Coal Only	1	16.41	82.8370%	82.8370%	41.4185%	\$25,316.35
Jane Hale (widow of Arnold Hale) - O&G					41.4185%	\$25,316.35

Wells contributing to the escrow account: AV113 & AV113A

INSTRUMENT #100002567
 RECORDED IN THE CLERK'S OFFICE OF
 BUCHANAN COUNTY ON
 SEPTEMBER 21, 2010 AT 01:41PM
 BEVERLY S. TILLER, CLERK
 RECORDED BY: GGB

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