

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 H.C. Bostic Coal
Companies and Bernie Darin Dye.**DOCKET NO.****01-0116-0859-01****RELIEF SOUGHT:**Issuance: **A Supplemental Order for Disbursement of Escrowed Funds**Action: **Amending Prior Orders Affecting Drilling Unit AX-114, Tract 4 (a portion thereof) (Referenced herein as "the Subject Drilling Unit")**Location: **Russell County, Virginia****Action Details:**

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **AX-114** 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 October 19, 2010, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
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 or a decision from a court appointed Arbitrator.

4. **Prior Proceedings:**

- 4.1 (a) 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 Order was filed with the Clerk of the Circuit Court of Russell County on April 6, 2001, in Deed Book 523, Pages 522 to 540 Instrument 0001031. The Supplemental Order was executed and recorded in with the Clerk of the Court, Russell County on August 8, 2001, in Deed Book 532, Pages 0274 to 0285 Instrument 0002832.
- 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, royalties attributable to Bernie Darin Dye and H.C. Bostic Coal Companies interest can be released as a result of due diligence efforts in the Subject Drilling Unit with an interest of 1/5 of 2/5 paid out in escrow with 69.0773 % paid to H.C. Bostic Coal Company and 30.9227 % to Bernie Darin Dye 0.304 acres in a portion of Tract 4 became subject to the escrow requirements of the Pooling Order.
- 4.3 The Unit Operator's Miscellaneous Petition regarding a portion of Tract 4, a copy of which is attached to and made a part hereof, states under oath that H.C. Bostic Coal Company and Bernie Darin Dye as conflicting parties has been resolved through due diligence and should be disbursed in a portion of Tract 4, and escrow regarding this individual claim detailed herein, is no longer required and monthly royalty payments are to be made direct to the parties.
- 4.4 The Unit Operator gave notice to H. C. Bostic Coal Company and Bernie Darin Dye that the Board would consider its disbursement authorization at its hearing on October 19, 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 a portion of Tract 4, 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 4, 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) H.C. Bostic Coal Company and Bernie Darin Dye have been determined through due diligence are the owners of the gas and oil acreage estate underlying a 1/5 of 2/5 and percentages of certain coal seams in a portion of 1.52 acres in VGOB Tract 4, of the Subject Drilling Unit; AX-114.
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement
VGOB-01-0116-0859-01
AX-114

As Given		Split Agreement	Acres	% Coal Excluding Pocahontas	% of Escrowed Pocahontas	% of Escrowed to be Paid
Acreage Fraction	Acreage Interest					

Table 1

Item	Tract	Disbursement Table	Acreage Fraction	Acreage Interest	Split Agreement	Acres	% Coal Excluding Pocahontas	% of Escrowed Pocahontas	% of Escrowed to be Paid
A portion of Tract 4									
						6.81200			
	4	John H. Dye Heirs, et al	1.52000						
1	4	H. C. Bostic Coal Co - (Coal except Pocahontas Seam)	1/5	0.3040	100.0%	0.3040	69.0773%		3.0827%
2	4	Bernie Darin Dye (Pocahontas Seam & OG)	1/5	0.3040	100.0%	0.3040		30.9227%	1.3800%

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 24 day of March, 2011, by a majority of the Virginia Gas and Oil Board.

Bradley C. Lambert
Bradley C. Lambert, Chairman

DONE AND PERFORMED this 24 day of March, 2011, 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 RUSSELL)

Acknowledged on this 24th day of March, 2011, 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

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 01-0116-0859-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING A PORTION OF TRACT(S) 4
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: October 19, 2010

DRILLING UNIT: AX-114

RUSSELL COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, 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 a portion of Tract(s) 4 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the party/parties listed is attributable to due diligence efforts: Bernie Darin Dye and H.C. Bostic Coal Company

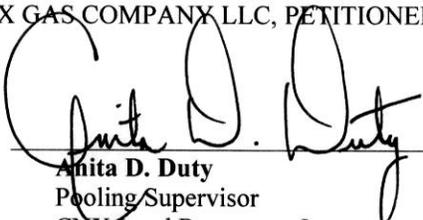
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

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

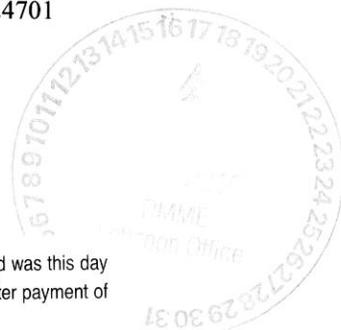
5. **Factual basis for relief requested:** Royalties attributable to Bernie Darin Dye and H.C. Bostic Coal Companies interest that can be released is attributable to due diligence efforts. The Applicant and Designated Operator are also requesting that they be allowed to pay royalties directly to Bernie Darin Dye and H.C. Bostic Coal Company. The annexed Exhibit A, further specifies how said royalties are to be 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

1100660



VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, 3-30, 2011. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 3:50 o'clock P.M, after payment of \$ tax imposed by Sec. 58.1-802.

TESTE: ANN S. McREYNOLDS, CLERK
BY: Sheila Helton D. CLERK

Original returned this date to: VA GAS & OIL

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

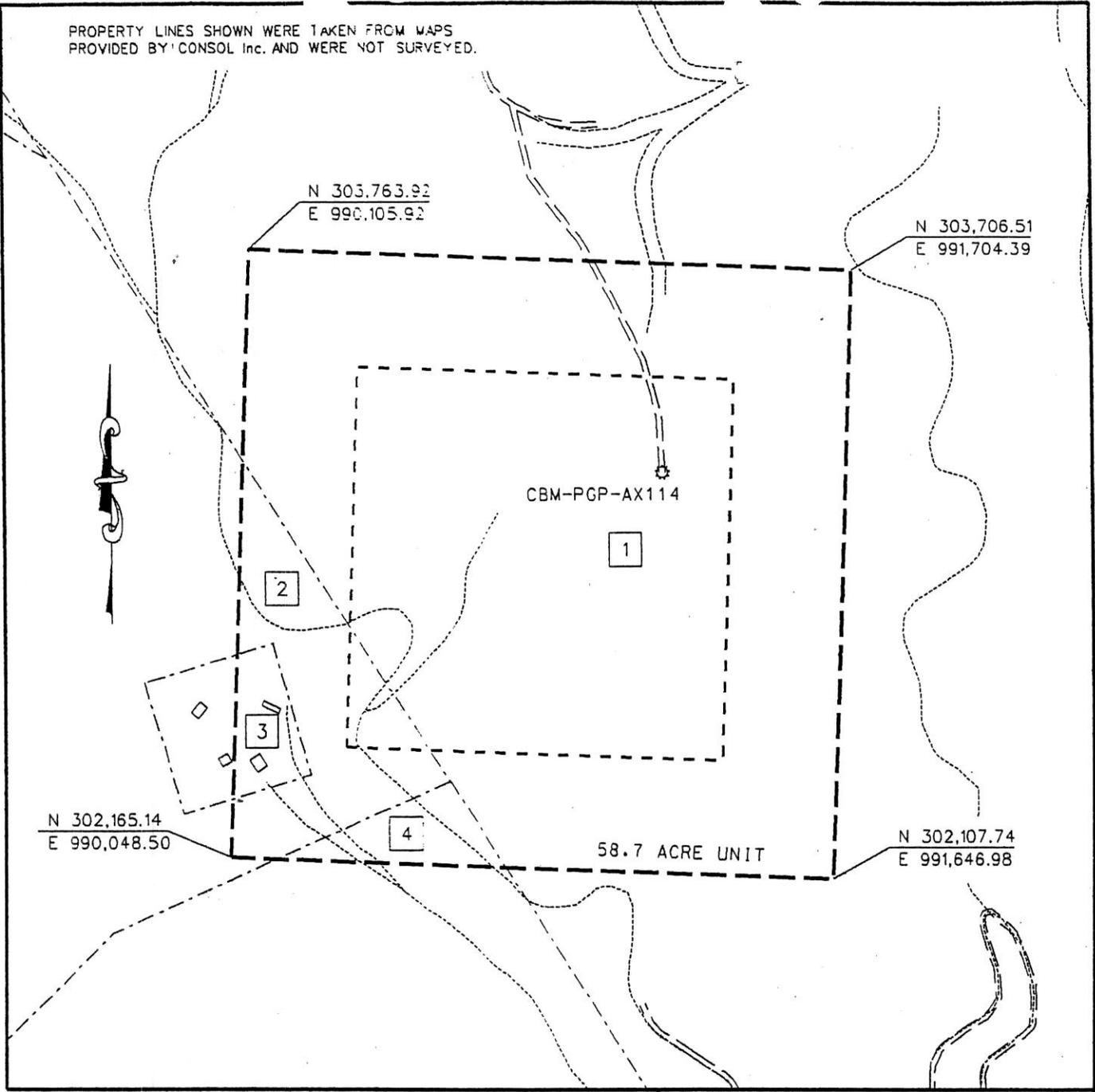
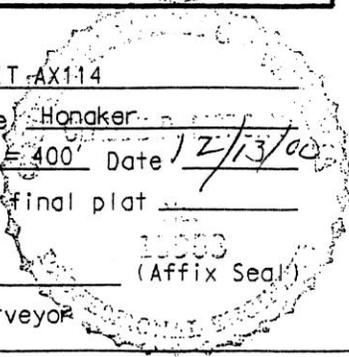


EXHIBIT A
 OAKWOOD FIELD UNIT AX-114
 FORCE POOLING
 VGOB-01-0116-0859

Company Pocahontas Gas Partnership Well Name and Number UNIT AX114
 Tract No. _____ Elevation _____ Quadrangle Honaker
 County Russell District 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 _____
 Rev. 9/91 _____
 Licensed Professional Engineer or Licensed Land Surveyor



POCAHONTAS GAS PARTNERSHIP

Unit AX-114

**Tract Identifications
(58.7 Acre Unit)**

1. Buckhorn Coal Company Tr. 7 - Fee
 Consolidation Coal Company - Below Drainage Coal Leased
 Sandy Ridge Energy Company - Above Drainage Coal Leased Except Kennedy Seam
 H. C. Bostic Coal Company - Kennedy Seam Leased
 Pocahontas Gas Partnership - CBM Leased
 Reserve Coal Properties Company - Oil & Gas Lessee
 49.95 acres 85.0937 %

2. Buckhorn Coal Company (Corns & Fletcher Tract) - Coal
 Sandy Ridge Energy Company - Above Drainage Coal Leased
 Pocahontas Gas Partnership - CBM Leased
 Heirs, Devisees, Successors or Assigns of B. W. Stras, et al. Heirs, Devisees,
 Successors or Assigns of S. J. Corn and Susan E. Corn or Heirs, Devisees,
 Successors or Assigns of David Keene or Pocahontas Gas Partnership,
 Lincous Perkins, Swain Perkins, Heirs of Paul Perkins and Heirs of Ashby
 Perkins or Lincous Perkins and Dorothy Perkins - Oil & Gas
 Dottie Gay Robinette Miller - Surface
 5.90 acres 10.0511 %

3. Dottie Gay Robinette Miller - Fee (Except Red Ash and Jawbone Coal Seams)
 Knox Creek Coal Corp. - Red Ash and Jawbone Coal Seams
 1.33 acres 2.2658 %

4. John H. Dye Heirs, et al. - Surface, Coal, Oil & Gas
 Knox Creek Coal Corp. - Unknown % in Above Tiller Seam Leased
 Pocahontas Gas Partnership - 40% CBM, Oil & Gas Lessee
 1.52 acres 2.5894 %

Exhibit E
Unit AX114
Docket #VGOB-01-0116-0859-01
List of Conflicting Owners/Claimants that require escrow

BOOK - 732 PAGE 0300

	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #2, 5.90 acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	5.90 acres	10.0511%	
<u>OIL & GAS OWNERSHIP</u>			
* <i>Owner of gas interest is undetermined. Possible owners are listed below:</i>	5.90 acres	10.0511%	
(1) B.W. Stras Heirs, Devisees Successors or Assigns, et al. <i>Address Unknown</i>	5.90 acres	10.0511%	
(OR)			
(2) S. J. and Susan E. Corn Heirs, Devisees Successors or Assigns, et al. <i>Address Unknown</i>	5.90 acres	10.0511%	
(OR)			
(3) David Keene Heirs, Devisees Successors or Assigns, et al. <i>Address Unknown</i>	5.90 acres	10.0511%	
(OR)			
(4) Swain Perkins, et al.			
(1) Alta Perkins Heirs, Devisees, Successors or Assigns			
(a) Swain & Renia Perkins Rt.1 Box 136E Swords Creek, VA 24649	0.59 acres 1/10 of 5.90 acres	1.0051%	
(2) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	5.31 acres 9/10 of 5.90 acres	9.0460%	
(OR)			
(5) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	5.90 acres	10.0511%	
AND			
Dorothy Perkins 1595 Drybread Road Salyersville, KY 41465	5.90 acres	10.0511%	

**Exhibit E
Unit AX114
Docket #VGOB-01-0116-0859-01
List of Conflicting Owners/Claimants that require escrow**

	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #4, 1.52 acres</u>			
<u>COAL OWNERSHIP</u>			
John H. Dye Heirs, Deviseses, Successors or Assigns, et al.	1.52 acres	2.5894%	
(2) <u>(Coal exc. Pocahontas Seam(s))</u>			
(a) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	0.9120 3/5 of 1.52 acres	1.5537%	
(3) <u>(Pocahontas seam(s))</u>			
(a) Sam R. Dye Address Unknown	0.3040 1/5 of 1.52 acres	0.5179%	
(b) Larry Compton 5770 1st Road Bremen, IN 46506	0.0203 1/75 of 1.52 acres	0.0345%	
(c) Betty Snead Rt.3 Box 54 Lebanon, VA 24266	0.0203 1/75 of 1.52 acres	0.0345%	
(d) Robert Compton 4478 Island Road Bristol, TN 37620	0.0203 1/75 of 1.52 acres	0.0345%	
(e) Edna Peck Address Unknown	0.0608 1/25 of 1.52 acres	0.1036%	
(f) Ted Wilson Address Unknown	0.0608 1/25 of 1.52 acres	0.1036%	
(g) O'Dell Wilson Address Unknown	0.0608 1/25 of 1.52 acres	0.1036%	
(h) Narcie Dye Noel 766 Wysar Valley Rd. Honaker, VA 24260	0.0608 1/25 of 1.52 acres	0.1036%	
(i) Bernie Darin Dye 1287 Strouth Creek Swords Creek, VA 24649	0.3040 1/5 of 1.52 acres	0.5179%	
<u>OIL & GAS OWNERSHIP</u>			
John H. Dye Heirs, Deviseses, Successors or Assigns, et al.	1.52 acres	2.5894%	
(2) <u>(Pocahontas Seam(s))</u>			
(a) Bernie Darin Dye 1287 Strouth Creek Swords Creek, VA 24649	0.3040 1/5 of 1.52 acres	0.5179%	4.4627% Pay Coal in Pocahontas Seam 30.9227%

Exhibit E
Unit AX114
Docket #VGOB-01-0116-0859-01
List of Conflicting Owners/Claimants that require escrow

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	Acres in Unit	Interest in Unit	Percent of Escrow
NOTE: 1/5 of 2/5 will be paid out in escrow.			
(3) <u>(Coal exc. Pocahontas Seam(s))</u>			
(a) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	0.3040 1/5 of 1.52 acres	0.5179%	4.4627% Pay Coal <u>excluding</u> Pocahontas Seam 69.0773%
(3) <u>(Coal exc. Pocahontas Seam(s))</u>			
(a) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	0.3040 1/5 of 1.52 acres	0.5179%	

Exhibit A
Tract-by-Tract Escrow Calculation
Account Balances as of 7/31/10

Unit AX114
 VGOB # 01-01116-0859-01
 Acres Escrowed: 6.812000

Owners	Tract #	Acres	Owner Acres	Interest	% Coal Exc. Pocahontas	% Pocahontas Seam	Amount Due Owners
John H. Dye Heirs, et al. - Oil & Gas	4	0.912000 1.52			69.0773%	30.9227%	\$16,254.84
H.C. Bostic Coal Company (Coal Except Poc Seams, O&G)			0.30400	1/5	3.0827%		\$501.09
Bernie Darin Dye (Pocahontas Seam & OG)			0.30400	1/5		1.3800%	\$224.32

Wells contributing to the escrow account:

AX114

Virginia Information Technologies Agency



Unauthorized attempts to modify any information stored on this system, to defeat or circumvent security features or to utilize this system for other than its intended purposes are prohibited and may result in criminal prosecution.

Large File Transfer pilot for the VITA Enterprise Applications Division

Notice: This system is intended for non-sensitive data transfers.

NEW: State Employees must register below to send files.

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New Upload



Previous Uploads



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Contact Administrator

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File(s) were sent. Your tracking number is **U2T8IOQ07LBEA1FX** Please quote the tracking # if you have any problems with this transaction

Add contacts to your address book

Email Address	Status = Already in Address Book
AnitaDuty@consolenergy.com	
dldavis@firstbank.com	
gloria.clark@dmme.virginia.gov	
hilareymullins@consolenergy.com	
jwilliams@firstbank.com	