

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 LLC on behalf of Buckhorn Coal Company, Mike Rasnake in Tracts 1 and 2 plus Buckhorn Coal Company and certain heirs of the (Columbus) Earl Whited Heris in Tracts 3, 5 and 6.

DOCKET NO.

01-0320-0872-01

RELIEF SOUGHT:

Issuance: A Supplemental Order for Disbursement of Escrowed Funds
Action: Amending Prior Orders Affecting Drilling AX-110, Tract(s) 1 and 2 plus a portion of Tracts 3, 5 and 6.
(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-110 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

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 June 16, 2009 at the Russell County Government Center in Lebanon, VA.
2. **Appearances:** , Mark A. Swartz, Esq. SWARTS Law Offices PLLC appeared for the Unit Operator; 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 sub accounts, 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 sub accounts. 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. (a) On August 21, 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 May 2, 2001. The Board executed its Supplemental Order Regarding Elections that was filed with the Clerk on August 8, 2001, Instrument Number 01000005666.
- 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, the coal estate ownership interests of Buckhorn Coal Company ; and the gas ownership interests of certain of the Mike Rasnake in Tracts 1 and 2; Buckhorn Coal Company and certain heirship of the (Columbus) Earl Whited Heris in a portion of Tracts 3, 5, and 6. in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Miscellaneous Petition regarding a portion of tract 1 and 2 plus a portion of Tracts 3, 5 and 6, a copy of which is attached to and made a part hereof, states under oath that Buckhorn Coal Company and the Applicants have entered into an agreement with regards to Tracts 1 and 2 and a portion of Tracts 3, 5, and 6, and that by the terms of the agreements, Buckhorn Coal Company has entered into a split agreement regarding these tracts and escrow regarding these individual conflicting claims detailed herein, is no longer required for these parties.
- 4.4. The Unit Operator gave notice to Buckhorn Coal Company and the applicants that the Board would consider its disbursement authorization at its hearing on June 16, 2009 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 Tracts 1 and 2 plus a portion of Tracts 3, 5, and 6, identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tracts 1 and 2 and a portion of Tracts 3,5, and 6, relative to the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because there are other parties under this order subject to continued payments in the escrow.
- 4.5. The Unit Operator filed the attached accounting 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) Buckhorn Coal Company and Mike Rasnake in Tracts 1 and 2; Buckhorn Coal Company and certain individuals of the (Columbus) Earl Whited Heirs in Tracts 3,5, and 6, are the owners of the coal and gas acreage estate underlying a portion of VGOB Tracts 1,2,3, 5, and 6 of the Subject Drilling Unit;

(2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement
 VGOB-01-0320-0872-01
 AX-110

		Frac Interest	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
Table 1						
Tracts 1 and 2 plus a portion of Tracts 3, 5, and 6.						
Tract Disbursement Table						
Totals					58.7000	
Buckhorn Coal Co. - Coal						
1	Buckhorn Coal Co./ PO box 187 Tazewell, VA 24651		0.1100	50.0%	0.055	0.0937%
1	Mike Rasnake / Rt. 2 Box 497 / Honaker, VA 24260	1.000000	0.1100	50.0%	0.055	0.0937%
Buckhorn Coal Co. - Coal						
2	Buckhorn Coal Co./ PO box 187 Tazewell, VA 24651		4.2400	50.0%	2.120	3.6116%
2	Mike Rasnake / Rt. 2 Box 497 / Honaker, VA 24260	1.000000	4.2400	50.0%	2.120	3.6116%
Buckhorn Coal Co. - Coal						
3	Buckhorn Coal Co./ PO box 187 Tazewell, VA 24651		2.3400	50.0%	1.170	1.9932%
(Columbus) Earl Whited Heirs - O & G		2.34				
3	Ralph Sneed Administrator CTA / Estate of (Columbus) Earl Whited / PO Box 399 / Lebanon VA 24266		2.3400	50.0%	1.170	1.9932%
Buckhorn Coal Co. - Coal						
5	Buckhorn Coal Co./ PO box 187 Tazewell, VA 24651		20.1200	50.0%	10.060	17.1380%
(Columbus) Earl Whited Heirs - O & G		20.12				
5	Ralph Sneed Administrator CTA / Estate of (Columbus) Earl Whited / PO Box 399 / Lebanon VA 24266		20.1200	50.0%	10.060	17.1380%
Buckhorn Coal Co. - Coal						
6	Buckhorn Coal Co./ PO box 187 Tazewell, VA 24651		19.0700	50.0%	9.535	16.2436%
(Columbus) Earl Whited Heirs - O & G		19.07				
6	Ralph Sneed Administrator CTA / Estate of (Columbus) Earl Whited / PO Box 399 / Lebanon VA 24266		19.0700	50.0%	9.535	16.2436%

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 no other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to close 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 20 day of July, 2009 by a majority of the Virginia Gas and Oil Board.

Bradley C. Lambert
Bradley C. Lambert, Chairman

DONE AND PERFORMED this 20 day of July, 2009 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

Acknowledged on this 20th day of July, 2009, 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.

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

My commission expires: 09 / 30 / 2009



VIRGINIA:

IN THE CIRCUIT COURT OF RUSSELL COUNTY

RALPH SNEAD, Administrator C.T.A.
for THE ESTATE OF COLUMBUS EARL WHITED,

HEIRS OF THE ESTATE OF COLUMBUS EARL WHITED, Deceased
Marty Whited
Cathy Ward
Melissa Skeens
Harold Whited
Ferrell Whited
Michael Whited

Plaintiffs,

v.

At Law No.: CL05-230

BUCKHORN IRON & IMPROVEMENT CO., N/K/A BUCKHORN
COAL COMPANY, LLP – Coal Owner,
ISLAND CREEK COAL COMPANY/CONSOLIDATION COAL CO. –
Coal Lessee
RESERVE COAL PROPERTIES COMPANY – Coal Lessee
POCAHONTAS GAS PARTNERSHIP – CBM Lessee
CONSOL ENERGY, INC./CNX GAS COMPANY LLC,

and

R. W. GENT
R. F. GENT
C. H. GENT, A/K/A
GENT ENTERPRISES, LLP, a Virginia limited liability partnership,
A/K/A
GENT ENTERPRISES, LLC, a Virginia limited liability company,

Defendants.

AGREED ORDER OF ROYALTY SPLIT

On the second day of February, 2009 came the Plaintiffs, RALPH SNEAD, Administrator C.T.A. for THE ESTATE OF COLUMBUS EARL WHITED, deceased, Marty Whited and Cathy Ward, heirs of THE ESTATE OF COLUMBUS EARL WHITED, represented by Peter G. Glubiak, Esq.; ~~Michael Whited, Ferrell Whited, Herald Whited and Melissa Skeens,~~ the last four being also heirs of THE ESTATE OF COLUMBUS EARL ~~represented~~ by ~~Jim Terry Shortt, II, Esq. and Michael J. Letsen, Esq.,~~ upon the Plaintiffs Third Amended Motion for Judgment herein filed by Peter G. Glubiak, Esq. for all of the Plaintiffs; and also came the Defendants, Buckhorn Coal Company, LLP, Defendant, represented by Eric D. Whitesell and Blair M. Gardner, Island Creek Coal Company/Consolidation Coal Company, Reserve Coal Properties Company, Pocahontas Gas Partnership and Consol Energy, Inc./CNX Gas Company LLC, represented by Stephen M. Hodges, and Gent Enterprises, LLC, Gent Enterprises, LLP, R. W. Gent, R. F. Gent, and C.H. Gent, Defendants, represented by Eric D. Whitesell, Esq.; upon a proposed royalty split agreement having been reached among the parties, resolving, as between the parties having an interest in the real estate comprising the drilling units hereafter set forth, the ownership of Coalbed Methane gas upon the basis of a 50-50 split and providing for the release of Coalbed Methane royalties being escrowed by the Virginia Gas and Oil

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Board, royalties held in an in-house suspense account by CNX Gas Company LLC, and royalties to be paid upon production of oil and gas in the future, in accordance with the provisions set forth in this Order; upon a map of the drilling units that are the subject matter of this Order presented to the Court as an exhibit by the agreement of counsel; and upon argument of counsel.

Whereupon, it appearing to the Court from the proceedings heretofore had in this action that the Defendant, Buckhorn Coal Company, LLP owns certain coal lands in Russell County included within the drilling units hereafter described and claims that it is the owner of the Coalbed Methane gas produced from said drilling units and the Plaintiffs herein, as surface owners, having alleged that they are the owners of the Coalbed Methane gas produced from said drilling units on those certain lands and the split agreement between said parties resolves all issues concerning ownership of Coalbed Methane gas in regard to the units hereby specified and the division of past production royalties escrowed as above set forth and future production royalties and gas production after the date of this Order; and it further appearing to the Court that the parties' agreement should be granted, confirmed, and set forth in this Order, it is hereby

ADJUDGED, ORDERED AND DECREED that the Coalbed Methane gas royalties, past, present and future shall be divided and paid

50% to the Plaintiffs herein collectively, and 50% to Buckhorn Coal Company, LLP, Defendant herein, which split agreement shall apply to royalties escrowed from past production of Coalbed Methane gas and future royalties generated from future production of Coalbed Methane gas; said split agreement to be controlled by the actual acreages and amounts specified in the force pooling Orders and to be distributed pursuant to Orders of the Gas and Oil Board.

The VGOB Units and Tracts designated and agreed upon by the parties to the aforesaid split agreement are as follows:

DRILLING UNIT AV-110, VGOB: 01-0320-0870-01, (Tract 3D, Earl Whited – Surface, Oil & Gas, 13.84 acres at 27.1320%) – FORCED POOLED AND DEPOSITED INTO ESCROW ACCOUNT, TRACTS LOCATED IN THE HURRICANE DISTRICT OF BUCHANAN COUNTY AND THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT AV-111, VGOB: 01-0116-0852, (Tract 3, Earl Whited – Surface, Oil & Gas, 6.89 acres at 13.5363% of 6.89 acres) – FORCED POOLED AND DEPOSITED INTO ESCROW, TRACT LOCATED IN THE HURRICANE DISTRICT OF BUCHANAN COUNTY AND THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT AW-109, VGOB: 01-0821-0909 – (Tract 2, Earl Whited – 16.79 acres at 28.603% of Unit, Tract 3, Earl Whited – 2.81 acres at 4.7870% of Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT CBM-PGP-AW-110, VOLUNTARY UNIT LEASED BY POCAHONTAS GAS PARTNERSHIP (Tract 1, Earl Whited, Surface, Oil & Gas – 54.40 acres or 92.6115% of the Unit), DEPOSITED INTO AN IN HOUSE SUSPENSE ACCOUNT WITH CNX GAS COMPANY AND/OR FORCED POOLED AND DEPOSITED INTO ESCROW, TRACT LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT CBM-PGP-AW-111, VGOB: 01-0320-0871 (Tract 1, Earl Whited, Surface, Oil & Gas – 21.80 acres at 37.14% of the Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT AX-109, VGOB: 01-0821-0912 (Tract 2A, Earl Whited, Surface, Oil & Gas – 12.32 acres at 20.9881% of Unit, Tract 3, Earl Whited, Surface, Oil & Gas – 0.62 acres at 1.0562% of Unit) – FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

April
DRILLING UNIT AX-110, VGOB: 01-0320-0872 - (Tract 3, Earl Whited – 2.34 acres or 3.9864% of Unit, Tract 5, Earl Whited, Surface, Oil & Gas – 20.12 acres at 34.2760% of Unit, Tract 6, Earl Whited, Surface, Oil & Gas – 19.07 acres at 32.4872% of Unit) – FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT AX-111, VGOB: 01-0320-0873 - (Tract 2, Earl Whited, Surface, Oil & Gas – 12.99 acres at 22.1295% of Unit) – FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT AY-109, VOLUNTARY UNIT LEASED BY POCAHONTAS GAS PARTNERSHIP - (Tract 2A, Earl Whited, Surface, Oil & Gas - 1.20 acres at 2.0443% of the Unit) - DEPOSITED INTO AN IN HOUSE SUSPENSE ACCOUNT WITH CNX GAS COMPANY AND/OR FORCED POOLED AND DEPOSITED INTO ESCROW, TRACT LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

DRILLING UNIT AY-110, VGOB: 01-0320-0875 - (Tract 2, Earl Whited, Surface, Oil & Gas - 3.28 at 5.5877% of Unit, Tract 4, Earl Whited, Surface, Oil & Gas - 11.37 acres of the Unit at 19.3697% of Unit, Tract 5, Earl Whited, Surface, Oil & Gas - 16.51 acres of the Unit at 28.1261% of Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

April
DRILLING UNIT AY-111, VGOB: 01-0320-0876 - (Tract 2, Earl Whited, Surface, Oil & Gas - 21.77 acres of the Unit at 37.0869% of Unit, Tract 4, Earl Whited, Surface, Oil & Gas - 5.31 acres of the Unit at 9.0460% of Unit, Tract 5, Earl Whited, Surface, Oil & Gas - 1.51 acres of the Unit at 2.5724% of Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.


DRILLING UNIT AY-112, VGOB: 01-0320-0877 - (Tract 2D, Earl Whited, Surface, Oil & Gas - 13.92 acres of Unit at 23.7138% of Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

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DRILLING UNIT AZ-110, VGOB: 02-0917-1070 - (Tract 1E, Earl Whited - 0.25 acres at 0.4256% of Unit, Tract 1F, Earl Whited, Surface, Oil & Gas - 1.67 acres of the Unit at 2.8430% of Unit, Tract 1G, Earl Whited, Surface, Oil & Gas - 3.06 acres of the Unit at 5.2094% of Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

April
DRILLING UNIT AZ-111, VGOB: 02-0416-1023 - (Tract 1E, Earl Whited - 33.47 acres of the Unit at 56.9799% of Unit, Tract 1F, Earl Whited, Surface, Oil & Gas - 0.54 acres of the Unit at 0.9193% of Unit, Tract 2, (Columbus) Earl Whited - 6.27 acres of the Unit at 10.6741% of Unit) - FORCED POOLED AND DEPOSITED INTO ESCROW, TRACTS LOCATED IN THE NEW GARDEN DISTRICT OF RUSSELL COUNTY, VIRGINIA.

It further appearing to the Court that the collective Gent parties have no interest in the real estate comprising the above listed drilling units, which are identical to those set forth in the Plaintiffs' Third Amended Motion for Judgment, they are, upon the Motion of their attorney, Eric D. Whitesell, Esq., dismissed as parties' Defendant to this action.

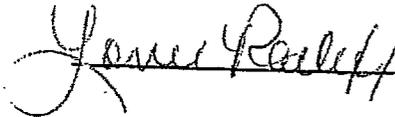
It further appearing to the Court that the split agreement confirmed by this Order resolves all issues pertaining to Coalbed Methane gas ownership of the drilling units identified in the Plaintiffs' Third Amended Motion for Judgment and that there remains nothing further to be done in this action, this Order shall constitute a **FINAL ORDER** of this Court in regard to the ownership of the Coalbed Methane gas, both past and future, produced from the drilling units described herein and this action is **ORDERED** stricken from the docket of this Court and filed among the ended cases herein.

The Clerk is directed to furnish an attested copy of this Order to all
counsel of record.

ENTERED: 2/23/2009


JUDGE

A COPY TESTE
ANN S. McREYNOLDS, CLERK

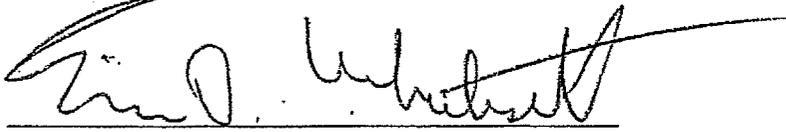
 D. CLERK

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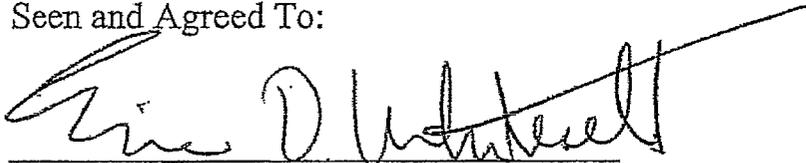
Peter G. Glubiak, Esquire (VSB #31271)
Counsel for Ralph D. Snead, Administrator
CTA of the Estate of Columbus Earl Whited,
Marty Whited and Cathy Ward
GLUBIAK LAW OFFICE
P. O. Box 144
11165 West River Road
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Counsel for Plaintiffs

Seen and Agreed To:



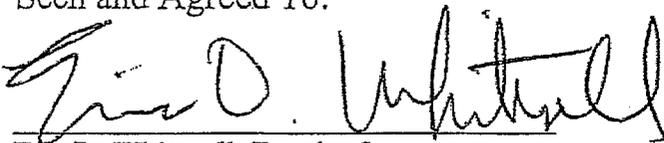
Eric D. Whitesell, Esquire (VSB #17631)
GILLESPIE, HART, ALTIZER & WHITESELL, P.C.
126 Main Street
P. O. Box 718
Tazewell, Virginia 24651
Counsel for Defendant Buckhorn Coal Company

Seen and Agreed To:



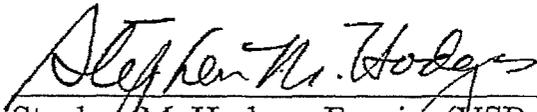
Eric D. Whitesell, Esquire (VSB #17631)
GILLESPIE, HART, ALTIZER & WHITESELL, P.C.
126 Main Street
P. O. Box 718
Tazewell, Virginia 24651
Counsel for Gent Defendants

Seen and Agreed To:



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Blair M. Gardner, Esquire (WVSB #8807)
By permission
Jackson & Kelly, PLLC
Suite 1600
P. O. Box 553
Charleston, WV 25302
Counsel for Defendant Buckhorn Coal Company

Seen and No Objection:



Stephen M. Hodges, Esquire (VSB #1220)

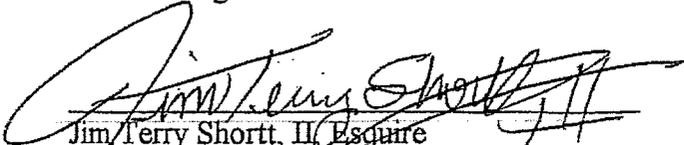
PENN, STUART & ESKRIDGE

P. O. Box 2288

Abingdon, Virginia 24212-2288

*Counsel for Defendants' Island Creek Coal/Consolidation Coal
Reserve Coal, Pocahontas Gas Partnership, Consol Energy and
CNX Gas Company*

Seen and Agreed:


Jim Terry Shortt, II, Esquire
Michael J. Letsen, Esquire
Galumbeck, Dennis, and Kegley
P. O. Box 626

Tazewell, Virginia 24651

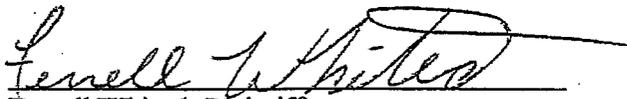
Counsel for Plaintiffs'

Michael Whited, Ferrell Whited, Herald Whited, and Melissa Skeens

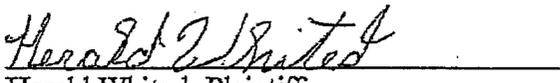
Seen and Agreed:


Michael Whited, Plaintiff

Seen and Agreed:


Ferrell Whited, Plaintiff

Seen and Agreed:


Herald Whited, Plaintiff

Seen and Agreed:


Melissa Skeens, Plaintiff

F. W. H. W.
M. W.

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PETITIONER: CNX Gas Company LLC

**DIVISION OF GAS AND OIL
DOCKET NO: VGOB 01-0320-0872-01**

**RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 1, 2, 3, 5 & 6
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES**

HEARING DATE: June 16, 2009

DRILLING UNIT: AX-110

BUCHANAN COUNTY, 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, 2, 3, 5 & 6 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Buckhorn Coal Company and Mike Rasnake; Buckhorn Coal Company and Columbus Earl Whited Heirs, Devisees, Successors or Assigns including: Michael Whited, Ferrell Whited, Herald Whited, Marty Whited, Cathy Darlene Ward, and Melissa Skeens.

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:** Buckhorn Coal Company and Mike Rasnake; Buckhorn Coal Company and Columbus Earl Whited Heirs, Devisees, Successors or Assigns including: Michael Whited, Ferrell Whited, Herald Whited, Marty Whited, Cathy Darlene Ward, and Melissa Skeens 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. *Initial payout for the heirs of Columbus Earl Whited should be made payable to trust account: Glubiak Law Office, P.O. Box 144, Aylett, VA 23009 (Ralph Snead, Administrator C.T.A. of the Estate will distribute in accordance with Columbus Earl Whited's will.)*

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



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Tract-by-Tract Escrow Calculation
Account Balances as of 3/31/09

BOOK 709 PAGE 0583

Unit AX-110
 VGOB 01-0320-0872-01
 Acres Escrowed: 58.70

Owners	Tract #	Acres	Owner Acres	Interest	Total Tract Percent of Escrow	Owners' Percent of Escrow (50%)	Amount Due Owners \$215,398.59
Buckhorn Coal Co. - Coal	1	0.11			0.1874%	0.0937%	\$201.82
Mike Rasnake - O&G						0.0937%	\$201.82
Buckhorn Coal Co. - Coal	2	4.24			7.2232%	3.6116%	\$7,779.30
Mike Rasnake - O&G						3.6116%	\$7,779.30
Buckhorn Coal Co. - Coal	3	2.34			3.9864%	1.9932%	\$4,293.29
(Columbus) Earl Whited Heirs - O&G						1.9932%	
Michael Whited			0.2340	10%		0.1193%	\$429.33
Ferrell Whited			0.4212	18%		0.3588%	\$772.79
Herald Whited			0.4212	18%		0.3588%	\$772.79
Marty Whited			0.4212	18%		0.3588%	\$772.79
Cathy Darlene Ward			0.4212	18%		0.3588%	\$772.79
Melissa Skeens			0.4212	18%		0.3588%	\$772.79
Buckhorn Coal Co. - Coal	4	8.13			13.8501%	6.9250%	\$14,916.44
Earl Whited Heirs, et al. - O&G (Title Conflict)						6.9250%	\$14,916.44
Buckhorn Coal Co. - Coal	5	20.12			34.2760%	17.1380%	\$36,914.99
(Columbus) Earl Whited Heirs - O&G						17.1380%	
Michael Whited			2.0120	10%		1.7138%	\$3,691.50
Ferrell Whited			3.6216	18%		3.0848%	\$6,644.70
Herald Whited			3.6216	18%		3.0848%	\$6,644.70
Marty Whited			3.6216	18%		3.0848%	\$6,644.70
Cathy Darlene Ward			3.6216	18%		3.0848%	\$6,644.70
Melissa Skeens			3.6216	18%		3.0848%	\$6,644.70
Buckhorn Coal Co. - Coal	6	19.07			32.4872%	16.2436%	\$34,988.51
(Columbus) Earl Whited Heirs - O&G						16.2436%	
Michael Whited			1.9070	10%		1.6244%	\$3,498.85
Ferrell Whited			3.4326	18%		2.9239%	\$6,297.93
Herald Whited			3.4326	18%		2.9239%	\$6,297.93
Marty Whited			3.4326	18%		2.9239%	\$6,297.93
Cathy Darlene Ward			3.4326	18%		2.9239%	\$6,297.93
Melissa Skeens			3.4326	18%		2.9239%	\$6,297.93
Buckhorn Coal Co. - Coal	7	4.69			7.9898%	3.9949%	\$8,604.94
Earl Whited Heirs, et al. - O&G (Title Conflict)						3.9949%	\$8,604.94

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

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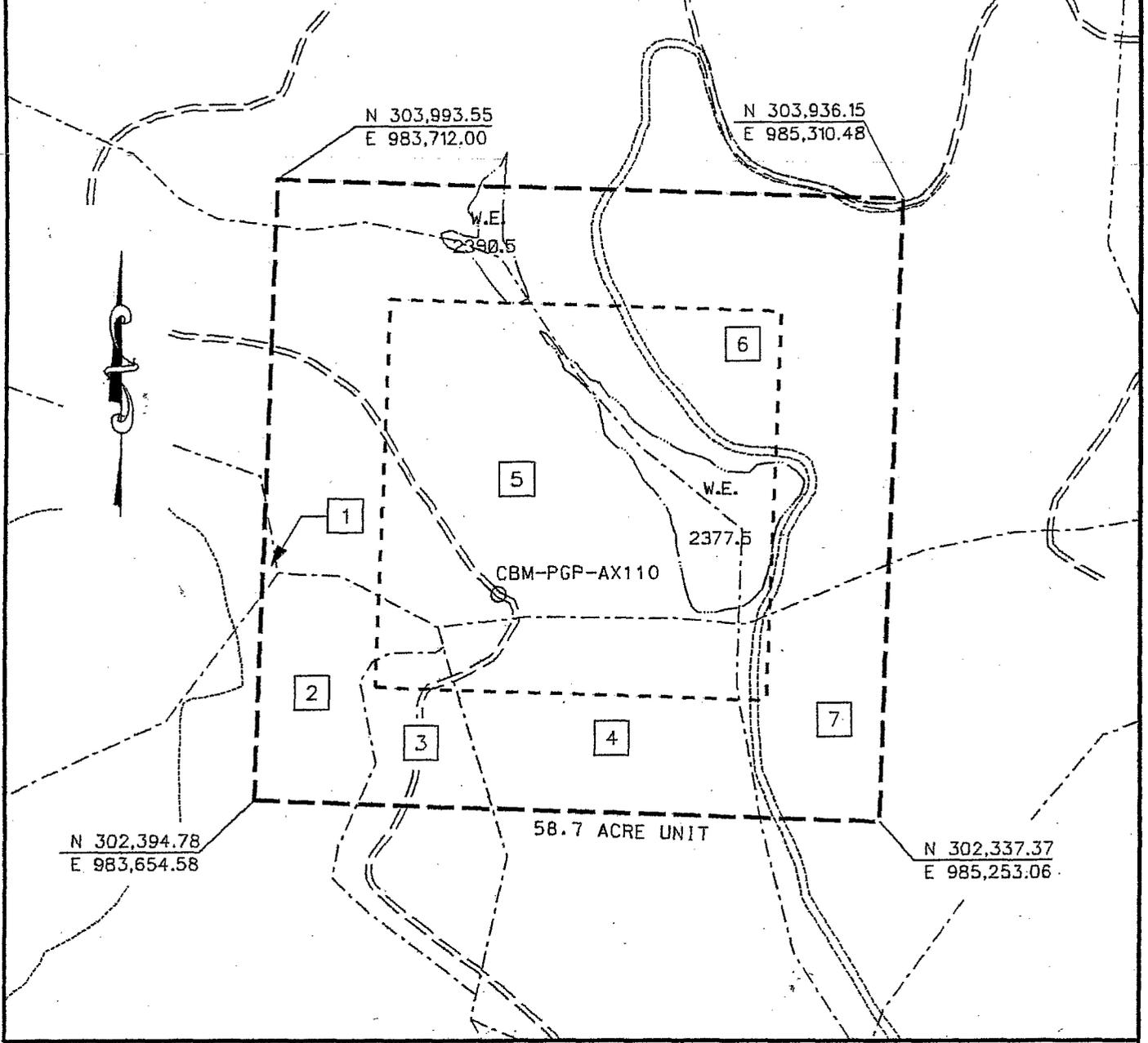
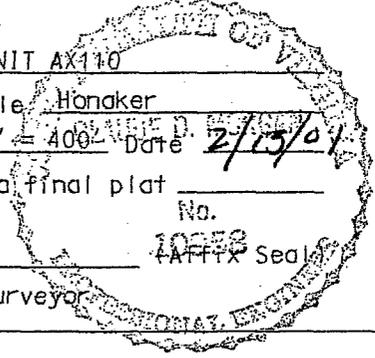


EXHIBIT A
 OAKWOOD FIELD UNIT AX-110
 FORCE POOLING
 VGOB-01-0320-0872

Company Pocahontas Gas Partnership Well Name and Number UNIT AX110
 Tract No. _____ Elevation _____ Quadrangle Honger
 County Russell District New Garden Scale: 1" = 400' Date 2/13/01
 This plat is a new plat X ; an updated plat _____ ; or a final plat _____

Form DGD-GD-7
 Rev. 9/91

Claudio D. Morgan
 Licensed Professional Engineer or Licensed Land Surveyor



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POCAHONTAS GAS PARTNERSHIP**Unit AX-110****Tract Identifications
(58.7 Acre Tract)**

6. Buckhorn Coal Company (Jacob Fuller 453 Acre Tract) - Coal
Coal Lessee
Sandy Ridge Energy Company - Above Drainage Coal Leased
Pocahontas Gas Partnership - CBM Leased
Earl Whited - Surface, Oil & Gas
Pocahontas Gas Partnership - Oil, Gas and CBM Leased
19.07 acres 32.4872 %

7. Buckhorn Coal Company (Jacob Fuller 453 Acre Tract) - Coal
Coal Lessee
Sandy Ridge Energy Company - Above Drainage Coal Leased
Pocahontas Gas Partnership - CBM Leased
Earl Whited or Heirs, Devisees, Successors or Assigns of Dr. L. M. Harrison -
1/8 th of Surface, Oil & Gas
Earl Whited or Gent Enterprises, LLP. - 7/8 ths of Surface, Oil & Gas
Pocahontas Gas Partnership - Oil, Gas and CBM Leased
4.69 acres 7.9898 %

List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Interest in Unit
<u>Tract #4, 8.13 acres</u>		
<i>(Escrow due to Title Conflict)</i>		
<u>COAL FEE OWNERSHIP</u>		
(1) Buckhorn Coal Company, Tr.9 P. O. Box 187 Tazewell, VA 24651	8.13 acres	13.8501%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) (Columbus) Earl Whited Heirs, Devisees, Successors or Assigns	1.02 acres 1/8 of 8.13 acres	1.7376%
(a) Michael Whited PO Box 297 Swords Creek, VA 24696	0.10 acres 10% of 2.34 acres	0.1738%
(b) Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	0.18 acres 18% of 2.34 acres	0.3128%
(c) Herald Whited PO Box 517 Rosedale, VA 24280	0.18 acres 18% of 2.34 acres	0.3128%
(d) Marty Whited PO Box 0881 Lebanon, VA 24266-0881	0.18 acres 18% of 2.34 acres	0.3128%
(e) Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	0.18 acres 18% of 2.34 acres	0.3128%
(f) Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	0.18 acres 18% of 2.34 acres	0.3128%
<i>(OR)</i>		
Dr. L.M. Harrison, Heirs, Devisees, Successors or Assigns <i>Address Unknown</i>	1.02 acres	1.7376%
(2) (Columbus) Earl Whited Heirs, Devisees, Successors or Assigns	7.11 acres 7/8 of 8.13 acres	12.1124%
(a) Michael Whited PO Box 297 Swords Creek, VA 24696	0.71 acres 10% of 2.34 acres	1.2112%
(b) Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	1.28 acres 18% of 2.34 acres	2.1802%

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Exhibit E
Unit AX-110

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Docket #VGOB-01-0320-0872-01
List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Interest in Unit
(c) Herald Whited PO Box 517 Rosedale, VA 24280	1.28 acres 18% of 2.34 acres	2.1802%
(d) Marty Whited PO Box 0881 Lebanon, VA 24266-0881	1.28 acres 18% of 2.34 acres	2.1802%
(e) Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	1.28 acres 18% of 2.34 acres	2.1802%
(f) Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	1.28 acres 18% of 2.34 acres	2.1802%
(OR)		
Gent Enterprises, LLP. P.O. Box 330 Honaker, VA 24260	7.11 acres	12.1124%

Tract #7, 4.69 acres

(Escrow due to Title Conflict)

COAL FEE OWNERSHIP

(1) Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	4.69 acres	7.9898%
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OIL & GAS FEE OWNERSHIP

(1) (Columbus) Earl Whited Heirs, Devisees, Successors or Assigns	0.59 acres 1/8 of 4.69 acres	1.0051%
(a) Michael Whited PO Box 297 Swords Creek, VA 24696	0.06 acres 10% of 4.69 acres	0.1005%
(b) Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	0.11 acres 18% of 4.69 acres	0.1809%
(c) Herald Whited PO Box 517 Rosedale, VA 24280	0.11 acres 18% of 4.69 acres	0.1809%
(d) Marty Whited PO Box 0881 Lebanon, VA 24266-0881	0.11 acres 18% of 4.69 acres	0.1809%
(e) Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	0.11 acres 18% of 4.69 acres	0.1809%

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Docket #VGOB-01-0320-0872-01
List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Interest in Unit
(f) Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	0.11 acres 18% of 4.69 acres	0.1809%
(OR)		
Dr. L.M. Harrison, Heirs, Devisees, Successors or Assigns Address Unknown	0.59 acres	1.0051%
(2) (Columbus) Earl Whited Heirs, Devisees, Successors or Assigns	4.10 acres 7/8 of 4.69 acres	6.9847%
(a) Michael Whited PO Box 297 Swords Creek, VA 24696	0.41 acres 10% of 4.69 acres	0.6985%
(b) Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	0.74 acres 18% of 4.69 acres	1.2572%
(c) Herald Whited PO Box 517 Rosedale, VA 24280	0.74 acres 18% of 4.69 acres	1.2572%
(d) Marty Whited PO Box 0881 Lebanon, VA 24266-0881	0.74 acres 18% of 4.69 acres	1.2572%
(e) Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	0.74 acres 18% of 4.69 acres	1.2572%
(f) Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	0.74 acres 18% of 4.69 acres	1.2572%
(OR)		
Gent Enterprises, LLP. P.O. Box 330 Honaker, VA 24260	4.10 acres	6.9847%

List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #1, 0.11 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	0.11 acres	0.1874%	0.0937%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Mike Rasnake Rt.2 Box 497 Honaker, VA 24260	0.11 acres	0.1874%	0.0937%
<u>Tract #2, 4.24 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Buckhorn Coal Company, Tr.9 P. O. Box 187 Tazewell, VA 24651	4.24 acres	7.2232%	3.6116%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Mike Rasnake Rt.2 Box 497 Honaker, VA 24260	4.24 acres	7.2232%	3.6116%
<u>Tract #3, 2.34 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Buckhorn Coal Company, Tr.9 P. O. Box 187 Tazewell, VA 24651	2.34 acres	3.9864%	1.9932%
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) (Columbus) Earl Whited Heirs, Deviseses, Successors or Assigns	2.34 acres	3.9864%	
(a) Michael Whited PO Box 297 Swords Creek, VA 24696	0.23 acres 10% of 2.34 acres	0.3986%	0.1993%
(b) Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	0.42 acres 18% of 2.34 acres	0.7175%	0.3588%
(c) Herald Whited PO Box 517 Rosedale, VA 24280	0.42 acres 18% of 2.34 acres	0.7175%	0.3588%
(d) Marty Whited PO Box 0881 Lebanon, VA 24266-0881	0.42 acres 18% of 2.34 acres	0.7175%	0.3588%

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Exhibit EE
 Unit AX-110
 Docket #VGOB-01-0320-0872-01
 List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit	Percent of Escrow
(e) Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	0.42 acres 18% of 2.34 acres	0.7175%	0.3588%
(f) Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	0.42 acres 18% of 2.34 acres	0.7175%	0.3588%

Tract #5, 20.12 acres

COAL FEE OWNERSHIP

(1) Buckhorn Coal Company, Tr.9 P. O. Box 187 Tazewell, VA 24651	20.12 acres	34.2760%	17.1380%
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OIL & GAS FEE OWNERSHIP

(1) (Columbus) Earl Whited Heirs, Devisees, Successors or Assigns	20.12 acres	34.2760%	
(a) Michael Whited PO Box 297 Swords Creek, VA 24696	2.01 acres 10% of 20.12 acres	3.4276%	1.7138%
(b) Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	3.62 acres 18% of 20.12 acres	6.1697%	3.0848%
(c) Herald Whited PO Box 517 Rosedale, VA 24280	3.62 acres 18% of 20.12 acres	6.1697%	3.0848%
(d) Marty Whited PO Box 0881 Lebanon, VA 24266-0881	3.62 acres 18% of 20.12 acres	6.1697%	3.0848%
(e) Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	3.62 acres 18% of 20.12 acres	6.1697%	3.0848%
(f) Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	3.62 acres 18% of 20.12 acres	6.1697%	3.0848%

Tract #6, 19.07 acres

COAL FEE OWNERSHIP

(1) Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	19.07 acres	32.4872%	16.2436%
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List of Conflicting Owners/Claimants with Royalty Split Agreements

		Acre in Unit	Interest in Unit	Percent of Escrow
OIL & GAS FEE OWNERSHIP				
(1)	(Columbus) Earl Whited Heirs, Devisees, Successors or Assigns	19.07 acres	32.4872%	
(a)	Michael Whited PO Box 297 Swords Creek, VA 24696	1.91 acres 10% of 19.07 acres	3.2487%	1.6244%
(b)	Ferrell Whited PO Box 1471 Honaker, VA 24260-1471	3.43 acres 18% of 19.07 acres	5.8477%	2.9239%
(c)	Herald Whited PO Box 517 Rosedale, VA 24280	3.43 acres 18% of 19.07 acres	5.8477%	2.9239%
(d)	Marty Whited PO Box 0881 Lebanon, VA 24266-0881	3.43 acres 18% of 19.07 acres	5.8477%	2.9239%
(e)	Cathy Darlene Ward 2014 Miller Creek Rd Swords Creek, VA 24649	3.43 acres 18% of 19.07 acres	5.8477%	2.9239%
(f)	Melissa Skeens 120 Clifton Farm Rd Honaker, VA 24260	3.43 acres 18% of 19.07 acres	5.8477%	2.9239%

0901939

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, 8-7, 2009. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 8:43 o'clock A.M, after payment of \$ - tax imposed by Sec. 58.1-802.

Original returned this date to: Diane Davis

TESTE: ANN S. McREYNOLDS, CLERK
BY: Ann S. McReynolds CLERK