

090002684

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 Island Creek Coal Company; Edith G. Street, Frederick H. Combs, II Testamentary Trust c/o Kelly Necessary, Marthat E. Combs and Carol & John Irvin.

DOCKET NO.

01-0515-0891-01

RELIEF SOUGHT:

Issuance: A Supplemental Order for Disbursement of Escrowed Funds
Action: Amending Prior Orders Affecting Drilling J-39,
Tract 7
(Referenced herein as "the Subject Drilling Unit")

Location: Buchanan County, Virginia

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit J-39 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 July 15, 2008 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** , Mark A. Swartz, Esq. SWARTS Law Offices PLLC appeared for the Unit Operator; and Sharon M.B. Pigeon, Senior 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. On July 17, 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 Buchanan County on October 4, 2001, Deed Book 531 Page 486 to 514 Instrument Number 010002929. The Board executed its Supplemental Order Regarding Elections that was filed with the Clerk of the Circuit Court of Buchanan County on March 8, 2002, Deed Book 542, Page 292 to 315 Instrument Number 020001053.
- 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 estate ownership interests of Island Creek Coal Company; and the ownership interests of certain individuals including Edith G. Street, Frederick H. Combs, II Testamentary Trust c/o Kelly Necessary, Martha E. Combs and Carol & John Irvin in Tract 7 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 Tract 7 a copy of which is attached to and made a part hereof, states under oath that Island Creek Coal Company and the Applicants have entered into an agreement with regards to Tract 7, that by the terms of the agreements, Island Creek Coal Company has entered into a split agreement regarding this tract and escrow regarding these individual conflicting claims detailed herein, is no longer required for these parties.
- 4.4. The Unit Operator gave notice to Island Creek Coal Company and the applicants that the Board would consider its disbursement authorization at its hearing on July 17, 2008 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 7 identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 7 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) Island Creek Coal Company and certain individuals including Edith G. Street, Frederick H. Combs, II Testamentary Trust c/o Kelly Necessary, Martha E. Combs and Carol & John Irvin in Tract 7 are the owners of the coal and gas acreage estate underlying a portion of VGOB Tract 7 of the Subject Drilling Unit. By the Split agreement, the individuals mentioned have been deeded the 1/9 conflicting interest in the Pocahontas No. 3 Seam.

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

VGOB Approved Disbursement
 VGOB 01-0515-0891-01
 UNIT J-39

| Fractional Ownership in Tract | Net Acreage in Tract | Royalty Split Agreement | Escrowed Acreage Disbursed | Percent of Escrowed Funds Disbursed |
|-------------------------------------|----------------------------|-------------------------------|----------------------------------|---|
|-------------------------------------|----------------------------|-------------------------------|----------------------------------|---|

Table 1

| Table 1 | | Fractional Ownership in Tract | Net Acreage in Tract | Royalty Split Agreement | Escrowed Acreage Disbursed | Percent of Escrowed Funds Disbursed |
|--|-------|---|----------------------------|-------------------------------|----------------------------------|---|
| Tract 7 (100% deed of 1/9 conflicting interest) | | | | | | |
| Disbursement Table | | | | | | |
| No. | Tract | Total acreage in escrow before disbursement | | | 5.0678 | |
| | 7 | Claude V. Keen, et al. / a.k.a. Caroline Cole Heirs (total acreage in tract) | | 0.0700 | | |
| 1 | 7 | - Hassell Cole Heirs (tract acreage in escrow before disbursement for 1/9 conflicting interest) | | (1/9 of 0.07 acres) | | |
| 2 | 7 | -- Edith G. Street, P.O. Box 792, Grundy, VA 24614 | | 1/18 of 0.07 acres | 0.0039 | 100.0% |
| 3 | 7 | -- Fredrick H. Combs, II, Testamentary Trust, c/o Kelly Necessary, P.O. Box 841, Tazewell, VA 24681 | | 1/54 of 0.07 acres | 0.0013 | 100.0% |
| 4 | 7 | -- Martha Combs, P.O. Box 1404, Abingdon, VA 24210 | | 1/54 of 0.07 acres | 0.0013 | 100.0% |
| 5 | 7 | -- Carol and John Irvin, 4710 Hunterwood Circle, Richmond, TX 77469 | | 1/54 of 0.07 acres | 0.0013 | 100.0% |

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 31 day of August, 2009 by a majority of the Virginia Gas and Oil Board.

Bradley C. Lambert
Bradley C. Lambert, Chairman

DONE AND PERFORMED this 31st day of August, 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

Russell Acknowledged on this 31st day of August, 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



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 01-0515-0891-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 7
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: July 15, 2008

DRILLING UNIT: J-39

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) 7 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties Edith G. Street, Frederick H. Combs, II Testamentary Trust c/o Kelly Necessary, Martha E. Combs and Carol & John Irvin.

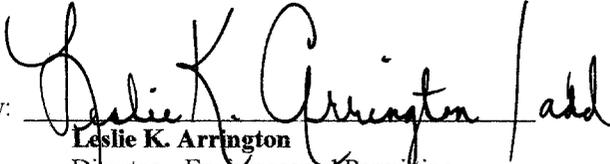
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

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

5. **Factual basis for relief requested:** Edith G. Street, Frederick H. Combs, II Testamentary Trust c/o Kelly Necessary, Martha E. Combs and Carol & John Irvin., have been deeded the 1/9 conflicting interest in the Pocahontas No.3 seam (previously shown as Island Creek Coal Company). Said deed allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto, 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 IT'S PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

By: 
Leslie K. Arrington
Director - Environmental Permitting
CNX Gas Company LLC
2481 John Nash Blvd.
Bluefield, West Virginia 24701



Tract-by-Tract Escrow Calculation
Account Balances as of 4/30/08

Unit J-39
 VGOB 01-0515-0891-01
 Acres Escrowed: 5.0678

| Owners | Tract # | Acres | Total Tract Percent of Escrow | Interest | Owners' Percent of Escrow | Amount Due Owners |
|---|---------|--------|-------------------------------|----------|---------------------------|-------------------|
| | 5 | 2.5200 | 49.7257% | | 24.862866% | \$5,626.06 |
| | | | | | 24.862866% | \$5,626.06 |
| | 6 | 0.6800 | 13.4181% | | 6.70903% | \$1,518.14 |
| | | | | | 6.70903% | \$1,518.14 |
| ICCC - Coal (Deeded Interest) | | | n/a | | | |
| Caroline Cole Heirs - O&G | | | | | | |
| Edith G. Street | | | | 1/18 | 0.07696% | \$17.41 |
| Frederick H. Combs, II Testamentary Trust | | | | 1/54 | 0.02565% | \$5.80 |
| Mattha E. Combs | (0.07) | | | 1/54 | 0.02565% | \$5.80 |
| Carol & John Irvin | 7 | 0.0078 | 0.15391% | 1/54 | 0.02565% | \$5.80 |
| | | | | | | |
| | 8 | 1.4800 | 29.2040% | | 14.60200% | \$3,304.20 |
| | | | | | 14.60200% | \$3,304.20 |
| | 10 | 0.3800 | 7.4983% | | 3.74916% | \$848.37 |
| | | | | | 3.74916% | \$848.37 |

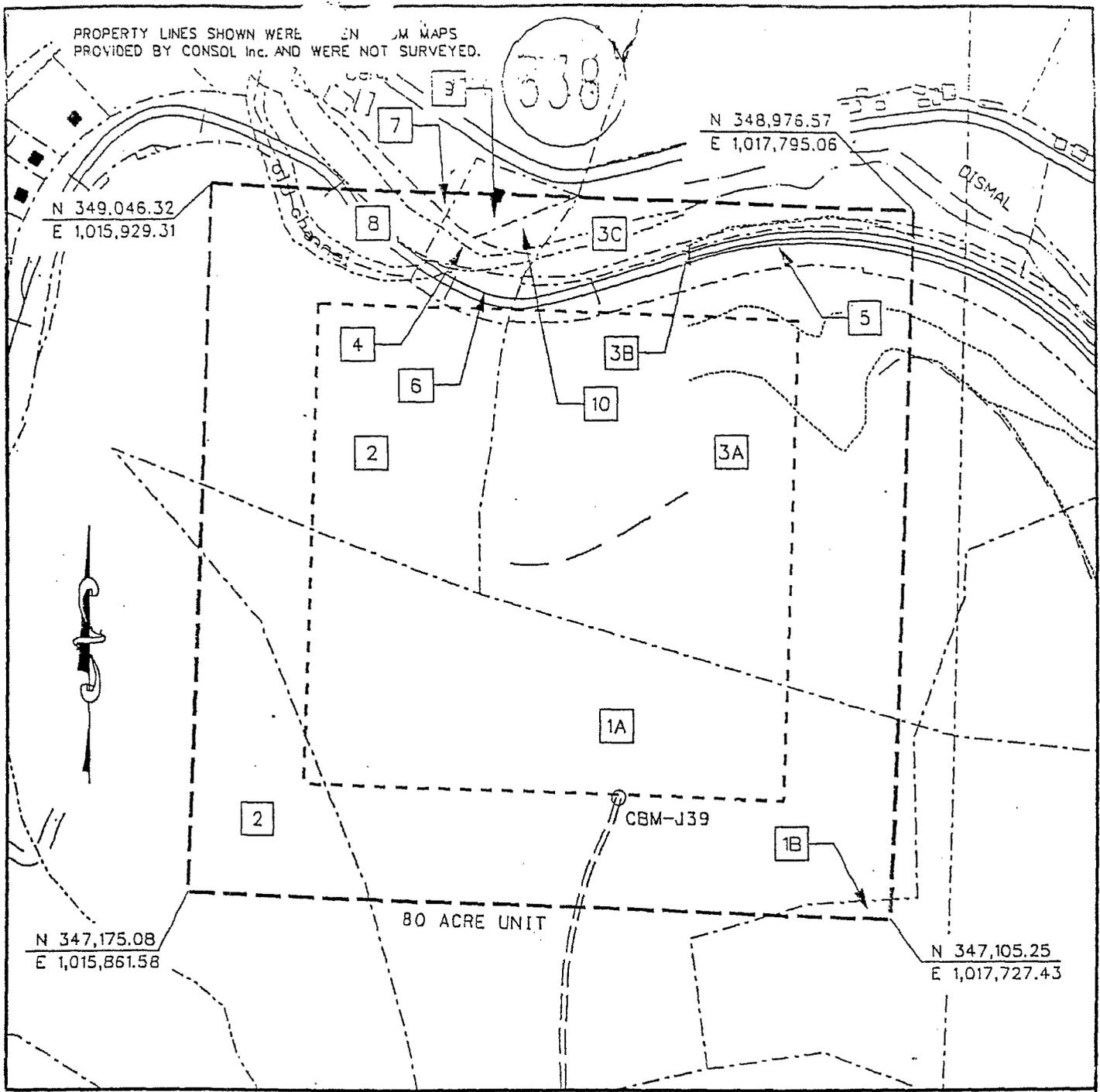
PROPERTY LINES SHOWN WERE TAKEN FROM MAPS PROVIDED BY CONSOL Inc. AND WERE NOT SURVEYED.

538

N 348,976.57
E 1,017,795.06

N 349,046.32
E 1,015,929.31

DISMAL



N 347,175.08
E 1,015,861.58

80 ACRE UNIT

1A

CBM-J39

1B

N 347,105.25
E 1,017,727.43

EXHIBIT A
DAKWOOD FIELD UNIT J-39
FORCE POOLING
VGOB-01-0515-0891

Company CONSOL Energy Inc. Well Name and Number UNIT J-39

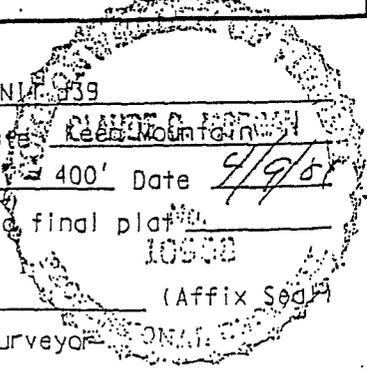
Tract No. _____ Elevation _____ Quadrangle Keokuk Mountain

County Buchanan District Garden Scale: 1" = 400' Date 9/9/01

This plat is a new plat X; an updated plat _____; or a final plat _____

Form DGD-60-7
Rev. 9/91

Claude O. Meyer
Licensed Professional Engineer or Licensed Land Surveyor



(Affix Seal)

CONSOL ENERGY INC.

UNIT J - 39

Tract Identifications

1. C. L. Ritter Lumber Company Tr 41 - Coal, Oil & Gas
Reserve Coal Properties Company - Coal Below Tiller Seam Leased
Buchanan Production Company - CBM Leased (Coal Seams Below Tiller Seam)
27.67 acres 34.5875%

- 1A. Bucky McConnell, et al. - Surface
- 1B. C. L. Ritter Lumber Company Tr 41 - Surface

2. Yukon Pocahontas Coal Company, et al. Tr 32 - Coal, Oil & Gas
Reserve Coal Properties Company - Below Drainage Coal Leased
Jewell Smokeless Coal Corp. - Above Drainage Coal Leased
Buchanan Production Company - CBM Leased
Milfred Maxwell, et al. - Surface
19.14 acres 23.9250%

3. C. L. Ritter Lumber Company Tr 40 - Coal, Oil & Gas
Reserve Coal Properties Company - Coal Below Tiller Seam Leased
Buchanan Production Company - CBM Leased (Coal Seams Below Tiller Seam)
27.08 acres 33.8500 %

- 3A. Bucky McConnell, et al. - Surface
- 3B. Norfolk Southern Corp. - Surface
- 3C. Unknown Surface Owner

4. Norfolk Southern Corp. - Fee
Island Creek Coal Company - P-3 Seam Leased
0.50 acres 0.6250 %

5. Norfolk Southern Corp. - Fee (Except Coal Below 800')
C. L Ritter Lumber Company Tr 40 - Coal Below 800'
Reserve Coal Properties Company - Coal Below 800' Leased
Pocahontas Gas Partnership - CBM Leased Below 800'
2.52 acres 3.1500 %

6. Norfolk Southern Corp. - Fee (Except Coal Below 800')
Claude V. Keen, et al. - Coal Below 800' (Except 1/9th Int in P-3 Seam)
Island Creek Coal Company/Consolidation Coal Company - 1/9th Int in P-3 Seam
Island Creek Coal Company/Consolidation Coal Company - Coal Below 800' Leased
Virginia Gas Exploration Company - CBM Leased-Coal Below 800'
(98.7654 % Except 1/9th of P-3 Seam)
Buchanan Production Company - CBM Lease Assignee
0.68 acres 0.8500 %

CONSOL ENERGY INC.

UNIT J - 39

Tract Identifications

7. Claude V. Keen, et al. - Coal (Except 1/9th Int in P-3 Seam and Jawbone Seam)
Island Creek Coal Company/Consolidation Coal Company - 1/9th Int in P-3 Seam
Jewell Smokeless Coal Corp. - Jawbone Seam
Island Creek Coal Company/Consolidation Coal Company - Below Drainage Coal Leased
Jewell Smokeless Coal Corp. - Above Drainage Coal Leased (Except Jawbone Seam)
Virginia Gas Exploration Company - CBM Leased (98.7654 % Except 1/9th of P-3 Seam)
Buchanan Production Company - CBM Lease Assignee
Claude V. Keen, et al. - Oil & Gas
Virginia Gas Exploration Company - Oil, Gas and CBM Leased (98.7654 %)
Buchanan Production Company - CBM Lease Assignee
Claude V. Keen, et al. - Surface
0.07 acres 0.0875 %
8. Norfolk Southern Corp. - Fee (Except Coal Below 800')
Claude V. Keen, et al. - Coal Below 800' (Except 1/9th Int in P-3 Seam)
Island Creek Coal Company/Consolidation Coal Company - 1/9th Int in P-3 Seam
Island Creek Coal Company/Consolidation Coal Company - Coal Below 800' Leased
Virginia Gas Exploration Company - CBM Leased-Coal Below 800'
(98.7654 % Except 1/9th of P-3 Seam)
Buchanan Production Company - CBM Lease Assignee
1.48 acres 1.8500 %
9. Bucky McConnell, et al. - Fee
Island Creek Coal Company/Consolidation Coal Company - Tiller Seam and Below Leased
Virginia Gas Exploration Company - CBM Leased
Buchanan Production Company - CBM Lease Assignee
0.48 acres 0.6000 %
10. Bucky McConnell, et al. **OR** Norfolk Southern Corp. - **OVERLAP** - Fee
Island Creek Coal Company/Consolidation Coal Company - Tiller Seam and Below Leased
OR Island Creek Coal Company/Consolidation Coal Company - P-3 Seam Leased
Virginia Gas Exploration Company - CBM Leased **OR** Virginia Gas Exploration Company -
CBM Leased - Coal Below 800'
Buchanan Production Company - CBM Lease Assignee
0.38 acres 0.4750 %

Exhibit E
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants that require escrow

| | Acres in Unit | Percent of Unit |
|--|------------------------------------|-----------------|
| <u>Tract #5, 2.52 Acres</u> | | |
| <u>COAL FEE OWNERSHIP</u> | | |
| (2) C. L. Ritter Lumber Company, Tr.40 (Coal bel. 800') P.O. Box 700 Huntington, WV 25711 | 2.52 acres | 3.1500% |
| <u>OIL & GAS FEE OWNERSHIP</u> | | |
| (1) Norfolk Southern Corporation Real Estate Department 185 Spring Street Atlanta, GA 30303 | 2.52 acres | 3.1500% |
| <u>Tract #6, 0.68 Acres</u> | | |
| <u>COAL FEE OWNERSHIP</u> | | |
| (2) Caroline Cole Heirs, Devisees, Successors or Assigns (Coal below 800') | 0.68 acres | 0.8500% |
| (a) Gallie Cole Heirs, Devisees, Successors or Assigns | | |
| (a.1) Harold G. Cole * 1436 Betana Avenue Akron, OH 44310 | 0.0504 acres 2/27 of 0.68 acres | 0.0630% |
| (a.2) Donald T. Cole * P.O. Box 162 Grundy, VA 24614 | 0.0504 acres 2/27 of 0.68 acres | 0.0630% |
| (a.3) Norma Cole & Ulvert Dotson * P.O. Box 226 Rosedale, VA 24280 | 0.0504 acres 2/27 of 0.68 acres | 0.0630% |
| (b) Leonard P. Cole Heirs, Devisees, Successors or Assigns | | |
| (b.1) Lena McDonald * P.O. Box 323 Roaring Gap, NC 28668 | 0.0756 acres 1/9 of 0.68 acres | 0.0944% |
| (c) Trula Burress Heirs, Devisees, Successors or Assigns | | |
| (c.1) James W. Burress * 22638 Aven Lane Abingdon, VA 24211 | 0.0378 acres 1/18 of 0.68 acres | 0.0472% |
| (c.2) Margaret M. Davis * P.O. Box 10 Richlands, VA 24641 | 0.0378 acres 1/18 of 0.68 acres | 0.0472% |
| (d) Garnett Cole Cooper Heirs, Devisees, Successors or Assigns | | |

Exhibit E
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants that require escrow

| | Acres in Unit | Percent of Unit |
|---|-------------------------------------|-----------------|
| (d.1) Therman G. & Iris A. Cooper P.O. Box 782 Doran, VA 24612 | 0.0084 acres 1/81 of 0.68 acres | 0.0105% |
| (d.2) Lucille Cooper Christian * P.O. Box 51 Raysal, WV 24879 | 0.0028 acres 1/243 of 0.68 acres | 0.0035% |
| (d.3) Karen C. & Brian Rowe * P.O. Box 781 Hanover, WV 24839 | 0.0028 acres 1/243 of 0.68 acres | 0.0035% |
| (d.4) Sharon Cooper & William Daniels * P.O. Box 1627 Gilbert, WV 25621 | 0.0028 acres 1/243 of 0.68 acres | 0.0035% |
| (d.5) Rebecca Cooper * P.O. Box 314 Hurley, VA 24620 | 0.0028 acres 1/243 of 0.68 acres | 0.0035% |
| (e) Carolyn Cole Jones Heirs, Devisees, Successors or Assigns | | |
| (e.1) Caroline C. & Claude V. Keen * P.O. Box 233 Whitewood, VA 24657 | 0.1763 acres 7/27 of 0.68 acres | 0.2204% |
| (f) Sherman & Vergie M. Cole Heirs, Devisees, Successors or Assigns | | |
| (f.1) Mary F. Selle & David Harris 4823 Basswood Drive Columbus, GA 31904 | 0.0126 acres 1/54 of 0.68 acres | 0.0157% |
| (f.2) Larry Dean & Bridgett L. Cole P.O. Box 3261 Lebanon, VA 24266 | 0.0126 acres 1/54 of 0.68 acres | 0.0157% |
| (g) Kermit F. & Mona McNeil Cole Heirs, Devisees, Successors or Assigns | | |
| (g.1) Nancy J. Cole * 208 Berkley Street Beckley, WV 25802 | 0.0756 acres 1/9 of 0.68 acres | 0.0944% |
| (h) Hassel Cole Heirs, Devisees, Successors or Assigns | | |
| (h.1) Edith G. Street P.O. Box 792 Grundy, VA 24614 | 0.0378 acres 1/18 of 0.68 acres | 0.0472% |
| (h.2) Marion S. Combs Heirs, Devisees, Successors or Assigns | | |

**Exhibit E
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants that require escrow**

| | Acres in Unit | Percent of Unit |
|--|------------------------------------|-----------------|
| (h.2.1) F.H. Combs, II Testamentary Trust c/o Kelly Combs Necessary P.O. Box 841 Tazewell, VA 24651 | 0.0126 acres 1/54 of 0.68 acres | 0.0157% |
| (h.2.2) Martha E. Combs P.O. Box 1404 Abingdon, VA 24210 | 0.0126 acres 1/54 of 0.68 acres | 0.0157% |
| (h.2.3) Carol & John Irvin 4710 Hunterwood Circle Richmond, TX 77469 | 0.0126 acres 1/54 of 0.68 acres | 0.0157% |

OIL & GAS FEE OWNERSHIP

| | | |
|--|------------|---------|
| (1) Norfolk Southern Corporation Real Estate Department 185 Spring Street Atlanta, GA 30303 | 0.68 acres | 0.8500% |
|--|------------|---------|

Tract #8, 1.48 Acres

COAL FEE OWNERSHIP

| | | |
|--|------------------------------------|---------|
| Norfolk Southern Corporation et al. | 1.48 acres | 1.8500% |
| (2) Caroline Cole Heirs, Devisees, Successors or Assigns (Coal bel. 800', exc. 1/9 int. P3) | | |
| (a) Gallie Cole Heirs, Devisees, Successors or Assigns | | |
| (a.1) Harold G. Cole * 1436 Betana Avenue Akron, OH 44310 | 0.1096 acres 2/27 of 1.48 acres | 0.1370% |
| (a.2) Donald T. Cole * P.O. Box 162 Grundy, VA 24614 | 0.1096 acres 2/27 of 1.48 acres | 0.1370% |
| (a.3) Norma Cole & Ulvert Dotson * P.O. Box 226 Rosedale, VA 24280 | 0.1096 acres 2/27 of 1.48 acres | 0.1370% |
| (b) Leonard P. Cole Heirs, Devisees, Successors or Assigns | | |
| (b.1) Lena McDonald * P.O. Box 323 Roaring Gap, NC 28668 | 0.1644 acres 1/9 of 1.48 acres | 0.2056% |
| (c) Trula Burress Heirs, Devisees, Successors or Assigns | | |
| (c.1) James W. Burress * 22638 Aven Lane Abingdon, VA 24211 | 0.0822 acres 1/18 of 1.48 acres | 0.1028% |

Exhibit E
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants that require escrow

| | Acres in Unit | Percent of Unit |
|---|-------------------------------------|-----------------|
| (c.2) Margaret M. Davis * P.O. Box 10 Richlands, VA 24641 | 0.0822 acres 1/18 of 1.48 acres | 0.1028% |
| (d) Garnett Cole Cooper Heirs, Devisees, Successors or Assigns | | |
| (d.1) Therman G. & Iris A. Cooper P.O. Box 782 Doran, VA 24612 | 0.0183 acres 1/81 of 1.48 acres | 0.0228% |
| (d.2) Lucille Cooper Christian * P.O. Box 51 Raysal, WV 24879 | 0.0061 acres 1/243 of 1.48 acres | 0.0076% |
| (d.3) Karen C. & Brian Rowe * P.O. Box 781 Hanover, WV 24839 | 0.0061 acres 1/243 of 1.48 acres | 0.0076% |
| (d.4) Sharon Cooper & William Daniels * P.O. Box 1627 Gilbert, WV 25621 | 0.0061 acres 1/243 of 1.48 acres | 0.0076% |
| (d.5) Rebecca Cooper * P.O. Box 314 Hurley, VA 24620 | 0.0061 acres 1/243 of 1.48 acres | 0.0076% |
| (e) Carolyn Cole Jones Heirs, Devisees, Successors or Assigns | | |
| (e.1) Caroline C. & Claude V. Keen * P.O. Box 233 Whitewood, VA 24657 | 0.3837 acres 7/27 of 1.48 acres | 0.4796% |
| (f) Sherman & Vergie M. Cole Heirs, Devisees, Successors or Assigns | | |
| (f.1) Mary F. Selle & David Harris 4823 Basswood Drive Columbus, GA 31904 | 0.0274 acres 1/54 of 1.48 acres | 0.0343% |
| (f.2) Larry Dean & Bridgett L. Cole P.O. Box 3261 Lebanon, VA 24266 | 0.0274 acres 1/54 of 1.48 acres | 0.0343% |
| (g) Kermit F. & Mona McNeil Cole Heirs, Devisees, Successors or Assigns | | |
| (g.1) Nancy J. Cole * 208 Berkley Street Beckley, WV 25802 | 0.1644 acres 1/9 of 1.48 acres | 0.2056% |
| (h) Hassel Cole Heirs, Devisees, Successors or Assigns | | |
| (h.1) Edith G. Street P.O. Box 792 Grundy, VA 24614 | 0.0822 acres 1/18 of 1.48 acres | 0.1028% |

Exhibit E
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants that require escrow

| | Acres in Unit | Percent of Unit |
|--|------------------------------------|-----------------|
| (h.2) Marion S. Combs Heirs, Devisees, Successors or Assigns | | |
| (h.2.1) F.H. Combs, II Testamentary Trust c/o Kelly Combs Necessary P.O. Box 841 Tazewell, VA 24651 | 0.0274 acres 1/54 of 1.48 acres | 0.0343% |
| (h.2.2) Martha E. Combs P.O. Box 1404 Abingdon, VA 24210 | 0.0274 acres 1/54 of 1.48 acres | 0.0343% |
| (h.2.3) Carol & John Irvin 4710 Hunterwood Circle Richmond, TX 77469 | 0.0274 acres 1/54 of 1.48 acres | 0.0343% |

OIL & GAS FEE OWNERSHIP

| | | |
|--|------------|---------|
| (1) Norfolk Southern Corporation Real Estate Department 185 Spring Street Atlanta, GA 30303 | 1.48 acres | 1.8500% |
|--|------------|---------|

Tract #10 - 0.38 acres

Escrow due to Title Conflict

COAL FEE OWNERSHIP

| | | |
|--|---------------------------------|---------|
| (1) A. B. Jewell Estate * | 0.38 acres | 0.4750% |
| (a) Artemus B. Jewell, Jr. P.O. Box 117 Columbia Falls, ME 04623 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (b) Bucky McConnell, Executrix P.O. Box 512 Tazewell, VA 24651 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (c) Nancy J. Lowe P.O. Box 383 Tazewell, VA 24651 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (d) Polly Ann Mallory 1218 Sunset Drive Richlands, VA 24641 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (e) Janice Kear P.O. Box 1609 Chillicothe, OH 45601 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (f) Luanne Pugh 1224 2nd Street Richlands, VA 24641 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |

(OR - Due to mapping overlap)

Exhibit E
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants that require escrow

| | Acres in Unit | Percent of Unit |
|--|---------------------------------|-----------------|
| (1) Norfolk Southern Corporation Real Estate Department 185 Spring Street Atlanta, GA 30303 | 0.38 acres | 0.4750% |
| <u>OIL & GAS FEE OWNERSHIP</u> | | |
| (1) A. B. Jewell Estate * | 0.38 acres | 0.4750% |
| (a) Artemus B. Jewell, Jr. P.O. Box 117 Columbia Falls, ME 04623 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (b) Bucky McConnell, Executrix P.O. Box 512 Tazewell, VA 24651 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (c) Nancy J. Lowe P.O. Box 383 Tazewell, VA 24651 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (d) Polly Ann Mallory 1218 Sunset Drive Richlands, VA 24641 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (e) Janice Kear P.O. Box 1609 Chillicothe, OH 45601 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| (f) Luanne Pugh 1224 2nd Street Richlands, VA 24641 | 0.06 acres 1/6 of 0.38 acres | 0.0792% |
| <i>(OR - Due to mapping overlap)</i> | | |
| (1) Norfolk Southern Corporation Real Estate Department 185 Spring Street Atlanta, GA 30303 | 0.38 acres | 0.4750% |

* Leased by Equitable Production Company, now assigned to BPC.

Exhibit EE
Unit J-39
Docket # VGOB-01-0515-0891
List of Conflicting Owners/Claimants with Agreements

| | Acres in Unit | Percent of Unit | Percent of Escrow |
|--|------------------------------------|--------------------|--------------------------|
| <u>Tract #7, 0.07 Acres</u> | | | 5.0678 |
| <u>COAL FEE OWNERSHIP</u> | | | |
| Claude V. Keen, et al. (a.k.a. Caroline Cole Heirs, Devisees, Successors or Assigns et al.) 85 Acre Tract | 0.07 acres | 0.0875% | |
| (2) Island Creek Coal Company (1/9 int. P3 seam) Drawer L Oakwood, VA 24631 | 0.0078 acres 1/9 of 0.07 acres | 0.0097% | n/a (Deeded Interest) |
| <u>OIL & GAS FEE OWNERSHIP</u> | | | |
| Claude V. Keen, et al. (a.k.a. Caroline Cole Heirs, Devisees, Successors or Assigns et al.) 85 Acre Tract | 0.07 acres | 0.0875% | |
| | 0.0078 acres 1/9 of 0.07 acres | 0.0097% | 0.15347% |
| (1) Caroline Cole Heirs, Devisees, Successors or Assigns (exc. Jawbone and 1/9 P3 seam) | | | |
| (h) Hassel Cole Heirs, Devisees, Successors or Assigns | | | |
| (h.1) Edith G. Street P.O. Box 792 Grundy, VA 24614 | 0.0039 acres 1/18 of 0.07 acres | 0.0049% | 0.07674% |
| (h.2) Marion S. Combs Heirs, Devisees, Successors or Assigns | | | |
| (h.2.1) F.H. Combs, II Testamentary Trust c/o Kelly Combs Necessary P.O. Box 841 Tazewell, VA 24651 | 0.0013 acres 1/54 of 0.07 acres | 0.0016% | 0.02558% |
| (h.2.2) Martha E. Combs P.O. Box 1404 Abingdon, VA 24210 | 0.0013 acres 1/54 of 0.07 acres | 0.0016% | 0.02558% |
| (h.2.3) Carol & John Irvin 4710 Hunterwood Circle Richmond, TX 77469 | 0.0013 acres 1/54 of 0.07 acres | 0.0016% | 0.02558% |

BL
#200

mailed to
First Bank & Trust
w/ W's
1/14/10

INSTRUMENT #090002684
RECORDED IN THE CLERK'S OFFICE OF
BUCHANAN COUNTY ON
SEPTEMBER 10, 2009 AT 01:33PM

BEVERLY S. TILLER, CLERK
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