

6-6-02

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

SUPPLEMENTAL ORDER REGARDING DOCKET NO. VGOB 01-1120-0988

ELECTIONS, UNIT: VC-508827

(hereinafter "Subject Drilling Unit")

REPORT OF BOARD

FINDINGS AND ORDER

1. This Supplemental Order is entered by the Board sua sponte in the form authorized by the Board at its hearing held at 9:00 a.m. on October 20, 1992, Board of Supervisors Room, Courthouse, Grundy, Virginia, and pursuant to authority granted to the Board's Chairman at the hearing of the Virginia Gas and Oil Board on June 16, 1992, at 9:00 a.m. at the Rhododendron Restaurant at the Breaks Interstate Park, Breaks, Virginia; and this Supplemental Order is being recorded for the purpose of (1) complying with the requirement of the Virginia Gas and Oil Board Regulations, 4 VAC 25-160.70C by supplementing the Order previously issued by the Board for subject Docket on March 26, 2002 and recorded at Deed Book 543, Page 714 in the Office of the Clerk of Circuit Court, Buchanan County, Virginia on April 1, 2002 (herein "Board Order") to complete the record regarding elections. The Board Order pooled all interest in Subject Drilling Unit including those of the Respondents more particularly set forth and identified by the Designated Operator in the affidavits attached hereto and made a part hereof. The Board finds it has jurisdiction over the subject matter pursuant to the provisions of the Virginia Gas and Oil Act, § 45.1-361.1 et seq., Virginia Code, 1950 as amended.
  
2. Findings: The Board finds that:
  - (a) The Board Order directed Equitable Production Company, (herein the Designated Operator"), to mail copies of the Board Order to all respondents whose interest, if any, were pooled by said Board Order;
  - (b) The designated operator filed its affidavit of mailing dated November 13, 2001, disclosing that it had mailed a correct copy of the Board's Order to all Respondents whose interest, if any, were pooled by said Board Order;
  - (c) The Board Order required each Respondent whose interest, if any, were pooled by the terms of said Board Order to make his or her election within thirty (30) days after the date of mailing or recording, as applicable, of said Order; the Designated Operator has filed its affidavit dated June 12, 2002, in accordance with § 7.C of the Virginia Gas and Oil Board Regulations and 4 VAC 25-160.70C (herein "Affidavit of Election"), wherein it has, for each Respondent whose interest, if any, were pooled by said Board Order, stated: (i) whether

ENTERED

- each Respondent has made or failed to make a timely election; (ii) the nature of the election made, if any; (iii) whether, by reason of a failure to elect or to timely elect one or more Respondents are deemed, under the terms of the Board's Order, to have leased all their rights, title, interest, estates and claims in Subject Drilling Unit to the Designated Operator;
- (d) The Board Order further required the Designated Operator, after expiration of the election period, to file with the Board a statement of the interests subject to escrow under the terms and provisions of the Board Order, in light of the elections made or deemed to have been made (herein "Statement of Interests"); that the Designated Operator furnished said Statement of Interests as part of its Affidavit of Election. A copy of which is attached hereto as Exhibit B;
- (e) Current Board standards requiring the escrow of funds and the Board's agreement with its Escrow Agent, First Union National Bank, Corporate Trust, PA 1328, 123 Broad Street, Philadelphia, PA 19109-1199, (888) 396-0853, Attn: Don Ballinghoff, or any successor named by the Board, require the entry of a Supplemental Order establishing of record the elections made or deemed to have been made and specifying the sums or percentage thereof subject to escrow. Current Board escrow standards were made applicable to Subject Drilling Unit by a Board Order dated December 23, 1992.
3. Order: By this Order, the Board orders the Designated Operator to tender, consistent with and in accordance with the findings set forth at paragraph 2 above and the annexed Affidavits, any funds subject to escrow and instructs the Escrow Agent, First Union National Bank, Corporate Trust, PA 1328, 123 Broad Street, Philadelphia, PA 19109-1199, (888) 396-0853, Attn: Don Ballinghoff, or any successor named by the Board to establish interest-bearing escrow account(s), IRS Tax Identification Number 54-1629506, in accordance with the information set forth in said affidavits to receive such funds and account to the Board therefore.
4. Mailing of Order and Filing of Affidavit: The Designated Operator under the captioned Order or its Attorney shall file an affidavit with the Secretary of the Board within ten (10) days after the date of receipt of this Order stating that true and correct copy of this Order to each person whose interest or claim is subject to escrow and whose address is known.
5. Conclusion: Therefore, the findings and all terms and provisions set forth above be and hereby are granted and IT IS SO ORDERED.
6. Effective Date: This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 2nd day of July, 2002 by a majority of the Virginia Gas and Oil Board.

Benny R. Wampler  
Chairman, Benny R. Wampler

DONE AND PERFORMED THIS 19th day of July, 2002 by Order of this Board.

B. R. Wilson  
B. R. Wilson  
Principal Executive to the Staff  
Virginia Gas and Oil Board

STATE OF VIRGINIA )  
COUNTY OF WISE )

Acknowledged on this 2nd day of July, 2002, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

Susan A. Smith  
Notary Public

My commission expires: 7-31-02

STATE OF VIRGINIA )  
COUNTY OF WISE )

Acknowledged on this 19th day of July, 2002, personally before me a notary public in and for the Commonwealth of Virginia, appeared B. R. Wilson, being duly sworn did depose and say that he is Principal Executive to the Staff Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

Diane J. Davis  
Diane J. Davis  
Notary Public

Recorded Under Code of  
45.1-361.25

My commission expires: 9/30/05

**VIRGINIA:**

***BEFORE THE VIRGINIA GAS AND OIL BOARD***

IN RE: Application of Equitable Production Company, for Forced Pooling of Interests in Unit Number VC-508827 VGOB Docket No. VGOB-01-1120-0988 in the Gladeville Magisterial District of Wise County, Virginia.

AFFIDAVIT OF WILHOIT & KAISER, Attorneys-at-Law, Agents for the Designated Operator REGARDING ELECTIONS, ESCROW ACCOUNTS AND SUPPLEMENTAL ORDER

James E. Kaiser (herein Affiant), being first duly sworn on oath, deposes and says:

1. That the Affiant is an attorney in the law firm of WILHOIT & KAISER, the Agent for the Designated Operator, with offices located at 220 Broad Street, Kingsport, Tennessee 37660, and is authorized to give this Affidavit in its behalf;
2. That the Order entered on March 26, 2002, by the Virginia Gas and Oil Board regarding the captioned coalbed methane Unit required the Applicant to mail a true and correct copy of said Order to each person pooled by said Order;
3. That within seven (7) days of the receipt of an executed copy of the Order referred to at Paragraph 2. above, the Affiant was directed to cause a true and correct copy of said Order to be mailed via the United States Postal Service to each Respondent named in the captioned Application, whose address was known, and to all persons, if any, who are added as Respondents at the hearing held in the captioned matter;
4. That the Order of the Virginia Gas and Oil Board in the captioned matter required all persons pooled thereby to tender their written elections to the Unit Operator within thirty (30) days of the date said Order was recorded in the county above named; that said Order was recorded on April 1, 2002.
5. That the Designated Operator, by and through their agent, Wilhoit & Kaiser, Attorneys-at-Law, have established procedures to review all mail received and all written documents received by means other than by mail to ascertain whether parties whose interest have been pooled have made a written election, in a timely fashion, as required by the captioned Order; that said procedures were followed to identify the elections, if any, made with regard to Subject Unit; that the following persons delivered, by mail or otherwise, written elections to the Unit Operator, within the thirty day election periods:

NONE

6. That the interest and/or claims of the following persons (who made timely elections, or who are deemed under the terms of the Board's Order to have leased, or who, subsequent to the pooling hearing held in the captioned matter, have leased or otherwise entered into an agreement with the Designated Operator) are subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia; that opposite the name of each person named as a Respondent listed below is set forth:

Gregory Poulos	.00146145
Jason Poulos, single	.00146145
Pamela Poulos, single	.00146145
Talmage G. Rogers, II and Tracey Rogers, H/W	.00109609
Shaun D. Rogers and Nadine Davey Rogers, H/W	.00190609
Kevin H. Rogers and Katherine Rogers, H/W	.00109609
Derek B. Rogers and Anne Rogers, H/W	.00109609
OR	
Lon B. Rogers Bradshaw Trust No 2	.00876871

7. That after the pooling hearing held in the captioned matter, the following persons have leased or entered into a voluntary agreement with the Designated Operator with regard to their interest and/or claims which are not subject to escrow:

NONE

8. That the following persons have not made a timely election and have failed to enter into an agreement with the Designated Operator and their respective interests shall be deemed to have leased pursuant to and in accordance with paragraph 10 of the Order.

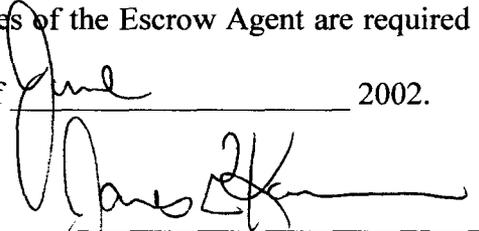
<u>TRACT</u>	<u>LESSOR</u>	<u>CONSIDERATION</u>
2		
Gas	Gregory Poulos and Karen Poulos, H/W	0.9355 x \$5.00 = \$4.67
	Jason Poulos, single	0.9353x \$5.00 = \$4.67

Pamela Poulos, single	0.9353x \$5.00 = \$4.67
Talmage G. Rogers, III and Tracy Rogers, H/W	0.7016 x \$5.00 = \$3.51
Shaun D. Rogers and Nadine Davey Rogers, H/W	0.7016 x \$5.00 = \$3.51
Kevin H. Rogers and Katherine Rogers, H/W	0.7016 x \$5.00 = \$3.51
Derek B. Rogers and Anne Rogers, H/W	0.7016 x \$5.00 = \$3.51

9. That in accordance with a royalty agreement attached hereto between Rogers Trust No. 2 and Rogers Trust No. 1, the parties have agreed that all royalties, in the situation of conflicting claims to the coalbed methane gas, shall be paid entirely to Rogers Trust No. 2.

That pursuant to the provision of 4VAC 25-160.70C annexed hereto and incorporated herein is a proposed supplemental order to be entered to complete the record regarding elections; that said annexed supplemental order sets forth that the services of the Escrow Agent are required in this matter pursuant to the terms of §§ 45.1-361.21.D.

Dated at Kingsport, Tennessee, this 1<sup>st</sup> day of June 2002.

  
 \_\_\_\_\_  
 Affiant

Taken, subscribed and sworn to before me by James E. Kaiser, the Agent of Equitable Production Company, a corporation, on behalf of the corporation, this 24<sup>th</sup> day of June 2002.

My commission expires: August 18, 2003

  
 \_\_\_\_\_  
 Notary

BOOK 551 PAGE 685

**ROYALTY AGREEMENT**

THIS AGREEMENT, made and entered into this 17<sup>th</sup> day of July, 2001, between FON ROGERS, II, TRUSTEE, LON B. ROGERS BRADSHAW TRUST NO. 1, hereinafter referred to as "Rogers Trust No. 1", and FON ROGERS, II, TRUSTEE, LON B. ROGERS BRADSHAW TRUST NO. 2, hereinafter referred to as "Rogers Trust No. 2".

WHEREAS, Rogers Trust No. 2 owns coal reserves in certain areas of Buchanan County, Virginia, all of which coal reserves are underlying certain real estate described in a Memorandum of Lease of record in the office of the Clerk of the Circuit Court of Buchanan County, Virginia in deed book 491 at page 300, a copy of which Memorandum of Lease is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Rogers Trust No. 1 owns oil and gas reserves in certain areas of Buchanan County, Virginia, all of which oil and gas reserves are underlying the real estate described in the said Memorandum of Lease; and

WHEREAS, the parties hereto recognize that, in those areas in Buchanan County, Virginia where coalbed methane/coalseam gas has been and will be developed and produced and in which said areas Rogers Trust No. 2 owns the coal and Rogers Trust No. 1 owns the oil and gas, the parties may be designated by statutory or regulatory requirements as conflicting claimants to the coalbed methane/coalseam gas; and

WHEREAS, the parties hereto desire to agree that all royalties from the production of coalbed methane/coalseam gas underlying said real estate where they have been, are, or will be considered as conflicting claimants in Buchanan County, Virginia which is the area described in the

DONALD R. JOHNSON  
ATTORNEY AT LAW  
SUGAR LOAF CROSSING  
1980 ELECTRIC ROAD  
ROANOKE, VIRGINIA 24018  
(540) 989-3505

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above-referenced Memorandum of Lease shall be apportioned entirely to the coal owner, Rogers Trust No. 2; and

WHEREAS, the parties desire by this instrument to set forth their agreement for apportionment of said production royalties, all as contained herein.

NOW THEREFORE, in consideration of the premises which are incorporated herein as a part of this Agreement and not as mere recitals, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties intending to be legally bound, it is hereby agreed as follows:

1. Rogers Trust No. 1 and Rogers Trust No. 2 agree that all royalties with any accrued interest which have been paid into any escrow account and those now due or which will, in the future, become due from underlying real estate where Rogers Trust No. 2 owns the coal and Rogers Trust No. 1 owns the oil and gas in Buchanan County, Virginia, which real estate is located within the area described in the aforesaid Memorandum of Lease, shall belong to and be paid entirely to Rogers Trust No. 2. This agreement shall only apply to real estate where the respective parties hereto are considered by statutory or regulatory requirements as conflicting claimants to the coalbed methane/coalseam gas.

2. The term of this Agreement shall supersede the terms of any forced pooling order entered prior to, contemporaneous with or subsequent to the date of this Agreement.

3. This Agreement shall cease and terminate upon the exhaustion of all coalbed methane/coalseam gas underlying the above described real estate.

4. This Agreement states the entire contract between the parties, and no representation or promise, oral or written, on behalf of any party shall be binding unless contained herein and may not

DONALD R. JOHNSON  
ATTORNEY AT LAW  
SUGAR LOAF CROSSING  
1080 ELECTRIC ROAD  
ROANOKE, VIRGINIA 24018  
(540) 989-3505

BOOK 551 PAGE 687

be amended or revoked except by written agreement executed by all parties hereto, their successors or assigns.

5. This Agreement shall be binding upon the parties' successors and assigns.

IN WITNESS WHEREOF, the signatures and seals of Fon Rogers, II, acting in his capacity as the sole trustee of Rogers Trust No. 1 and Rogers Trust No. 2.

  
\_\_\_\_\_  
FON ROGERS, II, TRUSTEE, LON B. ROGERS  
BRADSHAW TRUST NO. 1

  
\_\_\_\_\_  
FON ROGERS, II, TRUSTEE, LON B. ROGERS  
BRADSHAW TRUST NO. 2

DONALD R. JOHNSON  
ATTORNEY AT LAW  
SUGAR LOAF CROSSING  
1980 ELECTRIC ROAD  
ROANOKE, VIRGINIA 24018  
  
(540) 989-3805

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STATE OF KENTUCKY

COUNTY OF State at Large

The foregoing Agreement was sworn to before me this 17th day of July, 2001 by FON ROGERS, II, TRUSTEE, LON B. ROGERS BRADSHAW TRUST NO. 1, on behalf of the Trust.

Lorine A. Young  
Notary Public

My commission expires: October 23, 2001

STATE OF KENTUCKY

COUNTY OF State at Large

The foregoing Agreement was sworn to before me this 17th day of July, 2001 by FON ROGERS, II, TRUSTEE, LON B. ROGERS BRADSHAW TRUST NO. 2, on behalf of the Trust.

Lorine A. Young  
Notary Public

My commission expires: October 23, 2001

DONALD R. JOHNSON  
ATTORNEY AT LAW  
SUGAR LOAF CROSSING  
1950 ELECTRIC ROAD  
ROANOKE, VIRGINIA 24018  
(540) 989-3908

trust & agree.701

**EXHIBIT "B"**  
**VC-508827**      BOOK **551** PAGE **689**  
**VGOB 01-1120-0988**

<u>TRACT</u>	<u>LESSOR</u>	<u>LEASE STATUS</u>	<u>INTEREST WITHIN UNIT</u>	<u>GROSS ACREAGE IN UNIT</u>	<u>NET REVENUE INTEREST</u>	
<u>Gas Estate Only</u>						
1	Lon B. Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased-EPC 245280L 01 5859-00 Tr. 68	53.310000%	42.5500	0.06663750	RI
	Equitable Production				0.46646250	WI
<u>Tract 1 Totals</u>			53.310000%	42.5500	0.53310000	
2	Lon B. Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased-EPC 245280L 01 5859-00 Tr. 9	21.045000%	16.8375	0.02630625	RI
	Gregory Poulos and Karen Poulos, H/W 48 Azalee Avenue Inglis FL 34449	Unleased	1.169166%	0.9355	0.00146145	RI
	Jason Poulos, single 10870 SW 95th Stree Miami, FL 33176	Unleased	1.169167%	0.9353	0.00146145	RI
	Pamela Poulos, single 1444 Mendavia Avenue Coral Gables, FL 33146	Unleased	1.169167%	0.9353	0.00146145	RI
	Talmage G. Rogers, III and Tracey Rogers, H/W 14229 Ballantyne Country Club Drive Charlotte, NC 28277	Unleased	0.876875%	0.7016	0.00109609	RI
	Shaun D. Rogers and Nadine Davey Rogers, H/W 121 NE 100th Street Miami Shores, FL 33128	Unleased	0.876875%	0.7016	0.00109609	RI
	Kevin H. Rogers and Katherine Rogers, H/W 139 Wickham Road Garden City, NY 11530	Unleased	0.876875%	0.7016	0.00109609	RI
	Derek B. Rogers and Anne Rogers, H/W 2001 Sablewood Drive Charlotte, NC 28205	Unleased	0.876875%	0.7016	0.00109609	RI
	Equitable Production Company				0.24552504	WI
<u>Tract 2 Totals</u>			28.060000%	22.4500	0.28060000	



INSTRUMENT #020002332  
RECORDED IN THE CLERK'S OFFICE OF  
BUCHANAN COUNTY OH  
JULY 25, 2002 AT 02:47PM  
JAMES M. BEVINS JR., CLERK

BY: \_\_\_\_\_



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COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT  
BUCHANAN COUNTY CIRCUIT COURT  
DEED RECEIPT

DATE: 07/25/02 TIME: 14:48:28 ACCOUNT: 027CLP020002888 RECEIPT: 02000003776  
CASHIER: AKT RES: BU01 TYPE: JDU PAYMENT: FULL PAYMENT  
INSTRUMENT : 020002888 BOOK: PAGE: RECORDED: 07/25/02 AT 14:47  
GRANTOR: VIRGINIA GAS AND OIL BOARD EX: N LOC: 00  
GRANTEE: EQUITABLE PRODUCTION CO EX: N PCT: 100%

AND ADDRESS :  
RECEIVED OF : DEPT MINES MINERALS ENERGY  
CHECK : \$46.00

DESCRIPTION 1: 2 POOLINGS PAGES: 0  
2: BATCH RECEIPT: 020002888 THRU 020002889 NAMES: 0

CONSIDERATION: .00 ASSUME/VAL: .00 MAP:  
CODE DESCRIPTION PAID CODE DESCRIPTION PAID  
301 DEEDS 46.00

TENDERED : 46.00  
AMOUNT PAID: 46.00  
CHANGE AMT : .00

CLERK OF COURT: JAMES M. BEVINS JR.