

#06-0000775

BOOK 049110124

INSTRUMENT PREPARED BY  
VIRGINIA GAS AND OIL BOARD

ORDER RECORDED UNDER CODE  
OF VIRGINIA SECTION 45.1-361.26

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Swords Creek Land Partnership )  
Clell Edward Metcalf, et al. )  
Coal Mountain Mining Company )

DOCKET NO.  
02-0820-1054-01

RELIEF SOUGHT: Issuance of an Amended Supplemental )  
Order Amending Prior Orders Affecting )  
Drilling Unit EE-33 Located in the Oakwood )  
Coalbed Methane Gas Field I in the Garden/ )  
New Garden Magisterial Districts, Buchanan )  
& Russell Counties, VA (herein "Subject )  
Drilling Unit" to Provide: )  
(1) Calculation of Funds Unit Operator )  
Deposited into the Escrow Account for )  
Subject Drilling Unit by Tract Subaccounts; )  
(2) to Applicants, a Royalty Accounting; and )  
(3) Disbursement to Applicants )  
in Accordance with Their Ownership )  
Interests Those Funds Deposited by the Unit )  
Operator into Subject Drilling Unit's Escrow )  
Subaccount for VGOB Tracts 2A, 2B, and 3B)

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") on October 18, 2005 at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark Swartz, Esq. of the firm Swartz and Stump L.C. 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 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 tract in question or any undivided interest therein.

4. **Prior Proceedings:**

- 4.1. On July 20, 2004, the Board executed its order pooling all 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 §§ 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 July 21, 2004 in Deed Book 597 at page 759 and also filed with the Clerk of the Circuit Court of Russell County on July 22, 2004 in Deed Book 613 at page 700. The Board designated Pocahontas Gas Partnership, predecessor of CNX Gas Company LLC, as the Unit Operator of the Subject Drilling Unit. The Pooling Order was amended and supplemented by the Board's Supplemental Order regarding elections executed on March 8, 2005 that was filed with the Buchanan County Circuit Court Clerk's Office on March 14, 2005 in Deed Book 613 at page 818 and also recorded with the Russell County Circuit Court Clerk's Office on March 14, 2005 in Deed Book 626 at page 988 ("Supplemental Order")(hereafter the Pooling Order and the Supplemental Orders are collectively referred to as the Pooling Order).
- 4.2. To the extent claims to the Gas were in conflict, pursuant to Va. Code § 45.1-361-22 payments attributable to said conflicting claims/interests were ordered deposited by the Unit Operator into the escrow account established by the Pooling Order (herein "Escrow Account"). According to the Pooling Order, the coal fee ownership of Swords Creek Land Partnership and the oil and gas fee ownership of Clell Edward Metcalf, et al. or their predecessors in title in a 10.77 acres tract known as VGOB Tract 2A and a 0.47 acre tract known as VGOB Tract 2B in Subject Drilling Unit EE-33; and the coal fee ownership of Coal Mountain Mining Company and the oil and gas fee ownership of Clell Edward Metcalf, et al. or their predecessors in title in a 3.18 acres tract known as VGOB Tract 3B were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Amended Miscellaneous Petition to the Board, received September 23, 2005 by the Division of Gas and Oil, a copy of which is attached to and made a part hereof, and sworn testimony attested that Swords Creek Land Partnership and Clell Edward Metcalf, et al. and Coal Mountain Mining Company and Clell Edward Metcalf, et al. have entered into a royalty split agreements and that by terms of the agreements escrow regarding the conflicting claims of said parties is no longer required. By sworn testimony, the Unit Operator notified the Board that VGOB Tracts 2A, 2B, and 3B of the Subject Drilling Unit and the interests of Swords Creek Land Partnership and Clell Edward Metcalf, et al. and Coal Mountain Mining Company and Clell Edward Metcalf, et al. are subject to the split agreements.
- 4.4. Petitioner gave notice to Swords Creek Land Partnership, Coal Mountain Mining Company, and Clell Edward Metcalf, et al. that the Board would take the petition referred to in Paragraph 4.3 above under consideration at its hearing. Notice stated that the Board would consider whether to: (1) amend the Pooling Order to provide for the disbursement of funds on deposit in the Escrow Account attributable to Tracts 2A, 2B, and 3B; (2) delete the requirement that the Unit Operator place future royalties attributable to the above-named parties in Tracts 2A, 2B, and 3B 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 escrow.
- 4.5. The Unit Operator filed the attached accountings for Subject Drilling Unit's Escrow Account with the Board ("Accountings").

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 tract 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 The Petitioner has certified and represented to the Board that:

- (1) Swords Creek Land Partnership is the owner of 100% of the coal estate underlying VGOB Tracts 2A, and 2B of the Subject Drilling Unit.
- (2) Coal Mountain Mining Company is the owner of 100% of the coal estate underlying VGOB Tract 3B of the Subject Drilling Unit.
- (3) Clell Edward Metcalf, et al. is the owner of 100% of the oil and gas estate underlying VGOB Tracts 2A, 2B, and 3B of the Subject Drilling Unit.
- (4) Swords Creek Land Partnership and Clell Edward Metcalf, et al. have entered into a royalty split agreement specifying that escrowed funds attributable to their conflicting interests are to be divided with 50% going to the gas owner and 50% going to the coal owner, and also specifying that future royalties be paid directly to the owners according to the split agreement.
- (5) Coal Mountain Mining Company and Clell Edward Metcalf, et al. have entered into a royalty split agreement specifying that escrowed funds attributable to their conflicting interests are to be divided with 50% going to the gas owner and 50% going to the coal owner, and also specifying that future royalties be paid directly to the owners according to the split agreement.
- (6) The net interests attributable and to be disbursed to Swords Creek Land Partnership, Coal Mountain Mining Company, and Clell Edward Metcalf, et al. in Tracts 2A, 2B, and 3B are shown in Table 1, below.

<b>TABLE-1</b>		
<b>Tract # 2A Owner Names</b>	<b>Net acres in Unit</b>	<b>% interest in VGOB 02-0820-1054 balance</b>
Swords Creek Land Partnership P.O. Box 187 Tazewell, VA 24651	10.77	<b>28.905%</b>
Clell Edward Metcalf, et al. c/o J. C. Franks, Agent 621 Peavler Street Marion, VA 24354	10.77	<b>28.905%</b>
<b>Tract # 2B Owner Names</b>	<b>Net acres in Unit</b>	<b>% interest in VGOB 02-0820-1054 balance</b>
Swords Creek Land Partnership P.O. Box 187 Tazewell, VA 24651	0.47	<b>1.2614%</b>
Clell Edward Metcalf, et al. c/o J. C. Franks, Agent 621 Peavler Street Marion, VA 24354	0.47	<b>1.2614%</b>

TABLE-1		
Tract # 3B Owner Names	Net acres in Unit	% interest in VGOB 02-0820-1054-01 balance
Coal Mountain Mining Company P. O. Box 675 Tazewell, VA 24651	3.18	8.5346%
Clell Edward Metcalf, et al. c/o J. C. Franks, Agent 621 Peavler Street Marion, VA 24354	3.18	8.5346%
TOTALS		
		% interest in VGOB 02-0820-1054 balance
Swords Creek Land Partnership (Tracts 2A & 2B)		30.1664%
Coal Mountain Mining Company (Tract 3B)		8.5346%
Clell Edward Metcalf, et al. c/o J. C. Franks, Agent (Tracts 2A, 2B, & 3B)		38.7010%

6. **Relief Granted:**

For the reasons set forth in Paragraphs 4 and 5 above, and based upon the Accounting, the Escrow Agent is ordered to, within 10 days of receipt of this executed order: (1) Disburse escrowed funds attributable to VGOB Tracts 2A, 2B, and 3B and the interests of Swords Creek Land Partnership, Coal Mountain Mining Company and Clell Edward Metcalf, et al. according to the percentages shown in Table 1, above, and mail attributable proceeds to the addresses shown in the table. Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted in toto and replaced with the Exhibit E attached hereto. 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 Swords Creek Land Partnership, Coal Mountain Mining Company and Clell Edward Metcalf, et al. in Tracts 2A, 2B, and 3B be deposited by the Unit Operator into the Escrow Account, and, because there are other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. **Conclusion:**

Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

8. **Appeals:**

Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 9<sup>th</sup> day of March, 2006, by a majority of the Virginia Gas and Oil Board.

  
Chairman, Benny R. Wampler

DONE AND PERFORMED this 13<sup>th</sup> day of March, 2006, by an Order of this Board.

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

COMMONWEALTH OF VIRGINIA )  
COUNTY OF ~~WISE~~ )

Washington 9<sup>th</sup> day of March, 2006, 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 G. Garrett  
Susan G. Garrett  
Notary Public

My Commission expires: 9/30/09

COMMONWEALTH OF VIRGINIA )  
COUNTY OF WASHINGTON th )

Acknowledged on this 13<sup>th</sup> day of March, 2006, 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 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

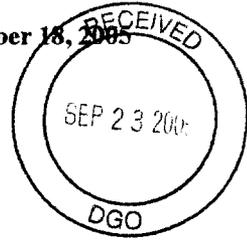
My commission expires: 9/30/09

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL  
DOCKET NO: VGOB 02-0820-1054-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM  
ESCROW REGARDING TRACT(S) 2A, 2B and 3B  
(2) AND AUTHORIZATION FOR DIRECT  
PAYMENT OF ROYALTIES

HEARING DATE: October 18, 2005



DRILLING UNIT: EE-33

BUCHANAN & RUSSELL COUNTIES, VIRGINIA

**AMENDED MISCELLANEOUS PETITION**

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, P. O. Box 947, Bluefield, Virginia 24605, 276/988-1000. Petitioner's counsel is Mark A. Swartz, **SWARTZ & STUMP, L.C.**, P.O. Box 517, Abingdon, VA 24212.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 2A, 2B and 3B as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Swords Creek Land Partnership and Clell Edward Metcalf, et al. c/o J.C. Franks, Agent; and Coal Mountain Mining Co., and Clell Edward Metcalf, et al. c/o J.C. Franks, Agent

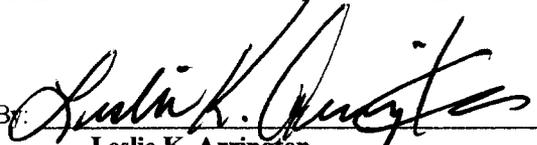
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 *et seq.*, 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

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

5. **Factual basis for relief requested:** Swords Creek Land Partnership and Clell Edward Metcalf, et al. c/o J.C. Franks, Agent; Coal Mountain Mining Co., and Clell Edward Metcalf, et al. c/o J.C. Franks, Agent have entered into a royalty split agreement. Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and, further, specifies how said royalties are to be divided and paid, to-wit: 30.1664 percent of escrow to Swords Creek Land Partnership and 8.5346 percent of escrow to Coal Mountain Mining Co.; 38.7010 total percent of escrow to Clell Edward Metcalf, et al. c/o J.C. Franks, Agent.

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  
Manager – Environmental / Permitting  
CNX Gas Company LLC  
P.O. Box 947  
Bluefield, Virginia 24605  
276/988-1000

PROPERTY LINES SHOWN WERE TAKEN FROM ~~AS PROVIDED~~  
BY CNX LAND RESOURCES, Inc. AND WERE NOT ~~SUBMITTED~~

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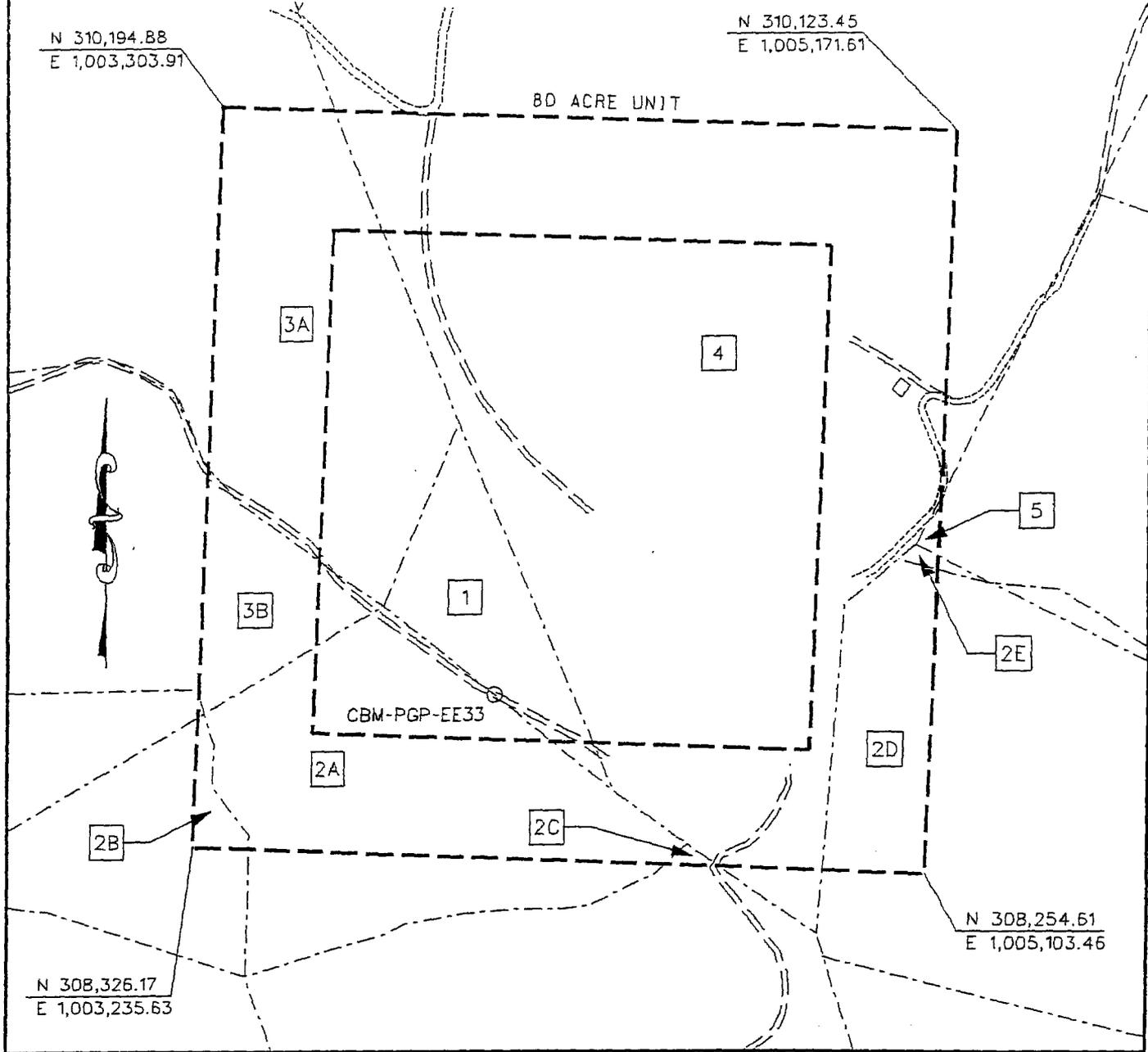
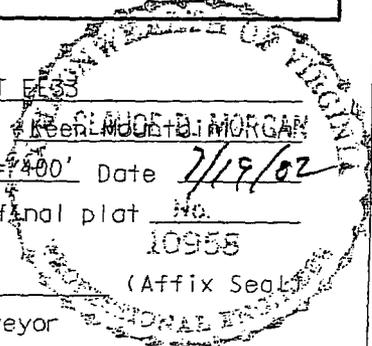


EXHIBIT A  
 OAKWOOD FIELD UNIT EE-33  
 FORCE POOLING  
 VG0B-02-0820-1054

Company Pocahontas Gas Partnership Well Name and Number UNIT EE33  
 Tract No. \_\_\_\_\_ Elevation \_\_\_\_\_ Quadrangle Keen Mountain  
 County Buchanan/Russell District Garden/New Garden Scale: 1" = 400' Date 7/19/02  
 This plat is a new plat X; an updated plat \_\_\_\_\_; or a final plat NO.

Form D60-G0-7  
 Rev. 9/91

Clayton D. Mays  
 Licensed Professional Engineer or Licensed Land Surveyor



**POCAHONTAS GAS PARTNERSHIP  
UNIT EE-33  
Tract Identifications**

- 1. Jackie Richardson, et al – Fee  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
4.11 acres 5.1375%
- 2A. Swords Creek Land Partnership Tr. 21 – Coal  
Reserve Coal Properties Company – Below Tiller Coal Leased  
Sandy Ridge Energy Corp. – Tiller and Above Coal Leased  
Pocahontas Gas Partnership – CBM Leased  
Clell Edward Metcalf, et al – Surface, Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
10.77 acres 13.4625%
- 2B. Swords Creek Land Partnership Tr. 21 – Coal  
Reserve Coal Properties Company – Below Tiller Coal Leased  
Sandy Ridge Energy Corp. – Tiller and Above Coal Leased  
Pocahontas Gas Partnership – CBM Leased  
Clell Edward Metcalf, et al – Surface, Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
0.47 acres 0.5875%
- 2C. Swords Creek Land Partnership Tr. 21 – Coal  
Reserve Coal Properties Company – Below Tiller Coal Leased  
Sandy Ridge Energy Corp. – Tiller and Above Coal Leased  
Pocahontas Gas Partnership – CBM Leased  
Jackie Richardson, et al – Surface, Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
0.08 acres 0.1000%
- 2D. Swords Creek Land Partnership Tr. 21 – Coal  
Reserve Coal Properties Company – Below Tiller Coal Leased  
Sandy Ridge Energy Corp. – Tiller and Above Coal Leased  
Pocahontas Gas Partnership – CBM Leased  
Dollie S. Belcher – Surface, Oil and Gas  
4.13 acres 5.1625%
- 2E. Swords Creek Land Partnership Tr. 21 – Coal  
Reserve Coal Properties Company – Below Tiller Coal Leased  
Sandy Ridge Energy Corp. – Tiller and Above Coal Leased  
Pocahontas Gas Partnership – CBM Leased  
Edgar Wilson – Surface, Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
0.08 acres 0.1000%

**POCAHONTAS GAS PARTNERSHIP**  
**UNIT EE-33**  
**Tract Identifications**

- 3A. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 1 – Coal  
Reserve Coal Properties Company – Below Drainage Coal Leased  
Sandy Ridge Energy Corp. – Above Drainage Coal Leased  
Pocahontas Gas Partnership – CBM Leased  
New Garden coal Corp. – Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
12.56 acres                      15.7000%
- 3B. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 1 – Coal  
Consolidation Coal Company - Below Drainage Coal Leased  
New Garden Coal Corp. - Above Drainage Coal Leased  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
Ciell Edward Metcalf, et al – Surface, Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
3.18 acres                      3.9750%
4. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 35 – Coal, Oil and Gas  
Consolidation Coal Company – Below Drainage Coal Leased  
New Garden Coal Corp. – Above Drainage Coal Leased  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
Jackie Richardson, et al – Surface  
44.51 acres                      55.6375%
5. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 36 – Coal  
Reserve Coal Properties Company - Below Drainage Coal Leased  
Sandy Ridge Energy Corp. - Above Drainage Coal Leased  
Pocahontas Gas Partnership - CBM Leased  
Edgar Wilson – Surface, Oil and Gas  
Pocahontas Gas Partnership – Oil, Gas and CBM Leased  
0.11 acres                      0.1375%

Exhibit EE  
Unit EE-33

BOOK 04011201133

Docket #VGOB 02-0820-1054

List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit	Percent of Escrow
			18.63
<b><u>Tract #2A, 10.77 acres</u></b>			
<b><u>COAL FEE OWNERSHIP</u></b>			
(1) Swords Creek Land Partnership, Tr.21 P.O. Box 187 Tazewell, VA 24651	10.77 acres	13.4625%	57.8100%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>			
(1) Clell Edward Metcalf, et al. c/o J.C. Franks 621 Peavler Street Marion, VA 24354	10.77 acres	13.4625%	57.8100%
<b><u>Tract #2B, 0.47 acres</u></b>			
<b><u>COAL FEE OWNERSHIP</u></b>			
(1) Swords Creek Land Partnership, Tr.21 P.O. Box 187 Tazewell, VA 24651	0.47 acres	0.5875%	2.5228%
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>			
(1) Clell Edward Metcalf, et al. c/o J.C. Franks 621 Peavler Street Marion, VA 24354	0.47 acres	0.5875%	2.5228%
<b><u>Tract #2E, 0.08 acres</u></b>			
<b><u>COAL FEE OWNERSHIP</u></b>			
(1) Swords Creek Land Partnership, Tr.21 P.O. Box 187 Tazewell, VA 24651	0.08 acres	0.1000%	n/a
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>			
(1) Edgar S. Wilson Heirs, Devisees, Successors or Assigns	0.08 acres	0.1000%	
(a) Evelyn Geraldine Miller P.O. Box 147 Swords Creek, VA 24649	0.016 acres 1/5 of 0.08 acres	0.0200%	n/a
(b) William & Linda Wilson Rt.1 Box 411G Lebanon, VA 24266	0.016 acres 1/5 of 0.08 acres	0.0200%	n/a
(c) Harold Wilson Rt.1 Box 369B Cedar Bluff, VA 24609	0.016 acres 1/5 of 0.08 acres	0.0200%	n/a

List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit	Percent of Escrow
			18.63
(d) Janice W. Keen Rt.1 Box 217 Swords Creek, VA 24649	0.016 acres 1/5 of 0.08 acres	0.0200%	n/a
(e) Jeffery Wilson Rt.1 Box 318 Raven, VA 24639	0.016 acres 1/5 of 0.08 acres	0.0200%	n/a

**Tract #3A, 12.56 acres**

**COAL FEE OWNERSHIP**

(1) Coal Mountain Mining Company, Tr.1 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	12.56 acres	15.7000%	n/a
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**OIL & GAS FEE OWNERSHIP**

(1) New Garden Coal Corporation c/o Edward Vandyke P.O. Box 29 Tazewell, VA 24651	12.56 acres	15.7000%	n/a
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**Tract #3B, 3.18 acres**

**COAL FEE OWNERSHIP**

(1) Coal Mountain Mining Company, Tr.1 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	3.18 acres	3.9750%	17.0692%
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**OIL & GAS FEE OWNERSHIP**

(1) Clell Edward Metcalf, et al. c/o J.C. Franks 621 Peavler Street Marion, VA 24354	3.18 acres	3.9750%	17.0692%
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**Tract #5, 0.11 acres**

**COAL FEE OWNERSHIP**

(1) Coal Mountain Mining Company, Tr.36 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	0.11 acres	0.1375%	n/a
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**OIL & GAS FEE OWNERSHIP**

(1) Edgar S. Wilson Heirs, Devisees, Successors or Assigns	0.11 acres	0.1375%	
(a) Evelyn Geraldine Miller P.O. Box 147 Swords Creek, VA 24649	0.022 acres 1/5 of 0.11 acres	0.0275%	n/a

Exhibit EE  
Unit EE-33  
Docket #VGOB 02-0820-1054

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List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Interest in Unit	Percent of Escrow
			18.63
(b) William & Linda Wilson Rt.1 Box 411G Lebanon, VA 24266	0.022 acres 1/5 of 0.11 acres	0.0275%	n/a
(c) Harold Wilson Rt.1 Box 369B Cedar Bluff, VA 24609	0.022 acres 1/5 of 0.11 acres	0.0275%	n/a
(d) Janice W. Keen Rt.1 Box 217 Swords Creek, VA 24649	0.022 acres 1/5 of 0.11 acres	0.0275%	n/a
(e) Jeffery Wilson Rt.1 Box 318 Raven, VA 24639	0.022 acres 1/5 of 0.11 acres	0.0275%	n/a

BOOK 040110.36

**Exhibit A**  
**Tract-by-Tract Escrow Calculation**  
**Account Balances as of 9/30/05**

Unit EE-33  
 VGOB 02-0820-1054-01  
 Acres Escrowed: 18.63

Owners	Tract #	Total Acres	Owners' Acres	Total Tract Percent of Escrow	Owners' Percent of Escrow	Amount Due Owners \$10,207.18
Swords Creek Land Partnership - Coal	2a	10.770	5.385	57.8100%	28.9050%	\$2,950.38
Clell E. Metcalf, et al. - O&G			5.385		28.9050%	\$2,950.38
Swords Creek Land Partnership - Coal	2b	0.470	0.235	2.5228%	1.2614%	\$128.75
Clell E. Metcalf, et al. - O&G			0.235		1.2614%	\$128.75
	2c	0.080	0.040	0.4294%	0.2147%	\$21.92
			0.040		0.2147%	\$21.92
	2d	4.130	2.065	22.1685%	11.0843%	\$1,131.39
			2.065		11.0843%	\$1,131.39
Coal Mountain Mining - Coal	3b	3.180	1.590	17.0692%	8.5346%	\$871.14
Clell E. Metcalf, et al. - O&G			1.590		8.5346%	\$871.14

Unit FF-33  
 VGOB 03-0415-1142-01  
 Acres Escrowed: 69.43

Owners	Tract #	Total Acres	Owners' Acres	Total Tract Percent of Escrow	Owners' Percent of Escrow	Amount Due Owners \$11,887.94
	1a, 1g	37.320	18.660	53.7520%	26.8760%	\$3,195.00
			18.660		26.8760%	\$3,195.00
	1b	1.430	0.715	2.0596%	1.0298%	\$122.42
			0.715		1.0298%	\$122.42
	1c	2.870	1.435	4.1337%	2.0668%	\$245.70
			1.435		2.0668%	\$245.70
	1f	20.520	10.260	29.5549%	14.7775%	\$1,756.74
			10.260		14.7775%	\$1,756.74
	1h	2.110	1.055	3.0390%	1.5195%	\$180.64
			1.055		1.5195%	\$180.64
Swords Creek Land Partnership - Coal	1i, 1j	5.180	2.590	7.4608%	3.7304%	\$443.46
Clell E. Metcalf, et al. - O&G			2.590		3.7304%	\$443.46

Docket #VGOB 02-0820-1054  
List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Interest in Unit
<b>Tract #2C, 0.08 acres</b>		
<b>COAL FEE OWNERSHIP</b>		
(1) Swords Creek Land Partnership, Tr.21 P.O. Box 187 Tazewell, VA 24651	0.08 acres	0.1000%
<b>OIL &amp; GAS FEE OWNERSHIP</b>		
(1) Jackie Richardson, et al. Jackie & Phyllis Richardson RR1 Box 369 Swords Creek, VA. 24649	0.08 acres	0.1000%
<b>Tract #2D, 4.13 acres</b>		
<b>COAL FEE OWNERSHIP</b>		
(1) Swords Creek Land Partnership, Tr.21 P.O. Box 187 Tazewell, VA 24651	4.13 acres	5.1625%
<b>OIL &amp; GAS FEE OWNERSHIP</b>		
(1) Dollie S. Belcher RR1 Box 264 Raven, VA 24639	4.13 acres	5.1625%

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, 3-13, 2006. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 11:25 o'clock A. M, after payment of \$ - tax imposed by Sec. 58.1-802.

TESTE: DOLLIE M. COMPTON, CLERK  
BY: Ans. Reynolds D. CLERK

Original returned this date to: DIANE JAVIS

0600822

VIRGINIA: In the Clerk's Office of the Circuit Court of Buchanan County. The foregoing instrument was this day presented in the office aforesaid and is, together with the certificate of acknowledgment annexed, admitted to record this 13<sup>th</sup> day of March, 2006 5:05 P. M.  
Deed Book No. Amme and Page No. -.  
Returned to: Amme  
TESTE: James M. Bevins, Jr., Clerk  
TESTE: Quincy S. Siller Deputy Clerk

INSTRUMENT #060000775  
RECORDED IN THE CLERK'S OFFICE OF  
BUCHANAN COUNTY ON  
MARCH 13, 2006 AT 03:09PM  
JAMES M. BEVINS, CLERK  
RECORDED BY: AKT

#25

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