

892

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

SUPPLEMENTAL ORDER REGARDING DOCKET NUMBER  
VGOB 02-1119-1090

ELECTIONS: UNIT D-39  
(herein "Subject Drilling Unit")

REPORT OF BOARD

FINDINGS AND ORDER

This Supplemental Order is entered by the Board *sua sponte* in the form authorized by the Board at hearings held on February 15, 1994 and June 16, 1992; and this Supplemental Order is being recorded for the purpose of supplementing the Order previously in the captioned matter on April 20, 2004 which was recorded at Deed Book 591, Page 780 in the Office of the Clerk of the Circuit Court of Buchanan County, Virginia, on April 28, 2004, (herein "Board Order") and completing the record regarding elections.

Findings: The Board finds that:

The Board Order directed CNX GAS COMPANY LLC (herein "Designated Operator") to mail copies of the Board Order to all Respondents whose interests, if any, were pooled by the said Board Order;

The Designated Operator filed its affidavit of elections disclosing that it had mailed a true and correct copy of the Board's Order to all Respondents whose interests, if any, were pooled by said Board Order;

The Board Order required each Respondent whose interests, if any, were pooled by the terms of said Board Order to make an election within thirty (30) days after the date of mailing or recording, as applicable, of said Order; the affidavit of elections filed herein and annexed hereto as Exhibit A states: (i) whether each Respondent has made or failed to make a timely election; (ii) the nature of any election(s) made; and (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, interests, estates and claims in Subject Drilling Unit to the Applicant;

That the affidavit of elections annexed hereto with the Exhibits submitted therewith identifies the Respondent(s) making a timely election, if any; identifies the Respondent(s), if any, who are deemed to have leased; identifies the conflicting interests and claims which require escrow; identifies the interests and claims, if any, requiring escrow under Virginia Code section 45.1-361.21.D.; and identifies the Respondents, if any, who may be dismissed by reason of having leased or entered into a voluntary agreement with the Applicant.

The affidavit of elections indicates whether or not the escrow of funds is required with regard to Unit D-39;

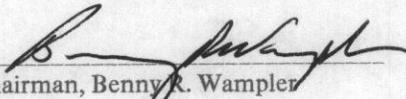
Order: By this Order, the Board orders the Designated Operator to tender, consistent with and in accordance with the findings set forth at paragraph 2. above and the annexed affidavit of elections with Exhibits thereto, any funds subject to escrow and instructs the Escrow Agent, Wachovia Bank, Corporate Trust PA1328, 123 Broad Street, Philadelphia, PA 19109-1199, Attn: Rachel Rafferty 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 the affidavit of elections with Exhibits thereto, to receive funds and account to the Board therefore.

Mailing of Order and Filing of Affidavit: The Designated Operator under the captioned Order or shall file an affidavit with the Secretary of the Board within ten (10) days after the date of receipt of this Order stating that a true and correct copy of this Order was mailed to each Respondent whose interests or claims are subject to escrow and whose address is known within seven seven (7) days from the date of receipt of this Order.

Conclusion: Therefore, the findings and all terms and provisions set forth above be and hereby are granted and IT IS SO ORDERED.

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

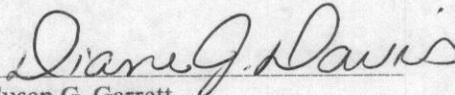
DONE AND EXECUTED this 8<sup>th</sup> day of March, 2005, by a majority of the Virginia Gas and Oil Board.

  
Chairman, Benny R. Wampler

STATE OF VIRGINIA  
COUNTY OF ~~WISE~~

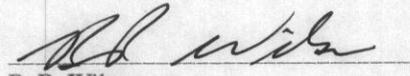
Washington

Acknowledged on this 8<sup>th</sup> day of March, 2005, 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  
Notary

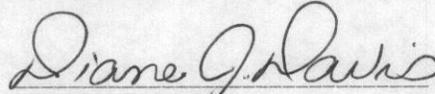
My commission expires: 9/30/05.

DONE AND PERFORMED THIS 11<sup>th</sup> day of March, 2005, by Order of the Board.

  
B. R. Wilson,  
Principal Executive to the Board

STATE OF VIRGINIA  
COUNTY OF WASHINGTON

Acknowledged on this 11<sup>th</sup> day of March, 2005, 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 Director of the Division of Gas & Oil Board and Principal Executive to the Board, that he executed the same and was authorized to do so.

  
Diane J. Davis, Notary

My commission expires: 9/30/05.

VIRGINIA:

Exhibit A

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

Application of CNX Gas Company LLC for Forced Pooling of Interests in CBM Unit D-39  
VGOB 02-1119-1090 in the Garden District of Buchanan County, Virginia

AFFIDAVIT OF CNX GAS COMPANY LLC (herein "Designated Operator") REGARDING ELECTIONS,  
ESCROW AND SUPPLEMENTAL ORDER

Leslie K. Arrington, being first duly sworn on oath, deposes and says:

That your affiant is employed by CNX Gas Company LLC, as a Manager - Environmental / Permitting and is duly authorized to make this affidavit on behalf of CNX GAS COMPANY LLC, the designated operator,

That the Order entered on April 20, 2004, by the Virginia Gas and Oil Board (hereinafter "Board") regarding the captioned CBM Unit required the Applicant to mail a true and correct copy of said Order to each person pooled by the Order;

That within seven (7) days of receipt of an executed copy of the Order referred to at paragraph 2. above, your affiant caused 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 were added as Respondents at the hearing held in the captioned matter; that proof of such mailing has previously been tendered to the Division of Gas and Oil, the Office of the Gas and Oil Inspector, at Abingdon, Virginia;

That the Order of the 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 the Order was recorded in the counties identified above; that said Order was recorded on April 28, 2004;

That the designated operator CNX GAS COMPANY LLC has established procedures to review all mail received and all written documents received other than by mail to ascertain whether parties whose interests 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 the Subject Unit; that the following persons delivered, by mail or otherwise, written elections the Unit Operator, within the thirty day elections period:

None

That Respondents identified in Exhibit B-3 hereto are, having failed to make any election, deemed to have leased their coalbed methane rights, interests and claims to Applicant, all as provided in the Board's Order of April 20, 2004;

See attached Exhibit B-3

That the rights, interests and claims of the following persons are subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia:

None

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:

None

That to the extent any of said persons listed in Exhibit B-2 have rights, interests and claims which are subject to escrow, they should be dismissed as respondents; the Operator requests that the following persons be dismissed as Respondents:

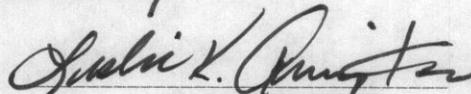
None

That the persons identified in Exhibit EE attached hereto have entered into royalty split agreements that allow the Applicant/Designated Operator to pay them directly without the need to escrow funds which would otherwise be in conflict.

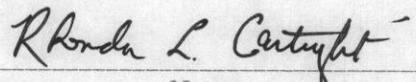
None

That pursuant to the provisions of VAC 25-160-70.A.10. and C. and VAC 25-160-80 the annexed supplemental order sets forth the interests and claims that require escrow of funds pursuant to Virginia Code sections 45.1-361.21.D. and 45.1-361.22.A.3. and 4.

Dated at Tazewell, Virginia, this 21<sup>st</sup> day of February, 2005.

  
Leslie K. Arrington

Taken, subscribed and sworn to before me by Leslie K. Arrington as a Manager - Environmental / Permitting for CNX Gas Company LLC, on behalf of the corporate Designated Operator, this 21<sup>st</sup> day of February, 2005.

  
Notary

My commission expires: 10/31/05.

PROPERTY LINES SHOWN WERE TAKEN FROM MAPS PROVIDED BY CNX LAND RESOURCES, Inc. AND WERE NOT SURVEYED.

BOOK 0591 PAGE 0791

BOOK 0614 PAGE 0013

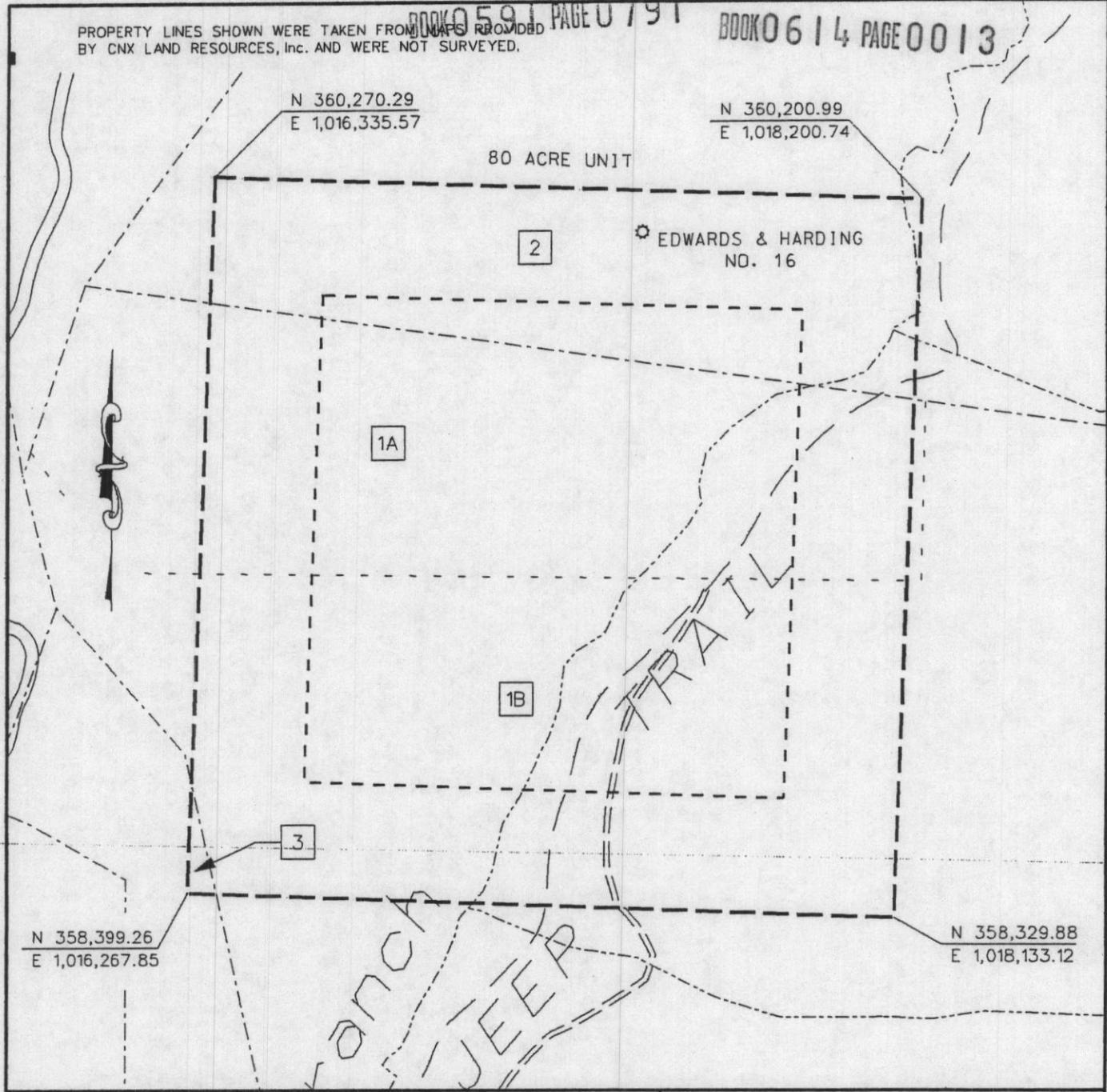


EXHIBIT A  
 OAKWOOD FIELD UNIT D-39  
 FORCE POOLING  
 VGOB-02-1119-1090

Company CONSOL Energy Inc. Well Name and Number UNIT D39

Tract No. \_\_\_\_\_ Elevation \_\_\_\_\_ Quadrangle Patterson

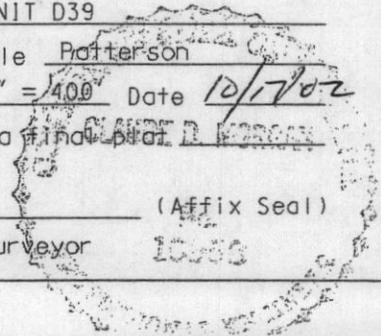
County Buchanan District Garden Scale: 1" = 400' Date 10/17/02

This plat is a new plat X; an updated plat \_\_\_\_\_; or a final plat \_\_\_\_\_

Form DGD-GO-7  
Rev. 9/91

Claude D. Meyer  
 Licensed Professional Engineer or Licensed Land Surveyor

(Affix Seal)



**POCAHONTAS GAS PARTNERSHIP**

**Unit D- 39**

**Tract Identifications**

1. Pocahontas Mining Company Tr. 69 - Fee  
Reserve Coal Properties Company - P-3 Seam and 250' Above Leased  
Jewell Smokeless Coal Corp. - Above Drainage Coal Leased  
Pocahontas Gas Partnership - CBM Leased Below Base of Tiller Seam  
61.66 acres                      77.0750 %
  
- 1A. Virginia Gas Exploration Company - Oil and Gas Leased
- 1B. Pocahontas Gas Partnership - Oil and Gas Leased
  
2. Robert S. Mullin, Jr., et al. - Fee  
Island Creek Coal Company/Consolidation Coal Company - Below Tiller Seam Leased  
Jewell Smokeless Coal Corp. - Tiller and Above Coal Leased  
Virginia Gas Exploration Company - Oil, Gas and CBM Leased  
18.12 acres                      22.6500 %
  
3. Tazewell Coal and Iron Company - All Minerals  
Reserve Coal Properties Company - Below Drainage Coal Leased  
Jewell Smokeless Coal Company - Jewell and Jawbone Seams Leased  
Consolidation Coal Company - Oil and Gas Leased  
Pocahontas Gas Partnership - CBM Leased  
Virginia Gas Exploration Company - Oil and Gas Sublessee by Agreement  
Unknown Surface Owner  
0.22 acres                      0.2750 %

Exhibit B-3  
 Unit D-39  
 Docket #VGOB 02-1119-1089  
 List of Unleased Owners/Claimants

BOOK 0614 PAGE 0015

|  | Acres in Unit                     | Percent of Unit |
|--|-----------------------------------|-----------------|
| <b>I. COAL FEE OWNERSHIP</b>   |                                   |                 |
| <u>Tract #2, 18.12 acres</u>   |                                   |                 |
| (1) Robert S. Mullin, Jr., et al.<br>(Grat M. Mullin, et al.)                                    | 18.12 acres                       | 22.6500%        |
| (a) Grat M. Mullin, Agent<br>479 Tivoli Drive<br>Jacksonville, FL 32259                          | 4.530 acres<br>1/4 of 18.12 acres | 5.6625%         |
| (b) Robert S. Mullin, Jr.<br>1588 Leaning Oak Road<br>Boones Mille, VA 24065                     | 4.530 acres<br>1/4 of 18.12 acres | 5.6625%         |
| (c) Alex R. Valdo & Marguerite M. Valdo<br>10541 East Cedar Waxwing Drive<br>Sun Lakes, AZ 85248 | 9.060 acres<br>1/2 of 18.12 acres | 11.3250%        |
| <b>II. OIL &amp; GAS FEE OWNERSHIP</b>   |                                   |                 |
| <u>Tract #2, 18.12 acres</u>   |                                   |                 |
| (1) Robert S. Mullin, Jr., et al. *  | 18.12 acres                       | 22.6500%        |
| (a) Grat M. Mullin, Agent<br>479 Tivoli Drive<br>Jacksonville, FL 32259                          | 4.530 acres<br>1/4 of 18.12 acres | 5.6625%         |
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| (c) Alex R. Valdo & Marguerite M. Valdo<br>10541 East Cedar Waxwing Drive<br>Sun Lakes, AZ 85248 | 9.060 acres<br>1/2 of 18.12 acres | 11.3250%        |

\* Oil, Gas & CBM leased by Virginia Gas Exploration Company (now Appalachian Energy)

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 14th day of March, 2005 2:34P. M. The tax imposed by §58-71-802 of the Code has been paid in the amount of \$          .  
 Deed Book No.            and Page No.           . TESTE: James M. Bevins, Jr., Clerk  
 Returned to: Dmme TESTE: Dwight S. Miller Deputy Clerk