

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 Dianna L.
Boothe, Herbert Sampson and Harrison-Wyatt,
LLC.

DOCKET NO.

03-0916-1189-01

RELIEF SOUGHT:

Issuance: A Supplemental Order for Disbursement of Escrowed Funds
Action: Amending Prior Orders Affecting Drilling **BA-100**,
Tract 1B
(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 **BA-100** by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling

REPORT OF THE BOARD**FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on September 15, 2009 at the Russell County Government Center, 139 Highland Drive in Lebanon, 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 September 16, 2003 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 January 22, 2004, Deed Book 0584 Page 0125 to 0140. Instrument Number 040000256. The Board executed its Supplemental Order Regarding Elections that was filed with the Clerk of the Circuit Court of Buchanan County on March 14, 2005, Deed Book 0614 Page 0195 to 0207 Instrument Number 050000779.
- 4.2. To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, the coal estate ownership interests of Harrison-Wyatt, LLC and the gas ownership interests of Dianna L. Boothe and Herbert Sampson in a portion of Tract 1B in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Miscellaneous Petition regarding a portion of Tract 1B a copy of which is attached to and made a part hereof, states under oath that Harrison-Wyatt, LLC and the Applicants have entered into an agreement with regards to a portion of Tract 1B, that by the terms of the agreements, Harrison-Wyatt, LLC has entered into a split agreement regarding these tracts and escrow regarding these individual conflicting claims detailed herein, is no longer required for these parties.
- 4.4. The Unit Operator gave notice to Harrison-Wyatt, LLC and the applicants that the Board would consider its disbursement authorization at its hearing on September 15, 2009 and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to a portion of Tract 1B identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 1B 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) Dianna L. Boothe, Herbert Sampson and Harrison-Wyatt, LLC are the owners of the coal and gas acreage estate underlying a portion of VGOB Tract 1B of the Subject Drilling Unit;

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

VGOB Approved Disbursement
 VGOB-03-0916-1189-01
 BA-100

			Frac	Acreage	Split	Escrowed	% of
			Interest	Interest	Agreement	Acres	Escrowed Funds
				Disbursed		Total	
Table 1							
A portion of Tract 1B							
No	Tract	Disbursement Table					
		Totals				24.4207	
Harrison-Wyatt LLC				1.4107	50.0%	0.705	2.8883%
1	1B	Harrison-Wyatt LLC / P.O. Box 11000 / Danville, VA 24543					
Total Acres for Tract 1B				10.5800			
2	1B	Dianna L. Boothe / 3741 Celery Avenue / Sanford, FL 32771	1/15	0.7053	50.0%	0.3527	1.4441%
3	1B	Herbert Sampson / Attn: Dianna Boothe POA / 3741 Celery Avenue / Sanford, FL 32771	1/15	0.7053	50.0%	0.3527	1.4441%

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:

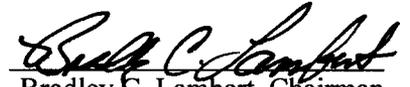
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. **Appeals:**

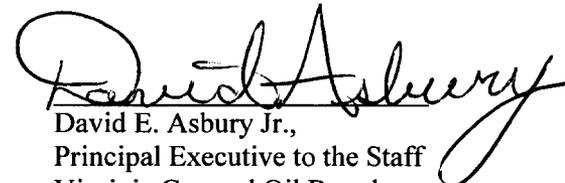
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated 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.

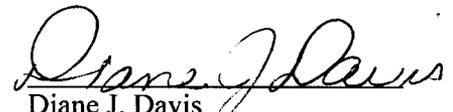

Bradley C. Lambert, Chairman

DONE AND PERFORMED this 31st day of August, 2009 by an Order of this Board.


David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 31st day of August, 2009, personally before me a notary public in and for the Commonwealth of Virginia, appeared Russell 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
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 03-0916-1189-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) A portion of Tract 1B
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: September 15, 2009

DRILLING UNIT: BA-100

BUCHANAN COUNTY, VIRGINIA

AUG 2009
BUCHANAN COUNTY
RECEIVED

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, 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 a portion of Tract(s) 1B as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Harrison-Wyatt, LLC and Dianna L. Boothe and Herbert Sampson

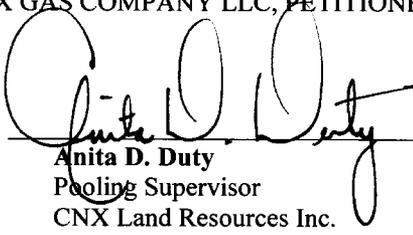
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

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

5. **Factual basis for relief requested:** Harrison-Wyatt, LLC and Dianna L. Boothe and Herbert Sampson have entered into royalty split agreement(s). Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and the annexed Exhibit A, further, specifies how said royalties are to be divided and paid.

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

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

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

BOOK 0585 PAGE 0136 BOOK 0614 PAGE 0199

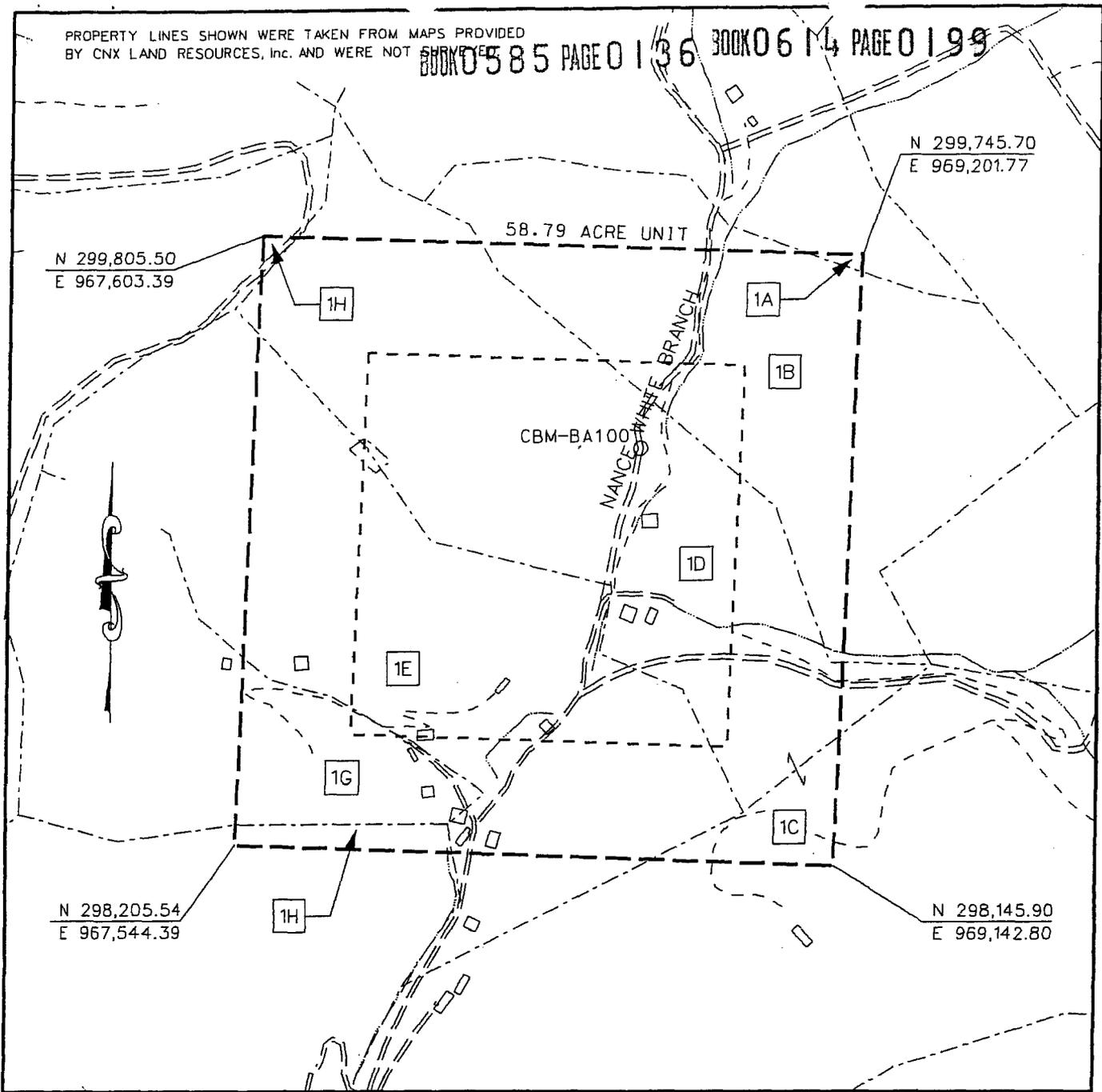
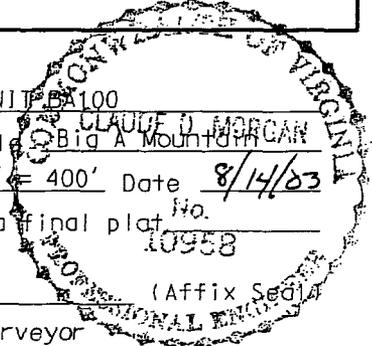


EXHIBIT A
 NDRA FIELD UNIT BA-100
 FORCE POOLING
 VGOB-03-0916-1189

Company CNX Gas Company LLC Well Name and Number UNIT BA100
 Tract No. _____ Elevation _____ Quadrangle Big A Mountain
 County Buchanan District Hurricane Scale: 1" = 400' Date 8/14/03
 This plat is a new plat ; an updated plat _____ ; or a final plat No. 10958

Form DGD-GD-7
 Rev. 9/91

Claude J. Morgan
 Licensed Professional Engineer or Licensed Land Surveyor



Tract-by-Tract Escrow Calculation
Account Balances as of 7/31/09

Unit BA100
 VGOB 03-0916-1189-01
 Acres Escrowed: 24.42066

Owners	Tract #	Acres	Owner Acres	Interest	Total Tract Percent of Escrow	Owners' Percent of Escrow (50%)	Amount Due Owners
Harrison-Wyatt, L.L.C. - Coal		1.41066					
Rosa Sander Heirs - O&G	1b	10.58000			5.77650%	2.88825%	\$1,826.36
Dianna L. Boothe			0.70533	1/15		1.44413%	\$913.18
Herbert Sampson			0.70533	1/15		1.44413%	\$913.18
Harrison-Wyatt, L.L.C. - Coal						38.75817%	\$24,508.37
Shirley H. Hess, et vir. - O&G	1e	18.93			77.51633%	38.75817%	\$24,508.37
Harrison-Wyatt, L.L.C. - Coal						8.35358%	\$5,282.31
Jimmy Harris - O&G	1g	4.08			16.70717%	8.35358%	\$5,282.31

Exhibit E
Unit BA-100
Docket #VGOB 03-0916-1189
List of Conflicting Owners/Claimants that require escrow
(58.79 Acre Unit)

	Acres in Unit	Percent of Unit
<u>Tract #1E - 18.93 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	18.93 acres	32.1994%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Shirley H. Hess, et vir. 421 Ash Street Honaker, VA 24260	18.93 acres	32.1994%
<u>Tract #1G - 4.08 acres</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	4.08 acres	6.9400%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Jimmy Harris * 1700 Township Road 11 Brinkhaven, OH 43006	4.08 acres	6.9400%

* The CBM interest is leased by Equitable Production Company.

Exhibit EE
Unit BA-100
Docket #VGOB 03-0916-1189
List of Conflicting Owners/Claimants with Royalty Split Agreements
(58.79 Acre Unit)

	Acres in Unit	Percent of Unit	Percent of Escrow
			24.42067
<u>Tract #1A - 0.07 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	0.07 acres	0.1191%	<i>n/a</i>
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Kenneth E. Harris 2775 Bandy Road Cedar Bluff, VA 24609	0.07 acres	0.1191%	<i>n/a</i>
<u>Tract #1B - 10.58 acres</u>			
<u>COAL FEE OWNERSHIP</u>			
(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	10.58 acres	17.9963%	<i>n/a</i>
<u>OIL & GAS FEE OWNERSHIP</u>			
(1) Rosa Sanders Heirs, Devisees, Successors or Assigns	10.58 acres	17.9963%	
(a) Foster E. Ball Heirs, Devisees, Successors or Assigns			
(a.1) Judy Faye Ball 54 Lumber Lane Honaker, VA 24260	2.116000 1/5 of 3.50 acres	3.5993%	<i>n/a</i>
(b) Sarah Jane Cook 1255 Dixie Lane Honaker, VA 24260	2.116000 1/5 of 3.50 acres	3.5993%	<i>n/a</i>
(c) Betty Marsh 425 Manhattan Drive Orlando, FL 32839	2.116000 1/5 of 3.50 acres	3.5993%	<i>n/a</i>
(d) Chester A. McGlothlin 4613 Old Grissom Creek Road Honaker, VA 24260	2.116000 1/5 of 3.50 acres	3.5993%	<i>n/a</i>
(e) Margaret Bowles Heirs, Devisees, Successors or Assigns			
(e.1) Karen Ludwigsen 213 Baxter Lane Mayock, NC 27958	0.705333 1/15 of 3.50 acres	1.1998%	<i>n/a</i>
(e.2) Dianna L. Boothe 3741 Celery Ave. Sanford, FL 32771	0.705333 1/15 of 3.50 acres	1.1998%	1.44413%

**Exhibit EE
Unit BA-100
Docket #VGOB 03-0916-1189
List of Conflicting Owners/Claimants with Royalty Split Agreements
(58.79 Acre Unit)**

	Acres in Unit	Percent of Unit	Percent of Escrow
			24.42067
(e.3) Herbert Sampson c/o Dianna L. Boothe, POA 3741 Celery Ave. Sanford, FL 32771	0.705333 1/15 of 3.50 acres	1.1998%	1.44413%

Tract #1C - 1.71 acres

COAL FEE OWNERSHIP

(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	1.71 acres	2.9087%	n/a
---	------------	---------	-----

OIL & GAS FEE OWNERSHIP

(1) Ruth Harris Heirs, Devisees, Successors or Assigns			
(a) Elizabeth McGlothlin 7060 Finnie Road Honaker, VA 24260	1.71 acres	2.9087%	n/a

Tract #1D - 22.45 acres

COAL FEE OWNERSHIP

(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	22.45 acres	38.1868%	n/a
---	-------------	----------	-----

OIL & GAS FEE OWNERSHIP

(1) Ruth Harris Heirs, Devisees, Successors or Assigns	22.45 acres	38.1868%	n/a
(a) Elizabeth McGlothlin 7060 Finnie Road Honaker, VA 24260			

Tract #1F - 0.85 acres

COAL FEE OWNERSHIP

(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	0.85 acres	1.4458%	n/a
---	------------	---------	-----

OIL & GAS FEE OWNERSHIP

(1) Lowery R. Childress, et ux. 2371 Nance White Branch Road Honaker, VA 24260	0.85 acres	1.4458%	n/a
--	------------	---------	-----

Royalties paid to:

Lowery R. Childress, et ux. 2371 Nance White Branch Road Honaker, VA 24260	50.00%
--	--------

Exhibit EE
 Unit BA-100
 Docket #VGOB 03-0916-1189
 List of Conflicting Owners/Claimants with Royalty Split Agreements
 (58.79 Acre Unit)

5879

	Acres in Unit	Percent of Unit	Percent of Escrow
Velma A. Childress 1150 Council Mountain Road Rowe, VA 24646	50.00%		24.42067

Tract #1H - 0.12 acres

COAL FEE OWNERSHIP

(1) Harrison-Wyatt, L.L.C. (Big Axe Tr.4) P.O. Box 11000 Danville, VA 24543	0.12 acres	0.2041%	n/a
---	------------	---------	-----

OIL & GAS FEE OWNERSHIP

(1) Dallis James, et ux. 4565 Old Grissom Creek Road Honaker, VA 24260	0.12 acres	0.2041%	n/a
--	------------	---------	-----

INSTRUMENT #0900002908
 RECORDED IN THE CLERK'S OFFICE OF
 SUCHANAN COUNTY ON
 SEPTEMBER 26, 2009 AT 10:41AM
 BEVERLY S. TILLER, CLERK
 RECORDED BY: EGE