

2141

BK1115PG0407

Instrument prepared by:  
**VIRGINIA GAS AND OIL BOARD**

Order recorded under:  
**CODE OF VIRGINIA**  
**§ 45.1-361.26**

**BEFORE THE VIRGINIA GAS AND OIL BOARD**

**RELIEF SOUGHT:** An Order for Disbursement of Escrowed Funds  
(and Authorization for Direct Payment of Royalties)

**JURISDICTION:** Code of Virginia § 45.1-351. (et seq) AND § 45.1-361.22 (et seq)

**UNIT/WELL NAME:** EE39  
**TRACT(S):** 2B  
**LOCATION:** Tazewell County, Virginia  
**TAX ID:** Plat and Plat ID

**APPLICANTS:** CNX Gas Company, LLC on behalf of the Estate of James T. Absher and CNX

**HEARING DATE AND LOCATION:** Russell County Government Center, Lebanon, Virginia  
April 17, 2012

**DOCKET NUMBER:** VGOB-03-1021-1203-02

**APPEARANCES:** Mark Swartz, Swartz Law Offices, PLLC represented CNX Gas Company LLC,  
Sharon M. B. Pigeon, Sr. Assistant Attorney General represented the Board.

**PRIOR PROCEEDINGS:**

1. Original Pooling Order Executed 10/21/03, Recorded 12/22/03, Deed Book 0898, Page 0166
2. Supplemental Order Executed 09/29/04, Recorded 10/19/04, Deed Book 924 Page 871
3. Disbursement Order Executed 06/14/2011, Recorded 08/10/11, Deed Book 1099, Page 142

**NOTICE:**

The Unit Operator gave notice to the Applicants that the Board would consider its disbursement petition at the April 17, 2012 hearing and consider whether to:

- (1) Amend the Pooling Order to provide for the disbursement of funds on deposit in the Escrow Account attributable to Tract B2 identified in the attached miscellaneous petition.
- (2) Delete the requirement that the Unit Operator place future royalties attributable to Tract 2B relative to the interests of the Applicants identified in the attached miscellaneous petition.
- (3) Continue the escrow account under this docket number.

**FINDINGS:** Code of Virginia § 45.1-361.22

Applicant has certified and represented to the Board that:

James T. Absher heirs, Devisees, Successors or Asssigns including Jerry Absher, Travis Absher, Joel Absher, Charles Absher, Coy Absher, Larry Absher, Karen Johnson, Lewis Osborne, Linda Absher, Tammy Walker and Janet Walker are entitled to 100 percent of the royalties according to the final order which was entered on June 13, 2011, Case No: CL11-461, adjudicating the ownership of coalbed methane gas. Pursuant to the "Agreed Order" in Case #CL11000906 which was entered on November 9, 2011, CNX Gas Company LLC is the current owner of the James Absher heirship property and has agreed to

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receive a one- time payout of 30% of the escrowed funds attributable to production through March 2007 (May 2007 escrow balance). CNX will receive 100% of the royalties beginning with June 2007 balance to present. This order allows the Applicant and Designated Operator to pay royalties directly to the prevailing plaintiffs identified in Exhibit EE annexed hereto and the annexed Exhibit A-1, further, specifies how said royalties are to be paid.

**RELIEF GRANTED:**

**Table 1 – Pay first and pay exact dollar amount found in the last column of the below table**

VGOB Approved Disbursement 03-1021-1203-02 EE39			Royalty Split Agreement	Escrowed Acres Disbursed	Percent of Escrowed Funds Disbursed	Disbursement \$
Table 1 Tract 2B						
Item	Tract	Disbursement Table				
		Total acreage in escrow as of 3/13/07 (prior to 01 disbursement)		2.7100		
		2B (court order)				
		Estate of James T. Absher O, G, CBM (sold to CNX 3/13/07)				
		<b>Pay Exact Dollar Amount</b>				
1	2B	Jerry Thomas Absher	70.0%	0.1105	4.0760%	\$ 166.99
2	2B	Travis Benton Absher	70.0%	0.1105	4.0760%	\$ 166.99
3	2B	Joel Lewis Absher	70.0%	0.1105	4.0760%	\$ 166.99
4	2B	Charles Wayne Absher	70.0%	0.1105	4.0760%	\$ 166.99
5	2B	Coy Allen Absher	70.0%	0.1105	4.0760%	\$ 166.99
6	2B	Larry Cline Absher	70.0%	0.1105	4.0760%	\$ 166.99
7	2B	Karen Lynn Johnson	70.0%	0.1105	4.0760%	\$ 166.99
8	2B	Lewis Yvonn Osborne	70.0%	0.1105	4.0760%	\$ 166.99
9	2B	Linda Absher (widow of Thurman Absher)	70.0%	0.0368	1.3587%	\$ 55.66
10	2B	Tammv Voleeda Walker (Child of Thurman David Absher)	70.0%	0.0368	1.3587%	\$ 55.66
11	2B	Janet Bliss Walker (Child of Thurman David Absher)	70.0%	0.0368	1.3587%	\$ 55.66
12	2B	CNX Gas Company LLC O, G & CBM	30.0%	0.4261	15.7218%	\$ 644.10

**Table 2 – Pay second based on the percentages in table 2 after deducting the above amount from the current dollars in escrow.**

VGOB Approved Disbursement 03-1021-1203-02 EE39			Royalty Split Agreement	Escrowed Acres Disbursed	Percent of Escrowed Funds Disbursed
Table 2 Tract 2B					
Item	Tract	Disbursement Table			
		Total acreage in escrow before disbursing 02		2.3900	
		2B (court order)			
1	2B	Coal Mountain Mining Co. Ltd Partnership LLP			
2	2B	CNX Gas Company LLC O, G & CBM	100.0%	1.4200	59.4142%

1. The Escrow Agent is ordered, to within ten (10) days of receipt of this executed order, disburse funds for the unit and applicants detailed in Table 1 and 2.
2. The Escrow Agent is ordered to CONTINUE the Escrow Account for the Subject Drilling unit based on the attached Revised Exhibit E which replaces all prior Exhibit E's recorded for the Subject Drilling Unit.

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**CONCLUSION:**

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

**APPEALS:**

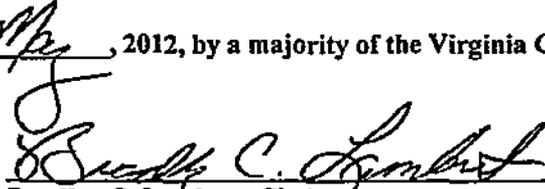
Appeals of this Order are governed by the provisions of the *Code of Virginia* § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field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

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**Effective Date:**

**This Order shall be effective on the date of its execution.**

DONE AND EXECUTED this 31 day of May, 2012, by a majority of the Virginia Gas and Oil Board.

  
\_\_\_\_\_  
Bradley C. Lambert, Chairman  
Virginia Gas and Oil Board

DONE AND PERFORMED this 31<sup>ST</sup> day of May, 2012 BY Order of the Virginia Gas and Oil Board.

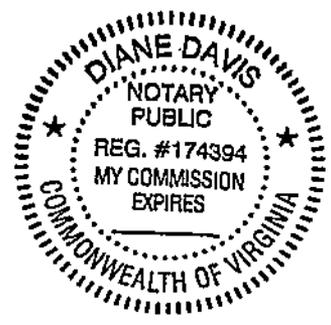
  
\_\_\_\_\_  
Rick Cooper, Principal Executive to the Staff  
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA  
COUNTY OF RUSSELL)

Acknowledged on this 31 day of May, 2012, 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 Rick Cooper, being duly sworn did depose and say that he is Acting Principal Executive to the Staff of the Virginia Gas and Oil Board, that they executed the same and were authorized to do so.

  
\_\_\_\_\_  
Diane J. Davis, Notary Public #174394

My commission expires: 09/30/2013



BEFORE THE VIRGINIA GAS AND OIL BOARD

0V 1115 PG 04 11  
PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL  
DOCKET NO: VGOB 03-1021-1203-02

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

HEARING DATE: April 17, 2012

DRILLING UNIT: EE-39

TAZEWELL COUNTY, VIRGINIA

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 Tract(s) 2B as depicted upon the annexed Exhibit A-1; and (2) authorization to begin paying royalties directly to CNX Gas Company LLC and the prevailing plaintiffs; James T. Absher Heirs, Devisees, Successors or Assigns including Jerry Absher, Travis Absher, Joel Absher, Charles Absher, Coy Absher, Larry Absher, Karen Johnson, Lewis Osborne, Linda Absher, Tammy Walker and Janet Walker (herein after referred to as "plaintiffs"). Pursuant to the "Agreed Order" of Case #CL11000906, CNX Gas Company LLC has agreed to receive 30% of the escrowed funds and the "plaintiffs" have agreed to receive a one-time payment of 70% of the escrowed funds attributable to production through March 2007 (May 2007 escrow balance). CNX will receive 100% of the royalties beginning with June 2007 balance to present.

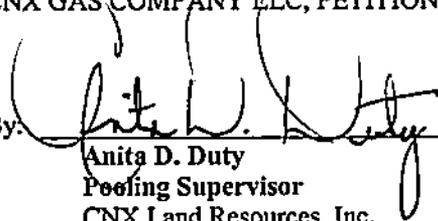
3. Legal Authority: Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

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

5. Factual basis for relief requested James T. Absher Heirs, Devisees, Successors or Assigns including Jerry Absher, Travis Absher, Joel Absher, Charles Absher, Coy Absher, Larry Absher, Karen Johnson, Lewis Osborne, Linda Absher, Tammy Walker and Janet Walker are entitled to 100% of the royalties according to the final order which was entered on June 13, 2011, Case No: CL11-461, adjudicating the ownership of coalbed methane gas. Pursuant to the "Agreed Order" in Case #CL11000906 which was entered on November 9, 2011, CNX Gas Company LLC is the current owner of the James Absher heirship property and has agreed to receive a one-time payout of 30% of the escrowed funds and the "plaintiffs" have agreed to receive a one-time payment of 70% of the escrowed funds attributable to production through March 2007 (May 2007 escrow balance). CNX will receive 100% of the royalties beginning with June 2007 balance to present. This order allows the Applicant and Designated Operator to pay royalties directly to the prevailing plaintiffs identified in Exhibit EE annexed hereto and the annexed Exhibit A-1, further, specifies how said royalties are to be 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 MA ROVIDE  
BY CNX LAND RESOURCES, Inc. AND WERE NOT SURVEYED.

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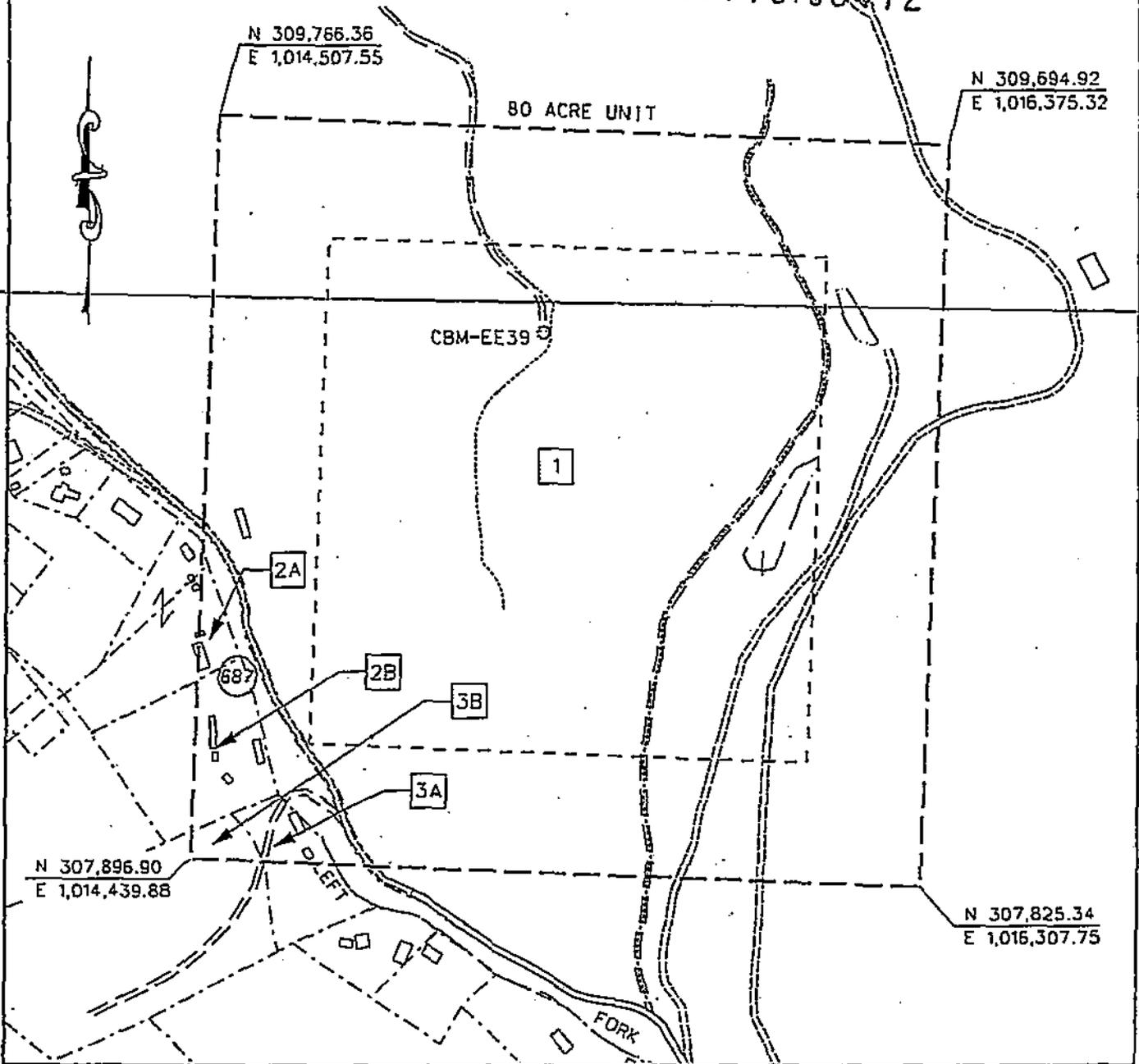


EXHIBIT A  
 OAKWOOD FIELD UNIT EE-39  
 FORCE POOLING  
 VGOB-03-1021-1203

Company CNX Gas Company LLC Well Name and Number UNIT EE39  
 Tract No. \_\_\_\_\_ Elevation \_\_\_\_\_ Quadrangle Keen Mountain  
 County Tazewell District Maiden Springs Scale: 1" = 400' Date 9/18/05  
 This plot is a new plot X ; an updated plot \_\_\_\_\_ ; or a final plot \_\_\_\_\_

Form DGD-GO-7  
 Rev. 9/91

*Charles D. May*  
 Licensed Professional Engineer or Licensed Land Surveyor

(Affix Seal)

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**CNX Gas Company LLC**

**UNIT EE-39**

**Tract Identifications**

1. Commonwealth Coal Company Tr. 9 (1497.62 Acre May-Painter Tract) - Fee Reserve Coal Properties Company - Below Tiller Coal Leased  
Knox Creek Coal Corporation - Tiller and Above Coal Leased  
CNX Gas Company LLC - Oil, Gas and CBM Leased  
(Tax Map 64, Parcel 0000)  
77.29 acres                      96.6125%
  
- 2A. Coal Mountain Mining Co. Limited Partnership, LLP Tr. 18 (185 Acre Tract) - Coal Reserve Coal Properties Company - Below Drainage Coal Leased  
CNX Gas Company LLC - CBM Leased  
Walter H. Boyd, et al. - Surface and All Minerals except Coal  
(Tax Map 84A, Parcel 121)  
0.41 acres                      0.5125%
  
- 2B. Coal Mountain Mining Co. Limited Partnership, LLP Tr. 18 (185 Acre Tract) - Coal Reserve Coal Properties Company - Below Drainage Coal Leased  
CNX Gas Company LLC - CBM Leased  
James T. Absher Tract - Surface and All Minerals except Coal  
CNX Gas Company LLC - Oil, Gas and CBM Leased  
(Tax Map 84A, Parcel 100)  
1.42 acres                      1.7750%
  
- 3A. Coal Mountain Mining Co. Limited Partnership, LLP Tr. 40 (158.50 Acre Tract) - Coal Reserve Coal Properties Company - Below Drainage Coal Leased  
CNX Gas Company LLC - CBM Leased  
Perry Deskins, et ux - Surface and All Minerals except Coal  
CNX Gas Company LLC - Oil, Gas and CBM Leased  
(Tax Map 84A, Parcel 97)  
0.56 acres                      0.7000%
  
- 3B. Coal Mountain Mining Co. Limited Partnership, LLP Tr. 40 (158.50 Acre Tract) - Coal Reserve Coal Properties Company - Below Drainage Coal Leased  
CNX Gas Company LLC - CBM Leased  
Betty Short, et al - Surface and All Minerals except Coal  
CNX Gas Company LLC - Oil, Gas and CBM Leased  
(Tax Map 84A, Parcel 92A)  
0.32 acres                      0.4000%

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Exhibit E  
Unit EE-39  
Docket #VGOB 03-1021-1203-02  
List of Conflicting Owners/Claimants that require escrow

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	Acres in Unit	Interest in Unit
<b><u>Tract #2A, 0.41 acres</u></b>		
<b><u>COAL OWNERSHIP</u></b>		
(1) Coal Mountain Mining Company, Tr.18 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	0.41 acres	0.5125%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>		
(1) Walter H. Boyd, et al.	0.41 acres	0.5125%
(a) Mable Marie Boyd 1181 Fork Ridge Road Raven, VA 24639	<i>Life Estate</i>	
(b) Carol Jean Asher P.O. Box 907 Raven, VA 24639	0.08 acres 1/5 of 0.41 acres	0.1025%
(c) Charles Walter Boyd 3148 Fork Ridge Road Raven, VA 24639	0.08 acres 1/5 of 0.41 acres	0.1025%
(d) Linda D. Cordill Dunbar 1650 Stanaford Road Beckley, WV 25801	0.08 acres 1/5 of 0.41 acres	0.1025%
(e) Freda Gail Thomas Rt.4 Box 173-16 Bluefield, WV 24701	0.08 acres 1/5 of 0.41 acres	0.1025%
(f) James Lee Boyd 2339 Bingham Island Selveville, TN 37876	0.08 acres 1/5 of 0.41 acres	0.1025%
<b><u>Tract #3A, 0.56 acres</u></b>		
<b><u>COAL OWNERSHIP</u></b>		
(1) Coal Mountain Mining Company, Tr.40 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	0.56 acres	0.7000%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>		
(1) Perry & Sylvia Naydine Deskins Star Route Box 37A Raven, VA 24639	0.56 acres	0.7000%

Exhibit EE  
Unit EE-39  
Docket #VGOB 03-1021-1203-02  
List of Conflicting Owners/Claimants with Royalty Split Agreements

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	Acres in Unit	Interest In Unit	Percent of Escrow
<b><u>Tract #2B, 1.42 acres</u></b>			
<b><u>COAL OWNERSHIP</u></b>			
(1) Coal Mountain Mining Company, Tr.18 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	1.42 acres	1.7750%	n/a
<b><u>OIL &amp; GAS OWNERSHIP</u></b>			
(1) CNX Gas Company LLC 1000 Consol Energy Drive Canonsburg, PA 15317 <i>(Previously owned by James T. Absher)</i>	1.42 acres	1.7750%	59.4142% *
<p>Note: <i>CBM ownership was adjudicated to the prevailing plaintiffs under Case no. CL 11000906 The Final Order was executed November 9, 2011 and plaintiffs were awarded 100% of the Coalbed Methane Gas underlying this tract.</i></p> <p>* <i>There will be a one time payout of 70% of the escrow to the heirs of James T. Absher and 30% to CNX Gas Company LLC (CNX) for their proportionate share up to March 2007 production. CNX purchased the property on 3/17/07 and will be paid at 100% from April 2007 production forward.</i></p>			

**Tract #3B, 0.32 acres**

**COAL OWNERSHIP**

(1) Coal Mountain Mining Company, Tr.40 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	0.32 acres	0.4000%	n/a
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**OIL & GAS OWNERSHIP**

(1) Betty J. Short <i>(Previously listed as Belty J. Short, et al)</i>			
(a) Betty J. Short 211 Hunter Ave. Pounding Mill, VA 24637	0.32 acres	0.4000%	

**Royalties should be paid as follows:**

Betty J. Short 211 Hunter Ave. Pounding Mill, VA 24637	0.24 acres 3/4 of 0.32 acres	0.3000%	n/a
Russell Bryan Rakes 1716 Green Mountain Road Cedar Bluff, VA 24609	0.08 acres 1/4 of 0.32 acres	0.1000%	n/a

*By Deed of Gift dated 4/9/11, Russell Bryan Rekes conveyed his 25% ownership inherited from Charles G. Rakes to Betty J. Short. (DB1092/PG708). In exchange, Betty J. Short assigned Russell Bryan Rakes a 25% royalty interest, executed 5/5/11.*

Note: *CBM ownership was adjudicated to the prevailing plaintiff under Case no. CL 11-206 The Order was executed March 11, 2011 and plaintiff was awarded 100% of the Coalbed Methane Gas underlying this tract.*

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**Exhibit A-1**  
**Tract-by-Tract Escrow Calculation**  
**Account Balances as of 5/30/2007**

Unit EE39  
 VGOB 03-1021-1203-02  
 Acres Escrowed: 2.71000

Owners	Tract #	Acres	Owner Acres	Interest	Owners Percentage	Amount Due Owners
Coal Mountain Mining Co. Limited Partnership, LLP - Coal Estate of James T. Absher - O. G. & CBM (Sold to CNX Gas 3/13/07)	2b	1.42				
Jerry Thomas Absher			1/9	0.1578	4.0754%	\$166.97
Travis Benton Absher			1/9	0.1578	4.0754%	\$166.97
Joel Lewis Absher			1/9	0.1578	4.0754%	\$166.97
Charles Wayne Absher			1/9	0.1578	4.0754%	\$166.97
Cov Allen Absher			1/9	0.1578	4.0754%	\$166.97
Larry Gale Absher			1/9	0.1578	4.0754%	\$166.97
Karen Lynn Johnson			1/9	0.1578	4.0754%	\$166.97
Lewis Yvonne Osborne			1/9	0.1578	4.0754%	\$166.97
Linda Absher (widow of Thurman David Absher)			1/27	0.0526	1.3585%	\$55.66
Tammy Yolanda Walker (Child of Thurman David Absher)			1/27	0.0526	1.3585%	\$55.66
Janel Bliss Welker (Child of Thurman David Absher)			1/27	0.0526	1.3585%	\$55.66
CNX Gas Company LLC - O.G. & CBM					15.7196%	\$844.01

\* Pay exact amount  
 \* Pay exact amount

Account Balances as of 1/31/2012 \*  
 Unit EE39  
 VGOB 03-1021-1203-02  
 Acres Escrowed: 2.39000

Owners	Tract #	Acres	Owner Acres	Interest	Amount Due Owners
Coal Mountain Mining Co. Limited Partnership, LLP - Coal CNX Gas Company LLC - O.G. & CBM	2b	1.42			\$9,020.30
					59.4142%

\* This figure is the result of the 1/31/12 balance of \$11,174.99 and subtracting the exact payout total of \$2,146.69

INSTRUMENT #120002141  
 IN THE CLERK'S OFFICE OF  
 WAZEY COUNTY, OK  
 DATE 2/28/2012 AT 02:08PM  
 RECEIVED BY: ANGELIC RAY  
 RECEIVED BY: ADR

Wells contributing to the escrow: EE39 and EE39A