

Instrument prepared by:

Order recorded under:

VIRGINIA GAS AND OIL BOARD

**CODE OF VIRGINIA
§ 45.1-361.26**

VIRGINIA:

BEFORE THE GAS AND OIL BOARD

APPLICANTS: Coal Creek Coal Company and Kenneth Anders (previously Emma Jean Vance).

DOCKET NO.

04-0120-1249-01

Tax Map Identification Numbers:
Tax Map Identification Numbers For All Parcels Affected By This Order Are Shown On Exhibit EE Which Is/Are Attached To And A Part Of This Order

RELIEF SOUGHT:

Issuance: ✓ A Supplemental Order for Disbursement of Escrowed Funds
Action: Amending Prior Orders Affecting Drilling Unit AX-135, Tract 2 (Referenced herein as "the Subject Drilling Unit")
Location: Tazewell County, Virginia

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit AX-135 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 Unit's Escrow Subaccount for **VGOB Tract(s) identified in Table 1.**

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 February 17, 2009, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
- 2. **Appearances:** Mark A. Swartz of Swartz Law Offices appeared for the Applicant; 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 tracts in question or any undivided interest therein.

4. **Prior Proceedings:**

- 4.1 On September 21, 2004, 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 Tazewell County on September 23, 2004, in Deed Book 0922, Page 0505, Instrument Number 040005199. The Supplemental Order was executed on March 8, 2005, and recorded in with the Clerk of the Court, Tazewell County on March 14, 2005, in Deed Book 0935, Page 0036, Instrument Number 050001120.
- 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 Coal Creek Coal Company, and the gas and oil ownership interests of Kenneth Anders (previously Emma Jean Vance) in tract known as 2, 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 Tract 2, a copy of which is attached to and made a part hereof, states under oath that Coal Creek Coal Company and the Applicant have entered into an agreement with regards to Tract 2, and that by the terms of the agreements, Coal Creek Coal Company has entered into a split agreement regarding this Tract and escrow regarding these individual conflicting claims detailed herein, is no longer required.
- 4.4 The Unit Operator gave notice to Coal Creek Coal Company and the applicants that the Board would consider its disbursement authorization at its hearing on January 20, 2004, 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 Tract 2, as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 2, and the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) close the escrow account under this docket number because all parties have reached a settlement agreement and all funds have been disbursed.
- 4.5 The Unit Operator filed the attached accounting (Exhibit A) 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) Coal Creek Coal Company and Kenneth Anders (previously Emma Jean Vance), respectively, are the owners of the coal estate, gas and oil acreage estate underlying VGOB Tract 2, of the Subject Drilling Unit;
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement
VGOB 04-0120-1249-01
UNIT AX-135

		Net Acreage in Tract	Royalty Split Agreement	Escrowed Acreage Disbursed	Percent of Escrowed Funds Disbursed
Table 1					
Tract 2					
Disbursement Table					
Acreage in escrow before disbursement				26.2400	
2	Coal Creek Coal Company, P.O. Box 323, Tazewell, VA 24651	26.2400	50.0%	13.120	50.0000%
2	Kenneth Anders, P.O. Box 558, Doran, VA 24612	26.2400	50.0%	13.120	50.0000%

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 no other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to close the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:

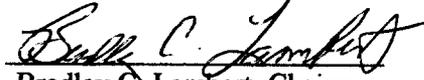
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. Appeals:

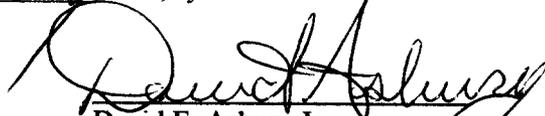
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated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

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

DONE AND EXECUTED this 17 day of Feb, 2009, by a majority of the Virginia Gas and Oil Board.

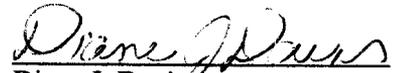

Bradley C. Lambert, Chairman

DONE AND PERFORMED this 17 day of February, 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 17th day of February, 2009, 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 **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 04-0120-1249-01

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

HEARING DATE: February 17, 2009

DRILLING UNIT: AX-135

TAZEWELL COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is **CNX Gas Company LLC**, 2481 John Nash Blvd., 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) 2 as depicted upon the Exhibit A; and (2) authorization to begin paying royalties directly to the parties to the royalty split between Coal Creek Coal Company and Kenneth Anders (previously Emma Jean Vance).

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.

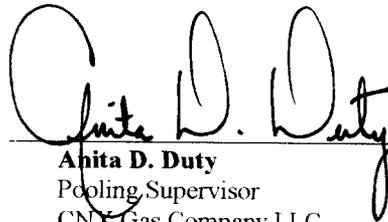
4. **Type of well(s):** Coalbed methane.

5. **Factual basis for relief requested:** Coal Creek Coal Company and Kenneth Anders (previously Emma Jean Vance), 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.

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: _____



Anita D. Duty
Pooling Supervisor
CNX Gas Company LLC
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.

01/23/2004 03:57:23 PM

N 302,558.35
E 1,023,673.96

N 302,500.94
E 1,025,272.44

58.74 ACRE UNIT



2

1

CBM-AX135

N 300,959.57
E 1,023,616.54

N 300,902.16
E 1,025,215.02

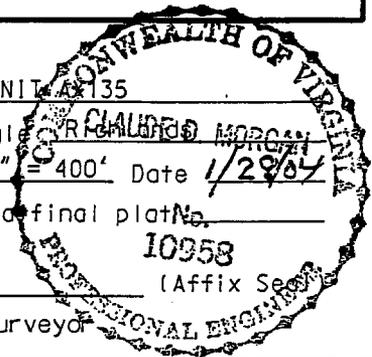
EXHIBIT A
MIDDLE RIDGE 1 FIELD
UNIT AX-135
FORCE POOLING
VGOB-04-0120-1249

Company CNX Gas Company LLC Well Name and Number UNIT AX135
Tract No. _____ Elevation _____ Quadrangle CR 1000
County Tazewell District Maiden Springs Scale: 1" = 400' Date 1/29/04
This plat is a new plat X ; an updated plat _____ ; or a final plat No. _____

Form DGO-GO-7
Rev. 9/91

Charles D. Morgan

Licensed Professional Engineer or Licensed Land Surveyor



CNX Gas Company LLC
Unit AX-135
Tract Identifications
(58.74 Acre Unit)

1. **Reserve Coal Properties Company (Harman-Huffman 1,031.53 Acre Tract) -
Tiller and Above Coal Seams**
**Mary A. Huffman, et al (13/60), Reserve Coal Properties Company (47/60) (Harman-
Huffman 1,031.53 Acre Tract) - Coal Below Tiller Seam Except P-3 Seam**
CNX Gas Company LLC - CBM Leased
**Mary A Huffman, et al (13/60), James W. Harman, Jr., et al. (47/60) (Harman-Huffman
1,031.53 Acre Tract) - P-3 Seam**
CNX Gas Company LLC – All Minerals except Coal
Reserve Coal Properties Company – Surface
(Tax Map 85 Parcel 18)
32.50 acres 55.3286%

2. **Coal Creek Coal Company Tr. 3 (Alexander P. McGlothlin 180 Acre Tract) – Coal**
Reserve Coal Properties Company – All Coal Leased
Knox Creek Coal Company – Tiller Seam Sublessee
CNX Gas Company LLC – Oil, Gas and CBM Leased
Emma Jean Vance – Surface and All Minerals except Coal
(Tax Map 85 Parcel 39)
26.24 acres 44.6714%

Exhibit A
Tract-by-Tract Escrow Calculation
Account Balances as of 12/31/08

Unit AX-135
 VGOB 04-0120-1249-01
 Acres Escrowed: 26.24

Owners	Tract #	Acres	Total Tract Percent of Escrow	Agreement	Owners' Percent of Escrow	Amount Due Owners
Coal Creek Coal Company	2	26.24	100.00%	50%	50.0000%	\$21,740.76
Kenneth Anders (prev. Emma Jean Vance, Deceased)				50%	50.0000%	\$21,740.76

Information presented here is for reference use only, CNX is not responsible for determinations made using the data represented here.

This information is for estimation purposes only.

OK 1049369463

Exhibit E
Unit AX-135

OK 1049760464

Docket #VGOB 04-0120-1249

List of Conflicting Owners/Claimants that require escrow
(58.74 Acre Unit)

Acres in Unit	Interest in Unit
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All conflicts have been resolved, escrow no longer required

Close Account after Disbursement

List of Conflicting Owners/Claimants with Royalty Split Agreements
(58.74 Acre Unit)

	Acres in Unit	Interest in Unit	Percent of Escrow
Tract #1, 32.50 acres <i>Tax Map 85 Parcel 18</i>			
COAL FEE OWNERSHIP			
(1) Mary A. Huffman, et al.	32.50 acres	55.3286%	n/a
(Coal below Tiller Seam exc. P3)			
(a) Mary A. Huffman P. O. Box 926 Richlands, VA 24641	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(b) James W. Huffman c/o Mary A. Huffman P. O. Box 926 Richlands, VA 24641	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(c) Jacob H. & Dana Huffman, III P.O. Box 9 McGuady, KY 40153	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(d) A & R Holdings, Inc. 111 Monte Vista Drive Glade Springs, VA 24340	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(2) Reserve Coal Properties P. O. Box 947 Bluefield, VA 24605	25.46 acres 47/60 of 32.50 acres	43.3407%	n/a
(P3 Seam Only)			
(1) Mary A. Huffman & James W. Harman, Jr., et al. (Harman-Huffman Heirs 1,031.53 ac. tract)	32.5 acres	55.3286%	n/a
(a) James W. Harman Jr. c/o Diana Coulthard, Trust Officer First Community Bank P.O. Box 950 Bluefield, WV 24701	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a
(b) S. Laird Harman 233 Grace Lane NE Riner, VA 24149	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a
(c) Bettie H. St Clair 104 Dial Rock Road North Tazewell, VA 24630	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a
(d) The Estate of Minnie E. Harman, Inc. P.O. Box 323 Tazewell, VA 24651	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a
(e) Evelyn H. Harman 1924 Glenwood Park Road Princeton, WV 24740	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a

List of Conflicting Owners/Claimants with Royalty Split Agreements
 (58.74 Acre Unit)

	Acres in Unit	Interest in Unit	Percent of Escrow
(f) James W. Harman, III 1206 Medley Valley Rd. Tazewell, VA 24651	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a
(g) Jonathan H. Harman 2727 Mountain View Avenue Bluefield, WV 24701	3.64 acres 47/420 of 32.50 acres	6.1915%	n/a
(h) Mary A. Huffman P. O. Box 926 Richlands, VA 24641	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(i) James W. Huffman c/o Mary A. Huffman P. O. Box 926 Richlands, VA 24641	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(j) Jacob H. & Dana Huffman, III P.O. Box 9 McGuady, KY 40153	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a
(k) A & R Holdings, Inc. 111 Monte Vista Drive Glade Springs, VA 24340	1.76 acres 13/240 of 32.50 acres	2.9970%	n/a

OIL & GAS FEE OWNERSHIP

(1) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	32.50 acres	55.3286%	n/a
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Tract #2, 26.24 acres

Tax Map 85 Parcel 18

COAL FEE OWNERSHIP

(1) Coal Creek Coal Company, Tr.3 P.O. Box 323 Tazewell, VA 24651	26.24 acres	44.6714%	50.0000%
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OIL & GAS FEE OWNERSHIP

(1) Emma Jean Vance Heirs, Devisees, Successors or Assigns			
(a) Kenneth Anders P.O. Box 558 Doran, VA 24612	26.24 acres	44.6714%	50.0000%

INSTRUMENT #090000989
 RECORDED IN THE CLERK'S OFFICE OF
 TAZEWELL COUNTY ON
 MARCH 17, 2009 AT 12:09PM
Angela Ray
 JAMES E. BLEVINS, CLERK
 RECORDED BY: ADR