

**VIRGINIA GAS
AND OIL BOARD**

**MONTHLY
BOARD
TRANSCRIPT**

NOVEMBER 1999

ORIGINAL

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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4 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

5 VIRGINIA GAS AND OIL BOARD

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9 NOVEMBER 17, 1999

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13 BOARD MEMBERS:

14 MASON BRENT

MAX LEWIS

15 BENNY WAMPLER, CHAIRMAN

SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

16 CLYDE KING

RICHARD GILLIAM

17 BOB WILSON, ACTING DIRECTOR OF THE DMME

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1 BENNY WAMPLER: Good morning. My name is Benny
2 Wampler. I'm Deputy Director for the Virginia Department of
3 Mines, Minerals and Energy, and Chairman of the Gas and Oil
4 Board. We'll get started with our meeting today. I'll ask
5 the Board members to introduce themselves.

6 MASON BRENT: My name is Mason Brent. I'm from
7 Richmond, and I represent the Gas and Oil Industry.

8 MAX LEWIS: My name is Max Lewis and I'm from
9 Buchanan County. I represent as a public member.

10 SANDRA RIGGS: I'm Sandra Riggs with the Office of
11 the Attorney General here to advise the Board.

12 CLYDE KING: I'm Clyde King from Abingdon. I'm a
13 public representative.

14 RICHARD GILLIAM: Richard Gilliam, coal industry
15 representative from Abingdon.

16 BOB WILSON: I'm Bob Wilson. I'm acting Director of
17 the Division of Gas and Oil, and Principal Executive to the
18 Board.

19 BENNY WAMPLER: Thank you. The first item on the
20 agenda today is a petition from Pocahontas Gas Partnership
21 for pooling of a coalbed methane unit; docket number VGOB-99-
22 10/19-0756, continued from October. I don't see the folks
23 here for that.

24 I'll go ahead to the next agenda item. It's a
25 petition from Columbia Natural Resources for a well location

1 BENNY WAMPLER: Opposed, say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval.

4 The next item on the agenda is a petition from
5 Pocahontas Gas Partnership for pooling of a coalbed methane
6 unit under the Oakwood Coalbed Methane Gas Field I order and
7 identified as R-37, located in the Garden District of
8 Buchanan County, docket number VGOB-99-11/17-0764. We'd ask
9 the parties that wish to address the Board in this matter to
10 come forward at this time, please.

11 MARK SWARTZ: Mark Swartz and Les Arrington.

12 BENNY WAMPLER: The record will show there are no
13 others. You may proceed.

14 MARK SWARTZ: I would move to...that the Board
15 consider consolidating the matter that was just called with
16 next four items. So, that would be docket numbers 4, 5, 6
17 and 7. The matter that the Board just called is a first time
18 pooling application. The next four are repoolings
19 that...they've all been pooled before and we're back for a
20 modification. The units are all touching each other as a
21 group and the next four essentially involve the same parties.
22 The number of folks that are here today are here on those
23 collection of units and I think it would just be a judicious
24 use of our time to kind of put it together and give everybody
25 one full chance to air their views. I will tell you that

1 the...with regard to the repooling of the four units, the
2 reasons are as follows: With regard to S-36 and T-36, there
3 has been an ongoing debate with Mr. McClanahan about his
4 western boundary of his tract and we have replatted that
5 showing all possible variations and permutations that we have
6 been able to identify and there's going to be a
7 recommendation that we simply escrow that because we don't
8 know where that line is. So, that's why those two units are
9 back on the docket.

10 The other two are back because the interest of the
11 folks who we're seeking to pool in R-37 was just missed. We
12 thought we had a lease from them and we need to pool them in
13 the remaining...in the other two units. So, that's why those
14 four units are back before you, having been pooled before.

15 BENNY WAMPLER: So, are you suggesting that 3, 4, 5,
16 6, and 7 be called together?

17 MARK SWARTZ: Yes.

18 BENNY WAMPLER: Okay. Any objection to that?

19 (No audible response.)

20 BENNY WAMPLER: Hearing none, the Board will go
21 ahead and call---

22 FRANK STACY: Sir? I'm sorry. Did you say R or
23 S...you said R?

24 CLYDE KING: R.

25 BENNY WAMPLER: The one I called is R-37.

1 FRANK STACY: Thank you.

2 BENNY WAMPLER: He's suggesting that I go ahead and
3 call the other four items which he's saying are the same
4 parties involved, and if there's no objection to that, I'm
5 going to go ahead and call those so we can just get the
6 issues on the table and deal with them.

7 FRANK STACY: Okay. Thank you.

8 BENNY WAMPLER: So, we'll deal with them separately.
9 So, I'll go ahead and call the petition Pocahontas gas
10 Partnership for pooling of coalbed methane unit identified as
11 S-36, that's docket number VGOB-98-03/24-0626-02, and also
12 the unit identified as S-37, docket number VGOB-98-04/21-
13 0649-01; unit identified as T-36, docket number VGOB-98-
14 03/24-0625-01; and unit identified as T-37, docket number
15 VGOB-98-04/21-0650-01. We'd ask the parties that wish to
16 address the Board in this matter to come forward at this
17 time.

18 (Parties come forward.)

19 KENNETH OSBORNE: Mr. Wampler?

20 BENNY WAMPLER: Yes, sir.

21 KENNETH OSBORNE: Does the Board have any objections
22 if we video record this?

23 BENNY WAMPLER: I don't have objections.

24 KENNETH OSBORNE: Thank you, sir.

25 BENNY WAMPLER: Since we have a number of people

1 that will be speaking, I just want to remind you that it will
2 be real important for us to get a good record, that you
3 identify yourself when you are talking. Okay?

4 FRANK STACY: Okay, sir.

5 BENNY WAMPLER: Each time so that the reporter will
6 be able to do that and keep a clean record.

7 (Les Arrington hands out exhibits.)

8 MARK SWARTZ: Could you swear, David, for me,
9 please?

10 (Witness was previously sworn.)

11

12 LESLIE K. ARRINGTON

13 having been duly sworn, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Les, I'm going to remind you that you're
18 still under oath.

19 A. Yes, sir.

20 Q. Who do you work for?

21 A. Consol.

22 Q. And are all five of these applications,
23 applications made by Pocahontas Gas Partnership?

24 A. Yes, they are.

25 Q. Did you either prepare, or supervise the

1 preparation, of the notices, applications and exhibits in
2 these five units?

3 A. I have.

4 Q. Did you sign the notices and the
5 applications for all of the units?

6 A. Yes, I did.

7 Q. Is Pocahontas Gas Partnership a Virginia
8 General Partnership?

9 A. Yes, it is.

10 Q. Are its two partners Consolidation Coal
11 Company and Conoco, Inc.?

12 A. Yes, it is.

13 Q. Who is Pocahontas Gas Partnership requesting
14 be designated by the Board as a designated operator?

15 A. Pocahontas Gas Partnership.

16 Q. Okay. Is Pocahontas Gas Partnership
17 authorized to do business in the Commonwealth?

18 A. Yes, it is.

19 Q. Is it registered with the DMME and does it
20 have a blanket bond on file?

21 A. Yes, it does.

22 Q. Are the respondents in each of these units
23 listed in the notice of...in the two blank in the notice of
24 hearing?

25 A. Yes, it is.

1 Q. And are they also listed in the Exhibits B-
2 3?

3 A. Yes, they are.

4 Q. And with regard to T-36 and S-36, there are
5 revised Exhibits B-3, are there not?

6 A. They are.

7 Q. Okay. The...did you mail copies....or mail
8 notices with regard to each of these five units?

9 A. We have. That was mailed on October the
10 18th, 1999.

11 Q. Did you publish?

12 A. We did. In the Bluefield Daily Telegraph on
13 October the 23rd, 1999.

14 Q. And what was published with regard to each
15 of the units?

16 A. The notice of hearing.

17 Q. All right. Have you filed today with the
18 Board copies of the return receipts and a spreadsheet showing
19 the status of all of the mailings?

20 A. We did.

21 Q. Do you want to add any respondents today?

22 A. No, we do not.

23 Q. Do you wish to dismiss any?

24 A. No.

25 Q. Okay. I'd like to turn to the interest that

1 we're going to be dealing with here. With regard to R-37---?

2 A. Yes.

3 Q. ---are you seeking to pool 18.94202% of the
4 coal, oil and gas interest?

5 A. Yes, we are.

6 Q. Okay. If you turn to Exhibit B-3 in R-37,
7 let me show you here, it appears to me that we need to add
8 the word coal?

9 A. We do.

10 Q. Okay. So, will you undertake to file a
11 revised sheet?

12 A. Yes, we will.

13 Q. Okay. So, it should reflect on Exhibit B-3
14 not just oil and gas fee, but coal, oil and gas fee?

15 A. Yes...yes, it should.

16 Q. What is the status of the remainder of the
17 oil and gas claims concerning R-37?

18 A. It's under lease, and the coal underneath
19 that unit, we have a 100% of that coal leased.

20 Q. With regard to S-36, are you seeking to pool
21 87.60359 of the oil and gas claims...percent of the oil and
22 gas claims?

23 A. S-36, I needed to have filed with the Board
24 and a Revised Exhibit A, page two.

25 Q. Oh, okay.

1 A. I'm sorry.
2 Q. All right. And what does that indicate that
3 you're pooling?
4 A. It indicates that we're pooling 42.82825% of
5 the coal interest and 87.34075% of the oil and gas interest.
6 Q. Okay.
7 CLYDE KING: Is that S-37?
8 BENNY WAMPLER: 36.
9 MARK SWARTZ: 6.
10 LES ARRINGTON: 6.
11 CLYDE KING: 36.
12 Q. Okay. And that you filed with the Board
13 today?
14 A. I have.
15 Q. Okay. And what is the status of the
16 remainder of the coal interest claims and the oil and gas
17 interest claims?
18 A. That is under lease.
19 Q. So, 57.17175%, for example, of the coal is
20 leased?
21 A. It is.
22 Q. And 12 plus percent of the oil and gas
23 interest.
24 A. It is. With a 100% of the coal interest
25 leased.

1 Q. Okay. S-37, what's the status...what needs
2 to be pooled and what has been leased for S-37?

3 A. Okay. S-37, we have a 100% of the coalbed
4 methane leased from the coal owners.

5 Q. Okay.

6 A. And we have leased 50.70604% of the oil and
7 gas interest and we're seeking to pool 49.29396%.

8 Q. Of the oil and gas?

9 A. Of the oil and gas interest, yes.

10 Q. With regard to T-36, what's the status of
11 leasing in that unit?

12 A. Okay. We have a coalbed methane lease from
13 the coal owners for a 100% and we have 74.27848% of the oil
14 and gas interest leased, seeking to pool 25.72152% of the oil
15 and gas interest and we also have a 100% of the coal leased
16 under that unit.

17 Q. Okay. With regard to T-37, what's the
18 status of the leasing?

19 A. We have 100% of the coal owners...coalbed
20 methane leased and 93.825% of the oil and gas interest,
21 seeking to pool 6.175% of the oil and gas interest.

22 Q. Okay. What lease terms would you offer
23 today to the outstanding unleased interest?

24 A. That will be a five year term lease, \$1 per
25 acre for a coalbed methane lease with a 1/8 royalty.

1 Q. And that \$1 per acre rental would be payable
2 until production commenced, correct?

3 A. Yes, it is.

4 Q. Would you recommend those terms to the Board
5 as appropriate to be inserted in the deemed to be leased
6 provision?

7 A. We would.

8 Q. In each of these five units, are we talking
9 about an 80 acre frac well unit under Oakwood I?

10 A. Yes, we are.

11 Q. And is it true that S-36, S-37, T-36 and T-
12 37 have been pooled before?

13 A. They have.

14 Q. Okay. And R-37, this is first pool?

15 A. That's correct, it is.

16 Q. And what you're seeking to pool and develop
17 would be all coal seams below the Tiller basically down to
18 the Pocahontas Three Seam, correct?

19 A. That's correct.

20 Q. Is the Pocahontas Three Seam the target seam
21 of the wells, the targeted depth?

22 A. Yes, it is. Yes, it is. I'm sorry.

23 Q. With regard to the number of wells in the
24 units and whether or not any of them require a location
25 exception, does the plat for Exhibit R-37 indicate that there

1 are three wells in that unit?
2 A. Yes, it does.
3 Q. And that one of them is out of the drilling
4 window and would require a location exception?
5 A. R-37?
6 Q. Yes.
7 A. It does. I'm sorry. R-37C.
8 Q. Okay. Is it to the southern...is it to the
9 South of the drilling window?
10 A. Yes.
11 Q. Okay. S-36 has one well in it, is that
12 correct?
13 A. That's correct.
14 Q. And it's within the drilling unit?
15 A. It is.
16 BENNY WAMPLER: On R-37, you said...I believe you
17 said one well is outside the drilling window.
18 LES ARRINGTON: Correct. No, there's two. I'm
19 sorry. There's two.
20 MARK SWARTZ: Oh, I'm sorry. There's two. Thank
21 you.
22 Q. Which...which two are outside?
23 A. R-37B and R-37C.
24 Q. Okay. And with regard to S-36, how many
25 wells?

1 A. One.

2 Q. And is it within the drilling window?

3 A. It is.

4 Q. S-37, how many wells?

5 A. Just a minute. I believe it is two.

6 There's two wells in it.

7 Q. And where...are they in or...in or out of?

8 A. They're inside the window.

9 Q. Okay.

10 DANNY McCLANAHAN: I would like to disagree with

11 that. There's not two wells in that unit.

12 BENNY WAMPLER: Danny, if you will identify yourself

13 for the record.

14 DANNY McCLANAHAN: My name is Danny McClanahan and

15 I'd like to disagree with that. There's not two wells in

16 that unit. S-367A does not exist.

17 (Swartz and Arrington confer with each other.)

18 DANNY McCLANAHAN: And you haven't even gotten the

19 S-37B showed on the map.

20 (Swartz and Arrington confer with each other.)

21 MERK SWARTZ: Les, is there a misdesignation of one

22 of the two wells shown on the plat?

23 LES ARRINGTON: Yes, there is and it should be S-

24 37B. S-37A actually...R-37C that was shown on R-37 was a

25 replacement well for S-37A.

1 A. One.

2 Q. And is it within the drilling window?

3 A. It is.

4 Q. S-37, how many wells?

5 A. Just a minute. I believe it is two.

6 There's two wells in it.

7 Q. And where...are they in or...in or out of?

8 A. They're inside the window.

9 Q. Okay.

10 DANNY McCLANAHAN: I would like to disagree with
11 that. There's not two wells in that unit.

12 BENNY WAMPLER: Danny, if you will identify yourself
13 for the record.

14 DANNY McCLANAHAN: My name is Danny McClanahan and
15 I'd like to disagree with that. There's not two wells in
16 that unit. S-367A does not exist.

17 (Swartz and Arrington confer with each other.)

18 DANNY McCLANAHAN: And you haven't even gotten the
19 S-37B showed on the map.

20 (Swartz and Arrington confer with each other.)

21 MARK SWARTZ: Les, is there a misdesignation of one
22 of the two wells shown on the plat?

23 LES ARRINGTON: Yes, there is and it should be S-
24 37B. S-37A actually...R-37C that was shown on R-37 was a
25 replacement well for S-37A.

1 DANNY McCLANAHAN: Well, it's still not there,
2 though.

3 LES ARRINGTON: That's correct, Danny, it isn't.

4 MARK SWARTZ: Is it proposed to be drilled---?

5 DANNY McCLANAHAN: Why are you showing it...what I
6 would like to know is why you showed that it's there?

7 MARK SWARTZ: Just a minute. Danny, you will have
8 an opportunity to cross examine my witnesses as will
9 everybody.

10 BENNY WAMPLER: Absolutely.

11 MARK SWARTZ: You know, if they want to testify,
12 I'll try to let them finish and, I think, you know, to move
13 things along, I'd like to finish the direct and they can have
14 at these folks, you know, for the rest of the day.

15 DANNY McCLANAHAN: Well, I...I'd like to go ahead
16 and break it up in single units then so that way we won't run
17 it all together and get this information confused. That way
18 we can run them off one at a time. I mean, I've got all day,
19 I don't know about you all, to take care of this matter; and
20 I believe the Linkous Horne heirs is here to stay all day,
21 too.

22 MARTHA WILLIAMS: I'm Martha Williams, heir to this
23 estate. I'm the granddaughter of Linkous Horne and I agree
24 with Danny. If you're not going to give us time to explain,
25 then break them up and do them one at a time.

1 DANNY McCLANAHAN: At one at a time. That's right.

2 BENNY WAMPLER: Well, we're going to give you time,
3 one at a time. In fact, we've called them all---

4 MARTHA WILLIAMS: Okay.

5 DANNY McCLANAHAN: Well, but he's...he's presenting
6 all of this information at one time and it's overwhelming us
7 and I mean, I don't...ain't nary one of us a lawyer. So,
8 we're...we're fighting this and doing the best we can then.

9 MARTHA WILLIAMS: That's right, Mr. Wampler.
10 We're...I'm a diabetic dietician. Danny has other interests.
11 We have various careers. We're not an attorney like Mr.
12 Swartz, but we are educated enough to understand and deal
13 with this. We just...we just have interest in other fields.

14 DANNY McCLANAHAN: At one at a time.

15 MARTHA WILLIAMS: We're not...we're not legal
16 counselors. So, we'll need it broke down.

17 BENNY WAMPLER: Oh, we'll do that.

18 MARTHA WILLIAMS: Thank you.

19

20 DIRECT EXAMINATION RESUMES

21 QUESTIONS BY MR. SWARTZ:

22 Q. Mr. Arrington, can you tell the Board
23 whether or not there are two wells either already drilled or
24 proposed to be drilled in unit S-37?

25 A. There is two wells, and quite frankly,

1 that's my mistake. On S-37A, it should be S-37B.

2 DANNY McCLANAHAN: Where is it at, S-37B? Can you
3 tell me? It's not on there.

4 LES ARRINGTON: That's---.

5 DANNY McCLANAHAN: Only well they are is up there by
6 the church house, on past the church house, and that is PGP
7 S-37. There's only one well in that unit.

8 SANDRA RIGGS: They're proposing two wells in the
9 unit and they're showing where the two wells will be located,
10 or are located, if they're already drilled.

11 DANNY McCLANAHAN: Well...well, by their depiction
12 on the maps, it shows the wells has already been drilled. A
13 proposed well is supposed to be showed different, ma'am.

14

15 DIRECT EXAMINATION RESUMES

16 QUESTIONS BY MR. SWARTZ:

17 Q. With regard to T-36, how many wells are
18 proposed or drilled in T-36?

19 A. There is...within that unit, there is two
20 wells, T-36 and T-36A, and quite frankly, I don't know why T-
21 36A didn't show up on this map. It is not lo...shown on this
22 map.

23 Q. Okay. But there's a second well proposed
24 for this unit?

25 A. Yes...yes, sir. I don't know what that...

1 why that didn't come out.

2 Q. Okay. And is it...is it with---?

3 DANNY McCLANAHAN: I'll tell you why. I'll...I'll
4 tell you why because it's too close to the boundary---

5 Q. And is it within, or without, of the
6 drilling unit?

7 BENNY WAMPLER: Danny, I'm going to ask you to wait.
8 I'm going to let them go through and do theirs and then I'm
9 going to listen to you.

10 A. It's---

11 Q. Or the drilling window, I mean.

12 CLYDE KING: Excuse me. Can I ask a question, Mark?

13 BENNY WAMPLER: Mr. King.

14 CLYDE KING: I'm sorry.

15 BENNY WAMPLER: Go ahead.

16 CLYDE KING: The S-37A is not S-37A then.

17 A. It'll be an S-37B, correct.

18 Q. Now, in T-36.

19 A. Yes, sir.

20 Q. Okay. Do you know whether or not the second
21 well is inside or outside of the drilling window?

22 A. It is outside the drilling window and if
23 you'll notice right where the 3B is on the plat, it says...it
24 has a tract 3B inside the square. You'll see the road
25 ending. Right at the end of that road is where the well is

1 located. I don't...I don't know why it didn't show it.

2 Q. Okay. And that would be T-3---?

3 A. 6A.

4 Q. Okay.

5 BENNY WAMPLER: And you're representing that as
6 a...as an existing well?

7 A. It is there. Yes, sir. I don't know why it
8 didn't show up.

9 Q. And if we turn to the cost estimate with
10 regard to this unit, it shows two permit numbers, does it
11 not?

12 A. It does.

13 Q. And drilling dates---?

14 A. Yes, it does.

15 Q. ---and depth?

16 A. Yes, sir, it does.

17 Q. Okay. So, it's on the...on the cost
18 estimate, but not on the plat?

19 A. Uh-huh. Uh-huh.

20 Q. Is that correct?

21 A. That's correct.

22 Q. Okay. With regard to unit T-37, how many
23 wells are either already drilled or proposed to be drilled in
24 T-37?

25 A. There's one well.

1 Q. Okay, is that well inside or outside of the
2 drilling window?

3 A. It's in the drilling window.

4 Q. Okay. Now, with regard to the estimated
5 cost of the wells and the depth, or average depths, of the
6 wells, with regard to R-37, what is the cost that would be
7 the participation cost?

8 A. R-37, the average cost of those wells is
9 \$244,923.60.

10 Q. And the average depth?

11 A. Just a minute. 2,207 feet.

12 Q. What is the participation cost's for S-36?

13 A. S-36 is \$245,015.

14 Q. And the depth?

15 A. 2,075 feet.

16 Q. S-37, what's the participation cost?

17 A. \$244,763.62.

18 Q. Is that an average?

19 A. That's the average. Yes, it is.

20 Q. What's the average depth of the wells in S-
21 37?

22 A. S-37. Average is 2,320 feet.

23 Q. Okay. T-36, what's the average cost?

24 A. \$249,444.63, average depth is 2314.35.

25 Q. T-37, what's the participation cost?

1 A. \$246,826.50 on 37 and its depth is 2,267.
2 Q. Okay. The target formation for all of these
3 wells is what?
4 A. Pocahontas Number Three Seam.
5 Q. And do you seek to develop gas from all of
6 the seams from the tiller on down basically?
7 A. Yes, we do.
8 Q. Okay. Today, have you filed amended plats
9 with regard...with the Board with regard to units S-36 and T-
10 36?
11 A. We have.
12 Q. And those would be in the collection of
13 exhibits for those two units that has a table of contents and
14 a list that you've given the number today?
15 A. Yes, it does.
16 Q. Okay. If we look at the plat for...we start
17 with the plat for unit T-36.
18 A. Uh-huh.
19 Q. There is a tract on T-36 identified as BA,
20 is that Mr. McClanahan's or a portion of Mr. McClanahan's
21 tract?
22 A. Yes, it is.
23 Q. Go ahead and look at this list.
24 A. Okay.
25 Q. Okay. And then if we look at the revised

1 plat for S-36, does Mr. McClanahan's tract also cross over
2 into unit S-36?

3 A. Yes, it does.

4 Q. Okay. The S-36 unit, if you were to set it
5 sort of on top, it would close the tract?

6 A. Yes, it would.

7 Q. And on S-36, a portion of Mr. McClanahan's
8 tract is shown as tract 3C, is it not?

9 A. It is.

10 Q. Okay. And both of these plats have an
11 addendum?

12 A. They do.

13 Q. And is that an effort to summarize the
14 discussions mapping and history of the western line dispute?

15 A. Yes, it is.

16 Q. Okay. Now, there are also...and let's...and
17 let's stay with the revised plat to T-36. We have a tract 3A
18 and we've got a tract 3A-1, correct?

19 A. We do.

20 Q. And a 3A-2?

21 A. That's correct.

22 Q. And is that an effort to depict and
23 calculate the percentage in the unit for areas in dispute?

24 A. It is.

25 Q. Okay. Do you have a recommendation for the

1 Board with regard to whether or not escrow would be
2 appropriate for tracts on either side of those disputed
3 lines?

4 A. We do.

5 Q. Okay. And what's that recommendation?

6 A. We recommend that all of this interest be
7 escrowed. One, due to it's...that it's a conflicting claim
8 nobody matter who owns it, or what oil and gas owner owns it
9 with the coal owner; and number two, due to the boundary
10 dispute.

11 Q. Okay. Are you able today to certify to the
12 Board which of these collections of disputed lines is a
13 correct depiction of the deed?

14 A. I am not.

15 Q. Okay.

16 BENNY WAMPLER: The 3A-1 and 3A-2 identify the
17 disputed lines, is that correct, in the amended plat?

18 MARK SWARTZ: Well, actually, if you all could get
19 T-36.

20 BENNY WAMPLER: I've got it---.

21 CLYDE KING: T? I'm sorry.

22 MARK SWARTZ: T...T as in Tom---.

23 BENNY WAMPLER: T-36.

24 MARK SWARTZ: ---36. This line that I've just
25 highlighted in blue is the first line. Okay?

1 DANNY McCLANAHAN: Let me see.

2 BENNY WAMPLER: That's the line that moves more
3 toward to the 3A tract.

4 MARK SWARTZ: Correct. Correct.

5 DANNY McCLANAHAN: Yeah.

6 MARK SWARTZ: That was the first one. In the...in
7 the addendum, that's referred to as the first line. Okay.
8 Then I've now gone to the other side of the sliver, okay, and
9 that would be the second line. Then, when we finally were
10 able to get a survey crew out there on the ground about a
11 month ago, that resulted in the dogleg and the interior line
12 that then connects with a portion of the first line. Okay.
13 So, that was the sequence here, and essentially what we're
14 reduced to here is simply reporting these are the locations
15 of disputed lines that we are aware of and the history in the
16 addendum kind of fills you in on that. And, you know, we're
17 not able to resolve that dispute and obviously you guys
18 aren't going to resolve it either, but from an escrow
19 standpoint, you know, we've got a disputed line and even if
20 we didn't have a conflict between the oil and gas and the
21 coal interest, which we do have, but even if we didn't, it
22 needs to be in escrow here until these folks, you know,
23 straighten out wherever that line is among themselves by
24 agreement or a judicial decree. We have calculated, you
25 know, and shown on the tract identification that was filed

1 today, you know, the acreage within those...those small
2 pieces that we've just talked about. So, you've got an
3 ability to quantify that. Although I'm not sure it really
4 matters since it needs to be escrowed, but we have done that
5 and listed the people with claims to that because obviously,
6 I mean, the folks on the other side of the line are a
7 claimant to that acreage. The...and if you look at...now
8 look at S-36, you know, a small piece of this disputed area
9 finds its way into the plat for S-36, which we have shown as
10 Tract 3C-1; and basically, it's the dogleg disputed tract
11 that finds its way into, or a portion, that finds its way
12 into the unit immediately above and it has...it also has an
13 addendum which is essentially the same summary of
14 circumstances and events.

15 At this point, I've got a few more questions of Mr.
16 Arrington, but I think it makes sense to shift gears for a
17 minute just because Danny or David Miller did the work on the
18 ground here, or do you want me to finish with Les?

19 BENNY WAMPLER: Well, let me ask a question---

20 MARK SWARTZ: Okay.

21 BENNY WAMPLER: ---and I think you would probably
22 be better to finish with Les---

23 MARK SWARTZ: Okay.

24 BENNY WAMPLER: ---and then that way we can let
25 people question---

1 MARK SWARTZ: Okay.

2 BENNY WAMPLER: ---that testimony. How many wells
3 are in T-36? This plat shows one.

4 LES ARRINGTON: It shows one and---.

5 BENNY WAMPLER: Do you have two permits?

6 LES ARRINGTON: I do have two permits and there are
7 two wells drilled and, again, as I said in my original
8 testimony, if you'll look right where it has on the plat the
9 tract 3B. Do you see my road going out and ending? It's
10 right there at the end of the road and why it didn't show
11 up---.

12 BENNY WAMPLER: And which permit is that? Is that
13 4238 or---?

14 LES ARRINGTON: That will be T-36A. Just a minute.
15 I'll have to flip to that number.

16 (Mr. Arrington looks through file.)

17 BENNY WAMPLER: I think since we had some confusing
18 testimony on that, we need to get the permit number that
19 we're talking about.

20 LES ARRINGTON: T-36A is 4238. I'm sorry.

21 BENNY WAMPLER: You're referring to it as T-36A?

22 LES ARRINGTON: Yes, sir.

23 BENNY WAMPLER: And that's permit number 4238?

24 LES ARRINGTON: Yes, sir.

25 BENNY WAMPLER: Okay. You may proceed.

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DIRECT EXAMINATION RESUMES

QUESTIONS BY MR. SWARTZ:

Q. Okay. Now, has the...with regard to these two revised plats that we have been talking about---

A. Yes.

Q. ---have you also filed revised tract identifications?

A. We did.

Q. Okay. Let's...let's look at, for example, the revised tract identifications concerning the plat T-36. Okay?

A. Uh-huh.

Q. And if we go to tract 3A, that shows Mr. McClanahan as a surface owner, does it not?

A. It does.

Q. Okay. And does it also show Mr. McClanahan as...as an oil and gas claimant?

A. It does.

Q. Okay. With regard 3A-1, what is the line up on that conflict area?

A. Well, again, Danny McClanahan is a surface owner and oil and gas claimant there. However, it could either be Linkous Horne heirs or the Thomas Stilwell heirs oil and gas.

1 Q. And with regard to coal?

2 A. The coal under all of these tracts is
3 McGuire/Hurt heirs.

4 Q. Okay. But the Linkous Horne heirs, if my
5 memory serves me correctly, dispute that McGuire and Hurt
6 owns the coal as well?

7 A. That's correct. Oh, I'm sorry. Yes.

8 Q. Okay. So, that would also be in conflict?

9 A. It could be.

10 Q. So, that is disclosed by the tract...all of
11 those claims are disclosed in tract...in regard to tract 3A-
12 1, correct?

13 A. Well, the coal interest is not shown as a
14 conflict there.

15 Q. Right.

16 A. It is shown as Hurt/McGuire, but they have
17 made that claim.

18 Q. Okay. And have you done the same for tract
19 3A-2?

20 A. We did.

21 Q. And then if we were to look at the tract IDs
22 for the revised plat and revised tract IDs for S-36, would we
23 find the same kind of discussion of claims and claimants?

24 A. Yes, you would.

25 Q. Okay.

1 BENNY WAMPLER: We want a revised plat reflecting
2 the wells.

3 LES ARRINGTON: Yes, I've already noted that.

4 Q. The last two things. Is it your opinion
5 that the development, as depicted on the various plats and
6 describing your testimony, is a reasonable plan to develop
7 the coalbed methane for all owners and claimants under these
8 five units?

9 A. Yes, it is.

10 Q. And would you recommend the same to the
11 Board as a reasonable plan of development to protect
12 correlative rights of all folks and prevent physical and
13 economic waste?

14 A. Yes, we would.

15 MARK SWARTZ: That's all I have of Les.

16 BENNY WAMPLER: Danny?

17 DANNY McCLANAHAN: Okay. My name is Danny
18 McClanahan again. I'd like to address the Board. First off,
19 I would like to ask, is this a standard form for them to fill
20 out here? Is that standard?

21 BENNY WAMPLER: It's not something that the Board
22 prescribes.

23 DANNY McCLANAHAN: Well, what...well, the reason
24 being is I've been told before that they don't have to
25 certify plats for the force pooling. Well, what...what

1 bothers me is on S-37 and T-37, if you'll go down to line six
2 and read that, it states that they're submitting certified
3 maps by a certified engineer. Also, on over in there, it
4 will show on number seven the same thing on those two units.
5 Now, on T-36 and S-36, those numbers don't say anything about
6 a certified engineer. The two aforementioned wells has got
7 certified plat maps and I want to know why the Board is
8 letting these people approach them with maps that hasn't been
9 certified? And as he stated, me and this engineer has
10 surveyed my property and they're depicting it as taken from
11 deeds, as in before they had it showed as surveyed and it
12 hadn't never been. So, you know, they're moving this around
13 to their discretion. I believe when we touched on that in
14 June, Mark kind of just went on by that when you asked him to
15 explain that to you. He went ahead and told that they came
16 forth with these exhibits for 36...T-36 and S-36, showing my
17 interest. This was the only record that they presented
18 before the Board in June.

19 BENNY WAMPLER: Danny, we need you to cross examine
20 the witness. Really, you're...you're...you've gone into
21 testifying and what we really need is to have you cross
22 examine Les Arrington on his testimony to keep this record
23 straight.

24 DANNY McCLANAHAN: Okay. I want to know how...les,
25 why they're showing my property as not being surveyed when

1 yourself was out there and they surveyed it.

2 LES ARRINGTON: We did not actually survey your
3 property, Danny. We located points and fence lines.

4 DANNY McCLANAHAN: You run a ring all the way
5 around my property and tied it in to another point. So---.

6 LES ARRINGTON: We did not...we did not survey your
7 property. We surveyed what we found in the field. As you
8 know, that was what we were looking for is corners and
9 information and our maps depict exactly what we did find in
10 the field and what has been shown in the past.

11 DANNY McCLANAHAN: Who...and who helped you find
12 that in the field?

13 LES ARRINGTON: Why, you---.

14 DANNY McCLANAHAN: You was trying to point trees
15 out to this man here that didn't even pertain to my deed. I
16 had to go to the library and get a tree...a book on tree
17 identification where it calls for the...let me see...I can't
18 remember the name of the tree, but there's only two of those
19 in my holler and Les is wanting him to shoot down this fence
20 and that fence and down that fence. Now, if you get a survey
21 crew out there and tie into one point and start setting up
22 and running down my line, that's surveyed. It woodn't taken
23 from deeds. I...you know, I...I don't know how you break
24 that down. You've got a crew that spends two days out there
25 surveying my line. Now, they're saying that they took from a

1 deed description. I can't go along with that.

2 BENNY WAMPLER: Do you---?

3 MARK SWARTZ: That's not a question.

4 BENNY WAMPLER: This...is this the map you're
5 talking about---?

6 DANNY McCLANAHAN: Yes.

7 BENNY WAMPLER: ---that they...the plat that they
8 produced?

9 DANNY McCLANAHAN: Yes.

10 BENNY WAMPLER: And you're saying that's a surveyed
11 plat and he's---?

12 DANNY McCLANAHAN: That is a surveyed plat.

13 BENNY WAMPLER: And Mr. Arrington, you're saying
14 that's not a surveyed plat?

15 DANNY McCLANAHAN: Well, Dave Miller, did you survey
16 that?

17 DAVID MILLER: Do you want me to---?

18 MARK SWARTZ: That's fine.

19 DAVID MILLER: We did...we did perform survey and
20 work in the field on it, as you know.

21 DANNY McCLANAHAN: And then they're still showing it
22 different. Like I said, I've come before the Board before
23 and the first...June the 15th, complained about these lines
24 as showing surveyed when they weren't. That falls back on
25 that location title search and stuff like that. I figured

1 the thirty some thousand dollars they keep charging. That's
2 another question on down the line as to how they can keep
3 double charging for that location and title on one plat.
4 Sure, they can do it on one plat, but for each well have to
5 pay that \$30,000. I don't think that's right. You know,
6 we're getting...we're getting charged double for location and
7 title on that. Can you...I mean, I still can't...I haven't
8 got an answer as to that.

9 You all was asking why these wells is not on there
10 because they're within...they're outside of the limits.
11 They're too close to the boundaries of the line. That's
12 another question. I thought all of the plats...is this the
13 plat or just the little going in on the inside?

14 BENNY WAMPLER: Are you asking Les to---?

15 DANNY McCLANAHAN: Is the whole plat, this one
16 right here?

17 LES ARRINGTON: The production unit is the
18 outside---

19 DANNY McCLANAHAN: I'm not asking about the
20 production unit. I'm asking about the plats. Plat maps
21 period.

22 MARK SWARTZ: Hold it. It's a map. You've got it
23 in your hand.

24 DANNY McCLANAHAN: Well...well, that's what I'm
25 saying. The law states that you're supposed to show all

1 existing wells in the scope of that plat and there's more
2 than just one well not showed on this plat for T-36A. As you
3 can see, like he showed you before at the end of that road
4 there is where the well was. At the end of this road,
5 there's a well. At the end of this road, there's a well.
6 You know, this right here by them not doing that it...it
7 helps them in making your all's decision as to if that's
8 against other people's rights because it's too close to the
9 line. It's drawing more off from that line than it would be
10 off from my unit.

11 BENNY WAMPLER: Danny, that's why that window is
12 there. They have to identify any well that's in that window.

13 DANNY McCLANAHAN: But they didn't.

14 BENNY WAMPLER: They did through testimony.

15 DANNY McCLANAHAN: You know, they is...they is a lot
16 of questions here, Benny, still...like I say, I've been
17 through here since June trying to get this done and I'd like
18 to bring that back up.

19 You all ordered me into this order in the force
20 pooling, T-36 and S-36 in June. I have you on record as
21 saying they presented maps and I've got the minutes...they
22 didn't present maps. Right here is the only thing they
23 presented to you all at the Board on the 15th and it has got
24 the percentages down. It has got me owning all of their
25 property, claiming all of their gas rights and that wasn't

1 right. They presented this and then they never showed no
2 maps. I'm the only one that showed maps at the June 15th
3 hearing. I wasn't aware...like I say, I'm not a lawyer. I
4 wasn't aware I had to enter it into evidence. I thought
5 everything that was said here was on the record.

6 BENNY WAMPLER: It is on the record.

7 DANNY McCLANAHAN: Well, they didn't...they did not
8 enter in there. All right. They first changed the maps on
9 T-36A. That was the revision that they say they made.

10 BENNY WAMPLER: Wait just a second. Are you
11 finished with cross examine of Les because that's what we
12 need to...we need to get that finished.

13 DANNY McCLANAHAN: Oh, I'm finished on that part.
14 Yes.

15 BENNY WAMPLER: Okay. And---.

16 DANNY McCLANAHAN: And they still...you know, I
17 still haven't gotten an answer when I asked this man. They
18 surveyed my property.

19 BENNY WAMPLER: Well, he's going to call him as his
20 next witness.

21 DANNY McCLANAHAN: Okay.

22 BENNY WAMPLER: And then you can ask him questions.
23 Let me see if any of these other folks have questions of Mr.
24 Arrington before we move off that.

25 KENNETH OSBORNE: Mr. Wampler, I'm Kenneth Osborne.

1 I'm one of the Linkous Horne heirs. Just to start with, not
2 changing the subject, but I do feel Mr. McClanahan is
3 entitled to an answer which he hasn't...like he said, he
4 hasn't got an answer yet.

5 KENNETH OSBORNE: I'd like to know why the
6 modification in this unit S-37.

7 LES ARRINGTON: S-37?

8 KENNETH OSBORNE: Uh-huh.

9 LES ARRINGTON: I just need to flip back through my
10 notes.

11 KENNETH OSBORNE: All right.

12 LES ARRINGTON: I've got---

13 (Mr. Arrington looks through his notes.)

14 LES ARRINGTON: The reason for the modification on
15 T-37---

16 MARK SWARTZ: S.

17 LES ARRINGTON: I'm sorry. S-37, was again, as we
18 stated in the R-37 unit. We left out the J. P. Royal and G.
19 W. Gillespie Estate thinking we had a lease on that interest
20 and that's the reason it has been repooled.

21 KENNETH OSBORNE: So, is the plat maps right on
22 that?

23 LES ARRINGTON: Let me look.

24 (Mr. Arrington looks through his notes.)

25 LES ARRINGTON: Okay. S-37, the actual property

1 locations, if that's what your question is, is correct. The
2 only problem on that plat is...as Mr. McClanahan stated, is
3 the S-37 well was permitted. S-37A, I'm sorry. That well
4 was permitted and we just couldn't get things worked out on
5 S-37A and we did permit another well, which I will revise the
6 plat and submit that.

7 KENNETH OSBORNE: This well, is this going to be S-
8 37B?

9 LES ARRINGTON: Yes, sir, it is.

10 KENNETH OSBORNE: And this is going to reflect on
11 the plat map?

12 LES ARRINGTON: It will.

13 KENNETH OSBORNE: Well, this is a question I guess
14 a lot of people in here is answering now, or asking now, and
15 it's considered as the Pine Ridge Road. We'd like to know
16 who give Consol or Pocahontas Partnership permission to cut
17 the right-of-way in half and set a well in there? There was
18 a letter submitted to Consolidated Coal Company, a registered
19 letter, asking for an explanation of who, in fact, gave them
20 permission to cut the right-of-way in half and set the well
21 there and they asked very nicely with a fifteen day notice
22 reply and it has been well over a couple of months and I
23 haven't received any notice, any word or anything.

24 LES ARRINGTON: First of all, I don't remember the
25 letter; and second of all, I believe if you visited the well

1 S-36 and have seen what has been done there, that existing
2 right-of-way is open and in...and in much better shape than
3 it was. If you have a problem with how it is open, I will
4 certainly take care of it. That right-of-way is open.

5 KENNETH OSBORNE: That's not the question. That's
6 not the question. Number one, I'm sure we have a receipt
7 where the letter was sent. But what I'm asking is who give
8 permission to cut that right-of-way in half and put a well
9 there?

10 LES ARRINGTON: Sir, that right-of-way is open at
11 this time.

12 KENNETH OSBORNE: That's not question I'm asking.
13 I'm asking who give permission?

14 MARK SWARTZ: Well, you're asking a question that
15 says who gave permission to cut the right-of-way in half and
16 he's telling you it's not cut in half.

17 CLIFFORD OSBORNE: Excuse me. I'm Clifford Osborne.

18 KENNETH OSBORNE: Let me simplify that. Who give
19 permission to put a well there?

20 CLIFFORD OSBORNE: There's a gate up on that right-
21 of-way. It's been ordered to be taken down by the State
22 Police where Consol put up there and the gate is still there.

23 BENNY WAMPLER: Sir, you need your name for the
24 record, please.

25 CLIFFORD OSBORNE: I did. My name is Clifford

1 Osborne.

2 BENNY WAMPLER: Thank you, sir.

3 CLIFFORD OSBORNE: The State Police went up there
4 and took the deed to show the right-of-way belongs to us and
5 the gate was there and the order that they would take the
6 gate down. Consol put the gate up and it's still there.
7 It's locked. You cannot get through it. The gate is locked.

8 BENNY WAMPLER: Can you hear...can you hear any of
9 that?

10 (Court Reporter indicates she is having trouble
11 hearing.)

12 BENNY WAMPLER: You're going to...if you're going to
13 say something, you need to come forward where we can get it
14 recorded.

15 CLIFFORD OSBORNE: My name is Clifford Osborne.

16 BENNY WAMPLER: Let me ask you a question. Does it
17 pertain to this well?

18 CLIFFORD OSBORNE: It's on this right-of-way. It
19 has got the right-of-way blocked, our right-of-way.

20 MARY KEENE: There's a well in the middle of it.

21 CLIFFORD OSBORNE: The well is in the right-of-way.
22 Down below the gas well, there's a gate across the road.
23 Consol put the gate up. My sister took the deed and the
24 State Police up there and they ordered Consol to take the
25 gate down and the gate was still up and locked and that's

1 about all I've got to say.

2 BENNY WAMPLER: Thank you.

3 RONNIE OSBORNE: I'm Ronnie Osborne. He says
4 that---

5 BENNY WAMPLER: We need you to come over here. We
6 can't...these are not...these microphones---

7 RONNIE OSBORNE: Okay. I'm Ronnie Osborne and he
8 said the right-of-way is open. It is opened, but it's moved.
9 Whose property is it on now?

10 DANNY McCLANAHAN: That's a valid question.

11 LES ARRINGTON: The right-of-way is open. There's
12 an existing right-of-way down by our well. It is open and in
13 better shape and the gate that he's speaking of, I...I'm
14 aware of that gate. However, that is a Consolidation Coal
15 Company problem. That was done years ago.

16 MARY KEENE: No, it wasn't.

17 CLIFFORD OSBORNE: No, it was not.

18 LES ARRINGTON: We had...we had nothing...the gas
19 operations had nothing to do with the gate. That's at the
20 bottom of the right-of-way.

21 CLIFFORD OSBORNE: There was a gate put up last
22 summer.

23 KENNETH OSBORNE: Mr. Arrington, what I'm asking you
24 is who give you...who give them permission to do anything
25 there? That's just a simple question.

1 LES ARRINGTON: We...yes, sir. And we purchased a
2 well site at that location from the surface owner of
3 that...of that piece...of that tract.

4 MARY KEENE: May I ask a question?

5 KENNETH OSBORNE: Who's the surface owner?

6 LES ARRINGTON: At this...just a minute. I can't
7 tell you.

8 MARY KEENE: Ain't we a surface owner when we own
9 the right-of-way?

10 BENNY WAMPLER: Folks, let me tell you. We
11 can't..we can't run a hearing this way. I mean, I...we want
12 to hear what you have to say, but we have to get...we need
13 to...we still can't hear you.

14 MARY KEENE: I'm Mary Keene and ain't we a surface
15 owner?

16 BENNY WAMPLER: I can hear you. I want to explain.
17 I can hear...it's not that I can't hear you. It's that they
18 can't get it on record. Okay?

19 MARY KEENE: Well, we're a surface owner if we own
20 the road.

21 BENNY WAMPLER: Go ahead and state your name.

22 MARY KEENE: Mary Keene. And if we don't own the
23 surface, how do we own the right-of-way? That's only simple.

24 FRANK STACY: Mr. Chairman, may I---?

25 MARY KEENE: And you told him he owned the gas when

1 we owned the gas and don't that cause confliction?

2 BENNY WAMPLER: We haven't...we haven't...we haven't
3 told him that at all.

4 MARY KEENE: Last...in June?

5 BENNY WAMPLER: No. He's a claimant.

6 SANDRA RIGGS: No, he's a claimant to the gas. But
7 that doesn't---

8 MARY KEENE: Well, that's what I...that's what I
9 want to find out.

10 SANDRA RIGGS: There's no determination over
11 ownership.

12 BENNY WAMPLER: The courts will have to determine
13 ownership just as the courts will have to determine who owns
14 the land.

15 KENNETH OSBORNE: Mr. Wampler?

16 BENNY WAMPLER: Yes, sir.

17 KENNETH OSBORNE: I think I asked a fairly
18 reasonable question. Now, for a matter of this importancy, I
19 mean, they should be able just to go to their records right
20 there and give me a name of who they purchased this from. I
21 mean---

22 LES ARRINGTON: We looked it up. I didn't have it
23 right on my memory there.

24 KENNETH OSBORNE: Okay.

25 LES ARRINGTON: It was Arlin Osborne. We did

1 purchase a well site from him.

2 MARK SWARTZ: It's in the application.

3 LES ARRINGTON: And it's in our permit application.

4 MARK SWARTZ: No, it's in this pooling.

5 LES ARRINGTON: And it's in here. The surface owner
6 is in here. We did purchase the well site from them. They
7 have a right-of-way down through there. That right-of-way is
8 open and looks a whole lot better than what we...what it was
9 when we got there. I did visit that site prior to that well
10 being drilled.

11 RONNIE OSBORNE: My point was, though, it has been
12 moved. It has been moved.

13 DANNY McCLANAHAN: It's the right-of-way over there
14 on somebody else's property and if the people that owned that
15 property wants to stop them, they can stop them from using
16 that right-of-way because they put the well in the middle of
17 the right-of-way.

18 BENNY WAMPLER: Let me explain to you now. Those
19 are property issues, outside the jurisdiction of this Board,
20 just like the lease dispute. We can't solve those for you.
21 The courts have to solve those kinds of disputes if you can't
22 work them out among yourself. The Board...you know, I can
23 sympathize with you and all of that, but we can't solve those
24 kinds of problems for you.

25 MARTHA WILLIAMS: My name is Martha Williams, Salem.

1 Virginia, and heir to this estate and I just want to ask Mr.
2 Arrington. When you do these...when you purchase these well
3 sites, do you not go to the courthouse and look up these
4 deeds and find out the right-of-ways and all of this thing?

5 LES ARRINGTON: Yes, ma'am, we do.

6 MARTHA WILLIAMS: Okay. Then if you did this one,
7 you know Arlin Osborne did not own the Pine Ridge Road. If
8 you have been to the Grundy Courthouse like we have and
9 pulled up this deed. So, are you saying that you went ahead
10 and purchased this well site from Arlin Osborne knowingly
11 that he did not own it?

12 LES ARRINGTON: The surface owned...is owned by
13 Arlin Osborne.

14 MARTHA WILLIAMS: I'm talking about this 15 foot
15 right-of-way, the Pine Ridge, that is designated in these
16 deeds and named out the Pine Ridge Road?

17 MARK SWARTZ: I'm...you know---

18 MARTHA WILLIAMS: All I want you to do is tell the
19 Board that you went ahead and purchased this well site,
20 knowing that it did not belong to Mr. Osborne.

21 MARK SWARTZ: You know, we can spend the entire day
22 arguing title, permit issues and all of this sort of stuff.
23 We can spend the whole day doing it, and no offense to you
24 all, but you don't have jurisdiction over those issues. I
25 mean, the statute specifically---

1 MARTHA WILLIAMS: That's determined by the courts.

2 MARK SWARTZ: ---says that you are not to resolve
3 title issues. I mean, we've had that...we've come up a lot.
4 If they are permitting or compliance issues here, you know,
5 they need to be over at the Division of Gas and Oil. I mean,
6 I...you know, it's not...it's not something you can do
7 anything about.

8 MARTHA WILLIAMS: We can spend years coming down
9 here having you change these maps every time we come to get a
10 force pooling because there's a disagreement over the
11 boundaries. We don't have that time. We're taking days off
12 from work. We need to get this settled and we're kind of
13 tired of driving down here. This is like a two and a half
14 hour drive each way.

15 BENNY WAMPLER: Ma'am, the proposal before the Board
16 has been here that they can't resolve the title. Therefore,
17 they're asking to pool all interest so that all of the
18 interest is in there. And then---

19 MARTHA WILLIAMS: That's true, Mr. Wampler.

20 BENNY WAMPLER: Okay. So, you under...I want to
21 make sure you understood that.

22 KENNETH OSBORNE: Okay. Mr. Wampler, that's to pool
23 all interest in the force pooling, right?

24 BENNY WAMPLER: Yes.

25 KENNETH OSBORNE: That means escrow account?

1 BENNY WAMPLER: That's right.

2 KENNETH OSBORNE: And that means deposit X amount of
3 dollars into escrow account?

4 BENNY WAMPLER: Right. The proceeds from the well.

5 KENNETH OSBORNE: I've...yes, sir. I've been having
6 a little trouble. I mean, I've been probably three months
7 now trying to get an accurate figure on these escrow accounts
8 and as of right now, the accurate figure I have is zero. I
9 just...I don't understand if they're making deposits in these
10 escrow accounts, then where is the money?

11 BENNY WAMPLER: Well, if you have specific wells
12 that you're interested in, I think we certainly...if there's
13 money on deposit and it's a producing well, we can get access
14 to those records.

15 KENNETH OSBORNE: I think we went that route,
16 haven't we, Mr. Wilson?

17 BOB WILSON: Yes. We inquired about Mr. Osborne's
18 interest...I'm not certain of the date. It was probably
19 about a month and a half ago the last time we inquired about
20 that and at that time the balance in that account was zero.

21 BENNY WAMPLER: Okay. Mr. Arrington, do you want
22 to---?

23 LES ARRINGTON: Yes, sir. That money is in suspense
24 awaiting a final number...percentage number to be put on
25 deposit with these supplemental orders and we do have the

1 money. But, you know, I...we can't...we don't know what
2 number to use. So...now, we do have a set of numbers here to
3 use now and it will be put on deposit just as soon as we have
4 an order to deposit it with.

5 BENNY WAMPLER: Do you understand that?

6 KENNETH OSBORNE: No, sir, I don't.

7 LES ARRINGTON: Sure. There has been so many
8 percentages that...at this...and I think it's only S-36. It
9 may be T-36 also. S-36 I can speak to. That money is
10 suspended, awaiting a final supplemental order to be drafted
11 and given to the bank; and once that's done, then whatever
12 money we've had in suspense will be deposited with the bank.

13 SANDRA RIGGS: In order to calculate the royalty,
14 they need to tie down these percentage interests because they
15 don't know what percentage interest to deposit in that
16 because this is in the process of being amended. With those
17 changing, they can't tie down the numbers. Do you see what
18 I'm saying? They're waiting for this order and this
19 additional work that has been done here in order to be able
20 to apply that and come up with the dollar amount that needs
21 to go on deposit.

22 BENNY WAMPLER: Okay. You had a question.

23 FRANK STACY: Yes, sir. Mr. Chairman, I'm Frank
24 Stacy. I'm here on behalf of some of the Linkous Horne
25 heirs. If need be, there is several Linkous Horne heirs.

1 here. As a matter of fact, I'd go as far as saying everyone
2 mentioned on the docket. I do have a couple of questions I
3 would like to address with the applicants. The monies that
4 you've not submitted, you say you're going to submit. There
5 has been no money submitted so far, is that correct?

6 LES ARRINGTON: That's correct. There hasn't been.

7 FRANK STACY: Okay.

8 LES ARRINGTON: Just as soon as this order is
9 entered, we'll do that.

10 FRANK STACY: Okay. And interest on the monies, I
11 assume they're going to come on line with it? That's a
12 question.

13 LES ARRINGTON: That money is in a suspense account.
14 I don't know the exact particulars about that account.

15 FRANK STACY: Okay. Who is controlling the money
16 currently?

17 LES ARRINGTON: In this case, it's Conoco, our
18 partner.

19 FRANK STACY: Okay. So, in other words, the
20 applicant is using the money currently themselves that should
21 be in escrow?

22 LES ARRINGTON: That money is in a suspense account.
23 No, sir, it's not being used.

24 FRANK STACY: Okay. And you...you have some records
25 to show that it is in a suspense account? Could you give us

1 a dollar figure, please?

2 LES ARRINGTON: No, sir, I can't. I don't...I
3 certainly wouldn't have that with me.

4 FRANK STACY: Okay. Okay. So, no idea on the
5 escrow amount? On which permits have you all made
6 modifications in relation to, for clarification if I may, S-
7 36, T-36, S-37, and T-37? I understood that you made some
8 modifications. Which particular permits were modified?

9 LES ARRINGTON: Permits---?

10 FRANK STACY: Okay. I'm sorry. The applications
11 that you've submitted.

12 LES ARRINGTON: Are you talking about the pooling
13 that we done?

14 FRANK STACY: Yes, sir, on the pooling.

15 LES ARRINGTON: Okay. We have modified...we have
16 modified the S and T-36 on, I believe, this is our first
17 occasion. Mr. McClanahan modified it on the first occasion.
18 And R...the other ones once, with the exception of R-37.

19 FRANK STACY: Okay. Has everybody been notified of
20 the modifications and have they been advertised?

21 LES ARRINGTON: Yes, sir, they have.

22 FRANK STACY: Okay. Have they been advertised with
23 the modifications?

24 LES ARRINGTON: They have.

25 FRANK STACY: Including the lines you just showed to

1 the Board that had been moved, that has been advertised?

2 LES ARRINGTON: It certainly has. It was---

3 FRANK STACY: It's not on the map that I have, is
4 that correct?

5 LES ARRINGTON: That's correct, it is not. On S and
6 T-36, that's correct.

7 FRANK STACY: Okay. Now, I'm confused. If the
8 Linkous Horne heirs have been notified that it has been
9 changed, yet it's not on the dockets we have, how did you
10 notify us---?

11 LES ARRINGTON: We---

12 FRANK STACY: ---that the line was changed?

13 LES ARRINGTON: We...we noticed that there was a
14 modification being made to the S and T-36.

15 FRANK STACY: Okay. You noticed it, but you
16 notified, you said, and I haven't seen the notification.
17 That's what I'm not sure of.

18 LES ARRINGTON: The publication was part of
19 our...the publication is S and T-36, that was part of the
20 exhibits that was presented to the Board and you're certainly
21 welcome to those.

22 BENNY WAMPLER: I think he has copies.

23 FRANK STACY: Pardon me?

24 BENNY WAMPLER: You have copies. That's what they
25 gave you.

1 FRANK STACY: No...I do?
2 BENNY WAMPLER: I don't know. I'm asking you.
3 Didn't...I thought he gave you a copy of what he gave the
4 Board.
5 LES ARRINGTON: That's...that's part of...I'm sorry.
6 I wasn't...
7 FRANK STACY: Okay. So, we're just now receiving
8 this, or I should already have this? I'm sorry.
9 DANNY McCLANAHAN: Yeah, this is the same thing we
10 got.
11 LES ARRINGTON: No, sir.
12 MARK SWARTZ: He should already have the plat.
13 FRANK STACY: Pardon me?
14 LES ARRINGTON: He has got the initial plat, Mark.
15 MARK SWARTZ: Right.
16 LES ARRINGTON: Yeah.
17 MARK SWARTZ: It shows a different line.
18 LES ARRINGTON: It shows a different line.
19 FRANK STACY: Okay. He has the initial...this is
20 the modification, is that correct, sir?
21 LES ARRINGTON: Now, that is the line...the
22 map...the line that's shown on the map is the...is the middle
23 line on the exhibits there that you...that I just gave you.
24 FRANK STACY: That you just gave me?
25 LES ARRINGTON: Yes, sir.

1 FRANK STACY: All right. And you have advertised it
2 in the paper with the changes? Is that what you're saying?

3 LES ARRINGTON: We advertised that line---.

4 FRANK STACY: That's on this?

5 LES ARRINGTON: What I advertised in the paper---.

6 FRANK STACY: Is on the previous?

7 LES ARRINGTON: ---was this unit being...coming up
8 for a modification, T-36 and S-36.

9 FRANK STACY: All right.

10 LES ARRINGTON: That plat was not published.

11 FRANK STACY: I'm asking the Board if you modify...I
12 know in the coal fields. I'm not sure in the oil and gas.

13 If you modify an application, don't you have to readvertise
14 that there's an amendment or a modification to the
15 application?

16 BENNY WAMPLER: That's what they've done.
17 They...they advertised that they were going to come---.

18 FRANK STACY: Okay.

19 BENNY WAMPLER: ---to the Board and make a
20 modification.

21 SANDRA RIGGS: For that drilling unit.

22 BENNY WAMPLER: For that drilling unit.

23 SANDRA RIGGS: That 80 acre drilling unit. You're
24 talking about individual tract lines within the drilling
25 unit.

1 FRANK STACY: Right. They're saying they're
2 changing the tract line now, is that correct---?

3 SANDRA RIGGS: Well---

4 FRANK STACY: ---if I understood Mr. Swartz? He
5 was showing you that they were moving the tract lines.

6 MARK SWARTZ: Actually, what we're saying is, we
7 don't know where the line is and we're show...we're showing
8 you the options that we have been presented with and
9 suggesting that it needs to be escrowed. So, I'm not moving
10 a line. I'm telling you I don't know where that line should
11 be.

12 FRANK STACY: Well, sir, I guess, my question is, if
13 don't know the facts of where the line is which could be
14 certified...I mean, surveyed and certified, how can you put
15 in a well with an accurate location and how can you go ahead
16 and escrow the monies into an account if you keep adjusting
17 the line and not submitting surveyed...certified surveys?
18 You can hold the escrow moneys as long as you want to, to use
19 yourself to put into future operations. So, it's unfair to
20 the heirs for you not to submit certified maps and not to
21 designate the locations and not to escrow the money as soon
22 as you receive it.

23 MARK SWARTZ: Okay. Is that a question or a---?

24 FRANK STACY: Yes, sir, that's a question.

25 MARK SWARTZ: Okay. I'll take it---

1 FRANK STACY: Can you submit certified maps and do
2 you submit certified maps---?

3 MARK SWARTZ: I'll take...I'll take it in pieces.

4 FRANK STACY: All right, sir.

5 MARK SWARTZ: As I have said over and over again, we
6 cannot certify that western line of the McClanahan tract for
7 the reasons set forth in the addendum. It needs to be
8 settled by a lawsuit or an agreement between the parties on
9 either side of that line. I have no power to make that
10 happen. So, I cannot certify that line because we don't know
11 where it is. If that line dispute needs to be resolved, it
12 needs to be resolved by the property owners. I don't have
13 control of that.

14 With regard to the money, the production allocated
15 to this unit is an identifiable number. Once we have an
16 order from the Board that quantifies the percentages, because
17 we're adding the Royals here...Gillespie here, the money is
18 determined, the escrow agent will get an order saying accept
19 money with regard to this tract and it can be paid regardless
20 of where that line is. I think that's the collection of
21 questions you asked and that's my answer.

22 FRANK STACY: The only question I have, and not
23 directly a question for the Board, but I want you to take it
24 into consideration in your decision. If they don't know
25 where the lines are at and they're not sure who owns it, but

1 they're wanting to pool it, the Board has no way of knowing
2 that the proper people are here to defend themselves. I
3 mean---

4 SANDRA RIGGS: They know who the owner on this side
5 is and the owner on this side is and both of those people
6 have been named as a party to these proceedings. They just
7 don't know which way it shifts.

8 DANNY McCLANAHAN: No, ma'am, they haven't. The
9 Stilwell heirs on the western boundary is not here. They
10 weren't added into this.

11 (Mr. Swartz and Mr. Arrington confer with each
12 other.)

13 SANDRA RIGGS: They're leased.

14 MARK SWARTZ: We have a lease.

15 DANNY McCLANAHAN: Well, if they're leased, though,
16 how can...you know, if they're leased, it wouldn't matter
17 where my line is. He's saying that I'm...I'm in conflict
18 with the Stilwell heirs as to that line on the western
19 boundary of my property when they've already leased. So, it
20 really don't matter to them. They surveyed that out and---

21 MARK SWARTZ: It matters to the Stilwells.

22 DANNY McCLANAHAN: Yes, sir. It would be on the
23 western part of my property line, the Stilwells do own that
24 property on that side and your argument is, you know, that
25 we've got to come to a decision as to that and you all have

1 already surveyed it. You know, they've already leased to
2 you.

3 MARK SWARTZ: But that doesn't determine what part
4 of the money they're entitled to vis a vis you and your
5 claims. I mean, the fact that we have a lease from them is
6 why they're not here because we don't have to force pool
7 people we have leases from, but that doesn't mean that they
8 don't have, you know, money at stake here with regard to the
9 location of this line.

10 DANNY McCLANAHAN: Well, that's also another concern
11 of mine. I'd like to know how you can lease property off of
12 somebody that Hurt/McGuire already claims he owns the gas
13 rights on? That's the reason there's a conflicting claim and
14 you're unable to pool that.

15 MARK SWARTZ: Actually, Hurt/McGuire claims they own
16 the coal.

17 DANNY McCLANAHAN: Well, who is the conflicting
18 claimant on the gas then, why they got all of the people down
19 there on conflicting claims in that...those orders, the
20 Stilwell heirs, Mr. Linkous Horne heirs, me, myself, Mitchell
21 Counts and them...how come they can do that if there's not a
22 conflicting claim? Who is the conflicting claimant over all
23 of this? Hurt/McGuire.

24 MARK SWARTZ: Well, I'm telling you, we're
25 identifying them as a coal owner.

1 DANNY McCLANAHAN: Well, who...that's what I'm
2 asking you, Mark. Is who is the conflicting claimant? If
3 there's nobody else conflicting, the Stilwells own their gas,
4 the Linkous Horne owns their gas and Mitchell Counts and them
5 owns their gas. Who is the conflicting claimants?

6 MARK SWARTZ: The problem is that if somebody owns
7 all the coal, or takes the position that they own all of the
8 coal, and other...a collection of other people contend they
9 own the oil and gas, all of that money is in conflict. All
10 of that is a conflicting claim. The wrinkle here in regard
11 to these units is the Linkous Horne heirs claim that they own
12 your gas. You claim you own their gas.

13 DANNY McCLANAHAN: Yeah, but what...I'm...that's not
14 what I questioned you.

15 MARK SWARTZ: Well, I'm just answering your
16 question. But what the problem here is and the responses I
17 think you were indicate...you did say that the McGuire and
18 Hurt heirs were claiming oil and gas and they're not. I
19 mean, their interest is shown as a coal...a coal owner.
20 There's an argument between them and Linkous Horne heirs as
21 to who owns the coal. There's an argument between a whole
22 bunch of folks here with regard to the oil and gas interest
23 and that puts all of this money in conflict.

24 DANNY McCLANAHAN: My question is, though, the coal
25 owner...that's the reason you all are being able to force

1 pool this is because the coal owner claims the rights to the
2 gas and oil more or less. You all are not depicting it in
3 here.

4 MARK SWARTZ: Well, we also have leases from other
5 oil and gas owners.

6 DANNY McCLANAHAN: Well, that's what I asked you.
7 How can...if they're in conflicting claims...it shows right
8 there in the papers, how can they lease something that we're
9 not showing who owns the property, who owns the gas rights?

10 MARK SWARTZ: If you have a claim, you can lease
11 that claim.

12 BENNY WAMPLER: It's just like you would be able to
13 lease---

14 DANNY McCLANAHAN: Well, how could...how could...I'm
15 claiming it. What would they do if I claim it and I...I
16 elect to be a participating operator on a carried basis?
17 Would they take my percentage on the carried basis and escrow
18 that until it's decided?

19 MARK SWARTZ: Right. That's correct.

20 SANDRA RIGGS: Uh-huh.

21 BENNY WAMPLER: Yes. That's right. That's what has
22 to be because there's no determine...no determination of
23 ownership.

24 DANNY McCLANAHAN: Well, on this...on the...on
25 listing me as a conflicting claimant, I'd like to enter it into

1 evidence T-36, the first well in that unit.

2 SANDRA RIGGS: Are we through with---?

3 BENNY WAMPLER: Let me...let me hold you because he
4 has...he has got another witness to call. Okay.

5 DANNY McCLANAHAN: Oh, okay.

6 (Ms. Riggs confers with Mr. Wampler.)

7 BENNY WAMPLER: Yeah, I'm...as I said, I'm going to
8 let you all...if you have a case to put on, I'm going to let
9 you do that.

10 DANNY McCLANAHAN: Okay. Go ahead.

11 BENNY WAMPLER: But I'm...I'm trying to finish with
12 this witness and then we'll go to the next to the next
13 witness and then we'll listen you have a case to put on.
14 Okay.

15 MARTHA WILLIAMS: I'm Martha Williams and I would
16 just like to clear one thing up. You can look it up in the
17 records, Mr. Arrington or Mr. Swartz, we don't claim the
18 rights to the coal. The Linkous Horne heirs, we have
19 not...there's no place in these records that I have that we
20 have listed coal and gas...methane gas, coalbed and so on.
21 We have no place in any of these packets that I have that we
22 claim the coal. Maybe I have overlooked it. I don't see
23 well. You know, if you have, if you would point that out to
24 me.

25 MARK SWARTZ: I've been permitting hearings before