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VIRGINIA OIL AND GAS CONSERVATION BOARD

HEARING OF AUGUST 18, 1992

9:00 A. M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER

INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ITEM

PAGE

I	2
II	3
III	19
IV	52, 92
V	111
VI	3
VII	3
VIII	53
IX	53

1 August 18, 1992

2 This matter came on to be heard on this the 18th day of
3 August, 1992 before the Virginia Gas and Oil Board held at the
4 Southwest Virginia 4-H Center, Abingdon, Virginia, pursuant to
5 Section 45.1-356.19B and 45.316.22B of the Code of Virginia.

6 MR. WAMPLER: Good morning. My name is Benny Wampler and I'm
7 Assistant Director for Mining for the Virginia Department
8 of Mines, Minerals and Energy. I'll call this hearing to
9 order. I'll ask the Board members to introduce them-
10 selves starting with Kevin.

11 (MEMBERS INTRODUCED.)
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ITEM I

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MR. CHAIRMAN: Today's agenda Item I, docket number VGOB-92/07/21-0232, has been withdrawn. Is there any further comment on that?

MR. COUNTS: No, sir.

MR. CHAIRMAN: There's no action required by the Board.

ITEM II, VI, VII

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3 MR. CHAIRMAN: Agenda Item II is docket number VGOB/92/07/21-
4 0245. This is a petition by Equitable Resources Explora-
5 tion for the location exception designated as V-2445. I
6 would ask anyone that wishes to address the Board to come
7 forward at this time.

8 MR. COUNTS: Mr. Chairman, Equitable Resources has three
9 requests for location exceptions before the Board today,
10 being Items II, VI and VII on today's docket. Each of
11 those request for location exceptions are in the same
12 general vicinity, all are involved with the Emboden and
13 Dorchester mine workings. We'd like to request the Board
14 to consolidate those matters into one. In addition I
15 have checked with Ms. McClannahan, counsel for Pocahontas
16 Gas Company, and she's indicated her consent as long as
17 the Board is willing.

18 MR. CHAIRMAN: Any objections? There are none.

19 MR. COUNTS: Well, Mr. Chairman, I will indicate that we have
20 these exhibits here, each on the well location exceptions
21 which we have before the Board. And as the Board can
22 see, those are all within active mine workings in the
23 same general vicinity. (Pause.) Mr. Chairman, if it
24 meets with the Board's pleasure to consolidate these
25 matters I will introduce that as Exhibit A.

1 MR. CHAIRMAN: You may go ahead and do that, sir.

2 MR. COUNTS: Thank you, sir. I'd also at this time like to
3 introduce Exhibit B with respect to wells 2425, and 2436.

4 MR. CHAIRMAN: For the record, the Board has agreed to
5 consolidate Items VI and VII on the agenda with Item II.
6 Those additional docket numbers are VGOB-92/08/18-0250
7 which is well V-2447 and docket number VGOB-92/08/18-0251
8 which is well V-2436. If there are any parties that wish
9 to address the Board on these wells please come forward.

10 MR. COUNTS: I'd also like to introduce Exhibit C which is
11 with respect to the same wells, 2436 and 2445, and this
12 is with respect to the Dorchester mine works where as
13 Exhibit B is with respect to the Emboden mine works. The
14 big regional map will be one for clarification purposes.
15 And Exhibit D is with respect to location well 2447, the
16 Emboden mine works. Mr. Chairman, again with respect to
17 these requests for location exceptions, being V-2445,
18 2447 and 2436, we would submit to the Board that the
19 correlative rights issue is negated here as a result of
20 the fact that 100 percent of the properties are leased to
21 Equitable Resources as operator of the Roaring Fork
22 Partnership. During our testimony we will discuss the
23 concerns of the coal owner which is Penn Virginia
24 Resources Corporation and provide testimony by Penn
25 Virginia as the coal owner of the oil and gas owner

1 regarding these location exceptions. These are essent-
2 ially requests for in-field drilling locations to a
3 larger extent dictated by existing wells and in combina-
4 tion of interest specifically to coal interest in this
5 region. Again, another balancing of interest or a
6 combination of interest, no correlative rights issues are
7 involved. Thus, waste is the only issue. We will also
8 present testimony by Equitable with respect to the amount
9 of waste that would occur in the event these location
10 exceptions are not drillable. In terms of witnesses, we
11 will be presenting a witness from Penn Virginia Resources
12 Corporation with respect to the mine workings, Mr. Joe
13 Powers who is a mining engineer, also Mr. Bob Dahlin from
14 Equitable with the geological engineering matters, and
15 Mr. Lee Talbott from Equitable with respect to land
16 matters. If the Board has no objection, I would like to
17 call my first witness at this time.

18 MR. CHAIRMAN: Go ahead.

19 MR. COUNTS: Thank you, sir. Mr. Lee Talbott.

20 COURT REPORTER: (Swears witness.)

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22

LEE TALBOTT

23 a witness who, after having been duly sworn, was examined and
24 testified as follows:

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BY MR. COUNTS:

Q. Mr. Talbott, would you state your full name for the record and who you are employed by and in what capacity?

A. My name is Lee Talbott. I'm the Land Administrator for Equitable Resources Exploration.

Q. Mr. Talbott, have you previously testified as an expert witness before this Board and have your qualifications been accepted by this Board as an expert witness?

A. Yes, sir. That's correct.

MR. COUNTS: Mr. Chairman, I'd like to offer Mr. Talbott as an expert witness in this matter.

MR. CHAIRMAN: Any objections? Okay.

Q. (Mr. Counts continues.) Mr. Talbott, do your responsibilities include the lands involved here and the surrounding area?

A. Yes, sir.

Q. And are you familiar with the applications for location exceptions to wells V-2445, 2447 and 2436?

A. I am.

Q. Would you indicate for the Board the ownership of the oil and gas underlying each of these wells?

A. The oil and gas underlying well V-2436 as indicated on the plat submitted July 7th, 1992 is owned by Penn

1 Virginia Resources with the exception of tract number
2 four which is tract 211 being owned by Westmoreland Coal
3 Company of 1,189 acres. Well V-2447 as indicated on the
4 plat dated Jul7 24th, 1992, the oil and gas is owned
5 entirely by Penn Virginia Resources Corporation. Well
6 2436 as indicated by the plat dated July 7th, 1991, all
7 oil and gas tracts are owned by Penn Virginia Resources
8 Corporation.

9 Q. Mr. Talbott, are all these tracts covered by an oil and
10 gas lease or leases and does Equitable have a working
11 interest in oil and gas lease covering 100 percent of all
12 these tracts?

13 A. Yes, sir. That is correct.

14 Q. And do these leases also cover all the oil and gas owners
15 within a 1,320 feet radius of each of these location
16 exception wells?

17 A. They do.

18 MR. COUNTS: Mr. Chairman, I have no further questions of this
19 witness.

20 MR. CHAIRMAN: Any questions, members of the Board, of Mr.
21 Talbott?

22 (Witness stands aside.)

23 MR. CHAIRMAN: Call your next witness, please.

24 MR. COUNTS: I'd like to call Mr. Bob Dahlin.

25 COURT REPORTER: (Swears witness.)

1 cubic foot per well of reserves.

2 Q. Should all formations from the surface of the ground to
3 the total depth drilled be covered by any order issued by
4 the Board?

5 A. Yes, they should.

6 Q. In your professional opinion are there any other feasible
7 locations on these tracts which would allow these wells
8 to be drilled without requiring a location exception?

9 A. None that would be approved by the coal operator.

10 Q. In your opinion will the granting of these location
11 exceptions be in the best interest of preventing waste
12 and maximize recovery of gas reserves underlying V-2445,
13 2447 and 2436?

14 A. Yes, sir.

15 MR. COUNTS: Mr. Chairman, I have no further questions for
16 this witness.

17 MR. CHAIRMAN: Any questions, members of the Board?

18 (Witness stands aside.)

19 MR. CHAIRMAN: Call your next witness.

20 MR. COUNTS: Thank you, sir. I'd like to call Mr. Joe Powers.

21 COURT REPORTER: (Swears witness.)

22

23 JOE POWERS

24 a witness who after having been duly sworn, was examined and
25 testified as follows:

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BY MR. COUNTS:

Q. Mr. Powers, would you please state your full name for the record?

A. I'm Joe Powers.

Q. And who are you employed by and in what capacity?

A. Penn Virginia Resources Corporation as a mine engineer.

Q. Would you state your background for the Board in terms of your education?

A. I graduated from VPI in 1967 with a Civil Engineering degree and worked for Beth Elkhorn Corporation over in Jenkins, Kentucky for about thirteen years as a mine engineer and I've been with Penn Virginia now for about five years in that same capacity, mine engineer.

Q. Would you describe your area responsibility at Penn Virginia Resources?

A. It's concerned really with all the property in Penn Virginia Resources, particularly in the coal mining and oil and gas and maximizing the recovery of all the resources of Penn Virginia.

MR. COUNTS: Mr. Chairman, I'd like to offer Mr. Power as an expert witness in this matter.

MR. CHAIRMAN: Any objection? Okay.

Q. (Mr. Counts continues.) Mr. Powers, are you familiar

1 with the applications for location exceptions and the
2 well permit applications filed by Equitable?

3 A. Yes, sir.

4 Q. Have you visited each of the locations proposed as a
5 location exception and are you familiar with each
6 location as it may relate to mining operations, topo-
7 graphy, and effective land management practices?

8 A. Yes, I have.

9 Q. Mr. Powers, you've also heard testimony as to the
10 ownership of the oil and gas underlying the unit for V-
11 2445, V-2447, and V-2436. Would you indicate for the
12 Board what Penn Virginia's interest is in these sets of
13 wells?

14 A. We're a royalty owner and also have a working interest.

15 Q. In other words, Penn Virginia has a great deal at stake
16 in the drilling of these wells?

17 A. Yes.

18 Q. Is Penn Virginia involved in the process of selecting
19 locations for wells which Equitable will operate?

20 A. Yes, we are, particularly in the ready to coal mine
21 operations we work with our main lessee Westmoreland and
22 particularly where mine works are involved and they do
23 see all these locations.

24 Q. And would you describe for the Board using Exhibit A
25 primarily these considerations as they apply to these

1 specific wells?

2 A. Okay. All of you have copies of the exhibits. Let's
3 start out with well V-2445. On your regional map there
4 you have a copy that shows the Emboden and, of course,
5 the Dorchester mine works. Let's look at map B right
6 now, Emboden seam for 2436 and 2445. Well 2445 is
7 completely surrounded by active Dorchester mining. This
8 well as located in the barrier block which is about 300
9 by 400 feet. Moving that well in the northwest or south
10 would be -- the blocks that you can see there, these
11 blocks will be mined in three to five years. So we
12 wouldn't want to move it there. We couldn't move it
13 there. It wouldn't be possible to move it there because
14 we intend to mine that area. We can't really move it to
15 the southwest because there's a Wilson seam surface mine
16 purposed in that area and, of course, the topography is
17 very difficult there. These exhibits are a little bit
18 confusing. Is everybody with me there? Map C that you
19 have there covers the Dorchester mine works and I'm
20 talking about well 2445. Is everyone with me here?

21 MR. COUNTS: Mr. Chairman, I'd also like to ask at this time
22 that as we move along to each well whether or not there
23 are questions specifically with regard to well 2445?

24 MR. CHAIRMAN: Questions, members of the Board? I think
25 everyone understands what this is explaining.

1 A. (The witness continues.) Let's move on to well 2447 and
2 that will be your Exhibit D on the Emboden seam. This
3 well is -- we have this proposed on an existing strip
4 bench there. It's the Taggart/Marker strip bench. And
5 we have mined out Taggart and Emboden real close there.
6 So when we drill down we wanted to be able to miss the
7 Taggart and Marker. The Marker is only about 28 feet
8 down. With old mine works there we would possibly
9 encounter water. We really can't move it in either
10 direction. You can't move it to the west because there's
11 an existing high wall there and also you would run into a
12 variance exception on another well that's proposed there
13 that you see on the map which is 2509. Although we're
14 not asking for a variance at this time we will be at some
15 point asking for a variance on that well.

16 MR. COUNTS: Mr. Chairman, well V-2509, an application for
17 location exception has been filed on that and that will
18 be heard on the September docket.

19 A. (The witness continues.) And that well is a barrier
20 block. We have active Emboden mine works in this area
21 and we've struggled with the locations on these two areas
22 for some time and we've finally been able to define the
23 mining in the Emboden seam to the extent that we can
24 now nail down these locations. Of course, as I said, any
25 move -- if you try to move it to the east you've got

1 topography conditions. If you move off the strip bench
2 down over the hill, that's difficult, so you can't move
3 to the west because of the high wall. And, of course,
4 you get into further problems with the spacing moving in
5 either one of those directions also, as I said.

6 Q. Mr. Powers, any move to the east would also still be a
7 location exception to well 1042 or 1099, am I not
8 correct?

9 A. That's correct. Moving on to well --

10 MR. COUNTS: First, are there any questions with respect to
11 well 2447?

12 MR. CHAIRMAN: Any questions, members of the Board? Okay.

13 A. (The witness continues.) Okay. We'll move on to well
14 2436 and I believe that will be your Exhibit B. Well
15 2436, we have a lot of problems in doing anything other
16 than what we have done here with this well. It's really
17 impossible. This is extremely steep topography in this
18 area. If any of you have had the pleasure of driving
19 from Appalachia across to Lynch, it's very steep especia-
20 lly at you get towards the top you've got grades in
21 excess of 50 percent. We're also striving to hit a
22 barrier block between the 2-0 Emboden works and that will
23 show on -- I believe that will be your Exhibit B. You
24 can see we're hitting a barrier there and also there's a
25 barrier in the Marker seam mine which is shown on the

1 map but it doesn't really show on these maps. We're
2 striving to hit a small barrier in the Marker mine and if
3 we move off of this location we can encounter the water,
4 of course, in either one of those mines. Any move to the
5 west would get you into further difficulty with the
6 spacing. Any move to the east would possible -- if you
7 look on the Dorchester exhibit, which is Exhibit C,
8 you'll see the longwall extensions there, the Bullet
9 Mine, we could be getting into an active mine area and
10 cut short the proposed longwall panels in that area. A
11 move to the east would also impact a proposed surface
12 mine in that seam which about the 2,500 level. It
13 flattens out a little even there to where we think we can
14 surface mine that area. I guess to say that the topo-
15 graphy is again steep is an understatement there.

16 Q. Mr. Powers, would you clarify for the Board again that
17 you do anticipate active extension of those longwall
18 panels in the Dorchester works there from southeast to
19 northwest --

20 A. Yes, sir. As you can see --

21 Q. -- moving towards that location?

22 A. As you can see, the small development panels, those are
23 development for longwall panels and those will be
24 extended on out and a longwall will be retreating back in
25 this direction. So we need to extend these as far out as

1 we can. And to move this well to the east would possible
2 impact with the development of those longwall mines.

3 MR. COUNTS: Any questions, Mr. Chairman, with regard to 24367

4 MR. CHAIRMAN: Which well did you say that you were going to
5 ask an additional location exception to?

6 MR. COUNTS: That will be, Mr. Chairman, 2509. And the reason
7 we've shown that one in this particular situation is
8 because well 2509 is located in a barrier block. We want
9 to be able to show for the Board that -- of course, the
10 Board can also see the surrounding wells in there --
11 that this well could not be moved any further to the west
12 as a result of attempting to locate 2509 there immediate-
13 ly to the west. We've basically got an in-field drilling
14 situation here. These are the only two locations left
15 available and as testified to by Mr. Dahlin, a signifi-
16 cant loss of reserves would occur in the event that we're
17 not able to drill these two wells. So we're limited
18 there by our coal mine operations and specifically by
19 additional off-set locations as well as the proposed
20 location for 2509.

21 THE WITNESS: If you look on Exhibit D, the Emboden, it
22 doesn't really show very well on this map but on the
23 larger scale map there is a barrier block there that
24 we're striving to hit. As I said, we have active mining
25 in that area and we've now progressed to the point where

1 we can determine that that barrier block can be left and
2 we can drill through that barrier.

3 MR. CHAIRMAN: Any other questions, members of the Board? Do
4 you have anything further?

5 MR. COUNTS: Yes, please.

6 Q. (Mr. Counts continues.) Mr. Powers, does Penn Virginia
7 Resources support Equitable's application for these
8 location exceptions?

9 A. Yes.

10 Q. In your professional opinion do these requested location
11 exceptions represent the best possible location which
12 will allow these wells to be drilled consistent with
13 effective land management practices and in combination of
14 interests?

15 A. Yes.

16 Q. Who is PVRC's coal lessee for the Dorchester and Emboden
17 mines?

18 A. Westmoreland Coal.

19 Q. Has Westmoreland also approved each of these location
20 exceptions for 2445, 2447 and 2436?

21 A. Yes, they have.

22 Q. And in your professional opinion will the granting of
23 these location exceptions by the Board prevent waste and
24 promote effective land management practices?

25 A. Yes.

1 MR. COUNTS: I have no further questions, Mr. Chairman.

2 MR. CHAIRMAN: Any questions, members of the Board?

3 (Witness stands aside.)

4 MR. CHAIRMAN: Anything further?

5 MR. COUNTS: Based upon the testimony presented this morning
6 we would request the Board approve location exceptions
7 for each of these wells as submitted.

8 MR. CHAIRMAN: What's your pleasure?

9 MR. KELLY: Mr. Chairman, I'd like to make a motion that the
10 location exceptions requested today be approved as
11 submitted.

12 MR. CHAIRMAN: We have a motion to approve the exceptions as
13 requested.

14 MR. MCGLOTHLIN: Second.

15 MR. CHAIRMAN: Motion and a second. Further discussion? All
16 in favor signify by saying yes. (ALL AFFIRM.) Opposed
17 say no. (NONE.) It's unanimous.

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ITEM III

MR. CHAIRMAN: The next item on the agenda is Item III, VGOB-92/08/18-0247. It's a petition by Pocahontas Gas Partnership for a compulsory pooled unit which lies within the Pilgrim's Knob field in Buchanan County designated as unit PKE-26. I would ask all parties that wish to address the Board in this matter to come forward.

(AFTER A BRIEF PERIOD OFF THE RECORD, THE HEARING CONTINUED AS FOLLOWS:

MR. CHAIRMAN: We're all here now. Is there anyone here that wishes to address the Board other than those at the table? If not, go ahead, Elizabeth.

MS. McCLANNAHAN: Docket number 180247 is filed by Pocahontas Gas Partnership with regard to the PKE-26. That well is drilled in the Pilgrim's Knob field. It's a conventional gas well. The first witness that we would like to call is Les Arrington.

COURT REPORTER: (Swears witness.)

LESLIE K. ARRINGTON

a witness who, after having been duly sworn, was examined and testified as follows:

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BY MS. McCLANNAHAN:

Q. Les, would you please identify the resume at Exhibit 1?

A. Yes. That's my personal resume and work history.

MS. McCLANNAHAN: Mr. Chairman, I move the introduction of Exhibit 1.

MR. CHAIRMAN: We need get him to state his full name for the record, please.

THE WITNESS: Leslie K. Arrington.

Q. (Ms. McClannahan continues.) And your address is on that resume, is that correct?

A. Yes.

Q. Does the resume at Exhibit 1 reflect your educational background, work history, and qualifications?

A. Yes, it does.

Q. And have you been qualified as an expert witness before the Gas and Oil Board?

A. Yes, I have.

Q. Have you given notice as required by Virginia Code Annotated Section 45.1-361.19 to each person or entity identified on Exhibit C of the forced pooling application as a gas, oil and mineral owner underlying the unit?

A. Yes, we have.

Q. Is that hearing notice Exhibit 2?

1 A. Yes, it is.
2 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
3 Exhibit 2.
4 MR. CHAIRMAN: Okay.
5 Q. (Ms. McClannahan continues.) By what method was notice
6 accomplished?
7 A. By certified mail, return receipt requested.
8 Q. Do you have those return receipts?
9 A. Yes. That's marked as Exhibit 3.
10 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
11 Exhibit 3.
12 MR. CHAIRMAN: Any questions, members of the Board, on Exhibit
13 3? Does Exhibit 3, Mr. Arrington, contain cards for
14 every person that was notified?
15 THE WITNESS: Yes, sir.
16 MR. CHAIRMAN: We'll accept it.
17 Q. (Ms. McClannahan continues.) Were there any persons
18 whose names and/or addresses were unknown?
19 A. No. We published in the Virginia Mountaineer, Bristol
20 Herald and Bluefield Daily Telegraph on July 30th, 26th,
21 and 24th respectively.
22 Q. Do you have those proofs of publications?
23 A. Yes, we do. Copies were furnished to the inspector
24 previously.
25 Q. What percentage of the gas rights in the tracts that

1 comprise the PKE-26 unit does Pocahontas Gas Partnership
2 control?

3 A. 94.58 percent.

4 Q. And the unleased gas owners and the gas lease hold owners
5 who have leased to other parties listed on Exhibit D of
6 the PKE-26 unit forced pooling application with their
7 percentages of ownership in the respective tracts?

8 A. Yes, they are.

9 Q. Is the information provided on Exhibit D still correct as
10 of the date of this hearing?

11 A. Yes, they are.

12 Q. Are you requesting that the Board pool the interest of
13 the parties listed on Exhibit C of the PKE-26 forced
14 pooling application?

15 A. Yes.

16 MS. McCLANNAHAN: Those are all the questions I have for Mr.
17 Arrington.

18 MR. CHAIRMAN: Questions, members of the Board? Did I
19 understand you correctly to request that the Board pool
20 the interest of those listed in Exhibit C?

21 MS. McCLANNAHAN: Yes, sir.

22 MR. FULMER: C?

23 MS. McCLANNAHAN: We've talked about this before. The statute
24 requires that the interest of all parties in the unit be
25 pooled and any owner. So the technical requirement of

1 the statute is that all parties who have an interest in
2 that unit be pooled and those would be all parties listed
3 on Exhibit C. The parties whose interests are unleased
4 or are leased to other parties and have not been assigned
5 to us are listed on Exhibit D. Those are the parties who
6 would have elections to make under the pooling statute.

7 MR. CHAIRMAN: I was just clarifying that distinction.

8 MS. McCLANNAHAN: Okay.

9 MR. CHAIRMAN: Any other questions?

10 (Witness stands aside.)

11 MR. CHAIRMAN: Call your next witness, please.

12 MS. McCLANNAHAN: Ron Wood.

13 COURT REPORTER: (Swears witness.)

14

15 RONALD WOOD

16 a witness whc, after having been duly sworn, was examined and
17 testified as follows:

18

19 DIRECT EXAMINATION

20

21 BY MS. McCLANNAHAN:

22 Q. Ron, would you please state your full name for the
23 record, please?

24 A. Ronald L. Wood.

25 Q. And your address is listed on a resume at Exhibit 4, is

1 that correct?

2 A. Yes.

3 Q. And does this resume reflex your work history and
4 qualifications?

5 A. Yes, it does.

6 MS. McCLANNAHAN: Mr. Chairman, I would submit Exhibit 4 to
7 the Board and also Mr. Wood as an expert witness.

8 MR. CHAIRMAN: Any questions on Exhibit 4? Okay. We'll
9 accept it.

10 Q. (Ms. McClannahan continues.) Mr. Wood, where has your
11 experience in obtaining mineral leases been concentrated?

12 A. It's been oil, coal, gas, and coalbed methane in Virgin-
13 ia, West Virginia, Tennessee, Pennsylvania and New York.

14 Q. In your experience in obtaining leases in Virginia are
15 you familiar with the fair market value for oil and gas
16 leases in the PKE-26 unit area?

17 A. Yes.

18 Q. How many acres have you leased in Buchanan County in the
19 last year.

20 A. In the last year it's been approximately 105 leases and
21 1,500 acres.

22 Q. What are the fair market value terms for an oil and gas
23 lease in this area?

24 A. \$5 per acre per year and an one-eighth royalty.

25 Q. What would be the standard primary term for an oil and

1 gas lease in this area?
2 A. Ten years.
3 Q. With regard to the unleased owners that are listed on the
4 PKE-26 unit forced pooling application, Exhibit D, have
5 you contacted those land owners or tried to contact them
6 to obtain a lease?
7 A. Yes, we have.
8 Q. By what method did you contact them and offer a lease?
9 A. Verbal and/or certified mail.
10 MS. McCLANNAHAN: Those are all the questions I have for Mr.
11 Wood.
12 MR. CHAIRMAN: Any questions, members of the Board?
13 MR. MCGLOTHLIN: Mr. Wood, the gas leases that you've done
14 over the last year with Pocahontas, how many of those
15 have been conventional gas leases and how many have been
16 coalbed methane?
17 THE WITNESS: Probably 98 percent of them have been conven-
18 tional oil, gas and coalbed methane leases combined.
19 MR. MCGLOTHLIN: Thank you.
20 MR. CHAIRMAN: Other questions?
21 (Witness stands aside.)
22 MS. McCLANNAHAN: The next witness I would like to call is
23 Randy Albert.
24 COURT REPORTER: (Swears witness.)
25

1 RANDALL MARK ALBERT

2 a witness who, after having been duly sworn, was examined and
3 testified as follows:
4

5 DIRECT EXAMINATION

6
7 BY MS. McCLANNAHAN:

8 Q. Randy, would you please state your full name for the
9 record?

10 A. Randall Mark Albert.

11 Q. Is your address listed on the exhibit that's marked for
12 identification as Exhibit 5?

13 A. Yes, it is.

14 Q. Does Exhibit 5 reflect your educational background, work
15 history, and qualifications?

16 A. Yes, it does.

17 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
18 Exhibit 5.

19 MR. CHAIRMAN: So accepted? Without question we'll
20 accept Exhibit 5.

21 Q. (Ms. McClannahan continues.) Mr. Albert, have you been
22 qualified as an expert witness before the Gas and Oil
23 Board previously?

24 A. Yes, I have.

25 Q. Has a drilling permit been previously refused to Pocahon-

1 tas Gas Partnership on any of the tracts that comprise
2 this unit?
3 A. No, it has not.
4 Q. Has a well work permit been issued for the PKE-26 unit?
5 A. Yes, it has. The permit for well PKE-26 was issued on
6 11-14-91 as permit number 1777.
7 Q. For what type of well was the permit issued?
8 A. A gas well.
9 Q. Has the PKE-26 well been drilled?
10 A. Yes. The well has been drilled and has also been
11 stimulated and is ready to be placed into production.
12 Q. Does the plat that's attached to the forced pooling
13 application filed by PGP indicate the acreage and the
14 shape of the acreage to be embraced within the PKE-26
15 unit?
16 A. Yes, it does.
17 Q. Could you please identify the exhibit that's marked for
18 identification as Exhibit 6?
19 A. Exhibit 6 is a copy of Exhibit B of the PKE-26 forced
20 pooling application.
21 MS. MCCLANAHAN: Mr. Chairman, I move the introduction of
22 Exhibit 6.
23 THE WITNESS: I need to clarify. When I state that the well
24 is ready to be put on production, we are awaiting
25 pipeline in that area to put the well on production. We

1 do need to clarify that.

2 MR. CHAIRMAN: Any questions on Exhibit 6? Since we already
3 have the application we'll accept that.

4 Q. (Ms. McClannahan continues.) Does the plat that is shown
5 this Exhibit 6 and also attached to the forced pooling
6 application filed by PGP indicate the area within which
7 the well was drilled on the PKE-26 unit?

8 A. Yes, it does.

9 Q. Does this drilling unit embrace two or more separately
10 owned tracts?

11 A. Yes, it does.

12 Q. Are you requesting that PGP be designated as the well
13 operator?

14 A. Yes, we are.

15 Q. Are you requesting the relief sought in paragraph four of
16 PGP's application in accordance with law Code and Section
17 361.1 et sec?

18 A. Yes, I am.

19 MS. McCLANNAHAN: Those are all the questions I have for Mr.
20 Albert.

21 MR. CHAIRMAN: Mr. Albert you were asked how this well was
22 permitted and you said as a gas well. Is it permitted as
23 a conventional gas well?

24 THE WITNESS: Yes, sir. It was permitted as a conventional
25 gas well.

1 MR. CHAIRMAN: Other questions?

2 MR. KELLY: I guess just for clarification, you said the well
3 has already been drilled?

4 THE WITNESS: Yes, sir.

5 MR. KELLY: So do the costs represented in your AFE represent
6 actual costs or --

7 THE WITNESS: For the most part -- at least for the drilling
8 cost they are actual costs. Some of the others are still
9 estimates.

10 MR. KELLY: What about your completion cost? The two major
11 items here appear to be stimulation costs. Are those
12 actual?

13 MS. McCLANNAHAN: You may want to have Mr. Keiffly answer
14 those questions about the DWes, if you don't mind, since
15 he's the drilling engineer. Is that all right?

16 MR. KELLY: Sure.

17 MS. McCLANNAHAN: He's my next witness if you don't have any
18 other questions for Randy.

19 MR. CHAIRMAN: Any other questions for Mr. Albert?

20 (Witness stands aside.)

21 COURT REPORTER: (Swears witness.)

22

23 DOUGLAS L. KEIFFLY

24 a witness who, after having been duly sworn, was examined and
25 testified as follows:

DIRECT EXAMINATION

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BY MS. McCLANNAHAN:

Q. Doug, would you please state your full name for the record?

A. Douglas L. Keiffly.

Q. Could you identify the exhibit that's marked for identification as Exhibit 7?

A. Yes. Exhibit 7 is my resume and work history.

Q. And that also reflects your educational background and qualifications?

A. Yes.

MS. McCLANNAHAN: Mr. Chairman, I move the introduction of Exhibit 7 and also submit Mr. Keiffly as an expert witness.

MR. CHAIRMAN: Any questions on Exhibit 7? We will accept Exhibit 7.

Q. (Ms. McClannahan continues.) Are the costs and expenses for the PKE-26 well set forth on the detailed well estimates that are attached to the forced pooling application as Exhibit G?

A. Yes, they are.

Q. Would you please answer Mr. Kelly's question with regard to completion costs?

A. Okay. The completion costs were estimates done and

1 prepared at the time that they were preparing the
2 material. It has been since completed and the costs are
3 within five percent of those estimated.

4 Q. The actual costs are five percent more than, is that
5 correct?

6 A. Slightly five percent more. As he said, there's still
7 some addition meter run and stuff that hasn't been
8 completely hooked up, but in part they're within that
9 cost estimate.

10 Q. And Pocahontas elected not to charge the additional five
11 percent costs to the owners in the unit?

12 A. Correct.

13 MR. KELLY: So this number here is the number that is being
14 used?

15 MS. McCLANNAHAN: That's correct.

16 MR. KELLY: On your stimulation costs, apparently it seems
17 somewhat more than normal from my experience, anyway, at
18 least in that particular area. Did you do larger
19 stimulations --

20 THE WITNESS: Right.

21 MR. KELLY: -- or some kind of addition work to determine
22 reservoir parameters or what?

23 THE WITNESS: There was a pressure build up and a test ran
24 before the Berea was ever initially fracked and in
25 conclusion the reservoir was found tight and there was

1 additional sand pumped trying to get conductivity to the
2 well bore of about 115,000 to 120,000 pound job. So
3 somewhat significantly bigger than the normal job out
4 there.

5 MR. KELLY: Thank you.

6 MR. MCGLOTHLIN: Since we were told that the witness did the
7 DWES, could you explain the location title that's
8 after -- the cost on that?

9 THE WITNESS: The location was picked because of leasing
10 mineral rights and to meet the coal company restrictions
11 of being in a coal barrier between the coal companies.
12 So it's pretty specific on location. And there was, I
13 believe, over a mile and a half of road constructed. The
14 majority of the actual physical location was due to the
15 large extensive road that had to be constructed in there.
16 Also we were on a barrier -- the top of a hill on pretty
17 good slopes. We had quite a bit of dirt work to do in
18 moving through that.

19 MR. MCGLOTHLIN: \$85,000 does a lot of excavation and road
20 work. I think that's a little bit excessive.

21 THE WITNESS: I agree.

22 MS. McCLANNAHAN: Randy may also be able to give you the
23 specifics.

24 MR. ALBERT: Yeah. Mr. McGlothlin, I built the site. It was
25 over a mile and a half of road in very steep terrain.

1 I'm sure you're very familiar with Buchanan County. It's
2 one of the worst areas of Buchanan County. It's very
3 steep. It was a hillside site rather than -- we weren't
4 able to locate on a ridge top or a strip bench. So we
5 had a hillside site that had to be excavated. I've been
6 building sites in Buchanan County for a number of years
7 and it was one of the toughest sites we've ever had to
8 build.

9 MR. MCGLOTHLIN: What was the location of the well? Can you
10 give some landmarks in the area?

11 THE WITNESS: Right above Coal Chapel.

12 MR. MCGLOTHLIN: I'm from Grundy and we haven't been to Coal
13 Chapel yet.

14 MS. McCLANNAHAN: You need to go to church at Coal Chapel.

15 MR. ALBERT: Well, let's see. Do you know where Whitewood is?

16 MR. MCGLOTHLIN: Yes, sir.

17 MR. ALBERT: Okay. You turn up Route 629 out of Whitewood, go
18 to the top of the mountain, take a left -- there's a Mr.
19 Hilton that lives on top of the ridge on 629.

20 MR. MCGLOTHLIN: We're talking about the Jewel Ridge area --
21 runs in that area?

22 LADY IN AUDIENCE: On the Horne Mountain section.

23 MS. McCLANNAHAN: Horne Mountain section.

24 MR. ALBERT: You go past Mr. Hilton's house out Horne Mountain
25 through his -- across his field, back up the top of the

1 ridge. Like I said, about a mile and a half of newly
2 constructed road just to get to the location.

3 MR. MCGLOTHLIN: You didn't follow the ridge? You built right
4 on the side --

5 MR. ALBERT: Mr. Hilton requested that we stay out of his
6 field and keep the road instead of on the ridge down on
7 the hillside in order to minimize disturbance to his life
8 stock.

9 MR. MCGLOTHLIN: Okay. Thank you, Mr. Albert.

10 MR. CHAIRMAN: You DWE shows stimulation in the Big Lime and
11 the Berea. Are there any other formations that you're
12 requesting to be pooled because really I didn't see what
13 specifics on what formations you requested pooling,
14 whether or not --

15 MS. McCLANNAHAN: Those are the two formations, Big Lime and
16 Berea.

17 MR. CHAIRMAN: You're not producing from any coalbed methane.
18 This is strictly conventional production?

19 THE WITNESS: Right.

20 MR. CHAIRMAN: Do you consider this overall cost of this well
21 to be out of the ordinary in the way of costs for wells?

22 THE WITNESS: Yes, out of the ordinary for the build up and
23 the additional sand. It's somewhat higher than what we
24 would hopefully typically have if you go back into an
25 in-field well and drill.

1 MR. CHAIRMAN: And what do you contribute to those extra
2 ordinary costs primarily?
3 THE WITNESS: Primarily is the additional zone, Big Lime,
4 which can or cannot happen in that area and the addition-
5 al build up and flow test that was done to try to
6 establish whether additional drilling would be done in
7 the area.
8 MS. McCLANNAHAN: In addition, the site location --
9 THE WITNESS: And the site location.
10 Q. (Ms. McClannahan continues.) Mr. Keiffly, that was a
11 result of the coal companies' request to stay in a
12 barrier, is that correct?
13 A. True.
14 MS. McCLANNAHAN: As you can see from the plat, there are two
15 coal companies that had to agree on this particular site,
16 is that right, Mr. Albert, both Island Creek and Consol?
17 MR. ALBERT: That is correct.
18 MR. CHAIRMAN: You consider testing of the well for formation
19 production a reasonable cost of a well?
20 THE WITNESS: It has be to done at that point to be able to
21 obtain that data. The testing was done prior to the
22 frack.
23 MR. CHAIRMAN: How much did the testing cost you? Is that
24 outlined anywhere here? That's what I'm trying to find.
25 THE WITNESS: It's not outlined in there. It was approximate-

1 ly 12,000 to 15,000.

2 MR. CHAIRMAN: So it's not significant to the overall cost --
3 the testing isn't?

4 THE WITNESS: Additional to the frack, I guess not. It's
5 significant to the overall. It's in the Berea frack
6 number.

7 MS. McCLANNAHAN: Right. It's included in the Berea frack
8 number of 141,000.

9 MR. CHAIRMAN: Okay.

10 MR. CHAIRMAN: Any other questions? Okay.

11 Q. (Ms. McClannahan continues.) Mr. Keiffly, with regard to
12 the costs that are listed on the DWE that you described
13 and submitted for the well on the PKE-26 unit, how do you
14 propose to allocate the costs among the owners in the
15 unit?

16 A. Five percent ownership and net mineral acres.

17 Q. For how many wells do you propose to charge the unit
18 owners?

19 A. One.

20 MS. McCLANNAHAN: Those are all the questions I have for Doug
21 unless the Board has any questions.

22 MR. CHAIRMAN: Any questions, members of the Board, for Mr.
23 Keiffly?

24 MR. MCGLOTHLIN: One more question, Mr. Chairman. What was
25 the total depth of the well?

1 THE WITNESS: It was 5,475, I believe. That may be a foot off
2 or so, but it was close to that.

3 MR. MCGLOTHLIN: So approximately \$10/\$12 a foot?

4 THE WITNESS: The contractors bid was \$14.92 a foot to drill.

5 MS. McCLANNAHAN: The total depth is 5,478 as it shows on the
6 DWE.

7 MR. MCGLOTHLIN: Okay. Thank you.

8 MR. CHAIRMAN: Any other questions for Mr. Keiffly?
9 (Witness stands aside.)

10 MR. CHAIRMAN: Do have another witness?

11 MS. McCLANNAHAN: No other witnesses. We would request that
12 the Board grant us the relief that's requested in the
13 application filed.

14 MR. CHAIRMAN: Any other parties present that wish to address
15 the Board before we make a decision on this matter?
16 State your name for the record, please.

17 MS. ELKINS: My name is Margaret Elkins. My address is Post
18 Office 1624, Abingdon.

19 MR. CHAIRMAN: Thank you. What would you like to tell us?

20 MS. ELKINS: Well, that I'm one that hasn't leased their
21 mineral rights yet. We offered to sell the whole thing
22 to Mr. Woods and he says they're not interested in
23 buying. All they want is a lease on the gas and oil.
24 But he also told me that if we would get it appraised --
25 the surface -- that he would see about buying it. And I

1 think our oil and gas is worth more than they want to pay
2 us. They just want to pay us \$5 a year, right?

3 MR. WOODS: Correct, per year.

4 MS. ELKINS: And they want to lease it for ten years. What
5 about our coal that we have there?

6 MR. WOODS: That's a separate lease all together.

7 MS. ELKINS: Well, in that letter it didn't say anything about
8 a separate lease. It says, "Surface, coal, oil and gas"
9 in that certified letter that Elizabeth wrote. Right?

10 MS. McCLANNAHAN: Wait a minute. I didn't write any letter.

11 MS. ELKINS: Well, whoever wrote it. Mr. Arrington, you did,
12 I guess.

13 MR. ARRINGTON: Yes, ma'am.

14 MS. ELKINS: You didn't write it. Excuse me, Ms. McClannahan.

15 MS. McCLANNAHAN: That's okay.

16 MR. ARRINGTON: You're talking about the pooling application.

17 MS. ELKINS: Yeah, the application. The pooling application,
18 right. See, I'm not as smart as you lawyers are.

19 MR. CHAIRMAN: Well, of course, I'm sure you realize that the
20 Board doesn't get involved in those types of matters.

21 MS. ELKINS: Right.

22 MR. CHAIRMAN: If there's any testimony here that you've heard
23 today that you think is in error in any way or any
24 additional testimony that you would like to give us, the
25 matter of whether you lease or not lease is something

1 that you're protected by law and you'll have your rights
2 spelled with any decision of this Board. If you have any
3 questions --

4 MS. ELKINS: I have a son and a neighbor that live there on
5 the property. My son, I gave him where he lives. But
6 they use our well also. They're drilling the well up
7 above the house and he uses the well. It's already bad.
8 It's already ruin. It has black coal dirt and everything
9 in it -- oil or grease or whatever already. Baily Price,
10 Ralph Brown, Arthur Lawson, they ruin their well, too,
11 but they fixed it.

12 MR. CHAIRMAN: You mean from this well?

13 MS. ELKINS: Uh-huh. Right.

14 MR. CHAIRMAN: You've had damage from this well drilling?

15 MS. ELKINS: Uh-huh. I went over there last Sunday and they
16 were telling me that their well water was terrible.

17 MR. CHAIRMAN: Had you made that known to these folks before?

18 MS. ELKINS: I told Ron that the water was bad.

19 MR. WOODS: This weekend. This past weekend was the first I'd
20 heard of it.

21 MR. CHAIRMAN: Have you looked into that?

22 MS. ELKINS: See, last weekend is when I went over there and
23 talked to them.

24 MR. WOODS: I've talked to my people about at, but we haven't
25 had any time to go any further.

1 MR. CHAIRMAN: It was just this past weekend that you were
2 made aware that they had a problem with the well?

3 MS. ELKINS: No, I knew it before. But this weekend I went
4 and talked to JoAnn. She's right there where the well
5 is. She's my neighbor. She told me that. They live on
6 our property. She told me that it was so bad that you
7 couldn't hardly drink it.

8 MR. CHAIRMAN: Any time that happens in the future and in the
9 process, the sooner in the process we can get notified
10 the better. As far as the Gas and Oil Office, Mr.
11 Fulmer is the inspector there and he will follow-up on
12 that.

13 MS. ELKINS: Mr. Fulmer needs to go over and take a look then,
14 huh?

15 MR. CHAIRMAN: Yes, he sure does.

16 MS. ELKINS: Okay. Thank you.

17 MR. MCGLOTHLIN: Mr. Chairman, if I might make a suggestion to
18 Mr. Arrington on PKE. She also seems to be concerned
19 what her overall -- what you're going to get out of this
20 if you lease your gas rights to them.

21 MS. ELKINS: Right.

22 MR. MCGLOTHLIN: Maybe if you could take a moment and explain
23 to her what you think -- and this would all be hypothet-
24 ical -- the amount of gas that you think might be coming
25 from that well and break her interest down on the

1 royalty. That might help her make a decision.

2 MS. McCLANNAHAN: May I talk to my client just a second?

3 MR. CHAIRMAN: Sure.

4 (AFTER A BRIEF PERIOD OFF THE RECORD, THE HEARING
5 CONTINUED AS FOLLOWS:)

6 MS. McCLANNAHAN: I was just talking to my client to find out
7 exactly what negotiations had occurred before. He said
8 that she's not been interested leasing the property prior
9 to this time. Is that right, Ms. Elkins?

10 MS. ELKINS: Right. But if we got enough out of it we would
11 lease it because we don't want -- we want to sell the
12 whole thing is what we want to do. Sell the coal -- all
13 our mineral rights. That's what we wanted to do if they
14 were interested in buying.

15 MS. McCLANNAHAN: Well, obviously it's going to take him a
16 while to calculate that. What we can do is certainly
17 give her an estimate.

18 MS. ELKINS: And we don't want to hold you production, you
19 know, but we don't want them to take it either. We don't
20 want to give it to them, that's for sure, because they're
21 going to make plenty of money on that.

22 MS. McCLANNAHAN: Well, you understand that the Gas and Oil
23 Board who's sitting here today will enter an order.
24 Benny, if you want to explain that to her. I mean, we
25 won't be able to take your property without paying you

1 something.

2 MS. ELKINS: I know, but very little.

3 MS. McCLANNAHAN: Well, the Board makes that decision.

4 MR. CHAIRMAN: That's why we're questioning these well costs
5 and everything else. That plays directly into how much
6 you can get in the way of earnings from the well.
7 Proceeds that you can see.

8 MS. ELKINS: Yeah. I'd like to know. That would help.

9 MS. McCLANNAHAN: We'll certainly be glad to talk to her about
10 that afterwards.

11 MR. CHAIRMAN: Okay. And Mr. Fulmer can get further details
12 before you leave today on the well complaint -- the water
13 damage that you've alleged here today. That will be
14 separate from the Board action. Do you have any other
15 information?

16 MS. McCLANNAHAN: No.

17 MR. CHAIRMAN: Okay. Any other questions, members of the
18 Board?

19 MS. McCLANNAHAN: So you have made a determination that the
20 well complaint is not relevant to this particular
21 hearing?

22 MR. CHAIRMAN: No, we've not made that. It's relevant, but
23 it's not part of the decision that we make.

24 MS. McCLANNAHAN: Right, with regard to the forced pooling.

25 MR. CHAIRMAN: Right. Any time that the Board is hearing a

1 matter on this we certainly want to here if a citizen has
2 a problem anywhere with the activity that's going on.

3 MS. McCLANNAHAN: I'll restate that. Legally relevant to the
4 forced pooling application.

5 MR. CHAIRMAN: Correct. Any other questions?

6 MR. KELLY: I hate to belabor this point, but after some
7 further thought here I'd like to -- it just seems to me
8 like that we need a little more detail here on these
9 stimulation costs. Granted, larger jobs were done and
10 additional testing was done and extra ordinary things
11 were done compared to the normal situation. But you're
12 looking at costs here that are in the range of 40 percent
13 of the total well cost and that just seems to me to be a
14 little more than extra ordinary. I think it would be
15 appropriate if we could get a little further explanation
16 of that.

17 MR. KEIFFLY: Okay.

18 MS. McCLANNAHAN: For the record, this is Mr. Keiffly again.
19 He's already been sworn.

20 MR. KEIFFLY: What kind of details? I might can give you some
21 by the --

22 MR. KELLY: Well, maybe start off with just a little more of a
23 description of what costs are included in these stimula-
24 tion costs.

25 MR. KEIFFLY: Okay. Let me run down the Berea. This is the

1 largest one of the breakdown and kind of give you a
2 feeling and then if we need to clarify anything maybe we
3 can go from there. The work over rig which actually was
4 there to manipulate the tubing for the additional tests
5 and everything was around -- I'm going to give you
6 rounded numbers -- \$12,900. There was some wire line
7 work that was done with the testing that was \$4,000.
8 Water hauling, the fluid to make up the frack jells was
9 \$4,000. KCL prep which is the chemical put in to keep
10 the clays, \$2,000. Am I giving you too much detail
11 or --

12 MR. KELLY: No. Well, you may be going into materials and rig
13 time and -- I mean, you can categorize it more generally,
14 if you would like.

15 MR. KEIFFLY: Okay. Other than having it lumped together, I
16 don't have it broke out into a good material section.
17 The tubing is not included in the Berea frack, of course,
18 but then you've got the flow back and the pressure build
19 up around 12,000. The Berea fracture, actually equip-
20 ment, the pumping service, the jells, the chemicals were
21 around \$56,000. Labor, support, supervision around
22 \$8,500. It goes into miscellaneous -- I mean, I can
23 continue on with that detail or -- it's that kind of
24 stuff, I guess. I don't want to bore you with the
25 details, but I know you're trying to come up with those

1 numbers. The biggest part of it is the \$55,000 for the
2 actual hydraulic fracturing.

3 MR. KELLY: Obviously, right.

4 MS. ELKINS: May I say something, please?

5 MR. CHAIRMAN: Yes, ma'am.

6 MS. ELKINS: Why should we share in the cost of the well --
7 the drilling of the well? Why should we share in the
8 cost of that?

9 MR. CHAIRMAN: Well, that's a decision that you'll have to
10 make whenever you make your decision. Under the Virginia
11 Gas and Oil Law you'll have an option of leasing, you'll
12 have an option of participating which would mean you
13 would have to put up money to actually match those costs
14 if you wanted to participate to have a greater share of
15 return on the well. But the costs of the well are there.
16 That's something that occurs. We're exploring those
17 costs, though, because they have to justify those costs.
18 They can't just put down a number and not be able to
19 justify it. But those costs are something that the law
20 does incorporate and the regulations incorporate those as
21 reasonable costs -- those costs that can be proven to be
22 reasonable.

23 MS. ELKINS: Also we own 10.69 acres and they say that they
24 just want to lease nine acres. Right, Ron?

25 MR. WOODS: No. We would lease the whole 10.69 --

1 MS. ELKINS: But they have in that paper nine acres.
2 MR. WOODS: Well, in this unit you only have nine acres.
3 MS. McCLANNAHAN: That's correct. Only nine acres of your
4 property is inside the boundaries of the unit. That's
5 why the paper has nine acres.
6 MS. ELKINS: We would need to lease it all because what would
7 we do with that other -- almost two acres?
8 MR. WOODS: We'd be willing to lease it all. That's what
9 we're talking about.
10 MS. McCLANNAHAN: He's willing to lease all of your property.
11 MS. ELKINS: \$5 a year doesn't sound like very much to lease,
12 though, and for ten years --
13 MR. CHAIRMAN: The reason you're getting all these questions
14 about this well is it's about double the cost of any
15 other well in the area and we're still having difficulty
16 understanding why, I think.
17 MR. KEIFFLY: If you back out and depending on what your
18 location costs you, you back out around 70,000 for your
19 location. You back out another 70,000 for the Big Lime
20 completion and then you back out of additional 70,000/-
21 80,000 with the larger frack and everything. I think you
22 get into the range of what you're use to seeing and
23 that's maybe an over simplification, but that's kind of
24 where we're coming from.
25 MR. KELLY: Would you just go ahead and briefly go through the

1 Big Lime stimulation then while we're at it?

2 MR. KEIFFLY: Sure. The work over rig \$16,000. Manipulating
3 the tubing we had to sit a packer between the zone so we
4 could stimulate it, go back anywhere through it. The
5 wire line, we had some -- that wire line works \$4,000.
6 They had a packer in between the zones. 4,500, to
7 service, tools, so forth to do that. Spot the acid \$900.
8 The Big Lime perforations 2,390. The Big Lime acid
9 frack -- the actual hydraulic fracturing with the acid
10 and the acid 21,000. And then company labor and super-
11 vision 11,000. Flow back -- manifold to flow back after
12 the test 2,000. Those are the kinds of numbers that
13 we're looking at for the Big Lime.

14 MR. MCGLOTHLIN: Mr. Keiffly, was the stimulation for the
15 Berea and the Big Lime done at the same time?

16 MR. KEIFFLY: No, they were not.

17 MR. MCGLOTHLIN: Could they have been done at the same time --
18 or in a relative time frame to each other?

19 MR. KEIFFLY: Not that I know of. My background is not in the
20 reservoir engineering side. It's in the operations and
21 the completions of that. I guess I'm not the person to
22 answer that question.

23 MR. KELLY: Would it be correct to say that because of the
24 testing and the information you were trying to gathering
25 from the individual zones, that that's the reason for

1 doing the stimulations at separate times because you had
2 to set a packer to isolate the zones and do each zone
3 separately so you could do the testing required to get
4 the information you needed?

5 MR. KEIFFLY: The Berea is a profit jell nitrogen frack which
6 is completely different than an acid frack. So as far as
7 pumping those, they had to be pumped at separate times.
8 Now, the actual operation of setting the packer was due
9 to the difference in pressures and there were some
10 considerations there, but those are different types of
11 materials. It's not like we're pumping the same material
12 in both zones.

13 MR. MCGLOTHLIN: What I'm trying to arrive at is did the same
14 company do it?

15 MR. KEIFFLY: Yes.

16 MR. MCGLOTHLIN: Did you have to bring in the rig twice? The
17 set up cost and all that, could that have been deferred
18 by doing it while the rig was on the site?

19 MR. KEIFFLY: You've got different materials. So in that kind
20 of location it took full location to bring everything in
21 to do your nitrogen jell frack and then you wouldn't have
22 been able to have your acid there. No, that's physically
23 not possible.

24 MS. McCLANNAHAN: Also, Jim Cozart is here and he's a reserv-
25 oir engineer for Connico who over saw this project also.

1 Would you like for him to address that question for you?

2 MR. MCGLOTHLIN: No. I think I'm --

3 MS. McCLANNAHAN: You're satisfied. Okay.

4 MR. MCGLOTHLIN: I'm satisfied.

5 MR. CHAIRMAN: I'm sorry. I'm going to recess. I have
6 another Board member that's left. I'm going to recess
7 for five minutes here just to protect everything.

8 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)

9 MR. CHAIRMAN: Kevin, we're back on record now. Did you get
10 your question answered or were you about to get some
11 additional information.

12 MR. MCGLOTHLIN: I was going to ask some more on the testing
13 of the wells. Does Pocahontas Gas plan to drill any more
14 conventional gas wells in the area?

15 MS. McCLANNAHAN: Randy.

16 MR. ALBERT: At this time we do have plans to drill some
17 additional conventional wells in Buchanan County.

18 MR. MCGLOTHLIN: Would the formation from testing of the
19 sands in this area be utilized for -- will any of the
20 other wells derive any --

21 MR. KEIFFLY: Can I clarify something? Maybe I didn't make it
22 clear or I didn't state it right. The testing of the
23 well was done -- the only test [] was done prior to the
24 Berea frack and was used in determining the Berea frack
25 and making it as large as it was because of the tightness

1 of the reservoir. So it wasn't -- any flow back that was
2 done was not as testing. It was to clean up the fluid so
3 that the well wouldn't load up and would be in a produc-
4 ing stage. So there really wasn't a testing done
5 -- it was done to do the completion of the reservoir in
6 the Berea. Maybe I didn't state that properly.

7 MR. MCGLOTHLIN: Okay. Thank you.

8 MR. KELLY: I might make one more suggestion just for future
9 use. It might be helpful to the Board and possibly to
10 other people as well if in the future you itemized these
11 costs a little better and didn't lump so many different
12 things into one cost -- one cost category under stimula-
13 tion. For instance, service rig might be separate.
14 Testing might possibly be separate. Some of the major
15 items in here that could be broken out separately. It
16 might be more helpful for us to see the relationship
17 between the over costs if you did that.

18 MR. CHAIRMAN: Any other questions? Anything else from anyone
19 here? Okay. What's your pleasure?

20 MR. MCGLOTHLIN: I hope this is a one time shot on the expense
21 on wells. I think -- you seem to have proven that the
22 costs are relevant to the -- at least in my eyes are
23 relevant to the well and it does seem to be a little bit
24 exaggerated from what we've seen in the past. I hope
25 this is just a one time shot of expenses like this. I

1 would move that we approve the petition as requested.

2 MR. KELLY: Second.

3 MR. CHAIRMAN: We have a motion and a second. Any further
4 discussion? If not, all in favor signify by saying yes.

5 (ALL AFFIRM.) Opposed say no. (NONE.) It's unanimous.

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ITEM IV

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MR. CHAIRMAN: The next item on the agenda is docket number VGOB-92/08/18-0248. I would ask the parties that wish to address the Board to come forward. This is on Pocahontas Gas Partnership's --

MS. McCLANNAHAN: Mr. Chairman, could we have a recess before we begin these?

MR. CHAIRMAN: Yes. Let me just go ahead and call it.

MS. McCLANNAHAN: All right.

MR. CHAIRMAN: Pocahontas Gas Partnership has petitioned the Board for an order for a compulsory pooled longwall panel unit designated as south longwall SLW-11. Is there anyone here that wishes to address the Board in this matter other than those at the table? Okay. How long do you need?

MS. McCLANNAHAN: My client is saying ten minutes. Actually I think for everybody else maybe if you just want to wait for us and you can move the agenda up.

MR. CHAIRMAN: That's what I started to say. I'll go ahead with the others in the interest of those that are waiting.

ITEM VIII, IX

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MR. CHAIRMAN: I'm going to move to Item VIII on the agenda. This is docket number VGOB-92/08/18-0252. Virginia Gas Company is petitioning the Board for a location exception designated as EH-37. I would ask those parties that wish to address the Board in this matter to come forward at this time.

MR. MULLINS: Mr. Chairman, my name is Tom Mullins and I'm representing Virginia Gas in this matter. Item IX is concerning the same well. It might save time and a duplicate of testimony if we consolidated these matters for at least one evidentiary hearing.

MR. CHAIRMAN: Okay. Any objection to that, to the consolidation? There are none. I'll go ahead and call the other docket number. VGOB-92/08/18-0253. This is a petition from Virginia Gas Company to the Board for a compulsory pooled drilling unit conventional gas well to be designated as EH-37.

MR. MULLINS: Mr. Chairman and members of the Board, again, my name is Tom Mullins and I represent the Virginia Gas Company. We're here concerning well EH-37. As the Board has already noted, it is both a location variance request and also a forced pooling request. We've put a map on the wall for demonstrative purposes only. My first

1 witness today will be Mr. Al Mueller.

2 COURT REPORTER: (Swears witness.)

3

4 ALLEN W. MUELLER

5 a witness who, after having been duly sworn, was examined and
6 testified as follows:

7

8 DIRECT EXAMINATION

9

10 BY MR. MULLINS:

11 Q. Sir, if I could get you to state your full name, please.

12 A. It's Allen W. Mueller.

13 Q. How do you spell your last name?

14 A. M-U-E-L-L-E-R.

15 Q. What do you do for a living, sir?

16 A. I'm a field engineer for Virginia Gas Company.

17 Q. And how long have you been doing that?

18 A. I've been employed for two years.

19 Q. What did you do before working for Virginia Gas?

20 A. I was employed by the State of Virginia as an assistant
21 oil and gas inspector.

22 Q. Was that with the --

23 A. Division of Gas and Oil.

24 Q. Have you testified before this Board on prior occasion,
25 sir?

1 A. Yes, I have.

2 Q. And has your testimony been accepted as expert witness
3 testimony?

4 A. Yes, it has.

5 MR. MULLINS: Mr. Chairman, I would move him as an expert
6 witness at this time.

7 MR. CHAIRMAN: Any objections? Okay. Without objection.

8 Q. (Mr. Mullins continues.) Sir, are you familiar with the
9 well unit designated as EH-37?

10 A. Yes, I am.

11 Q. And how are you familiar with that, sir?

12 A. I have been to the location several times.

13 Q. What formation are you seeking to force pool in this
14 unit?

15 A. That would be the Raven Cliff, Max, and Big Lime, Weir,
16 Berea and Devonian Shell formations.

17 Q. What is the depth of the well that you propose to drill?

18 A. The depth is 5,015 feet.

19 Q. Was an AFE prepared?

20 A. Yes, it was.

21 Q. Was it prepared by somebody knowledgeable of the cost of
22 the operations of the well?

23 A. Yes, it was.

24 Q. Are you familiar with the AFE?

25 A. Yes, I am.

1 MR. MULLINS: Mr. Chairman, I believe the AFE was attached to
2 the application. We move that as an exhibit at this
3 time.

4 MR. CHAIRMAN: Okay.

5 Q. (Mr. Mullins continues.) Based upon on your experience
6 in the gas industry, both in the private sector and in
7 the public sector, is this a reasonable AFE?

8 A. Yes, it is.

9 Q. What is the estimated production over the life of this
10 well?

11 A. The estimated production of the well is about 350 million
12 standard cubic feet.

13 Q. We have a map with some markings, sir. If I could get
14 you to please identify the different circles and what
15 they mean?

16 A. Okay. The two pink circles are circled around two EREX
17 Equitable gas wells and the green circle is circled
18 around our well, EH-37.

19 Q. This is EREX well P-232?

20 A. Yes.

21 Q. And this is EREX well P-287, is that correct?

22 A. Yes.

23 Q. Now, these circles overlap on these particular units.
24 Why is that, sir?

25 A. They overlap because those circles represent 1,320 feet

1 circumferenced around each well.

2 Q. Do you know approximately when this well was drilled?

3 A. It was drilled approximately in May of 1986.

4 Q. You have a small inner circle on this well. What does
5 that designate?

6 A. That's signifies a 500 foot radius around the well or the
7 peg zone which --

8 Q. Is this the area that is receiving royalties from this
9 well?

10 A. That's correct.

11 Q. Now, you have another area outlined in orange which
12 encompasses both tracts. What is that, sir?

13 A. That is our lease with Clyde Colley -- P tract.

14 Q. What is the area that will be drained over the life of
15 this well P-232?

16 A. Approximately 1,320 feet theoretically.

17 Q. So to the boundaries theoretically of this circle?

18 A. Yes.

19 Q. Will this well based upon the time it was drilled and the
20 law in effect pay any royalties to any of these
21 people --

22 A. No, it won't.

23 Q. -- outside this area?

24 A. Outside that area, correct.

25 Q. So there's no royalties to be paid for this area of the

1 overlap, is that correct?

2 A. Correct.

3 Q. Now, does this green dot signify anything?

4 A. That is our proposed well EH-37.

5 Q. That's the location?

6 A. The location.

7 Q. Why didn't you move it over to the edge of your lease

8 hold?

9 A. Just directly to the west of that is a large deep drain.

10 It's a drain which comes out of a hollow.

11 Q. Would that have increased the cost of site preparations?

12 A. Well, it would not only increase cost, but then you would

13 get into the problem of excessive erosion and sedimenta-

14 tion problems when you try to build a site across a

15 drain.

16 Q. At the time that you began your development of this area

17 what was the status of this land? If you're not able to

18 testify to that and you need Mr. Swanson to testify --

19 A. Mr. Swanson.

20 MR. MULLINS: I don't believe I have anymore questions of Mr.

21 Mueller at this time.

22 MR. CHAIRMAN: Questions, members of the Board?

23 MR. MULLINS: Maybe after I get Mr. Swanson to testify he

24 would answer some of the other questions and then if

25 there are any gaps the Board can certainly ask us about

1 them.

2 MR. MCGLOTHLIN: I'd just like to suggest to Mr. Mullins that
3 the next time if he could supply each member of the Board
4 with a map. It's kind of hard to --

5 MR. MULLINS: I hadn't planned on entering that as an exhibit.
6 It was only a piece of demonstrative evidence. I'll be
7 happy to provide copies for the Board, if you would like.

8 MR. MCGLOTHLIN: It's kind of hard to see all the way across
9 the room.

10 MR. CHAIRMAN: Let me go ahead and recognize Mr. Riley. Would
11 you state your name for the record, please?

12 MR. RILEY: My name is Bernard Riley.

13 MR. CHAIRMAN: Thank you. Mr. Greg Mullins, you said you may
14 wish to --

15 GREG MULLINS: Yes. My name is Greg Mullins. I represent
16 some of the people in that area.

17 MR. CHAIRMAN: Are there any others that wish to address the
18 Board on this case? What I want to do, if there's
19 questions that you may have, if you would, raise them or
20 the Board may propose those to Mr. Mueller. I'm not
21 saying all of your questions. I'm just saying based on
22 what you've heard so far. If you have anything as we go
23 forward, maybe it will help us bring it all together.

24 MR. RILEY: Thank you, Mr. Chairman.

25 MR. CHAIRMAN: Any questions, members of the Board?

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(Witness stands aside.)

MR. CHAIRMAN: Okay. Call your next witness.

MR. MULLINS: Mr. Swanson, please.

COURT REPORTER: (Swears witness.)

BRADLEY L. SWANSON

a witness who, after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MULLINS:

Q. Please state your full name?

A. My name is Bradley L. Swanson.

Q. What do you do for a living, sir?

A. I'm a land agent for Virginia Gas Company.

Q. How long have you been involved in the oil and gas business?

A. Accumulatively about seven/eight years.

Q. Have you testified before this Board as an expert witness concerning land man in the oil and gas industry?

A. Yes, I have.

Q. Has you testimony been accepted as such?

A. Yes, it has.

MR. MULLINS: Mr. Chairman, I'd like to move Mr. Swanson as an

1 expert witness at this time.

2 MR. CHAIRMAN: Any objections? Okay. Without objection.

3 Q. (Mr. Mullins continues.) Are you familiar with the
4 application filed by Virginia Gas for the drilling unit
5 EH-37?

6 A. Yes, I am.

7 Q. Sir, how are you familiar with that?

8 A. I helped prepare it.

9 Q. The application?

10 A. Yes, sir.

11 Q. Is Virginia Gas Company seeking to force pool the
12 interest in EH-37 and that unit as identified on the plat
13 attached as part of the application?

14 A. That is true.

15 Q. Has notice been sent to the interested parties by
16 certified mail, return receipt requested?

17 A. Yes, it has.

18 Q. Have copies of these mailed receipts been filed with the
19 Board?

20 A. They have.

21 Q. Was notice published in a newspaper of general circula-
22 tion in the area?

23 A. It was.

24 Q. What paper was that?

25 A. Bristol Herald Courier.

1 Q. Was proof of publication filed with the Board?
2 A. It was.
3 Q. What is the size of this unit?
4 A. The unit 125.66 acres.
5 Q. How much of the unit is leased and how much of it is
6 outstanding?
7 A. 71.65 percent is leased. 28.35 percent is outstanding.
8 Q. What are Virginia Gas Company's interests in the area?
9 A. We have 71.65 percent.
10 Q. Do you want to dismiss any party subsequent to the filing
11 of the application by Virginia Gas?
12 A. Yes, sir, we do.
13 Q. Are those parties that you're seeking to be dismissed
14 listed on this document headed "parties to dismiss from
15 forced pooling"?
16 A. That's correct.
17 MR. MULLINS: Rather than reading all these names off, if
18 would could just have this entered as an exhibit it might
19 save some time. I think the document speaks for itself.
20 So at this time we would like to move this as Exhibit 2
21 for Virginia Gas.
22 MR. CHAIRMAN: Any objections?
23 MR. RILEY: Mr. Chairman, could I ask a question?
24 MR. CHAIRMAN: Yes, sir.
25 MR. RILEY: Is it appropriate to ask why are these parties

1 being dismissed?

2 MR. CHAIRMAN: I'll ask that for you.

3 THE WITNESS: These parties have all entered into leases with
4 Virginia Gas Company or with Equitable Resources who we
5 have farmed in this portion.

6 MR. CHAIRMAN: What do you mean by "farmed in"?

7 THE WITNESS: We have reached an agreement with Equitable
8 Resources on their lessors for their proportion of
9 interest.

10 MR. CHAIRMAN: Okay. They have subleased on this?

11 THE WITNESS: That's correct.

12 Q. (Mr. Mullins continues.) Sir, on Page 1 of Exhibit 2 you
13 have Clyde Blankenship and Delores Duty and you also
14 have those names listed on Page 2 of the document. Why
15 are those names on there twice?

16 A. Those folks have -- first, let me say this is a rather
17 large estate. There were 730 --

18 Q. Which estate is a rather large estate?

19 A. The N. B. Sutherland estate.

20 Q. Thank you.

21 A. And these folks -- we tried to notify them at original
22 addresses that we had and found out later that these same
23 people had -- we had two addresses for them and they were
24 sent notification at both addresses.

25 Q. So since it was listed twice you're seeking to dismiss

1 them twice?

2 A. That is correct.

3 Q. Who owns the drilling rights?

4 A. Virginia Gas Company.

5 Q. Is this a conventional well?

6 A. It is.

7 Q. Does this unit embrace more than one tract?

8 A. It does.

9 Q. You've attempted to contact each party concerning the
10 application, is that correct?

11 A. That is correct.

12 Q. What efforts were made?

13 A. A lot of it was done by telephone, by personal visits,
14 and certified mailings of leases to all parties.

15 Q. What are the terms of the leases?

16 A. Five years, \$5 per acre per year, and an one-eighth or a
17 twelve and a half percent royalty.

18 Q. As an exhibit to the application is there a list naming
19 the parties not leased?

20 A. That is correct.

21 Q. Other than those we seek to have dismissed pursuant to
22 Exhibit 2, are those the interests you're seeking to
23 force pool today?

24 A. That is correct.

25 Q. Was due diligence used to locate these parties?

- 1 A. Also correct.
- 2 Q. Is the Virginia Gas Company requesting to be named as
3 drilling operator in unit EH-37?
- 4 A. We are.
- 5 Q. Is there any amount that needs to be escrowed by the
6 Board for any reason?
- 7 A. Not that I'm aware of at this time.
- 8 Q. Does the Virginia Gas Company have a blanket bond as
9 required by statute to cover plugging and reclamation
10 costs?
- 11 A. We do have.
- 12 Q. All right. Now, I talked earlier about this map and I'd
13 like to draw your attention to it, sir. You're familiar
14 with the ownership interest of this unit?
- 15 A. I am.
- 16 Q. At the time you began your development on EH-37 what was
17 the status of this area over here?
- 18 A. It was adverse to Virginia Gas Company.
- 19 Q. Who owns it?
- 20 A. It's owned by the N. B. Sutherland heirs.
- 21 Q. Did you have any surface rights to go on this property at
22 that time?
- 23 A. No, we did not.
- 24 Q. Did you own any of the mineral interests or have leased
25 any of the mineral interests at that time?

1 A. We had a one two-hundredth and tenth part of a lady by
2 the name of Betty Taylor Thompson.

3 Q. At this present time do you have all the surface rights
4 for this area in here?

5 A. No, we do not.

6 Q. Do you have all the mineral rights for this area?

7 A. We have about 21.56 percent of the mineral under lease.

8 Q. And the permit has been issued for this well?

9 A. That is correct.

10 Q. Now, would this unit serve to protect the correlative
11 rights in that area?

12 A. Absolutely.

13 Q. Would it prevent waste of this area of the gas?

14 A. That's correct.

15 Q. Would it allow the fullest development of the gas in that
16 area?

17 A. Yes, it would.

18 Q. And again, to your knowledge will these people ever be
19 paid any royalty for in this segment right here?

20 A. They will be from the EH-37 well.

21 Q. If we're granted the rights?

22 A. If we're granted the rights, yes.

23 MR. MULLINS: Mr. Chairman, I don't believe I have any more
24 questions of Mr. Swanson at this time.

25 MR. CHAIRMAN: Any questions, members of the Board?

1 MR. KELLY: Just for clarification, you're lease as it stands
2 right now is not receiving any royalty from surrounding
3 wells?
4 THE WITNESS: That's correct. The well was drilled 775 feet
5 from Mr. Colley's property and under the 500 foot rule he
6 does not receive royalty.
7 MR. KELLY: Thank you.
8 MR. CHAIRMAN: Would you clarify how you represented this area
9 outlined in orange?
10 THE WITNESS: That is Mr. Clyde Colley's fee property. He is
11 a lessor of Virginia Gas Company.
12 MR. CHAIRMAN: Does that have any bearing on your 71 percent?
13 THE WITNESS: His property is included in the 71 percent
14 ownership.
15 MR. CHAIRMAN: But you're not depicting on here the ownership
16 that you have?
17 THE WITNESS: No. The other ownership is a part of the plat
18 that we've submitted with our well application.
19 MR. CHAIRMAN: Okay. And that plat is Exhibit A, is that
20 correct, of --
21 THE WITNESS: That is correct.
22 MR. CHAIRMAN: Would you describe Exhibit A for us, please.
23 what we're looking at?
24 THE WITNESS: Exhibit A is the well plat for the EH-37 well.
25 It shows all of the interested parties within the circle

1 -- the 1,320 foot circle. The N. B Sutherland heirs
2 coal, oil and gas, that is a mineral only. Tracts 4, 5,
3 6 and 7 are surface tracts that were part of a severance.
4 The minerals are jointly owned by the N. B. Sutherland
5 heirs of which we have 21.56 under lease.

6 MR. CHAIRMAN: 25 -- 217

7 THE WITNESS: 21.56 percent. The balance of the plat shows
8 the Clyde Colley lease which makes up 36.04 percent of
9 the unit and the balance is Clinch Field Coal Company,
10 14.05 percent, which we have acquired from them by
11 agreement. I hope it makes 100 percent.

12 Q. (Mr. Mullins continues.) The unit P-232 is an EREX
13 well, is that correct?

14 A. That's correct.

15 Q. You gave notice of this to EREX of this action today, did
16 you not?

17 A. That's correct.

18 Q. Did they have any objection?

19 A. They did not.

20 MR. CHAIRMAN: Other questions, members of the Board? Mr.

21 Riley, do you have anything you wish to address the Board
22 with?

23 MR. RILEY: Yes, I do, Mr. Chairman.

24 MR. CHAIRMAN: Go ahead with that, please.

25 MR. RILEY: The third daughter of N. B. and Margaret Jane

1 Colley Sutherland, Emiline, married Jessie Jefferson
2 Grizzle. Their daughter, Lidia Ellen Grizzle, married
3 Noah Morgan Deel. Their son Lester Vern Deel was the
4 father of Vina Deel who is now my wife and Vina has asked
5 me to speak a few words for her to this Board which
6 establishes our standing in this matter. When Jessie
7 Grizzle was dying in 1927 he asked -- Lester Vern
8 promised his father to protect his lands. "Don't let
9 them disturb my land" is what he said to Lester. Jessie
10 wanted the resources and the surface to stay intact as
11 whole units. So we object to the approval of this
12 request to force pool the natural gas resources within
13 this property and any other property of our ancestor N.
14 B. Sutherland. The death bed promise of Lester Deel to
15 Jessie J. Grizzle is still held as an almost sacred trust
16 by Lester's descendants. We also do not consider the
17 offer made by Virginia Gas to be a bona fide offer nor
18 do we consider their efforts to contact N. B. Sutherland
19 heirs an exercise of due diligence as stated in their
20 application. They have known my wife's connection to N.
21 B. Sutherland for years but only included her in the
22 listing of heirs when we called on May 12th, 1992 to
23 notify Virginia Gas of their omission of the entire
24 Lester Deel family from their N. B. Sutherland heirs
25 listing. The proposed lease offered by Virginia Gas is

1 not lessor friendly. Although a specific 124 acres are
2 identified, there is also a provision to include any
3 other property owned by N. B. Sutherland in Dickenson
4 County at the time of his death. In addition, any other
5 land adjoining or contiguous to the N. B. Sutherland
6 property owned by the lessor is included. I've used the
7 word contiguous before in my life in the term the
8 contiguous United States which included all the states
9 except Alaska and Hawaii. How Virginia Gas will define
10 this word remains to be seen. By signing this five page
11 twenty-five paragraph lease a lessor will find themselves
12 at a great disadvantage. Therefore, we do not consider
13 the proposed lease to be a bona fide offer as claimed by
14 Virginia Gas. We also object to granting the variance to
15 well spacing. We battled this long and hard when we
16 wrote the Virginia Oil and Gas Act. And once the
17 integrity of the spacing requirements outlined in the Act
18 are compromised they will soon be discarded completely.
19 Virginia Gas apparently finds it too difficult to deal
20 with N. B. Sutherland heirs in a fair and honest manner,
21 so it asks this Board to bend the rules and allow the
22 well to be drilled just a little closer than the 2,640
23 feet specified. This way Virginia Gas gets the profits
24 from N. B. Sutherland gas resources, if you approve the
25 forced pooling, but saves itself the bother of dealing

1 fairly and honestly with Dickenson County people not
2 willing to accept their horrible lease agreement. That's
3 my comment, sir.

4 MR. CHAIRMAN: I'll just ask you a question in follow-up. You
5 heard the testimony on the location of EH-37. Are you
6 saying to the Board that the location is where it is in
7 order to avoid N. B. Sutherland heirs rather than --

8 MR. RILEY: That's my contention, Mr. Chairman. Of course,
9 that land is not that rough.

10 MR. SWANSON: Mr. Chairman, can I comment on this, please?

11 MR. CHAIRMAN: Yes.

12 MR. SWANSON: The N. B. Sutherland heirs do not own the
13 surface there -- a very select few. This surface was
14 owned by W. P. Bruce Sutherland who in his will left that
15 surface to thirteen of his nieces and nephews, four of
16 which have sold their interest to Gene Sutherland who is
17 not opposed to the variance but who is also not under
18 lease either to Equitable Resources or to ourselves.

19 MR. CHAIRMAN: Mr. Mullins, did you wish to address the Board?

20 GREG MULLINS: Yes, sir, I do. First off I would like to say
21 that I have no objection to the drilling of the well. I
22 am only here to represent the best interest of the heirs
23 that I represent. I have been in discussion with this
24 property with Mr. Swanson for probably over a year and a
25 half. In fact, I have come to a preliminary agreement

1 with Mr. Swanson representing Virginia Gas as in regards
2 to a lease. However, I have not seen this lease, not
3 had a chance to review it, and cannot make a decision on
4 it and relate that back to the heirs that I represent
5 until that time. I don't really think that due diligence
6 has been achieved in a timely manner prior to this Board
7 hearing and I do not think the Board should be used as a
8 mechanism of lease in lieu of a due diligence of lease or
9 lease effort. I would therefore like to ask for a
10 continuance of this hearing until such a time that I can
11 receive and review such copies of the lease and be able
12 to reflect that back to the heirs that I represent and be
13 able to work this out with Mr. Swanson and the Virginia
14 Gas Company. That's basically all I have to say. I was
15 going to ask some questions, but I think I'll let them go
16 for right now.

17 MR. CHAIRMAN: Did you comment more on the question of due
18 diligence or were you notified that --

19 GREG MULLINS: I received notification on this well but, like
20 I said, we have been negotiating this for over a year and
21 a half and I'm aware by conversation with Mr. Swanson
22 that he did send out a copy of the lease just recently in
23 which I had a certified slip in my post office box that I
24 came by to pick up this morning and they had already sent
25 it back. So he had made an effort, but I don't think it

1 has been a timely effort.

2 MR. SWANSON: If I may respond to Mr. Mullins.

3 MR. CHAIRMAN: Mr. Swanson.

4 MR. SWANSON: We met first to discuss the heirs when Mr.
5 Mullins represented himself to be an heir of N. B.
6 Sutherland. That was when he protested our unit for our
7 EH-84 well. That was done at the Virginia Gas and Oil
8 Office at Abingdon. At that time Mr. Mullins indicated
9 that we had reached an agreement and that he would
10 follow-up by sending me information which some time later
11 he did. I sent him leases for his parties. He is not by
12 some omission in a will. Mr. Mullins is not a N. B.
13 Sutherland heir but does represent his aunt's interest.
14 I sent him leases on 7-31-92 registered. They evidently
15 have laid in the post office until the post office felt
16 an obligation to sent them back to us. And I would think
17 that we probably will receive those back in our today's
18 mail.

19 MR. CHAIRMAN: Mr. Mullins, will you clarify your representa-
20 tion of the N. B. Sutherland heirs -- who you represent?

21 GREG MULLINS: I represent the biggest part of the Bertha
22 Grizzle estate. I represent some other interests to
23 that. I figure that all together I probably have -- I'm
24 representing over two percent of the property. It's not
25 a big percentage, but it is a percentage. And like I

1 said, I'm only looking out for the best interest of the
2 heirs that I am representing. I have no problem with the
3 drilling of the well. Mr. Swanson did send me -- or I
4 suppose he sent a lease. I haven't seen it, but I did
5 have a yellow slip. I was gone on vacation the first
6 week of August and with the hours that I hold and the
7 post office holds it's sometimes hard to get in to pick
8 up certified. So I made the extra effort today to go by
9 to pick that up but they had sent it back. So I just
10 haven't had an opportunity to review the lease. Like I
11 said, I have come to a preliminary agreement with Mr.
12 Swanson. I would just like to have a chance to review
13 the lease before I have been committed to anything
14 regarding this hearing.

15 MR. CHAIRMAN: You asked the Board to consider continuing this
16 hearing. What do you consider an adequate time?

17 GREG MULLINS: Just the next Board hearing if I can pick up
18 the leases in the meantime which I think is -- is that
19 thirty days away normally?

20 MR. CHAIRMAN: Normally. Mr. Riley, you questioned to due
21 diligence the family that -- the Deel family that had
22 been omitted. Have they now been notified -- all the
23 appropriate parties -- in your opinion?

24 MR. RILEY: Yes, the Deel has, Mr. Chairman. I gave Mr.
25 Swanson another address this morning of another member.

1 MR. CHAIRMAN: That had not been notified before?

2 MR. RILEY: Yeah, but it wasn't the Deel family. It was a
3 member of the Edwards family. He had it on his list but
4 he didn't have a complete address for it, so I filled
5 that in for him.

6 MR. SWANSON: Mr. Chairman, may I make a comment, please?

7 MR. CHAIRMAN: Yes.

8 MR. SWANSON: In working with this estate I have been working
9 from a list that I received from one of the previous
10 executors, Mr. Arbour Taylor. And in meeting with Mr.
11 Taylor he provided me a ten page -- let me look back -- a
12 thirteen page list of various family members. Many of
13 these folks are deceased and there are no list of heirs.
14 Some of them have passed away out-of-state. Various
15 things. We notified everybody that had an address on
16 this list. Some of the family members provided us, as
17 Mr. Riley did, with additional lists. We have immediate-
18 ly notified all of those folks. Since that time we have
19 found out who Equitable Resources had leases with, who we
20 had leases with, and we sent by certified mail leases to
21 all the other unleased parties. I think Mr. Riley will
22 admit to the difficulty of this estate. He told me just
23 before this hearing that it was a real bear and that when
24 you do get down to the final answer you still don't know
25 what the final answer is. In our pooling we have

1 requested these folks plus all the unknown heirs of N. B.
2 Sutherland because quite frankly, there are probably
3 folks out there who did not receive notice who we have no
4 addresses and no ability to get addresses for.

5 MR. MULLINS: Before the Board makes a ruling I would like to
6 have a final word as the applicant moving the petition
7 forward, if I could.

8 MR. CHAIRMAN: Sure. But first I want to see if there is
9 anything else or any questions from the members of the
10 Board or any other comments that anyone wishes to make to
11 us. First, I'll say any questions, members of the Board
12 at this point?

13 MR. KELLY: Mr. Chairman, I have just one. I'd just like to
14 ask Mr. Swanson again if the lease that's been offered to
15 the Sutherland heirs is the same lease under the same
16 terms that have been offered to other people in the area?
17 Is it your standard lease for this area --

18 MR. SWANSON: That is correct.

19 MR. KELLY: So those terms and lease provisions have been
20 accepted by others in the area?

21 MR. SWANSON: We have leased thousand of acres under those
22 same terms.

23 MR. KELLY: Thank you.

24 MR. RILEY: If I can address one more question, Mr. Chairman.

25 MR. CHAIRMAN: Mr. Riley.

1 MR. RILEY: When Mr. Mullins had said that they have 21
2 percent or they have so much percentage of the heirs
3 under lease, if it's an undetermined number how many
4 heirs there are how do they do know such a percentage of
5 them? Is there a number that they're working with?

6 MR. SWANSON: Mr. Riley, when we determine -- we know that Mr.
7 Sutherland had nine heirs and as you divide these
8 families, of those portions that we have leased we are
9 positive of their relationship and their parent's
10 relationships and can bring down their interest. Now,
11 there are obviously some whole families that we do not
12 have leased. For instance, there is -- and in those
13 cases we don't know if there was a will leaving a certain
14 part to a certain individual that would exclude another
15 individual. But based on our search of the records and
16 based on State intestacy law we have accounted for 100
17 percent based on the heirship as it comes down. Does
18 that answer the question?

19 MR. RILEY: What's the number? 100 percent people's --

20 MR. SWANSON: Well, let me address the Deel family, for
21 instance. When Lester Deel passed away he at that time
22 owned .9954 acres of this unit. Of the 62.72 acres his
23 mother owned 6.9688 acres. She owned a one-ninth
24 interest. Lester Deel owned .9954 interest. I'm sorry.
25 Let me fall back. Emma Grizzle at the time of her death

1 owned 6.9688. Lidia Deel, Lester Deel's mother, owned
2 .9954 acres. Lester as his part of this unit owned .1422
3 acres which leaves your wife and her brothers and sisters
4 with .0109 acres. So by that means we know basically
5 what the ownership is. We just don't where the -- if
6 some of the later generation has had children. They
7 probably don't follow under this because their parents
8 aren't deceased anyway. But to the best of our ability
9 that's how we have determined the ownership.

10 MR. MULLINS: When you're talking about ownership are you
11 talking about percentage of --

12 MR. SWANSON: Percentage of the unit.

13 MR. MULLINS: -- percentage of the acres leased of the acres
14 of the N. B. Sutherland heirs?

15 MR. SWANSON: That is correct.

16 MR. MULLINS: So that is an ascertainable figure because you
17 know how many acres you've leased from those heirs?

18 MR. SWANSON: That's correct.

19 MR. MULLINS: Compared to the number of acres that's in the
20 unit?

21 MR. SWANSON: That's correct.

22 MR. CHAIRMAN: Mr. Mueller, can I get you to revisit the
23 location exception request?

24 MR. MUELLER: Yes, sir.

25 MR. CHAIRMAN: Have you looked at other locations in the area

1 that's west of the locations you have here?

2 MR. MUELLER: Yes, I have. And within the first 200 feet what
3 you have is a small drain, but it's rather steep sided.
4 In other words, it doesn't cover a wide area. It's about
5 75 to 100 feet wide but it's about a thirty foot drain.
6 And to move it 200 feet or 150 would be -- I mean, it
7 wouldn't be recommended just because it's a -- you would
8 be in the middle of a small water shed basically.

9 MR. CHAIRMAN: Are you saying that the costs would go up if
10 you moved that location?

11 MR. MUELLER: The costs wouldn't go up but -- well, the cost
12 would go up definitely, but what you're looking at there
13 is trying to build a location across a small intermediate
14 stream. It's not a year round stream, but it's an
15 intermediate stream and you'd have an intermediate stream
16 going in three location and you would have excessive down
17 slope water problems and erosion and sedimentation
18 problems. Normally it's not really feasible to build a
19 location across a small hollow like that.

20 MR. MCGLOTHLIN: Mr. Mueller, you keep referring to one
21 alternative site. Could you possible move it to another
22 site -- or why can't you move it to another site?

23 MR. MUELLER: About the only direction you could move it would
24 be to the west without -- if you moved it to the south
25 you'd get into the other well.

1 MR. MCGLOTHLIN: Okay.

2 MR. MUELLER: And obviously you can't move it east because you
3 would interfere with both wells or any further north.

4 MR. MCGLOTHLIN: You keep saying if we move it 150 to 200 feet
5 we're going to get into a stream in the area.

6 MR. MUELLER: Correct.

7 MR. MCGLOTHLIN: Why not move it 300 or 400 feet? What's the
8 problem with that?

9 MR. MUELLER: That goes back to the time we did not have that
10 property under lease.

11 MR. MULLINS: If I could also ask a question in that regard.
12 Would the gas ever be developed in this area if you moved
13 it over?

14 MR. MUELLER: No.

15 MR. MULLINS: So this gas would be wasted if you moved it
16 over?

17 MR. MUELLER: It would definitely leave some holes and the gas
18 would not be --

19 MR. MULLINS: And again, there's no monies being paid to the
20 owners of the gas in this area?

21 MR. MUELLER: That's correct.

22 MR. MULLINS: This man's not being paid for his gas being
23 drained by this well, is that correct?

24 MR. MUELLER: That's correct.

25 MR. MULLINS: And moving it on down he's going to have even

1 less interest. He'll get paid even less royalties for
2 this well if you move it anywhere else, is that also
3 correct?

4 MR. MUELLER: That's correct.

5 MR. RILEY: I might just make an observation, Mr. Chairman, if
6 I could.

7 MR. CHAIRMAN: Mr. Riley.

8 MR. RILEY: When that well on the top -- the EREX well 232 I
9 believe Mr. Mullins called it, when that was drilled and
10 stimulated and put into production at the time the oil
11 and gas rules and regulations or laws only covered the
12 first 500 foot from the well. But as we can see, they
13 were getting gas from a lot more than 500 feet since it's
14 up to 1,320 feet there -- that circle -- that they were
15 getting gas and not having to pay anybody for it. And
16 our contention is that the 1,320 feet is also a whole lot
17 less than where they're actually getting gas out. So I
18 don't think there's any danger of that gas in between
19 those two red circles not being developed. If the truth
20 be known, I believe both of those wells are getting every
21 bit of that gas. I think the 1,320 feet is very conserv-
22 ative.

23 MR. CHAIRMAN: Are there any other parties here that wish to
24 address the Board? Mr. Mullins.

25 MR. MULLINS: As the Board is aware, according the September

1 5, 1990 procedural rule, applications filed pursuant to
2 45.1-361.21 "carry a presumption of validity and the
3 burden of proof is on the party who is challenging the
4 validity of the application. And that rule specifically
5 states, "that the challenger must prove by a preponder-
6 ance of the relevant evidence in the record their
7 objections." There's been no evidence filed in this
8 record concerning any of the objections raised today.
9 It's all be hearsay. There's been no objections filed
10 which are relevant to the application. Now, we've heard
11 objections as to the location of this well, but these
12 parties who have made these objections are interested in
13 this area. They're not even concerned with the area that
14 overlaps. It's my position that their standing to object
15 to the location variation is nonexistent. They shouldn't
16 be granted standing to object to the location variation
17 because they're not a party effected in the overlap area.
18 There's been a contention about due diligence. Again,
19 the presumption is upon the application. The presumption
20 is upon the evidence of the record. The evidence of the
21 record established certified mail receipts filed with the
22 Board, notices by publication with the proof of publica-
23 tion filed with the Board. It's our position there's
24 been no evidence. Merely bald statements that due
25 diligence has not been used. I submit to the Board that

1 the testimony and the evidence of record establishes due
2 diligence. As far as 1,320 feet not being enough to
3 cover the drainage of a well, that's been established by
4 the Legislature. In their wisdom they designated the
5 amount and I think it would be an error for this Board to
6 vary from that. That's the area that's being drained.
7 As stated to the Board, for the area of overlap to every
8 be paid royalties the granting of this location variance
9 on this forced pooling must be proved. As the evidence
10 also established, this was a standard lease set to these
11 heirs. It's the standard used by Virginia Gas. It's the
12 standard of the industry. There's been no evidence
13 established either by record or by any competent relevant
14 testimonial evidence that these lease provisions are
15 contrary to the standard in the industry and are unfair.
16 I would, I guess, in summation ask the Board to approve
17 the applications based upon the really uncontradicted
18 evidence of record for both the location variation and
19 the forced pooling.

20 MR. CHAIRMAN: Any other comments? If not, what's your
21 pleasure?

22 GREG MULLINS: Mr. Chairman, if I could, I know that Mr.
23 Mullins here was trying to say that due diligence was
24 performed. I could ask the question of Mr. Swanson here
25 to establish whether due diligence was performed or not.

1 I'm asking for a continuance.

2 MR. CHAIRMAN: Go ahead.

3 GREG MULLINS: Mr. Swanson, you became aware that I had an
4 interest in this property some time ago, at least a year
5 and half ago, is that so?

6 MR. SWANSON: That's correct.

7 GREG MULLINS: Then you have not really made an effort to
8 lease the interest that I represent until your or mailing
9 of a lease July 31st of this year?

10 MR. SWANSON: That's not exactly correct, Mr. Mullins. In a
11 couple of different phone conversations you said that you
12 would get back to me -- that you were very busy and that
13 you would get back to me. I called you. I said -- well,
14 I was made aware that you were asking for power of
15 attorney from other heirs just recently. And I called
16 you and asked you about it and you said, "I'll send you
17 that information." Very shortly after that I sent you a
18 lease which you failed to pick up.

19 GREG MULLINS: Okay. If I could comment then to that.

20 MR. MULLINS: Your Honor, if he's going to be making represen-
21 tations I'd like to have him placed under oath.

22 GREG MULLINS: I'll do that.

23 MR. CHAIRMAN: I don't know if I want to do that or not.

24 GREG MULLINS: Mr. Chairman, I'm mainly asking for a continu-
25 ance. If a continuance is going to be granted O won't

1 get into anymore of this. That's all I'm asking for,
2 thirty more days.

3 MR. CHAIRMAN: Well, I don't know whether it is or not.

4 MR. MCGLOTHLIN: Mr. Mullins, are you an owner of record? I'm
5 confused there. Uh --

6 GREG MARTIN: No, I am not. By the way that my grandmother's
7 will states I am not an owner of record. However, I do
8 represent owners of record who have attorneys and I can
9 produce those power of attorneys with a five minute
10 recess if you would like that.

11 MR. MCGLOTHLIN: The people that you represent, were they
12 notified? Did they receive the leases and --

13 GREG MULLINS: Not to my knowledge, no.

14 MR. SWANSON: The leases were sent to Mr. Mullins at Mr.
15 Mullins' request.

16 GREG MULLINS: However, Mr. Swanson was made aware of these
17 people that I represent under power of attorney more than
18 a year ago.

19 MR. SWANSON: That's not a correct statement.

20 GREG MULLINS: Yes, it is. I don't want to get into an
21 argument.

22 MR. CHAIRMAN: Mr. Mullins, I'll let you go ahead and be sworn
23 and make whatever statement you want if you want to
24 represent facts to the Board.

25 COURT REPORTER: (Swears Greg Martin.)

1 GREG MARTIN: Under Edwards & Harding, EH-84, they had made an
2 application for a well permit in December of 1990. I had
3 made an objection to the issuance of that permit sometime
4 after that. We went to a preliminary hearing at the Oil
5 and Gas Office with Mr. Fulmer --

6 MR. MULLINS: Your Honor, unless this is relevant to the
7 pending application, what happened in EH-87 is really not
8 relevant to why we're here today. If it has some factual
9 bearing, fine, but I've having problems relating well EH-
10 87 with EH-37.

11 MR. CHAIRMAN: Do you want to clarify?

12 GREG MULLINS: It deals with the same piece of property, Mr.
13 Chairman.

14 MR. CHAIRMAN: Okay. Go ahead.

15 GREG MARTIN: At that hearing at that time on this well and
16 this property I came to an agreement with Mr. Swanson on
17 the terms of the lease. Shortly after that I notified
18 Mr. Swanson of some of the heirs and of the ones that I
19 was representing through power of attorney. I also
20 notified him of the Betty Taylor Thompson which you
21 leased individually yourself. Is that correct, Mr.
22 Swanson?

23 MR. SWANSON: Ms. Thompson came into our office. I can't
24 recall whether her name was even mentioned as an heir at
25 the time we spoke. I didn't seek her out. She came to

1 our office and I subsequently went to Arlington, Virginia
2 and did a lease with her. Yes.

3 GREG MULLINS: Anyway, I notified Mr. Swanson of the ownership
4 of Betty Taylor Thompson and of the heirs that I re-
5 presented at the time. And it's not until -- well, I
6 haven't seen a lease yet for EH-84 or EH-37.

7 MR. CHAIRMAN: Okay. Anything else?

8 GREG MULLINS: No, that's all.

9 MR. MULLINS: As the applicant then I would like to have the
10 last word. Just a few more words in response.

11 MR. MCGLOTHLIN: I still have a question. Mr. Swanson, the
12 heirs that Mr. Mullins represents, do you have addresses
13 for them?

14 MR. SWANSON: Those heirs were noticed for all of our notices.
15 I do have addresses for them. They were just not sent
16 leases. Mr. Mullins requested that the leases be sent to
17 him.

18 MR. MCGLOTHLIN: My problem -- assuming that somebody can call
19 you up on the phone and say, "Hey, I represent a number
20 of heirs on some property" and all of a sudden you --
21 you quit noticing those people or trying dealing with
22 those people and deal with somebody else.

23 MR. SWANSON: I have seen powers of attorney for, I believe,
24 three of the parties that Mr. Mullins represents.

25 MR. MCGLOTHLIN: Three of how many?

1 MR. SWANSON: Five, I believe. Four or five.

2 MR. MCGLOTHLIN: Have you noticed them of the permitting and
3 the application?

4 MR. SWANSON: We have noticed everyone. Absolutely. They
5 were noticed individually.

6 MR. MCGLOTHLIN: Thank you.

7 MR. MULLINS: One preliminary question. You indicated to me
8 that you contacted the post office concerning the leases
9 sent to Mr. Mullins. What were you informed?

10 MR. SWANSON: Mr. Mullins was notified 8-7-92 as to the
11 presence of those leases in his box, certified.

12 MR. MULLINS: All right. Mr. Chairman and members of the
13 Board, I don't guess any of the discussions that we have
14 had have really changed my position. We can account for
15 any lack of diligence on Mr. Mullins' part in not looking
16 at his lease. The testimony has been that they have been
17 negotiating for an extensive period of time concerning
18 this piece of property and a lease was sent and the lease
19 was sent timely. He failed to pick it up. It's not our
20 burden to force him to go to the post office and sign the
21 certified mail receipt. All we can do is deliver it in
22 the course of mail which is what the statute requires.
23 That's what we did. Again, the uncontradicted evidence
24 of record is that due diligence was used. The negotia-
25 tions with Mr. Mullins in the heirs he represents has

1 been ongoing for quite a period of time which is due
2 diligence. A lease was sent to him in a timely manner
3 which is due diligence. The certified mail receipts
4 evidence in due diligence has been filed with the Board
5 as has been the notice of publication. There is no
6 evidence of lack of diligence. And again, the presump-
7 tion according to the Board's own procedural rule lies
8 with the application. Unless they prove by a preponder-
9 ance of the relevant evidence then our application
10 according to your own rules should be approved by the
11 Board. And that's what we are asking for at this time.

12 MR. CHAIRMAN: Okay. If we take this agenda item at a time,
13 we had -- the first item is VGOB-92/08/18-0252. It's a
14 petition for a location exception. There's a typo. They
15 should both be 0252?

16 MR. KELLY: The first one, the location exception is 0252.
17 The pooling application is 0253.

18 MR. CHAIRMAN: That's what I was calling. Is that correct?

19 MR. KELLY: Evidently, there was two different agendas and one
20 was corrected.

21 MR. CHAIRMAN: I've got the correct one. I've got two
22 different numbers on mine. Okay. We'll call them as two
23 different numbers and we'll clarify that. I'm going with
24 the first one which is on the well location exception.
25 What is the Board's pleasure?

1 MR. KELLY: I would like to move that the location exception
2 be granted.

3 MR. CHAIRMAN: We have a motion to grant the location
4 exception.

5 MS. ZANDERS: Second.

6 MR. CHAIRMAN: A motion and a second. All in favor signify by
7 saying yes. (ALL AFFIRM.) Opposed say no. The Chair
8 votes no. That motion carries. The next one is the
9 petition, VGOB-92/08/18-0253, the creation of the
10 drilling unit and forced pooling of the unit. First on
11 the creation of the unit. What's your pleasure?

12 MR. KELLY: Mr. Chairman, I make a motion that the creation
13 of the unit be approved.

14 MR. CHAIRMAN: We have a motion to approve the creation of the
15 unit.

16 MR. MCGLOTHLIN: Second.

17 MR. CHAIRMAN: A motion and a second. All in favor signify by
18 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)
19 It's unanimous. Then on the forced pooling of the unit.

20 MR. MCGLOTHLIN: I move that we force pool the unit. I'd like
21 to clarify that that money's to be escrowed until such
22 time that all heirs can be determined.

23 MR. CHAIRMAN: In accordance with the statute?

24 MR. MCGLOTHLIN: Yes, sir.

25 MR. CHAIRMAN: All right. We have a motion.

1 MR. KELLY: Second.

2 MR. CHAIRMAN: A motion and a second. All in favor signify by
3 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)

4 It's unanimous.

5 (AFTER A LUNCHEON RECESS, THE HEARING CONTINUED AS
6 FOLLOWS:)

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3 ITEM IV

4 MR. CHAIRMAN: The next item on the agenda is Item IV, docket
5 number VGOB-92/08/18-0248. This is a Pocahontas Gas
6 Partnership petition to the Board for an order to
7 compulsory pool a longwall panel unit designated as SLW-
8 11.

9 MS. McCLANNAHAN: This forced pooling is for the south
10 longwall 11. That unit has previously been approved by
11 the Board for coalbed methane production. The first
12 witness that we would like to call is Les Arrington.

13 MR. CHAIRMAN: I will remind him that he's still under oath
14 and the testimony will be under oath.

15 LESLIE K. ARRINGTON

16 a witness who, after having been previously sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19
20
21 BY MS. McCLANNAHAN:

22 Q. Les, would you please state your full name for the
23 record?

24 A. Leslie K. Arrington.

25 Q. And your address is as shown on Exhibit 1?

1 A. Yes, it is.

2 Q. Exhibit 1 also includes your educational background, work
3 history, and qualifications, is that true?

4 A. Yes, it does.

5 MR. McCLANNAHAN: Mr. Chairman, I move the introduction of
6 Exhibit 1.

7 MR. CHAIRMAN: Any objections? Without objection it's
8 accepted.

9 Q. (Ms. McClannahan continues.) Mr. Arrington, you've
10 qualified as an expert witness before the Gas and Oil
11 Board previously, is that true?

12 A. Yes, I have.

13 Q. Have you given notice as required by Virginia Code
14 annotated Section 45.1-361.19 to each person or entity as
15 identified on Exhibit C of the forced pooling application
16 as a potential owner of the methane gas underlying the
17 unit?

18 A. Yes, I have.

19 Q. And is that notice of hearing shown on Exhibit 2?

20 A. Yes, it is.

21 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
22 Exhibit 2.

23 MR. CHAIRMAN: Okay.

24 Q. (Ms. McClannahan continues.) Was Exhibit 2 mailed by
25 certified mail, return receipt requested, to each of the

1 parties?

2 A. Yes, it was.

3 Q. Do you have the returned receipts?

4 A. Yes, I have.

5 Q. Those are at Exhibit 3?

6 A. Yes, they are.

7 Q. And those are for all the owners in the unit, is that

8 correct?

9 A. Yes.

10 Q. Were there any persons whose names and/or addresses were

11 unknown?

12 A. No.

13 Q. However, you still published notice in several papers, is

14 that correct?

15 A. Yes. In the Virginia Mountaineer, Bristol Herald, the

16 Bluefield Daily Telegraph on July 30th, 26th and 24th

17 respectively.

18 Q. Have you submitted those proofs of publications to the

19 Board?

20 A. Yes, I have.

21 Q. What percentage of the coal rights in the tracts that

22 comprise the south longwall 11 unit does PGP control?

23 A. 96.108 percent of the Pocahontas #3 seam and 96.353

24 percent of all coal below the Tiller seam less the

25 Pocahontas #3 seam.

- 1 Q. And what percentage of the oil and gas rights in the
2 tracts that comprise the south longwall 11 unit does PGP
3 control?
- 4 A. 75.5255 percent.
- 5 Q. Could you repeat that percentage again?
- 6 A. 75.95255.
- 7 Q. That's right. Have you obtained coalbed methane gas
8 leases on any portion of the acreage within the south
9 longwall 11?
- 10 A. Yes.
- 11 Q. What percentage of the acreage?
- 12 A. 96.56555 percent.
- 13 Q. Are the unleased owners and the lease hold owners and
14 mineral owners who have leased to other parties listed on
15 Exhibit D of the application?
- 16 A. Yes.
- 17 Q. And their percentages of ownership in the respective
18 tracts are also listed on that Exhibit D?
- 19 A. Yes.
- 20 Q. Is the information that's given on Exhibit D still
21 correct as it was filed at the time of the application?
- 22 A. Yes. Oh, that's the new Exhibit D. I'm sorry.
- 23 Q. Right.
- 24 A. That's Exhibit 3-A.
- 25 Q. Okay. Let's start all over. The Exhibit D information

1 that you submitted with the application is no longer
2 correct, is that right?

3 A. Right.

4 Q. The new Exhibit D that we have filed is at Exhibit 3-A,
5 is that correct?

6 A. Yes.

7 Q. And what are the changes in those exhibits? Can you
8 identify those for the Board, please?

9 MR. CHAIRMAN: While he's finding that, Elizabeth, did you
10 want the Exhibit 3 introduced?

11 MS. McCLANNAHAN: Yes.

12 A. (The witness continues.) That was the deletion of Cabott
13 Oil and Gas.

14 Q. Who no longer claims an interest in coalbed methane, is
15 that correct?

16 A. Correct.

17 Q. That's shown on Exhibit 3-A?

18 A. Yes.

19 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
20 Exhibit 3-A which is amended Exhibit D to the applica-
21 tion.

22 MR. CHAIRMAN: Okay.

23 Q. (Ms. McClannahan continues.) Are the conflicting
24 claimants whose funds are to be escrowed listed on
25 Exhibit E of the south longwall 11 unit forced pooling

1 application?
2 A. Yes, they are.
3 Q. And the same change that you just indicated has also been
4 made to Exhibit E, is that right?
5 A. Correct.
6 MS. McCLANNAHAN: We would introduce that as Exhibit 3-B.
7 MR. CHAIRMAN: Okay.
8 Q. (Ms. McClannahan continues.) Are you requesting that the
9 Board pool the interest of the parties listed on Exhibit
10 C of the south longwall 11 unit forced pooling applica-
11 tion?
12 A. Yes, we are.
13 MS. McCLANNAHAN: I don't have anymore questions for Mr.
14 Arrington.
15 MR. CHAIRMAN: Any questions, members of the Board?
16 (Witness stands aside.)
17 MR. CHAIRMAN: Okay. Call your next witness.
18 MS. McCLANNAHAN: Ron Wood.

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20
21 RONALD L. WOOD
22 a witness who, after having been previously sworn, was
23 examined and testified as follows:
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DIRECT EXAMINATION

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BY MS. McCLANNAHAN:

Q. Ron, I'll just remind you that you are still under oath.
Could you please state your full name for the record?

A. Ronald L. Wood.

Q. And your address is on Exhibit 4, your resume as it's
been submitted to the Board, is that correct?

A. Yes.

MS. McCLANNAHAN: I move the introduction of Exhibit 4.

MR. CHAIRMAN: Okay.

Q. (Ms. McClannahan continues.) You've been qualified as an
expert witness before the Gas and Oil Board today, is
that right?

A. Right, earlier today.

Q. Exhibit 4 also includes your work history, educational
background, and qualifications, is that right?

A. Yes.

Q. Where has your experience in obtaining mineral leases
been concentrated?

A. Oil and gas, coal, and coalbed methane in Virginia, West
Virginia, Pennsylvania, New York and Tennessee.

Q. In your experience in obtaining leases in are you
familiar with the fair market value for coal leases, oil
and gas leases, and coalbed methane leases in the south

- 1 longwall 11 unit area?
- 2 A. Yes.
- 3 Q. What are the fair market value terms for an oil, gas and
4 coalbed methane lease in this area?
- 5 A. Oil, gas and coalbed methane is \$5 per acre per year and
6 an one-eighth royalty. And for a straight up coalbed
7 methane lease it's \$1 per acre per year and an one-eighth
8 royalty.
- 9 Q. What is the usual standard primarily term for oil, gas
10 and coalbed methane leases?
- 11 A. Ten years.
- 12 Q. With regard to the unleased owners that are listed on the
13 south longwall 11 unit forced pooling application have
14 you contacted those land owners or tried to contact them
15 to obtain a lease?
- 16 A. Yes.
- 17 Q. By what method did you contact each of them to make the
18 offer?
- 19 A. Verbal or certified mail.
- 20 Q. With regard to the lease hold owners that are listed on
21 the south longwall 11 unit forced pooling application
22 have you offered an assignment of their lease hold
23 interests?
- 24 A. Yes.
- 25 Q. And by what method did you contact each of those?

1 A. Verbal and mail.

2 Q. Was that certified mail?

3 A. Certified mail.

4 Q. And were you able to come to an agreement as to that
5 proposed assignment?

6 A. Yes.

7 Q. And a letter agreement has been executed, is that
8 correct?

9 A. Correct.

10 MS. McCLANNAHAN: Those are all the questions I have for Mr.
11 Wood.

12 MR. CHAIRMAN: Any questions, members of the Board?

13 (Witness stands aside.)

14 MS. McCLANNAHAN: Randy Albert.

15

16 RANDALL MARK ALBERT

17 a witness who, after having been previously sworn, was
18 examined and testified as follows:

19

20 DIRECT EXAMINATION

21

22 BY MS. McCLANNAHAN:

23 Q. Randy, I will remind you that you are under oath. Would
24 you please state your full name for the record?

25 A. Randall Mark Albert.

1 Q. Your address, work history, qualifications, and educational
2 background, are those listed on Exhibit 5?
3 A. Yes, they are.
4 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
5 Exhibit 5.
6 MR. CHAIRMAN: Okay.
7 Q. (Ms. McClannahan continues.) Have you been qualified as
8 an expert witness before the Gas and Oil Board?
9 A. Yes, I have.
10 Q. Has a drilling permit been previously refused to PGP on
11 any of the tracts that make up this unit?
12 A. No, it has not.
13 Q. Have any well work permits been issued for the south
14 longwall 11 unit?
15 A. Yes, they have. The permit for PGP 132 has been submitted
16 and was issued on 8-6-92 as permit number 2043. The
17 permit for CBM PGP 33 has been submitted. The two
18 permits for 134 and 135 have not been submitted.
19 Q. For type of wells were the permits issued?
20 A. Coalbed methane gas wells.
21 Q. Have you received any written responses from the owners
22 of the tracts within this unit to the forced pooling
23 application?
24 A. No, we have not.
25 Q. Does the plat that's attached to the forced pooling

1 application filed by PGP indicate the acreage and the
2 shape of the acreage to be embraced within the south
3 longwall 11 unit as it was approved by the Board at it's
4 February 18th, 1992 hearing?

5 A. Yes.

6 Q. Does the unit follow the boundary lines of the longwall
7 panel and it's surrounding area for the mine that
8 comprises the south longwall 11 unit?

9 A. Yes, it does.

10 Q. Could you identify the exhibit that's marked as Exhibit
11 6?

12 A. Yes. Exhibit 6 is a copy of Exhibit B-1 of the south
13 longwall 11 forced pooling application.

14 Q. And this indicates those boundary lines that you just
15 discussed, is that right?

16 A. Yes, it does.

17 MS. McCLANNAHAN: I move the introduction of Exhibit 6.

18 MR. CHAIRMAN: Okay.

19 Q. (Ms. McClannahan continues.) Does the plat attached to
20 the forced pooling application filed by PGP indicate the
21 area within which the wells will be drilled on the south
22 longwall 11 unit?

23 A. Yes, it does.

24 Q. Does the drilling unit embrace two or more separately
25 owned tracts?

1 A. Yes, it does.

2 Q. Are the costs and expenses for the wells set forth on
3 detailed well estimates attached to the forced pooling
4 application as Exhibits H through J?

5 A. Yes, they are.

6 Q. And do these exhibits reflect the costs of drilling the
7 wells to total depth and completed for production costs?

8 A. Yes, they do.

9 Q. Generally, how did you calculate the costs that are
10 listed?

11 A. Since these wells have not been drilled these are
12 estimates based on the average cost of drilling wells in
13 this area.

14 Q. How are these costs divided between the frack, active
15 gob, and sealed gob wells?

16 A. It's based on a percentage of the recoverable reserve, as
17 will be testified to by Mr. Morgan, for what -- basically
18 it's 51.6 percent of the cost as shown and this applica-
19 tion will be attributed to this unit.

20 Q. Are you requesting that PGP be designated as the well
21 operator authorized to operate the south longwall 11
22 unit?

23 A. Yes, we are.

24 Q. Are you requesting the relief sought in paragraph 4 of
25 PGP's application in accordance with the Virginia Gas and

1 Oil Act?

2 A. Yes, we are.

3 MS. McCLANNAHAN: Those are all the questions I have for Mr.
4 Albert.

5 MR. CHAIRMAN: Any questions, members of the Board?

6 (Witness stands aside.)

7 MS. McCLANNAHAN: The next witness I'd like to call is Mr.
8 Claude Morgan.

9 COURT REPORTER: (Swears witness.)

10

11 CLAUDE DALE MORGAN

12 a witness who, after having been duly sworn, was examined and
13 testified as follows:

14

15 DIRECT EXAMINATION

16

17 BY MS. McCLANNAHAN:

18 Q. Mr. Morgan, would you please state your full name for the
19 record?

20 A. Claude Dale Morgan.

21 Q. And is your address, work history, educational back-
22 ground, and qualifications listed on the resume that has
23 been submitted to the Board as Exhibit 7?

24 A. Yes, it is.

25 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of

1 Exhibit 7.

2 MR. CHAIRMAN: Okay.

3 Q. (Ms. McClannahan continues.) Have you been qualified as
4 an expert witness before the Gas and Oil Board?

5 A. Yes, I have.

6 Q. With regard to the costs that are listed on the DWES that
7 Randy Albert has described and submitted for the wells in
8 the south longwall 11 unit, how do you propose to
9 allocate the costs among the owners in the unit?

10 A. Since the wells within this SLW 11 unit will serve in two
11 different types of unit -- they'll serve first in the
12 frack, short hole and active gob production and then
13 later they will serve a sealed gob unit, we have split
14 the costs between two different type units based upon the
15 production expected for the two different type units.

16 Q. And are those units described on the maps at Exhibit 8
17 and Exhibit 10 as they've been submitted to the Board?

18 A. Yes, they are.

19 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
20 Exhibits 8 and 10.

21 MR. CHAIRMAN: And what are they doing? Is that where you're
22 dividing the costs?

23 MS. McCLANNAHAN: No. The maps -- well, I'll let Mr. Morgan
24 explain the two unit maps.

25 MR. CHAIRMAN: Starting with 8.

1 A. (The witness continues.) Exhibit 8 shows the proposed
2 longwall units as they were approved in the February
3 hearing.
4 Q. And the south longwall 11 unit is designated toward the
5 end of the SLW five through 12 grouping, is that correct?
6 A. That's right. It's shaded.
7 Q. Right. And then Exhibit 10 shows the sealed gob unit
8 that this longwall panel unit is a part of, is that
9 correct?
10 A. That is correct.
11 Q. And that's the BUS3 sealed gob unit?
12 A. That is correct.
13 Q. And Exhibit 9 explains how you will divide the costs of
14 the wells between the longwall panel unit and the sealed
15 gob unit, is that correct?
16 A. That's true.
17 Q. Can you explain Exhibit 9?
18 A. We took the anticipated production from the SLW 11 unit
19 during the frack, active gob, and short hole production
20 phase. This based on the life and average production
21 we're seeing out of these type wells in this area was
22 1,123 million cubic feet. This same area when it becomes
23 a sealed gob we're projecting to produce 1,055 million
24 cubic feet for a total of 2,178 million cubic feet. To
25 determine the cost portion for these wells that will be

1 allocated to the SLW 11 unit we divided the production
2 from the SLW 11 unit by the total production from this
3 area to get 51.6 percent.

4 Q. So the owners in the south longwall 11 unit, you propose
5 to charge them with 51.6 percent of the total costs for
6 those four wells that the DWES have been submitted, is
7 that correct?

8 A. That is correct.

9 Q. And those totals are all shown on the exhibits that are
10 attached to the application?]

11 A. That is correct.

12 Q. How do you propose to charge the unit owners for any
13 additional wells that will be drilled?

14 A. We have requested that the Board approve four -- the
15 allocation of costs for four wells within this unit. If
16 we propose to charge any additional wells or work to the
17 unit we would at the request of the Board come back for
18 additional hearings.

19 MS. McCLANNAHAN: Those are all the questions I have for Mr.
20 Morgan.

21 MR. MCGLOTHLIN: Mr. Morgan, on Exhibit 10 of your gob area,
22 is it an oversight that PGP 135 was omitted from -- at
23 least it was omitted from --

24 THE WITNESS: Yes, it is.

25 MR. MCGLOTHLIN: Okay. Thank you.

1 MR. CHAIRMAN: On that same exhibit, B-1 -- well, it's Exhibit
2 10 here but it is a copy of Exhibit B-1 where it talks
3 about proposed BUS3 sealed gob, is that an established
4 sealed gob area?

5 THE WITNESS: No, it isn't. We have not had a hearing on that
6 sealed gob area yet.

7 MR. CHAIRMAN: I couldn't recall on that.

8 THE WITNESS: It's next month.

9 MR. CHAIRMAN: Okay. Any other questions?

10 MR. MCGLOTHLIN: I'll let Ms. McClannahan direct the questions
11 to whom it might be appropriate to answer. On your DWES
12 I notice CBM PGP 135 depth of approximately 1,920 foot?

13 THE WITNESS: 1,907 is what I have.

14 MR. MCGLOTHLIN: I'm going by the tubing figure.

15 THE WITNESS: Oh, okay.

16 MR. MCGLOTHLIN: And then 132 which went about 1,600 feet
17 approximate? I'm sorry. Wait a minute. Excuse me. I
18 misread the figures. I withdraw my question.

19 MR. CHAIRMAN: Okay. Anything else?

20 (Witness stands aside.)

21 MS. McCLANNAHAN: No. We have no other witnesses and at this
22 time would move that the Board approve the application as
23 it's been submitted.

24 MR. CHAIRMAN: Are we to assume that the total unit costs are
25 the sum of the four DWES as submitted?

1 MR. MORGAN: That's all we're asking at this hearing.

2 MS. McCLANNAHAN: That's correct. The 51.6 percent has
3 already been calculated on the exhibits for each of the
4 DWES. So if you add each of those together that would be
5 the total cost for the unit.

6 MR. CHAIRMAN: The DWE represents total costs of the well,
7 right?

8 MS. McCLANNAHAN: Right. And then you multiply that times
9 . 51.6 percent.

10 MR. CHAIRMAN: All right. I just wanted to clarify that. And
11 then add those?

12 MS. McCLANNAHAN: Add those four and that's your total.

13 MR. CHAIRMAN: The unit cost.

14 MS. McCLANNAHAN: We believe that total would be \$488,264.87.

15 MR. CHAIRMAN: I have missed this, but what's the status for
16 mining in that area at the present time in that unit 11?

17 MR. MORGAN: We have not reached unit 11 with the mining.
18 That is about -- development in that area will be about
19 seven years away.

20 MR. CHAIRMAN: So you would envision production out of these
21 for seven years and then --

22 MR. MORGAN: This unit envisions seven and a half years of
23 frack and active gob production and then a half to one
24 year before it would become a sealed gob. So there's
25 about eight years of production in here.

1 MR. CHAIRMAN: Do we have an estimate of the production?
2 MR. MORGAN: Estimated production, that was on the exhibit for
3 the --
4 MS. McCLANNAHAN: Exhibit 9.
5 MR. CHAIRMAN: It's included in your calculations?
6 MR. MORGAN: Yes, sir.
7 MS. McCLANNAHAN: Right.
8 MR. CHAIRMAN: Okay. Any other questions?
9 MR. McGLOTHLIN: I move we accept the application as
10 submitted.
11 MR. CHAIRMAN: We have a motion to accept the application as
12 presented.
13 MR. KELLY: Second.
14 MR. CHAIRMAN: A motion and a second. Any further discussion?
15 If not, all in favor signify by saying -- before we do
16 that let me just for the record verify that there's no
17 one else in the room that wished to address the Board in
18 this matter. I know I'm looking at an empty room except
19 for the parties that are with you folks. But for the
20 record, there are none. All in favor signify by saying
21 yes. (ALL AFFIRM.) Opposed say no. (NONE.) It's
22 unanimous.
23
24
25

ITEM V

1
2
3 MR. CHAIRMAN: The next item on the agenda is agenda Item V,
4 docket number VGOB-92/08/18-0249. I would ask the
5 parties that wish to address the Board to come forward at
6 this time. The record will show there are no others than
7 PGP. Elizabeth, you may continue.

8 MS. McCLANNAHAN: Les will pass out the new exhibit books for
9 the south longwall 12. This unit is located next door to
10 the south longwall 11 unit and has also been previously
11 approved by the Board at it's February hearing. This is
12 again a coalbed methane unit. We need to take care of
13 one little administrative matter before we get started.
14 The application -- some of the application exhibits as
15 they have been submitted need to be amended and we didn't
16 have time today to do that. However, we will be glad to
17 submit those to the Board within whatever time frame you
18 want to give us. The amendments, though, for purposes of
19 the record are OXY, USA, Inc., everywhere it's listed in
20 here it should actually be Buchanan Production Company.
21 And in each section where they're designated as an owner
22 or a lessee a designation should be made that that lease
23 acreage is to be assigned to Pocahontas Gas Partnership
24 by OXY and it's successor, Buchanan Production Company,
25 pursuant to January 31, 1992 letter agreement that

1 they've entered into. In addition to that, Exhibit B-1
2 of the application on Page 3 at item number 115 Buchanan
3 Production Company should be listed as the coalbed
4 methane lessee on that tract. On Page 4 at item numbers
5 117 and 118 Buchanan Production should be listed as the
6 coalbed methane lessee of Yukon Pocahontas and the oil,
7 gas and coalbed methane lessee of D. Short. On Page 4
8 of Exhibit C Buchanan Production Company should be listed
9 as the coalbed methane lessee on both the tracts that are
10 listed there, 16.223 and 1.770. And on Page 8 of Exhibit
11 C that, of course, should just be all shown in the name
12 of Buchanan Production Company rather than OXY and
13 Buchanan. On Page 4 of Exhibit E the 3.250 acre tract,
14 Buchanan Production Company should be the coalbed methane
15 lessee. The oil and gas owner Donald Short tracts
16 19.6360 and 11.890, Buchanan Production Company should
17 again be listed as the oil, gas and coalbed methane
18 lessee. Those are the same changes just made on every
19 exhibit that they have to be made on. And we will submit
20 those amended exhibits within whatever time period you
21 would designate.

22 MR. CHAIRMAN: What do you determine to be reasonable? Within
23 a week?

24 MS. McCLANAHAN: Within a week. That's good.

25 MR. CHAIRMAN: Okay.

1 MS. McCLANNAHAN: The first witness I'd like to call is Les
2 Arrington.

3 MR. CHAIRMAN: Okay. we'll just remind all witnesses that
4 you've previously been sworn and your testimony is under
5 oath.

6
7 LESLIE K. ARRINGTON

8 a witness who, after having been previously sworn, was
9 examined and testified as follows:

10
11 DIRECT EXAMINATION

12
13 BY MS. McCLANNAHAN:

14 Q. Les, would you please state your full name for the
15 record?

16 A. Leslie K. Arrington.

17 Q. Your address, work qualifications, work history, and
18 educational background are all listed on your resume at
19 Exhibit 1, is that correct?

20 A. Yes, they are.

21 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
22 Exhibit 1.

23 MR. CHAIRMAN: Okay.

24 Q. (Ms. McClannahan continues.) Have you been qualified as
25 an expert witness before the Virginia Gas and Oil Board?

1 A. Yes, I have.

2 Q. Have you given notice as required by Virginia Code
3 annotated Section 45.361.19 to each person or entity
4 identified on Exhibit C of the forced pooling application
5 as a potential owner of the methane gas underlying the
6 unit?

7 A. Yes, I have.

8 Q. Is the exhibit marked for identification as Exhibit 2 the
9 notice of hearing that was mailed to the parties listed
10 on Exhibit C?

11 A. Yes, it was.

12 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
13 Exhibit 2.

14 MR. CHAIRMAN: Okay.

15 Q. (Ms. McClannahan continues.) How was this notice
16 accomplished?

17 A. By certified mail, return receipt requested.

18 Q. And are copies of those returned receipts at Exhibit 3?

19 A. Yes, they are.

20 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
21 Exhibit 3.

22 MR. CHAIRMAN: All right.

23 Q. (Ms. McClannahan continues.) Were there any persons
24 whose names and/or addresses were unknown?

25 A. No. However, we published in the Virginia Mountaineer,

1 Bristol Herald Courier, and Bluefield Daily Telegraph on
2 July 30th, 26th and 24th respectively.

3 Q. And you've previously submitted those proofs of publica-
4 tion to the Board?

5 A. Yes, we have.

6 Q. What percentage of the coal rights in the tracts that
7 comprise the south longwall 12 unit does PGP control?

8 A. 96.101 percent of the Pocahontas #3 seam and 91.99
9 percent of coal below the Tiller seam less the P3 seam.

10 Q. What percentage of the oil and gas in the tracts that
11 comprise the south longwall 12 unit does PGP control?

12 A. 61.008 percent.

13 Q. Have you obtained coalbed methane gas leases on any
14 portion of the acreage within the south longwall 12 unit?

15 A. Yes, we have.

16 Q. On what percentage of the acreage?

17 A. 91.962 percent.

18 Q. Are the unleased owners and the lease hold owners and
19 mineral owners who have leased to other parties listed on
20 Exhibit D of the application?

21 A. Yes, with the respective changes that you gave.

22 Q. And their percentages of ownership in the respective
23 tracts are also listed and amended as I have done
24 previously, is that correct?

25 A. Yes.

- 1 Q. Are the conflicting claimants whose funds are to be
2 escrowed listed on Exhibit E of the south longwall 12
3 unit forced pooling application with the amendments as
4 I've previously indicated?
- 5 A. Yes.
- 6 Q. The information that was submitted on Exhibit E original-
7 ly also requires an additional change, is that correct?
- 8 A. Yes.
- 9 Q. And those appropriate changes are on the new revised
10 Exhibit E that are shown at Exhibit 3-A, is that right?
- 11 A. Yes.
- 12 Q. What change was that?
- 13 A. That was the deletion of Cabott Oil and Gas.
- 14 Q. And the reason for the deletion of Cabott Oil and Gas was
15 that they claim no interest in the coalbed methane in
16 this particular unit?
- 17 A. Correct.
- 18 Q. They've advised you of that?
- 19 A. Yes.
- 20 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
21 Exhibit 3-A.
- 22 MR. CHAIRMAN: Okay.
- 23 Q. (Ms. McClannahan continues.) Are you requesting that the
24 Board pool the interests of the parties listed on Exhibit
25 C of the south longwall 12 unit forced pooling applica-

1 tion?

2 A. Yes, we are.

3 MS. McCLANNAHAN: Those are all the questions I have for Mr.
4 Arrington.

5 MR. CHAIRMAN: I'm talking about Page 3 of your application
6 where you talk about in Section 1.3 and I was just trying
7 to see if there was any entity here in Exhibit C that
8 would be a party that was no longer in existence and if
9 the use of the term "unknown" -- if it should have said
10 known or unknown and I was just trying to understand
11 that. Look and see in Exhibit C if there is any dis-
12 solved corporation listed.

13 MS. McCLANNAHAN: No. The language used there is just to
14 protect us if a corporation is dissolved at the date of
15 this hearing and that's also why we published the notice
16 even when we're not required to if there are unknown
17 parties.

18 MR. CHAIRMAN: And that would only apply to the unknown
19 successors, trustees, is that --

20 MS. McCLANNAHAN: If the corporation was dissolved then the
21 successors to that corporation would be the share holders
22 of the corporation under Virginia law. So then they
23 would have been --

24 MR. CHAIRMAN: Already --

25 MS. McCLANNAHAN: Right.

1 MR. CHAIRMAN: Okay. Any other questions?

2 (Witness stands aside.)

3 MS. McCLANNAHAN: Our next witness is Ron Wood.

4

5 RONALD L. WOOD

6 a witness who, after having been previously sworn, was
7 examined and testified as follows:

8

9 DIRECT EXAMINATION

10

11 BY MS. McCLANNAHAN:

12 Q. Ron, would you please state your full name for the
13 record?

14 A. Ronald L. Wood.

15 Q. And could you identify the exhibit that's marked as
16 Exhibit 4?

17 A. It is my resume.

18 Q. And does that contain your current address, your work
19 history and qualifications and your educational back-
20 ground?

21 A. Yes.

22 Q. Have you been qualified as an expert witness before the
23 Gas and Oil Board?

24 A. Yes.

25 Q. Where has your experience in obtaining mineral leases

- 1 been concentrated?
- 2 A. Oil, gas, coal and coalbed methane leases in Virginia,
3 West Virginia, Tennessee, Pennsylvania, and New York.
- 4 Q. In your experience in obtaining leases in Virginia are
5 you familiar with the fair market value for coal, oil and
6 gas leases and coalbed methane leases in the south
7 longwall 12 unit?
- 8 A. Yes, I am.
- 9 Q. How many acres have you leased in Buchanan County in the
10 last year?
- 11 A. Approximately 105 different agreements, 1,500 acres.
- 12 Q. What are the fair market value terms for an oil, gas and
13 coalbed methane lease in this area in your opinion?
- 14 A. \$5 per acre per year with an one-eighth royalty.
- 15 Q. And for a coalbed methane lease?
- 16 A. \$1 per acre per year and an one-eighth royalty.
- 17 Q. And the standard primary term for an oil, gas and coalbed
18 methane lease?
- 19 A. Ten years.
- 20 Q. With regard to the unleased owners that are listed on the
21 south longwall 12 unit forced pooling application, have
22 you contacted each of these land owners or tried to
23 contact them and offered them a lease?
- 24 A. Yes, we have.
- 25 Q. By what method did you contact them?

1 A. Verbal and/or certified mail.

2 Q. With regard to the lease hold owners that are listed on
3 the south longwall 12 unit forced pooling application
4 did you make an offer regarding an assignment of their
5 interests in those leases?

6 A. We, we did.

7 Q. And were able to come to an agreement as to a proposed
8 assignment?

9 A. Yes.

10 Q. And that letter agreement has been executed?

11 A. It has, yes.

12 MS. McCLANNAHAN: Those are all the questions I have for Mr.
13 Wood.

14 MR. CHAIRMAN: Any questions?

(Witness stands aside.)

15
16 MS. McCLANNAHAN: The next witness I'd like to call is Randy
17 Albert.

18
19 RANDALL MARK ALBERT

20 a witness who, after having been previously sworn, was
21 examined and testified as follows:

22
23 DIRECT EXAMINATION

24
25

1 BY MS. McCLANNAHAN:

2 Q. Mr. Albert, would you please state your full name for the
3 record?

4 A. Randall Mark Albert.

5 Q. And your address, educational background, work history,
6 and qualifications are all listed on your resume that's
7 been submitted to the Board as Exhibit 5?

8 A. That's true.

9 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
10 Exhibit 5.

11 MR. CHAIRMAN: Okay.

12 Q. (Ms. McClannahan continues.) Have you been qualified as
13 an expert witness before the Gas and Oil Board?

14 A. Yes, I have.

15 Q. Has a drilling permit been previously refused to PGP on
16 any of the tracts that make up this unit?

17 A. No, it's not.

18 Q. Have any well work permits been issued for the south
19 longwall 12 unit?

20 A. Yes, they have. CBM PGP 138 was issued as permit number
21 2009 on 7-17-92. CBM PGP 136 was issued on 8-6-92 as
22 permit number 2041. And CBM PGP 137 was issued as permit
23 number 2045 on 8-6-92. CBM PGP 139 is a proposed well
24 and the permit has not yet been submitted.

25 Q. For what type of wells were the permits issued?

1 A. Coalbed methane gas wells.

2 Q. Have you received any written responses from the owners
3 of the tracts that are within this unit to the forced
4 pooling application?

5 A. No, we have not.

6 Q. Does the plat that's attached to the forced pooling
7 application filed by PGP indicate the acreage and the
8 shape of the acreage to be embraced within the south
9 longwall 12 unit as it was approved by the Board at it's
10 February, 1992 hearing?

11 A. Yes, it does.

12 Q. Does the unit follow the boundary lines of the longwall
13 panel and it's surrounding area for the mine that
14 comprises the south longwall 12 unit?

15 A. Yes, it does.

16 Q. Could you identify the exhibit that's marked as Exhibit
17 6?

18 A. Exhibit 6 is a copy of Exhibit B-1 of the south longwall
19 12 forced pooling application which indicates the
20 location of the south longwall 12 unit and the four wells
21 in that unit.

22 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
23 Exhibit 6.

24 MR. CHAIRMAN: Okay.

25 Q. (Ms. McClannahan continues.) Does the plat attached to

- 1 the pooling application filed by PGP indicate the area
2 within which the wells will be drilled?
- 3 A. Yes, it does.
- 4 Q. Does this drilling unit as it's shown on Exhibit 6
5 embrace two or more separately owned tracts?
- 6 A. Yes, it does.
- 7 Q. Are the costs and expenses for the wells set forth on the
8 detailed well estimates attached to the forced pooling
9 application as Exhibits H through K?
- 10 A. Yes, they are.
- 11 Q. Do these exhibits reflect the costs of drilling the wells
12 to total depth as well as completed for production costs?
- 13 A. Yes, they do.
- 14 Q. Generally, could you please explain how you calculated
15 the costs that are listed in the DWEs?
- 16 A. Again, these costs are an estimate based on the average
17 cost of drilling in the area.
- 18 Q. Are you requesting that PGP be designated as the well
19 operator authorized to operate the south longwall 12
20 unit?
- 21 A. Yes, we are.
- 22 Q. And your requesting the relief sought in paragraph four
23 of PGP's application in accordance with the Virginia Gas
24 and Oil Act?
- 25 A. Yes, I am.

1 MS. McCLANNAHAN: Those are all the questions I have for Mr.
2 Albert.

3 MR. CHAIRMAN: Questions, members of the Board?
4 (Witness stands aside.)

5 MR. CHAIRMAN: Call your next witness.

6 MS. McCLANNAHAN: Claude Morgan.

7

8 CLAUDE DALE MORGAN

9 a witness who, after having been previously sworn, was
10 examined and testified as follows:

11

12 DIRECT EXAMINATION

13

14 BY MS. McCLANNAHAN:

15 Q. Claude, could you please state your full name for the
16 record?

17 A. Claude Dale Morgan.

18 Q. Your address, work history, educational background, and
19 qualifications are all listed on your resume that's been
20 submitted to the Board as Exhibit 7, is that correct?

21 A. That is correct. For the record, the post office box is
22 1289 instead of 2189.

23 Q. Okay.

24 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
25 Exhibit 7.

1 MR. CHAIRMAN: Okay.

2 Q. (Ms. McClannahan continues.) Mr. Morgan, have you been
3 qualified as an expert witness before the Gas and Oil
4 Board?

5 A. Yes, I have.

6 Q. With regard to the costs that are listed on the DWES that
7 Randy Albert has described and submitted for the wells in
8 the south longwall 12 unit, how do you propose to
9 allocate the costs among the owners in the unit?

10 A. Since the wells within this unit will serve both the SLW
11 12 during the frack, active gob, and horizontal coalbed
12 methane production as well as a later sealed gob unit the
13 costs of these wells is being distributed to the two
14 different units based on the percentage of production
15 estimated from that proposed unit.

16 Q. Could you identify Exhibits 8 and 10 as they've been
17 submitted to the Board?

18 A. Exhibit 8 shows the SLW 5 to twelve longwall units with
19 the SLW 12 unit shaded. Exhibit 10 shows the proposed
20 sealed gob unit which will include the area of the SLW 12
21 unit.

22 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
23 Exhibits 8 and 10.

24 MR. CHAIRMAN: Okay.

25 Q. (Ms. McClannahan continues.) Mr. Morgan, would you now

1 explain how the costs will be allocated to the SLW 12
2 unit as between the frack, active, and horizontal gas
3 production and the sealed gob production?

4 A. Based on the history of wells that we have drilled in the
5 Buchanan #1 mine area we have estimated the frack, active
6 gob, and horizontal production to be 984 million cubic
7 feet during the life of this unit. The production from
8 the same area during the sealed gob application would be
9 1055 million cubic feet for a total of 2039 million cubic
10 feet. Dividing the 984 million cubic feet for the SLW 12
11 unit by the total of 2039 million cubic feet and multipl-
12 ying by 100 will give us a 48.3 percent factor to be
13 multiplied against the total well costs included in the
14 DWES.

15 Q. That calculations which you just described, that's shown
16 on Exhibit 9 as it's been submitted to the Board, is
17 that right?

18 A. Yes, it is.

19 MS. McCLANNAHAN: Mr. Chairman, I would move the introduction
20 of Exhibit 9?

21 MR. CHAIRMAN: Okay.

22 Q. (Ms. McClannahan continues.) How do you propose to
23 charge the unit owners for additional wells that will be
24 drilled in this unit?

25 A. This application is for forced pooling with the costs

1 from these four wells only to be considered. Any
2 additional cost which Pocahontas Gas Partnership would
3 propose to include in this unit would upon the request of
4 the Board come back to the Board for future hearing.

5 MS. McCLANNAHAN: Thank you, Mr. Morgan. Those are all the
6 questions I have. We would therefore move that the Board
7 approve the south longwall 12 unit forced pooling
8 application as it's been submitted.

9 MR. CHAIRMAN: Are there any other parties that wish to
10 address the Board in this matter? The record will show
11 that there are none. Other questions, members of the
12 Board?

13 MR. MCGLOTHLIN: Mr. Morgan, on Exhibit 10, the sealed gob
14 area seems to be to the right of south longwall 12. Is
15 there any plan to mine that area or is that just going to
16 be a barrier between them?

17 THE WITNESS: That is planned to be a barrier area. And that
18 line was put there to coincide with that 80 acre line.

19 MR. MCGLOTHLIN: Okay. I understand that. I was just more
20 interested about the mining part of it. Thank you.

21 MR. CHAIRMAN: Any other questions?

22 (Witness stands aside.)

23 MR. CHAIRMAN: If not, what is your recommendation?

24 MR. KELLY: I would move that the application be approved
25 as submitted.

1 MR. CHAIRMAN: We have a motion for approval as submitted.
2 MR. MCGLOTHLIN: Second.
3 MR. CHAIRMAN: A second. Any further discussion? If not, all
4 in favor signify by saying yes. (ALL AFFIRM.) Opposed
5 say no. (NONE.) It's unanimous. Thank you.
6 MS. McCLANNAHAN: Thank you. We appreciate you letting us
7 rearrange your docket today.
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1 MR. CHAIRMAN: There are some things we need to discuss while
2 we're in open session. On March 17th we had a hearing at
3 this location and the applicant was OXY, USA, Inc and the
4 Board extended previous orders -- I'm trying to find my
5 reference point here -- and we drew the following
6 conclusion. "The Virginia Gas and Oil Board grants
7 relief in this case by extending the time within which
8 the unit operator shall commence operations for the
9 drilling of the wells covered by the Board orders." In
10 that regard, paragraph 10 of each of the Board orders are
11 hereby deleted in toto and replaced with the following
12 language. "Unless otherwise ordered by the Board or by
13 the Circuit Court of Buchanan County, Virginia, unit
14 operators shall commence or cause to commence operations
15 for the drilling of any well covered hereby on or before
16 September 14th, 1992 and shall prosecute the same with
17 due diligence. If the unit operator shall not have so
18 commenced or prosecuted then this order shall terminate
19 except for any cash sums becoming payable thereunder.
20 Otherwise unless sooner terminated by the Board by the
21 order of this Board this order shall expire at 12:00 P.M.
22 on the date on which any well covered by this order is
23 permanently abandoned or plugged." And these were the
24 wells, as you know, are in litigation for determination
25 of ownership. And there was an objection to the continu-

1 ation by Donald R. Johnson appearing for Lon B. Rogers
2 and Lon B. Rogers, II, trustee of the Lon B. Rogers/-
3 Bradshaw trust. The date of September 14th is the day
4 before our next scheduled Board meeting. If the Board
5 plans to take any action on this then we need to change
6 the date of our next Board meeting to at least the 14th
7 and perhaps the 11th. The 11th is on a Friday. The
8 14th is on a Monday of September. How do you wish to
9 proceed? I had a call by Mark Swartz, attorney repre-
10 senting OXY, USA, who requested that the Board make a
11 decision on this before the expiration date of September
12 14th.

13 MR. KELLY: What other problems are involved in rescheduling
14 the meeting?

15 MR. CHAIRMAN: I think that just simply getting our time
16 cleared for that date. We have time to get the notices
17 out. The notices have not gone out for the next hearing
18 and we in power to change the meeting dates.

19 MR. FULMER: The Board, I understand, can upon some motion
20 enter into it's own order or change an order. It can
21 also reschedule it's meeting at times also.

22 MR. CHAIRMAN: Uh-huh. But the Board by practice and I think
23 probably by law has to notice even if it's going on it's
24 own motion.

25 MR. FULMER: Right. The fact right now is the notice --

1 MR. CHAIRMAN: Right. So our options are to do nothing and
2 they expire before next meeting unless by a court order
3 which obviously would aggrieve some parties or to change
4 the meeting date or to hold a special meeting in addition
5 to the regularly scheduled meeting.

6 MR. KELLY: And by changing the meeting date that merely gives
7 the parties the opportunity to appear to plead their case
8 further.

9 MR. CHAIRMAN: Right.

10 MR. MCGLOTHLIN: Many hours have been put into these things.
11 I hate for us to be penalized just because the court
12 system is a little bit slow and I hate for them to be
13 penalized because the court system is slow.

14 MR. KELLY: So what you've just said, is it simpler and fair
15 to all parties to change the meeting date if that's not a
16 scheduling problem?

17 MR. CHAIRMAN: I would think so. I would think that we could
18 set the meeting on Friday or Monday so that we have an
19 opportunity to hear from the parties. I mean, maybe the
20 court will decide by then. Who knows. Then we'll only
21 be having a meeting on a different day. But there's no
22 guarantee. We've gone for several months, so it will be
23 fifteen months by that time without a decision of the
24 court.

25 MR. KELLY: It seems to me that motions can be made on the

1 circuit court, but there ought to be something done on
2 this rather for us to -- we've given them the time. I
3 don't know what seems to be the problem. The court's not
4 acting on it and the court's -- are they being prodded
5 enough to act on it?

6 MR. CHAIRMAN: It's difficult to prod the court. Certainly
7 we're not in the position, I don't think, to prod the
8 court.

9 MR. KELLY: No. I'm wondering if the other parties have been
10 diligently pursuing this in the court.

11 MR. CHAIRMAN: I really don't know. I couldn't speak for
12 them.

13 MR. MCGLOTHLIN: How would rescheduling the meeting till
14 Monday effect everybody? It seems to me that Monday
15 would be better than Friday.

16 MR. CHAIRMAN: The 14th, the date of the expiration?

17 MS. McCLANNAHAN: The only thing that I would suggest is that
18 although Pocahontas Gas Partnership didn't file anything
19 yesterday, yesterday was the last filing date for next
20 month's hearing which means that anybody who filed an
21 application yesterday for this month's docket would have
22 sent out notices with the other hearing date on it. So
23 you might want to make sure that any party who filed an
24 application yesterday is told this because they'll have
25 to redo all their notices.

1 MR. FULMER: Luck of the draw.

2 MS. McCLANNAHAN: Well, I mean I just think it should be done.

3 MR. CHAIRMAN: Oh, absolutely. We would definitely need do
4 that.

5 MR. KELLY: What kind of a problem does that create?

6 MR. CHAIRMAN: Expense to re-notice.

7 MS. McCLANNAHAN: Again, I'm not arguing for anything because
8 we didn't file anything.

9 MR. CHAIRMAN: I understand.

10 MS. McCLANNAHAN: But I just thought I would mention that
11 because --

12 MR. CHAIRMAN: It could be that we could catch them before
13 they get the notices out, but we don't know that. They
14 could have gotten them out yesterday or get them out
15 today before we can get word to them.

16 MS. McCLANNAHAN: I think the statutory requirement is
17 simultaneously and that is when the notice is suppose to
18 be -- the notice is to be given simultaneous with the
19 filing of the application. So probably the notices went
20 out yesterday or today, I would think. But again, that's
21 just an administrative problem that would have to be
22 handled.

23 MR. MCGLOTHLIN: If we don't act what's the next step? Do
24 they have to refile?

25 MR. CHAIRMAN: They would have to refile it.

1 MS. RIGGS: One additional thing is I think we've now received
2 a notice of appeal of the order extending.
3 MR. CHAIRMAN: Yeah. We have an appeal too, by the way, of
4 the order that we issued extending the last date.
5 MS. RIGGS: And the basis of that appeal was that the order
6 had expired before the extension. So --
7 MR. KELLY: So if we reschedule the meeting would it then
8 allow the appealing parties to further state their case
9 also at that hearing?
10 MR. CHAIRMAN: It really wouldn't have a bearing on that part
11 because we're not -- they're appealing to the court.
12 MR. FULMER: The appeal is Mr. Johnson to the court. It's not
13 to the Board.
14 MR. CHAIRMAN: He's appealing the Board's last decision is
15 what he is doing.
16 MR. KELLY: I'm sorry.
17 MR. CHAIRMAN: So if we were not to act it would essentially
18 move his appeal. But I just want you to understand all
19 the issues here. And, Cindy, I appreciate you bringing
20 that part up. That's another part of the issue. That
21 appeal would die, I would think, on the fact the Board
22 didn't take any action on the request and then that would
23 leave the other parties to go to court and get any
24 extension or whatever they decided to do or just simply
25 refile. And that is certainly something to consider as

1 well.

2 MR. MCGLOTHLIN: Which is the lesser of the evil, for them to
3 refile or for us to cause all the chaos of notification?

4 MR. KELLY: How many wells are involved -- wells involved?

5 MR. CHAIRMAN: On this, there's ten listed.

6 MR. FULMER: Quite a few. Those are groupings of appeals that
7 Ashland has made to the court system in regards to OXY.
8 Decisions have been made with the Board and the orders
9 were due to expire one year from the date of issuance
10 and they've been held up in court.

11 MS. RIGGS: There are additional orders on appeal whose terms
12 have not -- the year hasn't run yet. I mean, there are
13 more than ten appeals. These just happen to be the ten
14 whose 365 days have ran out.

15 MR. CHAIRMAN: Right.

16 MR. MCGLOTHLIN: I suggest we have our regular meeting date
17 and let them die.

18 MR. CHAIRMAN: Is that a motion?

19 MR. MCGLOTHLIN: Yes, sir. I will make that as a motion.

20 MR. CHAIRMAN: We have a motion to not add this on the agenda
21 and to have the next meeting at the regular scheduled
22 time, Tuesday, September 15th.

23 MS. ZANDERS: Second.

24 MR. CHAIRMAN: A motion and a second. Any further discussion?
25 All in favor signify by saying yes. (ALL AFFIRM.)

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Opposed say no. (NONE.) No further business. This hearing is closed.

(End of Proceedings for August 18, 1992.)

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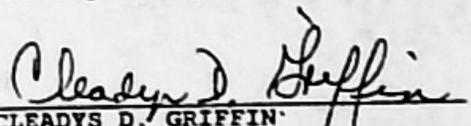
CERTIFICATE

COMMONWEALTH OF VIRGINIA
COUNTY OF WASHINGTON

I, Cleadys D. Griffin, Notary Public in and for the Commonwealth of Virginia, at Large, do hereby certify that the foregoing proceedings of the Virginia Gas and Oil Board meeting held on August 18, 1992 at the Southwest Virginia 4-H Center, Abingdon, Virginia, were taken by me and that the foregoing is a true and correct transcript of the proceedings had as aforesaid to the best of my ability.

I further certify that I am not a relative, counsel, or attorney for either party, or otherwise interested in the outcome of this action.

GIVEN under my hand this 2nd day of Septemeber, 1992.


CLEADYS D. GRIFFIN
NOTARY PUBLIC

My commission expires March 30, 1993.