

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

**VIRGINIA GAS & OIL BOARD HEARING**  
**APRIL 21, 1993**  
**9:00 A. M.**  
**AT THE 4-H CENTER, RATLIFF HALL**  
**ABINGDON, VIRGINIA**

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

14	2
16	23
18	34
19	50
20, 21	63
22, 23	82
24	100
25	179
26	134
27	113
28	170
31	122

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

April 21, 1993

This matter came on to be heard on this the 21st day of April, 1993 before the Virginia Gas and Oil Board at the 4-F Center, Ratliff Hall, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

MR. CHAIRMAN: Good morning. I'm Benny Wampler, Deputy Director for the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'd ask each member now to introduce themselves starting with Kevin.

(MEMBERS INTRODUCED.)

1

ITEM XIV

1  
2  
3 MR. CHAIRMAN: The first item on today's agenda is a petition  
4 for force pooling under Section 45.1-361.22 by Equitable  
5 Resources Exploration for VC-2914 well, Docket number  
6 VGOB-93/04-20-0367. We'd ask the parties that wish to  
7 address the Board in this matter to come forward at this  
8 time.

9 MR. TWEED: Doug Tweed and Jim Kiser present on behalf of the  
10 applicant.

11 MR. CHAIRMAN: Any others? The record will show there are  
12 none. You may proceed.

13 MR. TWEED: Thank you. Mr. Chairman, our witnesses will be  
14 Dennis Baker and Bob Dahlin both of whom were sworn  
15 yesterday during this docket and we can treat them as  
16 continuing to be sworn if you so desire.

17 MR. CHAIRMAN: I will remind them they are under oath.

18 MR. TWEED: Mr. Baker, I'll ask the record to basically adopt  
19 your prior testimony as to your employment and experience  
20 and the presence of you and acceptance as an expert  
21 witness before this Board yesterday and in prior dockets.  
22

23 DENNIS BAKER

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

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

DIRECT EXAMINATION

BY MR. TWEED:

Q. Are you familiar with this application and with the lands involved here and the surrounding area?

A. Yes, I am.

Q. Is Equitable seeking to force pool the drilling rights underlying the drilling and spacing unit that's depicted on Exhibit A of this application?

A. Yes, we are.

Q. Does Equitable own drilling rights in units involved here?

A. Yes, we do.

Q. Does the location proposed for well VC-2914 fall within the Board's order for the Mora coalbed field rules dated March 20, 1989?

A. Yes, it does.

Q. I believe that there is an amended Exhibit B that we wish to present to the Board. It does not reflect changes in who is leased or unleased, but does give a better delineation of the respected ownership interest with respect to coal and gas, is that correct?

A. That is correct.

Q. Mr. Baker, Mr. Kiser has now presented the amended

1 Exhibit B to the Board. It is my understanding that all  
2 of the parties with respect to this application have  
3 received notice and, in fact, are now leased parties  
4 with the exception of Yellow Popular Lumber Company, is  
5 that correct?

6 A. That is correct.

7 Q. And it is my understanding that the only type of notice  
8 that we have been able to effectuate with respect to  
9 Yellow Popular Lumber Company is the newspaper notice or  
10 media notice that is reflected in the pleadings that we  
11 have filed with respect to this application, correct?

12 A. That's correct.

13 Q. I believe our research has shown that Yellow Popular  
14 Lumber Company was formed under Illinois law with the  
15 principal place of business originally in South Carolina  
16 in 1896?

17 A. That is correct.

18 Q. And that our research has revealed that this corporation  
19 went bankrupt and was liquidated in 1928, over sixty  
20 years ago?

21 A. That's correct.

22 Q. And that our research with respect to possible title or  
23 real estate transactions reflects that there have been  
24 absolutely no transactions involving this company since  
25 that time in over sixty years?

- 1 A. That's correct.
- 2 Q. I believe that Ben Sutherland who I think is an attorney  
3 very qualified in title work and well known to this Board  
4 has made substantial efforts to try to locate anybody  
5 that might have knowledge about Yellow Popular Lumber  
6 Company or people who had interest in the company in the  
7 counties of Southwest Virginia and has no success, is  
8 that correct?
- 9 A. That's correct.
- 10 Q. It appears from the bankruptcy records that Yellow  
11 Popular Lumber Company attempted to divest itself of  
12 various property interest but somehow when it was  
13 divesting itself of surface interest and coal interest  
14 simply failed for whatever reason, by screw up or  
15 otherwise, to divest itself of gas rights?
- 16 A. That is correct.
- 17 Q. And as we understand it under the law with an inability  
18 to really contact or do anything with Yellow Popular  
19 Lumber Company that whatever rights they had with respect  
20 to the gas estate on the force pooling of this coalbed  
21 gas well, that those will go into escrow and if those  
22 rights result in any money after five years it's possible  
23 that those will be divested and go into the state?
- 24 A. That is correct.
- 25 Q. Do you feel that reasonable and diligent efforts have

1                   been made and due diligence exercised by Equitable in its  
2                   efforts to try to determine the status and locatability  
3                   of Yellow Popular Lumber Company?

4           A.    Yes.

5           Q.    And for editification of the Board, I believe that not  
6                   only the coal estate but the surface estate for the  
7                   tracts involved here is with Clinchfield Coal Company and  
8                   Pyrex Resources?

9           A.    That's correct.

10          MR. EVANS:   Pyxis Resources?

11          MR. TWEED:   Pyxis, that's correct.   P-Y-X-I-S.  Mispronounced  
12                   by me.  I apologize.

13          Q.    (Mr. Tweed continues.)  Does Equitable seek to force pool  
14                   the drilling rights of each individual respondent -- and  
15                   in this case, of course, we're speaking of Yellow Popular  
16                   -- and if unknown or unlocatable the unknown successor or  
17                   successors, if any to any respondent?

18          A.    That's correct.

19          Q.    Is Equitable seeking to force pool the drilling rights of  
20                   persons designated as trustee if acting in capacity of  
21                   trustee or if not acting in such capacity seeking to  
22                   force pool the drilling rights of any successor of such  
23                   trustee?

24          A.    Yes.

25          Q.    Are you familiar with the fair market value of the

1 drilling rights in the units here and in the surrounding  
2 area?

3 A. Yes, I am.

4 Q. Advise the Board as to what those are.

5 A. \$5 bonus per acre consideration, five year term and one-  
6 eighth royalty.

7 Q. Did you gain your familiarity by acquiring oil and gas  
8 leases and coalbed methane leases and other agreements  
9 involving transfer of drilling rights in units involved  
10 here and the surrounding area?

11 A. Yes.

12 Q. In your opinion do the terms you've testified to repres-  
13 ent the fair market value of and a fair and reasonable  
14 compensation to be paid for drilling rights within this  
15 unit?

16 A. Yes.

17 Q. With respect to the elections of participation, royalty  
18 or carried operation and the timing for elections and  
19 deadlines and the person to who notification should be  
20 made on behalf of the applicant do you adopt the testi-  
21 mony that you provided to the Board yesterday with  
22 respect to two the force poolings that we presented that  
23 were approved?

24 A. Yes.

25 Q. And that would include the testimony as to our request

1           yesterday for escrowing provisions and compliance with  
2           the statutory and regulatory requirements for escrow?

3           A.   That's correct.

4           Q.   Who should be named operator under the force pooling  
5           order?

6           A.   Equitable Resources Exploration.

7           MR. TWEED: I have no further questions for this witness, Mr.  
8           Chairman.

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

10          MR. EVANS: You say you do have the surface lease -- based on  
11          our discussion yesterday, an unleased tract, you do have  
12          access rights to the well site?

13          MR. BAKER: Yes, we do.

14          MR. TWEED: We have a relationship with Clinchfield and Pyxis  
15          who leased us the coal and that will be used for the  
16          access. Equitable obviously isn't sure where it stands  
17          in terms of being put to the Board on the legal issues  
18          that came up yesterday in draft form but it's not an  
19          issue this morning.

20          MR. EVANS: That's fine.

21          MR. MCGLOTHLIN: Mr. Tweed, approximately how many acres of  
22          Yellow Popular Lumber Company does their gas rights --  
23          how many acres does that encompass?

24          MR. TWEED: The vast majority of the unit.

25          MR. MCGLOTHLIN: I mean throughout the -- can you tell me how

1 many acres that that would encompass in Southwest  
2 Virginia?

3 MR. TWEEED: Approximately a thousand is what we understand.  
4 We're running into Yellow Poplar on a couple of other  
5 units that are going to be coming up for force pooling in  
6 the future.

7 MR. MCGLOTHLIN: Is it normal on that large of an acreage to  
8 pay more than the \$5 bonus and the one-eighth royalty on  
9 a five year lease?

10 MR. BAKER: No. We pay the same price. It just varies when  
11 you have different --

12 MR. MCGLOTHLIN: Wait a minute now. I know that you've paid  
13 more on a smaller tract. Don't tell me that you pay the  
14 same.

15 MR. BAKER: On smaller tracts when you have lots -- on acre  
16 where you have a small \$5 or \$10 consideration due we  
17 usually try to make it worth the individual's while and  
18 we'll pay \$25 for a paid up full term lease or \$50.

19 MR. MCGLOTHLIN: What I'm getting at is I think that if Yellow  
20 Poplar Lumber Company was around today it would cost you  
21 more than \$5 an acre bonus and the one-eighth royalty to  
22 lease that property. I want to protect somebody or  
23 somebody's money on that acreage would normally get more.  
24 I think they would normally get more and I think you know  
25 that they in a negotiation would get more.

1 MR. BAKER: We have leases from other companies in the area  
2 that we usually have a consideration being \$5 an acre.

3 MR. MASON: You testified that that's the normal. Have you  
4 all paid more?

5 MR. BAKER: Have we paid more?

6 MR. MASON: Uh-huh. Other than for small tracts, lot tracts?

7 MR. BAKER: At a certain period of time I'd say we probably  
8 have, but as a normal operating procedure no, we do not.

9 MR. TWEED: I can offer testimony, I'm not sure if Mr. Baker  
10 knows or not, but through Mr. Talbot that the compensa-  
11 tion that we're paying to Clinchfield who is leased with  
12 us on this tract with the surface and the coal rights are  
13 compatible with what we're proposing here. So Yellow  
14 Popular is being treated in our force pooling request  
15 identically to Clinchfield who is voluntarily leased and  
16 whose surface is included in the obligation.

17 MR. MASON: Are you testifying?

18 MR. TWEED: Mr. Talbot was sworn yesterday and we can treat  
19 him as sworn. Could you verify that for them, please?

20 MR. TALBOT: Our agreement with Pine Mountain as we find  
21 additional acreage that is not unleased will go in a  
22 leased status at a consideration of \$5 per acre and a  
23 one-eighth royalty.

24 MR. MCGLOTHLIN: Have you ever paid more?

25 MR. TALBOT: That's directed to me?

1 MR. MCGLOTHLIN: Yes, sir.

2 MR. TALBOT: I'm really not in a acquisition other than the  
3 Pittston properties. I think -- I really don't know,  
4 sir. I'd have to defer that to Mr. Baker. I know the  
5 Pittston property is what we just executed with Pine  
6 Mountain oil and gas (Inaudible.)

7 MR. MCGLOTHLIN: I don't know who Yellow Popular is and it's  
8 probably a dead entity out there somewhere, but I still  
9 think we have an obligation to protect that interest.

10 MR. TWEED: I think your comments are fair but I think that  
11 number one, Yellow Popular is without question dead and  
12 although there's a real serious question as to whether  
13 this gas estate will result in any revenues down the line  
14 on this coalbed gas unit, that's obviously not for the  
15 Board to decide today. I guess I'm hard pressed to say  
16 that Yellow Popular as a dead entity or even an un-  
17 locatable entity has a right to come in here and request  
18 treatment more favored than Clinchfield under these  
19 circumstances and I think the compatibility and testimony  
20 that we have in that regard which has been satisfactory  
21 to the Board on a multitude of other force poolings would  
22 probably be satisfactory for Yellow Popular as much as  
23 any other respondent that doesn't appear, Mr. McGlothlin.

24 MR. MASON: I just have one comment to this gentleman here.  
25 Are you aware of any other leases at a higher rate other

1 than the lot leases?

2 MR. BAKER: Not right off hand I'm not, no.

3 MR. MASON: What does that mean, not right off hand?

4 MR. BAKER: That means that I'm not familiar with any leases  
5 that has larger considerations.

6 MR. MASON: Do you do the lease acquisition work for your  
7 company?

8 MR. BAKER: I direct the contract brokers in the field, yes.

9 MR. MASON: So you would be aware of any if there were?

10 MR. BAKER: Yes.

11 MR. MASON: And you are not aware of anybody that you've paid  
12 more than \$5 an acre?

13 MR. BAKER: No.

14 MR. CHAIRMAN: Any other questions?

15 (Witness stands aside.)

16 MR. CHAIRMAN: Call your next witness.

17 MR. TWEED: Mr. Bob Dahlin and I'll remind you you're still  
18 under oath and I'll ask the record to adopt your test-  
19 imony yesterday as to your employment and experience and  
20 acceptance as an expert witness in this field.

21  
22 BOB DAHLIN

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

DIRECT EXAMINATION

1  
2  
3 BY MR. TWEED:

4 Q. Are you familiar with this application and the lands  
5 involved here and the surrounding area?

6 A. Yes, sir, I am.

7 Q. Is it accurate that the total depth of this proposed  
8 wells and formations involved are as follows: 2,450 feet  
9 to include formations consistent with the well work  
10 permit now pending before the DMS including but not  
11 limited to all Pennsylvanian aged coal seams from the top  
12 of the Raven including all splits to the top of the Red  
13 and Green shells, including but not limited to Raven, Jaw  
14 Bone, Upper Horse Pin, Middle Horse Pin, War Creek,  
15 Beckley, Lower Horse Pin, Pocahontas #8, Pocahontas #4,  
16 Pocahontas #3, Pocahontas #1, all unnamed coal seams and  
17 all other associated formations known as the Nora  
18 coalized gas field?

19 A. Yes, sir. That's correct.

20 Q. Will this be sufficient in your opinion to penetrate and  
21 test the common sources of supply in the subject forma-  
22 tions?

23 A. It will.

24 Q. What are the estimated reserves for this unit?

25 A. We estimated 300 million cubic foot of gas reserves on

1 the unit. This is an out-post well. It's a test well.  
2 We only compare it to known information in the Nora  
3 field.

4 Q. Are you familiar with the well costs of the proposed  
5 initial unit?

6 A. Yes, sir, I am.

7 Q. Has a signed AFE been reviewed and submitted to the  
8 Board?

9 A. It has.

10 Q. Was this AFE prepared by an engineering department  
11 knowledgeable in the preparation of AFEs and knowledge-  
12 able in regard to well costs in this area?

13 A. Yes, it was.

14 Q. And is this AFE subject to the same quality control  
15 systems you described yesterday and at prior hearing  
16 before the Board?

17 A. Yes, sir.

18 Q. Does the AFE represent in your opinion a reasonable  
19 estimate of the well costs for the proposed unit?

20 A. It does.

21 Q. What are the dry-hole costs?

22 A. Dry-hole costs are \$72,354.

23 Q. And the completed well cost?

24 A. Completed well cost is \$192,500.

25 Q. Do these costs anticipate a multiple completion and

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

include a reasonable charge for supervision?

A. It does.

Q. In your professional opinion will the granting of this application be in the best interest of conservation, prevention of waste and protection of correlative rights?

A. Yes, sir.

MR. TWEED: I have no further questions for this witness.

MR. CHAIRMAN: Questions, members of the Board? What is your timing in setting all your production casing -- all your casing? Do you do that as the well is being drilled in all cases?

MR. DAHLIN: Setting casing?

MR. CHAIRMAN: Yes.

MR. DAHLIN: Yes, sir. In consistent manner with the regulations we run our fresh water protection string -- first string other than a conductor just to keep the surface from falling in on us and allow it to cure, set up, and then we continue to our production casing. We allow the proper time -- eight to twelve hours I believe is the waiting time between each casing string. It's a continuous operation. Drilling is ceased until the cement is cured and then we continue.

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MR. CHAIRMAN: You may call your next witness.

1 MR. TWEED: I have no further questions of either witness  
2 except to kind of make sure that we try to give as good a  
3 comfort level as we can to Mr. McGlothlin and Mr. Mason  
4 on the terms of lease issue. Mr. Baker, am I accurate in  
5 saying that there are leases that Equitable has negotiat-  
6 ed with Virginia Iron, Coal & Coke and Pine Mountain and  
7 Clinchfield and Pyxis and Penn-Virginia and other  
8 companies of that nature with much greater amounts of  
9 acreage than is involved for Yellow Popular in this area  
10 where the terms have been consistent with the terms  
11 we're asking here to with \$5 an acre.

12 MR. BAKER: Yes. That's correct.

13 MR. MCGLOTHLIN: When do you expect to drill this well?

14 MR. TWEED: Mr. Talbot's probably the best person to answer  
15 that.

16 MR. TALBOT: We just received formal approval on the 23rd of  
17 April, sir, from the Pine Mountain, Pittston, Pyxis and  
18 Pegasus Resources. We are in the process of doing our  
19 ENS plan and permit application. I would project the end  
20 of May, the first of June, sometime in there.

21 MR. MCGLOTHLIN: It's the first to my knowledge that we've  
22 ever pooled nobody basically that's an unknown at the  
23 same time.

24 MR. CHAIRMAN; Are these leases that you're talking about  
25 where you're paying \$5, are they coalbed methane only or

1           are they --

2       MR. TALBOT: I think we've testified during all of our force  
3           pooling hearings that all of our leases are standard --  
4           are operating procedures between \$3 and \$5 per acre. I  
5           think all of our past testimony has been \$5.

6       MR. CHAIRMAN: Whether it's coalbed methane or oil and gas.

7       MR. TALBOT: Yes, sir. In situations where the oil and the  
8           gas owner and the coal owner are the same it's a standard  
9           lease that also includes explicitly coalbed methane where  
10          the ownership may be determined if their both the same.

11      MR. MCGLOTHLIN: In leasing a gas tract do you differentiate  
12          between coalbed methane and conventional gas on your  
13          leasing?

14      MR. TALBOT: No. The lease form provides for oil, gas and  
15          coalbed methane rights.

16      MR. MCGLOTHLIN: And that's at \$5 an acre?

17      MR. TALBOT: Yes.

18      MR. TWESD: We have no further evidence to submit. I would  
19          point out, Mr. Chairman, that we've tried to research  
20          again. There's a Malainy versus Central Hanover U.S.  
21          Supreme Court case dealing with notice concerns from a  
22          broad spectrum and recognizing that from time to time  
23          you're going to walk to situations where you have  
24          statutory notice obligations and there's just no way that  
25          reasonable diligence can do more than put it in the paper

1 so that technically if someone was there that could read  
2 it and do something about it it's there. We feel  
3 comfortable that this is just one of those situations  
4 where there was a glitch about seventy years ago. We  
5 can't predict whether in the end the royalty will go to  
6 the coal owner or to the state, but it obviously will go  
7 into escrow for the time being. And we would request  
8 the motion and vote approving this.

9 MR. MASON: On your AFE item "gathering lines, 2,000 foot of  
10 two inch" --

11 MR. DAHLIN: That's a fairly generic thing we do based on our  
12 spacing. This is an out-post well.

13 MR. MASON: Sir?

14 MR. DAHLIN: That's a general footage, probably based on  
15 spacing that we've been developing our field. This is,  
16 however, further east than we have been developing. We  
17 do have at least three other wells in the immediate area  
18 that we plan to drill. So that would probably be  
19 appropriate to tie that well into a gathering system once  
20 we establish it. This is a test well and wouldn't go on  
21 line until the other wells that were based on this also  
22 go in line.

23 MR. MASON: Where would this gathering line, from the well to  
24 what?

25 MR. DAHLIN: Well, what we do normally is just in a logical

1 development of an expansion of the field outward from a  
2 known point. This is an out-post well designed to test  
3 the structure in Little Pawpaw fault. This is the first  
4 well in the area and we would anticipate not putting it  
5 in the line immediately. What we do is we develop around  
6 it, test this one, determine if our reserves are reason-  
7 able, and if we feel that we can offset it we would  
8 develop several other wells in the area prior to putting  
9 in long line and it would more than likely go back west  
10 for more conventional development.

11 MR. MASON: If you do this when this gathering line is hooked  
12 up with, I assume, other gathering lines into a trans-  
13 mission line or some other part of the system who owns  
14 this gathering system?

15 MR. DAHLIN: We have various ownership situations in the  
16 gathering and transmission lines. This would just be an  
17 infield -- this particular 2,000 foot section would just  
18 go to the well and it would be -- just the partners in  
19 the well would own the pipeline.

20 MR. MASON: That's what I mean. I guess what I'm getting at  
21 is that I've seen situations where the wells are charged  
22 with a proportion of the gathering system and then  
23 ultimately that money in the aggregate is used to build a  
24 gathering system for all the wells which then belongs to  
25 the operator who then charges the wells for the gathering

1 cost.

2 MR. DAHLIN: I can't really speak -- this 2,000 foot section  
3 built into this AFE will be directly to the well and just  
4 the partners in the well will pay for only that portion.

5 MR. CHAIRMAN: Other questions?

6 MR. EVANS: Mr. Baker, how did you find Yellow Popular, tax  
7 records?

8 MR. BAKER: By researching records, running a mineral title  
9 in the Clerk's office. They were the last owner of  
10 record for the gas.

11 MR. TWEED: So eventually we traced it down to the bankruptcy  
12 records in Atlanta and were able to check out transfer  
13 records and stuff and it just goes blind.

14 MR. CHAIRMAN: Other questions?

15 MR. EVANS: I'd like to make a motion that we approve the  
16 petition as submitted.

17 MR. CHAIRMAN: We have a motion to approve.

18 MR. MCGLOTHLIN: Mr. Evans, could I ask you to amend that to  
19 approve the pooling -- 99.71 percent the Yellow Popular  
20 as coalbed methane only?

21 MR. EVANS: Yeah. That's what the pooling petition is.

22 MR. TWEED: If I understand Mr. McGlothlin I think we're  
23 talking the same language. Whatever coalbed methane gas  
24 rights Yellow Popular may have your motion amendment  
25 would allow us to pool but you want to limit it to that,

1                   whatever that is, under the existing vague law but not  
2                   include any other mineral rights outside of the coalbed  
3                   methane gas operation itself that might exist.

4                   MR. MCGLOTHLIN: Right.

5                   MR. TWEED: I know that you can get into a nebulous area there  
6                   about when you're penetrating for coalbed methane gas  
7                   there's no way to establish for sure that what you're  
8                   getting is coalbed methane.

9                   MR. MCGLOTHLIN: But not the conventional gas (Inaudible.)

10                  MS. RIGGS: For clarification, in drafting the order it is my  
11                  understanding this pooling is under 45.1-361.22, coalbed  
12                  methane pooling application in the Nora coalbed methane  
13                  field.

14                  MR. TWEED: Yes, ma'am.

15                  MS. RIGGS: So the order that would come out would be a  
16                  coalbed methane order.

17                  MR. TWEED: And it's limited by the drilling depth and  
18                  everything else.

19                  MR. MCGLOTHLIN: Relief sought, application request the  
20                  Virginia Gas and Oil Board in an order pooling all  
21                  unleased interest for tracts if all persons or entities  
22                  owning oil, gas and coalbed methane. That was in their  
23                  application and that's why --

24                  MS. RIGGS: Then we need that clarification because it was my  
25                  understanding that the application is under 361.22 which

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

is a coalbed methane pooling application.

MR. MASON: I think it is. It just expands upon the relief sought.

MR. TWEED: There's no question. Our intent is coalbed methane with the vagaries of law and who owns that and the vagaries from the geological standpoint of what actually comes out. When you drill the hole even at those depths you've got to have some pretty broad language in the application.

MR. MASON: The Code defines it to include related strata, whatever that means.

MR. CHAIRMAN: We have a motion.

MR. MASON: Second.

MR. CHAIRMAN: Motion and a second. Further discussion? If not, all in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) Unanimous approval.

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 XVI

MR. CHAIRMAN: The next item is XVI on the Board's agenda, a petition for a well location exception by Equitable Resources Exploration for V-2867. This is Docket number VGOB-93/04-20-0369. We'd ask the parties that wish to address the Board to come forward at this time.

MR. TWEED: Doug Tweed and Jim Kiser here on behalf of the applicant, Mr. Chairman.

MR. CHAIRMAN: Any others? The record will show there are none. You may proceed.

MR. TWEED: Our witnesses on this location exception with respect to a conventional gas well will be Mr. Lee Talbot and Bob Dahlin. Both with the Board's permission can be treated as sworn yesterday and we would ask that the record adopt the testimony yesterday as to their employment and experience and expertise.

MR. CHAIRMAN: You may stipulate that.

LEE TALBOT

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

DIRECT EXAMINATION

1  
2  
3 BY MR. TWEED:

4 Q. Mr. Talbot, are you familiar with this application for a  
5 location exception and the lands involved here and the  
6 surrounding area?

7 A. Yes, sir, I am.

8 Q. And have all interested parties been noticed as required  
9 by Section 4.B of the Virginia Gas and Oil Board regula-  
10 tions?

11 A. Yes. The Division of Oil and Gas and the Department of  
12 Mines, Minerals and Energy received certified mailings  
13 cover letter dated March 19th, 1993.

14 Q. I believe that we have an exhibit to submit to the Board  
15 at this time color coded to reflect the well in the  
16 application and the receptacle well where the exception  
17 is being requested as well as other wells in the area,  
18 correct?

19 A. Yes.

20 Q. With respect to the exhibit and for purposes of the  
21 record, Mr. Talbot, V-2867 which is the unit for which we  
22 are requesting the exception is marked in green. The  
23 reciprocal well with a distance of 1,828 feet and  
24 nineteen inches is a drilled well marked in pink, V-2372,  
25 is that correct?

1 A. Yes. That is correct.

2 Q. Does Equitable have the right to operate the reciprocal

3 well as well as the well that's the subject matter of the

4 application?

5 A. Yes. Equitable Resources has 100 percent operating

6 rights in those wells.

7 Q. And I believe that the ownership of the oil and gas

8 underlying well V-2867 is 100 percent ownership in Pine

9 Mountain and VICC, is that correct?

10 A. Yes. That's correct.

11 Q. And all of these tracts are covered by an oil and gas

12 lease and EREX has the working interest as you've

13 testified, is that correct?

14 A. That is also correct.

15 Q. Probably the easiest way to handle this one is to simply

16 ask you to explain in our own words to the Board, Mr.

17 Talbot, why we need to put the V-2867 there even though

18 it creates a location exception need for V-2372 in light

19 of the other drilled wells that are reflected on the

20 exhibit. Would you do that, please?

21 A. Yes, sir. The only available location of 2876 that would

22 receive coal approval and limit the area for one location

23 exception as opposed to two or three is the present spot

24 at V-2867 as located on the map. It's been approved by

25 coal. It was juggled around somewhat and with all the

1 surrounding wells drilled the only other available  
2 location would be moved to the south which is proposed  
3 well 2916. That is presently -- has preliminary coal  
4 approval and expectations to permit that well would be in  
5 the first or middle of June.

6 Q. And as far as moving to the north or to the east, for  
7 example, well ANR-014, we're within eleven inches of  
8 meeting a location exception there if we move it,  
9 correct?

10 A. Yes, sir. Basically any other move would require two  
11 location exceptions or more.

12 Q. If we were to move to the south and eliminate plans for  
13 V-2916 all together since it's not a drilled well but  
14 move it far enough south so that we did not need a  
15 location exception from V-2372 is it not true that that  
16 would create a significant wastage problem up in the area  
17 where the well is presently? That is approximate 2640  
18 and down from P-81 and P-104 and west of ANR 014?

19 A. Yes, sir. In speculating that move it would also be in  
20 the limits of the other wells requiring -- still requir-  
21 ing location exceptions. You're statement of this is the  
22 only place that all protected correlative rights will  
23 best be served with all lessors being Virginia Iron, Oil,  
24 Coal & Coke and Pine Mountain oil and gas properties.

25 Q. In case the Board is interested, with respect to the

1 royalty interest in the reciprocal well V-2372 my  
2 understanding is 99.12 percent of V-2372 is also owned by  
3 VICC and Pine Mountain, is that correct?

4 A. Yes, sir. That is also correct.

5 Q. There is .1 acres that's owned by another individual  
6 that's reflected on the plat, correct?

7 A. That is correct.

8 Q. So the reason for the location exception here with  
9 respect to needs is to try to comply with coal owners  
10 concerns, but the primary needs here are to maximize  
11 recovery, prevent waste, and avoid having to have more  
12 than one location exception, is that correct?

13 A. That is exactly right.

14 Q. In your professional opinion are there any other feasible  
15 locations for V-2867?

16 A. No, sir. After negotiating and working with the coal  
17 companies in other areas operationally this is the best  
18 spot for V-2867.

19 MR. TWESD: I'm going to call Mr. Bob Dahlin, but I have no  
20 further questions for Mr. Talbot, Mr. Chairman.

21 MR. CHAIRMAN: Any questions from members of the Board?

22 (Witness stands aside.)

23 MR. CHAIRMAN: Go ahead and call your next witness.  
24  
25

1 BOB DAHLIN

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

4  
5 DIRECT EXAMINATION

6  
7 BY MR. TWEED:

8 Q. Mr. Dahlin, what are the estimated loss of reserves in  
9 the event that this location exception well is not  
10 drilled?

11 A. Approximately 400 million cubic foot of gas.

12 Q. In your professional opinion will the granting of this  
13 location exception by the Board prevent waste and protect  
14 correlative rights and promote effective land management  
15 practices?

16 A. Yes, sir, it would.

17 Q. And would your testimony be the same as Mr. Talbot in the  
18 areas that he has already described to the Board?

19 A. Yes, sir.

20 MR. TWEED: I don't have any further questions for Mr. Dahlin  
21 unless there are questions from the Board.

22 MR. CHAIRMAN: In this well location exception are any of  
23 these wells in any of the field rules that the Board has  
24 in area where there are field rules?

25 MR. DAHLIN: It's in the area of Nora coalbed methane field

1 but it doesn't cover the conventional.

2 MR. CHAIRMAN: Is it in the field?

3 MR. DAHLIN: Yes. It would be covered by the grid established  
4 in the Nora coalbed methane field. Another general  
5 comment to help orient where this well is, this is in the  
6 extreme southwestern edge of our Nora field that EREX has  
7 been developing since the early seventies. This is also  
8 at the interface where we purchased the ANR properties  
9 and the VICC acreage. Part of the difficulties in  
10 locating the well was establishing a grid system on the  
11 current permitting regulations over the existing develop-  
12 ment based on smaller spacing prior to it. This is  
13 exactly where the two properties meet.

14 MR. CHAIRMAN: Where in the Nora field is this well in the  
15 grid?

16 MR. DAHLIN: I don't personally have knowledge of the latitude  
17 or longitude. It is contained within it, but I personal-  
18 ly don't know. I'd have to defer that to someone else.

19 MR. FULMER: Just as a matter of clarification, this is a  
20 conventional well. There's no field rules for conven-  
21 tional wells in these areas.

22 MR. CHAIRMAN: Right. That's what I was asking, if there was  
23 any field rules applicable to this well.

24 MR. DAHLIN: Oh, applicable. I missed that key word. It is  
25 within the grid but it's not applicable. I'm sorry.

1 MR. CHAIRMAN: Okay. I didn't know what all you were going to  
2 produce here.

3 MR. DAHLIN: No, absolutely not. I'm sorry.

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

5 MR. TWEED: I was going to supplement the record in one more  
6 way. Mr. Talbot, did VICC and Pine Mountain have input  
7 into the selection of or narrowing down to the selection  
8 of this location for this unit?

9 MR. DAHLIN: Yes. As far as coal properties that is correct.  
10 The main character being Virginia, Iron, Coke & Coal as  
11 to the exact location because of a -- there's a mine plan  
12 currently of record that we have to work with in as much  
13 as the actual drilling of the location. And that is  
14 being worked out with the (Inaudible.) as for the bonded  
15 area.

16 MR. EVANS: I don't know who to direct this to, but in the  
17 case of V-2372 you have a royalty owner of one-tenth acre  
18 or one acre, whatever it is. As a matter of course how  
19 do you treat production and payment of royalties on an  
20 overlap like this? Do you prorate both wells for the  
21 overlap area and pay accordingly or is it just --

22 MR. TALBOT: No, sir. The units are established -- as  
23 indicated on our plats are paid proportionately to the  
24 one-eighth of production and if they overlap then they  
25 would overlap.

1 MR. TWEED: Each unit is paid within itself. If you're in  
2 both units you get paid for both.

3 MR. EVANS: Do you plan to produce these wells simultaneously?

4 MR. TALBOT: Yes, if it's marketable gas --

5 MR. EVANS: I guess what I'm getting at is it's a question I  
6 have one circle here, gas coming out here. I have  
7 another circle that overlaps, gas coming out here. If I  
8 shut in this well I'm going to draw out of this bore from  
9 this circle, but if this well is shut in I'm not going to  
10 draw from that bore --

11 MR. TALBOT: You've not received your royalties, however, you  
12 would be entitled to your shut in rate which in this  
13 case is the same as the rentals. In other words, it's  
14 assured that the royalty owners will receive income  
15 regardless of the status of the well.

16 MR. EVANS: I'm just thinking that you have an overlap here  
17 and if it's on production -- if your royalty is based on  
18 production, someone who is in one of the units and not  
19 necessarily in the other one, is this one-tenth acre  
20 owner -- will he be in the overlap area? I'm assuming  
21 he'll be outside the overlap area but within 2372?

22 MR. TALBOT: That is correct. I would have to research  
23 records, but if he was in the overlap area and we  
24 attempted to split the circles, as you would say, if one  
25 well would be shut in or plugged or discontinued then his

1 correlatives would still be protected from the overlapp-  
2 ing as the wells would be producing.

3 MR. EVANS: I understand what would happen if he's in the  
4 overlap area. It's when he's outside the overlap area  
5 that I'm concerned with. I assume that 2372 produces  
6 about -- has the same reserves, 400 million?

7 MR. DAHLIN: We assume so. That well has just been drilled  
8 and completed. We don't even have a test on it yet, but  
9 we do anticipate moving over here soon and if the Board  
10 rules in our favor we assume that it has similar reserv-  
11 es.

12 MR. EVANS: All I'm trying to do is on an overlap area trying  
13 to protect this -- if all the owners and all the royalty  
14 owners are the same in all the reciprocal wells that's  
15 fine. I don't have a problem with that. It's when it is  
16 different that I have a problem.

17 MR. TWEED: Of course, there's going to be those and I think  
18 your point is well taken, Mr. Evans. I think the best  
19 thing we can say that if he's outside the overlap that  
20 unless there's absolute mutuality of ownership this is  
21 not going to be the rule. I think particularly as we  
22 move forward we're always going to be faced with this  
23 problem. The intent of EREX is to drill and produce both  
24 wells and not shut down one and I think the fact that  
25 both are being drilled in the same time frame and that

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

expense has been undergone is pretty good evidence of that.

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MR. CHAIRMAN: Do you have anything further?

MR. TWEED: No, sir.

MR. MASON: I move that we approve the wall spacing exception as requested.

MR. CHAIRMAN: A motion to approve.

MR. EVANS: Second.

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

ITEM XVIII

1  
2  
3 MR. CHAIRMAN: Docket number VGOB-93/04/20-0370 was dismissed  
4 yesterday. The next item on the agenda is a petition for  
5 force pooling under Section 45.1-361.22 by Buchanan  
6 Production Company for the X-9 unit. This is Docket  
7 number VGOB-93/04/20-0351. We'll take a five minute  
8 recess.

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

10 MR. CHAIRMAN: We'd ask all the parties wish to address the  
11 Board in unit X-9 to come forward at this time and  
12 identify yourselves.

13 MR. SWARTZ: Mark Swartz appearing for OXY, USA and Buchanan  
14 Production.

15 MR. CHAIRMAN: The record will show there are no others. You  
16 may proceed.

17 MR. SWARTZ: Just to kind of bring you up to date on this one  
18 in terms of why we're here on X-9, this was force pooled  
19 under the original Oakwood rules. The initial hearing  
20 was on October 20th, 1990. There was a force pooling  
21 order entered -- this is a unit fracked well. A force  
22 pooling order originally entered on January 11th, 1991.  
23 There was a petition to amend that order which was heard  
24 on November 17th, 1992. An order was entered on January  
25 11th, 1993 amending the original pooling order cleaning

1 up some title issues that had arisen. The reason we are  
2 back here one more time on this Oakwood I unit is another  
3 title issue needs to be addressed. We have been back on  
4 other units with regard to the Howard and Tiller inter-  
5 ests when these lands were -- at least this particular  
6 tract was severed. There was not a conveyance or at the  
7 lease is susceptible of being interpreted as not having  
8 out conveyed the oil and gas interests. And the purpose  
9 or reason for being here today is to further amend the  
10 prior order with regard to X-9, to force pool the Howard  
11 and Tiller interests in one of the tracts. I would  
12 request to shorten the need for testimony that the Board  
13 incorporate in this record of today's hearing the  
14 testimony and exhibits offered on October 10th, 1990 at  
15 the original force pooling hearing and the testimony and  
16 exhibits which were offered on November 17th, 1992 at  
17 that hearing. We are simply seeking to amend the order  
18 to include Howard and Tiller -- those interests as  
19 respondents. Having said all that I would call Sam just  
20 to deal with some notice issues and a few minor clean-up  
21 issues and hopefully turn him over to you all for  
22 questions.

23 MR. CHAIRMAN: Any objection to the incorporation of prior  
24 testimony from the October and November hearings? With  
25 no objection it will be incorporated. You may proceed.

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

SAMUEL GORDON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. State your name.

A. Samuel S. Gordon.

Q. Sam, who do you work for?

A. OXY, USA, Inc.

Q. And does OXY, USA, Inc. have a relationship with Buchanan Production?

A. Yes, we do.

Q. What is that relationship?

A. We are the professional operator for Buchanan Production Company.

Q. Have you yourself specifically been designated as the regulatory affairs person for OXY and for Buchanan Production?

A. Yes, I have.

Q. Did you prepare the notice and the application with regard to this amendment proceeding today?

A. Yes, I did.

1 Q. Is the purpose of this simply to amend the prior order to  
2 add the Howard and Tiller interests as potential claims?  
3 A. That is correct.  
4 Q. Do those relate only to the oil and gas estate?  
5 A. That is correct.  
6 Q. Is there in looking at the severance deeds a potential  
7 open oil and gas interest with regard to one of the  
8 tracts that may still be in the Howard and Tiller heirs?  
9 A. There is a potential there, yes.  
10 Q. This pooling application today seeks to affect the Howard  
11 and Tiller heirs to the extent there is an open interest  
12 and to the extent they have a claim with regard to just  
13 one tract, correct?  
14 A. That is correct.  
15 Q. And that is on Exhibit B, tract six?  
16 A. That is correct.  
17 Q. And the open interest that Howard and Tiller may have a  
18 claim under is 2.8 percent?  
19 A. That's correct.  
20 Q. And that would be all effected by this particular  
21 application permit?  
22 A. That's correct.  
23 Q. I take it you could not mail notices?  
24 A. No, we could not.  
25 Q. So what did you do in terms of notice?

1 A. We published this in the Virginia Mountaineer and that  
2 was published on March 25th, 1993.

3 Q. Did you file the affidavit and proof of publication with  
4 Mr. Fulmer's office?

5 A. Yes, we did. That was filed on March 30th.

6 Q. By mail?

7 A. By mail, yes, sir.

8 Q. Are you requesting that an order amending essentially  
9 Exhibit B be entered by the Board showing the Howard and  
10 Tiller interest and claim with regard to tract six?

11 A. That's what we're requesting, yes.

12 MR. SWARTZ: That's all I have.

13 MR. CHAIRMAN: Could you clarify when you say you could not  
14 mail notices?

15 MR. SWARTZ: Why was that?

16 MR. GORDON: Meaning we couldn't find anything of record as to  
17 heirs location, anything.

18 (Witness stands aside.)

19  
20  
21 MARTIN B. WIRTH

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

DIRECT EXAMINATION

1  
2  
3 BY MR. SWARTZ:

4 Q. You need to state your name.

5 A. Martin E. Wirth with OXY, USA. Previous testimony in  
6 the two hearings before, due diligence or extreme  
7 diligence was done because of the Tiller formation. I  
8 had a great deal of interest in trying to find out how  
9 the Tiller came about. Howard and Tiller were the  
10 original parties that from Jefferson Penn acquired title  
11 to the coal interest in a large portion of Buchanan  
12 County. I approached lawyers in Lebanon with the name of  
13 Tiller & Tiller. I approached Beverly Tiller, Deputy  
14 Clerk to Buchanan County. Any Tiller name I could find  
15 I personally went out and I also checked genealogy and  
16 could not find any location of how the Tiller chain of  
17 title came about. Not only was it banks, not only was it  
18 records, but there is no trace to find the Tiller and the  
19 Howard chain after the fact. Therefore, they are unknown  
20 and uninterest and address unknown.

21 Q. In reconstructing the title does it appear that there was  
22 an assumption that the oil and gas estate was conveyed  
23 and that's why the chain stops?

24 A. In that title there is word smithing or language in the  
25 deed that caused our title examiner a concern that there

1                   could be an open interest in the oil and gas estate of  
2                   Landon Wyatt, trustee for the Big X Coal Company.  
3                   Therefore, we're coming back to cover any and all  
4                   interest that may be claimed.

5                   MR. CHAIRMAN: Did this conflict or change with any other  
6                   interest?

7                   MR. WIRTH: It wouldn't change the interest. Landon R. Wyatt  
8                   which we have under lease, Big X Company, that will now  
9                   be an escrowed interest plus its unknown interest.  
10                  Therefore, you have to treat it as a --

11                  MR. SWARTZ: It doesn't change the percentage, but it creates  
12                  a conflicting claim, is that what you're saying?

13                  MR. WIRTH: Correct.

14                  MR. CHAIRMAN: Anything further?

15                  MR. SWARTZ: No.

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

17                  MR. MASON: Purely as a matter of curiosity, is this Tiller  
18                  the one the coal seam's named for?

19                  MR. WIRTH: That's what I'm trying to find -- I believe so.  
20                  Back in the 1860's that's where all of a sudden the  
21                  Tiller formation known quite as came from and that's the  
22                  personal interest I take in it.

23                  MR. MASON: I was just curious.

24                  MR. CHAIRMAN: Other questions.

25                  MR. MCGLOTHLIN: Mr. Swartz, has unit X-9 been drilled?

1 MR. SWARTZ: I believe it has.  
2 MR. SWARTZ: Yes, sir.  
3 MR. MCGLOTHLIN: Is it producing?  
4 MR. WIRTH: I don't know whether you call it producing. We're  
5 pumping back the water and we are getting gas through --  
6 MR. MCGLOTHLIN: Have you sold any gas off it?  
7 MR. WIRTH: All royalty -- divisional orders have not gone  
8 out. So nothing's been paid. It would be amended to --  
9 the agent putting that percentage into it.  
10 MR. EVANS: I have a question. Based on the DWG do you have  
11 good numbers now instead of estimates? I guess what I'm  
12 asking is are these real numbers or are these the same  
13 numbers that were presented as an estimate?  
14 MR. GORDON: They were the same numbers that we used in  
15 previous hearings. We haven't adjusted anything because  
16 the completion operation is still going on.  
17 MR. EVANS: I'll ask the question then, how close were you on  
18 your estimate or do you know?  
19 MR. WIRTH: I think we were under our estimate. We have some  
20 water to pump back and other equipment. The problem  
21 we're having, just for general information, in these two  
22 areas is we've also had to change three or four pumps.  
23 They're getting sand in them. So that's part of the down  
24 hole equipment. We were under. We may hit it right on  
25 the dot.

1 MR. CHAIRMAN: When do you plan to submit supplemental orders  
2 to escrow funds for this and the other wells?

3 MR. WIRTH: We're having problems with that escrow agreement  
4 and hopefully in the near future we'll be meeting with  
5 you and Sandra to discuss some of these things.

6 MR. SWARTZ: Sam and I and Marty have been working the last  
7 month to develop two supplement orders and affidavits of  
8 elections on two units. One that's pretty straight  
9 forward and one that's a little more complicated. Sam  
10 and I have both talked to Tom in the last month in terms  
11 of a mechanism to escrow some leased interest at the same  
12 time. And we were planning on getting the paper work  
13 done and sitting down with you all to reach an agreement  
14 as to that what we were planning to do is acceptable. I  
15 mean, it's going to look a lot like the Board orders but  
16 we want to add a paragraph to the affidavit. We're in a  
17 position, I suppose, to file about a hundred of these,  
18 but we're not really -- we don't want to file a hundred  
19 and have you say this isn't what we were expecting, we  
20 don't like it, we're going to try to get these couple  
21 finalized immediately to you all. So that's where we  
22 stand on that.

23 MR. CHAIRMAN: In the interim how is the money treated from  
24 the wells before the Board's order --

25 MR. SWARTZ: It depends. I mean, if there are conflicting

1 claims it's being suspended. It's not being paid. If  
2 there are not conflicting claims some of it's being paid.

3 MR. WIRTH: As of this unit nothing's being paid. No payments  
4 are made until a titled opinion is done and the division  
5 order comes out and it's been checked or renewed by all  
6 parties. So in this interest it's still sitting in  
7 internal suspense. Once you get a division order --  
8 usually you drill a well, if you hit a producing well  
9 upon first gas sales you have usually around sixty days  
10 and a division order and titled opinion is done and then  
11 all money is paid -- they've caught up from day one and  
12 then there are months thereafter. That's just an  
13 internal process at all times. So it wouldn't really  
14 affect -- when we're ready to go to the escrow we insert  
15 the escrow and that money goes to escrow agent.

16 MR. SWARTZ: Of course, this particular well when you're  
17 talking about it, this well is being de-watered and  
18 essentially it burps some gas every now and then. I  
19 mean, it's not on line producing. Whatever gas is coming  
20 out is going into the flow-on, but it's being de-watered  
21 and pumped.

22 MR. CHAIRMAN: I'm probing the issue on record here, the money  
23 that may be due any party. How are they protected in the  
24 interim until this money is moved by a supplemental order  
25 to the Board's escrow agent?

1 MR. SWARTZ: It's being placed in a suspense account within  
2 OXY's bookkeeping.

3 MR. WIRTH: It's an internal suspense account that happens  
4 until you're getting because we don't want to make  
5 payments until a final division order title opinion is  
6 done.

7 MR. CHAIRMAN: Is the interest also protected in that suspense  
8 account?

9 MR. WIRTH: The conflicting claim?

10 MR. CHAIRMAN: Yes.

11 MR. WIRTH: Yes. All interest are protected.

12 MR. CHAIRMAN: Is interest income being earned on this  
13 suspended money?

14 MR. WIRTH: The working interest?

15 MR. SWARTZ: No. Like interest at a bank.

16 MR. WIRTH: I do not know what Tazewell does. We have like  
17 set up under E-36 -- on the Ashland participation we  
18 have an internal agreement of a certain percentage. The  
19 escrow agent can tell us what that interest was and that  
20 can be added in. You're talking -- there's right now on  
21 this well vary minuet pennies and everything, but yes.

22 MR. CHAIRMAN: I understand. It just needs to be consistent  
23 with the Board's agreement.

24 MR. WIRTH: But we have no idea what the escrow agent's  
25 percentage of rates are. That's the problem we're having

1 right now.

2 MR. MASON: The money that's being held in internal suspense  
3 with OXY, is that being held here in Virginia?

4 MR. WIRTH: No. That will be in our headquarters, Tulsa.

5 MR. MASON: Is any income being accrued on that suspended  
6 money?

7 MR. WIRTH: As interest rate, it can be. Until we have a  
8 "interest rate" what interest are we suppose to be  
9 accruing? We have what we've used in the -- I go back to  
10 Ashland where they participated and gave 100 percent of  
11 the participating party. We're using a Merrill-Lynch  
12 ready asset account based on treasury funds.

13 MR. MASON: I understand that. But if OXY is holding this  
14 money pending disbursement into escrow that money is  
15 sitting in an account or invested somewhere, I would  
16 assume, in OXY's name in the suspense account.

17 MR. WIRTH: Uh-huh.

18 MR. MASON: What I am curious about is during that interim  
19 period is the account itself to be credited with interest  
20 generated by those funds?

21 MR. WIRTH: It could be, but why should it. We don't know who  
22 owns it until I get a division order or titled opinion  
23 from a title examination saying, "Yes, these parties do  
24 own it" and he stands behind that. No payments to any  
25 parties --

1 MR. MASON: I understand that. I mean, no matter who it  
2 belongs to the money is still there and I assume that  
3 it's invested in some fashion.

4 MR. SWARTZ: Well, it isn't invested in a specific fashion.  
5 What we've had to do with the Ashland participation  
6 interest was pick a number because you can't trace these  
7 funds. They're in a suspense account. They're marked to  
8 a specific well. You can run a computer run on this well  
9 and it will print out what's being held in suspense and  
10 why. But those funds are commingled. I mean, they're  
11 corporate funds and there's no way of generating an  
12 investment number that pertains to any given dollar.

13 MR. MASON: How much money is OXY holding at present time in  
14 suspended --

15 MR. WIRTH: \$43,787 as of February.

16 MR. MASON: A total of 40 some thousand?

17 MR. WIRTH: That's what I have in suspense in the units that  
18 are producing. And not all that is escrow. Some of that  
19 is because there is a deed of trust and un-insubordin-  
20 ation agreement concerning the title issues.

21 MR. MASON: So it's not a great deal of money at that point.

22 MR. WIRTH: No, not at this point. From day one, as a matter  
23 of fact, we've submitted everything to the escrow that  
24 needs to be submitted plus some. Even when we didn't  
25 have an order we have submitted waiting on an order.

1           Until the Board gives us an order nothing goes to escrow.

2           MR. MASON: I understand. I had no idea how much money you  
3           were talking about.

4           MR. CHAIRMAN: Let me follow-up on one thing. You said until  
5           the Board does what?

6           MR. WIRTH: Issues the order telling us to direct it to the  
7           escrow agent. On this particular unit they have a right  
8           to elections, sixty days, and then the ones we get then  
9           we'll submit their elections and what they've done.  
10          That's still got to come. We don't know if they're going  
11          to be leased, carried or participating yet.

12          MR. CHAIRMAN: I understand. I'm not trying to broil this  
13          into a larger debate. But we gave sixty days to enter  
14          supplemental orders more than sixty days ago and we do  
15          need to move that forward. If we need to get together we  
16          will and then move that forward.

17          MR. GORDON: I think, Mr. Wampler, that we're not the only  
18          operator out there that has some questions about the  
19          supplemental order itself. I believe you've already  
20          dealt with some from other operators and we just want to  
21          get on board and make sure that we're submitting the  
22          correct documents before we do all this.

23          MR. CHAIRMAN: We are entering supplemental orders all the  
24          time. We just need to get on with it and get the money  
25          moved into the escrow account. I'll just encouraging you

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

to do that.

MR. MCGLOTHLIN: I'd like to ask a question pertaining to the application. Mr. Swartz, your Exhibit A in the application is dated 7/24/90. Do we have an updated one showing tract six and the Howard and Tiller acreage?

MR. WIRTH: The acreage didn't move.

MR. MCGLOTHLIN: I don't see tract six on the map. I don't see their names anywhere. I see a tract 38 and a tract 38-A.

MR. WIRTH: 38 and 38-A are the heirs we're talking about. That is the title tract 38 that has failed as to -- I believe it would be the triangle in the -- my memory is the second thing to go, but it would be in the southern portion of this unit, a small triangular shape of 40.5 percent?

MR. MCGLOTHLIN: The map's not --

MR. GORDON: This is the original that was sent with X-9 and since then we have prepared some take-offs and identified the tracts which did not get transferred. Tract 6 is in the lower left hand corner. It's Harrison and Atlanta trust and it's 2.24 acres.

MR. MCGLOTHLIN: Would you submit a -- clean it up. On one page you talk about tract 6 and on the plat it's tract 38 or whatever and get that to us, please?

MR. GORDON: Sure.

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

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MR. MCGLOTHLIN: I move that we accept the petition as filed.

MR. MASON: Second.

MR. CHAIRMAN: A motion to approve, seconded. Any further questions? All in favor signify by saying yes, (ALL AFFIRM.) Opposed say no. (NONE.) It's unanimous.

ITEM SIX

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Buchanan Production Company for T-18  
5 unit. Docket number VGOB-93/04/20-0352. We'd ask the  
6 parties that wish to address the Board in this matter to  
7 come forward and state your name for the record.

8 MR. SWARTZ: Mark A. Swartz appearing for Buchanan Production  
9 Company and OXY, USA.

10 MR. CHAIRMAN: The record will show there are no others. You  
11 may proceed.

12 MR. SWARTZ: This is an application to pool a unit under the  
13 Oakwood coalbed methane field rules II. There is one  
14 respondent. There are on the other hand a number of  
15 people listed on B-1 who are lien holders, judgment lien  
16 holders, and others, taxing authorities who we have also  
17 notified but obviously aren't owners. They're simply  
18 lien holders. My first witness will be Sam Gordon. Sam,  
19 I remind you you've already been sworn.

SAMUEL GORDON

20  
21  
22 a witness who, after having been previously sworn, was  
23 examined and testified as follows:  
24  
25

DIRECT EXAMINATION

1  
2  
3 BY MR. SWARTZ:

4 Q. The applicant here is Buchanan Production?

5 A. That's correct.

6 Q. Did you yourself complete the notice of hearing and the  
7 application?

8 A. Yes, I did.

9 Q. And you signed both of them?

10 A. Yes, sir.

11 Q. Buchanan Production Company is a Virginia general  
12 partnership, is that correct?

13 A. That is correct.

14 Q. And two corporations are the partners, one of them is  
15 Appalachian Operators and the other is Appalachian  
16 Methane, correct?

17 A. That is correct.

18 Q. Is Buchanan Production Company authorized to do business  
19 in Virginia?

20 A. Yes, it is.

21 Q. Is Buchanan Production requesting that someone other than  
22 itself, to wit OXY, USA, be designated operator?

23 A. That is correct.

24 Q. OXY, USA is a Delaware corporation?

25 A. That is correct.

1 Q. Has it been authorized to do business in the Common-  
2 wealth?  
3 A. Yes, it has.  
4 Q. And has OXY registered with the DMME and does OXY have a  
5 blanket bond on file as required by law?  
6 A. It has, yes.  
7 Q. Has the management committee of Buchanan Production  
8 Company delegated certain duties and responsibilities to  
9 OXY, USA specifically "the authority to explore, develop  
10 and maintain the properties of Buchanan Production  
11 Company as a professional manager"?  
12 A. It has and it so states on Exhibit J, Page 1.  
13 Q. That's actually a resolution of the management?  
14 A. Yes.  
15 Q. Has OXY, USA consented if appointed as designated  
16 operator to act as designated operator on behalf of  
17 Buchanan Production and follow to the rules and regula-  
18 tions of the Department and the statutes of the Common-  
19 wealth?  
20 A. Yes, it has. And that agreement is Exhibit J, Page 2.  
21 Q. That's OXY consent?  
22 A. Right.  
23 Q. Have certain people at OXY, USA been delegated or  
24 given --  
25 MR. CHAIRMAN: Excuse me just a second. We have to wait in

1 order to maintain a quorum. Mr. Mason had to take a  
2 minute break. I'm sorry.

3 (AFTER A BRIEF PAUSE, THE HEARING CONTINUED AS FOLLOWS:)

4 MR. CHAIRMAN: You may continue.

5 Q. (Mr. Swartz continues.) Has OXY delegated specific  
6 authority to certain individuals with regard to the  
7 affairs of Buchanan Production?

8 A. Yes, it has. Glen VanGolen as general manager of  
9 Buchanan Production, Martin E. Wirth as land manager,  
10 and myself as regulatory manager.

11 Q. Are the respondents that are sought to be force pooled by  
12 this application listed in the notice of hearing?

13 A. Yes, they are. It's Exhibit B.

14 Q. And it's just one person, Ira Gordon Ratliff?

15 A. That is correct.

16 Q. Is his name and address listed on Exhibit B to the  
17 application?

18 A. Yes, it is.

19 Q. Do you wish to add any respondents at this time?

20 A. No, we do not.

21 Q. And I assume you don't wish to dismiss Mr. Ratliff?

22 A. No, we do not.

23 Q. Did you mail a notice by certified mail to Mr. Ratliff?

24 A. Yes, we did.

25 Q. And he signed for it and you got his card back?

- 1 A. Yes.
- 2 Q. Did you also mail courtesy notices to the people listed  
3 on Exhibit B-17
- 4 A. Yes, we did.
- 5 Q. Did everyone sign for that -- everyone who's listed on  
6 B-1 sign for that except the IRS?
- 7 A. That is correct.
- 8 Q. And it's been your experience the IRS never signs for  
9 anything?
- 10 A. That's correct.
- 11 Q. Have you filed proof of publication with Mr. Fulmer's  
12 office?
- 13 A. Yes, we have. I sent that letter certified mail on  
14 March 30th evidencing that we had published this in the  
15 Virginia Mountaineer on March 25 of this year.
- 16 Q. And did you file a proof of mailing, Exhibit F, with Mr.  
17 Fulmer by mail on some other date?
- 18 A. Proof of mailing, yes, sir. That was done on April 5.
- 19 Q. And it was published in the Virginia Mountaineer, you  
20 just said. And Exhibit E, certificate of publication,  
21 was filed by mail March 30th with Mr. Fulmer?
- 22 A. That is correct.
- 23 Q. The interest that we're talking about here is tract three  
24 on the plat, correct?
- 25 A. That is correct.

1 Q. And it is an oil and gas interest?  
2 A. That is correct.  
3 Q. And it's 4.5 percent of the oil and gas interest within  
4 the 80 acre unit?  
5 A. That is correct.  
6 Q. If you turn to the DWE which is Exhibit C what is the  
7 total estimated cost with regard to the development of  
8 this particular unit?  
9 A. This particular unit totals \$21,250.  
10 Q. In your opinion is that a reasonable estimate as to the  
11 costs that are broken out there and that would be  
12 incurred on this unit?  
13 A. Yes, it is.  
14 Q. Now, this unit is depicted on Exhibit G, Page 1, and it  
15 kind of has a darker line around it down at the bottom  
16 right hand corner, correct?  
17 A. That is correct.  
18 Q. And it catches a portion of a longwall panel identified  
19 as 1-Development?  
20 A. That is correct.  
21 Q. And actually that's 1-Development east in VP-8, correct?  
22 A. Yes, sir.  
23 Q. From the estimate of allowable costs there is no well  
24 bore fee shown and can I assume that it is not anticipat-  
25 ed that there will be a well bore within this unit?

- 1 A. That is correct.
- 2 Q. Exhibit G, Page 2, does that show the percentage of the  
3 panel within the unit?
- 4 A. Yes, it does. It's 1.687 percent.
- 5 Q. And if you turn to Exhibit G, Page 3, does that capture  
6 the total estimated cost for panel 1-Development east?
- 7 A. Yes, it does, and it also includes 2-Development east  
8 which isn't in this scenario.
- 9 Q. What are the total estimated costs with regard to  
10 1-Development east?
- 11 A. 1-Development east is \$846,975.
- 12 Q. Does it prorate those costs based on the percentage of  
13 the panel within this particular unit from a participa-  
14 tion standpoint elsewhere on Exhibit G, Page 3?
- 15 A. Yes, it does. The proration of that cost is \$14,288 to  
16 this unit.
- 17 Q. And then Exhibit G, Page 4, does that show the various  
18 percentages that are relevant to Mr. Ratliff's net  
19 interest in the unit, interest in the panel and then  
20 division of interest?
- 21 A. Yes, it does.
- 22 Q. Would those numbers as shown on Exhibit G, Page 4, be the  
23 numbers that would be used to calculate participation  
24 cost and royalty interest?
- 25 A. Yes, they would.

1 Q. Do you have any recommendations to make to the Board with  
2 regard to questions of bonus or royalty or term that  
3 should be incorporated in the order in your judgement to  
4 deal with persons who are deemed to have been leased if  
5 that turns out to be the case?

6 A. Yes. Our recommendation would be that the leasing terms  
7 would be a one time payment of \$1 per acre as bonus with  
8 a one-eighth royalty. If they elect to lease we would be  
9 leasing for a term of five years.

10 Q. But, of course, in this situation the five year term  
11 would not be relevant, it would be as long as production  
12 continues from the unit?

13 A. That is correct.

14 Q. Has there been an effort to try and obtain a lease from  
15 Mr. Ratliff?

16 A. Yes.

17 Q. And I take it you have not been able to get one?

18 A. That is correct.

19 Q. This unit which is in the Oakwood gas field II, will it  
20 start off in short hole production?

21 A. Yes, it will.

22 Q. And are those what the little lines that diverge repres-  
23 ent on Exhibit G, Page 1?

24 A. That is correct.

25 Q. Is it contemplated that if longwall mining, in fact,

1 occurs that is contemplated in this panel that ultimately  
2 there will be some active gob production as well?

3 A. That is correct. Yes.

4 Q. Mr. Gordon, is it your opinion that the plan of develop-  
5 ment which is depicted on Exhibit G, Page 1, is a  
6 reasonable plan to develop the coalbed methane resources  
7 within and under this unit T-18 for the benefit of the  
8 owners of the resource?

9 A. Yes, it is.

10 Q. And is it your further opinion that this proposed well  
11 and the development that is contemplated and shown on  
12 Exhibit G, Page 1, would contribute to the protection of  
13 correlative rights of the owners of the methane within  
14 and under this particular unit and lessen the likelihood  
15 of both physical waste and economic waste?

16 A. Yes, it is.

17 MR. SWARTZ: That's all I have.

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

19 MR. EVANS: Does this unit contain a VVH?

20 MR. SWARTZ: As currently configured there are no VVHs being  
21 drilled or permitted by Island Creek, as I understand  
22 it.

23 MR. WIRTH: Well, there is a VP3 and they're really called  
24 methane production holes -- if they're going to be hooked  
25 in the future then they'll be permitted as CBM wells. It

1           these units the next T-18, U-18, in there there has been  
2           no wells drilled whatsoever.

3           MR. EVANS: That's all I needed to know. That's all I was  
4           interested in.

5           MR. MASON: I'm concerned a little bit about this tax lien.  
6           The Internal Revenue Code has sections -- I think it's  
7           7425 that deals with judicial matters -- state judicial  
8           matters affecting property on which there is a tax lien.  
9           Have you all looked into that and made sure that you've  
10          complied with that?

11          MR. WIRTH: That's correct. We've also been in communication  
12          with the IRS. And the Board has received in the past  
13          which they also may receive as this unit they will file a  
14          notice of judgement, I think, or something. A levy. I'm  
15          sorry. Will be filed. They noticed OXY, USA. we went  
16          back to them and said being this is force pooled it  
17          should be filed with the Board and which they have. It  
18          was passed on to the Board to handle. We're not saying  
19          it is -- it may be submit to (Inaudible.) We had  
20          problems in the county records. They just list an I.R.  
21          Ratliff and this is the one in the same that we cannot  
22          research without --

23          MR. MASON: I just know that they have specific regulations  
24          that deal with notification and so forth.

25          MR. WIRTH: Yes, they have.

1 MR. MASON: That's the second item I was going to ask you.  
2 There's early testimony that we had today and yesterday,  
3 EREX testified that the reasonable rental is at \$5 an  
4 acre.

5 MR. SWARTZ: I assume they were talking about conventional.  
6 What were they talking about? I didn't hear that  
7 testimony.

8 MR. WIRTH: I believe the testimony prior said for an oil and  
9 gas and CBM lease what it was \$5, \$5. For a CBM is was  
10 \$1 \$1.

11 MR. MASON: I thought they were talking -- that one well that  
12 we talked about was with -- Yellow Popular Lumber Company  
13 was strictly a CBM well and they testified \$5.

14 MS. RIGGS: The force pooling was for a CBM unit.

15 MR. SWARTZ: But was there a lease also an oil and gas lease?

16 MR. MASON: No.

17 MR. SWARTZ: Just CBM?

18 MR. MASON: Yes.

19 MR. WIRTH: In Wise and Dickenson County -- you know, when  
20 you're talking fair market value of everything it's a  
21 dollar an acre what we pay for CBM only. You've got to  
22 remember there could be three to six claimants out there.  
23 If I force pool each one of them that's \$6. It's going  
24 to go into escrow. That's each one would get a dollar if  
25 they deem to lease. Now, when that final judgement

1 adjudication may come out.

2 MR. MASON: Well, I understand that. But they testified that  
3 the market rate was \$5 an acre.

4 MR. WIRTH: It may be in Wise and Dickanson County if it's 100  
5 percent lease. I'll testify right now if I take an oil  
6 and gas and CBM lease it's \$20 an acre.

7 MR. MASON: This was strictly a CBM well?

8 MR. WIRTH: What the market bears out there I do not know.  
9 We're in Buchanan County what we pay.

10 MR. FULMER: Mr. Chairman, if I may clear up something. The  
11 lease that EREX does is in totality. They have the same  
12 lease whether it's CBM or conventional.

13 MR. EVANS: They don't break it out.

14 MR. FULMER: They don't break it out. They don't have an  
15 individual coalbed methane lease. They have a oil and  
16 gas and coalbed methane lease. So it's all encompassed  
17 in one lease.

18 MR. WIRTH: They testified as oil, gas and coalbed methane.

19 MR. MASON: I understand that, but they testified that the  
20 rate that they were going to pay pursuant to their  
21 petition for force pooling for coalbed methane was \$5.

22 MR. FULMER: Their application asked for a conventional gas  
23 well. We restricted it to coalbed methane permit.

24 MR. MASON: I don't understand that.

25 MR. FULMER: They testified that it's \$5 per acre for all the

1 coalbed methane and conventional gas of the wells.

2 MR. NASON: That was not my understanding. I stand corrected.

3 MR. SWARTZ: I didn't hear that testimony. But I understood  
4 that the application was for more than coalbed methane  
5 because I heard the tail end of it and it was restricted.  
6 And I think what you're hearing from Mr. Wirth is that if  
7 OXY or Buchanan is leasing all of the oil and gas  
8 hydrocarbons the rate is definitely more than a dollar an  
9 acre.

10 MR. CHAIRMAN: Other questions? On Exhibit J, Pages 1 and 2,  
11 given the announcements of the intended purchases that  
12 are going on are, are Exhibit J. Page 1 and 2, accurate  
13 at this point in time? Still valid?

14 MR. SWARTZ: Yes. As of today they are.

15 MR. CHAIRMAN: Okay. Thank you. Other questions? Do you  
16 have anything further, Mr. Swartz?

17 MR. SWARTZ: No.

18 MR. EVANS: I make a motion to approve the petition for force  
19 pooling.

20 MR. CHAIRMAN: A motion to approve.

21 MR. MASON: Second.

22 MR. CHAIRMAN: Further discussion? All in favor signify by  
23 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)  
24 Unanimous approval.  
25

ITEM XX, XXI

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Buchanan Production Company for the U-T  
5 unit located in Oakwood Coalbed Methane Gas Field II.  
6 This is Docket number VGOB-93/04/20-0353. We's ask the  
7 parties that wish to address the Board to come forward  
8 and identify yourselves at this time.

9 MR. SWARTZ: Mark Swartz for Buchanan Production Company and  
10 OKY, USA.

11 MR. CHAIRMAN: The record will show there are no others.  
12 We'll wait for Mr. McGlothlin. (Pause.)

13 MR. SWARTZ: I don't know if we need a quorum for this. The  
14 10 and 11 units could be handled together because they  
15 have the same panels and the same map. I would request  
16 if you are willing to do it that we kind of combine those  
17 hearings because the numbers and most of the math is the  
18 same.

19 MR. CHAIRMAN: As long as we keep anything that's different  
20 distinguished. I'll go ahead and call also Docket number  
21 VGOB-93/04/20-0354, U-11 unit, and ask any parties that  
22 wish to address the Board in this matter to come forward  
23 also.

24 MR. SWARTZ: Mark Swartz, same appearances.

25 MR. CHAIRMAN: The record will show there are no others. You

1 may proceed.

2 MR. SWARTZ: I'd like to call Mr. Gordon first. Sam, I'll  
3 remind you you're still under oath.  
4

5 SAMUEL GORDON

6 a witness who, after having been previously sworn, was  
7 examined and testified as follows;  
8

9 DIRECT EXAMINATION  
10

11 BY MR. SWARTZ:

12 Q. Did you do the notice of hearing or prepare the notice of  
13 hearings and the applications for both units U-10 and U-  
14 117

15 A. Yes, I did.

16 Q. Is the applicant in both cases Buchanan Production  
17 Company?

18 A. Yes, it is.

19 Q. And in both instances is Buchanan Production requesting  
20 that someone other than itself, to wit OXY, USA, be  
21 designated the operator?

22 A. That is correct.

23 Q. Buchanan Production is a Virginia general partnership?

24 A. Yes, sir.

25 Q. And it's two partners in that partnership are Appalachian

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

Operators, Inc. and Appalachian Methane, Inc., correct?

A. That is correct.

Q. Buchanan Production is authorized to do business in the Commonwealth?

A. Yes, it is.

Q. OXY, USA is a Delaware corporation authorized to do business in the Commonwealth?

A. That's correct.

Q. Does OXY have a blanket bond on file as required by law and has OXY registered with the Department of Mines, Minerals and Energy?

A. Yes, it does.

Q. Has the management committee of Buchanan Production Company delegated specific authority to OXY, USA with regard to its affairs and assets "including the authority to explore, develop and maintain the properties of Buchanan Production Company" as its professional manager?

A. Yes, it has. We have filed as Exhibit J, Page 1, this agreement.

Q. And has OXY, USA also filed as part of these application packages on U-10 and U-11 a consent to serve as unit operator if appointed?

A. Yes, it has. That consent is Exhibit J, Page 2.

Q. Has OXY delegated specific responsibility to certain individuals within the OXY organization to manage the

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

affairs and certain aspects of the affairs of Buchanan Production and if so who are those folks?

A. It has. Glen VanGolen is designated general manager, Martin E. Wirth land manager, and myself as regulatory manager.

Q. In both applications, U-10 and U-11, have the names of all respondents been listed both in the notice of hearing and Exhibit D?

A. Yes, they have.

Q. Starting with unit U-t in terms of notification, on U-10 do you wish to amend the application to add anyone at this time as a respondent?

A. No, we do not.

Q. Again with regard to U-10 do you wish to dismiss any respondents today?

A. No, we do not.

Q. Again with regard to U-10 did you mail notice via certified mail to the respondents listed on Exhibit B for whom you had addresses?

A. Yes, we did.

Q. Were there some respondents for whom you did not have addresses?

A. That is correct. We did not have addresses for Katherine Cox, Sayer Cox, Coy Cox, Tilda Cordely Cox and A.P. Cox.

Q. And with regard to the folks for whom you did not have

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

addresses what did you undertake to do in the way of notice?

A. We published this notice in the Virginia Mountaineer on March 25, 1993.

Q. Have you filed a proof of publication with Mr. Fulmer's office at Exhibit E?

A. Yes, we did. That was filed on March 30th.

Q. With regard to the mailing that you accomplished, the two people for who you had addresses, did you file an Exhibit F with regard to proof of mailings with Mr. Fulmer's office?

A. Yes, we did. That was filed on April 5th, 1993.

Q. Skipping to unit U-11 and the notice issues with regard to U-11, do you wish to add or subtract anybody from the list of respondents on unit U-11?

A. No, we do not.

Q. With regard to Exhibit B on unit U-11 is there a typo with regard to the first address?

A. There is on my copy and there may be on the Board's copy that they got. The address under tract three for Christopher E. Wright is Sarasota, Florida and I'm not sure that S-A-R was printed. So you may wish to check your exhibits.

Q. And also with regard to the list of parties respondent on U-11 and U-10 would you also note a change with regard to

1 respondent number six and shouldn't that be Michael  
2 Baldwin instead of Michaela? The A should be stricken?

3 A. The A should be stricken, yes.

4 Q. And that change should be made with regard to Exhibit B  
5 to both unit U-10 and U-10?

6 A. Yes.

7 Q. And the Sarasota change with regard to owner one only  
8 occurs on unit U-11, correct?

9 A. That is correct.

10 Q. With regard to unit U-11 was a notice published?

11 A. Yes, it was.

12 Q. In what newspaper and on what date?

13 A. The notice was published again in the Virginia Mountain-  
14 eer on March 25, 1993 and we then sent the Exhibit E,  
15 certification of publication, to Mr. Fulmer's office on  
16 March 30th.

17 Q. Did you file proof of mailing with regard to unit U-11  
18 with Mr. Fulmer's office, Exhibit F?

19 A. Yes, we did. Again that was on April 5th.

20 Q. And you got signed cards back from everyone on this unit,  
21 correct?

22 A. That is correct.

23 Q. Now, with regard to -- turning back now for a moment to  
24 unit U-10, if you would look at Exhibit A, Page 2.

25 A. Okay.

- 1 Q. Are you seeking to force pooling outstanding interests in  
2 the oil and gas estate only?
- 3 A. That is correct. We're seeking to force pool 7.134  
4 percent of the oil and gas estate.
- 5 Q. And these respondents are claimants to that outstanding  
6 interest?
- 7 A. That is correct.
- 8 Q. Again with regard to unit U-10, if you would turn to  
9 Exhibit C, the cost estimate. Is that something that you  
10 prepared?
- 11 A. Yes, it is.
- 12 Q. And it was prepared within the last sixty days?
- 13 A. Yes, it was.
- 14 Q. What is your total estimated cost with regard to unit  
15 U-107?
- 16 A. The total estimated cost was \$172,000.
- 17 Q. And that includes one bore hole usage fee?
- 18 A. That is correct.
- 19 Q. Is that in your judgement a reasonable estimate with  
20 regard to the development costs associated with unit  
21 U-107?
- 22 A. Yes, it is.
- 23 Q. Going to Exhibit G, Page 1, U-10 is superimposed with a  
24 dark line around it, sort of in the upper right hand  
25 corner of this plat?

- 1 A. That's correct.
- 2 Q. And two longwall panels are within unit U-10, correct?
- 3 A. That is correct.
- 4 Q. And they are identified as -- they're both within the
- 5 VP-8 mine?
- 6 A. That's correct.
- 7 Q. And they are 1-Development west and 2-Development west,
- 8 correct?
- 9 A. Correct.
- 10 Q. Do the short lines that sort of diverge those represent
- 11 short hole production?
- 12 A. That is correct.
- 13 Q. Is it anticipated with regard to both 1-Development west
- 14 and 2-Development west that if mining proceeds as
- 15 contemplated there would eventually be some active gob
- 16 production from this unit as well?
- 17 A. That's correct. Yes.
- 18 Q. If you turn to Exhibit G, Page 2, this is relevant to
- 19 both units U-10 and U-11, isn't it?
- 20 A. Yes, it is.
- 21 Q. And U-10 has what percentage of interest within 1-
- 22 Development west?
- 23 A. U-10 in 1-Development west has 25.442 percent and also
- 24 U-11.
- 25 Q. Then they have the same percent?

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

- A. They have the same percentages in that development.
- Q. If we go 2-Development west what is U-10's percentage of interest in that panel?
- A. U-10's interest in that panel is 2.797 percent.
- Q. And U-11's interest in 2-Development west is what?
- A. 3.258 percent.
- Q. And then if we turn to Exhibit G, Page 3, does that exhibit report your estimate as to the total cost that would be incurred with regard to both of these longwall panels?
- A. Yes, it does.
- Q. And what are those amounts?
- A. In 1-Development west we estimate \$713,250. In 2-Development west \$680,000.
- Q. And then does this Exhibit G, Page 3, proceed to allocate those panel costs among the various units that the panels intersect?
- A. Yes, it does.
- Q. With regard to U-10 what is the allocation of 1-Development west panel in terms of cost?
- A. The allocation to U-10 would be \$181,465.
- Q. And it is the same amount for U-11 in that panel?
- A. Yes, it is.
- Q. With regard to 2-Development west what is U-10's allocated cost on Exhibit G, Page 3?

1 A. The allocated cost for U-10 is \$19,020.  
2 Q. And U-11 in 2-Development west?  
3 A. \$22,154.  
4 Q. Turning to Exhibit G, Page 4, again staying with the  
5 exhibits to U-10, does this report for each respondent  
6 in each panel the next interest in the unit and the  
7 interest to the extent you've predicted the interest in  
8 the panel and then the panel interest from an allocation  
9 of revenue or costs?  
10 A. Yes, it does.  
11 Q. With regard to the Coxs can I assume that you have  
12 reported uncertain because you do not know the undivided  
13 interests or the extent of the undivided interest of each  
14 of the individual Coxs?  
15 A. That is correct.  
16 Q. And have you reported for the estate the total interest  
17 which you do not know how to divide up?  
18 A. That is correct. Yes.  
19 Q. And you've done that for both panels?  
20 A. Yes.  
21 Q. With regard to the question of people who are deemed to  
22 have leased and the kind of recommendation that you would  
23 make to the Board with regard to lease terms dealing with  
24 CBM interest what would you recommend in terms of bonus,  
25 royalty and those sort of issues to the Board to be

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

incorporated in any order they might issue?

A. As to the CBM lease for those parties deemed to have leased we would recommend that a one time payment of \$1 per acre bonus be paid with a one-eighth royalty provided, and then if they wish to lease we'll lease for five years. If they're deemed to have leased to would be as long as we have production.

Q. The acreage in this unit is the 80 acres that we're always dealing with?

A. That is correct.

Q. We're talking about all coal seams and associated rock strata below the Tiller?

A. Correct.

Q. We need to look at a couple of things on U-11. If you would turn to Exhibit G on U-11. U-11 intersects the same panel we were talking about with regard to U-10?

A. Yes, it does.

Q. And we've already covered the percentages in those panels, correct?

A. That is correct.

Q. If you turn to Page 4 of Exhibit G, does that set forth the division of interest of the respondents who are named in the application on U-11 for purposes of allocating costs in the event they should participate or be carried or a royalty in the event of production?

1 A. Yes, it does.

2 Q. Turning to the front of U-11 and Exhibit A, Page 2, are  
3 we again dealing with an outstanding oil and gas interest  
4 that is sought to be force pooled?

5 A. Yes. We are seeking to force pool an outstanding  
6 interest of 2.584 percent.

7 Q. Mr. Gordon, is it your opinion with regard to both units  
8 U-10 and U-11, that the plan of development which is  
9 shown on Exhibit G which we have talked about today, is  
10 there a reasonable plan to develop the coalbed methane  
11 within and under both of these units?

12 A. Yes, it is.

13 Q. Is it your further opinion that the proposed development  
14 that's shown on Exhibit G, the initial short hole  
15 development and then ultimately as mining progresses the  
16 active gob development, that that is a means of protect-  
17 ing correlative rights of owners of methane within the  
18 unit, it is an economically sensible way to proceed  
19 which would decrease both the likelihood of both physical  
20 waste and economic waste?

21 A. Yes, it is.

22 MR. SWARTZ: That's all I have on these two units.

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

24 MR. EVANS: Mr. Gordon, in the case that was heard just prior  
25 to this, is this the same map? The reason I asked is you

1 testified that it was in T-18 -- that the panel was 1-  
2 Development east?

3 MR. GORDON: You've got two sides to the mining operation.  
4 You've got an east development and west development. T-  
5 18 is in the east. These are over in the west.

6 MR. EVANS: That's what I was asking, is what the differential  
7 is and also the difference in the maps. I've got on T-18  
8 or in the previous I've got short hole production and it  
9 shows development works to T-15 which are dated 9/92 and  
10 on these next two U panels those mains have already been  
11 cut and pushed forward and we're already into the panel  
12 apparently. I guess explain to me what the dates mean.

13 MR. GORDON: They were projected dates of Island Creek when  
14 this thing was being put together.

15 MR. EVANS: Okay. They're not actual mine dates?

16 MR. GORDON: No. Those dates have been superceded by others.  
17 But this is the best I had to work with at the time.  
18 So --

19 MR. EVANS: Just for clarification purposed I was just making  
20 sure what was which and when it was done.

21 MR. CHAIRMAN: Other questions?

22 MR. MCGLOTHLIN: Mr. Gordon, on your U-10 and U-11 on the 2-  
23 West panel could you explain what the percent or percent  
24 and a half difference -- the half percent difference in  
25 that?

1 MR. CHAIRMAN: You're referring to Exhibit G, Page 2?

2 MR. MCGLOTHLIN: Yes.

3 MR. GORDON: You're in U-11?

4 MR. MCGLOTHLIN: U-10 and U-11 on that second deviation.

5 MR. GORDON: The percent difference? If you'll look, we have  
6 a barrier in that second development.

7 MR. MCGLOTHLIN: Okay.

8 MR. GORDON: Again based on the information we had and it is  
9 projected I'm not sure that there's not another barrier  
10 on the first development there. So I went ahead and  
11 incorporated the whole thing and even went into unit U-9  
12 there. If that barrier changes it's going to change the  
13 percentages and we may have to come and adjust our  
14 percentages. Right now we're just not sure what -- I  
15 mean, this thing is early development.

16 MR. SWARTZ: To summarize what I think you're saying, Mr.  
17 Gordon, is your explanation for the difference in  
18 percentage when you compare U-10 and U-11 with regard to  
19 2-Development, that panel, is the explanation of the  
20 difference in percentage the fact that the 2-Development  
21 panel as currently mapped does not run the full length of  
22 unit U-10?

23 MR. GORDON: That's correct.

24 MR. MCGLOTHLIN: Explain the difference there. What would  
25 that matter on the --

1 MR. SWARTZ: Well, there's less of 2-Development panel in U-10  
2 than there is in U-11. Kevin, if you look at the map  
3 here do you see where the words "2-Development" are?

4 MR. MCGLOTHLIN: Uh-huh.

5 MR. SWARTZ: What Sam's telling you is that the mapped portion  
6 immediately above that is a barrier pillar that will not  
7 be mined so that when you calculate the amount of that  
8 panel in U-10 it does not run the whole length of the  
9 unit whereas in U-11 that panel runs the whole length of  
10 the unit. So that would account for the difference is  
11 what he's telling you. I can tell from your look you're  
12 not following me.

13 MR. MCGLOTHLIN: I'm following what you're saying. I'm just  
14 curious as to what -- why the difference? I mean, it's  
15 still 80 acres and you're still drawing gas off of it.

16 MR. SWARTZ: No. You take the acreage of the panel within the  
17 unit and divide it by the unit. If there's less panel  
18 acres in the unit you're going to get a smaller percent-  
19 age.

20 MR. MCGLOTHLIN: I understand. We've done it --

21 MR. SWARTZ: This calculation is a function of putting the  
22 amount of acres in a particular longwall panel that are  
23 within a unit over the 80 acre number. And if there are  
24 less -- I guess what I am saying is as mapped there are  
25 less acres of the 2-Development panel within unit U-10

1 than there are in U-11. So obviously you're going to be  
2 dividing a smaller number by 80 and you're going to come  
3 up with a smaller percentage is the explanation.

4 MR. EVANS: Not even on that tract but on a different tract,  
5 you're seeking to force pool these individuals and the  
6 force pooling is a dollar an acre bonus, one time  
7 payment, and you're requesting the lease term basically  
8 to exhaustion?

9 MR. WIRTH: Until the order is nolle and void.

10 MR. EVANS: You plug the well which is to exhaustion.

11 MR. SWARTZ: Well, two things can happen. The orders that we  
12 get from the Board tell us if we haven't developed this  
13 or commenced development within a year the order goes  
14 away. So you could theoretically pay your dollar bonus,  
15 not develop it, and at the end of the year any rights  
16 that they were deemed to have leased to you would  
17 terminate because the order would terminate. If you  
18 undertake to develop the acreage you would then have a  
19 right to develop this unit to exhaustion. But the least  
20 that you take says a five year primary term and so long  
21 thereafter as oil and gas is produced and paying quantiti-  
22 es. So you're getting an equivalent result. I realize  
23 you're stating it as if it's extreme, but the private  
24 lease that you would obtain would provide the same  
25 result.

1 MR. EVANS: Does that also provide for an additional payment  
2 after the five year term is up?

3 MR. SWARTZ: Not if there's production. I mean, you can have  
4 drilling commitments in the leases -- so I give you a  
5 complete answer -- but absent a drilling commitment  
6 where you have to continue drilling or pay further delay  
7 rentals it would hold the lease once you started produc-  
8 ing.

9 MR. EVANS: I've got one other question based in that same  
10 vein. Do the leases that you sign provide for shut-in  
11 fees?

12 MR. SWARTZ: Yes, generally speaking.

13 MR. EVANS: Do your force pools provide for the same fees to  
14 be paid for shut-in?

15 MR. SWARTZ: No.

16 MR. WIRTH: You don't shut-in a methane well. Mine safety  
17 dictates it and it's either vented or produced.

18 MR. SWARTZ: That is the difference. Certainly a frack well  
19 you do not want to shut it in or you're going to screw it  
20 up.

21 MR. EVANS: I'm asking --

22 MR. WIRTH: Well, it can be. In certain cases a frack well  
23 could be shut-in. Now, in these situations the gob well  
24 we would not. If we're projecting twenty years out to  
25 frack the well and we have shut it in -- it's a question

1 that's addressed in the JOA that may have to be address-  
2 ed. Some party that we have force pooled may want to  
3 come back to the Board. It is not our intent because  
4 it's silent that there be a shut-in.

5 MR. SWARTZ: This raises an issue that's near and dear to my  
6 heart that I've given up on. We submitted a couple of  
7 years ago to the Board leases and JOAs that we wanted you  
8 to at least acknowledge was how we were going to proceed  
9 so that we -- we're communicating to you what our  
10 intentions were when we were deemed to have leased and to  
11 people who participated or were forced pool what the  
12 rules were. And we would love to do that. If I sense  
13 here a massive shift of the geology of the Board I am  
14 delighted.

15 MR. CHAIRMAN: Back.

16 MR. EVANS: I don't think you sense a shift. It was a  
17 question for the record that was for my own information  
18 to see how you handled it which is -- I'm not going to  
19 approve your JOA or --

20 MR. SWARTZ: What a bummer. But it is a problem that we don't  
21 have a document that we can all look at and you can look  
22 at and say, "Well, this is probably how they're handling  
23 it."

24 MR. MASON: We do. We have the Board order.

25 MR. SWARTZ: It's incredibly -- any tough issue is ignored by

1 the orders we get. So we are essentially told operate  
2 this -- any operator. We're essentially told operate it  
3 as you would in the ordinary course we hope. These  
4 orders are minimal. There's no shut-in. There's no  
5 delay. And we tried to get more language in the orders  
6 and your response was we are not going to write you a  
7 lease and we're not going to write you a JOE. I mean,  
8 that's what happens when you make those kinds of de-  
9 cisions.

10 MR. CHAIRMAN: Delay's in the order. Other questions?

11 (Witness stands aside.)

12 MR. CHAIRMAN: I'll just remind the Board that Ms. Riggs is  
13 going to bring back to the Board at next meeting the  
14 clarifying language for Oakwood II orders and any order  
15 we issue will be held in advance till we incorporate that  
16 language. Any other questions? Anything further?  
17 What's your pleasure?

18 MR. MASON: I move we approve.

19 MR. CHAIRMAN: A motion to approve U-10 and U-11.

20 MR. MCGLOTHLIN: Second.

21 MR. CHAIRMAN: Second. Further discussion? All in favor  
22 signify by saying yes. (ALL AFFIRM.) Opposed say no.  
23 (NONE.) It's unanimous.

ITEM XXII, XXIII

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Buchanan Production Company for U-18  
5 unit. Docket number VGOB-93/04/20-0355. I'd ask the  
6 parties that wish to address the Board in this matter to  
7 come forward and identify yourself at this time.

8 MR. SWARTZ: Mark Swartz for OXY and Buchanan Production.

9 MR. CHAIRMAN: The record will show there are no others.

10 MR. FULMER: I have a handout for the Board.

11 MR. SWARTZ: While Mr. Fulmer is doing that I will tell you,  
12 Mr. Chairman, that U-18 is a similar situation. It's in  
13 the same panel. It's right next to it. We're talking  
14 the same numbers. And if there's no objection I'd like  
15 to consolidate U-18 and U-17 for hearing purposes today.  
16 I wouldn't have to go through the same numbers twice.

17 MR. CHAIRMAN: I'll go ahead and call U-17 as well. That's a  
18 petition for the force pooling of U-17 unit, Docket  
19 number VGOB-93/04/20-0363. I'd ask all parties that wish  
20 to address the Board in this matter to come forward and  
21 identify yourself at this time.

22 MR. SWARTZ: Mark Swartz, same appearances.

23 MR. CHAIRMAN: The record will show there are no others. You  
24 may proceed.

25 MR. SWARTZ: I'd like to call Sam Gordon again as my first

1 witness. Sam, I'll remind you you are still under oath.

2  
3 SAMUEL GORDON

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

6  
7 DIRECT EXAMINATION

8  
9 BY MR. SWARTZ:

10 Q. Did you prepare the notices of application and the  
11 applications for both units U-16 and U-17?

12 A. Yes, I did.

13 Q. Is Buchanan Production the applicant in both situations?

14 A. Yes, it is.

15 Q. And in both instances is Buchanan Production requesting  
16 that somebody other than itself, to wit OKY, USA, be  
17 designated the operator of these two units?

18 A. Yes, it is.

19 Q. Buchanan Production is a Virginia general partnership  
20 with two partners that are Appalachian Operators, Inc.  
21 and Appalachian Methane, Inc., is that correct?

22 A. That is correct.

23 Q. Is Buchanan Production authorized to do business in the  
24 Commonwealth?

25 A. Yes, it is.

1 Q. Is OXY, USA is a Delaware corporation that is also  
2 authorized to do business in the Commonwealth?  
3 A. Yes, it is.  
4 Q. Has OXY registered with the DMME?  
5 A. Yes.  
6 Q. Does it have a blanket bond on file as required by law?  
7 A. Yes, it does.  
8 Q. Has the management committee of Buchanan Production  
9 delegated certain authority to OXY, USA as it's profess-  
10 ional manager "including the authority to explore,  
11 develop and maintain the properties of Buchanan Produc-  
12 tion Company"?  
13 A. Yes, it has. We have so attached this agreement as  
14 Exhibit J, Page 1.  
15 Q. And then has OXY, USA in implementing or discharging  
16 that responsibility delegated to certain individuals  
17 within OXY specific authority?  
18 A. Yes, it has. It has delegated Glen VanGolen as designat-  
19 ed general manager, Martin E. Wirth land manager, and  
20 myself as regulatory manager.  
21 Q. HAS OXY, USA filed anything with both of these exhibits  
22 to indicate that if -- consenting that it would serve as  
23 unit operator if it were appointed by the Board to be  
24 unit operator?  
25 A. Yes, it has. That's Exhibit J, Page 2, to both applica-

1 tions.

2 Q. Are the names of the folks who are respondents on both U-  
3 18 and U-17 listed in both the notice of hearing and  
4 Exhibit B?

5 A. Yes, they are.

6 Q. Now, there have been some amendments to the U-18 unit  
7 which we'll ultimately get to. But there's an amended  
8 Exhibit B and other exhibits, correct, in U-17?

9 A. Yes. There are amended exhibits.

10 Q. And we'll ultimately get to those amendments?

11 A. Yes.

12 Q. Between the original Exhibits B and the amended Exhibits  
13 B all respondents have been listed with regard to both  
14 applications?

15 A. That is correct. Yes.

16 Q. Do you wish to add anybody or subtract anybody in terms  
17 of adding or dismissing any respondents with regard to  
18 either of these two units?

19 A. No, we do not.

20 Q. Did you undertake to mail by certified mail as required  
21 by statute to all respondents for whom you had addresses  
22 in both of these units?

23 A. Yes, we did.

24 Q. With regard to these units are there certain lien holders  
25 that are identified in Exhibit B-1?

- 1 A. Yes, there is.
- 2 Q. Judgement creditors or lien holders?
- 3 A. Correct.
- 4 Q. Did you also mail to all of the judgement creditors, lien  
5 holders, identified in Exhibits B-1 to both of this  
6 applications?
- 7 A. Yes, we did.
- 8 Q. With regard to unit U-18 have you gotten cards back from  
9 everyone except the IRS?
- 10 A. That is correct. Yes.
- 11 Q. Did you file a proof of publication with Mr. Fulmer's  
12 office, Exhibit F, by mail?
- 13 A. Yes, we did, on April 5th, 1993
- 14 Q. Did you publish with regard to both of these units in a  
15 newspaper?
- 16 A. Yes, we did. We published in the Virginia Mountaineer on  
17 March 25, 1993.
- 18 Q. Did you file Exhibit E, certificate of publication, with  
19 Mr. Fulmer's office and if so when?
- 20 A. Yes, we did. We filed it on March 30th, 1993.
- 21 Q. With regard to the mailing issue and unit U-17 did you  
22 get a response from everyone or a card back from everyone  
23 to whom you mailed again with the exception of the IRS?
- 24 A. Yes, we did.
- 25 Q. Did you file Exhibit F, proof of mailing, with regard to

1 unit U-17 with Mr. Fulmer's office?

2 A. Yes, we did. Again on April 5th, 1993.

3 Q. Turning to the exhibits to U-18 --

4 MR. MCGLOTHLIN: Mr. Swartz, before you leave the notice  
5 issue, I noticed on U-18 there's less of the lien holders  
6 listed on 18 and on 17 for the same tract.

7 MR. SWARTZ: Well, are you looking at the amended B-1?

8 MR. MCGLOTHLIN: Yes, sir. I've got four lien holders and on  
9 17 we have at least six on tract two and four on tract  
10 four.

11 MR. GORDON: There are different lien holders in both units.  
12 Some of them are common but --

13 MR. MCGLOTHLIN: It's the same property though?

14 MR. GORDON: The same property?

15 MR. MCGLOTHLIN: Yes, sir.

16 MR. GORDON: U-18 and U-17 are the same property?

17 MR. MCGLOTHLIN: On tract two -- it's the same property owner  
18 on tract two of U-17 as tract two of U-18.

19 MR. WIRTH: Only as to the surface. The land goes onto --  
20 when they described in the judgement lien -- this is  
21 Martin E. Wirth. We'll read through it and it might be  
22 deed of trustee as to a bank and as to a household. We  
23 didn't take the full acres or X acres. So there may be  
24 difference between the land. It may run concurrently,  
25 but I am not the one to adjudicate that.

1 MR. MASON: I don't know if this matters or not, but I have  
2 frequently appeared of record for Dominion Bank and  
3 Dominion Bank care services. Does Mr. Swartz object to  
4 me being involved in this?

5 MR. SWARTZ: No.

6 MR. WIRTH: Are you the trustee for some of the -- I don't  
7 think it's inappropriate.

8 MR. MASON: But I do appear occasionally on behalf of them in  
9 enforcement of creditors loans and foreclosures and  
10 bankruptcy related to collection matters. I have no  
11 knowledge of these individual items.

12 MR. WIRTH: Well, according to Dominion Bank they are all  
13 confirmed, but we always put them on notice in case they  
14 did default the payment.

15 MR. MASON: Right.

16 MR. MCGLOTHLIN: It just seems to me that some of these liens  
17 are probably encompass the entire property and I'm  
18 curious as to if some where left out.

19 MR. SWARTZ: The problem I'm having, Kevin, is that tract four  
20 on one plat has no relationship to tract four on the  
21 other.

22 MR. MCGLOTHLIN: But tract two and tract two are the same.  
23 When I line up the maps they come right in together.

24 MR. WIRTH: Like I say, when we pick a judgement lien it only  
25 describes certain parcels of (Inaudible.) Therefore, if

1 it didn't pick it up on that title -- doing that then it  
2 was deleted off of it. What I'm saying is it could be --  
3 B&L Maytag may have done one thing whereas then you take  
4 in the whole 75 acres.

5 MR. MCGLOTHLIN: I guess I was curious on the notification to  
6 the Circuit Court was on one and it was not on the other.

7 MR. WIRTH: On the tax assessors for the --

8 MR. MCGLOTHLIN: The Circuit Court --

9 MR. CHAIRMAN: Is that a judgement lien?

10 MR. WIRTH: Yes, it's a judgement lien. It was due to some  
11 court action. It's not the same as a tax lien being --

12 MR. MASON: A lot of those liens requiring notice to the Clerk  
13 are for fines.

14 MR. WIRTH: That's exactly what it is. It's an outstanding  
15 fine.

16 (PAUSE.)

17 MR. MCGLOTHLIN: I understand how liens are and that you might  
18 get an -- just the house or barn or what acreage --

19 MR. WIRTH: What we have is when the titled opinion comes in  
20 listing all judgments and/or liens.

21 MR. MCGLOTHLIN: It just seems odd particularly on the Circuit  
22 Court Clerk's notice. It seems odd that he wouldn't be  
23 noticed on this as well. Thank you.

24 MR. MASON: I have one question. Have we talked about the DW  
25 yet?

1 MR. SWARTZ: No, but we can skip ahead

2 MR. MASON: I'm just curious as to why the title opinion was  
3 so expense on this particular tract.

4 MR. SWARTZ: Are we looking at 18?

5 MR. MASON: 18.

6 MR. SWARTZ: If you look at the plat that's why. There was a  
7 title done on every tract.

8 MR. MASON: Well, I understand that. This one is 44,000 and  
9 most of them run in the 20,000s even when there are  
10 multiple owners.

11 MR. WIRTH: You have a Young Branch tributary and you also  
12 have State highways coming in that. You also have the  
13 condemnations of the highway. You also have the Young  
14 Branch. Also you'll find like on U-18 you also have two  
15 small parcels which are homesteads. It doesn't matter if  
16 it's a half an acre. It's usually running \$3,500 a  
17 tract. So there are more tracts and more money.

18 MR. MASON: Okay.

19 Q. (Mr. Swartz continues.) Mr. Gordon, going back to U-18,  
20 Exhibit A, Page 2, is the only thing we're talking about  
21 here in terms of force pooling the oil and gas estate?

22 A. That is correct.

23 Q. What is the outstanding interest that's sought to be  
24 affected by the application in U-18?

25 A. 86.965 percent.

1 Q. Of the oil and gas estate?  
2 A. Of the oil and gas estate.  
3 Q. And I take it that OKY has the coal estate 100 percent  
4 under voluntary agreements?  
5 A. That is correct.  
6 Q. Turning to Exhibit C, the estimate of allowable costs,  
7 did you prepare that?  
8 A. Yes, I did.  
9 Q. And it was prepared within the last sixty days?  
10 A. Yes, it was.  
11 Q. What does that show as estimated costs for development of  
12 unit U-18?  
13 A. \$66,725.  
14 Q. And it that a reasonable estimate in your judgement as to  
15 the expected costs?  
16 A. Yes, it is.  
17 Q. Turning to Exhibit G, Page 1, are we again talking about  
18 a mine map on which you have superimposed unit U-18?  
19 A. Yes, we have.  
20 Q. And this mine map or this projection pertains to the VP-  
21 mine?  
22 A. Yes.  
23 Q. And the two panels that we're looking at are  
24 1-Development east and 2-Development east, is that  
25 correct?

1 A. That is correct.  
2 Q. And U-18 just catches a portion of both of those panels,  
3 does it not?  
4 A. That is correct.  
5 Q. The diverging lines shown in both of these panels, does  
6 that depict or represent anticipated short hole produc-  
7 tion?  
8 A. Yes, it does.  
9 Q. And if mining proceeds as contemplated would you expect  
10 that active gob production might follow?  
11 A. Yes, we do.  
12 Q. Turning to Exhibit G, Page 2, does this break out the  
13 percentage of 1-Development east panel and 2-Development  
14 east panel in both units U-18 and U-17?  
15 A. Yes, it does.  
16 Q. With regard to U-10 what is the percentage of panel  
17 1-Development east within unit U-17?  
18 A. Within U-17 in 1-Development east we show 15.493 percent.  
19 Q. With regard to U-18 in panel 1-Development east?  
20 A. 2.291 percent.  
21 Q. Moving to 2-Development east what is the percentage of  
22 that panel within unit U-17?  
23 A. Within U-17 26.899 percent.  
24 Q. And within U-18?  
25 A. 3.976 percent.

- 1 Q. With regard to Exhibit G, Page 3, does that show your  
2 estimate with regard to the total cost in 1-development  
3 east development cost and 2-Development east?  
4 A. Yes, it does.  
5 Q. And what are those numbers?  
6 A. In 1-Development east a total of \$846,975. 2-Development  
7 east \$570,000.  
8 Q. And does this Exhibit G, Page 3, also then proceed to  
9 allocate a portion of those development costs to each  
10 unit?  
11 A. Yes, it does.  
12 Q. With regard to 1-Development east what is allocated to  
13 both units U-17 and U-18?  
14 A. In 1-Development east we've allocated to U-17 \$131,222.  
15 U-18 we've allocated \$19,403.  
16 Q. And with regard to development panel 2-Development east  
17 what is the allocation to both U-17 and U-18?  
18 A. Panel 2-Development east we have allocated to U-17  
19 \$153,324 and to unit U-18 \$22,664.  
20 Q. Exhibit G, Page 4, does this show for each of the  
21 respondents their net interest in the unit, the unit's  
22 percentage in the panel, and then a division of interest  
23 or panel interest for each respondent?  
24 A. Yes, it does.  
25 Q. Would these numbers then be relevant and could they be

1 used to calculate participant contribution, carried  
2 interest, and recoupment as well as royalty?

3 A. Yes.

4 Q. If you would turn to Exhibit G, Page 4, of unit U-17, if  
5 you could find that.

6 A. Okay.

7 Q. There is an amendment that was filed, an amended Exhibit  
8 G, Page 4, is that correct?

9 A. That is correct.

10 Q. And it unfortunately did not have the word "amendment"  
11 on it. It is the one -- if you'll look at Ira Gordon  
12 Ratliff in the last column, the first and far right hand  
13 column the number should be -- if it shows .7467 that is  
14 the amended exhibit.

15 MR. MASON: What was the number again?

16 MR. SWARTZ: .7467. If that's what it shows it's the amended  
17 exhibit. If it shows .7127 you should draw a line  
18 through it. That was the original exhibit.

19 Q. (Mr. Swartz continues.) Mr. Gordon, does Exhibit G, Page  
20 4, as amended show the relevant percentages for each of  
21 the respondents in U-17 to be used for royalty purposes,  
22 participation purposes, and carried interest recoupment  
23 purposes?

24 A. Yes, it does.

25 Q. And we've already covered the panel allocations, percent-

- 1                   ages and cost percentages to this unit, correct?
- 2           A.    Correct.
- 3           Q.    Turning to the beginning of the application for U-17 and
- 4           going to Exhibit A, Page 2, there is an amended Exhibit
- 5           A, Page 2, correct?
- 6           A.    That is correct.
- 7           Q.    What is being sought to be force pooled here as shown on
- 8           that exhibit?
- 9           A.    We're seeking to force pool from the oil and gas estate
- 10          72.45 percent.
- 11          Q.    The balance of the oil and gas estate OXY or Buchanan
- 12          Production has obtained voluntary agreements with regard
- 13          to that on oil and gas?
- 14          A.    That's correct.
- 15          Q.    And OXY apparently and/or Buchanan Production has
- 16          voluntary agreements with regard to 100 percent of the
- 17          coal interest?
- 18          A.    That's correct.
- 19          Q.    With regard to Exhibit B there was an amended Exhibit B
- 20          filed, correct?
- 21          A.    That is correct.
- 22          Q.    And the only thing that changed was the percentages
- 23          changed very slightly, the list of people stayed the
- 24          same, is that correct?
- 25          A.    That is correct.

1 Q. With regard to tract seven of the amended Exhibit B  
2 there's a Rodney Keith Ratliff. Do you see that?

3 A. Yes.

4 Q. Were you informed by telephone that Darlene is actually  
5 Doris?

6 A. That is correct.

7 Q. Do you have any written proof of that?

8 A. No, we do not.

9 Q. So you're simply putting the Board on notice that her  
10 name may, in fact, turn out to be Doris?

11 A. That's correct.

12 MR. MCGLOTHLIN: And Rodney is Randy?

13 MR. SWARTZ: Well, that's news to us.

14 MR. MCGLOTHLIN: That's what you have here is Randy or am I  
15 looking at the wrong one?

16 MR. GORDON: The amended one has Rodney.

17 MR. MCGLOTHLIN: Oh, I don't have the amended --

18 MR. SWARTZ: This one actually has the word "amended" at the  
19 top of it. So if look at that.

20 Q. (Mr. Swartz continues.) And then going through here  
21 there is also an amended Exhibit B-1, is that correct?

22 A. Yes.

23 Q. We've already indicated there's an amended Exhibit G,  
24 Page 4 and which one it is?

25 A. Correct.

1 Q. A couple of more questions. With regard to both of these  
2 units would you recommend certain terms be incorporated  
3 by the Board in any order issued regarding persons who  
4 might be deemed to have been leased?

5 A. Yes. Our recommendation for CBM would be a one time  
6 payment of \$1 bonus per acre with a one-eighth royalty  
7 provision for as long as we produce.

8 Q. All both of these units 80 acres units?

9 A. Yes, they are.

10 Q. And are you seeking to produce short hole gas and active  
11 gob under the Oakwood II rules with regard to all coal  
12 seams and associated rock strata below the Tiller?

13 A. That is correct.

14 Q. Is it your opinion that plan of development as shown on  
15 Exhibit G, Page 1, for both of these units is a reason-  
16 able plan to develop the coalbed methane resources  
17 within units U-18 and U-17?

18 A. Yes, it is.

19 Q. Would this proposed plan and the development contemplated  
20 by this plan contribute to protect correlative rights and  
21 lessen the likelihood of both physical and economical  
22 waste?

23 A. Yes.

24 MR. SWARTZ: That's all I have with regard to these two  
25 applications.

1 MR. MCGLOTHLIN: Excuse me. On your Exhibit G, Page 4, you  
2 still have it listed as Randy Keith Ratliff.

3 MR. SWARTZ: Well, we need to decide which is which.

4 MR. GORDON: All the notices were sent to Rodney.

5 MR. MASON: I have one question. I was curious as to some-  
6 thing that occurs to me. Some of these people we've had  
7 today, the first people that appeared to have some  
8 financial difficulties or this liens and judgments and  
9 stuff, in the course of doing your alls title exams do  
10 you all check for bankruptcy filing?

11 MR. WIRTH: You hat.

12 MR. MASON: So you all would know, for instance, if there  
13 were any stays in effect with regards to any judicial  
14 proceedings for bankruptcy?

15 MR. WIRTH: Yes, sir. We're handling one right now before Mr.  
16 Fulmer's office that does have bankruptcy proceedings.

17 MR. MASON: Thank you.

18 MR. GORDON: I believe, just for the record here, on Exhibit  
19 G, that's a typo. Everything's been sent to a Rodney and  
20 when I was talking to this party on the phone there was  
21 nothing to change that, just her name. So I would say  
22 that Rodney has been noticed. Rodney is the one we sent  
23 it to. Rodney is the party and this is a typo on Exhibit  
24 G which we can get corrected.

25 MR. CHAIRMAN: Also on the amended G-4, the reference to the

1                    astricts down to the exhibits would also be to the  
2                    amended -- this has been corrected to the amended  
3                    Exhibits B? The astricts and double astricts are  
4                    referencing the amended Exhibit B and amended Exhibit G?  
5                    This is just for clarification.

6                    MR. SWARTZ: We need to file an amended Exhibit G, Page 4, so  
7                    it will straighten this stuff out.

8                    MR. SWARTZ: Marty, with regard to title do you have a  
9                    recollection as to whether the title reports that you've  
10                    got show Rodney or Randy?

11                    MR. WIRTH: It's definitely Rodney Keith.

12                    MR. CHAIRMAN: Anything further? This will be subject, of  
13                    course, to the same provisions that we've stated earlier  
14                    Ms. Riggs doing research and us clarifying the language.

15                    MR. SWARTZ: Correct.

16                    MR. MCGLOTHLIN: I move we accept the petitions filed for  
17                    U-17 and U-18.

18                    MR. CHAIRMAN: A motion to approve.

19                    MR. MASON: Second.

20                    MR. CHAIRMAN: Second. Further discussion? All in favor  
21                    signify by saying yes. (ALL AFFIRM.) Opposed say no.  
22                    (NONE.) Unanimous approval. Do you want to break for  
23                    lunch or is that going to give you enough time?

24                    MR. MASON: I don't know. I'm going to have to leave at 2:30

25                    MR. CHAIRMAN: Let's go ahead and bring PGP to the table.

ITEM XXIV

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Pocahontas Gas Partnership for the L-40  
5 unit. Docket number VGOB-93/04/20-0357. We'd ask the  
6 parties that wish to address the Board to come forward at  
7 this time and identify yourself for the record.

8 MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas  
9 Partnership.

10 MR. CHAIRMAN: The record will show there are no others.  
11 Elizabeth, we're trying to decide. Mr. Mason has to  
12 leave at 2:30 and we're going to get lunch. We're trying  
13 to decide the timing. You have all the rest of the  
14 agenda or Pocahontas Gas Partnership does. Are all of  
15 them items that will need to heard?

16 MS. McCLANNAHAN: Yes, they will.

17 MR. CHAIRMAN: I understand there's some parties that are  
18 here that an interest in four of these. I'm just trying  
19 to decide if we need to -- I was going to talk with the  
20 Board and I'll wait until the members get back to see if  
21 they wanted to send out for lunch or what to try accommo-  
22 data because we will have to stop at 2:30 regardless of  
23 where we are because I will not have a quorum as of 2:30  
24 today.

25 MS. McCLANNAHAN: I guess that I can tell you which ones would

1 take the least amount of time because I think we need as  
2 many of these units as we can get today. So we may want  
3 to put them in a little different order.

4 MR. CHAIRMAN: Do you all want to send out and have lunch  
5 brought in or do you want to break for lunch? All we  
6 need to do is make the decision and do it. We can go  
7 ahead and break right now and come back if you want to do  
8 that.

9 (AFTER A BRIEF DISCUSSION OFF THE RECORD, THE HEARING  
10 CONTINUED AS FOLLOWS:)

11 MR. CHAIRMAN: The docket item's been called. You may  
12 proceed.

13 MS. McCLANNAHAN: Will you let us change the order of them  
14 just so that we know that we'll get through as many of  
15 them as possible today?

16 MR. CHAIRMAN: As long as we don't do anything that would  
17 cause these folks to be delayed on wishing to address the  
18 Board.

19 MS. McCLANNAHAN: I don't think it will.

20 MR. CHAIRMAN: Okay. As long as we accommodate them.

21 MS. McCLANNAHAN: You've called 357, right?

22 MR. CHAIRMAN: That's correct. We'll probably have time  
23 because other than just munching into the microphones  
24 we'll continue to hear the cases. (Pause.)

25 MS. McCLANNAHAN: The first witness is Les Arrington.

1  
2 LESLIE ARRINGTON

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

5  
6 DIRECT EXAMINATION

7  
8 BY MS. McCLANNAHAN;

9 Q. Les, would you please state your full name for the record  
10 and address?

11 A. Leslie K. Arrington, 26 Mountaintop Drive, Princeton,  
12 West Virginia.

13 Q. Could you please identify Exhibit 17

14 A. That's my work resume and educational background.

15 MR. CHAIRMAN: Elizabeth, just --

16 MS. McCLANNAHAN: Can we stipulate to all that from yesterday?

17 MR. CHAIRMAN: You may stipulate all that since it's the same  
18 hearing and it was all entered in yesterday.

19 MS. McCLANNAHAN: So we're stipulating to his qualifications  
20 and the Board accepting him as an expert witness?

21 MR. CHAIRMAN: Right. You may proceed.

22 Q. (Ms. McClannahan continues.) Mr. Arrington, have you  
23 given notice as required by Section 45.1-361.19 to each  
24 person or entity identified on Exhibit C of the force  
25 pooling application?

1 A. Yes, we have.

2 Q. Is that hearing notice identified as Exhibit 2?

3 A. Yes, it is.

4 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
5 Exhibit 2.

6 Q. (Ms. McClannahan continues.) This notice of hearing was  
7 mailed to each of the parties on Exhibit C?

8 A. Yes, it was.

9 Q. By certified mail, return receipt requested?

10 A. Yes.

11 Q. Are the copies of those returned receipts at Exhibit 3?

12 A. Yes, it is.

13 MS. McCLANNAHAN: I move the introduction of Exhibit 3.

14 MR. CHAIRMAN: It's admitted.

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

17 A. No. However, we published it the Virginia Mountaineer  
18 and Bluefield Daily Telegraph on April 1st and March  
19 26th.

20 Q. Have those proofs of publications previously been  
21 submitted to the Board?

22 A. Yes, they have.

23 Q. What percentage of the coal rights in the tracts that  
24 comprise the L-40 unit does PGP control?

25 A. 97.75 percent of the P-3 and 40.65 percent of all coal

1 below the Tiller seam less the P-3.

2 Q. What percentage of the oil and gas rights in the tracts  
3 that comprise the L-40 unit does PGP control?

4 A. 40.85.

5 Q. What percentage of the coalbed methane gas rights that  
6 comprise the eL-40 unit does PGP control?

7 A. 87.75 percent.

8 Q. Are the unleased owners and the lease hold owners listed  
9 on Exhibit D of the L-40 force pooling application listed  
10 with percentages of ownership in the respective tracts?

11 A. Yes.

12 Q. Are the conflicting claimants whose funds are to be  
13 escrowed on Exhibit E?

14 A. Yes.

15 Q. Are you requesting that the Board pool the interest of  
16 the parties listed on Exhibit C?

17 A. Yes.

18 Q. Are Exhibits C, D and E correct as they were filed with  
19 the application?

20 A. Yes, they are.

21 Q. And B-1?

22 A. Yes. That's correct.

23 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
24 Arrington.

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

(Witness stands aside.)

1  
2 MR. MCGLOTHLIN: Les, what's the significance of Mr. Brown  
3 being --

4 MR. ARRINGTON: I put it in the wrong book. I just noticed  
5 that.

6 MR. MCGLOTHLIN: He put it in the wrong book. It's not  
7 suppose to be there.

8 MR. ARRINGTON: You'll have the right copies. It's just going  
9 to be in the wrong book.

10 MR. MCGLOTHLIN: So we need to disregard that?

11 MR. ARRINGTON: Disregard it in this one.

12 MS. McCLANNAHAN: My next witness is Ron Wood. His resume  
13 needs to be substituted for Gil Gillenwater's resume at  
14 Exhibit 4. The Board has agreed to stipulate to his  
15 qualifications and accept him as an expert witness.

16  
17 RON WOOD

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

20  
21 DIRECT EXAMINATION

22  
23 BY MS. McCLANNAHAN:

24 Q. Mr. Wood, what are the fair market terms for an oil, gas  
25 and coalbed methane lease in the area of the L-40 unit?

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

A. An oil, gas and coalbed methane lease is \$5 per acre per year rental and a one-eighth royalty.

Q. And for a coalbed methane lease?

A. Coalbed methane would be \$1 per acre per year rental and a one-eighth royalty.

Q. And the standard primary term for oil, gas and coalbed methane lease?

A. Ten years.

Q. With regard to the unleased owners that are listed on the L-40 unit force pooling application have you contacted these land owners or tried to contact them to obtain a lease?

A. Yes, we have.

Q. By what method did you contact them and offer the lease?

A. Verbal and/or certified mail.

Q. Were you able to come to an agreement with those persons contacted?

A. Not at this time.

Q. With regard to the lease hold owners Island Creek Coal Company, Cabot Oil & Gas, and Buchanan Production Company that are listed on the L-40 force pooling application did you make an offer regarding an assignment of their lease hold interests?

A. Yes, we have.

Q. By what method did you contact them?

1 A. Verbal and/or certified mail.

2 Q. Were you able to come to an agreement as to the assign-  
3 ment of their interests?

4 A. Not at this time.

5 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
6 Wood.

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

8 (Witness stands aside.)

9 MS. McCLANNAHAN: The next witness is Randy Albert. His  
10 resume is at Exhibit 5. The Board has agreed to stipu-  
11 late as to his qualifications and accept him as an  
12 expert witness.

13  
14 RANDALL ALBERT

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

17  
18 DIRECT EXAMINATION

19  
20 BY MS. McCLANNAHAN: ~~-----~~

21 Q. Has a drilling permit previously been refused to PGP on  
22 any of the tracts that comprise this unit?

23 A. No, it has not.

24 Q. Has a well work permit been issued for the L-40 unit?

25 A. Yes. For the L-40 unit a well work permit has been

1 issued for well number 623 as permit number 2197.

2 Q. And for what type of well was the permit issued?

3 A. Coalbed methane well.

4 Q. Does the plat attached to the force pooling application  
5 filed by FGP indicate the acreage and the shape of the  
6 acreage to be embraced within the L-40 unit as approved  
7 by the Board at its February 16, 1993 hearing?

8 A. Yes, it does.

9 Q. Could you please identify Exhibit 6?

10 A. Exhibit 6 is Exhibit D-1 of the L-40 force pooling  
11 application.

12 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
13 Exhibit 6.

14 MR. CHAIRMAN: It's admitted.

15 MR. MCGLOTHLIN: In regard to Exhibit 6 is there any reason  
16 you don't have the window marked on the -- the drilling  
17 window marked on the plat?

18 MS. McCLANNAHAN: There's no reason that I know of that it's  
19 not marked on that. That's not required to be marked on  
20 the plat, is it?

21 MR. CHAIRMAN: The question is is it an Oakwood I order you're  
22 asking for or an Oakwood II order?

23 MS. McCLANNAHAN: Oakwood I. In fact, the docket is -- I'm  
24 not sure how that happened, but the docket is incorrect.  
25 On a couple of these it says I and II, but they should

1 all just be Oakwood I force poolings. Conventional  
2 coalbed methane gas wells.

3 MR. CHAIRMAN: In all cases?

4 MS. McCLANNAHAN: Right. Docket numbers 24 through 31.

5 MR. CHAIRMAN: Okay. So going back to Mr. McGlothlin's  
6 question then which is valid? Are you within --

7 MS. McCLANNAHAN: No, we're not with the 300 feet.

8 MR. CHAIRMAN: Clarify that for us.

9 MS. McCLANNAHAN: I guess I should testify to that. We'll  
10 let Mr. Arrington answer the question. Mr. Arrington,  
11 can you tell us the approximate location of this well  
12 from the unit boundary?

13 MR. ARRINGTON: About 415 feet.

14 MS. McCLANNAHAN: Okay. We're back to Mr. Albert.

15 Q. (Ms. McClannahan continues.) Does the plat attached to  
16 the force pooling application indicate the area within  
17 which the well will be drilled on L-40 unit?

18 A. Yes, it does.

19 Q. Does the drilling unit embrace two or more separately  
20 owned tracts?

21 A. Yes, it does.

22 Q. Are the costs and expenses for the well set forth on the  
23 detailed well estimate attached to the force pooling  
24 application as Exhibit H?

25 A. Yes, they are.

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

Q. Does this exhibit reflect the cost of drilling the well to total depth and completed for production costs?

A. Yes, it does.

Q. Could you please explain how you calculated those costs?

A. The costs are actual for drilling, estimated for completion.

Q. Are you requesting that FGP be designated as well operator?

A. Yes, I am.

Q. And are you requesting the relief sought in Paragraph 4 of the application in accordance with the Virginia Gas and Oil Act?

A. Yes, I am.

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

MR. CHAIRMAN: Questions, members of the Board?

MR. MASON: I'm just going to ask one question. On your DWE you list casing, six and a half casing. 1,585 feet for 86 feet.

MR. ARRINGTON: Yes, sir. It's five and a half casing.

MR. MASON: I can't read it. I understood from someone that some of these wells weren't being cased, that they were being open hole produced. Is that correct?

MR. ARRINGTON: Initially that is correct. However, they will all prior to full production in this area before the and

1 of this year they will all -- or the majority of them  
2 will be cased and stimulated. Will this well be cased,  
3 yes.

4 MR. MASON: Thank you.

5 MR. CHAIRMAN: Other questions?

6 (Witness stands aside.)

7 MR. CHAIRMAN: Do you have anything further?

8 MS. McCLANNAHAN: No, sir.

9 MR. McGLOTHLIN: Mr. Chairman, again the waiver signed by  
10 Ralph Brown has nothing to do with L-40?

11 MR. ARRINGTON: Correct.

12 MR. MASON: Mr. Chairman, subject to the work being currently  
13 done with regard to the Board orders I would move the  
14 approval of this application.

15 MR. CHAIRMAN: Motion to approve.

16 MR. McGLOTHLIN: Second.

17 MR. CHAIRMAN: Second. Further discussion? All in favor  
18 signify by saying yes. (ALL AFFIRM.) Opposed say no.  
19 (NONE.) Unanimous approval.

20 MS. McCLANNAHAN: Mr. Chairman, pursuant to your request I  
21 discussed with Mr. Franks the reordering of all these and  
22 he is in agreement with this reorder.

23 MR. CHAIRMAN: If you would share that with us.

24 MS. McCLANNAHAN: We would like to do Docket 360 next, then  
25 Docket 365, then Docket 459, 361, 358, 362 and then 364.

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

MR. CHAIRMAN: All right.

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 XXVII

MR. CHAIRMAN: The next item is a petition for force pooling by Pocahontas Gas Partnership for the H-42 unit. This is Docket number VGOB-93/04/20-0360. We'd ask the parties that wish to address the Board to come forward at this time. That's agenda Item XXVII for the Board.

MS. McCLANNAHAN: Elizabeth McClannahan, Pocahontas Gas Partnership.

MR. CHAIRMAN: Are there any others that wish to address the Board in this matter? The record will show there are none. You may proceed.

MS. McCLANNAHAN: Mr. Arrington is my first witness.

LESLIE ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, please state your full name for the record.

A. Leslie K. Arrington.

MS. McCLANNAHAN: Mr. Arrington's qualifications have been previously stipulated to by the Board and you have

1 indicated that you wish to accept him as an expert  
2 witness in this case. His resume is at Exhibit 1.

3 Q. (Ms. McClannahan continues.) Mr. Arrington, have you  
4 given notice as required by Virginia Section 45.1-362.19  
5 to each person or entity identified on Exhibit C of the  
6 force pooling application?

7 A. Yes, we have.

8 Q. The hearing notice that was sent to each party, is that  
9 listed at Exhibit 2?

10 A. Yes, it is.

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

13 MR. CHAIRMAN: It's accepted.

14 Q. (Ms. McClannahan continues.) How was this notice mailed  
15 to each of the parties?

16 A. By certified mail, return receipt requested.

17 Q. And do you have those returned receipts?

18 A. Yes. They are at Exhibit 3.

19 MS. McCLANNAHAN: I move the introduction of Exhibit 3.

20 MR. CHAIRMAN: It's admitted.

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

23 A. No. However, we still published it the Virginia Moun-  
24 taineer and Bluefield Daily Telegraph on April 1st and  
25 March 26th, 1993.

1 Q. Were the proofs of publications previously submitted to  
2 the Board?  
3 A. Yes, they have been.  
4 Q. What percentage of the coal rights in the tracts that  
5 comprise the N-42 unit does PGP control?  
6 A. 100 percent of all coal below the Tiller seam.  
7 Q. What percentage of the oil and gas rights in the tracts  
8 that comprise the N-42 unit does PGP control?  
9 A. 97.092 percent.  
10 Q. What percentage of the coalbed methane gas rights that  
11 comprise the N-42 unit does PGP control?  
12 A. 100 percent.  
13 Q. Are the unleased owners and the lease hold owners listed  
14 on Exhibit D of the N-42 unit force pooling application  
15 with percentages of ownership in the respective tracts?  
16 A. Yes.  
17 Q. In the information on Exhibits C, D and E correct as of  
18 the date of filing?  
19 A. Yes.  
20 Q. And Exhibit B-1?  
21 A. Yes.  
22 Q. Are the conflicting claimants whose funds are to be  
23 escrowed listed on Exhibit E?  
24 A. Yes.  
25 Q. Are you requesting that the Board pool the interest of

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

the parties listed on Exhibit C7

A. Yes, we are.

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

MR. EVANS: Elizabeth, this is N-42 or M-42?

MS. McCLANNAHAN: N.

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MS. McCLANNAHAN: Mr. Wood is my next witness. Again, his resume needs to be exchanged for Gil Gillenwater's resume at Exhibit 4. The Board has indicated that it stipulated to the qualifications of him and accepts him as an expert witness.

RON WOOD

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. In your experience in obtaining leases in Southwest Virginia, Mr. Wood, what are the fair market value terms for an oil, gas and coalbed methane lease in the area of the unit N-42?

1 A. \$5 per acre per year rental and a one-eighth royalty,  
2 Q. And for coalbed methane?  
3 A. \$1 per acre per year rental and a one-eighth royalty.  
4 Q. And what is the standard primary term? coalbed methane  
5 A. Ten years.  
6 Q. With regard to the unleased owners that are listed on the  
7 L-40 unit force pooling application have you contacted  
8 those land owners or tried to contact them to obtain a  
9 lease?  
10 A. Yes, we have.  
11 Q. By what method did you contact them?  
12 A. Verbal and/or certified mail.  
13 Q. Were you able to come to an agreement as to the proposed  
14 lease?  
15 A. Not at this time.  
16 Q. With regard to the lease hold owner Cabot Oil & Gas  
17 that's listed on the N-420 force pooling application did  
18 you make an offer regarding an assignment of its lease  
19 holding interests?  
20 A. Yes, we did.  
21 Q. Were you able to come to an agreement as to the proposed  
22 assignment?  
23 A. Not at this time.  
24 MS. McCLANAHAN: Those are all the questions I have for Mr.  
25 Wood.

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

MR. CHAIRMAN: Questions, members of the Board?

MR. EVANS: At yesterday's session I know that there appeared to be P.J. Brown heirs here. Did you get a chance to talk to any of them?

MR. WOOD: The P.J. Brown heirs that were here, if they were here I didn't recognize any of them or know any of them to talk to them. I just didn't know that they were here.

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MS. McCLANNAHAN: Mr. Albert. Randall Mark Albert's resume is at Exhibit 5. The Board has indicated that it wished to stipulate to the qualifications of Mr. Albert and accept him as an expert witness.

RANDALL ALBERT

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Has a drilling permit previously been refused to PGP on any of the tracts that comprise the N-42 unit?

A. No, it has not.

Q. Has a well work permit been issued for the N-42 unit?

- 1 A. Yes, it has. Permit for well 509 submitted and approved  
2 as permit number 2113.
- 3 Q. For what type of well was the permit issued?
- 4 A. Coalbed methane gas well.
- 5 Q. Does the plat attached to the force pooling application  
6 filed by PGP indicate the acreage and the shape of the  
7 acreage to be embraced within the N-42 unit?
- 8 A. Yes, it does.
- 9 Q. Could you please identify the exhibit that's marked for  
10 identification as Exhibit 7?
- 11 A. Exhibit 7 is Exhibit D-1 of the N-42 force pooling  
12 application.
- 13 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
14 Exhibit 7.
- 15 MR. CHAIRMAN: It's admitted.
- 16 Q. (Ms. McClannahan continues.) Does the unit follow the  
17 boundary lines of the Hurricane Branch extension 80 acre  
18 unit designated as N-42 on Exhibit B-1?
- 19 A. Yes, it does.
- 20 Q. Does the plat attached to the force pooling application  
21 filed by PGP indicate the area within which the well will  
22 be drilled?
- 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 well set forth on the  
3 detailed well estimate attached as Exhibit H?  
4 A. Yes, they are.  
5 Q. Does this exhibit reflect the cost of drilling the well  
6 to total depth and completed for production costs?  
7 A. Yes, it does.  
8 Q. How did you calculated the costs that are listed in the  
9 DWE?  
10 A. Actual costs for drilling, estimated for completion.  
11 Q. Are you requesting that PGP be designated as the well  
12 operator for this unit?  
13 A. Yes, we are.  
14 Q. And are you also requesting the relief sought in Para-  
15 graph 4 of PGP's application in accordance with the  
16 Virginia Gas and Oil Act?  
17 A. Yes, we are.  
18 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
19 Albert.  
20 MR. CHAIRMAN: Questions, members of the Board?  
21 (Witness stands aside.)  
22 MR. CHAIRMAN: Anything further?  
23 MS. McCLANNAHAN: No, sir. Questions, members of the Board?  
24 MR. McGLOTHLIN: I move that we accept the petition as filed.  
25 MR. EVANS: Second.

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

MR. CHAIRMAN: A motion and second for approval.

MR. MASON: Assuming that's subject to the current being done  
by the Attorney General?

MS. RIGGS: This is my understanding. This is purely an  
Oakwood I because there's no additional wall. Therefore  
it's not subject to that.

MR. MASON: Oh, okay. Thank you.

MR. CHAIRMAN: A motion and a second. All in favor  
signify by saying yes. (ALL AFFIRM.) Opposed say no.  
(NONE.) It's unanimous approval.

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 XXXI

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 for M-40 unit. Docket number VGOB-93/04/20-0365. That is Item XXXI on the Board's agenda. We'd ask the parties that wish to address the Board to come forward at this time.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. CHAIRMAN: The record will show there are no others. You may proceed.

MS. McCLANNAHAN: The first witness I'd like to call is Mr. Leslie K. Arrington. His resume is at Exhibit 1. The Board has indicated that it wishes to stipulate to his qualifications as previously stated and they will accept him as an expert witness.

LESLIE ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, have you given notice as required by

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

Virginia Section 45.1-361.19 to each person or entity identified on Exhibit C of the force pooling application

A. Yes, I have.

Q. And is that hearing notice -- a copy of the hearing notice listed at Exhibit 2?

A. Yes, it is.  
Exhibit 2.

Q. How was this notice mailed to each of the parties on Exhibit C?

A. By certified mail, return receipt requested.

Q. And do you have those returned receipts?

MS. McCLANNAHAN: I move the introduction of Exhibit 2.

MR. CHAIRMAN: It's admitted.

Q. (Ms. McClannahan continues.) Are copies of those returned receipts at Exhibit 3?

A. Yes, they are.

MS. McCLANNAHAN: I move the introduction of Exhibit 3.

MR. CHAIRMAN: It's admitted.

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

A. No. However, we still published it the Virginia Mountaineer and Bluefield Daily Telegraph on April 1st and March 26th, 1993.

Q. Were the proofs of publications previously submitted to the Board?

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

A. Yes, they were.

Q. What percentage of the coal rights in the tracts that comprise the M-40 unit does PGP control?

A. 84.66 percent of the P-3, Pocahontas #3 seam of coal, and 82.425 percent of all coal below the Tiller seam less the Pocahontas #3.

Q. What percentage of the oil and gas rights in the tracts that comprise the M-402 unit does PGP control?

A. 83.663 percent.

Q. What percentage of the coalbed methane gas rights does PGP control in this unit?

A. 93.021 percent.

Q. Are the unleased owners and the lease hold owners listed on Exhibit D of the M-40 force pooling application with percentages of ownership in the respective tracts?

A. Yes, it is.

Q. Is the information on Exhibits D and E still correct as of the date of this hearing?

A. Yes, it is.

Q. And Exhibit C you have revised, is that correct, from the date that you filed the force pooling application?

A. Yes, it is.

Q. Could you please explain the changes that were made to Exhibit C?

A. There were some percentage changes made on that.

1 Q. Are those percentage changes reflected on the application  
2 page and Exhibit C at Exhibit 4?  
3 A. Yes, it is.  
4 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
5 Exhibit 4.  
6 MR. CHAIRMAN: It's admitted.  
7 Q. (Ms. McClannahan continues.) Are the conflicting  
8 claimants whose funds are to be escrowed listed on  
9 Exhibit E of the M-40 unit force pooling application?  
10 A. Yes, it is.  
11 Q. Are you requesting that the Board pool the interest of  
12 the parties listed on Exhibit C?  
13 A. Yes, we are.  
14 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
15 Arrington.  
16 MR. CHAIRMAN: Questions, members of the Board? The Exhibit  
17 -- just for clarification, Exhibit C that is under  
18 Exhibit 4 in the notebook you handed out is an amended  
19 Exhibit C from the application?  
20 MS. McCLANNAHAN: That's correct.  
21 MR. MCGLOTHLIN: Just those pages?  
22 MR. CHAIRMAN: Right.  
23 MS. McCLANNAHAN: The next witness I'd like to call is Mr. Ron  
24 Wood. Mr. Wood's resume should be substituted for Mr.  
25 Gillenwater's resume at Exhibit 5. In addition, the

1 Board has indicated that it wishes to stipulate to the  
2 qualifications of Mr. Wood and accepts him as an expert  
3 witness for purposes of today's hearing.  
4

5 RON 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. Mr. Wood, in your experience in obtaining leases in  
13 Southwest Virginia are you familiar the fair market value  
14 for an oil, gas and coalbed methane gas leases?

15 A. Yes.

16 Q. What are the fair market value terms for an oil, gas and  
17 coalbed methane lease?

18 A. \$5 per acre per year rental with a one-eighth royalty.

19 Q. And for coalbed methane?

20 A. \$1 per acre per year and a one-eighth royalty.

21 Q. What would be the standard primary term for these leases?

22 A. Ten years.

23 Q. With regard to the unleased owners that are listed on the  
24 M-40 unit force pooling application have you contacted  
25 these land owners or tried to contact them to obtain a

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

lease?

A. Yes.

Q. By what method did you contact them?

A. Verbal and/or certified mail.

Q. Were you able to come to an agreement as to the leasing of their property?

A. Not at this time.

Q. With regard to the lease hold owners Island Creek Coal Company, Cabot Oil & Gas and Buchanan Production Company that are listed on the M-40 force pooling application did you make an offer regarding an assignment of their lease holding interests?

A. Yes.

Q. By what method did you contact these companies?

A. Verbal.

Q. Were you able to come to an agreement as to the assignment of their interests?

A. Not at this time.

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

MR. CHAIRMAN: Questions, members of the Board?

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

MS. McCLANNAHAN: The next witness I'd like to call is Mr. Albert. His resume is Exhibit G. The Board has indicat-

1 ed that it stipulates to the qualifications of Mr.  
2 Albert and accepts him as an expert witness.

3  
4 RANDALL ALBERT

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

7  
8 DIRECT EXAMINATION

9  
10 BY MS. McCLANNAHAN:

11 Q. Has a drilling permit previously been refused to PGP on  
12 any of the tracts that comprise this unit, Mr. Albert?

13 A. No, it has not.

14 Q. Has a well work permit been issued for a well within the  
15 M-40 unit?

16 A. Yes, it has. Permit for well 617 was issued and the  
17 permit number is 2196.

18 Q. For what type of well was the permit issued?

19 A. Coalbed methane.

20 Q. Does the plat attached to the force pooling application  
21 filed by PGP indicate the acreage and the shape of the  
22 acreage to be embraced within the M-40 unit?

23 A. Yes, it does.

24 Q. Could you please identify the exhibit marked for identifi-  
25 cation as Exhibit 7?

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

A. Exhibit 7 is Exhibit B-1 of the M-40 force pooling application.

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

MR. CHAIRMAN: It's admitted.

Q. (Ms. McClannahan continues.) Does the unit follow the boundary lines of the Hurricane Branch extension 80 acre unit designated as M-40 as shown on Exhibit B-1?

A. Yes, it does.

Q. Does the plat attached to the force pooling application indicate the area within which the well will be drilled on the M-40 unit?

A. Yes, it does.

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

A. Yes, it does.

Q. Are the costs and expenses for the well set forth on the detailed well estimate attached to the force pooling application as Exhibit H?

A. Yes, they are.

Q. Does this exhibit reflect the cost of drilling the well to total depth and completed for production costs?

A. Yes, it does.

Q. Generally how did you calculated the costs that are listed on this DWE?

1 A. Costs are actual for drilling, estimated for completion.  
2 Q. Are you requesting that PGP be designated as the operator  
3 for this particular unit?  
4 A. Yes, I am.  
5 Q. And also the relief sought in Paragraph 4 of PGP's  
6 application in accordance with the Virginia Gas and Oil  
7 Act?  
8 A. Yes, I am.  
9 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
10 Albert.  
11 MR. CHAIRMAN: Questions, members of the Board?  
12 MR. MCGLOTHLIN: I have a couple of questions. First of all,  
13 the location of the well, how far is that from the  
14 boundary line or how close is it?  
15 MS. McCLANNAHAN: Mr. Albert will need to get a scale to be  
16 able to tell you that.  
17 MR. ALBERT: The well is approximately 182 feet from the edge  
18 of the boundary.  
19 MR. MCGLOTHLIN: Wouldn't that not be in the 300 foot drilling  
20 window?  
21 MS. McCLANNAHAN: Let me answer that question. From a legal  
22 standpoint it was permitted previous to the units being  
23 imposed here under statewide spacing rules. So at the  
24 time that well was permitted it was permitted under the  
25 rules of statewide spacing.

1 MR. CHAIRMAN: When was the well permitted?

2 MS. McCLANNAHAN: We have the permit number, but we don't have  
3 the exact date on that.

4 MR. ALBERT: It was in the third or fourth quarter of 1992 is  
5 as close as I by memory tie it down.

6 MR. CHAIRMAN: That was after Oakwood I.

7 MS. McCLANNAHAN: These are in the Hurricane Branch. And  
8 Hurricane Branch was February 16th of 1993.

9 MR. CHAIRMAN: Thank you.

10 MR. MCGLOTHLIN: Now, on your DWE it seems a little bit  
11 excessive on the costs. Could you explain it, please?

12 MR. ALBERT: As soon as I find it. (Pause.) Exactly what  
13 area do you have a question in?

14 MR. MCGLOTHLIN: Rule of thumb has always been \$100 a foot  
15 plus 20 percent for me and I usually come up with a ball  
16 park figure and this one seems to be a little bit higher  
17 than what my normal rule of thumb would be.

18 MR. ALBERT: One thing that cost us a little bit extra on this  
19 one was the site, a very steep hillside. We probably ran  
20 about six or seven thousand dollars more on our site  
21 location here than normal. I have planned, it's not  
22 actually done, but the plan is slightly more expensive  
23 stimulation job than some of the wells we've done in the  
24 past.

25 MR. MCGLOTHLIN: Could I ask why you put your location and

1 title in the same category?

2 MR. ALBERT: Well, about the only answer I can give you is  
3 it's kind of the way we have it set up on the computer.  
4 I know that's not a very good answer.

5 MR. McGLOTHLIN: I don't know how the rest of the Board feels  
6 but is there any way that you could separate those two  
7 and give us a title cost and then give us the location  
8 cost?

9 MR. ALBERT: We can show you any type of detail you want. I  
10 would question the necessity of that. We kind of view  
11 location and title as those type of costs incurred --  
12 anything prior to actual start-up of drilling operations

13 MR. McGLOTHLIN: I understand. It's just kind of hard to --  
14 well, the material I can understand. \$23,666.53, I'm  
15 just kind of wondering is that how much the attorney  
16 charged you to do the title work or is that -- I know  
17 it's a combination of both your location and building  
18 your location and the title. It would just make it a  
19 little bit plainer to me.

20 MR. ALBERT: If it pleases the Board, we can break that out in  
21 the future.

22 MR. MASON: I think it would be helpful, too, to note what the  
23 location costs are separate.

24 MR. McGLOTHLIN: You could have a \$10,000 title and that's not  
25 to say that it's unusual, but we don't know how much

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

you're spending to get the exact location done and what  
you're title work is costing.

MR. ALBERT: Certainly.

MR. CHAIRMAN: Other questions? Do you have anything further?

MS. McCLANNAHAN: No, sir, except for the fact I didn't do  
the title.

MR. CHAIRMAN: Under Exhibit 4 in the notebook that you handed  
out there's a Page 2 of your application contained in  
there along with the amended pages of Exhibit C. Was  
there anything changed on that Page 2?

MS. McCLANNAHAN: Yes.

MR. CHAIRMAN: What was changed, the percentages?

MS. McCLANNAHAN: Right, the percentages.

MR. CHAIRMAN: Anything other than percentages?

MS. McCLANNAHAN: Only the percentages in Paragraph 1.4.

MR. CHAIRMAN: Thank you. Anything further?

(Witness stands aside.)

MR. MASON: I move we approve the application.

MR. CHAIRMAN: A motion to approve.

MR. McGLOTHLIN: Second.

MR. CHAIRMAN: Motion and a second. Further discussion?

If not, all in favor signify by saying yes. (ALL  
AFFIRM.) Opposed say no. (NONE.) Unanimous approval.

ITEM XXVI

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Pocahontas Gas Partnership for the N-41  
5 unit, Docket number VGOS-93/04/20-0359. That is agenda  
6 XXVI for the Board's information. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward and identify yourselves at this time.

9 MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas  
10 Partnership.

11 MR. FRANKS: J.C. Franks. I am agent for the Franks estate,  
12 the Metcalf estate and Carl Metcalf property. The N-41  
13 would involve of those only the Metcalf estate. I have  
14 done a work-up that I would like to bring to the atten-  
15 tion of the Board concerning all this property. I did a  
16 blanket because my objections can only be expressed in  
17 overall rather than one pooling at a time because one  
18 pool won't give you the complete story.

19 MR. CHAIRMAN: When you say in the overall, would you tell us  
20 which other units --

21 MR. FRANKS: I have a map identified. It would be the third  
22 sheet down from their proposal. I've outlined the area  
23 that is the Franks estate and the Metcalf estate is this  
24 tract 7-A, Carl Metcalf down here. So we're seeing is an  
25 overall picture involving all of those before I made a

1 comment. In many cases one pool will be well out of  
2 balance but the next could bring it back into balance  
3 overall. I wanted to get an overall picture.

4 MR. CHAIRMAN: So you plan to address the Board then on three  
5 different agenda items today?

6 MR. FRANKS: There are four. Tract N-40, N-41, O-40 and O-41  
7 are all in this same group.

8 MR. CHAIRMAN: Okay.

9 MR. MCGLOTHLIN: Are those the next four agenda items?

10 MR. CHAIRMAN: Not in that order, no.

11 MR. FRANKS: See, N-40 involves this portion of the tract, N-  
12 41 only a slight portion over here, the O-40 a larger  
13 portion in here and O-41 here. Of course, I'm involved  
14 in that piece of property there.

15 MR. CHAIRMAN: Okay. Thank you. You may take a seat over  
16 there where you can address the Board. You may proceed.

17 MR. FRANKS: What I have done as I have received information  
18 from Mr. Arrington I have tried to get an overall  
19 picture. And just recently I got the balance of the  
20 tracts that I'm involved with except for one which I  
21 stated in here that I have omitted. So I --

22 MR. CHAIRMAN: Excuse me one second. Really what we need to  
23 do is let them put on the case and then give you an  
24 opportunity to raise questions and then give you an  
25 opportunity to address the Board, if that's okay.

1 MR. FRANKS: That's fine.

2 MR. CHAIRMAN: But you can stay right there.

3 MS. McCLANNAHAN: The first witness I'd like to call is Leslie  
4 K. Arrington. His resume is at Exhibit 1. The Board has  
5 indicated that they will stipulate to his qualifications  
6 and accept him as an expert witness.

7 MR. CHAIRMAN: I just realized that they brought the food in.  
8 We're going to take ten minutes and then we'll pick back  
9 up right here.

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

11  
12 LESLIE ARRINGTON

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

15  
16 DIRECT EXAMINATION

17  
18 BY MS. McCLANNAHAN:

19 Q. Mr. Arrington, have you given notice as required by  
20 Virginia Section 45.1-361.19 to each person or entity  
21 identified on Exhibit C of the force pooling application?

22 A. Yes, we have.

23 Q. And is that hearing notice identified as Exhibit 2?

24 A. Yes, it is.

25 MS. McCLANNAHAN: I move the introduction of Exhibit 2.

1 MR. CHAIRMAN: It's admitted.

2 Q. (Ms. McClannahan continues.) Was this notice of hearing  
3 mailed by certified mail, return receipt requested, to  
4 all those parties listed on Exhibit C?

5 A. Yes, it was.

6 Q. Are those certified mail receipts shown at Exhibit 3?

7 A. Yes.

8 MS. McCLANNAHAN: I move the introduction of Exhibit 3.

9 MR. CHAIRMAN: It's admitted.

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

12 A. No. However, we published it the Virginia Mountaineer  
13 and Bluefield Daily Telegraph on April 1st and March  
14 26th, 1993.

15 Q. Were those proofs of publications previously submitted  
16 to the Board?

17 A. Yes, they have been.

18 Q. What percentage of the coal rights in the tracts that  
19 comprise the N-41 unit does PGP control?

20 A. 100 percent of all coal below the Tiller seam.

21 Q. What percentage of the oil and gas rights in the tracts  
22 that comprise --

23 A. 97.170 percent.

24 Q. What percentage of the coalbed methane gas rights?

25 A. 100.

1 Q. Are the unleased owners and the lease hold owners listed  
2 on Exhibit D of the N-41 unit force pooling application  
3 with percentages of ownership in the respective tracts?  
4 A. Yes, they are.  
5 Q. Is the information on Exhibits C, D and E still correct?  
6 A. No, it isn't.  
7 Q. What appropriate changes have you made to those exhibits?  
8 A. We have revised the exhibits to reflect a conflicting  
9 claim on one of the tracts listed to reflect additional  
10 owners.  
11 Q. Are the conflicting claimants -- is that Exhibit C shown  
12 at Exhibit 4?  
13 A. Yes, it is.  
14 MS. McCLANNAHAN: I move the introduction of Exhibit 4.  
15 MR. CHAIRMAN: It's admitted.  
16 Q. (Ms. McClannahan continues.) Are the conflicting  
17 claimants whose funds are to be escrowed listed on the  
18 revised Exhibit E submitted as a part of Exhibit 4?  
19 A. Yes.  
20 Q. Are you requesting that the Board pool the interest of  
21 the parties listed on Exhibit C?  
22 A. Yes, we are.  
23 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
24 Arrington.  
25 MR. CHAIRMAN: Did any of the percentages change under

1 Paragraph 1.4 in the application?

2 MS. McCLANNAHAN: No.

3 MR. CHAIRMAN: Any other questions, members of the Board? Do  
4 you have any questions, Mr. Franks, of this witness?

5 MR. FRANKS: No.

6 (Witness stands aside.)

7 MR. CHAIRMAN: Call your next witness.

8 MS. McCLANNAHAN: My next witness is Mr. Ron Wood. Again, his  
9 resume should be substituted for Mr. Gillenwater's resume  
10 at Exhibit 5. The Board has indicated that it stipulated  
11 as to the qualifications of Mr. Wood and accepts him as  
12 an expert witness.

13  
14 RON WOOD

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

17  
18 DIRECT EXAMINATION

19  
20 BY MS. McCLANNAHAN:

21 Q. Mr. Wood, what are the fair market value terms for an  
22 oil, gas and coalbed methane gas leases in the area of  
23 the unit N-41??

24 A. \$10 per acre per year rental with a one-eighth royalty.

25 Q. And for coalbed methane gas lease?

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

A. \$1 per acre per year and a one-eighth royalty.

Q. What is the standard primary term for such a lease in this unit area?

A. Ten years.

Q. With regard to the unleased owners that are in N-41 force pooling application have you contacted the land owners or tried to contact them to obtain a lease?

A. Yes, we have.

Q. By what method did you contact them and offer the lease?

A. Verbal and/or certified mail.

Q. Were they willing to enter into a lease agreement with your company?

A. Not at this time.

Q. With regard to the lease hold owner Cabot Oil & Gas that's listed on the N-41 unit force pooling application did you contact them regarding an assignment of its lease hold interest?

A. Yes, we did.

Q. By what method did you contact Cabot?

A. Verbal.

Q. And were they willing to come to an agreement as to the proposed assignment?

A. Not at this time.

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

1 MR. CHAIRMAN: Questions, members of the Board? Do you have  
2 any questions, Mr. Franks, for Mr. Wood?

3 MR. FRANKS: I was trying to read this conflicting claims. I  
4 has been changed. I'm trying to add it up. I think a  
5 made a comment over here. We don't agree and I under-  
6 stand the Board don't have any authority in legal  
7 matters concerning deeds. But we do have objections to  
8 the conflicting claims portion of the 7-A property due to  
9 the fact that we believe the claim is an erroneous claim  
10 based on the deeds from 1915 which supposedly passed gas  
11 rights on and the deed of 1915 is stated as, "This deed  
12 is for surface only." I have a copy of that deed and I  
13 have a portion of the petition deed which the commission-  
14 ers of Buchanan County distributed the property of G.W.  
15 Cole in 1932 which lists the 7-A tract as coal and  
16 minerals. And in the deed that is suppose to have  
17 brought up the conflict of 1915 it was a sale of the  
18 surface only. I can give you a copy of those just for  
19 references.

20 MR. MASON: Are these listed as conflicting claims?

21 MS. McCLANNAHAN: Yes, sir.

22 MR. MASON: You understand that all we can do is make sure  
23 they're listed as conflicting claims and none of the  
24 money would be spent until such time as that's resolved?

25 MR. FRANKS: We believe this is a previllous claim and we want

1 to pursue it to prevent the hold up of the payment if  
2 they become due before we can get it resolved. But I  
3 just wanted to point out that --

4 MR. MASON: Do you all deny --

5 MS. McCLANNAHAN: My client, Pocahontas Gas Partnership, has  
6 received a titled opinion from a title examiner who has  
7 indicated to them that these should be listed in the  
8 conflicting claimants ownership section because the  
9 lawyer feels like there's an interpretation question.  
10 Did I state that correctly, Mr. Arrington?

11 MR. ARRINGTON: Yes, you did.

12 MR. CHAIRMAN: Anything further?

13 MR. FRANKS: No. I understand why he's doing it. I just  
14 think it's based on a previllous claim.

15 MR. CHAIRMAN: I understand.

16 MR. CHAIRMAN: You may call your next witness.

17 MS. McCLANNAHAN: One other quick question just to clear this  
18 up on M-41 for Mr. Arrington.

19 Q. (Ms. McClannahan continues.) Mr. Franks has submitted a  
20 memo to the Virginia Gas and Oil Board in this hearing  
21 dated 4/19/93 and he indicated in Paragraph 3 of that  
22 memo on Page 2 that the tracts identifications were  
23 incorrect on the original application. Have you correct-  
24 ed those and submitted them to the Board correctly at  
25 this point?

1 A. Yes, we have. Exhibit 7, that is a corrected B-1 plat  
2 showing the conflicting tracts.

3 (Witness stands aside.)

4 MS. McCLANAHAN: The next witness I'd like to call is Mr.  
5 Randall Albert. Mr. Albert's resume is at Exhibit 6.  
6 The Board has indicated that it stipulates to his  
7 qualifications and accepts him as an expert witness.

8  
9 RANDALL ALBERT

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

12  
13 DIRECT EXAMINATION

14  
15 BY MS. McCLANAHAN:

16 Q. Mr. Albert, has a drilling permit previously been refused  
17 to PGP on any of the tracts that comprise this particular  
18 unit?

19 A. No, they have not.

20 Q. Has a well work permit been issued for a well contained  
21 within the N-41?

22 A. Yes. The permit for well 610 was issued as permit  
23 number 2121.

24 Q. For what type of well was the permit issued?

25 A. Coalbed methane.

1 Q. Does the plat attached to the force pooling application  
2 filed by PGP indicate the acreage and the shape of the  
3 acreage to be embraced within the N-41 unit as approved  
4 by the Board at its February 16th, 1993 hearing?

5 A. Yes, it does.

6 Q. The exhibit marked for identification as Exhibit 7, as  
7 Mr. Arrington has indicated, is a revised Exhibit B-1  
8 based on the conflicting claims, is that correct?

9 A. That's correct.

10 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
11 Exhibit 7.

12 MR. CHAIRMAN: It's admitted.

13 Q. (Ms. McClannahan continues.) Does the unit as it's shown  
14 on Exhibit B-1 follow the boundary lines of the Hurricane  
15 Branch extension 80 acre unit designated as N-41 as shown  
16 on Exhibit B-1 of the application?

17 A. Yes, it does.

18 Q. Does the plat attached to the force pooling application  
19 filed by PGP indicate the area within which the well will  
20 be drilled on the N-41 unit?

21 A. Yes, it does.

22 Q. Are you requesting that PGP be designated as well  
23 operator authorized to operate this unit?

24 A. Yes, we are.

25 Q. Does the drilling unit embrace two or more separately

1 owned tracts?

2 A. Yes, it does.

3 Q. Are the costs and expenses of this well set forth on the  
4 DWE attached to the force pooling application as  
5 Exhibit H?

6 A. Yes, it is.

7 Q. Does this exhibit reflect the cost of drilling the well  
8 to total depth and completed for production costs?

9 A. Yes, it does.

10 Q. Generally how did you calculate the costs?

11 A. Costs are actual for drilling, estimated for completion.

12 Q. Are you requesting the relief sought in Paragraph 4 of  
13 PGP's application?

14 A. Yes, I am.

15 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
16 Albert.

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

18 MR. EVANS: One real quick question. Elizabeth, I don't know  
19 who you want to answer this, but in the Oakwood extension  
20 would you please have someone who knows tell me how many  
21 units have been proposed for -- either have a well in  
22 them or are being force pooled just by grid coordinate  
23 N-41, O-41? Do you have that?

24 MS. McCLANNAHAN: Do you mean in the Hurricane Branch Exten-  
25 sion or the entire Oakwood extension? Just the Hurricane

1                   Branch Extension?

2           MR. EVANS: Right. From L-40 to T-45.

3           MS. McCLANNAHAN: There are seventeen units with wells already  
4           drilled.

5           MR. EVANS: Would you mind terribly reading them off?

6           MS. McCLANNAHAN: Let's make sure we're answering the question  
7           right. These are the units that have a well previously  
8           drilled in the Hurricane Branch Extension area, is that  
9           correct?

10          MR. EVANS: That you're request a force pooling and plan to  
11          drill in the near future.

12          MR. ARRINGTON: Force pooled or drilled?

13          MR. EVANS: Drilled. Let's go with what's there.

14          MR. ARRINGTON: I'll start at the top of the Hurricane Branch  
15          units. It will be L-40, L-41, M-40, M-42, N-40, N-41,  
16          N-42, O-40, O-41, O-42, P-40, P-41, P-42, Q-40, Q-41, Q-  
17          42, R-40, R-41, R-42, S-40, S-41, S-42.

18          MR. CHAIRMAN: Other questions?

19          MS. McCLANNAHAN: Mr. Franks says that's twenty-two units.

20          MR. ARRINGTON: That's right. It is. I understood him  
21          initially to say force pool units.

22          MS. McCLANNAHAN: So the answer is seventeen for force pooling  
23          and twenty-two for wells drilled.

24          MR. CHAIRMAN: Any other questions, members of the Board? Did  
25          you have any questions of this witness?

1 MR. FRANKS: No, I have none.

2 (Witness stands aside.)

3 MR. CHAIRMAN: Do you have anything further, Elizabeth?

4 MS. McCLANAHAN: No. I don't have any further questions nor  
5 witnesses on this particular force pooling application.

6 MR. CHAIRMAN: Mr. Franks, you may now address the Board.

7 MR. FRANKS: I'm J.C. Franks and I'm agent for the owners of  
8 certain mineral rights and gas rights in this pool and  
9 also other pools. I'd like to represent my interest at  
10 this meeting. I am retired from Brunswick Corporation.  
11 I spend thirty years there and retired as a project  
12 engineering group leader and senior project engineer. I  
13 had considerable experience in this -- well, in tooling  
14 and calculation type fields previous. My basic expertise  
15 at Brunswick was in tooling, but aircraft tooling and  
16 that sort of thing including optics, transit readouts and  
17 things like that. I have prepared an overall view of the  
18 area in which I'm interested. Would you like for me to  
19 read this letter or just -- I think you can read it.

20 MR. CHAIRMAN: I don't think it's necessary to read it to us.

21 You've utilized a map. Will you be referencing this?

22 MR. FRANKS: Yes.

23 MR. CHAIRMAN: I would ask PGP if they would stipulate as to  
24 the accuracy of the map. Do you have any problem with  
25 that?

1 MR. ARRINGTON: Mr. Franks and myself have worked to develop.  
2 As you can see, there's a few double lines on here.  
3 That's my map overlaying on his. So it should be pretty  
4 accurate.  
5 MR. CHAIRMAN: For demonstration purposes is what we're asking  
6 for you to stipulate that this is an accurate map.  
7 MR. ARRINGTON: For demonstration purposes, yes. We'll  
8 stipulate that.  
9 MR. FRANKS: For the Board's use in seeing what was done, this  
10 is the map provided to me by Mr. Arrington with the  
11 coordinates as I mentioned on my letters for the PGP  
12 coordinates and our tract lines. He developed that from  
13 a copy of this one which I have. And in overlaying this  
14 of course, paper moves, paper shrinks and paper expands.  
15 I overlaid it and the purple line is a correction to this  
16 map so that I would be utilizing a common line for my  
17 measurements. You can see it would be very slight.  
18 MS. McCLANNAHAN: We probably should distinguish between the  
19 map versus the attachments on the submission just to make  
20 sure we're stipulating to the accuracy of the map.  
21 (Pause.) Should these be exhibits in the record also?  
22 MR. CHAIRMAN: I'm going to see what he's going to do with  
23 them. If you're just going to use that to show how you  
24 came up with this and they've stipulated to this then I  
25 don't think there's any reason to introduce them.

1 MR. FRANKS: I want to illustrate to you the differences we're  
2 talking about the two and he's using the one map, that  
3 there's very slight difference. I think it's simply a  
4 matter of expansion and shrinking the paper, a couple of  
5 things like that. But I have extended his map in a  
6 couple of areas to cover what I want. Also I laid out a  
7 circle from the drill sites and I used the 2,000 foot  
8 diameter as in his previous submission to maps to me and  
9 I found out that the 2,000 foot was for notification  
10 purposes and not necessarily wells. I also chose a 2,100  
11 foot diameter to represent 80 acres -- 80 acres per pool  
12 -- and this doesn't mean the well is going to drain that.  
13 This is simply an arbitrary I used to demonstrate the  
14 potential drained areas. I put the same weight on each  
15 and all wells. Where there's an overlap there's no  
16 factor thrown in. It was just straight numbers and  
17 figures that I get. The attachment B which would be the  
18 last five sheets of the calculated numbers that I have --  
19 sheet one of five of attachment B is the concern on this  
20 tract 7-A because that is the Metcalf estate interest.  
21 And this is the individual wells that by that 80 acre  
22 pool protrude into these tracts. As shown here, the  
23 potential loss is a 30.3 percent of one well -- of the  
24 equivalency of one well.

25 MS. McCLANNAHAN: Maybe it would help if -- I understand what

1 point he's making. So just let me make sure -- I think  
2 can say this and you correct me if I say this wrong. I  
3 think his point with this is that if you assumed a  
4 statewide spacing and a circle radius of 1,000 feet  
5 around this well you assume that that's the proper  
6 drainage as opposed to the 80 acre unit from using the  
7 well bore as your center than his figures are calcula-  
8 tions based on what the individuals in that unit should  
9 get on a 1,000 center versus what they're getting on the  
10 80 acre square within which the well is drilled.

11 MR. FRANKS: That is correct. And there are some of these  
12 pools that the enclosed area of the involved tract would  
13 be given a greater amount than my calculations would show  
14 the well potential to be, as in N-40, PGP's calculation  
15 was 21.728 acres in tract 7-A. My calculations were  
16 slightly under that, but if I include the wells going to  
17 the 80 acre circle I end up with a total of eighteen. So  
18 I'm under what they would be paying for. But when you  
19 get into the overall the N-40, N-41, O-40 and )-41  
20 combination it turns out to be a loss in the 80 acre  
21 squares. In other words, as far as our gain or loss we  
22 would gain eight and a half percent of one well equival-  
23 ency. In pool N-40 we would be very close -- we would  
24 lose less than two percent in N-41 but we would lose 26  
25 and a half percent in O-40 and we would gain a little

1                   over six in 0-41.

2           MR. MASON: I'm having some difficulty with following this.

3           MR. FRANKS: I beg your pardon. I was reading the wrong list.

4           MR. MASON: I'm just trying to get the concept down. Essen-  
5                   tially what you're saying basically is it not a comparison  
6                   of the effect of going from statewide minimum spacing on  
7                   a circle basis to an 80 acre square spacing?

8           MR. CHAIRMAN: He's challenging the extension. The 80 acre  
9                   spacing.

10          MR. FRANKS: Essentially that's it and I have no qualms about  
11                   going to the squares. I think this is an effort to make  
12                   it more equitable and cover people that can't be covered  
13                   under a circle. But one would hope that where you have  
14                   several pools involved that where you lose on one and  
15                   gain on another the overall would be very close to a  
16                   balance. That's what I'm seeking and that's all. But on  
17                   all of the property that I'm involved with there's a  
18                   potential loss of 78 percent of the equivalency of one  
19                   well. For my family's property alone we're fairly close  
20                   but on the Metcalf estate we're 30 percent under.  
21                   That's in attachment B. Attachment B sheets two and  
22                   three is basically my family's estate and we are within  
23                   a little over eleven percent.

24          MR. MASON: But isn't it true that -- I mean, the theory of  
25                   this, statewide spacing, that that is an overall drainage

1 pattern that we have through testimony in this particular  
2 case determined to be not accurate or rather that the 80  
3 acres, in fact, represents the true drainage prediction  
4 in a general way in this area.

5 MR. FRANKS: Are you saying the State has determined that 80  
6 acres is the approximate drainage of a well?

7 MR. MASON: No. We're saying that this Board has by virtue of  
8 the expert testimony that's been presented -- jump right  
9 in here if I get off track. It appears to me that we had  
10 in at least two occasions, I believe, received testimony  
11 to the effect that the actual drainage pattern of the  
12 coalbed methane in this area is approximately an 80 acre  
13 effect and that information is considered to be relative-  
14 ly accurate primarily based upon the fact that they were  
15 able to study some of the hydro-fracturing patterns by  
16 going into a mine. In fact, I think someone actually  
17 used dye, did they not, and fracked out a seam and then  
18 went into and they could actually view the fracture. Did  
19 I dream that?

20 MR. CHAIRMAN: No, you didn't dream it.

21 MR. MASON: So there's some pretty hard data for the fact that  
22 the drainage pattern of the wells is really 80 acres,  
23 not the larger acreage that would be done under statewide  
24 spacing.

25 MR. FRANKS: Well, I'm glad to hear you say that because my

1                   2,106.4 feet diameter is the 80 acres that I used for  
2                   each well. However, with overlaps anyone can understand  
3                   it's going to vary.

4                   MR. MASON: Right. I understand. So the second point as I  
5                   understand you're making is the effect of not centering  
6                   these wells in each 80 acre tract produces an overlap --

7                   MR. FRANKS: Yes.

8                   MR. MASON: -- that has effected diminishing particularly  
9                   where there are trends in which those wells tended to be  
10                  not like in the corner of one unit, another unit, another  
11                  unit as opposed to having them back and forth in some  
12                  average way. Is that --

13                  MR. FRANKS: That's a part of the overall problem, yes. In my  
14                  little reduced size map I have colored in pink or red two  
15                  pools -- the pooling requirements, 80 acre pools -- P-39  
16                  and Q-39 in which I show this 80 acre circle protruding  
17                  into those pools a substantial percentage of their total  
18                  area but they receive absolutely nothing.

19                  MR. MASON: Looking at your map, this one and this one, where  
20                  are the actual wells? In the center?

21                  MR. FRANKS: At the center of that circle the P-39 is being  
22                  drained by well 400 in P-40. The Q-39 is being drained  
23                  by both well 400 and P-40 and 422 in R-39. So the  
24                  potential 80 acre drainage pattern would be those pink  
25                  patterns. And there are no payments to be made for P-39

1 and Q-39 because there are no wells involved. Now, the  
2 yellow version is the overlapping areas that are not paid  
3 in that pool because the well is in a separate pool. But  
4 this is overlapping areas in a lot of cases. The reason  
5 I colored those pink and the others yellow, those pink  
6 are in pools which will receive no benefits. And the  
7 others, they may or may not receive a benefit but this is  
8 overlapping into other pools from paying pools.

9 MR. MCGLOTHLIN: Let me ask Mr. Albert. Does PGP plan to  
10 drill P-39 and Q-39 any time or anytime in the near  
11 future?

12 MR. ALBERT: We have no drilling plans in that area for at  
13 least the next couple of years.

14 MR. MCGLOTHLIN: Mr. Franks, the squares, they're perfect if  
15 every one is drilled?

16 MR. FRANKS: That's correct. Well, not necessarily perfect  
17 but you would get a better balance. You'd get a much  
18 better balance.

19 MR. MCGLOTHLIN: That's as close as we're going to get to  
20 perfect.

21 MR. MASON: Well, the theory is an averaging effect.

22 MR. FRANKS: The reason I broke this up into attachment A and  
23 attachment B, attachment A I want through strictly by  
24 pool and I do have some separations due to the split in  
25 interest that I represent. But I looked at that and that

1 didn't tell me the whole story so I went into attachment  
2 B segregating the interest I represent by well indicating  
3 which pool the interest came from. You'll note in the  
4 first two columns the PGP numbers and my numbers, there  
5 will be only one or two lines filled out. That's the  
6 paying pool. The other pools -- the pools with no values  
7 in them for PGP or myself are the areas that are outside  
8 the paying pool. All four of these pools are involved in  
9 each one of these, but you'll notice at well 608 while  
10 PGP puts a value of 27.15 percent I put only 25.3, but  
11 the overlapping well involvement would be 63.6 percent.

12 MR. MASON: I was just going to ask Mr. Albert, is there any  
13 geological reason why these other units aren't going to  
14 be drilled? Is there a diminishment of pay or something  
15 in there?

16 MR. ALBERT: No, sir. There's no geological --

17 MR. FRANKS: It's the mining patterns as I understand it.

18 MR. ALBERT: It has to do with the mine plan on it and where  
19 the wells upon the mine plans. I think the thing that  
20 got us in particular on some of these units where we  
21 could have tried to get them into the P-39 or the Q-39  
22 was upper seam mining constraints. It just didn't allow  
23 us to get in those areas.

24 MR. FRANKS: Considering upper seam mining at present, in the  
25 P-39 the lower half of that is presently open for

1 drilling. In Q-39 the upper half is on a more or less  
2 diagonal corner to corner. The very lower west corner  
3 would not be. That has not been mined. But the mining  
4 plans, of course, have dictated a lot of this and I can  
5 certainly understand that.

6 MR. CHAIRMAN: When you set aside the pink area -- I'm just  
7 asking you here. I know it may not have anything to do  
8 with this particular unit, but when you set aside the  
9 pink area did your equitable ratio -- did you do any of  
10 that to set aside the pink and then balance it having set  
11 aside the pink area but where there were wells? Did that  
12 balance out?

13 MR. FRANKS: Well, that's what my figures try to do because I  
14 have involved -- in fact, in my attachment A I have  
15 listed the P-39 but I listed as it as no well in the  
16 pool. So that has a value of its own. Attachment A,  
17 sheet two of five. In P-39 you'll notice I have tract  
18 one which is a separate party and then I have tracts two  
19 three and eight. But two, three and eight have a  
20 potential 20 -- almost 25 percent of one well's value.

21 MR. CHAIRMAN: Do you have a specific request for this Board?

22 MR. FRANKS: I would request that the Board consider the  
23 possibility of grouping larger areas to try to balance  
24 this out. Now, I have no idea what your rules would  
25 permit but I do think where there's an imbalance there

1           should be -- if the larger block area could be balanced  
2           and equalized a little more.

3   MR. CHAIRMAN: Other questions?

4   MR. FRANKS: I don't believe Pocahontas Gas has the authority  
5           or any means of handling this beyond looking at the  
6           mining requirements, the terrain requirements, and  
7           everything else. It's difficult. From N through R-40  
8           over to -- we're involved over to the 36 column. If a  
9           larger area in there was put in the blanket. I  
10          understand there may be future drilling in some of these  
11          areas after they've done some of the initial mining. I  
12          don't know. But my concern is if they drain for several  
13          years before drilling is done in those pools then there  
14          may be very little left to drill for.

15   MR. CHAIRMAN: Well, I know Mr. Franks clearly understands  
16          that we already have field rules overlaying this area.  
17          And he is certainly bringing clearly an inequity that  
18          occurs where you have drainage in an area where another  
19          well is not going to go.

20   MR. FRANKS: I have highlighted on my charts the ones that are  
21          of any particular significance out of balance. And you  
22          will notice starting on Attachment A, Sheet 1, the N-40  
23          pool -- that negative number at end, the negative 8.45  
24          percent would actually be a gain to the parties I  
25          represent. Negative means my measurement of the well

1 circular pools themselves would be less than what is  
2 involved. So we would gain 8 percent there. The N-41 is  
3 almost in balance. The O-40 we would lose 26. The  
4 Franks Estate portion would gain 6 percent. And that is  
5 why I have highlight these, because they are significant.  
6 And on sheet 2 we would lose on the top couple of  
7 highlighted numbers and at the P-40 pool we would gain 23  
8 percent. That is why I went to giving the overall  
9 balance -- that's why I say, when you look at one or two  
10 pools at a time you don't get the overall. I had to put  
11 the whole thing together to get the answers.

12 MR. CHAIRMAN: Well, obviously all parties have been discuss-  
13 ing this. Have you any recommendations to the Board that  
14 you have gotten close to an agreement on or anything like  
15 that?

16 MS. McCLANAHAN: Well, I believe my client's position on this  
17 is that if the Board wants to consolidate more than one  
18 of these units to protect Mr. Franks principals' interest  
19 than my client doesn't have any feeling of opposition  
20 about that. My client does have a royalty interest in  
21 certain of these units, so certainly their royalty  
22 interests would be affected also. However, they have  
23 taken the position that Mr. Franks clients or principals  
24 are of enough merit that we certainly would agree with  
25 the Board if it -- I should say we would not oppose the

1 Board combining any of these units to facilitate Mr.  
2 Franks' position.

3 MR. FRANKS: I would like to state here that the Franks'  
4 Estate interest in the low drainage coal and gas is 50  
5 percent. And Consolidation Coal, which is of course  
6 FGP, has the other 50 percent. So we have mutual  
7 interest all the way down on the Franks' Estate. The  
8 Carl Metcalf Estate, they do not. His is an individual  
9 interest all the way down. The Metcalf Estate is a 1/4  
10 interest in Tract 7-A. And my feeling is that the Consol  
11 interest there is 1/2, although I can't understand as I  
12 stated in my letter a conflict of interest in the other  
13 half that they are talking about.

14 MS. McCLARNAHAN: Mr. Chairman, with regard to your question  
15 as to coming to an agreement -- because these have to be  
16 force pooled as a result of conflicting claims it would  
17 be impossible for us to enter into a voluntary pooling  
18 agreement by which we could make the payments. So we  
19 really are all subject to the Boards' wishes on this  
20 particular issue. It's not that we haven't been able to  
21 come to an agreement. It's just that we simply can't  
22 make an agreement which would cover all the interests  
23 that would be necessary to cover for this particular --

24 MR. EVANS: Mr. Chairman, this goes back to the whole idea  
25 behind field rules. They are predicated on some type of

1 an averaging as Mr. Mason said -- some type of averaging  
2 situation. I think what you are asking us is to make  
3 field rules or make units within a field that has already  
4 been designated with field rules. And your problem, as I  
5 see it, comes to the fact that a well is not dead  
6 centered in that 80 acre unit. That there is a drilling  
7 window and that drilling window allows that well to be  
8 shifted somewhere outside that dead center 80 acre unit.  
9 In the middle of the square and that's the only place  
10 that that well can go, but that's not the way it is.

11 MR. FRANKS: No. There are some of these that are very  
12 close. That's where the big difficulty comes in. As  
13 long as they are within reason. But the coal mining  
14 considerations, the blocks underneath are dictating  
15 moving a lot of these, as well.

16 MR. MASON: It's a combination of the off-centered plus the  
17 fact that several of these units aren't being drilled.  
18 Because you would pick up the imbalance.

19 MR. EVANS: Any system that we would devise is -- the grid  
20 system was 1) it solved some problems.

21 MR. FRANKS: If you take each one of the problems in itself  
22 and it's very reasonable and very understandable. When  
23 you get them combined they kind of creates --

24 MR. EVANS: It creates different -- in talking about the  
25 particular to the general. If we do what I think you

1 are proposing that we do, it creates another problem. It  
2 will solve your problem, but it will create another  
3 problem.

4 MR. FRANKS: It puts the onus on your to do it again.

5 MR. EVANS: It puts the onus on us to do it every time for  
6 every specific case. And there is no more orderly --

7 MR. FRANKS: And I understand that difficulty, also.

8 MR. EVANS: I guess when it comes right down to it I think  
9 speaking for myself, while there is no system that is  
10 perfect there has to be some system rather than -- or an  
11 orderly system that everybody can, at least, understand  
12 and, if you will, take advantage of. And that is the  
13 only way I can phrase that for everyone.

14 MR. FRANKS: I don't believe they tried to take advantage in  
15 this thing at all, because I think the people doing the  
16 mining we placing it and the topography of the land  
17 dictates some movement. And I think all of this was very  
18 legitimate. It was just the amount of the inequity when  
19 I balanced all of these that I am involved with.

20 MR. EVANS: What we you have us to do, sir?

21 MR. FRANKS: Well, I would rather have PGP get with you on how  
22 they would feel more comfortable with any balance that  
23 you could live with. Because I wouldn't want to dictate  
24 anything. As you will notice in my Attachment B, Sheets  
25 2 and 3, at the end of Sheet 3 there is 11.39 percent

1 imbalance on the Franks' Estate portion. That is a very  
2 close amount. There's really not a huge significance.  
3 But when I go to the Carl Matcalf portion there's 36  
4 percent. Now, since we are only half of this 11.39 --  
5 half of it is us and half of it is Consol -- so we are  
6 5.695 percent for 9 wells. That is, I think, a pretty  
7 good balance. But when I look at the overall of the  
8 other two parties, as well, we are at 78 percent.

9 MR. MCGLOTHLIN: Mr. Franks, the parties that you are re-  
10 presenting here today, they have not leased their coal  
11 interests?

12 MR. FRANKS: Yes. We have a lease with Consol for our half of  
13 the coal, the Pocahontas 3. They have a lease for our  
14 half. And we have a lease for their half of the Jawbone  
15 above. So we have been working together for some years  
16 now and trying to make it mutually beneficial to every-  
17 body.

18 MR. MCGLOTHLIN: Mr. Franks, how long have you been working  
19 with PGP on this?

20 MR. FRANKS: We have been in communications rather frequently.

21 MR. ARRINGTON: Ever since we started working the Hurricane  
22 Branch Extension.

23 MR. MCGLOTHLIN: Before the Hurricane Branch?

24 MR. ARRINGTON: Yes.

25 MR. MCGLOTHLIN: So you kind of knew that this would pop up in

1                   our laps, didn't you?

2       MR. FRANKS: I have been bringing the question up, but until  
3                   we get a summary like this no one really understood what  
4                   the amount would be. I had written a letter to Mr.  
5                   Gillenwater concerning some of these and asking if there  
6                   were, in fact, more walls proposed and what the time  
7                   cycle might be. And, of course, he could not answer  
8                   that. But he did recognize there was this potential.

9       MR. MCGLOTHLIN: That's the easiest way I see to resolve the  
10                   problem is for PGP to put down a couple more walls in the  
11                   area.

12       MR. ALBERT: PGP would consider that as long as we could  
13                   recoup the cost of it.

14       MR. CHAIRMAN: I certainly commend you for a lot of hard work.  
15                   I think one thing it does for the Board is help further  
16                   our education on any of the considerations for field  
17                   rules and other things. We had looked at this. We had  
18                   had discussions along these lines when we adopted the  
19                   rules, as you have heard many of the Board members say.  
20                   We recognize that total equity didn't exist under almost  
21                   any scenario we raised. But we felt like the 80 acre  
22                   squares was the most equitable overall. Those field  
23                   rules are certainly subject to a petition to change based  
24                   on whatever. An evidence of what is happening is  
25                   certainly part of the consideration.

1 MR. FRANKS: This is kind of a balanced argument going back  
2 against what I am showing here, but in my opinion in  
3 these overlapping areas the potential of receipt from  
4 each well has to be diminished somewhat. And as I said  
5 before I didn't factor any of this in. If you have one  
6 well standing out by itself, of course, you are going to  
7 get a good drainage volume from that well. Where you  
8 have overlaps you are bound to have a loss generated  
9 somewhere because you can only drain it one time. But I  
10 have no factor in that and I don't have a valve I can  
11 regulate that diameter with.

12 MR. EVANS: It depends on how the frack job goes, too. The  
13 geology of that particular well bore, the frack job that  
14 is done, how it does turn out. There are any one of a  
15 number of variables that are, in essence, uncontrolled.  
16 Not in the context that there is absolutely no control,  
17 but in a lot of cases there is control policy.

18 MR. FRANKS: I think you can do all you can to determine what  
19 is going to happen, but once you do it Mother Nature will  
20 decide whether it will come from here or over here  
21 anyway.

22 MR. EVANS: That is exactly my point. We don't get to put an  
23 arbitrary line or any kind of a line on any kind of a  
24 piece of paper that nature pays any attention to. But  
25 we have to do the best that we can.

1 MR. CHAIRMAN: Let me ask another question. The reason that  
2 brings you here initially is the conflicting claims  
3 issue?

4 MR. FRANKS: Well, that is a portion of it. The conflicting  
5 claims is related --

6 MR. CHAIRMAN: I mean, that is the only reason that brings  
7 you to the Board for the force pooling? That is what  
8 caused the force pooling, right?

9 MR. FRANKS: Well, this is not a force pool. Everybody has  
10 signed here. The conflicting claims came up in a deed  
11 that PGP's attorneys found on record that gave them cause  
12 to think there could be a conflict. And that's the  
13 reason I gave you copies of that. I don't think it does  
14 but --

15 MR. CHAIRMAN: And that conflicting claim issue -- is it  
16 correct to assume that the ability to resolve the  
17 conflicting claim is within the parties abilities that  
18 are here at this table today?

19 MR. FRANKS: No. I think there would be other people  
20 involved.

21 MS. McCLANAHAN: There are unleased parties in this unit. Is  
22 that your question?

23 MR. CHAIRMAN: Well, I am trying to go straight at the heart  
24 of the conflicting claims. Where I was headed was to  
25 say, if you didn't have the conflicting claim you

1 wouldn't be running into the Board order and you would be  
2 able to have a voluntary agreement among the parties to  
3 take care of whatever you needed to take care of.

4 MS. McCLANAHAN: No, because there are unleased parties in  
5 the unit.

6 MR. FRANKS: And that conflicting claim is only on the one  
7 tract involving the Metcalf Estate. All four of these  
8 pools that you are looking at today that I am involved  
9 with, the N-40, N-41, O-40 and O-41, are involved in  
10 Tract 7-A, which is the portion of the conflicting claim.

11 MR. CHAIRMAN: I was just trying to see if we could send you  
12 away to work harder, but that is not going to get it  
13 either.

14 MR. FRANKS: Well, I came in here not knowing what can be  
15 done, but I just wanted to point that out.

16 MR. MCGLOTHLIN: It kind of seems the argument about the  
17 equitable squares and circles -- it's probably an  
18 argument that we should have heard when the extension was  
19 -- when we did the field rules instead of bringing it to  
20 us at this point.

21 MR. MASON: I think it is an inevitable part.

22 MR. FRANKS: Until you get the coordinates of the wells and  
23 the information you can't sit down and do it.

24 MR. MCGLOTHLIN: Since you had been working with PGP prior to  
25 that it might have been a good time to bring it up.

1 MR. ALBERT: Mr. Chairman, if I might remind the Board once  
2 again -- and, again, no disrespect -- but this is an item  
3 that I personally and my company brought to the table  
4 during Oakwood II. That somehow this system with trying  
5 to merge it in with an active degasification plan in a  
6 mine that these problems were going to occur. So with  
7 due respect to Mr. McGlothlin I think these issues have  
8 been raised before the Board before. Certainly nothing  
9 we have done on our part -- we see it as a problem. We  
10 don't feel like we have it within our authority or means  
11 with what we have to work with here to resolve this issue  
12 with Mr. Franks.

13 MR. CHAIRMAN: Well, we acknowledge that it was brought  
14 clearly to our attention.

15 MR. MASON: The problem is I am not sure we do either.

16 MR. FULMER: Mr. Chairman, the only thing I would offer on the  
17 aspect of what I know in both the Oakwood I and II that  
18 no testimony was ever put on on the drainages in the  
19 circular pattern. There was never entered in any one of  
20 the concepts -- and we have heard about circular drainage  
21 that affects one or the other -- that has never been  
22 brought before us when the field rules were formulated.  
23 So that's an assumption of circular drainage. That's the  
24 only thing I would say to that other than -- especially  
25 in coal where it is agile instead of being under press-

1           ure. That's just a point of information.

2       MR. CHAIRMAN: Well, all the scenarios that we had before us  
3           -- I mean, I am not going to go back and debate field  
4           rules, but I think the Board has certainly chose the  
5           avenue we felt that brought most equity to all parties.  
6           I don't believe that if we were pooling under a panel or  
7           anything there would be any more equity created necessar-  
8           ily. It could be for one case, but not necessarily the  
9           other either. And that's the dilemma we get into is how  
10          do we do something here and yet something different here.  
11          And that is why you have to come up with some decision on  
12          field rules and make them subject to continuing and  
13          ongoing challenges as more and better information is  
14          available. And certainly we are not closed as a Board to  
15          hearing factual evidence that would necessitate a change  
16          in any field rules at any given time.

17       MR. CHAIRMAN: Any further discussion or questions, Members of  
18          the Board? Anything further from either party? Do I  
19          have a recommendation?

20       MR. EVANS: Mr. Chairman, I move that we grant the petition  
21          for force pooling.

22       MR. MCGLOTHLIN: Second, as amended on the conflicting claim  
23          issue.

24       MR. CHAIRMAN: I have a motion and a second. Any further  
25          discussion? All in favor signify by saying yea. (All

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

- 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

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 XXVIII

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 by Pocahontas Gas Partnership for the O-40 unit. This is docket number VGOB-93/04/20-0361. I'll ask the parties that wish to address the Board on this matter to come forward and identify yourself at this time. This is Item 28 for the Board's reference.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. FRANKS: J. C. Franks for the interested parties.

MS. McCLANNAHAN: The first witness I would like to call is Les Arrington. His resume is at Exhibit 1. The Board has indicated that it stipulates to his qualifications and accepts him as an expert witness.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, have you given notice as required by

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

Section 45.1-361-19 to each person or entity identified on Exhibit C of the force pooling application?

A. Yes, I have.

Q. Is that Notice of Hearing that you mailed to each of parties listed at Exhibit 2?

A. Yes, it is.

MS. McCLANNAHAN: Mr. Chairman, I move the introduction on Exhibit 2.

MR. CHAIRMAN: It is admitted.

Q. (Ms. McClannahan continues.) How was the Notice of Hearing mailed to each of the parties on Exhibit C?

A. By certified mail, return receipt requested.

Q. Are copies of those return receipts at Exhibit 3?

A. Yes.

MS. McCLANNAHAN: I move the introduction of Exhibit 3.

MR. CHAIRMAN: Admitted.

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

A. No. However, it was published in the Virginia Mountaineer and the Bluefield Daily Telegraph on 4-1-93, and 3-26-93.

Q. Have the proofs of publication previously been submitted to the Board?

A. Yes, they have.

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

- 1                   comprise the O-40 unit does PGP control?
- 2           A.   99.24 percent of all coal below the Tiller seam.
- 3           Q.   What percentage of oil and gas rights in the tracts that
- 4                   comprise the O-40 unit does PGP control?
- 5           A.   97.435 percent.
- 6           Q.   What percentage of the coalbed methane gas rights in the
- 7                   tracts that comprise the O-40 unit does PGP control?
- 8           A.   99.24 percent.
- 9           Q.   Are the unleased owners and the leasehold owners listed
- 10                   on Exhibit B of the O-40 unit force pooling application
- 11                   listed with their percentages of ownership in the
- 12                   respective tracts?
- 13           A.   Yes.
- 14           Q.   Have you made changes to Exhibits C, D and E since the
- 15                   date that the application was filed?
- 16           A.   Yes, we have.
- 17           Q.   Are those changes shown on the revised Exhibits C, D and
- 18                   E that are listed at Exhibit 4?
- 19           A.   Yes, they are.
- 20           Q.   Would you please explain what changes you have made to
- 21                   those exhibits?
- 22           A.   The exhibits were changed to show the additional owners
- 23                   in the conflicting claim tract.
- 24           MS. McCLANNAHAN:  Mr. Chairman, I move the introduction of
- 25                   Exhibit 4.

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

MR. CHAIRMAN: It's admitted. Do those changes not affect the overall percentages?

MR. ARRINGTON: No.

Q. (Ms. McClannahan continues.) Are the conflicting claimants whose funds are to escrowed listed on the revised Exhibit E submitted as part of Exhibit 4?

A. Yes.

Q. Are you requesting that the Board pool the interest of the parties listed on the revised Exhibit C?

A. Yes, we are.

MS. McCLANNAHAN: Those are all the questions we have of Mr. Arrington.

MR. CHAIRMAN: Any questions? You may call your next witness.

MS. McCLANNAHAN: I would call Ron Wood. And, again, his resume should be substituted for Mr. Gillenwater's resume at Exhibit 5. The Board has indicated that it has stipulated to his qualifications and accepts him as an expert witness.

RON WOOD

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

DIRECT EXAMINATION

BY MS. McCLANAHAN:

1  
2  
3  
4 Q. Mr. Wood, what are the fair market values terms of an  
5 oil, gas and coalbed methane gas lease in the area of  
6 the O-40 unit?

7 A. \$5 per acre for 1 year, rental with a 1/8 royalty.

8 Q. And for a coalbed methane gas only lease?

9 A. \$1 per acre per year rental and 1/8 royalty.

10 Q. And what is the standard primary terms for a oil, gas,  
11 and coalbed methane gas lease?

12 A. 10 years.

13 Q. With regard to the unleased owners that are listed on the  
14 O-40 unit force pooling application have you contacted  
15 these landowners or tried to contact them to obtain a  
16 lease?

17 A. Yes, we have.

18 Q. By what method did you contact them?

19 A. Verbal and/or certified mail.

20 Q. Were you able to come to an agreement as to the lease?

21 A. Not at this time.

22 Q. With regard to the leasehold owner, Cabot Oil and Gas,  
23 did you make an offer regarding an assignment of their  
24 leasehold interests?

25 A. Yes, we did.

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

Q. Were you able to come to an agreement as to the assignment of their interests?

A. Not at this time.

MS. McCLANNAHAN: Those are all the questions we have for Mr. Wood.

MR. CHAIRMAN: Any questions, Members of the Board? Call your next witness.

MS. McCLANNAHAN: We would like to call Mr. Randy Albert, if we may. Mr. Albert's resume is listed at Exhibit C. The Board has indicated that it wishes to stipulate to the qualifications of Mr. Albert and accept him as an expert witness.

RANDALL MARK ALBERT

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Albert, has a drilling permit been previously refused to PGP on any of the tracts comprising this unit?

A. No.

Q. Has a well work permit been issued for a well contained within this O-40 unit?

- 1 A. Yes, it has. Permit for Well No. 605 was issued as  
2 Permit No. 2186 for a coalbed methane well.
- 3 Q. Does the plat attached to the force pooling application  
4 filed by PGP indicate the acreage and the shape of the  
5 acreage to be embraced within the unit?
- 6 A. Yes.
- 7 Q. Does the unit as it is shown on Exhibit B-1 follow the  
8 boundary lines of the Hurricane Branch Extension 80 acre  
9 unit designated as O-407?
- 10 A. Yes, it does.
- 11 Q. Does the plat attached the force pooling application  
12 indicate the area within which the well will be drilled?
- 13 A. Yes, it does.
- 14 Q. Does the drilling unit embrace two or more separately  
15 owned tracts?
- 16 A. Yes, it does.
- 17 Q. Are the costs and expenses for the well set forth on the  
18 DWE attached to the force pooling application as  
19 Exhibit H?
- 20 A. Yes, they are.
- 21 Q. Does this exhibit reflect the cost of drilling the well  
22 to total depth and completed for production costs?
- 23 A. Yes, it does.
- 24 Q. How did you calculate the costs that are listed on the  
25 DWE?

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

A. The costs are actual for drilling and estimated for completion.

Q. Are you requesting the relief sought in paragraph 4 of PGP's application in accordance with the VGOB act?

A. Yes, I am.

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

A. Yes, we are.

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

MR. MCGLOTHLIN: Mr. Albert, who owns Tract 10 and 11?

MS. McCLANNAHAN: That may be a better question to ask Mr. Arrington. I believe those tracts are the conflicting claim tracts that Mr. Franks referred to in the last hearing.

MR. ARRINGTON: Yes.

MR. MCGLOTHLIN: It's not in the application anywhere.

MS. McCLANNAHAN: It is in the revised. Are you talking about the tract identification pages?

MR. MCGLOTHLIN: Yes.

MS. McCLANNAHAN: The exhibit actually lists the owners.

MR. ARRINGTON: It is in your Exhibit C, D and E.

MR. MCGLOTHLIN: Mine goes up to Tract 9 on the Owners and potential owners of methane gas. It goes up to Tract 9 and that is it.

1 MR. ARRINGTON: The tracts are a little more broken down in  
2 the tract ID's. However, I did not supply you with a  
3 tract ID with that. Look under the Metcalf Estate and  
4 you will see E and F, under Tract #1. Beulah Day Brown  
5 and Mrs. Warner Day -- on Page 7 of Exhibit C.

6 MR. MCGLOTHLIN: But there is no cross-reference on those to  
7 the --

8 MS. McCLANAHAN: We will supplement that tract ID within 7  
9 days from today.

10 MR. CHAIRMAN: Any other questions, Members of the Board? Mr  
11 Franks?

12 MR. FRANKS: No.

13 MR. CHAIRMAN: Mr. Franks, do you want to continue and adopt  
14 your testimony that you gave on the first well for this  
15 well as far as the record goes?

16 MR. FRANKS: Yes. The same information as I gave for N-41  
17 would be identical for N-40, O-40 and O-41.

18 MR. MCGLOTHLIN: I make a motion that we approve the  
19 application with amendments forth coming.

20 MR. EVANS: Second.

21 MR. CHAIRMAN: A motion and a second to approve. Further  
22 questions? All in favor signify by saying "Yes." (All  
23 affirm.) Opposed say "No." (None.) It is unanimously  
24 approved.

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 XIV

MR. CHAIRMAN: The next item on the agenda is Item 25. It is a petition for force pooling under Section 45.1-361.22 by Pocahontas Gas Partnership for the N-40 unit. This is docket number VGOB-93/04/20-0358. I'll ask the parties that wish to address the Board on this matter to come forward and identify yourself at this time. reference.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. FRANKS: J.C. Franks for the property owners.

MS. McCLANNAHAN: The first witness I would like to call is Les Arrington. His resume is at Exhibit 1. The Board has indicated that it accepts his qualifications and accepts him as an expert witness.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, have you given notice as required by Section 45.1-361-19 to each person or entity identified

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

on Exhibit C of the force pooling application as a potential owner of the methane gas underlying the unit?

A. Yes, I have.

Q. Is that Notice of Hearing that you mailed to each of parties listed at Exhibit 2?

A. Yes, it is.

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

MR. CHAIRMAN: It is admitted.

Q. (Ms. McClannahan continues.) Was this Notice of Hearing sent to each of the parties on Exhibit C by certified mail, return receipt requested?

A. Yes, it was.

Q. Are copies of those return receipts shown at Exhibit 3?

A. Yes.

MS. McCLANNAHAN: I move the introduction of Exhibit 3.

MR. CHAIRMAN: It's admitted.

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

A. No. However, it was still published in the Virginia Mountaineer and The Bluefield Daily Telegraph on 4-1-93 and 3-26-93.

Q. Have the proofs of publication previously been submitted to the Board?

A. Yes, they have.

- 1 Q. What percentage of the coal rights in the tracts that  
2 comprise the N-40 unit does PGP control?
- 3 A. 94.975 percent of the P-3 seam of coal and 100 percent of  
4 all coal below the Tiller seam, less the Pocahontas #3.
- 5 Q. What percentage of oil and gas rights in the tracts that  
6 comprise the N-40 unit does PGP control?
- 7 A. 97.876 percent.
- 8 Q. What percentage of the coalbed methane gas rights in the  
9 tracts that comprise the N-40 unit does PGP control?
- 10 A. 94.975 percent.
- 11 Q. Are the unleased owners and the leasehold owners listed  
12 on Exhibit D of the N-40 unit force pooling application  
13 listed with their percentages of ownership in the  
14 respective tracts?
- 15 A. Yes.
- 16 Q. Have you made changes to Exhibits C, D and E since the  
17 date that the application was filed?
- 18 A. Yes, we have.
- 19 Q. Are those changes shown on the revised Exhibits C, D and  
20 E that are listed at Exhibit 4?
- 21 A. Yes, they are along with the tract ID.
- 22 Q. Would you please explain what changes you have made to  
23 those exhibits?
- 24 A. The exhibits were changed to show the additional owners  
25 in the conflicting claim tract.

1 Q. What conflicting claim are you referring to?  
2 A. In ownership of the gas estate.  
3 Q. Are you referring to the conflicting claim we have been  
4 discussing here with Mr. Franks?  
5 A. Yes.  
6 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
7 Exhibit 4.  
8 MR. CHAIRMAN: It's admitted.  
9 Q. (Ms. McClannahan continues.) Are the conflicting  
10 claimants whose funds are to escrowed listed on the  
11 revised Exhibit E submitted as part of Exhibit 4?  
12 A. Yes.  
13 Q. Are you requesting that the Board pool the interest of  
14 the parties listed on the revised Exhibit C?  
15 A. Yes, we are.  
16 Q. At Exhibit 7, does that revised exhibit reflect the  
17 conflicting claim change that you were previously  
18 discussing?  
19 A. Yes, it does.  
20 Q. And that is a revised Exhibit B-1 from the application,  
21 is that correct?  
22 A. Yes.  
23 Q. Referring to Mr. Franks April 19, 1993 memo he has  
24 indicated that your tract identification in the N-40 unit  
25 was incorrect. Have you made that change?

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

A. Yes, we have. And it is at Exhibit 4.

MS. McCLANNAHAN: Those are all the questions we have of Mr. Arrington.

MR. CHAIRMAN: Mr. Franks brought up two things regarding N-40. Let me make sure that both have been corrected. He said that the Metcalf estate interest is erroneously listed as the Franks Estate. Is that corrected, as well?

MR. ARRINGTON: That was corrected.

MR. CHAIRMAN: Any other questions?

MS. McCLANNAHAN: I would call Ron Wood. And, again, his resume should be substituted for Mr. Gillenwater's resume at Exhibit 5. The Board has indicated that it has stipulated to his qualifications and accepts him as an expert witness.

RON WOOD

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Wood, what are the fair market values terms of an oil, gas and coalbed methane gas lease in the area of the N-40 unit?

1 A. \$5 per acre per year rental with a 1/8 royalty.  
2 Q. And for a coalbed methane gas lease?  
3 A. \$1 per acre per year rental and 1/8 royalty.  
4 Q. And what is the standard primary terms for a oil, gas,  
5 and coalbed methane gas leases?  
6 A. 10 years.  
7 Q. With regard to the unleased owners that are listed on the  
8 N-40 unit force pooling application have you contacted  
9 these landowners or tried to contact them to obtain a  
10 lease?  
11 A. Yes, we have.  
12 Q. By what method did you contact them?  
13 A. Verbal and/or certified mail.  
14 Q. Were you able to come to an agreement as to the lease?  
15 A. Not at this time.  
16 Q. With regard to the leasehold owners, Island Creek Coal  
17 Company and Cabot Oil & Gas, did you make an offer  
18 regarding an assignment of their leasehold interests?  
19 A. Yes, we did.  
20 Q. Were you able to come to an agreement as to the assign-  
21 ment of their interests?  
22 A. Not at this time.  
23 MS. MCCLANAHAN: Those are all the questions we have for Mr.  
24 Wood.  
25 MR. CHAIRMAN: Any questions, Members of the Board? Mr.

1 Franks?

2 MR. FRANKS: The same inclusion as before.

3 MR. CHAIRMAN: Call your next witness.

4 MS. McCLANAHAN: We would like to call Mr. Randy Albert, if w  
5 may. Mr. Albert's resume is listed at Exhibit C. The  
6 Board has indicated that it wishes to stipulate to the  
7 qualifications of Mr. Albert and accept him as an expert  
8 witness.

9  
10 RANDALL MARK ALBERT

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

13  
14 DIRECT EXAMINATION

15  
16 BY MS. McCLANAHAN:

17 Q. Mr. Albert, has a drilling permit been previously refused  
18 to FGP on any of the tracts comprising this unit?

19 A. No, it has not.

20 Q. Has a well work permit been issued for a well contained  
21 within this N-40 unit?

22 A. Yes, it has. Permits for Well No. 608 and 611 were  
23 issued as Permits No. 2304 and 2185, respectively for a  
24 coalbed methane wells.

25 Q. Does the plat attached to the force pooling application

1 filed by PGP indicate the acreage and the shape of the  
2 acreage to be embraced within the N-40 unit as previously  
3 approved by the Board on 2/16/93?

4 A. Yes.

5 Q. Does the unit as it is shown on Exhibit 7 follow the  
6 boundary lines of the Hurricane Branch Extension 80-acre  
7 unit designated as N-40?

8 A. Yes, it does.

9 Q. Does the plat attached the force pooling application  
10 filed by PGP as revised at Exhibit 7 indicate the area  
11 within which the well will be drilled?

12 A. Yes, it does.

13 Q. Does the drilling unit embrace two or more separately  
14 owned tracts?

15 A. Yes, it does.

16 Q. Are the costs and expenses for the wells set forth on the  
17 DWE attached to the force pooling application as Exhibit  
18 H and I?

19 A. Yes, they are.

20 Q. Does these exhibits reflect the cost of drilling the  
21 wells to total depth and completed for production costs?

22 A. Yes, they do.

23 Q. How did you calculate the costs that are listed on the  
24 DWE?

25 A. The costs are actual for drilling and estimated for

1 completion.

2 Q. Are you requesting the relief sought in paragraph 4 of  
3 PGP's application in accordance with the VGOB act?

4 A. Yes, I am.

5 Q. Are you requesting that PGP be designated as the well  
6 operator?

7 A. Yes, we are.

8 MS. MCCLANAHAN: Those are all the questions I have for Mr.  
9 Albert.

10 MR. CHAIRMAN: Any questions?

11 MR. MASON: Why do you think you need two wells in this unit?

12 MR. ALBERT: Mr. Mason, the reason again is the wells were  
13 located based on a proposed mine plan for Reserve Coal  
14 Properties. The Hurricane Branch Mine -- the wells were  
15 spaced to try to remove the maximum amount of gas in a  
16 seven year period, which is what we now believe the life  
17 of these wells to be prior to mine-through. Essentially  
18 stated that is the amount of gas contained in that 80  
19 acre unit and the time frame we have to get it out.  
20 That's the number of wells required.

21 MR. MASON: Does this unit lie over longwall panels?

22 MR. ALBERT: Yes. This unit includes two longwall panels.  
23 Well 608 is on one panel and Well 611 is the next panel  
24 to the north.

25 MR. MASON: Do you have a map of that?

1 MR. ALBERT: Yes, we do.

2 MS. MCCLANAHAN: Mr. Albert, does this map show the longwall  
3 panels that have been proposed with the unit designated  
4 as N-40 overlying that outlined in green?

5 MR. ALBERT: Yes, it does.

6 MS. MCCLANAHAN: Mr. Chairman, I move the introduction of  
7 Exhibit B.

8 MR. CHAIRMAN: Admitted.

9 MR. MASON: Mr. Albert, there would a unit O-39?

10 MR. ALBERT: Yes, sir, there is a unit O-39. But it is not  
11 shown on this map.

12 MR. MASON: Will any of the cost -- is 608 the one that is  
13 on the edge of the unit?

14 MR. ALBERT: Yes, sir.

15 MR. MASON: Will any of the costs of that well be attributed  
16 to -- that's right in the middle of another panel, is it  
17 not?

18 MR. ALBERT: Yes.

19 MR. MASON: Part of which panel will also be involved in unit  
20 O-40?

21 MR. ALBERT: That is correct.

22 MR. MASON: Is there not any allocation made of those costs?

23 MR. ALBERT: Not at this time. These wells are frack wells  
24 and as such are paid under the Oakwood I 80-acre  
25 scenario. It would only be -- at the time of mining once

1 the panel is outlined and we would come back before the  
2 Board for an Oakwood II allocation and cost and pay on a  
3 royalty based on a longwall panel.

4 MR. MASON: Well, if that is the case then this second well,  
5 as far as having one or two panels is irrelevant, is it  
6 not, at this time?

7 MR. ALBERT: Irrelevant as to what?

8 MR. MASON: I mean, you are talking about -- these are going  
9 to be completed as frack wells?

10 MR. ALBERT: That is correct.

11 MR. MASON: Consequently, whether there is one or two panels  
12 here at the present time as frack wells is irrelevant.

13 MR. ALBERT: That's correct.

14 MR. MASON: The holes be in place at the time these wells are  
15 completed.

16 MS. MCCLANAHAN: I mean be wrong about this, but I think the  
17 relevance of the longwall panels is that the life of the  
18 wells is dictated by that, which means it is 7 years.

19 MR. ALBERT: That's right.

20 MR. MASON: Well, I understand that, but the reason before  
21 that we allowed wells per panels, like 2 wells because  
22 there were 2 panels, was because it was necessary in  
23 order to drain out the gas that was segregate per panel.  
24 But if all the coal is in place that distinction becomes  
25 irrelevant.

1 MR. ALBERT: That is correct. From a frack well purpose.

2 MR. MASON: Let me ask you another question. Am I reading  
3 this DWE on 611 correct, that the total depth is -  
4 1,501.83? Is it a 15 or a 16?

5 MR. ALBERT: It appears to be to be a 15.

6 MR. MASON: Then how can you put 1,705 of tubing and rods  
7 there?

8 MR. ALBERT: That is a very good question. I assume there is  
9 a typo somewhere. I think what is in error is the total  
10 depth. When I look at the location on the topo map that  
11 well is certainly deeper than that.

12 MR. MASON: The other one was 1,407. So when I first looked  
13 at it a I was thinking that that coal seam must drop  
14 rather (Inaudible.) to get from 1,400 feet to 1,700 feet  
15 in the course of --

16 MR. ALBERT: Well, what is happening is the well has come up  
17 on elevation quite a bit on the surface.

18 MR. MASON: Oh, I see what you are saying. I just think that  
19 needs to be corrected.

20 MR. ALBERT: That will be corrected. Back to your question,  
21 the argument on cost is not whether it benefits one panel  
22 or two panels. That is a moot point. My argument is  
23 based on the fact that in seven years time -- we remove  
24 as much gas in seven years time with two wells as we do  
25 in 20 years with one well. If you add to that -- without

1 rehashing all the same arguments I made yesterday if you  
2 add to the fact to that that the people are getting their  
3 money in seven years as opposed to 20 years. So there is  
4 some present value worth of getting your money up front  
5 so to speak. Yesterday we weren't successful with  
6 multiple wells in a panel. Quite frankly I think we  
7 presented the evidence. Again, you have the chart in  
8 your hand which will be Exhibit 9 --

9 MR. MASON: Well, let me ask you this. Are you prepared at  
10 this time to present any economic evidence as to the  
11 value of the difference between seven and 20 years on the  
12 amount of production estimate for this well?

13 MS. MCCLANAHAN: Let's go through the background of that this  
14 exhibit is. Mr. Albert, the exhibit that you have  
15 there is the information that has been accepted by the  
16 Board in it's adoption of the Oakwood Field Rules which  
17 applied to this particular unit, is that correct?

18 MR. ALBERT: That is correct.

19 MS. MCCLANAHAN: So all of this production information was  
20 accepted by the Board for that particular unit?

21 MR. ALBERT: That's correct.

22 MS. MCCLANAHAN: And that is the production information that  
23 you have used to substantiate your position on produc-  
24 tion, is that right?

25 MR. ALBERT: That is correct.

1 MR. MCCLANAHAN: Does that answer your question?

2 MR. MASON: No. My question is -- I mean, I understand that  
3 you maintain that in seven years you are going to produce  
4 the same amount of gas or some fraction of it that you  
5 would ordinarily produce over the life of one well. And  
6 I understand that there is potentially an economic  
7 benefit derived from that quicker production. What I am  
8 asking you is can you quantify and tell me what that is  
9 in dollars?

10 MR. ALBERT: Not in dollars. In percentages I can tell you  
11 from this chart that we will recover 61 percent more gas  
12 with two in seven years than we would with one well in  
13 seven years. And I can tell you that we will recover as  
14 much gas with two wells in seven years than we would with  
15 one well in 20 years. I am not prepared today to give an  
16 in-depth economic evaluation on dollars or net present  
17 values.

18 MR. MASON: My problem with this is that somebody whose is in  
19 a unit that has one well the return on the cost invested  
20 over 20 years as opposed to the return on cost invested  
21 with two wells over seven years. That may well be  
22 grossly unfair to those people, particularly when the  
23 reason for the two wells is dictated by a mine plan  
24 rather than just pure economics of these producing wells

25 MR. ALBERT: Would you not agree though, Mr. Mason, if we are

1 recovering as much gas in seven years as we are in 20  
2 years is that there can be no -- the economics would lead  
3 me to believe that the best value would be the seven year  
4 value because you are getting your money quicker and your  
5 return quicker.

6 MR. MASON: Not at all. When you double the investment to do  
7 that?

8 MR. ALBERT: I am not asking you to double the investment. By  
9 this I am saying allow me the cost of 1.61 of these  
10 wells. That's what equates it back to one well in 80  
11 acres.

12 MR. MASON: But you can't demonstrate to me that -- you are  
13 saying that you can get that much back in seven years,  
14 one point whatever, but I just don't understand the  
15 benefit to the person of having the two wells and why  
16 that costs are --

17 MR. ALBERT: The benefits are very simple. Either we do it  
18 this way or it is lost. I mean, at the end of seven  
19 years this gas is gone.

20 MR. MASON: I understand that, sir. But benefit is derived  
21 on the investment return over the two -- you invest  
22 \$440,000 and "X" return over 7 years. If you invest  
23 \$220,000 you get "Y" return over 20 years. The question  
24 is if you discount X and Y to present value which one of  
25 those is the greater numbers of percent of investment.

1           It is a very simple analysis.

2       MR. ALBERT: It is a very simple analysis, but I don't have  
3           that analysis prepared to give you today. What we are  
4           presenting is based on the accepted Oakwood testimony is  
5           the amount of additional gas that can be recovered. And  
6           what we feel that equates --

7       MR. MASON: You are not going to recover any additional gas,  
8           you are just going to recover it faster.

9       MS. McCLANAHAN: It is additional gas also because anything  
10          after a seven year life is lost.

11      MR. MASON: Only because you are going to mine through it.

12      MS. McCLANAHAN: That is why you can't compare a 20 year  
13          economic analysis to a two well seven year economic  
14          analysis, because it is completely hypothetical.

15      MR. MASON: But you are asking somebody to pick up that  
16          additional cost because of a decision you all have made  
17          that is a result of your mine plan.

18      MR. ALBERT: But on the other hand, Mr. Mason, you are asking  
19          me to accept -- if you has an interest in this unit you  
20          are asking me as the operator to allow you to come in at  
21          the cost of one well. So we are getting shorted on this  
22          You are paying for the cost of one well and getting the  
23          benefit of 1.61 wells. And what you have done to protect  
24          the interest of the public is to the detriment of the  
25          operator.

1 MR. MASON: Not at all. I mean, the bottom line is is that  
2 if you didn't drill the second well at all and then at  
3 the end of seven years you would have recovered what gas  
4 you could and the rest of it would be gone, correct?

5 MR. ALBERT: You have lost then, if I don't drill the second  
6 well.

7 MR. MASON: Not necessarily. It depends on what the return on  
8 the initial costs was.

9 MR. ALBERT: Mr. Mason, I am demonstrating to you that if I  
10 put one well in there you are only going to recover 1.55  
11 BCF. If I put two wells in there you are going to  
12 recover 2.5 BCF. We are equating that back to the  
13 investment is equal to 1.61 wells in that unit.

14 MR. MASON: But both of those are functions of costs of  
15 drilling one well or two. The formula only makes sense  
16 if you apply the return as a proportion of the actual  
17 invested costs. I don't want to debate with you. That  
18 is how I feel and I think that if you are prepared to  
19 come in here and show me that it makes more sense in a  
20 dollars and cents way that the return on the investment  
21 is greater with two wells, two costs over seven years as  
22 opposed to one well and one cost over 20 years --

23 MR. ALBERT: The Board has accepted this as the proper  
24 testimony for economic drainage of the Oakwood Field.  
25 All we have done is taken what has been accepted --

1 don't think the burden is upon us to do a detailed net  
2 present value analysis. We have taken what has been  
3 accepted testimony and shown there is a benefit of  
4 recovery. And if there is a benefit of recovery there  
5 has to be an economic benefit.

6 MR. MASON: That's not true.

7 MR. ALBERT: If that is not true the entire testimony for  
8 Oakwood is not true. You are getting paid on what comes  
9 out of the ground.

10 MR. MCGLOTHLIN: I've got a question if Mr. Mason will yield.  
11 Mr. Albert, on the mine plan for the Hurricane Branch  
12 mine, it's on file with the Division of Mines?

13 MR. ALBERT: Yeah. That is correct.

14 MR. MCGLOTHLIN: Is that not at this point operational?

15 MR. ALBERT: No, sir, it is not.

16 MR. MCGLOTHLIN: Does your sister company or however you want  
17 to refer to Consol, are they in the process of placing  
18 the shaft in the ground at this point?

19 MR. ALBERT: No, sir.

20 MR. MCGLOTHLIN: When do they expect to begin that operation?

21 MR. ALBERT: The only thing currently in progress is the  
22 permitting of -- the surface permitting and DMLR permit-  
23 ting of that operation that I'm aware of. There are no --  
24 naturally you cannot make definitive construction plans  
25 until all of the permits have been received.

1 MR. MCGLOTHLIN: Do you think they'll start in 1993 or 1994?

2 MR. ALBERT: No, sir. I don't think the construction will  
3 start in 1993 and it's too early for us to go out on a  
4 limb and predict what may happen in 1994.

5 MR. MCGLOTHLIN: How long does it take to put a shaft down to  
6 the seam?

7 MR. ALBERT: This mine is going to be a slope mine rather than  
8 a shaft mine. The last construction schedule that I saw  
9 -- and again I'm the manager of the gas partnership. I'm  
10 not always in on what the coal plans are. The last thing  
11 I saw was from beginning of construction to mining of the  
12 first longwall panel about two and a half to three years.

13 MR. MCGLOTHLIN: Two and a half to three years. Do you know  
14 in what order the panels will be longwalled?

15 MR. ALBERT: There are two longwall planned for this mine and  
16 again my recollection of the initial planning is that one  
17 longwall goes north and one longwall goes east. These  
18 wells are located -- if I may jump ahead of you I think I  
19 know where you're headed to. These wells are located in  
20 the third and fourth panels to the north respectively. I  
21 don't have a timing map. I've not seen a timing map, but  
22 about six months per longwall panel usually to mine out a  
23 longwall panel.

24 MR. MCGLOTHLIN: So we're talking a year and a half to get to  
25 that point after you start the longwall operation?

1 MR. ALBERT: After you start the longwall operation probably  
2 two years to two and a half years I would think.

3 MR. MCGLOTHLIN: And then you've got time in between those  
4 from the end of putting the slope in -- or the coal  
5 company has to go in there and put the drives in to get  
6 these vents in.

7 MR. ALBERT: Sure. That's allowed for development.

8 MR. MCGLOTHLIN: We're talking a couple of years there?

9 MR. ALBERT: I can only guess. I need a timing map. Yeah, a  
10 couple of years is as good a guess as any.

11 MR. MCGLOTHLIN: We're looking at the year 2000 if this mine  
12 goes in in 1993?

13 MR. ALBERT: I think you've added something up wrong. I said  
14 that the last plan I saw showed the mine being longwalls  
15 in production three years from start-up of construction  
16 of the outside facilities. So if we take the three years  
17 from that and add the two to three years that I see here  
18 getting to the third and fourth longwall panel I think  
19 we're looking at six to seven years if the mine is  
20 started in 1993.

21 MR. MCGLOTHLIN: Well, then we've got another couple of years  
22 to get the conventional machinery in there.

23 MR. ALBERT: No. That's what I'm saying. The schedule I saw  
24 was -- now, whether it be realistic I'm not a judge of  
25 that. But the schedule I saw was from start of construc-

1                   tion to the first longwall mining three years.

2           MR. MCGLOTHLIN: That's if everything runs smoothly and they  
3           get their permit this year.

4           MR. EVANS: Just as a matter of my own information, this is  
5           going to be a slope mine?

6           MR. ALBERT: Yes.

7           MR. EVANS: What's the length of the slope and what's the  
8           angle on it going to be?

9           MR. ALBERT: 5,300 feet slope.

10          MR. EVANS: And what's the angle on it going to be? 12  
11          percent?

12          MR. ALBERT: As close to the maximum repose of coal as you can  
13          get, I suppose. I don't know, Kan, to be honest with  
14          you.

15          MR. EVANS: And this is 1,700 feet down as the seam from --  
16          where is --

17          MR. ALBERT: From the valley bottom probably about 1,400 feet

18          MR. EVANS: And I assume the slope mouth is going to be  
19          somewhere in this area.

20          MR. ALBERT: Yes.

21          MR. MCGLOTHLIN: I'm questioning your seven year -- that it's  
22          going to be mined out in seven years. I think it's going  
23          to take a little bit longer than that.

24          MR. ALBERT: Mr. McGlothlin, all we did was take the timing  
25          map that's now published by Reserve Coal Properties, our

1                   sister company, parent company, whatever the relation is  
2                   here, and I simply took the timing map that is now  
3                   available and it showed these wells one coming through in  
4                   six and a half years, if I remember, and the other one in  
5                   seven and a half years, and took an average life of seven  
6                   years. Now, whether that's right, wrong, I can't  
7                   stipulate to.

8                   MR. McGLOTHLIN: It very well could be, but we're basing that  
9                   on construction starting in --

10                  MR. ALBERT: I don't even know when construction will start.  
11                  All I can say --

12                  MR. McGLOTHLIN: That's the thing. It could be two years off.

13                  MR. ALBERT: -- is that it showed this wells being mined  
14                  through in the late quarter of 1999 and the other one in  
15                  2001. That's how we arrived at the seven years.

16                  MR. McGLOTHLIN: I understand, but there is a possibility  
17                  though that it will --

18                  MR. ALBERT: There are all kinds of possibilities. There's a  
19                  possibility of this mine never being put in and these  
20                  well will have a forty year life or a twenty year life.  
21                  But those things are beyond my control. All I can deal  
22                  with is the best information at hand and at that time it  
23                  was a seven year life.

24                  MR. McGLOTHLIN: N-41, I think we've already looked at that  
25                  one or have we? But if I can draw your attention to unit

1 N-41. How many wells would you propose in that unit?  
2 MR. ALBERT: It looks like two wells in the N-41.  
3 MR. MCGLOTHLIN: The same thing in N-42?  
4 MR. ALBERT: There is one well in unit N-41.  
5 MR. MASON: I do think that the cost of that well is properly  
6 charged as part of short hole gas. I think it's properly  
7 charged as a part of gob operations. I do believe that.  
8 I think that that's at the point that that well becomes  
9 economically feasible.  
10 MR. ALBERT: In essence, you're saying Oakwood II?  
11 MR. MASON: Yeah.  
12 MR. CHAIRMAN: Oakwood II.  
13 MR. MASON: I just wanted you to make the point -- I mean, I'm  
14 not saying no. I just think it doesn't fit into this  
15 category, but I do think that as a part of the Oakwood II  
16 that it does. That's the point. I'm not trying to say  
17 no, never.  
18 MR. CHAIRMAN: Well, that's the real dilemma you get in when  
19 you try to justify more than one well in a unit where you  
20 really don't have the panels already developed and all  
21 that. Where you do have the mine plan -- the panels  
22 developed and everything you have a different rationale to  
23 be basing it on. Here where you have a degas program it  
24 makes it awkward at best unless the economics can  
25 prove --

1 MR. ALBERT: And I understand the Board's dilemma. However,  
2 the only problem I have -- again if I'm repeating myself  
3 I will -- if we're only allowed the cost of one well then  
4 whoever would opt to be our participating operator in  
5 this well is going to derive an economic benefit at the  
6 operator's expense. That is just as unfair as turning  
7 the tables.

8 MS. McCLANAHAN: On a separate issue, my concern would be  
9 that if you pushed all the costs into people who are  
10 deriving benefits under the Oakwood II order and those  
11 costs aren't being shared with people who are getting the  
12 benefit of production under the Oakwood I then you're not  
13 being fair among royalty owners that are receiving gas  
14 under the panels versus people who are receiving frack  
15 gas. Because what you're suggesting is well, while  
16 we're producing these wells as short hole we'll make  
17 those people pay but the people who are getting frack  
18 gas out of these wells don't have to pay. So then you're  
19 putting yourself in the position of having people who are  
20 benefiting from frack gas production and at the expense  
21 of people who are only getting short hole production.

22 MR. EVANS: I've got one quick question. Economics, if it's  
23 to everyone's advantage to drill two wells per unit why  
24 have you not argued that before, that every unit you've  
25 drilled should have at least two wells in it? You can't

1           have it both ways.

2       MR. MCGLOTHLIN: If I might add to that question. In N-40 you  
3           want two wells and then you said in N-41 you don't want  
4           but one well. It's the same scenario.

5       MR. ALBERT: I'm really trying to not make the Board mad, but  
6           I'm going to say this one more time. I and my company  
7           spent long hours before this Board arguing against 80  
8           acre units for this very reason and in the end we threw  
9           in the towel. I think we've brought -- the issues that  
10          we're bringing before this Board now are the same issues  
11          we tried to bring out them. And quite frankly, we don't  
12          need two wells in every unit, but again for proper  
13          degasification of the mine -- this was even brought out  
14          by OXY's own experts -- 80 acres is not the right size.  
15          We are trying to make the best of a bad situation here.  
16          We argued these points and we argued these points and we  
17          try to come before the Board with a proposal and now  
18          we're getting beat back over the head, so to speak, with  
19          the same arguments that we brought forth two years ago.  
20          Quite frankly, that's not fair.

21       MR. EVANS: Not totally. I don't think so. I think there  
22          were two arguments put forth at that point in time, one  
23          for 80 acres and one against 80 acres. Each presented  
24          its own set of circumstances and problems. One was  
25          chosen. Again, with this right here -- if you want to

1           come in and say these two wells are justifiable economic-  
2           ally not based on percentages or whatever else, but show  
3           the good numbers as Mr. Mason has asked -- if that's the  
4           case, fine. But don't come and say hey, I can drain more  
5           gas in seven years out of two wells than I can out of one  
6           well over twenty years and then come back in another  
7           instance and say I'm only going to put one well down.

8           MR. CHAIRMAN: One thing, too, when the Board approves PGP  
9           plan when it was a mine development plan they allowed  
10          more than one well if you were to overlay an 80 acre  
11          unit. It was on the panel. And you've clearly gone to a  
12          different panel here for your drainage in this situation.  
13          The problem I see, though, is if you lay that panel in an  
14          80 acre situation which you've done here you've charged  
15          off the entire well rather than that portion of the panel  
16          -- the well cost of which that portion of the panel  
17          represents which was different than what, I believe, you  
18          were doing a couple of years ago. Anyway -- Mr. Mason is  
19          going to have to leave. Do we have any other questions?  
20          Do you want to leave the application on the table for a  
21          decision or any reconsideration of that at this point in  
22          time?

23          MR. ALBERT: We'll leave it for --

24          MR. CHAIRMAN: In other words, do you want us to decide it now  
25          or continue it to the next hearing? I'll give them that

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

option.

MR. ALBERT: We'll continue it until next time.

MR. CHAIRMAN: For the record, Docket VGOB-93/04/20-0358 which we've just discussed is continued to next hearing. Dockets number VGOB-93/04/20-0362 and VGOB-92/04/20-0364 are continued to next hearing. That concludes today's hearing. Thank you.

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

MR. CHAIRMAN: The Board has agreed to let Mr. Franks continue his testimony that was previously offered for this well and the others. What were the other numbers?

MR. FRANKS: There are four total. N-40, N-41, O-40 and O-41. I would like to make sure the same comments --

MR. CHAIRMAN: Okay. The same testimony will be incorporated into it. Thank you very much.

MR. FRANKS: I appreciate your accepting my statements.

(End of Proceedings for April 21, 1993.)

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

**CERTIFICATE**

**COMMONWEALTH OF VIRGINIA**  
**COUNTY OF WASHINGTON**

I, Deboarh J. Biss, 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 April 21, 1993 at the 4-H Center, Ratliff Hall, 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 12th day of May, 1993.

DEBORAH J. BISS  
NOTARY PUBLIC

My commission expires September 30, 1996.

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

VIRGINIA GAS & OIL BOARD HEARING

APRIL 20, 1993

9:00 A. M.

AT THE 4-H CENTER, RATLIFF HALL

ABINGDON, VIRGINIA

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

VIRGINIA GAS & OIL BOARD HEARING

APRIL 20, 1993

9:00 A. M.

AT THE 4-H CENTER, RATLIFF HALL

ABINGDON, VIRGINIA

INDEX

	<u>ITEM</u>	<u>PAGE</u>
1		
2		
3		
4		
5		
6	1	2
7	2	3
8	3	21
9	4	59
10	5	85
11	6	107
12	7	111
13	8	113, 164
14	9	117
15	10	130
16	11	141
17	12	188
18	13	199
19	14	223
20	17	223
21		
22		
23		
24		
25		

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

April 20, 1993

This matter came on to be heard on this the 20th day of April, 1993 before the Virginia Gas and Oil Board in Ratliff Hall at the 4-H Center, Abingdon, Virginia pursuant to sections 45.1-361.19.B and 45.1-361-22.B of the Code of Virginia.

MR. CHAIRMAN: Folks, I don't know how well you're going to be able to hear. So feel free to move up or put your chairs where you can hear. I realize the acoustics in here may not be the best. We'll try to all speak up as well. My name is Benny Wampler and I'm Deputy Director for the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'll ask the Board members, beginning with Kevin, to introduce themselves, please.

(MEMBERS INTRODUCED.)

1

ITEM I

1  
2 MR. CHAIRMAN: The first item on today's agenda is Docket  
3 number VGOB-92/07/21-0233. That order has been issued  
4 and the issue's been resolved.  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 II

MR. CHAIRMAN: The second item on the agenda is on our own motion the Virginia Gas and Oil Board will receive testimony and evidence on the proper limits on the Oakwood Coalbed Methane Gas Field in the north, south, east and west direction. This is Docket number VGOB-93/03/16-0348 which was continued from March. We would ask the parties that wish to address the Board in this matter to come forward at this time.

MR. SWARTZ: Mark Swartz appearing for OXY, USA and Buchanan Production.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. RASHAKE: James Rasnake for Virginia Gas Company.

MR. SWARTZ: The way we left this at the conclusion of last month's hearing, it was my understanding that the Board had some concerns which were expressed. Essentially we made a list of those concerns. Primarily they focused on the map we had appeared with. As you may or may not recall, the original Hurricane Extension that was proposed -- the Hurricane Branch Extension that was proposed did not go as far to the east as Consolidation Coal and PGP would have liked it to have gone. There were some difficulties with the map to the extension on the

1 west as well. And what we have done -- we have enough  
2 copies for Mr. Fulmer and his office, but what we have  
3 done is we have revised the map which we've got on the  
4 wall over here. Let me tell you what we did so that you  
5 can compare that to your recollection as to the changes  
6 that you wanted. The map last month extended the grids  
7 into West Virginia and encouraged you to develop field  
8 rules for parts of West Virginia. You declined. So we  
9 have stopped the grid at the state line and you've fix  
10 that problem. In addition on the west the difficulties  
11 that were discussed with regard to some Virginia Gas  
12 wells that were drilled under the Nora Field rules was  
13 resolved by cutting off the extension to the west at the  
14 dividing line between rows L and M on the Oakwood Field.  
15 So from M to the south on the west extension you have  
16 Oakwood units going over five rows to the west and in  
17 including L up we have preserved the Nora units that  
18 obviously exist. There was also a problem on the map  
19 that we had last time of wherein the mapping company had  
20 run the Oakwood units all the way to the north edge of  
21 the map which was not accurate because the Nora field  
22 does come around the northern part of the field. And now  
23 this map reflects the Nora units. This was discussed  
24 last time -- this other change was discussed. There is  
25 now a map accurately. The Nora units that are above the

1 Oakwood field, the dividing line between the Oakwood and  
2 the Nora was squared up so that it is a straight line.  
3 It continues straight up. This was, I think, mapped last  
4 time but I'll bring it to your attention again. You'll  
5 remember that there were make-up units at the top of the  
6 original Oakwood Field larger than 80 acres. And when  
7 you have pooled some of those units the Board has pooled  
8 them as 80 acre units so that we have little bits and  
9 pieces. We have squared that up so that the 80 acre  
10 units do. in fact, they're 80s and they're 80s all the  
11 way up on the proposed extension. We did not last time  
12 have a map all the way to the end as Ken Carnondy's  
13 testimony indicated that PGP wanted it extended and we  
14 now we mapped it to the full extent of the proposed  
15 extensions to the east. In addition I'm not sure whether  
16 or not the coordinates are on the map so that you would  
17 have a coordinates description. but this map does include  
18 a coordinates description of the extension on the entire  
19 extent of the field so that you have those. I think in  
20 conclusion those are all the changes that we discussed  
21 and the concerns that you expressed in terms of getting a  
22 final map to see exactly what was under consideration.  
23 The representatives of Island Creek, Consolidation Coal,  
24 PGE, OXY, Buchanan Production and Virginia Gas have all  
25 had an opportunity to deal with this map. I guess it

1 represents generally a consensus as a means of expressing  
2 current development plans, not forever but certainly into  
3 the foreseeable future of the various companies. And I  
4 think that there's here and they can speak for them-  
5 selves, but I think that this is a consensus that this is  
6 appropriate based on the geological testimony that you  
7 all have already heard. To kind of just summarize what  
8 has gone before in addition to the issues that we've  
9 addressed with this updated map, the drainage issues were  
10 originally addressed when this matter came before the  
11 Board in 1990 or before May of 1990 and that's certainly  
12 in the record. I think this may be the third time that  
13 we have discussed the coal under the proposed extensions.  
14 There was testimony by Ken at the Hurricane Branch  
15 Extension hearing with regard to the similarities of the  
16 coal to the east justifying the Hurricane Branch Exten-  
17 sion which a Board order has been entered on. I mean,  
18 part of this has already been extended. And then there  
19 was testimony last month by both Ken and Dennis Louellen  
20 with regard to the coal characteristics in all of the  
21 areas where the proposal is to extend the field. And  
22 essentially to summarize Dennis' testimony and Ken's  
23 testimony, as I understood it and recall it, was that the  
24 characteristics of the coal in general is sufficiently  
25 similar in all directions that this proposal extends to

1           justify an extension of the 80 acre units. I didn't plan  
2           on offering any testimony. If you have any questions  
3           today with regard to mapping or anything else we certain-  
4           ly have some people here that can deal with them. But as  
5           I understood it we were to come back with a map that was  
6           final, that you could see exactly what we had proposed  
7           and that did not have some errors on it as the map we had  
8           last time.

9   + MR. CHAIRMAN: Tom, would you distribute copies of the letter  
10           we received from Don Johnson. I have distributed a copy  
11           of those three letters. The letters are saying the same  
12           thing but representing different clients. That's the  
13           only other information I've received regarding this  
14           proposed extension. Elizabeth, did you have anything?

15   MS. McCLANNAHAN: No.

16   MR. CHAIRMAN: Did you have anything?

17   MR. RASNAKE: No.

18   MR. McGLOTHLIN: Mr. Swartz, could you give me some kind of  
19           idea what -- the way the industry will ask the Board to  
20           pool the northwest area next to the West Virginia line  
21           and some of those are going to be 80 acres, some of them  
22           10 acres it looks like.

23   MR. SWARTZ: I honestly have no idea. I mean, it's a problem.  
24           You're going to wind up with some odd shaped units up  
25           there or some island acreage. I think that that would be

1 driven by well locations.

2 MR. WIRTH: And even a rectangular grid systems in the western  
3 part. As you know, Virginia and the thirteen colonies  
4 has meets and bounds, even they have correction sections  
5 to meet the townships and runs. So like when you come  
6 like to an Oklahoma candace you still have a gap. They  
7 usually include that instead of a 640 acre section. It's  
8 usually 650 or if you divide it up into 40s, lay down 80s  
9 or whatever it's usually a make-up section and that  
10 acreage is included in the various state. They can't  
11 cross boarders.

12 MR. MCGLOTHLIN: Instead of asking for an 80 acre unit you  
13 might be asking for a 100 acre unit or --

14 MR. WIRTH: There may possibly be. I could not -- you would  
15 just really have to rely on, like Mark says, a well  
16 location. You may have to group two 80s together or it  
17 may be not quite two 80s. It might two 60s because it  
18 follows the river and everything like that. So you could  
19 have some odd shaped units on the boundary of the states.

20 MR. CHAIRMAN: Would you state your name for the record,  
21 please?

22 MR. WIRTH: Martin E. Wirth with OXY, USA.

23 MR. CHAIRMAN: Thank you.

24 MR. SWARTZ: In theory that this relies on people cooperating  
25 you could create a voluntary unit which crossed the

1 state line. I mean, we wouldn't be here talking to you.  
2 You create a voluntary 80 acre unit that would pick a  
3 piece in Virginia and square it off into West Virginia,  
4 but that would require the parties to cooperate and agree  
5 to a voluntary unit. But that is another potential  
6 solution to a fairly obvious problem. When you have a  
7 boarder that looks like that you're going to have some  
8 odd shaped units. It's inevitable.

9 MR. CHAIRMAN: Is this affecting any other Board field rule  
10 other than the Oakwood Field Rule?

11 MR. SWARTZ: Well, and indirectly the Nora.

12 MR. CHAIRMAN: Would you amplify on how indirectly it affects  
13 the Nora?

14 MR. SWARTZ: Well, Marty can point that out to you.

15 MR. WIRTH: Again, as Mark was talking, B200 that lap along  
16 if I divide it up here I'm basically right here. When  
17 the Nora Field was established it took Wise, Dickenson  
18 and some of Buchanan County up to the Commonwealth line  
19 and the Kentucky line to 82 degrees. We have left the  
20 Nora Field intact except for the areas of interest we  
21 plan to develop which comes down, as Mark says, on the L  
22 row in the Oakwood grid. This is all Nora were you see  
23 my hands to here. It remains intact all the way up to  
24 the boarder and where it was in place. Modifications is  
25 here and one line -- B200 cut the 60 acres and also made

1 the 80 acres and we found out if we adjusted you could  
2 make a 60 and an 80 and it butted up. We have evened  
3 off right even. You have 60 acres in Nora, 80 acres in  
4 the Oakwood.

5 MR. CHAIRMAN: What information does the Board have --  
6 geologic information -- that would distinguish between  
7 whether or not a drainage area was 80 acres or 60 acres?

8 MR. WIRTH: Again you rely on the testimony with the Nora  
9 Field, Mr. Wampler, and also the two testimonies with the  
10 Oakwood I and Oakwood II for the Oakwood Fields. The  
11 testimony -- I was not present at the Nora Field so I  
12 cannot expand on that. Maybe someone else in the  
13 audience can. The Oakwood Fields geological and en-  
14 gineering and land data -- of course, as you well know  
15 we were able to go under the ground. We saw our fract-  
16 ures. We were able to physically go down there and  
17 measure the frack lengths and come out to an 80 acre  
18 drainage. That's our testimony on the Oakwood Field.

19 MR. MASON: When was the Nora Field rules adopted?

20 MR. FULMER: 3/90.

21 MR. CHAIRMAN: March of 1990.

22 MR. SWARTZ: To further address the question you raised, Mr.  
23 Chairman, there is a specific finding which is repeated a  
24 couple of times in the Oakwood Order; the one that was  
25 issued in May of 1990 with regard to drainage and it

1 occurs once at the bottom of Page 2 continuing on over to  
2 Page 3 and then obviously the order is predicated. But  
3 the original order said that from the available data  
4 evidence which was obviously presented at those hearings  
5 the maximum area within the above named coalbed methane  
6 gas seams underlying the Oakwood Coalbed Gas Field which  
7 can be efficiently and economically drained by one  
8 coalbed methane well not drilled into the gob is an area  
9 of 80 acres should be the shape of a square. It goes on.  
10 Those findings with regard to drainage --

11 MR. CHAIRMAN: Excuse me. Folks, we're going to have to ask  
12 you to be quite. We can't pick up the recording with  
13 people talking. Thank you.

14 MR. SWARTZ: Those are findings originally made by the Board  
15 with regard to drainage and with regard to the Oakwood I  
16 Order and were predicated upon engineering testimony,  
17 reservoir data that was offered at that point. Essent-  
18 ially what we have done and I think what PGP did on the  
19 Hurricane Branch Extension is to offer additional  
20 testimony with regard to coal and with regard to the  
21 strat tables that were offered and the similarities that  
22 exist in the areas when we were proposing to extend this  
23 field to give the Board a basis to conclude that the pool  
24 which is governed by the Oakwood Rules I and II, in fact,  
25 extends beyond the original boundaries. So essentially

1           what we have -- the tack that we have taken and I think  
2           it's the way we need to go is to suggest that the pool  
3           given the characteristics of the seams does extend beyond  
4           the original limitations or boundaries of Oakwood I and  
5           II and that the drainage characteristics which the Board  
6           has already made findings with regard to both with  
7           Oakwood I and with Oakwood II obviously if the pool is  
8           larger those drainage characteristics and conclusions  
9           would apply. So that is the approach that we've taken  
10          and that's why you've heard geologic testimony with  
11          regard to coal and the similar characteristics of the  
12          seams and their presence and the thicknesses beyond the  
13          boundaries of the original field. That is what you have  
14          heard from Mr. Louellen and Mr. Ken Carmony.

15       MR. CHAIRMAN: We have, of course, the letters that we've  
16          distributed from Mr. Johnson which challenge and ask the  
17          Board to reconsider information presented, in fact,  
18          speaking to Oakwood Field Rules on spacing. And I don't  
19          believe Mr. Johnson is here to argue the point, but the  
20          Board has this in writing. "The Oakwood Field Rules on  
21          spacing are inconsistent with the assumptions on drainage  
22          which go to the technical data presented on the size of  
23          the units when initially adopted. Buchanan Production  
24          Company admitted the obvious at the March hearing, that  
25          all units will not be drilled." I'm quoting from a

1 letter from Mr. Johnson dated April 16, 1993 to me on the  
2 proposed changes and field rules and the expansion of the  
3 Oakwood Field by the Board on it's own motion. "My  
4 clients ask that the Board look at the drainage assump-  
5 tion distance from center to boundary and look at the  
6 field rule on off-set, off-set from the boundary.  
7 Drainage of the adjoining units is permitted using the  
8 existing off-set rules. The off-set should be no greater  
9 than one-half the distance between the center of the  
10 unit and boundary. Clearly the off-set should be  
11 reconsidered. The ability of the operator to request a  
12 variance should be preserved, but an operator should  
13 justify substantial drainage of an adjoining unit." I'd  
14 ask if there are any comments regarding that request?

15 MR. SWARTZ: I think Marty has comments, but before we get to  
16 that it would -- Mr. Johnson needs to be here and he  
17 needs to have a witness. This is a nice letter. He's  
18 complaining, but there's no testimony in this letter.  
19 There's no evidence in this letter and it needs to be  
20 taken with a grain of salt. He's not here. Do you have  
21 any comments, Marty?

22 MR. WIRTH: Well, basically -- I don't want to rehash the  
23 Board, but you must remember what the purpose of field  
24 rules are. Mr. Johnson's letter is very nice and  
25 everything. that you must consider yes, if you drill down

1 in the corner you're going to drill another 80. Hopeful-  
2 ly the leases that he negotiates -- and I know he has and  
3 I challenge his letter with Lowe & Rogers because the  
4 lease execution between the Rogers and us specifically  
5 calls for 80 units unless the Board does otherwise.  
6 Coalbed Methane -- let me go back. The way you deal with  
7 that is topography, geology, whatever, if you move over  
8 in the corner you, as the Board says okay, can drill it  
9 there but you cannot produce 100 percent. You're only  
10 allocated 50 percent, 80 percent, whatever the testimony  
11 may be. Allocation deals with off-center locations and  
12 everything. Coalbed methane is unique. You either vent  
13 it, damage the coal, or you go to mine safety. So you  
14 either produce it or vent it. You don't have that  
15 choice. Which is fine and dandy, whichever the coal  
16 company needs. If you request us to vent it we will.  
17 But that's unique characteristics. You've got to  
18 remember Oakwood II is based on 80 acres in your royalty,  
19 but it's allocated through the panel because you have a  
20 common source of drainage right through there. The whole  
21 panel when it's gobbled through is your supply. The only  
22 other theory you can do is -- okay, statewide helps you a  
23 little bit. You must notify everybody within 500 feet.  
24 Everybody gets 500 feet. What if an operator says,  
25 "Well, I'll go 501 feet from that lease line and drill

1 that well." I think and I'm not going to say anything.  
2 but you're still draining gas of that person but he's not  
3 going to get paid. Whereas field rules set up uniform  
4 shape and size, common drainage, everybody that's in the  
5 field rule whether it be 80, whether it be 60s, whether  
6 it be 180s, share proportionally in that unit. Another  
7 way, if his clients or any other clients has leases or  
8 whatever we drill well on an 80 you might create your own  
9 off-set demand in your lease because usually your leases  
10 take care of it. If a party drills a well in an 80 and  
11 it's 1330 feet from your lease boundary it has an  
12 automatic clause that says you must protect it or get  
13 away with that lease and he has a right to go lease to  
14 another party that wants to drill that 80. That's how  
15 it's further developed through.

16 MR. MASON: After reviewing the comments in here -- I mean, I  
17 understand what Mr. Johnson -- or at least I think I do  
18 -- what his complaints are. What I don't understand is  
19 what he proposes that we do instead of what we're doing.  
20 I wasn't here last time. Has he made any specific  
21 proposals as to what we should do instead of what we've  
22 been doing?

23 MR. CHAIRMAN: Of course, I'm doing this from recall. But  
24 certainly at the last Board hearing he raised the point  
25 and it's one point that I think merits some exploration,

1 that there's been a lot of development in the 80 acre  
2 spacing area and in the 50 acre spacing area and that he  
3 believed that there should be more on the record --  
4 technical testimony as to the results of the drilling to  
5 date and whether or not the 80 acre spacing is, in fact,  
6 appropriate. He also pointed out that the Oakwood II  
7 Order was a temporary order and challenged that. I  
8 explained to him that the Board issues orders and that  
9 those orders are in place. Whether they're called  
10 temporary or permanent is irrelevant. They're in place  
11 until the Board changes them. So that in a nut shell  
12 captures some of the testimony we had at the last  
13 meeting. He's not here to further amplify, but I believe  
14 that his position I have to assume is represented in this  
15 letter following last meeting.

16 MR. MASON: Thank you.

17 MR. CHAIRMAN: Do we have anyone else that wishes to address  
18 the Board in this matter? The record will show there are  
19 none. Any other questions, members of the Board?

20 MR. EVANS: I think we've got the north, west and east  
21 boundary pretty well sewed up on this for whatever  
22 reasons. Was there any attempt to look south? I must  
23 apologize. I was not here for the testimony at the last  
24 meeting. I had to leave. But just refresh my memory.

25 MR. SWARTZ: I know there wasn't, but I can't remember -- ken,

1           there was not any effort at all or a discussion of moving  
2           it south, was there?

3   MR. CARMONDY: No.

4   MR. WIRTH: This is the existing southern boundary line of the  
5           Oakwood Field. We did not look south and I don't believe  
6           PGP did either because our immediate plans or very near  
7           future plans or whatever calls for no mining activity in  
8           this area right here. Now, this has been spaced and has  
9           been developed and maybe in the future Consol or PGP may  
10          want to do development. But at this present time they  
11          did not.

12   MR. EVANS: I just wondered how far -- as you head south you  
13          get into a more highly faulted area.

14   MR. WIRTH: Like I said, you have the Russell Fault and then  
15          the testimony talked about the Bishop -- Bradshaw Bishop  
16          faults and they were addressed. And really we cut off at  
17          the fault lines on the Bradshaw Bishop.

18   MR. EVANS: That's what I was wondering. I notice on the  
19          southern edge of that I just wondered how much further  
20          down the coal goes before you really get into the Pulaski  
21          fault and that type of thing, the Clinch River fault, all  
22          that area in Richlands there that runs pretty much  
23          parallel with the Clinch River going down through there.

24   MR. CARMONDY: Right. That's the southern terminals of the  
25          coal fields and it would just be a little bit further

1 south than what we show here going from the Jewell Ridge  
2 plot down into the Richlands area, yes. But there's like  
3 two to three thrust faults in the coal fields there.  
4 MR. EVANS: That's what I was asking, how much further south  
5 do the coal fields --  
6 MR. CARMONDY: In regards to like a 2000 scale topo map, about  
7 maybe 15 to 20 percent of that going down in there.  
8 MR. CHAIRMAN: Would you state your name for the record,  
9 please?  
10 MR. CARMONDY: Kenneth Carmondy, Consol, Incorporated.  
11 MR. EVANS: But we don't have sufficient information or data  
12 to say anything about going south from this area.  
13 MR. SWARTZ: We really didn't make an effort to do that, Ken.  
14 What has driven the extension here is mine planning --  
15 development plans that are in the foreseeable future, the  
16 next two, three, four, five years. And we don't want to  
17 represent that there may not be future development plans  
18 that would cause us to come back. I think it's likely to  
19 assume there are. But there's nothing that anybody had  
20 in mind south of this line and we didn't address it. I  
21 mean, I don't think we're in a position to answer the  
22 question you're raising.  
23 MR. EVANS: That's fine. That was my question, if there was  
24 any testimony put on or any information south of the  
25 line.

1 MR. CHAIRMAN: Any other questions? Do any of you have  
2 anything further? Does anyone present here today wish to  
3 address the Board in this matter? Further questions,  
4 members of the Board? You've heard the proposal. Do I  
5 have a recommendation?

6 MR. MCGLOTHLIN: I move we accept the proposal for extending  
7 the Oakwood II rules to incorporate the areas to the  
8 west, north and to the east as so designated on the  
9 exhibit mapping.

10 MR. CHAIRMAN: We have a motion.

11 MR. EVANS: If it's okay, Mr. McGlothlin, I'd like to put in  
12 your wording address the partial 80 acre units along the  
13 West Virginia line at some -- should those come before  
14 the Board for force pooling or whatever else. That they  
15 will be included in one of the other 80 acre units or  
16 another unit that's close that's adjacent to it.

17 MR. MCGLOTHLIN: I have no objection.

18 MR. HARRIS: Second.

19 MR. CHAIRMAN: We have a motion and a second. Further  
20 discussion?

21 MR. MASON: Yes, sir. I'm not sure I understand that.  
22 I guess what my point was is along that West  
23 Virginia line I know there are some bits and pieces.  
24 You're saying that anybody that attempts to force pool  
25 one of the 80 acre units will expand that unit to the

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

West Virginia line to the north. Is that what you're saying?

MR. EVANS: Uh-huh.

MR. MASON: Okay.

MR. CHAIRMAN: Does that motion incorporate both Oakwood I and II orders and the amended Nora area?

MR. MCGLOTHLIN: Yes, sir.

MR. CHAIRMAN: Any further discussion? A motion and a second as clarified. All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) The motion carries.

ITEM III

1  
2  
3 MR. CHAIRMAN: The next item on the agenda, the Board on it's  
4 own motion will receive clarification of language on the  
5 Oakwood Coalbed Methane Gas Field I and II orders that  
6 came up last month. This is Docket number VGOB-93/03/16-  
7 0349. I'd ask the parties that wish to address the Board  
8 in this matter to come forward at this time. What's  
9 going on here is the Board is going to consider language  
10 modification for both the Oakwood I and II orders for  
11 consistency. This will include the Hurricane Branch  
12 Extension to the Oakwood Field which was approved by the  
13 Board in earlier hearing by a petition from Pocahontas  
14 Gas Partnership.

15 MS. McCLANAHAN: We submitted our changes after last month's  
16 hearing together. Mark Swartz on behalf of Buchanan  
17 Production and OXY and Elizabeth McClannahan for Pocahon-  
18 tas Gas Partnership.

19 MR. CHAIRMAN: This is a follow-up for the Board members  
20 information to a prior hearing that we held. To get some  
21 clarifying language I'd ask Sandra Riggs to address some  
22 of the areas where we would specifically target clarific-  
23 ation.

24 MS. RIGGS: I think the two areas of the order that there's  
25 some question as to language or changes to language as

1           opposed to the original draft that went out would be  
2           Paragraph 7-A which are the definitions for short hole  
3           gas, unsealed gob gas, and gas from additional wells.  
4           Previously there was a reference to the amount of mineral  
5           acreage in an 80 acre drilling unit as it bears to the  
6           total surface acreage and that has been changed to the  
7           total mineral acreage. I don't think there's any problem  
8           with that. It was just a change that needed to be made.

9           MS. McCLANNAHAN: Is it 7-E instead of --

10          MS. RIGGS: Well, the definitions are in Paragraph 7-A of the  
11          Oakwood II order and then the allocation is in 7-E. Then  
12          when you get to Paragraph 7-E again you have language  
13          that addresses short hole gas, unsealed gob gas, and gas  
14          from any additional well. And it's my understanding that  
15          Mark Swartz and Elizabeth McClannahan have reached  
16          agreement as to that language but it had to come back to  
17          the Board to see what that means. Would it be easiest if  
18          I read the new proposed language on each of them and take  
19          them one at a time?

20          MS. McCLANNAHAN: I have copies for everybody if you want me  
21          to hand those out.

22          MS. RIGGS: Okay. (Pause.)

23          MR. SWARTZ: Sandy, before we get at this, you said that we  
24          need to tinker with 7-A as opposed to just 7-E, the  
25          definitions, and I really don't understand that. I

1 mean, the definitions in 7-A do not seem to have the  
2 mineral surface acreage problem in the original order.  
3 MS. RIGGS: The one that I have -- well, let me look at the  
4 original order. It could have been a comment to the  
5 first draft of the Hurricane Branch Extension order as  
6 opposed to a reference back to make it consistent with  
7 the original order.  
8 MS. SWARTZ: Okay. But the original -- well, the Oakwood II  
9 order that was entered by the Board when I looked at 7-A  
10 I don't see any definitional difficulties that have to be  
11 straightened out with a surface versus mineral acreage  
12 problem. And that problem seems to me to be limited to  
13 Paragraph 7-E which Elizabeth --  
14 MS. RIGGS: When you look in 7-A under gob gas, next to the  
15 last sentence -- wait a minute. I think you're right.  
16 It was to the proposed draft of the Hurricane Branch as  
17 opposed to the original order.  
18 MS. McCLANNAHAN: Well, on the Oakwood I order do you want me  
19 to just go through these?  
20 MR. CHAIRMAN: Yes, please.  
21 MS. McCLANNAHAN: On the Oakwood I order the change that we  
22 requested was for OXY, USA, Inc. to be changed to "an  
23 operator". That's on Page 3 of the first complete  
24 paragraph of the Oakwood I order. As you'll see, the way  
25 Mark and I prepared this was so that you could see what

1 was being deleted from the original draft versus what  
2 would be included. So the shadowed area is what's to be  
3 included. The lined out area is what's to be deleted.  
4 I think it was certainly intended that any operator  
5 could apply for this request as opposed to OXY. It was  
6 just that OXY was the moving party at that particular  
7 time. That's all for the Oakwood I. On the Oakwood II,  
8 Paragraph 7-E, again the changes are only those words  
9 that have been lined through or have been shadowed. What  
10 we've done here is tried to make sure that the payment  
11 for the royalties on this particular gas coincides with  
12 mineral acreage, not surface acreage, because there was  
13 some -- the royalty should be paid on the minerals as  
14 they're reflected on the surface over the unit or the  
15 longwall panel depending on whether you're paying under  
16 Oakwood I or Oakwood II. So that's the language changes  
17 for all of Paragraph 7-E.

18 MR. SWARTZ: And I should say that that is the way that  
19 royalties have been calculated by our respective clients.  
20 I think frankly we kind of dropped the ball when we  
21 drafted a proposed order and submitted it to Sandy. It's  
22 certainly not the Board's problem here. But it was  
23 unartfully drawn and although the testimony and intent  
24 was mineral acreages reflected on the surface so that you  
25 could plat it it got expressed using the word surface in

1 the original order and we think it needs to be cleaned up  
2 because it has a potential to be confusing.

3 MS. McCLANNAHAN: The only other change there is in the second  
4 paragraph of 7-E, subparagraph 3, and that is we changed  
5 the term "increase density well" to any additional well  
6 because that's the defined term that has been used by the  
7 Board. Again all these are what the intention of the  
8 Board was at the time, but just maybe words that were  
9 used that should be changed to make it more explicit.  
10 Then Paragraph 7-F on Page 6 of that order is the request  
11 just to include the statute 361.20.C as the reference for  
12 authorization of drilling location exceptions and then  
13 for drilling increased density wells it would be 20.A.

14 MR. MCGLOTHLIN: Ms. McClannahan, would you explain that  
15 change a little further, please?

16 MS. McCLANNAHAN: This also is what's happening in real life  
17 operations, I believe. Is that right, Randy?

18 MR. ALBERT: Uh-huh.

19 MS. McCLANNAHAN: The Inspector can grant location exceptions  
20 and additional wells under the Oakwood II but the Board  
21 has to grant increased density wells and this is the  
22 requirement as it's set forth in the statute. See,  
23 before the way it read it was by any Board order and the  
24 Board had actually authorized the Inspector to do that.  
25 So this just explicitly states that the Board has

1 authorized the Inspector to do that so that there's not  
2 any question about whether there is a Board order that  
3 allows him to do that or not. This sets forth the fact  
4 that there is a Board order that allows that to happen.

5 MR. MCGLOTHLIN: My recollection is that we stated that it  
6 would be on a case by case basis, that the Inspector  
7 could not grant that until it came before the Board.

8 MS. McCLANNAHAN: That's true for increased density wells.  
9 But if you'll look at the last sentence, the Board on a  
10 case by case basis has to authorize the drilling of  
11 increased density wells. The Inspector can grant  
12 additional wells or a location exception. Additional  
13 wells is a defined term under the statute. In other  
14 words, it has to conform with the mine plan, I believe is  
15 the requirement of that statute.

16 MR. SWARTZ: The distinction that you want to draw and that I  
17 think the Board has been drawing and practiced is the  
18 cost issue, Kevin. Mine plan additional wells. Wells  
19 that dictated by mine plans where the operator does not  
20 intend to load the cost of those into the DWE or into the  
21 unit can be authorized. But if they're increased density  
22 wells in the sense that the operator is going to be  
23 producing from them and expects to load the capital cost  
24 associated with those wells into the operation of the  
25 unit and pass it along to participants or carried

1 operators, those have been situations where the Board  
2 definitely has indicated very clearly to everybody that  
3 they either want us to come back or get them up front.  
4 And I think that -- I'm not real interested in this  
5 language, but I think that's the distinction that  
6 Elizabeth is trying to draw for you between mine safety  
7 wells where the cost is not allocated into the partici-  
8 pants or carried operators accounts and are born solely  
9 by the coal company or whomever and then wells where the  
10 operator wants to recover a portion of those costs from  
11 participants or carried operators and they have to be  
12 treated differently. And the Board, I think, has  
13 consistently taken that position. But if you're going to  
14 charge for them you've got to get a Board order.

15 MR. HARRIS: I have a question about changing the surface  
16 acreage to mineral acreage. We mean coal here, is that  
17 correct?

18 MR. SWARTZ: Or oil and gas.

19 MR. HARRIS: Or oil and gas?

20 MR. SWARTZ: Right.

21 MR. HARRIS: The assumption is then that we're going to be  
22 able to define what that acreage is because it says as  
23 projected or as platted upon the surface.

24 MR. SWARTZ: Right.

25 MR. HARRIS: Do we always know that?

1 MR. SWARTZ: Right. Let me give you an example from today's  
2 hearing. This is a pretty simple example, but every  
3 application for pooling -- this happens to be from VGOB-  
4 93/04/20-0352 which we'll talk about later today. It's  
5 unit 7-18. You'll see it has three tracts. The portion  
6 that happens to be forced pooled is colored in here, but  
7 this is acreage. There's an 80 acre unit. This is the  
8 drilling window and the tracts are actually platted every  
9 time that we have an application. Some of them are more  
10 -- I'll show you one that's a little more interesting.  
11 Here's a better one. This one happens to be for U-11.  
12 You can see that we plat the mineral tracts on the  
13 surface map of the drilling unit and then you can  
14 planimeter with an instrument to calculate the acres that  
15 that represents. These changes that we're proposing in  
16 Paragraph 7-E are intended to reflect what actually  
17 happens which is you plat the tracts whether they're oil  
18 and gas and coal on a map that's submitted and then you  
19 planimeter the area within those and do your calcula-  
20 tions. That's actually what happens and we're trying to  
21 reflect that in this language.

22 MR. EVANS: Ms. McClannahan, explain the difference between  
23 additional well and an increased density well.

24 MS. McCLANNAHAN: Increased density wells require drainage  
25 testimony. That's why the Board is required to approve

1 those. Additional wells is defined. And again I don't  
2 have -- I don't know this off the top of my head, but I  
3 can look up this definition. Additional wells is defined  
4 as a well that's drilled in order to conform with the  
5 mine plan or for safety reasons. Those are the wells  
6 that the Inspector is allowed to grant in terms of the  
7 drilling. The Inspector cannot grant -- by granting a  
8 permit or granting the ability to drill that well does  
9 not mean that the Inspector is thereby, as Mark said,  
10 granting us the ability to charge those costs to anybody  
11 who would be in the unit because that forced pooling  
12 application would be under the jurisdiction of the  
13 Board.

14 MR. EVANS: Let me ask you a question. Would that grant you  
15 the right to produce that gas or an additional well?

16 MR. SWARTZ: If you permitted it as a CBM well as opposed to a  
17 VVH, sure.

18 MR. MASON: Since we're into this, the prior paragraph to 7-F,  
19 the last part of number three there, you're substituting  
20 any additional well for an increased density well and  
21 that was discussed, that it there wasn't any real  
22 difference. Considering the differences that you all  
23 have discussed, what is the affect of that substitution?

24 MS. McCLANNAHAN: I think Randy is probably better able to  
25 explain this in terms of this subparagraph 3 in terms of

1           what actually happens. But as I understand it if it's --  
2           Randy, can you --

3   MR. ALBERT: I'll take a shot at it.

4   MR. CHAIRMAN: State your name.

5   MR. ALBERT: Randy Albert, Pocahontas Gas Partnership. I  
6           think what we're dealing with, Mr. Mason, to go back to  
7           Mr. Swartz's comments, specifically the only difference  
8           we try to draw between them would be whether that cost is  
9           included to be born with the unit or not.

10   MR. MASON: I understand that.

11   MR. ALBERT: Mr. Evans questioned whether we could produce it  
12           and certainly we could produce it as long as either the  
13           unit did not need to be force pooled or there was already  
14           a valid forced pooling order in effect. I think an  
15           additional well -- the simplest definition I can give is  
16           a well that's needed for mine purposes as a coalbed  
17           methane well that is needed to conform with the mine plan  
18           or for mine safety that the operator has no intention of  
19           burdening the cost of the unit with. An increased  
20           density well would be that well which is needed for the  
21           efficient drainage of that unit that which by a prepond-  
22           erance of economic and drainage evidence the operator  
23           could convince the Board was needed and could justify  
24           that those cost be added to the unit.

25   MR. MASON: I understand the difference between the two, but

1           what I don't understand is what relevance that has within  
2           the context of the language of this paragraph.

3           MS. McCLANNAHAN: Okay. Well, what happened -- do you see  
4           here -- Mark will have to address this because this was  
5           initially drafted by him using the additional well  
6           definition. If you'll see, the title to the subparagraph  
7           3 was for gas from any additional well. And then at the  
8           bottom of this instead of referring to the additional  
9           well it referred to an increased density well. We were  
10          just trying to make that consistent with what we felt the  
11          paragraph was trying to address. But you may have a good  
12          point here I think in that maybe it should be gas from  
13          increased density wells and any additional wells.

14          MR. SWARTZ: Well, the problem is, Mr. Mason and Ken, that --  
15          I didn't want to do this, Elizabeth, and I said it was  
16          going to cause problems and it has. But let's see if we  
17          can address -- there is a distinction and I suppose we  
18          need to address it. I don't know if we need to make a  
19          change. But the original Oakwood II order defined an  
20          additional well as a well that could be authorized under  
21          45.1-361.10.C. So that's what an additional well is.  
22          Well, that essentially is mine safety wells and increased  
23          density wells in my judgement. So the definition of an  
24          additional well as contained in Sandy's original -- it  
25          was a product of all of our efforts, but the definition

1 was broad enough to encompass both kinds. And I think in  
2 fairness to Elizabeth -- and I think it's a legitimate  
3 distinction to be drawn so that Mr. Fulmer knows where he  
4 stands and we know what we can get and what we can't get.  
5 My understanding is that if additional well includes both  
6 kinds of wells, one of which the Board says you can  
7 charge for -- you can charge the cost to the unit -- and  
8 one of which kind the Board says that's a mining cost,  
9 you're not going to be able to charge that unless you  
10 offer drainage testimony that is of some benefit to the  
11 participants in the unit. Because that term is so broad  
12 and it includes both kinds I think it makes sense to make  
13 a provision that specifically says that Mr. Fulmer has  
14 the authority to permit additional wells insofar as they  
15 are driven by mining plans, but that he does not have the  
16 authority to allow additional wells within a unit if  
17 there is an intention to put those costs off onto the  
18 unit -- the participants or the carried operators or  
19 whatever which I think has been your approach through  
20 these issues. In life that is the kind of issue that  
21 confronts the operators and the mining companies. Is  
22 this well justified economically or isn't it? Is it  
23 justified by a mine plan? And because that definition  
24 is broad enough to cover both some sort of language ought  
25 to be in this order. I mean, it's a legitimate issue

1           that Elizabeth has raised to delineate between --

2 MR. MASON: My point is that I think the use of additional

3 well for purposes of this paragraph is incongruent with

4 the way you're using it in the next one.

5 MR. SWARTZ: Right. Well, actually I think what may have --

6 paragraph 3 ought to speak to for sure an increased

7 density well because that's intended, I think, as we use

8 the term to be a producing well.

9 MR. MASON: What you're really talking about is in paragraph 3

10 you want to include within additional wells both those

11 charged to the unit and those that are not.

12 MR. SWARTZ: If you produce from them. At a minimum it's got

13 to include the concept of an increased density well

14 because that's the only reason it was permitted, but to

15 the extent that you're producing from an additional

16 well, the cost of which you are not attempting to recover

17 off-set against the unit, there ought to be a mechanism

18 to prorate the revenue. And I think that it should cover

19 both and I think using the term "additional well" instead

20 of increased density well gets us to that point.

21 MR. MASON: Okay. Then in F it should be additional wells

22 other than increased density wells.

23 MS. McCLANAHAN: Okay. That would be fine, I think.

24 MR. SWARTZ: I think. Let's see here. (Pause.)

25 MR. MASON: Excuse me. As I understand what was just said, I

1            have an 80 acre unit, I'm punch down three wells, all of  
2            which are authorized as CBM, put it down one well per  
3            unit, fine, no problem. The second well I'm going to  
4            call an increased density well and I'm going to produce  
5            from that, fine. The third well I'm going to call an  
6            additional well.  
7            MR. SWARTZ: A mine plan well.  
8            MR. MASON: Yeah. This is hypothetical. I'm going to call  
9            that an additional well. I'm not going to charge for  
10           that but I'm going to take production from that and I'm  
11           not going to allow anybody to say I want to participate  
12           in that well --  
13           MR. SWARTZ: Well, they have.  
14           MR. MASON: No. They've participated in two. How do you  
15           allocate the production from that third well?  
16           MR. SWARTZ: You have to allocate the production from that  
17           third well based on the Oakwood II order.  
18           MR. MASON: You just can't charge the cost.  
19           MR. SWARTZ: You just can't charge the cost.  
20           MS. McCLANAHAN: Right.  
21           MR. MASON: That's fine. All I'm saying is that in terms of  
22           what the Inspector can grant permits for and what he  
23           cannot without Board approval should be consistent from  
24           one paragraph to the other.  
25           MR. CHAIRMAN: Right.

1 MR. SWARTZ: Let me look at that. (Pause.) With regard to  
2 your suggestion on 7-F, Mr. Mason, I'm not sure -- what  
3 do you want to change in the first phrase here?

4 MR. MASON: No. All I'm saying is that you've told me that  
5 any additional well as used in paragraph 3 means any  
6 additional well including increased density wells.

7 MR. SWARTZ: Right.

8 MR. MASON: Then you come down in paragraph F and it would  
9 seem to indicate that increased density well is not  
10 included in additional wells. Otherwise, the second part  
11 of this would make no sense. In other words, it says  
12 that the oil and gas Inspector can grant well location  
13 exceptions and additional wells.

14 MS. McCLANAHAN: It actually -- you have to start with the  
15 order defines additional wells as only a 20.C well which  
16 is a mine planned well.

17 MR. MASON: But then why is it different from additional well  
18 in a prior paragraph?

19 MR. WAMPLER: It's pretty obvious why we're back here for  
20 clarification.

21 MR. MASON: I'm not necessarily judging. I just think there  
22 ought to be --

23 MR. SWARTZ: We had asked you originally to allow Mr. Fulmer,  
24 who I think everybody acknowledges you wanted to author-  
25 ize, to be in a position to permit mine plan driven

1 wells and he has that authority. We certainly want it to  
2 be as clear and in writing and I don't think it is. I  
3 mean, we need to improve that language.

4 MR. MASON: Okay.

5 MR. SWARTZ: And I think -- although the industry has not  
6 necessarily agreed with your view the Board has been very  
7 up front with us that if we're going to charge the cost  
8 you're going to allow that well. I mean, that's all that  
9 we're looking for here and maybe we need to -- if you  
10 think it's a good idea, we need to work with Sandy to  
11 express that intent perhaps a little more artfully than  
12 we have.

13 MR. MASON: That's fine. I just have trouble with the same  
14 two words meaning different things in different para-  
15 graphs. I do tax work and I'm use to that. I think  
16 it's particularly sensitive where the order has the  
17 affect of granting authority that the definition of  
18 parameter is without authority being very clear.

19 MR. SWARTZ: Maybe with regard to 7-F assuming there is a  
20 consensus that this ought to be more specific in terms of  
21 what Mr. Fulmer can and cannot do without a visit to the  
22 Board, if you think it needs to be improved as a group  
23 you might express that intention and let Sandra --

24 MR. MASON: The second sentence of that just says that  
25 however, the Board on a case by case basis may authorize

1 the drilling of increased density wells under Virginia  
2 Code Section and it seems to me that basically that's  
3 the authority we've retained. Why not carve that out of  
4 the authority that we grant to the Inspector?

5 MR. SWARTZ: Afterwards you could -- in theory I guess you  
6 could say -- going back to the beginning of it --  
7 provides that the Virginia Gas and Oil Inspector may  
8 grant well location exceptions and additional wells other  
9 than increased density wells or something like that?

10 MR. MASON: Yeah.

11 MR. SWARTZ: I mean, is that what you're suggesting?

12 MR. MASON: Yes, sir. I mean, you all probably have a more  
13 expanded view of how this fits in and everything than I  
14 do. But does that seem congruent with it?

15 MR. SWARTZ: I really don't have a position.

16 MR. MASON: Tom, does that make it -- do you understand and  
17 feel comfortable with the authority there?

18 MR. FULMER: Yeah.

19 MR. CHAIRMAN: The only thing I've been concerned about all  
20 along is the use of the term "increased density wells"  
21 and many of you know that. It's nowhere in the statute.  
22 The statute talks about multiple coalbed methane gas  
23 wells on each drilling unit. It does refer to that, but  
24 it does not use the term --

25 MR. McCLANNAM: Well, these are just the terms that we have

1 all used. I mean, I agree with you. It's --

2 MR. CHAIRMAN: I understand that. But when we're talking  
3 about clarifying it I just want to raise that as part of  
4 this discussion because it -- I know that you're meaning  
5 multiple coalbed methane wells in a drilling unit, but  
6 that's the term the statute uses as not increased  
7 density wells. And the question is, the Board when we're  
8 clarifying the language, should we stay with the language  
9 in the statute which is multiple coalbed methane gas  
10 wells in a drilling unit.

11 MR. MASON: What you're saying is that even within the  
12 definition of multiple wells there are subclassifications  
13 meaning --

14 MR. CHAIRMAN: On additional wells.

15 MR. MASON: Right. The difference being whether or not the  
16 cost of these wells that you all charge to this unit.

17 MR. CHAIRMAN: Right. I understand that and I think that's  
18 clear in the statute. In Section 361.20.C it says, "In  
19 establishing or modifying a drilling unit for coalbed  
20 methane gas wells and in order to accommodate the unique  
21 characteristics of coalbed methane development the Board  
22 shall require that drilling units conform to the mine  
23 development plan, if any, and if requested by the coal  
24 operator well spacing shall correspond with mine opera-  
25 tions including the drilling of multiple coalbed methane

1 gas wells on each drilling unit."

2 MR. SWARTZ: So this is the only situation where you can have  
3 more than one well on a unit.

4 MR. CHAIRMAN: Right.

5 MR. SWARTZ: And it's driven by the methane issues. And then  
6 the Board has made a decision -- I mean, we would love  
7 for you to forget what you've told us and then we could  
8 charge for any well. But the problem has come from you  
9 all in a sense because you have said and it's a policy  
10 decision you've made. But you have said there are two  
11 different kinds of wells under 20.C industry and we're  
12 going to treat them differently. We are trying, I guess,  
13 in an artful way to perpetuate the distinction you have  
14 drawn and have indicated you want to implement. To just  
15 say that 20.C says multiple coalbed methane gas wells,  
16 there are categories within that --

17 MR. FULMER: Can I make a suggestion here just distinctly  
18 talking about the use of the wells. I would consider any  
19 well drilled which you could allocate cost to be a unit  
20 well. Any other well drilled would be a mine plan.  
21 That's where I see the difference because unit cost is  
22 wrapped up into the unit as it is designated by the  
23 Board. The other wells are for safety purposes outside  
24 regardless of the unit and it's not dictated by the unit.  
25 It just happens to be in the unit. I offer that.

1 MR. CHAIRMAN: Any further discussion?

2 MS. McCLANNAHAN: One thing you could do in order to, as you  
3 say, use the statute as well as use Mr. Fulmer's practice  
4 that's being used anyway to grant these permits is you  
5 could just use the words of the statute in terms of  
6 corresponding with mine operations and use those words to  
7 distinguish between granting well location exceptions and  
8 additional wells which are required to correspond with  
9 mine operations. And then the Board, however, on a case  
10 by case basis may authorize the drilling of multiple  
11 coalbed methane gas wells on each drilling unit. I mean,  
12 that is what's happening. We picked this language just  
13 because we were trying to get some definition. But maybe  
14 the better thing to do is just use that.

15 MR. MCGLOTHLIN: Back to the additional well that you're going  
16 to drill but it's not going to be charged for we can  
17 pretty well consider it's going to be a VVH -- it's going  
18 to be put there for mine safety?

19 MR. SWARTZ: Right.

20 MR. WIRTH: It's not a VVH.

21 MR. SWARTZ: It's not a VVH.

22 MR. WIRTH: It's not a VVH.

23 MR. SWARTZ: It's permitted as a CBM.

24 MS. McCLANNAHAN: It may be produced from. The costs of the  
25 well just may not be charged to the unit owner depending

1           on what the Board's decision was.

2   MR. MCGLOTHLIN: Is it simpler to obtain a permit for a VVH

3           or for a coalbed methane well?

4   MR. SWARTZ: VVH. But we don't do that anymore.

5   MR. MCGLOTHLIN: MR. Chairman, is it simpler to permit a VVH

6           or a CBM well?

7   MR. CHAIRMAN: It's easier to permit a VVH. It's the policy

8           that if the intent is to produce from a well that they go

9           and permit it as a coalbed methane well. There's

10          communication between the Division of Mines and Gas and

11          Oil in order to prevent any permitting of something as a

12          VVH so that the notification requires that come under the

13          permitting of coalbed methane wells could not be admiss-

14          ible.

15   MR. MCGLOTHLIN: But if they're drilling the VVH then they

16          have to come back and reapply -- if they're going to

17          produce they have to come back and reapply to this Board

18          to change it?

19   MR. SWARTZ: No.

20   MR. RASNAKE: Not to change it.

21   MR. CHAIRMAN: That's what they're saying.

22   MR. RASNAKE: We can convert from a VVH to a CBM just through

23          Mr. Fulmer's office. There's not a required visit to the

24          Board.

25   MR. CHAIRMAN: Right, provided their not affecting any parties

1 rights.

2 MR. MASON: As I recall the original discussion in this, the  
3 way it came about is we were talking about the fact that  
4 in some instances where one well in a unit may have  
5 drained that unit over, say, a five year period but if  
6 mine plans call for that unit to be drained quicker they  
7 may want to drill an additional well. It doesn't serve  
8 the oil and gas owner at all to produce it that much  
9 faster. It simply serves the mine plan. Consequently we  
10 deemed it unfair to charge the additional burden of cost  
11 of that second well to the production of the gas and it  
12 was thought even though the actual revenue derived from  
13 that second well would be allocated just like the first.  
14 The cost of it would be treated as a mine cost as opposed  
15 to a gas production cost.

16 MR. CHAIRMAN: We've had extensive testimony and discussion  
17 about that.

18 MR. MASON: Right. And it seems to me that the only thing  
19 we're talking about here is that distinction.

20 MR. SWARTZ: Right.

21 MR. MASON: I mean, I'm perfectly satisfied based on those  
22 prior hearings that we all understand what increased  
23 density well means, but if it's necessary -- I mean, you  
24 could even add to this that an increased density well for  
25 purposes of this paragraph is a well in which the cost

1 are not to be charged to the unit.  
2 MR. SWARTZ: Increased density would be charged.  
3 MR. MASON: Would be charged.  
4 MR. CHAIRMAN: Additional well is the one that wouldn't.  
5 MR. MASON: Okay.  
6 MR. CHAIRMAN: I think we have enough on record. I just  
7 wanted to make sure we got the record --  
8 MR. MASON: I'm perfectly satisfied with it the way we changed  
9 it because I think it's --  
10 MR. SWARTZ: Well, the other thing just to remind you all  
11 because -- I think on Oakwood II when it was originally  
12 adopted there was a recognition that if two panels fell  
13 within a unit there was one well per panel per unit so  
14 that you pretty much had the Board's authority to charge  
15 cost for each panel that intersected a unit and you could  
16 have two wells in a unit. But beyond that you got to the  
17 issue that the operator would have to demonstrate some  
18 kind of -- I mean, it happens all the time.  
19 MR. CHAIRMAN: Any further discussion?  
20 MR. HARRIS: I still have a question about paragraph 3,  
21 though, because most of our discussion has been with 7-E.  
22 Have we made any determination about additional wells,  
23 about the language -- there in paragraph 3 of 7-E for  
24 gas from any additional well located in the longwall  
25 panel? There was some discussion earlier as to the

1 definition -- or the meaning of additional well in that  
2 paragraph. I haven't heard any discussion about clarifi-  
3 cation of that.

4 MR. SWARTZ: I think what the consensus is now, and I may be  
5 mis-speaking and somebody else can straighten me out, but  
6 I think we're in general agreement that the term "addit-  
7 ional well" as defined in this order includes all kinds  
8 of multiple wells so it's really broad so that this  
9 would govern proration or attribution of revenue with  
10 regard to any extra well in a unit and how it got  
11 allocated to the unit. I'm satisfied that that term  
12 probably ought to stay in paragraph 3 because it's broad.  
13 It would cover wells that the cost were not born by the  
14 unit but happen to be produced.

15 MR. HARRIS: My concern is just that we almost have to define  
16 additional well or --

17 MS. McCLANNAHAN: It is defined.

18 MR. SWARTZ: It is defined. It's defined in the order that  
19 we're modifying.

20 MR. CHAIRMAN: Yeah, those are defined.

21 MR. HARRIS: Okay.

22 MR. SWARTZ: It is defined. It is defined by a reference to  
23 the statute which defines it very broadly.

24 MR. CHAIRMAN: You don't have all the order here. That's  
25 what's the confusing part about it.

1 MR. HARRIS: Okay. I'm fine.

2 MR. CHAIRMAN: Now, on the Hurricane Branch Extension draft  
3 order discussion.

4 MR. EVANS: When you say it's defined, is it defined as a  
5 reference to 20.C which is for safety or mine plan  
6 purposes?

7 MR. SWARTZ: Well, and the unique characteristics.

8 MR. CHAIRMAN: It's defined as follows; "Gas from an addition-  
9 al well, gas produced from any additional well allowed  
10 under Section 45.1-361.20.C, Code of Virginia, 1950 as  
11 amended, in an established drilling unit which contains  
12 an existing well." (Pause.) Anything further on that?  
13 Any discussion on the Hurricane Branch Extension draft  
14 order proposed changes?

15 MS. McCLAMNAHAN: The same changes that would be made to  
16 Oakwood I and II would also affect the Hurricane Branch  
17 since it's an extension of the Oakwood I and II. In  
18 addition, part B of paragraph 6 as you see here -- this  
19 really was just semantics. It sounds like it's the  
20 coalbed methane gas within the boundaries of the Oakwood  
21 I Field, but it actually should be as it relates to the  
22 Hurricane Branch Extension. The same thing in Docket  
23 136. And then the last suggested change there is it's  
24 not a pool or reservoir separate and distinct from other  
25 coalbed methane pools but instead is a pool or reservoir

1           that's subject to those same field rules. (Pause.)

2 MR. MASON: Did anybody get a copy of paragraph 7 of the  
3 orders for this last --

4 MR. CHAIRMAN: Yes.

5 MR. MASON: I can't get any sense of what that means.

6 MR. CHAIRMAN: Folks, what we're doing here just so that you  
7 understand a little bit more, I brought this back to the  
8 Board for further discussion before we entered an order.  
9 The Board's already acted on orders in the past that  
10 we're discussing. This is clarifying some language  
11 before we actually sign and enter the order because it's  
12 an important part of what our understanding is. That's  
13 why I wanted it to be on record as to what we understand  
14 we're approving. (Pause.) Did you have anything further  
15 on this, Elizabeth?

16 MS. McCLANAHAN: No.

17           (AFTER A BRIEF PAUSE OFF THE RECORD, THE HEARING  
18 CONTINUED AS FOLLOWS:)

19 MR. CHAIRMAN: Is there any further discussion on these  
20 clarifications? I'll say again unless we go on our own I  
21 guess what Sandra and I are going to need is direction  
22 from the Board on dealing with this issue of increased  
23 density well. I think we either have to come to grips  
24 with staying with the statute reference to multiple  
25 coalbed methane gas wells or we have to come to grips

1 with the definition of what increased density wells are  
2 because I think leaving that out there in an order is a  
3 term I'm certainly not comfortable with. I want to make  
4 sure that the Board knows what it's approving here and  
5 that we're doing exactly what the Board wanted --  
6 intended. Other than that I don't think we need to take  
7 any action. I just wanted to have the discussion that we  
8 have for the record to clarify the orders.

9 MR. EVANS: Mr. Chairman, would it possible for the Assistant  
10 Attorney General to maybe provide some proposed defini-  
11 tion or proposed wording that we could look at for the  
12 next Board meeting? Would that be possible? Is that  
13 necessary or -- What's some of the ramifications that are  
14 going from the statute versus every order would have to  
15 have a definition -- if I understand this the definition  
16 of what exactly we're talking about?

17 MS. RIGGS: Given parameters I could come up with proposed  
18 language.

19 MR. MASON: I think that the statute just recognizes that you  
20 can have multiple wells and I think the Board has always  
21 said that some of those wells can be approved solely by  
22 the Inspector and we retain a right to approve some of  
23 those wells ourselves --

24 MR. CHAIRMAN: Right.

25 MR. MASON: -- Within the multiple well classification of the

1 statute. Personally I think we've pretty well hashed out  
2 what we consider to be the ones over which we want to  
3 retain the approval and that's any of these additional  
4 wells in which the cost of those wells would be born by  
5 the unit. I mean, if that language would be added to the  
6 section I think it would perfectly suit our needs.

7 MS. RIGGS: Is cost the only distinction and the only -- as  
8 far as defining them, cost is the only distinguishing  
9 factor or is drainage an issue as well?

10 MR. MASON: I think drainage is an issue. Conservation is an  
11 issue as well.

12 MS. McCLANNAHAN: Or it may be better to define it the other  
13 direction by saying the ones that the Inspector has the  
14 authority to grant or if they're for mine safety or  
15 conformance with mine plans. Everything else is with the  
16 Board.

17 MR. MASON: And the cost is not charged --

18 MS. McCLANNAHAN: Right. That's the better way, I think, to  
19 define it.

20 MR. SWARTZ: It has nothing to do with -- excuse me. This is  
21 not a correlative rights issue at all.

22 MR. MASON: There is the possibility it could be.

23 MR. SWARTZ: It can't be. How could -- you've got an 80 acre  
24 unit and you've found that one well will drain it and  
25 you're saying we're going to let you drill multiple wells

1 to accelerate drainage for coal mining and then you need  
2 to convince us that the participants ought to bear some  
3 of that cost as opposed to the companies. I mean, it has  
4 nothing to do with correlative rights or drainage. We  
5 may disagree, but from my standpoint it doesn't.  
6 Drainage is addressed by one well per unit and the  
7 multiple wells issue is a coal mining issue.

8 MR. RASNAKE: Not always. To the extent that you could put  
9 testimony on that would allow that.

10 MR. SWARTZ: Right, but that would be your burden to address  
11 whether or not you could unload some cost.

12 MR. RASNAKE: Right.

13 MR. SWARTZ: But from the Board's standpoint unless somebody  
14 comes forward they are assuming that one well ought to do  
15 it -- unless you come forward and tell them differently.

16 MR. RASNAKE: Right.

17 MR. SWARTZ: Which is the position you've taken because you  
18 won't let more --

19 MR. CHAIRMAN: I think we believe the statute says one well  
20 per unit with that closed exception.

21 MR. SWARTZ: Right.

22 MS. McCLANNAHAN: However that's handled it's going to affect  
23 7-E 3 just as -- okay.

24 MR. MASON: The only exception to the one well is where it  
25 comports with the mining plans, correct?

1 MR. SWARTZ: Right.

2 MS. McCLANNAHAN: Yeah, that is.

3 MR. CHAIRMAN: But you're also saying when that unit may  
4 contain two longwall panels -- you remember those cases?  
5 As long as we understand that that's part of the scenario  
6 of comporting to the mine plans.

7 MR. SWARTZ: And that was Randy's point, though, that there is  
8 a situation where the mine plan we have got two longwall  
9 panels and one well happens to be in a panel. It will  
10 not drain the other longwall panel. There is a correl-  
11 ative rights -- legitimate cost issue that arises there,  
12 but it's because of what you've done to the earth  
13 through your mining plan.

14 MR. MASON: It's still proven by the mine plan.

15 MR. SWARTZ: Right.

16 MS. McCLANNAHAN: And the exception here that we're talking  
17 about is what the Inspector can do leaving everything  
18 else to the Board.

19 MR. HARRIS: We're still calling these two different things,  
20 though, and neither -- well, multiple coalbed methane gas  
21 well I think was what -- is that the general classifica-  
22 tion?

23 MR. CHAIRMAN: That's what the statute refers to. What's been  
24 requested is to have Sandra come back at next Board  
25 meeting with some proposed language that we would all

1 understand before the order is actually entered.

2 MR. HARRIS: If I might just suggest just simply a Type I and  
3 Type II under that classification. Type I would be one  
4 that they would have to come back to the Board for and  
5 Type II would be one that the Inspector and then maybe  
6 define those within those.

7 MR. CHAIRMAN: Any further discussion? That concludes the  
8 Board's discussion on this matter. Before we take a  
9 break I want to, for all the people's benefit here, read  
10 a draft document that we've been working on in the  
11 Department. It's intended to be something that would be  
12 helpful to understand pooling. It's to help everyone  
13 understand this pooling issue and it reads as follows;  
14 "The ownership of gas and oil is divided into estates.  
15 Estates may include the surface land or different  
16 materials under the surface such as gas, oil, coal or  
17 rock. If the surface owner also owns all the mineral it  
18 is called simple ownership. In cases where the surface  
19 owner does not own all the mineral ownership interest is  
20 usually transferred by deed or lease to one or more other  
21 owners. What is pooling? Ownership of gas and oil is  
22 limited by the boundaries of the property. Unlike hard  
23 minerals, however, gas and oil resources may move  
24 throughout porous spaces and underground strata. Thus  
25 gas and oil may flow across property lines and be

1 produced by neighboring owners. In the past gas and oil  
2 were developed under the right of capture.\* Rule of  
3 capture, a lot of people refer to. "An operator could  
4 capture and produce all hydrocarbons that were drained by  
5 a well on his property. Thus operators could drain gas  
6 or oil from their neighbor's properties. The right of  
7 capture led to each property owner drilling his own well  
8 which caused the gas or oil to be wasted. In response to  
9 this problem laws were passed to allow owners to be  
10 grouped together to protect each owner's interest,  
11 provide for drilling the minimal number of wells necess-  
12 ary to produce the gas or oil and to insure that each  
13 owner receives the benefits of the produced gas or oil.  
14 This is the concept of pooling and it has been widely  
15 adopted by gas and oil producing states. A drilling unit  
16 is a geographic area drained by one well in which only  
17 one well can be drilled. Pooling within a drilling unit  
18 may be accomplished through either a voluntary agreement,  
19 a voluntary pooling, or a compulsory order of the  
20 Virginia Gas and Oil Board, force pooling. In Virginia  
21 the legislative standards that the Gas and Oil Board  
22 utilizes in deciding issues relating to force pooling are  
23 contained in Sections 361.21 and 361.22 of the Virginia  
24 Gas and Oil Act. These statutory requirements address  
25 both drilling units for conventional gas production and

1 drilling units for the production of coalbed methane.  
2 Where there is a conflict in ownership of coalbed methane  
3 interest the Gas and Oil Act also requires that the  
4 mineral revenues be held in escrow until ownership has  
5 been determined by the courts. How does force pooling  
6 work? In order to obtain a permit to drill for gas or  
7 oil an operator must certify that he has the right to  
8 produce the gas or oil around the well. If the operator  
9 does not own or lease all the minerals within a drilling  
10 unit he must approach the mineral owner with a proposal  
11 to lease or buy the mineral rights. If the mineral owner  
12 declines to lease or sell his mineral rights the operator  
13 may petition the Gas and Oil Board for a forced pooling  
14 order. A pooling order requires that mineral owners pool  
15 their resources and allow the operator to produce the gas  
16 or oil so that all may receive the value of the resour-  
17 es. What options does a mineral owner have when his  
18 interests have been force pooled? When the Gas and Oil  
19 Board enters a pooling order the mineral owner is given  
20 several options. He or she may sell or lease the  
21 interest, participate or share in the operation by paying  
22 a portion of the well's operating cost in return for a  
23 share of the profits, elect to be a non-participating  
24 operator and receive payments after his share of the  
25 operating expenses plus a risk penalty is paid back

1 through the production revenue, or make no election in  
2 which case the Gas and Oil Act treats the owner as if he  
3 is leased and he is paid a royalty interest on production  
4 from the land. In order to discuss these four options  
5 these terms are important to understand: working inter-  
6 est, royalty interest and designated operator. In a  
7 drilling unit interest is divided into working interest  
8 and royalty interest. In order to have a working  
9 interest the mineral owner must pay a percentage of the  
10 cost to drill and develop the well. Both participating  
11 and non-participating operators may have a working  
12 interest. In order to have a royalty interest the  
13 mineral owner is not required to make any such payments  
14 and thus faces no financial risk. Normally seven-eighths  
15 is designated as working interest and one-eighth as  
16 royalty interest. For example, for every \$100 generated  
17 at the well head \$87.50 would be the working interest and  
18 \$12.50 would be the royalty interest. The designated  
19 operator is the company designated by the Gas and Oil  
20 Board to develop the well and conduct subsequent opera-  
21 tions. Option 1: lease or sell the interest. Under  
22 this option a mineral owner may sell or lease his  
23 interest to the designated unit operator under terms and  
24 conditions as set out in the order or as negotiated with  
25 the designated operator. If the interest is leased the

1 owner would have a royalty interest. This means that the  
2 owner would have no monetary investment in the unit but  
3 would still receive depending on the terms and conditions  
4 of the lease a percentage share of the revenue generated  
5 by the well. For example, if the terms of the lease  
6 include a one-eighth royalty interest then all owners in  
7 the unit will receive in total one-eighth of the revenue  
8 generated by the well. If the owner who has elected to  
9 lease the interest holds 10 percent of the unit then that  
10 owner would receive 10 percent of the one-eighth royalty  
11 interest. If the well generates \$100 per day of which  
12 \$12.50 is the royalty interest then the owner would  
13 receive 10 percent of \$12.50 or \$1.25 per day. Option 2:  
14 Participate in the unit. Under this option a mineral  
15 owner may participate in the operations of the unit. The  
16 owner will be required to invest in the drilling of the  
17 well and subsequent operations. Then the owner would  
18 have a working interest. For example, if the owner  
19 controls 10 acres in a 100 acre unit then the owner would  
20 be required to provide 10 percent of the cost of drilling  
21 and operating the unit and would receive 10 percent of  
22 the working interest revenue. If the cost of drilling  
23 and operating the unit is \$300,000 then the owner  
24 electing this option would be required to contribute 10  
25 percent of the cost or \$30,000. If the well generates

1 \$100 per day of which \$87.50 is working interest then the  
2 participating owner would receive 10 percent of \$87.50 or  
3 \$8.75 per day. Option 3: Elect to not participate in  
4 the unit. Under this option a mineral owner may have a  
5 working interest without investing in the unit. This  
6 option is sometimes referred to as the no-risk election.  
7 The owner without leasing the interest or investing in  
8 the unit still receive a portion of the revenue generated  
9 by the unit. However, the owner's share of the cost of  
10 drilling and operating the unit is deducted from this  
11 revenue. In addition the owner is assessed a 200 percent  
12 penalty because the owner has not taken any financial  
13 risk. This does not affect the payment of the royalty  
14 interest to the owner. For example, if the owner's share  
15 of the cost of drilling and operating the unit is \$30,000  
16 then the owner would not receive any proceeds until  
17 \$60,000 had been recovered from the owner's share of the  
18 sales. If the owner leases the interest to a third party  
19 and the third party elects to not participate in the unit  
20 then the third party would be subject to a 300 percent  
21 penalty. Why do non-participating owners pay a penalty?  
22 If a mineral owner elects to become a non-participating  
23 owner he assumes no risk in the operation. The design-  
24 ated operator pays the cost of drilling and may encounter  
25 a dry hole. Therefore, the Gas and Oil Act compensates

1 designated operators for this risk by delaying payments  
2 until 200 or 300 percent of the cost allocable to the  
3 interest are paid to the operator through production  
4 revenues. The non-participating owner does not pay these  
5 costs directly but his payments are delayed until the  
6 designated operator has recouped the cost. Option 4:  
7 Fail to make an election. If the mineral owner does not  
8 elect any of the options in the order then the owner is  
9 considered to have leased the interest and receives a  
10 share of the royalty interest. For example, if the terms  
11 of the order include a one-eighth royalty interest then  
12 all owners in the unit would receive in total one-eighth  
13 of the revenue generated by the well. If the owner  
14 subject to the order holds 10 percent of the unit then  
15 that owner would receive 10 percent of the one-eighth  
16 royalty interest. If the well generates \$100 per day of  
17 which \$13.50 is royalty interest then the owner would  
18 receive 10 percent of the \$13.50 or \$1.25 per day.  
19 Rights to use of the surface under pooling orders, a  
20 pooling order from the Virginia Gas and Oil Board does  
21 not give any actual or implied right to use of the  
22 surface land in the unit. The order only addresses  
23 rights to produce the gas or oil under the land. If  
24 there is a lease or deed addressing gas or oil under the  
25 land use of the surface would be governed by the terms of

1 the lease or deed or by the implied right to reasonable  
2 use of the surface to locate, develop and produce the gas  
3 or oil. If there is no lease or deed the designated  
4 operator must obtain an easement or other permission from  
5 the surface owner to use the surface land to locate,  
6 develop and produce the gas and oil." I had a captive  
7 audience. Our intent is to draft something that would be  
8 helpful for people to understand. It is a draft. I read  
9 it in an intention for those of you that have hearings  
10 that are coming up here today to convey to you our  
11 understanding and our interpretation of what this all  
12 means in a nut shell and to give you an example. We'll  
13 now take a break. We'll reconvene in ten minutes.  
14 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)

ITEM IV

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is Item IV, the  
4 Virginia Gas and Oil Board on its own motion will reopen  
5 Docket VGOB-93/01/19-0323 to determine whether to  
6 schedule a future hearing to consider field rules for  
7 wells drilled prior to and therefore not covered by  
8 Section 45.1-361.17, statewide spacing for wells of the  
9 Virginia Gas and Oil Act. We had a two part determina-  
10 tion last time we had this discussion. One was that we  
11 request an opinion from the Attorney General. That's  
12 been done. That's in the process. The other was that  
13 the Inspector present to the Board areas where there has  
14 been development and where that the Inspector believes  
15 that the Board may want to consider establishing future  
16 field rules. I'll ask Tom Fulmer to address the Board.  
17 We would also ask any party that wishes to address the  
18 Board in this matter to come forward at this time. Tom,  
19 if you would go ahead with what you've got to present.

20 MR. FULMER: Mr. Chairman, I apologize for the room. It would  
21 be better if we were down in the other building. What  
22 I've essentially done basically is to give the Board some  
23 idea of what they may or may not be looking at when they  
24 take this motion into consideration. I looked at things  
25 that the Board has done or set precedence on and how they

1 ruled in the past. And dealing with individual wells the  
2 Board has rules in the Pilgrims Knob area 120 units and  
3 we took that -- what the Board has expressed in the  
4 Pilgrims Knob, done a grid system based on those units  
5 what the units would look like. This particular one is  
6 laid over the Mora and then we center the oldest well in  
7 that quad drilled prior to the spacing rules. As you can  
8 see as you lay the grid on top you have two wells to a  
9 grid. You have one well. You have some grids that don't  
10 have any wells at all. There's an overlap of some of the  
11 original volunteer units. There's overlaps on some of  
12 the pooled units. Some are even in between different  
13 unit lines or sitting right on the unit line. I realize  
14 that you can adjust the grid and we want to, but in order  
15 to cover the well -- I had to start from a starting point  
16 and I started with the oldest well in the quad dealing  
17 with -- in this particular instance dealing with the  
18 Bureau -- what was founded in the Pilgrims Knob dealing  
19 with the Bureau. There are some Bureau wells in this  
20 sector. There are also Big Lime wells. Now, companies  
21 usually they'll base some economics on Bone Shell, some  
22 on the Bureau and some on the Big Lime as far as the  
23 drilling (inaudible.) But I took this under considera-  
24 tion just for the point of view of what the Board has  
25 done on the particular Bureau in the Pilgrims Knob. This

1 grid can be transferred to any quad you like. I picked  
2 the Nora because it has the most wells drilled prior to  
3 1988 without spacing. So this is an example of what it  
4 would like if it was gridded over a preexisting drilled  
5 area. In the next sector I looked at areas particularly  
6 just Dickenson County and this map shows the location of  
7 wells -- this is not a very good situation here as far as  
8 what I can show visually, but underneath it's an isopack  
9 map on the Big Lime. As you can see the drilling is  
10 pretty much followed behind of the Big Lime. You have  
11 some areas in this area over here with less (Inaudible.)  
12 of the Lime, but you do have some development going on  
13 here that the Board has previously rules on as far as  
14 spacing. To give you a point of reference, in this  
15 general area right in here is the Flannagan Dam area. So  
16 they have been previous expansion out in here and you do  
17 have these areas all the way over here. Of course, as  
18 you remember, in any gas situation there is this thrust  
19 force fault over here when they developed on either side  
20 of the fault. So you do have some geological complica-  
21 tions as a base on the Big Lime. So these are areas that  
22 may see future expansion. Again, it depends on the  
23 findings as this field is expanded out  
24 -- the Nora field is expanded out. But you do have a  
25 wide area in this area, down in here, down in here which

1 do not have any development currently going on that the  
2 Board may want to consider looking at as far as orderly  
3 development of the area. I do have some other maps which  
4 the Board may want to look at in regards to -- it's the  
5 map also showing the structures. This fourth map I'll  
6 show you in regards to the cluster of drilling that has  
7 occurred.

8 MR. CHAIRMAN: Can you put those up over there and rather than  
9 just hand them out to us discuss them, what you're  
10 showing, so that everyone can see and hear? Is it  
11 possible to use this easel over here?

12 MR. FULMER: I might be able to use that. (Pause.) This map  
13 here basically on a very small scale shows the areas in  
14 these three counties and most of this was original gas  
15 drilling. Wise County, Dickenson County and Buchanan  
16 County, showing the areas of development and what has  
17 been developed. There's one area that's coming up in the  
18 next agenda items dealing with this area here in regards  
19 to conventional development. Two maps I have -- this map  
20 basically shows the top of the Green Briar and how it  
21 covers the whole three-county area. The reason that the  
22 Green Briar is mostly used is because it is a very good  
23 reference and a very good distinction when you do  
24 drilling and where these lie. You'll see the development  
25 here. development down in the Nora area, and this area

1 we're talking about on that map over there and then here.  
2 The other map I was showing has a bearing on development.  
3 Again, it's the structures --

4 MR. CHAIRMAN: Structures meaning?

5 MR. FULMER: Structures meaning falling lineaments which may  
6 in some cases -- like in the case of the Virginia Gas  
7 area around Jefferson Forest or an extension of Jefferson  
8 around Breaks Interstate Park showing the delineation of  
9 the falling and the fact that on one side you'll get  
10 double Big Line and on the other side you'll get single  
11 Big Line. So this has some variance on development. You  
12 have the Russell Fork fault, Paw Paw fault and the Jesse  
13 Fork fault, over here the King Mountain fault, and then  
14 some of these lineaments that exist all the way into  
15 Buchanan County. Down in the Coeburn area you've got the  
16 Coeburn fault, Clay Morgan fault, parts of the Sincine,  
17 part of the High Knob anticline, Buck Knob anticline,  
18 Dorchester Seam cline. So you have these different  
19 features all the way through this block. In some areas  
20 development may occur and in some areas there may not  
21 depending upon one, the economics of it and two, the  
22 amount of decline or economic -- what I call economic  
23 formations that determine (Inaudible.) a well economic  
24 for development. Are there any questions? I know it's  
25 kind of fast and furious. The areas that I mentioned

1 before in regards to the spacing and development -- what  
2 has developed is up in this area here which was dealt  
3 with previously.

4 MR. CHAIRMAN: When you point to that would you state where  
5 that is for the record, please?

6 MR. FULMER: That area that has been expanded recently to the  
7 west is around the Flannagan Dam toward Pine Mountain  
8 which is in the northwest factoring county.

9 MR. CHAIRMAN: Any questions?

10 MR. EVANS: In consideration of what's on the docket here as  
11 far as whether we -- you arbitrarily took the Pilgrims  
12 Knob and the 1207

13 MR. FULMER: That's 120. That's based upon previous Board  
14 ruling and what they've examined as a criteria for the  
15 development field.

16 MR. EVANS: Let me ask you, what's current statewide spacing,  
17 is it because current statewide spacing is close to 120  
18 acres is what it amounts to? Is that --

19 MR. FULMER: It's currently near it, but you've got to  
20 remember on the 1,320 spacing that this are circular  
21 units compared to --

22 MR. EVANS: Right.

23 MR. FULMER: -- there's more acreage than 120 acres than there  
24 would be in the statewide spacing unit.

25 MR. EVANS: But just a small amount?

1 MR. FULMER: Yeah. Corners, so to speak.

2 MR. KELLY: These colored areas up here, what's the differ-  
3 ence?

4 MR. FULMER: The difference is between 1980 and 1990 you had a  
5 1,250. From 1990 on you've got 1,320.

6 MR. KELLY: Which is which?

7 MR. FULMER: The yellow is from 1988 to 1990 which is 1,250.

8 MR. KELLY: As far as the areas that are currently more active  
9 areas -- the presence of these bigger areas of develop-  
10 ment on the statewide spacing, would those areas pretty  
11 much correspond with the areas you've got colored in  
12 purple?

13 MR. FULMER: Yes. There has been some in-field drilling.

14 MR. KELLY: The same kind -- at least in this area on this map  
15 it would appear that even in those areas you're just  
16 continuing progressive orderly development statewide  
17 spacing.

18 MR. FULMER: Yes. Just to clarify it, the green dots and the  
19 silver dots -- the silver with a little red around is  
20 after 1983.

21 MR. CHAIRMAN: Other questions? Mr. Riley, you may address  
22 the Board.

23 MR. RILEY: Mr. Chairman, members of the Board, my name is  
24 Barney Riley and I am a resident of Dickenson County and  
25 president of the Dickenson County Citizens Committee. I

1 have made prior appearances before this Board. Our  
2 committee appreciates the initiative and the courage of  
3 this Board to address the subject of proper application  
4 of field rules to gas wells drilled prior to enactment  
5 of Virginia Code 361.17. We strongly urge the Board to  
6 schedule future hearings to consider these field rules.  
7 Many times laws are passed based upon incomplete or  
8 erroneous data. When the real situation or facts are  
9 revealed the proper action is to repeal that law or  
10 change that law to reflect justice. Like me, you may  
11 also be accused of trying to change many years of case  
12 law and legal instruments. But have no fear for you will  
13 be in good company. Just like the Declaration of  
14 Independence, the Bill of Rights, and the American  
15 Constitution, the emancipation proclamation and the 19th  
16 amendment to our Constitution giving women the right to  
17 vote all went against a long history of case law and  
18 legal instruments so too should you speak unfair applica-  
19 tion of law and unequal treatment under the law for the  
20 people of Virginia. We ask you to consider in your  
21 deliberations that the field rules be made applicable to  
22 older wells at least for royalty payments. We know full  
23 well that the well spacing can't be changed now. The  
24 hole's in the ground. And make this on the date the law  
25 for a specific well spacing became effective. Thus

1 royalty payments for a 1,250 foot radius would be due for  
2 all existing wells drilled prior to the 1987 law change  
3 starting on the date that the date became effective.  
4 Similarly, when the 1,320 foot radius became effective  
5 increased royalty payments on existing wells should  
6 occur. The committee now asks this Board to take a fresh  
7 look at this issue and consider the words equality and  
8 fairness and to remember your mandate under the Virginia  
9 Oil and Gas Law to protect correlative rights of gas  
10 owners in the Commonwealth, be they normal country land  
11 owners or big city industrial giants. We appreciate this  
12 opportunity to address the Board and your interest and  
13 concern in this manner. We hope you will arrive at a  
14 positive decision to schedule future hearings relating to  
15 this docket. Thank you.

16 MR. CHAIRMAN: Thank you, Mr. Riley. Any questions, members  
17 of the Board of Mr. Riley?

18 MR. EVANS: Mr. Riley, I do have a question. When you say  
19 increased royalty, generally the royalty payments are  
20 one-eighth. What's your espousing, I assume, is that  
21 you will increase the payment of that one-eighth of  
22 eight-eighths production money to in the case of a 500  
23 foot radius well versus a 1,320. There are more people  
24 that are going to share in that one-eighth. The one-  
25 eighth isn't going to increase any. It's just that more

1 people are going to be taking money out of that pot as  
2 opposed to -- right now there may be ten people that are  
3 receiving royalty. You increase that spacing out and  
4 there might be twenty people. It's still only going to  
5 be one-eighth total pot. There's just going to be more  
6 people taking money out of it. Is that what you're --  
7 MR. RILEY: Well, there will be a bigger pot, too, Mr. Evans  
8 because a 500 foot radius when you expand that to a 1,320  
9 foot radius you increase the area by seven times. So you  
10 get paid for seven times more gas.  
11 MR. EVANS: No.  
12 MR. RILEY: So there's more gas coming out of that well though  
13 you're still getting one-eighth --  
14 MR. EVANS: You can't increase production on a well just be  
15 arbitrarily expanding the circle.  
16 MR. RILEY: Yes, but you see you're getting gas from 1,320  
17 foot but you're only paying royalty for 500 foot.  
18 MR. EVANS: You're paying royalty to the owners within that  
19 500 foot circle. The pot of money is \$100 on a 500 foot  
20 radius well. There are ten people sharing in that. If  
21 you increase it out to 1,320 foot and now there are  
22 twenty people still sharing in that pot of \$100.  
23 MR. RILEY: Well, that's not necessarily true. There's more  
24 than twenty people. They could be the same individual  
25 that should be getting paid for the 1,320 feet not just

1 500 feet. He's getting paid for all the gas that's being  
2 drained from his property, not just for a portion of it.

3 MR. EVANS: I'm at a loss to understand how that works. A  
4 well only drains so much gas whether it's from a 500 foot  
5 radius or a 5,000 foot radius. You're only going to  
6 drain so much gas.

7 MS. RIGGS: You measure it coming out of the hole and you pay  
8 one-eighth of what's coming out of the hole regardless of  
9 how big a circle you draw around it to determine who gets  
10 that one-eighths. What you do by expanding the circle is  
11 you dilute down the payment to more people.

12 MR. EVANS: Somebody may have been receiving \$10 a day in the  
13 analogy and now with twenty people in there they're going  
14 to receive \$5 a day because there's going to be more  
15 people taking money out of that. There's only a finite  
16 amount of revenue that's produced from that bore and what  
17 it is is what it is. Whether there are ten people that  
18 derive revenue from it or twenty people that derive  
19 revenue from it -- you can't make anymore gas come out.

20 MS. RIGGS: It's irrelevant to the operator because they're  
21 going to pay out to whoever the law says they should pay  
22 out to the one-eighth -- whatever that one-eighth is.

23 MR. BILEY: Well, apparently I'm not getting my point across  
24 because I understand where you're coming from and we're  
25 talking Greek and Latin here apparently. What I'm saying

1 is is you have this hole in the ground called a well and  
2 this is all my property that it's on but you're paying  
3 only for 500 feet around that the only royalty -- I'm  
4 getting one-eighth of whatever you're making within 500  
5 foot of that well. That's all I'm getting with this old  
6 method back in 1985 or the 1,250 feet after 1987 although  
7 you're getting all this gas out here from underneath all  
8 my property because the way that well was stimulated you  
9 are now 1,320 feet even though I'm only getting 500 foot.  
10 So while you're getting \$100 a day from that whole well  
11 you're only paying me my one-eighth royalty on that  
12 portion of it or of the \$40 that you get out of that  
13 particular portion. So I'm only getting \$5 a day instead  
14 of \$12.50 a day that I should be getting.

15 MR. HARRIS: Mr. Riley, I'm not sure -- if you expand that  
16 circle to the 1,320 how is that going to get out more  
17 gas? What it will do, it may cover more of your property  
18 and you may have a greater percentage -- what appears to  
19 be a greater percentage, but when you take the amount of  
20 gas that comes out that doesn't increase any.

21 MR. RILEY: It doesn't increase a bit. The same -- we'll say  
22 100,000 cubic feet comes out. But see, I'm only getting  
23 paid for a portion of that 100,000 cubic feet. But since  
24 I'm only getting with 500 foot of that well this individ-  
25 ual who owns that well says well, of the -- and he

1 doesn't never tell me he's getting 100,000 cubic feet a  
2 day. He's say we're only getting 40,000 cubic feet a day  
3 out of that well. So you're getting a one-eighth royalty  
4 on that 40,000 -- whatever is considered coming out of  
5 that 500 feet even though he's developing 1,320 feet. I  
6 know there's not going to be anymore gas coming out of  
7 the well, but I'm going to be getting paid a fair  
8 percentage of that gas that's coming from underneath my  
9 property.

10 MR. HARRIS: Let me try one more time. What happens is if you  
11 enlarge that circle then you're also including other land  
12 owners. You're including --

13 MR. RILEY: Maybe, maybe not. But you could.

14 MR. HARRIS: But if you do then you're actually -- I know what  
15 I just said about it increases your percentage. It  
16 increases your actual acreage. It may not increase your  
17 percentage, though, because when you enlarge that circle  
18 other folks who have ownership there are also going to  
19 increase their payment. So your total percentage may  
20 well stay the same or even decrease.

21 MR. RILEY: The percentage may stay the same, but the amount  
22 of money may be more.

23 MR. HARRIS: I can't see how the money increases. The amount  
24 of gas that comes out is not going to change.

25 MR. RILEY: But your portion of it -- your payment of how much

1 of that gas is coming out from underneath your property  
2 will go up. Therefore, your royalty will go up. The  
3 same amount of gas comes out each day.

4 MR. HARRIS: If we increase the circle then if you suggest  
5 that you will get more money where does that money come  
6 from? Are you taking it away from -- where is the extra  
7 money coming from? I guess that's my question because if  
8 you enlarge the circle then again that same amount of  
9 money that's going to get distributed over per acre a  
10 large area. The same amount of money gets distributed  
11 over a larger area, so per acre there is less dollars.  
12 So you may increase your coverage from maybe ten acres to  
13 fifteen or thirty acres but the percentage per acre is  
14 going to decrease because you have more acres. So the  
15 total amount of money that you get I don't see how that's  
16 going to change. I don't see how it's going to be a  
17 significant change.

18 MR. RILEY: Well, ten percent of one-hundred is ten but ten  
19 percent of one-thousand is one-hundred. So you're  
20 getting more money out of it.

21 MR. HARRIS: No. I don't think the math works out that way.  
22 It may, but I don't --

23 MR. RILEY: Can I attempt to draw this for you?

24 MR. CHAIRMAN: Yeah. We need to definitely make sure that we  
25 understand what you're representing and that you under-

1 stand what we're saying.

2 MR. RILEY: Can we do this in circles then since that's --

3 MR. MASON: Let me ask you a question. Do you maintain in  
4 your analysis that the amount of money that was paid  
5 under the old spacing law is restricted to the amount of  
6 that spacing? That the owner of the well make some  
7 allocation between the gas derived within the 500 foot  
8 circle as opposed to the gas totally drained?

9 MR. RILEY: Let me see if I understand that, Mr. Mason.

10 MR. MASON: Well, as I understood what you said you seem to  
11 indicate that there's this total production from the well  
12 but that the landowner is only getting a royalty on a  
13 part of that that's represented by the spacing amount.  
14 Isn't that what you said.

15 MR. RILEY: By the 500 foot -- yes.

16 MR. MASON: But that's not true. The land owner is getting  
17 one-eighth of everything produced out of that well.

18 MR. RILEY: Well, I don't know if that's right or not. I  
19 don't think that is true.

20 MR. KELLY: Let me take a stab at this. Mr. Riley, you're  
21 only talking about the royalty interest here and the area  
22 within which that royalty interest is paid and distribut-  
23 ed. You've got a 500 foot circle. People within that  
24 500 feet will share in that one-eighth. If you expand  
25 that circle people within that expanded circle will share

1 that same one-eighth. It may result in the inclusion of  
2 additional people that weren't getting paid royalty  
3 before and depending on what your interest is or the  
4 interest was originally it will dilute the payments or  
5 reduce the payments potentially to the people that were  
6 originally getting paid the royalty and result in that  
7 being distributed over a larger number of people. The  
8 royalty amount won't change. The amount of that money  
9 will not change. All you'll do by increasing the circle  
10 potentially is include more royalty owners to be paid.

11 MR. CHAIRMAN: And that's, in fact, what the Commonwealth has  
12 done. As new laws have been adopted and expanded that  
13 radius has been to recognize a larger drainage area so  
14 that additional royalty owners could be identified and  
15 participate or share in the production of the gas.

16 MR. KELLY: With what presumably an acceptable, justifiable  
17 drainage area.

18 MR. RILEY: Mr. Kelly, if you're the individual that is 600  
19 foot from that well and they're getting your gas is it  
20 ethical -- do you feel it's ethical that they are taking  
21 your resources, your property, and paying say to Mr.  
22 Harris because he's within the 500 foot of the well? Is  
23 that ethical? Is that proper?

24 MR. KELLY: I'm not agreeing with that. All I'm saying is  
25 that if you increase the area you potentially increase

1 the number of royalty owners that are going to share in  
2 that royalty.

3 MR. RILEY: Absolutely.

4 MR. KELLY: You'll increase the amount of royalty and you may  
5 dilute the payments that are being made now to the people  
6 that are within the 500 feet.

7 MR. RILEY: To that one man within. But isn't that lawful,  
8 isn't that proper, to include you since we're getting  
9 your resource we should pay you for it? I think it is  
10 absolutely proper.

11 MR. KELLY: I'm just trying to explain based on what your  
12 point was --

13 MR. RILEY: Well, there may not be anymore money but there  
14 will be more people sharing in the money and people who  
15 are now losing their property and getting nothing from it  
16 will now be able to get something from it.

17 MR. MASON: The point we were trying to make also is the fact  
18 that yeah, that well may be the case any time you have a  
19 change like this. The guy that's 501 feet in one case is  
20 not covered. In the next case he is covered. If he's  
21 1,251 feet he's not covered and now he is covered. You  
22 can keep expanding that item from item. But the point  
23 being and we want to make it crystal clear that the pot  
24 of money is only so big. Some people are going to real  
25 upset with what you've proposed. People that are within

1 that 500 foot circle are making money now and if all  
2 their property is within that 500 foot circle -- if they  
3 have ten acres they are getting an amount of money. If  
4 that area is expanded they're going to get paid less  
5 while some people are going to get paid a little bit that  
6 they never got before, but you are going to have some  
7 people that are going to lose income and some people that  
8 are going to gain income potentially. Not in every case  
9 but potentially. I just want to make sure that we all  
10 understand that yeah, while somebody who is not receiving  
11 something right now may, in fact, receive a payment.  
12 Some people who are receiving payments right now are  
13 going to get a lot less.

14 MR. RILEY: I assume by what you're telling me that you assume  
15 that the production figures from a well are exactly  
16 what's coming out of that well. You assume that what  
17 they report to you is proper, not that they are doing in  
18 any way, shape or form manipulating the production so  
19 they won't have to pay royalty to just that 500 feet.  
20 You're assuming that whatever they report to you -- we'll  
21 assume first that the old well was producing within 1,320  
22 feet even though they're only paying royalty within 500  
23 feet or you're assuming that --

24 MR. MASON: Distance has really nothing to do with it. What  
25 you're suggesting is that the companies will produce

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

100,000 cubic feet and only report 80.

MR. RILEY: You're assuming that does not happen?

MR. MASON: That's what you're saying does happen as I understand it.

MR. RILEY: Yes.

MR. KELLY: That they're producing more than they report or that they're controlling the production? To produce less than the well is capable of, is that -- I'm trying to get what you're saying here.

MR. RILEY: No.

MR. HARRIS: If I might make a point. I think what you're saying is that let's assume the company does produce from 1,320 feet but the requirement of that they pay royalties within the 500 feet and so what they do take the proportion of 500 feet -- take one-eighth of that and that goes to the land owners within that 500 foot area but the production is actually coming from the 1,320. My understanding of what happens is that the production -- if it's within 500 feet they may be drawing 1,320 but the total is what's reported, not just within the 500 because we can't control what goes on underground. The total may be from 1,320 but that's what's reported to us. This is my understanding. We assume that the companies are being honest. I mean, we assume they're being ethical in their reporting. And if that's the case

1 then one-eighth of that total production whether or not  
2 it all comes from 500 or 1,320 one-eighth of that as  
3 royalty gets divided up among the land owners within that  
4 500 foot.

5 MR. RILEY: Right.

6 MR. HARRIS: By expanding the circle to 1,320 yes, it will  
7 encompass more people but it's not -- you're suggesting  
8 there is a pool of money only part of which has been  
9 designated as royalty, eight-eighths and one-eighth, and  
10 you're saying that that's only part of the pool of money,  
11 that there's more money out there from production that  
12 has been made -- production from that well -- and by  
13 expanding the 500 foot radius that you're going to then  
14 get some of that other pool of money. I think what we're  
15 saying is that there is one pool of money and it really  
16 doesn't matter if you're 500 feet or 1,300 feet, there's  
17 one pool of money from the production of that well and  
18 if you're within that 500 foot and decide to expand to  
19 1,100 foot yeah, you may have more acreage, everyone else  
20 will have more acreage, and the percentage of that money  
21 isn't going to change. It may change a few points, but  
22 not a significant amount. There's no new money out there  
23 or old money out there that you're going to now start  
24 getting. You're getting all of it already.

25 MR. RILEY: Well, I agree with your initial assessment that

1           yes, there is more money because they're not reporting  
2           the full production as far as royalty payments. And I  
3           think it's only right and proper that the people outside  
4           the 500 feet if -- they're contributing their gas to that  
5           well for nothing. They're getting nothing in return for  
6           that. I think they should because that's their gas. So  
7           if somebody has to take a reduced amount of money it's  
8           only proper that they do because it's getting their  
9           neighbor's gas.

10       MR. HARRIS: But your argument is based on the assumption that  
11           the gas companies are not reporting what actually is  
12           being produced. I mean, is that your assumption?

13       MR. RILEY: I don't think that they're giving the one-eighth  
14           royalty to that individual that has the 500 feet.  
15           They're only giving him that 500 foot portion of the  
16           royalty. That's my contention.

17       MS. RIGGS: I guess the only thing I want to add is statewide  
18           spacing creates a presumption that can be overcome with  
19           evidence. You can come in and create a unit that is  
20           different than statewide spacing if you can show that, in  
21           fact, a bigger area is being drained. It is not to say  
22           that statewide spacing is -- somewhere you have to say --  
23           every well will produce differently and somewhere you  
24           have to say on the average this is how it happens. But  
25           under the law you can overcome that presumption by

1 putting on evidence that it is 2,000, that it is 5,000,  
2 that it is whatever your evidence shows. So by changing  
3 the presumption you're saying you want to change the  
4 average that the law establishes. But anybody can still  
5 come in and overcome that presumption by putting on  
6 evidence that their unit differs in some way from that  
7 average. I think you got an attorney's opinion to that  
8 effect that you shared with us last time. That the law  
9 just creates a presumption that can be overcome by actual  
10 evidence. We had a conversation about the law doesn't  
11 operate in a vacuum and without evidence in a specific  
12 case where you can show what the drainage is this Board  
13 would be free to act to create a unit if it had evidence  
14 before it that the drainage was a larger area or a  
15 smaller area that is established by statewide spacing.

16 MR. RILEY: YOU must have that evidence because in 1987 you  
17 increased it to 1,250 and now to 1,320.

18 MS. RIGGS: The presumption. The average presumption. But  
19 every well will differ based on the way its fracked, the  
20 way it drains. What the law does is create a presumption  
21 of drainage, but that can be altered if someone wants to  
22 come before the Board and put on proper evidence to show  
23 what the actual drainage is as opposed to the presump-  
24 tion. That was the only additional point that I wanted  
25 to make.

1 MR. CHAIRMAN: Any other questions or comments? Of course, a  
2 lot of what's been said here goes to the heart of the  
3 question we've asked the Attorney General is, in fact,  
4 this 1990 law presumption of spacing 1,320 feet, can it  
5 be applied retroactively, is that within the authority  
6 of the Board, and that's something that once we get that  
7 decision we'll bring back and have a discussion. That  
8 goes to the heart of a lot of what you're saying, if not  
9 all of what you're saying.

10 MR. RILEY: Yes.

11 MR. CHAIRMAN: And we have asked that as we said last time.

12 MR. RILEY: And you're still awaiting that?

13 MR. CHAIRMAN: Yes.

14 MR. EVANS: Mr. Chairman, based on that information I think  
15 that we should allow this to continue until we have that.

16 MR. CHAIRMAN: I think it goes to the heart of the whole  
17 issue.

18 MR. EVANS: And I think that's true. I think this is --

19 MR. CHAIRMAN: Certainly if the Board had an area that we  
20 think we should consider field rules then that's one part  
21 of the issue. But the real heart of this issue -- the  
22 heart of the discussion that we're having here has to do  
23 whether or not the Board has the authority to apply a  
24 1990 law and the spacing presumed a drainage area  
25 retroactive to a well drilled at such time that it was

1 500 feet. That's the heart of the issue and that's the  
2 one that I've written the Attorney General to ask to  
3 interpret that. Can that be retroactively applied within  
4 the authority of the Board or would that have to be in  
5 statute.

6 MR. EVANS: Which is where I think we will probably have to  
7 let this sit until we get that opinion from the Attorney  
8 General's office because that is the issue.

9 MR. RILEY: And then we'll visit it again based on whatever  
10 the Attorney General has decided.

11 MR. EVANS: That's exactly right. That's what I'm saying, is  
12 this will just continue until we have that opinion  
13 because we can't answer your question or we can't make  
14 any decision without that opinion.

15 MR. RILEY: Well, you wouldn't feel comfortable making it.  
16 You may be able to make it but --

17 MR. EVANS: Well, whether it would be valid or invalid is  
18 something that without that opinion -- we would need that  
19 opinion to have a basis. A lot of things aren't just but  
20 they're lawful.

21 MR. RILEY: Quite.

22 MR. EVANS: And that's where it stands.

23 MR. RILEY: Yeah. That's what this situation is.

24 MR. EVANS: That's all I'm saying.

25 MR. RILEY: It's lawful because we go snuckered a few years

1           ago but it's not just.

2   MR. EVANS: Like I said, a lot of things are lawful but  
3           they're not just and we have to deal within law.

4   MR. CHAIRMAN: Anything further?

5   MR. RILEY: I have one other comment if you have no more.

6   MR. CHAIRMAN: Okay. Go ahead.

7   MR. RILEY: Mr. Chairman, tagging on what Mr. Fulmer said,  
8           this is a most uncomfortable place to have a meeting.  
9           And if no one else will say it I will say it. I'm  
10          freezing to death.

11   MR. CHAIRMAN: We're trying to get some heat on. I apologize.  
12          We were normally scheduled in the other building which  
13          has better accommodations but they couldn't accommodate  
14          us this time.

15   MR. EVANS: Mr. Riley, I'll second that because I'm freezing.

16   MR. RILEY: And we need better sound, too. So next time give  
17          a thought to -- this might be a great place to meet in  
18          July and August, but right now it's not too nice.

19   MR. CHAIRMAN: We acknowledge that. Thank you for your  
20          comments. So is it the Board's pleasure that we continue  
21          this agenda item until we've received --

22   MR. MASON: So moved.

23   MR. EVANS: Second.

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

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

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

ITEM V

1  
2  
3 MR. CHAIRMAN: Items V, VI and VII on the agenda, Dockets  
4 number VGOB-92/12/15-0298, VGOB-92/12/15-0299, VGOB-  
5 92/12/15-0300 have been withdrawn.

6 MR. SWARTZ: Well, there's an objection.

7 MR. CHAIRMAN: I'm sorry. The next item on the agenda is a  
8 petition for the force pooling under Section 45.1-361.21  
9 by Ashland Exploration for A-3 located on the Hurley  
10 Quadrangle. This is Docket number VGOB-92/12/15-0298  
11 which was continued from February. I had received a  
12 letter withdrawing the items but we'll be happy to hear  
13 them.

14 MR. McQUIRE: Well, let me say I represent Ashland Explora-  
15 tion. We have a voluntary unit established now on unit  
16 A-4. As of this morning I believe we have a voluntary  
17 unit on unit A-5 and I believe soon we will have one on  
18 A-3. We wouldn't have come before this Board if we had  
19 already had voluntary units. CNR had difficulty making  
20 up its mind and asked us to force pool and we did. We've  
21 eventually worked out our differences with CNR and we  
22 have voluntary units in place. I have seen the one on A-  
23 4. I believe A-5 was signed today and we're working on  
24 A-3 and believe we can get it and we wish to withdraw our  
25 force pooling applications.

1 MR. CHAIRMAN: And you advanced the applications you're  
2 requesting to withdraw?

3 MR. McQUIRE: That's correct.

4 MR. CHAIRMAN: Your name is?

5 MR. McQUIRE: I'm sorry. Grant McQuire representing Ashland  
6 Exploration.

7 MR. SWARTZ: My name is Mark Swartz and I'm an attorney  
8 representing Buchanan Production, OXY, USA, Georgia  
9 Pacific and since the last hearing I've been retained by  
10 the Mountain Mission Schools to represent them as well.  
11 Georgia Pacific is in all three of these units. I  
12 represent them. I have no idea how a representation can  
13 be made that they have voluntary pooling agreements  
14 because my marching orders and I spoke to my client last  
15 Friday where he wants field rules. I called Tom Pruitt  
16 who's the attorney for Mountain Mission who retained me  
17 to represent their interest in these hearings yesterday  
18 after I got Mr. McQuire's fax saying he was going to  
19 withdraw this. Mountain Mission has not signed a lease.  
20 They have not entered into voluntary pooling agreements.  
21 And I assume Grant is being told this by his client and  
22 I'm not suggesting that he's telling you something he  
23 isn't being told, but I can't understand how we can have  
24 voluntary pooling units when I represent people in these  
25 units who have not entered into voluntary agreements and

1 want field rules. The reason that I am objecting to  
2 withdrawing these applications is I perceive this to be  
3 an end-run to avoid focusing on provisional field rules.  
4 These cases were initially set in December and they have  
5 been continued month after month after month. Since  
6 December I have advanced in objections and in argument, I  
7 have offered testimony or a reservoir engineer. You'll  
8 recall that Mr. Malarkey came out here from Oklahoma. I  
9 have proposed several varieties of grid systems. I have  
10 indicated that provisional rules ought to be at a minimum  
11 implemented to accommodate this development. And I  
12 perceive this an attempt to withdraw these pooling  
13 applications as an effort to avoid giving you as a Board  
14 an opportunity to take a position and say if development  
15 is going to proceed on a voluntary or involuntary basis  
16 in this area. The developing company, in this instance,  
17 Ashland, we want to have you come forward with some  
18 provisional field rules to address the issues that have  
19 been raised. They can withdraw them, I suppose, but my  
20 view is that you need to reach the issue that I have  
21 raised and that is is the Board going to take a proactive  
22 role here with this development looking at the various  
23 maps that have been submitted to you all and take the  
24 position we want to see some provisional field rules and  
25 we want a proposal from you to develop this area on a

1 rational, consistent basis. So my objection to making  
2 all of this go away by withdrawing these three pooling  
3 applications is it doesn't reach the provisional field  
4 rules issue or the field rules issue that has been  
5 raised that's been on this docket for five months. I  
6 submitted a memorandum to you all with regard to the fact  
7 that I think it is your obligation. It is a mandatory  
8 obligation. The statute says that the Board shall deal  
9 with spacing issues. In executing its duties under this  
10 chapter considering pooling applications the Board shall.  
11 And some of the specific duties and responsibilities  
12 that you have are foster and encourage conservation,  
13 administer a plan and method of gas and oil conservation,  
14 administer procedures for protection of correlative  
15 rights, prevent waste through design spacing, and enter  
16 spacing and pooling orders. I think this is an opportu-  
17 nity for you given the kind of development that you've  
18 seen here to say we want to have a proposal for field  
19 rules or provisional rules that make sense for this area  
20 that does not create island acreage. I'm asking you  
21 essentially, I guess, to hold their feet to the fire and  
22 come up with a proposal here that I have been asking for  
23 for five months -- offered testimony on. They've never  
24 called any witnesses and they don't have voluntary units.  
25 Unless Georgia Pacific behind my back since last

1 Friday --

2 MR. McQUIRE: I have a --

3 MR. CHAIRMAN: Excuse me just a second. Mr. Mason.

4 MR. MASON: I don't understand this at all. It seems to me  
5 this man filed an application for involuntary pooling.  
6 He objected to that application. He then withdraws it.

7 MR. CHAIRMAN: Right. He applies to withdraw it.

8 MR. MASON: Pardon?

9 MR. CHAIRMAN: He's asking to withdraw it.

10 MR. MASON: Right. And his objection was in the form of he  
11 objects to the granting of the pooling application and he  
12 asks for certain collateral relief in the midst of that.  
13 It seems to me that -- the Code provides at Section 45.1-  
14 361.20 that any royalty owner or an applicant or the  
15 Board on its own motion can apply for field rules. It  
16 seems to me that we do not have before us an application  
17 or a request for field rules. We have an application --

18 MR. SWARTZ: I made that.

19 MR. MASON: Pardon?

20 MR. SWARTZ: I made it.

21 MR. MASON: How?

22 MR. CHAIRMAN: It's not on the agenda.

23 MR. SWARTZ: Well, it's part of these three cases.

24 MR. MASON: You objected.

25 MR. CHAIRMAN: It's piggy backing the applications.

1 MR. SWARTZ: And simply requested the relief. The field rules  
2 and provisional -- I mean, it's been on the table since  
3 December. I've offered testimony. I understand your  
4 point.

5 MR. MASON: What argument do you offer us for denying this  
6 withdrawal?

7 MR. SWARTZ: In allowing him to withdraw his pooling applica-  
8 tions recognize that he needs to address provisional  
9 field rules I have no problem with that.

10 MR. McQUIRE: Mr. Swartz implies that we don't have voluntary  
11 units. I have the A-4 voluntary signed by CNR, Buchanan  
12 Energy and Ashland Exploration and Buchanan Realty. I  
13 believe A-5 has been signed today. We hope today that  
14 A-3 will be signed as well. I believe as a matter of  
15 procedure I filed this application. I didn't really want  
16 to, but had to file it and there was an objection by  
17 Georgia Pacific and by OXY who is outside the area but  
18 they filed objections. I think that if the Board wants  
19 to consider field rules it can do it on its own motion.  
20 If an interested party wants to apply for field rules  
21 they can do so under the right section, but none of that  
22 has happened. I simply have asked for force pooling and  
23 no longer need it. I want to withdraw.

24 MR. SWARTZ: Well, I didn't hear him say that Georgia Pacific  
25 has signed off on the GPA-4 unit. And if they haven't we

1 don't have a voluntary unit. How are we going to produce  
2 from a well which I assume the permit was conditioned on  
3 a forced pool. Where are we headed here?

4 MR. McQUIRE: Ashland has a lease from Georgia Pacific that  
5 allows them to use the broad (Inaudible.) rights to pool.  
6 It doesn't require Georgia Pacific's signature. If Mr.  
7 Swartz's client thinks that we've breeched that lease he  
8 can go to Buchanan Circuit Court. But we have pooling  
9 authority. We have a lease with Georgia Pacific.

10 MR. SWARTZ: Well, I have the lease with me and it doesn't  
11 grant broad pooling. We object.

12 MR. CHAIRMAN: Well, the Board's not going to decide, I can  
13 tell you right now, anything on your lease rights. The  
14 Board's going to decide on the application to withdraw  
15 these three applications that have been before us for  
16 some months now.

17 MR. MASON: I think that we have one of two choices. We can  
18 either grant the pooling application -- grant the  
19 withdrawal or on our motion if we want to proceed with  
20 field rules. But I think we have to go through hearings  
21 and notice and everything else and I don't see that  
22 that's an issue.

23 MR. CHAIRMAN: Absolutely. The Board cannot consider field  
24 rules here today.

25 MR. WIRTH: Mr. Chairman, the permit was granted on the

1           condition to file force pooling. Are you going to revoke  
2           the permits and file violations on the permits then?

3       MR. CHAIRMAN: The Board's not making any decision on that.  
4           The Inspector would have to make the decision on what he  
5           does depending on what the Board decides today. He's  
6           taking his own risk on dealing with his applications for  
7           his permit. I assume the Inspector had a reason to send  
8           the applicant to the Board.

9       MR. FULMER: I've got to make a correction now. As far as the  
10          one well which is the A-3, the A-3 was brought before the  
11          Board because it needed a location exception. Now, he  
12          filed for A-3, A-4 and A-5 pooling but that was --

13       MR. MCQUIRE: A-3 no longer needs an application for a  
14          location exception. I think the way we would do it is to  
15          -- if the Board allows us to withdraw is to notify the  
16          Inspector and give him copies of voluntary agreements and  
17          ask that we be allowed to produce.

18       MR. SWARTZ: I guess my problem here is a practical one. If  
19          you allow these to be withdrawn and do not address  
20          provisional field rules either on your own motion or on  
21          the request that I have made -- I've given you three  
22          options basically in terms of projecting and asking for  
23          relief from this Board and my request has been pending  
24          since December. If you don't do that we're in a situa-  
25          tion where these wells are probably not going to be

1 produced. I mean, if that's what Ashland wants to happen  
2 I suppose we'll just go back to square one and we'll have  
3 these holes in the ground that they can't produce from  
4 because they do not have the agreement of the parties.  
5 In A-3 I'm here representing Mountain Mission Schools who  
6 have 31 percent of that unit and don't want this to  
7 happen and aren't consenting, haven't signed a lease and  
8 aren't going to sign off on any. I also represent  
9 Georgia Pacific who has the other -- whatever the  
10 difference is -- 69 percent. I mean, where are we headed  
11 here? This is crazy. What both of my clients would like  
12 to see happen is for these wells to be allowed to produce  
13 but on a field rules basis where there is a uniform  
14 treatment, the acreage is all included. And by simply  
15 withdrawing these all that happens is these wells can't  
16 produce.

17 MR. CHAIRMAN: Do you or your clients feel you're precluded  
18 from advancing an application to the Board?

19 MR. SWARTZ: I think I have motions pending. I've asked one,  
20 enter an order deferring action on these pooling applica-  
21 tions and directing Ashland to petition you to establish  
22 field rules. The other alternative was to defer action  
23 on these, direct Ashland to petition you for an order  
24 creating individual drilling units that are not on  
25 statewide spacing. Or in the alternative I've asked the

1 Board, and again this was back in December 4th, 1992, to  
2 on your own motion set on the docket either the issue of  
3 provisional rules for this area or field rules. To  
4 suggest that I haven't sought some form of relief from  
5 you all -- I have since December but it has been a  
6 responsive sort of relief. And what I'm concerned about  
7 is that if their pooling applications go away that  
8 there's somehow an assumption that my client's position  
9 that this needs to happen has changed. It doesn't change  
10 and I think this is an issue that needs to be addressed.

11 MR. CHAIRMAN: Let me go more direct to the heart of your  
12 client. How has the Board prejudiced your clients by  
13 approving the application for withdrawal?

14 MR. SWARTZ: Well, as long as you're not denying my request to  
15 either order Ashland to come forward with provisional  
16 field rules or proposal or denying my request that you  
17 all this matter on for hearing -- I mean, I've already  
18 offered testimony on what field rules in this area  
19 should look like. I flew somebody out here from Oklahoma  
20 at some expense, probably \$1,500, and essentially what's  
21 happening is I've pursued the remedies. I'm trying to  
22 get this in a posture to have provisional field rules.  
23 I've offered testimony. And as long as allowing them to  
24 withdraw doesn't prevent you from continuing to address  
25 and doing something for provisional field rules I don't

1 care if he withdraws these at all. But in allowing him  
2 to withdraw you also allow him to make this field rules  
3 issue go away then I feel my client is prejudiced.  
4 We've been five months at this. We've spent money.  
5 They've paid me to come here five times when nothing ever  
6 happens and I kind of look at this attempt to withdrawn  
7 as an end-one to cut off my clients remedies with regard  
8 to provisional field rules or the implementation of field  
9 rules. So that's the prejudice I'm concerned with.  
10 Whether or not he withdraws these applications and we  
11 immediately move on to a field rules consideration, that  
12 would be fine with me.

13 MR. McQUIRE: I have contracts here among the parties who are  
14 really interested. This is a voluntary unit agreement.  
15 This is for A-4. I believe I have one for A-5 and hope  
16 to have one for A-3. I understand that Mountain Mission  
17 is represented by Mr. Pruitt in Grundy who has recently  
18 affiliated himself with Mr. Swartz and if that affilia-  
19 tion causes a problem then I may have to come back for a  
20 force pooling. It's my indication that Mountain Mission  
21 in A-3 wants a voluntary agreement and that all three  
22 would be voluntary units. But I haven't seen the Board  
23 on its own motion ask for field rules or any of Mr.  
24 Swartz's clients and I think that we ought to have the  
25 contract right recognized by the Board -- the contract

1 right to enter into the unit agreements.

2 MR. WIRTH: This is Martin E. Wirth with OXY, USA. The Board  
3 by a provision of the chapter shall be construed to  
4 recognize and protect the rights of persons owning  
5 interests in the gas and oil reserves, resources con-  
6 tained within the pool. I flew out at my own expense a  
7 reservoir engineer and put on testimony as to drainage.  
8 We feel there is a possibility they're draining our  
9 acreage. I'm not in that voluntary pooling. They've got  
10 voluntary pooling existing looking like the state of  
11 Florida. There's no way you're going to drain the state  
12 of Florida. I mean, we are here to develop a uniform  
13 shape and size consistent field rules of that which we  
14 ask the Board to be proceeded on. If that was done at  
15 the very first this was all gone away. But they are and  
16 the Board is allowing any voluntary units to come on  
17 affecting OXY, USA's rights and prejudicing. A pool has  
18 been established. There are wells in the area, numerous  
19 wells, and all we do as OXY, USA is ask for the granting  
20 and the relief for field rules established by the Board.  
21 We've put on presentation and testimony as to drainage.  
22 They have not. We have not seen voluntary units. What  
23 are they going to drain, another Florida? Now, are two  
24 people going to get paid the same on these units because  
25 they overlap? We're going to get into the situation as

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

you have already in other areas that were heard this morning.

MR. McQUIRE: These are 1,320 foot radius circles and I believe that's accepted by the state of Virginia and by the Board.

MR. WIRTH: Only as statewide on initial wells. If the testimony can prove drainages differ from that we feel it should be and we did put on that testimony. We feel that it's different than the circle unit.

MR. MASON: I just feel like -- from our standpoint there are two issues. One, do we want to grant the withdrawal and secondly, does the Board on its own motion want to set this matter up for a hearing on field rules. If we accept one and decline the other then it seems to me that Mr. Swartz's client -- if they wish to petition for field rules can do so. The issues to me are very clear. Do we want to grant the withdrawal and secondly, do we wish on our own motion to set this over for a hearing on adopting field rules.

MR. WIRTH: I think Mr. Swartz showed you that we did submit field rules to you.

MR. MASON: Well, I understand within the context of his objections, but I don't think -- personally I don't think that satisfies -- I'm uncomfortable with the notion that we can direct someone to present a motion for a field

1 rule as a part of draining an involuntary pooling notion.  
2 MR. CHAIRMAN: I think that the Board or anyone that applies  
3 for field rules have to go under a section of the  
4 regulation. Section 5 stipulates exactly what all has  
5 to be in any field rule proposal which would require all  
6 the notices and everything involved. Clearly if the  
7 Board wants to consider field rules for this area it has  
8 a right on its own motion to do that.  
9 MR. SWARTZ: Which is something that I have asked you to do.  
10 MR. CHAIRMAN: We understand that.  
11 MR. McQUIRE: And I think if Mr. Swartz's clients are in-  
12 terested enough that they have the right under the  
13 statute to petition the Board which they haven't done  
14 yet. It's not a easy process. You can't just come to  
15 this hearing. You have to search titles, figure out who  
16 has the ownership interest in all of this field or pool  
17 or whatever and then give notice.  
18 MR. WIRTH: Well, the relief asked for last hearing which as  
19 granted, they shall not produce these wells until field  
20 rules are established or this is heard. Now they're  
21 withdrawing. You're saying that they can produce from  
22 these things without field rules, take my gas until the  
23 field rules are established. I don't think that's right.  
24 Once field rules -- we've asked for what should be  
25 established. There shall be no drilling until it is

1 approved.

2 MR. MASON: Mr. Chairman, isn't all that a permitting issue?

3 MR. CHAIRMAN: Not the way he's stated it. He's saying if we  
4 grant the withdrawal then all of the factual testimony  
5 technical testimony presented about the drainage that  
6 will occur in here goes away.

7 MR. MASON: I agree. But that was all taken in the context of  
8 his objection to their petition which we're -- their  
9 objection -- I don't see how you can take their objection  
10 and turn it into an affirmative action. That's what  
11 troubles me.

12 MR. CHAIRMAN: That's the real question. I think that's the  
13 heart of the question.

14 MR. MASON: I think we're granting the very thing they  
15 objected to which is the removal of the involuntary  
16 petition. I don't see how you can suddenly take away the  
17 initial application in somehow finding the objection the  
18 necessity for an affirmative action by the Board. I just  
19 don't see how there's any joinder of that issue. I think  
20 that Mr. Swartz's clients procedurally still have the  
21 right to obtain the same result and that the Board has  
22 the right to do that on its own. If the Board should  
23 choose on its own motion to go forward with its own  
24 motion for field rules in this area then the question  
25 would become would all that testimony that was presented

1 pursuant to this objection be evidence in support of that  
2 motion because the required notices for the adoption of  
3 the field rules weren't given. I mean, I don't see how  
4 you can preserve that testimony in any context in terms  
5 of satisfying the statute as far as the objection of the  
6 creation of field rules.

7 MR. SWARTZ: Well, you can clearly preserve it if you say  
8 we're not going to let you withdraw these petitions.  
9 You're going to have to address field rules if you want  
10 these three units. I mean, that's an option you have.  
11 This all comes together --

12 MR. MCQUIRE: I don't know that that's an option. I don't  
13 know that you can order Ashland Exploration to petition  
14 for field rules. I understand you can do it on your own  
15 motion and I understand Mr. Swartz's clients can. I'm  
16 not sure that you could can order us to file field rules.

17 MR. WIRTH: If they can order to cease production they can  
18 order field rules.

19 MR. MASON: I don't know if we can do it or not, but I'm  
20 uncomfortable with the idea.

21 MR. CHAIRMAN: Any other questions? Mr. Swartz, let me ask  
22 you one question. We have before us an application to  
23 withdraw the three applications. Of course, we're just  
24 discussing the docket number I just called at this point  
25 in time. Admittedly it affects the other two. Other

1 than objecting to the withdrawal of that application what  
2 further do you have to say?

3 MR. SWARTZ: I only object to the withdrawal of those three  
4 applications to the extent it makes the question of  
5 whether or not field rules are appropriate for this area  
6 go away. To put it as concretely as I can, if you were  
7 to permit Mr. McQuire's client to withdraw these three  
8 applications and set on your own motion the question of  
9 whether or not provisional field rules should be adopted  
10 for the limited area encompassing these -- actually there  
11 are five wells because we have other maps -- for next  
12 hearing and Ashland could participate in discussing  
13 provisional field rules and OXY or other parties could at  
14 the next hearing, that would be an acceptable result to  
15 me. I mean, there are other results but that's a simple  
16 way of stating my position. To the extent that you allow  
17 these to be withdrawn and the entire question of whether  
18 or not field rules are appropriate goes away, I don't  
19 consider after five months and all the testimony and all  
20 the effort that my clients have gone to that that is an  
21 appropriate response.

22 MR. WIRTH: We don't have any relief, Mr. Chairman. The  
23 permits were granted. The wells were drilled. Now they  
24 come in for force pooling. We objected. They've got  
25 their permits under statewide. We weren't notified. We

1 think -- and we've put on testimony as to drainage --  
2 that it's unfair. Now it's going off the board. We  
3 can't object to the permits. They're granted. What  
4 relief do I have now? They're allowed to have these  
5 circular units with island acreage and I'm being excluded.  
6 John Doe, one of the land owners, is being excluded.  
7 You've got circular island acreage. We need some kind of  
8 relief from the Board is what I'm trying to say.

9 MR. CHAIRMAN: Mr. Fulmer, was there any conditional issuance  
10 of those three permits? Were they conditioned upon force  
11 pooling?

12 MR. FULMER: Uh-huh.

13 MR. CHAIRMAN: Then if the application is withdraw does the  
14 Board consider a stay on production until you either have  
15 one, a voluntary unit or two, force pooling? I'm asking  
16 the Board.

17 MR. FULMER: The way I see it as far as being able to produce  
18 a well then they're going to have to get some order from  
19 the Board. It's cut and dry because the original  
20 decision was against Ashland. The fact that the permits  
21 would be issued conditioned upon them getting the  
22 voluntary agreement

23 MR. CHAIRMAN: So if your application to withdraw these are  
24 approved and you fail to actually come forward and  
25 present to the inspector voluntary agreements including

1 all parties then we're back to --

2 MR. McQUIRE: I believe that I would need to inform the  
3 Inspector or the Board. For instance, A-4 I have in my  
4 hand signed. And I guess ask Inspector to enter a  
5 revised order because the issue of force pooling goes  
6 away. We don't need to force pool these people in this  
7 particular unit or I believe in the other units. Just  
8 ask him to enter a revised order.

9 MR. CHAIRMAN: Well, the Inspector having heard all this he'll  
10 have to make that decision. That certainly would be  
11 difficult to do having heard the testimony here where  
12 there is dispute to that. There's a presumption on your  
13 part to have all parties agreeing and there's an on the  
14 record statement that you do not have all the parties  
15 agreeing.

16 MR. McQUIRE: The distinction is there are three different  
17 units. As to A-4 we have all the parties signed on right  
18 here.

19 MR. SWARTZ: Has Georgia Pacific signed that agreement or not  
20 -- that piece of paper?

21 MR. McQUIRE: Georgia Pacific is Ashland Exploration's lessor  
22 and under our lease we have broad pooling utilization  
23 authority.

24 MR. SWARTZ: Is that a long way of saying Georgia Pacific has  
25 not signed that piece of paper? I assume that it is.

1           And we disagree on what the lease provides.

2       MR. MASON: But that's not related to what we do,

3       MR. SWARTZ: Well, I'm getting a little tired of hearing that  
4           they have a voluntary pooling agreement with regard to A-  
5           4 when over half of the unit is Georgia Pacific's and I  
6           know they haven't signed a voluntary pooling agreement.  
7           I guess where we're headed here is the Board is  
8           realizing and I'm realizing because I'm listening to this  
9           that if these pooling applications are withdrawn there  
10          will be an inability to produce and presumably Ashland  
11          will do something to like straighten this out. This  
12          seems to me to be where you all are headed. As long as  
13          they can't produce and they have to come back to the  
14          table I suppose let's have at it. But it seems to me  
15          we've wasted five months and we got an opportunity if the  
16          Board was will to put provisional rules on the docket for  
17          next month that maybe we could wrap this up next month  
18          from an expediency standpoint.

19       MR. CHAIRMAN: The Board wouldn't have any information on all  
20          the parties to be noticed and all those kinds of things.

21       MR. SWARTZ: You publish. Though, is what the Board -- the  
22          advantage is that the Board can publish those.

23       MR. MCGLOTHLIN: I don't like the idea of the industry coming  
24          to the Board and asking us to off-set it at the expense  
25          of field rules.

1 MR. WIRTH: You will protect all in the pool. You will  
2 protect all the interest in the pool.

3 MR. MCGLOTHLIN: Also, Mr. Chairman, I made the motion last  
4 month on the -- not to produce these wells until such  
5 time this item was straightened out and I cannot recall  
6 my exact wording of that and wondered if Mr. Fulmer had a  
7 copy of the transcript.

8 MR. MCQUIRE: I received a letter. If I could just read one  
9 paragraph -- my client did. We weren't able to make it  
10 to the last meeting because of snow. But it says that  
11 the Virginia Gas and Oil Board on its March 16, 1993  
12 hearing by its own motion approved the placing of  
13 (Inaudible.) of production of the above referenced  
14 permits in regards to A-4 and A-5 until those issues are  
15 resolved by action of the Board. This Board order shall  
16 remain in force until resolved by the Board. So at least  
17 with those two units -- because permits have been issued  
18 as to two of the three units. That's what the letter  
19 informed Ashland.

20 MR. CHAIRMAN: Permit has or has not been issued on A-3?

21 MR. FULMER: That was the one that had to have the location  
22 exception and now Ashland has moved that well.

23 MR. MCQUIRE: There is an application that's been filed, I  
24 believe, I'm not sure, on A-3.

25 MR. WIRTH: And we have not been notified.

1 MR. EVANS: I make a motion that we grant the withdrawal.

2 MR. CHAIRMAN: Of this application?

3 MR. EVANS: This application.

4 MR. CHAIRMAN: On the docket I carried, A-3.

5 MR. MCGLOTHLIN: Mr. Evans, give Mr. Fulmer a second  
6 here to look up that motion I made to check the wording.

7 MR. EVANS: I'm sorry.

8 MR. MCGLOTHLIN: (Pause.) Mr. Chairman, I'll second Mr.  
9 Evans' motion.

10 MR. CHAIRMAN: A motion and a second. Further discussion?  
11 If not, all in favor signify by saying yes. (ALL  
12 AFFIRM.) Opposed say no. (NONE.) That motion as I  
13 understood it was only for VGOB-92/12/15-0298 as called.  
14 Is there any reason to think that it's not going to be  
15 the same for the other two? I mean, I'll call them.  
16 Those two have permits. They are different.

ITEM VI

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling under Section 45.1-361.21 by Ashland  
5 Exploration for GPA-4. This is docket number VGOB-  
6 92/12/15-0299 also continued from March hearing. We'd  
7 ask the parties that wish to address the Board in this  
8 matter to come forward at this time.

9 MR. McQUIRE: Grant McQuire for Ashland Exploration.

10 MR. SWARTZ: Mark Swartz, same appearances and I would make  
11 the same arguments.

12 MR. McQUIRE: Ashland Exploration requests to withdraw its  
13 force pooling application for unit A-4.

14 MR. CHAIRMAN: Permit has been granted, well has been drilled?

15 MR. McQUIRE: Permit has been granted. I believe that  
16 drilling has occurred but no production has occurred  
17 because production wouldn't be proper until we dispose of  
18 the force pooling issue.

19 MR. CHAIRMAN: In the granting of the permit application, Mr.  
20 Fulmer, was Ashland conditioned to come before the Board  
21 and force pool parties?

22 MR. FULMER: Yeah.

23 MR. EVANS: Was there any other option?

24 MR. FULMER: The only option.

25 MR. McQUIRE: And one of the reasons is we didn't have all the

1 parties signed up in that area, specifically CHR was the  
2 main lessee in all three units.

3 MR. HARRIS: Mr. Chairman, since the permit was issued based  
4 on the force pooling and if this is withdrawn does that  
5 nullify the permit since that was the condition of the  
6 permit?

7 MR. FULMER: Well, the condition was they could not produce  
8 from the well till such time that they had received an  
9 order from the Board establishing a unit.

10 MR. HARRIS: So that was the wording -- forced pooling was not  
11 mentioned?

12 MR. FULMER: Well, that is in a round-about way force pooling.

13 MR. CHAIRMAN: But they were not conditioned from drilling  
14 the well?

15 MR. FULMER: No. There was no objections to the actual  
16 drilling of the well. The objections were from the  
17 royalty interest or the lack of protection of correlative  
18 rights of which the Board deals with that I cannot.

19 MR. EVANS: By withdrawing this application for force pooling  
20 does the production moratorium remain in effect?

21 MR. CHAIRMAN: I think that it's up to the Board to be honest  
22 with you.

23 MR. FULMER: I can't rule on that. As far as the permit and  
24 the application I did rule on.

25 MR. MCGLOTHLIN: The motion was until such time that we heard

1           them. Now, if they're being withdrawn that takes it out  
2           of our hands.

3       MR. EVANS: Tom, I think we need the exact ordering of that  
4           condition on those permits.

5       MR. FULMER: I don't have the order with me -- the order that  
6           I issued on that.

7       MR. SWARTZ: If you all remove that condition from the permit  
8           today you have denied my clients a hearing on whether or  
9           not voluntary agreements exist or there is a need to  
10          force pool. I think the way I would look at this if you  
11          allow these to be withdrawn, it will be Ashland's  
12          responsibility to go to Mr. Fulmer to have him modify the  
13          permit that was issued. He would then have to give  
14          notice of that. We would get notice. I could appear.  
15          Mr. McQuire and I could thrash out whether or not he had  
16          a voluntary agreement and Mr. Fulmer could make a  
17          decision and somebody could appeal it back to you. But  
18          if you just say you're going to do that then I don't have  
19          a right to hearing on that.

20       MR. MCQUIRE: Actually I tend to agree with Mr. Swartz on  
21          that. I think it will be up to Ashland because our  
22          application -- we didn't realize -- then we did not have  
23          a voluntary unit. Now we do and I think that Mr. Swartz  
24          is right. the way to do it is for Ashland to tell Mr.  
25          Fulmer here is the voluntary unit and we request a permit

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

to be issued without condition for a force pooling. And then Mr. Swartz's clients will have an opportunity to appear and be heard and to appeal if necessary.

MR. CHAIRMAN: I think that that's the proper way for it to flow if the withdrawal is granted by the Board.

MR. EVANS: Mr. Chairman, I make a motion that we approve the withdrawal of the petition for force pooling for well A-4, VGOB-92/12/15-0299.

MR. HARRIS: Second.

MR. CHAIRMAN: Further discussion? All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)

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 VII

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.21 by Ashland Exploration for GPA-5, Docket number VGOB-92/12/15-0300. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. McQUIRE: Grant McQuire, attorney for Ashland Exploration.

MR. SWARTZ: Mark Swartz, same appearances, same position.

MR. CHAIRMAN: Any different position?

MR. McQUIRE: Should we incorporate my comments from the last item. This is a unit on which a permit has been issued. We believe that a voluntary unit has been signed or will be signed in the near future and we are requesting permission to withdraw our application for force pooling as being unnecessary.

MR. CHAIRMAN: And you will apply to the Inspector to modify your --

MR. McQUIRE: And we will apply to modify the permit to reflect that we have a voluntary unit with appropriate notices to the parties.

MR. EVANS: I make a motion that we grant the petition to withdraw for well A-5, Docket number VGOB-92/12/15-0300.

MR. CHAIRMAN: We have a motion.

MR. HARRIS: Second.

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

MR. CHAIRMAN: A motion and a second. Further discussion?  
If not, all in favor signify by saying yes. (ALL  
AFFIRM.) Opposed say no. (NONE.) The motion carries.  
(AFTER A LUNCHEON RECESS, THE HEARING CONTINUED AS  
FOLLOWS:)

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 VIII

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling from Equitable Resources Exploration for V-2536. This is Docket number VGOB-93/02/16-0331. We'd ask the parties that wish to address the Board to come forward at this time, please.

MR. TWEED: Doug Tweed and Jim Eiser here for Equitable Resources. And I can point out to the Board that Mr. Jerris Clark and his wife Rita and his mother are here. They are represented by Don Earls and Don had contacted us and indicated that his clients, the Clarks, had an objection to this force pooling application. Mr. Earls is not here. Mr. Earls was contacted, as I understand it, by the Clarks this morning and he advised them at that time that he thought he had a criminal matter that might pull him away but that he hoped he would be free to be over here from 11:00 to 12:00. We have spoken to Mr. Clark and think we have an idea of what his concern is and we don't think it relates to the force pooling issues. But they're represented by counsel and I don't want to speak on behalf of his counsel. We have tried to reach Mr. Earls just now. His secretary indicates that she thinks he still may be in court but she's not sure, but he's not at the office. The circumstance -- no

1 objection has been filed in accordance with the regula-  
2 tions by Mr. Earls on behalf of the Clarks as to the  
3 force pooling application. There is a permit pending  
4 with respect to this well site. Point of fact, there is  
5 an amendment or a revision to the permit concerning the  
6 access road that's going to be filed by us in the next  
7 day or so. As I understand the concerns that the Clarks  
8 have, they primarily relate to some surface and pipeline  
9 concerns, etcetera, that are probably not truly relevant  
10 to the force pooling, but at the same time I know the  
11 Board's not going to want to cut off hearing that. So  
12 the real question is what are we going to do with Mr.  
13 Earls --

14 MR. CHAIRMAN: Is there anyone else that wants to address the  
15 Board in this case that's here today?

16 MR. CLARK: I would.

17 MR. CHAIRMAN: I'm trying to see right now if there's anybody  
18 other than you. Anyone else? Okay. Go ahead.

19 MR. CLARK: Jerris Clark. My other sister's name is Eva  
20 Hunsicker and my other one is (Inaudible.) Clark. The  
21 piece of property we're over here on -- all of us had  
22 gotten a letter that we had to sign for through the mail  
23 -- over the property -- using the road, and the best we  
24 understood and putting a pipeline across the property and  
25 we're just wanting a blueprint or something showing us

1 where it would be at on the property because we are  
2 aiming to build on the property and I don't believe you  
3 can build on top of a gas line.

4 MR. CHAIRMAN: I don't know if they're far enough along in  
5 their planning to tell you where they plan to locate the  
6 pipeline or anything like that. That is something that I  
7 think you all could work out with them. As far as your  
8 attorney, do you know when he could get here?

9 MR. CLARK: No, sir, I don't.

10 MR. CHAIRMAN: What we can do -- Board, you speak up. But  
11 what we can do is go ahead and skip this matter for now  
12 and let you try to get your attorney here and go ahead  
13 and call the next case and keep going. And when he comes  
14 here then we could interject in between the order where  
15 ever we are so that you are fully heard.

16 MR. CLARK: If he don't get here today what do we do then?

17 MR. CHAIRMAN: Well, we'll be here tomorrow. After that -- I  
18 mean, tomorrow if your attorney can't get here I wouldn't  
19 have any reason to -- I don't think the Board would have  
20 any reason not to go ahead and hear your objection to try  
21 to walk you through that. Your attorney would have to --  
22 and you can tell him this -- would need to file something  
23 that if he felt like you needed other protection other  
24 than what I'm offering you here. And that would be to  
25 hear your complaint and hear your problem. We can't just

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

force a continuance until you can get an attorney because they would have us tied us from now on if we did that.

MR. CLARK: All we're asking for is to know where the location is at of the pipeline.

MR. CHAIRMAN: Maybe these folks can get with you and get some of that resolved then. We certainly would encourage them to do that, if you can answer their questions. And if that resolved the complaint then you let us know and if it doesn't you still have a right. I want you to know we want to hear from you if that doesn't resolve your problem. Okay.

MR. TWEED: And if we can we will, Mr. Chairman, need to get back with you before the end of the day on reaching Mr. Earls. We think that this is a problem that's no longer a problem and thinks Mr. Earls is probably a pretty essential part of the communication line.

MR. CHAIRMAN: Absolutely. You would need to consult with your attorney about talking with these folks because they are represented by an attorney. So that puts it in a little bit different light here. We'll go ahead and call the next item on the agenda.

1  
2  
3 ITEM IX

4 MR. CHAIRMAN: We just put Item VIII on hold. The next item  
5 on the agenda is a petition for force pooling by Poca-  
6 hontas Gas Partnership for unit L-41 located in the  
7 Jewell Ridge Quadrangle. It's Docket number VGOB-  
8 93/03/16-0338. We would ask the parties that want to  
9 address the Board to come forward at this time.

10 MS. McCLANNAHAN: This one is the L-41 unit as the Board has  
11 previously approved. These are the exhibit books which  
12 you are all familiar with. We're force pooling the  
13 interest of the parties in this particular unit pursuant  
14 to the Board's previous order on the Oakwood Field and  
15 Hurricane Branch Extension. Les is the first witness  
16 that I want to call.

17 LESLIE ARRINGTON

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

20  
21 DIRECT EXAMINATION

22  
23 BY MS. McCLANNAHAN:

24 Q. Les, would you please state your full name for the record  
25 with your address?

1 A. Leslie K. Arrington, 25 Mountain Top Drive, Princeton,  
2 West Virginia.  
3 Q. Would you please identify the exhibit that's marked for  
4 identification as Exhibit 1?  
5 A. That's my work resume and educational background.  
6 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
7 Exhibit 1.  
8 Q. (Ms. McClannahan continues.) Have you previously  
9 qualified as an expert witness before the Gas and Oil  
10 Board?  
11 A. Yes, I have.  
12 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Arrington  
13 as an expert witness.  
14 Q. (Ms. McClannahan continues.) Have you given notice as  
15 required by Virginia Code Section 45.1-361.19 to each  
16 person or entity as identified on Exhibit C of the force  
17 pooling application as a potential owner of the methane  
18 gas underlying the unit?  
19 A. Yes, we have.  
20 Q. Could you identify the exhibit that's marked as Exhibit  
21 2?  
22 A. Yes. That's the hearing notice I mailed to each individ-  
23 ual.  
24 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
25 Exhibit 2.

1 MR. CHAIRMAN: It's admitted.

2 Q. (Ms. McClannahan continues.) By what method was this  
3 mailing of the notice completed?

4 A. It was mailed by certified mail, return receipt request-  
5 ed.

6 Q. Are those copies of returned receipts marked for identifi-  
7 cation at Exhibit 3?

8 A. Yes, they are.

9 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
10 Exhibit 3.

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

13 A. No. However, we still published it in the Virginia  
14 Mountaineer and Bluefield Daily Telegraph on February 25  
15 and February 18 respectively.

16 Q. Have those proofs of publications been previously  
17 submitted to the Board?

18 A. Yes, they have.

19 Q. What percentage of the coal rights in the tracts that  
20 comprise the L-41 unit does PGP control?

21 A. 97.325 percent of the P-3 and 54.75 percent of all coal  
22 below the Tiller seam less the P-3.

23 Q. What percentage of the oil and gas rights of the tracts  
24 that comprise the L-41 unit does PGP control?

25 A. 54.245 percent.

1 Q. What percentage of the coalbed methane gas rights?  
2 A. 97.325 percent.  
3 Q. Are the unleased owners and the lease hold owners and  
4 mineral owners who have leased to other parties listed on  
5 Exhibit D of the force pooling application?  
6 A. Yes, they are.  
7 Q. Is the information that was submitted with Exhibits C, D,  
8 and E still correct as of this date?  
9 A. Date.  
10 Q. Are the conflicting claimants whose funds are to be  
11 escrowed listed on Exhibit E?  
12 A. Yes.  
13 Q. Are you requesting that the Board pool the interest of  
14 the parties listed on Exhibit C?  
15 A. Yes, we are.  
16 MS. McCLANNAHAN: Mr. Chairman, those are all the questions I  
17 have for Mr. Arrington.  
18 MR. CHAIRMAN: Any questions, members of the Board?  
19 (Witness stands aside.)  
20 MR. CHAIRMAN: You may proceed.  
21 MS. McCLANNAHAN: The next witness I'd like to call is Mr. Ron  
22 Wood.  
23  
24  
25

1 RONALD WOOD

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. Ron, would you please state your full name and address  
9 for the record?

10 A. Ronald L. Wood, 24 Joho Estates, Princeton, West Virgin-  
11 ia.

12 MS. McCLANNAHAN: I believe you all have Mr. Wood's resume as  
13 Exhibit 4. Do you?

14 MR. CHAIRMAN: That's not labeled as an exhibit.

15 MS. McCLANNAHAN: Okay. That needs to be substituted for  
16 Exhibit 4.

17 MR. EVANS: I've got a real quick question going back to  
18 Exhibit 3. I've noticed that there was not a return for  
19 -- as far as receipt date for Martha Brown Short, Charles  
20 Henry Brown.

21 MR. ARRINGTON: They were mailed and have not been returned.

22 MR. EVANS: And Eugene L. Brown, Jr.

23 MR. ARRINGTON: That one was returned. A copy of the little  
24 white slip is in there.

25 MR. EVANS: Okay. All these people are from the G.I. Brown

1 estate?

2 MR. ARRINGTON: They're from the P.J. Brown estate.

3 MS. McCLANNAHAN: Back to Exhibit 4, we should have a substi-  
4 tute of the Ron Wood resume for William Gillenwater. Mr.  
5 Gillenwater is in another location today.

6 MR. CHAIRMAN: It's admitted.

7 Q. (Ms. McClannahan continues.) Mr. Wood, have you been  
8 previously qualified as an expert witness before the Gas  
9 and Oil Board?

10 A. Yes, I have.

11 MS. McCLANNAHAN: Mr. Chairman, I submit Mr. Wood as an expert  
12 witness.

13 Q. (Ms. McClannahan continues.) Where has your experience  
14 in obtaining mineral leases been concentrated in?

15 A. Mostly in Virginia, West Virginia, Pennsylvania, New York  
16 for oil and gas and some coalbed methane.

17 Q. Also coalbed methane gas?

18 A. And coalbed methane gas. Yes, ma'am.

19 Q. In your experience in obtaining leases in Virginia are  
20 you familiar with the fair market value for oil and gas  
21 leases and coalbed methane leases in the L-41 unit area?

22 A. Yes, I am.

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

25 A. For oil, gas and coalbed methane lease it's \$5 per acre

1 per year and a one-eighth royalty.

2 Q. And the \$5 per acre per year, that is a rental?

3 A. Rental.

4 Q. No bonus is paid?

5 A. Correct.

6 Q. A coalbed methane lease?

7 A. \$1 per acre per year rental and a one-eighth royalty.

8 Q. What is the standard primary term for oil, gas and

9 coalbed methane gas leases that you've obtained?

10 A. Ten years.

11 Q. With regard to the unleased owners that are listed on the

12 L-41 unit force pooling application, have you contacted

13 these land owners or tried to contact them to obtain a

14 lease?

15 A. Yes, we have.

16 Q. By what method did you contact them and offer the lease?

17 A. By verbal and some by mail -- registered mail.

18 Q. With regard to Cabot Oil & Gas that's listed on the L-41

19 unit force pooling application did you make an offer

20 regarding an assignment of its lease hold interest?

21 A. Yes, we have.

22 Q. By what method did you contact Cabot?

23 A. Verbal.

24 Q. Were you able to come to an agreement as to the proposed

25 assignment or as to the proposed leases for the unleased

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

owners?

A. Not at this time.

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

MR. CHAIRMAN: Any questions, members of the Board?  
(Witness stands aside.)

MR. CHAIRMAN: Go ahead.

MS. McCLANNAHAN: Randy Albert is the next witness I'd like to call.

RANDALL MARK ALBERT

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Randy, would you please state your full name and address for the record?

A. Randall Mark Albert, 2801 Vallosa Street, Bluefield, West Virginia.

Q. Could you please the exhibit that's marked for identification as Exhibit 5?

A. Exhibit 5 is my resume and work history.

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

1 Exhibit 5.

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

5 A. Yes, I have.

6 MS. McCLANNAHAN: Mr. Chairman, I submit Mr. Albert as an  
7 expert witness.

8 Q. (Ms. McClannahan continues.) Has a drilling permit been  
9 previously refused to PGP on any of the tracts that  
10 comprise the L-41 unit?

11 A. No, it has not.

12 Q. Has a well work permit been issued for the L-41 unit  
13 well?

14 A. Yes. Well permit for well 620 was submitted and issued  
15 as permit number 2135.

16 Q. For what type of well was the permit issued?

17 A. Coalbed methane gas well.

18 Q. Have you received any written responses from the owners  
19 of the tracts within this unit to the force pooling  
20 application?

21 A. No, I have not.

22 Q. Does the plat attached to the force pooling application  
23 filed by PGP indicate the acreage and the shape of the  
24 acreage to be embraced within the L-41 unit as approved  
25 by the Board at its February 16th, 1993 hearing?

1 A. Yes, it does.

2 Q. Can you please identify Exhibit 6?

3 A. Exhibit 6 is Exhibit B-1 from the L-41 force pooling  
4 application.

5 Q. Does this indicate the shape of the acreage to be  
6 embraced within the unit?

7 A. Yes, it does.

8 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
9 Exhibit 6.

10 MR. CHAIRMAN: It's admitted.

11 Q. (Ms. McClannahan continues.) Does the unit follow the  
12 boundary lines of the Hurricane Branch Extension 80 acre  
13 unit designated as L-41?

14 A. Yes, it does.

15 Q. Does the plat attached to the force pooling application  
16 indicate the area within which the well will be drilled  
17 on this unit?

18 A. Yes, it does.

19 Q. Does this drilling unit embrace two or more separately  
20 owned tracts?

21 A. Yes, it does.

22 Q. Are the costs and expenses for the well set forth on a  
23 detailed well estimate attached to the force pooling  
24 application as Exhibit H?

25 A. Yes, they are.

1 Q. Does this exhibit reflect the cost of drilling the well  
2 to total depth and completed for production costs?  
3 A. Yes, it does.  
4 Q. How did you calculate the costs that are listed on the  
5 detailed well estimate?  
6 A. The cost are a combination of actual and estimated costs.  
7 The well is drilled. It is not yet completed for  
8 stimulated production. So the completion costs are  
9 estimated and the drilling costs are accurate.  
10 Q. Are you requesting that PGP be designated as the well  
11 operator for this unit?  
12 A. Yes, we are.  
13 Q. And also the relief sought in Paragraph 4 of the applica-  
14 tion?  
15 A. Yes.  
16 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
17 Albert.  
18 MR. CHAIRMAN: Any questions, members of the Board?  
19 MR. EVANS: I have a question but it's probably not going to  
20 be directed to Mr. Albert. It would be directed to Mr.  
21 Wood.  
22 MR. CHAIRMAN: Let me ask Mr. Albert something. Would you  
23 clarify for me -- now, you've given us in the application  
24 Exhibit B and B-1. Was there any purpose in including B-  
25 1 in the Exhibit that was introduced as Exhibit 6?

1 MS. McCLANNAHAN: No. It's just exactly the same exhibit  
2 that's attached to the application. It's just easier for  
3 you all. That's the only reason we did it.  
4 MR. CHAIRMAN: Okay. I'm satisfied with that. Go ahead, Ken.  
5 MR. EVANS: Mr. Wood, on a coalbed methane lease you're saying  
6 \$1 per acre per unit?  
7 MR. WOOD: Right.  
8 MR. EVANS: Rental?  
9 MR. WOOD: Rental.  
10 MR. EVANS: Does that rental continue through production?  
11 MR. WOOD: The royalty would take the place of production.  
12 MS. McCLANNAHAN: It's a delay rental.  
13 MR. WOOD: It would continue until royalty --  
14 MS. McCLANNAHAN: Until production begins.  
15 MR. WOOD: Right.  
16 MR. EVANS: Thank you.  
17 MR. CHAIRMAN: Other questions?  
18 (Witness stands aside.)  
19 MR. CHAIRMAN: Do you have anything further?  
20 MS. McCLANNAHAN: No. That's all.  
21 MR. EVANS: Mr. Chairman, I make a motion to grant the  
22 petition as filed.  
23 MR. CHAIRMAN: We have a motion to approve the petition.  
24 MR. McGLOTHLIN: Second.  
25 MR. CHAIRMAN: A motion and a second. Further discussion?

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

All in favor signify by saying yes. (ALL AFFIRM.)  
Opposed say no. (NONE.) Unanimous approval. I should  
have identified when we came back from lunch that Mr.  
Kelly is not able to join us this afternoon. We do,  
however, have a forum. For the record, the members that  
are here are Kevin McGlothlin, Bill Mason, Bill Harris,  
Ken Evans and Benny Wampler.

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 X

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 by Pocahontas Gas Partnership for 0-42 located on the Jewell Ridge Quadrangle, Garden District of Buchanan County. Docket number VGOB-93/03/16-0340 continued from the March hearing. We'd ask the parties that wish to address the Board to come forward at this time. (Pause.) Is there anyone else here present today that wants to address the Board in this matter? You may continue.

MS. McCLANNAHAN: Elizabeth McClannahan representing Pocahontas Gas Partnership. The witnesses that I intend to call for this particular hearing are the same as before. So I assume they don't need to be sworn in.

MR. CHAIRMAN: I'll just remind them that they are under oath.

MS. McCLANNAHAN: The first witness is Les Arrington.

LESLIE ARRINGTON

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

DIRECT EXAMINATION

1  
2  
3 BY MS. McCLANNAHAN:

4 Q. Les, would you please state your full name for the record  
5 with your address?

6 A. Leslie K. Arrington, 26 Mountain Top Drive, Princeton,  
7 West Virginia.

8 Q. The exhibit that's marked for identification as Exhibit  
9 i, does that include your educational background, work  
10 history and qualifications?

11 A. Yes, it does.

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

14 MR. CHAIRMAN: We can just stipulate his qualifications have  
15 been previously accepted.

16 MS. McCLANNAHAN: Stipulate qualifications and accept him as  
17 an expert witness.

18 Q. (Ms. McClannahan continues.) Have you given notice as  
19 required by Virginia Code Section 45.1-361.19?

20 A. Yes.

21 Q. Is Exhibit 2 the hearing notice that was mailed to each  
22 of those parties?

23 A. Yes, it is.

24 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
25 Exhibit 2.

1 MR. CHAIRMAN: It's admitted.

2 Q. (Ms. McClannahan continues.) How was the notice of

3 hearing mailed to each of the parties that are listed on

4 Exhibit C in the force pooling application?

5 A. By certified mail, return receipt requested.

6 Q. Are those copies of returned receipts marked for identifi-

7 cation at Exhibit 3?

8 A. Yes.

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

10 Exhibit 3.

11 MR. CHAIRMAN: It's admitted.

12 Q. (Ms. McClannahan continues.) Mr. Arrington, I assume the

13 same individuals that Mr. Evans asked you about for L-42,

14 those were mailed, just not returned, is that correct?

15 A. Yes. And the Martha Brown is in there. It just wasn't

16 marked.

17 Q. So Martha Brown Short was received?

18 A. Yes.

19 Q. And a copy of that receipt is there. Charles Henry Brown

20 was not received, but it was mailed?

21 A. Right.

22 Q. Were there any persons whose names and/or addresses that

23 were unknown?

24 A. No. However, we still published it in the Virginia

25 Mountaineer and Bluefield Daily Telegraph on February

1 25th and February 18th.

2 Q. Were those proofs of publications previously submitted to

3 the Board?

4 A. Yes, they were.

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

6 comprise the 0-42 unit does PGP control?

7 A. 100 percent of all coal below the Tiller seam.

8 Q. What percentage of the oil and gas rights of the tracts

9 that comprise the 0-42 unit does PGP control?

10 A. 97.092 percent.

11 Q. What percentage of the coalbed methane gas rights?

12 A. 100 percent.

13 Q. Are the unleased owners and the lease hold owners listed

14 on Exhibit D of the 0-42 unit force pooling application

15 listed with their percentages of ownership in the

16 respective tracts?

17 A. Yes.

18 Q. Is the information on Exhibits C, D and E as submitted to

19 the Board still correct as of this date?

20 A. Yes, it is.

21 Q. Are the conflicting claimants whose funds are to be

22 escrowed listed on Exhibit E?

23 A. Yes.

24 Q. Are you requesting that the Board pool the interest of

25 the parties listed on Exhibit C?

1 A. Yes, we are.

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

3 Arrington.

4 MR. CHAIRMAN: Any questions, members of the Board? Now, when

5 you talk about Exhibit E as being your escrow document,

6 in other words, that those are the conflicting claimants

7 whose funds would be escrowed that doesn't match with

8 Exhibit D where your unleased owners -- potential owners

9 -- did I say it wrong? Which one are you planning to

10 escrow, D or E? You said E, I believe.

11 MS. McCLANNAHAN: D are the unleased owners and E are the

12 conflicting ownership claimants whose moneys are to be

13 escrowed.

14 MR. CHAIRMAN: And listing Pocahontas Gas Partnership as

15 escrowing their funds as well?

16 MS. McCLANNAHAN: Les is more familiar with the particular

17 tracts.

18 MR. ABRINGTON: In particular when there's a conflicting claim

19 on that tract.

20 MS. McCLANNAHAN: That's the only time that those moneys are

21 escrowed.

22 MR. CHAIRMAN: The parties that are on D that are not listed

23 on E --

24 MS. McCLANNAHAN: The people on D that aren't on E there is no

25 conflicting claim. They're just unleased. So they would



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

methane gas leases?

A. Ten years.

Q. With regard to the unleased owners that are listed on the G-42 unit force pooling application, have you contacted these land owners or tried to contact them to obtain a lease?

A. Yes, we have.

Q. By what method did you contact them and offer the lease?

A. Verbal or registered mail.

Q. Were they willing to accept the terms of the lease offer?

A. Not at this time.

Q. With regard to the lease hold owner, Cabot Oil & Gas that's listed on the L-41 unit force pooling application did you make an offer regarding an assignment of its lease hold interest?

A. Yes, we did.

Q. By what method did you contact Cabot?

A. Verbal.

Q. Were you able to come to an agreement as to the proposed assignment?

A. Not at this time.

MS. McCLANAHAN: Those are all the questions I have for Mr. Wood.

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

(Witness stands aside.)

1 MR. CHAIRMAN: Call your next witness.

2 MS. McCLAINAHAN: Randy Albert. Again Exhibit 5 is his  
3 resume. You've indicated that you will stipulate to his  
4 qualifications and accept him as an expert witness.  
5

6 RANDALL MARK ALBERT

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

10 DIRECT EXAMINATION

11  
12 BY MS. McCLAINAHAN:

13 Q. Has a drilling permit been previously refused to PGP on  
14 any of the tracts that comprise this particular unit?

15 A. No, it has not.

16 Q. Has a well work permit been issued for the G-42 unit?

17 A. Yes, it has. The permit for well 503 was issued as  
18 permit number 2115.

19 Q. For what type of well was the permit issued?

20 A. Coalbed methane gas well.

21 Q. Have you received any written responses from the owners  
22 of the tracts within this unit?

23 A. No, we have not.

24 Q. Does the plat attached to the force pooling application  
25 filed by PGP indicate the acreage and the shape of the

1 acreage to be embraced within the 0-42 unit as approved  
2 by the Board at its February 16th, 1993 hearing?  
3 A. Yes, it does.  
4 Q. Can you identify the exhibit marked for identification as  
5 Exhibit 6?  
6 A. Exhibit 6 is the same as Exhibit B-1 of the 0-42 force  
7 pooling application.  
8 Q. There are no changes, is that correct?  
9 A. There are no changes.  
10 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
11 Exhibit 6.  
12 MR. CHAIRMAN: Okay.  
13 Q. (MS. McClannahan continues.) Does the unit follow the  
14 boundary lines of the Hurricane Branch Extension 80 acre  
15 unit designated as 0-42 as shown on Exhibit 6?  
16 A. Yes, it does.  
17 Q. Does the plat attached to the force pooling application  
18 filed by POP indicate the area within which the well will  
19 be drilled on this unit?  
20 A. Yes, it does.  
21 Q. Does this drilling unit embrace two or more separately  
22 owned tracts?  
23 A. Yes, it does.  
24 Q. Are the costs and expenses for the well set forth on a  
25 detailed well estimate attached to the force pooling

1 application as Exhibit H?

2 A. Yes, they are.

3 Q. Does this exhibit reflect the cost of drilling the well

4 to total depth and completed for production costs?

5 A. Yes, it does.

6 Q. Could you please explain how you calculated those costs

7 as they're submitted on the DWE?

8 A. The costs are actual costs for drilling or up-through

9 drilling which would include site preparation drilling.

10 Estimated costs for completion.

11 Q. Are you requesting that PGP be designated as the well

12 operator?

13 A. Yes, I am.

14 Q. And the relief sought in Paragraph 4 of PGP's applica-

15 tion?

16 A. Yes.

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

18 Albert.

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

20 MR. MCGLOTHLIN: Mr. Albert, Exhibit 6 and D of the applica-

21 tion on your plat --

22 MR. ALBERT: Yes, sir.

23 MR. MCGLOTHLIN: What are you force pooling?

24 MR. ALBERT: What are we force pooling?

25 MR. MCGLOTHLIN: The entire 80 acres or --

1 MR. ALBERT: Yes, sir. We're force pooling what is listed on  
2 Exhibit D of the force pooling applications, those  
3 unleased owners.

4 MR. MCGLOTHLIN: You have one tract. I'm not getting it some  
5 place.

6 MR. ALBERT: There's only one tract, the P.J. Brown tract.

7 MS. McCLANNAHAN: But there are undivided interests.

8 MR. ALBERT: But there are undivided interests in the P.J.  
9 Brown tract..

10 MS. McCLANNAHAN: In other words, every heir isn't leased but  
11 every heir has an interest in the tract.

12 MR. MASON: They've got a lease from every single part of it  
13 but they don't have all of it -- undivided interests.

14 MR. MCGLOTHLIN: I understand now.

15 MR. CHAIRMAN: Other questions?

16 (Witness stands aside.)

17 MR. CHAIRMAN: Do you have anything further?

18 MS. McCLANNAHAN: No.

19 MR. EVANS: I make a motion that we approve the petition.

20 MR. MASON: Second.

21 MR. CHAIRMAN: Motion to approve and a second. Further  
22 discussion? All in favor signify by saying yes. (ALL  
23 AFFIRM.) Opposed say no. (NONE.) It's a unanimous  
24 approval.  
25

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 XI

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 by Pocahontas Gas Partnership for unit P-42. This is Docket number VGOB-93/03/16-0341. We'd ask all the parties that wish to address the Board in this matter to come forward at this time. You may proceed.

MS McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership. The witnesses that I intend to call are the same as previously called in the first two hearings. So I would just remind them that they are sworn. In addition, the first witness that I'd like to call is Mr. Leslie K. Arrington and you have indicated that Exhibit 1, his resume, will be stipulated and his educational background, work history and qualifications will be accepted pursuant to that resume and that you would accept him as an expert witness.

MR. CHAIRMAN: You may proceed.

LESLIE ARRINGTON

A witness who, after having been previously sworn, was examined and testified as follows:

DIRECT EXAMINATION

1  
2  
3 BY MS. McCLANNAHAN:

4 Q. Mr. Arrington, did you give notice pursuant to 45.1-  
5 361.19 to each person or entity that's identified on  
6 Exhibit C of the force pooling application

7 A. Yes.

8 Q. Is that hearing notice filed as Exhibit 2?

9 A. Yes, it is.

10 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
11 Exhibit 2.

12 MR. CHAIRMAN: It's admitted.

13 Q. (Ms. McClannahan continues.) Is this the notice of  
14 hearing that was mailed to the parties listed on Exhibit  
15 C in the force pooling application?

16 A. Yes, it is.

17 Q. How was this accomplished

18 A. By certified mail, return receipt requested.

19 Q. Are copies of those returned receipts listed at Exhibit  
20 3?

21 A. Yes.

22 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
23 Exhibit 3.

24 MR. CHAIRMAN: It's admitted.

25 Q. (Ms. McClannahan continues.) Were there any persons

1                    whose names and/or addresses were unknown?  
2                    A.    No.    However, we still published it in the Virginia  
3                    Mountaineer and Bluefield Daily Telegraph on February 25  
4                    and February 18.  
5                    Q.    Were those proofs of publications previously submitted to  
6                    the Board?  
7                    A.    Yes, they were.  
8                    Q.    What percentage of the coal rights in the tracts that  
9                    comprise the P-42 unit does PGP control?  
10                    A.    100 percent of all coal below the Tiller.  
11                    Q.    What percentage of the oil and gas rights of the tracts  
12                    that comprise the P-42 unit does PGP control?  
13                    A.    97.7 percent.  
14                    Q.    What percentage of the coalbed methane gas rights that  
15                    comprise the P-42 unit does PGP control?  
16                    A.    100 percent.  
17                    Q.    Are the unleased owners and the lease hold owner listed  
18                    on Exhibit D of the P-42 force pooling application with  
19                    their percentages of ownership in the respective tracts?  
20                    A.    Yes.  
21                    Q.    Is the information as submitted with Exhibits C, D, and E  
22                    still correct as of this date?  
23                    A.    Yes.  
24                    Q.    Are the conflicting claimants whose funds are to be  
25                    encrowed listed on Exhibit E7

1 A. Yes.

2 Q. Are you requesting that the Board pool the interest of  
3 the parties listed on Exhibit C?

4 A. Yes, we are.

5 MS. McCLANNAHAN: Mr. Chairman, those are all the questions I  
6 have for Mr. Arrington.

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

8 MR. EVANS: I have a question. There are three wells shown  
9 on this exhibit?

10 MS. McCLANNAHAN: That's correct. There are three wells  
11 shown.

12 MR. EVANS: In the mine plans why are three wells?

13 MS. McCLANNAHAN: Can we hold that question for Mr. Albert and  
14 opposed to Mr. Arrington?

15 MR. EVANS: Sure.

16 MR. CHAIRMAN: Any other questions of Mr. Arrington?

17 (Witness stands aside.)

18 MR. CHAIRMAN: You may call your next witness.

19 MS. McCLANNAHAN: My next witness is Mr. Ron Wood. Again his  
20 resume should be substituted for Exhibit 4, Mr. William  
21 Gillenwater's resume. Also you've indicated that you  
22 will stipulate to his qualifications and accept him as an  
23 expert witness.  
24  
25

1 RONALD WOOD

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

5 DIRECT EXAMINATION  
6

7 BY MS. McCLANAHAN:

8 Q. What are the fair market value terms for an oil, gas and  
9 coalbed unit?

10 A. An oil, gas and coalbed methane lease is \$5 per acre per  
11 year rental and a one-eighth royalty.

12 Q. How about a coalbed methane lease in this area?

13 A. That would be \$1 per acre per year rental with a one-  
14 eighth royalty.

15 Q. What is the standard primary term for oil, gas and  
16 coalbed methane gas leases?

17 A. Ten years.

18 Q. With regard to the unleased owners that are listed on the  
19 P-42 application, have you contacted these land owners or  
20 tried to contact them to obtain a lease?

21 A. Yes, we have.

22 Q. By what method did you contact them and offer the lease?

23 A. Verbal and/or registered mail.

24 Q. Were they willing to accept the offer to lease?

25 A. Not at this time.

1 Q. With regard to the lease hold owner, Cabot Oil & Gas, did  
2 you make an offer regarding an assignment of its lease  
3 hold interest?

4 A. Yes, we did.

5 Q. By what method did you contact Cabot and offer the  
6 assignment?

7 A. Verbal.

8 Q. Were you able to come to an agreement as to the proposed  
9 assignment?

10 A. Not at this time.

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

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

14 (Witness stands aside.)

15 MR. CHAIRMAN: Call your next witness.

16 MS. McCLANNAHAN: Randy Albert. Mr. Albert's resume is at  
17 Exhibit 5. The Board has indicated that you wish to  
18 stipulate to his educational background, work history and  
19 qualifications and will accept him as an expert witness  
20 before the Gas and Oil Board today.

21

22 RANDALL MARK ALBERT

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

25

DIRECT EXAMINATION

1  
2  
3 BY MS. McCLANNAHAN:

4 Q. Has a drilling permit been previously refused to PGP on  
5 any of the tracts that comprise this unit?

6 A. No, it has not.

7 Q. Have any well work permits been issued for the P-42 unit?

8 A. Yes, they have. They were issued for wells 402, 600 and  
9 601 as permits 2138, 2137 and 2112 respectively.

10 Q. Those permits were issued under statewide spacing, is  
11 that correct?

12 A. That is correct.

13 Q. And they were issued for what type of wells?

14 A. Coalbed methane gas wells.

15 Q. Does the plat attached to the force pooling application  
16 filed by PGP indicate the acreage and the shape of the  
17 acreage to be embraced within the P-42 unit?

18 A. Yes, it does.

19 Q. The exhibit identified as Exhibit 6, does that indicate  
20 the acreage and follow the boundary lines of the Hurri-  
21 cane Branch Extension 80 acre unit designated as P-42?

22 A. Yes, it does.

23 Q. Does the plat attached to the force pooling application  
24 indicate the area within which the wells will be drilled  
25 on this unit?

- 1 A. Yes, it does.
- 2 Q. Does this drilling unit embrace two or more separately  
3 owned tracts?
- 4 A. Yes, it does.
- 5 Q. Mr. Albert, have three DWES been submitted for this  
6 particular unit?
- 7 A. Yes, they have.
- 8 Q. And those are for the three wells that you've just  
9 indicated have been drilled within this unit?
- 10 A. Yes.
- 11 Q. Could you please explain how you calculated the costs  
12 that are listed in the DWES for those three wells?
- 13 A. Again, the costs are actual costs up through the drilling  
14 phase of the wells, estimated costs for the completion of  
15 these wells.
- 16 Q. Are you requesting that PGP be designated as the well  
17 operator to operate this unit?
- 18 A. Yes, we are.
- 19 Q. And the relief sought in Paragraph 4 of PGP's applica-  
20 tion?
- 21 A. Yes.
- 22 Q. Are these additional wells necessary to conform with  
23 reserve coal property's planned mine boundary for the  
24 area underlying the Hurricane Branch Extension?
- 25 A. Yes, they are.

1 Q. What considerations have influenced the need for these  
2 additional wells?

3 A. The wells were determined by the proposed mine plan. The  
4 location of the wells were influenced by topography,  
5 surface constraints, location for optimum degasification  
6 and the operations of upper seam mine operators in the  
7 area. When all that was melted into our plan, particu-  
8 arly for sites 600 and 601 were heavily influenced by the  
9 upper seam operators -- where the only places we could  
10 get them in.

11 MS. McCLANAHAN: Mr. Evans, does that answer your question?

12 MR. EVANS: Not yet. What is statewide spacing for these  
13 three wells?

14 MR. ALBERT: No closer than 1,000 feet.

15 MR. EVANS: Which strongly influenced what mining takes place  
16 above these?

17 MR. ALBERT: There's a Jewell Smokeless or Jewell Ridge. I'm  
18 getting confused. Jewell Ridge jaw bone upper seam  
19 mining. What particularly influenced these two were hull  
20 roads on wells 600 and then the mine itself on 601.

21 MR. EVANS: These are deep mines?

22 MR. ALBERT: Yes, deep mines.

23 MR. CHAIRMAN: Are there any wells in or planned for the units  
24 adjacent to particularly north of this unit, P-42?

25 MR. ALBERT: P-42. The next would be D-42. Yes, there is a

1 well previously force pooled today, well 603 in the O-42  
2 unit.

3 MR. CHAIRMAN: What about west?

4 MR. ALBERT: To the west in the P-41 there is a 401 -- there  
5 is a well located in P-41 in 401.

6 MR. CHAIRMAN: And south?

7 MR. ALBERT: South in the Q-42 there's well 404.

8 MR. MCGLOTHLIN: Mr. Albert, did you say there is ongoing  
9 mining in the area?

10 MR. ALBERT: There is ongoing upper seam mining in the area.  
11 There's no mining taking place in the Pocahontas #3 seam  
12 at this time. However, there is a mine plan on file with  
13 the Division of Mines for the Pocahontas #3 seam.

14 MR. MASON: Based on your application you anticipate charging  
15 this unit with the cost of all three of these wells?

16 MR. ALBERT: Yes, sir. That was my intent.

17 MR. MASON: How do you justify that?

18 MR. ALBERT: That's a good question.

19 MR. MASON: I could certainly understand why you would want  
20 to. Let me be more specific. Is it your considerate  
21 opinion that this unit could not be drained by one well?

22 MR. ALBERT: Given twenty years life which was the testimony  
23 that the Oakwood Field was based on, yes, this unit could  
24 be drained by one well. However, corporate plans would  
25 tell me right now that we would be mining this area in

1 about seven years. So twofold we either get the gas out  
2 prior to the mine coming through or it's vented and then  
3 no one gains. Plus the degasification of the mine  
4 property comes into consideration. There's some --  
5 naturally we think that in a twenty year life we can  
6 drain that unit very well. In a seven year life we  
7 believe it takes this type of well spacing to efficiently  
8 drain the coal. If I could digress a minute it would  
9 take this Board back to about two years ago when the 80  
10 acre units were first being contemplated. If you will  
11 recall, I testified before this Board on numerous  
12 occasions of the difficulty of trying to fit a mine  
13 degasification program type well spacing plan into an 80  
14 acre grid system. That try as you might you were going  
15 to end up with situations like this where you would have  
16 three wells in a unit. And the adjacent units may not  
17 have a well in it. So we, Pocahontas Gas, came before  
18 this Board with different scenarios, longwall panel units  
19 which were approved for the Buchanan mine. However, we  
20 got the distinct impression or feeling that this was the  
21 preferred method. We took a look at it, said this will  
22 work -- other than some of these issues like this that  
23 this will work. And no disrespect intended, but it's  
24 kind of like the old adage you kind of like when you're  
25 in Rome you do as the Romans do. So that's sort of where

1 we're back to here today.

2 MR. MASON: Well, I don't have any trouble -- I understand  
3 that the three wells are necessary to adequately drain  
4 it. I guess what I'm concerned with or what I'm trying  
5 to get to is the costs of the additional two wells, is  
6 that a function of the mine plan or is that a function of  
7 drainage.

8 MR. ALBERT: I've got an exhibit here that I'll try to -- what  
9 you have before you, if you recall, the original data as  
10 presented by OXY for the Oakwood Field on the drainage  
11 and economic limits of one well for 80 acres, what we  
12 simply did is we --

13 MS. McCLANNAHAN: Excuse me. Let me just ask him a quick  
14 question here. Is this an exhibit as it was originally  
15 done with the exception of the red lines that have been  
16 superimposed on this in testimony for the Oakwood I?

17 MR. ALBERT: Yes, it is.

18 MR. CHAIRMAN: Are you presenting this as an exhibit today?

19 MS. McCLANNAHAN: Well, there are two points here. One, the  
20 base exhibit without the red lines superimposed was  
21 actually, I believe, Exhibit 14 to the Oakwood I test-  
22 imony. I'm not sure about that number, but I think  
23 that's right. In any event it's an exhibit. Secondly,  
24 yes, we would be presenting this as our Exhibit 7 for  
25 purposes of --

1 MR. CHAIRMAN. Okay. It will be entered as Exhibit 7. You  
2 may continue.

3 MR. ALBERT: My reasoning for trying to include more than the  
4 one well per unit it if you'll look at -- if you come out  
5 to the seven year life and you come up to the line that  
6 shows 80 acres you'll see that in seven years with one  
7 well you've drained approximately 1.55 BCF of gas. If  
8 you extrapolate that on up to the thirty-two acre line  
9 which is as close as we can get to three wells in an 80  
10 acre unit you'll see you drain and pardon the (In-  
11 audible.) of the line there. But about 2.9 BCF or about  
12 an 87 percent increase. Again, with the fact in mind  
13 that if you would look all the way out to the end of the  
14 80 acre line at the end of twenty years you can see  
15 you're somewhere in between. I can't pick the number,  
16 but I believe it's right around 2 BCF to be drained. You  
17 can see that we are getting the gas out slightly faster.  
18 So therefore we feel we're entitled to more than the cost  
19 of one well in the 80 acre unit. My kind of crude  
20 calculations here shows about an 87 percent increase over  
21 that seven year life period. Bear in mind that if we  
22 don't get the gas out at the end of the seven year time  
23 the mining plan comes through and as far as Oakwood I is  
24 considered this frack gas is lost.

25 MR. CHAIRMAN: Is seven years actually your mine through plan?

1 MR. ALBERT: Yes, as we know the mine plan today, Mr. Chair-  
2 man.

3 MR. MCGLOTHLIN: How many longwall panels are expected to be  
4 in this unit?

5 MR. ALBERT: There is one longwall panel in this unit. It  
6 would be the first -- let me pass out an exhibit. It's  
7 got the mine plan superimposed by the topography with the  
8 well locations in 80 acre units. As you can see, this  
9 panel is the first panel in the series of panels going  
10 north. So it would be one of the first panels mined in  
11 this mine. In fact, it will be the first panel mined in  
12 this mine.

13 MR. CHAIRMAN: We'll mark that as Exhibit B to be accepted.

14 MR. MCGLOTHLIN: Mr. Albert, could you explain the exhibit in  
15 a little better detail?

16 MR. ALBERT: Sure. I think what we're looking at here is a  
17 part of the mine plan. The area just south of the P-42  
18 unit would be what we refer to as the shaft bottom area,  
19 the slope bottom area of the Hurricane Branch Mine. If  
20 you come out to the east at about the Q-43 area you'll  
21 see a set of mains going to the north. Then you'll see  
22 panels beginning to be driven off of the tailgate of the  
23 first panel being at about the P-43 line or so. And then  
24 about half way between P and O at the 43 line again is  
25 the head gate of the first panel and as you go up you see

1 the panels denoted. On the far left-hand side of the map  
2 is the western boundary of the mine as we know it today.  
3 There are -- going north -- I think about eight panels  
4 shown here.

5 MR. MCGLOTHLIN: The 402, is that --

6 MR. ALBERT: Let me explain the 402. The 402 is not a hole  
7 drilled for a longwall panel. 402 is a hole drilled into  
8 the -- it's not very clear on here, but if you can see  
9 just south of the 402 well and just west of the 402 well  
10 there are solid lines. Those denote a barrier -- the  
11 edge of a barrier block. The 402 well is drilled in a  
12 barrier primarily for the degasification of this bottom  
13 area. 402 will be mined through in the 3 seam. However,  
14 it will never be gobbed. So it will continue to produce  
15 gas for some time from the upper seams that we stimulate.

16 MS. McCLANNAHAN: The green outline area on the map, just for  
17 purposes of clarification of the record, is the unit  
18 boundary that's before the Board, the P-42, is that  
19 right?

20 MR. ALBERT: Yes. Reserve coal properties policy dictates  
21 that we do not put in any frack wells in the mains area.  
22 So we're required by agreement to keep all of our wells  
23 either in a longwall panel or in a solid barrier of coal.  
24 They don't want a well out where they have to mine  
25 through it with a continuous miner in the mains. That's

1           the reason for the location of 402.

2   MR. MASON:  So that's in a barrier?

3   MR. ALBERT:  That's in a barrier right in the edge.  We

4           brought it as far south as we could without getting it

5           out into the mains.

6   MR. MASON:  Mr. Albert, based upon our earlier decision of

7           this Board that we would not approve the apportionment of

8           well costs in addition to one well unless -- let me

9           rephrase that -- where the primary purpose of those wells

10           was to further mine plans, how can you distinguish this

11           from that prior decision?

12   MR. ALBERT:  Exhibit 7, I think, would show that we are

13           actually recovering more gas.  Therefore, there is some

14           economic benefit to having more than one well in this

15           unit.

16   MR. MASON:  But is it not true that that benefit only assumes

17           a seven year life?

18   MR. ALBERT:  That's correct.

19   MR. McCLANNAHAN:  Mr. Albert, there's not just an assumption

20           of a seven year life here, is that correct?  I mean,

21           under the current plan there will only be a seven year

22           life for these wells, is that right?

23   MR. ALBERT:  That is right.  Under the current plan there is

24           only a seven year life.  There, however, could be as mine

25           plans change or economics dictate it could be -- I can't

1 swear under oath that it's only a seven year life or what  
2 life it is. We believe -- to our best knowledge I would  
3 believe it to be a seven year life to mine through these  
4 wells.

5 MR. MASON: But there's a possibility of gob gas out of those  
6 wells as well.

7 MR. ALBERT: There is a possibility of gob -- there is  
8 definitely a possibility of gob gas out of 500 and 501.

9 MR. MASON: So now we're looking beyond a seven year life.

10 MR. ALBERT: Yes.

11 MS. McCLANNAHAN: But that would be a separate force pooling.

12 MR. ALBERT: That's a separate force pooling. The gob gas is  
13 paid on a panel basis under Oakwood II.

14 MR. McGLOTHLIN: Again, a question for Mr. Albert. The wells  
15 in P-42 and you said you had one in O-42?

16 MR. ALBERT: O-42 and 0-42 as well.

17 MR. McGLOTHLIN: The P-41, where is that well located?

18 MR. ALBERT: P-41 is about a half an inch east of the green  
19 line on your topo map there, right in the hollow.

20 MR. McGLOTHLIN: In the longwall section?

21 MR. ALBERT: No. It's in the barrier as well. It's in the  
22 same barrier as 402. Do you see it?

23 MR. McGLOTHLIN: Uh-huh. I'm curious as to why you didn't  
24 request two wells in that one if you're trying to drain  
25 the area before mining comes along.

1 MR. ALBERT: I think we're confusing two types of degasifica-  
2 tion here, one where we're trying to degasify a panel.  
3 The other we're trying to degasify around the mains area  
4 in the bottom. That's simply the pattern we feel  
5 necessary for efficient drainage of that bottom area.

6 MR. MCGLOTHLIN: And 402 is a well that was specifically  
7 designed to drain the bottom area for the main shaft  
8 going in?

9 MR. ALBERT: For the 3 seam that's correct. However, we will  
10 complete numerous any and all upper coal seams for gas  
11 production. That will remain. It will be unaffected by  
12 the mining of the 3 seam since it will not be gobbed.

13 MR. MCGLOTHLIN: But the primary reason is to degasify the  
14 bottom area?

15 MR. ALBERT: I wouldn't say the primary reason. Naturally we  
16 think there's an economic benefit to this well. Poca-  
17 hontas Gas Partnership is a partnership comprised of  
18 Consol and Connico. We try not to drill any wells that  
19 we can't make a dime on. We're in it principally to  
20 degasify the coal seam but also to make money. So if  
21 there's not an economic benefit we don't drill the well.  
22 The partnership has to have economics to assure that our  
23 partner -- our partner who's not in it for the coal  
24 mining is in it strictly for the gas production.

25 MS. McCLANAHAN: When you refer to economic benefit you're

1           referring to economic benefit to the oil and gas owners?

2   MR. ALBERT: That's correct.

3   MR. MCGLOTHLIN: You would not consider degasifying a gas seam

4           an economic stimulus to coal mining?

5   MR. ALBERT: That is an economic stimulus to coal mining.

6           What we are talking about is the economic benefit to the

7           oil and gas owners.

8   MR. MCGLOTHLIN: It's an economic benefit to both.

9   MR. ALBERT: That's correct. I'm not arguing that.

10   MR. MCGLOTHLIN: Thank you.

11   MR. CHAIRMAN: Well 402 is in the barrier block, is that

12           correct?

13   MR. ALBERT: Yes, sir.

14   MR. CHAIRMAN: Would that have the seven year life anticipa-

15           tion carried with it?

16   MR. ALBERT: In the 3 seam, Mr. Chairman, it would have only a

17           seven year life. Slightly less. It's in the bottom

18           area. It will be one of the first wells mined. However,

19           in the upper strata area and the areas above the 3 seam

20           it will have a full twenty year life. I just don't know

21           to quite factor that into the equation here. In my mind

22           it would certainly add credence to getting more than one

23           well per unit.

24   MR. CHAIRMAN: Other questions? (Pause.) Mr. Evans had to

25           make a phone call. We still have a quorum. We're

1 continuing this for the record.

2 MR. ALBERT: Mr. Chairman, one final thing. The question was  
3 raised about the gob gas. If I understand the Board's  
4 mechanism when we come back under Oakwood II for gob gas  
5 the owners could potentially receive -- any participating  
6 owner could potentially receive a credit against whatever  
7 participation is in here when we come back for the fore  
8 pooling, if I understand that mechanism correctly.  
9 Certainly correct me if I'm wrong on that. I believe  
10 that's the way that was set up.

11 MS. McCLANNAHAN: That same principal would apply under the  
12 seal gob -- if any of these particular holes were used  
13 for sealed gob production also because that's again a  
14 separate force pooling apart from I and II.

15 MR. CHAIRMAN: That presumes that they pay out. In other  
16 words, going to the scenario if someone participates you  
17 haven't recovered your costs. In other words, there are  
18 a lot of scenarios to that.

19 MS. McCLANNAHAN: Right. What I'm saying is that the people  
20 who are entitled in this 50 acre unit to production from  
21 coalbed methane may also be people entitled to gob  
22 production or sealed gob production. And at that time  
23 something's going to have to be done to credit those  
24 people because these people would have paid for the wells  
25 initially.

1 MR. CHAIRMAN: I understand.

2 MS. McCLANNAHAN: So there would be some credit back for gob  
3 production if that gob production was later than a seven  
4 year life.

5 MR. MASON: I think that we have previously made the decision  
6 to not allow the cost of one well per unit in a situation  
7 like this and I move for the approval of this petition  
8 based upon the acceptance of a single well cost.

9 MR. CHAIRMAN: Do you have any particular well in mind?

10 MR. MASON: I think the one that the operator feels would  
11 best serve the interest of the -- would you like to  
12 designate one, Mr. Albert?

13 MS. McCLANNAHAN: Just as a technical matter I would  
14 indicate that there has been precedence set by this Board  
15 to approve the cost of two wells in a unit. Certainly  
16 not three, but two wells have been approved in one unit.

17 MR. McGLOTHLIN: I'll second Mr. Mason's motion giving time  
18 for PGP to stipulate which well they'd like to have.

19 MR. ALBERT: Mr. Chairman, I would only add -- I mean, we have  
20 submitted Exhibit 7 which effectively shows that roughly  
21 -- we're entitled to the cost of at least two wells in  
22 that unit with a little bit of rounding of the numbers.  
23 To be absolutely correct it's 1.87 wells in that unit and  
24 quite frankly I can't understand -- we have shown what  
25 has been accepted as the basis of the Oakwood 80 acre

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

units, that it's economic to have 1.87 wells for recovery of this gas in this 80 acre unit in this case.

MR. MASON: Mr. Chairman, I'd point out that there's a motion and a second. I think further testimony is inappropriate.

MR. CHAIRMAN: The applicant always has the right to withdraw the application and I was just thinking through that and paused for that. On the application itself I have a motion and a second which is formally before the Board for one well. The Board will have to vote on that unless there's a withdrawal.

MR. ALBERT: Mr. Chairman, if you're going to limit me to one well --

MR. CHAIRMAN: I'm not being presumptive how the vote will turn out. I have a motion.

MR. ALBERT: Yeah. I would request that that be Exhibit I on well 600. However, I again remind you that we do have -- we have submitted evidence to this Board to the contrary.

MR. CHAIRMAN: We have a motion and a second. Further discussion? All in favor signify by saying yes. (SOME AFFIRM.) Opposed say no. (ONE DENIES.) The motion carries.

ITEM XII

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 well location exception under Section 45.1-361.17 by  
5 Equitable Resources Exploration for V-1831 located on the  
6 Clintwood Quadrangle, Ervington District of Dickenson  
7 County, EREX well P-502. This is Docket number VGQB-  
8 93/04/20-0350. We would ask all parties that wish to  
9 address the Board in this matter to come forward at this  
10 time. Well, let's recess for five minutes.

11 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS.)  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ITEM XIII

1  
2  
3 MR. CHAIRMAN: I called Item XII on the Docket. I'm going to  
4 go back, though, and call Item XIII instead. This is a  
5 petition for force pooling by Equitable Resources for V-  
6 2536. Docket number VGOB-93/02/16-0331. We would ask the  
7 parties that wish to address the Board to come forward at  
8 this time.

9 MR. TWEED: Mr. Chairman, Doug Tweed here on behalf of the  
10 applicant, Equitable Resources. I have with me Mr.  
11 Jerris Clark who previously announced today his represen-  
12 tation of himself and certain family members. The Board  
13 will recall this morning that we were dealing some  
14 difficulty in reaching Mr. Don Earls, an attorney  
15 representing Mr. Clark and his family members. We've  
16 continued in those efforts but we have also been able to  
17 have some communication with Mr. Clark about the specif-  
18 ics of his objections and believe that we have those  
19 resolved to his satisfaction and to what we believe will  
20 be the satisfaction of the Board by making this force  
21 pooling subject to certain special conditions. If I  
22 could explain that. If you will look at the revised  
23 plat on this particular application. It's a revised plat  
24 dated March 10, 1993. Mr. Clark has the surface and gas  
25 rights on tract one which is near the bottom of the plat

1 circle. His family members have rights on number two,  
2 three and four which are over there beside on just to  
3 the right of it and Mr. Clark has the remainder interest  
4 there. They have surface ownership rights on one, two,  
5 three and four. Then to the north a portion of tract 18  
6 which is listed as tract 746 where Audrea Clark, et al,  
7 have the surface and Penn-Virginia has the mineral  
8 rights, they have the surface rights there. Their  
9 concerns -- they do not have an objection to the pooling  
10 with respect to gas rights and royalty rights. Their  
11 concern is as to the surface. They have concerns as to  
12 road access being on their surface. They do not want  
13 that. They have concerns as to pipeline being on their  
14 surface. They do not want that. At one point in time  
15 when this permit was applied for the operating plan  
16 designated that a portion of the access road would go  
17 along this northern tract 18. However, Equitable is  
18 presently filing a modification to the permit and  
19 operating plan where the access road will not cross that  
20 surface. I've explained to Mr. Clark that the pipeline  
21 is normally an issue that comes up later and that surface  
22 objections dealing with either road access or pipeline is  
23 normally dealt with in Mr. Fulmer's office rather than  
24 before the Board on a force pooling. However, we are  
25 trying to get this force pooling through. We have no

1 present plan at all of using any of his surface for  
2 either access road or pipeline. So I've represented to  
3 Mr. Clark that we would make our pooling application this  
4 afternoon subject to these conditions. First, this  
5 pooling application if approved would be an enforceable  
6 order by our agreement and by condition only so long as  
7 neither an access road nor a pipeline went over the  
8 surfaces that Mr. Clark and his family have rights to in  
9 tract one, two, three, four and the portion of tract 18.  
10 Second, that the pooling order would only be good if we  
11 upon communication with Mr. Earls hopefully later today  
12 or tomorrow morning -- if his reaction as Mr. Clark's  
13 attorney is that those conditions adequately protect Mr.  
14 Clark's surface rights and opportunity to object in the  
15 future should a need arise. We're trying to avoid  
16 undercutting Mr. Earls even though he's not available  
17 today and we're trying to avoid Mr. Clark having to come  
18 back tomorrow and the Equitable people having to come  
19 back tomorrow if we can. So again we've explained to Mr.  
20 Clark that assuming we are otherwise acceptable in our  
21 application to the Board that the pooling order we would  
22 ask for will be subject the condition that there would be  
23 no surface disturbance by access road or pipeline on any  
24 of the surface tracts of Mr. Clark and his family members  
25 as I have referenced. We've tried to explain that to Mr.

1 Clark and I think we've communicated with each other well  
2 and I think he's satisfied with this.

3 MR. CHAIRMAN: So the pooling order if it's approved -- We  
4 haven't heard the testimony on the pooling order, but if  
5 the pooling order is approved then you are agreeing not  
6 to place pipeline or access road on this property?

7 MR. TWEED: That's correct. The only thing I'm trying to  
8 protect is this, if some unforeseen contingency occurs  
9 where in the future Equitable's expert said no, that's  
10 not going to work, you're going to need to look at a  
11 pipeline or an access road on these surfaces then this  
12 pooling order would be no good. We would have to come  
13 back in and start over where we are today. That's the  
14 only contingency I can make. Those experts aren't here,  
15 but we are told there are absolutely no plans to either  
16 disturb his surface by road or pipeline. So we want to  
17 get a pooling order and we would make it be good only so  
18 long as we guarantee to do exactly what, Mr. Chairman,  
19 you have said which is not disturb his surface by road  
20 access or pipeline.

21 MR. MCGLOTHLIN: You referred to a tract 18 and I'm having  
22 difficulty finding that on my plat.

23 MR. TWEED: I had a hard time, too. But if you will look, Mr.  
24 McGlothlin, in what I'll call the nine to twelve quadrant  
25 of the plat you'll see a tract 15. If you'll look left

1 to that that's the tract we're talking about. It says  
2 Andrea Clark, et al, surface, 15.05 acres, PVRC mineral  
3 That's the one we're talking about. It just happens to  
4 be on the plat a portion of a larger tract called tract  
5 18 that's numbered down to the left of that closer than  
6 9:00.

7 MR. MCGLOTHLIN: Mine says tract 16.

8 MR. TWEED: Are you looking at the plat that's 3/10/93 or you  
9 might be looking at an earlier one that's 1/12/93.  
10 There's a revised plat that's been filed that's 3/10/93  
11 or it should be.

12 MR. MCGLOTHLIN: It could possibly very well be. I don't  
13 have it.

14 MR. TWEED: It was sent as part of revised Exhibit B.

15 MR. CHAIRMAN: Tom, do you have a revised Exhibit B for the  
16 Board? We're on Item XIII.

17 MR. FULMER: Actually I've got it as part of the application.  
18 I think, Revised Exhibit A. Yeah. Revised Exhibit A.

19 MR. CHAIRMAN: What continues to concern me -- I mean, I know  
20 we want the parties to work things out -- is making that  
21 part of the pooling order, to be honest with you, because  
22 we've said that we're not granting surface rights with  
23 pooling orders and then to have that as part of the  
24 pooling order sort of breeches the --

25 MR. TWEED: Well, our alternative obviously was to take the

1 position that the objections that Mr. Clark had were not  
2 relevant before the Board today because we're here upon a  
3 pooling order and not here on the surface issues of  
4 either access or pipeline. We know that traditionally  
5 the Board has shown a willingness to want to hear and try  
6 to work out these problems and I guess that -- we're not  
7 trying to waive our normal position on how we do things,  
8 but we are trying to accommodate Mr. Clark since we don't  
9 have an intent of messing with the surface. I would be  
10 willing to say that it could simply be on the record that  
11 it's so because it is certainly there. But I recognize  
12 we're getting a little bit (Inaudible.) in our efforts to  
13 try to solve the problem.

14 MR. CHAIRMAN: Ms. Riggs, do you maybe want to give us some  
15 counsel?

16 MS. RIGGS: Well, I guess my concern would be in addition to  
17 the one of addressing surface rights in the force pooling  
18 order would be one of how do you force pool and then if  
19 the condition is breached what is the remedy. The remedy  
20 is you've already got people in addition to the Clarks  
21 who are force pooled, you've put money into escrow,  
22 you've got a well that's in the ground and you're  
23 producing that and there's no mechanism by which the  
24 Board can mandate a repooling. That's a discretionary  
25 thing on the part of the operator. There's no mechanism

1 to unwind a force pooling once that course of action  
2 occurs. So it seems to me that what needs to happen is  
3 if in consideration for his agreeing not to object to the  
4 force pooling you have made certain concessions regarding  
5 surface rights that is consideration for his agreement  
6 which is not action by this Board. And that would be an  
7 agreement not to cross his surface.

8 MR. TWEED: I understand what you're saying. (Pause.) We are  
9 willing to lock on to an agreement in terms of the waiver  
10 of his objection even though we would normally take the  
11 position it's not relevant. In terms of the waiver of  
12 his objection we will agree that we will neither have  
13 road access nor pipeline access on the surface of his  
14 tract one, two, three and 18. We will make sure that  
15 appropriate documentation is drawn up between Mr. Clark,  
16 hopefully through Mr. Eail's, and us to confirm what we  
17 are placing in the record today as consideration as well.  
18 Would that be satisfactory in terms of solving the  
19 question you had, Ms. Riggs?

20 MS. RIGGS: As long as you satisfy him and he withdraws his  
21 objection I don't think we --

22 MR. TWEED: We're doing this. We're agreeing on the record  
23 now we will not put a pipeline on your surface, one, two,  
24 three or 18 and we will not put a road on your surface.  
25 And in turn for that do you agree to waive the objection

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

you have to force pooling?

MR. CLARK: (Nods head in affirmative response.)

MR. CHAIRMAN: And then they'll enter into an agreement separate and apart from an order of the Board.

MR. MASON: Bearing in mind, don't extrapolate from anything that's said here that we agree that he has a right to do that anyway. That's purely a contractual thing between the two of you all.

MR. CHAIRMAN: We're not taking any action. We're just discussing this.

MR. MASON: Right. We're not taking any action on it at all.

MR. CHAIRMAN: I know it's confusing, but we're bound by regulation and law on what we can consider for force pooling and that's all that Mr. Mason is pointing out.

MR. MASON: Right.

MR. CHAIRMAN: That by having this discussion and considering the motion that was offered and everything else in no way has the Board taken any action here. What we've done is just allow you folks to have an open discussion here in front of the Board. They on their own are agreeing to make this agreement with you in which you have a right to accept or not or come before the Board and make your objections to the force pooling.

MR. CLARK: All that we are asking for is not to go on the property and put pipelines down or roads down when we've

1                    got plans for the property ourselves.  
2                    MR. MCGLOTHLIN: Could we get Mr. Clark a copy of that portion  
3                    of the transcript for this hearing as a record for him?  
4                    MR. CHAIRMAN: Sure.  
5                    MR. TWEED: The record will be the record and we will send the  
6                    contract documents to him. We're not going to back up on  
7                    our representation.  
8                    MR. MCGLOTHLIN: I know. Just that he would have that in his  
9                    possession what was said on tape.  
10                   MR. TWEED: We had actually sent this type of documentation to  
11                   Mr. Earls five days ago and there's just been some break-  
12                   down in communication.  
13                   MR. MCGLOTHLIN: Or should I say it is on transcript and will  
14                   be in Mr. Fulmer's office if you need to see a copy or  
15                   have a copy of it.  
16                   MR. CLARK: Okay.  
17                   MR. TWEED: Thank you, Mr. Clark.  
18                   MR. CHAIRMAN: Mr. Clark, do you, in fact, withdraw your  
19                   objection for the record?  
20                   MR. CLARK: Yes.  
21                   MR. CHAIRMAN: Thank you. You may proceed. I'm going to turn  
22                   the chair over to Mr. Mason for a few minutes until I  
23                   make a phone call. We still have a quorum, Mr. Mason.  
24                   (Thereupon, Mr. Mason resumed as Chairman.)  
25                   MR. MASON: Thank you.

1 MR. TWEED: My witnesses will be Mr. Dennis Baker and Mr. Bob  
2 Dahlin. They both need to be sworn. I'm going to ask  
3 both gentlemen to keep their voice up because of the  
4 acoustics in the room.

5  
6 DENNIS BAKER

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

9  
10 DIRECT EXAMINATION

11  
12 BY MR. TWEED:

13 Q. Mr. Baker, what is your job position and by whom are you  
14 employed?

15 A. I'm employed by Equitable Resources Exploration, employed  
16 as a leasing supervisor.

17 Q. And for how many years have you been employed in that  
18 regard?

19 A. Probably just a little under two years with Equitable.

20 Q. And you had prior experience in this field?

21 A. Yes. That's correct.

22 Q. And do your responsibilities include the lands involved  
23 here and in the surrounding area with respect to this  
24 application?

25 A. Yes. That is correct.

1 Q. Are you familiar with Equitable's application for  
2 establishment of a drilling unit and pooling order for  
3 EREX well V-2536 dated January, 1993?  
4 A. Yes. That's correct. I am.  
5 Q. And in this case a permit is now pending as having been  
6 filed on January 15th, 1993, correct?  
7 A. Yes.  
8 Q. Is Equitable seeking to force pool the drilling rights  
9 underlying the drilling and spacing unit as depicted on  
10 revised Exhibit A of the application, that being the  
11 plat dated March 10, 1993?  
12 A. Yes. That's correct.  
13 Q. Does Equitable own drilling rights in the units involved  
14 here?  
15 A. Yes, they do.  
16 Q. And does the proposed unit depicted at revised Exhibit A  
17 include all the acreage within a 1,320 foot radius, that  
18 is within 2,640 feet of proposed well V-2536?  
19 A. Yes. That's correct.  
20 Q. I believe that there is a new Exhibit B to be filed in  
21 this particular application?  
22 A. Yes. That's correct.  
23 MR. TWEED: Would you, Mr. Kiser, at this time have appropri-  
24 ate copies of that handed out to the members of the  
25 Board.

1 MR. EVANS: Did you say dated 3/10/93?

2 MR. TWEED: Mr. Evans, my file shows that the plat has been  
3 filed and there may be an error. I know there's an  
4 earlier one, but my file indicates that the plat that has  
5 been filed has a revised Exhibit A with a plat dated  
6 March 10, 1993. If that is not part of the file then we  
7 will need to file that.

8 MR. FULMER: That was done but in the absence of the permit  
9 application, not in the absence of the pooling applica-  
10 tion. That's why I had a hard time finding it. It's the  
11 same plat.

12 MR. EVANS: That's all I was trying to do was to make sure  
13 that we were looking at the right one.

14 MR. TWEED: What I would like to do at this time is file a  
15 revised Exhibit A with the application and also have the  
16 record make reference to the plat that exists with the  
17 permit application. I probably do not have eight copies  
18 of that because I did not know it was on file. (Pause.)

19 MR. MASON: Mr. Evans, are you satisfied?

20 MR. EVANS: Yes, sir.

21 MR. MASON: Mr. Fulmer, do you have the correct application  
22 for purposes of the record with the revised plats?

23 MR. FULMER: Revised plat. We received through the mail the  
24 revised plats with other names on them which we also have  
25 the permit application. We took it for the permit.

1 application instead of the pooling application.  
2 MR. MASON: I just want to make sure the record -- that we  
3 have the right thing.  
4 MR. FULMER: The records are straight now.  
5 MR. MASON: Thank you. Go ahead.  
6 MR. TWEED: Mr. Chairman, I guess we have asked that the  
7 revised Exhibit A with the plat dated March 10, 1993 be  
8 accepted. We do have a revised Exhibit B that has now  
9 been handed out to the Board, Mr. Fulmer and the Report-  
10 er.  
11 Q. (Mr. Tweed continues.) Mr. Baker, would you explain the  
12 changes on the revised Exhibit B to the Board, please?  
13 A. We have a few respondents that we need to change the  
14 status from unleased to leased at this time. On Page 2  
15 of Exhibit B, tracts 7 and 9 being shown as Stein  
16 Development are now leased to EREX. On Page 3, fourth  
17 from the bottom, Trudy Mullins Kilgore, Jeanette Mullins  
18 Craft, Mozell M. Munsicker is now leased to EREX. On  
19 Page 6 of the exhibit, fifth from the bottom, Willie  
20 Robinette and Thelma are now leased to EREX. On Page 8  
21 of the exhibit, fourth from the top, Miles Chisenhall and  
22 Wanda Chisenhall is now leased to EREX. Those are the  
23 only changes at this time.  
24 Q. What is the interest of Equitable in the unit?  
25 A. Equitable currently has 89.094 percent interest leased.

1 Q. And what would that leave with respect to unleased  
2 interest in the unit?

3 A. 10.906 percent.

4 Q. Prior to filing this application and the revisions to  
5 this application were efforts made to contact each of the  
6 respondents in attempt to work out an agreement regarding  
7 the development of the units involved?

8 A. Yes. That's correct.

9 Q. When you speak of notification with respect to the  
10 application and the revised application and with respect  
11 to efforts to work out an agreement are we talking about  
12 the parties reflected on revised Exhibit B and the  
13 revised Exhibit A?

14 A. That's correct.

15 Q. Subsequent to the filing of the application have you  
16 continued to attempt to reach an agreement with respondents  
17 listed at Exhibit B?

18 A. Yes. That's correct.

19 Q. And you've reflected, of course, the acquiring of certain  
20 other leases as a result of those efforts. Were efforts  
21 made to determine if individual respondents were living  
22 or deceased or their whereabouts and if deceased were  
23 efforts made to determine the names, addresses and  
24 whereabouts of successors to any deceased individual  
25 respondent?

1 A. Yes.

2 Q. Did reasonable and diligent efforts made and sources  
3 checked include primary sources such as deed records,  
4 probate records, assessors records, treasurers records,  
5 and secondary sources such as telephone directories, city  
6 directories, family and friends?

7 A. Yes. That's correct.

8 Q. In your personal opinion was due diligence exercised to  
9 locate each of the respondents named herein?

10 A. Yes, it was.

11 Q. And are the addresses set out in revised Exhibit B to the  
12 application the last known addresses for the respondents?

13 A. Yes. That's correct.

14 Q. Is Equitable seeking to force pool the drilling rights of  
15 each individual respondent if living and if deceased the  
16 unknown successor or successors of any deceased individ-  
17 ual respondent?

18 A. Yes.

19 Q. And we are requesting the Board to force pool all  
20 unleased interest listed on revised Exhibit B?

21 A. Yes.

22 Q. Are we seeking to force pool the drilling rights of the  
23 person designated as trustee if acting in the capacity of  
24 trustee and if not acting in such capacity is Equitable  
25 seeking to force pool the drilling rights of the success-

1 or of such trustee?

2 A. Yes, we are.

3 Q. Are you familiar with the fair market value of the  
4 drilling rights in the units here and the surrounding  
5 area?

6 A. Yes, I am.

7 Q. What are those?

8 A. \$5 consideration, five year term, one-eighth royalty.

9 Q. Did you gain your familiarity in this regard by acquiring  
10 oil and gas leases and other agreements involving the  
11 transfer of drilling rights in the units involved herein  
12 and surrounding areas?

13 A. Yes. That's correct.

14 Q. In your opinion do the terms you've testified to repre-  
15 sent a fair market value of and a fair and reasonable  
16 compensation to be paid for drilling rights within this  
17 unit?

18 A. Yes.

19 Q. Based upon that and as to respondents who have not  
20 voluntarily agreed to pool do you recommend that the  
21 respondents listed at amended Exhibit B who remain  
22 unleased by allowed the following options with respect to  
23 their ownership interest within the unit: One, partic-  
24 ipation. Two, a cash bonus of \$5 net mineral acre plus a  
25 one-eighth of eight-eighths royalty. Or three, in lieu

1 of cash bonus and one-eighth of eight-eighths royalty a  
2 share in the operation of the well on a carried basis as  
3 a carried operator under the following conditions:  
4 Since carried operator shall be entitled to the share of  
5 production from the tracts pooled or pooling to his  
6 interest exclusive of any royalty or are reserved in any  
7 leases, assignments thereof or agreements relating  
8 thereto of such tracts that only after the proceeds  
9 allocable to his share equal either A, 300 percent of the  
10 share of such cost allocable to the interest of the  
11 carried operator of the leased tract or portion thereof,  
12 or B, 200 percent of the share of such cost allocable to  
13 the interest of the carried operator of an unleased tract  
14 or portion thereof?

15 A. That's correct.

16 Q. Do you recommend that the order applied at the elections  
17 by respondent by in writing and sent to Equitable to your  
18 attention at Equitable Resources in Kingsport?

19 A. That's correct.

20 Q. Should this be the address for all communications with  
21 applicant concerning force pooling orders?

22 A. Yes.

23 Q. Do you recommend that the force pooling order provide  
24 that if no written election is properly made by a  
25 respondent that the respondent shall be deemed to have

1 elected to cash royalty option in lieu of participation?  
2 A. Yes.  
3 Q. Should the unleased respondents be given thirty days from  
4 the date of the order to file written elections?  
5 A. Yes. That's correct.  
6 Q. And if an unleased respondent elects to participate  
7 should that respondent be given forty-five days from the  
8 date of the mailing to pay applicant for respondent's  
9 proportionate share of well cost?  
10 A. Yes.  
11 Q. Is respondent expected or party electing to participate  
12 to pay in advance that party's share of completed well  
13 cost?  
14 A. Yes.  
15 Q. Should the applicant be allowed sixty days following the  
16 recordation date of the order and thereafter annually on  
17 that date until production is achieved to pay or tender  
18 any cash bonus becoming due under the force pooling  
19 order?  
20 A. Yes.  
21 Q. Do you recommend that the force pooling order provide  
22 that if respondent elects to participate but fails to pay  
23 respondent's proportionate share of well cost satisfact-  
24 ory to applicant for the payment of well cost then  
25 respondent's election to participate shall be treated as

1 having been withdrawn and void and such respondent shall  
2 be treated just as if no initial election has been filed  
3 under the force pooling order?

4 A. Yes. That's correct.

5 Q. Do you recommend that the force pooling order provide  
6 that when a respondent elects to participate but defaults  
7 in regard to the payment of well cost any cash sum  
8 becoming payable to such respondent be paid within sixty  
9 days after the last date on which such respondent could  
10 have paid or made satisfactory arrangements for the  
11 payment of well cost?

12 A. Yes. That's correct.

13 Q. Do you recommend that the force pooling order provide  
14 that if the respondent refuses to accept any payment due  
15 including any payment due under said order or any payment  
16 of royalty or cash bonus or if said payment cannot be  
17 paid to a party for any reason or there is a title defect  
18 in a respondent's interest that the operator create an  
19 escrow account for the respondent's benefit until the  
20 money can be paid to the party or the title defect is  
21 cured to the operator's satisfaction?

22 A. Yes. That's correct.

23 Q. Who should be named operator under the force pooling  
24 order?

25 A. Equitable Resources Exploration.

1 MR. TWEED: I have no further questions for this witness, Mr.  
2 Chairman.

3 MR. MASON: Members of the Board?

4 MS. RIGGS: Did you have a change from prior procedure and who  
5 you want the notice of election to go to?

6 MR. TWEED: Yes. Let me read that into the record. It would  
7 be Equitable Resources Exploration, Post Office Box 1983,  
8 Kingsport, Tennessee, 37662-1983, attention Dennis R.  
9 Baker, "Regulatory".

10 MR. MASON: I don't recall, you may correct me, that you asked  
11 us to recognize this witness as an expert.

12 Q. (Mr. Tweed continues.) Mr. Baker, have you testified  
13 before this Board during prior dockets in prior months as  
14 an expert witness?

15 A. Yes, I have.

16 MR. TWEED: We request it and had our request granted in the  
17 past and we make the request today.

18 MR. MASON: So granted.

19 MR. TWEED: Thank you.

20 (Witness stands aside.)

21  
22 ROBERT DAHLIN

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

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

DIRECT EXAMINATION

BY MR. TWEED:

Q. Mr. Dahlin, what is your job with EREX?

A. I'm employed as an operations specialist.

Q. And have you testified before the Board before and have your qualifications as an expert witness previously been accepted by the Board?

A. Yes, I have.

Q. Do your responsibilities include the lands involved here and in the surrounding area?

A. Yes, they do.

Q. Are you familiar with the proposed exploration and development of units involved here under applicant's proposed plan of development?

A. Yes, sir.

Q. I'm going to give you a total depth in formations and ask you if this is correct. Mr. Dahlin, are we talking here about a total depth of 5,050 feet to include formations consistent with the well work permit now pending before the DOME to include the Devonian shells, Burea, Sunberry, Wier, Big Lime, Raven Cliff and Maxim?

A. Yes, sir.

Q. Will this be sufficient to penetrate and test the common sources of supply in the subject formation?

- 1 A. It will.
- 2 Q. Is applicant requesting the force pooling of conventional  
3 gas reserves not only to include the designated forma-  
4 tions but any other formations excluding coal forma-  
5 tions which may be between those formations designa-  
6 ted from the surface to the total depth drilled?
- 7 A. Yes, sir.
- 8 Q. Will the initial well be the legal location?
- 9 A. Yes, sir.
- 10 Q. Are the estimated reserves 400 million cubic feet?
- 11 A. They are.
- 12 Q. Are you familiar with the well costs for the proposed  
13 initial unit?
- 14 A. Yes, sir; I am.
- 15 Q. And has a revised and signed AFE been reviewed and  
16 submitted to the Board?
- 17 A. Yes, it has.
- 18 Q. Was the AFE prepared by an engineering department  
19 knowledgeable in the preparation of AFEs and knowledge-  
20 able in regard to well costs in this area?
- 21 A. Yes, sir.
- 22 Q. And I believe we've testified in prior months as to  
23 quality control procedures that EREX has in order to  
24 assure general accuracy as to the AFE system?
- 25 A. Yes, sir.

1 Q. Does this AFE represent a reasonable estimate of the well  
2 cost for the proposed unit well under this plan of  
3 development?

4 A. Yes, it does.

5 Q. Would you give the Board the dry-hole cost?

6 A. Dry-hole cost are \$158,910.

7 Q. And the completed well cost?

8 A. \$311,810.

9 Q. Do these costs anticipate a multiple completion?

10 A. It does.

11 Q. Does the AFE include a reasonable charge for supervision?

12 A. It does.

13 Q. In your professional opinion will the granting of this  
14 application be in the best interest of conservation,  
15 prevention of waste, and protection of correlative  
16 rights?

17 A. Yes, sir.

18 MR. TWEED: I have no further questions for this witness, Mr.  
19 Chairman, and no further witnesses.

20 MR. MASON: Members of the Board?

21 (Witness stands aside.)

22 MR. EVANS: Mr. Chairman, I make a motion that we approve  
23 the petition for force pooling.

24 MR. MASON: We have a motion. Is there a second?

25 MR. McGLATHLIN: Second.

1 MR. MASON: There's a motion and a second. Any further  
2 discussion? Does anyone in the audience have comments or  
3 questions? If not, all in favor say yes. (ALL AFFIRM.)  
4 Opposed say no. (NONE.) The motion carries.

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

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 XII

MR. MASON: I believe the next item would be Item XII on the agenda. That's VGOB-93/04/20-0350. Is there anyone here besides the gentleman at this table that would like to be heard in regard to this issue? V-1831. If not, reminding the witnesses they are still under oath you may proceed.

MR. TWEED: I'm going to add a witness at this time, Mr. Chairman. I'm going to add Mr. Lee Talbot and ask that he be sworn. He will be our first witness.

LEE TALBOT

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

DIRECT EXAMINATION

BY MR. TWEED:

- Q- Mr. Talbot, by whom are you employed and in what capacity?
- A. Equitable Resources Exploration, land administrator.
- Q- And have your qualifications as an expert witness previously been accepted by this Board?
- A. Yes, they have.

1 Q. Do your responsibilities include the lands involved with  
2 this application and the surrounding area?

3 A. It does.

4 Q. Are you familiar with the application for location  
5 exception for well V-1831 and the relief being requested?

6 A. Yes.

7 Q. Have all the interested parties been notified as required  
8 by Section 4.B of the Virginia Gas and Oil Board Regula-  
9 tions?

10 A. They have. Certified mailings were received by the  
11 Division of Oil and Gas of Ms. Diane Davis by a letter  
12 dated April 7th, 1993. I also have some Exhibit As to  
13 show the Board as well.

14 MR. TWEED: I'm going to ask, Mr. Chairman, that Mr. Talbot be  
15 accepted as an expert witness and also ask that he hand  
16 out to you at this time Exhibit A which will reflect the  
17 effected unit and reciprocal unit involved.

18 MR. MASON: So accepted.

19 Q. (Mr. Tweed continues.) Mr. Talbot, as to the exhibit  
20 that has been provided to the Board the green marked unit  
21 location V-1831, of course, is the subject of the  
22 application and the two reciprocal wells where relief in  
23 the form of a location exception is being sought are P-  
24 502 and P-485 in red, is that correct?

25 A. That is correct.

1 Q. The exhibit also reflects the distances of 2,442 feet and  
2 82 inches and 2,568 feet and 14 inches that reflect the  
3 exceptions and relief being sought, correct?  
4 A. Yes. That is correct.  
5 MR. TWEED: For the Board's editification the original  
6 application dealt with P-502 and a revision was later  
7 placed in after a revised plat came in with respect to  
8 the relief on P-465. There was no need for notice  
9 changes because the same parties were involved in the  
10 statutory notice requirement.  
11 Q. (Mr. Tweed continues.) Mr. Talbot, is the property that  
12 is line N on Exhibit A property that is controlled by the  
13 U.S. Corp of Engineers?  
14 A. Yes. But the Corp of Engineers' property is the slashed  
15 area outlined in Exhibit A with 1831 being placed on the  
16 surface of the Corp of Engineers.  
17 Q. And it's my understanding that in addition to the Corp  
18 seeking approval for any location exception placing of  
19 the well from this Board that we're also required on this  
20 property controlled by the U.S. Corp of Engineers to  
21 obtain their approval with respect to any drilling site,  
22 is that correct?  
23 A. That is correct. The Corp of Engineers also deals with  
24 John Flannagan Reservoir and any operations on their  
25 surface will obtain such things as cultural resources

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

assessment, endangered species, archeological studies  
phase one and phase two. So those things are very  
similar to the United States Forest properties.

Q. And I believe with respect to the location set forth in  
green on Exhibit A for V-1831 which we're seeking  
approval, that this is a location that has been under  
discussing with and approval from the U.S. Corp since  
about 19917

A. Yes, sir. I think that our preliminary approval began in  
November of 1991 and has continued up until March 19th of  
1993. We got approval from the Flannagan Reservoir  
Research Management Group.

Q. And at present there are still some final pending items  
with the U.S. Corp of Engineers concerning water supply,  
etcetera, but this is the location in terms of the  
location of the drilling unit that they have verbally  
approved and we will need final approval from them before  
we drill anyway, correct?

A. That is correct. The situation involved surface opera-  
tions in as much as where we were going to use water for  
drilling. It did not meet the Commonwealth of Virginia  
state regulations as far as water quality. Therefore, we  
had to access our drilling water at a different place  
which meant we had to go back to renotification to the  
Corp of Engineers for approval there. We do have verbal

1 approval on that specific instance.

2 Q. And we have coordinated with the Board and the U.S Corp  
3 of Engineers on drilling sites in the past, correct?

4 A. That is correct.

5 Q. Does EREX have the right to operate the reciprocal wells  
6 involving P-502 and P-465?

7 A. Yes. Equitable Resources is operating those wells.

8 Q. My understanding is that the ownership of the oil and gas  
9 underlying the Well V-1831 is reflected in our documenta-  
10 tion. Tract one is SHD Enterprises. Tract five underly-  
11 ing the U.S. surface tracts is Columbus Kilgore heirs.  
12 Tract two is Pine Mountain Oil & Gas. Tract three and  
13 Tract four are U.S.A., is that correct?

14 A. That is correct. That's evidenced by the certified plat.

15 Q. And EREX, in fact, has the equivalent of oil and gas  
16 leases covering only these tracts and that this unit was  
17 pooled by this Board in January of 1993, correct?

18 A. That is correct.

19 MR. TWEED: I have no further questions for this witness at  
20 this time Mr. Chairman. I do intend to call Mr. Dahlin.

21 MR. HASON: All right.

22 (Witness stands aside.)

23 MR. HASON: I'd like to ask, did you handle the notification  
24 or did --

25 MR. TWEED: We asked the question on notification. It was

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

sent.

MR. MASON: I thought so. I'm just curious on the heirs of Paul R. Kilgore. You indicate Ruth Kilgore, agent.

MR. DAHLIN: Ruth Kilgore was the designated agent in our 100 percent lease from the Columbus Kilgore heirs which is a contractual agreement with the operator and the lessors as to send the money and --

MR. MASON: Well, that's what I was going to say, that her agency is derived from a contract with all of the heirs?

MR. DAHLIN: Her agent --

MR. MASON: In other words, when you give notice to them by virtue of her as agent I'm just curious as to what authority you have for her agency.

MR. DAHLIN: That authority was given to us in our lease from the Columbus Kilgore heirs and she was the designated agent.

MR. MASON: Okay.

MR. TWEED: His expertise, experience, etcetera has already been placed into the record.

ROBERT DAHLIN

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

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

DIRECT EXAMINATION

BY MR. TWEED:

Q. Mr. Dahlin, I'll remind you you've been previously sworn. Are you familiar with this application for location exception?

A. Yes, sir, I am.

Q. And would it be fair to say that the purpose of this application is to prevent waste, maximize recovery and comply with the environmental and related concerns and approval requirements of the U.S. Corp of Engineer?

A. That is accurate.

Q. In the event that this location exception is not granted would you project the estimated loss of reserves that would result in waste?

A. We anticipate encountering approximately 350 million cubic foot of gas in this drilling unit.

Q. And as far as this proposed initial well under the plan of development we're talking 4,370 feet to include the formations consistent with the well work permit and that would include Devonian shells, Burea, Sunberry, Wier, Big Line, Raven Cliff and Maxim?

A. Yes, sir.

Q. And those will be sufficient in your opinion to penetrate and test the common sources of supply?

1 A. Yes, sir.

2 Q. And we're requesting a location exception for convention-  
3 al gas reserves not only to include the designated  
4 formation but any other formations excluding Corp  
5 formations which may be between those formations design-  
6 ated from the surface to the total depth drilled?

7 A. Convention gas reserves only, yes, sir.

8 Q. And in your opinion will the granting of this location  
9 exception be in the best interest of preventing waste,  
10 protecting correlative rights and maximizing recovery of  
11 gas reserves underlying V-1831?

12 A. Yes, sir.

13 MR. TWEED: No further questions.

14 MR. MASON: Sir, on your Exhibit A it says Docket number VGOB-  
15 93/04-20-0369. I believe that should be 350.

16 MR. TALBOT: That is correct, sir, and I'd like for the Board  
17 to change that on their sheets. I apologize. It's 0350.

18 MR. MASON: Members of the Board, any questions?

19 MR. MCGLOTHLIN: Mr. Tweed, is there an environmental impact  
20 statement on this --

21 MR. TALBOT: There's not an environmental impact statement as  
22 you would know it as to dealing with the United States  
23 Forest Service. There is an endangered species, cultural  
24 resources and erosion and sediment control plan also for  
25 the State and for the Corp of Engineers. As to an

1 environmental impact statement as you would know it from  
2 the Forest Service their's is similar.

3 MR. HARRIS: Is that document on file with our office?

4 MR. FULMER: No.

5 MR. TALBOT: The environmental impact statement, if I'm  
6 correct, was not necessary as the Corp of Engineers and  
7 United States Government assessed the property for the  
8 Flannagan Reservoir of the Corp of Engineers property in  
9 their (Inaudible.) purchases. I'm sure that when the  
10 United States acquired this property there was public  
11 notice for individual condemnation of surface tracts, but  
12 that was prior to our operations.

13 MR. HARRIS: Along those same lines, do I understand it that  
14 you still need to get approval from the Forest Service to  
15 drill?

16 MR. TALBOT: Yes, sir. In order to drill the well as far as  
17 the Corp of Engineers and Flannagan Reservoir I need  
18 formal approval which would come from the Huntington  
19 District Office of the Corp of Engineers. However, their  
20 decision and final approval are acted upon by recommenda-  
21 tions by the field resource management people, the people  
22 that actually control the ground at Flannagan Reservoir  
23 who have approved it. And it's waiting for their  
24 paperwork work to catch up to it.

25 MR. HARRIS: How much longer do you expect that to take?

1 MR. TALBOT: We've asked for a letter for them to hurry up as  
2 soon as possible because we do have other contractual  
3 agreements with other operators by letter of March 22nd,  
4 1993 whereas I drafted a letter to the Corp of Engineers  
5 asking for them to exercise their approval as soon as  
6 possible.

7 MR. HARRIS: I heard something earlier about 1991 and I don't  
8 remember what.

9 MR. TWEED: That was the initiation of the discussions with  
10 U.S. Corp of Engineers that led to the designation of  
11 this as the site that they preliminarily approved and are  
12 on the verge of finally approving now. It's taken two  
13 years to get this far.

14 MR. HARRIS: Yeah, that's what I'm saying, you don't expect  
15 this to take two years -- two more years?

16 MR. TALBOT: No. Just for the Board's information that  
17 happened on the 27th of January in 1992 when the United  
18 States Corp of Engineers determined that before they  
19 could grant us approval to conduct our actual field  
20 surveying that they needed to do a historical research in  
21 as much as they were to determine was any nuclear waste  
22 areas used and a records research of their properties  
23 which a procedure by the Corp of Engineers prior to levy  
24 and payment. That was about a five month process that  
25 they did in Richmond before they could allow us to go

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

ahead and conduct our surveys.

MR. MASON: Any other questions, members of the Board?

(Witness stands aside.)

MR. MCGLOTHLIN: I move that we approve the location exception as submitted.

MR. MASON: We've got a motion to approve the exception. Is there a second?

MR. HARRIS: Second.

MR. MASON: Motion and a second. Any further discussion? Comments anyone? All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) The motion carries.

(Thereupon, Mr. Wampler returns to the chair.)

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 XIII

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 by Equitable Resources Exploration for well VC-2844. This is Docket number VGOB-93/04/20-0366. We'd ask the parties that wish to address the Board to come forward at this time.

MR. FULMER: I something to hand out to the Board.

MR. CHAIRMAN: (Pause.) I'd ask the parties wishing to address the Board at this time to identify yourself for the record.

MR. TWEED: Doug Tweed and Jim Kiser here as counsel on behalf of Equitable Resources Exploration, the applicant.

MR. POWERS: Darrell Powers, Dickenson County.

MR. POWERS: Barnum Powers, Jr.

MR. CHAIRMAN: Thank you. We have your letter of objection. You may proceed with your application.

MR. TWEED: The first witness is Mr. Dennis Baker who's previously been sworn and whose expertise in this field has been accepted today by the Board.

DENNIS BAKER

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

DIRECT EXAMINATION

1  
2  
3 BY MR. TWEED:

4 Q. Mr. Baker, do your responsibilities include the lands  
5 involved here and in the surrounding area with respect to  
6 the application for force pooling of this coalbed methane  
7 gas well VC-2844?

8 A. Yes. That is correct.

9 Q. And you are familiar with this application?

10 A. Yes.

11 Q. And there is a permit pending in this particular -- with  
12 respect to this unit?

13 A. Yes.

14 Q. Is Equitable seeking to force pool the drilling rights  
15 underlying the drilling and spacing unit as depicted in  
16 Exhibit A of the application? March 10, 1993?

17 A. Yes, we are.

18 Q. Does Equitable own drilling rights in the units involved  
19 here?

20 A. Yes, we do.

21 Q. Does the location proposed for VC-2844 fall within the  
22 Board's order for the Nora coalbed field rules dated  
23 March 20, 1989?

24 A. Yes, they do.

25 Q. Is there a new Exhibit B with respect to this force pool

- 1 application?
- 2 A. Yes, there is.
- 3 MR. TWEED: I'll ask Mr. Kiser to hand that to the Board
- 4 members, Mr. Fulmer and the Reporter at this time.
- 5 (Pause.)
- 6 Q. (Mr. Tweed continues.) Would you explain to the Board
- 7 the changes in the revised Exhibit B, Mr. Baker, briefly?
- 8 A. As shown on Page 1 of Exhibit B, designated tract four,
- 9 Clarence W. Truaxe, Jr. and Deborah June Truaxe, they're
- 10 now leased to EREX. That's the only change at this time.
- 11 Q. Would it also be true, Mr. Baker, that the coal estate on
- 12 revised Exhibit B reflects 100 percent ownership in
- 13 Clinchfield Coal Company?
- 14 A. Yes, it does.
- 15 Q. And that is leased?
- 16 A. It's leased to EREX underlying tract one, three, four,
- 17 five and six.
- 18 Q. Does the revised Exhibit B set forth the percentages of
- 19 Equitable's interest as well as any percentages of
- 20 unleased interest, either gas or coal reflected with
- 21 respect to this unit?
- 22 A. Yes. That's correct.
- 23 Q. Are all the unleased parties set forth in the amended
- 24 Exhibit B?
- 25 A. Yes. That's correct.

- 1 Q. Prior to filing this application were efforts made to  
2 contact each of the respondents in attempt to work out an  
3 agreement regarding the development of the units involved  
4 here?
- 5 A. Yes. They were.
- 6 Q. And subsequent to the filing of the application were  
7 those efforts continued?
- 8 A. Yes.
- 9 Q. Were efforts made to determine if individual respondents  
10 were living or deceased or their whereabouts and if  
11 deceased were efforts made to determine the names,  
12 addresses and whereabouts of the successors to any  
13 deceased individual respondents?
- 14 A. Yes. That's correct.
- 15 Q. Were the same types of efforts used here as you have  
16 described previously today on the record as to the prior  
17 force pooling?
- 18 A. Yes. That's correct.
- 19 Q. In your professional opinion was due diligence exercised  
20 to locate each of the respondents named here?
- 21 A. Yes.
- 22 Q. Are the addresses set out in revised Exhibit B to the  
23 application the last known addresses for the respondents?
- 24 A. Yes, they are.
- 25 Q. Are you requesting this Board to force pool all unleased

- 1 interested listed in revised Exhibit B7
- 2 A. Yes, we are.
- 3 Q. Are you seeking to force pool the drilling rights of each  
4 individual respondent if living and if deceased the  
5 unknown successor or successors of any deceased individ-  
6 ual respondent?
- 7 A. Yes.
- 8 Q. Is Equitable seeking to force pool the drilling rights of  
9 the person designated as trustee if acting in the  
10 capacity of trustee and if not acting in such capacity  
11 seeking to force pool the drilling rights of the success-  
12 or of such trustee?
- 13 A. Yes. That's correct.
- 14 Q. Are you familiar with the fair market value of the  
15 drilling rights in the units here and the surrounding  
16 area?
- 17 A. Yes, I am.
- 18 Q. What are those?
- 19 A. \$5 bonus consideration, five years, one-eighth royalty.
- 20 Q. Did you gain your familiarity by acquiring oil and gas  
21 leases and coalbed methane leases and other agreements  
22 involving the transfer of drilling rights in the units  
23 involved here and surrounding areas?
- 24 A. That's correct.
- 25 Q. In your opinion do the terms you've testified to repres-

1 ent a fair market value of and a fair and reasonable  
2 compensation to be paid for drilling rights within this  
3 unit?

4 A. Yes.

5 Q. With respect to respondents listed in the amended Exhibit  
6 B who remain unleased are you requesting they be allowed  
7 the same options of participation, royalty or carried  
8 operator that are described by statute and that were  
9 previously described by you with respect to the force  
10 pooling that we've previously presented today to the  
11 Board?

12 A. Yes. That is correct.

13 Q. Are you requesting that elections be in writing and sent  
14 to applicant at the same address, that is to your  
15 attention was referenced on our previous application  
16 today?

17 A. That's correct.

18 Q. Should this be the address for all communications with  
19 respect to this application?

20 A. Yes.

21 Q. Are you requesting that the same terms be placed in this  
22 force pooling order concerning what occurs if no written  
23 election is properly made by a respondent and with  
24 respect to the time tables for responses and participa-  
25 tion as were set forth on our prior force pooling

1 application today that's been approved?

2 A. Yes, we are.

3 MR. TWEED: We would request, Mr. Chairman, to adopt that  
4 testimony by reference to save the Board time.

5 MR. CHAIRMAN: Any objection?

6 Q. (Mr. Tweed continues.) Who should be named operator  
7 under the force pooling order?

8 A. Equitable Resources Exploration.

9 MR. TWEED: I have no further questions for this witness, Mr.  
10 Chairman.

11 MR. CHAIRMAN: Questions, members of the Board? Did you  
12 gentlemen have any questions? If you have a question, if  
13 you will just state your name for the record so we know  
14 who's asking the question.

15 MR. POWERS: Darrell Powers. I have a question. According to  
16 this Exhibit A plat sheet we're concerned why they're  
17 drilling this well -- the location of the well so close  
18 to our property line. I understand from what I've heard  
19 here today here at the meeting that these wells are  
20 going to draw 500 feet from the well. Is that correct?

21 MR. CHAIRMAN: No. What you heard today was testimony about  
22 how the law has progressed from the time that there was a  
23 presumed drainage of 500 feet and then it was changed to  
24 1,250 and currently there's a presumed drainage of wells  
25 of 1,320 feet. For coalbed methane wells it's a 1,000

1 foot spacing. So you heard a lot of things -- state  
2 spacing. This is in --

3 MR. POWERS: Well, I can't understand why if they lease this  
4 land from this person they don't put the well more so in  
5 the center of it. Why would they want to get over on the  
6 edge? That is going to drain gas from the property that  
7 we own. We're going to get paid a small amount for it  
8 supposedly, but if they put another one on another edge  
9 and another one on another edge and another on another  
10 edge then we will lose all that gas in the middle. They  
11 won't have to drill there.

12 MR. CHAIRMAN: Which of you witnesses -- is this witness the  
13 one that would answer that question?

14 MR. TWEED: With respect why that to particular well location  
15 was in the field rules no, this is not going to be the  
16 witness for that, I don't believe.

17 MR. POWERS: Talk a little louder, please.

18 MR. TWEED: I'm sorry. He asked me if this would be the  
19 witness to answer your question as to what that particul-  
20 ar unit location or well location was selected as  
21 opposed to another. He would not be the person to answer  
22 that question. It would be another witness. Okay.

23 MR. POWERS: Do you have him here?

24 MR. TWEED: I'm not sure if I have somebody that can answer  
25 that question or not.

1 MR. DAHLIN: I can tell you what our plans are in the area.

2 MR. TWEED: Mr. Talbot, you heard the question.

3 MR. TALBOT: Yes, sir. The particular location was chosen in  
4 conjunction with the coal owner being Clinchfield Coal  
5 Company, Pyses Resource Company and Pine Mountain. With  
6 those three entities in order to have a valid permit  
7 application on file we need a consent to stimulate and  
8 approval from the coal company. As with any locations  
9 dealing with coalbed methane the regulations require that  
10 you have to have coal approval and that present location  
11 was determined by the coal companies in conjunction with  
12 our geologists.

13 MR. POWERS: In other words, that's the only spot on that land  
14 that you can drill that well? That's what you're saying?

15 MR. TALBOT: Yes, sir, with the coal companies' approval that  
16 is correct.

17 MR. POWERS: Well, that answers my question. Not to my  
18 satisfaction, but that answers the question, I guess.  
19 There's no difference in that spot as far as the coal  
20 seam is concerned than there would be in another spot.  
21 Probably if you had asked the coal companies to drill in  
22 another location you would have got approval for that,  
23 too.

24 MR. TALBOT: Actually, sir, our process is that we will pick  
25 general areas within the interior unit of the coalbed

1 field rules. Within that unit we then go through a  
2 preliminary process of contacting the coal companies for  
3 their approval in as much as they would look at it for  
4 their surface operations, stripping for their deep mine  
5 operations, any projected operations that they would  
6 have. They have three entities which I read to you  
7 earlier that all need to together approve a location  
8 which wouldn't interfere with any surface operations,  
9 stripping, deep mining. And then they come back to us  
10 and say we suggest, "We suggest this point." At that  
11 time we go through our operational people to see is this  
12 practical, can it be drilled there, and with that  
13 approved then we go to a formal process which at the time  
14 we notify our agreement with the lessors, have a fifteen  
15 day period honored in which as they must approve or come  
16 back with an alternate location. To make a long story  
17 short, sir, it's an involved process that is basically  
18 to determine exact drillable location by the coal  
19 companies at which at that time after approval they give  
20 us their consent to stimulate.

21 MR. POWERS: Well, could you tell us and the Board -- when you  
22 picked this location and referred it to the coal company  
23 did they study it, suggest another alternate site? Did  
24 you pick one other than this?

25 MR. TALBOT: Yes, sir. We tried that process in years past

1 and found that we're better off by a joint meeting with  
2 our geological and engineering people and their coal  
3 people to preliminarily pick the -- the well was actually  
4 picked in conjunction with both companies, coal company  
5 and oil and gas company before even the preliminary  
6 process. In other words, we didn't arbitrarily pick a  
7 place. Equitable Resources and the coal companies chose  
8 a spot best beneficial to our parties and then the  
9 process gets kicked in from that in order to just  
10 alleviate these kind of problems, sir.

11 MR. POWERS: It looks like you've got several parties involved  
12 here that should have had a little say so in where this  
13 is picked. I'm familiar with the land over there and  
14 most of that land has already been stripped. I don't  
15 know whether you've been there or not.

16 MR. TALBOT: No, I haven't.

17 MR. POWERS: But that land has been stripped. Clinchfield has  
18 already stripped it. They won't be back in to strip  
19 anymore. The coal has been mined out from under it. I  
20 don't know how many seams, but some has been mined out  
21 from under it. It just seems to us that this location  
22 was picked just to draw gas from our land rather than  
23 putting it over in the center to get the gas from the  
24 leased land. Since we are unleased and we own the gas we  
25 feel that this is more or less a way of ciphering the gas

1 off.

2 MR. TALBOT: Sir, the location was not to pick in reference  
3 to anyone particular parcel of estate being owned or not  
4 owned, leased or unleased. Actually I don't think  
5 Equitable Resources enjoys anymore than you do, sir, but  
6 that's kind of how the thing has turned out.

7 MR. POWERS: I've had some unfortunate experiences with EREX  
8 other than this and it's hard for me to really take  
9 everything they say -- I have to kind of put a grain of  
10 salt in with it. But we really object to the pooling of  
11 the whole thing. We have a disagreement with EREX at  
12 this present time, we're trying to get it settled, on  
13 this tract of land and we think that the pooling thing  
14 ought to be put off at least until that is settled.

15 MR. TALBOT: I understand that, sir. I've just tempted to  
16 answer your questions in regard to the actual picking of  
17 the location where it was chosen.

18 MR. MASON: Do you have any further questions?

19 BARNUM POWERS: I'm Barnum Powers, Barnum Junior, in fact.  
20 This is my father's land. It's hard for me to understand  
21 how this plot here that you get 47 acres of gas with the  
22 well located as close to our line as it is and not get  
23 more than two-thirds of an acre from our property. They  
24 have another well distance of about 2,000/1,800 feet in  
25 another direction on the other side of our property.

1 And, of course, we're out of the pooling as far as that  
2 Well is concerned. We'd like to be out of the pooling as  
3 far as this one is concerned. I understand that we are  
4 required to with or without our wishes. There's another  
5 thing I don't agree with here and I think you explained  
6 it, but I'd like just to make a point. On Item D, Page  
7 2, the last part of that says, "Providing that the  
8 operator shall have an operator's lien on the oil, gas  
9 and coalbed methane estate and rights owned or claimed by  
10 the persons named herein in the subject drilling unit and  
11 granting the operator the right to drill at any legal or  
12 specific permitted location on the subject drilling  
13 unit." I'd like to object to that very strenuously and  
14 I'd like for that objection to be on record, too. And  
15 the same thing applies over on Page 3, Item G, "Providing  
16 that the conduct of operations on any tract of the  
17 subject unit shall be deemed to be the conduct of  
18 operations on all tracts in the drilling unit." I'd  
19 like to object to that. Of course, as far as the price  
20 of this is concerned there's monetary value as far as we  
21 will be able to see anyway the way this is at the present  
22 time. I figure we'll probably less than a thousand  
23 dollars over a twenty year period of time. So money is  
24 not the question in this thing. It's a matter of  
25 principal more than anything else. The reason -- I think

1 that we're being taken advantage of. And all we would  
2 like for this Board to do is just to treat us fair. We'd  
3 like to stay out of it all together if at all possible.  
4 We don't want a pool. Even if you agree that the well  
5 goes where it is and put it 1,320 feet over on our side  
6 we still don't want the pool. These people built a road  
7 right down the center of our property without any  
8 questions or anything else and I don't think that they  
9 will go by their means here that they will honor your  
10 decision not to trespass on our property or put a well  
11 on it or anything else they desire to do because that's  
12 not been their way with treating us anyway. One last  
13 thing. If we are required by this Board to pool this  
14 well I'd like to have a copy of those field requisitions  
15 that you have if that's all possible.

16 MR. CHAIRMAN: Sure.

17 BARNUM POWERS: That's all I have to say.

18 MR. CHAIRMAN: The document that I did read was just a draft,  
19 information statement the Department's putting together,  
20 but I'll be happy to get you a copy of those.

21 BARNUM POWERS: Thank you very much. Could I make one more  
22 statement, please?

23 MR. CHAIRMAN: Yes, sir -- well, they're still not as far as I  
24 know through with their witnesses.

25 MR. TWEED: But I don't mind taking them out of order.

1 MR. CHAIRMAN: You could ask questions then, but I just want  
2 you to know you can go ahead and make a statement but you  
3 don't have to be through.

4 BARNUM POWERS: Well, all I'd like to say is that this  
5 particular tract of land has been in the family for a  
6 hundred years. Now, in that hundred years we paid taxes  
7 on that land and all this time we thought we owned it.  
8 We thought that was ours. We thought if we wanted to cut  
9 down a tree we could do that. The land and the gas -- we  
10 realize that our grandfather sold coal to Clinchfield but  
11 we thought the gas and the surface rights were ours.  
12 Now, if these people can come in and just say we're going  
13 to drill here, we're going to get your gas, there's  
14 nothing you can do about it, do you know what that  
15 reminds me of? All of us boys -- four of us fought  
16 during the wars plus our father. He fought during the  
17 war. That reminds me of Russia, of Cuba and Germany,  
18 places like that. When I was fighting those places I  
19 never thought I would see something like this come out in  
20 the United States. That's all.

21 MR. CHAIRMAN: Certainly when the law was passed I think  
22 there's a certain anticipation by the General Assembly  
23 members and the Governor when he signed it that the  
24 surface owners had rights and that those rights wouldn't  
25 be taken away by the passes of this act. We're hearing a

1 lot of these kinds of -- people coming forward and  
2 talking to the Board about rights being abused and, of  
3 course, the Board is very concerned about that kind of  
4 thing.

5 BARNUM POWERS: Just one other thing I might say. When they  
6 went in and built this road on a piece of land -- the  
7 land is just old mountain hillside, but my grandfather  
8 killed squirrels on that land and my father, myself and  
9 my grandson. Now it's a road down through there. When  
10 they built the road they went in and cut down some small  
11 old timey chestnut trees. This fall I was over there and  
12 it so happened there was two of them that had the burs on  
13 them and nuts. I got the chestnuts from those. That's  
14 something I bet nobody in this room has ever ate -- an  
15 old timey chestnut. They said, "Well, we're going to  
16 reclaim the land." They did go in and plant some grass  
17 and trees -- a few trees. They say they're going to  
18 plant more, but where are they going to get those old  
19 timey chestnut trees to plant? How are you going to put  
20 a value on something like that? We wanted the land like  
21 it was. We didn't want a road through there. That's the  
22 kind of treatment we have received from these people.

23 MR. CHAIRMAN: Was that road a part of the permitted road to  
24 another well?

25 MR. FULMER: I have no idea where he's talking about.

1 BARNUM POWERS: They used the road for a supply road to a gas  
2 line. When we first found it they had a dozer and about  
3 thirty to fifty joints of pipeline. They moved it as  
4 soon as we found out.

5 MR. TWEED: Mr. Chairman, my understanding and what they're  
6 talking about is the area that is in the first paragraph  
7 of their written objection that they've filed here. It's  
8 a situation where some people who were working on behalf  
9 of EREX not all related to this unit and who were dealing  
10 with a unit on another tract inadvertently ended up not  
11 just on one occasion but on more than one occasion on the  
12 property where the surface rights that are owned by these  
13 gentlemen. And they're represented by an attorney named  
14 Bud Phillips or were and EREX has been attempting to  
15 negotiate a resolution to that trespass claim and have  
16 been unable to reach an agreement as to the amount of  
17 money but have made some ground rehabilitation efforts  
18 that they've referenced. But it did not relate in any  
19 way to the unit that this application deals with.

20 MR. CHAIRMAN: Was it a permitted road?

21 MR. FULMER: My understanding if I'm correct on this is that  
22 it is a road that was represented as being on Clinchfield  
23 property and ended up being on the Powers' property not  
24 when the initial application went in and approved, but  
25 when construction occurred the operator got on Mr.

1 Powers' property.

2 MR. CHAIRMAN: But was it a permitted road?

3 MR. FULMER: At the time it was a permitted road where they  
4 represented it in construction, but during the construc-  
5 tion phase they got on Mr. Powers' property and we issued  
6 the violation.

7 MR. CHAIRMAN: All right. I just wanted to understand if  
8 it --

9 MR. FULMER: Everything was all right up to the point when  
10 construction started and they got off on Mr. Powers'  
11 property during construction.

12 MR. TALBOT: In answering Mr. Powers' question as far as the  
13 royalty payments, this tract will be escrowed in as much  
14 as the coal owner and oil and gas owner are not the same  
15 person. So as far as him receiving his royalties that  
16 will go into an escrow account until it has been de-  
17 termined actually who owns the coalbed methane.

18 MR. CHAIRMAN: Before we hear any more of your witnesses let  
19 us just tell the people that are here -- I'm not trying  
20 to run you off, but I'm just telling you so that you'll  
21 know this will be the last case we'll hear today. We  
22 have to get out of the room. They have to reset up for  
23 another group tonight. We'll reconvene in the morning at  
24 9:00 and be back at this location. That's what they  
25 interrupted me a minute ago, to tell me they need to get

1 the room up for another meeting tonight. You may  
2 continue.

3 MR. TWEED: We have previously adopted into the record with  
4 the Board's permission his previous testimony and his  
5 occupation and expertise in his field.  
6

7 ROBERT DAHLIN

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

11 DIRECT EXAMINATION  
12

13 BY MR. TWEED:

14 Q. Are you familiar with the plan of development for this  
15 application and the lands involved here and in the  
16 surrounding area?

17 A. Yes, sir. I am.

18 Q. Let me give you this total depth and formation involve-  
19 ment and ask you if it's accurate. 2,525 feet to  
20 include formations consistent with the well work permit  
21 now pending before the DNME included but not limited to  
22 all Pennsylvanian aged coal seams from the top of the  
23 Raven including all splits to the top of the Red and  
24 Green shells including but not limited to Raven, Jaw  
25 Bone, Upper Horse Pin, Middle Horse Pin, War Creek,

1 Beckley, Lower Horse Pin, Pocahontas #8, Pocahontas #9,  
2 Pocahontas #3, Pocahontas #1, All unnamed coal seams and  
3 all other associated formations known as the Nora Gas  
4 Field.  
5 A. Yes, sir. That's correct.  
6 Q. Would that be sufficient to penetrate and test the common  
7 sources of supply in the subject formations in your  
8 opinion?  
9 A. It will.  
10 Q. What are the estimated reserves of the unit?  
11 A. We've assigned 400 million cubic foot of gas to the  
12 drilling unit.  
13 Q. Are you familiar with the well costs for the proposed  
14 unit?  
15 A. Yes, I am.  
16 Q. Has an AFE been signed, reviewed and submitted to the  
17 Board?  
18 A. It has.  
19 Q. Was this AFE prepared by an engineering department  
20 knowledgeable in the preparation of AFEs and knowledge-  
21 able in regard to well costs in this area?  
22 A. Yes, sir.  
23 Q. With the same quality control measures that you've  
24 previously described today?  
25 A. That's correct.

1 Q. Does this AFE represent a reasonable estimate of the well  
2 costs for the proposed unit well under plan of develop-  
3 ment here?  
4 A. Does.  
5 Q. What are the dry-hole costs?  
6 A. Dry-hole costs are \$73,492.  
7 Q. And completed well cost?  
8 A. Completed well cost is \$191,200.  
9 Q. Do these costs anticipate a multiple completion?  
10 A. Yes, sir.  
11 Q. And does the AFE include a reasonable charge for super-  
12 vision?  
13 A. Yes, sir, it does.  
14 Q. In your professional opinion will the granting of the  
15 application be in the best interest of conservation,  
16 prevention of waste and the protection of correlative  
17 rights?  
18 A. Yes, sir.  
19 MR. TWEED: I have no further questions of this witness, Mr.  
20 Chairman.  
21 MR. CHAIRMAN: Questions, members of the Board?  
22 (Witness stands aside.)  
23 MR. CHAIRMAN: You may call your next witness.  
24 MR. TWEED: I have no further witnesses. Our comment, Mr.  
25 Chairman, would simply be that the aspect of the objec-

1 tion dealing with the road or trespass issue is being  
2 dealt with in the appropriate arena and is not relevant  
3 to the application for force pooling and that the other  
4 objections listed in writing or described by these  
5 gentlemen are not relevant or viable objections under the  
6 applicable statutes and regulations. In fact, their  
7 statements really more or less describe exactly why the  
8 Legislature felt it necessary to deal with the concept of  
9 force pooling to begin with. We would ask for a motion  
10 and approval of the application.

11 MR. CHAIRMAN: This is in the Nora coalbed field?

12 MR. TWEED: Yes, sir.

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

14 (Pause.) I'm going to ask Ms. Riggs to explain -- Mr.  
15 Powers you brought up about Page 2, Section D and  
16 questioned the language or objected to the language  
17 beginning the middle of that paragraph that said,  
18 "Providing that the operator shall have an operator's  
19 lien on the oil, gas, coalbed methane estates and rights  
20 owned or claimed by the persons named herein", etcetera.  
21 I'll ask Ms. Riggs, our attorney, to further define how  
22 the order addresses this for your information.

23 MS. RIGGS: Notwithstanding the language contained -- I think  
24 it's in the notice but not the application. The notice  
25 of hearing gives notice of broad issues to be brought up.

1 The Board, however, is bound by the application which is  
2 more specific in nature. And while I realize that the  
3 notice contains some pretty broad language historically  
4 what the Board has included within its approved form of a  
5 force pooling order is language which reads as follows:  
6 "The unit operator in addition to other rights afforded  
7 here under shall have a lien or right of set off against  
8 the gas estates rights and interest owned by any person  
9 subject hereto who elects to participate under Paragraph  
10 9.1 in the subject drilling unit to the extent that costs  
11 incurred in the drilling or operation on the subject  
12 drilling unit are chargeable against such person inter-  
13 est. Such liens and right of set off shall be separable  
14 as to each separate person and shall remain liens until  
15 the unit operator drilling or operating any well covered  
16 hereby has been paid the full amount due under the terms  
17 of the order." So that provision only applies in a  
18 situation where a respondent elects to participate, is  
19 suppose to put up their share of the money but then  
20 doesn't do so. It says that the operator can get that  
21 money then -- the entitlement as it comes due under the  
22 terms of the order.

23 MR. CHAIRMAN: It's not a lien on their property.

24 MS. BIGGS: Not on their property but on the entitlement of  
25 the force pooling order.

1 MR. CHAIRMAN: I just wanted you to have that for information  
2 if nothing else. Anything further, members of the Board?

3 MR. MASON: Along the same lines, the notice also speaks of  
4 the right to -- I think the orders do not include any  
5 language that allows them to drill or operate on an  
6 involuntary pooled land surface interest either, does it  
7 not?

8 MS. RIGGS: It does not contain permissive language along  
9 those lines.

10 MR. MASON: Exactly. That was the other objection he had. I  
11 think that both of those are answered in the orders that  
12 we customarily adopt.

13 BARNUM POWERS: Thank you.

14 MR. CHAIRMAN: Anything further? Do I have a motion?

15 MR. McGLOTHLIN: Mr. Chairman, I move that we approve the  
16 force pooling petition.

17 MR. EVANS: Second.

18 MR. CHAIRMAN: We have a motion and a second. Further  
19 discussion? All in favor signify by saying yes. (ALL  
20 AFFIRM.) Opposed say no. (NONE.) The motion carries.  
21 We'll continue in the morning at 9:00 A.M., reconvene  
22 with Docket XIV.

23 MR. TWED: We have a continuance of one that you won't be  
24 reaching till tomorrow. I don't think anybody's here.  
25 BUT it might be a convenient -- we have two. Mr.

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

Chairman, XV, we would seek to continue that one.

MR. CHAIRMAN: That's Docket number VGOB-93/04/20-0368. Does anyone object to a continuance? There are none. It will be continued.

MR. TWEED: And XVII at the top of the next page, Mr. Chairman, would be a dismissal.

MR. CHAIRMAN: Docket number VGOB-93/04-20-0370 is proposed for dismissal. It is dismissed. That concludes today's hearing. Thank you.

(End of Proceedings for  
April 20, 1993)

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

CERTIFICATE

COMMONWEALTH OF VIRGINIA  
COUNTY OF WASHINGTON

I, Deborah J. Bise, 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 April 20, 1993 at the 4-H Center, Ratliff Hall, 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 6th day of May, 1993.

*Deborah J. Bise*  
DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 1996.

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

VIRGINIA GAS & OIL BOARD HEARING  
APRIL 21, 1993  
9:00 A. M.  
AT THE 4-H CENTER, RATLIFF HALL  
ABINGDON, VIRGINIA

INDEX

	<u>ITEM</u>	<u>PAGE</u>
1		
2		
3		
4		
5		
6	14	2
7	16	23
8	18	34
9	19	50
10	20, 21	63
11	22, 23	82
12	24	100
13	25	179
14	26	134
15	27	113
16	28	170
17	31	122
18		
19		
20		
21		
22		
23		
24		
25		

1  
2 April 21, 1993

3 This matter came on to be heard on this the 21st day of  
4 April, 1993 before the Virginia Gas and Oil Board at the 4-H  
5 Center, Ratliff Hall, Abingdon, Virginia pursuant to Section  
6 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

7 MR. CHAIRMAN: Good morning. I'm Benny Wampler, Deputy  
8 Director for the Virginia Department of Mines, Minerals  
9 and Energy and Chairman of the Gas and Oil Board. I'd  
10 ask each member now to introduce themselves starting with  
11 Kevin.

12 [MEMBERS INTRODUCED.]  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 XIV

MR. CHAIRMAN: The first item on today's agenda is a petition for force pooling under Section 45.1-361.22 by Equitable Resources Exploration for VC-2914 well. Docket number VGOB-93/94-20-0367. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. TWEED: Doug Tweed and Jim Riser present on behalf of the applicant.

MR. CHAIRMAN: Any others? The record will show there are none. You may proceed.

MR. TWEED: Thank you. Mr. Chairman, our witnesses will be Dennis Baker and Bob Dahlin both of whom were sworn yesterday during this docket and we can treat them as continuing to be sworn if you so desire.

MR. CHAIRMAN: I will remind them they are under oath.

MR. TWEED: Mr. Baker, I'll ask the record to basically adopt your prior testimony as to your employment and experience and the presence of you and acceptance as an expert witness before this Board yesterday and in prior dockets.

DENNIS BAKER

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

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

DIRECT EXAMINATION

BY MR. TWEED:

Q. Are you familiar with this application and with the lands involved here and the surrounding area?

A. Yes, I am.

Q. Is Equitable seeking to force pool the drilling rights underlying the drilling and spacing unit that's depicted on Exhibit A of this application?

A. Yes, we are.

Q. Does Equitable own drilling rights in units involved here?

A. Yes, we do.

Q. Does the location proposed for well VC-2914 fall within the Board's order for the Nora coalbed field rules dated March 30, 1989?

A. Yes, it does.

Q. I believe that there is an amended Exhibit B that we wish to present to the Board. It does not reflect changes in who is leased or unleased, but does give a better delineation of the respected ownership interest with respect to coal and gas, is that correct?

A. That is correct.

Q. Mr. Baker, Mr. Kiser has now presented the amended

1 Exhibit B to the Board. It is my understanding that all  
2 of the parties with respect to this application have  
3 received notice and, in fact, are now leased parties  
4 with the exception of Yellow Poplar Lumber Company, is  
5 that correct?

6 A. That is correct.

7 Q. And it is my understanding that the only type of notice  
8 that we have been able to effectuate with respect to  
9 Yellow Poplar Lumber Company is the newspaper notice or  
10 media notice that is reflected in the pleadings that we  
11 have filed with respect to this application, correct?

12 A. That's correct.

13 Q. I believe our research has shown that Yellow Poplar  
14 Lumber Company was formed under Illinois law with the  
15 principal place of business originally in South Carolina  
16 in 1895?

17 A. That is correct.

18 Q. And that our research has revealed that this corporation  
19 went bankrupt and was liquidated in 1928, over sixty  
20 years ago?

21 A. That's correct.

22 Q. And that our research with respect to possible title of  
23 real estate transactions reflects that there have been  
24 absolutely no transactions involving this company since  
25 that time in over sixty years?

- 1 A. That's correct.
- 2 Q. I believe that Ben Sutherland who I think is an attorney  
3 very qualified in title work and well known to this Board  
4 has made substantial efforts to try to locate anybody  
5 that might have knowledge about Yellow Popular Lumber  
6 Company or people who had interest in the company in the  
7 counties of Southwest Virginia and has no success, is  
8 that correct?
- 9 A. That's correct.
- 10 Q. It appears from the bankruptcy records that Yellow  
11 Popular Lumber Company attempted to divest itself of  
12 various property interest but somehow when it was  
13 divesting itself of surface interest and coal interest  
14 simply failed for whatever reason, by screw up or  
15 otherwise, to divest itself of gas rights?
- 16 A. That is correct.
- 17 Q. And as we understand it under the law with an inability  
18 to really contact or do anything with Yellow Popular  
19 Lumber Company that whatever rights they had with respect  
20 to the gas estate on the force pooling of this coalbed  
21 gas well, that those will go into escrow and if those  
22 rights result in any money after five years it's possible  
23 that those will be divested and go into the state?
- 24 A. That is correct.
- 25 Q. Do you feel that reasonable and diligent efforts have

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

been made and due diligence exercised by Equitable in its efforts to try to determine the status and locatability of Yellow Poplar Lumber Company?

A. Yes.

Q. And for edification of the Board, I believe that not only the coal estate but the surface estate for the tracts involved here is with Clinchfield Coal Company and Pyrex Resources?

A. That's correct.

MR. EVANS: Pyxis Resources?

MR. TWEED: Pyxis, that's correct. P-Y-X-I-S. Mispronounced by me. I apologize.

Q. (MR. Tweed continues.) Does Equitable seek to force pool the drilling rights of each individual respondent -- and in this case, of course, we're speaking of Yellow Poplar -- and if unknown or unlocatable the unknown successor or successors, if any to any respondent?

A. That's correct.

Q. Is Equitable seeking to force pool the drilling rights of persons designated as trustee if acting in capacity of trustee or if not acting in such capacity seeking to force pool the drilling rights of any successor of such trustee?

A. Yes.

Q. Are you familiar with the fair market value of the

1 drilling rights in the units here and in the surrounding  
2 area?

3 A. Yes, I am.

4 Q. Advise the Board as to what those are.

5 A. \$5 bonus per acre consideration, five year term and one-  
6 eighth royalty.

7 Q. Did you gain your familiarity by acquiring oil and gas  
8 leases and coalbed methane leases and other agreements  
9 involving transfer of drilling rights in units involved  
10 here and the surrounding area?

11 A. Yes.

12 Q. In your opinion do the terms you've testified to repres-  
13 ent the fair market value of and a fair and reasonable  
14 compensation to be paid for drilling rights within this  
15 unit?

16 A. Yes.

17 Q. With respect to the elections of participation, royalty  
18 or carried operation and the timing for elections and  
19 deadlines and the person to who notification should be  
20 made on behalf of the applicant do you adopt the testi-  
21 mony that you provided to the Board yesterday with  
22 respect to two the force poolings that we presented that  
23 were approved?

24 A. Yes.

25 Q. And that would include the testimony as to our request

1                    yesterday for escrowing provisions and compliance with  
2                    the statutory and regulatory requirements for escrow?

3                    A.    That's correct.

4                    Q.    Who should be named operator under the force pooling  
5                    order?

6                    A:    Equitable Resources Exploration.

7                    MR. TWEED: I have no further questions for this witness, Mr.  
8                    Chairman.

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

10                    MR. EVANS: You say you do have the surface lease -- based on  
11                    our discussion yesterday, an unleased tract, you do have  
12                    access rights to the well site?

13                    MR. BAKER: Yes, we do.

14                    MR. TWEED: We have a relationship with Clinchfield and Pyxis  
15                    who leased us the coal and that will be used for the  
16                    access. Equitable obviously isn't sure where it stands  
17                    in terms of being put to the Board on the legal issues  
18                    that came up yesterday in draft form but it's not an  
19                    issue this morning.

20                    MR. EVANS: That's fine.

21                    MR. MCGLOTHLIN: Mr. Tweed, approximately how many acres of  
22                    Yellow Poplar Lumber Company does their gas rights --  
23                    how many acres does that encompass?

24                    MR. TWEED: The vast majority of the unit.

25                    MR. MCGLOTHLIN: I mean throughout the -- can you tell me how

1 many acres that that would encompass in Southwest  
2 Virginia?

3 MR. TWEED: Approximately a thousand is what we understand  
4 we're running into Yellow Poplar on a couple of other  
5 units that are going to be coming up for force pooling in  
6 the future.

7 MR. MCGLOTHLIN: Is it normal on that large of an acreage to  
8 pay more than the \$5 bonus and the one-eighth royalty on  
9 a five year lease?

10 MR. BAKER: No. We pay the same price. It just varies when  
11 you have different --

12 MR. MCGLOTHLIN: Wait a minute now. I know that you've paid  
13 more on a smaller tract. Don't tell me that you pay the  
14 same.

15 MR. BAKER: On smaller tracts when you have lots -- on acre  
16 where you have a small \$5 or \$10 consideration due we  
17 usually try to make it worth the individual's while and  
18 we'll pay \$25 for a paid up full term lease or \$50.

19 MR. MCGLOTHLIN: What I'm getting at is I think that if Yellow  
20 Poplar Lumber Company was around today it would cost you  
21 more than \$5 an acre bonus and the one-eighth royalty to  
22 lease that property. I want to protect somebody or  
23 somebody's money on that acreage would normally get more.  
24 I think they would normally get more and I think you know  
25 that they in a negotiation would get more.

1 MR. BAKER: We have leases from other companies in the area  
2 that we usually have a consideration being \$5 an acre.

3 MR. MASON: You testified that that's the normal. Have you  
4 all paid more?

5 MR. BAKER: Have we paid more?

6 MR. MASON: Uh-huh. Other than for small tracts, lot tracts?

7 MR. BAKER: At a certain period of time I'd say we probably  
8 have but as a normal operating procedure no, we do not.

9 MR. TWEED: I can offer testimony, I'm not sure if Mr. Baker  
10 knows or not, but through Mr. Talbot that the compensa-  
11 tion that we're paying to Clinchfield who is leased with  
12 us on this tract with the surface and the coal rights are  
13 compatible with what we're proposing here. So Yellow  
14 Poplar is being treated in our force pooling request  
15 identically to Clinchfield who is voluntarily leased and  
16 whose surface is included in the obligation.

17 MR. MASON: Are you testifying?

18 MR. TWEED: Mr. Talbot was sworn yesterday and we can treat  
19 him as sworn. Could you verify that for them, please?

20 MR. TALBOT: Our agreement with Pine Mountain as we find  
21 additional acreage that is not unleased will go in a  
22 leased status at a consideration of \$5 per acre and a  
23 one-eighth royalty.

24 MR. McLOTHLIN: Have you ever paid more?

25 MR. TALBOT: That's directed to me?

1 MR. MCGLOTHLIN: Yes, sir.

2 MR. TALBOT: I'm really not in a acquisition other than the  
3 Pittston properties. I think -- I really don't know,  
4 sir. I'd have to defer that to Mr. Baker. I know the  
5 Pittston property is what we just executed with Pine  
6 Mountain oil and gas (Inaudible.)

7 MR. MCGLOTHLIN: I don't know who Yellow Popular is and it's  
8 probably a dead entity out there somewhere, but I still  
9 think we have an obligation to protect that interest.

10 MR. TWEED: I think your comments are fair but I think that  
11 number one, Yellow Popular is without question dead and  
12 although there's a real serious question as to whether  
13 this gas estate will result in any revenues down the line  
14 on this coalbed gas unit, that's obviously not for the  
15 Board to decide today. I guess I'm hard pressed to say  
16 that Yellow Popular as a dead entity or even an un-  
17 locatable entity has a right to come in here and request  
18 treatment more favored than Clinchfield under these  
19 circumstances and I think the compatibility and testimony  
20 that we have in that regard which has been satisfactory  
21 to the Board on a multitude of other force poolings would  
22 probably be satisfactory for Yellow Popular as much as  
23 any other respondent that doesn't appear, Mr. McGlothlin.

24 MR. NASON: I just have one comment to this gentleman here.  
25 Are you aware of any other leases at a higher rate other

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

than the lot leases?

MR. BAKER: Not right off hand I'm not, no.

MR. MASON: What does that mean, not right off hand?

MR. BAKER: That means that I'm not familiar with any leases that has larger considerations.

MR. MASON: Do you do the lease acquisition work for your company?

MR. BAKER: I direct the contract brokers in the field, yes.

MR. MASON: So you would be aware of any if there were?

MR. BAKER: Yes.

MR. MASON: And you are not aware of anybody that you've paid more than \$5 an acre?

MR. BAKER: No.

MR. CHAIRMAN: Any other questions?

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

MR. TWEED: Mr. Bob Dahlin and I'll remind you you're still under oath and I'll ask the record to adopt your testimony yesterday as to your employment and experience and acceptance as an expert witness in this field.

BOB DAHLIN

A witness who, after having been previously sworn, was examined and testified as follows:

DIRECT EXAMINATION

1  
2  
3 BY MR. TWEED:

4 Q. Are you familiar with this application and the lands  
5 involved here and the surrounding area?

6 A. Yes, sir. I am.

7 Q. Is it accurate that the total depth of this proposed  
8 wells and formations involved are as follows: 2,450 feet  
9 to include formations consistent with the well work  
10 permit now pending before the DMME including but not  
11 limited to all Pennsylvanian aged coal seams from the top  
12 of the Haven including all splits to the top of the Red  
13 and Green shales, including but not limited to Raven, Jaw  
14 Bone, Upper Horse Pin, Middle Horse Pin, War Creek,  
15 Beckley, Lower Horse Pin, Pocahontas #8, Pocahontas #4,  
16 Pocahontas #3, Pocahontas #1, all unnamed coal seams and  
17 all other associated formations known as the Nora  
18 coalized gas field?

19 A. Yes, sir. That's correct.

20 Q. Will this be sufficient in your opinion to penetrate and  
21 test the common sources of supply in the subject forma-  
22 tions?

23 A. It will.

24 Q. What are the estimated reserves for this unit?

25 A. We estimated 300 million cubic foot of gas reserves on

- 1 the unit. This is an out-post well. It's a test well.  
2 We only compare it to known information in the Nora  
3 field.
- 4 Q. Are you familiar with the well costs of the proposed  
5 initial unit?
- 6 A. Yes, sir, I am.
- 7 Q. Has a signed AFE been reviewed and submitted to the  
8 Board?
- 9 A. It has.
- 10 Q. Was this AFE prepared by an engineering department  
11 knowledgeable in the preparation of AFEs and knowledge-  
12 able in regard to well costs in this area?
- 13 A. Yes, it was.
- 14 Q. And is this AFE subject to the same quality control  
15 systems you described yesterday and at prior hearing  
16 before the Board?
- 17 A. Yes, sir.
- 18 Q. Does the AFE represent in your opinion a reasonable  
19 estimate of the well costs for the proposed unit?
- 20 A. It does.
- 21 Q. What are the dry-hole costs?
- 22 A. Dry-hole costs are \$72,154.
- 23 Q. and the completed well cost?
- 24 A. Completed well cost is \$192,500.
- 25 Q. Do these costs anticipate a multiple completion and

1 include a reasonable charge for supervision?

2 A. It does.

3 Q. In your professional opinion will the granting of this  
4 application be in the best interest of conservation,  
5 prevention of waste and protection of correlative rights?

6 A. Yes, sir.

7 MR. TWEED: I have no further questions for this witness.

8 MR. CHAIRMAN: Questions, members of the Board? What is your  
9 timing in setting all your production casing -- all your  
10 casing? Do you do that as the well is being drilled in  
11 all cases?

12 MR. DAHLIN: Setting casing?

13 MR. CHAIRMAN: Yes.

14 MR. DAHLIN: Yes, sir. In consistent manner with the regula-  
15 tions we run our fresh water protection string -- first  
16 string other than a conductor just to keep the surface  
17 from falling in on us and allow it to cure, set up, and  
18 then we continue to our production casing. We allow the  
19 proper time -- eight to twelve hours I believe is the  
20 waiting time between each casing string. It's a continu-  
21 ous operation. Drilling is ceased until the cement is  
22 cured and then we continue.

23 MR. CHAIRMAN: Other questions?

24 (Witness stands aside.)

25 MR. CHAIRMAN: You may call your next witness.

1 MR. TWEED: I have no further questions of either witness  
2 except to kind of make sure that we try to give as good a  
3 comfort level as we can to Mr. McGlothlin and Mr. Mason  
4 on the terms of lease issue. Mr. Baker, am I accurate in  
5 saying that there are leases that Equitable has negotiat-  
6 ed with Virginia Iron, Coal & Coke and Pine Mountain and  
7 Clinchfield and Pyxis and Penn-Virginia and other  
8 companies of that nature with much greater amounts of  
9 acreage than is involved for Yellow Poplar in this area  
10 where the terms have been consistent with the terms  
11 we're asking here to with \$5 an acre.

12 MR. BAKER: Yes. That's correct.

13 MR. MCGLOTHLIN: When do you expect to drill this well?

14 MR. TWEED: Mr. Talbot's probably the best person to answer  
15 that.

16 MR. TALBOT: We just received formal approval on the 23rd of  
17 April, sir, from the Pine Mountain, Pittston, Pyxis and  
18 Pegasus Resources. We are in the process of doing our  
19 EMS plan and permit application. I would project the end  
20 of May, the first of June, sometime in there.

21 MR. MCGLOTHLIN: It's the first to my knowledge that we've  
22 ever pooled nobody basically that's an unknown at the  
23 same time.

24 MR. CHAIRMAN: Are these leases that you're talking about  
25 where you're paying \$5, are they coalbed methane only or

1           are they --

2           MR. TALBOT: I think we've testified during all of our force  
3           pooling hearings that all of our leases are standard --  
4           are operating procedures between \$3 and \$5 per acre. I  
5           think all of our past testimony has been \$5.

6           MR. CHAIRMAN: Whether it's coalbed methane or oil and gas.

7           MR. TALBOT: Yes, sir. In situations where the oil and the  
8           gas owner and the coal owner are the same it's a standard  
9           lease that also includes explicitly coalbed methane where  
10          the ownership may be determined if their both the same.

11          MR. MCGLOTHLIN: In leasing a gas tract do you differentiate  
12          between coalbed methane and conventional gas on your  
13          leasing?

14          MR. TALBOT: No. The lease form provides for oil, gas and  
15          coalbed methane rights.

16          MR. MCGLOTHLIN: And that's at \$5 an acre?

17          MR. TALBOT: Yes.

18          MR. TWEED: We have no further evidence to submit. I would  
19          point out, Mr. Chairman, that we've tried to research  
20          again. There's a Malainy versus Central Hanover U.S.  
21          Supreme Court case dealing with notice concerns from a  
22          broad spectrum and recognizing that from time to time  
23          you're going to walk to situations where you have  
24          statutory notice obligations and there's just no way that  
25          reasonable diligence can do more than put it in the paper

1 go that technically if someone was there that could read  
2 it and do something about it it's there. We feel  
3 comfortable that this is just one of those situations  
4 where there was a glitch about seventy years ago. We  
5 can't predict whether in the end the royalty will go to  
6 the coal owner or to the state, but it obviously will go  
7 into escrow for the time being. And we would request  
8 the motion and vote approving this.

9 MR. MASON: On your APE item "gathering lines, 2,000 foot of  
10 two inch" --

11 MR. DAHLIN: That's a fairly generic thing we do based on our  
12 spacing. This is an out-post well.

13 MR. MASON: Sir?

14 MR. DAHLIN: That's a general footage, probably based on  
15 spacing that we've been developing our field. This is,  
16 however, further east than we have been developing. We  
17 do have at least three other wells in the immediate area  
18 that we plan to drill. So that would probably be  
19 appropriate to tie that well into a gathering system once  
20 we establish it. This is a test well and wouldn't go on  
21 line until the other wells that were based on this also  
22 go in line.

23 MR. MASON: Where would this gathering line, from the well to  
24 what?

25 MR. DAHLIN: Well, what we do normally is just in a logical

1 development of an expansion of the field outward from a  
2 known point. This is an out-post well designed to test  
3 the structure in Little Pawpaw fault. This is the first  
4 well in the area and we would anticipate not putting it  
5 in the line immediately. What we do is we develop around  
6 it, test this one, determine if our reserves are reason-  
7 able, and if we feel that we can offset it we would  
8 develop several other wells in the area prior to putting  
9 in long line and it would more than likely go back west  
10 for more conventional development.

11 MR. MASON: If you do this when this gathering line is hooked  
12 up with, I assume, other gathering lines into a trans-  
13 mission line or some other part of the system who owns  
14 this gathering system?

15 MR. DAHLIN: We have various ownership situations in the  
16 gathering and transmission lines. This would just be an  
17 infield -- this particular 2,000 foot section would just  
18 go to the well and it would be -- just the partners in  
19 the well would own the pipeline.

20 MR. MASON: That's what I mean. I guess what I'm getting at  
21 is that I've seen situations where the wells are charged  
22 with a proportion of the gathering system and then  
23 ultimately that money in the aggregate is used to build a  
24 gathering system for all the wells which then belongs to  
25 the operator who then charges the wells for the gathering

1 cost.

2 MR. DAHLIN: I can't really speak -- this 2,000 foot section  
3 built into this AFE will be directly to the well and just  
4 the partners in the well will pay for only that portion.

5 MR. CHAIRMAN: Other questions?

6 MR. EVANS: Mr. Baker, how did you find Yellow Popular, tax  
7 records?

8 MR. BAKER: By researching records, running a mineral title  
9 in the Clerk's office. They were the last owner of  
10 record for the gas.

11 MR. TWEED: So eventually we traced it down to the bankruptcy  
12 records in Atlanta and were able to check out transfer  
13 records and stuff and it just goes blind.

14 MR. CHAIRMAN: Other questions?

15 MR. EVANS: I'd like to make a motion that we approve the  
16 petition as submitted.

17 MR. CHAIRMAN: We have a motion to approve.

18 MR. MCGLOTHLIN: Mr. Evans, could I ask you to amend that to  
19 approve the pooling -- 99.71 percent the Yellow Popular  
20 as coalbed methane only?

21 MR. EVANS: Yeah. That's what the pooling petition is.

22 MR. TWEED: If I understand Mr. McGlothlin I think we're  
23 talking the same language. Whatever coalbed methane gas  
24 rights Yellow Popular may have your motion amendment  
25 would allow us to pool but you want to limit it to that,

1                   whatever that is, under the existing vague law but not  
2                   include any other mineral rights outside of the coalbed  
3                   methane gas operation itself that might exist.

4                   MR. MCGLOTHLIN: Right.

5                   MR. TWEED: I know that you can get into a nebulous area there  
6                   about when you're penetrating for coalbed methane gas  
7                   there's no way to establish for sure that what you're  
8                   getting is coalbed methane.

9                   MR. MCGLOTHLIN: But not the conventional gas (Inaudible.)

10                  MS. RIGGS: For clarification, in drafting the order it is my  
11                  understanding this pooling is under 45.1-361.22, coalbed  
12                  methane pooling application in the Nora coalbed methane  
13                  field.

14                  MR. TWEED: Yes, ma'am.

15                  MS. RIGGS: So the order that would come out would be a  
16                  coalbed methane order.

17                  MR. TWEED: And it's limited by the drilling depth and  
18                  everything else.

19                  MR. MCGLOTHLIN: Relief sought, application request the  
20                  Virginia Gas and Oil Board in an order pooling all  
21                  unleased interest for tracts if all persons or entities  
22                  owning oil, gas and coalbed methane. That was in their  
23                  application and that's why --

24                  MS. RIGGS: Then we need that clarification because it was my  
25                  understanding that the application is under 361.22 which

1 is a coalbed methane pooling application.

2 MR. MASON: I think it is. It just expands upon the relief  
3 sought.

4 MR. TWEED: There's no question. Our intent is coalbed  
5 methane with the vagaries of law and who owns that and  
6 the vagaries from the geological standpoint of what  
7 actually comes out. When you drill the hole even at  
8 those depths you've got to have some pretty broad  
9 language in the application.

10 MR. MASON: The Code defines it to include related strata,  
11 whatever that means.

12 MR. CHAIRMAN: We have a motion.

13 MR. MASON: Second.

14 MR. CHAIRMAN: Motion and a second. Further discussion?  
15 If not, all in favor signify by saying yes. (ALL  
16 AFFIRM.) Opposed say no. (NONE.) Unanimous approval.

ITEM XVI

1  
2  
3 MR. CHAIRMAN: The next item is XVI on the Board's agenda, a  
4 petition for a well location exception by Equitable  
5 Resources Exploration for V-2867. This is Docket number  
6 VGOB-93/04-20-0369. We'd ask the parties that wish to  
7 address the Board to come forward at this time.

8 MR. TWEED: Doug Tweed and Jim Kiser here on behalf of the  
9 applicant, Mr. Chairman.

10 MR. CHAIRMAN: Any others? The record will show there are  
11 none. You may proceed.

12 MR. TWEED: Our witnesses on this location exception with  
13 respect to a conventional gas well will be Mr. Lee Talbot  
14 and Bob Dahlin. Both with the Board's permission can be  
15 treated as sworn yesterday and we would ask that the  
16 record adopt the testimony yesterday as to their employ-  
17 ment and experience and expertise.

18 MR. CHAIRMAN: You may stipulate that.  
19  
20

LEE TALBOT

21  
22 A witness who, after having been previously sworn, was  
23 examined and testified as follows:  
24  
25

DIRECT EXAMINATION

1  
2  
3 BY MR. TWEED:

4 Q. Mr. Talbot, are you familiar with this application for a  
5 location exception and the lands involved here and the  
6 surrounding area?

7 A. Yes, sir, I am.

8 Q. And have all interested parties been noticed as required  
9 by Section 4.B of the Virginia Gas and Oil Board regula-  
10 tions?

11 A. Yes. The Division of Oil and Gas and the Department of  
12 Mines, Minerals and Energy received certified mailings  
13 cover letter dated March 19th, 1993.

14 Q. I believe that we have an exhibit to submit to the Board  
15 at this time color coded to reflect the well in the  
16 application and the receptacle well where the exception  
17 is being requested as well as other wells in the area,  
18 correct?

19 A. Yes.

20 Q. With respect to the exhibit and for purposes of the  
21 record, Mr. Talbot, V-2867 which is the unit for which we  
22 are requesting the exception is marked in green. The  
23 reciprocal well with a distance of 1,828 feet and  
24 nineteen inches is a drilled well marked in pink, V-3372.  
25 Is that correct?

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

A. Yes. That is correct.

Q. Does Equitable have the right to operate the reciprocal well as well as the well that's the subject matter of the application?

A. Yes. Equitable Resources has 100 percent operating rights in those wells.

Q. And I believe that the ownership of the oil and gas underlying well V-2867 is 100 percent ownership in Pine Mountain and VICC, is that correct?

A. Yes. That's correct.

Q. And all of these tracts are covered by an oil and gas lease and EREX has the working interest as you've testified, is that correct?

A. That is also correct.

Q. Probably the easiest way to handle this one is to simply ask you to explain in our own words to the Board, Mr Talbot, why we need to put the V-2867 there even though it creates a location exception need for V-2372 in light of the other drilled wells that are reflected on the exhibit. Would you do that, please?

A. Yes, sir. The only available location of 2876 that would receive coal approval and limit the area for one location exception as opposed to two or three is the present spot at V-2867 as located on the map. It's been approved by coal. It was juggled around somewhat and with all the

1 surrounding wells drilled the only other available  
2 location would be moved to the south which is proposed  
3 well 2916. That is presently -- has preliminary coal  
4 approval and expectations to permit that well would be in  
5 the first or middle of June.

6 Q: And as far as moving to the north or to the east, for  
7 example, well ANR-014, we're within eleven inches of  
8 meeting a location exception there if we move it,  
9 correct?

10 A: Yes, sir. Basically any other move would require two  
11 location exceptions or more.

12 Q: If we were to move to the south and eliminate plans for  
13 V-2916 all together since it's not a drilled well but  
14 move it far enough south so that we did not need a  
15 location exception from V-2372 is it not true that that  
16 would create a significant wastage problem up in the area  
17 where the well is presently? That is approximate 2600  
18 and down from P-81 and P-104 and west of ANR 014?

19 A: Yes, sir. In speculating that move it would also be in  
20 the limits of the other wells requiring -- still requir-  
21 ing location exceptions. You're statement of this is the  
22 only place that all protected correlative rights will  
23 best be served with all lessors being Virginia Iron, Oil  
24 Coal & Coke and Pine Mountain oil and gas properties.

25 Q: In case the Board is interested, with respect to the

1 royalty interest in the reciprocal well V-2372 my  
2 understanding is 99.12 percent of V-2372 is also owned by  
3 VICC and Pine Mountain, is that correct?

4 A. Yes, sir. That is also correct.

5 Q. There is .1 acres that's owned by another individual  
6 that's reflected on the plat, correct?

7 A. That is correct.

8 Q. So the reason for the location exception here with  
9 respect to needs is to try to comply with coal owners  
10 concerns, but the primary needs here are to maximize  
11 recovery, prevent wastage, and avoid having to have more  
12 than one location exception, is that correct?

13 A. That is exactly right.

14 Q. In your professional opinion are there any other feasible  
15 locations for V-2867?

16 A. No, sir. After negotiating and working with the coal  
17 companies in other areas operationally this is the best  
18 spot for V-2867.

19 MR. TWEED: I'm going to call Mr. Bob Dahlin, but I have no  
20 further questions for Mr. Talbot, Mr. Chairman.

21 MR. CHAIRMAN: Any questions from members of the Board?  
22 (Witness stands aside.)

23 MR. CHAIRMAN: Go ahead and call your next witness.  
24  
25

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

BOB DAHLIN

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

DIRECT EXAMINATION

BY MR. TWEED:

Q. Mr. Dahlin, what are the estimated loss of reserves in the event that this location exception well is not drilled?

A. Approximately 400 million cubic foot of gas.

Q. In your professional opinion will the granting of this location exception by the Board prevent waste and protect correlative rights and promote effective land management practices?

A. Yes, sir, it would.

Q. And would your testimony be the same as Mr. Talbot in the areas that he has already described to the Board?

A. Yes, sir.

MR. TWEED: I don't have any further questions for Mr. Dahlin unless there are questions from the Board.

MR. CHAIRMAN: In this well location exception are any of these wells in any of the field rules that the Board has in area where there are field rules?

MR. DAHLIN: It's in the area of Nora coalbed methane field

1 but it doesn't cover the conventional.

2 MR. CHAIRMAN: Is it in the field?

3 MR. DAHLIN: Yes. It would be covered by the grid established  
4 in the Nora coalbed methane field. Another general  
5 comment to help orient where this well is, this is in the  
6 extreme southwestern edge of our Nora field that BRET has  
7 been developing since the early seventies. This is also  
8 at the interface where we purchased the ANR properties  
9 and the VICC acreage. Part of the difficulties in  
10 locating the well was establishing a grid system on the  
11 current permitting regulations over the existing develop-  
12 ment based on smaller spacing prior to it. This is  
13 exactly where the two properties meet.

14 MR. CHAIRMAN: Where in the Nora field is this well in the  
15 grid?

16 MR. DAHLIN: I don't personally have knowledge of the latitude  
17 or longitude. It is contained within it, but I personal-  
18 ly don't know. I'd have to defer that to someone else.

19 MR. FULMER: Just as a matter of clarification, this is a  
20 conventional well. There's no field rules for conven-  
21 tional wells in these areas.

22 MR. CHAIRMAN: Right. That's what I was asking, if there was  
23 any field rules applicable to this well.

24 MR. DAHLIN: Oh, applicable. I missed that key word. It is  
25 within the grid but it's not applicable. I'm sorry.

1 MR. CHAIRMAN: Okay. I didn't know what all you were going to  
2 produce here.

3 MR. DAHLIN: No, absolutely not. I'm sorry.

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

5 MR. TWEED: I was going to supplement the record in one more  
6 way. Mr. Talbot, did VICC and Pine Mountain have input  
7 into the selection of or narrowing down to the selection  
8 of this location for this unit?

9 MR. DAHLIN: Yes. As far as coal properties that is correct.  
10 The main character being Virginia, Iron, Coke & Coal as  
11 to the exact location because of a -- there's a mine plan  
12 currently of record that we have to work with in as much  
13 as the actual drilling of the location. And that is  
14 being worked out with the (Inaudible.) as for the bordered  
15 area.

16 MR. EVANS: I don't know who to direct this to, but in the  
17 case of V-2372 you have a royalty owner of one-tenth acre  
18 or one acre, whatever it is. As a matter of course how  
19 do you treat production and payment of royalties on an  
20 overlap like this? Do you prorate both wells for the  
21 overlap area and pay accordingly or is it just --

22 MR. TALBOT: No, Sir. The units are established -- as  
23 indicated on our plats are paid proportionately to the  
24 one-eighth of production and if they overlap then they  
25 would overlap.

1 MR. TWEED: Each unit is paid within itself. If you're in  
2 Both units you get paid for both.

3 MR. EVANS: Do you plan to produce these wells simultaneously?

4 MR. TALBOT: Yes, if it's marketable gas --

5 MR. EVANS: I guess what I'm getting at is it's a question I  
6 have one circle here, gas coming out here. I have  
7 another circle that overlaps, gas coming out here. If I  
8 shut in this well I'm going to draw out of this bore from  
9 this circle, but if this well is shut in I'm not going to  
10 draw from that bore --

11 MR. TALBOT: You've not received your royalties, however, you  
12 would be entitled to your shut in rate which in this  
13 case is the same as the rentals. In other words, it's  
14 assured that the royalty owners will receive income  
15 regardless of the status of the well.

16 MR. EVANS: I'm just thinking that you have an overlap here  
17 and if it's on production -- if your royalty is based on  
18 production, someone who is in one of the units and not  
19 necessarily in the other one, is this one-tenth acre  
20 owner -- will he be in the overlap area? I'm assuming  
21 he'll be outside the overlap area but within 2372?

22 MR. TALBOT: That is correct. I would have to research  
23 records, but if he was in the overlap area and we  
24 attempted to split the circles, as you would say, if one  
25 well would be shut in or plugged or discontinued then his

1 correlatives would still be protected from the overlapp-  
2 ing as the wells would be producing.

3 MR. EVANS: I understand what would happen if he's in the  
4 overlap area. It's when he's outside the overlap area  
5 that I'm concerned with. I assume that 2372 produces  
6 about -- has the same reserves, 400 million?

7 MR. DAHLIN: We assume so. That well has just been drilled  
8 and completed. We don't even have a test on it yet, but  
9 we do anticipate moving over here soon and if the Board  
10 rules in our favor we assume that it has similar reserv-  
11 es.

12 MR. EVANS: All I'm trying to do is on an overlap area trying  
13 to protect this -- if all the owners and all the royalty  
14 owners are the same in all the reciprocal wells that's  
15 fine. I don't have a problem with that. It's when it is  
16 different that I have a problem.

17 MR. TWEED: Of course, there's going to be those and I think  
18 your point is well taken, Mr. Evans. I think the best  
19 thing we can say that if he's outside the overlap that  
20 unless there's absolute mutuality of ownership this is  
21 not going to be the rule. I think particularly as we  
22 move forward we're always going to be faced with this  
23 problem. The intent of EREX is to drill and produce both  
24 wells and not shut down one and I think the fact that  
25 both are being drilled in the same time frame and that

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

expense has been undergone is pretty good evidence of  
that.

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MR. CHAIRMAN: Do you have anything further?

MR. TWEED: No, sir.

MR. MASON: I move that we approve the well spacing  
exception as requested.

MR. CHAIRMAN: A motion to approve.

MR. EVANS: Second.

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

ITEM XVIII

1  
2  
3 MR. CHAIRMAN: Docket number VGOB-93/04/20-0370 was dismissed  
4 yesterday. The next item on the agenda is a petition for  
5 force pooling under Section 45.1-361.22 by Buchanan  
6 Production Company for the X-9 unit. This is Docket  
7 number VGOB-93/04/20-0351. We'll take a five minute  
8 recess.

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

10 MR. CHAIRMAN: We'd ask all the parties wish to address the  
11 Board in unit X-9 to come forward at this time and  
12 identify yourselves.

13 MR. SWARTZ: Mark Swartz appearing for OXY, USA and Buchanan  
14 Production.

15 MR. CHAIRMAN: The record will show there are no others. You  
16 may proceed.

17 MR. SWARTZ: Just to kind of bring you up to date on this one  
18 in terms of why we're here on X-9, this was force pooled  
19 under the original Oakwood rules. The initial hearing  
20 was on October 20th, 1990. There was a force pooling  
21 order entered -- this is a unit fracked well. A force  
22 pooling order originally entered on January 11th, 1991.  
23 There was a petition to amend that order which was heard  
24 on November 17th, 1992. An order was entered on January  
25 11th, 1993 amending the original pooling order cleaning

1 up some title issues that had arisen. The reason we are  
2 back here one more time on this Oakwood I unit is another  
3 title issue needs to be addressed. We have been back on  
4 other units with regard to the Howard and Tiller inter-  
5 ests when these lands were -- at least this particular  
6 tract was severed. There was not a conveyance or at the  
7 lease is susceptible of being interpreted as not having  
8 out conveyed the oil and gas interests. And the purpose  
9 or reason for being here today is to further amend the  
10 prior order with regard to X-9, to force pool the Howard  
11 and Tiller interests in one of the tracts. I would  
12 request to shorten the need for testimony that the Board  
13 incorporate in this record of today's hearing the  
14 testimony and exhibits offered on October 10th, 1990 at  
15 the original force pooling hearing and the testimony and  
16 exhibits which were offered on November 17th, 1992 at  
17 that hearing. We are simply seeking to amend the order  
18 to include Howard and Tiller -- those interests as  
19 respondents. Having said all that I would call Sam just  
20 to deal with some notice issues and a few minor clear-up  
21 issues and hopefully turn him over to you all for  
22 questions.

23 MR. CHAIRMAN: Any objection to the incorporation of prior  
24 testimony from the October and November hearings? With  
25 no objection it will be incorporated. You may proceed.

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

SAMUEL GORDON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

- Q. State your name.
- A. Samuel E. Gordon.
- Q. Sam, who do you work for?
- A. OXY, USA, Inc.
- Q. And does OXY, USA, Inc. have a relationship with Buchanan Production?
- A. Yes, we do.
- Q. What is that relationship?
- A. We are the professional operator for Buchanan Production Company.
- Q. Have you yourself specifically been designated as the regulatory affairs person for OXY and for Buchanan Production?
- A. Yes, I have.
- Q. Did you prepare the notice and the application with regard to this amendment proceeding today?
- A. Yes, I did.

1 Q. Is the purpose of this simply to amend the prior order to  
2 add the Howard and Tiller interests as potential claims?  
3 A. That is correct.  
4 Q. Do those relate only to the oil and gas estate?  
5 A. That is correct.  
6 Q. Is there in looking at the severance deeds a potential  
7 open oil and gas interest with regard to one of the  
8 tracts that may still be in the Howard and Tiller heirs?  
9 A. There is a potential there, yes.  
10 Q. This pooling application today seeks to affect the Howard  
11 and Tiller heirs to the extent there is an open interest  
12 and to the extent they have a claim with regard to just  
13 one tract, correct?  
14 A. That is correct.  
15 Q. And that is on Exhibit B, tract six?  
16 A. That is correct.  
17 Q. And the open interest that Howard and Tiller may have a  
18 claim under is 2.8 percent?  
19 A. That's correct.  
20 Q. And that would be all effected by this particular  
21 application permit?  
22 A. That's correct.  
23 Q. I take it you could not mail notices?  
24 A. No, we could not.  
25 Q. So what did you do in terms of notice?

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

A. We published this in the Virginia Mountaineer and that was published on March 25th, 1993.

Q. Did you file the affidavit and proof of publication with Mr. Fulmer's office?

A. Yes, we did. That was filed on March 30th.

Q. By mail?

A. By mail, yes, sir.

Q. Are you requesting that an order amending essentially Exhibit B be entered by the Board showing the Howard and Tiller interest and claim with regard to tract six?

A. That's what we're requesting, yes.

MR. SWARTZ: That's all I have.

MR. CHAIRMAN: Could you clarify when you say you could not mail notices?

MR. SWARTZ: Why was that?

MR. GORDON: Meaning we couldn't find anything of record as to heirs location, anything.

(Witness stands aside.)

MARTIN E. WIRTH

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

DIRECT EXAMINATION

1  
2  
3 BY MR. SWARTZ:

4 Q. You need to state your name.

5 A. Martin E. Wirth with OXY, USA. Previous testimony in  
6 the two hearings before, due diligence or extreme  
7 diligence was done because of the Tiller formation. I  
8 had a great deal of interest in trying to find out how  
9 the Tiller came about. Howard and Tiller were the  
10 original parties that from Jefferson Penn acquired title  
11 to the coal interest in a large portion of Buchanan  
12 County. I approached lawyers in Lebanon with the name of  
13 Tiller & Tiller. I approached Beverly Tiller, Deputy  
14 Clerk to Buchanan County. Any Tiller name I could find  
15 I personally went out and I also checked genealogy and  
16 could not find any location of how the Tiller chain of  
17 title came about. Not only was it banks, not only was it  
18 records, but there is no trace to find the Tiller and the  
19 Howard chain after the fact. Therefore, they are unknown  
20 and uninterest and address unknown.

21 Q. In reconstructing the title does it appear that there was  
22 an assumption that the oil and gas estate was conveyed  
23 and that's why the chain stops?

24 A. In that title there is word smithing or language in the  
25 deed that caused our title examiner a concern that there

1 could be an open interest in the oil and gas estate of  
2 Landon Wyatt, trustee for the Big X Coal Company.  
3 Therefore, we're coming back to cover any and all  
4 interest that may be claimed.

5 MR. CHAIRMAN: Did this conflict or change with any other  
6 interest?

7 MR. WIRTH: It wouldn't change the interest. Landon R. Wyatt  
8 which we have under lease, Big X Company, that will now  
9 be an escrowed interest plus its unknown interest.  
10 Therefore, you have to treat it as a --

11 MR. SWARTZ: It doesn't change the percentage, but it creates  
12 a conflicting claim, is that what you're saying?

13 MR. WIRTH: Correct.

14 MR. CHAIRMAN: Anything further?

15 MR. SWARTZ: No.

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

17 MR. MASON: Purely as a matter of curiosity, is this Tiller  
18 the one the coal seam's named for?

19 MR. WIRTH: That's what I'm trying to find -- I believe so.  
20 Back in the 1860's that's where all of a sudden the  
21 Tiller formation known quote as came from and that's the  
22 personal interest I take in it.

23 MR. MASON: I was just curious.

24 MR. CHAIRMAN: Other questions.

25 MR. MCGLOTHLIN: Mr. Swartz, has unit X-9 been drilled?

1 MR. SWARTZ: I believe it has.  
2 MR. SWARTZ: Yes, sir.  
3 MR. MCGLOTHLIN: Is it producing?  
4 MR. WIRTH: I don't know whether you call it producing. We're  
5 pumping back the water and we are getting gas through --  
6 MR. MCGLOTHLIN: Have you sold any gas off it?  
7 MR. WIRTH: All royalty -- divisional orders have not gone  
8 out. So nothing's been paid. It would be amended to --  
9 the agent putting that percentage into it.  
10 MR. EVANS: I have a question. Based on the DWE do you have  
11 good numbers now instead of estimates? I guess what I'm  
12 asking is are these real numbers or are these the same  
13 numbers that were presented as an estimate?  
14 MR. GORDON: They were the same numbers that we used in  
15 previous hearings. We haven't adjusted anything because  
16 the completion operation is still going on.  
17 MR. EVANS: I'll ask the question then, how close were you on  
18 your estimate or do you know?  
19 MR. WIRTH: I think we were under our estimate. We have some  
20 water to pump back and other equipment. The problem  
21 we're having, just for general information, in these two  
22 areas is we've also had to change three or four pumps.  
23 They're getting sand in them. So that's part of the down  
24 hole equipment. We were under. We may hit it right on  
25 the dot.

1 MR. CHAIRMAN: When do you plan to submit supplemental orders  
2 to escrow funds for this and the other wells?

3 MR. WIRTH: We're having problems with that escrow agreement  
4 and hopefully in the near future we'll be meeting with  
5 you and Sandra to discuss some of these things.

6 MR. SWARTZ: Sam and I and Marty have been working the last  
7 month to develop two supplement orders and affidavits of  
8 elections on two units. One that's pretty straight  
9 forward and one that's a little more complicated. Sam  
10 and I have both talked to Tom in the last month in terms  
11 of a mechanism to escrow some leased interest at the same  
12 time. And we were planning on getting the paper work  
13 done and sitting down with you all to reach an agreement  
14 as to that what we were planning to do is acceptable. I  
15 mean, it's going to look a lot like the Board orders but  
16 we want to add a paragraph to the affidavit. We're in a  
17 position, I suppose, to file about a hundred of these,  
18 but we're not really -- we don't want to file a hundred  
19 and have you say this isn't what we were expecting, we  
20 don't like it. we're going to try to get these couple  
21 finalized immediately to you all. So that's where we  
22 stand on that.

23 MR. CHAIRMAN: In the interim how is the money treated from  
24 the wells before the Board's order --

25 MR. SWARTZ: It depends. I mean, if there are conflicting

1 claims it's being suspended. It's not being paid. If  
2 there are not conflicting claims some of it's being paid  
3 MR. WIRTH: As of this unit nothing's being paid. No payments  
4 are made until a titled opinion is done and the division  
5 order comes out and it's been checked or renewed by all  
6 parties. So in this interest it's still sitting in  
7 internal suspense. Once you get a division order --  
8 usually you drill a well, if you hit a producing well  
9 upon first gas sales you have usually around sixty days  
10 and a division order and titled opinion is done and then  
11 all money is paid -- they've caught up from day one and  
12 then there are months thereafter. That's just an  
13 internal process at all times. So it wouldn't really  
14 affect -- when we're ready to go to the escrow we insert  
15 the escrow and that money goes to escrow agent.

16 MR. SWARTT: Of course, this particular well when you're  
17 talking about it, this well is being de-watered and  
18 essentially it burps some gas every now and then. I  
19 mean, it's not on line producing. Whatever gas is coming  
20 out is going into the flow-on, but it's being de-watered  
21 and pumped.

22 MR. CHAIRMAN: I'm probing the issue on record here, the money  
23 that may be due any party. How are they protected in the  
24 interim until this money is moved by a supplemental order  
25 to the Board's escrow agent?

1 MR. SWARTZ: It's being placed in a suspense account within  
2 OXY's bookkeeping.  
3 MR. WIRTH: It's an internal suspense account that happens  
4 until you're getting because we don't want to make  
5 payments until a final division order title opinion is  
6 done.  
7 MR. CHAIRMAN: Is the interest also protected in that suspense  
8 account?  
9 MR. WIRTH: The conflicting claim?  
10 MR. CHAIRMAN: Yes.  
11 MR. WIRTH: Yes. All interest are protected.  
12 MR. CHAIRMAN: Is interest income being earned on this  
13 suspended money?  
14 MR. WIRTH: The working interest?  
15 MR. SWARTZ: No. Like interest at a bank.  
16 MR. WIRTH: I do not know what Tazewell does. We have like  
17 set up under E-36 -- on the Ashland participation we  
18 have an internal agreement of a certain percentage. The  
19 escrow agent can tell us what that interest was and that  
20 can be added in. You're talking -- there's right now on  
21 this well very minuet pennies and everything, but yes.  
22 MR. CHAIRMAN: I understand. It just needs to be consistent  
23 with the Board's agreement.  
24 MR. WIRTH: But we have no idea what the escrow agent's  
25 percentage of rates are. That's the problem we're having

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

right now.

MR. MASON: The money that's being held in internal suspense with OXY, is that being held here in Virginia?

MR. WIRTH: No. That will be in our headquarters, Tulsa.

MR. MASON: Is any income being accrued on that suspended money?

MR. WIRTH: As interest rate, it can be. Until we have a "interest rate" what interest are we suppose to be accruing? We have what we've used in the -- I go back to Ashland where they participated and gave 100 percent of the participating party. We're using a Merrill-Lynch ready asset account based on treasury funds.

MR. MASON: I understand that. But if OXY is holding this money pending disbursement into escrow that money is sitting in an account or invested somewhere, I would assume, in OXY's name in the suspense account.

MR. WIRTH: Uh-huh.

MR. MASON: What I am curious about is during that interim period is the account itself to be credited with interest generated by those funds?

MR. WIRTH: It could be, but why should it. We don't know who owns it until I get a division order or titled opinion from a title examination saying, "Yes, these parties do own it" and he stands behind that. No payments to any parties --

1 MR. MASON: I understand that. I mean, no matter who it  
2 belongs to the money is still there and I assume that  
3 it's invested in some fashion.

4 MR. SWARTZ: Well, it isn't invested in a specific fashion.  
5 What we've had to do with the Ashland participation  
6 interest was pick a number because you can't trace these  
7 funds. They're in a suspense account. They're marked to  
8 a specific wall. You can run a computer run on this wall  
9 and it will print out what's being held in suspense and  
10 why. But those funds are commingled. I mean, they're  
11 corporate funds and there's no way of generating an  
12 investment number that pertains to any given dollar.

13 MR. MASON: How much money is OXY holding at present time in  
14 suspended --

15 MR. WIRTH: 543,787 as of February.

16 MR. MASON: A total of 40 some thousand?

17 MR. WIRTH: That's what I have in suspense in the units that  
18 are producing. And not all that is escrow. Some of that  
19 is because there is a deed of trust and un-insubordin-  
20 ation agreement concerning the title issues.

21 MR. MASON: So it's not a great deal of money at that point.

22 MR. WIRTH: No, not at this point. From day one, as a matter  
23 of fact, we've submitted everything to the escrow that  
24 needs to be submitted plus some. Even when we didn't  
25 have an order we have submitted waiting on an order.

1           Until the Board gives us an order nothing goes to escrow.

2           MR. MASON: I understand. I had no idea how much money you  
3           were talking about.

4           MR. CHAIRMAN: Let me follow-up on one thing. You said until  
5           the Board does what?

6           MR. WIRTH: Issues the order telling us to direct it to the  
7           escrow agent. On this particular unit they have a right  
8           to elections, sixty days, and then the ones we get then  
9           we'll submit their elections and what they've done.  
10          That's still got to come. We don't know if they're going  
11          to be leased, carried or participating yet.

12          MR. CHAIRMAN: I understand. I'm not trying to broil this  
13          into a larger debate. But we gave sixty days to enter  
14          supplemental orders more than sixty days ago and we do  
15          need to move that forward. If we need to get together we  
16          will and then move that forward.

17          MR. GORDON: I think, Mr. Wampler, that we're not the only  
18          operator out there that has some questions about the  
19          supplemental order itself. I believe you've already  
20          dealt with some from other operators and we just want to  
21          get on board and make sure that we're submitting the  
22          correct documents before we do all this.

23          MR. CHAIRMAN: We are entering supplemental orders all the  
24          time. We just need to get on with it and get the money  
25          moved into the escrow account. I'll just encourage you

1 to do that.

2 MR. MCGLOTHLIN: I'd like to ask a question pertaining to the  
3 application. Mr. Swartz, your Exhibit A in the applica-  
4 tion is dated 7/24/90. Do we have an updated one  
5 showing tract six and the Howard and Tiller acreage?

6 MR. WIRTH: The acreage didn't move.

7 MR. MCGLOTHLIN: I don't see tract six on the map. I don't  
8 see their names anywhere. I see a tract 38 and a tract  
9 38-A.

10 MR. WIRTH: 38 and 38-A are the heirs we're talking about.  
11 That is the title tract 38 that has failed as to -- I  
12 believe it would be the triangle in the -- my memory is  
13 the second thing to go, but it would be in the southern  
14 portion of this unit, a small triangular shape of 40.5  
15 percent?

16 MR. MCGLOTHLIN: The map's not --

17 MR. GORDON: This is the original that was sent with X-9 and  
18 since then we have prepared some take-offs and identified  
19 the tracts which did not get transferred. Tract 6 is in  
20 the lower left hand corner. It's Harrison and Atlanta  
21 TRUST and it's 2.24 acres.

22 MR. MCGLOTHLIN: Would you submit a -- clean it up. On one  
23 page you talk about tract 6 and on the plat it's tract 3  
24 of whatever and get that to us, please?

25 MR. GORDON: Sure.

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

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MR. MCGLOTHLIN: I move that we accept the petition as filed.

MR. MASON: Second.

MR. CHAIRMAN: A motion to approve, seconded. Any further questions? All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) It's unanimous.

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 XIX

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling by Buchanan Production Company for T-18 unit. Docket number VGOB-93/04/20-0352. We'd ask the parties that wish to address the Board in this matter to come forward and state your name for the record.

MR. SWARTZ: Mark A. Swartz appearing for Buchanan Production Company and OXY, USA.

MR. CHAIRMAN: The record will show there are no others. You may proceed.

MR. SWARTZ: This is an application to pool a unit under the Oakwood coalbed methane field rules II. There is one respondent. There are on the other hand a number of people listed on B-1 who are lien holders, judgement lien holders, and others, taxing authorities who we have also notified but obviously aren't owners. They're simply lien holders. My first witness will be Sam Gordon. Sam I remind you you've already been sworn.

SAMUEL GORDON

A witness who, after having been previously sworn, was examined and testified as follows:

50

DIRECT EXAMINATION

1  
2  
3 BY MR. SWARTZ:

4 Q. The applicant here is Buchanan Production?

5 A. That's correct.

6 Q. Did you yourself complete the notice of hearing and the  
7 application?

8 A. Yes, I did.

9 Q. And you signed both of them?

10 A. Yes, sir.

11 Q. Buchanan Production Company is a Virginia general  
12 partnership, is that correct?

13 A. That is correct.

14 Q. And two corporations are the partners, one of them is  
15 Appalachian Operators and the other is Appalachian  
16 Methane, correct?

17 A. That is correct.

18 Q. Is Buchanan Production Company authorized to do business  
19 in Virginia?

20 A. Yes, it is.

21 Q. Is Buchanan Production requesting that someone other than  
22 itself, to wit OXY, USA, be designated operator?

23 A. That is correct.

24 Q. OXY, USA is a Delaware corporation?

25 A. That is correct.

1 Q. Has it been authorized to do business in the Common-  
2 wealth?

3 A. Yes, it has.

4 Q. And has OXY registered with the DMME and does OXY have a  
5 blanket bond on file as required by law?

6 A. It has, yes.

7 Q. Has the management committee of Buchanan Production  
8 Company delegated certain duties and responsibilities to  
9 OXY, USA specifically "the authority to explore, develop  
10 and maintain the properties of Buchanan Production  
11 Company as a professional manager"?

12 A. It has and it so states on Exhibit J, Page 1.

13 Q. That's actually a resolution of the management?

14 A. Yes.

15 Q. Has OXY, USA consented if appointed as designated  
16 operator to act as designated operator on behalf of  
17 Buchanan Production and follow to the rules and regula-  
18 tions of the Department and the statutes of the Common-  
19 wealth?

20 A. Yes, it has. And that agreement is Exhibit J, Page 2.

21 Q. That's OXY consent?

22 A. Right.

23 Q. Have certain people at OXY, USA been delegated or  
24 given --

25 MR. CHAIRMAN: Excuse me just a second. We have to wait in

1 order to maintain a quorum. Mr. Mason had to take a  
2 minute break. I'm sorry.

3 (AFTER A BRIEF PAUSE, THE HEARING CONTINUED AS FOLLOWS:)

4 MR. CHAIRMAN: You may continue.

5 Q. (Mr. Swartz continues.) Has OXY delegated specific  
6 authority to certain individuals with regard to the  
7 affairs of Buchanan Production?

8 A. Yes, it has. Glen VanGolen as general manager of  
9 Buchanan Production, Martin E. Wirth as land manager  
10 and myself as regulatory manager.

11 Q. Are the respondents that are sought to be force pooled by  
12 this application listed in the notice of hearing?

13 A. Yes, they are. It's Exhibit B.

14 Q. And it's just one person, Ira Gordon Ratliff?

15 A. That is correct.

16 Q. Is his name and address listed on Exhibit B to the  
17 application?

18 A. Yes, it is.

19 Q. Do you wish to add any respondents at this time?

20 A. No, we do not.

21 Q. And I assume you don't wish to dismiss Mr. Ratliff?

22 A. No, we do not.

23 Q. Did you mail a notice by certified mail to Mr. Ratliff?

24 A. Yes, we did.

25 Q. And he signed for it and you got his card back?

1 A. Yes.

2 Q. Did you also mail courtesy notices to the people listed  
3 on Exhibit B-1?

4 A. Yes, we did.

5 Q. Did everyone sign for that -- everyone who's listed on  
6 B-1 sign for that except the IRS?

7 A. That is correct.

8 Q. And it's been your experience the IRS never signs for  
9 anything?

10 A. That's correct.

11 Q. Have you filed proof of publication with Mr. Fulmer's  
12 office?

13 A. Yes, we have. I sent that letter certified mail on  
14 March 30th evidencing that we had published this in the  
15 Virginia Mountaineer on March 25 of this year.

16 Q. And did you file a proof of mailing, Exhibit F, with Mr.  
17 Fulmer by mail on some other date?

18 A. Proof of mailing, yes, sir. That was done on April 5.

19 Q. And it was published in the Virginia Mountaineer, you  
20 just said. And Exhibit E, certificate of publication,  
21 was filed by mail March 30th with Mr. Fulmer?

22 A. That is correct.

23 Q. The interest that we're talking about here is tract three  
24 on the plat, correct?

25 A. That is correct.

1 Q. And it is an oil and gas interest?  
2 A. That is correct.  
3 Q. And it's 4.5 percent of the oil and gas interest within  
4 the 80 acre unit?  
5 A. That is correct.  
6 Q. If you turn to the DWE which is Exhibit C what is the  
7 total estimated cost with regard to the development of  
8 this particular unit?  
9 A. This particular unit totals \$21,250.  
10 Q. In your opinion is that a reasonable estimate as to the  
11 costs that are broken out there and that would be  
12 incurred on this unit?  
13 A. Yes, it is.  
14 Q. Now, this unit is depicted on Exhibit G, Page 1, and it  
15 kind of has a darker line around it down at the bottom  
16 right hand corner, correct?  
17 A. That is correct.  
18 Q. And it catches a portion of a longwall panel identified  
19 as 1-Development?  
20 A. That is correct.  
21 Q. And actually that's 1-Development east in VP-8, correct?  
22 A. Yes, sir.  
23 Q. From the estimate of allowable costs there is no well  
24 bore fee shown and can I assume that it is not anticipated  
25 ed that there will be a well bore within this unit?

1 A. That is correct.

2 Q. Exhibit G, Page 2, does that show the percentage of the  
3 panel within the unit?

4 A. Yes, it does. It's 1.687 percent.

5 Q. And if you turn to Exhibit G, Page 3, does that capture  
6 the total estimated cost for panel 1-Development east?

7 A. Yes, it does, and it also includes 2-Development east  
8 which isn't in this scenario.

9 Q. What are the total estimated costs with regard to  
10 1-Development east?

11 A. 1-Development east is \$846,975.

12 Q. Does it prorate those costs based on the percentage of  
13 the panel within this particular unit from a participa-  
14 tion standpoint elsewhere on Exhibit G, Page 3?

15 A. Yes, it does. The proration of that cost is \$14,288 to  
16 this unit.

17 Q. And then Exhibit G, Page 4, does that show the various  
18 percentages that are relevant to Mr. Ratliff's net  
19 interest in the unit, interest in the panel and then  
20 division of interest?

21 A. Yes, it does.

22 Q. Would those numbers as shown on Exhibit G, Page 4, be the  
23 numbers that would be used to calculate participation  
24 cost and royalty interest?

25 A. Yes, they would.

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

Q. Do you have any recommendations to make to the Board with regard to questions of bonus or royalty or term that should be incorporated in the order in your judgement to deal with persons who are deemed to have been leased if that turns out to be the case?

A. Yes. Our recommendation would be that the leasing terms would be a one time payment of \$1 per acre as bonus with a one-eighth royalty. If they elect to lease we would be leasing for a term of five years.

Q. But, of course, in this situation the five year term would not be relevant, it would be as long as production continues from the unit?

A. That is correct.

Q. Has there been an effort to try and obtain a lease from Mr. Ratliff?

A. Yes.

Q. And I take it you have not been able to get one?

A. That is correct.

Q. This unit which is in the Oakwood gas field II, will it start off in short hole production?

A. Yes, it will.

Q. And are those what the little lines that diverge represent on Exhibit G, Page 17?

A. That is correct.

Q. Is it contemplated that if longwall mining, in fact,

1 occurs that is contemplated in this panel that ultimately  
2 there will be some active gob production as well?  
3 A. That is correct. Yes.  
4 Q. Mr. Gordon, is it your opinion that the plan of develop-  
5 ment which is depicted on Exhibit G, Page 1, is a  
6 reasonable plan to develop the coalbed methane resources  
7 within and under this unit T-18 for the benefit of the  
8 owners of the resource?  
9 A. Yes, it is.  
10 Q. And is it your further opinion that this proposed well  
11 and the development that is contemplated and shown on  
12 Exhibit G, Page 1, would contribute to the protection of  
13 correlative rights of the owners of the methane within  
14 and under this particular unit and lessen the likelihood  
15 of both physical waste and economic waste?  
16 A. Yes, it is.  
17 MR. SWARTZ: That's all I have.  
18 MR. CHAIRMAN: Any questions, members of the Board?  
19 MR. EVANS: Does this unit contain a VVH?  
20 MR. SWARTZ: As currently configured there are no VVHs being  
21 drilled or permitted by Island Creek, as I understand  
22 it.  
23 MR. WIRTH: Well, there is a VP3 and they're really called  
24 methane production holes -- if they're going to be hooked  
25 in the future then they'll be permitted as CBM wells. It

1 these units the next T-18, U-18, in there there has been  
2 no wells drilled whatsoever.

3 MR. EVANS: That's all I needed to know. That's all I was  
4 interested in.

5 MR. MASON: I'm concerned a little bit about this tax lien.  
6 The Internal Revenue Code has sections -- I think it's  
7 7425 that deals with judicial matters -- state judicial  
8 matters affecting property on which there is a tax lien.  
9 Have you all looked into that and made sure that you've  
10 complied with that?

11 MR. WIRTH: That's correct. We've also been in communication  
12 with the IRS. And the Board has received in the past  
13 which they also may receive as this unit they will file a  
14 notice of judgement, I think, or something. A levy. I'm  
15 sorry. Will be filed. They noticed OXY, USA. We went  
16 back to them and said being this is force pooled it  
17 should be filed with the Board and which they have. It  
18 was passed on to the Board to handle. We're not saying  
19 it is -- it may be submit to (Inaudible.) We had  
20 problems in the county records. They just list an I.R.  
21 netliff and this is the one in the same that we cannot  
22 research without --

23 MR. MASON: I just know that they have specific regulations  
24 that deal with notification and so forth.

25 MR. WIRTH: Yes, they have.

1 MR. MASON: That's the second item I was going to ask you.  
2 There's early testimony that we had today and yesterday,  
3 EREX testified that the reasonable rental is at \$5 an  
4 acre.

5 MR. SWARTZ: I assume they were talking about conventional.  
6 What were they talking about? I didn't hear that  
7 testimony.

8 MR. WIRTH: I believe the testimony prior said for an oil and  
9 gas and CBM lease what it was \$5, \$5. For a CBM is was  
10 \$1 \$1.

11 MR. MASON: I thought they were talking -- that one well that  
12 we talked about was with -- Yellow Popular Lumber Company  
13 was strictly a CBM well and they testified \$5.

14 MR. RIGGS: The force pooling was for a CBM unit.

15 MR. SWARTZ: But was there a lease also an oil and gas lease?

16 MR. MASON: No.

17 MR. SWARTZ: Just CBM?

18 MR. MASON: Yes.

19 MR. WIRTH: In Wise and Dickenson County -- you know, when  
20 you're talking fair market value of everything it's a  
21 dollar an acre what we pay for CBM only. You've got to  
22 remember there could be three to six claimants out there.  
23 If I force pool each one of them that's \$6. It's going  
24 to go into escrow. That's each one would get a dollar if  
25 they deem to lease. Now, when that final judgement

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

adjudication may come out.

MR. MASON: Well, I understand that. But they testified that the market rate was \$5 an acre.

MR. WIRTH: It may be in Wise and Dickenson County if it's 100 percent lease. I'll testify right now if I take an oil and gas and CBM lease it's \$20 an acre.

MR. MASON: This was strictly a CBM well?

MR. WIRTH: What the market bears out there I do not know. We're in Buchanan County what we pay.

MR. FULMER: Mr. Chairman, if I may clear up something. The lease that EREX does is in totality. They have the same lease whether it's CBM or conventional.

MR. EVANS: They don't break it out.

MR. FULMER: They don't break it out. They don't have an individual coalbed methane lease. They have a oil and gas and coalbed methane lease. So it's all encompassed in one lease.

MR. WIRTH: They testified as oil, gas and coalbed methane.

MR. MASON: I understand that, but they testified that the rate that they were going to pay pursuant to their petition for force pooling for coalbed methane was \$5.

MR. FULMER: Their application asked for a conventional gas well. We restricted it to coalbed methane permit.

MR. MASON: I don't understand that.

MR. FULMER: They testified that it's \$5 per acre for all the

1 coalbed methane and conventional gas of the wells.

2 MR. MASON: That was not my understanding. I stand corrected.

3 MR. SWARTZ: I didn't hear that testimony. But I understood

4 that the application was for more than coalbed methane

5 because I heard the tail end of it and it was restricted.

6 And I think what you're hearing from Mr. Wirth is that if

7 OXY or Buchanan is leasing all of the oil and gas

8 hydrocarbons the rate is definitely more than a dollar an

9 acre.

10 MR. CHAIRMAN: Other questions? On Exhibit J, Pages 1 and 2,

11 given the announcements of the intended purchases that

12 are going on are, are Exhibit J. Page 1 and 2, accurate

13 at this point in time? Still valid?

14 MR. SWARTZ: Yes. As of today they are.

15 MR. CHAIRMAN: Okay. Thank you. Other questions? Do you

16 have anything further, Mr. Swartz?

17 MR. SWARTZ: No.

18 MR. EVANS: I make a motion to approve the petition for force

19 pooling.

20 MR. CHAIRMAN: A motion to approve.

21 MR. MASON: Second.

22 MR. CHAIRMAN: Further discussion? All in favor signify by

23 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)

24 Unanimous approval.

25

ITEM XX, XXI

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Buchanan Production Company for the U-T  
5 unit located in Oakwood Coalbed Methane Gas Field II  
6 This is Docket number VGOB-93/04/20-0353. We's ask the  
7 parties that wish to address the Board to come forward  
8 and identify yourselves at this time.

9 MR. SWARTZ: Mark Swartz for Buchanan Production Company and  
10 OXY, USA.

11 MR. CHAIRMAN: The record will show there are no others.  
12 We'll wait for Mr. McGlothlin. (Pause.)

13 MR. SWARTZ: I don't know if we need a quorum for this. The  
14 10 and 11 units could be handled together because they  
15 have the same panels and the same map. I would request  
16 if you are willing to do it that we kind of combine those  
17 hearings because the numbers and most of the math is the  
18 same.

19 MR. CHAIRMAN: As long as we keep anything that's different  
20 distinguished. I'll go ahead and call also Docket number  
21 VGOB-93/04/20-0354, U-11 unit, and ask any parties that  
22 wish to address the Board in this matter to come forward  
23 also.

24 MR. SWARTZ: Mark Swartz, same appearances.

25 MR. CHAIRMAN: The record will show there are no others. You

1 may proceed.

2 MR. SWARTZ: I'd like to call Mr. Gordon first. Sam, I'll  
3 remind you you're still under oath.  
4

5 SAMUEL GORDON

6 a witness who, after having been previously sworn, was  
7 examined and testified as follows;  
8

9 DIRECT EXAMINATION

10  
11 BY MR. SWARTZ:

12 Q. Did you do the notice of hearing or prepare the notice of  
13 hearings and the applications for both units U-10 and U-  
14 11?

15 A. Yes, I did.

16 Q. Is the applicant in both cases Buchanan Production  
17 Company?

18 A. Yes, it is.

19 Q. And in both instances is Buchanan Production requesting  
20 that someone other than itself, to wit OXY, USA, be  
21 designated the operator?

22 A. That is correct.

23 Q. Buchanan Production is a Virginia general partnership?

24 A. Yes, sir.

25 Q. And it's two partners in that partnership are Appalachian

1 Operators, Inc. and Appalachian Methane, Inc., correct?  
2 A. That is correct.  
3 Q. Buchanan Production is authorized to do business in the  
4 Commonwealth?  
5 A. Yes, it is.  
6 Q. OXY, USA is a Delaware corporation authorized to do  
7 business in the Commonwealth?  
8 A. That's correct.  
9 Q. Does OXY have a blanket bond on file as required by law  
10 and has OXY registered with the Department of Mines,  
11 Minerals and Energy?  
12 A. Yes, it does.  
13 Q. Has the management committee of Buchanan Production  
14 Company delegated specific authority to OXY, USA with  
15 regard to its affairs and assets "including the authority  
16 to explore, develop and maintain the properties of  
17 Buchanan Production Company" as its professional manager?  
18 A. Yes, it has. We have filed as Exhibit J, Page 1, this  
19 agreement.  
20 Q. And has OXY, USA also filed as part of these application  
21 packages on U-10 and U-11 a consent to serve as unit  
22 operator if appointed?  
23 A. Yes, it has. That consent is Exhibit J, Page 2.  
24 Q. Has OXY delegated specific responsibility to certain  
25 individuals within the OXY organization to manage the

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

affairs and certain aspects of the affairs of Buchanan Production and if so who are those folks?

A. It has. Glen VanGolen is designated general manager, Martin E. Wirth land manager, and myself as regulatory manager.

Q. In both applications, U-10 and U-11, have the names of all respondents been listed both in the notice of hearing and Exhibit D?

A. Yes, they have.

Q. Starting with unit U-10 in terms of notification, on U-10 do you wish to amend the application to add anyone at this time as a respondent?

A. No, we do not.

Q. Again with regard to U-10 do you wish to dismiss any respondents today?

A. No, we do not.

Q. Again with regard to U-10 did you mail notice via certified mail to the respondents listed on Exhibit B for whom you had addresses?

A. Yes, we did.

Q. Were there some respondents for whom you did not have addresses?

A. That is correct. We did not have addresses for Katherine Cox, Sayer Cox, Coy Cox, Tilda Cordely Cox and A.P. Cox.

Q. And with regard to the folks for whom you did not have

1 addresses what did you undertake to do in the way of  
2 notice?  
3 A. We published this notice in the Virginia Mountaineer on  
4 March 25, 1993.  
5 Q. Have you filed a proof of publication with Mr. Fulmer's  
6 office at Exhibit E?  
7 A. Yes, we did. That was filed on March 30th.  
8 Q. With regard to the mailing that you accomplished, the two  
9 people for who you had addresses, did you file an Exhibit  
10 F with regard to proof of mailings with Mr. Fulmer's  
11 office?  
12 A. Yes, we did. That was filed on April 5th, 1993.  
13 Q. Skipping to unit U-11 and the notice issues with regard  
14 to U-11, do you wish to add or subtract anybody from the  
15 list of respondents on unit U-11?  
16 A. No, we do not.  
17 Q. With regard to Exhibit B on unit U-11 is there a typo  
18 with regard to the first address?  
19 A. There is on my copy and there may be on the Board's copy  
20 that they got. The address under tract three for  
21 Christopher E. Wright is Sarasoda, Florida and I'm not  
22 sure that S-A-R was printed. So you may wish to check  
23 your exhibits.  
24 Q. And also with regard to the list of parties respondent on  
25 U-11 and U-10 would you also note a change with regard to

1                   respondent number six and shouldn't that be Michael  
2                   Baldwin instead of Michaela? The A should be stricken?  
3           A.     The A should be stricken, yes.  
4           Q.     And that change should be made with regard to Exhibit B  
5                   to both unit U-10 and U-10?  
6           A.     Yes.  
7           Q.     And the Sarasota change with regard to owner one only  
8                   occurs on unit U-11, correct?  
9           A.     That is correct.  
10          Q.     With regard to unit U-11 was a notice published?  
11          A.     Yes, it was.  
12          Q.     In what newspaper and on what date?  
13          A.     The notice was published again in the Virginia Mountain-  
14                   eer on March 25, 1993 and we then sent the Exhibit E,  
15                   certification of publication, to Mr. Fulmer's office on  
16                   March 30th.  
17          Q.     Did you file proof of mailing with regard to unit U-11  
18                   with Mr. Fulmer's office, Exhibit F?  
19          A.     Yes, we did. Again that was on April 5th.  
20          Q.     And you got signed cards back from everyone on this unit  
21                   correct?  
22          A.     That is correct.  
23          Q.     Now, with regard to -- turning back now for a moment to  
24                   unit U-10, if you would look at Exhibit A, Page 2.  
25          A.     Okay.

1 Q. Are you seeking to force pooling outstanding interests in  
2 the oil and gas estate only?  
3 A. That is correct. We're seeking to force pool 7.134  
4 percent of the oil and gas estate.  
5 Q. And these respondents are claimants to that outstanding  
6 interest?  
7 A. That is correct.  
8 Q. Again with regard to unit U-10, if you would turn to  
9 Exhibit C, the cost estimate. Is that something that you  
10 prepared?  
11 A. Yes, it is.  
12 Q. And it was prepared within the last sixty days?  
13 A. Yes, it was.  
14 Q. What is your total estimated cost with regard to unit  
15 U-10?  
16 A. The total estimated cost was \$172,000.  
17 Q. And that includes one bore hole usage fee?  
18 A. That is correct.  
19 Q. Is that in your judgement a reasonable estimate with  
20 regard to the development costs associated with unit  
21 U-10?  
22 A. Yes, it is.  
23 Q. Going to Exhibit G, Page 1, U-10 is superimposed with a  
24 dark line around it, sort of in the upper right hand  
25 corner of this plat?

1 A. That's correct.

2 Q. And two longwall panels are within unit U-10, correct?

3 A. That is correct.

4 Q. And they are identified as -- they're both within the

5 VP-8 mine?

6 A. That's correct.

7 Q. And they are 1-Development west and 2-Development west,

8 correct?

9 A. Correct.

10 Q. Do the short lines that sort of diverge those represent

11 short hole production?

12 A. That is correct.

13 Q. Is it anticipated with regard to both 1-Development west

14 and 2-Development west that if mining proceeds as

15 contemplated there would eventually be some active gob

16 production from this unit as well?

17 A. That's correct. Yes.

18 Q. If you turn to Exhibit G, Page 2, this is relevant to

19 both units U-10 and U-11, isn't it?

20 A. Yes, it is.

21 Q. And U-10 has what percentage of interest within 1-

22 Development west?

23 A. U-10 in 1-Development west has 25.442 percent and also

24 U-11.

25 Q. Then they have the same percent?

- 1 A. They have the same percentages in that development.
- 2 Q. If we go 2-Development west what is U-10's percentage of
- 3 interest in that panel?
- 4 A. U-10's interest in that panel is 2.797 percent.
- 5 Q. And U-11's interest in 2-Development west is what?
- 6 A. 3.258 percent.
- 7 Q. And then if we turn to Exhibit G, Page 3, does that
- 8 exhibit report your estimate as to the total cost that
- 9 would be incurred with regard to both of these longwall
- 10 panels?
- 11 A. Yes, it does.
- 12 Q. And what are those amounts?
- 13 A. In 1-Development west we estimate \$713,250. In 2-
- 14 Development west \$680,000.
- 15 Q. And then does this Exhibit G, Page 3, proceed to allocate
- 16 those panel costs among the various units that the panels
- 17 intersect?
- 18 A. Yes, it does.
- 19 Q. With regard to U-10 what is the allocation of 1-Develop-
- 20 ment west panel in terms of cost?
- 21 A. The allocation to U-10 would be \$181,465.
- 22 Q. And it is the same amount for U-11 in that panel?
- 23 A. Yes, it is.
- 24 Q. With regard to 2-Development west what is U-10's allocated
- 25 cost on Exhibit G, Page 3?

1 A. The allocated cost for U-10 is \$19,020.  
2 Q. And U-11 in 2-Development west?  
3 A. \$22,154.  
4 Q. Turning to Exhibit G, Page 4, again staying with the  
5 exhibits to U-10, does this report for each respondent  
6 in each panel the next interest in the unit and the  
7 interest to the extent you've predicted the interest in  
8 the panel and then the panel interest from an allocation  
9 of revenue or costs?  
10 A. Yes, it does.  
11 Q. With regard to the Coxs can I assume that you have  
12 reported uncertain because you do not know the undivided  
13 interests or the extent of the undivided interest of each  
14 of the individual Coxs?  
15 A. That is correct.  
16 Q. And have you reported for the estate the total interest  
17 which you do not know how to divide up?  
18 A. That is correct. Yes.  
19 Q. And you've done that for both panels?  
20 A. Yes.  
21 Q. With regard to the question of people who are deemed to  
22 have leased and the kind of recommendation that you would  
23 make to the Board with regard to lease terms dealing with  
24 CBM interest what would you recommend in terms of bonus,  
25 royalty and those sort of issues to the Board to be

1 incorporated in any order they might issue?

2 A. AS to the CBM lease for those parties deemed to have  
3 leased we would recommend that a one time payment of \$1  
4 per acre bonus be paid with a one-eighth royalty provid-  
5 ed, and then if they wish to lease we'll lease for five  
6 years. If they're deemed to have leased to would be as  
7 long as we have production.

8 Q. The acreage in this unit is the 80 acres that we're  
9 always dealing with?

10 A. That is correct.

11 Q. We're talking about all coal seams and associated rock  
12 strata below the Tiller?

13 A. Correct.

14 Q. We need to look at a couple of things on U-11. If you  
15 would turn to Exhibit G on U-11. U-11 intersects the  
16 same panel we were talking about with regard to U-10?

17 A. Yes, it does.

18 Q. And we've already covered the percentages in those  
19 panels, correct?

20 A. That is correct.

21 Q. If you turn to Page 4 of Exhibit G, does that set forth  
22 the division of interest of the respondents who are named  
23 in the application on U-11 for purposes of allocating  
24 costs in the event they should participate or be carried  
25 or a royalty in the event of production?

- 1 A. Yes, it does.
- 2 Q. Turning to the front of U-11 and Exhibit A, Page 2, are
- 3 we again dealing with an outstanding oil and gas interest
- 4 that is sought to be force pooled?
- 5 A. Yes, we are seeking to force pool an outstanding
- 6 interest of 2.584 percent.
- 7 Q. Mr. Gordon, is it your opinion with regard to both units
- 8 U-10 and U-11, that the plan of development which is
- 9 shown on Exhibit G which we have talked about today, is
- 10 there a reasonable plan to develop the coalbed methane
- 11 within and under both of these units?
- 12 A. Yes, it is.
- 13 Q. Is it your further opinion that the proposed development
- 14 that's shown on Exhibit G, the initial short hole
- 15 development and then ultimately as mining progresses the
- 16 active gob development, that that is a means of protect-
- 17 ing correlative rights of owners of methane within the
- 18 unit, it is an economically sensible way to proceed
- 19 which would decrease both the likelihood of both physical
- 20 waste and economic waste?
- 21 A. Yes, it is.
- 22 MR. SWARTZ: That's all I have on these two units.
- 23 MR. CHAIRMAN: Any questions, members of the Board?
- 24 MR. EVANS: Mr. Gordon, in the case that was heard just prior
- 25 to this, is this the same map? The reason I asked is you

1 testified that it was in T-18 -- that the panel was  
2 Development east?  
3 MR. GORDON: You've got two sides to the mining operation.  
4 You've got an east development and west development. T-  
5 18 is in the east. These are over in the west.  
6 MR. EVANS: That's what I was asking, is what the differential  
7 is and also the difference in the maps. I've got on T-1  
8 or in the previous I've got short hole production and it  
9 shows development works to T-15 which are dated 9/92 and  
10 on these next two U panels those mains have already been  
11 cut and pushed forward and we're already into the panel  
12 apparently. I guess explain to me what the dates mean.  
13 MR. GORDON: They were projected dates of Island Creek when  
14 this thing was being put together.  
15 MR. EVANS: Okay. They're not actual mine dates?  
16 MR. GORDON: No. Those dates have been superceded by others.  
17 But this is the best I had to work with at the time.  
18 So --  
19 MR. EVANS: Just for clarification purposed I was just making  
20 sure what was which and when it was done.  
21 MR. CHAIRMAN: Other questions?  
22 MR. MCGLOTHLIN: Mr. Gordon, on your U-10 and U-11 on the 2-  
23 West panel could you explain what the percent or percent  
24 and a half difference -- the half percent difference in  
25 that?

1 MR. CHAIRMAN: You're referring to Exhibit G, Page 27

2 MR. MCGLOTHLIN: Yes.

3 MR. GORDON: You're in U-11?

4 MR. MCGLOTHLIN: U-10 and U-11 on that second deviation.

5 MR. GORDON: The percent difference? If you'll look, we have  
6 a barrier in that second development.

7 MR. MCGLOTHLIN: Okay.

8 MR. GORDON: Again based on the information we had and it is  
9 projected I'm not sure that there's not another barrier  
10 on the first development there. So I went ahead and  
11 incorporated the whole thing and even went into unit U-9  
12 there. If that barrier changes it's going to change the  
13 percentages and we may have to come and adjust our  
14 percentages. Right now we're just not sure what --  
15 mean, this thing is early development.

16 MR. SWARTZ: To summarize what I think you're saying, Mr.  
17 Gordon, is your explanation for the difference in  
18 percentage when you compare U-10 and U-11 with regard to  
19 1-Development, that panel, is the explanation of the  
20 difference in percentage the fact that the 2-Development  
21 panel as currently mapped does not run the full length of  
22 unit U-10?

23 MR. GORDON: That's correct.

24 MR. MCGLOTHLIN: Explain the difference there. What would  
25 that matter on the --

1 MR. SWARTZ: Well, there's less of 2-Development panel in U-10  
2 than there is in U-11. Kevin, if you look at the map  
3 here do you see where the words "2-Development" are?

4 MR. MCGLOTHLIN: Uh-huh.

5 MR. SWARTZ: What Sam's telling you is that the mapped portion  
6 immediately above that is a barrier pillar that will not  
7 be mined so that when you calculate the amount of that  
8 panel in U-10 it does not run the whole length of the  
9 unit whereas in U-11 that panel runs the whole length of  
10 the unit. So that would account for the difference is  
11 what he's telling you. I can tell from your look you're  
12 not following me.

13 MR. MCGLOTHLIN: I'm following what you're saying. I'm just  
14 curious as to what -- why the difference? I mean, it's  
15 still 80 acres and you're still drawing gas off of it.

16 MR. SWARTZ: No. You take the acreage of the panel within the  
17 unit and divide it by the unit. If there's less panel  
18 acres in the unit you're going to get a smaller percent-  
19 age.

20 MR. MCGLOTHLIN: I understand. We've done it --

21 MR. SWARTZ: This calculation is a function of putting the  
22 amount of acres in a particular longwall panel that are  
23 within a unit over the 80 acre number. And if there are  
24 less -- I guess what I am saying is as mapped there are  
25 less acres of the 2-Development panel within unit U-10

1 than there are in U-11. So obviously you're going to be  
2 dividing a smaller number by 80 and you're going to come  
3 up with a smaller percentage is the explanation.

4 MR. EVANS: Not even on that tract but on a different tract,  
5 you're seeking to force pool these individuals and the  
6 force pooling is a dollar an acre bonus, one time  
7 payment, and you're requesting the lease term basically  
8 to exhaustion?

9 MR. WIRTH: Until the order is nolle and void.

10 MR. EVANS: You plug the well which is to exhaustion.

11 MR. SWARTZ: Well, two things can happen. The orders that we  
12 get from the Board tell us if we haven't developed this  
13 or commenced development within a year the order goes  
14 away. So you could theoretically pay your dollar bonus,  
15 not develop it, and at the end of the year any rights  
16 that they were deemed to have leased to you would  
17 terminate because the order would terminate. If you  
18 undertake to develop the acreage you would then have a  
19 right to develop this unit to exhaustion. But the least  
20 that you take says a five year primary term and so long  
21 thereafter as oil and gas is produced and paying quantiti-  
22 es. So you're getting an equivalent result. I realize  
23 you're stating it as if it's extreme, but the private  
24 lease that you would obtain would provide the same  
25 result.

1 MR. EVANS: Does that also provide for an additional payment  
2 after the five year term is up?

3 MR. SWARTZ: Not if there's production. I mean, you can have  
4 drilling commitments in the leases -- so I give you a  
5 complete answer -- but absent a drilling commitment  
6 where you have to continue drilling or pay further delay  
7 rentals it would hold the lease once you started produc-  
8 ing.

9 MR. EVANS: I've got one other question based in that same  
10 vein. Do the leases that you sign provide for shut-in  
11 fees?

12 MR. SWARTZ: Yes, generally speaking.

13 MR. EVANS: Do your force pools provide for the same fees to  
14 be paid for shut-in?

15 MR. SWARTZ: No.

16 MR. WIRTH: You don't shut-in a methane well. Mine safety  
17 dictates it and it's either vented or produced.

18 MR. SWARTZ: That is the difference. Certainly a frack well  
19 you do not want to shut it in or you're going to screw it  
20 up.

21 MR. EVANS: I'm asking --

22 MR. WIRTH: Well, it can be. In certain cases a frack well  
23 could be shut-in. Now, in these situations the gob wells  
24 we would not. If we're projecting twenty years out to  
25 frack the well and we have shut it in -- it's a question

1 that's addressed in the JOA that may have to be address-  
2 ed. Some party that we have force pooled may want to  
3 come back to the Board. It is not our intent because  
4 it's silent that there be a shut-in.

5 MR. SWARTZ: This raises an issue that's near and dear to my  
6 heart that I've given up on. We submitted a couple of  
7 years ago to the Board leases and JOAs that we wanted you  
8 to at least acknowledge was how we were going to proceed  
9 so that we -- we're communicating to you what our  
10 intentions were when we were deemed to have leased and to  
11 people who participated or were forced pool what the  
12 rules were. And we would love to do that. If I sense  
13 here a massive shift of the geology of the Board I am  
14 delighted.

15 MR. CHAIRMAN: Back.

16 MR. EVANS: I don't think you sense a shift. It was a  
17 question for the record that was for my own information  
18 to see how you handled it which is -- I'm not going to  
19 approve your JOA or --

20 MR. SWARTZ: What a bummer. But it is a problem that we don't  
21 have a document that we can all look at and you can look  
22 at and say, "Well, this is probably how they're handling  
23 it."

24 MR. NASON: We do. We have the Board order.

25 MR. SWARTZ: It's incredibly -- any tough issue is ignored by

1 the orders we get. So we are essentially told operate  
2 this -- any operator. We're essentially told operate it  
3 as you would in the ordinary course we hope. These  
4 orders are minimal. There's no shut-in. There's no  
5 delay. And we tried to get more language in the orders  
6 and your response was we are not going to write you a  
7 lease and we're not going to write you a JOE. I mean,  
8 that's what happens when you make those kinds of de-  
9 cisions.

10 MR. CHAIRMAN: Delay's in the order. Other questions?

11 (Witness stands aside.)

12 MR. CHAIRMAN: I'll just remind the Board that Ms. Riggs is  
13 going to bring back to the Board at next meeting the  
14 clarifying language for Oakwood II orders and any order  
15 we issue will be held in advance till we incorporate that  
16 language. Any other questions? Anything further?  
17 What's your pleasure?

18 MR. MASON: I move we approve.

19 MR. CHAIRMAN: A motion to approve U-10 and U-11.

20 MR. MCGLOTHLIN: Second.

21 MR. CHAIRMAN: Second. Further discussion? All in favor  
22 signify by saying yes. (ALL AFFIRM.) Opposed say no  
23 (NONE.) It's unanimous.

ITEM XXII, XXIII

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Buchanan Production Company for U-18  
5 unit. Docket number VGOB-93/04/20-0355. I'd ask the  
6 parties that wish to address the Board in this matter to  
7 come forward and identify yourself at this time.

8 MR. SWARTZ: Mark Swartz for OXY and Buchanan Production.

9 MR. CHAIRMAN: The record will show there are no others.

10 MR. FULMER: I have a handout for the Board.

11 MR. SWARTZ: While Mr. Fulmer is doing that I will tell you,  
12 Mr. Chairman, that U-18 is a similar situation. It's in  
13 the same panel. It's right next to it. We're talking  
14 the same numbers. And if there's no objection I'd like  
15 to consolidate U-18 and U-17 for hearing purposes today.  
16 I wouldn't have to go through the same numbers twice.

17 MR. CHAIRMAN: I'll go ahead and call U-17 as well. That's a  
18 petition for the force pooling of U-17 unit, Docket  
19 number VGOB-93/04/20-0363. I'd ask all parties that wish  
20 to address the Board in this matter to come forward and  
21 identify yourself at this time.

22 MR. SWARTZ: Mark Swartz, same appearances.

23 MR. CHAIRMAN: The record will show there are no others. You  
24 may proceed.

25 MR. SWARTZ: I'd like to call Sam Gordon again as my first

1 witness. Sam, I'll remind you you are still under oath.

2  
3 SAMUEL GORDON

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

6  
7 DIRECT EXAMINATION

8  
9 BY MR. SWARTZ:

10 Q. Did you prepare the notices of application and the  
11 applications for both units U-18 and U-17?

12 A. Yes, I did.

13 Q. Is Buchanan Production the applicant in both situations?

14 A. Yes, it is.

15 Q. And in both instances is Buchanan Production requesting  
16 that somebody other than itself, to wit OXY, USA, be  
17 designated the operator of these two units?

18 A. Yes, it is.

19 Q. Buchanan Production is a Virginia general partnership  
20 with two partners that are Appalachian Operators, Inc.  
21 and Appalachian Methane, Inc., is that correct?

22 A. That is correct.

23 Q. Is Buchanan Production authorized to do business in the  
24 Commonwealth?

25 A. Yes, it is.

- 1 Q. Is OXY, USA is a Delaware corporation that is also  
2 authorized to do business in the Commonwealth?  
3 A. Yes, it is.  
4 Q. Has OXY registered with the DMME?  
5 A. Yes.  
6 Q. Does it have a blanket bond on file as required by law?  
7 A. Yes, it does.  
8 Q. Has the management committee of Buchanan Production  
9 delegated certain authority to OXY, USA as it's profess-  
10 ional manager "including the authority to explore,  
11 develop and maintain the properties of Buchanan Produc-  
12 tion Company"?  
13 A. Yes, it has. We have so attached this agreement as  
14 Exhibit J, Page 1.  
15 Q. And then has OXY, USA in implementing or discharging  
16 that responsibility delegated to certain individuals  
17 within OXY specific authority?  
18 A. Yes, it has. It has delegated Glen VanGolen as designat-  
19 ed general manager, Martin E. Wirth land manager, and  
20 myself as regulatory manager.  
21 Q. HAS OXY, USA filed anything with both of these exhibits  
22 to indicate that if -- consenting that it would serve as  
23 unit operator if it were appointed by the Board to be  
24 unit operator?  
25 A. Yes, it has. That's Exhibit J, Page 2, to both applica-

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

tions.

Q. Are the names of the folks who are respondents on both U-18 and U-17 listed in both the notice of hearing and Exhibit B?

A. Yes, they are.

Q. Now, there have been some amendments to the U-18 unit which we'll ultimately get to. But there's an amended Exhibit B and other exhibits, correct, in U-17?

A. Yes. There are amended exhibits.

Q. And we'll ultimately get to those amendments?

A. Yes.

Q. Between the original Exhibits B and the amended Exhibits B all respondents have been listed with regard to both applications?

A. That is correct. Yes.

Q. Do you wish to add anybody or subtract anybody in terms of adding or dismissing any respondents with regard to either of these two units?

A. No, we do not.

Q. Did you undertake to mail by certified mail as required by statute to all respondents for whom you had addresses in both of these units?

A. Yes, we did.

Q. With regard to these units are there certain lien holders that are identified in Exhibit B-1?

- 1 A. Yes, there is.
- 2 Q. Judgement creditors or lien holders?
- 3 A. Correct.
- 4 Q. Did you also mail to all of the judgement creditors, lien
- 5 holders, identified in Exhibits B-1 to both of this
- 6 applications?
- 7 A. Yes, we did.
- 8 Q. With regard to unit U-18 have you gotten cards back from
- 9 everyone except the IRS?
- 10 A. That is correct. Yes.
- 11 Q. Did you file a proof of publication with Mr. Fulmer's
- 12 office, Exhibit F, by mail?
- 13 A. Yes, we did, on April 5th, 1993
- 14 Q. Did you publish with regard to both of these units in a
- 15 newspaper?
- 16 A. Yes, we did. We published in the Virginia Mountaineer on
- 17 March 25, 1993.
- 18 Q. Did you file Exhibit E, certificate of publication, with
- 19 Mr. Fulmer's office and if so when?
- 20 A. Yes, we did. We filed it on March 30th, 1993.
- 21 Q. With regard to the mailing issue and unit U-17 did you
- 22 get a response from everyone or a card back from everyone
- 23 to whom you mailed again with the exception of the IRS?
- 24 A. Yes, we did.
- 25 Q. Did you file Exhibit F, proof of mailing, with regard to

1 unit U-17 with Mr. Fulmer's office?

2 A. Yes, we did. Again on April 5th, 1993.

3 Q. Turning to the exhibits to U-18 --

4 MR. MCGLOTHLIN: Mr. Swartz, before you leave the notice  
5 issue, I noticed on U-18 there's less of the lien holders  
6 listed on 18 and on 17 for the same tract.

7 MR. SWARTZ: Well, are you looking at the amended B-1?

8 MR. MCGLOTHLIN: Yes, sir. I've got four lien holders and on  
9 17 we have at least six on tract two and four on tract  
10 four.

11 MR. GORDON: There are different lien holders in both units.  
12 Some of them are common but --

13 MR. MCGLOTHLIN: It's the same property though?

14 MR. GORDON: The same property?

15 MR. MCGLOTHLIN: Yes, sir.

16 MR. GORDON: U-18 and U-17 are the same property?

17 MR. MCGLOTHLIN: On tract two -- it's the same property owner  
18 on tract two of U-17 as tract two of U-18.

19 MR. WIRTH: Only as to the surface. The land goes onto --  
20 when they described in the judgement lien -- this is  
21 Martin E. Wirth. We'll read through it and it might be  
22 deed of trustee as to a bank and as to a household. We  
23 didn't take the full acres or X acres. So there may be  
24 difference between the land. It may run concurrently,  
25 but I am not the one to adjudicate that.

1 MR. MASON: I don't know if this matters or not, but I have  
2 frequently appeared of record for Dominion Bank and  
3 Dominion Bank care services. Does Mr. Swartz object to  
4 me being involved in this?

5 MR. SWARTZ: No.

6 MR. WIRTH: Are you the trustee for some of the -- I don't  
7 think it's inappropriate.

8 MR. MASON: But I do appear occasionally on behalf of them in  
9 enforcement of creditors loans and foreclosures and  
10 bankruptcy related to collection matters. I have no  
11 knowledge of these individual items.

12 MR. WIRTH: Well, according to Dominion Bank they are all  
13 confirmed, but we always put them on notice in case they  
14 did default the payment.

15 MR. MASON: Right.

16 MR. MCGLOTHLIN: It just seems to me that some of these liens  
17 are probably encompass the entire property and I'm  
18 curious as to if some where left out.

19 MR. SWARTZ: The problem I'm having, Kevin, is that tract four  
20 on one plat has no relationship to tract four on the  
21 other.

22 MR. MCGLOTHLIN: But tract two and tract two are the same.  
23 When I line up the maps they come right in together.

24 MR. WIRTH: Like I say, when we pick a judgement lien it only  
25 describes certain parcels of (Inaudible.) Therefore, if

1 it didn't pick it up on that title -- doing that then it  
2 was deleted off of it. What I'm saying is it could be --  
3 BSL Maytag may have done one thing whereas then you take  
4 in the whole 75 acres.

5 MR. MCGLOTHLIN: I guess I was curious on the notification to  
6 the Circuit Court was on one and it was not on the other

7 MR. WIRTH: On the tax assessors for the --

8 MR. MCGLOTHLIN: The Circuit Court --

9 MR. CHAIRMAN: Is that a judgement lien?

10 MR. WIRTH: Yes, it's a judgement lien. It was due to some  
11 court action. It's not the same as a tax lien being --

12 MR. MASON: A lot of those liens requiring notice to the Clerk  
13 are for fines.

14 MR. WIRTH: That's exactly what it is. It's an outstanding  
15 fine.

16 (PAUSE.)

17 MR. MCGLOTHLIN: I understand how liens are and that you might  
18 get an -- just the house or barn or what acreage --

19 MR. WIRTH: What we have is when the titled opinion comes in  
20 listing all judgments and/or liens.

21 MR. MCGLOTHLIN: It just seems odd particularly on the Circuit  
22 Court Clerk's notice. It seems odd that he wouldn't be  
23 noticed on this as well. Thank you.

24 MR. MASON: I have one question. Have we talked about the DWI  
25 yet?

1 MR. SWARTZ: No, but we can skip ahead  
2 MR. MASON: I'm just curious as to why the title opinion was  
3 so expense on this particular tract.  
4 MR. SWARTZ: Are we looking at 18?  
5 MR. MASON: 18.  
6 MR. SWARTZ: If you look at the plat that's why. There was a  
7 title done on every tract.  
8 MR. MASON: Well, I understand that. This one is 44,000 and  
9 most of them run in the 20,000s even when there are  
10 multiple owners.  
11 MR. WIRTH: You have a Young Branch tributary and you also  
12 have State highways coming in that. You also have the  
13 condemnations of the highway. You also have the Young  
14 Branch. Also you'll find like on U-18 you also have two  
15 small parcels which are homesteads. It doesn't matter if  
16 it's a half an acre. It's usually running \$3,500 a  
17 tract. So there are more tracts and more money.  
18 MR. MASON: Okay.  
19 Q. (Mr. Swartz continues.) Mr. Gordon, going back to U-18,  
20 Exhibit A, Page 2, is the only thing we're talking about  
21 here in terms of force pooling the oil and gas estate?  
22 A. That is correct.  
23 Q. What is the outstanding interest that's sought to be  
24 affected by the application in U-18?  
25 A. 86.965 percent.

1 Q. Of the oil and gas estate?  
2 A. Of the oil and gas estate.  
3 Q. And I take it that OXY has the coal estate 100 percent  
4 under voluntary agreements?  
5 A. That is correct.  
6 Q. Turning to Exhibit C, the estimate of allowable costs,  
7 did you prepare that?  
8 A. Yes, I did.  
9 Q. And it was prepared within the last sixty days?  
10 A. Yes, it was.  
11 Q. What does that show as estimated costs for development of  
12 unit U-18?  
13 A. \$66,725.  
14 Q. And it that a reasonable estimate in your judgement as to  
15 the expected costs?  
16 A. Yes, it is.  
17 Q. Turning to Exhibit G, Page 1, are we again talking about  
18 a mine map on which you have superimposed unit U-18?  
19 A. Yes, we have.  
20 Q. And this mine map or this projection pertains to the VP-  
21 mine?  
22 A. Yes.  
23 Q. And the two panels that we're looking at are  
24 1-Development east and 2-Development east, is that  
25 correct?

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

- A. That is correct.
- Q. And U-18 just catches a portion of both of those panels, does it not?
- A. That is correct.
- Q. The diverging lines shown in both of these panels, does that depict or represent anticipated short hole production?
- A. Yes, it does.
- Q. And if mining proceeds as contemplated would you expect that active gas production might follow?
- A. Yes, we do.
- Q. Turning to Exhibit G, Page 2, does this break out the percentage of 1-Development east panel and 2-Development east panel in both units U-18 and U-17?
- A. Yes, it does.
- Q. With regard to U-10 what is the percentage of panel 1-Development east within unit U-17?
- A. Within U-17 in 1-Development east we show 15.493 percent.
- Q. With regard to U-18 in panel 1-Development east?
- A. 2.291 percent.
- Q. Moving to 2-Development east what is the percentage of that panel within unit U-17?
- A. Within U-17 36.899 percent.
- Q. And within U-18?
- A. 3.975 percent.

- 1 Q. With regard to Exhibit G, Page 3, does that show your  
2 estimate with regard to the total cost in 1-development  
3 east development cost and 2-Development east?  
4 A. Yes, it does.  
5 Q. And what are those numbers?  
6 A. In 1-Development east a total of \$846,975. 2-Development  
7 east \$570,000.  
8 Q. And does this Exhibit G, Page 3, also then proceed to  
9 allocate a portion of those development costs to each  
10 unit?  
11 A. Yes, it does.  
12 Q. With regard to 1-Development east what is allocated to  
13 both units U-17 and U-18?  
14 A. In 1-Development east we've allocated to U-17 \$131,222.  
15 U-18 we've allocated \$19,403.  
16 Q. And with regard to development panel 2-Development east  
17 what is the allocation to both U-17 and U-18?  
18 A. Panel 2-Development east we have allocated to U-17  
19 \$153,324 and to unit U-18 \$22,664.  
20 Q. Exhibit G, Page 4, does this show for each of the  
21 respondents their net interest in the unit, the unit's  
22 percentage in the panel, and then a division of interest  
23 or panel interest for each respondent?  
24 A. Yes, it does.  
25 Q. Would these numbers then be relevant and could they be

- 1 used to calculate participant contribution, carried  
2 interest, and recoupment as well as royalty?
- 3 A. Yes.
- 4 Q. If you would turn to Exhibit G, Page 4, of unit U-17. I  
5 you could find that.
- 6 A. Okay.
- 7 Q. There is an amendment that was filed, an amended Exhibit  
8 G, Page 4, is that correct?
- 9 A. That is correct.
- 10 Q. And it unfortunately did not have the word "amendment"  
11 on it. It is the one -- if you'll look at Ira Gordon  
12 Ratliff in the last column, the first and far right hand  
13 column the number should be -- if it shows .7467 that is  
14 the amended exhibit.
- 15 MR. MASON: What was the number again?
- 16 MR. SWARTZ: .7467. IF that's what it shows it's the amended  
17 exhibit. If it shows .7127 you should draw a line  
18 through it. That was the original exhibit.
- 19 Q. (Mr. Swartz continues.) Mr. Gordon, does Exhibit G, Page  
20 4, as amended show the relevant percentages for each of  
21 the respondents in U-17 to be used for royalty purposes,  
22 participation purposes, and carried interest recoupment  
23 purposes?
- 24 A. Yes, it does.
- 25 Q. And we've already covered the panel allocations, percent-

1           ages and cost percentages to this unit, correct?

2           A.    Correct.

3           Q.    Turning to the beginning of the application for U-17 and

4           going to Exhibit A, Page 2, there is an amended Exhibit

5           A, Page 2, correct?

6           A.    That is correct.

7           Q.    What is being sought to be force pooled here as shown on

8           that exhibit?

9           A.    We're seeking to force pool from the oil and gas estate

10          72.45 percent.

11          Q.    The balance of the oil and gas estate OXY or Buchanan

12          Production has obtained voluntary agreements with regard

13          to that on oil and gas?

14          A.    That's correct.

15          Q.    And OXY apparently and/or Buchanan Production has

16          voluntary agreements with regard to 100 percent of the

17          coal interest?

18          A.    That's correct.

19          Q.    With regard to Exhibit B there was an amended Exhibit B

20          filed, correct?

21          A.    That is correct.

22          Q.    And the only thing that changed was the percentages

23          changed very slightly, the list of people stayed the

24          same, is that correct?

25          A.    That is correct.

1 Q. With regard to tract seven of the amended Exhibit B  
2 there's a Rodney Keith Ratliff. Do you see that?  
3 A. Yes.  
4 Q. Were you informed by telephone that Darlene is actually  
5 Doris?  
6 A. That is correct.  
7 Q. Do you have any written proof of that?  
8 A. No, we do not.  
9 Q. So you're simply putting the Board on notice that her  
10 name may, in fact, turn out to be Doris?  
11 A. That's correct.  
12 MR. MCGLOTHLIN: And Rodney is Randy?  
13 MR. SWARTZ: Well, that's news to us.  
14 MR. MCGLOTHLIN: That's what you have here is Randy or am I  
15 looking at the wrong one?  
16 MR. GORDON: The amended one has Rodney.  
17 MR. MCGLOTHLIN: Oh, I don't have the amended --  
18 MR. SWARTZ: This one actually has the word "amended" at the  
19 top of it. So if look at that.  
20 Q. (Mr. Swartz continues.) And then going through here  
21 there is also an amended Exhibit B-1, is that correct?  
22 A. Yes.  
23 Q. We've already indicated there's an amended Exhibit G,  
24 Page 4 and which one it is?  
25 A. Correct.

1 Q. A couple of more questions. With regard to both of these  
2 units would you recommend certain terms be incorporated  
3 by the Board in any order issued regarding persons who  
4 might be deemed to have been leased?

5 A. Yes. Our recommendation for CBM would be a one time  
6 payment of \$1 bonus per acre with a one-eighth royalty  
7 provision for as long as we produce.

8 Q. All both of these units 80 acres units?

9 A. Yes, they are.

10 Q. And are you seeking to produce short hole gas and active  
11 gob under the Oakwood II rules with regard to all coal  
12 seams and associated rock strata below the Tiller?

13 A. That is correct.

14 Q. Is it your opinion that plan of development as shown on  
15 Exhibit G, Page 1, for both of these units is a reason-  
16 able plan to develop the coalbed methane resources  
17 within units U-18 and U-17?

18 A. Yes, it is.

19 Q. Would this proposed plan and the development contemplated  
20 by this plan contribute to protect correlative rights and  
21 lessen the likelihood of both physical and economical  
22 waste?

23 A. Yes.

24 MR. SWARTZ: That's all I have with regard to these two  
25 applications.

1 MR. MCGLOTHLIN: Excuse me. On your Exhibit G, Page 4, you  
2 still have it listed as Randy Keith Ratliff.

3 MR. SWARTZ: Well, we need to decide which is which.

4 MR. GORDON: All the notices were sent to Rodney.

5 MR. MASON: I have one question. I was curious as to some-  
6 thing that occurs to me. Some of these people we've had  
7 today, the first people that appeared to have some  
8 financial difficulties or this liens and judgments and  
9 stuff, in the course of doing your alls title exams do  
10 you all check for bankruptcy filing?

11 MR. WIRTH: You bet.

12 MR. MASON: So you all would know, for instance, if there  
13 were any stays in effect with regards to any judicial  
14 proceedings for bankruptcy?

15 MR. WIRTH: Yes, sir. We're handling one right now before Mr  
16 Fulmer's office that does have bankruptcy proceedings.

17 MR. MASON: Thank you.

18 MR. GORDON: I believe, just for the record here, on Exhibit  
19 G, that's a typo. Everything's been sent to a Rodney and  
20 when I was talking to this party on the phone there was  
21 nothing to change that, just her name. So I would say  
22 that Rodney has been noticed. Rodney is the one we sent  
23 it to. Rodney is the party and this is a typo on Exhibit  
24 G which we can get corrected.

25 MR. CHAIRMAN: Also on the amended G-4, the reference to the

1                    astricts down to the exhibits would also be to the  
2                    amended -- this has been corrected to the amended  
3                    Exhibits B? The astricts and double astricts are  
4                    referencing the amended Exhibit B and amended Exhibit G?  
5                    This is just for clarification.

6                    MR. SWARTZ: We need to file an amended Exhibit G. Page 4, so  
7                    it will straighten this stuff out.

8                    MR. SWARTZ: Marty, with regard to title do you have a  
9                    recollection as to whether the title reports that you've  
10                    got show Rodney or Randy?

11                    MR. WIRTH: It's definitely Rodney Keith.

12                    MR. CHAIRMAN: Anything further? This will be subject, of  
13                    course, to the same provisions that we've stated earlier  
14                    Ms. Riggs doing research and us clarifying the language.

15                    MR. SWARTZ: Correct.

16                    MR. MCGLOTHLIN: I move we accept the petitions filed for  
17                    U-17 and U-18.

18                    MR. CHAIRMAN: A motion to approve.

19                    MR. MASON: Second.

20                    MR. CHAIRMAN: Second. Further discussion? All in favor  
21                    signify by saying yes. (ALL AFFIRM.) Opposed say no.  
22                    (NONE.) Unanimous approval. Do you want to break for  
23                    lunch or is that going to give you enough time?

24                    MR. MASON: I don't know. I'm going to have to leave at 1:30

25                    MR. CHAIRMAN: Let's go ahead and bring PGP to the table.

ITEM XXIV

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Pocahontas Gas Partnership for the L-40  
5 unit. Docket number VGOB-93/04/20-0357. We'd ask the  
6 parties that wish to address the Board to come forward at  
7 this time and identify yourself for the record.

8 MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas  
9 Partnership.

10 MR. CHAIRMAN: The record will show there are no others.  
11 Elizabeth, we're trying to decide. Mr. Mason has to  
12 leave at 2:30 and we're going to get lunch. We're trying  
13 to decide the timing. You have all the rest of the  
14 agenda or Pocahontas Gas Partnership does. Are all of  
15 them items that will need to heard?

16 MS. McCLANNAHAN: Yes, they will.

17 MR. CHAIRMAN: I understand there's some parties that are  
18 here that an interest in four of these. I'm just trying  
19 to decide if we need to -- I was going to talk with the  
20 Board and I'll wait until the members get back to see if  
21 they wanted to send out for lunch or what to try accommo-  
22 date because we will have to stop at 2:30 regardless of  
23 where we are because I will not have a quorum as of 2:30  
24 today.

25 MS. McCLANNAHAN: I guess that I can tell you which ones would

1 take the least amount of time because I think we need as  
2 many of these units as we can get today. So we may want  
3 to put them in a little different order.

4 MR. CHAIRMAN: Do you all want to send out and have lunch  
5 brought in or do you want to break for lunch? All we  
6 need to do is make the decision and do it. We can go  
7 ahead and break right now and come back if you want to do  
8 that.

9 (AFTER A BRIEF DISCUSSION OFF THE RECORD, THE HEARING  
10 CONTINUED AS FOLLOWS:)

11 MR. CHAIRMAN: The docket item's been called. You may  
12 proceed.

13 MS. McCLANNAHAN: Will you let us change the order of them  
14 just so that we know that we'll get through as many of  
15 them as possible today?

16 MR. CHAIRMAN: As long as we don't do anything that would  
17 cause these folks to be delayed on wishing to address the  
18 Board.

19 MS. McCLANNAHAN: I don't think it will.

20 MR. CHAIRMAN: Okay. As long as we accommodate them.

21 MS. McCLANNAHAN: You've called 357, right?

22 MR. CHAIRMAN: That's correct. We'll probably have time  
23 because other than just munching into the microphones  
24 we'll continue to hear the cases. (Pause.)

25 MS. McCLANNAHAN: The first witness is Les Arrington.

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

LESLIE ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN;

Q. Les, would you please state your full name for the record and address?

A. Leslie K. Arrington, 26 Mountaintop Drive, Princeton, West Virginia.

Q. Could you please identify Exhibit 1?

A. That's my work resume and educational background.

MR. CHAIRMAN: Elizabeth, just --

MS. McCLANNAHAN: Can we stipulate to all that from yesterday?

MR. CHAIRMAN: You may stipulate all that since it's the same hearing and it was all entered in yesterday.

MS. McCLANNAHAN: So we're stipulating to his qualifications and the Board accepting him as an expert witness?

MR. CHAIRMAN: Right. You may proceed.

Q. (Ms. McClannahan continues.) Mr. Arrington, have you given notice as required by Section 45.1-361.19 to each person or entity identified on Exhibit C of the force pooling application?

1 A. Yes, we have.

2 Q. Is that hearing notice identified as Exhibit 2?

3 A. Yes, it is.

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

5 Exhibit 2.

6 Q. (Ms. McClannahan continues.) This notice of hearing was

7 mailed to each of the parties on Exhibit C?

8 A. Yes, it was.

9 Q. By certified mail, return receipt requested?

10 A. Yes.

11 Q. Are the copies of those returned receipts at Exhibit 3?

12 A. Yes, it is.

13 MS. McCLANNAHAN: I move the introduction of Exhibit 3.

14 MR. CHAIRMAN: It's admitted.

15 Q. (Ms. McClannahan continues.) Were there any persons

16 whose names and/or addresses were unknown?

17 A. No. However, we published it the Virginia Mountaineer

18 and Bluefield Daily Telegraph on April 1st and March

19 26th.

20 Q. Have those proofs of publications previously been

21 submitted to the Board?

22 A. Yes, they have.

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

24 comprise the L-40 unit does PGP control?

25 A. 97.75 percent of the P-3 and 40.85 percent of all coal

1 below the Tiller seam less the P-3.

2 Q. What percentage of the oil and gas rights in the tracts  
3 that comprise the L-40 unit does PGP control?

4 A. 40.85.

5 Q. What percentage of the coalbed methane gas rights that  
6 comprise the eL-40 unit does PGP control?

7 A. 87.75 percent.

8 Q. Are the unleased owners and the lease hold owners listed  
9 on Exhibit D of the L-40 force pooling application listed  
10 with percentages of ownership in the respective tracts?

11 A. Yes.

12 Q. Are the conflicting claimants whose funds are to be  
13 escrowed on Exhibit E?

14 A. Yes.

15 Q. Are you requesting that the Board pool the interest of  
16 the parties listed on Exhibit C?

17 A. Yes.

18 Q. Are Exhibits C, D and E correct as they were filed with  
19 the application?

20 A. Yes, they are.

21 Q. And B-1?

22 A. Yes. That's correct.

23 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
24 Arrington.

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

1 (Witness stands aside.)

2 MR. MCGLOTHLIN: Les, what's the significance of Mr. Brown  
3 being --

4 MR. ARRINGTON: I put it in the wrong book. I just noticed  
5 that.

6 MR. MCGLOTHLIN: He put it in the wrong book. It's not  
7 suppose to be there.

8 MR. ARRINGTON: You'll have the right copies. It's just going  
9 to be in the wrong book.

10 MR. MCGLOTHLIN: So we need to disregard that?

11 MR. ARRINGTON: Disregard it in this one.

12 MS. McCLANNAHAN: My next witness is Ron Wood. His resume  
13 needs to be substituted for Gil Gillenwater's resume at  
14 Exhibit 4. The Board has agreed to stipulate to his  
15 qualifications and accept him as an expert witness.

16  
17 RON WOOD

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

20  
21 DIRECT EXAMINATION

22  
23 BY MS. McCLANNAHAN:

24 Q. Mr. Wood, what are the fair market terms for an oil, gas  
25 and coalbed methane lease in the area of the L-40 unit?

- 1 A. An oil, gas and coalbed methane lease is \$5 per acre per  
2 year rental and a one-eighth royalty.
- 3 Q. And for a coalbed methane lease?
- 4 A. Coalbed methane would be \$1 per acre per year rental and  
5 a one-eighth royalty.
- 6 Q. And the standard primary term for oil, gas and coalbed  
7 methane lease?
- 8 A. Ten years.
- 9 Q. With regard to the unleased owners that are listed on the  
10 L-40 unit force pooling application have you contacted  
11 these land owners or tried to contact them to obtain a  
12 lease?
- 13 A. Yes, we have.
- 14 Q. By what method did you contact them and offer the lease?
- 15 A. Verbal and/or certified mail.
- 16 Q. Were you able to come to an agreement with those persons  
17 contacted?
- 18 A. Not at this time.
- 19 Q. With regard to the lease hold owners Island Creek Coal  
20 Company, Cabot Oil & Gas, and Buchanan Production Company  
21 that are listed on the L-40 force pooling application did  
22 you make an offer regarding an assignment of their lease  
23 hold interests?
- 24 A. Yes, we have.
- 25 Q. By what method did you contact them?

1 A. Verbal and/or certified mail.  
2 Q. Were you able to come to an agreement as to the assign-  
3 ment of their interests?  
4 A. Not at this time.  
5 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
6 Wood.  
7 MR. CHAIRMAN: Questions, members of the Board?  
8 (Witness stands aside.)  
9 MS. McCLANNAHAN: The next witness is Randy Albert. His  
10 resume is at Exhibit 5. The Board has agreed to stipu-  
11 late as to his qualifications and accept him as an  
12 expert witness.

13  
14 RANDALL ALBERT

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

17  
18 DIRECT EXAMINATION

19  
20 BY MS. McCLANNAHAN:

21 Q. Has a drilling permit previously been refused to PGP on  
22 any of the tracts that comprise this unit?  
23 A. No, it has not.  
24 Q. Has a well work permit been issued for the L-40 unit?  
25 A. Yes. For the L-40 unit a well work permit has been

1 issued for well number 623 as permit number 2197.  
2 Q. And for what type of well was the permit issued?  
3 A. Coalbed methane well.  
4 Q. Does the plat attached to the force pooling application  
5 filed by PGP indicate the acreage and the shape of the  
6 acreage to be embraced within the L-40 unit as approved  
7 by the Board at its February 16, 1993 hearing?  
8 A. Yes, it does.  
9 Q. Could you please identify Exhibit 6?  
10 A. Exhibit 6 is Exhibit D-1 of the L-40 force pooling  
11 application.  
12 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
13 Exhibit 6.  
14 MR. CHAIRMAN: It's admitted.  
15 MR. McGLOTHLIN: In regard to Exhibit 6 is there any reason  
16 you don't have the window marked on the -- the drilling  
17 window marked on the plat?  
18 MS. McCLANNAHAN: There's no reason that I know of that it's  
19 not marked on that. That's not required to be marked on  
20 the plat, is it?  
21 MR. CHAIRMAN: The question is is it an Oakwood I order you're  
22 asking for or an Oakwood II order?  
23 MS. McCLANNAHAN: Oakwood I. In fact, the docket is -- I'm  
24 not sure how that happened, but the docket is incorrect.  
25 On a couple of these it says I and II, but they should

1 all just be Oakwood I force poolings. Conventional  
2 coalbed methane gas wells.

3 MR. CHAIRMAN: In all cases?

4 MS. McCLANNAHAN: Right. Docket numbers 24 through 31.

5 MR. CHAIRMAN: Okay. So going back to Mr. McGlothlin's  
6 question then which is valid? Are you within --

7 MS. McCLANNAHAN: No, we're not with the 300 feet.

8 MR. CHAIRMAN: Clarify that for us.

9 MS. McCLANNAHAN: I guess I should testify to that. We'll  
10 let Mr. Arrington answer the question. Mr. Arrington,  
11 can you tell us the approximate location of this well  
12 from the unit boundary?

13 MR. ARRINGTON: About 415 feet.

14 MS. McCLANNAHAN: Okay. We're back to Mr. Albert.

15 Q. (Ms. McClannahan continues.) Does the plat attached to  
16 the force pooling application indicate the area within  
17 which the well will be drilled on L-40 unit?

18 A. Yes, it does.

19 Q. Does the drilling unit embrace two or more separately  
20 owned tracts?

21 A. Yes, it does.

22 Q. Are the costs and expenses for the well set forth on the  
23 detailed well estimate attached to the force pooling  
24 application as Exhibit H?

25 A. Yes, they are.

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

Q. Does this exhibit reflect the cost of drilling the well to total depth and completed for production costs?

A. Yes, it does.

Q. Could you please explain how you calculated those costs?

A. The costs are actual for drilling, estimated for completion.

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

A. Yes, I am.

Q. And are you requesting the relief sought in Paragraph 4 of the application in accordance with the Virginia Gas and Oil Act?

A. Yes, I am.

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

MR. CHAIRMAN: Questions, members of the Board?

MR. MASON: I'm just going to ask one question. On your DWE you list casing, six and a half casing. 1,585 feet for 86 feet.

MR. ARRINGTON: Yes, sir. It's five and a half casing.

MR. MASON: I can't read it. I understood from someone that some of these wells weren't being cased, that they were being open hole produced. Is that correct?

MR. ARRINGTON: Initially that is correct. However, they will all prior to full production in this area before the end

1 of this year they will all -- or the majority of them  
2 will be cased and stimulated. Will this well be cased,  
3 yes.

4 MR. MASON: Thank you.

5 MR. CHAIRMAN: Other questions?

6 (Witness stands aside.)

7 MR. CHAIRMAN: Do you have anything further?

8 MS. McCLANNAHAN: No, sir.

9 MR. McGLOTHLIN: Mr. Chairman, again the waiver signed by  
10 Ralph Brown has nothing to do with L-40?

11 MR. ARRINGTON: Correct.

12 MR. MASON: Mr. Chairman, subject to the work being currently  
13 done with regard to the Board orders I would move the  
14 approval of this application.

15 MR. CHAIRMAN: Motion to approve.

16 MR. McGLOTHLIN: Second.

17 MR. CHAIRMAN: Second. Further discussion? All in favor  
18 signify by saying yes. (ALL AFFIRM.) Opposed say no.  
19 (NONE.) Unanimous approval.

20 MS. McCLANNAHAN: Mr. Chairman, pursuant to your request I  
21 discussed with Mr. Franks the reordering of all these and  
22 he is in agreement with this reorder.

23 MR. CHAIRMAN: If you would share that with us.

24 MS. McCLANNAHAN: We would like to do Docket 360 next, then  
25 Docket 365, then Docket 459, 361, 358, 362 and then 364.

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

MR. CHAIRMAN: All right.

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 XXVII

MR. CHAIRMAN: The next item is a petition for force pooling by Pocahontas Gas Partnership for the N-42 unit. This is Docket number VGOB-93/04/20-0360. We'd ask the parties that wish to address the Board to come forward at this time. That's agenda item XXVII for the Board.

MS. McCLANNAHAN: Elizabeth McClannahan, Pocahontas Gas Partnership.

MR. CHAIRMAN: Are there any others that wish to address the Board in this matter? The record will show there are none. You may proceed.

MS. McCLANNAHAN: Mr. Arrington is my first witness.

LESLIE ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, please state your full name for the record.

A. Leslie K. Arrington.

MS. McCLANNAHAN: Mr. Arrington's qualifications have been previously stipulated to by the Board and you have

1 indicated that you wish to accept him as an expert  
2 witness in this case. His resume is at Exhibit 1.

3 Q. (Ms. McClannahan continues.) Mr. Arrington, have you  
4 given notice as required by Virginia Section 45.1-361.19  
5 to each person or entity identified on Exhibit C of the  
6 force pooling application?

7 A. Yes, we have.

8 Q. The hearing notice that was sent to each party, is that  
9 listed at Exhibit 2?

10 A. Yes, it is.

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

13 MR. CHAIRMAN: It's accepted.

14 Q. (Ms. McClannahan continues.) How was this notice mailed  
15 to each of the parties?

16 A. By certified mail, return receipt requested.

17 Q. And do you have those returned receipts?

18 A. Yes. They are at Exhibit 3.

19 MS. McCLANNAHAN: I move the introduction of Exhibit 3.

20 MR. CHAIRMAN: It's admitted.

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

23 A. No. However, we still published it the Virginia Mount-  
24 taineer and Bluefield Daily Telegraph on April 1st and  
25 March 26th, 1993.

- 1 Q. Were the proofs of publications previously submitted to  
2 the Board?
- 3 A. Yes, they have been.
- 4 Q. What percentage of the coal rights in the tracts that  
5 comprise the N-42 unit does PGP control?
- 6 A. 100 percent of all coal below the Tiller seam.
- 7 Q. What percentage of the oil and gas rights in the tracts  
8 that comprise the N-42 unit does PGP control?
- 9 A. 97.092 percent.
- 10 Q. What percentage of the coalbed methane gas rights that  
11 comprise the N-42 unit does PGP control?
- 12 A. 100 percent.
- 13 Q. Are the unleased owners and the lease hold owners listed  
14 on Exhibit D of the N-42 unit force pooling application  
15 with percentages of ownership in the respective tracts?
- 16 A. Yes.
- 17 Q. In the information on Exhibits C, D and E correct as of  
18 the date of filing?
- 19 A. Yes.
- 20 Q. And Exhibit B-1?
- 21 A. Yes.
- 22 Q. Are the conflicting claimants whose funds are to be  
23 encrowed listed on Exhibit E?
- 24 A. Yes.
- 25 Q. Are you requesting that the Board pool the interest of

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

the parties listed on Exhibit C7

A. Yes, we are.

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

MR. EVANS: Elizabeth, this is N-42 or M-42?

MS. McCLANNAHAN: H.

MR. CHAIRMAN: Other questions?

(Witness stands aside.)

MS. McCLANNAHAN: Mr. Wood is my next witness. Again, his resume needs to be exchanged for Gil Gillenwater's resume at Exhibit 4. The Board has indicated that it stipulated to the qualifications of him and accepts him as an expert witness.

RON WOOD

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. In your experience in obtaining leases in Southwest Virginia, Mr. Wood, what are the fair market value terms for an oil, gas and coalbed methane lease in the area of the unit N-42?

1 A. \$5 per acre per year rental and a one-eighth royalty.  
2 Q. And for coalbed methane?  
3 A. \$1 per acre per year rental and a one-eighth royalty.  
4 Q. And what is the standard primary term? coalbed methane  
5 A. Ten years.  
6 Q. With regard to the unleased owners that are listed on the  
7 L-40 unit force pooling application have you contacted  
8 those land owners or tried to contact them to obtain a  
9 lease?  
10 A. Yes, we have.  
11 Q. By what method did you contact them?  
12 A. Verbal and/or certified mail.  
13 Q. Were you able to come to an agreement as to the proposed  
14 lease?  
15 A. Not at this time.  
16 Q. With regard to the lease hold owner Cabot Oil & Gas  
17 that's listed on the N-420 force pooling application did  
18 you make an offer regarding an assignment of its lease  
19 holding interests?  
20 A. Yes, we did.  
21 Q. Were you able to come to an agreement as to the proposed  
22 assignment?  
23 A. Not at this time.  
24 MB: McCLANNAHAN: Those are all the questions I have for Mr.  
25 Wood.

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

2 MR. EVANS: At yesterday's session I know that there appeared  
3 to be F.J. Brown heirs here. Did you get a chance to  
4 talk to any of them?

5 MR. WOOD: The F.J. Brown heirs that were here, if they were  
6 here I didn't recognize any of them or know any of them  
7 to talk to them. I just didn't know that they were here

8 MR. CHAIRMAN: Other questions?

9 (Witness stands aside.)

10 MS. McCLANNAHAN: Mr. Albert. Randall Mark Albert's resume is  
11 at Exhibit 5. The Board has indicated that it wished to  
12 stipulate to the qualifications of Mr. Albert and accept  
13 him as an expert witness.

14  
15 RANDALL ALBERT

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

18  
19 DIRECT EXAMINATION

20  
21 BY MS. McCLANNAHAN:

22 Q. Has a drilling permit previously been refused to PGP on  
23 any of the tracts that comprise the N-42 unit?

24 A. No, it has not.

25 Q. Has a well work permit been issued for the N-42 unit?

1 A. Yes, it has. Permit for well 609 submitted and approved  
2 as permit number 2113.  
3 Q. For what type of well was the permit issued?  
4 A. Coalbed methane gas well.  
5 Q. Does the plat attached to the force pooling application  
6 filed by PGP indicate the acreage and the shape of the  
7 acreage to be embraced within the N-42 unit?  
8 A. Yes, it does.  
9 Q. Could you please identify the exhibit that's marked for  
10 identification as Exhibit 7?  
11 A. Exhibit 7 is Exhibit D-1 of the N-42 force pooling  
12 application.  
13 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
14 Exhibit 7.  
15 MR. CHAIRMAN: It's admitted.  
16 Q. (Ms. McClannahan continues.) Does the unit follow the  
17 boundary lines of the Hurricane Branch extension 80 acre  
18 unit designated as N-42 on Exhibit B-1?  
19 A. Yes, it does.  
20 Q. Does the plat attached to the force pooling application  
21 filed by PGP indicate the area within which the well will  
22 be drilled?  
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 well set forth on the  
3 detailed well estimate attached as Exhibit H?  
4 A. Yes, they are.  
5 Q. Does this exhibit reflect the cost of drilling the well  
6 to total depth and completed for production costs?  
7 A. Yes, it does.  
8 Q. How did you calculated the costs that are listed in the  
9 DWE?  
10 A. Actual costs for drilling, estimated for completion.  
11 Q. Are you requesting that PGP be designated as the well  
12 operator for this unit?  
13 A. Yes, we are.  
14 Q. And are you also requesting the relief sought in Para-  
15 graph 4 of PGP's application in accordance with the  
16 Virginia Gas and Oil Act?  
17 A. Yes, we are.  
18 MS. McCLANNAHAN: These are all the questions I have for Mr.  
19 Albert.  
20 MR. CHAIRMAN: Questions, members of the Board?  
21 (Witness stands aside.)  
22 MR. CHAIRMAN: Anything further?  
23 MS. McCLANNAHAN: No, sir. Questions, members of the Board?  
24 MR. MCGLOTHLIN: I move that we accept the petition as filed.  
25 MR. EVANS: Second.

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

MR. CHAIRMAN: A motion and second for approval.

MR. MASON: Assuming that's subject to the current being done  
by the Attorney General?

MS. RIGGS: This is my understanding. This is purely an  
Oakwood I because there's no additional well. Therefore  
it's not subject to that.

MR. MASON: Oh, okay. Thank you.

MR. CHAIRMAN: A motion and a second. All in favor  
signify by saying yes. (ALL AFFIRM.) Opposed say no.  
(NONE.) It's unanimous approval.

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 XXXI

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 for M-40 unit. Docket number VGOB-93/04/20-0365. That is Item XXXI on the Board's agenda. We'd ask the parties that wish to address the Board to come forward at this time.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. CHAIRMAN: The record will show there are no others. You may proceed.

MS. McCLANNAHAN: The first witness I'd like to call is Mr. Leslie K. Arrington. His resume is at Exhibit 1. The Board has indicated that it wishes to stipulate to his qualifications as previously stated and they will accept him as an expert witness.

LESLIE ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, have you given notice as required by

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

Virginia Section 45.1-361.19 to each person or entity identified on Exhibit C of the force pooling application

A. Yes, I have.

Q. And is that hearing notice -- a copy of the hearing notice listed at Exhibit 2?

A. Yes, it is.  
Exhibit 2.

Q. How was this notice mailed to each of the parties on Exhibit C?

A. By certified mail, return receipt requested.

Q. And do you have those returned receipts?

MS. McCLANNAHAN: I move the introduction of Exhibit 2.

MR. CHAIRMAN: It's admitted.

Q. (Ms. McClannahan continues.) Are copies of those returned receipts at Exhibit 1?

A. Yes they are.

MS. McCLANNAHAN: I move the introduction of Exhibit 3.

MR. CHAIRMAN: It's admitted.

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

A. No. However, we still published it the Virginia Mountaineer and Bluefield Daily Telegraph on April 1st and March 26th, 1991.

Q. Were the proofs of publications previously submitted to the Board?

- 1 A. Yes, they were.
- 2 Q. What percentage of the coal rights in the tracts that  
3 comprise the M-40 unit does PGP control?
- 4 A. 84.66 percent of the P-3, Pocahontas #3 seam of coal and  
5 82.425 percent of all coal below the Tiller seam less the  
6 Pocahontas #3.
- 7 Q. What percentage of the oil and gas rights in the tracts  
8 that comprise the M-402 unit does PGP control?
- 9 A. 83.663 percent.
- 10 Q. What percentage of the coalbed methane gas rights does  
11 PGP control in this unit?
- 12 A. 83.031 percent.
- 13 Q. Are the unleased owners and the lease hold owners listed  
14 on Exhibit D of the M-40 force pooling application with  
15 percentages of ownership in the respective tracts?
- 16 A. Yes, it is.
- 17 Q. Is the information on Exhibits D and E still correct as  
18 of the date of this hearing?
- 19 A. Yes, it is.
- 20 Q. And Exhibit C you have revised, is that correct, from  
21 the date that you filed the force pooling application?
- 22 A. Yes, it is.
- 23 Q. Could you please explain the changes that were made to  
24 Exhibit C?
- 25 A. There were some percentage changes made on that.

1 Q. Are those percentage changes reflected on the application  
2 page and Exhibit C at Exhibit 4?  
3 A. Yes, it is.  
4 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
5 Exhibit 4.  
6 MR. CHAIRMAN: It's admitted.  
7 Q. (Ms. McClannahan continues.) Are the conflicting  
8 claimants whose funds are to be escrowed listed on  
9 Exhibit E of the M-40 unit force pooling application?  
10 A. Yes, it is.  
11 Q. Are you requesting that the Board pool the interest of  
12 the parties listed on Exhibit C?  
13 A. Yes, we are.  
14 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
15 Arrington.  
16 MR. CHAIRMAN: Questions, members of the Board? The Exhibit  
17 -- just for clarification, Exhibit C that is under  
18 Exhibit 4 in the notebook you handed out is an amended  
19 Exhibit C from the application?  
20 MS. McCLANNAHAN: That's correct.  
21 MR. McGLOTHLIN: Just those pages?  
22 MR. CHAIRMAN: Right.  
23 MS. McCLANNAHAN: The next witness I'd like to call is Mr. RO  
24 Wood. Mr. Wood's resume should be substituted for Mr.  
25 Gillenwater's resume at Exhibit 3. In addition, the

1 Board has indicated that it wishes to stipulate to the  
2 qualifications of Mr. Wood and accepts him as an expert  
3 witness for purposes of today's hearing.  
4

5 RON 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. Mr. Wood, in your experience in obtaining leases in  
13 Southwest Virginia are you familiar the fair market value  
14 for an oil, gas and coalbed methane gas leases?

15 A. Yes.

16 Q. What are the fair market value terms for an oil, gas and  
17 coalbed methane lease?

18 A. \$5 per acre per year rental with a one-eighth royalty.

19 Q. And for coalbed methane?

20 A. \$1 per acre per year and a one-eighth royalty.

21 Q. What would be the standard primary term for these leases?

22 A. Ten years.

23 Q. With regard to the unleased owners that are listed on the  
24 M-88 unit force pooling application have you contacted  
25 these land owners or tried to contact them to obtain a



1 ed that it stipulates to the qualifications of Mr.  
2 Albert and accepts him as an expert witness.  
3

4 RANDALL ALBERT

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

8 DIRECT EXAMINATION

9  
10 BY MS. McCLANNAHAN:

11 Q. Has a drilling permit previously been refused to PGP on  
12 any of the tracts that comprise this unit, Mr. Albert?

13 A. No, it has not.

14 Q. Has a well work permit been issued for a well within the  
15 M-40 unit?

16 A. Yes, it has. Permit for well 617 was issued and the  
17 permit number is 2196.

18 Q. For what type of well was the permit issued?

19 A. Coalbed methane.

20 Q. Does the plat attached to the force pooling application  
21 filed by PGP indicate the acreage and the shape of the  
22 acreage to be embraced within the M-40 unit?

23 A. Yes, it does.

24 Q. Could you please identify the exhibit marked for identifi-  
25 cation as Exhibit 7?

1 A. Exhibit 7 is Exhibit B-1 of the M-40 force pooling  
2 application.

3 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
4 Exhibit 7.

5 MR. CHAIRMAN: It's admitted.

6 Q. (Ms. McClannahan continues.) Does the unit follow the  
7 boundary lines of the Hurricane Branch extension 80 acre  
8 unit designated as M-40 as shown on Exhibit B-1?

9 A. Yes, it does.

10 Q. Does the plat attached to the force pooling application  
11 indicate the area within which the well will be drilled  
12 on the M-40 unit?

13 A. Yes, it does.

14 Q. Does the drilling unit embrace two or more separately  
15 owned tracts?

16 A. Yes, it does.

17 Q. Are the costs and expenses for the well set forth on the  
18 detailed well estimate attached to the force pooling  
19 application as Exhibit H?

20 A. Yes, they are.

21 Q. Does this exhibit reflect the cost of drilling the well  
22 to total depth and completed for production costs?

23 A. Yes, it does.

24 Q. Generally how did you calculated the costs that are  
25 listed on this DWE?

1 A. Costs are actual for drilling, estimated for completion.

2 Q. Are you requesting that PGP be designated as the operator  
3 for this particular unit?

4 A. Yes, I am.

5 Q. And also the relief sought in Paragraph 4 of PGP's  
6 application in accordance with the Virginia Gas and Oil  
7 Act?

8 A. Yes, I am.

9 MS. McCLAINNAHAN: Those are all the questions I have for Mr.  
10 Albert.

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

12 MR. MCGLOTHLIN: I have a couple of questions. First of all,  
13 the location of the well, how far is that from the  
14 boundary line or how close is it?

15 MS. McCLAINNAHAN: Mr. Albert will need to get a scale to be  
16 able to tell you that.

17 MR. ALBERT: The well is approximately 182 feet from the edge  
18 of the boundary.

19 MR. MCGLOTHLIN: Wouldn't that not be in the 300 foot drilling  
20 window?

21 MS. McCLAINNAHAN: Let me answer that question. From a legal  
22 standpoint it was permitted previous to the units being  
23 imposed here under statewide spacing rules. So at the  
24 time that well was permitted it was permitted under the  
25 rules of statewide spacing.

1 MR. CHAIRMAN: When was the well permitted?  
2 MS. McCLANNAHAN: We have the permit number, but we don't have  
3 the exact date on that.  
4 MR. ALBERT: It was in the third or fourth quarter of 1992 is  
5 as close as I by memory tie it down.  
6 MR. CHAIRMAN: That was after Oakwood I.  
7 MS. McCLANNAHAN: These are in the Hurricane Branch. And  
8 Hurricane Branch was February 16th of 1993.  
9 MR. CHAIRMAN: Thank you.  
10 MR. MCGLOTHLIN: Now, on your DWE it seems a little bit  
11 excessive on the costs. Could you explain it, please?  
12 MR. ALBERT: As soon as I find it. (Pause.) Exactly what  
13 area do you have a question in?  
14 MR. MCGLOTHLIN: Rule of thumb has always been \$100 a foot  
15 plus 20 percent for me and I usually come up with a ball  
16 park figure and this one seems to be a little bit higher  
17 than what my normal rule of thumb would be.  
18 MR. ALBERT: One thing that cost us a little bit extra on this  
19 one was the site, a very steep hillside. We probably ran  
20 about six or seven thousand dollars more on our site  
21 location here than normal. I have planned, it's not  
22 actually done, but the plan is slightly more expensive  
23 stimulation job than some of the wells we've done in the  
24 past.  
25 MR. MCGLOTHLIN: Could I ask why you put your location and

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

title in the same category?

MR. ALBERT: Well, about the only answer I can give you is  
it's kind of the way we have it set up on the computer.  
I know that's not a very good answer.

MR. MCGLOTHLIN: I don't know how the rest of the Board feels  
but is there any way that you could separate those two  
and give us a title cost, and then give us the location  
cost?

MR. ALBERT: We can show you any type of detail you want. I  
would question the necessity of that. We kind of view  
location and title as those type of costs incurred --  
anything prior to actual start-up of drilling operations

MR. MCGLOTHLIN: I understand. It's just kind of hard to --  
well, the material I can understand. \$23,666.53, I'm  
just kind of wondering is that how much the attorney  
charged you to do the title work or is that -- I know  
it's a combination of both your location and building  
your location and the title. It would just make it a  
little bit plainer to me.

MR. ALBERT: If it pleases the Board, we can break that out in  
the future.

MR. MASON: I think it would be helpful, too, to note what the  
location costs are separate.

MR. MCGLOTHLIN: You could have a \$10,000 title and that's not  
to say that it's unusual, but we don't know how much

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

you're spending to get the exact location done and what  
you're title work is costing.

MR. ALBERT: Certainly.

MR. CHAIRMAN: Other questions? Do you have anything further?

MS. McCLANNAHAN: No, sir, except for the fact I didn't do  
the title.

MR. CHAIRMAN: Under Exhibit 4 in the notebook that you handed  
out there's a Page 2 of your application contained in  
there along with the amended pages of Exhibit C. Was  
there anything changed on that Page 2?

MS. McCLANNAHAN: Yes.

MR. CHAIRMAN: What was changed, the percentages?

MS. McCLANNAHAN: Right, the percentages.

MR. CHAIRMAN: Anything other than percentages?

MS. McCLANNAHAN: Only the percentages in Paragraph 1.4.

MR. CHAIRMAN: Thank you. Anything further?

(Witness stands aside.)

MR. MASON: I move we approve the application.

MR. CHAIRMAN: A motion to approve.

MR. MCGLOTHLIN: Second.

MR. CHAIRMAN: Motion and a second. Further discussion?

If not, all in favor signify by saying yes. (ALL  
AFFIRM.) Opposed say no. (NONE.) Unanimous approval.

ITEM XXVI

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition for  
4 force pooling by Pocahontas Gas Partnership for the N-41  
5 unit. Docket number VGOB-93/04/20-0359. That is agenda  
6 XXVI for the Board's information. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward and identify yourselves at this time.

9 MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas  
10 Partnership.

11 MR. FRANKS: J.C. Franks. I am agent for the Franks estate,  
12 the Metcalf estate and Carl Metcalf property. The N-41  
13 would involve of those only the Metcalf estate. I have  
14 done a work-up that I would like to bring to the atten-  
15 tion of the Board concerning all this property. I did a  
16 blanket because my objections can only be expressed in  
17 overall rather than one pooling at a time because one  
18 pool won't give you the complete story.

19 MR. CHAIRMAN: When you say in the overall, would you tell us  
20 which other units --

21 MR. FRANKS: I have a map identified. It would be the third  
22 sheet down from their proposal. I've outlined the area  
23 that is the Franks estate and the Metcalf estate is this  
24 tract 7-A, Carl Metcalf down here. So we're seeing as an  
25 overall picture involving all of those before I made a

1                    comment. In many cases one pool will be well out of  
2                    balance but the next could bring it back into balance  
3                    overall. I wanted to get an overall picture.

4                    MR. CHAIRMAN: So you plan to address the Board then on three  
5                    different agenda items today?

6                    MR. FRANKS: There are four. Tract N-40, N-41, O-40 and O-41  
7                    are all in this same group.

8                    MR. CHAIRMAN: Okay.

9                    MR. MCGLOTHLIN: Are those the next four agenda items?

10                   MR. CHAIRMAN: Not in that order, no.

11                   MR. FRANKS: See, N-40 involves this portion of the tract, N-  
12                   41 only a slight portion over here, the O-40 a larger  
13                   portion in here and O-41 here. Of course, I'm involved  
14                   in that piece of property there.

15                   MR. CHAIRMAN: Okay. Thank you. You may take a seat over  
16                   there where you can address the Board. You may proceed.

17                   MR. FRANKS: What I have done as I have received information  
18                   from Mr. Arrington I have tried to get an overall  
19                   picture. And just recently I got the balance of the  
20                   tracts that I'm involved with except for one which I  
21                   stated in here that I have omitted. So I --

22                   MR. CHAIRMAN: Excuse me one second. Really what we need to  
23                   do is let them put on the case and then give you an  
24                   opportunity to raise questions and then give you an  
25                   opportunity to address the Board, if that's okay.

1 MR. FRANES: That's fine.

2 MR. CHAIRMAN: But you can stay right there.

3 MS. McCLANNAHAN: The first witness I'd like to call is Leslie  
4 K. Arrington. His resume is at Exhibit 1. The Board has  
5 indicated that they will stipulate to his qualifications  
6 and accept him as an expert witness.

7 MR. CHAIRMAN: I just realized that they brought the food in.  
8 We're going to take ten minutes and then we'll pick back  
9 up right here.

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

11  
12 LESLIE ARRINGTON

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

15  
16 DIRECT EXAMINATION

17  
18 BY MS. McCLANNAHAN:

19 Q. Mr. Arrington, have you given notice as required by  
20 Virginia Section 45.1-361.19 to each person or entity  
21 identified on Exhibit C of the force pooling application?

22 A. Yes, we have.

23 Q. And is that hearing notice identified as Exhibit 2?

24 A. Yes, it is.

25 MS. McCLANNAHAN: I move the introduction of Exhibit 2.

1 MR. CHAIRMAN: It's admitted.

2 Q. (Ms. McClannahan continues.) Was this notice of hearing  
3 mailed by certified mail, return receipt requested, to  
4 all those parties listed on Exhibit C?

5 A. Yes, it was.

6 Q. Are those certified mail receipts shown at Exhibit 3?

7 A. Yes.

8 MS. McCLANNAHAN: I move the introduction of Exhibit 3.

9 MR. CHAIRMAN: It's admitted.

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

12 A. No. However, we published it the Virginia Mountaineer  
13 and Bluefield Daily Telegraph on April 1st and March  
14 26th, 1991.

15 Q. Were those proofs of publications previously submitted  
16 to the Board?

17 A. Yes, they have been.

18 Q. What percentage of the coal rights in the tracts that  
19 comprise the N-41 unit does PGP control?

20 A. 100 percent of all coal below the Tiller seam.

21 Q. What percentage of the oil and gas rights in the tracts  
22 that comprise --

23 A. 97.170 percent.

24 Q. What percentage of the coalbed methane gas rights?

25 A. 100.

1 Q. Are the unleased owners and the lease hold owners listed  
2 on Exhibit D of the N-41 unit force pooling application  
3 with percentages of ownership in the respective tracts?

4 A. Yes, they are.

5 Q. Is the information on Exhibits C, D and E still correct?

6 A. No, it isn't.

7 Q. What appropriate changes have you made to those exhibits?

8 A. We have revised the exhibits to reflect a conflicting  
9 claim on one of the tracts listed to reflect additional  
10 owners.

11 Q. Are the conflicting claimants -- is that Exhibit C shown  
12 at Exhibit 4?

13 A. Yes, it is.

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

15 MR. CHAIRMAN: It's admitted.

16 Q. (Ms. McClannahan continues.) Are the conflicting  
17 claimants whose funds are to be escrowed listed on the  
18 revised Exhibit E submitted as a part of Exhibit 4?

19 A. Yes.

20 Q. Are you requesting that the Board pool the interest of  
21 the parties listed on Exhibit C?

22 A. Yes, we are.

23 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
24 Arrington.

25 MR. CHAIRMAN: Did any of the percentages change under

1 Paragraph 1.4 in the application?

2 MS. McCLANNAHAN: No.

3 MR. CHAIRMAN: Any other questions, members of the Board? Do  
4 you have any questions, Mr. Franks, of this witness?

5 MR. FRANKS: No.

6 (Witness stands aside.)

7 MR. CHAIRMAN: Call your next witness.

8 MS. McCLANNAHAN: My next witness is Mr. Ron Wood. Again, his  
8 resume should be substituted for Mr. Gillenwater's resume  
10 at Exhibit 5. The Board has indicated that it stipulated  
11 as to the qualifications of Mr. Wood and accepts him as  
12 an expert witness.

13  
14 RON WOOD

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

17  
18 DIRECT EXAMINATION

19  
20 BY MS. McCLANNAHAN:

- 21 Q. Mr. Wood, what are the fair market value terms for an  
22 oil, gas and coalbed methane gas leases in the area of  
23 the unit M-41??  
24 A. \$10 per acre per year rental with a one-eighth royalty,  
25 Q. And for coalbed methane gas lease?

- 1 A. \$1 per acre per year and a one-eighth royalty.
- 2 Q. What is the standard primary term for such a lease in
- 3 this unit area?
- 4 A. Ten years.
- 5 Q. With regard to the unleased owners that are in N-41 force
- 6 pooling application have you contacted the land owners
- 7 or tried to contact them to obtain a lease?
- 8 A. Yes, we have.
- 9 Q. By what method did you contact them and offer the lease?
- 10 A. Verbal and/or certified mail.
- 11 Q. Were they willing to enter into a lease agreement with
- 12 your company?
- 13 A. Not at this time.
- 14 Q. With regard to the lease hold owner Cabot Oil & Gas
- 15 that's listed on the N-41 unit force pooling application
- 16 did you contact them regarding an assignment of its
- 17 lease hold interest?
- 18 A. Yes, we did.
- 19 Q. By what method did you contact Cabot?
- 20 A. Verbal.
- 21 Q. And were they willing to come to an agreement as to the
- 22 proposed assignment?
- 23 A. Not at this time.
- 24 MS. McCLANNAHAN: Those are all the questions I have for Mr.
- 25 Wood.

1 MR. CHAIRMAN: Questions, members of the Board? Do you have  
2 any questions, Mr. Franks, for Mr. Wood?

3 MR. FRANKS: I was trying to read this conflicting claims. I  
4 has been changed. I'm trying to add it up. I think a  
5 made a comment over here. We don't agree and I under-  
6 stand the Board don't have any authority in legal  
7 matters concerning deeds. But we do have objections to  
8 the conflicting claims portion of the 7-A property due to  
9 the fact that we believe the claim is an erroneous claim  
10 based on the deeds from 1915 which supposedly passed gas  
11 rights on and the deed of 1915 is stated as, "This deed  
12 is for surface only." I have a copy of that deed and I  
13 have a portion of the petition deed which the commission-  
14 ers of Buchanan County distributed the property of G.W.  
15 Cole in 1932 which lists the 7-A tract as coal and  
16 minerals. And in the deed that is suppose to have  
17 brought up the conflict of 1915 it was a sale of the  
18 surface only. I can give you a copy of those just for  
19 references.

20 MR. MASON: Are these listed as conflicting claims?

21 MR. McELANAGHAN: Yes, sir.

22 MR. MASON: You understand that all we can do is make sure  
23 they're listed as conflicting claims and none of the  
24 money would be spent until such time as that's resolved?

25 MR. FRANKS: We believe this is a previllous claim and we want

1 to pursue it to prevent the hold up of the payment if  
2 they become due before we can get it resolved. But  
3 just wanted to point out that --

4 MR. MASON: Do you all deny --

5 MS. McCLANNAHAN: My client, Pocahontas Gas Partnership, has  
6 received a titled opinion from a title examiner who has  
7 indicated to them that these should be listed in the  
8 conflicting claimants ownership section because the  
9 lawyer feels like there's an interpretation question.  
10 Did I state that correctly, Mr. Arrington?

11 MR. ARRINGTON: Yes, you did.

12 MR. CHAIRMAN: Anything further?

13 MR. FRANKS: No. I understand why he's doing it. I just  
14 think it's based on a previllous claim.

15 MR. CHAIRMAN: I understand.

16 MR. CHAIRMAN: You may call your next witness.

17 MS. McCLANNAHAN: One other quick question just to clear this  
18 up on M-41 for Mr. Arrington.

19 Q (Ms. McClannahan continues.) Mr. Franks has submitted a  
20 memo to the Virginia Gas and Oil Board in this hearing  
21 dated 4/19/93 and he indicated in Paragraph 3 of that  
22 memo on Page 2 that the tracts identifications were  
23 incorrect on the original application. Have you correct-  
24 ed those and submitted them to the Board correctly at  
25 this point?

1 A. Yes, we have. Exhibit 7, that is a corrected B-1 plat  
2 showing the conflicting tracts.

3 (Witness stands aside.)

4 MS. McCLANNAHAN: The next witness I'd like to call is Mr.  
5 Randall Albert. Mr. Albert's resume is at Exhibit 6.  
6 The Board has indicated that it stipulates to his  
7 qualifications and accepts him as an expert witness.

8  
9 RANDALL ALBERT

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

12  
13 DIRECT EXAMINATION

14  
15 BY MS. McCLANNAHAN:

16 Q. Mr. Albert, has a drilling permit previously been refused  
17 to FGP on any of the tracts that comprise this particular  
18 unit?

19 A. No, they have not.

20 Q. Has a well work permit been issued for a well contained  
21 within the N-417?

22 A. Yes. The permit for well 610 was issued as permit  
23 number 2121.

24 Q. For what type of well was the permit issued?

25 A. Coalbed methane.

1 Q. Does the plat attached to the force pooling application  
2 filed by FGP indicate the acreage and the shape of the  
3 acreage to be embraced within the N-41 unit as approved  
4 by the Board at its February 16th, 1993 hearing?  
5 A. Yes, it does.  
6 Q. The exhibit marked for identification as Exhibit 7, as  
7 Mr. Arrington has indicated, is a revised Exhibit B-1  
8 based on the conflicting claims, is that correct?  
9 A. That's correct.  
10 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
11 Exhibit 7.  
12 MR. CHAIRMAN: It's admitted.  
13 Q. (Ms. McClannahan continues.) Does the unit as it's shown  
14 on Exhibit B-1 follow the boundary lines of the Hurricane  
15 Branch extension 80 acre unit designated as N-41 as shown  
16 on Exhibit B-1 of the application?  
17 A. Yes, it does.  
18 Q. Does the plat attached to the force pooling application  
19 filed by FGP indicate the area within which the well will  
20 be drilled on the N-41 unit?  
21 A. Yes, it does.  
22 Q. Are you requesting that FGP be designated as well  
23 operator authorized to operate this unit?  
24 A. Yes, we are.  
25 Q. Does the drilling unit embrace two or more separately

1 owned tracts?

2 A. Yes, it does.

3 Q. Are the costs and expenses of this well set forth on the

4 DWE attached to the force pooling application as

5 Exhibit H?

6 A. Yes, it is.

7 Q. Does this exhibit reflect the cost of drilling the well

8 to total depth and completed for production costs?

9 A. Yes, it does.

10 Q. Generally how did you calculate the costs?

11 A. Costs are actual for drilling, estimated for completion.

12 Q. Are you requesting the relief sought in Paragraph 4 of

13 PGP's application?

14 A. Yes, I an.

15 MS. McCLANNAHAN: Those are all the questions I have for Mr.

16 Albert.

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

18 MR. EVANS: One real quick question. Elizabeth, I don't know

19 who you want to answer this, but in the Oakwood extension

20 would you please have someone who knows tell me how many

21 units have been proposed for -- either have a well in

22 them or are being force pooled just by grid coordinate

23 N-41, O-41? Do you have that?

24 MS. McCLANNAHAN: Do you mean in the Hurricane Branch Extension

25 or the entire Oakwood extension? Just the Hurricane

1 Branch Extension?  
2 MR. EVANS: Right. From L-40 to T-45.  
3 MS. McCLANNAHAN: There are seventeen units with wells already  
4 drilled.  
5 MR. EVANS: Would you mind terribly reading them off?  
6 MS. McCLANNAHAN: Let's make sure we're answering the question  
7 right. These are the units that have a well previously  
8 drilled in the Hurricane Branch Extension area, is that  
9 correct?  
10 MR. EVANS: That you're request a force pooling and plan to  
11 drill in the near future.  
12 MR. ARRINGTON: Force pooled or drilled?  
13 MR. EVANS: Drilled. Let's go with what's there.  
14 MR. ARRINGTON: I'll start at the top of the Hurricane Branch  
15 units. It will be L-40, L-41, M-40, M-42, N-40, N-41,  
16 N-42, O-40, O-41, O-42, P-40, P-41, P-42, Q-40, Q-41, Q-  
17 42, R-40, R-41, R-42, S-40, S-41, S-42.  
18 MR. CHAIRMAN: Other questions?  
19 MS. McCLANNAHAN: Mr. Franks says that's twenty-two units.  
20 MR. ARRINGTON: That's right. It is. I understood him  
21 initially to say force pool units.  
22 MS. McCLANNAHAN: So the answer is seventeen for force pooling  
23 and twenty-two for wells drilled.  
24 MR. CHAIRMAN: Any other questions, members of the Board? Do  
25 you have any questions of this witness?

1 MR. FRANKS: No, I have none.

2 (Witness stands aside.)

3 MR. CHAIRMAN: Do you have anything further, Elizabeth?

4 MS. McCLANAHAN: No. I don't have any further questions nor  
5 witnesses on this particular force pooling application.

6 MR. CHAIRMAN: Mr. Franks, you may now address the Board.

7 MR. FRANKS: I'm J.C. Franks and I'm agent for the owners of  
8 certain mineral rights and gas rights in this pool and  
9 also other pools. I'd like to represent my interest at  
10 this meeting. I am retired from Brunswick Corporation.  
11 I spend thirty years there and retired as a project  
12 engineering group leader and senior project engineer. I  
13 had considerable experience in this -- well, in tooling  
14 and calculation type fields previous. My basic expertise  
15 at Brunswick was in tooling, but aircraft tooling and  
16 that sort of thing including optics, transit readouts and  
17 things like that. I have prepared an overall view of the  
18 area in which I'm interested. Would you like for me to  
19 read this letter or just -- I think you can read it.

20 MR. CHAIRMAN: I don't think it's necessary to read it to us.

21 You've utilized a map. Will you be referencing this?

22 MR. FRANKS: Yes.

23 MR. CHAIRMAN: I would ask PGP if they would stipulate as to  
24 the accuracy of the map. Do you have any problem with  
25 that?

1 MR. ARRINGTON: Mr. Franks and myself have worked to develop.

2 As you can see, there's a few double lines on here.

3 That's my map overlaying on his. So it should be pretty  
4 accurate.

5 MR. CHAIRMAN: For demonstration purposes is what we're asking

6 for you to stipulate that this is an accurate map.

7 MR. ARRINGTON: For demonstration purposes, yes. We'll  
8 stipulate that.

9 MR. FRANKS: For the Board's use in seeing what was done, this

10 is the map provided to me by Mr. Arrington with the

11 coordinates as I mentioned on my letters for the PGP

12 coordinates and our tract lines. He developed that from

13 a copy of this one which I have. And in overlaying this

14 of course, paper moves, paper shrinks and paper expands.

15 I overlaid it and the purple line is a correction to this

16 map so that I would be utilizing a common line for my

17 measurements. You can see it would be very slight.

18 MR. McCLAINAHAM: We probably should distinguish between the

19 map versus the attachments on the submission just to make

20 sure we're stipulating to the accuracy of the map.

21 (Pause.) Should these be exhibits in the record also?

22 MR. CHAIRMAN: I'm going to see what he's going to do with

23 them. If you're just going to use that to show how you

24 came up with this and they've stipulated to this then I

25 don't think there's any reason to introduce them.

1 MR. FRANKS: I want to illustrate to you the differences we're  
2 talking about the two and he's using the one map, that  
3 there's very slight difference. I think it's simply a  
4 matter of expansion and shrinking the paper, a couple of  
5 things like that. But I have extended his map in a  
6 couple of areas to cover what I want. Also I laid out a  
7 circle from the drill sites and I used the 2,000 foot  
8 diameter as in his previous submission to maps to me and  
9 I found out that the 2,000 foot was for notification  
10 purposes and not necessarily wells. I also chose a 2,100  
11 foot diameter to represent 80 acres -- 80 acres per pool  
12 -- and this doesn't mean the well is going to drain that  
13 This is simply an arbitrary I used to demonstrate the  
14 potential drained areas. I put the same weight on each  
15 and all wells. Where there's an overlap there's no  
16 factor thrown in. It was just straight numbers and  
17 figures that I get. The attachment B which would be the  
18 last five sheets of the calculated numbers that I have --  
19 sheet one of five of attachment B is the concern on this  
20 tract T-A because that is the Metcalf estate interest.  
21 And this is the individual wells that by that 80 acre  
22 pool protrude into these tracts. As shown here, the  
23 potential loss is a 30.3 percent of one well -- of the  
24 equivalency of one well.

25 MR. McCLANAHAN: Maybe it would help if -- I understand what

1 point he's making. So just let me make sure -- I think  
2 can say this and you correct me if I say this wrong. I  
3 think his point with this is that if you assumed a  
4 statewide spacing and a circle radius of 1,000 feet  
5 around this well you assume that that's the proper  
6 drainage as opposed to the 80 acre unit from using the  
7 well bore as your center then his figures are calcula-  
8 tions based on what the individuals in that unit should  
9 get on a 1,000 center versus what they're getting on the  
10 80 acre square within which the well is drilled.

11 MR. FRANKS: That is correct. And there are some of these  
12 pools that the enclosed area of the involved tract would  
13 be given a greater amount than my calculations would show  
14 the well potential to be, as in N-40, PGP's calculation  
15 was 21.728 acres in tract 7-A. My calculations were  
16 slightly under that, but if I include the wells going to  
17 the 80 acre circle I end up with a total of eighteen. So  
18 I'm under what they would be paying for. But when you  
19 get into the overall the N-40, N-41, O-40 and J-41  
20 combination it turns out to be a loss in the 80 acre  
21 squares. In other words, as far as our gain or loss we  
22 would gain eight and a half percent of one well equival-  
23 ency. In pool N-40 we would be very close -- we would  
24 lose less than two percent in N-41 but we would lose 26  
25 and a half percent in O-40 and we would gain a little

1 over six in 0-41.

2 MR. MASON: I'm having some difficulty with following this.

3 MR. FRANKS: I beg your pardon. I was reading the wrong list.

4 MR. MASON: I'm just trying to get the concept down. Essentially  
5 ially what you're saying basically is it not a comparison  
6 of the effect of going from statewide minimum spacing on  
7 a circle basis to an 80 acre square spacing?

8 MR. CHAIRMAN: He's challenging the extension. The 80 acre  
9 spacing.

10 MR. FRANKS: Essentially that's it and I have no qualms about  
11 going to the squares. I think this is an effort to make  
12 it more equitable and cover people that can't be covered  
13 under a circle. But one would hope that where you have  
14 several pools involved that where you lose on one and  
15 gain on another the overall would be very close to a  
16 balance. That's what I'm seeking and that's all. But on  
17 all of the property that I'm involved with there's a  
18 potential loss of 78 percent of the equivalency of one  
19 well. For my family's property alone we're fairly close  
20 but on the Metcalf estate we're 30 percent under.  
21 That's in attachment B. Attachment B sheets two and  
22 three is basically my family's estate and we are within  
23 little over eleven percent.

24 MR. MASON: But isn't it true that -- I mean, the theory of  
25 this, statewide spacing, that that is an overall drainage

1 pattern that we have through testimony in this particular  
2 case determined to be not accurate or rather that the 80  
3 acres, in fact, represents the true drainage prediction  
4 in a general way in this area.

5 MR. FRANKS: Are you saying the State has determined that 80  
6 acres is the approximate drainage of a well?

7 MR. MASON: No. We're saying that this Board has by virtue of  
8 the expert testimony that's been presented -- jump right  
9 in here if I get off track. It appears to me that we have  
10 in at least two occasions, I believe, received testimony  
11 to the effect that the actual drainage pattern of the  
12 coalbed methane in this area is approximately an 80 acre  
13 effect and that information is considered to be relative-  
14 ly accurate primarily based upon the fact that they were  
15 able to study some of the hydro-fracturing patterns by  
16 going into a mine. In fact, I think someone actually  
17 used dye, did they not, and fracked out a seam and then  
18 went into and they could actually view the fracture. Did  
19 I dream that?

20 MR. CHAIRMAN: No, you didn't dream it.

21 MR. MASON: So there's some pretty hard data for the fact that  
22 the drainage pattern of the wells is really 80 acres,  
23 not the larger acreage that would be done under statewide  
24 spacing.

25 MR. FRANKS: Well, I'm glad to hear you say that because my

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

2,106.4 feet diameter is the 80 acres that I used for each well. However, with overlaps anyone can understand it's going to vary.

MR. MASON: Right. I understand. So the second point as I understand you're making is the effect of not centering these wells in each 80 acre tract produces an overlap --

MR. FRANKS: Yes.

MR. MASON: -- that has effected diminishing particularly where there are trends in which those wells tended to be not like in the corner of one unit, another unit, another unit as opposed to having them back and forth in some average way. Is that --

MR. FRANKS: That's a part of the overall problem, yes. In my little reduced size map I have colored in pink or red two pools -- the pooling requirements, 80 acre pools -- P-39 and Q-39 in which I show this 80 acre circle protruding into those pools a substantial percentage of their total area but they receive absolutely nothing.

MR. MASON: Looking at your map, this one and this one, where are the actual wells? In the center?

MR. FRANKS: At the center of that circle the P-39 is being drained by well 400 in P-40. The Q-39 is being drained by both well 400 and P-40 and 422 in R-39. So the potential 80 acre drainage pattern would be those pink patterns. And there are no payments to be made for P-39

1 and Q-39 because there are no wells involved. Now, the  
2 yellow version is the overlapping areas that are not paid  
3 in that pool because the well is in a separate pool. But  
4 this is overlapping areas in a lot of cases. The reason  
5 I colored those pink and the others yellow, those pink  
6 are in pools which will receive no benefits. And the  
7 others, they may or may not receive a benefit but this is  
8 overlapping into other pools from paying pools.

9 MR. MCGLOTHLIN: Let me ask Mr. Albert. Does PGP plan to  
10 drill P-39 and Q-39 any time or anytime in the near  
11 future?

12 MR. ALBERT: We have no drilling plans in that area for at  
13 least the next couple of years.

14 MR. MCGLOTHLIN: Mr. Franks, the squares, they're perfect if  
15 every one is drilled?

16 MR. FRANKS: That's correct. Well, not necessarily perfect  
17 but you would get a better balance. You'd get a much  
18 better balance.

19 MR. MCGLOTHLIN: That's as close as we're going to get to  
20 perfect.

21 MR. MASON: Well, the theory is an averaging effect.

22 MR. FRANKS: The reason I broke this up into attachment A and  
23 attachment B, attachment A I went through strictly by  
24 pool and I do have some separations due to the split in  
25 interest that I represent. But I looked at that and tha

1 didn't tell me the whole story so I went into attachment  
2 B segregating the interest I represent by well indicating  
3 which pool the interest came from. You'll note in the  
4 first two columns the PGP numbers and my numbers, there  
5 will be only one or two lines filled out. That's the  
6 paying pool. The other pools -- the pools with no values  
7 in them for PGP or myself are the areas that are outside  
8 the paying pool. All four of these pools are involved in  
9 each one of these, but you'll notice at well 608 while  
10 PGP puts a value of 27.15 percent I put only 25.3, but  
11 the overlapping well involvement would be 63.6 percent.

12 MR. MASON: I was just going to ask Mr. Albert, is there any  
13 geological reason why these other units aren't going to  
14 be drilled? Is there a diminishment of pay or something  
15 in there?

16 MR. ALBERT: No, sir. There's no geological --

17 MR. FRANKS: It's the mining patterns as I understand it.

18 MR. ALBERT: It has to do with the mine plan on it and where  
19 the wells upon the mine plans. I think the thing that  
20 got us in particular on some of these units where we  
21 could have tried to get them into the P-39 or the Q-39  
22 was upper seam mining constraints. It just didn't allow  
23 us to get in those areas.

24 MR. FRANKS: Considering upper seam mining at present, in the  
25 P-39 the lower half of that is presently open for

1 drilling. In Q-39 the upper half is on a more or less  
2 diagonal corner to corner. The very lower west corner  
3 would not be. That has not been mined. But the mining  
4 plans, of course, have dictated a lot of this and I can  
5 certainly understand that.

6 MR. CHAIRMAN: When you set aside the pink area -- I'm just  
7 asking you here. I know it may not have anything to do  
8 with this particular unit, but when you set aside the  
9 pink area did your equitable ratio -- did you do any of  
10 that to set aside the pink and then balance it having set  
11 aside the pink area but where there were wells? Did that  
12 balance out?

13 MR. FRANKS: Well, that's what my figures try to do because I  
14 have involved -- in fact in my attachment A I have  
15 listed the P-39 but I listed as it as no well in the  
16 pool. So that has a value of its own. Attachment A,  
17 sheet two of five. In P-39 you'll notice I have tract  
18 one which is a separate party and then I have tracts two  
19 three and eight. But two, three and eight have a  
20 potential 20 -- almost 25 percent of one well's value.

21 MR. CHAIRMAN: Do you have a specific request for this Board?

22 MR. FRANKS: I would request that the Board consider the  
23 possibility of grouping larger areas to try to balance  
24 this out. Now, I have no idea what your rules would  
25 permit but I do think where there's an imbalance there

1           should be -- if the larger block area could be balanced  
2           and equalized a little more.

3       MR. CHAIRMAN: Other questions?

4       MR. FRANKS: I don't believe Pocahontas Gas has the authority  
5           or any means of handling this beyond looking at the  
6           mining requirements, the terrain requirements, and  
7           everything else. It's difficult. From N through R-40  
8           over to -- we're involved over to the 36 column. If a  
9           larger area in there was put in the blanket. I  
10          understand there may be future drilling in some of these  
11          areas after they've done some of the initial mining. I  
12          don't know. But my concern is if they drain for several  
13          years before drilling is done in those pools then there  
14          may be very little left to drill for.

15       MR. CHAIRMAN: Well, I know Mr. Franks clearly understands  
16          that we already have field rules overlaying this area.  
17          And he is certainly bringing clearly an inequity that  
18          occurs where you have drainage in an area where another  
19          well is not going to go.

20       MR. FRANKS: I have highlighted on my charts the ones that are  
21          of any particular significance out of balance. And you  
22          will notice starting on Attachment A, Sheet 1, the N-40  
23          pool -- that negative number at end, the negative 8.45  
24          percent would actually be a gain to the parties I  
25          represent. Negative means my measurement of the well

1 circular pools themselves would be less than what is  
2 involved. So we would gain 8 percent there. The N-41 is  
3 almost in balance. The O-40 we would lose 26. The  
4 Franks Estate portion would gain 6 percent. And that is  
5 why I have highlight these, because they are significant.  
6 And on Sheet 3 we would lose on the top couple of  
7 highlighted numbers and at the P-40 pool we would gain 33  
8 percent. That is why I went to giving the overall  
9 balance -- that's why I say, when you look at one or two  
10 pools at a time you don't get the overall. I had to put  
11 the whole thing together to get the answers.

12 MR. CHAIRMAN: Well, obviously all parties have been discuss-  
13 ing this. Have you any recommendations to the Board that  
14 you have gotten close to an agreement on or anything like  
15 that?

16 MS. McCLANNAHAN: Well, I believe my client's position on this  
17 is that if the Board wants to consolidate more than one  
18 of these units to protect Mr. Franks principals' interest  
19 then my client doesn't have any feeling of opposition  
20 about that. My client does have a royalty interest in  
21 certain of these units, so certainly their royalty  
22 interests would be affected also. However, they have  
23 taken the position that Mr. Franks clients or principals  
24 are of enough merit that we certainly would agree with  
25 the Board if it -- I should say we would not oppose the

1 Board combining any of these units to facilitate Mr.  
2 Franks' position.

3 MR. FRANKS: I would like to state here that the Franks'  
4 Estate interest in the low drainage coal and gas is 50  
5 percent. And Consolidation Coal, which is of course  
6 PGP, has the other 50 percent. So we have mutual  
7 interest all the way down on the Franks' Estate. The  
8 Carl Metcalf Estate, they do not. His is an individual  
9 interest all the way down. The Metcalf Estate is a 1/4  
10 interest in Tract 7-A. And my feeling is that the Consol  
11 interest there is 1/2, although I can't understand as I  
12 stated in my letter a conflict of interest in the other  
13 half that they are talking about.

14 MS. McCLANNAHAN: Mr. Chairman, with regard to your question  
15 as to coming to an agreement -- because these have to be  
16 force pooled as a result of conflicting claims it would  
17 be impossible for us to enter into a voluntary pooling  
18 agreement by which we could make the payments. So we  
19 really are all subject to the Boards' wishes on this  
20 particular issue. It's not that we haven't been able to  
21 come to an agreement. It's just that we simply can't  
22 make an agreement which would cover all the interests  
23 that would be necessary to cover for this particular --

24 MR. EVANS: Mr. Chairman, this goes back to the whole idea  
25 behind field rules. They are predicated on some type of

1 an averaging as Mr. Mason said -- some type of averaging  
2 situation. I think what you are asking us is to make  
3 field rules or make units within a field that has already  
4 been designated with field rules. And your problem, as I  
5 see it, comes to the fact that a well is not dead  
6 centered in that 80 acre unit. That there is a drilling  
7 window and that drilling window allows that well to be  
8 shifted somewhere outside that dead center 80 acre unit.  
9 In the middle of the square and that's the only place  
10 that that well can go, but that's not the way it is.

11 MR. FRANKS: No. There are some of these that are very  
12 close. That's where the big difficulty comes in. As  
13 long as they are within reason. But the coal mining  
14 considerations, the blocks underneath are dictating  
15 moving a lot of these, as well.

16 MR. MASON: It's a combination of the off-centered plus the  
17 fact that several of these units aren't being drilled.  
18 Because you would pick up the imbalance.

19 MR. EVANS: Any system that we would devise is -- the grid  
20 system was i) it solved some problems.

21 MR. FRANKS: If you take each one of the problems in itself  
22 and it's very reasonable and very understandable. When  
23 you get them combined they kind of creates --

24 MR. EVANS: It creates different -- in talking about the  
25 particular to the general. If we do what I think you

1 are proposing that we do, it creates another problem. It  
2 will solve your problem, but it will create another  
3 problem.

4 MR. FRANKS: It puts the onus on your to do it again.

5 MR. EVANS: It puts the onus on us to do it every time for  
6 every specific case. And there is no more orderly --

7 MR. FRANKS: And I understand that difficulty, also.

8 MR. EVANS: I guess when it comes right down to it I think,  
9 speaking for myself, while there is no system that is  
10 perfect there has to be some system rather than -- or an  
11 orderly system that everybody can, at least, understand  
12 and, if you will, take advantage of. And that is the  
13 only way I can phrase that for everyone.

14 MR. FRANKS: I don't believe they tried to take advantage in  
15 this thing at all, because I think the people doing the  
16 mining we placing it and the topography of the land  
17 dictates some movement. And I think all of this was very  
18 legitimate. It was just the amount of the inequity when  
19 I balanced all of these that I am involved with.

20 MR. EVANS: What we you have us to do, sir?

21 MR. FRANKS: Well, I would rather have PGP get with you on how  
22 they would feel more comfortable with any balance that  
23 you could live with. Because I wouldn't want to dictate  
24 anything. As you will notice in my Attachment B, Sheets  
25 2 and 3, at the end of Sheet 3 there is 11.39 percent

1 imbalance on the Franks' Estate portion. That is a very  
2 close amount. There's really not a huge significance.  
3 BUT when I go to the Carl Metcalf portion there's 36  
4 percent. Now, since we are only half of this 11.39 --  
5 half of it is us and half of it is Consol -- so we are  
6 5.695 percent for 9 wells. That is, I think, a pretty  
7 good balance. But when I look at the overall of the  
8 other two parties, as well, we are at 78 percent.

9 MR. MCGLOTHLIN: Mr. Franks, the parties that you are re-  
10 presenting here today, they have not leased their coal  
11 interests?

12 MR. FRANKS: Yes. We have a lease with Consol for our half of  
13 the coal, the Pocahontas 3. They have a lease for our  
14 half. And we have a lease for their half of the Jawbone  
15 above. 30 We have been working together for some years  
16 now and trying to make it mutually beneficial to every-  
17 body.

18 MR. MCGLOTHLIN: Mr. Franks, how long have you been working  
19 with PGE on this?

20 MR. FRANKS: We have been in communications rather frequently.

21 MR. ARRINGTON: Ever since we started working the Hurricane  
22 Branch Extension.

23 MR. MCGLOTHLIN: Before the Hurricane Branch?

24 MR. ARRINGTON: Yes.

25 MR. MCGLOTHLIN: So you kind of knew that this would pop up in

1                   our logs, didn't you?

2           MR. FRANKS: I have been bringing the question up, but until  
3                   we get a summary like this no one really understood what  
4                   the amount would be. I had written a letter to Mr.  
5                   Gillenwater concerning some of these and asking if there  
6                   were, in fact, more wells proposed and what the time  
7                   cycle might be. And, of course, he could not answer  
8                   that. But he did recognize there was this potential

9           MR. MCGLOTHLIN: That's the easiest way I see to resolve the  
10                   problem is for PGP to put down a couple more wells in the  
11                   area.

12          MR. ALBERT: PGP would consider that as long as we could  
13                   recoup the cost of it.

14          MR. CHAIRMAN: I certainly commend you for a lot of hard work.  
15                   I think one thing it does for the Board is help further  
16                   our education on any of the considerations for field  
17                   rules and other things. We had looked at this. We had  
18                   had discussions along these lines when we adopted the  
19                   rules, as you have heard many of the Board members say.  
20                   We recognize that total equity didn't exist under almost  
21                   any scenario we raised. But we felt like the 80 acre  
22                   square was the most equitable overall. Those field  
23                   rules are certainly subject to a petition to change based  
24                   on whatever. An evidence of what is happening is  
25                   certainly part of the consideration.

1 MR. FRANKS: This is kind of a balanced argument going back  
2 against what I am showing here, but in my opinion in  
3 these overlapping areas the potential of receipt from  
4 each well has to be diminished somewhat. And as I said  
5 before I didn't factor any of this in. If you have one  
6 well standing out by itself, of course, you are going to  
7 get a good drainage volume from that well. Where you  
8 have overlaps you are bound to have a loss generated  
9 somewhere because you can only drain it one time. But I  
10 have no factor in that and I don't have a valve I can  
11 regulate that diameter with.

12 MR. EVANS: It depends on how the frack job goes, too. The  
13 geology of that particular well bore, the frack job that  
14 is done, how it does turn out. There are any one of a  
15 number of variables that are, in essence, uncontrolled.  
16 Not in the context that there is absolutely no control,  
17 but in a lot of cases there is control policy.

18 MR. FRANKS: I think you can do all you can to determine what  
19 is going to happen, but once you do it Mother Nature will  
20 decide whether it will come from here or over here  
21 anyway.

22 MR. EVANS: That is exactly my point. We don't get to put an  
23 arbitrary line or any kind of a line on any kind of a  
24 piece of paper that nature pays any attention to. But  
25 we have to do the best that we can.

1 MR. CHAIRMAN: Let me ask another question. The reason that  
2 brings you here initially is the conflicting claims  
3 issue?

4 MR. FRANKS: Well, that is a portion of it. The conflicting  
5 claims is related --

6 MR. CHAIRMAN: I mean, that is the only reason that brings  
7 you to the Board for the force pooling? That is what  
8 caused the force pooling, right?

9 MR. FRANKS: Well, this is not a force pool. Everybody has  
10 signed here. The conflicting claims came up in a deed  
11 that PGP's attorneys found on record that gave them cause  
12 to think there could be a conflict. And that's the  
13 reason I gave you copies of that. I don't think it does  
14 but --

15 MR. CHAIRMAN: And that conflicting claim issue -- is it  
16 correct to assume that the ability to resolve the  
17 conflicting claim is within the parties abilities that  
18 are here at this table today?

19 MR. FRANKS: No. I think there would be other people  
20 involved.

21 MR. McCLANNARAN: There are unleased parties in this unit. Is  
22 that your question?

23 MR. CHAIRMAN: Well, I am trying to go straight at the heart  
24 of the conflicting claims. Where I was headed was to  
25 say, if you didn't have the conflicting claim you

1 wouldn't be running into the Board order and you would be  
2 able to have a voluntary agreement among the parties to  
3 take care of whatever you needed to take care of.

4 MS. McCLANNAHAN: No, because there are unleased parties in  
5 the unit.

6 MR. FRANKS: And that conflicting claim is only on the one  
7 tract involving the Metcalf Estate. All four of these  
8 pools that you are looking at today that I am involved  
9 with, the N-40, N-41, O-40 and O-41, are involved in  
10 Tract 7-A, which is the portion of the conflicting claim

11 MR. CHAIRMAN: I was just trying to see if we could send you  
12 away to work harder, but that is not going to get it  
13 either.

14 MR. FRANKS: Well, I came in here not knowing what can be  
15 done, but I just wanted to point that out.

16 MR. HOGLOTHLIN: It kind of seems the argument about the  
17 equitable squares and circles -- it's probably an  
18 argument that we should have heard when the extension was  
19 -- when we did the field rules instead of bringing it to  
20 us at this point.

21 MR. MASON: I think it is an inevitable part.

22 MR. FRANKS: Until you get the coordinates of the wells and  
23 the information you can't sit down and do it.

24 MR. HOGLOTHLIN: Since you had been working with PGP prior to  
25 that it might have been a good time to bring it up.

1 MR. ALBERT: Mr. Chairman, if I might remind the Board once  
2 again -- and, again, no disrespect -- but this is an item  
3 that I personally and my company brought to the table  
4 during Oakwood II. That somehow this system with trying  
5 to merge it in with an active degasification plan in a  
6 mine that these problems were going to occur. So with  
7 due respect to Mr. McGlothlin I think these issues have  
8 been raised before the Board before. Certainly nothing  
9 we have done on our part -- we see it as a problem. We  
10 don't feel like we have it within our authority or means  
11 with what we have to work with here to resolve this issue  
12 with Mr. Franks.

13 MR. CHAIRMAN: Well, we acknowledge that it was brought  
14 clearly to our attention.

15 MR. MASON: The problem is I am not sure we do either.

16 MR. FULMER: Mr. Chairman, the only thing I would offer on the  
17 aspect of what I know in both the Oakwood I and II that  
18 no testimony was ever put on on the drainages in the  
19 circular pattern. There was never entered in any one of  
20 the concepts -- and we have heard about circular drainage  
21 that affects one or the other -- that has never been  
22 brought before us when the field rules were formulated.  
23 So that's an assumption of circular drainage. That's the  
24 only thing I would say to that other than -- especially  
25 in coal where it is agile instead of being under press-

1           MR.    That's just a point of information.

2           MR. CHAIRMAN: Well, all the scenarios that we had before us  
3           -- I mean, I am not going to go back and debate field  
4           rules, but I think the Board has certainly chose the  
5           avenue we felt that brought most equity to all parties.  
6           I don't believe that if we were pooling under a panel or  
7           anything there would be any more equity created necessar-  
8           ily. It could be for one case, but not necessarily the  
9           other either. And that's the dilemma we get into is how  
10          do we do something here and yet something different here  
11          And that is why you have to come up with some decision on  
12          field rules and make them subject to continuing and  
13          ongoing challenges as more and better information is  
14          available. And certainly we are not closed as a Board to  
15          bearing factual evidence that would necessitate a change  
16          in any field rules at any given time.

17          MR. CHAIRMAN: Any further discussion or questions, Members of  
18          the Board? Anything further from either party? Do I  
19          have a recommendation?

20          MR. EVANS: Mr. Chairman, I move that we grant the petition  
21          for force pooling.

22          MR. MCGLOTHLIN: Second, as amended on the conflicting claim  
23          issue.

24          MR. CHAIRMAN: I have a motion and a second. Any further  
25          discussion? All in favor signify by saying yes. (All

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

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

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 XXVIII

MR. CHAIRMAN: The next item on the agenda is a petition for force pooling under Section 45.1-361.22 by Pocahontas Gas Partnership for the O-40 unit. This is docket number VGOB-93/04/20-0361. I'll ask the parties that wish to address the Board on this matter to come forward and identify yourself at this time. This is Item 28 for the Board's reference.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. FRANKS: J. C. Franks for the interested parties.

MS. McCLANNAHAN: The first witness I would like to call is Les Arrington. His resume is at Exhibit 1. The Board has indicated that it stipulates to his qualifications and accepts him as an expert witness.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q: Mr. Arrington, have you given notice as required by

1 Section 45.1-361-19 to each person or entity identified  
2 on Exhibit C of the force pooling application?  
3 A. Yes, I have.  
4 Q. Is that Notice of Hearing that you mailed to each of  
5 parties listed at Exhibit 2?  
6 A. Yes, it is.  
7 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
8 Exhibit 2.  
9 MR. CHAIRMAN: It is admitted.  
10 Q. (Ms. McClannahan continues.) How was the Notice of  
11 Hearing mailed to each of the parties on Exhibit C?  
12 A. By certified mail, return receipt requested.  
13 Q. Are copies of those return receipts at Exhibit 3?  
14 A. Yes.  
15 MS. McCLANNAHAN: I move the introduction of Exhibit 3.  
16 MR. CHAIRMAN: Admitted.  
17 Q. (Ms. McClannahan continues.) Were there any persons  
18 whose names and/or addresses were unknown?  
19 A. No. However, it was published in the Virginia  
20 Mountaineer and the Bluefield Daily Telegraph on 4-1-93,  
21 and 3-26-93.  
22 Q. Have the proofs of publication previously been submitted  
23 to the Board?  
24 A. Yes, they have.  
25 Q. What percentage of the coal rights in the tracts that

1                   comprise the O-40 unit does PGP control?

2           A.   99.24 percent of all coal below the Tiller seam.

3           Q.   What percentage of oil and gas rights in the tracts that

4                   comprise the O-40 unit does PGP control?

5           A.   97.435 percent.

6           Q.   What percentage of the coalbed methane gas rights in the

7                   tracts that comprise the O-40 unit does PGP control?

8           A.   99.24 percent.

9           Q.   Are the unleased owners and the leasehold owners listed

10                   on Exhibit B of the O-40 unit force pooling application

11                   listed with their percentages of ownership in the

12                   respective tracts?

13           A.   Yes.

14           Q.   Have you made changes to Exhibits C, D and E since the

15                   date that the application was filed?

16           A.   Yes, we have.

17           Q.   Are those changes shown on the revised Exhibits C, D and

18                   E that are listed at Exhibit 4?

19           A.   Yes, they are.

20           Q.   Would you please explain what changes you have made to

21                   those exhibits?

22           A.   The exhibits were changed to show the additional owners

23                   in the conflicting claim tract.

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

25                   Exhibit 4.

1 MR. CHAIRMAN: It's admitted. Do those changes not affect  
2 the overall percentages?

3 MR. ARRINGTON: No.

4 Q. (Ms. McClannahan continues.) Are the conflicting  
5 claimants whose funds are to escrowed listed on the  
6 revised Exhibit E submitted as part of Exhibit 4?

7 A. Yes.

8 Q. Are you requesting that the Board pool the interest of  
9 the parties listed on the revised Exhibit C?

10 A. Yes, we are.

11 MS. McCLANNAHAN: Those are all the questions we have of Mr.  
12 Arrington.

13 MR. CHAIRMAN: Any questions? You may call your next  
14 witness.

15 MS. McCLANNAHAN: I would call Ron Wood. And, again, his  
16 resume should be substituted for Mr. Gillenwater's resume  
17 at Exhibit 5. The Board has indicated that it has  
18 stipulated to his qualifications and accepts him as an  
19 expert witness.  
20

21 RON WOOD

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

DIRECT EXAMINATION

1  
2  
3 BY MS. McCLANNAHAN:

4 Q. Mr. Wood, what are the fair market values terms of an  
5 oil, gas and coalbed methane gas lease in the area of  
6 the O-40 unit?

7 A. \$5 per acre for 1 year, rental with a 1/8 royalty.

8 Q. And for a coalbed methane gas only lease?

9 A. \$1 per acre per year rental and 1/8 royalty.

10 Q. And what is the standard primary terms for a oil, gas,  
11 and coalbed methane gas lease?

12 A. 10 years.

13 Q. With regard to the unleased owners that are listed on the  
14 O-40 unit force pooling application have you contacted  
15 these landowners or tried to contact them to obtain a  
16 lease?

17 A. Yes, we have.

18 Q. By what method did you contact them?

19 A. Verbal and/or certified mail.

20 Q. Were you able to come to an agreement as to the lease?

21 A. Not at this time.

22 Q. With regard to the leasehold owner, Cabot Oil and Gas,  
23 did you make an offer regarding an assignment of their  
24 leasehold interests?

25 A. Yes, we did.

1 Q. Were you able to come to an agreement as to the assign-  
2 ment of their interests?

3 A. Not at this time.

4 MS. McCLANNAHAN: Those are all the questions we have for Mr.  
5 Wood.

6 MR. CHAIRMAN: Any questions, Members of the Board? Call your  
7 next witness.

8 MS. McCLANNAHAN: We would like to call Mr. Randy Albert, if  
9 we may. Mr. Albert's resume is listed at Exhibit C.  
10 The Board has indicated that it wishes to stipulate to  
11 the qualifications of Mr. Albert and accept him as an  
12 expert witness.

13  
14 RANDALL MARK ALBERT

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

17  
18 DIRECT EXAMINATION

19  
20 BY MS. McCLANNAHAN:

21 Q. Mr. Albert, has a drilling permit been previously refused  
22 to FGP on any of the tracts comprising this unit?

23 A. No.

24 Q. Has a well work permit been issued for a well contained  
25 within this O-40 unit?

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

A. Yes, it has. Permit for Well No. 605 was issued as Permit No. 2186 for a coalbed methane well.

Q. Does the plat attached to the force pooling application filed by FGP indicate the acreage and the shape of the acreage to be embraced within the unit?

A. Yes.

Q. Does the unit as it is shown on Exhibit B-1 follow the boundary lines of the Hurricane Branch Extension 80 acre unit designated as D-407?

A. Yes, it does.

Q. Does the plat attached the force pooling application indicate the area within which the well will be drilled?

A. Yes, it does.

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

A. Yes, it does.

Q. Are the costs and expenses for the well set forth on the DWE attached to the force pooling application as Exhibit H?

A. Yes, they are.

Q. Does this exhibit reflect the cost of drilling the well to total depth and completed for production costs?

A. Yes, it does.

Q. How did you calculate the costs that are listed on the DWE?

1 A. The costs are actual for drilling and estimated for  
2 completion.  
3 Q. Are you requesting the relief sought in paragraph 4 of  
4 PGP's application in accordance with the VGOB act?  
5 A. Yes, I am.  
6 Q. Are you requesting that PGP be designated as the well  
7 operator?  
8 A. Yes, we are.  
9 MS. McCLANAHAN: Those are all the questions I have for Mr.  
10 Albert.  
11 MR. MCGLOTHLIN: Mr. Albert, who owns Tract 10 and 11?  
12 MS. McCLANAHAN: That may be a better question to ask Mr.  
13 Arrington. I believe those tracts are the conflicting  
14 claim tracts that Mr. Franks referred to in the last  
15 hearing.  
16 MR. ARRINGTON: Yes.  
17 MR. MCGLOTHLIN: It's not in the application anywhere.  
18 MS. McCLANAHAN: It is in the revised. Are you talking  
19 about the tract identification pages?  
20 MR. MCGLOTHLIN: Yes.  
21 MS. McCLANAHAN: The exhibit actually lists the owners.  
22 MR. ARRINGTON: It is in your Exhibit C, D and E.  
23 MR. MCGLOTHLIN: Mine goes up to Tract 9 on the Owners and  
24 potential owners of methane gas. It goes up to Tract 9  
25 and that is it.

1 MR. ARRINGTON: The tracts are a little more broken down in  
2 the tract ID's. However, I did not supply you with a  
3 tract ID with that. Look under the Metcalf Estate and  
4 you will see E and F, under Tract #1. Beulah Day Brown  
5 and Mrs. Warner Day -- on Page 7 of Exhibit C.

6 MR. MCGLOTHLIN: But there is no cross-reference on those to  
7 the --

8 MS. McCLANNAHAN: We will supplement that tract ID within 7  
9 days from today.

10 MR. CHAIRMAN: Any other questions, Members of the Board? Mr  
11 Franks?

12 MR. FRANKS: No.

13 MR. CHAIRMAN: Mr. Franks, do you want to continue and adopt  
14 your testimony that you gave on the first well for this  
15 well as far as the record goes?

16 MR. FRANKS: Yes. The same information as I gave for N-41  
17 would be identical for N-40, O-40 and O-41.

18 MR. MCGLOTHLIN: I make a motion that we approve the  
19 application with amendments forth coming.

20 MR. EVANS: Second.

21 MR. CHAIRMAN: A motion and a second to approve. Further  
22 questions? All in favor signify by saying "Yes." (All  
23 affirm.) Opposed say "No." (None.) It is unanimously  
24 approved.

25

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 XXV

MR. CHAIRMAN: The next item on the agenda is Item 25. It is a petition for force pooling under Section 45.1-361.22 by Pocahontas Gas Partnership for the N-40 unit. This is docket number VGOB-93/04/20-0358. I'll ask the parties that wish to address the Board on this matter to come forward and identify yourself at this time. reference.

MS. McCLANNAHAN: Elizabeth McClannahan for Pocahontas Gas Partnership.

MR. FRANKS: J.C. Franks for the property owners.

MS. McCLANNAHAN: The first witness I would like to call is Les Arrington. His resume is at Exhibit 1. The Board has indicated that it accepts his qualifications and accepts him as an expert witness.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Arrington, have you given notice as required by Section 45.1-361-19 to each person or entity identified

1                   on Exhibit C of the force pooling application as a  
2                   potential owner of the methane gas underlying the unit?  
3           A.    Yes, I have.  
4           Q.    Is that Notice of Hearing that you mailed to each of  
5           parties listed at Exhibit 2?  
6           A.    Yes, it is.  
7           MS. McCLANNAHAN:  Mr. Chairman, I move the introduction of  
8           Exhibit 2.  
9           MR. CHAIRMAN:  It is admitted.  
10          Q.    (Ms. McClannahan continues.)  Was this Notice of Hearing  
11          sent to each of the parties on Exhibit C by certified  
12          mail, return receipt requested?  
13          A.    Yes, it was.  
14          Q.    Are copies of those return receipts shown at Exhibit 3?  
15          A.    Yes.  
16          MS. McCLANNAHAN:  I move the introduction of Exhibit 3.  
17          MR. CHAIRMAN:  It's admitted.  
18          Q.    (Ms. McClannahan continues.)  Were there any persons  
19          whose names and/or addresses were unknown?  
20          A.    No.  However, it was still published in the Virginia  
21          Mountaineer and The Bluefield Daily Telegraph on 4-1-93  
22          and 3-26-93.  
23          Q.    Have the proofs of publication previously been submitted  
24          to the Board?  
25          A.    Yes, they have.

1 Q. What percentage of the coal rights in the tracts that  
2 comprise the N-40 Unit does PGP control?

3 A. 94.975 percent of the P-3 seam of coal and 100 percent of  
4 all coal below the Tiller seam, less the Pocahontas #3.

5 Q. What percentage of oil and gas rights in the tracts that  
6 comprise the N-40 unit does PGP control?

7 A. 97.878 percent.

8 Q. What percentage of the coalbed methane gas rights in the  
9 tracts that comprise the N-40 unit does PGP control?

10 A. 94.975 percent.

11 Q. Are the unleased owners and the leasehold owners listed  
12 on Exhibit D of the N-40 unit force pooling application  
13 listed with their percentages of ownership in the  
14 respective tracts?

15 A. Yes.

16 Q. Have you made changes to Exhibits C, D and E since the  
17 date that the application was filed?

18 A. Yes, we have.

19 Q. Are those changes shown on the revised Exhibits C, D and  
20 E that are listed at Exhibit 47?

21 A. Yes, they are along with the tract ID.

22 Q. Would you please explain what changes you have made to  
23 those exhibits?

24 A. The exhibits were changed to show the additional owners  
25 in the conflicting claim tract.

1 Q. What conflicting claim are you referring to?

2 A. In ownership of the gas estate.

3 Q. Are you referring to the conflicting claim we have been  
4 discussing here with Mr. Franks?

5 A. Yes.

6 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
7 Exhibit 4.

8 MR. CHAIRMAN: It's admitted.

9 Q. (Ms. McClannahan continues.) Are the conflicting  
10 claimants whose funds are to escrowed listed on the  
11 revised Exhibit E submitted as part of Exhibit 4?

12 A. Yes.

13 Q. Are you requesting that the Board pool the interest of  
14 the parties listed on the revised Exhibit C?

15 A. Yes, we are.

16 Q. At Exhibit 7, does that revised exhibit reflect the  
17 conflicting claim change that you were previously  
18 discussing?

19 A. Yes, it does.

20 Q. And that is a revised Exhibit B-1 from the application,  
21 is that correct?

22 A. Yes.

23 Q. Referring to Mr. Franks April 19, 1993 memo he has  
24 indicated that your tract identification in the N-40 uni  
25 was incorrect. Have you made that change?

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

A. Yes, we have. And it is at Exhibit 4.

MS. MCCLANNAHAN: Those are all the questions we have of Mr. Arrington.

MR. CHAIRMAN: Mr. Franks brought up two things regarding N-40. Let me make sure that both have been corrected. He said that the Metcalf estate interest is erroneously listed as the Franks Estate. Is that corrected, as well?

MR. ARRINGTON: That was corrected.

MR. CHAIRMAN: Any other questions?

MS. MCCLANNAHAN: I would call Ron Wood. And, again, his resume should be substituted for Mr. Gillenwater's resume at Exhibit 5. The Board has indicated that it has stipulated to his qualifications and accepts him as an expert witness.

RON WOOD

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

DIRECT EXAMINATION

BY MS. MCCLANNAHAN:

Q Mr. Wood, what are the fair market values terms of an oil, gas and coalbed methane gas lease in the area of the N-40 unit?

1 A. \$5 per acre per year rental with a 1/8 royalty.  
2 Q. And for a coalbed methane gas lease?  
3 A. \$1 per acre per year rental and 1/8 royalty.  
4 Q. And what is the standard primary terms for a oil, gas,  
5 and coalbed methane gas leases?  
6 A. 10 years.  
7 Q. With regard to the unleased owners that are listed on the  
8 N-40 unit force pooling application have you contacted  
9 these landowners or tried to contact them to obtain a  
10 lease?  
11 A. Yes, we have.  
12 Q. By what method did you contact them?  
13 A. Verbal and/or certified mail.  
14 Q. Were you able to come to an agreement as to the lease?  
15 A. Not at this time.  
16 Q. With regard to the leasehold owners, Island Creek Coal  
17 Company and Cabot Oil & Gas, did you make an offer  
18 regarding an assignment of their leasehold interests?  
19 A. Yes, we did.  
20 Q. Were you able to come to an agreement as to the assign-  
21 ment of their interests?  
22 A. Not at this time.  
23 MS. MCCLANAHAN: Those are all the questions we have for Mr.  
24 Wood.  
25 MR. CHAIRMAN: Any questions, Members of the Board? Mr.

1 Franks?

2 MR. FRANKS: The same inclusion as before.

3 MR. CHAIRMAN: Call your next witness.

4 MS. MCCLANAHAN: We would like to call Mr. Randy Albert, if we  
5 may. Mr. Albert's resume is listed at Exhibit C. The  
6 Board has indicated that it wishes to stipulate to the  
7 qualifications of Mr. Albert and accept him as an expert  
8 witness.

9  
10 RANDALL MARK ALBERT

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

13  
14 DIRECT EXAMINATION

15  
16 BY MS. MCCLANAHAN:

17 Q. Mr. Albert, has a drilling permit been previously refused  
18 to POP on any of the tracts comprising this unit?

19 A. No, it has not.

20 Q. Has a well work permit been issued for a well contained  
21 within this N-40 unit?

22 A. Yes, it has. Permits for Well No. 608 and 611 were  
23 issued as Permits No. 2304 and 2185, respectively for a  
24 coalbed methane wells.

25 Q. Does the plat attached to the force pooling application

- 1 filed by PGP indicate the acreage and the shape of the  
2 acreage to be embraced within the N-40 unit as previously  
3 approved by the Board on 2/16/93?
- 4 A. Yes.
- 5 Q. Does the unit as it is shown on Exhibit 7 follow the  
6 boundary lines of the Hurricane Branch Extension 80-acre  
7 unit designated as N-40?
- 8 A. Yes, it does.
- 9 Q. Does the plat attached the force pooling application  
10 filed by PGP as revised at Exhibit 7 indicate the area  
11 within which the well will be drilled?
- 12 A. Yes, it does.
- 13 Q. Does the drilling unit embrace two or more separately  
14 owned tracts?
- 15 A. Yes, it does.
- 16 Q. Are the costs and expenses for the wells set forth on the  
17 DWE attached to the force pooling application as Exhibit  
18 H and I?
- 19 A. Yes, they are.
- 20 Q. Does these exhibits reflect the cost of drilling the  
21 wells to total depth and completed for production costs?
- 22 A. Yes, they do.
- 23 Q. How did you calculate the costs that are listed on the  
24 DWE?
- 25 A. The costs are actual for drilling and estimated for

1 completion.

2 Q. Are you requesting the relief sought in paragraph 4 of  
3 FGP's application in accordance with the VGOB act?

4 A. Yes, I am.

5 Q. Are you requesting that FGP be designated as the well  
6 operator?

7 A. Yes, we are.

8 MS. MCCLANAHAN: Those are all the questions I have for Mr.  
9 Albert.

10 MR. CHAIRMAN: Any questions?

11 MR. MASON: Why do you think you need two wells in this unit?

12 MR. ALBERT: Mr. Mason, the reason again is the wells were  
13 located based on a proposed mine plan for Reserve Coal  
14 Properties. The Hurricane Branch Mine -- the wells were  
15 spaced to try to remove the maximum amount of gas in a  
16 seven year period, which is what we now believe the live  
17 of these wells to be prior to mine-through. Essentially  
18 stated that is the amount of gas contained in that 80  
19 acre unit and the time frame we have to get it out.  
20 That's the number of wells required.

21 MR. MASON: Does this unit lie over longwall panels?

22 MR. ALBERT: Yes. This unit includes two longwall panels  
23 Well 608 is on one panel and Well 611 is the next panel  
24 to the north.

25 MR. MASON: Do you have a map of that?

1 MR. ALBERT: Yes, we do.

2 MS. MCCLANAHAN: Mr. Albert, does this map show the longwall  
3 panels that have been proposed with the unit designated  
4 as N-40 overlying that outlined in green?

5 MR. ALBERT: Yes, it does.

6 MS. MCCLANAHAN: Mr. Chairman, I move the introduction of  
7 Exhibit 8.

8 MR. CHAIRMAN: Admitted.

9 MR. MASON: Mr. Albert, there would a unit O-39?

10 MR. ALBERT: Yes, sir, there is a unit O-39. But it is not  
11 shown on this map.

12 MR. MASON: Will any of the cost -- is 608 the one that is  
13 on the edge of the unit?

14 MR. ALBERT: Yes, sir.

15 MR. MASON: Will any of the costs of that well be attributed  
16 to -- that's right in the middle of another panel, is it  
17 not?

18 MR. ALBERT: Yes.

19 MR. MASON: Part of which panel will also be involved in unit  
20 O-40?

21 MR. ALBERT: That is correct.

22 MR. MASON: Is there not any allocation made of those costs?

23 MR. ALBERT: Not at this time. These wells are frack wells  
24 and as such are paid under the Oakwood I 80-acre  
25 scenario. It would only be -- at the time of mining once

1 the panel is outlined and we would come back before the  
2 Board for an Oakwood II allocation and cost and pay on a  
3 royalty based on a longwall panel.

4 MR. MASON: Well, if that is the case then this second well,  
5 as far as having one or two panels is irrelevant, is it  
6 not, at this time?

7 MR. ALBERT: Irrelevant as to what?

8 MR. MASON: I mean, you are talking about -- these are going  
9 to be completed as frack wells?

10 MR. ALBERT: That is correct.

11 MR. MASON: Consequently, whether there is one or two panels  
12 here at the present time as frack wells is irrelevant.

13 MR. ALBERT: That's correct.

14 MR. MASON: The holes be in place at the time these wells are  
15 completed.

16 MS. MCCLANAHAN: I mean be wrong about this, but I think the  
17 relevance of the longwall panels is that the life of the  
18 wells is dictated by that, which means it is 7 years.

19 MR. ALBERT: That's right.

20 MR. MASON: Well, I understand that, but the reason before  
21 that we allowed wells per panels, like 2 wells because  
22 there were 2 panels, was because it was necessary in  
23 order to drain out the gas that was segregate per panel.  
24 But if all the coal is in place that distinction becomes  
25 irrelevant.

1 MR. ALBERT: That is correct. From a frack well purpose.

2 MR. MASON: Let me ask you another question. Am I reading  
3 this DWE on 611 correct, that the total depth is -  
4 1,501.83? Is it a 15 or a 16?

5 MR. ALBERT: It appears to be to be a 15.

6 MR. MASON: Then how can you put 1,705 of tubing and rods  
7 there?

8 MR. ALBERT: That is a very good question. I assume there is  
9 a typo somewhere. I think what is in error is the total  
10 depth. When I look at the location on the topo map that  
11 well is certainly deeper than that.

12 MR. MASON: The other one was 1,407. So when I first looked  
13 at it I was thinking that that coal seam must drop  
14 rather (Inaudible.) to get from 1,400 feet to 1,700 feet  
15 in the course of --

16 MR. ALBERT: Well, what is happening is the well has come up  
17 on elevation quite a bit on the surface.

18 MR. MASON: Oh, I see what you are saying. I just think that  
19 needs to be corrected.

20 MR. ALBERT: That will be corrected. Back to your question,  
21 the argument on cost is not whether it benefits one panel  
22 or two panels. That is a moot point. My argument is  
23 based on the fact that in seven years time -- we remove  
24 as much gas in seven years time with two wells as we do  
25 in 20 years with one well. If you add to that -- without

1           rehashing all the same arguments I made yesterday if you  
2           add to the fact to that that the people are getting their  
3           money in seven years as opposed to 20 years. So there is  
4           some present value worth of getting your money up front  
5           so to speak. Yesterday we weren't successful with  
6           multiple wells in a panel. Quite frankly I think we  
7           presented the evidence. Again, you have the chart in  
8           your hand which will be Exhibit 9 --

9           MR. MASON: Well, let me ask you this. Are you prepared at  
10          this time to present any economic evidence as to the  
11          value of the difference between seven and 20 years on the  
12          amount of production estimate for this well?

13          MS. MCCLANAHAN: Let's go through the background of that this  
14          exhibit is. Mr. Albert, the exhibit that you have  
15          there is the information that has been accepted by the  
16          Board in its adoption of the Oakwood Field Rules which  
17          applied to this particular unit, is that correct?

18          MR. ALBERT: That is correct.

19          MS. MCCLANAHAN: So all of this production information was  
20          accepted by the Board for that particular unit?

21          MR. ALBERT: That's correct.

22          MS. MCCLANAHAN: And that is the production information that  
23          you have used to substantiate your position on produc-  
24          tion, is that right?

25          MR. ALBERT: That is correct.

1 MS. MCCLANAHAN: Does that answer your question?

2 MR. MASON: No. My question is -- I mean, I understand that  
3 you maintain that in seven years you are going to produce  
4 the same amount of gas or some fraction of it that you  
5 would ordinarily produce over the life of one well. And  
6 I understand that there is potentially an economic  
7 benefit derived from that quicker production. What I am  
8 asking you is can you quantify and tell me what that is  
9 in dollars?

10 MR. ALBERT: Not in dollars. In percentages I can tell you  
11 from this chart that we will recover 61 percent more gas  
12 with two in seven years than we would with one well in  
13 seven years. And I can tell you that we will recover as  
14 much gas with two wells in seven years than we would with  
15 one well in 20 years. I am not prepared today to give an  
16 in-depth economic evaluation on dollars or net present  
17 values.

18 MR. MASON: My problem with this is that somebody whose 18 in  
19 a unit that has one well the return on the cost invested  
20 over 20 years as opposed to the return on cost invested  
21 with two wells over seven years. That may well be  
22 grossly unfair to those people, particularly when the  
23 reason for the two wells is dictated by a mine plan  
24 rather than just pure economics of these producing wells

25 MR. ALBERT: Would you not agree though, Mr. Mason, if we are

1 recovering as much gas in seven years as we are in 20  
2 years is that there can be no -- the economics would lead  
3 me to believe that the best value would be the seven year  
4 value because you are getting your money quicker and your  
5 return quicker.

6 MR. HASON: Not at all. When you double the investment to do  
7 that?

8 MR. ALBERT: I am not asking you to double the investment. But  
9 this I am saying allow me the cost of 1.61 of these  
10 wells. That's what equates it back to one well in 80  
11 acres.

12 MR. HASON: But you can't demonstrate to me that -- you are  
13 saying that you can get that much back in seven years,  
14 one point whatever, but I just don't understand the  
15 benefit to the person of having the two wells and why  
16 that costs are --

17 MR. ALBERT: The benefits are very simple. Either we do it  
18 this way or it is lost. I mean, at the end of seven  
19 years this gas is gone.

20 MR. HASON: I understand that, sir. But benefit is derived  
21 on the investment return over the two -- you invest  
22 \$440,000 and "X" return over 7 years. If you invest  
23 \$320,000 you get "Y" return over 20 years. The question  
24 is if you discount X and Y to present value which one of  
25 those is the greater numbers of percent of investment.

1 It is a very simple analysis.

2 MR. ALBERT: It is a very simple analysis, but I don't have  
3 that analysis prepared to give you today. What we are  
4 presenting is based on the accepted Oakwood testimony is  
5 the amount of additional gas that can be recovered. And  
6 what we feel that equates --

7 MR. MASON: You are not going to recover any additional gas.  
8 you are just going to recover it faster.

9 MS. McCLANAHAN: It is additional gas also because anything  
10 after a seven year life is lost.

11 MR. MASON: Only because you are going to mine through it.

12 MS. McCLANAHAN: That is why you can't compare a 20 year  
13 economic analysis to a two well seven year economic  
14 analysis, because it is completely hypothetical.

15 MR. MASON: But you are asking somebody to pick up that  
16 additional cost because of a decision you all have made  
17 that is a result of your mine plan.

18 MR. ALBERT: But on the other hand, Mr. Mason, you are asking  
19 me to accept -- if you has an interest in this unit you  
20 are asking me as the operator to allow you to come in at  
21 the cost of one well. So we are getting shorted on this  
22 You are paying for the cost of one well and getting the  
23 benefit of 1.61 wells. And what you have done to protect  
24 the interest of the public is to the detriment of the  
25 operator.

1 MR. MASON: Not at all. I mean, the bottom line is is that  
2 if you didn't drill the second well at all and then at  
3 the end of seven years you would have recovered what gas  
4 you could and the rest of it would be gone, correct?

5 MR. ALBERT: You have lost then, if I don't drill the second  
6 well.

7 MR. MASON: Not necessarily. It depends on what the return on  
8 the initial costs was.

9 MR. ALBERT: Mr. Mason, I am demonstrating to you that if I  
10 put one well in there you are only going to recover 1.55  
11 BCF. If I put two wells in there you are going to  
12 recover 2.3 BCF. We are equating that back to the  
13 investment is equal to 1.61 wells in that unit.

14 MR. MASON: But both of those are functions of costs of  
15 drilling one well or two. The formula only makes sense  
16 if you apply the return as a proportion of the actual  
17 invested costs. I don't want to debate with you. That  
18 is how I feel and I think that if you are prepared to  
19 come in here and show me that it makes more sense in a  
20 dollars and cents way that the return on the investment  
21 is greater with two wells, two costs over seven years as  
22 opposed to one well and one cost over 20 years --

23 MR. ALBERT: The Board has accepted this as the proper  
24 testimony for economic drainage of the Oakwood Field  
25 All we have done is taken what has been accepted --

1 don't think the burden is upon us to do a detailed net  
2 present value analysis. We have taken what has been  
3 accepted testimony and shown there is a benefit of  
4 recovery. And if there is a benefit of recovery there  
5 has to be an economic benefit.

6 MR. MASON: That's not true.

7 MR. ALBERT: If that is not true the entire testimony for  
8 Oakwood is not true. You are getting paid on what comes  
9 out of the ground.

10 MR. MCGLOTHLIN: I've got a question if Mr. Mason will yield.  
11 Mr. Albert, on the mine plan for the Hurricane Branch  
12 mine, it's on file with the Division of Mines?

13 MR. ALBERT: Yeah. That is correct.

14 MR. MCGLOTHLIN: Is that not at this point operational?

15 MR. ALBERT: No, sir, it is not.

16 MR. MCGLOTHLIN: Does your sister company or however you want  
17 to refer to Consol, are they in the process of placing  
18 the shaft in the ground at this point?

19 MR. ALBERT: No, sir.

20 MR. MCGLOTHLIN: When do they expect to begin that operation?

21 MR. ALBERT: The only thing currently in progress is the  
22 permitting of -- the surface permitting and DMLR permit-  
23 ting of that operation that I'm aware of. There are no --  
24 naturally you cannot make definitive construction plans  
25 until all of the permits have been received.

1 MR. MCGLOTHLIN: Do you think they'll start in 1993 or 1994?

2 MR. ALBERT: No, sir. I don't think the construction will  
3 start in 1993 and it's too early for me to go out on a  
4 limb and predict what may happen in 1994.

5 MR. MCGLOTHLIN: How long does it take to put a shaft down to  
6 the seam?

7 MR. ALBERT: This mine is going to be a slope mine rather than  
8 a shaft mine. The last construction schedule that I saw  
9 -- and again I'm the manager of the gas partnership. I'm  
10 not always in on what the coal plans are. The last thing  
11 I saw was from beginning of construction to mining of the  
12 first longwall panel about two and a half to three years.

13 MR. MCGLOTHLIN: Two and a half to three years. Do you know  
14 in what order the panels will be longwalled?

15 MR. ALBERT: There are two longwall planned for this mine and  
16 again my recollection of the initial planning is that one  
17 longwall goes north and one longwall goes east. These  
18 wells are located -- if I may jump ahead of you I think I  
19 know where you're headed to. These wells are located in  
20 the third and fourth panels to the north respectively.  
21 I don't have a timing map. I've not seen a timing map but  
22 about six months per longwall panel usually to mine out a  
23 longwall panel.

24 MR. MCGLOTHLIN: So we're talking a year and a half to get to  
25 that point after you start the longwall operation?

1 MR. ALBERT: After you start the longwall operation probably  
2 two years to two and a half years I would think.

3 MR. McGLOTHLIN: And then you've got time in between those  
4 from the end of putting the slope in -- or the coal  
5 company has to go in there and put the drives in to get  
6 these vents in.

7 MR. ALBERT: Sure. That's allowed for development.

8 MR. McGLOTHLIN: We're talking a couple of years there?

9 MR. ALBERT: I can only guess. I need a timing map. Yeah, a  
10 couple of years is as good a guess as any.

11 MR. McGLOTHLIN: We're looking at the year 2000 if this mine  
12 goes in in 1993?

13 MR. ALBERT: I think you've added something up wrong. I said  
14 that the last plan I saw showed the mine being longwalls  
15 in production three years from start-up of construction  
16 of the outside facilities. So if we take the three years  
17 from that and add the two to three years that I see here  
18 getting to the third and fourth longwall panel I think  
19 we're looking at six to seven years if the mine is  
20 started in 1993.

21 MR. McGLOTHLIN: Well, then we've got another couple of years  
22 to get the conventional machinery in there.

23 MR. ALBERT: No. That's what I'm saying. The schedule I saw  
24 was -- now, whether it be realistic I'm not a judge of  
25 that. But the schedule I saw was from start of construc-

1                   tion to the first longwall mining three years.  
2                   MR. MCGLOTHLIN: That's if everything runs smoothly and they  
3                   get their permit this year.  
4                   MR. EVANS: Just as a matter of my own information, this is  
5                   going to be a slope mine?  
6                   MR. ALBERT: Yes.  
7                   MR. EVANS: What's the length of the slope and what's the  
8                   angle on it going to be?  
9                   MR. ALBERT: 5,300 feet slope.  
10                  MR. EVANS: And what's the angle on it going to be? 12  
11                  percent?  
12                  MR. ALBERT: As close to the maximum repose of coal as you can  
13                  get, I suppose. I don't know, Ken, to be honest with  
14                  you.  
15                  MR. EVANS: And this is 1,700 feet down as the seam from --  
16                  where is --  
17                  MR. ALBERT: From the valley bottom probably about 1,400 feet  
18                  MR. EVANS: And I assume the slope mouth is going to be  
19                  somewhere in this area.  
20                  MR. ALBERT: Yes.  
21                  MR. MCGLOTHLIN: I'm questioning your seven year -- that it's  
22                  going to be mined out in seven years. I think it's going  
23                  to take a little bit longer than that.  
24                  MR. ALBERT: Mr. McGlothlin, all we did was take the timing  
25                  map that's now published by Reserve Coal Properties, our

1 sister company, parent company, whatever the relation is  
2 here, and I simply took the timing map that is now  
3 available and it showed these wells one coming through in  
4 six and a half years, if I remember, and the other one in  
5 seven and a half years, and took an average life of seven  
6 years. Now, whether that's right, wrong, I can't  
7 stipulate to.

8 MR. MCGLOTHLIN: It very well could be, but we're basing that  
9 on construction starting in --

10 MR. ALBERT: I don't even know when construction will start.  
11 All I can say --

12 MR. MCGLOTHLIN: That's the thing. It could be two years off

13 MR. ALBERT: -- is that it showed this wells being mined  
14 through in the late quarter of 1999 and the other one in  
15 2001. That's how we arrived at the seven years.

16 MR. MCGLOTHLIN: I understand, but there is a possibility  
17 though that it will --

18 MR. ALBERT: There are all kinds of possibilities. There's a  
19 possibility of this mine never being put in and these  
20 well will have a forty year life or a twenty year life.  
21 But those things are beyond my control. All I can deal  
22 with is the best information at hand and at that time it  
23 was a seven year life.

24 MR. MCGLOTHLIN: N-41, I think we've already looked at that  
25 one or have we? But if I can draw your attention to uni

1 N-41. How many wells would you propose in that unit?  
2 MR. ALBERT: It looks like two wells in the N-41.  
3 MR. MCGLOTHLIN: The same thing in N-42?  
4 MR. ALBERT: There is one well in unit N-41.  
5 MR. MASON: I do think that the cost of that well is properly  
6 charged as part of short hole gas. I think it's properly  
7 charged as a part of gob operations. I do believe that.  
8 I think that that's at the point that that well becomes  
9 economically feasible.  
10 MR. ALBERT: In essence, you're saying Oakwood II?  
11 MR. MASON: Yeah.  
12 MR. CHAIRMAN: Oakwood II.  
13 MR. MASON: I just wanted you to make the point -- I mean, I'm  
14 not saying no. I just think it doesn't fit into this  
15 category, but I do think that as a part of the Oakwood II  
16 that it does. That's the point. I'm not trying to say  
17 no, never.  
18 MR. CHAIRMAN: Well, that's the real dilemma you get in when  
19 you try to justify more than one well in a unit where you  
20 really don't have the panels already developed and all  
21 that. Where you do have the mine plan -- the panels  
22 developed and everything you have a different rationale to  
23 be basing it on. Here where you have a degas program it  
24 makes it awkward at best unless the economics can  
25 prove --

1 MR. ALBERT: And I understand the Board's dilemma. However,  
2 the only problem I have -- again if I'm repeating myself  
3 I will -- if we're only allowed the cost of one well then  
4 whoever would opt to be our participating operator in  
5 this well is going to derive an economic benefit at the  
6 operator's expense. That is just as unfair as turning  
7 the tables.

8 MS. McCLANNAHAN: On a separate issue, my concern would be  
9 that if you pushed all the costs into people who are  
10 deriving benefits under the Oakwood II order and those  
11 costs aren't being shared with people who are getting the  
12 benefit of production under the Oakwood I then you're not  
13 being fair among royalty owners that are receiving gas  
14 under the panels versus people who are receiving frack  
15 gas. Because what you're suggesting is well, while  
16 we're producing these wells as short hole we'll make  
17 those people pay but the people who are getting frack  
18 gas out of these wells don't have to pay. So then you're  
19 putting yourself in the position of having people who are  
20 benefiting from frack gas production and at the expense  
21 of people who are only getting short hole production.

22 MR. EVANS: I've got one quick question. Economics, if it's  
23 to everyone's advantage to drill two wells per unit why  
24 have you not argued that before, that every unit you've  
25 drilled should have at least two wells in it? You can't

1 have it both ways.

2 MR. MCGLOTHLIN: If I might add to that question. In N-40 you  
3 want two wells and then you said in N-41 you don't want  
4 but one well. It's the same scenario.

5 MR. ALBERT: I'm really trying to not make the Board mad, but  
6 I'm going to say this one more time. I and my company  
7 spent long hours before this Board arguing against 80  
8 acre units for this very reason and in the end we threw  
9 in the towel. I think we've brought -- the issues that  
10 we're bringing before this Board now are the same issues  
11 we tried to bring out them. And quite frankly, we don't  
12 need two wells in every unit, but again for proper  
13 degasification of the mine -- this was even brought out  
14 by OXY's own experts -- 80 acres is not the right size.  
15 We are trying to make the best of a bad situation here.  
16 We argued these points and we argued these points and we  
17 try to come before the Board with a proposal and now  
18 we're getting beat back over the head, so to speak, with  
19 the same arguments that we brought forth two years ago.  
20 Quite frankly, that's not fair.

21 MR. EVANS: Not totally. I don't think so. I think there  
22 were two arguments put forth at that point in time, one  
23 for 80 acres and one against 80 acres. Each presented  
24 its own set of circumstances and problems. One was  
25 shown. Again, with this right here -- if you want to

1 come in and say these two wells are justifiable economic-  
2 ally not based on percentages or whatever else, but show  
3 the good numbers as Mr. Mason has asked -- if that's the  
4 case, fine. But don't come and say hey, I can drain more  
5 gas in seven years out of two wells than I can out of one  
6 well over twenty years and then come back in another  
7 instance and say I'm only going to put one well down.

8 MR. CHAIRMAN: One thing, too, when the Board approves PG&E  
9 plan when it was a mine development plan they allowed  
10 more than one well if you were to overlay an 80 acre  
11 unit. It was on the panel. And you've clearly gone to a  
12 different panel here for your drainage in this situation.  
13 The problem I see, though, is if you lay that panel in an  
14 80 acre situation which you've done here you've charged  
15 off the entire well rather than that portion of the panel  
16 -- the well cost of which that portion of the panel  
17 represents which was different than what, I believe, you  
18 were doing a couple of years ago. Anyway -- Mr. Mason is  
19 going to have to leave. Do we have any other questions?  
20 Do you want to leave the application on the table for a  
21 decision or any reconsideration of that at this point in  
22 time?

23 MR. ALBERT: We'll leave it for --

24 MR. CHAIRMAN: In other words, do you want us to decide it now  
25 or continue it to the next hearing? I'll give them that

1 option.

2 MR. ALBERT: We'll continue it until next time.

3 MR. CHAIRMAN: For the record, Docket VGOB-93/04/20-0358 which  
4 we've just discussed is continued to next hearing.  
5 Dockets number VGOB-93/04/20-0362 and VGOB-92/04/20-0364  
6 are continued to next hearing. That concludes today's  
7 hearing. Thank you.

8 (AFTER A BRIEF DISCUSSION OFF RECORD, THE HEARING  
9 CONTINUED AS FOLLOWS:)

10 MR. CHAIRMAN: The Board has agreed to let Mr. Franks continue  
11 his testimony that was previously offered for this well  
12 and the others. What were the other numbers?

13 MR. FRANKS: There are four total. N-40, N-41, O-40 and O-41  
14 I would like to make sure the same comments --

15 MR. CHAIRMAN: Okay. The same testimony will be incorporated  
16 into it. Thank you very much.

17 MR. FRANKS: I appreciate your accepting my statements.

18 (End of Proceedings for  
19 April 21, 1993.)  
20  
21  
22  
23  
24  
25

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

CERTIFICATE

COMMONWEALTH OF VIRGINIA  
COUNTY OF WASHINGTON

I, Deborah J. Bise, 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 April 21, 1993 at the 4-H Center, Ratliff Hall, 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 13th day of May, 1993.

*Deborah J. Bise*  
DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 1996.