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VIRGINIA OIL AND GAS BOARD

HEARING OF APRIL 19, 1994

12:00 NOON

AT THE 4-H CENTER, HILLMAN HWY.

ABINGDON, VIRGINIA

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1  
2 April 19, 1994

3 This matter came on to be heard on this the 19th day of  
4 April, 1994 before the Virginia Gas and Oil Board in the  
5 Dickenson Conference Center at the 4-H Center, Hillman  
6 Highway, Abingdon, Virginia pursuant to Section 45.1-361.19.B  
7 and 45.1-361.22.B of the Code of Virginia.

8 MR. HARRIS: If I could have everyone's attention for a  
9 minute. We, as you know, at the moment do not have a  
10 quorum. We have contacted Mr. McGlothlin and he is on  
11 his way. He's in transit. We expect that he will be  
12 here by noon. That's the time we expect him. And what  
13 we will do is reconvene at that time and begin the  
14 hearing at noon when he arrives.

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

16 MR. HARRIS: Good afternoon. We'd like to reconvene the  
17 hearing for today. I'm Bill Harris. I will chair  
18 today's meeting. Mr. Wampler is out of town and I was  
19 asked to chair the meeting today. I'm Bill Harris, a  
20 public member from Big Stone. I'd like the other Board  
21 members to introduce themselves starting at my left.

22 (MEMBERS INTRODUCED)

23 MR. CHAIRMAN: Thank you. The first item on the agenda today  
24 is the Board on it's own motion will consider field rules  
25 for the Roaring Fork Coalbed Methane Gas Field in Wise,

1 Lee, Scott and Russell Counties of Virginia The docket  
2 number is VGOB-94/02/15-0435. Would all parties who plan  
3 to make any type of statements please come forward.

4 MS. McCLANNAHAN: Elizabeth McClannahan for Equitable  
5 Resources.

6 MR. SWARTZ: Mark Swartz for Columbia Natural Resources.

7 MR. LEPHITZ: Mike Lepshitz with Westmoreland Coal.

8 MR. CHAIRMAN: This is, I would imagine, a continuation. I'll  
9 have to apologize for not being here at the last meeting.  
10 This is a continuation of some evidence presented at the  
11 last meeting and the Board wanted to continue discussion  
12 on this matter. Ms. McClannahan, would you like to  
13 begin?

14 MS. McCLANNAHAN: Yes. Just as background and as an opening  
15 statement today, I believe the Board had indicated that  
16 all the evidence from the hearing in March would be taken  
17 as a part of evidence for this particular hearing today.

18 MR. CHAIRMAN: Yes.

19 MS. McCLANNAHAN: Although this particular hearing was  
20 continued on the Board's motion for notice reason we are  
21 here today to present some additional testimony on  
22 reservoir analysis specifically and on economics and  
23 recovery for this particular field. The last time, if  
24 you'll remember, the evidence that we presented was a  
25 comparison of the Nora Field which we've drilled in in

1 relation to the Wise County field. The Board indicated,  
2 I think, that it would prefer to hear some additional  
3 testimony about the specific wells that have been drilled  
4 in the Roaring Fork Field and how that particular data  
5 stands alone in an analysis of economics. So that's what  
6 we plan to present here today. The Exhibit C-2, which I  
7 put a copy on the wall but we also have copies for all  
8 the Board members, will show you the wells and core holes  
9 that have been drilled in this particular area. You  
10 obviously can open the whole map if you want. The area  
11 and most of the wells that have been drilled are actually  
12 on these two pages. We folded it so that you can easily  
13 reference it. You'll see from this map and Tom O'Neil  
14 will testify about the information from all the core  
15 holes that have been drilled as well as the coalbed  
16 methane wells that have been drilled. We have designated  
17 six dry holes, 231 coal logs, 624 shallow core holes,  
18 sidewall core desorption holes, four in hole desorption  
19 and then, of course, the eight coalbed methane wells that  
20 we've drilled which we talked about the last time. There  
21 was some confusion about exactly what particular wells  
22 had been drilled and what particular wells were core  
23 holed. In addition, there was some information with  
24 regard to these cores that we weren't certain that we  
25 were able to present to the Board because of confident-

1           iality agreements, but we've taken care of that this  
2           month. So that's how we can present you with a more  
3           complete map. That's what Exhibit C-2 is. Also with  
4           regard to the exhibits we've just continued the numbering  
5           system from the March hearing since all that testimony  
6           will be a part of the record for this particular docket  
7           number. That's why we've designated this as Exhibit C-2,  
8           because it's more information from the original Exhibit  
9           C. The two witnesses that we have here are Joe Awny and  
10          Tom O'Neil who are both with Equitable. Joe is in charge  
11          of the coalbed methane projects for Equitable all over  
12          the world and he was unable to be with us at the last  
13          hearing because he was required in the field. So that's  
14          the additional testimony we want to provide you with  
15          today. When Joe testifies what we intend to present you  
16          with is a gas in place calculation for five different  
17          unit sizes because the Board indicated the last time that  
18          -- I believe Mr. Evans specifically requested this, that  
19          we actually designate each of those different unit sizes  
20          and do an analysis for those unit sizes. The unit sizes  
21          that we've picked were 240, 120, 80, 60 and 40 acre unit  
22          sizes. After he does the gas in place calculation he  
23          will do a gas flow equation calculation also for each of  
24          those unit sizes to demonstrate the area that's being  
25          drained and also the amount of time in years that it

1 would take to drain that gas from a particular unit area  
2 size. With these calculations the amount of gas in place  
3 and the amount of gas that's drained from this particular  
4 area in X amount of time he will then compute recovery  
5 factors for each particular unit so that the Board can  
6 then look at the different unit sizes and determine what  
7 is the most economic and efficient unit size to incorpor-  
8 ate in this particular field. Obviously our original  
9 application was that the Board designate 80 acre unit  
10 sizes and that's what we believe is appropriate. But  
11 this way the Board can actually look at five different  
12 unit sizes and determine for itself what is the most  
13 economic and efficient. Hopefully, the Board would agree  
14 with our application. The first witness that I'd like to  
15 call is Tom O'Neil.

16 COURT REPORTER: (Swears witness.)

17  
18 THOMAS O'NEIL

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

21  
22 DIRECT EXAMINATION

23  
24 BY MS. McCLANNAHAN

25 Q. Mr. O'Neil, could you please state your full address for

1 the Board and your name?

2 A. My name is Thomas T. O'Neil. I live in Kingsport,  
3 Tennessee.

4 Q. And your profession?

5 A. I'm a geologist.

6 Q. By whom are you employed?

7 A. Equitable Resources Energy Company.

8 Q. And your position with Equitable?

9 A. I've the vice-president of exploration.

10 Q. And your responsibilities and duties as vice-president of  
11 exploration?

12 A. I direct and approve all the exploration and development  
13 for the company east of the Mississippi River.

14 Q. And your educational background?

15 A. I have a Bachelor of Arts in Geology and a Bachelor of  
16 Science in Geology in 1973 and 1974 from the University  
17 of Minnesota.

18 Q. Do you hold any licenses?

19 A. I'm a certified geologist with the American Association  
20 of Professional Geologists. I'm also registered as a  
21 geologist in Tennessee and Kentucky.

22 Q. What about your work background, could you please  
23 describe that for the Board?

24 A. I started with Texaco in 1974. I worked three years  
25 there out of New Orleans. The first year I was a

1 development geologist on the Gulf and the next two years  
2 I was exploration geologist also throughout much of the  
3 on shore Gulf. In 1977 I started a company with two  
4 other individuals. That was an exploration company. We  
5 generated prospects and sold them to operating companies  
6 and I did that for ten years. 1987 I went to Equitable  
7 Resources and I was senior geologist for a year, chief  
8 geologist for a year, the manager of geology for about a  
9 year and a half, and I've been the vice-president of  
10 exploration for about three and a half years.

11 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. O'Neil as  
12 an expert witness in geology.

13 MR. CHAIRMAN: Accepted.

14 MS. McCLANNAHAN: Also as a matter of housekeeping, Mr. Mason  
15 had requested the last time that our application be  
16 amended to show the pool definition consistent with the  
17 statutory definition. I think at that time we made it  
18 clear that that was okay with us, but just to make  
19 certain that that's straight on the record I'll just read  
20 the description of that and request that our application  
21 be amended as such. "All Pennsylvanian age coals from  
22 the top of the Rocky Fork including the Upper Clintwood,  
23 Bottom Clintwood, Blair, Lyons and the Dorchester and  
24 from the top of the Norton including all splits to the  
25 top of the Green and Red Shells including but not limited

1 to Middle Norton, Yellow Creek, Edwards, Gladeville,  
2 Hagy, Splash Dam, Upper Banner, Lower Banner, Kennedy,  
3 Raven, Jawbone, Tiller, Upper Horsepin, Middle Horsepin,  
4 War Creek, Beckley, Lower Horsepin, Pocahontas #8, #4, #3  
5 and #1 and any other unnamed coal seams, coalbeds, pools  
6 and rock strata associated there with."

7 Q. (Ms. McClannahan continues.) Mr. O'Neil, could you  
8 please identify Exhibit C-2 which I've previously  
9 provided to the Board?

10 A. Yes. Exhibit C-2 first of all was constructed to kind of  
11 clarify the amount of data and type of data that we  
12 utilized in coming forward with the request for field  
13 wide spacing. As Elizabeth mentioned, if you just leave  
14 it folded to the two folds there that deals with most of  
15 the data. I'll just step to the wall for just a second  
16 to show what else is on there. It's an one inch equals  
17 6,000 foot map. That means an inch on the map is 6,000  
18 on the ground. We demonstrate the other two existing  
19 coalbed spacing fields, the southwestern part of the  
20 Oakwood Coalbed Gas Field is located here in blue and  
21 then the green is the Nora Coalbed Field, and then in the  
22 purple is the proposed Roaring Fork Coalbed Methane  
23 Field. I'll get to the data in one second off the  
24 legend again where you can see just this part. But I  
25 just want to point out that there is some -- we have some

1 data on the -- the strip of spacing that goes out to the  
2 east off of your fold is a small part of the total data.  
3 Again we'll go back and look at this specifically. Also  
4 shown on the map, these heavy lines are the USGS quad  
5 lines and they are labeled.

6 S. McCLANNAHAN: Mr. Chairman, I would move the introduction  
7 of Exhibit C-2.

8 R. CHAIRMAN: It's accepted.

9 A. (The witness continues.) On this map if you look at the  
10 legend in the northwestern or upper part of the map,  
11 we'll start at the bottom with the yellow boxes. These  
12 yellow boxes represent the 80 acre units of the eight  
13 existing coalbed wells that Equitable has drilled. We  
14 have vent test data on those eight wells and we will show  
15 that a little bit later. The next one up is the purple  
16 circle and those are the hole cores that were acquired by  
17 Penn-Virginia. We also have that data available. It's  
18 desorption data. Primarily the desorption and the  
19 thickness data for those particular seams desorbed. The  
20 light blue circles represent the four wells that Equit-  
21 able took sidewall cores from the coalbed methane wells  
22 that we drilled. The black diamonds are the shallow coal  
23 core data. They were Penn-Virginia, Westmoreland core  
24 data. There are 624 total and they would represent the  
25 depth and the thickness of the upper coal seams, general-

1 ly the minable coal seams. The little red gas symbol  
2 represents the coal logs. Actually they're coal logs run  
3 on conventional wells that were drilled. There are 231  
4 of them in total. And the data from that would be the  
5 depth and the thickness of all the coal seams. Then  
6 there's a dry hole symbol there indicating that there are  
7 six dry holes and we would have depth and thickness from  
8 some of the coal seams from those wells.

9 MR. EVANS: The dry hole data, were those from CBM wells or --

10 THE WITNESS: No. Those were conventional wells. Old  
11 conventional wells before the development of the field.

12 Q. (Ms. McClannahan continues.) Mr. O'Neil, can you  
13 explain the kind of specific data that you obtained from  
14 the eight desorption core holes?

15 A. Yes, and I believe we have a packet to hand out.

16 MS. McCLANNAHAN: We've identified this exhibit as Exhibit  
17 C-3.

18 Q. (Ms. McClannahan continues.) Mr. O'Neil, could you  
19 please explain to the Board the data that's contained on  
20 Exhibit C-3 with regard to these core holes?

21 A. We have a sheet for each one of the individual wells and  
22 on that sheet we have the desorption data and standard  
23 cubic feet per ton as recorded under the U.S. Bureau of  
24 Mines direct method and we also show the total inches of  
25 the seams in relation to that desorption data. You'll

1 note that -- for instance, the top sheet you should have  
2 there is PV-165M and that is one of those four purple  
3 circles on the map before you. I'll just kind of go  
4 through this data. You can see there's a wide variety.  
5 In looking at PV-165M we have a high reading of 145.5  
6 standard cubic feet per ton and the low reading is 78.5.  
7 If you look at the next page, PV-166M, we have a high  
8 reading of 126.1 in the War Creek and we also have a low  
9 reading in the War Creek as well of 28 standard cubic  
10 feet per ton. Now, one thing I want to mention, you'll  
11 notice that there are five readings for the War Creek on  
12 PV-166M and we show 64 inches. The reason for that is it  
13 was canistered in five separate canisters. So the upper  
14 reading would be the top part of the coal and then it  
15 would be between a foot and a foot and a half they put  
16 into these canisters. So they would take multiple  
17 canisters for the thicker coal seams. Going on to  
18 PV-167M, the high is 179.3 out of the Horsepin and the  
19 low is 26.5 out of the Hagy and again a wide variety in  
20 between. PV-168M, the high is 154.3 in the War Creek and  
21 a low of 50.5 in the Splash Dam. Next is the VCP  
22 numbers, those are the numbers -- they were drilled by  
23 Equitable and you can see that these would correspond to  
24 the light blue circles on the map. 3097 -- the numbers  
25 are there. They are small. But 3097 is in the upper

1 right and they progress to the lower left. 3097 we had a  
2 high of 102 in the Jawbone and a low of 24 in the Norton  
3 and again a wide variety. 3098 had a high of 113 in the  
4 War Creek and a low of 36 in the Upper Clintwood. 3099  
5 we had a high of 134 in the War Creek and a low of 14 in  
6 the Upper Banner. 3101 we had a high of 73 in the  
7 Kennedy and a low of 11 in the Upper Banner.

8 MR. CHAIRMAN: Any questions from the Board members?

9 MR. EVANS: As far as depth of cover, how deep are these --  
10 well, either the PV numbers or your purple or your light  
11 blue. Was there a correlation between shallow cover over  
12 some of these seams. I don't know what the stratigraphy  
13 is.

14 THE WITNESS: The way they're listed, the seam at the top  
15 would be the shallowest and then it would get deeper. If  
16 you're asking is there correlation in gas content to  
17 depth there isn't. In fact, we can look at the very  
18 first one, PV-165, the very high reading was in the  
19 Upper Banner where the War Creek is significantly deeper  
20 and had lower readings than that.

21 MR. EVANS: I guess what I was really driving at is what they  
22 call above drainage versus below drainage. Do these  
23 seams crop or are these all basically continuous? Did  
24 you see any difference as far as the Hagy being cropping  
25 on a ridge or whatever else for low readings versus

1 something that's --

2 THE WITNESS: No. There is no correlation that these -- the  
3 actual seams where they were tested are at some reason-  
4 able depth. Some of these do, of course, crop out and  
5 are mined in other areas of the field. If you were near  
6 a crop you would expect it not to have much gas content.  
7 But it's not really clear how far away from the crop you  
8 need to be to acquire a significant amount of gas. The  
9 permeability is on the relatively low side and there is  
10 some water content in there which would have a tendency  
11 to hold that gas against the face of the coal.

12 MR. EVANS: It was just a question. I couldn't tell really  
13 from looking at this if there was -- how many of these  
14 seams would actually crop in a situation where every  
15 other ridge has a crop or whether it's only in the deeper  
16 relief sections where there would be a crop, if you know  
17 what I mean, where you'd have a large contiguous block of  
18 uninterrupted coal versus a lot of that section with --

19 THE WITNESS: I think just in the depositional nature of the  
20 coal they do vary from place to place. So you may have  
21 coal at the outcrop and not have it be continuous all the  
22 way underground. In fact, we have some production in  
23 Pennsylvania where it's a pretty uniform body of coal in  
24 the sinclines and all of it crops out on the flanks of  
25 the anticline and it's still productive. It's because

1 the water is able to hold that gas against the coal face.

2 MR. EVANS: Thank you.

3 MR. CHAIRMAN: Other questions? You may continue.

4 Q. (Ms. McClannahan continues.) Do these gas in place  
5 measurements that you've listed here for the Board and  
6 that are on Exhibit C-3 include lost gas from the core  
7 samples that were taken?

8 A. They do include a small amount of lost gas. Again, the  
9 U.S. Bureau of Mines direct method does make some  
10 calculation for lost gas. But there's a significant  
11 amount of lost gas that's not accounted for. In fact, I  
12 brought some publications or excerpts from publications  
13 from GRI to demonstrate the variability of calculating  
14 that lost gas.

15 MS. McCLANNAHAN: These we have designated as Exhibits G and  
16 H. First, though, before you move away from C-3 I would  
17 like to move the introduction of C-3 if I didn't do that  
18 before.

19 MR. CHAIRMAN: It's accepted.

20 Q. (Ms. McClannahan continues.) These are Exhibits G and H.  
21 Could you please identify these GRI reports, Mr. O'Neil,  
22 in terms of what kinds of information is contained within  
23 them?

24 MR. CHAIRMAN: Just a second. I'm lost.

25 THE WITNESS: G would be the one a bar graph on the inside.

1 It's a collection interpretation of gas content and  
2 desorption data for coalbed reservoirs.

3 MR. CHAIRMAN: By Pratt?

4 THE WITNESS: Yes. That's G and H is the other one.

5 MR. CHAIRMAN: Okay. Thank you.

6 A. (The witness continues.) First of all, in describing G  
7 and H, G was given at the coalbed methane project  
8 advisory group meeting in the last quarter of 1993. The  
9 findings have not yet been published. In fact, H also  
10 has not been published. It was submitted to GRI in  
11 February of 1994 and should be published very soon. GRI  
12 has given us the content to use the excerpts from these  
13 papers and again, they will be published very soon.  
14 Exhibit G -- I'll read the title again -- "Collection and  
15 Interpretation of Gas Content and Desorption Data for  
16 Coalbed Reservoirs." If you'll open to the bar graph,  
17 this particular bar graph comes from various methods of  
18 desorption analysis from one well in the San Juan basin,  
19 the GRI observation #1 well. And you'll notice the bar  
20 on the left is the U.S Bureau of Mines direct method and  
21 it shows 400 standard cubic feet per ton. This is the  
22 method that we used. I think we mentioned at the last  
23 hearing that it is significantly less than what it could  
24 be. So we just wanted to have some public information to  
25 demonstrate that this is the case. The improved desorp-

1 tion methodology as you can see shows 900 standard cubic  
2 feet per ton. This is just a different method of  
3 determining gas content. Again, our method is the U.S.  
4 Bureau of Mines direct method. Then there is another  
5 one, methane isotherms that shows 790. The point I want  
6 to make is that with the U.S. Bureau of Mines direct  
7 method it's a conservative method.

8 MR. EVANS: As in ultra conservative?

9 THE WITNESS: Right.

10 A. (The witness continues.) And it was the state of the art  
11 a few years as I'll demonstrate from this other paper.  
12 If you turn the page to the next graph on the bottom it  
13 talks about the three components of conventional desorp-  
14 tion experiments. What I want to point out is the  
15 significant amount of lost gas before the coal is  
16 canistered. And you can see under the lost gas time  
17 frame there they started at time zero when you actually  
18 start measuring the gas from the canister. And during  
19 that lost gas time the graph goes from minus 250 standard  
20 cubic feet per ton to zero. So there's a relative 250  
21 standard cubic feet per ton lost. The time frame at the  
22 bottom, square root elapse time -- square root of hours,  
23 the point five corresponds to fifteen minutes. The  
24 actual point where the lost gas dash intersects that  
25 bottom line is about point six five which corresponds to

1 twenty-five minutes. At the other end of the curve the  
2 40 corresponds to 67 days. Again, if you look at this at  
3 the moment you've canistered the gas it goes from zero up  
4 to again roughly 250. So within twenty-five minutes  
5 you've lost about half of the gas in the coal and that  
6 becomes the difficult part of determining what actually  
7 the coal had in the reservoir situation. That's why  
8 there's a big discrepancy between types of methods. The  
9 U.S Bureau of Mines was the state of the art a few years  
10 back and GRI is demonstrating that it is significantly  
11 low. Paper H is entitled "Collection and Interpretation  
12 of Gas Content Desorption Data for Coalbed Reservoirs."  
13 This is again a draft submitted to GRI for publication.  
14 It hasn't been published. This was done in February,  
15 1994. It's report number GRI93-0300. On the first page  
16 and under the highlighted sentence there -- I'll go ahead  
17 and read it. "Based on the results of several MDM  
18 experiments" and MDM stands for modified direct method  
19 -- "Alery and Himan concluded that the direct method had  
20 under estimated the gas content of some coalbeds by more  
21 than 100 percent." They believe that this was particul-  
22 arly true for low gas concentration coalbeds which is  
23 exactly what we're dealing with here in Wise County.  
24 Again, that backs up that bar graph. On the next page,  
25 the highlighted portion, it says, "In 1977 the U.S.

1 Bureau of Mines believed that direct method gas content  
2 gas estimates were accurate to within plus or minus 30  
3 percent. It became evident by 1991 that some data may be  
4 in error by more than 100 percent." On the following  
5 page, the highlighted sentence, "The lost gas volume can  
6 only be determined indirectly and knowledge of time zero  
7 and the lost gas time is mandatory. Most errors in the  
8 estimate of a total gas content are presumed to be due to  
9 errors in the lost gas volume estimate."

10 MS. McCLANNAHAN: Mr. Chairman, I would move the introduction  
11 of Exhibits G and H.

12 MR. CHAIRMAN: Questions from the Board?

13 MR. EVANS: Has any of this data been peer reviewed? Do they  
14 have sort of a peer review on this or any other kind  
15 of --

16 THE WITNESS: I think that in peer review -- for instance, in  
17 Exhibit G, it was actually presented to a coalbed methane  
18 project advisors group meeting. So there are a lot of  
19 companies involved with this. The actual reports would  
20 come from a designated individual or a consulting firm  
21 and the entire advisory group is allowed to review them  
22 and make comments ahead of time. In fact, GRI gave them  
23 to us with the assumption that we may comments back on  
24 the graphs.

25 MR. EVANS: Does Exhibit H also deal with the San Juan or is

1 this just -- what was the scope of the study, I guess. I  
2 can see that in Exhibit G it's obvious that they're  
3 talking about coals in the San Juan basin. Is H taken  
4 from the same -- were the conclusions drawn from the same  
5 data or was it more --

6 THE WITNESS: No. I believe that H -- it looks at several  
7 different methods and would look at San Juan and Black  
8 Warrior primarily.

9 MR. EVANS: Okay. Thank you.

10 MR. CHAIRMAN: Other questions?

11 MR. KELLY: Mr. O'Neil, I'm just curious as to what kind of  
12 time data you have on the core holes that are represented  
13 here as far as lost time between the actual taking of the  
14 core and when they were sealed, if you have any idea. Do  
15 you have any ideas there?

16 THE WITNESS: I think Joe would have a better -- could give a  
17 better answer to that than I can.

18 COURT REPORTER: (Swears witness.)

19 MS. McCLANAHAN: Joe, please state your full name also.

20 MR. AWNY: Joseph A. Awny. I'm with Equitable Resources.  
21 Just to give a description of how the sidewall core  
22 samples were collected, the holes were drilled and the  
23 seams were encountered probably several days before the  
24 actual sidewall cores were taken.

25 MR. KELLY: So there's quite a bit of lost time involved

1           there?

2 MR. AWNY: Maybe as much as a week or so. And also they were  
3 drilled with air and then the hole was loaded with fluid  
4 power to take core -- the gas has escaped unlike the  
5 continuous cores we're drilling with the fluid base  
6 system and under pressure.

7 MR. KELLY: So your hole core data you would presume to be a  
8 lot more accurate although there's still some lost --

9 MR. AWNY: Right. That's correct.

10 MR. CHAIRMAN: Any other questions about the exhibits? The  
11 Board will accept Exhibits G and H.

12 Q. (Ms. McClannahan continues.) Will this lost gas amount  
13 be a significant factor in raising the expected gas in  
14 place numbers that you've submitted to the Board then?

15 A. Yes, it would. The average roughly would be about 80  
16 standard cubic feet per ton if you looked at all the  
17 average. There's always a problem in dealing with  
18 averages alone. But we use 100 standard cubic feet per  
19 ton which is about a 25 percent increase which would be  
20 very conservative relative to the GRI information. We  
21 also feel that by the fact when we perforate the seams  
22 and produce from them we're going to produce from the  
23 higher gas content seams. So that 25 percent increase  
24 is certainly reasonable. Again, it's on the conservative  
25 side.

1 Q. The 25 percent increase that you're referring to is the  
2 average gas content numbers and the 100 standard cubic  
3 feet per ton gas measurement that we used for the  
4 calculation, is that right?

5 A. Yes. That's correct.

6 Q. What kind of vent testing data do you have from the holes  
7 that are shown on Exhibit C-2?

8 A. I have all the vent testing data available on the eight  
9 wells. We have it in a graph form and in a tabular form.

10 Q. McCLANNAHAN: Exhibit C-4 is the tabular form and Exhibit  
11 C-5 is the graph form of this data.

12 A. (The witness continues.) The top four sheets -- and  
13 again, the V2627 should be on top. These top four sheets  
14 represent the vent testing data of the four wells on the  
15 eastern side of the map that do not have core data.  
16 V2627 is the upper most one. V2628 is the second from  
17 the bottom. V3006 is the bottom one and then V2838 is  
18 the second from the top. The data that's presented on  
19 the chart is also presented in a tabular form. So you  
20 can kind of look back and forth. But I thought we'd just  
21 talk about the chart. If you look at the left hand side,  
22 the line with all the numbers, there's an asterisk 10 at  
23 the heavy line on the left side of the chart -- that  
24 would be ten MCF per day and then the next line up would  
25 be 15 MCF per day and the next one 2 MCF per day. So

1 2627 started out around 30 MCF per day and dropped down  
2 to the 15 MCF per day range and then back up to twenty.  
3 It was shut in for a time and then started out above 30  
4 MCF per day and dropped to 25 and then back up to 30. On  
5 the next well, 2628, this is the same scale. It started  
6 off just a little above 10 MCF per day and rose to about  
7 60 MCF per day and then stabilized roughly at 60 MCF per  
8 day and then was shut in. The next one, 3006, again  
9 started off around 30 MCF per day and then rose almost --  
10 peaked over 40 and dropped down a little bit, was shut  
11 in, opened up again above 50 MCF per day and stabilized  
12 pretty much at about 40 MCF per day. But again this is  
13 all early time data. The next well, 2838, the scale is a  
14 little bit different. This is a little bit larger well.  
15 As you can see, out to the left of the graph is shows a  
16 star 100. So 2838 started above 100, rose up some and  
17 then dropped back a little bit but still above 100. It  
18 was shut in for a significant period of time and then  
19 actually was placed on line starting off at about 40 MCF  
20 per day, rising above 100 and then dropping back and  
21 stabilizing at 75 MCF per day. The next well, 3097,  
22 started off at 30 MCF per day and has been declining and  
23 is now right around 1 MCF per day. It was shut in.  
24 Again, this is all vent testing data. Only the one well  
25 2838 was a production test. 3098 started at about 8 MCF

1 per day and then rose up to about 15 and has dropped back  
2 a little bit. 3099 was bouncing all around from 2 MCF up  
3 to 5, back to 2 and 3 and basically staying around the 2  
4 to 3 MCF per day range. And then we re-completed some of  
5 the upper seams and it has gone from 4 MCF per day and is  
6 around 35 MCF per day. 3101 started at about 15, dropped  
7 back to the 5 to 6 range and has been just bouncing  
8 around but staying in the 5 to 6 range.

9 MR. EVANS: All these wells have similar fracks?

10 MR. AWNY: Right, similar fracks.

11 MS. McCLANNAHAN: I would move the introduction of Exhibits  
12 C-4 and C-5.

13 MR. CHAIRMAN: Are there questions about the exhibits? They  
14 are accepted.

15 (The witness continues.) I would just like to make a  
16 statement about this. The last time we were trying to  
17 compare the Roaring Fork to the Nora. This time we're  
18 trying to get much more specific as to the information in  
19 Roaring Fork. But in looking at the over all average it  
20 is lower than Nora but the average is still decent.  
21 Similar to the gas contents, how they're bouncing around,  
22 the actual production data is responding pretty much the  
23 same way. And as you can see, some of the wells like  
24 3099 were significantly increasing. Again, in the  
25 comparison -- it's a statistical thing. There is a wide

1 variety. But over all in the early time it's just a  
2 little bit less than the Nora early time data.

3 Q. With regard to your experience in production from the  
4 Nora Field could you explain the production history  
5 generally of coalbed methane wells in terms of whether  
6 it rises or falls off?

7 A. In Nora there's actually a couple of different types as  
8 the kind like 2838 that starts fairly high. They do tend  
9 to decline some because of pressure constraints within  
10 the pipelines actually, but then by far the majority of  
11 them start on the low level and increase over time. So  
12 of them may increase continually for several years and  
13 then at some point it will turn over and start dropping.

14 MR. EVANS: Does that have to do with dewatering and --

15 THE WITNESS: Yes.

16 Q. (Ms. McClannahan continues.) Approximately how much  
17 money has Equitable invested in the Roaring Fork project  
18 to obtain the data that you've just presented to the  
19 Board and to drill these wells?

20 A. It's cost Equitable about 1.6 million dollars to drill  
21 the eight coalbed test wells. We also have approximately  
22 \$400,000 tied up in lease bonuses that give us the right  
23 to develop the coalbed methane. That's about two million  
24 dollars. Before that Penn-Virginia had acquired a  
25 significant amount of the 231 coal logs. When ANR was

1 drilling the property Penn-Virginia paid for the coal  
2 logs on each individual well and they would run between  
3 \$1,500 and \$4,000 depending on what company. And then in  
4 the last 40 to 50 wells that Equitable has drilled  
5 conventionally we have run coal logs as well. So it's  
6 considerably more than two million dollars that has been  
7 spent to date to enable to get the data to come before  
8 the Board with this field wide spacing request.

9 Q. Mr. O'Neil, based on the core data information what are  
10 the approximate coal thicknesses of the seams that are  
11 listed as the subject of the application for the Roaring  
12 Fork Field?

13 A. The seams vary in thickness. They range from anywhere  
14 less than a foot thick to commonly in the four foot thick  
15 range, but occasionally there are some very thick seams  
16 in the eight foot thick range.

17 Q. What are the total inches of potentially producible coal  
18 seams for coalbed methane purposes in the proposed  
19 Roaring Fork Field?

20 A. 280 inches is a good field wide average for the proposed  
21 field wide spacing.

22 Q. And approximately how many inches does Equitable expect  
23 to produce from?

24 A. I think it's reasonable to expect production from about  
25 75 percent of the coal thickness throughout the life of

1 the well. That would equate to about 18 feet or 216  
2 inches.

3 Q. For purposes of Mr. Awny's questions later and the  
4 reserve calculations that he's done eighteen feet is the  
5 number that we've used for potentially producible coal  
6 seams, is that correct?

7 A. Yes. That's correct.

8 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
9 O'Neil.

10 MR. CHAIRMAN: Questions, Board members? Is there cross-  
11 examination of Mr. O'Neil?

12 MR. SWARTZ: Not from me.

13 MR. LEPHITZ: No, Mr. Chairman.

14 (Witness stands aside.)

15 MS. McCLANNAHAN: The next witness I'd like to call is Joe  
16 Awny who's previously been sworn.

17  
18 JOSEPH AWNY

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

21  
22 DIRECT EXAMINATION

23  
24 BY MS. McCLANNAHAN:

25 Q. Mr. Awny, could you please state your address for the

1 record?

2 A. My address is 2040 Melvern Road, Kingsport, Tennessee.

3 Q. And your profession?

4 A. I'm a petroleum engineer.

5 Q. And by whom are you employed?

6 A. I'm employed by Equitable Resources Energy Company.

7 Q. And your position with Equitable?

8 A. I'm senior petroleum engineer.

9 Q. And your responsibilities and duties as senior petroleum  
10 engineer?

11 A. I'm also acting manager for Equitable Resources Energy  
12 Company's coalbed methane projects. I'm responsible for  
13 evaluation and development of prospects both domestically  
14 and internationally. I evaluate coalbed methane pros-  
15 pects in the central Appalachian basin as well as the  
16 northern Appalachian basin, the Black Warrior basin in  
17 Alabama, the San Juan basin in New Mexico and Colorado,  
18 the Deep River basin in North Carolina, the Peons basin  
19 in Colorado, the Inta basin in Utah, some additional  
20 coalbed methane prospects in Montana, Wyoming, also the  
21 Four City basin in Kansas. I've evaluated international  
22 prospects in Germany, Spain as well as South Wales. My  
23 responsibilities also include reserve estimation from  
24 these coalbed methane wells. I'm responsible for well  
25 site location, for stimulation design. I've personally

1 completed over 100 wells in Virginia, North Carolina,  
2 Kentucky and Pennsylvania.

3 Q. Mr. Awny, could you please describe your educational  
4 background for the Board?

5 A. I have a BS degree in petroleum engineering from West  
6 Virginia University in 1977.

7 Q. And your work background?

8 A. I started out with Consolidated Natural Gas in Clarks-  
9 burg, West Virginia in 1977 as a petroleum engineer. My  
10 primary responsibilities were drilling and completion of  
11 wells in southern West Virginia, Tennessee and Kentucky.  
12 After that I worked for Cabot Oil and Gas in southern  
13 West Virginia as a field engineer responsible for  
14 drilling and completion as well as surveying and produc-  
15 tion work. After that I worked for El Paso Natural Gas  
16 in the San Juan basin in New Mexico. My primary responsi-  
17 bilities were drilling and completion of wells that  
18 ranged in depth from 2,500 feet to 9,000 feet. After  
19 that I worked for Astola Production Company, a subsidiary  
20 of (Inaudible.) Corporation in Pittsburgh, Pennsylvania.  
21 My title there was senior engineer and my responsibiliti-  
22 es were reserve evaluation as well as directly drilling  
23 and completion operations of wells basically in Penns-  
24 ylvania that ranged from shallow oil wells of 1,500 to  
25 2,000 feet to deep wells of 9,000 to 10,000 feet. After

1 that I was project manager of Meridian Exploration  
2 Corporation in Pittsburgh, Pennsylvania where I oversaw  
3 all their engineering activities and directed the  
4 drilling and completion as well as gas emigrations and  
5 measurement and production accounting. After Meridian I  
6 joined Equitable Resources Energy Company in Pittsburgh.  
7 I was there for two years before I came down to King-  
8 sport, Tennessee.

9 MS. McCLANNAHAN: Mr. Chairman, I submit Mr. Awny as an expert  
10 witness as a petroleum engineer.

11 MR. CHAIRMAN: Can we get the correct spelling of his name?

12 THE WITNESS: It's A-W-N-Y.

13 Q. (Ms. McClannahan continues.) Mr. Awny, have you compared  
14 coalbed methane development in the Appalachian basin to  
15 that of other areas in the country?

16 A. We continuously compare the Appalachian Basin to other  
17 areas. As I mentioned earlier, we compare that to the  
18 Black Warrior Basin in Alabama, the San Juan Basin in New  
19 Mexico. We've compared it to the Inta Basin in Utah, the  
20 Peons Basin in Colorado, also Wyoming, Germany, Spain as  
21 well as other areas.

22 Q. What are the similarities or differences between the San  
23 Juan, the Black Warrior and the Appalachian Basin coalbed  
24 methane fields that you've compared?

25 A. In the San Juan Basin we're dealing with cretaceous age

1 coals. They have a much higher gas content. We're  
2 talking about 100 foot coal seams with high gas contents  
3 and they're over pressured. They're at depth probably  
4 ranging on average 3,500 feet or so. They have tremend-  
5 ous potential. They're drilled on much wider spacing  
6 than they are in the Black Warrior Basin or the Nora  
7 Field or anywhere in the Appalachian Basin. Also we  
8 have compared it to the Black Warrior Basin where you  
9 have similar age coals that are north Pennsylvanian coals  
10 and of similar depth and age coals.

11 Q. How do the gas recovery factors compare in these basins?

12 A. I understand that in the Black Warrior Basin the recover-  
13 ies are in the seven to 80 percent range. There have  
14 been several publications to that effect. In the San  
15 Juan Basin the recovery factors are much lower of the  
16 gas in place that are on the order of probably somewhere  
17 in the 30 to 50 percent range of gas in place.

18 Q. Based on your comparisons of these basins what kind of  
19 recovery rates would you expect in the Roaring Fork  
20 Field?

21 A. We expect similar recoveries to the Black Warrior Basin  
22 to the recoveries that we have in the Nora Field. Just  
23 from the extrapolation of decline curves and so forth we  
24 believe that in the Nora Field we'll have somewhere in  
25 the 75 to 80 plus recoveries. We expect similar recover-

1 ies for the Roaring Fork Field.

2 Q. Mr. Awny, could you please identify Exhibit I for the  
3 Board?

4 A. Yes.

5 Q. The first page of that is labeled?

6 A. Assumed parameters used in calculation.

7 Q. Right. There are a number of pages that are attached  
8 here. So we'll just have to refer to different pages of  
9 the exhibit.

10 A. Based on Mr. Evans' request to conduct an analysis of  
11 various drainage patterns for the Roaring Fork Field we  
12 have set up a model to go through the calculations and to  
13 prove to the Board that 80 acres is the proper spacing  
14 size. If you'd bear with me what I'd like to do is  
15 explain a little bit about the mechanism of gas product-  
16 ion from the coals. Will that be acceptable?

17 R. CHAIRMAN: Yes, sir.

18 (The witness continues.) Please turn to Page 2. Coal is  
19 a dual porosity model. You have the internal surface of  
20 the coal and the coal matrix is made up of cleat system  
21 as well as internal surface of the coal and then in that  
22 we have a system of natural fractures within the coal.  
23 If you turn to Page 3, this is a diagram that gives us  
24 basically a flow mechanism of gas from the coal. First  
25 gas desorbs from the internal surface of the coal and

1 then it flows through the matrix system of the coal which  
2 is made up of the cleat and then finally into the  
3 natural fracture system. Based on this dual porosity  
4 model I have set a set of assumed parameters and these  
5 parameters closely approximate the conditions that we  
6 have in the Roaring Fork Field. Page 4 is the gas in  
7 place calculation. The gas in place in any given area is  
8 going to be composed of the gas that's absorbed on the  
9 coal matrix and the gas that's in the coal fracture  
10 system. The gas absorbed on the coal matrix can be  
11 calculated by taking the gas content times the density of  
12 the coal times the number of feet of coal. In this  
13 calculation we used 100 standard cubic feet per ton, a  
14 coal density of 1,800 tons per acre, and an 18 foot coal  
15 thickness. The 1,800 number comes from -- that's the  
16 number for --

17 MR. EVANS: It's quick and dirty.

18 THE WITNESS: Okay. But you accept that, right?

19 MR. EVANS: It's standard to accept it in place of doing some  
20 really --

21 A. (The witness continues.) With that the volume absorbed  
22 on the coal matrix is 3.2 million cubic feet per acre.  
23 Our second phase of calculation is the gas in coal  
24 fractures and that's basically a metric calculation of  
25 the gas in place there. That number comes out to be

1 roughly just a shade under a million cubic feet per acre.  
2 Adding the two numbers together we come up with about 4.2  
3 million cubic feet per acre. Then I took it one step  
4 and I figured up the gas in place for 240 acres and  
5 that's roughly a little over one billion cubic feet of  
6 gas. Then I calculated for 120 acres, 80 acres, 60 acres  
7 and 40 acres. These are units that we are all familiar  
8 with here. So I thought I would keep it similar. On  
9 Page 5, the following page is basically the gas flow  
10 equation and this is the equation that we used to  
11 calculate the amount of time it takes for gas to be  
12 produced and the recovery factors of that gas in a given  
13 area. On Page 6 I applied the gas flow equation in my  
14 assumed parameters to different drainage patterns. Page  
15 6 has the 240 acre units, 120 acre units. Page 7 has the  
16 80, 60 and 40 acre units. If you'll note, on Page 6  
17 under the 240 acre unit we assume that the well is going  
18 to be produced at a constant rate at 60 MCF a day to  
19 depletion. And using that it roughly takes us about 37  
20 years to produce the amount of gas in place. The amount  
21 of gas produced in that period is 804 million cubic feet.  
22 The second case is the 120 acre unit. We use the same  
23 assumption of 60 MCF a day per well and the time it takes  
24 to recover the gas is 19 years and the recovery is  
25 roughly 414 million cubic feet per well. These time

1 frames are too long as far as our corporate criteria for  
2 economics to produce, especially for a coalbed methane  
3 well. On the second page we have the 80, the 60 and the  
4 40 acre units. Roughly the 80 acre unit we have a  
5 thirteen year recovery at the constant rate. The 60 acre  
6 is ten years and the 40 acres is roughly seven years.  
7 What I did on the following page, Page 8, was apply real  
8 life -- we would not produce a well at a constant rate.  
9 So I tried to model real life how we produce these wells.  
10 And I used a sixteen year economic cut-off. For coalbed  
11 methane wells we want to produce these wells at a short  
12 period of time because of the soft water disposal,  
13 they're high operating cost. We have scale problems  
14 associated with it. We constantly have to haul water  
15 back and forth. So we cannot afford to produce these  
16 wells for any longer than that time frame. So what I  
17 did, using economic models for probable production that  
18 it would take -- and recoveries of gas for the different  
19 drainage patterns over the sixteen year period. As you  
20 can see, the 240 acre if we drill one well in a sixteen  
21 year period would recover 410 million cubic feet of gas.  
22 And that's 40 percent of the gas in place. The last  
23 column is the after tax rate of return and that gives us  
24 a good rate of return of 20 percent. But we only recover  
25 40 percent of the gas in place. Our 120 acre drainage

1 pattern, we'd have to drill two wells to drain a 240 acre  
2 area. Our recovery factor would be roughly 66 percent of  
3 the gas in place and our after tax rate of return is 17  
4 percent. The 80 acre unit, we'd have to drill three  
5 wells. Our sixteen year recovery factor is 83 percent of  
6 the gas in place. That gives us an after tax rate of  
7 return of 14.3 percent. Then the 60 and the 40 acre unit  
8 also give us good recovery factors but our rate of  
9 returns are very low. It's not economic for us to drill  
10 at these drainage patterns. On the very last page of my  
11 presentation there I have a graph just summarizing all  
12 this. As you can see, the 240 acre is the green line and  
13 after sixteen years of drilling we're recovering a little  
14 over four million cubic feet of gas. Our next blue line  
15 is the 120 acres. We drill two wells in that area and we  
16 recover over 660 million cubic feet of gas. Then the  
17 80, the 60 and the 40 acre units all give us basically  
18 the same recovery in the sixteen year period. Now, the  
19 advantage to the 80 acre unit is that we drill less wells  
20 for the amount of gas we produce. And therefore, we're  
21 reprimanding that the spacing for the Roaring Fork Field  
22 be based on the 80 acre unit.

23 MR. EVANS: Mr. Awny, for clarification, your Exhibit I, these  
24 are based on the measurements techniques of the U.S.  
25 Bureau of Mines direct methods. So they are the most

1 conservative?

2 THE WITNESS: Right.

3 MR. EVANS: Thank you. I just wanted to make sure that that  
4 got in on the record.

5 THE WITNESS: Mr. Evans, we use the same analysis for all of  
6 them. So we're consistent.

7 MR. EVANS: It is consistent right straight through and  
8 therefore these numbers represent basically a floor as  
9 opposed to a ceiling on what you're expected. You  
10 expect these wells to do much better than these calcula-  
11 tions show?

12 THE WITNESS: We should. On average we're saying -- you know,  
13 on average these numbers should be good.

14 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
15 Awny.

16 MR. CHAIRMAN: Other questions from Board members?

17 MR. O'NEIL: May I make a statement on that last question?

18 MR. CHAIRMAN: Yes, Mr. O'Neil.

19 MR. O'NEIL: Part of the reason to be conservative is because  
20 of the flexibility, for instance, in the inches of coal.  
21 It will vary throughout the field. We used 280 as a good  
22 over all average for the total coal thickness and 75  
23 percent of that to be completed. But on a given well it  
24 could be less than that and therefore, to make it work  
25 economically you want to be conservative on the projected

1 gas in place so that if you get more gas in place and  
2 less inches of coal it will be a wash and you'll still  
3 get an economic well.

4 MR. CHAIRMAN: Any cross-examination of Mr. Awny?

5 MR. SWARTZ: No, Mr. Chairman.

6 MR. LEPSHITZ; I have one question.

7

8

CROSS-EXAMINATION

9

10 BY MR. LEPSHITZ:

11 Q. Your analysis assumes 240 acres and you are setting a  
12 specific number of wells in that 240 acre based on your  
13 analysis?

14 A. Right. I could have taken it to a different -- if you  
15 want to look at 320 or whatever.

16 Q. In that 240 acres which one of these potential drilling  
17 patterns, one well, two wells, three wells, four wells,  
18 etcetera, represents the least inconvenience to the coal  
19 operator whose seams you will penetrate?

20 A. I can't answer that. I don't know.

21 THE WITNESS: Tom, can you answer that?

22 MR. O'NEIL: The inconvenience would be minimal because the  
23 coal companies, for instance, wouldn't approve a given  
24 well site. Every single well has to be approved by the  
25 coal companies. They have to give us consent to stimu-

1 late. We obviously try to drill these holes, whether it  
2 be one hole or six holes, in a given 240 acre block or  
3 whatever size block, try to drill through coal pillars  
4 that would be left behind. So we really believe the  
5 inconvenience to the coal companies is negligible.

6 Q. (Mr. Lepshitz continues.) Assuming all this is virgin  
7 coal, though, which is what your equation is based upon,  
8 is it not?

9 A. Right. Can I explain something else, too, if I may.  
10 We're dealing with a dewatering mechanism and you need to  
11 get a dewatering pattern. You cannot drill effectively  
12 -- our permeabilities in the Appalachian Basin and in  
13 these coals is very low. It's from a magnitude of less  
14 than ten millidarcie. In some places it might be even  
15 less than two millidarcies. You will not be able to  
16 drain an area as in the San Juan Basin where they have  
17 twenty times as much permeability as you have. So we  
18 really need to be able to properly space these wells to  
19 maximize the production of them.

20 Q. I understand your concerns. I'm asking you about the  
21 coal companies.

22 A. Right. That's something that -- we work with other coal  
23 companies all over the place. I mean, I recognize that  
24 you're looking at it from a mining view point and we all  
25 have to agree to that. We're looking right now at the

1 proper spacing --

2 Q. From your view point?

3 A. From my view point. And we're saying from our view point  
4 80 acre spacing is the proper size.

5 Q. And my question to you is which one of those spacings  
6 represents the least inconvenience to the coal company?  
7 Is one well less convenient than four wells?

8 MS. McCLANNAHAN: I would just indicate that --

9 MR. LEPSHITZ: Mr. Chairman, I would ask that the witness  
10 answer the question.

11 A. (The witness continues.) We deal with coal companies all  
12 the time and probably the fewer number of wells the  
13 better.

14 MR. LEPSHITZ: That's all I have.

15 MS. McCLANNAHAN: What I wanted to say was certainly we would  
16 concede the point that Mr. Awny has just indicated, that  
17 the coal company would prefer fewer wells to more wells.  
18 However, the coal company can actually -- any coal owner  
19 in an part of the Roaring Fork can determine that  
20 Equitable drills zero wells in the entire field because a  
21 consent to stimulation is required under Virginia law to  
22 drill any of these wells from the coal owner. So the  
23 consent to stimulation requirement is a statutory  
24 requirement and we can't drill one well in the field  
25 without it. And I would just indicate that that's really

1 not relevant to a field rules application determination  
2 by the Board.

3 MR. LEPSHITZ: Mr. Chairman, I would take issue with that. I  
4 think the statute obligates you consider potential  
5 impacts on the mining industry and potential health and  
6 safety issues.

7 MR. O'NEIL: I would like to make one other point also. In  
8 the fact that we are looking to drill these wells through  
9 existing coal pillars, of course, I was addressing the  
10 seams that are minable or have been mined. If they  
11 haven't been mined but are minable the coal companies  
12 would have a plan as to how they intend to mine it and  
13 have pillars set aside for the future that we could drill  
14 through with minimal impact. The other thing is, in  
15 examining the eight core well data, for instance, a  
16 significant amount of the seams below drainage are  
17 significantly thin, that they will never be minable. I  
18 believe there is even some question as to whether the  
19 thick War Creek is potentially minable in the future.  
20 Again, it's significantly thick but it's at such signifi-  
21 cant depth that I know there are people at  
22 Penn-Virginia that have questioned the fact that it will  
23 ever be minable at all. So, again, I just want to point  
24 out that in drilling through the minable seams we do try  
25 to work with the coal company and have to work with the

1 coal company in positioning that well to have minimal  
2 impact.

3 MR. CHAIRMAN: Other questions?

4 MR. EVANS: I have one. Just real quickly, this has all been  
5 based on virgin coal and a frack on a virgin seam. Do  
6 you plan -- are there areas in this Roaring Fork Field  
7 that would be potential for gob wells at present?

8 MR. O'NEIL: There are, but I believe this particular spacing  
9 does not address the gob issue. We have talked with  
10 Penn-Virginia about the gob potential, but to date  
11 Equitable doesn't have any gob production. There are  
12 companies that have significant gob production. But  
13 really it's a different issue than this spacing would  
14 take into account.

15 MR. EVANS: Okay. I was just making sure that you didn't  
16 consider gob wells or -- that that's a totally different  
17 animal as far as any of the numbers we've received today.  
18 They are all based on zero -- basically zero gob produc-  
19 tion.

20 MR. O'NEIL: That's correct.

21 MR. CHAIRMAN: Other questions?

22 (Witness stands aside.)

23 MR. CHAIRMAN: You may continue.

24 MS. MCCLANNAHAN: Those are all the witnesses I have. I would  
25 just request that the Board approve the application as

1 submitted with the amendments that we've made.

2 MR. CHAIRMAN: Are there others who have presentations on this  
3 issue? (Pause.) Board, what's your pleasure?

4 MR. MCGLOTHLIN: I move that we accept the application as  
5 submitted and amended.

6 MR. KELLY: Second.

7 MR. CHAIRMAN: It's been moved and seconded that we accept the  
8 application as submitted and amended. Any further  
9 questions or discussion? All in favor let it be known by  
10 saying aye. (ALL AFFIRM.) Opposed like sign. (NONE.)  
11 It's unanimously approved.

12 MR. FULMER: Mr. Chairman, as a point of clarification as to  
13 our obligations at the Division, when will these go into  
14 effect, because we have a recorded situation under any  
15 other orders and these are not really recorded?

16 MR. CHAIRMAN: I'm not sure if I'm able to answer that.

17 MS. RIGGS: Usually the orders of the Board are effective upon  
18 execution by the Board is the way we've had it. But the  
19 Board has in some instances upon application made it  
20 effective as of the date of the Board action. Here we  
21 have six provisional units hanging out there that would  
22 be subject to these field rules that the Board is now  
23 going to have to consider what to do with because those  
24 orders haven't been entered yet. They're still pending  
25 negotiation over language. I don't know what upcoming

1 applications we have, but right now we have six Board  
2 orders that are impacted by these field rules.

3 MR. EVANS: What would be the time delay?

4 MS. RIGGS: I would think the order could be entered within 30  
5 days, by the time it's drafted and --

6 MR. SWARTZ: I don't see any reason why the order can't be  
7 effective today if you want it to be.

8 MS. RIGGS: The record is there and --

9 MS. McCLANNAHAN: Right, exactly.

10 MR. SWARTZ: And I would recommend that in terms of letting  
11 people take advantage of the decision we've made  
12 without --

13 MR. FULMER: Well, the only reason I bring it up, in past  
14 orders we've had utter confusion as to what the units  
15 are especially when parties other than the party who  
16 presented the petition came in and wanted the units. And  
17 we didn't have anything of record because it had not been  
18 entered. All we had was what information was given in  
19 the hearing. We didn't have an order out there saying  
20 this is the field --

21 MS. McCLANNAHAN: That is a difficult problem if there's not  
22 an order, but I think the more difficult problem would be  
23 to push this back at some point and have additional  
24 provisional units or some time period that we don't know  
25 what we're suppose to file for any given well. So I

1 think it would be more effective for the Board, the  
2 Inspector's Office and the operators to have it effective  
3 as of the date of the hearing.

4 MR. EVANS: I don't have a problem with that, making it  
5 effective as of today. We've made that decision. The  
6 decision has been made. It's unanimous.

7 MS. RIGGS: That all future applications will be subject to  
8 these field rules?

9 MR. EVANS: Right.

10 MR. CHAIRMAN: We probably ought to have that in the form of a  
11 motion.

12 MR. EVANS: In that case I make that motion, that all future  
13 applications within this field be subject to these field  
14 rules.

15 MR. KELLY: Second.

16 MR. EVANS: For the frack type wells, gob wells or --

17 MR. CHAIRMAN: Any discussion on the motion? All in favor  
18 say aye. (ALL AFFIRM.) Opposed like sign. (NONE.)  
19 It's unanimous.

20 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)  
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ITEM II, III

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3 R. CHAIRMAN: The next item there is a question about. In  
4 fact, the next two items are related. The next item is a  
5 petition from Ashland Exploration for force pooling of  
6 drilling unit under Section 45.1-361.21 for PKG-18  
7 located in the Pilgrim's Knob Gas Field in the Patterson  
8 Quadrangle, North Grundy District of Buchanan County,  
9 docket number VGOB-94/04/19/-0438. The item following  
10 that is a petition from Jewell Smokeless Coal Corporation  
11 appealing the Director's Decision from the informal fact  
12 finding hearing for IFFH-8294 issued March 5, 1994  
13 concerning proposed well PKG-18 which is the same as the  
14 previous item of Ashland Exploration. The docket number  
15 for that item is VGOB-94/04/19-0439. Board, since these  
16 are related items is there a preference to the order that  
17 you wish to take these in or any comments before we  
18 begin?

19 S. RIGGS: There's been a question of notice with reference  
20 to agenda Item III and it appears that the parties to the  
21 informal fact finding did not receive notice under the  
22 administrative process act. Therefore, it's going to be  
23 necessary to continue that item forward to the next  
24 meeting of the Board. And it's my understanding that  
25 Ashland wishes to go forward on the pooling application,

1           however, today.

2 MR. CHAIRMAN: Okay.

3 MR. MCQUIRE: And really they're not related excepted that  
4           they do relate to the same unit. One's a pooling and one  
5           is a drilling permit.

6 MS. McCLANNAHAN: I'm Elizabeth McClannahan representing  
7           Jewell Smokeless Coal Corporation. I just want to make  
8           sure that Jewell Smokeless actually got notice of the  
9           force pooling that's listed here.

10 MR. MCQUIRE: Actually they did not. They are not entitled to  
11           it. I'm pooling all the gas interests in the unit and it  
12           made parties those who have not leased their gas. I know  
13           there's a difference of opinion as to who you notify, but  
14           it's Ashland's position and I believe other people have  
15           it as well that you give notice to all the people with an  
16           interest in the unit. What we are talking about today is  
17           conventional gas force pooling and those people who had  
18           the interest in the conventional gas who have not leased  
19           to Ashland were made parties. There are a lot of parties  
20           to this suit but no coal companies. It's not a coalbed  
21           methane case.

22 MS. McCLANNAHAN: The statute on notice of hearing specifical-  
23           ly requires coal owners be given notice of any force  
24           pooling hearing whether it's for a conventional gas force  
25           pooling or a coalbed methane force pooling. 45.1-361.19

1 specifically lists coal owners or mineral owners having  
2 an interest underlying the tract which is the subject of  
3 the hearing.

4 R. McQUIRE: I believe the way to read that and the way I  
5 read it is you have -- these are for lots of different  
6 procedures, coalbed methane force pooling, conventional  
7 force pooling, field rules. The way I read it is that  
8 the gas or oil owner or coal owner or mineral owner  
9 having an interest underlying the tract. I think the  
10 word interest is having interest in the effected miner-  
11 als. And in this case the effected minerals are conven-  
12 tional gas and that's what I'm pooling.

13 S. McCLANNAHAN: I would submit that effected minerals is not  
14 in here. The Board has never interpreted this statute  
15 to be that way. If that were the case -- the notice  
16 provision should be strictly construed and there's no  
17 question that this statute specifically indicates that  
18 every coal owner and mineral owner who has an interest  
19 underlying the tract which is the subject of the hearing  
20 has to be notified. Jewell Smokeless Coal Corporation  
21 had an interest in coal and minerals underneath this  
22 tract. So I would --

23 R. McQUIRE: Whatever is the pleasure of the Board. I  
24 interpret it differently and I believe other oil and gas  
25 companies who have been before you have different

1 interpretations. But if it's a matter -- I believe the  
2 interest involved here underlying the tract is an  
3 interest in the conventional gas. If the Board sees it  
4 differently I can notify the other parties, but I don't  
5 believe --

6 MS. RIGGS: The only context in which I've seen the notice  
7 issue arise has been in the instance of coalbed methane  
8 where it's whether or not you have to name leased parties  
9 to the proceedings. I don't remember -- of course, I've  
10 only been here two years, but I don't remember this  
11 particular dispute when it's a conventional well that  
12 there having been this discussion before. Now, that's  
13 not to say that it hasn't happened but I'm not aware of  
14 it. I am aware in coalbed methane that there are  
15 operators who take the position that if they've already  
16 leased an interest they succeed to that interest or that  
17 person's interest and therefore only have to name  
18 unleased parties to the proceedings. But this is a  
19 conventional situation that we're talking about here  
20 where you have an opposing mineral interest. I don't  
21 know of any instance where the Board has ruled that way.

22 MR. McQUIRE: I will be happy with the Board's guidance. It  
23 was my understanding after reviewing earlier applications  
24 that the Board had seen applications different ways where  
25 every party was notified whether they had leased or not

1 and other situations where just the parties who were  
2 released. And as I --

3 MS. RIGGS: That's true. That's the situation I'm talking  
4 about. But I distinguish what we're talking about here  
5 from that situation where you have a notice requirement  
6 -- it's a notice requirement to people whose interests  
7 are not being pooled. I mean, notice of the proceeding  
8 is one thing and the interest being pooled is another --  
9 it's a separate issue. You would not pool a coal  
10 interest in a pooling application, but the statute says  
11 they're entitled to know that you are --

12 MR. EVANS: Doing so.

13 MS. RIGGS: That you are doing so.

14 MS. McCLANNAHAN: And, in fact, the -- I mean, if you inter-  
15 preted the statute like Mr. McQuire's indicating then  
16 there wouldn't be no reason to have coal owners and  
17 mineral owners listed in the notice statute at all.

18 MS. RIGGS: For conventional where there's no coalbed methane  
19 claim.

20 MS. McCLANNAHAN: Right. Exactly.

21 MR. McQUIRE: My interpretation was that it's an interest in  
22 the effected mineral underlying the tract which is the  
23 subject of the hearing. And I don't mean to put the  
24 Board's counsel on the spot, but I did talk with the  
25 Board's counsel about this and maybe I didn't relay my

1 concerns clearly but I thought that there were two  
2 different procedures that have been used by different  
3 coal companies and I opted for one just because I thought  
4 both of them were acceptable.

5 MS. RIGGS: Well, that's true in the case of lease versus  
6 unleased parties in a coalbed methane type development.  
7 There have been two different procedures used for leased  
8 and unleased parties. But not in the conventional  
9 context where you have a coal owner versus -- where you  
10 don't have the conflicting claim issue is what I'm saying  
11 in a conventional situation.

12 MR. JOHNSON: There is no conflicting claim here by the coal  
13 owner. The coal owner and the coal lessee have no  
14 interest in the unit. The fact that the unit's being  
15 proposed has no effect on whether or not those parties  
16 can object to any well being proposed within the unit  
17 itself which is to their detriment or which may be to  
18 their detriment. The Board has established this as a  
19 field and allows parties to come under the field rule and  
20 make application to unitize within that field and within  
21 those specific boundaries. The coal owners and coal  
22 lessees have no interest. If their only standing is that  
23 they own coal, coal is not being unitized, coal is not  
24 being in any way effected by the application for a  
25 pooling unit. It is effected to a large degree, a major

1 agree as Ms. McClannahan's client thinks and brightly so  
2 with regard to a well permit application in which it's  
3 coal is being disturbed. This does not effect in any way  
4 the coal and certainly a coal lessee even to a lesser  
5 extent than a coal owner. Because all that's being  
6 proposed here is to unitize conventional gas and conven-  
7 tional gas is only owned by persons who own gas. And  
8 there is no conflicting argument.

9 S. McCLANNAHAN: That statute, though, specifically lists in  
10 the same notice provision the conventional force pooling  
11 statute which is separate from the coalbed methane gas  
12 statute.

13 S. RIGGS: Well, that's the problem I'm having.

14 S. McCLANNAHAN: Right.

15 S. RIGGS: I think clearly you're not -- when you don't have  
16 a conflicting claim you are not pooling nor does a coal  
17 owner have a right of election under a force pooling  
18 application. Therefore, they're not parties. But the  
19 notice requirement under .19 as opposed to the pooling  
20 requirement under .20 names them as parties entitled to  
21 notice of the pooling application, not as parties being  
22 pooled.

23 R. McQUIRE: I have an interest -- I'd like the Board to  
24 resolve this because it will clarify whether we have to  
25 notify everybody or just the conventional gas people. It

1 would help Ashland if you would clarify it one way or the  
2 other so that we don't face this problem in the future.

3 MR. JOHNSON: Just one more statement about this. I think the  
4 statute says which is the subject of the hearing. The  
5 subject of the hearing is the pooling of gas interests  
6 within a drilling unit. It doesn't in any way effect the  
7 rights of the coal owners.

8 MS. McCLANNAHAN: It say's --

9 MR. JOHNSON: I know what it says.

10 MS. McCLANNAHAN: Mr. Johnson, you've misquoted the statute.

11 It says the coal owner or mineral owner having in  
12 interest underlying the tract which is the subject of the  
13 hearing. There's no question that Jewell Smokeless Coal  
14 Corporation is a coal owner, mineral owner having an  
15 interest underlying the tract which is the subject of  
16 this hearing.

17 MR. JOHNSON: I interpret that differently. You're saying  
18 that the words subject of the hearing is modifying the  
19 tract. I'm saying the words subject of the hearing  
20 modifies the word interest.

21 MR. McQUIRE: Yeah.

22 MR. JOHNSON: Two different interpretations.

23 MS. RIGGS: I'm looking at the regulation right now to see if  
24 it sheds any light. Give me a moment. (Pause.)

25 MR. McGLOTHLIN: It seems that issue came before the Board at

1 one of the first meetings we had. And for some reason  
2 it's sticking in my head that we said that everyone was  
3 to be noticed in this type situation, coal and gas  
4 people. And that was resolved back at the first, second  
5 or third meeting we had under the 1990 gas meeting.

6 MR. JOHNSON: Was that a conventional well, Kevin, or was that  
7 a coalbed methane well?

8 MR. MCGLOTHLIN: You're asking me to --

9 MS. McCLANNAHAN: If it was a first hearing it had to have  
10 been a conventional well because no coalbed --

11 MR. JOHNSON: No. It would had to have been coalbed methane.  
12 It was all coalbed methane at the beginning.

13 MS. McCLANNAHAN: No --

14 MR. JOHNSON: I was there with Mr. McQuire and that's all we  
15 did.

16 MS. McCLANNAHAN: It depends on what the beginning --

17 MR. McQUIRE: The beginning of this new Board in 1990.

18 MR. JOHNSON: Yeah, the beginning of the new Board.

19 MR. MCGLOTHLIN: That I can't say, Mr. Johnson.

20 MS. McCLANNAHAN: The regulation is even more specific to this  
21 by saying that each applicant for a hearing who seeks to  
22 pool an interest in a drilling unit under three of these  
23 statutes shall provide notice in accordance with 361.19  
24 which refers you back to the statute. I mean, I think  
25 there's no question that that's the general -- that

1 that's the statute and that's the way --

2 MR. EVANS: In the past I think that we've always intended to  
3 construe notice in the broadest -- I mean, if there was  
4 any question you told everybody so that there was no  
5 question. And I think that's been a fairly consistent  
6 position of this Board pretty much right straight along  
7 given that there are no unique circumstances or anything  
8 else. I think in a case like this, for my own thoughts  
9 in the reading of that particular passage, what the  
10 clause "which is the subject of the hearing" what that  
11 refers to I'm inclined to say is the tract, that notice  
12 becomes as broad as possible to all parties. That's my  
13 opinion. In order to make sure that everyone has the  
14 opportunity.

15 MR. McQUIRE: I will say I thought this issue had been  
16 resolved at earlier hearings and I don't want to put  
17 Sandy on the spot because I thought I was discussing it  
18 with you and thought there were essentially two alternat-  
19 ives, choose one or two, and I chose the other. I would  
20 just like an interpretation by the Board because we'll  
21 have future force pooling permit hearings and I'd like to  
22 get this issue resolved one way or the other just for  
23 Ashland's sake.

24 MR. EVANS: If I may make a suggestion.

25 MR. McQUIRE: I don't make you to think we're trying to get

1 around and sneak around and not let people know.

2 MR. EVANS: If I might make a suggestion. Read that in the  
3 broadest coverage and extend possible. That way you're  
4 covered. I would -- that would be my advice because I  
5 think it's been our history that we will try to keep this  
6 as wide as possible to make sure that everyone has a  
7 chance to come before the Board and be represented even  
8 if they -- if they're noticed and they don't want to come  
9 that's fine, but if they don't get notice they don't know  
10 to come.

11 MR. JOHNSON: I think one of the other important parts of this  
12 is who really has standing in a force pooling to say  
13 anything. Does a coal owner have standing in a force  
14 pooling to comment?

15 MR. EVANS: Well, standing --

16 MR. JOHNSON: Because they're not being pooled --

17 MR. EVANS: Mr. Johnson, let's not go into standing. Let's go  
18 into just what Ms. Riggs says on notice.

19 MR. JOHNSON: It seems to me that's what the statute ought to  
20 be designed to do is to notify people who have a right to  
21 it.

22 MR. EVANS: What the statute modifies is right but I'm not  
23 going to argue that. This is a question of notice. The  
24 notice is fairly ambiguously explicit, if you want to  
25 call it that, but I think it's been the Board's

1 history --

2 MS. RIGGS: I think I'm hearing the interpretation by the  
3 Attorney General's Office and the Board's sentiment and I  
4 would ask that we continue this one over until next time.  
5 That way we can hear both of them together and I will  
6 give notice. There really aren't any parties out there.  
7 There are two or three coal companies involved. There  
8 are a lot of heirs and we have noticed them. Just  
9 continue this over and hear it in May and I'll get notice  
10 out in the next 24 hours to the other people.

11 MS. RIGGS: In the meantime I'll go back and try to review the  
12 earlier dockets and see if there has been any prior Board  
13 ruling that I'm unaware of on the subject so that can be  
14 available for further clarification.

15 MR. JOHNSON: I think probably if you took a look at a lot of  
16 the applications to see whether or not coal lessees were  
17 notified I think that may shed some light on what  
18 companies are doing. I look at the conventional gas in a  
19 different way than I look at coalbed methane and I'm sure  
20 you all do too with regard to who gets notice. But there  
21 really is no reason to notify coal owners or coal  
22 lessees. There's no reason to do that in a force pooling  
23 of conventional gas.

24 MR. EVANS: We've run into notice and we've also run into  
25 language of the statute before that says -- this probably

1 doesn't make any sense in this context. However, we are  
2 constrained by what this says and that's the way we've  
3 basically gone about doing things, is hey, if you want a  
4 petition the Legislature to change the law or whatever  
5 else that's fine. However, this is what it says.

6 MR. JOHNSON: I understand your argument. I mean, if you go  
7 with the cautious argument which is the one you're making  
8 notify everybody. And I can understand that.

9 MS. McCLANNAHAN: But in this particular situation you don't  
10 even have to call this a more cautious argument because  
11 we were a party to the permit application and have  
12 appealed the permit application decision and yet we  
13 weren't given notice of the force pooling which causes me  
14 to question the intent in this specific fact situation.

15 MR. JOHNSON: But, you know, a force pooling allows you to  
16 drill anywhere within the unit within the specified  
17 parameters. So you could make several applications  
18 before or after the force pooling for drilling. This was  
19 a situation in which the unit application for the permit  
20 location came in before and was argued before the  
21 unitization. But certainly when you form the unit and --  
22 I was going to object. I was just going to note my  
23 general objection to this particular field rule, but at  
24 any rate when you establish field rules with the para-  
25 meter that this Board has, allowing many locations --

1 potential locations within the unit itself it seems to me  
2 certainly Ashland could drop the permit right now and go  
3 on down the road and relocate this well. It just seems  
4 to me that just to establish this unit and get the  
5 parties together to divide a gas proceed, waiting until a  
6 permit gets approved doesn't effect the coal owners.  
7 MS. RIGGS: And quite often pooling occurs prior to permit  
8 application. That happens all the time here.  
9 MR. JOHNSON: Yeah. This was just an unusual situation.  
10 MS. RIGGS: One is a contingent upon the other.  
11 MR. CHAIRMAN: So what's your pleasure?  
12 MR. EVANS: Mr. Chairman, I move that we continue the next two  
13 items on the docket.  
14 MR. CHAIRMAN: These are Items II and III, VGOB-94/04/19-  
15 0438 and 0439. Those are the two that you are moving to  
16 continue?  
17 MR. EVANS: Yes, based on compliance with the notice  
18 requirements of 45.1-361.19.  
19 MR. JOHNSON: Mr. Chairman, I'm Donald R. Johnson. Just for  
20 the record, I'm here representing Lon Rogers, the second  
21 trustee in Lon B. Rogers Bradshaw trust number one and  
22 Lon B. Rogers Bradshaw trust number two.  
23 MR. CHAIRMAN: Is there a second to the motion?  
24 MR. MCGLOTHLIN: Second.  
25 MR. CHAIRMAN: Any discussion?

1 MR. KELLY: I would just like to say or interject here that  
2 I think the Board needs to make it clear to all the  
3 parties what the policy's going to be and what the  
4 interpretation is of the Board in regard to notice and  
5 make sure that we don't have people coming here spending  
6 their time and money under their own particular inter-  
7 pretations which may conflict with the Board's so that we  
8 avoid that in the future.

9 MR. JOHNSON: It seems like to me there ought to be a regula-  
10 tion on this, Mr. Kelly.

11 MS. McCLANAHAN: There is a regulation on it.

12 MR. JOHNSON: But the regulation just crosses you back over to  
13 the statute.

14 MR. KELLY: Yeah. There's apparently some confusion here. I  
15 think we just need to clear it up so that all parties are  
16 aware of that in the future and we can avoid people  
17 coming here and having to come back again.

18 MR. EVANS: Mr. Kelly, would stating that which is the subject  
19 of the hearing -- could we just say that that modifies  
20 tract as opposed to interest? Anything that refers back  
21 to 45.1-361.19, part A of that, any person who applies  
22 right down to the end of that sentence --

23 (AFTER A BRIEF DISCUSSION OFF THE RECORD, THE HEARING  
24 CONTINUED AS FOLLOWS:)

25 MR. EVANS: In that case I think that I'll amend my motion to

1 say interpret Section 45.1-361.19 in the broadest  
2 possible sense to notice.

3 MS. RIGGS: Let me just add one more thing because Grant was  
4 getting to earlier and the conversation that we had is  
5 the Board has applicants and they're divided along  
6 operator lines, some of whom notify all of those inter-  
7 ests that underlay the tract, some only notify unleased  
8 parties. So there's another subpart to that. If you say  
9 all interest underlying the tract, does that also mean  
10 leased and unleased? Because if you're going beyond the  
11 parties being pooled to all the parties with an ownership  
12 interest you've got to be consistent there.

13 MR. JOHNSON: Yeah. I think you're going to have to play  
14 goose and gander here. I think if you're going to say  
15 we're just going to pool just these few little unleased  
16 guys and the Board says wait a minute, you've got to  
17 notify the coal owners, I think you've got to notify  
18 everybody.

19 MR. McQUIRE: I'd like it defined and I appreciate the offer  
20 to make it clear, but I'd be happy, if you want, to put  
21 it off a month and let the Attorney General's Office look  
22 into it and give you some advise on it. I just think it  
23 needs to be clear to applicants.

24 MR. CHAIRMAN: Okay. Now, I'm not sure what the motion is.

25 MR. EVANS: The motion without discussion is to continue the

1       two docket items until next hearing pending the solution  
2       of this notice and advice from the Attorney General's  
3       Office as to direction to all parties.

4 MR. CHAIRMAN: These are the two docket items mentioned  
5       earlier?

6 MR. EVANS: Correct.

7 MR. CHAIRMAN: Is there a second to that motion.

8 MR. MCGLOTHLIN: I'll second it as amended. I seconded it  
9       originally. I'll second it now.

10 MR. CHAIRMAN: Moved and seconded then that we continue these  
11       items until the next hearing. Further discussion?

12 MR. FULMER: I have one discussion going back to the fields  
13 process that's a continuing problem about notice. When  
14 we send out notice on the appeals process do you send it  
15 to the persons who filed the objection against the  
16 official notice?

17 MS. RIGGS: You would notice the plaintiff and defendant, so  
18 to speak, through the informal process through their  
19 attorneys if they're represented by counsel. If they're  
20 not represented by counsel then --

21 MR. FULMER: Well, that's the point I'm trying to make because  
22 we have noticed companies who not in turn have not  
23 noticed their own legal counsel.

24 MS. RIGGS: Well, generally if somebody is represented by  
25 counsel --

1 MR. FULMER: If you want to do it through the legal counsel  
2 then fine, that's the way we'll do it as to official  
3 notice of hearing.

4 MR. JOHNSON: Are noticing everybody that appeared at the  
5 hearing?

6 MR. FULMER: Yeah, but what I'm talking about is that if we  
7 notice, say, a company versus their legal counsel which  
8 is the official notice -- because we've run into cases  
9 where the company did not notify their legal counsel and  
10 legal counsel comes in and says, "I didn't know anything  
11 about it."

12 MR. McQUIRE: Once somebody appears by counsel my interpret-  
13 ation is like the courts, you can keep giving notice to  
14 the counsel and not to the pro se party.

15 MS. RIGGS: If you wanted to be safe you could do both, but  
16 for sure you ought to notify the counsel.

17 MR. FULMER: Okay. That's all I wanted to know.

18 MR. CHAIRMAN: Okay. We have a motion to continue. All in  
19 favor say aye. (ALL AFFIRM.) Opposed like sign.  
20 (NONE.) We will continue those two items. Thank you.

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3 ITEM IV

4 MR. CHAIRMAN: The next item on the agenda is a petition from  
5 Equitable Resources Exploration for pooling of a drilling  
6 unit under Section 45.1-361.21 for V-2922 located in the  
7 Lipps District, Coeburn Quadrangle, Wise County, Virgin-  
8 ia. This is docket number VGOB-94/04/19-0440. Would all  
9 parties planning to make presentation for that item come  
10 forward.

11 MR. KAISER: Mr. Chairman, members of the Board, I'm Jim  
12 Kaiser on behalf of Equitable Resources Exploration.  
13 What we have before you today in Items IV, V and VI are  
14 force poolings of three conventional wells on the  
15 southeast edge of the Coeburn field. The wells represent  
16 a natural development and a natural progression to the  
17 field to the outside parameters and they all target the  
18 same formations. The units in Items V and VI Equitable  
19 has more than 99 percent of those units under lease. My  
20 witnesses in both these items will be Mr. Dennis Baker  
21 and Mr. Bob Dahlin. I'd ask that they be sworn in.

22 COURT REPORTER: (Swears witnesses.)

23 DENNIS BAKER

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

DIRECT EXAMINATION

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BY MR. KAISER:

Q. Mr. Baker, could you state your name for the record, please?

A. Dennis Baker.

Q. You are employed by whom and in what capacity?

A. Equitable Resources Exploration as a senior land man.

Q. Do your responsibilities includes lands involved here and in the surrounding area?

A. Yes.

Q. Have you testified before and been accepted by the Virginia Gas and Oil Board previously as an expert witness in land matters?

A. Yes, sir.

MR. KAISER: Mr. Chairman, we'd move that Mr. Baker be accepted as an expert witness in land matters.

MR. CHAIRMAN: Accepted.

(Mr. Kaiser continues.) Mr. Baker, are you familiar with Equitable's application for the establishment of a drilling unit and pooling order for EREX well V-2922 dated March 17th, 1994?

A. Yes, I am.

Q. Has EREX applied for a permit and is a permit now pending before the DMME?

1 A. Yes. I believe we have a tentative date of March 15th,  
2 1994 application date.

3 Q. Is Equitable seeking to force pool the drilling rights  
4 underlying the drilling and spacing unit as depicted at  
5 Exhibit A of the application?

6 A. Yes, sir.

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

9 A. Yes.

10 Q. Does the proposed unit depicted at Exhibit A include all  
11 acreage within 2,640 feet of proposed well V-2922?

12 A. Yes.

13 Q. What is the interest of Equitable in the unit?

14 A. At the time of application 79.03 percent and at the time  
15 of the hearing the same percentage of 79.03 percent.

16 Q. Are you familiar with the ownership of drilling rights of  
17 parties other than Equitable underlying this unit?

18 A. Yes.

19 Q. I believe you stated the unleased interest was 20.97  
20 percent?

21 A. Yes, sir.

22 Q. Are all these unleased parties set out at Exhibit B?

23 A. Yes, they are.

24 Q. Prior to filing this application were efforts made to  
25 contact each of the respondents in an attempt to work out

1 an agreement regarding the development of the unit  
2 involved?

3 A. Yes.

4 Q. Subsequent to the filing of the application have you  
5 continued to try to reach an agreement with the respond-  
6 ents listed at Exhibit B?

7 A. Yes, we have.

8 Q. You previously stated that as a result of these efforts  
9 you have not acquired any additional leases as of the  
10 time of this hearing?

11 A. No, we have not.

12 Q. Were any efforts made to determine if the individual  
13 respondents were living or deceased or their whereabouts,  
14 and if deceased were efforts made to determine the names  
15 and addresses and whereabouts of the successors to any  
16 deceased individual respondents?

17 A. Yes.

18 Q. Did you use reasonable and diligent efforts and were  
19 sources checked to identify and locate unknown heirs to  
20 include primary sources such as deed records, probate  
21 records, assessors records, treasurers records and  
22 secondary sources such as telephone directories, city  
23 directories, families and friends?

24 A. Yes.

25 Q. In your professional opinion was due diligence exercised

1 to locate each of the respondents named herein?  
2 A. Yes.  
3 Q. Are the addresses set out in Exhibit B to the application  
4 the last known addresses for the respondents?  
5 A. Yes. That's correct.  
6 Q. With the exception of those parties which you are hereby  
7 dismissing from this proceeding, which in this case there  
8 are no respondents being dismissed, are you requesting  
9 the Board to force pool all the unleased interests listed  
10 at Exhibit B?  
11 A. Yes.  
12 Q. Does Equitable seek to force pool the drilling rights of  
13 each individual respondent if living and if deceased the  
14 unknown successor or successors to any deceased individ-  
15 ual respondent?  
16 A. Yes.  
17 Q. Is Equitable seeking to force pool the drilling rights of  
18 the person designated as trustee if acting in capacity of  
19 trustee, and if not acting in such capacity is Equitable  
20 seeking to force pool the drilling rights of the succes-  
21 sor or such trustee?  
22 A. That's correct.  
23 Q. Are you familiar with the fair market value of drilling  
24 rights in units here and the surrounding area?  
25 A. Yes, I am.

1 Q. Would you advise the Board at this time as to what those  
2 are?

3 A. Yes. A bonus consideration of \$5 per acre, five year  
4 term with a one-eighth royalty.

5 Q. Did you gain your familiarity with these figures by  
6 acquiring oil and gas leases and other agreements  
7 involving the transfer of drilling rights in units  
8 involved here and in the surrounding area?

9 A. Yes, sir.

10 Q. In your opinion do the terms you have testified to  
11 represent the fair market value of and the fair and  
12 reasonable compensation to be paid for drilling rights  
13 within this unit?

14 A. Yes.

15 Q. Do those respondents who have not voluntarily agreed to  
16 pool do you recommend that respondents listed who remain  
17 unleased be allowed the following options with respect to  
18 their ownership interest within the unit: 1) Participa-  
19 tion. 2) A cash bonus of \$5 per net mineral acre plus a  
20 one-eighth of eight-eighths royalty. 3) In lieu of cash  
21 bonus and one-eighth of eight-eighths royalty, a share in  
22 the operation of the well on a carried basis as a carried  
23 operator under the following conditions; Such carried  
24 operator shall be entitled to the share of production  
25 from the tracts pooled accruing to his interest exclusive

1 of any royalty or overriding royalty reserved in any  
2 leases, assignments thereof or agreements relating  
3 thereto of such tracts but only after the proceeds  
4 allocable to his share equal A) 300 percent of the share  
5 of such cost allocable to the interest of the carried  
6 operator of a leased tract or portion thereof or B) 200  
7 percent of the share of such cost allocable to the  
8 interest of the carried operator of an unleased tract or  
9 portion thereof?  
10 A. That's correct.  
11 Q. Do you recommend that the order provide that the elect-  
12 ions by respondents be in writing and sent to the  
13 applicant at Equitable Resources Exploration, P.O. Box  
14 1983, Kingsport, Tennessee, 37662-1983, attention Dennis  
15 R. Baker, regulator?  
16 A. That's correct.  
17 Q. Should this be the address for all communications with  
18 the applicant concerning the force pooling order?  
19 A. Yes.  
20 Q. Do you recommend that the force pooling order provide  
21 that if no written election is properly made by a  
22 respondent then such respondent should be deemed to have  
23 elected to cash royalty options in lieu of participation?  
24 A. Yes.  
25 Q. Should the unleased respondents be given 30 days from the

1 date of the order to file written elections?

2 A. Yes.

3 Q. If an unleased respondent elects to participate should  
4 that respondent be given 45 days to pay applicant for  
5 respondent's proportionate share of well costs?

6 A. Yes.

7 Q. Does the applicant expect the party electing to partici-  
8 pate to pay in advance that party's share of completed  
9 well costs?

10 A. Yes.

11 Q. Should the applicant be allowed 60 days following the  
12 recordation date of the order and thereafter annually on  
13 that date until production is achieved to pay or tender  
14 any cash bonus becoming due under the force pooling  
15 order?

16 A. Yes.

17 Q. Do you recommend that the force pooling order provide  
18 that if a respondent elects to participate but fails to  
19 pay respondent's proportionate share of well costs  
20 satisfactory to applicant for payment of well costs then  
21 respondent's election to participate shall be treated as  
22 having been withdrawn and void and such respondent shall  
23 be treated just as if no initial election had been filed  
24 under the force pooling order?

25 A. That's correct.

1 Q. Do you recommend that the force pooling order provide  
2 that where a respondent elects to participate but  
3 defaults in regard to the payment of well costs any cash  
4 sum becoming payable to such respondent be paid within 60  
5 days after the last date on which such respondent could  
6 have paid or made satisfactory arrangements for the  
7 payment of well costs?

8 A. Yes.

9 Q. Do you recommend that the force pooling order provide  
10 that if respondent refuses to accept any payment due  
11 including any payment due under said order or any payment  
12 of royalty or cash bonus or said payment cannot be paid  
13 to a party for any reason or there is a title defect in a  
14 respondent's interest that the operator create an escrow  
15 account for the respondent's benefit until the money can  
16 be paid to the party or until the title defect is cured  
17 to the operator's satisfaction?

18 A. Yes, sir.

19 Q. Who should be named the operator under this force pooling  
20 order?

21 A. Equitable Resources Exploration.

22 MR. KAISER: That's all the questions I have for Mr. Baker at  
23 this time.

24 MR. CHAIRMAN: Questions from Board members?

25 (Witness stands aside.)

1 MR. CHAIRMAN: You may continue.

2

3 ROBERT A. DAHLIN, II

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

6

7 DIRECT EXAMINATION

8

9 BY MR. KAISER:

10 Q. Mr. Dahlin, could you please state your name and the  
11 capacity you're employed by EREX in?

12 A. My name is Robert A. Dahlin, II and I'm employed by EREX  
13 as an operations specialist.

14 Q. And have you testified before the Virginia Gas and Oil  
15 Board before and have your qualifications as an expert  
16 witness previously been accepted by the Board?

17 A. Yes, I have.

18 MR. KAISER: Mr. Chairman, we'd ask that Mr. Dahlin be  
19 accepted as an expert witness in this matter.

20 MR. CHAIRMAN: Accepted.

21 Q. (Mr. Kaiser continues.) Do your responsibilities include  
22 lands involved here and in the surrounding area?

23 A. Yes, they do.

24 Q. Are you familiar with the proposed exploration and  
25 development of units involved here under the applicant's

- 1 proposed plan of development?
- 2 A. I am.
- 3 Q. What is the total depth of the proposed initial well  
4 under the applicant's plan of development?
- 5 A. 5,500 feet.
- 6 Q. Will this 5,500 feet include the formations consistent  
7 with the well work permit now pending before the DMME?
- 8 A. It will.
- 9 Q. Will this be sufficient to penetrate and test the common  
10 sources of supply in the subject formation?
- 11 A. Yes, it will.
- 12 Q. Is the applicant requesting the force pooling of convent-  
13 ional gas reserves not only to include the designated  
14 formations but any other formations excluding coal  
15 formations which may be between those formations design-  
16 ated from the surface to the total depth drilled?
- 17 A. We are.
- 18 Q. Will the initial well be at a legal location?
- 19 A. It is a legal location.
- 20 Q. What are the estimated reserves of the unit?
- 21 A. 350 million cubic feet of gas.
- 22 Q. Are you familiar with the well costs for the proposed  
23 initial unit under applicant's plan of development?
- 24 A. Yes, I am.
- 25 Q. And has an AFE been reviewed, signed and submitted to the

1 Board?

2 A. It has.

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

6 A. Yes, it was.

7 Q. Does this AFE represent a reasonable estimate of the well  
8 costs for proposed unit well under applicant's plan of  
9 development?

10 A. Yes, sir.

11 Q. Could you set out the dry hole costs and the completed  
12 well costs for the Board, please?

13 A. Dry hole costs are \$141,450 and completed costs are  
14 \$249,450.

15 Q. Do these costs anticipate a multiple completion?

16 A. They do.

17 Q. And does the AFE include a reasonable charge for supervi-  
18 sion?

19 A. Yes, it does.

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

23 A. Yes, sir.

24 MR. KAISER: I have no further questions of Mr. Dahlin at this  
25 time.

1 MR. CHAIRMAN: Board members, questions? And again, there is  
2 no one here to cross-examine.

3 (Witness stands aside.)

4 MR. CHAIRMAN: You may continue.

5 MR. KAISER: That's all the testimony I have at this time.

6 MR. CHAIRMAN: Questions or a motion from the Board?

7 MR. KELLY: I would move that the application be approved as  
8 submitted.

9 MR. MCGLOTHLIN: Second.

10 MR. CHAIRMAN: It's been moved and seconded that we approve  
11 the application as submitted. Any further discussion?  
12 All if favor say aye. (ALL AFFIRM.) Opposed like sign.  
13 (NONE.) It's unanimously approved.

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3 ITEM V

4 MR. CHAIRMAN: The next item is Item V, a petition from  
5 Equitable Resources Exploration for pooling of a drilling  
6 unit under Section 45.1-361.21 for V-2717 located in the  
7 Lipps District, Coeburn Quadrangle, Wise County, Virgin-  
8 ia. The docket number is VGOB-94/04/19-0441. Will all  
9 parties wishing to speak in this matter please come  
10 forward.

11 MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable  
12 Resources. My witnesses in this matter will once again  
13 be Mr. Dennis Baker and Mr. Bob Dahlin. At this time I  
14 would like to request the Chairman and Board's permission  
15 to -- these are force poolings on two conventional wells  
16 in the same field -- in the same area of the same field  
17 in which we have over 99 percent of the acreage in the  
18 unit under lease. I'd like to ask permission from the  
19 Board to incorporate the testimony from docket number  
20 VGOB-94/04/19-0440 that we just completed in regard to  
21 the questions of my witnesses in regard to the respond-  
22 ent's different elections.

23 MR. CHAIRMAN: Questions?

24 MR. EVANS: That's fine.

25 MR. CHAIRMAN: Okay. You may do that.

1  
2 DENNIS BAKER

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

5  
6 DIRECT EXAMINATION

7 BY MR. KAISER:

8 Q. I'll remind that you are under oath and you've been  
9 accepted as an expert previously.

10 A. KAISER: If necessary we move that it be accepted again on  
11 this matter.

12 R. CHAIRMAN: No, that's not necessary.

13 Q. (Mr. Kaiser continues.) Are you familiar with Equit-  
14 able's application for the establishment of drilling  
15 unit and pooling order for EREX well V-2717 dated March  
16 17th, 1994?

17 A. Yes, I am.

18 Q. Has EREX applied for a permit and is a permit now pending  
19 before the DMME?

20 A. Yes. I have an application date of 3/18/94.

21 Q. Is Equitable seeking to force pool the drilling rights  
22 underlying the drilling and spacing unit as depicted at  
23 Exhibit A of the application?

24 A. Yes.

25 Q. Does Equitable own drilling rights in units involved

1 here?

2 A. Yes.

3 Q. Does the proposed unit depicted at Exhibit A include all  
4 acreage within 2,640 feet of proposed well V-2717?

5 A. Yes.

6 Q. What is the interest of Equitable in this unit?

7 A. At the time of application we had 99.65 percent. At the  
8 time of hearing we have a total of 99.927 percent.

9 Q. Are you familiar with the ownership of the drilling  
10 rights of parties other than Equitable underlying this  
11 unit?

12 A. Yes, I am.

13 Q. What is the unleased interest at this time?

14 A. At the time of application unleased interest was .35  
15 percent. At the time of hearing we have .073 percent.

16 Q. Are all unleased parties set out in our amended Exhibit  
17 B?

18 A. Yes.

19 Q. Prior to filing the application were efforts made to  
20 contact each of the respondents and an attempt made to  
21 work out an agreement regarding the development of the  
22 unit involved?

23 A. Yes.

24 Q. Subsequent to the filing of the application have you  
25 continued to attempt to reach an agreement with the

1 respondents listed at Exhibit B?

2 A. Yes, we have.

3 Q. And as I think you've stated, as a result of these  
4 efforts you have acquired other leases from some respond-  
5 ents that were listed in the initial Exhibit B attached  
6 to the application as unleased owners?

7 A. That's correct.

8 Q. Could you let the Board know who those owners are at this  
9 time and I will hand out the amended Exhibit B? (Pause.)

10 A. Yes. As shown on Page 1 of the exhibit, Tract 3, Mr.  
11 William E. Slush and wife, they are now currently leased  
12 to EREX. Page 1, Tract 5, second listing, Alvin Evans  
13 and wife, they are now currently leased to EREX. On Page  
14 2, the second listing, Eva and Gary Davis are now leased  
15 to EREX. The third listing, Judy Dana Howard and husband  
16 are now leased to EREX. Listing number four, Joy Ann  
17 Davenport and husband are now currently leased to EREX.  
18 Page 3, fourth listing, Eulas Ray Adkins currently is now  
19 leased to EREX. The last listing, Mabel Hernandez and  
20 husband Dale are now leased to EREX.

21 MR. EVANS: I have one question. On the bottom of Page 3, the  
22 last one, Mabel and Dale Hernandez, you have those on  
23 your amended exhibit to be as unleased.

24 THE WITNESS: On the revised exhibit?

25 MR. CHAIRMAN: No. They're on Page 4 of the revised exhibit.

1 MR. KAISER: They would be the second lessor on Page 4 of the  
2 revised.

3 MR. EVANS: Okay. Here's revision one. I'm looking at the --  
4 sorry. Go ahead. Never mind.

5 A. (The witness continues.) On my Page 4 the next listing  
6 would be Hazel Hutson and husband Hobart. They are now  
7 leased to EREX. The next one would be Darlene Huff. She  
8 is now leased to EREX. Next listing is Jackie Lee Huff  
9 and wife, they are now leased to EREX. That's the only  
10 respondents that have been dismissed.

11 MR. KAISER: Board, are there any questions on that?

12 MR. CHAIRMAN: The current percentage unleased now is .073, is  
13 that correct?

14 THE WITNESS: That's correct.

15 Q. (Mr. Kaiser continues.) Mr. Baker, were any efforts made  
16 to determine if the individual respondents were living or  
17 deceased and their whereabouts and if deceased were  
18 efforts made to determine the name and addresses and  
19 whereabouts of the successors to any deceased individual  
20 respondents?

21 A. Yes.

22 Q. Were reasonable and diligent efforts made and sources  
23 checked to identify and locate these unknown heirs to  
24 include primary sources such as deed records, probate  
25 records, assessors records, treasurers records and

1 secondary sources such as telephone directories, city  
2 directories, family and friends?

3 A. That's correct.

4 Q. In your professional opinion was due diligence exercised  
5 to locate each of the respondents named herein?

6 A. Yes, they were.

7 Q. Are the addresses set out in revised Exhibit B the last  
8 known addresses for the respondent?

9 A. Yes, sir.

10 Q. With the exception of those parties which you are hereby  
11 dismissing from this proceeding are you requesting that  
12 the Board force pool all other unleased interests listed  
13 at Exhibit B?

14 A. That's correct.

15 Q. Does Equitable seek to force pool the drilling rights of  
16 each individual respondent if living and if deceased the  
17 unknown successor or successors to any deceased individ-  
18 ual respondent?

19 A. That's correct.

20 Q. Is Equitable seeking to force pool the drilling rights of  
21 the person designated as trustee if acting in capacity of  
22 trustee and if not acting in such capacity is Equitable  
23 seeking to force pool the drilling rights of the success-  
24 or or such trustee?

25 A. Yes.

1 Q. Are you familiar with the fair market value of drilling  
2 units here and in the surrounding area?

3 A. Yes, I am.

4 Q. Would you advise the Board as to what those are?

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

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

11 A. Yes.

12 Q. In your opinion do the terms you have testified to  
13 represent the fair market value of and the fair and  
14 reasonable compensation to be paid for drilling rights  
15 within this unit?

16 A. Yes.

17 Q. Who should be named operator under the force pooling  
18 order?

19 A. Equitable Resources Exploration.

20 MR. KAISER: Mr. Chairman, that's all I have for Mr. Baker at  
21 this time.

22 MR. CHAIRMAN: Questions from the Board? Anyone for cross-  
23 examination?

24 (Witness stands aside.)

25 MR. CHAIRMAN: You may continue.

1 MR. KAISER: I call Mr. Dahlin who has previously been  
2 accepted as an expert on these matters by the Board.  
3

4 ROBERT A. DAHLIN, II

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

8 DIRECT EXAMINATION  
9

10 BY MR. KAISER:

11 Q. Mr. Dahlin, do your responsibilities include the lands  
12 involved here and in the surrounding area?

13 A. Yes, they do.

14 Q. Are you familiar with the proposed exploration and  
15 development of the unit involved here under the appli-  
16 cant's proposed plan of development?

17 A. I am.

18 Q. What is the total depth of the proposed initial well  
19 under the applicant's plan?

20 A. 5,450 feet.

21 Q. Will this be sufficient to test the formations consistent  
22 with the well work permit now pending before the DMME?

23 A. Yes, sir. It will.

24 Q. Is the applicant requesting the force pooling of conven-  
25 tional gas reserves not only to include the designated

- 1 formations but any other formations excluding coal  
2 formations which may be between those formations design-  
3 ated from the surface to the total depth drilled?  
4 A. Yes, we are.  
5 Q. Will this initial well be at a legal location?  
6 A. It will.  
7 Q. What are the estimated reserves of the unit?  
8 A. 350 million cubic feet of gas.  
9 Q. Are you familiar with the well costs for the proposed  
10 initial unit well under applicant's plan of development?  
11 A. Yes, sir.  
12 Q. In accordance has an AFE been reviewed, signed and  
13 submitted to the Board?  
14 A. Yes, sir, it has.  
15 Q. Was the AFE prepared by an engineering department  
16 knowledgeable in the preparation of AFEs and knowledge-  
17 able in regard to well costs in this area?  
18 A. It was.  
19 Q. Does the AFE represent a reasonable estimate of the well  
20 costs for the proposed unit well under applicant's plan  
21 of development?  
22 A. Yes, sir.  
23 Q. Could you set out both the dry hole and completed well  
24 costs for the Board, please?  
25 A. Dry hole costs are estimated as \$135,950 and completed

1 costs are \$242,650.

2 Q. Do these costs anticipate a multiple completion?

3 A. They do.

4 Q. Does this AFE include a reasonable charge for supervi-

5 sion?

6 A. Yes, sir.

7 Q. Mr. Dahlin, in your professional opinion will the

8 granting of this application be in the best interest of

9 conservation, prevention of waste and protection of

10 correlative rights?

11 A. Yes, sir, it would.

12 MR. KAISER: I have no further questions of Mr. Dahlin at this

13 time.

14 MR. CHAIRMAN: Any questions from the Board?

15 (Witness stands aside.)

16 MR. CHAIRMAN: You may continue.

17 MR. KAISER: That's all that we have at this time, Mr.

18 Chairman.

19 MR. CHAIRMAN: Any discussion or do we have a motion concern-

20 ing this item?

21 MR. EVANS: Mr. Chairman, I move that we approve the

22 application as submitted.

23 MR. KELLY: Second.

24 MR. CHAIRMAN: It's been moved that we approve the application

25 as submitted and it's been properly seconded. Any

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further discussion? All in favor say aye. (ALL AFFIRM.)

Opposed like sign. (NONE.) It's a unanimous approval.

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3 ITEM VI

4 MR. CHAIRMAN: The next docket item is a petition from  
5 Equitable Resources Exploration for the pooling of a  
6 drilling unit under Section 45.1-351.21 for V-2716  
7 located in the Lipps District, Coeburn Quadrangle, Wise  
8 County, Virginia. The docket number is VGOB-94/04/19-  
9 0442. Will all parties please come forward who plan to  
10 make presentations concerning that item.

11 MR. KAISER: Jim Kaiser on behalf of Equitable Resources  
12 Exploration. Mr. Chairman, once again, my two witnesses  
13 in this force pooling matter will be Mr. Baker and Mr.  
14 Dahlin. This is once again a conventional well that is  
15 on the southeastern boundary of the Coeburn field. I'd  
16 ask once again that we be allowed to incorporate the  
17 testimony regarding respondent's election options and  
18 escrow as was evidenced in Item IV today, docket number  
19 VGOB-94/04/19-0440.

20 MR. CHAIRMAN: Is there any question? Okay. You may do that  
21 and continue.

22 DENNIS BAKER

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

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BY MR. KAISER:

Q. Mr. Baker, I'll remind you that you are under oath. You've previously been accepted by the Board as an expert in land matters in this area. Do your responsibilities include lands involved with well V-2716 here and in the surrounding area?

A. Yes.

Q. Are you familiar with Equitable's application for the establishment of drilling unit and pooling order for EREX well V-2716 dated March 17th, 1994?

A. Yes, I am.

Q. Has EREX applied for a permit and is a permit now pending before the DMME?

A. Yes. I show an application date of March 23rd, 1994.

Q. Is Equitable seeking to force pool the drilling rights underlying the drilling and spacing unit as depicted at Exhibit A of the application?

A. Yes.

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

A. Yes, we do.

Q. Does the proposed unit depicted at Exhibit A include all acreage within 2,640 feet of proposed well V-2716?

1 A. Yes.

2 Q. What is the interest of Equitable in this unit?

3 A. At the time of application we had 78.31 percent. At the  
4 time of hearing we have 99.1023 percent.

5 Q. Can you set out for the Board and are you familiar with  
6 the ownership of the drilling rights of parties other  
7 than Equitable underlying this unit?

8 A. Yes. At the time of application we had an unleased  
9 interest showing 21.1681 percent. At the time of hearing  
10 we have .8977 percent.

11 Q. Are all unleased parties set out at amended Exhibit B?

12 A. Yes, sir.

13 Q. Prior to filing the application were efforts made to  
14 contact each of the respondents and an attempt made to  
15 work out an agreement regarding the development of the  
16 unit involved?

17 A. Yes, sir.

18 Q. According to your earlier testimony on the percentages  
19 subsequent to the filing of the application have you  
20 continued to attempt to reach an agreement with the  
21 respondents listed at Exhibit B?

22 A. Yes, we have.

23 Q. And as a result of these efforts you have acquired other  
24 leases from respondents listed at Exhibit B as unleased  
25 owners?

1 A. Yes.

2 MR. KAISER: I will provide the Board with revised Exhibit B.  
3 (Pause.) Mr. Chairman, Mr. Baker has just pointed out to  
4 me on the revised Exhibit B which you all have just  
5 received, if you look at the very top, the last line in  
6 the heading, VGOB-94/04/19-0441, that actually should be  
7 0442. I'd like to point that out to you. We will be  
8 more than happy to provide you with copies of a corrected  
9 revised Exhibit B. We can send them up to you tomorrow.

10 MR. CHAIRMAN: That's fine.

11 A. (The witness continues.) I'll try to go through these  
12 and stay on the same pages this time.

13 MR. CHAIRMAN: You're reading from the old --

14 THE WITNESS: I'm reading from the old one, but I'll try and  
15 correspond with the new one.

16 A. (The witness continues.) Under Page 1, Tract 2, the  
17 William K. Anders interest is now leased to EREX. On  
18 Page 2 under Tract 8, the Alvin Evans interest is now  
19 leased to EREX. Third from the bottom, Eva and Gary  
20 Davis is now leased to EREX. Next listing, Judy Dana  
21 Howard is now leased to EREX. Last entry, Joy Ann  
22 Davenport is leased to EREX. On Page 4, first listing  
23 Eulas Ray Adkins is now leased to EREX.

24 MR. EVANS: I thought I understood you to say you were going  
25 to start going through on the old list.

1 MR. CHAIRMAN: Yeah, that's what I thought.

2 THE WITNESS: Would you prefer to go through the new one --  
3 the revision or the old one?

4 MR. EVANS: Let's go with the old because that's the one I  
5 started out marking.

6 MR. CHAIRMAN: So that's the bottom of Page 3, Eulas Ray  
7 Adkins, they are now leased?

8 THE WITNESS: Now leased.

9 MR. CHAIRMAN: Okay. Fine.

10 A. (The witness continues.) Page 4, fifth listing, Mabel  
11 Hernandez leased to EREX. The next listing, Hazel Hutson  
12 is now leased to EREX. Next to the bottom, Darlene Huff  
13 is now leased to EREX. The last listing, Jackie Huff is  
14 leased to EREX. And Page 5, Tract 9, we have the Alvin  
15 Evans interest under lease. And you'll have to refer to  
16 the revision for the Gaynell Evans interest which is on  
17 Page 6. Under the Gaynell Evans we now have four of the  
18 five individuals leased. Robert, Curtis, Brenda and  
19 Debbie are now leased. In the old one, Page 6, Tract 12,  
20 William Sluss is now leased to EREX. That's all.

21 Q. Mr. Baker, could you again state for the Board what the  
22 percentage of the unit unleased is at this time?

23 A. The percentage of the unit unleased at this time is .8977  
24 percent.

25 MR. CHAIRMAN: I do have a question on Page 7 of the revision.

1 It has .79?

2 THE WITNESS: I'm sorry. You're correct. I was reading off  
3 of the revised which wasn't brought up to date. Sorry.

4 Q. (Mr. Kaiser continues.) Mr. Baker, could you correct  
5 that for the Board?

6 A. The current unleased interest at this time is .79  
7 percent.

8 Q. Were any efforts made to determine if the individual  
9 respondents were living or deceased and their whereabouts  
10 and if deceased were efforts made to determine the name  
11 and addresses and whereabouts of the successors to any  
12 deceased individual respondents?

13 A. Yes.

14 Q. Were reasonable and diligent efforts made and sources  
15 checks to identify and locate these unknown heirs to  
16 include primary sources such as deed records, probate  
17 records, accessors records, treasurers records and  
18 secondary sources such as telephone directories, city  
19 directories, family and friends?

20 A. Yes. That's correct.

21 Q. In your professional opinion was due diligence exercised  
22 to locate each of the respondents named herein?

23 A. Yes.

24 Q. Are the addresses set out in Exhibit B to the application  
25 the last known addressees for the respondents?

- 1 A. Yes.
- 2 Q. With the exception of those parties which you are hereby  
3 dismissing from this proceeding are you requesting that  
4 the Board force pool all other unleased interests listed  
5 at Exhibit B?
- 6 A. Yes.
- 7 Q. Does Equitable seek to force pool the drilling rights of  
8 each individual respondent if living and if deceased the  
9 unknown successor or successors to any deceased individ-  
10 ual respondent?
- 11 A. Yes.
- 12 Q. Is Equitable seeking to force pool the drilling rights of  
13 the person designated as trustee if acting in capacity of  
14 trustee and if not acting in such capacity is Equitable  
15 seeking to force pool the drilling rights of the success-  
16 or of such trustee?
- 17 A. Yes.
- 18 Q. Are you familiar with the fair market value of drilling  
19 units in the unit here and in the surrounding area?
- 20 A. Yes, I am.
- 21 Q. Advise the Board as to what those are?
- 22 A. \$5 per acre bonus consideration, a five year term with a  
23 one-eighth royalty.
- 24 Q. Did you gain your familiarity by acquiring oil and gas  
25 leases and other agreements involving the transfer of

1 drilling rights from units involved here and in the  
2 surrounding area?  
3 A. Yes.  
4 Q. In your opinion do the terms you have testified to  
5 represent the fair market value of and the fair and  
6 reasonable compensation to be paid for drilling rights  
7 within this unit?  
8 A. Yes.  
9 Q. Mr. Baker, who should be named the operator under the  
10 force pooling order?  
11 A. Equitable Resources Exploration.  
12 MR. KAISER: Mr. Chairman, that's all I have of this witness  
13 at this time.  
14 MR. CHAIRMAN: Are there any questions of Mr. Baker?  
15 MR. EVANS: Yes. I've got one. Who got notice of this  
16 hearing?  
17 MR. KAISER: These are all wells located on a VICC coal tract.  
18 All the locations have been coal approved.  
19 MR. EVANS: Did the unleased interest get notice of this?  
20 THE WITNESS: Yes.  
21 MR. EVANS: Did you get the green cards?  
22 MR. FULMER: Green cards?  
23 MR. EVANS: Or whatever.  
24 MR. KAISER: I have them, Mr. Evans.  
25 MR. FULMER: Yeah, plus the affidavit.

1 MR. EVANS: That's fine. I was just checking.

2 MR. CHAIRMAN: Other questions?

3 (Witness stands aside.)

4 MR. CHAIRMAN: You may continue.

5 MR. KAISER: My next witness in this matter will be Mr.  
6 Dahlin. I'll remind him that he has been sworn and ask  
7 the Board to once again accept him as he's been previous-  
8 ly accepted in Items IV and V today.

9 MR. CHAIRMAN: Accepted.

10

11

ROBERT A. DAHLIN, II

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

14

15

DIRECT EXAMINATION

16

17 BY MR. KAISER:

18 Q. Mr. Dahlin, do your responsibilities at EREX include  
19 lands involved here and in the surrounding area?

20 A. Yes, sir, they do.

21 Q. Are you familiar with the proposed exploration and  
22 development of units involved here under the applicant's  
23 proposed plan of development?

24 A. I am.

25 Q. What is the total depth of the proposed initial well

1 under the applicant's plan?

2 A. 5,075 feet.

3 Q. And will this include formations consistent with the well

4 work permit now pending before the DMME and will it be

5 sufficient to penetrate and test the common sources of

6 supply in the subject formations?

7 A. Yes, sir, it will.

8 Q. Is the applicant requesting the force pooling of conven-

9 tional gas reserves not only to include the designated

10 formations but any other formations excluding coal

11 formations which may be between those formations design-

12 ated from the surface to the total depth drilled?

13 A. Yes, sir.

14 Q. Will this well be at a legal location?

15 A. It will.

16 Q. And what are the estimated reserves of the unit?

17 A. 350 million cubic feet of gas.

18 Q. Are you familiar with the well costs for the proposed

19 initial unit well under applicant's plan of development?

20 A. Yes, sir, I am.

21 Q. Has an AFE been reviewed, signed and submitted to the

22 Board?

23 A. It was.

24 Q. Was the AFE prepared by an engineering department

25 knowledgeable in the preparation of AFEs and knowledge-





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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 is a true transcript of the proceedings had in the Virginia Gas and Oil Hearing on April 19, 1994; that all of said proceeding was electronically recorded and was reduced to writing by me and that said transcript is true and correct 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 4th day of May, 1994.

Deborah J. Bise  
DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 1996.