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VIRGINIA OIL AND GAS BOARD

HEARING OF SEPTEMBER 20, 1994

10:00 A.M.

AT THE 4-H CENTER, HILLMAN HWY.

ABINGDON, VIRGINIA

Appalachian Court Reporting Services, Inc.

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September 20, 1994

This matter came on to be heard on this the 20th day of September, 1994 before the Virginia Gas and Oil Board in the Dickenson Conference Center at the Southwest Virginia 4-H Center, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

MR. WAMPLER: Good morning. My name is Benny Wampler. I'm Deputy Director for Regulatory Services for the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'll ask the Board members to introduce themselves beginning with Dennis.

(MEMBERS INTRODUCED.)

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3 ITEM I

4 MR. CHAIRMAN: First on today's agenda the Board will receive
5 a status report from Tazewell National Bank on the escrow
6 accounts established. Tazewell Nation Bank is the escrow
7 agent for the Board. Go ahead and introduce yourself.

8 MR. KING: Thank you. I'm Bill King with the Tazewell
9 National Bank. I would like to introduce an associate I
10 brought along today, Robert Martin also with the Tazewell
11 National Bank who joined us about a month ago and will be
12 handling our employee benefit and institutional accounts.
13 So he'll begin to work with me on the VGOB escrow account
14 and get very involved in the administration of the
15 account. What I have passed out is three things actual-
16 ly. The very last sheet, I'll start with that one. That
17 is the normal quarterly review that we have been generat-
18 ing and, as you note, you are adding to most recent
19 quarterly results. This is a summary again, as you can
20 see, showing the receipts, the income earned, fees, any
21 distributions and balances. The June quarter, as you can
22 see, shows a pick up of receipts and we have at that
23 point gone over the half million dollar mark in the
24 escrow account. Since we are well into and at this point
25 near the end of the current quarter we did an additional
sheet bringing the account up to date through September

1 12th. That's the next statement. The reason for that is
2 that the receipts really picked up dramatically during
3 this quarter. This quarter will probably be, all told,
4 over \$100,000 in receipts. So we wanted to give you an
5 idea of the current balance there. I think also you can
6 see as a result of both the higher balances and higher
7 interest rates that the income is also increasing.
8 Again, the balance as of September 12th is showing
9 \$603,863. The front sheet, the final sheet, is a
10 holdings report. This is actually as of the close of
11 business yesterday. We talked about the last time
12 beginning to invest in other vehicles other than the
13 money market fund and we've begun that. We are being
14 very cautious. And to show you what I'm talking about,
15 we bought a U.S. treasury note -- a two year treasury
16 note at par. This was fairly recent, maybe a couple few
17 weeks ago. The market value as yesterday was about
18 \$99,700. Now, if we were to sell the note -- in other
19 words, we would take a loss and we do not want any losses
20 in this account. So obviously we're buying fairly short
21 Government bonds. We're going to restrict our purchases
22 to that. While we're in the money market funds there is
23 no fluctuation. On these obviously if we hold them
24 until maturity which is the plan there will be no
25 principal losses and the income, of course, is substant-

1 ially higher than the money market rates. In addition to
2 what -- what you're seeing here now is only one treasury
3 note. We have bought more recently a one year treasury
4 bill -- U.S. treasury bill for \$100,00. That hasn't
5 settled. I believe it settles today or tomorrow actual-
6 ly, very shortly. This was bought at auction. What I
7 mean by settling is the actual payment and delivery date
8 is set so many days after the auction. So we will either
9 be buying these notes and bills at auction or -- and if
10 we buy in the secondary market we'll try to buy them at
11 par, again just to keep things simpler. In our alloca-
12 tion process of the income that's earned what we've
13 decided to do is just not treat the temporary fluctu-
14 ations in value because ultimately they're not going to
15 matter. We're not going to buy probably even five or six
16 year in this account obligations. We're probably going
17 to stay three years at the longest. Again, as we go
18 forward and see what comes in, the value of the fund,
19 that could be extended. But again the objective is some
20 reasonable income yield consistent with maximum safety.
21 I think that's been the feeling of the Board. Obviously
22 any impute that you all want to give we're glad to
23 receive that. Are there any questions?

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

25 MR. MASON: I just have one. This Government select short

1 term fund, who is the sponsor of that?

2 MR. KING: That is run by the Northern Trust Company in
3 Chicago. That is a Government only primarily treasury
4 money market funds. I should add, that's a standard
5 money market fund that we're currently using in the
6 majority of our trust and investment management accounts.

7 MR. CHAIRMAN: Other questions?

8 MR. LEWIS: Did you say that was on a two year term?

9 MR. KING: This note is -- right -- a two year term. It's due
10 8/31/96. That will come due in two years. And, as I
11 mentioned, we bought a bill that will show up in the
12 account any day and that will be a one year bill.

13 MR. LEWIS: Is that a guaranteed return at 4.22?

14 MR. KING: No. 4.22 is the current yield in the money market
15 fund. The fund itself -- like a savings account or
16 money market funds are going to stay dollar per dollar.
17 That rate can change every day. So that's a variable
18 rate. Obviously the six and a quarter on the treasury
19 note, that 's a locked in rate and we can't buy anything
20 safer than -- it's direct obligation to the U.S. Treas-
21 ury.

22 MR. CHAIRMAN: Any other questions?

23 MR. MASON: Just following up on our earlier question, the
24 actual holding then is this account under this money
25 market fund is that our escrow account holds beneficial

1 interests in this mutual fund or this short term money
2 fund. Is that correct?

3 MR. KING: Right.

4 MR. MASON: So the actual security form is a beneficial
5 initial interest in the trust?

6 MR. KING: It's sold in units. It's the same thing, right.
7 It's a fund invested entirely in short term treasury --

8 MR. MASON: I understand.

9 MR. KING: Okay. And we have a pro rata -- in other words,
10 the number of units which match up with the dollars that
11 go in.

12 MR. MASON: I'm familiar with that. I was just trying -- in
13 other words, what I was focusing on is the actual
14 ownership of the escrow fund. It's not a direct owner-
15 ship of Government securities, but indirect through
16 beneficial interests in another entity.

17 MR. KING: That's right.

18 MR. CHAIRMAN: Any other questions?

19 MR. GARVIS: On Page 2 and 3 in the fourth column you have
20 fees. What exactly are those fees?

21 MR. KING: Those are the fees paid to the bank based on the
22 RVP for the fund. We charge one percent of the principal
23 balance of the account as a management fee which is
24 actually computed and taken monthly, 1/12th of one
25 percent per month plus the processing fees per account.

1 There's currently within the overall fund 122 active
2 sub-accounts representing units or the Board order
3 numbers. The fee's schedule include a \$10 per month per
4 account deposit in addition. So that would be the --
5 that's the total to date and bi-quarterly.

6 MR. CHAIRMAN: Anything further? Okay. Mr. King and Mr.
7 Martin, we thank you for coming. We appreciate it.

8 MR. KING: Thank you very much.

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3 ITEM II

4 MR. CHAIRMAN: The next item on today's agenda is a petition
5 from Virginia Gas Company for establishment and forced
6 pooling of interests on EH-112. This is docket number
7 VGOB-94/06/21-0450 that was continued from June. We'd
8 ask the parties that wish to address the Board in this
9 matter to come forward and identify your appearance on
the record, please.

10 MR. MULLINS: On behalf of Virginia Gas Company, my name is
11 Tom Mullins. I'm with the Street Law Firm in Grundy,
12 Virginia. Here with me today is Mr. Rasnick. We're here
13 for the proposal of EH-112.

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

17 MR. MULLINS: If I could, I'd like to have Mr. Rasnick sworn.

18 COURT REPORTER: (Swears witness.)
19
20

21 JAMES RASNICK

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

DIRECT EXAMINATION

1
2
3 BY MR. MULLINS:

4 Q. Sir, would you please state your name?

5 A. James Rasnick.

6 Q. What do you do for a living?

7 A. I'm a land manager for Virginia Gas Company in Abingdon.

8 Q. And how long have you been so employed?

9 A. Four years.

10 Q. Have you testified before this Board on prior occasions?

11 A. Yes, I have.

12 Q. Has your testimony been accepted as expert testimony?

13 A. Yes, it has.

14 Q. If I could, I'd like to move on to the particular well
15 we're here on today. Are you familiar with the applica-
16 tion filed by Virginia Gas Company for the drilling unit
17 designated as EH-112?

18 A. Yes, I am.

19 Q. Are you seeking to force pool the interest in unit EH-112
20 which is identified on the plat that was filed as part of
21 the application?

22 A. Yes.

23 Q. Have you sent notices to the parties as required by
24 statute?

25 A. Yes.

- 1 Q. And have copies of the mail receipts been filed with the
2 Board?
- 3 A. Yes, they have.
- 4 Q. What's the size of this unit?
- 5 A. This particular unit is 125.66 acres.
- 6 Q. How much is leased and how much is outstanding?
- 7 A. 99.69 percent is leased. 0.31 percent is outstanding.
- 8 Q. Do you want to dismiss any party who has been leased
9 subsequent to the filing of your application?
- 10 A. Yes. Our company has reached a voluntary agreement with
11 Columbia Natural Resources and we would like to dismiss
12 Columbia and their lessors, Green and D.M. Charles
13 estates.
- 14 Q. Who owns the drilling rights to this unit?
- 15 A. Virginia Gas Company.
- 16 Q. Is this a conventional or coalbed methane well?
- 17 A. This is a conventional gas well.
- 18 Q. What formations are you asking the Board to force pool
19 today?
- 20 A. From the base of the Burea formation to the surface.
- 21 Q. What's the depth of this well?
- 22 A. 4,700 feet.
- 23 Q. Have you attempted to contact all the parties and reached
24 an agreement prior to the filing of your application?
- 25 A. Yes.

- 1 Q. What were the results?
- 2 A. We were able to lease or reach an agreement on all
3 acreage within the unit with the exception of the Rosa
4 Stiltner Elswick estate.
- 5 Q. What efforts did you make to locate the people who are
6 the owners of the Rosa Stiltner Elswick estate?
- 7 A. We looked in the courthouse and were unable to find a
8 will or list of heirs for Rosa Elswick. We went to the
9 surface owners of the property and no one there knew of
10 her or her whereabouts.
- 11 Q. Attached as an exhibit, Exhibit C I think to the applica-
12 tion, is there a listing of the parties not leased?
- 13 A. Yes. Exhibit C.
- 14 Q. And, of course, you want to dismiss the people -- the
15 entities we've previously named?
- 16 A. Right.
- 17 Q. Did Virginia Gas Company use due diligence in trying to
18 locate the parties?
- 19 A. Yes.
- 20 Q. Whose interests are you asking the Board to force pool
21 today?
- 22 A. The unknown and unlocatable heirs of Rosa Stiltner
23 Elswick.
- 24 Q. Is Virginia Gas Company requesting to be named as the
25 drilling operator of the unit EH-112?

1 A. Yes.

2 Q. Does any amount need to be escrowed by the Board?

3 A. Yes. The percentage attributable to the Rosa Elswick
4 heirs.

5 Q. And what is that percentage again?

6 A. 0.31 percent.

7 Q. What's the estimated production over the live of this
8 well?

9 A. .5 BCF.

10 Q. And Virginia Gas Company does have a blanket bond as
11 required by statute to cover plugging and reclamation
12 costs, is that correct?

13 A. Yes.

14 MR. MULLINS: I don't have any other questions.

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

16 (Witness stands aside.)

17 MR. CHAIRMAN: Do you have anything further?

18 MR. MULLINS: No, sir.

19 MR. EVANS: Mr. Chairman, I move to grant the petition.

20 MR. MASON: Second.

21 MR. CHAIRMAN: A motion and a second. Further discussion?
22 If not, all in favor signify by saying yes. (ALL
23 AFFIRM.) Opposed say no. (NONE.) It's a unanimous
24 approval. Thank you.

25

1 ITEM III

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3 MR. CHAIRMAN: The next item on today's agenda is a petition
4 from Virginia Gas Company to establish a drilling unit
5 and force pooling for EH-116. This is docket number
6 VGOB-94/06/21-0451. We'd ask the parties that wish to
7 address the Board in this matter to come forward at this
8 time, please, and identify your appearance.

9 MR. MULLINS: On behalf of Virginia Gas Company my name is Tom
10 Mullins with the Street Law Firm. With me again here
11 today is James Rasnick.

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

15 MR. MULLINS: Is he still considered sworn in?

16 MR. CHAIRMAN: Yes.

17
18 JAMES RASNICK

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

21
22 DIRECT EXAMINATION

23
24 BY MR. MULLINS:

25 Q. Just briefly state your name, please.

1 A. James Rasnick.

2 Q. And you're with Virginia Gas Company, is that correct?

3 A. Yes.

4 Q. How long have you worked for them?

5 A. Four years.

6 Q. What is your capacity with Virginia Gas Company?

7 A. Land manager.

8 Q. Has your testimony been accepted as expert testimony

9 before the Board?

10 A. Yes, it has.

11 Q. I'd like to direct your attention to unit EH-116. Are

12 you familiar with the application filed by Virginia Gas

13 Company for the drilling unit designated as EH-116?

14 A. Yes, I am.

15 MR. CHAIRMAN: Pardon me. Could you speak up just a little.

16 We have this interference back here with this fan

17 going.

18 MR. MULLINS: Yes, sir. I understand.

19 Q. (Mr. Mullins continues.) Is Virginia Gas Company seeking

20 to force pool the interest in unit EH-116 which is

21 identified on the plat filed as part of the application?

22 A. Yes.

23 Q. Have you sent notices to the interested parties?

24 A. Yes, we have.

25 Q. And have copies of the certified mail receipts been filed

- 1 with the Board?
- 2 A. Yes.
- 3 Q. What's the size of this unit?
- 4 A. This unit is comprised on 92.26 acres.
- 5 Q. How much of the unit is leased and how much is outstand-
- 6 ing?
- 7 A. 83.13 percent of the unit is under lease to Virginia Gas
- 8 Company. 16.87 percent is unleased at this time.
- 9 Q. Do you desire to dismiss any of the parties leased
- 10 subsequent to the filing of the application by Virginia
- 11 Gas Company?
- 12 A. Yes. Once again our company has reached a voluntary
- 13 agreement with Columbia Natural Resources and we would
- 14 like to dismiss Columbia Natura Resources and it's
- 15 lessors, Berwind White Coal Mining Company and the
- 16 interest of George Belcher heirs, et al leased to CNR.
- 17 Q. Who owns the drilling rights for this unit?
- 18 A. Virginia Gas Company.
- 19 Q. Is this a conventional gas well?
- 20 A. Yes.
- 21 Q. What formations are you asking the Board to force pool?
- 22 A. From the base of the Burea formation to the surface.
- 23 Q. How deep is this well?
- 24 A. 4,200 feet.
- 25 Q. Have you attempted to contact all the parties in an

- 1 attempt to reach an agreement prior to the filing of your
2 application?
- 3 A. Yes, we have.
- 4 Q. What were the results of your efforts?
- 5 A. The only outstanding property in this unit is Black
6 Diamond Fuel Company which is a subsidiary of Poka Energy
7 Company. They have been sent a lease. They have
8 verbally agreed to lease to Virginia Gas Company. But
9 apparently this -- they have not returned this lease.
10 It's not a high priority on their things to do.
- 11 Q. What are the terms of your leases?
- 12 A. Virginia Gas Company offers one-eighth royalty, a five
13 year term, \$5 per acre.
- 14 Q. As an exhibit to the application is there a listing
15 naming the parties not leased?
- 16 A. Yes. On Exhibit C.
- 17 Q. And that needs to be amended to dismiss the parties we've
18 discussed above, is that correct?
- 19 A. That is true.
- 20 Q. Was due diligence used to locate all the parties?
- 21 A. Yes.
- 22 Q. Whose interests are you asking the Board to force pool
23 here today?
- 24 A. Black Diamond Fuel Company.
- 25 Q. Is Virginia Gas Company asking to be named the drilling

1 operator of this unit?

2 A. Yes.

3 Q. What's the estimated production over the life of this
4 well?

5 A. .5 BCF.

6 Q. And does Virginia Gas Company have a blanket bond
7 covering plugging and reclamation costs as required by
8 statute?

9 A. Yes, it has.

10 MR. MULLINS: I have no further questions.

11 MS. RIGGS: Could you tell me what the amended percentages
12 were on leased and unleased?

13 THE WITNESS: Sure. 83.13 percent of the unit is under lease
14 to Virginia Gas Company. 16.87 percent of the unit is
15 unleased.

16 MR. CHAIRMAN: Which is the Black Diamond Fuel Company?

17 THE WITNESS: That is correct.

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

19 MR. EVANS: I've got one question. Does the state line
20 present any problems as to its location?

21 THE WITNESS: According to the Oil and Gas Inspector he has no
22 authority beyond the boundaries of Virginia. So that's
23 the result.

24 MR. EVANS: Yeah. The thing hat's going to be in dispute is
25 have you --

1 THE WITNESS: We're paying that area.
2 MR. EVANS: Okay. As --
3 THE WITNESS: As if it were Virginia.
4 MR. EVANS: So you're taking the Virginia -- the USGS as
5 opposed to the composite deed?
6 THE WITNESS: Right.
7 MR. EVANS: Thank you.
8 MR. CHAIRMAN: Other questions, members of the Board?
9 (Witness stands aside.)
10 MR. CHAIRMAN: Do you have anything further?
11 MR. MULLINS: No, sir.
12 MR. EVANS: Mr. Chairman, I move we grant the petition.
13 MR. KELLY: Second.
14 MR. CHAIRMAN: A motion and a second. Any further
15 discussion? All in favor signify by saying yes. (ALL
16 AFFIRM.) Opposed say no. (NONE.) It's a unanimous
17 approval. Thank you.
18 MR. MULLINS: Sir, if I could before I get up, Item VI on the
19 agenda, EH-130, we are going to be asking to continue
20 that. I don't know if the Board wants to go ahead and
21 address that now or if it would rather wait.
22 MR. CHAIRMAN: I'll go ahead and call that now.
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ITEM VI

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3 MR. CHAIRMAN: We'll go to the petition from Virginia Gas
4 Company for a well location exception for well EH-130.
5 This is docket number VGOB-94/08/16-0464. We'd ask the
6 parties that wish to address the Board in this matter to
7 come forward at this time.

8 MR. MULLINS: On behalf of Virginia Gas Company my name is Tom
9 Mullins. I'm with the Street Law Firm in Grundy,
10 Virginia. Here with me today is James Rasnick of
11 Virginia Gas Company.

12 MR. CHAIRMAN: Are there any others here that wish to address
13 the Board in this matter?

14 MR. FULMER: Mr. Chairman, I'd like to pass out to the Board a
15 letter from an attorney representing one of the people
16 involved in the case.

17 MR. CHAIRMAN: Okay.

18 MR. FULMER: This letter basically means that they have no
19 problem with the continuance.

20 MR. CHAIRMAN: The record will show there are no other parties
21 present.

22 MR. FULMER: I'll also be passing out a letter that was sent
23 by Virginia Gas prior to the hearing and addressed to
24 Equitable Resources in regards to a continuance in this
25 matter.

1 MR. KAISER: Jim Kaiser of Hunter, Smith and Davis represent-
2 ing Equitable Resources Exploration. We have no object-
3 ion to this continuance of this matter.

4 MR. MULLINS: Really that's my request. I'd just ask for the
5 pleasure of the Board to continue that.

6 MR. CHAIRMAN: Any objections, members of the Board? The
7 matter will be continued.

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ITEM IV

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MR. CHAIRMAN: The next item on today's agenda is a petition from Equitable Resources Exploration for forced pooling of proposed well V-2824. This is docket number VGOB-94/07/19-0459. We'd ask the parties that wish to address the Board in this matter to come forward at this time and identify your appearance, please.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser on behalf of Equitable Resources Exploration.

MR. CHAIRMAN: The record will show there are no others. Anyone here wishing to address the Board in this matter?

MR. KAISER: Mr. Chairman, at this time we'd like to request a continuance of this matter to the October docket.

MR. CHAIRMAN: Any questions, members of the Board? Any problem with a continuance? The matter is continued to October.

ITEM V

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MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Exploration for a rehearing for V-2691, docket number VGOB-94/08-16/0461. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Jim Kaiser on behalf of Equitable Resources.

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

MR. KAISER: Mr. Chairman and members of the Board, we would also like to request a continuance of this matter to the October docket. We are in the process of negotiating a settlement of this matter and hope to have that complete before October 23rd.

MR. CHAIRMAN: Any questions or objections, members of the Board? The matter is continued until October.

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3 ITEM VII

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Buchanan Production Company for drilling unit T-15 in the
6 Oakwood Coalbed Methane Gas Field. This is docket number
7 VGOB-94/09/20-0469. We'd ask the parties that wish to
8 address the Board in this matter to come forward at this
9 time. This is tab seven in your notebook.

10 MR. SWARTZ: Mark Swartz. Let me find my clients. They're
11 outside.

12 MR. CHAIRMAN: Okay.

13 (AFTER A BRIEF PAUSE OFF THE RECORD, THE HEARING
14 CONTINUED AS FOLLOWS:)

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

18 MR. SWARTZ: This unit has been previously pooled. It was
19 pooled initially at the July 21st hearing in 1992. The
20 docket number for that hearing was VGOB-92/07/21-0210.
21 Then there was an adjustment with regard to a couple of
22 people who had asserted claims to the methane, a husband
23 and wife. They were added as respondents in December of
24 1992. The docket number for that was VGOB-92/12/19-0306.
25 The reason we're here today is apparent from review of
the initial application, but basically there are two

1 tracts in the -- that would be the bottom right hand
2 corner of the well plat. Both of these tracts -- and I'm
3 talking about tracts 2 and 3 -- were pooled in 1992 but
4 at the time they were pooled they were pooled as heir-
5 ship. And the people claiming under those heirship were
6 not identified and known. Basically tract 3 was origin-
7 ally pooled as the Ann L. McGlothlin heirs, devisees and
8 so forth. So the tract was captured in the pooling but
9 the people weren't identified. Tract -- I'm sorry. If I
10 said tract 2 I meant 3. That would have been the Ann L.
11 McGlothlin heirs. Tract 2 which is the tract further
12 toward the interior of the unit was originally pooled as
13 the W.H. Reedy heirs. And what you see today with this
14 large list of people as respondents is the fruits of --
15 to some extent -- OXY's efforts as operator and then
16 followed up by Consol's efforts as operator to try to
17 identify all of the heirs in these two heirship. In
18 addition, there is an Exhibit B-2 which is not something
19 that you normally see. Exhibit B-2 is contained in the
20 bound volume of exhibits. It kind of tracks -- it's
21 behind tab six, I think. Yes, it is. Just to give you
22 an idea of where we're headed here, Exhibit B-2 tracks
23 the efforts that Consol has made since these people were
24 identified to try and obtain leases from as many of these
25 heirs as possible. And basically from number ten on

1 Exhibit B-2 through the end of that exhibit, those are
2 people that Consol has successfully leased or in one
3 instance has purchased their interest. So there's been
4 an ongoing effort once these people were identified to
5 try and minimize the number of respondents. You need to
6 be a little careful -- and as Les and I go through this
7 today we'll bring it to your attention. But there are a
8 number of exhibits that were amended subsequent to the
9 filing of the original application. So you might check
10 the table of contents of the bound volume of exhibits so
11 that you know that some of these exhibits have, indeed,
12 been amended in part to reflect the leases that were
13 obtained and in several instances there was some cost
14 issues that were addressed by our amendments. That is
15 why we are here, the identification of heirs and these
16 two heirship regarding these two tracts. Again we have
17 named as respondents people who were previously pooled
18 whose interest might be affected. In other words, whose
19 division of interest number has changed. To the extent
20 that their interests were not affected they have not been
21 joined as respondents. So everybody who's a respondent
22 in Exhibit B-2 is joined because A) Either we didn't know
23 who they were the first time or B) tracts have changed
24 slightly and their percentage interest has changed. So
25 Exhibit B is the respondents that we seek to affect by

1 this pooling application and included some people that
2 were listed before. I'd like to call Les Arrington first
3 to work our way through the application and exhibits.

4 COURT REPORTER: (Swears witness.)

5

6 LESLIE K. ARRINGTON

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

9

10 DIRECT EXAMINATION

11

12 BY MR. SWARTZ:

13 Q. State your name for the record.

14 A. Leslie K. Arrington.

15 Q. Who do you work for?

16 A. Consol.

17 Q. Is Consol, Inc. the designated operator for unit T-15
18 based on prior orders and amendments of those orders from
19 this Board?

20 A. Yes, they are.

21 Q. Are you responsible for the force pooling activities of
22 Consol and Buchanan Production generally?

23 A. Yes, I am.

24 Q. Did you prepare the notice of hearing and the application
25 in this matter?

- 1 A. Yes, I did.
- 2 Q. And you signed both of them?
- 3 A. Yes, I did.
- 4 Q. Did you also participate in the preparation of the
5 exhibits?
- 6 A. Yes, I have.
- 7 Q. And did you review title information and other informa-
8 tion obtained by your land department who compiled a list
9 of respondents?
- 10 A. Yes, we have.
- 11 Q. Buchanan Production Company is a Virginia general
12 partnership?
- 13 A. Yes.
- 14 Q. And it has two partners that are corporations. One is
15 Appalachian Operators, Inc. The other is Appalachian
16 Methane, Inc. And both of those corporate partners in
17 Buchanan Production Company are wholly owned indirect
18 subsidiaries of Consol, Inc., is that true?
- 19 A. Yes.
- 20 Q. Is Buchanan Production Company authorized to do business
21 in Virginia?
- 22 A. Yes.
- 23 Q. Who are you requesting be appointed or continued as the
24 designated operator?
- 25 A. Consol.

- 1 Q. Consol, Inc. is a Delaware corporation authorized to do
2 business in the Commonwealth?
- 3 A. Yes.
- 4 Q. Has Consol, Inc. registered with the Department of Mines,
5 Minerals and Energy and does it have a blanket bond on
6 file as required by law?
- 7 A. Yes, they do.
- 8 Q. There has been -- and we talked about this in the past.
9 At tab ten have you included exhibits which go to the
10 selection of Consol, Inc. as the professional manager of
11 Buchanan Production Company?
- 12 A. Yes.
- 13 Q. And the delegation of certain authority to operate the
14 Buchanan Production activities to Consol and then
15 specific people of Consol?
- 16 A. Yes.
- 17 Q. And those exhibits are behind tab ten?
- 18 A. Yes, they are.
- 19 Q. With regard to respondents, have you listed -- well,
20 let's start here. There is an amended notice of hearing
21 in the bound volume?
- 22 A. Yes, there is.
- 23 Q. How is that notice if it is different from the original
24 notice that went out?
- 25 A. It included one additional respondent after I originally

1 filed it which I included that name on approximate August
2 22nd when we noticed that we did probably have an
3 improper lease. So we went ahead to include here in this
4 force pooling which was Orpha Shmal which is listed on
5 Exhibit B-2 behind Exhibit 2.

6 Q. So the amended notice of hearing is different than the
7 original notice in that it contains one additional name
8 and that name is?

9 A. Orpha Shmal.

10 Q. And that amended notice of hearing was sent just to her?

11 A. Just to her.

12 Q. Have you mailed and filed a proof of mailing with the
13 DMME to everyone on Exhibit B for whom you had an
14 address?

15 A. Yes, we did.

16 Q. Is there a proof of mailing contained within the bound
17 volume of exhibits?

18 A. Yes, behind Exhibit 2.

19 Q. There is a listing of all the respondents, a date set
20 forth when it was mailed, the receipt number and then an
21 indication as to whether or not the card came back signed
22 for, whether or not the package came back returned so
23 that the Board and the DMME would know the status of that
24 mailing?

25 A. That is true.

- 1 Q. This exhibit also contains copies of the signed receipts?
- 2 A. Yes, sir.
- 3 Q. Is there an addition or amendment you would like to make
4 to Exhibit 2?
- 5 A. Yes. If you'll notice on Page 4 of the certification of
6 notice there --
- 7 Q. The last page of receipts?
- 8 A. The last page. Uh-huh. You'll notice that there was one
9 respondent not in there as received. We put a tracer on
10 that package and to date we have not received it back
11 yet.
- 12 Q. That's Madeline and Carl Tucker?
- 13 A. Yes.
- 14 Q. So it hasn't come back either returned or signed before
15 today?
- 16 A. No, it has not.
- 17 Q. When did you put the tracer on it?
- 18 A. Well, we've been looking for it for two weeks now. So we
19 still haven't received it.
- 20 Q. Do you wish to amend the notice of hearing and applica-
21 tion to add any respondents at this point?
- 22 A. No.
- 23 Q. Do you wish to dismiss any respondents?
- 24 A. Yes.
- 25 Q. For purpose of ease of identification of who you want to

1 dismiss would it help us to refer to Exhibit 6 in the
2 bound volume?
3 A. Yes.
4 Q. Are you requesting today that the Board dismiss all of
5 the owners and/or claimants starting with number ten of
6 Exhibit B-2, Joyce Owens, and continuing to the end of
7 that list up to and including number 38, Lucille and
8 Orlee Perkins?
9 A. Yes, we are.
10 Q. Is the reason that you're requesting that those folks be
11 dismissed or reasons that Buchanan Production has either
12 obtained a lease from them or has purchased on an
13 outright basis their interests?
14 A. Yes.
15 Q. At the top of Exhibit B-2 or toward the top -- actually
16 it is the first item. This is Orpha Shmal that we were
17 talking about earlier?
18 A. Yes.
19 Q. Tell me what the situation with the lease that was -- the
20 entry that shows it was updated 8/2/94? What was the
21 issue at that point?
22 A. The issue at that point, we have under lease one tract
23 with her and we thought she was also included in this
24 tract. However, it was not.
25 Q. So that was why the notice of hearing was amended?

- 1 A. Yes.
- 2 Q. After the notice of hearing was amended did you sub-
3 sequently obtain another lease from her and are you
4 requesting the Board to dismiss her?
- 5 A. That is correct.
- 6 Q. And that's reflected later on in an exhibit?
- 7 A. Later on.
- 8 Q. With regard to number two, Ann Mullins, what is the
9 situation there?
- 10 A. Ann Mullins was originally listed under Ms. Washburn. I
11 can't remember her first name. And we were sending
12 notice to Ms. Washburn in care of Ann Mullins who was her
13 daughter. She passed away and it leaves Ann Mullins and
14 this Mike Mullins as her heirs.
- 15 Q. They were noticed and need to be added?
- 16 A. Yes.
- 17 Q. You are not requesting that they be dismissed?
- 18 A. No.
- 19 Q. Has Consol, Inc. either through your direct efforts or
20 efforts of other people in the land department on behalf
21 of Buchanan Production diligently attempted to identify
22 and locate all persons having record title to these two
23 tracts that we're dealing with today?
- 24 A. Yes, we have.
- 25 Q. And is the information that's been filed with the Board

1 in terms of the amended Exhibit B which is at tab or
2 Exhibit 5 and with regard to Exhibit B-2 have you
3 provided the Board all information that you've been able
4 to obtain with regard to the claimants and heirs to these
5 two tracts under consideration?

6 A. Yes, we have.

7 Q. Did you provide for publication of the notice?

8 A. Yes, we did.

9 Q. When was that done and in what paper?

10 A. It was published in the Bluefield Daily Telegraph on
11 August 24th and it's at Exhibit 3.

12 Q. Is there a certificate of publication from that news-
13 paper?

14 A. Yes.

15 Q. With regard to the standing of Buchanan Production
16 Company as an applicant and to further amend the previous
17 orders that were entered in this case at amended Exhibit
18 4 have you set forth the interests which are not leased
19 and have not previously been pooled that are sought to be
20 affected by this application?

21 A. That is correct.

22 Q. Is there any coal interest that this application seeks to
23 reach?

24 A. No.

25 Q. We're only talking about oil and gas?

1 A. Yes.

2 Q. What is the outstanding oil and gas interest that you're
3 seeking to affect here by this pooling application?

4 A. 1.7246 percent.

5 Q. Have you been offering standard lease terms to the people
6 that you have successfully leased as indicated by Exhibit
7 B-2?

8 A. Yes, we have.

9 Q. And what are those terms?

10 A. It's one dollar per acre, five year term with one-eighth
11 royalty.

12 Q. Is the dollar an acre a rental payment as opposed to a
13 bonus?

14 A. Yes.

15 Q. Would that rental be payable on an annual basis under
16 your leases only until production commences?

17 A. That's correct.

18 Q. Would you recommend that in the event that the Board
19 should pool this unit that the terms on a deemed to have
20 leased situation would be the same as you've just
21 described?

22 A. Yes, we do.

23 Q. Now, unit T-15 when it was originally pooled -- if the
24 Board would look at Exhibit 9. When it was originally
25 pooled the two north and south panels -- I think they're

1 development panels 12 and 13 in VP-5 -- were the panels
2 that are under consideration, is that correct?
3 A. Yes, it is.
4 Q. A difference between this application today and the
5 original hearings is that there's another panel under
6 consideration which is in a mine or is VP-8?
7 A. That's correct.
8 Q. And that panel is toward the bottom of the Exhibit G,
9 Page 1, and runs generally east and west, correct?
10 A. Yes, it does.
11 Q. So there has been a change of mine plan or an addition to
12 the mine plans?
13 A. Yes.
14 Q. And it affects unit T-15 in the sense that it is now
15 affected by three longwall panels?
16 A. That is correct.
17 Q. With regard to the cost information that's been submitted
18 to the Board today concerning the original two panels and
19 the division -- or the percentage of those panels within
20 unit T-15 has the cost information and the percentages
21 remained the same as it was originally when this unit was
22 pooled?
23 A. Yes, it has.
24 Q. Then the changes in costs and the additional division of
25 interests or percentage with regard to everybody in this

1 unit pertains to the mine plan changes concerning the
2 panel in VP-8?
3 A. Yes, it does.
4 Q. Is T-15 an Oakwood unit?
5 A. Yes, it is.
6 Q. It's an 80 acre unit?
7 A. Yes, it is.
8 Q. What coal seam or seams is this application seeking to
9 pool with regard to the respondents?
10 A. All seams below the Tiller Seam.
11 Q. Is there an amended DWE or estimate of costs in the bound
12 volume?
13 A. Yes, it is. At Exhibit 11.
14 Q. It shows what amount of estimated costs per well in the
15 VP-8 panel?
16 A. You mean the total costs?
17 Q. Right.
18 A. \$139,984.68.
19 Q. Because of the relationship between Buchanan Production
20 and Oakwood Gathering in terms of gathering gas have the
21 costs of compression and gathering lines -- are they, in
22 fact, not contained in this estimate?
23 A. That's correct.
24 Q. Because the relationship -- at least the gathering and
25 compression relationship between Buchanan Production and

1 Oakwood essentially shifts that cost to Oakwood?

2 A. Yes, it does.

3 Q. And before that relationship how much more would be
4 reflected here?

5 A. Approximately \$25,000 per well.

6 Q. And that would be the hook-up for electricity and
7 pipelines?

8 A. That's correct.

9 Q. Because Exhibit C was amended did you also have to amend
10 Exhibit G?

11 A. Yes, I did.

12 Q. So the costs with regard to the VP-8 panel and the total
13 costs have been changed to reflect the impact of the
14 amended Exhibit C?

15 A. Yes, it has. Total cost for the panel being \$283,767.

16 Q. Did the amended exhibit go up or down?

17 A. It went down.

18 Q. By roughly?

19 A. \$25,000.

20 Q. And then the Exhibit G costs would have also gone down?

21 A. Yes, it did.

22 Q. Just referring for a moment to Exhibit B which is behind
23 tab five, with regard to each respondent there are a
24 number of columns?

25 A. Yes, there is.

1 Q. Just to cover what those columns reflect, the first
2 column is the acres in the unit that would be associated
3 with the respondents interests?
4 A. That's correct.
5 Q. The second column is the undivided interest obtained if
6 you simply take the acreage in the first column and
7 divide it by 80?
8 A. That's correct.
9 Q. And then the last three columns reflect the claimants
10 interest in the production from each of the three panels
11 that affect the unit, correct?
12 A. That's correct.
13 Q. And if a person wanted to figure out what their partici-
14 pation dollar would be to participate as a partner, in
15 fact, in this unit they would have to take the cost
16 reported in the amended Exhibit G and multiply the cost
17 with regard to each of these three panels times the
18 percentage reported in these last three columns?
19 A. That's correct.
20 Q. They would get numbers, one for each panel. They would
21 then total those numbers and they would get a partici-
22 pation dollar?
23 A. That's correct.
24 Q. And then the multiplier with regard to carried interest
25 would be applied to that same figure if we were looking

1 to calculate what a carried interest would be, is that
2 correct?

3 A. Yes.

4 Q. Les, is it your view that the plan of development --
5 obviously we've already addressed the two panels before,
6 but the plan of development now with regard to the
7 additional panel in VP-8 that this is a reasonable plan
8 to continue to develop the coalbed methane resources
9 located within unit T-15 as well as other affected units?

10 A. Yes, it is.

11 Q. Will this plan, if implemented, contribute to the
12 protection of correlative rights allowing all owners a
13 share in the revenue and, in fact, promote conservation
14 in the sense that it will obtain the maximum amount of
15 gas?

16 A. Yes, it will.

17 Q. Would it be your request that in terms of the election
18 option that any order entered by the Board specifically
19 state that the option would only be afforded to respond-
20 ents named in this application?

21 A. That's correct.

22 Q. But that mailing of the order or amended order be
23 required to go to everyone who had ever been pooled?

24 A. Yes.

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

1 MR. CHAIRMAN: Any questions?

2 MR. MASON: Mr. Chairman, this is addressed to Sandra and
3 members of the Board. The application lists as an
4 applicant Buchanan Production Company and, of course,
5 it's signed Buchanan Production Company by it's profess-
6 ional managers for Consol, Inc. The affidavit of due
7 diligence cites Mr. Arrington as a permit specialist of
8 Consol, that Consol has exercised due diligence and in
9 three recites that the parties listed on Exhibit C of
10 Consol, Inc.'s application for forced pooling. My
11 question is does that make any difference?

12 MS. RIGGS: The original pooling order named OXY, USA, Inc. as
13 the operator. Subsequent to that when the operations
14 were transferred over Consol, Inc. became the operator
15 under the existing pooling order. So Consol, Inc. is the
16 operator of this unit currently under preexisting Board
17 order. So in that sense it is linked to the applicant as
18 the applicant's operator.

19 MR. MASON: I understand that.

20 MR. SWARTZ: I think he's raised a different issue and I agree
21 with him. It should actually be BPC.

22 MR. MASON: Yeah. I would think you would want to put just
23 maybe Buchanan Production by Consol as like manager or
24 something like that. I mean, I realize it's a very
25 technical distinction but it might at some point effect

1 the applicacy of the notice if someone was to raise it.
2 MR. SWARTZ: We'll straighten that out and give it to you.
3 MR. MASON: I would suggest, if it's okay with you all, that
4 they be allowed just to submit an amended affidavit or a
5 substitute affidavit to become the official one as a part
6 of the record.
7 MR. SWARTZ: That's fine. Also there's another mistake -- as
8 long as we're on the affidavit of due diligence. At
9 Paragraph 3 -- it talks in the first line at Paragraph 3
10 about Exhibit C. That's wrong. It should be Exhibit D.
11 So when we amend it we'll straighten that out as well.
12 MR. CHAIRMAN: Any other questions, members of the Board?
13 (Witness stands aside.)
14 MR. CHAIRMAN: Do you have another witness?
15 MR. SWARTZ: That's it.
16 MR. CHAIRMAN: Anything further? Did we get this introduced
17 for the record?
18 COURT REPORTER: Yes.
19 MR. EVANS: Mr. Chairman, I move we approve the petition.
20 MR. CHAIRMAN: A motion to approve.
21 MR. KELLY: Second.
22 MR. CHAIRMAN: A motion and a second. Any further dis-
23 cussion? All in favor signify by saying yes. (ALL
24 AFFIRM.) Opposed say no. (NONE.) It's a unanimous
25 approval. Thank you. We're going to break for lunch.

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The Board will reconvene at 12:30.

(AFTER A LUNCHEON RECESS, THE HEARING CONTINUED AS

FOLLOWS)

1
2
3 ITEM VIII

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Equitable Resources Exploration for proposed well VC-
6 3051. This is docket number VGOB-94/09/20-0470. We'd
7 ask the parties that wish to address the Board in this
8 matter to come forward at this time.

9 MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser
10 on behalf of Equitable Resources Exploration. Our
11 witnesses in this matter will be Mr. Don Hall and Mr.
12 Bob Dahlin.

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

16 MR. KAISER: In this petition we're seeking a location
17 exception for coalbed methane well number VC-3051, a well
18 subject to the Nora Coalbed Methane Field Rules.

19 COURT REPORTER: (Swears witnesses.)
20

21 DON HALL

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

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BY MR. KAISER:

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

A. Don Hall with Equitable Resources as district landman in Virginia.

Q. Have your qualifications as an expert witness previously been accepted by this Board?

A. Yes, sir.

MR. KAISER: Mr. Chairman, at this time we'd like to offer Mr. Hall as an expert witness.

MR. CHAIRMAN: All right.

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

A. Yes.

Q. Are you familiar with the application for the location exception for well VC-3051 and the relief that's requested?

A. I am.

Q. Have all interested parties been noticed as required by Section 4.B of the Virginia Gas and Oil Board Regulations?

A. Yes, they have.

Q. Would you indicate for the Board the ownership of the oil

1 and gas underlying the unit for well VC-3051?

2 A. It's 100 percent Pine Mountain Oil & Gas which is leased
3 by us.

4 Q. Does EREX have an oil and gas lease covering all these
5 tracts?

6 A. Yes.

7 Q. Does EREX have the right to operate the reciprocal wells?

8 A. Yes, we do.

9 Q. Mr. Hall, could you explain the ownership in the sur-
10 rounding units and explain any correlative rights issues
11 that may be involved here?

12 A. We have under lease the properties in all of the sur-
13 rounding units using the 3051 unit as the center. We
14 have all adjacent units 100 percent leased either from
15 Pine Mountain Oil & Gas or Freddie Mullins.

16 Q. Mr. Hall, in conjunction with the exhibit that I've
17 passed out to the Board could you explain the reasons why
18 a location exception is needed for this well in order to
19 prevent lost reserves?

20 A. As you can see in the exhibit, the green window area is
21 the area that the well should be drilled in. It is very
22 steep in there. You've got probably an average of a 60
23 percent grade in there. You're probably notice up in the
24 northwestern corner of the unit an area that looks a
25 little wider than those other contours. That's somewhat

1 a misrepresentation on this topo because that is real
2 steep, rock cliffs, rock ledges through there. It's only
3 about 30 feet wide and it drops straight off on either
4 side of it in that particular area.

5 Q. Mr. Hall, have you personally visited this site?
6 A. Yes, I have.

7 Q. Can you elaborate further on the site that EREX has
8 chosen for this location?
9 A. As you proceed down that point from the location toward
10 -- in a northeastwardly direction the point narrows off
11 real quickly and it's steep on either side. Where the
12 location is proposed is the only place in that area that
13 it could be drilled to be able to maintain stabilization
14 of the location and to keep the slopes slipping off.

15 Q. Is that the only location within the unit in which we
16 could maintain permanent stabilization?
17 A. Yes.

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

20 MR. CHAIRMAN: Questions, members of the Board?
21 MR. GARVIS: What is the contour intervals of the map that
22 you've given us?
23 THE WITNESS: 40 feet.
24 MR. GARVIS: Thank you.
25 MR. CHAIRMAN: Other questions?

1 MR. HARRIS: There is another well VC-3052 down at the lower
2 left corner. It's southwest of VC-3051. What are the
3 distances there? Are there any problems with -- that
4 well is in, is that correct?

5 THE WITNESS: That's a proposed well. We're in the process of
6 permitting it right now. It's approximately 1,700 feet
7 from the other well. We have wells in -- we have drilled
8 wells in the unit to the northeast, the southeast and the
9 northwest. We have well spots in the units to the east,
10 to the south, and to the southwest leaving a unit to the
11 north and a unit to the west without a spot at this time.

12 MR. MASON: If you were to drill the wells around here that
13 you anticipate drilling what's the closest distance that
14 any of them would be to this well?

15 THE WITNESS: Well, we would have to maintain a minimum of 600
16 foot spacing from this.

17 MR. MASON: I understand that, but are some of them that
18 close?

19 THE WITNESS: No. We would be -- the unit to the west when we
20 propose a location on it will have to be a minimum of 600
21 feet of this well but it could be 1,000 feet.

22 MR. MASON: You don't know at this time?

23 THE WITNESS: No, I don't.

24 MR. MASON: Okay. I just wondered if you've picked out the
25 location yet.

1 MR. HALL: No. We don't have one in the east yet -- I mean
2 the west because we want to establish where this one is
3 going to be first.

4 MR. MASON: One other question. On this survey, looking at
5 the survey that was attached to the application, this one
6 has a survey seal on it. Are you sure this well's in
7 this unit looking at this?

8 THE WITNESS: It's in it.

9 MR. EVANS: Half the bore is and half the bore isn't.

10 MR. MASON: I mean, if you look at this survey I'm serious.

11 THE WITNESS: Just a second and I'll give you the exact --
12 it's 3.23 feet outside the unit.

13 MR. MASON: If your drill truck driver sneezed on the way up
14 there --

15 THE WITNESS: We have a three foot radius. If you go beyond
16 that you can't drill. So we have to stay within a three
17 foot radius of that stake.

18 MR. MASON: I don't know whether it makes any difference or
19 not, but based on some of the testimony earlier wells
20 that we've had here these wells have a tendency to veer
21 off from time to time down hole. Would that make any
22 difference in this being that close to the border?

23 THE WITNESS: I really can't address that. I mean, I don't
24 even know whether it's a consideration or not.

25 MR. LEWIS: State law requires them to be a certain --

1 MR. EVANS: Within a certain tolerance.

2 MR. DAHLIN: Yeah. I'll tell you how I'd probably answer that
3 question, it would impact it obviously. However, we do
4 think we'll be planning a well in the adjoining unit to
5 the west as far as payments and what not goes. Right now
6 the only other well drilled to the west is in the third
7 unit to the west and that was done because of our initial
8 phase of development in there, not going in and drilling
9 immediate offsets.

10 MR. MASON: Maybe I should rephrase my question. Is there any
11 reason to be particularly concerned here like the
12 formations or anything, that this well is going to veer
13 off one way or another very far?

14 MR. DAHLIN: Generally speaking when you have a very steep
15 subsurface feature your well will mine right towards that
16 feature. And this is on a structure but there's nothing
17 unusual that I would expect a drastic deviation.

18 MR. MASON: Thank you.

19 MR. EVANS: In the unit to the west -- immediately to the west
20 -- are the same lease holds?

21 THE WITNESS: Yes.

22 MR. EVANS: There's no difference?

23 THE WITNESS: No.

24 MR. EVANS: When you said you had two lease holders basically
25 one being -- in this unit that we're talking about who

1 are the two lease holders?

2 THE WITNESS: In the unit to the west?

3 MR. EVANS: Yeah, in the unit to the west.

4 THE WITNESS: In the unit to the west Pine Mountain appears to
5 probably own about 70 percent and Freddie Mullins about
6 30 percent.

7 MR. EVANS: And in the unit we're talking about here for
8 today?

9 THE WITNESS: 100 percent Pine Mountain.

10 MR. EVANS: So Freddie Mullins is leased?

11 THE WITNESS: Right.

12 MR. DAHLIN: And has other wells drilled on him and will have
13 other interests in the subsequent development of wells.

14 THE WITNESS: There's already eleven coalbed wells drilled on
15 Freddie Mullins tract in addition to seven conventional
16 wells.

17 MR. MASON: Mr. Chairman, I'd like to ask Mr. Fulmer a
18 question.

19 MR. CHAIRMAN: Go ahead.

20 MR. MASON: Do you have any comment from your standpoint
21 whether or not this presents any problem?

22 MR. FULMER: I don't see in this particular case it presents
23 any problem basically because of the lease hold interest
24 they hold and have leased, plus the fact that when these
25 field rules go in you'll find these situations where the

1 location of the well in order to produce gas out of is
2 that you're going to have difficult locations to try to
3 find within a particular unit because of the smallness of
4 the unit. If it's a 120 acre unit or a 180 unit it might
5 be a little bit better, but you're talking about 60 acre
6 units here.

7 MR. MASON: Thank you.

8 MR. CHAIRMAN: Any other questions? Just for clarification,
9 when you cited your relief sought as 361.17, just to
10 clarify are you're requesting an variance to the field
11 rule window or an exception to statewide spacing?

12 MR. KAISER: Is that Paragraph 4 on Page 3 of the application?

13 MR. CHAIRMAN: I was looking particularly at your notice of
14 hearing, your relief sought on that where you quote the
15 docket number and it's cited. I believe you've cited 2.2
16 on Page 2 saying it's subject to statewide spacing and
17 also under your legal authority on Page 3.

18 MR. KAISER: That's the exception to statewide spacing.
19 Right. We're seeking an exception to the -- let me see.

20 MR. CHAIRMAN: I'm just clarifying that you appear to be
21 seeking a variance from the field rules.

22 MR. KAISER: Yeah, just to the field rule.

23 MR. CHAIRMAN: If you will amend the relief to show that.

24 MR. KAISER: All right.

25 MS. RIGGS: So the cite would be to .20 as opposed to .17

1 under the field rule exception.

2 MR. CHAIRMAN: You may call your next witness.

3 MR. KAISER: We call Mr. Dahlin.

4

5 ROBERT A. DAHLIN, II

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

8

9 DIRECT EXAMINATION

10

11 BY MR. KAISER:

12 Q. Mr. Dahlin, could you please state your name for the
13 Board and who you're employed by and in what capacity?

14 A. My name is Robert A. Dahlin, II. I'm employed by EREX as
15 an operations specialist.

16 Q. Mr. Dahlin, are you familiar with the application for the
17 location exception filed by EREX for well VC-3051?

18 A. Yes, sir, I am.

19 Q. In the event the location exception is not granted would
20 you project the estimated loss of reserves that would
21 result in waste?

22 A. We've assigned 350 million cubic foot of gas to this
23 coalbed methane drilling unit.

24 Q. What is the total depth of the proposed initial well
25 under the applicant's plan of development?

1 A. 2,170 feet.

2 Q. Will this include formations consistent with the well
3 work permit now before the DMME?

4 A. Yes, sir, it will.

5 Q. And will this be sufficient to penetrate and test the
6 common sources of supply in the subject formations?

7 A. Yes, it will.

8 Q. Is the applicant requesting the location exception to
9 include not only the designated formations but any other
10 formations which may be between the formations designated
11 from the surface to the total depth drilled?

12 A. Yes, sir, we are.

13 Q. In your opinion will the granting of this location
14 exception be in the best interest of preventing waste,
15 protecting correlative rights and maximizing recovery of
16 gas reserves underlying VC-3051?

17 A. Yes, sir.

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

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

21 (Witness stands aside.)

22 MR. CHAIRMAN: Do you have anything further?

23 MR. KAISER: Nothing further.

24 MR. CHAIRMAN: Do we have a motion?

25 MR. KELLY: Mr. Chairman, I move that the application be

1 approved as submitted.

2 MR. MASON: Second.

3 MR. CHAIRMAN: A motion and a second. Further discussion?

4 If not, all in favor signify by saying yes. (ALL

5 AFFIRM.) Opposed say no. (NONE.) Unanimous approval.

6 Thank you.

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3 ITEM IX

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Equitable Resources Exploration for an order for force
6 pooling of unit supporting well number V-1824. This is
7 docket number VGOB-94/09/20-0472. We'd ask the parties
8 that wish to address the Board in this matter to come
9 forward at this time and identify yourselves, please.

10 MR. KAISER: Jim Kaiser on behalf of Equitable Resources
11 Exploration. Our witnesses in this matter will be Mr.
12 Dennis Baker and Mr. Bob Dahlin.

13 MR. CHAIRMAN: Are there any others present today wishing to
14 address the Board in this matter? The record will show
15 there are none. You may proceed.

16 MR. KAISER: We would ask that Mr. Baker be sworn in at this
17 time.

18 COURT REPORTER: (Swears witness.)

19 DENNIS BAKER

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

22
23 DIRECT EXAMINATION

24
25 BY MR. KAISER:

- 1 Q. Mr. Baker, could you state your full name for the record,
2 who you are employed by and in what capacity?
- 3 A. My name is Dennis Baker, employed by Equitable Resources
4 Exploration as a leasing supervisor.
- 5 Q. Do your responsibilities include the lands involved here
6 and in the surrounding area?
- 7 A. Yes, they do.
- 8 Q. Are you familiar with Equitable's application for the
9 establishment of a drilling unit and pooling order for
10 EREX well V-1824 dated August 19th, 1994?
- 11 A. Yes, I am.
- 12 Q. Does Equitable own drilling rights in the unit involved
13 here?
- 14 A. Yes.
- 15 Q. Does the proposed unit depicted at Exhibit A include all
16 acreage within 2,640 feet, that is a radius of 1,320 of
17 proposed well V-1824?
- 18 A. Yes.
- 19 Q. What is the interest of Equitable in the unit?
- 20 A. We have 78.9857 percent leased at this time.
- 21 Q. Are you familiar with the ownership of drilling rights of
22 the parties other than Equitable underlying this unit?
- 23 A. Yes, I am.
- 24 Q. What percentage does that represent?
- 25 A. 21.0143.

- 1 Q. Are all unleased parties set out at Exhibit B?
- 2 A. Yes, they are.
- 3 Q. Prior to the application were efforts made to contact
4 each of the respondents and an attempt made to work out
5 an agreement regarding the development of the unit
6 involved?
- 7 A. Yes.
- 8 Q. Subsequent to the filing of the application have you
9 continued to attempt to reach an agreement with the
10 respondents listed at Exhibit B?
- 11 A. Yes, we have.
- 12 Q. As the results of these efforts have you acquired any
13 other leases from any of the respondents listed at
14 Exhibit B as unleased owners?
- 15 A. No, we have not.
- 16 Q. Were efforts made to determine if the individual respond-
17 ents were living or deceased or their whereabouts and if
18 deceased were efforts made to determine the names and the
19 addresses and whereabouts of the successors to any
20 deceased individual 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 sources such as deed records, probate records,
25 assessors records and treasurers records?

1 A. Yes.

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

4 A. Yes, they were.

5 Q. Are the addresses set out at Exhibit B to the application
6 the last known addresses for the respondents?

7 A. Yes.

8 Q. Mr. Laker, with the exception of those parties which you
9 are hereby dismissing from this proceeding are you
10 requesting this Board to force pool all other unleased
11 interests listed at Exhibit B?

12 A. Yes.

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

17 A. Yes, we are.

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

23 A. Yes, we are.

24 Q. Are you familiar with the fair market value of drilling
25 rights in the unit here and in the surrounding area?

1 A. Yes, I am.

2 Q. Can you advise the Board as to what those are?

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

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

9 A. Yes.

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

- 1 from the tracts pooled accruing to his interest exclusive
2 of any royalty or overriding royalty reserved in any
3 leases, assignments thereof or agreements relating
4 thereto of such tracts but only after the proceeds
5 allocable to his share equal A) 300 percent of the share
6 of such cost allocable to the interest of the carried
7 operator of a leased tract or portion thereof, or B) 200
8 percent of the share of such cost allocable to the
9 interest of the carried operator of an unleased tract or
10 portion thereof?
- 11 A. That's correct.
- 12 Q. Do you recommend that the order provide that the elect-
13 ions by respondents be in writing and sent to the
14 applicant at Equitable Resources Exploration, 1985 East
15 Stone Drive, P.O. Box 1983, Kingsport, Tennessee, 37662-
16 1983, attention Dennis Baker, Regulatory?
- 17 A. Yes.
- 18 Q. Should this be the address for all communications with
19 the applicant concerning the force pooling order?
- 20 A. Yes, it is.
- 21 Q. Do you recommend the force pooling order provide that if
22 no written election is properly made by a respondent then
23 such respondent shall be deemed to have elected to cash
24 royalty option in lieu of participation?
- 25 A. Yes.

- 1 Q. Should the unleased respondents be given 30 days from the
2 date of the order to file a written election?
- 3 A. Yes.
- 4 Q. If an unleased respondent elects to participate should
5 that respondent be given 45 days to pay the applicant for
6 respondent's proportionate share of well costs?
- 7 A. Yes.
- 8 Q. Does the applicant except the party electing to partic-
9 ipate to pay in advance that party's share of completed
10 well costs?
- 11 A. Yes.
- 12 Q. Should the applicant be allowed 60 days following the
13 recording of the order and thereafter annually on that
14 date until production is achieved to pay or tender any
15 cash bonus becoming due under the force pooling order?
- 16 A. Yes.
- 17 Q. Do you recommend the force pooling order provide that if
18 a respondent elects to participate but fails to pay
19 respondent's proportionate share of well costs satis-
20 factory to applicant for the payment of well costs the
21 respondent's election to participate shall be treated as
22 having been withdrawn and void and such respondent
23 should be treated just as if no initial election had been
24 filed under the force pooling order?
- 25 A. That's correct.

1 Q. Do you recommend the force pooling order provide that
2 where a respondent elects to participate but defaults in
3 regard to the payment of well costs any cash sum becoming
4 payable to such respondent be paid within 60 days after
5 the last date on which such respondent could have paid or
6 made satisfactory arrangements for the payment of well
7 costs?
8 A. That's correct.
9 Q. Do you recommend the pooling order provide that if
10 respondent refuses to accept any payment due, including
11 any payment under said order or any payment of royalty or
12 cash bonus or said payment cannot be made to a party for
13 any reason or there is a title defect in the respondent's
14 interest that the operator create an escrow account for
15 the respondent's benefit until the money can be paid to
16 the party or until the title defect is cured to the
17 operator's satisfaction?
18 A. Yes.
19 Q. Who should be named the operator under the order?
20 A. Equitable Resources Exploration.
21 MR. KAISER: No further questions of this witness at this
22 time, Mr. Chairman.
23 MR. CHAIRMAN: Questions, members of the Board?
24 MR. MASON: Referring to Exhibit B under nine -- tract nine
25 where you show the Steve A. Rose widower life estate,

1 why do you ascribe no interest to that live estate?

2 THE WITNESS: The life estate interest at the period of time

3 when the individual acquired this life estate the State

4 provided or the law required that it be a life estate

5 only and no fee title or estate --

6 MR. MASON: I'm familiar with life estates and remainder.

7 What I'm curious about is why you ascribe no interest to

8 the person that owns it because they're entitled to

9 the --

10 THE WITNESS: Proceeds, yes.

11 MR. MASON -- proceeds during their life. And you can commute

12 life estates and derive percentages of ownership in

13 Virginia under the Code between life estates and remaind-

14 er.

15 MS. ABLE: If I could say something here. Sandy Able of

16 Equitable Resources. We're talking about life estates

17 and remainders here. At the time that this I think life

18 estate was created there was no lease hold interest. I'm

19 not completely familiar with this. What we're doing now

20 is trying to pool this interest. It was after the

21 creation of the life estate. So the life estate owner

22 would not necessarily be entitled to the proceeds during

23 their life estate but only interest -- technically only

24 interest on those proceeds. They're only entitled to the

25 use of that estate during their life as opposed to the

1 proceeds which would be part of the corpus of the estate
2 itself. If on the other hand a well had been drilled
3 proceeds will be paid at the time the life estate was
4 created. Then the life estate owner would be entitled to
5 the proceeds themselves during their life and not just
6 the interest on those proceeds.

7 MR. MASON: Okay. I mean, I'm not sure I agree with that but
8 that's -- I see why you did it. Do you have any author-
9 ity for that?

10 MS. ABLE: That's the way I learned life estate, but off the
11 top of my head no. But I'm certain that we can provide
12 you that.

13 MR. MASON: I'm just curious about because when the division
14 order would be issued on this well you would show a life
15 tenant having no interest.

16 MS. ABLE: Right. We would not pay them the proceeds, that's
17 correct, for their life.

18 MR. MASON: Yet you leased from them?

19 MS. ABLE: Right. That person does have a life estate
20 interest. They have the use of that property during
21 their life.

22 MR. MASON: I understand. But your view is that doesn't
23 include income from any minerals extracted?

24 MS. ABLE: They have the use of the income but not the income
25 itself. That's the distinction. The use of the income

1 would only be any interest. If we gave them the income
2 then they would spend the income. That's not the use of
3 the income. That's the income itself.

4 MR. MASON: I don't want to debate the law with you about it
5 but --

6 MS. ABLE: But I'm just explaining to why we treat it the way
7 we do.

8 MR. MASON: Okay. Thank you.

9 MS. RIGGS: I think Sandy said she would provide a memo or
10 some authority for that position in support of their
11 allocation of the interest.

12 MS. ABLE: Yeah. I can do that.

13 MR. CHAIRMAN: If you would, please.

14 (Witness stands aside.)

15 MR. CHAIRMAN: You may call your next witness.

16 MR. KAISER: Mr. Dahlin, I'll remind you that you've previous-
17 ly been sworn.

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19

20 ROBERT A. DAHLIN, II

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

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DIRECT EXAMINATION

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BY MR. KAISER:

Q. Mr. Dahlin, would you please state your name for the record again and who you're employed by and in what capacity?

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

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

A. They do.

Q. Are you familiar with EREX's proposed exploration and development of units involved here under proposed plan of development

A. Yes, sir.

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

A. 4,425 feet.

Q. Will this include the formations consistent with the well work permit?

A. Yes, it will.

Q. Is this sufficient to penetrate and test the common sources of supply in the subject formations?

A. It is.

Q. Is the applicant requesting the force pooling of

1 conventional gas reserves not only to include the
2 designated formations but any other formations excluding
3 coal formations which may be between those formations
4 designated from the surface to the total depth drilled?
5 A. Yes, sir.
6 Q. Will the initial well be at a legal location?
7 A. It will.
8 Q. What are the estimated reserves of the unit?
9 A. Approximately 700 billion cubic feet of gas.
10 Q. Are you familiar with the well costs for the proposed
11 initial unit well under applicant's plan of development?
12 A. Yes, sir, I am.
13 Q. Has an AFE been reviewed, signed and submitted to the
14 Board?
15 A. Yes, sir.
16 Q. Was this AFE prepared by an engineering department
17 knowledgeable in the preparation of AFEs and knowledge-
18 able in regard to well costs in this area?
19 A. Yes, it was.
20 Q. Does this AFE represent a reasonable estimate of the well
21 costs for the proposed unit well under applicant's plan
22 of development?
23 A. Yes, it does.
24 Q. Would you please state for the Board both the dry hole
25 costs and the completed well costs?

1 A. Dry hole costs are \$142,090 and the completed well costs
2 are \$262,590.

3 Q. Do these costs anticipate a multiple completion?

4 A. Yes, it does.

5 Q. Does the AFE include a reasonable charge for supervision?

6 A. Yes, it does.

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

11 A. Yes, sir.

12 MR. KAISER: I have no further questions of this witness at
13 this time, Mr. Chairman.

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

16 MR. CHAIRMAN: Do you have anything further?

17 MR. KAISER: I don't have anything further at this time, Mr.
18 Chairman.

19 MR. CHAIRMAN: Questions, members of the Board? Would you
20 clarify for us for the record the prior orders -- the
21 prior docket numbers and the orders that are referenced
22 here?

23 MR. KAISER: Yes. This well was previously force pooled and
24 the 365 days expired. I think the order in which this
25 occurred was the first number you see which is 93/01/19-

1 0320 was the first time it was force pooled. The second
2 number was when it came back before the Board and then
3 was withdrawn and then the third number is this --
4 obviously this application. We did that, I think, in
5 conjunction with a request from Ms. Riggs that we
6 reference past docket numbers on applications that come
7 back before the Board.

8 MS. RIGGS: Right. We just wanted to clarify that there was
9 never an order on 0431. That was a withdrawn order.

10 MR. KAISER: That's correct. That was withdrawn.

11 MS. RIGGS: Not acted on by the Board.

12 MR. KAISER: Correct.

13 MS. RIGGS: So what you're doing in this application is
14 totally re-pooling the entire unit.

15 MR. KAISER: That's correct.

16 MS. RIGGS: It's not a modification of the prior but it's a
17 re-pooling.

18 MR. KAISER: Not a modification. It's an entire new pooling.

19 MR. FULMER: I would take exception to that because the same
20 people listed in the previous order are not listed in
21 this order.

22 MS. RIGGS: Well, if the 365 days has expired without the well
23 being drilled the old order has expired and is now gone.

24 MR. FULMER: But the original order entered doesn't have the
25 same people that this order has.

1 MR. MASON: Same respondents.

2 MR. FULMER: The same respondents.

3 MS. RIGGS: Well, that is a separate explanation, perhaps, on
4 why due diligence has changed the parties. But procedur-
5 ally we've got to have a total re-pooling because there
6 is no pooling order on this unit anymore.

7 MR. CHAIRMAN: That's expired.

8 MR. FULMER: I agree with that.

9 MR. CHAIRMAN: Now, is there an issue on the respondents?

10 MR. KAISER: No. Everyone's been noticed.

11 MS. RIGGS: Why the parties differ from the original pooling
12 order is what Tom's asking?

13 MR. KAISER: Is there a reason for that?

14 MR. BAKER: There was title being received -- that there was
15 some interpretation of some deeds that came across. I
16 believe Sandy had requested outside counsel to look at
17 some deeds and interpret what they were actually convey-
18 ing and therefore, it did change some of the respondents.
19 Later on this plat -- on the plat that's attached with
20 the application, tract eight and eleven I believe has --
21 on eight and ten anyway that had some different respond-
22 ents.

23 MS. ABLE: What happened here is I think some of the tracts
24 that we had shown previously as USA tracts -- USA had
25 purchased some of those interests off some heirs and the

1 conveyances weren't sufficient. So they (Inaudible.)
2 MR. CHAIRMAN: For the record, that's Sandy Able. Anything
3 further?
4 (Witness stands aside.)
5 MR. CHAIRMAN: Do we have a motion?
6 MR. MASON: I move we approve the application.
7 MR. CHAIRMAN: A motion to approve.
8 MR. EVANS: Second.
9 MR. CHAIRMAN: A second. Further discussion? All in favor
10 signify by saying yes. (ALL AFFIRM.) Opposed say no.
11 (NONE.) It's a unanimous approval. Thank you.
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1 conveyances weren't sufficient. So they (Inaudible.)
2 MR. CHAIRMAN: For the record, that's Sandy Able. Anything
3 further?
4 (Witness stands aside.)
5 MR. CHAIRMAN: Do we have a motion?
6 MR. MASON: I move we approve the application.
7 MR. CHAIRMAN: A motion to approve.
8 MR. EVANS: Second.
9 MR. CHAIRMAN: A second. Further discussion? All in favor
10 signify by saying yes. (ALL AFFIRM.) Opposed say no.
11 (NONE.) It's a unanimous approval. Thank you.
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1 ITEM X

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3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Equitable Resources Exploration to force pool the gas and
5 oil interests for the unit supporting proposed well V-
6 3198. This is docket number VGOB-94/09/20-0472. We'd
7 ask the parties that wish to address the Board in this
8 matter to come forward at this time and identify your
9 appearance, please.

10 MR. KAISER: Jim Kaiser on behalf of Equitable Resources
11 Exploration. Our witnesses in this matter will again be
12 Mr. Baker and Mr. Dahlin.

13 MR. CHAIRMAN: Are there any others present that wish to
14 address the Board? The record will show there are none.
15 You may proceed.

16

17 DENNIS BAKER

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

20

21 DIRECT EXAMINATION

22

23 BY MR. KAISER:

24 Q. Mr. Baker, could you state your name for the record, who
25 you are employed by and in what capacity?

- 1 A. Dennis Baker, employed by Equitable Resources Exploration
2 as a leasing supervisor.
- 3 Q. Do your responsibilities include the lands involved here
4 and in the surrounding area?
- 5 A. Yes, they do.
- 6 Q. Are you familiar with Equitable's application for the
7 establishment of a drilling unit and pooling order for
8 EREX well V-3198 dated August 19th, 1994?
- 9 A. Yes, I am.
- 10 Q. Is Equitable seeking to force pool the drilling rights
11 underlying the drilling and spacing unit as depicted at
12 Exhibit A of the application?
- 13 A. Yes. I believe the permit application is dated 9/12/94.
- 14 Q. Does Equitable own drilling rights in the unit involved
15 here?
- 16 A. Yes.
- 17 Q. Does the proposed unit depicted at Exhibit A include all
18 acreage within 2,640 feet of proposed well V-3198?
- 19 A. Yes, it does.
- 20 Q. What is the interest of Equitable in the unit?
- 21 A. Currently we have leased 72.825 percent.
- 22 Q. Are you familiar with the ownership of drilling rights of
23 the parties other than Equitable underlying this unit?
- 24 A. Yes, I am.
- 25 Q. What is that interest?

1 A. That interest is 27.175 percent.

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

3 A. Yes, they are.

4 Q. Prior to filing the application were efforts made to
5 contact each of the respondents and an attempt made to
6 work out an agreement regarding the development of the
7 unit involved?

8 A. Yes, they were.

9 Q. Subsequent to the filing of the application have you
10 continued to attempt to reach an agreement with the
11 respondents listed at Exhibit B?

12 A. Yes.

13 Q. As the results of these efforts have you acquired any
14 other leases from any of the respondents listed at
15 Exhibit B as unleased owners?

16 A. No, we have not.

17 Q. Were any efforts made to determine if the individual
18 respondents were living or deceased or their whereabouts
19 and if deceased were efforts made to determine the names
20 and addresses and whereabouts of the successors to any
21 deceased individual respondents?

22 A. Yes, they were.

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

- 1 assessors records and treasurers records?
- 2 A. Yes, they were.
- 3 Q. In your professional opinion was due diligence exercised
4 to locate each of the respondents named herein?
- 5 A. Yes, they were.
- 6 Q. Are the addresses set out in Exhibit B to the application
7 the last known addresses for the respondents?
- 8 A. Yes.
- 9 Q. With the exception of those parties which you are hereby
10 dismissing from this proceeding are you requesting this
11 Board to force pool all other unleased interests listed
12 at Exhibit B?
- 13 A. Yes, we are.
- 14 Q. Does Equitable seek to force pool drilling rights of each
15 individual respondent if living and if deceased the
16 unknown successor or successors to any deceased individ-
17 ual respondent?
- 18 A. Yes.
- 19 Q. Is Equitable seeking to force pool the drilling rights of
20 the person designated as trustee if acting in capacity of
21 trustee and if not acting in such capacity is Equitable
22 seeking to force pool the drilling rights of the success-
23 or of such trustee?
- 24 A. Yes, we are.
- 25 Q. Are you familiar with the fair market value of drilling

1 rights in the unit here and in the surrounding area?

2 A. Yes, I am.

3 Q. Could you advise the Board as to what those are?

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

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

10 A. Yes.

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

15 A. Yes.

16 MR. KAISER: Mr. Chairman, at this time I would ask that the
17 Board allow us to incorporate the testimony regarding
18 elections and the options afforded the respondents that
19 was listed in our previous hearing which was docket
20 number VGOB-94/09/20-0471.

21 MR. CHAIRMAN: Any objection to that incorporation? Okay.
22 That will be incorporated.

23 Q. (Mr. Kaiser continues.) Who should be named the operator
24 under the force pooling order?

25 A. Equitable Resources Exploration.

1 MR. KAISER: No further questions of this witness at this
2 time, Mr. Chairman.

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

5 MR. CHAIRMAN: Call your next witness.
6
7

8 DENNIS BAKER

9 a witness who, after having been duly sworn, was examined and
10 testified as follows:
11

12 DIRECT EXAMINATION
13

14 BY MR. KAISER:

15 Q. Mr. Baker, could you state your full name for the record,
16 who you are employed by and in what capacity?

17 A. My name is Dennis Baker, employed by Equitable Resources
18 Exploration as a leasing supervisor.

19 Q. Do your responsibilities include the lands involved here
20 and in the surrounding area?

21 A. Yes, they do.

22 Q. Are you familiar with Equitable's application for the
23 establishment of a drilling unit and pooling order for
24 EREX well V-1824 dated August 19th, 1994?

25 A. Yes, I am.

- 1 Q. Does Equitable own drilling rights in the unit involved
2 here?
- 3 A. Yes.
- 4 Q. Does the proposed unit depicted at Exhibit A include all
5 acreage within 2,640 feet, that is a radius of 1,320 of
6 proposed well V-1824?
- 7 A. Yes.
- 8 Q. What is the interest of Equitable in the unit?
- 9 A. We have 78.9857 percent leased at this time.
- 10 Q. Are you familiar with the ownership of drilling rights of
11 the parties other than Equitable underlying this unit?
- 12 A. Yes, I am.
- 13 Q. What percentage does that represent?
- 14 A. 21.0143.
- 15 Q. Are all unleased parties set out at Exhibit B?
- 16 A. Yes, they are.
- 17 Q. Prior to the application were efforts made to contact
18 each of the respondents and an attempt made to work out
19 an agreement regarding the development of the unit
20 involved?
- 21 A. Yes.
- 22 Q. Subsequent to the filing of the application have you
23 continued to attempt to reach an agreement with the
24 respondents listed at Exhibit B?
- 25 A. Yes, we have.

- 1 Q. As the results of these efforts have you acquired any
2 other leases from any of the respondents listed at
3 Exhibit B as unleased owners?
- 4 A. No, we have not.
- 5 Q. Were efforts made to determine if the individual respond-
6 ents were living or deceased or their whereabouts and if
7 deceased were efforts made to determine the names and the
8 addresses and whereabouts of the successors to any
9 deceased individual respondents?
- 10 A. Yes.
- 11 Q. Were reasonable and diligent efforts made and sources
12 checked to identify and locate these unknown heirs; to
13 include sources such as deed records, probate records,
14 assessors records and treasurers records?
- 15 A. Yes..
- 16 Q. In your professional opinion was due diligence exercised
17 to locate each of the respondents named herein?
- 18 A. Yes, they were.
- 19 Q. Are the addresses set out at Exhibit B to the application
20 the last known addresses for the respondents?
- 21 A. Yes.
- 22 Q. Mr. Baker, with the exception of those parties which you
23 are hereby dismissing from this proceeding are you
24 requesting this Board to force pool all other unleased
25 interests listed at Exhibit B?

- 1 A. Yes.
- 2 Q. Does Equitable seek to force pool drilling rights of each
3 individual respondent if living and if deceased the
4 unknown successor or successors to any deceased individ-
5 ual respondent?
- 6 A. Yes, we are.
- 7 Q. Is Equitable seeking to force pool the drilling rights of
8 the person designated as trustee if acting in capacity of
9 trustee and if not acting in such capacity is Equitable
10 seeking to force pool the drilling rights of the success-
11 or of such trustee?
- 12 A. Yes, we are.
- 13 Q. Are you familiar with the fair market value of drilling
14 rights in the unit here and in the surrounding area?
- 15 A. Yes, I am.
- 16 Q. Can you advise the Board as to what those are?
- 17 A. A \$5 per acre consideration, a five year term with a one-
18 eighth royalty.
- 19 Q. Did you gain your familiarity by acquiring oil and gas
20 leases and other agreements involving the transfer of
21 drilling rights in the unit involved here and in the
22 surrounding area?
- 23 A. Yes.
- 24 Q. In your opinion do the terms you have testified to
25 represent the fair market value of and the fair and

1 reasonable compensation to be paid for drilling rights
2 within this unit?
3 A. Yes.
4 Q. Mr. Baker, based on that and as to the respondents who
5 have not voluntarily agreed to pool do you recommend that
6 the respondents listed at Exhibit B who remain unleased
7 be allowed the following options with respect to their
8 ownership interest within the unit: 1) Participation. 2)
9 A cash bonus of \$5 per net mineral acre plus a one-eighth
10 of eight-eighths royalty. 3) In lieu of the cash bonus
11 and one-eighth of eight-eighths royalty share in the
12 operation of the well on a carried basis as a carried
13 operator under the following conditions; Such carried
14 operator shall be entitled to the share of production
15 from the tracts pooled accruing to his interest exclusive
16 of any royalty or overriding royalty reserved in any
17 leases, assignments thereof or agreements relating
18 thereto of such tracts but only after the proceeds
19 allocable to his share equal A) 300 percent of the share
20 of such cost allocable to the interest of the carried
21 operator of a leased tract or portion thereof, or B) 200
22 percent of the share of such cost allocable to the
23 interest of the carried operator of an unleased tract or
24 portion thereof?
25 A. That's correct.

- 1 Q. Do you recommend that the order provide that the elect-
2 ions by respondents be in writing and sent to the
3 applicant at Equitable Resources Exploration, 1985 East
4 Stone Drive, P.O. Box 1983, Kingsport, Tennessee, 37662-
5 1983, attention Dennis Baker, Regulatory?
- 6 A. Yes.
- 7 Q. Should this be the address for all communications with
8 the applicant concerning the force pooling order?
- 9 A. Yes, it is.
- 10 Q. Do you recommend the force pooling order provide that if
11 no written election is properly made by a respondent then
12 such respondent shall be deemed to have elected to cash
13 royalty option in lieu of participation?
- 14 A. Yes.
- 15 Q. Should the unleased respondents be given 30 days from the
16 date of the order to file a written election?
- 17 A. Yes.
- 18 Q. If an unleased respondent elects to participate should
19 that respondent be given 45 days to pay the applicant for
20 respondent's proportionate share of well costs?
- 21 A. Yes.
- 22 Q. Does the applicant except the party electing to partic-
23 ipate to pay in advance that party's share of completed
24 well costs?
- 25 A. Yes.

1 Q. Should the applicant be allowed 60 days following the
2 recording of the order and thereafter annually on that
3 date until production is achieved to pay or tender any
4 cash bonus becoming due under the force pooling order?

5 A. Yes.

6 Q. Do you recommend the force pooling order provide that if
7 a respondent elects to participate but fails to pay
8 respondent's proportionate share of well costs satis-
9 factory to applicant for the payment of well costs the
10 respondent's election to participate shall be treated as
11 having been withdrawn and void and such respondent
12 should be treated just as if no initial election had been
13 filed under the force pooling order?

14 A. That's correct.

15 Q. Do you recommend the force pooling order provide that
16 where a respondent elects to participate but defaults in
17 regard to the payment of well costs any cash sum becoming
18 payable to such respondent be paid within 60 days after
19 the last date on which such respondent could have paid or
20 made satisfactory arrangements for the payment of well
21 costs?

22 A. That's correct.

23 Q. Do you recommend the pooling order provide that if
24 respondent refuses to accept any payment due, including
25 any payment under said order or any payment of royalty or

1 cash bonus or said payment cannot be made to a party for
2 any reason or there is a title defect in the respondent's
3 interest that the operator create an escrow account for
4 the respondent's benefit until the money can be paid to
5 the party or until the title defect is cured to the
6 operator's satisfaction?

7 A. Yes.

8 Q. Mr. Baker, who should be named the operator under the
9 order?

10 A. Equitable Resources Exploration.

11 MR. KAISER: No further questions of this witness at this
12 time, Mr. Chairman.

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

14 (Witness stands aside.)

15 MR. CHAIRMAN: You may call your next witness.
16

17 ROBERT A. DAHLIN, II

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

21 DIRECT EXAMINATION
22

23 BY MR. KAISER:

24 Q. Mr. Dahlin, please state your name, who you're employed
25 by and in what capacity?

1 A. Robert A. Dahlin, II. I'm employed as an operations
2 specialist by EREX.

3 Q. Have your qualifications previously been accepted by the
4 Board as an expert witness?

5 A. Yes, sir.

6 Q. Do your responsibilities include the lands involved here
7 and in the surrounding area?

8 A. Yes, sir.

9 Q. Are you familiar with the proposed exploration and
10 development of the unit here under the applicant's
11 proposed plan of development?

12 A. Yes, sir.

13 Q. What is the total depth of proposed initial well under
14 the applicant's plan of development?

15 A. 5,300 feet.

16 Q. Will this be sufficient to include the formations
17 consistent with the well work permit?

18 A. Yes, sir.

19 Q. Will it be sufficient to penetrate and test the common
20 sources of supply in the subject formations?

21 A. It will.

22 Q. Is the applicant requesting the force pooling of
23 conventional gas reserves not only to include the
24 designated formations but any other formations excluding
25 coal formations which may be between those formations

- 1 designated from the surface to the total depth drilled?
- 2 A. Yes, sir, we are.
- 3 Q. Will the initial well be at a legal location?
- 4 A. It will.
- 5 Q. What are the estimated reserves of the unit?
- 6 A. We anticipate 500 million cubic feet of gas.
- 7 Q. Are you familiar with the well costs for the proposed
8 initial unit well under applicant's plan of development?
- 9 A. I am.
- 10 Q. Has an AFE been reviewed, signed and submitted to the
11 Board?
- 12 A. Yes, it has.
- 13 Q. Was the AFE prepared by an engineering department
14 knowledgeable in the preparation of AFEs and knowledge-
15 able in regard to well costs in this area?
- 16 A. Yes, it was.
- 17 Q. Does this AFE represent a reasonable estimate of the well
18 costs for the proposed unit well under the applicant's
19 plan of development?
- 20 A. Yes, sir, it does.
- 21 Q. Would you please state both the dry hole costs and the
22 completed well costs for this well?
- 23 A. Dry hole costs are \$158,100 and the completed well costs
24 are \$298,000.
- 25 Q. Do these costs anticipate a multiple completion?

1 A. Yes, sir.

2 Q. Does the AFE include a reasonable charge for supervision?

3 A. Yes, sir.

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

8 A. Yes, sir.

9 MR. KAISER: I have no further questions of this witness at
10 this time, Mr. Chairman, and nothing further at this
11 time.

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

13 MR. MASON: I'm just looking at this AFE a minute. I was
14 curious. There are how many tracts in here?

15 MR. KAISER: Thirteen tracts.

16 MR. MASON: You all have got \$3,500 for abstracts, securities
17 and title work on doing all of those tracts?

18 MR. DAHLIN: Not by the time we get done.

19 MR. MASON: I was going to say that sounds very conservative.

20 MR. DAHLIN: Yeah. You'll find that most of the numbers we
21 put in positions at that point in our AFEs are averages.

22 MR. MASON: As you well know from me being here this is the
23 first time since I've been on this Board I've ever
24 questioned that something was undercharged.

25 MR. DAHLIN: It's going to be on the light side when you

1 consider force pooling.

2 MR. CHAIRMAN: What's it doing, just taking a computer average
3 of your costs?

4 MR. DAHLIN: Generally we do just about a recap of past
5 drilling practices and averages in an area. Typically we
6 had been drilling on more contiguous leases and therefore
7 it was much lower.

8 MR. KAISER: Drilling on big feed tracts we didn't have such a
9 large number of individuals.

10 MR. DAHLIN: Right. Just for general information, it is
11 starting to get a lot of attention now. The legal cost
12 and the force pooling costs and the increased activity
13 that goes along with drilling on these periphery loca-
14 tions. It is driving our costs up, yes, sir.

15 MR. MASON: That's just to do the title. Looking at the list
16 of people you're dealing with here and all, I mean,
17 that's bound to be a very complicated series of titles to
18 do.

19 MR. DAHLIN: Right. It's admittedly low. It's just an
20 estimate we use on averages.

21 MR. CHAIRMAN: Other questions?

22 (Witness stands aside.)

23 MR. CHAIRMAN: Is there a motion?

24 MR. EVANS: Mr. Chairman, I move that we approve the
25 petition.

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MR. MASON: Second.

MR. CHAIRMAN: A motion and a second. Any further discussion? All in favor signify by saying yes. (ALL AFFIRM.)
Opposed say no. (NONE.) Unanimous approval.

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3 ITEM XI

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Equitable Resources Exploration to force pool the
6 interest of units supporting proposed well V-2727. This
7 is docket number VGOB-94/09/20-0473. We'd ask the
8 parties that wish to address the Board in this matter to
9 come forward at this time.

10 MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable
11 Resources Exploration. Our witnesses in this matter will
12 be Mr. Baker and Mr. Dahlin.

13 DENNIS BAKER

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

16
17 DIRECT EXAMINATION

18
19 BY MR. KAISER:

20 Q. Mr. Baker, please state your name and who you are
21 employed by and in what capacity for the Board, please?

22 A. My name is Dennis Baker, employed by Equitable Resources
23 Exploration as a leasing supervisor.

24 Q. Do your responsibilities include the lands involved here
25 and in the surrounding area?

1 A. Yes, they do.

2 Q. Are you familiar with Equitable's application for the
3 establishment of a drilling unit and pooling order for
4 EREX well V-2727 dated August 19th, 1994?

5 A. Yes.

6 Q. Has a permit for this well be applied for?

7 A. Yes, it has. I believe we have a permit issued 9/7/94.

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

11 A. Yes.

12 Q. Does Equitable own drilling rights in the unit involved
13 here?

14 A. Yes, we do.

15 Q. Does the proposed unit depicted at Exhibit A include all
16 acreage within 2,640 feet of proposed well V-2727?

17 A. Yes, it does.

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

19 A. At the time of application we had 92.56 percent.
20 Currently we have 92.88 percent.

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

23 A. Yes. At the time of application there was 7.44 percent
24 unleased interest. Currently there is 7.12 percent.

25 Q. Mr. Baker, are all unleased parties set out at amended

1 Exhibit B?

2 A. Yes, they are.

3 Q. Prior to filing the application were efforts made to
4 contact each of the respondents and an attempt made to
5 work out an agreement regarding the development of the
6 units involved?

7 A. Yes, there was.

8 Q. Subsequent to the filing of the application have you
9 continued to attempt to reach an agreement with the
10 respondents listed at revised Exhibit B?

11 A. Yes.

12 Q. As the results of these efforts have you acquired any
13 other leases from any of the respondents listed at
14 Exhibit B as unleased owners?

15 A. Yes, we have.

16 Q. Would you please point those out to the Board?

17 A. On Page 2 of Exhibit 2 originally submitted with the
18 application tract six, the Ada Sexton Dixon is now
19 currently leased with Equitable. On Page 3, the fourth
20 name down, Shirley Sexton is now leased with Equitable.
21 Two names below that under the Connie Sexton heirs, Polly
22 Marie Sexton is now leased with Equitable. The next
23 name, Gordon J.W. Sexton and Vivian Sexton are now leased
24 with Equitable. At the top of Page 4, Charles Sexton and
25 Armina Sexton are now leased with Equitable. Arthur

1 Sexton and Vicky Sexton are now leased with Equitable.
2 Georgia Sexton Hobbs and Ralph Hobbs are now leased with
3 Equitable. Fred Sexton and Vivian Sexton are now leased
4 with Equitable. Dorothy Sexton is now leased. Loretta
5 Sexton Adkins and Van Adkins are now leased. Don Sexton
6 and Hazel Sexton are now leased. Priscilla Sexton Graves
7 and Tom Graves are now leased. At the top of Page 5,
8 Martha Sexton Stapleton and William Stapleton are now
9 leased. That's all of them at this point.

10 MR. CHAIRMAN: Would you tell the Board what efforts you make
11 on these heirs that are unknown to identify why they
12 might be?

13 THE WITNESS: Normally we try to speak with family members.
14 We're unable to identify maybe who the heirs are, maybe
15 they didn't leave a will or anything. So if we can't
16 find anything in the courthouse we try to talk with
17 family members or people in the area that we can find
18 that may have known the family.

19 MR. CHAIRMAN: In these cases you haven't been able to
20 identify anyone?

21 THE WITNESS: No, not at this time. We continue to try and as
22 we locate other family members and talk with them or have
23 correspondence with them through the mail we continue to
24 ask about those individuals that are unknown. Sometimes
25 we're successful in obtaining a lease from them -- or

1 locating them and sometimes we're not.

2 MR. MASON: Again back to what I was asking about it a minute
3 ago, you all show Carrie Sexton widow as unleased in this
4 case as being the life estate owner. She was noticed,
5 was she not? Even though you list her as having no
6 interest she still was noticed just as if she were
7 because she's on here and all?

8 MR. KAISER: That's correct.

9 MR. CHAIRMAN: Other questions of this witness? Call your
10 next witness.

11 MR. KAISER: I'll continue with Mr. Baker.

12 MR. CHAIRMAN: Oh, okay.

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

19 A. Yes, there was.

20 Q. Were reasonable and diligent efforts made and sources
21 checked to identify and locate these unknown heirs; to
22 include primary sources such as deed records, probate
23 records, assessors records, treasurers records and
24 secondary sources such as telephone directories, city
25 directories, family and friends?

- 1 A. Yes.
- 2 Q. In your professional opinion was due diligence exercised
3 to locate each of the respondents named herein?
- 4 A. Yes, they were.
- 5 Q. Are the addresses set out in revised Exhibit B to the
6 application the last known addresses for the respondents?
- 7 A. Yes.
- 8 Q. With the exception of those parties which you are hereby
9 dismissing from this proceeding are you requesting this
10 Board to force pool all other unleased interests listed
11 at revised Exhibit B?
- 12 A. Yes, we are.
- 13 Q. Does Equitable seek to force pool drilling rights of each
14 individual respondent if living and if deceased the
15 unknown successor or successors to any deceased individ-
16 ual respondent?
- 17 A. Yes.
- 18 Q. And is Equitable seeking to force pool the drilling
19 rights of the person designated as trustee if acting in
20 capacity of trustee and if not acting in such capacity is
21 Equitable seeking to force pool the drilling rights of
22 the successor of such trustee?
- 23 A. Yes.
- 24 Q. Are you familiar with the fair market value of drilling
25 rights in the unit here and in the surrounding area?

1 A. Yes, I am.

2 Q. Could you advise the Board as to what those are?

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

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

9 A. Yes, I have.

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

14 A. Yes.

15 MR. KAISER: Mr. Chairman, at this time we would once again
16 request that the testimony regarding elections afforded
17 the respondents and the escrow be incorporated from the
18 previous two hearings if there is no objection to that.

19 MR. CHAIRMAN: Any objection? All right.

20 Q. (Mr. Kaiser continues.) Who should be named the operator
21 under the force pooling order?

22 A. Equitable Resources Exploration.

23 MR. KAISER: That's all I have of this witness at this time,
24 Mr. Chairman.

25 MR. CHAIRMAN: Questions, members of the Board? Other than

1 the published notices do you do any kind of newspaper
2 notice to try to find these unknown heirs? Do you do
3 anything at all like that to single them out?

4 THE WITNESS: No, we haven't. In the past, no, we haven't
5 went through that channel.

6 MR. KAISER: Meaning anything other than what's required by
7 the statute?

8 THE WITNESS: Right.

9 MR. KAISER: I know that we have in the past -- I think the
10 statute in the Melain case -- the U.S. Supreme Melain
11 case requires that you publish in the newspaper in the
12 area with the greatest circulation. I think in the past
13 we have at times not only published in the Bristol Herald
14 Courier but also we also published in the Coal Field
15 Progress and all the little papers in the area. I think
16 I would be safe to say that in the past we've been most
17 successful in locating heirs through family members or
18 friends, you know, somebody who is approached with a
19 lease or gets notice of this hearing and says, "Well, I
20 know who these people are." I think that's probably
21 better.

22 THE WITNESS: That's been the way we've most often found the
23 heirs, when we identify who they are and through the
24 family members someone has known them.

25 MR. CHAIRMAN: Any other questions?

1 (Witness stands aside.)

2 MR. CHAIRMAN: You may call your next witness.

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, please state your name for the record, who
12 you're employed by and in what capacity?

13 A. Robert A. Dahlin, II. I'm employed by EREX as an
14 operations specialist.

15 Q. Have your qualifications as an expert witness previously
16 been accepted by this Board?

17 A. Yes, sir.

18 Q. Do your responsibilities include the lands involved here
19 and in the surrounding area?

20 A. Yes, it does.

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

24 A. Yes, I am.

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

1 the applicant's plan of development?

2 A. 4,790 feet.

3 Q. Will this include all formations consistent with the well
4 work permit?

5 A. It will.

6 Q. And will it be sufficient to penetrate and test the
7 common sources of supply in the subject formations?

8 A. Yes, sir.

9 Q. Is the applicant requesting the force pooling of
10 conventional gas reserves not only to include the
11 designated formations but any other formations excluding
12 coal formations which may be between those formations
13 designated from the surface to the total depth drilled?

14 A. Yes, sir, we are.

15 Q. Will the initial well be at a legal location?

16 A. It will.

17 Q. What are the estimated reserves of the unit?

18 A. We anticipate 450 million cubic feet of gas.

19 Q. Are you familiar with the well costs for the proposed
20 initial unit well under applicant's plan of development?

21 A. I am.

22 Q. Has an AFE been reviewed, signed and submitted to the
23 Board?

24 A. Yes, sir, it has.

25 Q. Was the AFE prepared by an engineering department

1 knowledgeable in the preparation of AFEs and knowledge-
2 able in regard to well costs in this area?

3 A. Yes, it was.

4 Q. Does this AFE represent a reasonable estimate of the well
5 costs for the proposed unit well under the applicant's
6 plan of development?

7 A. It does.

8 Q. Would you please set out for the Board both the dry hole
9 costs and the completed well costs for this well?

10 A. Dry hole costs are \$128,700 and the completed well costs
11 are \$243,100.

12 Q. Do these costs anticipate a multiple completion?

13 A. Yes, it does.

14 Q. Does the AFE include a reasonable charge for supervision?

15 A. Yes, it does.

16 Q. Mr. Dahlin, in your professional opinion will the
17 granting of this application be in the best interest of
18 conservation, prevention of waste and the protection of
19 correlative rights?

20 A. Yes, sir.

21 MR. KAISER: I have no further questions of this witness at
22 this time, Mr. Chairman, and nothing further at this
23 time.

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

25 (Witness stands aside.)

1 MR. CHAIRMAN: Do we have a motion?
2 MR. KELLY: Mr. Chairman, I move that the application be
3 approved.
4 MR. CHAIRMAN: A motion for approval.
5 MR. EVANS: Second.
6 MR. CHAIRMAN: Any further discussion? All in favor signify
7 by saying yes. (SOME AFFIRM.) Opposed say no. (ONE
8 DENIES.) One no. The application is approved.
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3 ITEM XII

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Equitable Resources Exploration for force pooling of the
6 units supporting proposed well VC-3225. This is docket
7 number VGOB-94/09/20-0474. We'd ask the parties that
8 wish to address the Board in this matter to come forward
9 at this time.

10 MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable
11 Resources Exploration. Our witnesses in this matter will
12 be Mr. Dennis Baker and Mr. Bob Dahlin. I'll remind them
13 that they've previously been sworn.

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

17 DENNIS BAKER

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

20
21 DIRECT EXAMINATION

22
23 BY MR. KAISER:

24 Q. Mr. Baker, please state your name and who you are
25 employed by and in what capacity?

- 1 A. Dennis Baker. I'm employed by Equitable Resources
2 Exploration as a leasing supervisor.
- 3 Q. Do your responsibilities include the lands involved here
4 and in the surrounding area?
- 5 A. Yes, they do.
- 6 Q. Are you familiar with Equitable's application for the
7 establishment of a drilling unit and pooling order for
8 EREX well VC-3225 dated August 19th, 1994?
- 9 A. Yes, I am.
- 10 Q. Does this unit come under the Roaring Fork field rules
11 promulgated by the Board on May 31st, 1994?
- 12 A. Yes, it does.
- 13 Q. Has EREX applied for a permit or is a permit now pending
14 before the DMME?
- 15 A. Yes. I believe the permit application was submitted on
16 August 29th, 1994.
- 17 Q. Is Equitable seeking to force pool the drilling rights
18 underlying the drilling and spacing unit as depicted at
19 Exhibit A to the application?
- 20 A. Yes.
- 21 Q. Does Equitable own drilling rights in the unit involved
22 here?
- 23 A. Yes, we do.
- 24 Q. What is the interest of Equitable in the unit?
- 25 A. At the time of application we had 95.40 percent leased.

1 Currently we have 95.6516 percent leased.

2 Q. And that is of the gas estate?

3 A. Yes.

4 Q. What percentage of the coal estate is leased?

5 A. 100 percent of the coal estate.

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

8 A. Yes, I am.

9 Q. What is that interest?

10 A. At the time of application we had 4.60 percent unleased
11 interest. Currently at the time of hearing there is
12 4.3484 percent leased.

13 MR. KAISER: At this time I'll pass out the revised Exhibit B
14 to the Board members.

15 (PAUSE.)

16 Q. (Mr. Kaiser continues.) Mr. Baker, are all unleased
17 parties set out at revised Exhibit B?

18 A. Yes, they are.

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, there was.

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 revised Exhibit B?

2 A. Yes, we have.

3 Q. As the results of these efforts have you acquired any
4 other leases from any of the respondents listed at
5 Exhibit B as unleased owners?

6 A. Yes, we have.

7 Q. Could you please denote those for the Board at this time?

8 A. Under the gas estate On Page 3 being identified as
9 Margaret Whitt which is under the Holmer Robinette
10 estate, those heirs have been identified and we've
11 acquired a lease from Margaret Whitt who is now leased.
12 Page 4, the second name on the list, Ray White is now
13 leased to Equitable. Two names down, James Ralph White
14 and Gloria are now leased. The last name on the page,
15 Jackie Chesental and Cheryl Chesental are now leased. On
16 Page 9, the fourth name from the bottom, Ada Dingus and
17 Joe Dingus are now leased to Equitable. The last name on
18 the page, Ernest Hall and Stella Hall are now leased to
19 Equitable. That's all.

20 Q. Mr. Baker, were any efforts made to determine if the
21 individual respondents were living or deceased or their
22 whereabouts and if deceased were efforts made to deter-
23 mine the names and addresses and whereabouts of the
24 successors to any deceased individual respondents?

25 A. Yes, there was.

- 1 Q. Were reasonable and diligent efforts made and sources
2 checked to identify and locate these unknown heirs; to
3 include primary sources such as deed records, probate
4 records, assessors records, treasurers records and
5 secondary sources such as telephone directories, city
6 directories, family and friends?
- 7 A. Yes.
- 8 Q. In your professional opinion was due diligence exercised
9 to locate each of the respondents named herein?
- 10 A. Yes, it was.
- 11 Q. Are the addresses set out in revised Exhibit B to the
12 application the last known addresses for the respondents?
- 13 A. Yes, they are.
- 14 Q. With the exception of those parties which you are hereby
15 dismissing from this proceeding are you requesting this
16 Board to force pool all other unleased interests listed
17 at revised Exhibit B?
- 18 A. Yes.
- 19 Q. Does Equitable seek to force pool drilling rights of each
20 individual respondent if living and if deceased the
21 unknown successor or successors to any deceased individ-
22 ual respondent?
- 23 A. Yes.
- 24 Q. And is Equitable seeking to force pool the drilling
25 rights of the person designated as trustee if acting in

1 capacity of trustee and if not acting in such capacity is
2 equitable seeking to force pool the drilling rights of
3 the successor of such trustee?
4 A. Yes, we are.
5 Q. Are you familiar with the fair market value of drilling
6 rights in the units here and in the surrounding area?
7 A. Yes, I am.
8 Q. Could you advise the Board as to what those are?
9 A. Yes. A \$5 per acre consideration, a five year term with
10 a one-eighth royalty.
11 Q. Did you gain your familiarity by acquiring oil and gas
12 leases, coalbed methane leases and other agreements
13 involving the transfer of drilling rights in the unit
14 involved here and in the surrounding area?
15 A. Yes.
16 Q. In your opinion do the terms you have testified to
17 represent the fair market value of and the fair and the
18 reasonable compensation to be paid for drilling rights
19 within this unit?
20 A. Yes.
21 MR. KAISER: Mr. Chairman, at this time we would once again
22 request that the testimony regarding elections escrow be
23 incorporated from the previous hearing.
24 MR. CHAIRMAN: Without objection.
25 Q. (Mr. Kaiser continues.) Mr. Baker, who should be named

1 the operator under the force pooling order?

2 A. Equitable Resources Exploration.

3 MR. KAISER: That's all I have of this witness at this time,
4 Mr. Chairman.

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

6 (Witness stands aside.)

7 MR. CHAIRMAN: Call your next witness.

8

9 ROBERT A. DAHLIN, II

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

12

13 DIRECT EXAMINATION

14

15 BY MR. KAISER:

16 Q. Mr. Dahlin, please state your name for the record, who
17 you're employed by and in what capacity?

18 A. My name is Robert A. Dahlin, II. I'm employed by EREX as
19 an operations specialist.

20 Q. Have your qualifications as an expert witness previously
21 been accepted by the Board?

22 A. Yes, sir.

23 Q. Do your responsibilities include the lands involved here
24 and in the surrounding area?

25 A. They do.

1 Q. Are you familiar with the proposed exploration and
2 development of the unit involved here under the appli-
3 cant's proposed plan of development?
4 A. Yes, sir, I am.
5 Q. What is the total depth of proposed initial well under
6 the applicant's plan of development?
7 A. 2,060 feet.
8 Q. At this time, Mr. Dahlin, could you please list the
9 formations that are included in the well work permit?
10 A. Just as soon as I can find it. (Pause.) Okay. That
11 would be the Norton, Upper Banner, Kennedy, Jawbone,
12 Unnamed A, War Creek, Beckley, the Lower Horsepin.
13 Q. And will it be sufficient to penetrate and test the
14 common sources of supply in the subject formations?
15 A. Yes, sir.
16 MR. CHAIRMAN: Are the formations that you just mentioned any
17 different than those formations in the Roaring Fork field
18 rules?
19 MR. DAHLIN: No. They should be consistent with the Roaring
20 Fork field.
21 Q. (Mr. Kaiser continues.) What are the estimated reserves
22 of the unit, Mr. Dahlin?
23 A. 350 million cubic feet of gas.
24 Q. Are you familiar with the well costs for the proposed
25 initial unit well under applicant's plan of development?

1 A. Yes, sir, I am.

2 Q. Has an AFE been reviewed and submitted to the Board?

3 A. It has.

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

7 A. Yes, sir.

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

11 A. Yes, it does.

12 Q. Would you please set out for the Board both the dry hole
13 costs and the completed well costs for this well?

14 A. Dry hole costs are \$65,444 and the completed well costs
15 are \$175,000.

16 Q. Do these costs anticipate a multiple completion?

17 A. Yes, it does.

18 Q. Does the AFE include a reasonable charge for supervision?

19 A. Yes, it does.

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

24 A. Yes, sir.

25 MR. KAISER: I have no further questions of this witness at

1 could not get the room on Tuesday.

2 MR. CHAIRMAN: Did everybody hear that? We're going to have
3 the hearing at Breaks.

4 MR. FULMER: The Breaks Interstate Park.

5 MR. CHAIRMAN: And that will be in the back at the restaurant?

6 MR. FULMER: Back of the restaurant.

7 MR. EVANS: Starting at 9:00 in the morning?

8 MR. CHAIRMAN: Starting at 10:00 in the morning.

9 MR. FULMER: Mr. Chairman, one other thing I need to know is
10 how many anticipate being there spending the night.

11 (AFTER A BRIEF DISCUSSION OFF THE RECORD, THE HEARING
12 CONTINUED AS FOLLOWS:)

13 MR. FULMER: It's Monday, October 24th and 25th. The 25th
14 will be the tour day.

15 MR. KAISER: Tom, in conjunction with that I called up there
16 and reserved all the rooms they had left. So if we get
17 into a problem -- we probably may not need all I've got.
18 So if somebody needs a room I think I got six rooms for
19 Sunday night and six rooms for Monday night.

20 MR. FULMER: I just wanted to know how many anticipate being
21 there. The tour -- I need to know how many are going on
22 the tour.

23 MR. EVANS: What are you going to do for the tour, I guess, is
24 the question.

25 MR. FULMER: Well, there are several options we can take more

1 or less. We'll probably go up and see some coalbed
2 methane and longwall situations that's not too far away
3 which we deal with quite a bit. Then we can go down and
4 see some conventional, probably some ejection wells. I
5 need to talk further with Benny on that. I mean, it's
6 all available right there.

7 MR. CHAIRMAN: Basically we were interested if you have any
8 suggestions on what you'd like to see. We going to try
9 to get certainly a sampling of everything we've dealt
10 with.

11 MR. MASON: I thought we were going to view of some narrow
12 wall or truck line in Dickenson County?

13 MR. CHAIRMAN: We can probably do that. Anything further?
14 The hearing is closed. Thank you.

15
16 (End of Proceedings for
17 September 20, 1994.)
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25

CERTIFICATE

1

2

3 COMMONWEALTH OF VIRGINIA

4 COUNTY OF WASHINGTON

5

6 I, Deborah J. Bise, Notary Public in and for the Common-
7 wealth of Virginia, at Large, do hereby certify that the
8 foregoing is a true transcript of the proceedings had in the
9 Virginia Gas and Oil Hearing on September 20, 1994; that all
10 of said proceeding was electronically recorded and was reduced
11 to writing by me and that said transcript is true and correct
12 to the best of my ability.

13

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

16

17 GIVEN under my hand this 3rd day of October, 1994.

18

19

Deborah J. Bise
DEBORAH J. BISE
NOTARY PUBLIC

20

21

22

My commission expires September 30, 1996.

23

24

25