

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

VIRGINIA OIL AND GAS BOARD

HEARING OF OCTOBER 24, 1994

10:00 A.M.

AT THE BREAKS INTERSTATE PARK

BREAKS, VIRGINIA

---

Appalachian Court Reporting Services, Inc.

P. O. Box 833

Abingdon, Virginia

(703) 676-2244

ID# 54-1495140

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

INDEX

ITEM

PAGE

I	2
II	2
III	3
IV	4
V	6
VI	2
VII	2
VIII	22
IX	35
X	59
XI	35
XII	59



ITEM I II, VI & VII

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

MR. CHAIRMAN: The first item on today's agenda is a petition from Equitable Resources Exploration for force pooling of proposed well #2824, 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.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser on behalf of Equitable Resources Exploration. At this I'll make a few announcements regarding this month's docket. Items I, II and VI will be continued to November. Item VII, as you all know and as Mr. Fulmer has been informed, has been withdrawn. That unit is now 100 percent under voluntary lease.

MR. EVANS: Did you say Item VII?

MR. KAISER: Yes. It's been withdrawn.

MR. CHAIRMAN: Review those all again, if you would.

MR. KAISER: Okay. On the October docket Items I, II and VI will be continued until the November docket. Item VII has been withdrawn.

MR. CHAIRMAN: Thank you.

ITEM III

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. CHAIRMAN: The next item on today's agenda is a petition from Virginia Gas Company for a well location exception for well #EH-130. This is docket number VGOB-94/08/16-0464 that was continued from September. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. MASON: Item III? These notes indicate that that was withdrawn.

MR. CHAIRMAN: I'm just seeing if there's anybody here that wanted to address it.

MR. MASON: I'm sorry.

MR. CHAIRMAN: That's okay.

MR. KAISER: I'm not speaking on behalf of Virginia Gas, Mr. Chairman, but it is my understanding that that case has been withdrawn.

MR. CHAIRMAN: I always call them once they've published them, though, just to make sure if anybody came and had anything to say. So that item is withdrawn.

1  
2  
3 ITEM IV

4 MR. CHAIRMAN: The fourth item on today's agenda is a petition  
5 from Ratliff Gas Company under Section 45.1-361.22 for an  
6 order establishing drilling unit and force pooling of  
7 coalbed methane gas drilling unit identified as U-19 in  
8 the Oakwood Field. This is docket number VGOB-94/10/24/-  
9 0475. We'd ask any parties that wish to address the  
10 Board in this matter to come forward at this time.

11 MR. SWARTZ: I understand that's been continued until the next  
12 meeting.

13 MR. CHAIRMAN: We've got a request to continue that. That's  
14 correct. I'm just calling it to see if anybody has  
15 anything to say about that?

16 MR. SWARTZ: Mr. Chairman, I'm Mark Swartz and we're here on  
17 behalf of Buchanan Production Company. My understanding  
18 is that there is a request to continue it but it was kind  
19 of short notice. So we were asked to come here and ask  
20 for it.

21 MR. CHAIRMAN: There's no objection from anyone to continue  
22 that? I would just remind you that I guess under the  
23 prior Board order -- and I'll ask Ms. Riggs to confirm  
24 this -- I believe we gave you until February, is that  
25 correct?

MR. SWARTZ: That's right.

1 MR. CHAIRMAN: Thank you.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ITEM V

1  
2  
3 MR. CHAIRMAN: The next item on today's agenda is a petition  
4 from Buchanan Production Company for an order force  
5 pooling interests in the coalbed methane gas drilling  
6 unit identified as T-16. This is docket number VGOB-  
7 94/10/24-0476. We'd ask the parties that wish to address  
8 the Board in this matter to come forward at this time,  
9 please.

10 MR. SWARTZ: Mark Swartz on behalf of Buchanan Production  
11 Company.

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, Mr. Swartz.

15 MR. SWARTZ: This unit T-16 is a short hole unit which will  
16 ultimately produce active gob. This unit was pooled  
17 originally in November of 1992. Parties surfaced who had  
18 a claim. It was essentially repooled or the order was  
19 amended in December of 1992 and before production  
20 commences a year past after these two pooling orders were  
21 entered. So although it was pooled once short hole  
22 production did not commence in other units in the  
23 longwall panel in time to save this from the one year  
24 exploration that's a standard provision in the Board  
25 orders. So what we are essentially doing today is

1 repooling a unit where the order has expired. Short hole  
2 -- Les will get into this although we're not going to  
3 spend a lot of time on it. But short hole production is  
4 about to commence and this panel is, in fact, going to be  
5 longwall mined. So we have need to come back and repool  
6 this unit. Because it's a repooling everyone would have  
7 their election rights. We have noticed everyone in the  
8 unit. Since the first pooling a couple of things have  
9 changed. If you were to compare Exhibit A which is the  
10 well plat to the original pooling some of the tracts have  
11 changed and the divisions of interest have changed  
12 accordingly. In addition Buchanan Production and it's  
13 agent Consol have identified a large number of additional  
14 heirs. There was some heirships pooled originally and  
15 the heirs have actually been identified in the interim.  
16 So there are a lot more respondents than there were  
17 originally. In addition the mine plan has changed  
18 slightly. We'll get into that later, but the area of the  
19 panel in this unit has increased from roughly 11 percent  
20 to a little over 15 percent. So there have been a number  
21 of changes if you were to go back and compare. In  
22 addition, the last change -- we'll talk some about this  
23 because we need to dismiss some respondents -- Consol on  
24 behalf of Buchanan Production has aggressively attempted  
25 to lease a lot of these heirs. When this was originally

1 pooled there was roughly a 60 percent interest that  
2 needed to be pooled. At this point, as you'll see from  
3 the exhibits in the packet that Les gave you this  
4 morning, we're down to about 31 percent. So they've  
5 leased quite a few of these people in the interim. With  
6 that introduction I'd like to have Les Arrington sworn  
7 and then we can proceed with the testimony.

8 COURT REPORTER: (Swears witness.)  
9

10 LESLIE K. ARRINGTON

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

14 DIRECT EXAMINATION  
15

16 BY MR. SWARTZ:

17 Q. Could you state your full name for us?

18 A. Leslie K. Arrington.

19 Q. Les, who do you work for?

20 A. Consol, Inc.

21 Q. Did you participate in preparing the notice of hearing  
22 and the application in this matter?

23 A. Yes, I did.

24 Q. In fact, were you the person who signed both the notice  
25 of hearing and the application?

1 A. Yes, I did.

2 Q. This morning have you distributed to the Board members a  
3 volume of exhibits in an orange binder?

4 A. Yes, I have.

5 Q. In that volume of exhibits are there two amended exhibits  
6 meaning exhibits that have been amended that were  
7 submitted with the application but have since changed and  
8 are those two amended exhibits Exhibit A, Page 2, and  
9 Exhibit B?

10 A. Yes, they are.

11 Q. Is Buchanan Production Company a Virginia general  
12 partnership?

13 A. Yes, it is.

14 Q. And are the two partners in Buchanan Production Company  
15 Appalachian Operators, Inc. and Appalachian Methane, Inc.  
16 and are both of these corporate partners wholly owned  
17 indirect subsidiaries of Consol, Inc.?

18 A. Yes. they are.

19 Q. Is Buchanan Production Company authorized to do business  
20 in the Commonwealth?

21 A. Yes.

22 Q. In this application are you requesting --is the applicant  
23 Buchanan Production Company requesting that Consol, Inc.  
24 be designated the unit operator by the Virginia Gas and  
25 Oil Board?

1 A. Yes, we are.

2 Q. Consol is a Delaware corporation, correct?

3 A. Yes.

4 Q. Is Consol, Inc. authorized to do business in the Common-  
5 wealth and has it registered with the DMME and does it  
6 have a blanket bond on file as required by law?

7 A. Yes, we do.

8 Q. In the packet of exhibits that we've tendered to the  
9 Board today at Tab 8 are there a collection of exhibits  
10 dealing with the delegation of authority by Buchanan  
11 Production Company to Consol, Inc. to manage it's  
12 properties?

13 A. Yes, it is.

14 Q. Are there also some further documents indicating that  
15 Consol has delegated and identified certain people to  
16 manage the affairs of Buchanan Production Company?

17 A. Yes.

18 Q. And those people are Claude Morgan, the general manager,  
19 Mr. Gillenwater, the land manager and Randy Albert, the  
20 regulatory manager?

21 A. Yes.

22 Q. Your position with Consol is?

23 A. Permit specialist.

24 Q. Now, with regard to the respondents here, originally in  
25 the notice and the application there were a list of 184

1 respondents, the last one being Buchanan County just for  
2 notice purposes, correct?

3 A. Yes.

4 Q. In the orange volume today is there an amended Exhibit B?

5 A. Yes, there is.

6 Q. And it's behind what tab?

7 A. Exhibit 6.

8 Q. Exhibit 6 -- if we looked at Exhibit 5 that is the  
9 amendment to Exhibit B or is it the same that was  
10 submitted originally?

11 A. No. That's the updated exhibit.

12 MR. EVANS: Excuse me. Mr. Swartz, give him a copy of this.  
13 He didn't get a copy of it. Sorry to interrupt.

14 MR. SWARTZ: No problem. (Pause.)

15 Q. (Mr. Swartz continues.) So Exhibit 5 is, in fact, an  
16 amendment to the original Exhibit B?

17 A. Yes, it is.

18 Q. And Exhibit 6 is what?

19 A. Respondents that we would like to have dismissed that we  
20 have leased or purchased their interests.

21 Q. The original Exhibit B that was filed with the applic-  
22 ation would have included these people behind the tab  
23 Exhibit 6 as respondents, correct?

24 A. Correct. In one or more locations.

25 Q. And the updated version of Exhibit B which is behind tab

1 Exhibit 5 has deleted these people?

2 A. Yes, it has.

3 Q. Would you then specifically request that in it's order if  
4 this pooling is approved that the Board dismiss the  
5 nineteen people listed on Exhibit B-2 updates which is  
6 behind tab Exhibit 6 in the orange volume?

7 A. Yes, we would.

8 Q. The reason you would request they be dismissed is that  
9 Consol, Inc. on behalf of Buchanan Production has  
10 obtained leases from these people?

11 A. That's correct.

12 Q. Do you wish to amend your application to add any respond-  
13 ents?

14 A. No.

15 Q. You have filed an affidavit of due diligence with Mr.  
16 Fulmer's office?

17 A. Yes, we have.

18 Q. And that affidavit which was signed by you, correct?

19 A. Yes.

20 Q. In that affidavit have you indicated the efforts that you  
21 have made to locate and identify people and the efforts  
22 that you have made to lease people?

23 A. Yes, we did.

24 Q. In terms of efforts to lease if we were to look at the  
25 revised Exhibit A, Page 2, which is behind tab Exhibit 4

1 in the orange volume this indicates that the interest to  
2 be pooled today is 31.982 percent, is that correct?  
3 A. That's correct.  
4 Q. When this unit was originally pooled back in 1992 -- late  
5 in 1992 the percentage that needed to be pooled was what  
6 amount?  
7 A. 60.15 percent.  
8 Q. So you have been successful in leasing roughly half of  
9 those people who needed to be leased in December of 1992?  
10 A. Yes, we have.  
11 Q. Are you continuing in your efforts to attempt to lease?  
12 A. Yes, we are.  
13 Q. With regard leasing what terms have you been offering and  
14 what terms have the people that you've succeeded in  
15 leasing been accepting?  
16 A. A dollar per acre rental, one-eighth royalty, a five year  
17 term.  
18 Q. This rental is payable on an annual basis until product-  
19 ion commences, is that correct?  
20 A. That's correct.  
21 Q. Once production commences only the royalty will be paid?  
22 A. That's correct.  
23 Q. Would you recommend these terms to the Board to be  
24 inserted in it's order if this pooling is approved with  
25 regard to the question of the lease terms for people who

1           might be deemed to have been leased?

2   A.    Yes, we would.

3   Q.    Did you mail certified mail/return receipt requested to  
4           all respondents listed in the notice of hearing for whom  
5           you had addresses?

6   A.    Yes, we did.

7   Q.    Have you filed today in the orange volume a summary or a  
8           synopsis of the status of mailings?

9   A.    Yes, we did at Exhibit 2.

10   Q.   And that lists the date on which mailing occurred, the  
11           receipt number, the date on which people may have signed  
12           for the mail, indicates if the mailing was returned and  
13           it also by a blank would indicate you haven't gotten it  
14           back, you haven't gotten a card back?

15   A.    That's correct.

16   Q.    These three page document concludes with a listing of  
17           people for whom you did not have addresses?

18   A.    That is correct.

19   Q.    Obviously there was no mailing to those folks?

20   A.    That's correct. Using publication for notice.

21   Q.    The notice of hearing and Exhibit A-1, was that publish-  
22           ed?

23   A.    Yes, it was.

24   Q.    In what newspaper?

25   A.    The Bluefield Daily Telegraph on September 27th.

1 Q. Have you filed the certificate of publication from that  
2 newspaper with Mr. Fulmer's office?  
3 A. Yes, we have.  
4 Q. We've talked about the fact that T-16 was pooled in 1992  
5 as a short hole active gob unit and production didn't  
6 occur within a year. And that's why we're back here, is  
7 that correct?  
8 A. That's correct.  
9 Q. Are you seeking pool this as a short hole active gob  
10 unit again under the Oakwood II rules?  
11 A. Yes, we are.  
12 Q. This is an 80 acre unit?  
13 A. Yes, it is.  
14 Q. Originally when it was pooled did it include just one  
15 longwall panel?  
16 A. Yes.  
17 Q. And that panel was a proposed panel in VP-8?  
18 A. Yes, it was.  
19 Q. Mining has proceeding in VP-8 and Exhibit G which shows  
20 the panel and shows the unit is now consistent with  
21 mining activities that have been undertaken to isolate  
22 this well?  
23 A. Yes, it is.  
24 Q. Exhibit G which is part of the orange volume behind tab 7  
25 does, in fact, show the longwall panel running east to

1 west in VP-8 and how it intersects T-16, does it not?

2 A. Yes, it does.

3 Q. It indicates that T-16 has a 15.725 percent allocable

4 interest in that panel, correct?

5 A. Yes, it does.

6 Q. Originally when this unit was pooled that percentage was

7 less, was it not?

8 A. That's correct.

9 Q. It was, in fact, 11.405 percent?

10 A. That's right.

11 Q. I think I asked you this. This is an 80 acre unit and

12 you would seek to pool all coal seams below the Tiller?

13 A. Yes, we do.

14 Q. Did the original application have a drilled well estimate

15 attached to it?

16 A. Yes, it does.

17 Q. That's Exhibit C?

18 A. Yes, it is.

19 Q. What is the per well estimated cost?

20 A. \$139,984.68.

21 Q. Who prepared that estimate?

22 A. I did.

23 Q. When did you prepare it?

24 A. September 21st, 1994.

25 Q. Which is less than 60 days from today?

- 1 A. Yes.
- 2 Q. Is that estimate in your opinion a reasonable estimate  
3 with regard to the per well costs anticipated in this  
4 panel?
- 5 A. Yes, it is.
- 6 Q. Now, the projected depth of the target formation -- the  
7 Pocahontas #3 seam is also shown on Exhibit C, is it not?
- 8 A. Yes, it is. 2,024 feet.
- 9 Q. Down at the bottom?
- 10 A. Down at the bottom, yes.
- 11 Q. Exhibit -- this would be an exhibit to the original  
12 application which is Exhibit G, the last page of the  
13 application, does this capture the panel cost associated  
14 with development of the VP-8 panel?
- 15 A. Yes, it does.
- 16 Q. And then does it allocate those costs among the various  
17 units that are affected by the VP-8 panel?
- 18 A. Yes, it does.
- 19 Q. It shows again with regard to T-16 a 15.725 percent  
20 interest, correct?
- 21 A. Yes, it does.
- 22 Q. And then the allocable costs for T-16 would be in what  
23 amount?
- 24 A. \$242,135.
- 25 Q. Now, Exhibit B as amended would set forth the division of

1 interest for each respondent in this unit?

2 A. Yes.

3 Q. If one wanted to calculate the participation cost, the  
4 carried interest multiplier or the royalty one would take  
5 the division of interest for each respondent, multiply  
6 that times the allocable well cost reported on Exhibit G,  
7 correct?

8 A. Yes.

9 Q. Or multiply it times the 15.725 percent to obtain the  
10 royalty interest?

11 A. That's correct.

12 Q. Les, is it your view that this plan to develop short hole  
13 active gob basis for T-16 is a reasonable plan to develop  
14 the coalbed methane within and under this unit and other  
15 units within the VP-8 panel?

16 A. Yes, it is.

17 Q. Will this well contribute to the protection of cor-  
18 relative rights of the owners of the methane within and  
19 under this unit and other units affected by VP-8 and  
20 will it lessen the likelihood of both physical waste and  
21 economic waste?

22 A. Yes, it would.

23 Q. Is it your request or indication to the Board that all  
24 respondents should be afforded election options since  
25 this should be treated essentially as a new pooling?

1 A. Yes, it should.

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

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

4 MR. EVANS: I've got one question real quick. The total cost  
5 of panel, has that changed since the original applic-  
6 ation?

7 MR. SWARTZ: I don't know if the panel cost has changed. The  
8 unit cost I do know has changed.

9 MR. EVANS: The percentage changed obviously and that's -- I  
10 want to know if the basic changed on that?

11 MR. SWARTZ: Well, I assume it did because -- I don't know if  
12 it's related to this unit or the entire panel, but the  
13 allocable costs when this was first pooled to this unit  
14 were \$96,000 and they are now \$242,000. So whether it's  
15 more in this unit or -- I assume it's the panel overall.

16 MR. EVANS: I was just going to say does anybody have a  
17 calculator because you can figure 11 versus 15 percent of  
18 some number to see if it comes up anywhere close.

19 MR. SWARTZ: It seems to me that it's obvious that more money  
20 is being spent on this panel than was originally contem-  
21 plated. The difference is not accounted for by the  
22 difference between 11 percent and 15 percent.

23 MR. EVANS: Do you have anyone to speak to why the panel  
24 costs are escalated? You're talking about a fairly  
25 significant increase it appears.

1 MR. SWARTZ: Well, let me see if I can find what it was  
2 originally. (Pause.)  
3 Q. (Mr. Swartz continues.) Les, what was the original  
4 estimate with regard to panel costs on Exhibit G, Page 3,  
5 in November of 1992?  
6 A. \$846,975.  
7 Q. And it has gone up -- the estimate today is?  
8 A. \$1,539,831.  
9 Q. Roughly doubled, correct?  
10 A. Yes.  
11 Q. You did not prepare the original estimates in November of  
12 1992, did you?  
13 A. No, I did not.  
14 Q. Do you know how that total cost figure was arrived at by  
15 Mr. Gordon or Mr. Wirth?  
16 A. No, I do not.  
17 Q. Would it be fair to assume that there are more wells at  
18 this point in the collection of units?  
19 A. Yes, it would.  
20 Q. Other than that, though, can you offer any --  
21 A. No, I cannot.  
22 MR. CHAIRMAN: Other questions?  
23 MR. EVANS: Has anyone elected to participate?  
24 THE WITNESS: No, they have not.  
25 MR. EVANS: Thank you.

(Witness stands aside.)

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

MR. CHAIRMAN: Do you have anything further, Mr. Swartz?

MR. SWARTZ: No.

MR. CHAIRMAN: Do we have a motion?

MR. EVANS: Mr. Chairman, I move that we grant the petition.

MR. HARRIS: Second.

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

1  
2  
3 ITEM VIII

4 MR. CHAIRMAN: The next item on the agenda is a petition from  
5 Equitable Resources Exploration for an order force  
6 pooling interests in coalbed methane gas drilling unit  
7 identified as VC-3230. This is docket number VGOB-  
8 94/10/24-0479. We'd ask the parties that wish to address  
9 the Board in this matter to come forward at this time.  
10 I'd ask that you identify yourself for the record,  
11 please.

12 MR. KAISER: Jim Kaiser on behalf of Equitable Resources  
13 Exploration. Mr. Chairman and members of the Board, our  
14 witnesses in this matter will be Mr. Dennis Baker and Mr.  
15 Bob Dahlin.

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

19 COURT REPORTER: (Swears witness.)  
20

21 DENNIS BAKER

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

DIRECT EXAMINATION

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

BY MR. KAISER:

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

A. Dennis Baker.

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

A. Equitable Resources Exploration as a leasing supervisor.

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

A. Yes, they do.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and pooling order for EREX well VC-3230 dated September 22nd, 1994?

A. Yes, I am.

Q. Is this well in the Roaring Fork Field subject to the Roaring Folk Field rules as promulgated May 31st, 1994 with an effective date of April 19th, 1994?

A. Yes.

Q. Has EREX applied for a permit?

A. Yes. I believe there's a permit application on file dated October 7th, 1994.

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

1 A. Yes.

2 Q. Does Equitable own drilling rights in the unit involved  
3 here?

4 A. Yes, we do.

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

6 A. At the time of application and currently the gas estate  
7 leased is 93.78 percent, the coal estate being 78.04  
8 percent leased.

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

11 A. Yes.

12 Q. Would you state those for the Board, please?

13 A. The unleased portion of the gas estate is 6.22 percent.  
14 The coal estate being unleased to Equitable is 21.96  
15 percent.

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

17 A. Yes, they are.

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

22 A. Yes, they were.

23 Q. Subsequent to the filing of the application have you  
24 continued to attempt to reach an agreement with the  
25 respondents listed at Exhibit B?

- 1 A. Yes, we have.
- 2 Q. As a result of these efforts have you acquired other  
3 leases from any of the respondents listed in Exhibit B as  
4 unleased owners?
- 5 A. No, we have not.
- 6 Q. Were any efforts made to determine if the individual  
7 respondents were living or deceased or their whereabouts  
8 and if deceased were efforts made to determine the names  
9 and addresses and whereabouts of the successors to any  
10 deceased individual respondent?
- 11 A. Yes.
- 12 Q. Were reasonable and diligent efforts made and sources  
13 checked to identify and locate unknown heirs, to include  
14 primary sources such as deed records, probate records,  
15 assessors records, treasurers records and secondary  
16 sources such as telephone directories, city directories,  
17 family and friends?
- 18 A. Yes, they were.
- 19 Q. In your professional opinion, Mr. Baker, was due dili-  
20 gence exercised to locate each of the respondents named  
21 in Exhibit B?
- 22 A. Yes.
- 23 Q. Are the addresses set out in Exhibit B to the application  
24 the last known addresses for the respondents?
- 25 A. Yes, they are.

1 Q. With the exception of those parties which you are hereby  
2 dismissing from this proceeding are you requesting this  
3 Board to force pool all over unleased interests listed at  
4 Exhibit B?

5 A. Yes, we are.

6 Q. Does Equitable seek to force pool the drilling rights of  
7 each individual respondent if living and if deceased the  
8 unknown successor or successors to any deceased individ-  
9 ual respondent?

10 A. Yes.

11 Q. Is Equitable seeking to force pool the drilling rights of  
12 the person designated as trustee if acting in capacity of  
13 trustee and if not acting in such capacity is Equitable  
14 seeking to force pool the drilling rights of the success-  
15 or of such trustee?

16 A. Yes.

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

19 A. Yes, we are.

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

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

23 Q. Did you gain your familiarity by acquiring oil and gas  
24 leases, coalbed methane leases and other agreements  
25 involving the transfer of drilling units in the unit

1 involved here and in the surrounding area?

2 A. Yes.

3 Q. In your opinion do the terms you have testified to  
4 represent the fair market value of and the fair and  
5 reasonable compensation to be paid for the drilling  
6 rights within this unit?

7 A. Yes.

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

1 B) 200 percent of the share of such costs allocable to  
2 the interest of a carried operator of an unleased tract  
3 or portion thereof?

4 A. Yes. That's correct.

5 Q. Mr. Baker, do you recommend the order provide that the  
6 elections by respondents be in writing and sent to the  
7 applicant at Equitable Resources Exploration, PO Box  
8 1983, Kingsport, Tennessee, 37662-1983, attention Dennis  
9 R. Baker, Regulatory?

10 A. That's correct.

11 Q. Should this be the address for all communications with  
12 the applicant concerning the force pooling order?

13 A. Yes.

14 Q. Do you recommend the force pooling order provide that if  
15 no written election is properly made by a respondent then  
16 such respondent should be deemed to have elected to cash  
17 royalty option in lieu of participation?

18 A. That's correct.

19 Q. Should the unleased respondents be given 30 days from the  
20 date of the order to file written elections?

21 A. Yes.

22 Q. If an unleased respondent elects to participate should  
23 that respondent be given 45 days from the latter of the  
24 date of the mailing to pay applicant for respondent's  
25 proportionate share of well costs?

1 A. Yes.

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

5 A. Yes.

6 Q. Should the applicant be allowed 60 days following the  
7 recordation date of the order and thereafter annually on  
8 that date until production is achieved to pay or tender  
9 any cash bonus becoming due under the force pooling  
10 order?

11 A. Yes.

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

20 A. Yes.

21 Q. Do you recommend the force pooling order provide that  
22 where a respondent elects to participate but defaults in  
23 regard to the payment of well costs any cash sum becoming  
24 payable to such respondent be paid within 60 days after  
25 the last date on which such respondent could have paid or



1 COURT REPORTER: (Swears witness.)

2

3

ROBERT A. DAHLIN, II

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

6

7

DIRECT EXAMINATION

8

9

BY MR. KAISER:

10 Q. Mr. Dahlin, I'll remind you that you've been sworn. If  
11 you would state your name for the record, who you are  
12 employed by and in what capacity?

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

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

18 A. Yes, sir, I have.

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

21 A. They do.

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

25 A. Yes, sir.

- 1 Q. What is the total depth of the proposed well under  
2 applicant's plan of development?
- 3 A. 2,450 feet.
- 4 Q. Will this depth be consistent to include formations with  
5 the well work permit now pending before the DMME?
- 6 A. Yes, sir, it will.
- 7 Q. Will this be sufficient to penetrate and test the common  
8 sources of supply in the subject formations?
- 9 A. Yes, sir, it will.
- 10 Q. What are the estimated reserves of the unit?
- 11 A. We anticipate 350 million cubic feet of gas.
- 12 Q. Are you familiar with the well costs for the proposed  
13 initial unit well under the applicant's plan of develop-  
14 ment?
- 15 A. Yes, sir, I am.
- 16 Q. Has an AFE been reviewed, signed and submitted to the  
17 Board?
- 18 A. It has.
- 19 Q. Was this AFE prepared by an engineering department  
20 knowledgeable in the preparation of AFEs and knowledge-  
21 able in regard to well costs in this area?
- 22 A. Yes, sir.
- 23 Q. Does this AFE represent a reasonable estimate of the well  
24 costs for the proposed unit well under the applicant's  
25 plan of development?

- 1 A. Yes, sir, it does.
- 2 Q. Would you please detail both the dry hole costs and  
3 completed well costs for the Board?
- 4 A. The dry hole costs are \$72,873 and the completed well  
5 costs are \$185,000.
- 6 Q. Mr. Dahlin, could you explain the fact that this is a  
7 twin well to a conventional well 2528 location?
- 8 A. It's exactly that. It is a coalbed methane drilling  
9 program. It was designed to drill at about the same  
10 location of the existing conventional gas well. This  
11 will be completed to produce the coalbed methane reserv-  
12 es.
- 13 Q. Do these costs anticipate -- you just stated the dry hole  
14 costs and the completed well costs. Do they anticipate a  
15 multiple completion?
- 16 A. Yes, sir.
- 17 Q. Does the AFE include a reasonable charge for supervision?
- 18 A. Yes, it does.
- 19 Q. Mr. Dahlin, in your professional opinion will the  
20 granting of this application be in the best interest of  
21 conservation, prevention of waste and protection of  
22 correlative rights?
- 23 A. Yes, sir.
- 24 MR. KAISER: Mr. Chairman, that's all I have of this witness  
25 at this time.

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

2 MR. HARRIS: About the location of that well in reference to  
3 the V-2528, I do have a question about the location  
4 exception. Do we need to explore that? That's not been  
5 mentioned.

6 MR. KAISER: I believe under the Roaring Fork Field rules that  
7 can be requested in the permit application that has been  
8 filed.

9 MS. RIGGS: Does the application contain such a request?

10 MR. KAISER: Yes, it does.

11 MS. RIGGS: I think there is a delegation to the Inspector  
12 through the permitting process for a variance.

13 MR. CHAIRMAN: So you're not asking the Board to make a  
14 decision. Let's just clarify for the record about that  
15 variance.

16 MR. KAISER: No. We're just before you for a force pooling.

17 MR. CHAIRMAN: Okay. Other questions?

18 (Witness stands aside.)

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

20 MR. HARRIS: Second.

21 MR. CHAIRMAN: Further discussion? All in favor signify by  
22 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)  
23 It's a unanimous approval. Thank you.  
24 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)  
25

ITEM IX, XI

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition by  
4 Equitable Resources Exploration for an order creating a  
5 drilling unit and force pooling of interests of conven-  
6 tional gas drilling unit identified as V-3399. This is  
7 docket number VGOB-94/10/24-0480. We'd ask the parties  
8 that wish to address the Board in this matter to come  
9 forward at this time.

10 MR. SWARTZ: Mark Swartz on behalf of Equitable Resources  
11 Exploration.

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

14 MR. SWARTZ: Mr. Chairman, if I might suggest to the Board,  
15 the last four items on the docket, Items IX, X, XI and  
16 XII, some of them are related. Items IX and XI pertain  
17 to V-3399.

18 MR. CHAIRMAN: Correct.

19 MR. SWARTZ: Item IX is the pooling application and creation  
20 of a drilling unit and Item XI is a request for a  
21 location exception. It might be easier to handle the  
22 notice of publication stuff if we could combine these and  
23 then obviously we'd have to address some separate issues.  
24 But I think it may accelerate things.

25 MR. CHAIRMAN: Sure.

1 MR. SWARTZ: And the same is true for Items X and XII. Item X  
2 is a creation of a drilling unit and pooling application  
3 and then XII would be a location exception. So if the  
4 Board thinks it might facilitate matters we could combine  
5 that.

6 MR. CHAIRMAN: That's fine.  
7

8 DENNIS BAKER

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

12 DIRECT EXAMINATION  
13

14 BY MR. SWARTZ:

15 Q. Could you state your full name for us?

16 A. Dennis Baker.

17 Q. Who do you work for?

18 A. Equitable Resources Exploration.

19 Q. What is your title, what do you do there?

20 A. My title is senior landman and I'm leasing supervisor.

21 Q. In terms of your involvement in the pooling application  
22 for V-3399 and the location exception were you the person  
23 primarily in charge of doing the title and preparing  
24 Exhibit B?

25 A. In preparing Exhibit B from the title opinions, yes.

- 1 Q. Did you also participate in and review the notice of  
2 hearing and the applications that were prepared?
- 3 A. Yes.
- 4 Q. Have we filed today a revised Exhibit B?
- 5 A. Yes, we have.
- 6 Q. Essentially the changes on Exhibit B are on the last page  
7 and the second to the last page, correct?
- 8 A. That's correct.
- 9 Q. The first four pages are identical to the exhibit that  
10 was filed with the application?
- 11 A. That's correct.
- 12 Q. What were, if you can recall, the changes that were made  
13 to Pages 5 and 6?
- 14 A. I believe on top of Page 5, the first four individuals --  
15 I believe in the application spouses were omitted and we  
16 had to identify their spouses and their marital status.  
17 So we incorporated those.
- 18 Q. Okay.
- 19 A. On Page 6 the only change was the change in the unit  
20 leased and unleased and the interest leased and unleased  
21 was shown to be leased to the applicant.
- 22 Q. Just to make it more specific that it was leased because  
23 there was a Virginia Gas lease as well?
- 24 A. Right. There are third parties, yes.
- 25 Q. This application with regard to V-3399 is a request on

- 1 the one hand to create a drilling unit consistent with  
2 statewide spacing requirements and then having created  
3 and pooled that unit there is also a request pending for  
4 a location exception, correct?
- 5 A. That's correct.
- 6 Q. With regard to the application Equitable Resources  
7 Exploration is the applicant, correct?
- 8 A. Yes.
- 9 Q. And the application requests that Equitable Resources  
10 Exploration be designated as the unit operator?
- 11 A. That's correct.
- 12 Q. Equitable Resources Exploration is actually a division of  
13 Equitable Resources Energy Company, is that true?
- 14 A. Yes, it is.
- 15 Q. And that company is organized and existing under the laws  
16 of the State of West Virginia?
- 17 A. That's correct.
- 18 Q. Has Equitable Resources Energy Company obtained authority  
19 to do business in the Commonwealth of Virginia under the  
20 name Equitable Resources Exploration?
- 21 A. Yes, sir. They have.
- 22 Q. Does Equitable Resources Exploration have a blanket bond  
23 on file as required by law and it is registered with the  
24 Department of Mines, Minerals and Energy?
- 25 A. Yes.

- 1 Q. The respondents with regard to V-3399 in terms of pooling  
2 and the persons to whom we gave notice with regard to the  
3 location exception, are all of their names listed in the  
4 notice of hearing?
- 5 A. Yes, they are.
- 6 Q. And the addresses for those folks are set forth in  
7 Exhibit B, correct?
- 8 A. Yes.
- 9 Q. Today do you desire to amend Exhibit B in any way or the  
10 notice in any to add anybody as a respondent?
- 11 A. No, we do not.
- 12 Q. Is there a desire to dismiss anybody?
- 13 A. No.
- 14 Q. Are there any addresses that need to be corrected?
- 15 A. No.
- 16 Q. We've talked about the minimal changes that were made on  
17 the last two pages of Exhibit B, correct?
- 18 A. Yes, we have.
- 19 Q. Did you and the people you work with at Equitable  
20 Resources Exploration exercise due diligence to identify  
21 and locate all persons having record title to oil and gas  
22 and having identified those persons have you exercised  
23 due diligence in trying to locate them?
- 24 A. Yes, we have.
- 25 Q. With regard to notice and publication was certified mail

1 sent to everyone listed in the notice of hearing for whom  
2 we had an address?  
3 A. Yes. That's correct.  
4 Q. And that mailing was made on what date?  
5 A. On September 24th, 1994.  
6 Q. Was there one person for whom we did not have an address  
7 and could not mail?  
8 A. Yes. That's correct.  
9 Q. Who would that have been?  
10 A. That's Mr. James N. Jackson.  
11 Q. And everybody else on the list in the notice of hearing  
12 was sent mail?  
13 A. Yes, they were.  
14 Q. Have we filed with Mr. Fulmer and the Board a certifica-  
15 tion of notice both with regard to the pooling applica-  
16 tion and with regard to the location exception?  
17 A. Yes, we have.  
18 Q. Does that indicate that there was one person for whom we  
19 did not have an address, one mailing to June (Inaudible.)  
20 which we don't know the status of because we haven't  
21 gotten the mailing back or the card back and then there  
22 were two items returned unclaimed from Sara Lou Kennedy  
23 and Sherry Lee Cretch, correct?  
24 A. Yes. That's correct.  
25 Q. Everyone else to whom we mailed singed a card and we got

1 the card back?

2 A. Yes.

3 Q. Is that also true for the location exception, the same  
4 mailing status?

5 A. Yes, it is.

6 Q. And that mailing status was as of the close of business  
7 last Friday, correct?

8 A. Yes.

9 Q. In addition to mailing was there a publication of the  
10 notice of hearing with regard to the creation of the  
11 drilling unit, pooling application as well as the  
12 location exception?

13 A. Yes, there was.

14 Q. And where was that published?

15 A. In the Bristol Herald Courier.

16 Q. On what date?

17 A. On October 1st.

18 Q. With regard to each of the applications that we're  
19 dealing with here on 3399 what was it that was published  
20 in the paper, what documents?

21 A. The notice of hearing and Exhibit A-1.

22 Q. Which is the little map?

23 A. Which is the map showing the --

24 Q. Did we subsequently receive a certificate of publication  
25 from the Bristol Herald Courier and did we file that with

- 1 the Department of Mines, Minerals and Energy?
- 2 A. Yes.
- 3 Q. With regard to the standing of Equitable Resources  
4 Exploration to seek to pool this unit if we look at the  
5 last page of amended Exhibit B that summarizes the amount  
6 of acreage leased to the applicant, correct?
- 7 A. That's correct.
- 8 Q. What percentage is that?
- 9 A. 95.98 percent.
- 10 Q. What is the outstanding percentage?
- 11 A. 4.02 percent.
- 12 Q. And that exceeds by a considerable margin the 25 percent  
13 required, correct?
- 14 A. Yes, it does.
- 15 Q. Exhibit A which is the plat that was filed with the  
16 application shows the shape and size of the unit, does it  
17 not?
- 18 A. Yes, it does.
- 19 Q. It's a 125.66 acre unit?
- 20 A. Yes, it is.
- 21 Q. Which is consistent with the statewide spacing type of  
22 unit?
- 23 A. Yes.
- 24 Q. And it shows the tracts that fall within the unit?
- 25 A. Yes, it does.

1 Q. And it shows the acreages and the percentages associated  
2 with those tracts that would be within the proposed unit?  
3 A. Yes, it does.  
4 Q. Now, the application discloses the target formations that  
5 this well is going to test, does it not?  
6 A. Yes.  
7 Q. What would those formations be?  
8 A. They are listed as the Lee Sands, Raven Cliff, Maxon, Big  
9 Lyon, Weir, Poppy Shell, Burea and Devonian Shell.  
10 Q. And the deepest of those formations would be the Devon-  
11 ian?  
12 A. Yes.  
13 Q. Is the proposed well for which -- we'll get to this  
14 later, but is the proposed well for which we've submitted  
15 a cost estimate deep enough to test the Devonian Shell?  
16 A. Yes.  
17 Q. Now, when this application was initially filed and the  
18 Exhibit B was initially prepared was it true that you had  
19 been unable to reach an agreement -- a voluntary agree-  
20 ment with Virginia Gas Company?  
21 A. Yes. That's correct.  
22 Q. Exhibit B, Pages 3 of 6, there are some unleased inter-  
23 ests which were not leased to anyone and in addition as  
24 you get to Page 5 of 6 there are some leased interests  
25 that were leased to Virginia Gas, correct?

- 1 A. Yes.
- 2 Q. Since the filing of this application has Equitable  
3 Resources and Virginia Gas reached a voluntary agreement  
4 with the acreage leased by Virginia Gas?
- 5 A. Yes, we have.
- 6 Q. In that voluntary agreement has Virginia Gas agreed to  
7 contribute it's leased acreage to the unit?
- 8 A. Yes, they have.
- 9 Q. Has Virginia Gas and Equitable agreed that Virginia Gas  
10 will become a participant -- not the operator but a  
11 participant in this unit?
- 12 A. Yes. That's correct.
- 13 Q. So should any pooling order that might be entered by the  
14 Board indicate that such an agreement has been reached,  
15 that the royalty should be payable to the Virginia Gas  
16 lessors but that they not be afforded election rights  
17 since their lease had been contributed to this unit by  
18 their lessor?
- 19 A. That's correct.
- 20 Q. Obviously with regard to the people who are shown as  
21 unleased to anyone, those four folks should be afforded  
22 the normal options as required by the statute?
- 23 A. That's correct.
- 24 Q. You have obviously leased almost 90 percent of this unit.  
25 With regard to the leases that you have taken and the

- 1 leases you would continue to offer what are the lease  
2 terms, Dennis, that people have accepted and that you  
3 have offered?
- 4 A. \$5 per acre consideration, one-eighth royalty with a five  
5 year term continuing as long as the well produces.
- 6 Q. This \$5 an acre payment, is that a one time payment?
- 7 A. Yes, it is.
- 8 Q. Is that with the understanding that Board orders in  
9 general would provide that they would expire a year from  
10 their effective date if there was not production?
- 11 A. That's correct.
- 12 Q. And if there was production obviously you would then be  
13 paying a royalty?
- 14 A. Yes, sir.
- 15 Q. Would you recommend that in dealing with the deemed to  
16 have leased option required by the Virginia Code that the  
17 Board incorporate these terms as the lease terms on a  
18 deemed to have leased basis?
- 19 A. Yes, we would.
- 20 Q. I realize that Exhibit C was prepared by someone else and  
21 I'll talk to Bob about that, but did the original  
22 application submit a drilling cost estimate?
- 23 A. Yes, it did.
- 24 Q. The date on which that was prepared was what?
- 25 A. September 12th, 1994.

- 1 Q. Is September 12th within 60 days of today's date?
- 2 A. Yes, it is.
- 3 Q. In general in Equitable Resources Exploration and  
4 particularly with regard to this estimate would it have  
5 been prepared by the engineering group and then reviewed  
6 and signed by Robert A. Dahlin?
- 7 A. That's correct.
- 8 Q. He did, in fact, sign this?
- 9 A. Yes, he did.
- 10 Q. What are the total costs reported on Exhibit C?
- 11 A. The total cost for completion of the well is \$267,250.
- 12 Q. And this well in terms of depth -- at the top of the  
13 first page of Exhibit C does it show the total projected  
14 depth?
- 15 A. Yes, it does. 4,785 feet.
- 16 Q. With regard to some questions on the -- just a few  
17 further questions with regard to Exhibit A, the plat map,  
18 that does show the distances to other nearby wells as  
19 required by the regulations, correct?
- 20 A. That's correct.
- 21 Q. We'll get to this with other witnesses, but from that we  
22 can identify the well from which we would need a location  
23 exception, is that correct?
- 24 A. That's correct.
- 25 Q. With regard to -- to recap notice and publication, the

1 same notices, notice procedure, mailing dates and status  
2 of mailing that we've talked about in terms of the  
3 pooling application are also true with regard to the  
4 location exception, correct?

5 A. That's correct.

6 Q. The publication would have been of both applications as  
7 well?

8 A. Yes.

9 MR. SWARTZ: That's all I have of Dennis.

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

11 (Witness stands aside.)

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

13

14

ROBERT A. DAHLIN, II

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

17

18

DIRECT EXAMINATION

19

20 BY MR. SWARTZ:

21 Q. Could you state your full name for us?

22 A. My name is Robert A. Dahlin, II.

23 Q. Who are you employed by?

24 A. I'm employed by EREX.

25 Q. And what is your job title?

- 1 A. My job title is operations specialist.
- 2 Q. Did you participate -- or did you review the cost  
3 estimate, the Exhibit C that was prepared?
- 4 A. Yes, sir. I did.
- 5 Q. Is this something that you are required to do and  
6 ordinarily do in your job responsibilities, sign off on  
7 AFEs?
- 8 A. Yes, it is.
- 9 Q. Did you review this one in particular?
- 10 A. I did.
- 11 Q. Are the estimated costs represented of \$267,250 a  
12 reasonable estimate of anticipated costs to develop this  
13 unit as contemplated by the application?
- 14 A. Yes, sir.
- 15 Q. Is it your opinion that the applicant's plan to create  
16 this unit and develop the unit is a reasonable plan to  
17 develop the target formations within and under the unit  
18 for the benefit of the owners of the oil and gas resourc-  
19 es located in those formations?
- 20 A. Yes, sir.
- 21 Q. You have listed a number of target formations. Is it  
22 your intention to test those formations as they are  
23 encountered and develop those depending on what you find?
- 24 A. That's correct.
- 25 Q. You anticipate, however, production based on other

1 operations in the area from which formations on a  
2 probability basis? Which ones are you really looking at?

3 A. Our primary targets are the deeper Devonian Shell and  
4 Burea. We also anticipate a high likelihood of en-  
5 counteracting gas in the Raven Cliff.

6 Q. So those three would be the primary targets based on  
7 prior experience?

8 A. Yes, sir.

9 Q. And to the extent that other formations listed in this  
10 pooling application show sufficient gas content those  
11 would be produced as well?

12 A. That's correct.

13 Q. But that's something we're going to have to wait and see  
14 what happens?

15 A. Right.

16 Q. With regard to the correlative rights issue is it your  
17 opinion that this well and this proposed unit would, in  
18 fact, protect correlative rights by developing gas, by  
19 paying royalty to additional royalty owners and also  
20 would lessen the likelihood of physical waste and  
21 economic waste?

22 A. That's correct.

23 (Witness stands aside.)

24 MR. SWARTZ: Tim, do you want to raise your right hand here  
25 and be sworn.

1 COURT REPORTER: (Swears witness.)

2

3

RICHARD TIMOTHY LEWIS

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

6

7

DIRECT EXAMINATION

8

9 BY MR. SWARTZ:

10 Q. Could you state your full name for us?

11 A. Richard Timothy Lewis.

12 Q. Who do you work for?

13 A. EREX.

14 Q. And what do you do for them?

15 A. I'm a senior geologist.

16 Q. Are you familiar with the formations in the immediate  
17 area of this proposed well 3399?

18 A. Yes, I am.

19 Q. Could you describe in summary form -- we'll go through it  
20 further if necessary, but in summary form the fault line  
21 and the formations immediately adjacent to that fault  
22 line which this well is intended to test?

23 A. This area lies along the Russell Fork Fault which is  
24 right out here in the Russell Fork River and the majority  
25 of the production is controlled by that fault system,

1 especially the Raven Cliff which seems to be developed.  
2 Not only the sand, the porosity and the structure right  
3 along that fault line. Also the Burea is also affected  
4 by that, the sand and the Burea sand. Being adjacent to  
5 that fault is obviously a better case for success  
6 geologically. So in a very brief summary I would say  
7 that.

8 Q. There has been a fair amount of drilling along that  
9 fault, correct?

10 A. Yes.

11 Q. Does the fault line in general run in a north west to  
12 south westward direction?

13 A. Yes, it does. It basically follows the path of the  
14 river.

15 Q. Has most of the development in terms of conventional gas  
16 wells been to the east of that line?

17 A. The majority of them are, yes, especially in the Raven  
18 Cliff sand. They've really honed along the fault line.

19 Q. If you look at the DMME maps of well locations there are  
20 a number of wells by various operators along the east  
21 side of that line?

22 A. I can. You can look at it and it's obvious that they're  
23 developing along the fault line and they understand the  
24 geologic nature of the tracking mechanism.

25 Q. Have there been wells drilled further to the east --

1 significantly further to the east and if so, what has  
2 been the experience with regard to production from those  
3 wells?

4 A. There are several wells further to the east approximately  
5 four to five miles and those are dry holes. There are  
6 several that are dry holes because they had missed the  
7 Raven Cliff sand and also the Burea is also not very good  
8 there.

9 Q. So if you get far enough to the east you can expect a dry  
10 hole?

11 A. That is correct.

12 Q. As you proceed east is there an impact on production?

13 A. As you proceed east way from --

14 Q. If you didn't go four or five miles east but if you went  
15 a mile further to the east what would your expectations  
16 be with regard to what you would find -- what might  
17 happen to your production?

18 A. From my geologic mapping I'd say that the risk increases  
19 as you go eastward. It's a very narrow zone, one to two  
20 wells wide, and you have to be cautious where you place  
21 the well.

22 Q. Do you have a copy of the well plat in front of you, Tim?

23 A. Yes.

24 Q. There is one well in proximity to the proposed well that  
25 we're talking about here, the 3399 well, that is why that

1 we are asking for a well location exception, correct?

2 A. Yes.

3 Q. Who is the operator of that well?

4 A. EREX is the operator of that and we have 100 percent  
5 working interest in that well.

6 Q. You don't have any partners or participants in that well?

7 A. No, sir.

8 Q. There are other wells shown on the well plat but all of  
9 those wells are further than 2,640 feet away, correct?

10 A. That is correct.

11 Q. So the well from which you need a location exception is  
12 another EREX well?

13 A. That is correct.

14 Q. Can I assume that the reason that you are requesting a  
15 well location here is to allow you to locate this well as  
16 close to the fault line in a probably productive zone as  
17 possible?

18 A. From a geologic basis the location that we have pictured  
19 here is very good for geologic success.

20 Q. In order to avoid being within 2,640 feet of the existing  
21 well -- the existing EREX well that we've been talking  
22 about you would have to move this well to the east,  
23 correct?

24 A. This is right. you'd have to move it further away and  
25 increase your degree of risk to possibly a point of

1 failure.

2 Q. In addition by locating the well as you have proposed are  
3 you, in fact, catching acreage within the unit -- and  
4 specifically I'm looking at Tract 2 and a little bit of  
5 Tract 3 -- that would either not be in the unit at all if  
6 you moved it to the east and those royalty owners would  
7 receive nothing or if you moved it to the east their  
8 royalty interest would be significantly diminished?

9 A. That is correct if it was moved eastward.

10 Q. In summary would it be fair to say that the two reasons  
11 why you're requesting a location exception here on the  
12 one hand to stay as close to the fault line and in the  
13 productive tested zones to minimize the risk for a dry  
14 hole or a well that is not highly productive and second-  
15 ly, the other reason to catch as much acreage adjacent to  
16 the other existing wells to include a portion of Tract 3  
17 and a significant portion of Tract 2 in this unit?

18 A. That is correct.

19 MR. SWARTZ: That's all I have on the pooling and the location  
20 exception.

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

22 MR. LEWIS: I have one question. Compare to the fault line  
23 when you move farther east what's the difference between  
24 your pay zone on the Raven Cliff -- the thickness of it  
25 next to the pay zone and then when you move farther east?

1 THE WITNESS: Well, if you'll look at Exhibit A I can demon-  
2 strate that. It's rather dramatic. I would say in well  
3 1942 you're looking at -- and this is pay thickness.  
4 MR. SWARTZ: 1942 would be the one at the bottom.  
5 THE WITNESS: Well, I'm giving him an example.  
6 MR. SWARTZ: Right. I just wanted some people to find it on  
7 there.  
8 THE WITNESS: 1942, I believe you're looking at a paid sand  
9 thickness around 70 feet there. If you move to the east  
10 and you see location EH-120 which was drilled by Virginia  
11 Gas Company, they drilled that well in the Raven Cliff  
12 and got ten feet of nonproductive sand. So it is a  
13 rather dramatic change. Along that fault line --  
14 obviously that fault was active and it was trapping the  
15 sand in that area and it's a very narrow zone. We'd like  
16 to stay in that.  
17 MR. LEWIS: What's the difference in the Burea?  
18 THE WITNESS: In the Burea thickness there it's probably not  
19 that significant but the fracturing in the Burea is the  
20 key here. And again, being along the fault where the  
21 fractures are is important. It increases the perme-  
22 ability and the productiveness of the sand.  
23 MR. CHAIRMAN: Other questions?  
24 MR. EVANS: In V-2266 you said you had 100 percent of the  
25 interest. Is that one lease?

1 MR. BAKER: I believe 2266 we also have some individuals that  
2 were leased in the gas company which we have an agreement  
3 with them on 2266.

4 MR. EVANS: You have an agreement with them on how to allocate  
5 production from both -- it's who gets paid out of them.

6 MR. SWARTZ: Correct me if I'm wrong, Dennis. To the extent  
7 that the proposed unit that we're talking about and the  
8 2266 unit overlap the royalty owners in each of those  
9 units will receive their full royalty share from the  
10 production of both of the wells, correct?

11 MR. BAKER: I believe that's correct.

12 MR. SWARTZ: So we're not allocating on some basis other than  
13 180.

14 MR. LEWIS: You're not certain?

15 MR. BAKER: I'm not certain from the administration side of  
16 it, but I believe that's a correct statement.

17 MR. SWARTZ: Well, the exhibit that's been filed today,  
18 revised Exhibit B, does that show the royalty interest as  
19 a 100 percent interest in the area that will overlap for  
20 this well?

21 MR. BAKER: Yes, it does.

22 MR. SWARTZ: Would you assume that the Board order issued  
23 would require -- would incorporate that interest?

24 MR. BAKER: Yes.

25 MR. CHAIRMAN: Do you have a prior Board order on 2266?

1 MR. SWARTZ: Is that a voluntary unit, 2266?  
2 MR. BAKER: No.  
3 MR. SWARTZ: Then it would have the same -- you'd have two  
4 orders and at least -- I don't have that in front of me,  
5 but at least with regard to this one Dennis has testified  
6 it's 100 percent of the one-eighth. I assume the other  
7 one was as well. And any order that Sandy would draft  
8 here I assume would require us to have 100 percent as we  
9 reported on Exhibit B.  
10 MR. EVANS: That's fine. That answers my question.  
11 MR. SWARTZ: Well, it's a good question and I'm trying to  
12 answer it.  
13 MR. CHAIRMAN: Other questions, members of the Board?  
14 (Witness stands aside.)  
15 MR. CHAIRMAN: Do you have anything further?  
16 MR. SWARTZ: No.  
17 MR. CHAIRMAN: For the record, before we get any motion on  
18 this, we incorporated docket number VGOB-94/10/24-0480  
19 and VGOB-94/10/24-0482.  
20 MR. EVANS: Mr. Chairman, I move that we grant the location  
21 exception and that we grant the petition for force  
22 pooling.  
23 MR. KELLY: Second.  
24 MR. CHAIRMAN: A motion and a second. Further discussion?  
25 MR. HARRIS: I think I've asked this before when we've done

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

this. Is it proper to combine both of these docket items  
and vote at one time?

MR. CHAIRMAN: Yes. He's separated it in the testimony.  
That's the only thing you have to watch. I believe we've  
covered everything. Any further discussion? If not, all  
in favor signify by saying yes. (ALL AFFIRM.) Opposed  
say no. (NONE.) Unanimous approval. Thank you.

ITEMS X, XII

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

MR. CHAIRMAN: Do you want to do the same for Item X and XII?

MR. SWARTZ: If I might.

MR. CHAIRMAN: The next items on our agenda we're going to combine as well. A petition from Equitable Resources Exploration for an order creating a drilling unit and force pooling of interest of a conventional gas drilling unit identified as P-308. This is docket number VGOB-94/10/24-0481. And on this one as well we have a request for a location exception for a conventional gas well identified as EH-108. This is docket number VGOB-94/10/24-0483. We'd ask the parties that wish to address the Board in these matters to come forward at this time.

MR. SWARTZ: Mark Swartz for Equitable Resources Exploration.

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

MR. SWARTZ: We have two amended exhibits, amended Exhibit A which is the well plat and an amended Exhibit B.

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

MR. CHAIRMAN: You may proceed.

MR. SWARTZ: Just by way of introduction, this again is a request to create a conventional drilling unit and to

1 pool that unit and then a request for a location except-  
2 ion. I've given you some amended exhibits this morning.  
3 And to make it easy for you to understand what has  
4 changed, on the plat map, amended Exhibit A that I gave  
5 you, the only thing that has changed is the original  
6 exhibit left off the tract numbers which would be the  
7 circled numbers that you see on amended Exhibit A.  
8 That's it. We've added those. Obviously those cor-  
9 respond to the tracts listed in Exhibit B. So it's  
10 fairly important to have those. That was why Exhibit A  
11 was amended. The revised Exhibit B that you got this  
12 morning, all of the changes are at Page 2. Page 1 is the  
13 same as what you originally got. The changes at Page 2  
14 are with Tract 11. Initially it was assumed that the  
15 Comptons had leased to Virginia Gas and it was shown  
16 originally as leased to Virginia Gas. It turns out that  
17 they were forced pool in a nearby unit. There wasn't a  
18 lease. So we gave them notice. That's not a problem,  
19 but we're showing them as unleased in the revised Exhibit  
20 B. The other thing that's changed is we have changed the  
21 way we have referred to the percentages leased to  
22 applicant or unleased to applicant because we had several  
23 companies leasing here and we thought that would make it  
24 clearer. So those are the extent of the changes in those  
25 two exhibits that you see this morning. I'd like to

1 start with Dennis' testimony. Again, I would remind you  
2 that you're still under oath. So we don't need to do  
3 that.  
4

5 DENNIS BAKER

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

9 DIRECT EXAMINATION

10  
11 BY MR. SWARTZ:

12 Q. Could you state your full name for us again?

13 A. Dennis Baker.

14 Q. Who do you work for?

15 A. Equitable Resources Exploration.

16 Q. Your title and generally what you do for them?

17 A. Senior landman, leasing supervisor.

18 Q. Dennis, were you involved in the preparation of the  
19 notice of hearing, the application, some of the exhibits  
20 with regard to P-308

21 A. Yes.

22 Q. Did you, in fact, prepare Exhibit B and the revised  
23 Exhibit B

24 A. Yes, I did.

25 Q. The applicant here is Equitable Resources Exploration,

1 correct?

2 A. That's correct.

3 Q. And the application seeks to have Equitable Resources  
4 Exploration appointed as the unit operator, is that  
5 correct?

6 A. That's correct.

7 Q. Is Equitable Resources Exploration is division of a  
8 company named Equitable Resources Energy Company?

9 A. That's correct.

10 Q. Is Equitable Resources Energy Company a West Virginia  
11 corporation?

12 A. Yes, they are.

13 Q. Has that West Virginia corporation sought authority in  
14 the Commonwealth of Virginia to do business under the  
15 name or as a division named Equitable Resources Explora-  
16 tion?

17 A. Yes.

18 Q. Has Equitable Resources Exploration registered with the  
19 Department of Mines, Minerals and Energy as an operator  
20 and does it have a blanket bond on file as required by  
21 law?

22 A. Yes, they do.

23 Q. With regard to both of these applications, the pooling  
24 and unit application and the location exception are the  
25 names of all of the interested parties and the names of

1 all people that we are required under 45.1-361.19 to  
2 list, are those set forth in the notices of hearings?  
3 A. Yes, they are.  
4 Q. And the addresses of the respondents, are they all listed  
5 on the revised Exhibit B?  
6 A. Yes, they are.  
7 Q. Today do you desire to amend either of these applications  
8 in any respect to add or dismiss anybody?  
9 Q. Do we need to correct or update any addresses?  
10 A. No, we do not..  
11 Q. With regard to mailing we have filed a certification of  
12 notice with Mr. Fulmer and with the Board with regard to  
13 both of these applications, correct?  
14 A. That's correct.  
15 Q. Both sets of notices and both applications were mailed to  
16 all of the respondents on what date?  
17 A. On September 23rd, 1994.  
18 Q. And it also sets forth the receipt numbers?  
19 A. Yes, it does.  
20 Q. In this instance has everyone received and signed for --  
21 every respondent received and signed for their mail?  
22 A. Yes, they have.  
23 Q. And there was no one you did not have an address for?  
24 A. No.  
25 Q. Did we also publish?

1 A. Yes, we did.

2 Q. And what paper did we publish in and on what date

3 A. The Bristol Herald Courier on October 1st.

4 Q. And what was published in the newspaper would have been  
5 both notices and the small map, Exhibit A-1, correct?

6 A. That is correct.

7 Q. Did we subsequently receive a certificate of publication  
8 from the newspaper and was that filed with the Department  
9 of Mines, Minerals and Energy?

10 A. Yes, on both.

11 Q. Has Equitable Resources, your department and with regard  
12 to the other folks involved in this application, has  
13 Equitable exercised due diligence to identify and  
14 location having record title to oil and gas in this  
15 proposed unit and having identified them have you  
16 successfully found everyone's addresses?

17 A. Yes.

18 Q. Now, with regard to this unit and then the question of  
19 standing revised Exhibit B sets forth the percentage that  
20 EREX has leased, does it not?

21 A. Yes, it does.

22 Q. And what is that percentage?

23 A. 79.40 percent.

24 Q. And it also sets forth the unleased to EREX's interest as  
25 well?

- 1 A. 20.60 percent.
- 2 Q. Since this application was filed, since the time of  
3 filing of this application and today has EREX and  
4 Virginia Gas been able to reach a voluntary agreement  
5 with regard to the acreage in this unit that is leased by  
6 Virginia Gas Company?
- 7 A. Yes, we have.
- 8 Q. Under that agreement has Virginia Gas agreed to contri-  
9 bute it's leased acreage to this unit and has it agreed  
10 to participate not as an operator but as a participant in  
11 this unit?
- 12 A. Yes. That's correct.
- 13 Q. Would you request that any order entered by the Board  
14 pooling this unit indicate that such an agreement was  
15 reached and indicate and direct EREX to pay royalty to  
16 the Virginia Gas lessors directly but not afford those  
17 lessors any election options because we have a voluntary  
18 agreement transferring the lease?
- 19 A. That's correct.
- 20 Q. With regard to Exhibit A which is the well plat, that  
21 plat which was revised shows a proposed unit of 125.664  
22 acres, correct?
- 23 A. That's correct.
- 24 Q. And that is a unit size consistent with an effort to  
25 resemble the units driven by statewide spacing, correct?

- 1 A. That's correct.
- 2 Q. This plat shows nearby wells as required by regulation?
- 3 A. Yes, it does.
- 4 Q. With regard to the two wells spotted north of the unit at  
5 the very top of the plat, amended Exhibit A, one of those  
6 wells is drilled, correct?
- 7 A. Yes. That's correct.
- 8 Q. And one of them is permitted but has not been drilled?
- 9 A. I believe that's correct. Yes.
- 10 Q. Does Exhibit A show all of the tracts affected by this  
11 pooling application, the acreages within the proposed  
12 unit and the division of interest within the proposed  
13 unit?
- 14 A. Yes, it does.
- 15 Q. Now, the application here indicates that the target  
16 formations of this well are what formations?
- 17 A. The Lee Sands, Raven Cliff, Maxon, Big Lyon, Weir, Poppy  
18 Shell, Burea and the Devonian Shell.
- 19 Q. With regard to lease terms could you tell the Board the  
20 terms of the leases you have been able to enter into in  
21 general with regard to the roughly 80 percent of the unit  
22 you have leased and the terms that you would offer to  
23 others in the 20 percent that is unleased?
- 24 A. A \$5 per acre consideration, one-eighth royalty and a  
25 five year term which would continue as long as the well

1 would be producing.

2 Q. A \$5 an acre payment, do you contemplate that that will  
3 be a one time payment?

4 A. Yes, we do.

5 Q. Is that because if the well were not to produce within a  
6 year of the effective date of the order the order  
7 expires?

8 A. That's correct.

9 Q. And if the well produced within a year you would be  
10 paying a one-eighth royalty which would continue until  
11 the well stopped producing?

12 A. That's correct.

13 Q. Would you recommend to the Board that with regard to any  
14 order that might be entered concerning the deemed to have  
15 leased statutory option that they would use these lease  
16 terms for that option?

17 A. Yes.

18 Q. Is there an Exhibit C, an estimated well cost exhibit,  
19 that's been tendered with your application?

20 A. Yes, there is.

21 Q. Was that prepared within the last 60 days?

22 A. Yes, it was.

23 Q. What date was it prepared on?

24 A. September 12th, 1994.

25 Q. Who is it signed by?

1 A. Mr. Robert A. Dahlin.  
2 Q. Does it indicate the total depth?  
3 A. Yes, it does.  
4 Q. What is that?  
5 A. 4,885 feet.  
6 Q. Amended Exhibit B has a column after each respondent's  
7 name which is called interest within unit, correct?  
8 A. Yes. That's correct.  
9 Q. And that would be the division of interest of each  
10 respondent in this proposed unit?  
11 A. That's correct.  
12 Q. And that would be relevant to their royalty?  
13 A. Yes, it would.  
14 Q. And it would be relevant to any calculation that might be  
15 made to calculate participation costs or the carried  
16 interest multiplier?  
17 A. Correct.  
18 Q. If you wanted to calculate participation costs you would  
19 take the interest within the unit and multiply it times  
20 the well cost, correct?  
21 A. That's correct.  
22 Q. And that would give each respondent's participation cost?  
23 A. Yes.  
24 Q. And the same would be true for the carried interest  
25 calculation?

1 A. That's correct.

2 Q. I'm pretty sure I asked you this but just to recap and  
3 make sure that we have an answer on the record, was the  
4 mailing on September 23rd to the respondents that you  
5 testified to made with regard to -- and did it include  
6 notices concerning the pooling application and the  
7 location exception?

8 A. That's correct.

9 Q. The publication was a publication of both sets of notices  
10 and both Exhibits A-1?

11 A. Yes.

12 (Witness stands aside.)

13 MR. SWARTZ: Bob, I'll remind you that you're under oath --  
14 still under oath.

15

16 ROBERT A. DAHLIN, II

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

19

20 DIRECT EXAMINATION

21

22 BY MR. SWARTZ:

23 Q. State your full name for us again.

24 A. Robert A. Dahlin, II.

25 Q. Who are you work for?

- 1 A. I'm employed by EREX as an operations specialist.
- 2 Q. Do your duties as an operations specialist include the  
3 review of AFEs in terms of their accuracy and their  
4 reasonableness?
- 5 A. Yes, sir.
- 6 Q. Did you, in fact, review Exhibit C, the AFE that was  
7 filed with regard to this well?
- 8 A. I did.
- 9 Q. And that indicates a total completed well cost of what?
- 10 A. \$272,450.
- 11 Q. Is it your opinion that that cost is a reasonable  
12 estimate of the anticipated costs to develop this unit?
- 13 A. Yes, sir.
- 14 Q. With regard to the various formations the application  
15 seeks to pool a number of formations, correct?
- 16 A. That's correct.
- 17 Q. What are the primary target formations that you are  
18 looking at here?
- 19 A. Again the primary formations are the Devonian Shell,  
20 Burea and a strong secondary in the Raven Cliff.
- 21 Q. The application and AFE indicate that the projected  
22 depth is 4,885. Is that deep enough to test the Devonian  
23 which is your deepest formation?
- 24 A. Yes, it is.
- 25 Q. Depending on what you encounter with regard to the other

1 formations listed in your application there may or may  
2 not be production from those formations in addition to  
3 the three primary ones, correct?

4 A. That's correct.

5 Q. Bob, is it your opinion that the proposed plan to create  
6 this unit and develop the unit or the reserves by the  
7 well that's described in Exhibit C that this is a  
8 reasonable plan to develop these formations for the  
9 benefit of the owners of the oil and gas located in those  
10 formations?

11 A. Yes, sir, it is.

12 Q. Will this proposed well contribute to the protection of  
13 correlative rights and conservation in the sense that it  
14 would prevent or lessen the likelihood of physical and  
15 economic waste?

16 A. That's correct.

17 (Witness stands aside.)

18 MR. SWARTZ: Tim, I'll remind you that you're still under  
19 oath.

20

21

22 RICHARD TIMOTHY LEWIS

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

25

DIRECT EXAMINATION

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

BY MR. SWARTZ:

Q. I'd ask you to state your name again?

A. Richard Timothy Lewis.

Q. Who do you work for?

A. I work for EREX as a senior geologist.

Q. I'm going to ask you to look at amended Exhibit A. The location exception here is required from the twin -- they may or may not be twin wells but they're pretty close to one another, the EH-118 and the EH-129 at the top of the plat, correct?

A. That is correct.

Q. In addition there is a third well that is to the south. I believe it's EH-108, correct?

A. That is correct.

Q. And it would also require a location exception from that?

A. That's correct.

Q. To cover these in order, the well to the north that is 2,225 feet away, that is a drilled well, EH-118, correct?

A. Yes, it is. We have an overriding royalty in that well.

Q. So EREX contributed their acreage to that well and took an overriding royalty?

A. Yes, we have.

Q. Who is the operator of that well?

- 1 A. Virginia Gas.
- 2 Q. And you understand that we've reached an agreement with  
3 Virginia Gas with regard to the pooling of this unit?
- 4 A. Yes, we have.
- 5 Q. The well next to EH-118, the EH-129, that is how far from  
6 the proposed location of P-308?
- 7 A. 2,364 feet approximately.
- 8 Q. That well has not been drilled but a permit has been  
9 issued?
- 10 A. Correct. That well has not been drilled as of yet.
- 11 Q. Do you know enough about those two wells to know if they  
12 are producing from different formations?
- 13 A. I believe the plan for -- the EH-118 is currently  
14 producing out of the Raven Cliff and the plan on EH-129  
15 is actually to drill deeper to produce out of the Burea  
16 and Devonian Shell.
- 17 Q. With regard to the well to the south, EH-108, is Virginia  
18 Gas the operator of that well?
- 19 A. Yes, they are.
- 20 Q. What interest, if any, does EREX have in that unit?
- 21 A. We have a 50 percent working interest.
- 22 Q. With regard to the proposed -- I should have asked you  
23 this a moment ago. With regard to EH-129 does EREX have  
24 a working interest in that proposed permitted well?
- 25 A. Yes, we do. It's approximately 46 percent.

1 Q. Could you recap for us -- we need to make a record every  
2 time we have of hearing. So could you recap for us the  
3 geology in the area with reference to the fault line that  
4 we're aware of in terms of why this well in your opinion  
5 is located or needs to be located where it is?

6 A. From a geology aspects the Russell Fork fault which  
7 follows the Russell Fork River runs approximately in a  
8 northwest southeast direction. It is very important to  
9 this area because it does control the local geology, the  
10 sand distribution, the fracturing and the actual product-  
11 iveness of each formation. So the location P-308 is  
12 really picked from the standpoint -- from my aspect it's  
13 geologic risks. If we move eastward there's a very high  
14 risk of failure in that aspect.

15 Q. Is there a well located to the east of P-308?

16 A. Not at this time.

17 Q. P-308 does not require a location exception from the well  
18 to the west, the V-2460, is that correct?

19 A. That is correct.

20 Q. The problem here essentially is that it catches a small  
21 piece of the units for the twin wells to the north and a  
22 small piece of the well to the south?

23 A. That is correct.

24 Q. To avoid obtaining a well location exception the direct-  
25 ion that this would have to be moved to would be to the

1 east, correct?

2 A. That would be right.

3 Q. What risks, if any, are associated with moving to the  
4 east here?

5 A. From the geology that I have mapped out I would say the  
6 risk is very high here, higher than 3399 that we spoke of  
7 earlier, a geologic failure in having a dry hole.

8 Q. Is that because this well is somewhat further to the east  
9 in it's proposed location of the 3399?

10 A. Yes. That's right.

11 Q. So it's closer to the falling off the edge in terms of  
12 feet --

13 A. It's a very narrow trend that we really need to be in.

14 Q. What would the reason or reasons be in your opinion that  
15 would support this request for a location exception and  
16 would justify the grant of the location exception?

17 A. Other than the possible failure of the well moving out to  
18 the east I also think it does protect the correlative  
19 rights because in various tracts we touch portions of  
20 those and if we are pushed out eastward the people in  
21 there will have a reduced -- actually no participation  
22 at all or a very much reduced interest in the well.

23 Q. If we were to shove this well to the east even a relativ-  
24 ely short distance on the order of 500/600 feet would it  
25 be true that the royalty owners in Tracts 4, 6 and 8

1 would probably drop completely out of the unit?

2 A. Yes. That is correct.

3 Q. With regard to Tracts 2,5 and 7 those owners would have

4 their royalty interests significantly reduced?

5 A. That is correct.

6 Q. And this is in addition to the geology issues?

7 A. Yes.

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

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

10 MR. MASON: Based on what you said as far as the unleased

11 aspects of this in reality the Comptons are really the

12 only unleased parties?

13 MR. SWARTZ: Right.

14 MR. MASON: So, in fact, the interest within the unit is only

15 one percent that's unleased?

16 MR. SWARTZ: Right.

17 MR. MASON: You recited the terms that you were giving to

18 propose that the order contain. Are those comparable to

19 the terms that you are giving Virginia Gas?

20 MR. BAKER: The participation with Virginia Gas is based on

21 their percentage of the unit. The agreement was worked

22 out to where they will participate for their portion --

23 MR. MASON: I see. So they're actually going to contribute to

24 the cost and it's not -- it's not, in fact, a lease.

25 MR. BAKER: Right.

1 MR. SWARTZ: Just to follow up on that, you did not take a sub  
2 lease from Virginia Gas?  
3 MR. BAKER: No.  
4 MR. MASON: That's what I was trying to find out.  
5 MR. SWARTZ: It's a participation agreement, correct?  
6 MR. BAKER: Correct.  
7 MR. EVANS: I've got one question. Do the Lee Sands contain  
8 coal measures?  
9 TIM LEWIS: Sands above?  
10 MR. EVANS: Do the Lee Sands contain coal measures?  
11 TIM LEWIS: The Lee formation has sand and coal in it.  
12 MR. EVANS: And when you talk about developing the Lee Sands  
13 as conventional gas is that the same -- is that the  
14 formation you're talking about? As far as target  
15 formations the Lee Sands were mentioned. Is that the Lee  
16 formation.  
17 TIM LEWIS: That would be the Lee formation. We would not --  
18 under the State requirements we cannot go and produce  
19 coalbed methane, perforate the coals and produce that.  
20 We're actually asking for conventional gas out of the  
21 Lee sandstone.  
22 MR. EVANS: In coalbed methane you ask that coalbed methane  
23 and coalbed include associated strata, is that not  
24 correct?  
25 TIM LEWIS: Often times, yes.

1 MR. EVANS: Is this an associated strata?  
2 TIM LEWIS: I would not think in this aspect.  
3 MR. EVANS: Why not?  
4 TIM LEWIS: Well, from the standpoint I would think mechanic-  
5 ally it would be impossible to produce both because of  
6 the pressure differences. So we would not produce that.  
7 In this area CBM is -- we have a few wells that is not  
8 proven to be that large in economic success.  
9 MR. EVANS: My question then would be why did you include the  
10 Lee Sands in your target formation?  
11 TIM LEWIS: Because occasionally there are straight sands that  
12 have conventional gas in them. They have true porosity  
13 in them. It's rare but we would hate to bypass a  
14 productive zone.  
15 MR. EVANS: I understand that. It's just a question of the  
16 difference between coalbed methane. How you define your  
17 own -- in your own application it says coalbed methane,  
18 associated strata. If you came across that situation in  
19 drilling a coalbed methane well you would produce that  
20 sand.  
21 TIM LEWIS: We would produce that sand -- our perforations are  
22 in the coal seam. So from that standpoint we try only  
23 to produce the CBM gas. Now, if there are fractures  
24 immediately adjacent to the sand that is associated  
25 strata and my feeling is that is still coalbed methane

1 gas.

2 MR. EVANS: Why wouldn't be coalbed methane gas here if that  
3 was the case?

4 TIM LEWIS: Because I'm not talking about that situation. I'm  
5 really talking about actual porosity and permeability.

6 MR. EVANS: I understand what you're talking about.

7 TIM LEWIS: It's conventional gas from that aspect.

8 MR. EVANS: I have a problem with -- take your choice of what  
9 I have a problem with. I have a problem either with this  
10 application or with your coalbed methane application, one  
11 of the two.

12 MR. SWARTZ: If you could -- you mentioned to Mr. Evans in  
13 answer to his question initially that it was your opinion  
14 that it would be unlikely that you could produce from  
15 both if it was coal near and if there was a Lee forma-  
16 tion. Could you expand on that answer. I mean, is  
17 there a difference that would have an impact on product-  
18 ion from one or the other or both?

19 TIM LEWIS: At this time -- if you're going to attempt to  
20 complete in both formations you would have to prepare the  
21 well bore for that. And in this instance we are not  
22 doing that. You have to set -- I'm not a production  
23 engineer, but from that aspect you need to have your  
24 casing plan set appropriate and be prepared for that  
25 larger hole parameter that you will need to have the

1 mechanical set up correct. And also from a reservoir  
2 standpoint you're talking -- coalbed methane has a much  
3 lower reservoir pressure and if you were to attempt to  
4 complete those together it would not work in my aspect  
5 because your higher pressure in your lower sands would  
6 actually give you much difficulty in trying to produce  
7 the two together.

8 MR. SWARTZ: In essence, just looking at the pressure differ-  
9 ential between a conventional -- what we might normally  
10 regard as a conventional sand and a coalbed, are you  
11 testifying that the pressure in a conventional sand would  
12 be so much significantly higher than what you would  
13 encounter in a coal seam that it would actually -- the  
14 conventional gas would tend to be driven into the sand if  
15 you tried to do both?

16 TIM LEWIS: If you tried to commingle them together?

17 MR. SWARTZ: Right.

18 TIM LEWIS: I would assume that would probably happen.

19 MR. SWARTZ: In any event -- maybe I need to defer Bob on  
20 this. Bob, is there any intention here of fracking any  
21 coal seams with regard to this application?

22 MR. DAHLIN: No, there are not.

23 MR. SWARTZ: If there was a coal seam based on the answer I'm  
24 hearing from Tim, I mean, would you be inclined to case  
25 through it?

1 MR. DAHLIN: Yes, we would.

2 MR. SWARTZ: Why would you do that?

3 MR. DAHLIN: Well, I believe it's required to begin with and  
4 we do intend to complete this in the deeper formations.  
5 The plan that sets each amount of casing through this  
6 surface casing. We would have no intent to complete a  
7 coal zone.

8 MR. EVANS: Again, I guess my argument is just technical as to  
9 -- if you're going to say on the one hand in your CBM  
10 applications "associated strata" -- not only the coal  
11 seam but the associated strata and in this you're saying  
12 the sands but not the coal, it's up to you. You can pick  
13 your poison but at one place or the other I'm going to  
14 make you really explain what you're doing.

15 MR. SWARTZ: The problem -- and if that's a question I'll let  
16 them answer it in a minute. But I think you're raising a  
17 legal issue to some extent. I mean, the Code defines CBM  
18 in a way that tacks on the adjacent associated strata.  
19 It's not something -- it's not a definition that EREX or  
20 anyone else has come up with. I mean, it's in the Code.  
21 And essentially what it allows you to do is complete or  
22 frack a coal seam and accept whatever comes out of that  
23 well bore. Let's assume that it's just in the coal seam  
24 and it has a label called CBM.

25 MR. EVANS: Mark, there's something else, too. It also allows

1           you to produce gob gas from the frack that occurs --

2 MR. SWARTZ: Above that.

3 MR. EVANS: -- above that.

4 MR. SWARTZ: The reverse, however, would seem to me -- and I  
5 think this is what Bob is suggesting to you and if he's  
6 got to answer -- if he feels what you've put in was a  
7 question and he's got an answer I'm going to go on. But  
8 the reverse also seems to be true. I mean, I hear him  
9 saying they would frack what they regard as a formation  
10 and would not frack a coal bed in this kind of a well.  
11 And my assumption although there is not a specific  
12 definition, if you frack a sand you treat what comes out  
13 of that frack and out of that hole as if it was convent-  
14 ional gas. Your point is that there is a hell of an  
15 argument to be made that there can be a cross over. I  
16 guess what I'm suggesting to you is at least by reason of  
17 the definition of coalbed methane the Legislature has  
18 said we're not going to consider that. We're going to  
19 ignore it because we define it in such a way that it has  
20 become an issue. With regard to a conventional well I  
21 guess my view is under the Code if you don't frack a coal  
22 seam what you get out of the sand comes out of the sand.  
23 I don't know, Bob, if you've got --

24 MR. DAHLIN: I would only elaborate on that very issue. I'm  
25 aware of the problem that the definition gives us. I

1 would also say that we're asking only for a conventional  
2 pooling in this instance and we have not made any  
3 application for coalbed methane. Just in knowing how we  
4 are going to make our development plans here in the near  
5 term I don't anticipate having a problem of proposing a  
6 coal well at this site or where we would bring up the  
7 issue of the problems in definition. Quite honestly,  
8 what we would have expected is the ability to produce a  
9 natural show in drilling through the conventional sands  
10 in Lee. We didn't want that precluded from us and that's  
11 the only relief we're looking for here about that  
12 specific formation.

13 MR. SWARTZ: Well, let me ask you this. Would you be willing  
14 -- to satisfy Mr. Evans' concern here, would you be  
15 willing that any order pooling this unit provide that in  
16 the event you want to frack the Lee Sands and produce  
17 from them with regard to this well that we would take  
18 that up then and with Mr. Fulmer, the Gas and Oil  
19 Inspector and the data that we have and potentially come  
20 back to the Board? I mean, essentially what I'm hearing  
21 is if we encounter a significant show in the Lee Sands  
22 and we want to produce from them we'll come back here and  
23 we can talk about it. What is your expectation that  
24 we're going to have a problem in the sense of having good  
25 news on Lee Sands that you would produce them, if you

1 think it's likely to happen?

2 MR. DAHLIN: The shallowest zone we really have an expectation  
3 of producing from is the Raven Cliff. I don't know if  
4 this is appropriate or not, but under our definitions  
5 between the conventional and the coalbed what you are  
6 suggesting is reasonable and I don't know that my own  
7 position would allow me to make that decision for the  
8 company. I'm somewhat at a loss here.

9 MR. MASON: I just want to say this. What you're saying,  
10 though, as I understand it is you don't intend to produce  
11 from the Lee Sands unless it produces naturally, is that  
12 correct?

13 MR. DAHLIN: That's our anticipation, yes.

14 MR. MASON: So you're not going to frack out the Lee Sands  
15 anyway.

16 MR. DAHLIN: We have no intentions of doing so.

17 MR. EVANS: But you want the option just in case.

18 MR. DAHLIN: Well --

19 MR. EVANS: I understand.

20 MR. SWARTZ: Otherwise you get into the situation that you're  
21 looking at these twin wells up the north here. It has  
22 always seemed to me -- and I don't represent everybody  
23 and their brother, but it always seems to me that when  
24 you pool a conventional well you might as well pool  
25 every seam that's gotten in or every formation or every

1           whatever it is, you know, that's got any potential to  
2           produce from so that you're not in a situation where  
3           you've got to make a return trip or you've got to drill a  
4           second well. Essentially it seems to be what they've  
5           done here.

6 MR. DAHLIN: That's precisely what we're doing now.

7 MR. EVANS: Like I said, how would you propose -- do you have  
8           a solution to this -- to my concern?

9 MR. DAHLIN: Only insofar as that possibly a permit or pooling  
10          -- whatever the appropriate thing or whatever would be in  
11          front of you or Mr. Fulmer at the time we would ever  
12          propose a coalbed well in this area could be addressed by  
13          the Board or by regulatory --

14 MR. EVANS: You missed my point. You may never come back for  
15          a coalbed well.

16 MR. DAHLIN: Then we didn't really have a problem, I don't  
17          think.

18 MR. EVANS: Yes, you do.

19 MR. DAHLIN: Okay.

20 MR. FULMER: The simplest solution to your question at to what  
21          is required of the filing is for them to file with us a  
22          log of the perforations and if they have perforated any  
23          coal then the petition is defected because they have not  
24          notified any coal operators for any requirements of a  
25          coalbed methane well.

1 MR. EVANS: My problem is the way that's worded on their  
2 applications for coalbed methane as "associated strata"  
3 and here you're talking about the Lee formation which has  
4 coal associated with it. So that argument goes back the  
5 other way also. The Lee formation is associated strata  
6 for coalbed purposes. Now, I don't care how you solve  
7 it. You can delete the Lee from this application.

8 MR. SWARTZ: Rather than thrash this out give us five minutes  
9 and we'll take it up. I assume we've got people here who  
10 can call the shot. And if it's not a problem it's not a  
11 problem and if it is we'll come back and tell you it's a  
12 problem.

13 MR. EVANS: Thank you. That's all I needed.

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

15 MR. SWARTZ: If I might just talk a little bit about the Code  
16 and your position. Essentially the Virginia Gas and Oil  
17 Act has defined coalbed methane in such a way as to  
18 include what we would consider to be traditional convent-  
19 ion oil and gas because essentially it says coalbed  
20 methane is occluded natural gas produced from coalbeds  
21 which none of us have any problem with in theory,  
22 although in reality we may, and rock strata associated  
23 there with. Essentially, as I understand your point, is  
24 if there is a producing sand associated with a coalbed  
25 and a potential for communication -- that's the issue

1           that's you're raising.

2 MR. EVANS: Uh-huh.

3 MR. SWARTZ: Gas is defined in the Code in such a way as to  
4 include in my judgement coalbed methane. It says gas  
5 means all natural gas whether hydrocarbon, non-hydro-  
6 carbon or any combination or mixture thereof including  
7 hydrocarbons, hydrogen and sulfate, blah, blah, blah, and  
8 other fluids not defined as oil. So gas is essentially  
9 everything that isn't oil. And coalbed methane is gas  
10 that comes out of a coal seam or associated strata. As a  
11 practical matter -- I mean, we all have some sense of  
12 what's going on, underground the gas is moving around.  
13 The case law in gas over the years has implemented a rule  
14 of capture. Everybody knows it's fugitive. It moves.  
15 Essentially the practical solution under which Mr. Fulmer  
16 alluded to coalbed methane wells do not perforate sands  
17 on purpose. The perforate coals and produce from coals.  
18 Conventional wells which is the answer you've essentially  
19 been getting from my witnesses this morning case off and  
20 do not perforate coal seams. And essentially the  
21 practical solution from a regulatory standpoint and from  
22 an operator's standpoint is to if you've got a coalbed  
23 methane well you only perf coal seams. If you've got a  
24 conventional well you do not perf coal seams. This is a  
25 legislative definitional nightmare which is the practical

1 world we need to deal with. What my clients are telling  
2 me on the break is there are Lee producers in the  
3 Commonwealth that have been permitted as conventional gas  
4 wells. There is a possibility that they will get enough  
5 of a show of gas out of the Lee here that they want to  
6 take a look at producing from. It's not their target  
7 formations -- their primary interest but their view is, I  
8 guess, in essence we are not going to perf in the coal  
9 seams. You can tell from your logs what you've got. And  
10 we're not going to produce directly from a perf into a  
11 coal seam and if we don't we have a conventional well.  
12 It's a problem, Ken, and I think the pragmatic solution  
13 is as I've described and as Mr. Fulmer's described. I  
14 don't know what the answer is beyond that.

15 MR. EVANS: I'll tell you what, will you stipulate that you  
16 have no intention and you will not frack coal seams?

17 MR. SWARTZ: That's no problem. That is no problem.

18 MR. EVANS: I'll accept that one for --

19 MR. SWARTZ: I don't know what to do about this. I mean, it's  
20 a problem but it's something that -- well, it is and it  
21 isn't. We need a practical solution to allow us to get  
22 this stuff out of the ground and it needs to be called  
23 something and the Legislature took a stab at it.

24 MR. EVANS: My only concern was if you produce "coalbed  
25 methane" your notice requirements are different. There's

1 a few other people that are involved.

2 MR. SWARTZ: If not fracking coal seams solves the problem on  
3 a specific assertion that we weren't going to do that and  
4 we would not do that we could certainly live with that  
5 because that's not something we're going to do in  
6 conventional wells. So if you put that in the order we  
7 can live with that.

8 MR. EVANS: In the interest of allowing this to go forward,  
9 okay. I will also make mention that I didn't catch  
10 before. In the previous -- the same thing. If you would  
11 allow the same stipulation for the previous docket.

12 MR. SWARTZ: You need to think about it because I'm sure  
13 you've seen a whole bunch of these from other people.

14 MR. EVANS: No.

15 MR. SWARTZ: I mean, there are Lee wells. We don't have --

16 MR. EVANS: See, it's a question of pooling. It's when it  
17 comes.

18 MR. CHAIRMAN: Other questions?

19 (Witness stands aside.)

20 MR. CHAIRMAN: Do I have a motion?

21 MR. EVANS: Mr. Chairman, I move that we accept and  
22 grant the petitions with the stipulations.

23 MR. HARRIS: Second.

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

1        It's a unanimous approval. For the Board's information  
2 we have four items which were continued today and I  
3 believe one new item for November. This hearing is  
4 currently set for November 15th. We've had some discus-  
5 sion about the December hearing. Last year we had a  
6 little difficulty with a quorum on December 20th. We  
7 want to consider moving the December 20th hearing up a  
8 week to December 13th. Is that more convenient? Is that  
9 inconvenient for anyone?

10 MR. EVANS: As far as I'm concerned that's more convenient.

11 MR. CHAIRMAN: Does anyone have a problem with that? Do any  
12 of our customers have a problem with that?

13 MR. SWARTZ: Is there any possibility you can keep the filing  
14 deadline the same, though?

15 MR. CHAIRMAN: The regs have got us on that. I don't have an  
16 idea because we won't know for a while what that agenda  
17 will be. Are there any interests in moving the November  
18 agenda to December? Is that a problem?

19 MR. SWARTZ: I think Mr. Ratliff might need to be called  
20 because he's got that February problem.

21 MR. RATCLIFF: We'll want both.

22 MR. CHAIRMAN: Both hearings, November and December. Okay.

23 MR. MASON: What's the December date again that you're talking  
24 about?

25 MR. CHAIRMAN: December 13th, the second Tuesday instead of

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

the third Tuesday. We'll be back at the 4-H Center in  
November. Thank you. This meeting is adjourned.

(End of Proceedings for  
October 24, 1994.)

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

CERTIFICATE

COMMONWEALTH OF VIRGINIA

COUNTY OF WASHINGTON

I, Deborah J. Bise, Notary Public in and for the Commonwealth of Virginia, at Large, do hereby certify that the foregoing is a true transcript of the proceedings had in the Virginia Gas and Oil Hearing on October 24, 1994; that all of said proceeding was electronically recorded and was reduced to writing by me and that said transcript is true and correct to the best of my ability.

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

GIVEN under my hand this 7th day of October, 1994.

Deborah J. Bise  
DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 1996.