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VIRGINIA OIL AND GAS BOARD

HEARING OF FEBRUARY 21, 1995

9:00 A.M.

AT THE SOUTHWEST VIRGINIA

4-H CENTER

ABINGDON, VIRGINIA

Appalachian Court Reporting Services, Inc.

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BOARD DISCUSSION OF REGS

23

February 21, 1995

This matter came on to be heard on this the 21st day of February, 1995 before the Virginia Gas and Oil Board at the Southwest Virginia 4-H Center, Hillman Highway, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

MR. CHAIRMAN: Good morning. My name is Benny Wampler and I'm Deputy Director for the Department of Mines, Minerals and Energy. I'll ask Dennis start by introducing himself.

(MEMBERS INTRODUCED.)

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ITEM I

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3 MR. CHAIRMAN: We have on the agenda today two cases. The
4 first is a petition from Equitable Resources Exploration
5 for rehearing of docket number VGOB-93/03/16-0345 for V-
6 2691. This is today's docket number VGOB-94/08/16-0461
7 and it was continued from January. We'd ask the parties
8 that wish to address the Board to come forward at this
9 time.

10 MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser
11 on behalf of Equitable Resources Exploration. We're
12 going to once again ask that item be continued and I'll
13 once again give you an update on that because I know the
14 Board has an interest in the matter. This will probably
15 be the last time we continue it. If we cannot get the
16 case settled with Mr. Yeary by the March docket my guess
17 is we will probably withdraw from this application at
18 that time. I'm not 100 percent sure of that, but we've
19 still got one sentence -- it's really two sentences and
20 one paragraph of a non-surface use lease. We're trying
21 to negotiate with him and it's a deal killer for us and
22 we're not being able to move him much on it at this
23 point. So I do have a meeting scheduled with him for
24 either Thursday or Friday to try again and we'll keep our
25 fingers crossed and hopefully we'll go forward with that

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one in March. But we are prepared to hear Item II now.
MR. CHAIRMAN: Okay. That will be continued to March.

ITEM II

1
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3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Equitable Resources Exploration for an order modifying a
5 prior order VGOB/94/09/20/-0474. That is today's docket
6 number VGOB-95/02/21-0492. We'd ask the parties that
7 wish to address the Board in this matter to come forward
8 at this time.

9 MR. KAISER: Mr. Chairman, members of the Board, Jim Kaiser on
10 behalf of Equitable Resources Exploration. Our witnesses
11 in this matter will be Mr. George Heflin and Mr. Bob
12 Dahlin. By way of introduction this is a modification of
13 a prior order. This well was originally pooled in
14 September of 1994. The effective date of the order was
15 November 9th, 1994. In light of our continuing due
16 diligence we have located some additional heirs of James
17 Day in Tract 3 and two additional parties. We will be
18 attempting with this application to modify the interest
19 of changed in those Day heirs and tracts or anywhere
20 else. We'll be attempting to pool the interest of Anna
21 White and Victoria Mullins and Worley Mullins, husband
22 and wife. Would you swear the witnesses?

23 COURT REPORTER: (Swears witnesses.)

24 MR. KAISER: Our first witness will be Mr. Heflin.
25

1 involved here?

2 A. That's correct.

3 Q. Does this location for the well fall within the Board's

4 order for the Roaring Fork field rules?

5 A. Yes, it does.

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

7 time?

8 A. At this time we have 96.792979 percent of the unit

9 leased.

10 Q. And that's of the gas estate?

11 A. That's of the gas estate.

12 Q. And what are the unleased interests in the gas estate at

13 this time?

14 A. The unleased interests are 3.207021 percent.

15 Q. So rounded off 3.21 percent of the gas estate is unleased

16 at this time?

17 A. That's correct.

18 Q. What about the coal estate?

19 A. The coal estate is 100 percent leased.

20 MR. KAISER: At this time I'd like to hand out our final

21 Exhibit B for this well and then I'll have Mr. Heflin go

22 through and explain what interests have been modified and

23 what additional leases have been picked up and what

24 additional parties we seek to force pool.

25 (PAUSE.)

1 Q. (Mr. Kaiser continues.) Mr. Heflin, are all the unleased
2 parties set out at this revised Exhibit b?

3 A. Yes, they are.

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

8 A. Yes, they were.

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

12 A. That's correct.

13 Q. As a result of these efforts have you acquired other
14 leases from these respondents listed as unleased owners?

15 A. Uh --

16 Q. Have you acquired other leases subsequent to the original
17 order that was entered in November of 1994?

18 A. Yes, we have.

19 Q. At this time in addition to identifying those parties if
20 you would explain how the interest in Tract 3 have been
21 modified by the location of additional heirs and the
22 additional parties that we're seeking to force pool?

23 A. I'd like to start with Page 3 of 12 under the James M.
24 Day heirs, Tract 3. In further research of the James M.
25 Day heirs we've corrected interest in this tract and also

1 reviewed some of the life estates and determined what
2 interest that they have and we've set out the life estate
3 remaindermen in, for example, the Bell Day Callhoun heirs
4 and Jim Day. That's the only change you'll see on that
5 page. On Page 4 of 12 we did the same thing for Katherine
6 ine White, widow, life estate, Lois Miller, Ray White,
7 Anita Brooks, James White, Clova White, Della White. We
8 also have leased at this time her life estate interest
9 where in the other hearing we didn't have her leased.
10 MR. CHAIRMAN: Can I interrupt you just a second? On Page 5
11 of 12 I believe you said Clova White and we have --
12 THE WITNESS: I'm sorry. I jumped down. Clova Kinser.
13 MR. CHAIRMAN: That's fine. I just wanted to make sure.
14 THE WITNESS: Sorry about that.
15 A. (The witness continues.) We also found Anna White who
16 wasn't on the other exhibit -- or found the name Anna
17 White. We are unable at this time to locate her. So
18 she'll be shown as unknown. John White was on the other
19 exhibit. We've leased him and his real name is Rayden.
20 R-A-Y-D-E-N. We made that correction on the new exhibit
21 and we've picked that lease up since the last hearing.
22 On Page 6 of 12 we located Victoria Chisenhall Mullins
23 and Worley Mullins. And since we submitted the revised
24 exhibit that we've given to you today you'll notice that
25 she's leased also. That changed the interests. Everyone

1 in the tract's interests were somewhat effected because
2 of the new additional people and interests involved.
3 That pretty well summarizes Tract 3. On Page 7 of 12,
4 Tract 9, in the original forced pooling we had Robert
5 Short and Flossy Short. They sold that piece of property
6 to Donald Wayne Clark and Darendra Clark and we've noted
7 that on the exhibit. On Page 10 of 12, Margaret Holling-
8 sworth, I think in the original exhibit we submitted we
9 had Margaret Honeycut Emory. Her name and address both
10 have changed since the original exhibit and we've since
11 taken a lease from her as well. And that pretty well
12 summarizes all of the changes to the revised exhibit.

13 MS. RIGGS: I have a question. In terms of the modification
14 which of the parties shown on Exhibit B are going to be
15 entitled to make a new election? How are you identifying
16 the parties that are being noticed as opposed to those
17 who are entitled to make an election under the modifi-
18 cation or is everybody who's unleased in Exhibit B going
19 to be entitled to a new election?

20 MR. KAISER: No. We would take the position that only those
21 people whose interests changed in Tract 3 would be
22 entitled to a new election.

23 MS. RIGGS: So there's nobody other than the heirs of James M.
24 Day that are being given elections under the
25 modification.

1 MR. KAISER: That's correct. And obviously only the unleased
2 parties of those -- we have leased some of those add-
3 tional heirs as Mr. Heflin pointed out. We did,
4 however, provide notice to everybody who's unleased whose
5 interests changed period which would be the same thing.

6 MR. CHAIRMAN: What about Tract 9 with the Clarks?

7 THE WITNESS: They were -- subject to the lease with Robert
8 and Flossy Short when they sold the property to the
9 Clarks they sold it fee -- their surface inner minerals
10 and therefore they were subject to the lease that we had
11 with the Shorts. We contacted them and discussed the
12 matter with them.

13 MR. CHAIRMAN: Okay. Questions, members of the Board? Do you
14 have anything further of this witness?

15 MR. KAISER: Yes, Mr. Chairman. Just as further clarification
16 for Ms. Riggs, that would appear to me -- I think we've
17 probably got five parties that will receive elections in
18 Tract 3.

19 MS. RIGGS: Do you want to identify them? It might be easier
20 in the order to name them then to try to refer to the
21 exhibit.

22 MR. KAISER: Yeah. I think it will be. I'd be more than
23 happy to do that. It would be on Page 3 of 12, Jim and
24 Pam Day. On Page 4 of 12, Ruth Robinette Smith. On Page
25 5 of 12, Hazel and Johnny Craft. On Page 6 of 12, Randy

1 and Gwyn Chisenhall. Also on Page 6, Terry and Regina
2 Chisenhall.

3 Q. (Mr. Kaiser continues.) Mr. Heflin, were any efforts
4 made to determine if the individual respondents were
5 living or deceased or their whereabouts and if deceased
6 were efforts made to determine the name and addresses and
7 whereabouts of the successors to any deceased individual
8 respondents?

9 A. There was.

10 Q. Were reasonable and diligent efforts made and sources
11 checked to identify and location unknown heirs, to
12 include primary sources such as deed records, probate
13 records, assessors records, treasurers records and
14 secondary sources such as telephone directories, city
15 directories, family and friends?

16 A. Yes.

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

19 A. Yes.

20 Q. Are the addresses set out in revised Exhibit B to the
21 application the last known addresses for the respondents?

22 A. That's correct.

23 Q. With the exception of those parties which you are hereby
24 dismissing from this proceeding are you requesting this
25 Board to force pool all other unleased interests listed

1 at revised Exhibit B?

2 A. Yes.

3 Q. Does Equitable seek to force pool the drilling rights of

4 each individual respondent if living and if deceased the

5 unknown successor or successors to any deceased individu-

6 al respondent?

7 A. Yes, we are.

8 Q. Is Equitable seeking to force pool the drilling rights of

9 the person designated as trustee if acting in capacity

10 of trustee, and if not acting in such capacity is

11 Equitable seeking to force pool the drilling rights of

12 the successor of such trustee?

13 A. Yes.

14 Q. Mr. Heflin, are you familiar with the fair market value

15 of drilling rights in the unit involved here and in the

16 surrounding area?

17 A. Yes, I am.

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

19 A. \$5 acre consideration, five year term, one-eighth

20 royalty.

21 Q. Did you gain your familiarity by acquiring oil and gas

22 leases, coalbed methane leases and other agreements

23 involving the transfer of drilling rights in the unit

24 involved here and in the surrounding area?

25 A. That's correct.

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

5 A. Yes, they do.

6 Q. Do you recommend that respondents listed at revised
7 Exhibit B who remain unleased be allowed the following
8 options with respect to their ownership interests within
9 the unit; 1) Participation. 2) A cash bonus of \$5 per net
10 mineral acre plus a one-eighth of eight-eighths royalty.
11 3) In lieu of the cash bonus and one-eighth of eight-
12 eighths royalty share in the operation of the well on a
13 carried basis as a carried operator under the following
14 conditions: Such carried operator shall be entitled to
15 the share of production from the tracts pooled accruing
16 to his interest but exclusive of any royalty or over-
17 riding royalty reserved in any leases, assignments
18 thereof or agreements relating thereto of such tracts but
19 only after the proceeds allocable to his share equal A)
20 300 percent of the share of such costs allocable to the
21 interest of the carried operator of a leased tract or
22 portion thereof, or B) 200 percent of the share of such
23 costs allocable to the interest of the carried operator
24 of an unleased tract or portion thereof?

25 A. Yes.

- 1 Q. Do you recommend the order provide that the elections by
2 respondents be in writing and sent to the applicant at
3 Equitable Resources Exploration, P.O. Box 1983, Kings-
4 port, Tennessee, 37662, attention George Heflin, regulat-
5 ory?
- 6 A. That's correct.
- 7 Q. And should this be the address for all communications
8 with the applicant concerning the forced pooling order?
- 9 A. Yes.
- 10 Q. Do you recommend that the forced pooling order provide
11 that if no written election is properly made by a
12 respondent then such respondent shall be deemed to have
13 elected to cash royalty option in lieu of participation?
- 14 A. That's correct.
- 15 Q. Should the unleased respondents be given 30 days from the
16 date of the order to file written elections?
- 17 A. Yes, they should.
- 18 Q. If an unleased respondent elects to participate should
19 that respondent be given 45 days from the latter of the
20 date of the mailing or to pay applicant for respondent's
21 proportionate share of well costs?
- 22 A. Yes.
- 23 Q. Does the applicant expect the party electing to partici-
24 pate to pay in advance that party's share of completed
25 well costs?

- 1 A. That's correct.
- 2 Q. Should the applicant be allowed 60 days following the
3 recording date of the order and thereafter annually on
4 that date until production is achieved to pay or tender
5 any cash bonus becoming due under the forced pooling
6 order?
- 7 A. Yes.
- 8 Q. Do you recommend the forced pooling order provide that if
9 a respondent elects to participate but fails to pay the
10 respondent's proportionate share of well costs satis-
11 factory to the applicant for payment of well costs the
12 respondent's election to participate should be treated as
13 having been withdrawn and void and such respondent should
14 be treated just as if no initial election had been filed
15 under the forced pooling order?
- 16 A. That's correct.
- 17 Q. Do you recommend the forced pooling order provide that
18 where a respondent elects to participate but defaults in
19 regard to the payment of well costs any cash sum becoming
20 payable to such respondent be paid within 60 days after
21 the last date on which such respondent could have paid or
22 made satisfactory arrangements for the payment of well
23 costs?
- 24 A. Yes.
- 25 Q. Do you recommend that the order provide that if a

1 respondent refuses to accept any payment, including any
2 payment due under said order or any payment of royalty or
3 cash bonus or said payment cannot be paid to a party for
4 any reason or there is title defect in the respondent's
5 interest or in the event of conflicting claims to the
6 coalbed methane that operator pay into an escrow account
7 created by this Board into which all costs or proceeds
8 attributable to conflicting interests shall be held for
9 the respondent's benefit until such funds can be paid to
10 the party by order of this Board or until the title
11 defect or conflicting claim is resolved to the operator's
12 satisfaction?

13 A. That's correct.

14 Q. Who should be named the operator under this forced
15 pooling order?

16 A. Equitable Resources Exploration.

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

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

20 (Witness stands aside.)

21 MR. KAISER: If I could ask for just a couple of minutes
22 before -- I want to make sure I gave Ms. Riggs the proper
23 names.

24 MS. RIGGS: I have a question about that, too.

25 MR. KAISER: If you'll bear with me we'll go back through

1 those five individuals.

2 MS. RIGGS: The two I had questions about is I thought I heard

3 you say that you added Anna White.

4 MR. KAISER: Yes, but she is unknown.

5 MS. RIGGS: She would still have a right of election although

6 she will be deemed to have leased if she doesn't come

7 forward. So we need to add her.

8 MR. KAISER: I'm sorry. You're right.

9 MS. RIGGS: What about Burton Day estate? That's the other

10 unleased. Did that interest change or were they --

11 MR. KAISER: Yes, it did. So that's another one. Let me

12 check and make sure the other five I gave you --

13 MS. RIGGS: Those are all unleased and the two that were

14 unleased that weren't named are the two I just gave you.

15 MR. KAISER: Right.

16 MS. RIGGS: So those seven are all the unleased shown under

17 Tract 3?

18 MR. KAISER: Right. I just wanted to make sure the other

19 five, though -- if they were unleased under the prior

20 order and their interest did not change -- of course, I

21 guess it would have had to of changed.

22 MS. RIGGS: It would have to if you added parties, I would

23 think.

24 MR. KAISER: I just want to make sure of that.

25 MS. RIGGS: Yeah.

1 MR. KAISER: Ruth Robinette did change. So there will be
2 seven parties to receive elections under the modification
3 per that order. Mr. Chairman, I don't have any further
4 questions of Mr. Heflin at this time.

5 MR. CHAIRMAN: Call your next witness.

6 MR. KAISER: I'd call Mr. Dahlin at this time who has been
7 sworn.

8
9 ROBERT A. DAHLIN, II

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

12
13 DIRECT EXAMINATION

14
15 BY MR. KAISER:

16 Q. Would you please state your name, who you're employed by
17 and in what capacity?

18 A. My name is Robert A. Dahlin, II and I'm employed by EREX
19 as a production specialist.

20 Q. Have you ever testified before the Virginia Gas and Oil
21 Board and have your qualifications as an expert witness
22 previously been accepted by the Board?

23 A. Yes, I have.

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

- 1 A. Yes, sir.
- 2 Q. Are you familiar with the proposed exploration and
3 development of the unit here under the applicant's plan
4 of development?
- 5 A. Yes, I am.
- 6 Q. What is the total depth of the proposed well under the
7 applicant's plan of development?
- 8 A. 2,060 feet.
- 9 Q. Will this be sufficient to include formations consist
10 with the well work permit?
- 11 A. Yes, it will.
- 12 Q. And will this be sufficient to penetrate and test the
13 common sources of supply in the subject formations?
- 14 A. Yes, it will.
- 15 Q. What are the estimated reserves of the unit?
- 16 A. 350 million cubic foot of gas.
- 17 Q. Are you familiar with the well costs for the proposed
18 initial unit well under applicant's plan of development?
- 19 A. I am.
- 20 Q. Has an AFE been reviewed and submitted to the Board?
- 21 A. Yes, it has.
- 22 Q. Was this AFE prepared by an engineering department
23 knowledgeable in the preparation of AFEs and knowledge in
24 regard to well costs in this area?
- 25 A. Yes.

1 Q. Does this AFE represent a reasonable estimate of the well
2 costs of the proposed unit well under the applicant's
3 plan of development?

4 A. Yes, it does.

5 Q. Could you please state both the dry hole costs and the
6 completed well costs for the Board?

7 A. The dry hole costs are \$65,444 and completed well costs
8 are \$179,000.

9 Q. Does this AFE include a reasonable charge for super-
10 vision?

11 A. Yes, it does.

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

16 A. Yes, sir, it would.

17 Q. Does this AFE anticipate multiple completion?

18 A. Yes, it does.

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

21 MR. CHAIRMAN: Questions, members of the Board? Mr. Dahlin,
22 when you make these estimates -- I know we've talked
23 about it some in the past, but how are they made? How
24 are these estimates accumulated each time for each well?
25 Are they based on any actual costs that you're incurring?

1 THE WITNESS: Yes, they are. We periodically review our
2 status revised and currently to reflect the current bids
3 for service companies and as they change those change.
4 Also we're under order of the Board to provide actual
5 costs for the wells. And I was current with that up
6 until this month. What I've been doing is reviewing any
7 additional costs as they come in and change the registra-
8 tion and -- let's see. I believe our wording was
9 registration and completion is how the Board ordered.
10 And we haven't had continuing changes in those categories
11 up until last month. This month I don't know because our
12 accountant quit on us. I haven't been able to reallocate
13 those duties. I'm unaware of where we stand as of right
14 now, but those will be accumulated and sent to Mr.
15 Fulmer.

16 MR. CHAIRMAN: Absent any Board orders or anything, do you as
17 a business practice maintain actual costs that you're
18 incurring on the wells?

19 THE WITNESS: Yes.

20 MR. CHAIRMAN: Okay. Any other questions, members of the
21 Board.

22 MR. KAISER: That's a good question, Mr. Chairman. That
23 surprised me last Wednesday when somebody represented
24 that they didn't.

25 MR. CHAIRMAN: I just thought I'd explore that a little bit.

1 MR. KAISER: I have nothing further, Mr. Chairman, of this
2 witness at this time.

3 (Witness stands aside.)

4 MR. CHAIRMAN: Do you have anything further?

5 MR. KAISER: No, nothing further.

6 MR. LEWIS: I make a motion that we grant this application.

7 MR. CHAIRMAN: A motion to approve.

8 MR. HARRIS: Second.

9 MR. CHAIRMAN: A motion and a second. Any further discuss-
10 ion? All in favor signify by saying yes. (ALL AFFIRM.)
11 Opposed say no. (NONE.) It's a unanimous approval.

1 MR. CHAIRMAN: We've got some business to take care of. We're
2 going to discuss the Gas and Oil Regulations. We also
3 have that on the agenda to talk about today. You're
4 welcome to sit in on that if you want to. We'll take
5 five minutes and let me get a little better organized
6 here.

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

8 MR. CHAIRMAN: It doesn't have anything to do with the rules
9 but has to do with -- just to share with you an order
10 from the State Corporation Commission for the Virginia
11 Gas Storage Company. They come to the Board and have a
12 field test going on for storage of gas underground and
13 they now have a SCC order for noting and hearing that for
14 the present time establishes life dual jurisdiction
15 because they're under order of the Board and then they're
16 also coming under State Corporation Commission juris-
17 diction. Now, it's there intent to get themselves
18 established -- I'm not trying to misrepresent this -- as
19 a utility. And when they become a utility then they will
20 probably come back before the Board and ask the Board to
21 dissolve it's order and allow them to come under SCC's
22 jurisdiction. I'm not representing that they're going
23 to do that -- I'm not representing to you that that's
24 what they plan to do and I'm certainly not trying to
25 interject my thoughts in what they should or may do. I'm

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just trying to inform you that this is going on. Do you want to say anything, Sandy?

MS. RIGGS: I think you're going to get into the regulatory review and what the feeling was with --

MR. CHAIRMAN: Yes.

MS. RIGGS: Well, that didn't come -- yeah, that was in the Board regs.

MR. CHAIRMAN: Right. I'll talk about that. If you have any questions -- because I'm just doing this informally. This is just to keep you apprised of what some of the things that are going on since our last meeting.

MR. KELLY: What's the status of coming with storage regs?

MS. RIGGS: That's what I asked him, was he going to get to that.

MR. CHAIRMAN: Yeah. I'll get into that and you all may want to ask questions. I'm bouncing around a little bit on you to begin with here. But Mr. J.C. Franks at one time addressed the Board and he titles this, I guess, maybe like a company, Franks Coal, and I don't know if he has a company or not. But he's written Tom Fulmer and I in asking us to be aware of some of his concerns. Here again, I'm just making you aware of this concern. I'm not asking the Board to take any action. I'm just making sure that as you have future cases you might be aware of some of the kind of things that get brought to our

1 attention. Mr. Franks has a lease and he has brought to
2 the Board concern about the Board's field rules in the
3 past and he has alleged that the rules are favorable to
4 the companies and not favorable to the people that own
5 the gas and that there's a lot of area where the person
6 that owns the gas is not compensated. He goes through
7 his lease in this particular document and talks about --
8 he doesn't make any direct challenge to the Board order
9 but it appears that he's saying that the order interferes
10 with his lease in some manner. That's how I read it
11 anyway, that he's saying that the lease expressly
12 prohibits deduction of taxes for PGP, yet they may
13 include these are part of their costs. He's talking
14 about other kinds of things that he had in his lease
15 versus the Board order. I don't know how the Board ever
16 issues an order that -- of course, our orders are not
17 designed to interfere with leases, private lease agree-
18 ments with companies. That's the bottom line. So I
19 would say to the extent that that's been construed to
20 have done this it's the position of the Board that the
21 Board's order didn't grant nor take away any lease rights
22 of individual parties.

23 MS. RIGGS: I think the statute specifically says that, that
24 it won't.

25 MR. CHAIRMAN: That it cannot.

1 MS. RIGGS: Right.

2 MR. CHAIRMAN: So I don't have anything further on that. If
3 you have any questions -- I just here again want to make
4 you aware. Now, to go to the regulations; I'm going to
5 hand you a document entitled First Draft which is the Gas
6 and Oil Board Regulations edited for the written comment
7 that was received by the Department on behalf of the
8 Board following the initial announcement that the Board's
9 going to reconsider it's regulations. This is part of
10 Governor Allen's order to insure that regulations are
11 reviewed for simplicity and clarity and to have the least
12 interference with business development. I'm going to
13 hand you a document entitled Second Draft of the same
14 regulation that incorporates the comments that the Board
15 received through a public meeting that we had on the
16 regulations last week. This is going to be the most
17 recent edited version of the regulations incorporating
18 all comments that we've received to date. On the agenda
19 next month we will have these regulations for the Board's
20 consideration and approval so that they may advance in
21 the Governor's review process. I'm willing to spend
22 whatever time and do this in whatever manner you find
23 most helpful. What I plan to do is to walk you through
24 this draft -- this second draft and point out changes.
25 If you have any different way you want to do that please

1 let me know.

2 MR. HARRIS: Benny, I do have a real quick question. After
3 the cover sheet, the table of contents, items 17, 18 and
4 some on the other pages are marked out. What's --

5 MR. CHAIRMAN: As we get into this it's proposed deletion of
6 those sections.

7 MR. HARRIS: Okay. I wanted to know what that meant.

8 MR. CHAIRMAN: On Page 1 of the definitions -- of course,
9 you're not going to see it when you turn in there. We
10 had attempted to and had recommendation to use the term
11 "claimant" and define it. We have stricken that. On
12 Page 2 we've stricken the meets and bounds because we're
13 really not using those now and we have used only the term
14 "mine development plan" in the definition rather than "or
15 registered operations plans" because the Board regulation
16 only refers to the mine development plan in the Board
17 section in the law only refers to mine development plan.
18 The Department regulations and other places in the
19 statute refer to registered operations plans. The
20 changes that you see on Page 3 all deal -- the first one
21 up there in B1, "If the 30th day falls on a weekend or a
22 legal holiday the deadline shall be the prior business
23 day", this is to insure that we have the full 30 days
24 prior to the date of the hearing. Some of this may not
25 make sense -- we've been doing it, but it was to clean up

1 the language so that it said that.

2 MR. KELLY: Are these changes that have been -- this is all a
3 result of input from

4 MR. KAISER: From BOGA and then the public hearing.

5 MR. CHAIRMAN: From the written comments received in the
6 public meeting. These are all proposed changes. The
7 document I've presented to you today, referred to as
8 Second Draft, would be the document that we're bring to
9 you as a product of the work group meeting and discussion
10 that would be represented to the Board asking the Board
11 to approve that at next meeting -- not this meeting but
12 next meeting to move forward in the Governor's review.

13 MR. KELLY: We assume this -- purporting this is what we want

14 MR. CHAIRMAN: Right. That's right.

15 MS. RIGGS: In the context of the Yeary appeal because you're
16 working -- prior business day gives you the full 30,
17 right? That's right. It's when it's the next that you
18 get cut short on that because if it's on a weekend and
19 you go to the Monday --

20 MR. KAISER: You may lose.

21 MS. RIGGS: You may lose a day and that's how we got in the
22 Yeary situation.

23 MR. KAISER: Well, the Yeary situation was also in February --
24 I think it was in March is part of what happened, too.

25 MS. RIGGS: Okay. So it is prior, not next.

1 MR. KAISER: And that's what you've been doing.

2 MR. CHAIRMAN: Uh-huh.

3 MS. RIGGS: Because you're working from the deadline back as
4 opposed to here forward.

5 MR. KAISER: And it's happened in the last six months where
6 it's actually been 32 or 33 days because of this exact
7 situation. This just clarifies exactly what the regula-
8 tion is.

9 MS. RIGGS: All right.

10 MR. CHAIRMAN: On Page 4 4A is deleted -- the old 4A. And
11 that reference is already in the law. It's not necessary
12 to repeat it. Part of our review for minimizing the
13 regulations is to not repeat unless you have a specific
14 purpose, things that are already in the statute. So
15 that's deleted. On what was old 4A now the new 4A -- we
16 had considerable discussion, as I said, about using
17 claimant and deleting coal and mineral owner and then as
18 we referred back to statute we believe that we're bound
19 to have consistent language there to insure that the
20 hearing exceptions to statewide spacing and everything
21 have all the parties identified specifically. On Page 5,
22 the language has been changed there to identify what
23 would be in the notice specifically, what's required for
24 the mailing. This was to insure that there wasn't a
25 misinterpretation, that the entire packet had to go out

1 with the notice.

2 MS. RIGGS: Yeah. I think the way it's been done is the
3 actual application that the Board gets is mailed to each
4 and every party instead of a notice which summarizes what
5 that application is about. And this is to clarify that
6 they don't -- you use to have to actually attach the
7 application. Now you don't have to actually attach the
8 application but you must give a notice that contains the
9 important features of the application.

10 MR. CHAIRMAN: And tell them how they can go about getting an
11 entire application.

12 MS. RIGGS: Getting an actual copy if they want it.

13 MR. CHAIRMAN: So this will reduce substantially the copying
14 and mailing costs and things like that and still provide
15 the information. Under B6, specifically there, there is
16 a change to refer to the plat showing the size and shape
17 of the unit, the location of the unit shall be shown in
18 accordance with the various sections of the Code -- and
19 I'm paraphrasing this. Proposed unit shall also be
20 located by taking a measured distance in feet from the
21 unit to the nearest 2.5 minute longitude line to the east
22 and nearest 2.5 to the north. All that language is to
23 get away from the requirement of the state plane co-
24 ordinates and all this. After considerable discussion
25 it was a group consensus that this is something that's

1 much more workable.

2 MR. HARRIS: Did you say get away from the state plane?

3 MR. CHAIRMAN: Yes. To get away from requiring that state
4 plane coordinate specifically, but to have everything
5 related to longitude and latitude.

6 MR. FULMER: One of the problems with this section -- it's in
7 the Gas and Oil Regulations -- is the fact that this Code
8 section is in existence, the only one in existence.
9 However, this thing has been updated twice, three times
10 on the methodology of using the state plane coordinates
11 system and it's accuracy. So you would be continually
12 going back and changing this thing as they come up with
13 new types of technology to determine what the exact
14 coordinates are. This gives you two options. You can
15 still use the state plane or you can use the measured
16 distance. And that's kind of like -- it gives you the
17 two options to you.

18 MR. CHAIRMAN: On Page 6, highlighting specifically down in
19 Item G -- it looks like that should be F. Other appli-
20 cants for a hearing to modify a forced pooling order
21 shall provide notice in accordance with Section 45.1-
22 361.19 of the Code of Virginia to each respondent rather
23 than person having an interest in the unit, each respond-
24 ent named in the order to be modified whose interest may
25 be affected by the proposed modification. That's so that

1 you don't have people thinking that something could
2 impact them when, in fact, it's not going to impact them
3 If it's going to impact them then they're going to
4 receive the notice. On Page 7, here again the changes as
5 we discussed under 5C are to take into consideration they
6 can have the state plane coordinate system or another
7 coordinate system based on longitude and latitude.

8 MR. HARRIS: Let me ask one quick question. You had said
9 early that -- about not repeating and I notice we do
10 repeat here. We use the same language, in fact, showing
11 in accordance with the Virginia Coordinate System of 1927
12 as defined. And that other section we just looked at had
13 the same language. Is that necessary to repeat that
14 again?

15 MS. RIGGS: I think the reason that's done is because it's not
16 in our Gas and Oil Act. It's pulled from another section
17 of the Code that a person might not have --

18 MR. CHAIRMAN: He's talking about repeating it twice.

19 MR. HARRIS: Because it was repeated within this.

20 MS. RIGGS: Within the regulation you mean?

21 MR. HARRIS: Yes.

22 MS. RIGGS: One under field rules and one under pooling
23 orders, I guess?

24 MR. HARRIS: One under B6, notice of hearing, Page 5. That
25 large paragraph in the middle of Page 5 and then on Page

1 7 we have essentially the same thing.

2 MS. RIGGS: You could say the plat referred to paragraph of
3 whatever above and reference it back.

4 MR. HARRIS: I just thought I heard you make a comment about
5 not repeating.

6 MR. KAISER: I guess you could say in 4B6.

7 MS. RIGGS: Right.

8 MR. HARRIS: Yeah. But I mean I don't know --

9 MR. CHAIRMAN: Please bring out anything like that. We'll
10 take a look and see whether or not that causes any
11 problems. If it doesn't and it can reduce regulation
12 then we should do it.

13 MR. HARRIS: Will there be people reading 5 without reading 4?

14 MR. CHAIRMAN: That's what we'll have to look at.

15 MS. RIGGS: Well, you can reference it back. Just saying
16 using the coordinates system described in Paragraph 4B6
17 above or something like that.

18 MR. CHAIRMAN: Right. On Page 8 the next change is striking
19 the meets and bounds reference. Also down in 6A3 we made
20 a change, a statement of proposed location of the well in
21 relation to wells permitted or for which a permit
22 application is pending before the Division of Gas and Oil
23 at the time of filing. This is applications for an
24 exception to minimum well spacing requirements. That's
25 just to insure the Board has before it a complete picture

1 as it's hearing these cases. Page 9, here again deleting
2 some of the language that's believed to be unnecessary,
3 redundant. And also down at the bottom of Page 9, A7 is
4 another area where we could possibly (Inaudible.) On
5 Page 10 we've attempted to combine old 13 and 14, an
6 estimate of the production over the life of well or wells
7 and if different an estimate of the recoverable reserves
8 of the unit. Typically that's going to be the same and
9 if it is then we don't need the language. On Page 11 at
10 the top of the page where it talks about the affidavit
11 shall state if no elections were made or if any response
12 was untimely the affidavit shall be accompanied by a
13 proposed supplemental order to be made and recorded to
14 complete the record regarding elections. The affidavit
15 and proposed supplemental order shall be filed by the
16 unit operator within 45 days of the last day on which a
17 timely election could have been delivered or mailed or
18 within 45 days of the last date for payment set forth in
19 the pooling order, which ever occurs last. This is
20 incorporating the Board's supplemental order into
21 regulation.

22 MS. RIGGS: I think the only concern we had with regard to the
23 45 days was you have 30 days from recording to make
24 elections and then I think the order provides you have 60
25 days from recording to pay bonuses. So probably if you

1 go to 45 days for filing of the supplemental order you're
2 going to have to change the order to probably 90 days to
3 pay bonuses.

4 MR. CHAIRMAN: Right. We talked about that but we can handle
5 that with the order.

6 MS. RIGGS: So that they fall in sequence.

7 MR. KAISER: Right.

8 MS. RIGGS: So you get your elections, file your supplemental
9 order and then based on those elections then you make
10 payments. But that can be done through the orders
11 themselves. I don't think that's referred to anywhere
12 else in the regs that would be impacted.

13 MR. CHAIRMAN: On Page 12 we had a proposal to add Item E,
14 unless one or more respondents elect to participate or
15 elect to be a nonparticipating operator on a carried
16 basis the unit operator shall have no obligation to
17 report costs after the expiration of the election
18 period.

19 MS. RIGGS: That's an issue that came up earlier today.

20 MR. CHAIRMAN: Now, our discussion centered around -- and I
21 pointed out that the Board in the past had asked for
22 actual costs to be reported so that the Board could be
23 aware of a comparison if it wanted to make those of DWES.
24 Earlier today I asked some questions about do you
25 maintain these records, but at the meeting the other day

1 some company -- at least one company represented that
2 they do not, in fact, maintain actual costs of wells.
3 Unless if --

4 MR. LEWIS: I can't believe that.

5 MR. CHAIRMAN: I'm simply reporting what was said. I'm
6 not --

7 MR. KAISER: Of course, the order now requires --

8 MR. CHAIRMAN: The order currently requires that to be done,
9 but the regulation here then would change that so that
10 unless you had one or more respondents electing to
11 participate then you would not have any obligation to
12 provide that.

13 MR. KAISER: And I guess the point being if all operators
14 continue to assess their costs on a continuing basis,
15 which I assume that they all did for many reasons, this
16 does not -- this addition would not impact the Board's
17 duty to check those on behalf of any citizens who may
18 elect to participate.

19 MR. CHAIRMAN: Right.

20 MR. KAISER: So if you could insure somehow that all the
21 operators do keep those costs, which I assume they have
22 to, then this is not so bad. I guess that would be my
23 point.

24 MR. CHAIRMAN: Well, several people will recommend --

25 MR. KAISER: But if you assume they don't then I can under-

1 stand why you may not want that.

2 MR. CHAIRMAN: A lot of them represented that this is just an
3 added burden, a lot of added expense to have to do this
4 for every one. And it probably is. I'm just talking
5 Benny Wampler to the Board, not Board member to repre-
6 sent. But just based on experience it probably is. I
7 think it does nothing to take away any authority we have
8 to discover costs in any fashion -- reasonable fashion
9 within the law.

10 MS. RIGGS: I think it does. I would prefer that it be silent
11 over having a prohibition because with the prohibition in
12 there it's basically saying that by law once these
13 regulations are promulgated that you can't require them
14 to do it. Unless there's a participant or a nonp-
15 articipating operator that the Board cannot require that
16 they updated those costs. And once that becomes a
17 regulation I think the Board has no authority after
18 that. I mean, it's bound by its own regulations.

19 MR. KAISER: In my over two years of representing EREX and
20 forced pooling hearings we've never had anybody elect to
21 participate or be carried.

22 MS. RIGGS: I only know of one well which is Ashland -- OXY --
23 where you had two operators where there was a partici-
24 pation in the whole program. Only one time. So basic-
25 ally what this says is you're not going to get any

1 actual costs. If those are the only circumstances under
2 which the Board could require the filing of actual costs
3 that's going to be knell to never probably.

4 MR. CHAIRMAN: Well, I guess I was thinking more or less on
5 the DWE, that the Board has a right to do any kind of
6 discover it wants before it accepts the DWE.

7 MS. RIGGS: Well, that's what you'd have to do. You would
8 have to really --

9 MR. LEWIS: That's not the actual costs, though.

10 MR. KAISER: I guess in practicality if you were to call one
11 of the operators and say, "Look, we want to compare your
12 AFE on well X that you forced pooled in January of 1995.
13 Our information is the well's been drilled and complet-
14 ed." What are they going to say, no?

15 MS. RIGGS: I think that's what happened before when we --

16 MR. KAISER: Oh, really?

17 MS. RIGGS: When we were asked to make the comparison and had
18 no data to do it with. There's no obligation to file
19 that data which is why it got put in the order in the
20 first place, to enable the Board to get the data.

21 MR. CHAIRMAN: Several were not keeping information before.
22 But anyway you're not --

23 MR. LEWIS: Well, I think that maybe ought to be changed.

24 MR. CHAIRMAN: You're not being asked to do that here today.
25 Okay? I'm just presenting to you today for your con-

1 sideration for next month's meeting. Then that's when
2 we'll take this up as far what you want to go forward
3 with.

4 MR. GARVIS: Once somebody makes an election that they will
5 not participate basically then is that a -- I mean, it's
6 a done deal. I mean, can they reverse that after they've
7 made the election? At that point it's almost not
8 relevant what the costs are, is it? Is it relevant?

9 MS. RIGGS: The only way it becomes relevant from the Board's
10 duty is to make sure that the up front estimate is
11 accurate as it can be. You don't want the estimate to be
12 a deterrent to participation. So what you're looking at
13 is when these applications come before you and they
14 present the costs -- the estimate -- that you have some
15 basis on which you can look and say this is a reasonable
16 cost and it's not inflated and it wouldn't deter partici-
17 pation because it's inflated in any way. But you're
18 right. Once they make their election or choose not to
19 elect to participate or be carried they're deemed to have
20 leased or they actually leased and the supplemental order
21 gets filed. The interests become locked in at that point
22 and the Board has no ongoing duty to monitor those costs
23 after that.

24 MR. GARVIS: How do we know that the AFEs are accurate?

25 MR. LEWIS: You don't.

1 MS. RIGGS: Well, that's what this subject up to begin with.

2 The Board member said, "How do we know these AFEs are
3 accurate?" Well, the only way you know is to compare
4 them to actual costs and see if they were accurate. So
5 the Board member, I think, requested or the Board
6 requested Tom to do a comparison of estimates to actuals
7 and come back with a report to the Board so that they
8 could analyze that at which point it was discovered that
9 Tom couldn't make that comparison because the actuals
10 weren't on file. So at that point the Board said all
11 right, in our orders we're going to require you to update
12 these numbers once the well is drilled so that we'll have
13 data to do that comparison.

14 MR. KAISER: Well, having them on file and actually having
15 them internal are two different things. Right?

16 MR. LEWIS: Right.

17 MR. GARVIS: Tom, what's your feeling. Based on your
18 experience have they proven to be fairly accurate?

19 MR. FULMER: In a lot of cases they can be below what the AFE is
20 and in a lot of cases they can be above. Of course, a
21 lot of it depends on what happens at the time of drill-
22 ing, whether you have problems or not.

23 MR. CHAIRMAN: I guess the bottom line though -- if I can
24 interject a question or two. Have you found that the
25 amount per foot of casing, you know, the costs per

1 tubing, those kinds of things -- obviously field condi-
2 tions are going to dictate some of those, but have you
3 found those costs to be very much off base?

4 MR. FULMER: No. They usually follow -- from year to year to
5 year they'll follow the inflation rate and they don't
6 deviate all that much. The one thing that I've wondered
7 about and when you talk about AFEs and what people do
8 here is when you present an AFE in a Board order is that
9 the cost in which somebody comes in and participates at
10 or do they have to actually participate the actual costs?

11 MS. RIGGS: At actual.

12 MR. FULMER: So that drives the other to be more accurate.
13 And there may be cases where you have a bloated AFE and
14 come in a little bit under that AFE which would be a
15 benefit on those who elect to participate. And then you
16 can have under estimated AFEs and come in at a higher
17 rate. I've always wondered how that works. Do you work
18 on actual or do you work it on what the Board order would
19 require them to do?

20 MS. RIGGS: Once they elect to be a partner in the deal they
21 assume the risk and they -- if there's a short fall
22 they've got to make it up.

23 MR. KAISER: That's where your duty comes in, to try to keep
24 them accurate.

25 MS. RIGGS: It's just like a partner in a partnership. You've

1 got to divvy up your share.
2 MR. GARVIS: For better or worse.
3 MS. RIGGS: That's right.
4 MR. HARRIS: I think most of the time your AFEs will be a
5 little higher than the actual drilling.
6 MR. KELLY: I think that's right.
7 MR. LEWIS: I think they will because -- you hate to go out
8 there and estimate what something will cost and then you
9 run over the cost because that don't look good, not too
10 good at all.
11 MR. FULMER: One of the other problems we have with the AFEs
12 is that a lot of times you try to project -- for instance
13 in the case of the Board, the Board produced an order but
14 that does not necessarily say that that well's going to
15 be drilled at the time of the order. And a year or so
16 later there's going to be an inflationary cost in there
17 that at the time the order was issued to the next year in
18 casing, stimulation, some of the time coordinates which
19 would go up. So you may have a cost that's sometimes
20 above quite a bit the AFE at the time. It depends on
21 when the well is drilled. That's kind of like the bottom
22 line.
23 MS. RIGGS: Then you're going to see another change when we
24 get back here, that they want the life of these pooling
25 orders to be much longer than they are now. So if that

1 were approved and say you had a four year life on a
2 pooling order I guess you would then anticipate building
3 four years worth of inflation up front to cover the fact
4 that you may not drill till the end of that period. So
5 you might see that even get -- those two changes combined
6 with each other may impact.

7 MR. KAISER: But I think also we need to keep the overall
8 effect of this in prospective. And that being that -- at
9 least certainly on behalf of EREX and I think the other
10 operators, too, based on the fact that nobody essentially
11 ever elects to be a participant or be carried. I mean,
12 there's certainly no motivation or intent on the part of
13 the operator to try to AFE people out of it, so to speak.
14 There's no reason to.

15 MR. HARRIS: I have a question kind of like that. I'm not
16 real -- I don't know how to put it. I'm rather naevi
17 when it comes to business sense. Would a company want
18 somebody to participate or is it better financially
19 speaking not to have someone to participate? I don't
20 know.

21 MR. LEWIS: Most of the time they don't want to.

22 MR. KAISER: No.

23 MS. ? : It depends on that person's interest, what size of
24 participation would be.

25 MR. HARRIS: No, I'm not talking about from the standpoint of

1 a person but from the standpoint of the company.

2 MS. RIGGS: It would be like taking in a partner into a
3 partnership. If they're going to have a .0002 percent
4 interest and they -- but they're in your business in.

5 MR. CHAIRMAN: As a business you're better off not to have
6 that in general because it's another headache.

7 MS. RIGGS: That's another business partner they have to
8 contend with.

9 MR. CHAIRMAN: That's another business partner to have to deal
10 with.

11 MR. HARRIS: I guess I was thinking of it in terms of the
12 initial cost or cost to produce, since you're being aided
13 with that, if that's --

14 MS. RIGGS: I would say the way that ownership interests in
15 these particular wells are fractured unless you got a
16 situation where you had two operators within the same
17 unit and one would elect to participate and had a
18 substantial interest within the unit. Now, that you see
19 and the one we have is that situation where you had
20 Ashland owning interest in an OXY unit and they elected
21 to participate.

22 MR. GARVIS: I think as far as Paragraph E this is really
23 going to require a balancing act because on the one hand
24 we don't want to incumber the businesses from doing
25 things that are excess and regulatory. But on the other

1 hand I think we have an obligation to the citizens really
2 to have -- to keep everybody honest. As an example, if
3 the AFEs are even over by 10 or 15 percent, that margin
4 over a whole lot of wells, that can be quite a bit of
5 money that would be -- I mean, that could be very
6 significant in long term. So I think it's going to
7 require some degree of balancing. I'm not exactly sure
8 how to do that, but I think you see what I'm saying.

9 MR. CHAIRMAN: Sure. And if you all have any suggested
10 language or anything like that obviously that would be
11 something we'll take up next time as well. On Page 13,
12 on the applications to change unit operator for a unit
13 established by order of the Board, striking the whole
14 Paragraph A, saying what the Board's not required to do.
15 And then really combining what use to be two sections,
16 one referring to a voluntary transfer and the other an
17 involuntary transfer into one, cutting out a lot of the
18 redundant language for transferring.

19 MR. GARVIS: I don't understand that, the approval of the
20 Board is not required. That was eliminated?

21 MR. CHAIRMAN: Yes. It just gets into -- it's something that
22 the Board isn't required to do when you're going to sell
23 or sign or otherwise convey. It's private business
24 transactions. It's something in regulation that --

25 MR. GARVIS: So Board approval is not required if you want to

1 sell --

2 MR. CHAIRMAN: Right.

3 MR. GARVIS: I understand.

4 MR. CHAIRMAN: So we'll just take that out and talk about when
5 the Board does mix in with your business. That's on
6 voluntary and involuntary transfers. It more clearly
7 defines the Board's role when you have those transactions
8 occurring in the private section.

9 MS. RIGGS: I have a questions and it just now occurred to me
10 Where it says a transfer of the right to operate a unit,
11 a unit established by the Board?

12 MR. CHAIRMAN: Right.

13 MS. RIGGS: I guess when I read that previously I was thinking
14 by a forced pooling order. But the Board could create a
15 unit by a field rule that was a voluntary unit.

16 MR. CHAIRMAN: But you're still going to pick it up under the
17 voluntary and involuntary transfer.

18 MS. RIGGS: But I thought that we only had -- I guess I
19 thought that the only time they needed to come to the
20 Board for approval to transfer or to substitute a new
21 operator was if the pooling order named the original
22 operator, that if it was strictly a voluntary unit where
23 they had 100 percent leased and they've never come to the
24 Board that we wouldn't interfere there -- I mean, that
25 that wouldn't be within our --

1 MR. KAISER: That was never under your jurisdiction.

2 MS. RIGGS: Right. If they never came to us for a pooling
3 order in the first place we never had jurisdiction over
4 that unit. All we did was create field rules that
5 establish, say, an 80 acre unit.

6 MR. CHAIRMAN: I think that's right.

7 MS. ? : Or a location exception also.

8 MS. RIGGS: Well, location exceptions don't create units.

9 MS. ? : That's true. Right.

10 MS. RIGGS: The only two things that can create a unit are
11 either field rules or individual forced pooling applica-
12 tions where you create the unit and then pool it whether
13 it's under statewide spacing or whether it's some other
14 configuration, I guess. But where you have statewide
15 spacing and we create the unit at time of pooling because
16 it's outside of the field, there I think it works. But
17 where you create the unit by field rule but there's never
18 a forced pooling application it doesn't.

19 MR. CHAIRMAN: Even where we say unless ordered by the Board
20 on it's own motion to transfer the right to operate?

21 MS. RIGGS: Well, that just addresses the way it comes on
22 before the Board, I think.

23 MR. KAISER: Uh-huh.

24 MS. RIGGS: I think it's to operate a unit established by the
25 Board and pursuant -- and pooled pursuant to Section

1 45.1-361.21 or 22. You need two elements there, I think

2 MR. KAISER: Yeah. We should add that. I agree with that.

3 If it's a voluntary pool there's no reason we should have
4 to come before the Board.

5 MS. RIGGS: I don't think we ever have in the past is the
6 reason I'm saying that.

7 MR. FULMER: Well, in a way we have. Do you remember this
8 question about two conflicting leases? They're not
9 conflicting leases, but they've taken leases out from two
10 different parties and they've come before the Board and
11 asked us to pool those interests.

12 MS. RIGGS: But there we would have a pooling order.

13 MR. FULMER: But, see, that's a voluntary situation.

14 MS. RIGGS: I don't want to carve out voluntary. If there's a
15 pooling order -- if we've accepted jurisdiction by
16 entering a pooling order that names an operator then
17 those are the situations where if you're going to change
18 that operator it, in essence, is a modification of that
19 pooling order.

20 MR. KAISER: And you have to continuing jurisdiction.

21 MR. CHAIRMAN: I think you're right on that. We'll work on
22 that language for next time.

23 MS. RIGGS: Because when OXY transferred to Consol what the
24 Board was considered was a transfer of operator and the
25 order actually attached a list of all the force pooling

1 and we didn't address voluntary units there. I think
2 historically we never have.

3 MR. CHAIRMAN: On Page 15 under appeals of the Director's
4 decision, a proposal to strike B8 which was asking them
5 to provide anything else they felt relevant. They can
6 still do that. On Page 16, here again the same thing,
7 striking the language that said other information that
8 the petitioner wishes to provide. Also at the bottom of
9 16 under effective dates for Board orders, this is where
10 we had the change that Sandra's talking about. Currently
11 the Board orders expire a year from the date of entry and
12 this proposal is to say that unless otherwise provided in
13 the Board order all orders issued by the Board shall
14 remain into effect for a period of two years from the
15 date of issuance of the Board order unless prior to said
16 expiration date the operator applies for a permit in
17 which event the order shall expire two years from the
18 issuance of the permit. That will cut -- as discussed,
19 cut out a lot of going back and forth, having an order
20 expire and having a permit and then having to come back
21 and get an order continued.

22 MS. RIGGS: The permits are good for two years.

23 MR. CHAIRMAN: Does that make sense? All right.

24 MR. FULMER: I've just got a question about that language in
25 there. Unless prior to said expiration date the operator

1 apply for a permit.

2 MS. RIGGS: Applies for and is issued a permit?

3 MR. FULMER: Yeah. I think it has to go from the issue date.

4 That just says apply.

5 MR. CHAIRMAN: I think that was the intent of the discussion.

6 That's a good point. Two years from the issuance is

7 what --

8 MS. RIGGS: Well, we tied the expiration to the issuance, but

9 the continuancy doesn't require an issuance.

10 MR. CHAIRMAN: Tell me what you're looking at.

11 MR. FULMER: What it says is, "Unless prior to said expiration

12 date the operator applies for a permit."

13 MS. RIGGS: Applies for and is issued a permit.

14 MR. FULMER: And then the next thing it says, "In which then

15 order shall expire two years from the issuance of the

16 permit." So you'll have a Board order expiring but you

17 don't have a permit.

18 MR. CHAIRMAN: I've got you.

19 MS. RIGGS: Max. If you came in and got your permit on the

20 last day of your initial two year period it would be a

21 four year max.

22 MR. CHAIRMAN: At the top of Page 17, B3 added in the coalbed

23 methane claimant there. Then the D language was changed

24 in the event an appeal is taken from any order of the

25 Board in the time between the filing of the appeal the

1 petition for appeal and final order of the Circuit Court
2 shall be excluded and calculating the time period as
3 contained in sub-section A of this section. That's what
4 we just discussed.

5 MS. RIGGS: That is already in all of the Board orders.

6 They're just taking it out of the order and putting it in
7 the regs.

8 MR. CHAIRMAN: The next change is fairly substantial and
9 covers all the way over to Page 20. What we propose to
10 do is under all the enforcement discussion, notice of
11 violation and order of closures is to say that all orders
12 of the Board shall be enforced by the Director pursuant
13 to the process set out in the regulation entitled Gas and
14 Oil Regulation VR-48005.22.1. And that just simply
15 consolidates all the enforcement language over in the
16 Department's regulation and doesn't repeat it here for
17 purpose of Board orders and Board rules. The next change
18 is a significant change. I'm not trying to discuss all
19 of them. On Page 23 is deleting the allowable produc-
20 tion, enhance recovery and underground storage of
21 natural gas. Unallowable production, it's proposed to
22 delete that entire section, A and B.

23 MR. KELLY: Why is that?

24 MS. RIGGS: It's provided in law anyway. The statute says
25 that we will do that by Board order.

1 MR. CHAIRMAN: And Section 22 on enhanced recovery, the
2 discussion was that there's -- no one's talking about
3 doing enhanced recovery, no one's doing it. The Board
4 doesn't need a regulation on it. If something comes up,
5 you know, if someone proposes that they can always come
6 to the Board and make a proposal and the Board can
7 establish rules or do it by order or whatever at that
8 time.

9 MR. KELLY: What about storage?

10 MR. CHAIRMAN: Underground storage of natural gas. Now, we
11 had -- I kept asking them if they were sure that we
12 didn't need this section and they all felt that we did
13 not need this section, that people would -- if they were
14 going to in anyway impact gas they would come to the
15 Board for an order and --

16 MS. RIGGS: Correlative rights issue.

17 MR. CHAIRMAN: To protect correlative rights, that the Board
18 was required to do that and that the operators are
19 required to make sure that they're not impeding on those
20 so that you don't really need something to say that you
21 can't do it unless you come to the Board, that the law
22 already covers that.

23 MS. RIGGS: Well, it covers the extraction of native gas if
24 they're going to impact on correlative rights --

25 MR. CHAIRMAN: Right.

1 MS. RIGGS: -- as part of the underground storage operation.

2 MR. LEWIS: How will that effect these other -- like partner-

3 ships on the storage?

4 MR. CHAIRMAN: Well, what it could mean is that you could

5 conceivably have an underground storage area that wasn't

6 under jurisdiction until such time as they got themselves

7 established as a utility, I would imagine. I mean,

8 that's what it could mean.

9 MS. RIGGS: The SCC hasn't established their regulations yet,

10 have they?

11 MR. FULMER: No.

12 MS. RIGGS: So we don't know how they're going to implement

13 their jurisdiction to see how the two might mesh.

14 MR. CHAIRMAN: Here again, taking the over view, does the

15 Board really need to be involved if, in fact, you're not

16 impacting anyone else's gas?

17 MR. HARRIS: Just thinking about all of this it looks like it

18 would. I think from -- not even someone who's claiming

19 ownership but just from thinking about you're putting gas

20 back into the ground you would think that surely there is

21 some type of communication between that gas and gas

22 that's already there. You would think it would.

23 MS. RIGGS: Now, we're not talking about -- the safety

24 considerations is what you're concerned about?

25 MR. HARRIS: No. I'm saying that --

1 MR. KAISER: He's talking about correlative rights and
2 communication between the storage field and gas outside
3 the proposed buffer zone or whatever.

4 MR. LEWIS: I think they ought to address the safety part of
5 it on your pressure. If you're going to inject more
6 pressure than you've ever had in those -- most of them
7 are old fields is what they generally use for storage
8 wells. And if they're going to inject more pressure that
9 needs to be looked at, I think.

10 MR. KELLY: What about the implementation of DMME approved
11 regulations regarding that? Any move afoot for that
12 or --

13 MR. CHAIRMAN: There's no section on underground storage of
14 gas. I think what the Inspector's authority -- you'd
15 have to look at it to see if, in fact, the Inspector had
16 the authority to regulate that area. A well is a well is
17 a well. If they have a well which they're using to do
18 that then it's under his jurisdiction.

19 MR. KELLY: I know we had the big fuss years ago when we
20 first changed the law, I guess, with the coal people who
21 objected to the ability of anyone to store gas in the
22 coal fields, I guess.

23 MR. CHAIRMAN: Right.

24 MR. KELLY: And at the time we just left that out of the law
25 or left it out of the -- it wasn't addressed, I guess,

1 and it's always just been hanging there and I just
2 wondered if there were any new moves afoot to address the
3 matter?

4 MR. CHAIRMAN: No, not in that regulation per say.

5 MR. FULMER: In most cases and when we did background research
6 and underground storage and all this stuff comes up it's
7 usually your local city that controls storage fields for
8 I guess, different reasons. And I think one of the
9 primary concerns you get into is to make sure anything
10 outside that storage field is protected. That would be
11 the deal -- even the EPA doesn't control injection.
12 That's brought down to the local level and the PSA,
13 believe it or not. It kind of astonished me a little bit
14 when we -- because it was originally under the Under-
15 ground Injection Control Program. But apparently they
16 don't control anything they do as a well.

17 MR. KELLY: So what would happen right now if Columbia wanted
18 to go in through the Haysi field and make it a storage
19 field? How would that be regulated or permitted or
20 whatever?

21 MR. LEWIS: The same way it would be if they were drilling new
22 wells, wouldn't it?

23 MR. FULMER: I would think that they would want to do that
24 now. That they would first have to file with SCC the
25 intent for a storage field -- notice of intent to have a

1 storage field.

2 MR. KELLY: I guess my question is how does that come under
3 the jurisdiction of the SCC to begin with? If they're
4 going back in an existing field using existing wells to
5 store gas instead of extract gas? It's all permitted and
6 in everything is in place now.

7 MR. FULMER: They've got it all -- it's in the statute.

8 MS. RIGGS: The new statute that was enacted last year, I
9 don't have that but it granted jurisdiction and I don't
10 remember how broad that was.

11 MR. FULMER: Storage. That's all it said.

12 MR. KELLY: I guess they're picking it up under the jurisdic-
13 tion of the --

14 MR. LEWIS: Transportation.

15 MR. KELLY: The pipeline jurisdiction.

16 MR. CHAIRMAN: Now, to address Max's question. Tom, do you
17 believe you have the authority to regulate the safety
18 concerns of underground storage now if someone goes out
19 -- let's say that in Bill's scenario that someone goes
20 over and starts injecting, do you have jurisdiction?

21 MR. FULMER: I have jurisdiction up to the point that they
22 want to do that process. In other words, what I'm saying
23 is is that the purpose of the well that was drilled --
24 the purpose of the well that was drilled is subject to my
25 jurisdiction up to the point of the process. It's just

1 like a waste disposal. We could go up to the point where
2 EPA takes over jurisdiction and as far as injection of
3 the waste.

4 MR. CHAIRMAN: So you're saying they couldn't use that well --
5 are you saying that they couldn't use that well for the
6 injection of gas because that's not it's intended
7 purpose?

8 MR. FULMER: Yes. That's where I would -- it would come in
9 until such time that category is changed.

10 MR. KELLY: Couldn't you use it for a production well?

11 MR. FULMER: Huh?

12 MR. KELLY: You couldn't use a production well as an injection
13 well, is that what --

14 MR. FULMER: Right, to re-inject gas.

15 MR. LEWIS: You have authority over any well until it's
16 abandoned, don't you?

17 MR. FULMER: Yeah. Or --

18 MR. LEWIS: And that way it wouldn't be abandoned?

19 MR. FULMER: Or converted.

20 MR. LEWIS: That's right.

21 MR. CHAIRMAN: See, and then if they got the SCC approval then
22 it would relinquish jurisdiction to them at that time.

23 MR. LEWIS: I think we still ought to have some control over
24 it, Tom, from a safety point of view.

25 MR. CHAIRMAN: If, in fact, SCC -- I don't know exactly --

1 Sandy, I'm not trying to put you on the spot. I think
2 probably until we see what they do we don't really know
3 how to answer that.

4 MS. RIGGS: That's right. All we've got now is a statute
5 that's about one paragraph that gives them jurisdiction.
6 We don't know how they're going to implement that
7 jurisdiction or what kind of regulations they're going to
8 adopt, and how those will interface with the safety and/or
9 Board jurisdictions that might be in place for protection
10 of correlative rights and/or safety issues.

11 MR. KELLY: What if you wanted to use a sealed gob area as a
12 storage area? Who would have jurisdiction over that?

13 MR. FULMER: It wouldn't be indifferent besides the well, but
14 if you're talking about the area that's a different
15 situation.

16 MR. LEWIS: Yeah.

17 MR. KELLY: Obviously there would be coal concerns and other
18 things coming in there, surface owners --

19 MR. CHAIRMAN: Correlative rights issues the Board would have
20 to deal with.

21 MR. LEWIS: Virginia Gas is getting ready to store -- storage

22 MR. KELLY: Or a salt solution cavity.

23 MR. CHAIRMAN: Right.

24 MR. FULMER: Regardless of that situation I would presume
25 that under an SCC notice of intent it becomes a public

1 utility which is quite different than what we're talking
2 about. We're not talking about an operator going and
3 putting a storage place in. They become actually a
4 public -- subject to public regulation whether it's from
5 the SCC or the local PSC, Public Service Commission.
6 That's the way they've been doing it in other states.
7 The storage fields are actually run by local PSEs or
8 public utility commissions or something of that nature.
9 That would be a legal hassle to do it in a mine, but if
10 somebody wanted to do --

11 MR. KELLY: I thought I'd pose the questions. I'm sure it's
12 been thought of.

13 MR. FULMER: That would be a nightmare, I knew that.

14 MR. CHAIRMAN: In making sure that we understand any desire
15 the Board has for next meeting when you'll be considering
16 these for their moving forward in the system, we're going
17 to get back with you. We're going to work on some
18 language. On Page 6 -- let me just be specific. On Page
19 6 we agreed that G should be F and we changed that.
20 We'll look at the reference from the various sections to
21 eliminate the redundant language on the state plane
22 coordinate for longitude and latitude.

23 MS. RIGGS: Benny, you might be able to make a defined term up
24 front of --

25 MR. CHAIRMAN: We might be and just refer to it.

1 MS. RIGGS: And then refer to it as that defined term, where
2 ever it appears.

3 MR. CHAIRMAN: Right. And then on Page 13, the language that
4 Sandra discussed on the units established by the Board
5 and pooled pursuant to 361.21 and 22. The change we
6 talked about on Page 16 under Section 15-B, applies for
7 an is issued a permit. Do you want us to do anything on
8 the storage field, anything different, provide any
9 additional information on underground storage of natural
10 gas?

11 MS. RIGGS: We can bring a copy of the SECC statute so they
12 can see what the extent of their --

13 MR. CHAIRMAN: Anything else. Have I missed anything?

14 MR. GARVIS: What about on Page 12, E, where we discussed the
15 AFES?

16 MR. CHAIRMAN: Okay. Thanks.

17 MR. GARVIS: Another thing, Benny, on the front here this says
18 summary of public comment. What was the composition of
19 the so called public, if you will? In other words, how
20 many people were there? Who was there?

21 MR. CHAIRMAN: Two things. One, the first draft was the
22 public comment. That was when we had advertised it in
23 newspapers and published in the State Register Regulation
24 announcement that the Board's regulations are open for
25 anyone out there who wants to comment. So we received

1 those. That's reflected in the first draft.

2 MR. GARVIS: How much participation was there from the public?

3 MR. CHAIRMAN: There was none from the public per say citi-
4 zens, at large. We had company proposed changes from
5 the Virginia Oil and Gas Association proposed changes
6 during that public comment period. Then we established a
7 work committee as we talked about and in that work
8 committee we have representatives from the various gas
9 and oil interests, coal owners and public interest group
10 representatives -- a citizens representative.

11 MR. GARVIS: What my concern is, I'm not worried about the
12 interest by guys like Jim Kaiser and the companies. They
13 will be taken care of obviously. They're going to have
14 their representative. But I'm concerned about the little
15 guy out there in Buchanan County or where ever. He's got
16 to do these sorts of things and he has to work to get
17 whatever -- his correlative rights. So I'm more concern-
18 ed about somebody way out there, a little guy, just like
19 the rest of us. I mean, I don't read the newspapers
20 looking for comments on the Gas and Oil Board Regulations
21 and those sort of things. Are we going to the extent --
22 I'm just concerned have we taken into account that there
23 might be some little man out there who never has the
24 opportunity nor the desire or ability, I guess, until
25 something actually comes up when he then has to make a

1 petition before the Board or whatever.

2 MR. CHAIRMAN: Well, we've attempted to do that. And we'll
3 also attempt prior to the Board making any regulations
4 have our notice of hearing next time. And here again,
5 the unfortunate thing about some of this is is a lot of
6 people do not get involved until something does directly
7 impact them. We've seen this room filled and running
8 over when we have something that's impacting them.
9 Unfortunately, a lot of times when you're making changes
10 or considering changes like this it's difficult for
11 people to perceive that yes, they could have an impact on
12 that process. A lot of people just presume that's a
13 process that they'll -- somebody somewhere will go
14 through.

15 MR. LEWIS: They're going to do what they want to do anyway.

16 MR. CHAIRMAN: And some of those kinds of thoughts rather than
17 believe that they can come here and make a difference.
18 But the whole purpose of me saying today you're not being
19 asked to decide this but just simply making you aware is
20 so that we can put this on the agenda for next time and
21 allow the Board to hear any further suggestions or
22 discussions on that. If you have any ideas on how we
23 might do that particular process while we have time in
24 that announcement to do that we sure can.

25 MR. LEWIS: It would be nice if you could put it the local

1 papers in block form.

2 MR. GARVIS: Is there any way we could go back maybe -- like
3 some of the individual parties. I know that the short
4 time I've been on the Board some people have written
5 letters that maybe had some concerns. And maybe there's
6 a way we can go back to them and at least invite them to
7 see if they have any ideas. I don't want to belabor the
8 issue, but I just want to make sure that we have a
9 balance between the companies rights because obviously we
10 want to -- we don't want to unduly regulate those guys
11 from doing what they have to do, but at the same time I'm
12 equally concerned about the citizens, that they have
13 their ability -- we have an obligation to protect their
14 interests also.

15 MR. CHAIRMAN: I would think that, Tom, you would have record
16 of the names and phone numbers and folks you could call.
17 The only problem you've got is trying to be selective in
18 doing that. But certainly at random, 15 to 20 people,
19 call them up and tell them that the Board is going to
20 consider this, that they've had concerns before.

21 MR. LEWIS: And if they have any other interested parties or
22 party to contact them.

23 MR. CHAIRMAN: Is that something like what you have in mind?

24 MR. GARVIS: I'm just offering some suggestions. I mean,
25 Max, you live out there and there's a lot of people out

1 there. And, Bill, you have the same thing. Maybe you
2 know some people or whatever

3 MR. CHAIRMAN: Barney Riley and his wife with the Dickenson
4 County Citizens Group who have been, I guess, the most
5 consistently active parties as far as organized groups
6 was on the committee and was invited.

7 MR. FULMER: We had several bodies from Buchanan County,
8 public citizens and stuff that's worked on the regula-
9 tions before. One of the other problems is process.
10 It's all a voluntary basis. Either you come or you don't
11 come. Unfortunately it's unfortunate that you have that
12 situation. We may look back through the records and find
13 out some of those people who had interests. Most
14 questions we get is just on the whole process of pooling
15 Constitutionally those questions come up quite a bit and
16 we've tried to address that through brochures and other
17 things on that question of what is pooling. And that's
18 where we have our most questions in that area as far as
19 different people coming in.

20 MR. LEWIS: I think in the past that most of these gas
21 companies didn't do as good as they do right now.
22 They're doing a lot better on their pooling than they did
23 in the past. I think they're getting more participants
24 and as many leases as they possibly can. But in years
25 gone by it's not been like that.

1 MR. CHAIRMAN: Dennis, I think the suggestion is a good one.

2 I think we can certainly make an effort to call people
3 and I think it would have to be at random. You have to
4 understand that, but to go through and make an efforts to
5 call a number people that have appeared before the Board
6 before and express their concerns say for the last couple
7 of years and let them know that the Board is going to be
8 considering these and a copy is available. And also
9 we'll certainly try to -- when we do our announcement,
10 Tom, this next time by the Board is to try to set it out
11 in the public notice section, block it off, and make sure
12 that it's more distinguishable maybe than some of the
13 others have been. Just the fact -- not necessarily
14 saying the entire notice but the notice dealing with the
15 Board considering rule changes.

16 MS. RIGGS: I had three little things. On Page 20 on the
17 civil charges, the Board had adopted a civil charge
18 procedural rule which I think we're going to incorporate
19 into the regulation now instead of having two separate
20 documents. So next time around we'll see that in.

21 MR. LEWIS: Which page?

22 MS. RIGGS: That's on Page 20 under civil charges. There's a
23 separate process for settling -- for negotiating settle-
24 ment on those under a separate rule. We're going to pool
25 it in here. And the other thing was the Board's process

1 for supplemental orders. That's pretty well captured
2 now, but we might -- that might be expanded a little bit
3 to promulgate the form of the affidavit and so forth.

4 MR. CHAIRMAN: Right. We might have some further refinement.

5 MS. RIGGS: And the other thing was just a follow-up to what
6 Benny just -- or I guess what Tom just said with regard
7 to public inquiries that come in regarding challenges to
8 the pooling statute. We got notice this past week that
9 the 20 outstanding law suits between Ashland and OXY have
10 been settled and they're taking dismissals of all those
11 cases. Those were the court cases pending in Buchanan
12 County that challenged the constitutionality of the Gas
13 and Oil Act. So to my knowledge once those are settled
14 don't think we have any outstanding challenges to the
15 Act -- we won't have pending in the courts at that point.
16 Well, with one or two exceptions. I guess there's the
17 Ratliff well situation that was appealed or they sought
18 an injunction that sort of peripherally challenges the
19 Act. That's the only one, I think, that's left.

20 MR. KAISER: Emit's case is still out there.

21 MS. RIGGS: Well, I said there's a couple that just sort of
22 raise it but they don't really.

23 MR. CHAIRMAN: Do you have anything else? Anything further
24 that you'd like for us to do for next time on these regs?
25 All right. Thank you. This meeting is closed.

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(End of Proceedings for
February 21, 1995.)

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CERTIFICATE

COMMONWEALTH OF VIRGINIA
COUNTY OF WASHINGTON

I, Deborah J. Bise, Notary Public in and for the Commonwealth of Virginia, at Large, do hereby certify that the foregoing proceedings of the Virginia Gas and Oil Board meeting held on February 21, 1995 at the Southwest Virginia 4-H Center, Abingdon, Virginia, were taken by me and that the foregoing is a true and correct transcript of the proceedings had as aforesaid to the best of my ability.

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

GIVEN under my hand this 9th day of March, 1995.

Deborah J. Bise
DEBORAH J. BISE
NOTARY PUBLIC

My commission expires September 30, 1996.