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**VIRGINIA OIL AND GAS BOARD**

**HEARING OF AUGUST 15, 1995**

**9:00 A.M.**

**AT THE SOUTHWEST VIRGINIA**

**4-H CENTER**

**ABINGDON, VIRGINIA**

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**Appalachian Court Reporting Services, Inc.**

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August 15, 1995

1  
2 This matter came on to be heard on this the 15th day of  
3 August, 1995 before the Virginia Gas & Oil Board at the  
4 Southwest Virginia 4-H Center, Hillman Highway, Abingdon,  
5 Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B  
6 of the Code of Virginia.

7 MR. CHAIRMAN: Good morning. My name is Benny Wampler and  
8 I'm Deputy Director for the Department of Mines,  
9 Minerals and Energy and Chairman of the Gas & Oil  
10 Board. I'll ask the members to introduce themselves  
11 starting with Mr. Kelly.

12 (MEMBERS INTRODUCED.)  
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3 ITEM I

4 MR. CHAIRMAN: The first item on today's agenda is a  
5 petition from Pocahontas Gas Partnership for pooling a  
6 coalbed methane unit identified as M-41. This is  
7 docket number VGOB-95/06/20-0507 and it was continued  
8 from June. I'd ask the parties that wish to address  
9 the Board in this matter to come forward at this time.

10 MS. McCLANNAHAN: I'm Elizabeth McClannahan and I represent  
11 Pocahontas Gas Partnership. Les Arrington is with me  
12 to testify before the Board. This M-41 unit is a unit  
13 that is being pooled that's far in advance of mining.  
14 So it's only under the Oakwood I field rules. We're  
15 back to simplicity. Would you swear the witness,  
16 please?

17 COURT REPORTER: (Swears witness.)

18 LESLIE K. ARRINGTON

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

21  
22 DIRECT EXAMINATION

23  
24 BY MS. McCLANNAHAN:

25 Q. Les, would you please state your full name and address

1 for the record?

2 A. Leslie K. Arrington, 26 Mountain Top Drive, Princeton,  
3 West Virginia.

4 Q. And could you identify the exhibit that's marked as  
5 Exhibit #1?

6 A. Yes. That's my educational background and work  
7 history.

8 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of  
9 Exhibit #1.

10 MR. CHAIRMAN: Without objection it is introduced.

11 Q. (Ms. McClannahan continues.) Have you previously been  
12 qualified as an expert witness before the Gas & Oil  
13 Board?

14 A. Yes, I have.

15 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Arrington  
16 as an expert witness in this matter.

17 MR. CHAIRMAN: All right. There's no objection.

18 Q. (Ms. McClannahan continues.) Have you given notice as  
19 required by Code Section 45.1-361.19?

20 A. Yes, we have

21 Q. Was that notice sent by certified mail, return receipt  
22 requested?

23 A. Yes, it was.

24 Q. Does Exhibit #2 reflect the list of those returned  
25 receipts?

1 A. Yes, it does.

2 Q. Were actual copies of the receipts previously submitted  
3 to the Board?

4 A. Yes.

5 Q. Did you publish the notice of hearing in a local  
6 newspaper?

7 A. Yes, we did in the Bluefield Daily Telegraph on May  
8 25th, 1995.

9 Q. And were copies of those proofs of publication  
10 previously submitted to the Board as well?

11 A. Yes.

12 Q. Is a copy of the proof of publication at Exhibit #3?

13 A. Yes, it is.

14 MS. McCLANNAHAN: Mr. Chairman, I would move the  
15 introduction of Exhibits #2 and #3.

16 MR. CHAIRMAN: They're accepted.

17 Q. (Ms. McClannahan continues.) What percentage of the  
18 coal, oil and gas and coalbed methane rights in the  
19 tracts that comprise the M-41 unit does PGP control?

20 A. 100 percent of all coal below the Tiller Seam and  
21 99.965 percent of the oil and gas and 100 percent of  
22 the coalbed methane estate.

23 Q. And are these the same ownership control percentages  
24 that you listed on the application that's previously  
25 filed?

- 1 A. Yes, they are.
- 2 Q. Do the plat and acreage totals on Exhibit #C of the  
3 application reflect the relative contribution that each  
4 tract is expected to make to the M-41 unit?
- 5 A. Yes, it does.
- 6 Q. Are the unleased owners and their interests and the  
7 conflicting claimants and their interests to be  
8 escrowed listed on the exhibit filed with the  
9 application?
- 10 A. Yes, they are.
- 11 Q. With regard to the unleased owners has PGP attempted to  
12 contact them to lease or assign their interests?
- 13 A. Yes, we have by certified mail or by phone.
- 14 Q. Generally what are the primary terms and the delay  
15 rental payments for the oil and gas and coalbed methane  
16 leases that PGP has acquired?
- 17 A. It's a ten year term, one-eighth royalty, a dollar per  
18 acre.
- 19 Q. Are you requesting that the Board pool the interests of  
20 the parties listed on Exhibit #C of the M-41 force  
21 pooling application?
- 22 A. Yes, we are.
- 23 Q. Has a well work permit been issued for this unit?
- 24 A. Yes, it has. It's well permit 2739 and it was issued  
25 July 13th, 1994.

- 1 Q. For what type of well was the permit issued?
- 2 A. Coalbed methane.
- 3 Q. Have you received any written responses from the owners
- 4 of the tracts within the unit to the force pooling
- 5 application?
- 6 A. No, we have not.
- 7 Q. Does the unit follow the boundary lines of the Oakwood
- 8 I field 80 acre unit designated as M-41 on Exhibit #B
- 9 of the application?
- 10 A. Yes, it does.
- 11 Q. Does the plat attached to the force pooling application
- 12 filed by PGP indicate the area within which the well
- 13 will be drilled on M-41 unit?
- 14 A. Yes, it does.
- 15 Q. Is the application for the M-41 unit filed solely under
- 16 the Oakwood I field rules?
- 17 A. Yes, it is.
- 18 Q. Does the drilling unit embrace two or more separately
- 19 owned tracts?
- 20 A. Yes, it does.
- 21 Q. Could you explain the costs and expenses for well CBM
- 22 PGP-618 that are listed on Exhibit# H?
- 23 A. Yes. That's our estimated costs. The estimated cost
- 24 for the well is \$234,864.75.
- 25 Q. Does this reflect the estimated cost of drilling the

1 well to total depth?

2 A. Yes, it does.

3 Q. Generally how did you calculate the costs that are  
4 listed on the DWE?

5 A. These are estimated costs in estimating them from the  
6 wells in the area surrounding this well.

7 Q. That have been previously drilled?

8 A. Previously drilled, yes.

9 Q. With regard to the costs that are listed on the DWE how  
10 do you propose to allocate those costs among the owners  
11 in the unit?

12 A. By their net percentage interest within the unit.

13 Q. And how do you intend to assess each owner in the unit  
14 with his particular amount of the well's costs in  
15 relation to the total production of the well?

16 A. By that same -- multiplying it by that same percentage  
17 of interest.

18 Q. Are you requesting that PGP be designated as the well  
19 operator for this unit?

20 A. Yes, we are.

21 Q. And are you requesting the relief sought in Paragraph 4  
22 of the application?

23 A. Yes, we are.

24 MS. McCLANNAHAN: Those are all the questions I have for the  
25 witness.

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

2 MR. HARRIS: Just a quick question. Is the depth -- I see  
3 1,480 feet. Is that the depth? I'm looking on -- it's  
4 your DWE. Oh, I see it down at the bottom.

5 THE WITNESS: The total depth is 1,420.

6 MR. HARRIS: I see it at the bottom. Okay. That's what I  
7 needed.

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

10 MS. McCLANNAHAN: The exhibit there that you see there, Les  
11 has indicated that actually on the left hand column of  
12 Exhibit #H should be 1,420 feet. It's a typo.

13 MR. EVANS: Mr. Chairman, I have got one question real  
14 quick. What's the significance of Exhibit #B and #B-  
15 1, the two well plats?

16 THE WITNESS: Exhibit #B doesn't have the well shown on it.  
17 Exhibit #B-1 does. That's the only difference.

18 MR. EVANS: That's all.

19 MR. CHAIRMAN: Do you have anything further?

20 MS. McCLANNAHAN: No.

21 MR. CHAIRMAN: Any other questions, members of the Board?  
22 (Witness stands aside.)

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

24 MR. CHAIRMAN: A motion to grant the petition.

25 MR. LEWIS: I second it.

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MR. CHAIRMAN: A motion and second. Any further discussion?  
If not, all in favor signify by saying yes. (ALL  
AFFIRM.) Opposed say no. (NONE.) Unanimous approval.  
Thank you.

ITEM II

1  
2  
3 MR. CHAIRMAN: The next item on the agenda is a petition  
4 from Buchanan Production Company under Section 45.1-  
5 361.22 for pooling of a coalbed methane unit identified  
6 as W-18. This id docket number VGOB-95/08/15-0510 and  
7 we'd ask the parties that wish to address the Board in  
8 this matter to come forward at this time.

9 MR. SWARTZ: Mark Swartz appearing for the applicant.

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

11 MR. SWARTZ: This application with regard to unit W-18 is an  
12 application to pool this unit under both Oakwood I and  
13 Oakwood II. We've got four applications today. Those  
14 two are duel and will be like W-18 we're requesting on  
15 our first trip to the Board to get a pooling order that  
16 pools a frack well under Oakwood I and then as an  
17 active gob -- short hole and active gob unit under  
18 Oakwood II. Both the notice and the application give  
19 notice of that. The only difference really when you're  
20 doing this and we talked about this at a meeting or two  
21 ago, the relief that we are requesting in terms of the  
22 order in the application with regard to a duel  
23 application is a little different. At Pages 2 and 3 of  
24 the application under the section "Relief Sought" B is  
25 the standard order language from the Oakwood II field

1 rules that this Board promulgated and then at the end  
2 of that in Subsection B on top of Page 3 at 3111 we've  
3 added a little bit of language there to make sure that  
4 the conversion from a fracked well to a short hole  
5 sealed gob is contemplated by the order. That's really  
6 the only difference. This unit has not -- well, let me  
7 get some preliminary testimony from Les.

8  
9 LESLIE K. ARRINGTON

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

12  
13 DIRECT EXAMINATION

14  
15 BY MR. SWARTZ:

16 Q. You are still under oath. State your name and title  
17 for us again.

18 A. Leslie K. Arrington. I'm a permit specialist for  
19 Consol.

20 Q. Les, did you prepare both the notices of hearing and  
21 application with regard to this unit W-18?

22 A. Yes, I did.

23 Q. And you were in charge of preparing the exhibits as  
24 well?

25 A. Yes, I was.

- 1 Q. Has W-18 ever been pooled by order of this Board  
2 before?
- 3 A. No, it has not.
- 4 Q. So this is the first trip?
- 5 A. First trip.
- 6 Q. And we don't need to attend to amend any prior orders?
- 7 A. That's correct.
- 8 Q. The applicant here in Buchanan Production Company?
- 9 A. Yes.
- 10 Q. Is Buchanan Production Company a Virginia general  
11 partnership that is authorized to do business in  
12 Virginia?
- 13 A. Yes, it is.
- 14 Q. Are the two partners in that partnership Buchanan  
15 Production Company and Appalachian Methane, Inc?
- 16 A. Yes, it is.
- 17 Q. Does the application seek to have someone other than  
18 the applicant, specifically Consol, Inc., designated  
19 operator if it's approved?
- 20 A. Yes, it does.
- 21 Q. Consol, Inc. is a Delaware corporation, is that  
22 correct?
- 23 A. That's correct.
- 24 Q. Is Consol, Inc. authorized to do business in the  
25 Commonwealth and has Consol, Inc. registered with the

1 DMME and does it have a blanket bond on file as  
2 required by law?  
3 A. Yes, it does.  
4 Q. Consol, Inc. -- there has been interaction in the past  
5 and you testified with regard to this previously  
6 between Buchanan Production Company and Consol, Inc.  
7 Does the packet of exhibits that you've filed today  
8 reflect the relationship between that partnership and  
9 that corporation?  
10 A. Yes, it does.  
11 Q. At what tabs?  
12 A. 4, 5 and 6.  
13 Q. And basically the relationship is that Consol, Inc. has  
14 been appointed or delegated certain authority to manage  
15 the assets of Buchanan Production Company and those  
16 resolutions are reflected in this exhibits and further  
17 certain specific people have been designated by Consol  
18 to perform those functions?  
19 A. That's correct.  
20 Q. Who are those people and what are their titles?  
21 A. Claude Morgan as general manager, William Gillenwater  
22 as land manager and Randy Albert as regulatory manager.  
23 Q. And out of those appointments with regard to those  
24 three gentlemen are at Exhibit #6?  
25 A. Yes, it is.

1 Q. There is in the packet of exhibits that we've filed  
2 with the Board today a revised notice of hearing,  
3 correct?  
4 A. That's correct.  
5 Q. And that list is a little shorter. The only difference  
6 really between the revised notice and the original  
7 notice that was published in the paper is that the list  
8 is shorter?  
9 A. That's correct.  
10 Q. And the people that were eliminated are folks that you  
11 actually have leases from?  
12 A. That's correct.  
13 Q. And they were inadvertently included in this?  
14 A. That's correct.  
15 Q. But all of the people who need to be pooled are listed  
16 in the revised notice?  
17 A. That's correct. They were.  
18 Q. Those are the Commonwealth of Virginia, Diane Graham,  
19 Grundy National Bank and then there's a courtesy  
20 notice, I take it, to Buchanan County Administrator?  
21 A. Yes, there is.  
22 Q. You don't need to pool Buchanan County, correct?  
23 A. Correct.  
24 Q. From a title standpoint if you could just briefly  
25 indicate why Diana Graham and the Grundy National Bank

1 are parties with regard to the same interest?

2 A. There is an outstanding conflicting lien against the  
3 Diana Graham property.

4 Q. There's a law suit --

5 A. There's a law suit going on between them. So Grundy  
6 National has been named.

7 Q. Do you want to add or delete any respondents today?

8 A. No, we do not.

9 Q. Have you filed with the packet of exhibits today an  
10 affidavit of due diligence?

11 A. Yes, we have.

12 Q. Attached to that affidavit of due diligence do you have  
13 the usual certification of notice?

14 A. Yes.

15 Q. And does that indicate that notice was mailed to all of  
16 the respondents listed in the revised notice and that  
17 they actually received it?

18 A. That's correct. It does.

19 Q. At Tab 3 is there a certification of publication?

20 A. That's correct.

21 Q. When was the original notice published?

22 A. July 21st, 1995 in the Bluefield Daily Telegraph.

23 Q. With regard to this application the applicant seeks to  
24 pool -- if you look at Exhibit #A, Page 2, from a  
25 standing standpoint it seeks to pool a small interest

1 both on the oil and gas and on the coal side, correct?

2 A. That's correct.

3 Q. What is the percentage that needs to be pooled with

4 regard to coal?

5 A. 1.5125 percent.

6 Q. And with regard to oil and gas?

7 A. 4.0625 percent.

8 Q. And the rest of the percentages are either owned or

9 leased by the applicant?

10 A. That's correct.

11 Q. Toward the end of the application there is an Exhibit

12 #G which places this unit and other units over the top

13 of projected works in the VP-8 mine, is that correct?

14 A. That's correct. It does.

15 Q. And this W-18 unit ultimately would be affected by how

16 many longwall panels?

17 A. Two.

18 Q. What are their identification? What are the names of

19 them?

20 A. It's going to be 4-East and 5-East.

21 Q. In the VP-8?

22 A. VP-8 mine.

23 Q. The W-18 unit is an 80 acre Oakwood unit?

24 A. Yes, it is.

25 Q. And you're seeking to pool all coal seams below the

1 Tiller Seam?

2 A. That's correct.

3 Q. Have you attached a DWE as Exhibit #C which shows the  
4 estimated costs?

5 A. Yes, we have.

6 Q. What is the cost that you have estimated?

7 A. \$264,961.

8 Q. And that includes some sum of money for fracking?

9 A. Yes, it does.

10 Q. What amount is that?

11 A. \$60,000.

12 Q. And when was Exhibit #C prepared?

13 A. On July 13th.

14 Q. Did you prepared this?

15 A. I did.

16 Q. What's the projected depth of the well?

17 A. 2,250 feet.

18 Q. Is that well depth sufficient to reach the Pocahontas  
19 #3 seam?

20 A. Yes, it is.

21 Q. Initially will this unit produce as a frack well?

22 A. Yes, it will.

23 Q. And then at some point in time it will be producing as  
24 an active gob, is that correct?

25 A. Yes, it will.

- 1 Q. About how far out ahead of mining are you here?
- 2 A. This is right at three years.
- 3 Q. So roughly three years of production as a frack well?
- 4 A. Yes.
- 5 Q. In your application have you requested in the relief
- 6 granted section that the order provide the conversion
- 7 at the time the panels are isolated?
- 8 A. Yes, we did.
- 9 Q. Exhibit #G, Page 1, is your allocation exhibit, is it
- 10 not?
- 11 A. That's correct.
- 12 Q. And basically what it does is it allocates with regard
- 13 to both of the panels that are shown on the map,
- 14 Exhibit #G, the percentages of the production and costs
- 15 that will be allocated to W-18?
- 16 A. That's correct.
- 17 Q. This exhibit in conjunction with Exhibit #B will be
- 18 used by someone to calculate his or her participation
- 19 interest?
- 20 A. That's correct.
- 21 Q. Turning to Exhibit #B for a moment, on Exhibit #B you
- 22 have listed all of the folks who need to be pooled?
- 23 A. That's correct.
- 24 Q. Do you have a lease from Landon Wyatt?
- 25 A. Yes, we do.

1 Q. So Exhibit #B is only the people who need to be pooled?  
2 A. That's correct.  
3 Q. And those are the people that would need to have an  
4 election right?  
5 A. That's correct.  
6 Q. Exhibit #B-1 is kind of an anticipatory exhibit for the  
7 affidavit of elections to show at least at this point  
8 who the conflicting claimants would be?  
9 A. Exhibit #B-1 is only to show the conflicting ownership  
10 claimants.  
11 Q. Which would potentially require escrow?  
12 Q. That's correct.  
13 Q. With regard to your recommendations concerning the  
14 terms of the Board's order dealing with elections would  
15 you tell the Board what the current terms that you have  
16 offered the folks that you've leased in this unit and  
17 what terms you have offered to them and what terms you  
18 would recommend they incorporate in the order?  
19 A. That's a dollar per acre rental with one-eighth royalty  
20 with a five year term. That's a rental only.  
21 Q. Once that production would commence the rental would  
22 cease and that one-eighth royalty would continue until  
23 production is ceased?  
24 A. That's correct.  
25 MR. SWARTZ: That's all I have.

1 MR. CHAIRMAN: Your exhibit that shows the distribution,  
2 that's for the entire the panel, the cost that we're  
3 seeing there, the 1.5 million?

4 THE WITNESS: That's correct.

5 MR. CHAIRMAN: Are you finding in the number of wells that  
6 you're having in each panel -- is there any way that  
7 you are able to predict the number that's needed in  
8 each panel to adequately drain that panel and still be  
9 economical?

10 THE WITNESS: Yes. Right now we're trying to do  
11 economically at 1,200 foot spacing and that puts it  
12 right at six wells per panel.

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

14 MR. SWARTZ: If you might just compare that, Les, in the  
15 past this Board has seen situations where we do not  
16 have frack wells but we have had simply short hole gob  
17 wells. Was the number of wells greater?

18 THE WITNESS: Yeah. The number of gob wells would be  
19 approximately twice that.

20 MR. SWARTZ: Eleven or twelve?

21 THE WITNESS: Eleven or twelve.

22 MR. SWARTZ: So, in essence, when we see these dual  
23 applications would be it be fair to say that the per  
24 well cost is more expensive because of the frack and  
25 there's plumbing associated with it?

1 THE WITNESS: That's correct.

2 MR. SWARTZ: But that the number of wells is roughly --

3 THE WITNESS: That's correct.

4 MR. SWARTZ: How do the costs compare? I mean, the overall

5 cost of the six frack wells compare to eleven or twelve

6 of the gob wells?

7 THE WITNESS: We end up having about the same amount of

8 money invested in either the twelve gob or six fracks.

9 MR. CHAIRMAN: Through your experiences are you noticing any

10 problems with fracking the coal ahead of the longwall?

11 THE WITNESS: No. As far as fracks go, no, we are not.

12 MR. CHAIRMAN: It hasn't caused any unusual roof problems or

13 anything like that?

14 THE WITNESS: That was one reason it took us so long to

15 really get into fracking. They wanted to do a few, do

16 a few more to make sure we were not having problems and

17 we have not experienced any problems.

18 MR. HARRIS: How close to the longwall panel -- I know

19 you're talking about three years projection. How

20 close -- when they actually put in and establish how

21 close are they to what's on the map? I know that you

22 do this and survey it but I know people talk about

23 shifting and problems. Do we ever end up with a

24 greater or lesser percentage than what's originally

25 stated in the application? 17 percent of that panel,

1 does it end up being 19 percent? Do these things  
2 change once the panel is put in and how does that  
3 affect the money? It may be that these things are  
4 accurate enough not to be a problem.

5 **THE WITNESS:** There's about as accurate as we can keep them.  
6 Mining may change a little bit and you may shift a  
7 little here and there.

8 **MR. SWARTZ:** We have been here on occasion to amend these  
9 because the percentages have changed. It's just my  
10 experience in terms of separating those changes through  
11 this Board every time I've been here on one of those  
12 it's been because the mine plan changed. That the  
13 mining company between today and three years from now,  
14 the geology may have been slightly different but  
15 whether the panel changed a little bit or it stopped  
16 short a little bit and it's -- every time it's been a  
17 mine plan change. This is our plan at this point, but  
18 three years from now it may -- and it doesn't always  
19 change with regard -- it may just change with one  
20 panel. Would you say that that's the typical reason?

21 **THE WITNESS:** Right. Mine plan changes. I do see that  
22 part. That is true. We have, in fact, done mine plan  
23 changes. Yes.

24 **MR. SWARTZ:** What we're trying to do now and I think have  
25 had some success is the Oakwood rules require -- with

1 regard to Oakwood II -- the operator to not pay unless  
2 they have filed a mining plan that is the basis for  
3 their payments. So at this point this is the mine plan  
4 and the basis for our panel. To the extent that this  
5 plan changes and doesn't change in a way that would add  
6 people we have taken the filing and affidavit in  
7 attaching the revised mine plan with the Board to  
8 simply comply with the requirement that you have the  
9 data which discloses how we're calculating it. So  
10 we're not making all those return trips. But that's  
11 happening and this happens, not at the time but it  
12 happens fairly often.

13 MR. HARRIS: But it's usually because the change of mine  
14 plan rather than a error in surveying or something  
15 like that? I mean --

16 MR. SWARTZ: Well, at this stage we're so far ahead, you  
17 know, there could be a mathematical error. But this is  
18 just a cad map and it wouldn't be a survey problem at  
19 this point.

20 MR. EVANS: I've got one question. Between this and the  
21 previous pooling request the other previous well was  
22 1,420 and this is 2,250 yet the DWEs are pretty close.  
23 There's only about \$30,000 difference. What was so  
24 expensive about that short one or what was so cheap  
25 about this one?

1 THE WITNESS: Over in this area we have used estimated  
2 costs. This is a new area for us where we're at over  
3 here.

4 MR. EVANS: That's fine. Because I was just going through  
5 looking to see what I could see and I -- one thing even  
6 though the well's deeper, casing doesn't cost that much  
7 and that type thing. It's not all that expensive. But  
8 you've got a frack cost on that previous well of  
9 \$65,000 and yet you've got a frack cost on this one of  
10 \$60,000 which I didn't ask previously but is that a  
11 three seam frack?

12 THE WITNESS: The previous one?

13 MR. EVANS: Both of these.

14 THE WITNESS: They're all three seam and upper seams, yes.

15 MR. SWARTZ: Well, just so that answer is clear, three seam  
16 frack refers to the Pocahontas #3 seam, not three  
17 seams.

18 THE WITNESS: That's right.

19 MR. SWARTZ: And you're actually fracking a multitude of  
20 seams here?

21 THE WITNESS: That's correct.

22 MR. SWARTZ: What's the interval of feet roughly?

23 THE WITNESS: About 600 feet.

24 MR. SWARTZ: So all the coal seams that occur within that  
25 600 foot interval are subject to the frack treatment?

1 THE WITNESS: That's correct.

2 MR. EVANS: Typically how many is that?

3 THE WITNESS: It's done in three intervals and there can be  
4 ten to twelve seams in there. They'll fracture  
5 anything that's one plus foot.

6 MR. EVANS: Just as a matter of course, I know in times past  
7 it's been a little more selective than the shotgun  
8 approach. They have fracked anything and everything.  
9 But now you are all are kind of taking anything that's  
10 there and going ahead and --

11 THE WITNESS: Uh-huh.

12 MR. SWARTZ: Why is that?

13 THE WITNESS: To remove as much methane as possible.

14 MR. SWARTZ: Well, has your experience in testing that  
15 you've done on these wells caused you to discover that  
16 many of these other seams have a lot more than you've  
17 anticipated?

18 THE WITNESS: Yes. Yes, it is.

19 MR. EVANS: So it is cost effective to do that.

20 THE WITNESS: Cost effective and removal also.

21 MR. EVANS: No further questions, Mr. Chairman.

22 MR. CHAIRMAN: Other questions, members of the Board? I  
23 guess I would explore the cost again a little bit. I  
24 think that that's one thing that gets pretty obvious,  
25 is the difference in the costs of two wells, realizing

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that you may have made this based on experience and estimates. But for that difference in depth how do we reconcile that for two wells?

MR. SWARTZ: I'm not sure this requires testimony, but if you compare these there are differences that make sense. If you look at the casing, the first major entry on both of these, you've got 1,000 feet for Unit W-18 at the front and we're talking about 500 feet on the other one. I assume that they must be a different size of casing.

THE WITNESS: They are.

MR. SWARTZ: One is three-eighths and one is five-eighths. So the cost of the casing is different. In addition there's less of it. So you've got \$16,900 in casing for W-18 and you've \$4,800 for this. That's \$12,000 right there. As you come down with the rest of the casing and compare them they are all lower on the shorter well by roughly a third. And then the contract drilling is another fairly large difference. That's about two-thirds of the way down. It's \$67,500 on W-18 and \$44,000 and change on the other one.

MR. CHAIRMAN: Why is that, though? If Les could talk about why that --

MR. SWARTZ: How does the contract driller change you?

THE WITNESS: They do charge us by the foot and I use an

1 average of \$30 per foot when we do the calculations for  
2 our DWE. It may be higher on the upper part of the  
3 hole and lower on some of the other portions. But I  
4 just take the average and just use it for the whole  
5 hole. \$30 a foot ends up being approximately a \$23,000  
6 difference there in the drilling.

7 MR. EVANS: I'm looking at this and I guess I'm looking at  
8 more than -- there should be more than a \$30,000.  
9 That's what my concern is. I don't care what the  
10 numbers are, but if they're correct as far as the  
11 totals go. But in contract drilling costs you've got  
12 20 some odd thousand, \$23,000.

13 THE WITNESS: In drilling?

14 MR. EVANS: In drilling alone.

15 THE WITNESS: \$20,000/\$25,000.

16 MR. EVANS: And then there's only \$5,00 difference in casing  
17 costs?

18 MR. SWARTZ: There's more than that.

19 MR. EVANS: Well, that's what I was getting at. The totals,  
20 you've got \$264,000 versus \$234,000. That's \$30,000  
21 difference, right?

22 MR. SWARTZ: Right.

23 MR. EVANS: I'm just asking you, is there a mistake or am I  
24 just --

25 MR. SWARTZ: There is one entry on the Pocahontas Gas DWE

1 that is not even on the Buchanan which is the power  
2 which is a difference in the way that those companies  
3 are organized. So that's \$13,000. But there are also  
4 -- the casing difference -- some of the frack costs is  
5 a little more, too. Let me ask you this. As a general  
6 proposition is it true or not true that you could  
7 expect a well that was half as deep as another well to  
8 just cost half as much?

9 THE WITNESS: No.

10 MR. SWARTZ: What would your expectation be?

11 THE WITNESS: Three-quarters.

12 MR. SWARTZ: That there is some cost just in putting a well  
13 in that is shared by any well regardless of how deep it  
14 is?

15 THE WITNESS: That's correct.

16 MR. SWARTZ: To get back to your question, a significant  
17 difference is that power difference which is a  
18 difference in the way these entities are organized. I  
19 don't -- I rarely represent PGP. I mean, I do  
20 occasionally but not very often. They do not have the  
21 number of companies that Buchanan has in the family and  
22 a lot of the infrastructure services on the Buchanan  
23 Production side are handled by Oakwood Gathering which  
24 is another company that you occasionally hear about but  
25 you rarely see here. PGP doesn't have that extra

1           entity and they provide all the infrastructure in one  
2           entity. And there are advantages and disadvantages --  
3           I mean, we've talked about these two ways of doing  
4           business. I think that Pocahontas Gas Partnership is  
5           giving a gift to their royalty owners by handling power  
6           that way. You may see it as loading up the well, but  
7           basically when you put it into a well it's a sum cost  
8           in capital and doesn't get recovered in gathering  
9           compression as a deduct which it would on the Buchanan  
10          side. So it's just a different organizational  
11          structure that causes that power difference. And the  
12          other thing, you need to be careful about the casing  
13          here. I mean, there are more casings of much larger  
14          dimensions and there's a lot more money -- I'm just  
15          ball parking. There's probably another \$15,000 or  
16          \$16,000 in casing under W-18 than you're looking at on  
17          the PGP well.

18       MR. HARRIS: I hate to be picky about individual items, but  
19                   again if you look at miscellaneous for the previous  
20                   well, 1,420, that's \$4,000 miscellaneous and for this  
21                   current is \$2,500 or so?

22       MR. SWARTZ: Right.

23       MR. HARRIS: Because I don't know if difference wells group  
24                   different items in miscellaneous. It could be that  
25                   miscellaneous isn't the same as miscellaneous for the

1 other. And I know there's \$1,500 that's in favor of  
2 the shorter well.

3 MR. SWARTZ: Well, no, it's reverse. The deeper well has  
4 less miscellaneous.

5 MR. HARRIS: Yeah. Okay. We're saying the same thing.  
6 Okay.

7 MR. SWARTZ: I don't know why Elizabeth couldn't have been  
8 confronted with all these questions. I mean, it's her  
9 application. I'm just kidding.

10 MR. HARRIS: But I asked about the depth and I kept thinking  
11 -- I should have voiced it then. I kept thinking this  
12 is a lot of money for 1,400 and I probably should have  
13 asked that at that time.

14 MR. SWARTZ: Which means that W-18 is a huge bargain and you  
15 need to get Elizabeth back here and work her over.

16 THE WITNESS: Well, wait a minute. I'm going to be in big  
17 trouble.

18 MR. SWARTZ: That's your problem. Ha, ha.

19 MR. EVANS: It's every man for himself.

20 THE WITNESS: The only real problem I do see is that  
21 miscellaneous and the rest of our costs that I'm  
22 looking at I've used basically all the same numbers to  
23 calculate everything from. For instance, I believe the  
24 meter run. The meter run's the same cost. Our costs  
25 per foot are all the same.

1 MR. CHAIRMAN: I know you understand from our prospective we  
2 have to be concerned about a DWE because people that  
3 may elect to participate or not elect to participate  
4 based on these costs plus all the royalty is based on  
5 whatever we're accepting as estimated well costs.  
6 MR. HARRIS: There's another item, wire line services.  
7 That's \$2,370 in the 1,400 foot well and not listed in  
8 the 2,200 foot well. They'll probably add to a \$30,000  
9 to a \$40,000 difference.  
10 THE WITNESS: The wire line services, if you'll notice, also  
11 have a column on there for logging. It is included. I  
12 do have a cost for both logging and wire line services  
13 shown. On the W-18 it comes out to \$4,500 and we used  
14 58 -- 60, I believe, total on the M-41. I realize that  
15 does come out a little more. You know, we can revise  
16 these if PGP wants to correct it accordingly.  
17 MR. EVANS: Les, as far as I'm concerned I'd like to see  
18 just kind of like the same --  
19 THE WITNESS: I'm sorry?  
20 MR. EVANS: I'd like to see kind of the same format one way  
21 or the other on the same items.  
22 THE WITNESS: I'll just list it the way we've got it in W-  
23 18. That's no problem.  
24 MR. CHAIRMAN: On the items that you have on your DWEs --  
25 and this is not comparing it now but just asking a

1 question -- where you identify a number of items that  
2 have no costs associated, is there a purpose for that?  
3 THE WITNESS: At times those services will be used and we  
4 just went ahead and we tried to set something  
5 standard. So you can go down through there and we'll  
6 have this on there.  
7 MR. CHAIRMAN: But at the present time you're not  
8 anticipating the cost as far as your calculation goes?  
9 THE WITNESS: No.  
10 MR. CHAIRMAN: Any other question on the DWE? Any other  
11 questions on the application? I have a couple others.  
12 One on the notifications. Who did you notify with the  
13 Commonwealth of Virginia?  
14 THE WITNESS: It's listed on Exhibit #B-1. It was sent to  
15 the Bristol, Virginia address.  
16 MR. CHAIRMAN: Did you get a return?  
17 THE WITNESS: Yes, we did.  
18 MR. EVANS: Is that VDOT?  
19 THE WITNESS: Uh-huh.  
20 MR. CHAIRMAN: How will you handle notification and  
21 distribution when you change from -- do a conversion  
22 from Oakwood I to Oakwood II and how will we know that  
23 it's changed and how will that affect the distribution?  
24 THE WITNESS: What we've done or what we'd like to do is  
25 just notify when the panel is isolated. When we

1 isolate the panels will be the date we'd like to do the  
2 conversions.

3 MR. CHAIRMAN: Who will you notify?

4 THE WITNESS: Well, what we've done with PGP we notify the  
5 Attorney General's Office. We sent you a notice,  
6 right, through Elizabeth?

7 MS. RIGGS: Well, I think it should be the Gas & Oil Office.

8 THE WITNESS: Gas & Oil Office. Okay.

9 MS. RIGGS: I can't remember.

10 THE WITNESS: We sent out a letter of the notice.

11 MS. RIGGS: Well, that was on those we did two months ago  
12 where the switch over of VP-8 to 12 and the orders were  
13 still in the process of being drafted. So that was  
14 done so that the actual date could be plugged into the  
15 orders as opposed to some hypothetical date. But I  
16 think normally that should go to the Inspector, not to  
17 me.

18 MR. CHAIRMAN: Right. Will that have any impact on the  
19 calculations at that point, when you convert from I to  
20 II?

21 MR. SWARTZ: Let me ask you this. What changes -- is it  
22 true that what changes when you go from a frack well to  
23 an active gob unit is that the allocation of revenue to  
24 the unit changes as opposed to the interest of the  
25 people in the unit? Is that basically what happens?

1 THE WITNESS: That's correct.

2 MR. SWARTZ: So you're getting a revenue stream -- instead  
3 of from one well you're getting it from a bunch of  
4 wells serving a panel?

5 THE WITNESS: That's correct.

6 MR. SWARTZ: And that revenue stream is allocated consistent  
7 with the percentages in Exhibit #G, Page 1. The people  
8 in the unit and their divisions of interest do not  
9 change regardless of where the production comes from,  
10 is that correct?

11 THE WITNESS: That's correct.

12 MS. RIGGS: So their participation is calculated up front  
13 based upon their percentage of interest --

14 MR. SWARTZ: Ultimately.

15 MS. RIGGS: -- not within the panel but within the unit?

16 MR. SWARTZ: Well, the costs are calculated as if it was a  
17 panel but their interest is their division of interest  
18 in the 80 acre unit and it always is.

19 MS. RIGGS: Right.

20 MR. SWARTZ: But it's translated -- you've got to take a  
21 person's division of interest times the percentage  
22 allocation of the panel to the unit to get to a  
23 division of interest in the panel. But their division  
24 of interest in the 80 acre unit remains a constant  
25 number.

1 MS. RIGGS: What I'm saying, though, is normally when we did  
2 a frack well your participation was on the one well  
3 within that unit based upon your ownership within that  
4 unit?

5 MR. SWARTZ: Uh-huh.

6 MS. RIGGS: With these combined I and I you're going on and  
7 doing the calculation for the six wells and percentage  
8 of interest as it will be when it goes in to an Oakwood  
9 II situation --

10 MR. SWARTZ: No.

11 MS. RIGGS: -- and your participation is based on those  
12 total costs as opposed to the single unit cost?

13 MR. SWARTZ: The second half is correct. The first half  
14 wasn't. You need to tell her what you do.

15 THE WITNESS: What we're doing is locking the cost of the  
16 frack wells together and allocating the costs across  
17 the panel -- across those 80 acre units. But for the  
18 first frack production for say this W-18 well and unit  
19 the production will just go to the W-18 unit until it's  
20 isolated and then the production will be spread out  
21 across the panel.

22 MS. RIGGS: I got you.

23 MR. CHAIRMAN: Other questions?

24 MR. EVANS: I move we grant the petition.

25 MR. CHAIRMAN: A motion to grant the petition.

1 MR. KELLY: Second.

2 MR. CHAIRMAN: A motion and second. Any further discussion?

3 All in favor signify by saying yes. (ALL AFFIRM.)

4 Opposed say no. (NONE.) It's a unanimous approval.

5 Thank you.

6 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS

7 FOLLOWS:)

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ITEM III

MR. CHAIRMAN: The next item on today's agenda is a petition from Buchanan Production Company for pooling of a coalbed methane unit identified as V-16. This is docket number VGOB-95/08/15-0511. And we'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. SWARTZ: Mark Swartz appearing for the applicant.

MR. CHAIRMAN: There are no others. You may proceed.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Les, you want to state your name and job title for the record?

A. Leslie K. Arrington, permit specialist for Consol.

Q. I remind you that you're still under oath. Okay?

A. UH-huh.

Q. This application regarding unit V-16 which as I indicated on the last one this is the second

- 1 application where we're asking for a pooling order  
2 under both Oakwood I and Oakwood II. So this is  
3 another unit where we start out as a frack well and we  
4 convert ultimately to an active gob, is that correct,  
5 Les?
- 6 A. That's correct.
- 7 Q. With regard to V-16 did you personally have a hand in  
8 preparing and sign both the notice -- the revised  
9 notice and the application?
- 10 A. Yes, I did.
- 11 Q. Were you also in charge of preparing the exhibits?
- 12 A. Yes, I did.
- 13 Q. In the revised hearing notice which is in the published  
14 packet that the Board was given today are the people  
15 named in that notice of hearing the people that need to  
16 be pooled?
- 17 A. Yes, it is.
- 18 Q. With regard to the interests outstanding here that are  
19 not either leased nor owned by the applicant you'd go  
20 to Exhibit #A, Page 2, and what interest is it that  
21 we're seeking to pool?
- 22 A. 10.1018 percent of the oil and gas interest.
- 23 Q. And zero percent of the coal?
- 24 A. That's correct.
- 25 Q. That's all leased?

1 A. That's correct.

2 Q. With regard to some basics here Buchanan Production is  
3 the applicant, correct?

4 A. That's correct.

5 Q. And Buchanan Production is a Virginia general  
6 partnership with two partners, both of whom are wholly  
7 owned indirect subsidiaries of Consol, is that correct?

8 A. That's correct.

9 Q. Is BPC authorized to do business in the Commonwealth?

10 A. Yes, it is.

11 Q. In this application is Buchanan Production requesting  
12 that Consol be designated the operator of this unit if  
13 the application is approved?

14 A. Yes, it is.

15 Q. With regard to Consol, is Consol a Delaware corporation  
16 authorized to do business in the Commonwealth, has it  
17 registered with the DMME and does it have a blanket  
18 bond on file with regard to it's gas and oil  
19 operations?

20 A. Yes, it does.

21 Q. Have you given in this packet to the Board exhibits  
22 describing a relationship between Buchanan Production  
23 Company and Consol and if so what exhibits are they?

24 A. Exhibits #4 through #6.

25 Q. And essentially do they document a delegation of

1 authority by Buchanan Production Company to Consol to  
2 manage its assets and do they name certain people --  
3 Consol employees as responsible for certain of those  
4 duties?

5 A. Yes, it does.

6 Q. You have previously indicated that all of the  
7 respondents that need to be pooled here to complete  
8 this unit are named in the notice of hearing. Are  
9 their addresses to the extent you have addresses listed  
10 in Exhibit #B?

11 A. Yes, they are.

12 Q. And in Exhibit #B to the application have you given the  
13 division of interest of each person who needs to be  
14 pooled in the unit?

15 A. Yes, we have.

16 Q. And have you also given their division of interest in  
17 the proposed panels which are shown on the map, Exhibit  
18 #G?

19 A. Yes, we have. It would be 3-East and 4-East panel of  
20 the VP-8 mine.

21 Q. This is an 80 acre unit?

22 A. Yes, it is.

23 Q. Are you seeking to pool all seams below the Tiller  
24 Seam?

25 A. Yes, we are.

1 Q. Have you attached an Exhibit #C or an estimate of  
2 costs?  
3 A. Yes, we have.  
4 Q. And is this an estimate as opposed to an actual?  
5 A. That's correct. It is.  
6 Q. And this well has not as yet been drilled?  
7 A. That's correct.  
8 Q. What is your estimate with regard to the costs of this  
9 well?  
10 A. It's \$264,691.  
11 Q. And the proposed depth of this well is what?  
12 A. Approximately 2,250 feet in this area.  
13 Q. Is that deep enough to reach and/or produce gas from  
14 the Pocahontas #3 seam?  
15 A. Yes, it is.  
16 Q. Does this estimate of costs include costs for fracture  
17 stimulation?  
18 A. Yes, it does.  
19 Q. In what amount?  
20 A. Approximately \$60,000.  
21 Q. What interval or seams would you anticipate will be  
22 fractured or stimulated?  
23 A. Approximately 600 feet.  
24 Q. Do you want to add by amending or dismiss any  
25 respondents today?

- 1 A. No, we do not.
- 2 Q. Have you mailed copies of the revised notice of hearing  
3 and have you filed a certificate of mailing with Tom  
4 Fulmer's office and with the Board today?
- 5 A. Yes, we have.
- 6 Q. And the certificate of mailing in any event would be a  
7 part of Exhibit #2, is that correct?
- 8 A. Yes, it is.
- 9 Q. And everybody signed for it except for one person where  
10 it was returned?
- 11 A. That's correct.
- 12 Q. Was there a notice published?
- 13 A. Yes. There was on July 21st, 1995 in the Bluefield  
14 Daily Telegraph.
- 15 Q. With regard to people who you've been able to obtain  
16 leases from within this unit what are the terms -- the  
17 lease terms that you have offered?
- 18 A. That's a one-eighth royalty, five year term, a dollar  
19 per acre.
- 20 Q. A dollar per acre rental?
- 21 A. Yes.
- 22 Q. Would that rental cease at that the time production  
23 commenced?
- 24 A. That's correct. It would.
- 25 Q. To the extent that the Board would pool this unit and

1 provide for persons who do not elect to be deemed to  
2 have leased would you recommend these terms to the  
3 Board to be incorporated in the order for the deemed to  
4 have leased issue?  
5 A. Yes, we would.  
6 Q. Turning to Exhibit #G and Exhibit #G, Page 1 to the  
7 application, this shows your proposed panels under the  
8 V-16 unit, correct?  
9 A. That's correct. It does.  
10 Q. And there will be two panels, Panels 3-East and 4-East,  
11 correct?  
12 A. That's correct. It is.  
13 Q. And then Exhibit #G, Page 1, estimates the costs  
14 assuming six wells per panel and then allocates that  
15 cost to the various 80 acre units affected by the  
16 panels?  
17 A. That's correct. It does.  
18 Q. And it completes the math or the information that  
19 people who might want to participate need and  
20 specifically gives them the costs that would be  
21 allocated to their unit?  
22 A. That's correct. It does.  
23 Q. And then they can use the percentages set forth on  
24 Exhibit #B to calculate their participation or their  
25 carried interest for that matter?

- 1 A. That's correct. They can.
- 2 Q. Again with reference to the application, you've
- 3 indicated that the people who need to be pooled are
- 4 listed in Exhibit #B?
- 5 A. That's correct.
- 6 Q. And in Exhibit #B-1 what does that show?
- 7 A. Exhibit #B-1 shows the conflicting ownership claims.
- 8 Q. So this is at least at this point the people who we
- 9 would suspect their interest will need to be escrowed?
- 10 A. That's correct.
- 11 Q. Absent leasing or some other arrangement between now
- 12 and production?
- 13 A. That's correct. It shows all the conflicting claimants
- 14 within that unit.
- 15 Q. With regard to the proposed frack well production from
- 16 this unit how far would you expect -- how long a period
- 17 of time would you expect that frack well to produce
- 18 before mining reached it?
- 19 A. In this unit in particular here it's two to three
- 20 years.
- 21 Q. Is it your opinion that the plans disclosed on the map
- 22 on Exhibit #G are a reasonable plan to develop the
- 23 coalbed methane within this unit and the surrounding
- 24 units?
- 25 A. Yes, it is.

1 Q. Would the proposed wells in the panel and development  
2 in this unit and the adjoining units contribute to the  
3 protection of the correlative rights of the owners of  
4 the methane within this unit and in the adjoining  
5 units?  
6 A. Yes, it does.  
7 Q. With regard to election rights would you ask that the  
8 Board afford election rights only to those persons  
9 listed on Exhibit #B as unleased claimants who need to  
10 elect?  
11 A. That's correct. We do.  
12 Q. And B-1 also includes people from whom you've obtained  
13 leases who do not need an election option?  
14 A. That's correct.  
15 MR. SWARTZ: That's all I have.  
16 MR. CHAIRMAN: Questions, members of the Board?  
17 MR. EVANS: Yes. Mr. Arrington, would you give me the DWE  
18 cost again?  
19 THE WITNESS: Yes. I might have made a mistake on that. I  
20 believe it should be 891 instead of 691. It's  
21 \$264,981.  
22 MR. CHAIRMAN: Other questions?  
23 MR. EVANS: Yes. This well is not drilled yet but I notice  
24 on your Exhibit #G there appears to be two other wells  
25 located in that particular 80 acre unit. Is that

1 correct?

2 THE WITNESS: That's correct.

3 MR. EVANS: Are those wells scheduled to be drilled at the  
4 same time V-16 is?

5 THE WITNESS: Near the same time, yes, they are. Now, the  
6 wells that you see there -- these six say for the 3-  
7 East Panel are all a part of that cost that you see on  
8 Exhibit #G, Page 1.

9 MR. EVANS: Say that again, please.

10 THE WITNESS: The six that you see in the 3-East and the six  
11 that you see in 4-East are all part of the costs that  
12 you see on Exhibit #G, Page 1, the 1.5 million

13 MR. EVANS: Okay. I understand now. My question was going  
14 to be is the V-16-B going to be a frack well?

15 THE WITNESS: Yes, it is.

16 MR. EVANS: Prior to short hole production if you're going  
17 to produce out of that well you're going to be within  
18 the 300 foot offset. You're going to -- how are you  
19 going to protect correlative rights in W-16?

20 THE WITNESS: Well, that's the reason --

21 MR. EVANS: This is not short hole. This is frack. See,  
22 under your Oakwood I portion of this you're going to  
23 produce V-16-B. You may not charge anybody for it but  
24 you're also going to be taking gas from W-16 because  
25 you're outside your offset. Short hole production I'm

1 not talking about. I'm just talking about frack  
2 production.

3 MR. SWARTZ: There is no provision in this application for  
4 that.

5 MR. EVANS: You are requesting additional wells as I see  
6 this. You're requesting three frack wells in that  
7 unit, V-16-B being the one that I'm concerned with. V-  
8 16-A may or may not be but V-16-B for sure is.

9 MR. SWARTZ: Well, I guess we're requesting -- I mean, the  
10 Oil and Gas Inspector office is where we go to get a  
11 permit and/or a location exception historically. So we  
12 are advising the Board that we anticipate we would have  
13 three wells and we have set forth the costs so you know  
14 what the cost situation is. And I guess what we're  
15 asking in the application either directly or indirectly  
16 is an approval of the costs, not really an approval of  
17 the locations because we've asked for it in the past  
18 and we don't get it. You have identified a problem  
19 that has never really been addressed in either of the  
20 Oakwood rules and we don't have a lot of this. The  
21 Code -- I can't remember if it's the Code or the regs.  
22 Help me out here, but one of them says you can't have  
23 allowables on coalbed methane. So we don't have a  
24 mechanism to compensate an adjoining unit for drainage  
25 in a frack situation under the Code. And you've put

1 your finger on a good problem. I don't know what the  
2 answer is and it certainly hasn't been addressed in  
3 either of the field rules probably to some extent  
4 because the statute says you can't have allowables. In  
5 a perfect world the solution of the issue you raise is  
6 to make a 50/50 allocation on a frack well to another  
7 unit, saying we're just going to allocate on an  
8 allowables basis the production or we're going to allow  
9 you to pool part of it. You can't do that.

10 MR. EVANS: Your other option is to request a location  
11 exception for that well or whatever else but it's just  
12 a question that needs an answer. I don't know what the  
13 answer is as far as -- you're right. This is a pooling  
14 hearing and it's not something that's -- but to the  
15 extent that it affects your lumped costs I don't know  
16 whether it would or would not because you're betting on  
17 a location exception on a frack well that may or may  
18 not be drilled there or whatever else. I don't know  
19 how you want to handle that but that's something you  
20 may want to think about. And I don't know what the  
21 solution for it is right now.

22 MR. SWARTZ: The different, too, when you compare  
23 developments where you don't frack and you have double  
24 number of wells their location is essentially  
25 irrelevant because they're being vented for a mine

1 through. So there's nothing to allocate to anybody.  
2 When you start fine timing this to capture more gas you  
3 cause yourself problems -- well, you potentially give  
4 yourself a problem here because the location of double  
5 the wells would really be a non-issue in an active gob  
6 situation. I don't know what the answer is. I mean,  
7 we may need to look at it some. The methodology the  
8 more gas you capture, I guess, under this proposal you  
9 cause yourself some potential problems. Maybe you need  
10 to vent that hole, Les. But it's an interesting -- you  
11 know, it's a problem.

12 MR. EVANS: As far as the force pooling goes I think -- I  
13 don't know whether it will or will not. Maybe Les can  
14 speak to this. Will it affect the participation if  
15 you've lumped all your wells together and come out with  
16 some panel cost and that's what you're looking at for  
17 participation or is it just on V-16 period --  
18 participation in the entire unit or the entire panel?

19 THE WITNESS: The entire panel.

20 MS. RIGGS: The entire panel.

21 MR. EVANS: With movement -- and you're going to have it on  
22 V-16-A and V-16-B, both of those wells are going to be  
23 in that same boat. I don't know what affect that will  
24 have, if any.

25 MR. SWARTZ: I guess I would point one thing out that is not

1 a legal concept or a regulatory concept that might  
2 translate to other units. But if you look at the plat  
3 here the same people own the adjoining acreage. If you  
4 look at the well plat here maybe we just lucky here  
5 from a fairness standpoint on this particular unit.  
6 But if you look at the plat, the same people that are  
7 in this unit that are going to be getting revenue from  
8 the well are in the unit below which will be drained by  
9 it.

10 MR. EVANS: They are totally compatible as far as no extra,  
11 no loss, no --

12 MR. SWARTZ: Not totally, but the bulk of the unit if you  
13 look at it you don't have a situation where you've got  
14 property lines fairly close to the unit. Probably --  
15 I'm just guessing -- 80 percent of the owners of this  
16 unit are in the unit below. Les, from another  
17 standpoint, in terms of not to down play the production  
18 from the frack well but in terms of the ultimate  
19 production from this unit what's the rough relationship  
20 between the frack production and the active gob  
21 production?

22 THE WITNESS: As a total production as a whole you might get  
23 one or two percent. So it's really irrelevant as far  
24 as cost goes.

25 MR. EVANS: I understand that in the overall scheme of

1 things as far as dollars go it may or may not be  
2 significant from a business standpoint. However, from  
3 a regulatory standpoint, from our standpoint, it has to  
4 be significant.

5 MR. SWARTZ: Well, I think you misunderstood. It would be  
6 grossly unfair to offer people participation at two  
7 increments. I mean, to ask the people in this unit to  
8 participate on a frack basis would pump their -- which  
9 I think is what Les was saying.

10 THE WITNESS: Uh-huh.

11 MR. SWARTZ: Not --

12 MR. EVANS: I did misunderstand.

13 MR. SWARTZ: The investment in the frack wells if you  
14 limited it to this 80 acre unit the people in it would  
15 be so astronomical given the return that it's -- I  
16 mean, nobody would do that and plus it wouldn't be  
17 fair. So the reason -- now, you can pick -- and Sandy  
18 and I were talking about this on the break. You can  
19 pick units on a plat and say these people would clean  
20 up. It's a hit or miss of where the wells are. But  
21 you've got to kind of look at the big picture to even  
22 this out. And that's why the allocation is across the  
23 panel in terms of costs, because it is -- it's peanuts.

24 MR. EVANS: Yes. I understand what an averaging affect does  
25 and I understand why you do it and I agree with that.

1            since you're coming under Oakwood I on this this  
2            still doesn't solve my basic problem.

3            MR. SWARTZ: Has that well been permitted, the V-16-B?  
4            THE WITNESS: No, it has not.

5            MR. SWARTZ: Have you applied for it?  
6            THE WITNESS: No. We're surveying it now.

7            MR. SWARTZ: Is it possible you could move that a little  
8            further from the line one direction or the other?  
9            MR. EVANS: W-16's already been pooled. If you move it  
10           south then it's going to be in a different unit.

11           MR. SWARTZ: No.

12           THE WITNESS: Topographically we wouldn't want to move it.

13           MR. SWARTZ: You don't want to move it. Okay.

14           THE WITNESS: We just went through that yesterday.

15           MR. SWARTZ: Right. See, moving it would not change the  
16           cost for W-16. It's still the cost.

17           MR. EVANS: Right.

18           MR. SWARTZ: The well is still in the equation. It's just a  
19           different location. Moving it is not going to change  
20           it.

21           MR. EVANS: It's still in the same panel. I understand.

22           MR. SWARTZ: Right.

23           MR. EVANS: I understand.

24           MR. SWARTZ: Well, another way of looking at this, there's  
25           been testimony in the past with regard to the life

1           expectancy of frack wells and conceptually three years  
2           is one-fifth, one-sixth of the life of a frack well.  
3           You could almost look at this as -- which ever side of  
4           the line this falls on because there's going to a mine  
5           through -- I mean, if we were telling this well was  
6           going to last 20 years and it would drain the entire  
7           drainage pattern you could almost look at this as  
8           having an allowable concept built into it.

9           Theoretically the people on one side or the other of  
10          this well and this line are entitled to half of the  
11          production. And it isn't going to happen. So the  
12          people are not going to be unjustly enriched on that  
13          side of the line. Now, the people on the other side  
14          aren't going to be cut out of anything with this two or  
15          three years of production but at least there's not an  
16          argument to be made that they're getting 100 percent of  
17          the production or some disproportion of it. That's a  
18          way of looking at this. I mean, I don't know what the  
19          solution is. I don't know that we have ability to pool  
20          two units.

21       MS. RIGGS: What do you do when you have circles that  
22                overlap? How have we done that in the past? They pay  
23                both, right?

24       MR. EVANS: Well, it depends on who's in it. Generally not  
25                too many people have come in without the same interest

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in both units.

MR. CHAIRMAN: Both have paid to the overlap area.

MR. EVANS: Right.

MR. CHAIRMAN: That's the way it's worked. You don't believe you can move the well outside the exception area, Les?

THE WITNESS: No. I can't move it to the north.

MR. EVANS: You'd miss the panel.

THE WITNESS: Yeah. And if we come to the south -- we looked and worked on this well yesterday fortunately and topographically I'm just about where it has to be topographically.

MR. SWARTZ: What happens if you come south to the terrain?

THE WITNESS: I start getting over the side of the mountain. Actually where we're located right here is on a coal bench. That's where it's located right now.

MR. SWARTZ: So if you go much in either direction you're off the side of the mountain on the side of the hill?

THE WITNESS: And there's a house to the west. So we can't go west.

MR. SWARTZ: And, of course, the other thing which is implicit here is you're trying to preserve some spacing for a degas standpoint, correct?

THE WITNESS: That's correct. We try to maintain a 1,200 foot spacing. As you can see, that spacing is

1 starting to narrow down -- narrow there.

2 (PAUSE.)

3 MR. SWARTZ: We've had -- this has happened a fair amount in  
4 the past where we've had wells close to the boundary,  
5 frack wells. In general the driving force there has  
6 been topography or other mining companies.

7 MR. EVANS: I'm not saying that there haven't been location  
8 exceptions granted, but I'm not sure that I can  
9 remember a time when it's been on a multiple completion  
10 of the unit for a frack.

11 MR. SWARTZ: We haven't done that. That's the problem.  
12 We've had multiple wells but they've been gob and  
13 they've been vented to the extent they're sucked out  
14 all before -- I mean, the Oakwood order provides for a  
15 minimum spacing of 600 feet to wells. It has a 300  
16 foot offset and it also provides that the Gas and Oil  
17 Inspector can grant location exceptions which a lot of  
18 them have been granted on frack wells, not certainly  
19 the multiple situation.

20 MR. CHAIRMAN: What problem does it present to you to  
21 continue this until you get the location exception and  
22 go through that process?

23 MR. SWARTZ: I guess I'm sort of looking at it the other way  
24 around. If we can't get a location exception we will  
25 permit this as a VVH I would assume.

1 THE WITNESS: V-16-B. Well, the V-16-B does match our mine  
2 plan. It's basically the reason for its location plus  
3 topography. We will be coming back eventually for the  
4 gob but we won't be coming back --

5 MR. SWARTZ: We won't have to come back. What we're talking  
6 about here is you produce it as a VVH until you've  
7 isolated the panel. That's the worst case scenario. I  
8 mean, if you need it for your mine plan and you can't  
9 get a location exception you just vent the gas until  
10 you've isolated the panel then you can produce it as a  
11 gob under this order if you get one. I'm not asking  
12 you to be excited about this.

13 THE WITNESS: No.

14 MR. SWARTZ: But in terms of -- if we can think of something  
15 else we can come back, too. But I don't -- the Oakwood  
16 I order creates 80 acre units period. We really don't  
17 have options. Either we get an exception or we don't  
18 which is kind of the way it's been in the past. The  
19 only difference here is we've got a couple of wells in  
20 this unit. But this was the only one I'd like my  
21 chances of getting it approved based on history.

22 MR. EVANS: Yeah. If it's one well historically you can put  
23 on a case for a location exception that's fine. But  
24 since there are three in this unit that makes it a  
25 whole new ball game.

1 MR. SWARTZ: Well, I'm not sure I agree with you. The only  
2 thing that changes is how do you allocate your costs.  
3 If we were looking for 100 percent of the costs from  
4 the people in this unit we'd be looking at some serious  
5 difficulty. It wouldn't happen. The arrangement we  
6 had essentially in the past was we got one unit per  
7 well -- one frack well per unit per panel in the unit.  
8 So we had kind of an understanding that we could get  
9 two. And that's at a point in time when we were  
10 allocating 100 percent of the costs to the given unit.  
11 So you'd basically be looking at \$520,000 in this unit  
12 just for a frack well which is not the situation under  
13 this application. I don't know. But what I would like  
14 to see happen, if you guys can do this and feel  
15 comfortable, is approve the application and either  
16 leave a location exception up to the Inspector or to  
17 the extent that you don't want to see a location  
18 exception granted here add that on to the order and  
19 we'll just deal with it. And if we want to produce  
20 this and capture the gas we'll come back and try to  
21 figure something out. If we're going to vent it so  
22 that we can mine this we'll just apply for a permit as  
23 a VVH. But let us go on to the extent we want to  
24 produce it -- give us an option to come back. I don't  
25 know what else to do. (Pause.) Les is telling me that

1 he thinks it's possible they could creep it a couple of  
2 feet into W-16. But it really doesn't solve the  
3 problem.

4 MR. EVANS: It's the same problem going back the other way.

5 THE WITNESS: It's just the same numbers.

6 MR. SWARTZ: Right. It doesn't really matter.

7 MR. EVANS: Whether it's in one unit or the other you're  
8 still going to have the same problem because if you  
9 move it south you're going to have multiple wells in  
10 that unit and you're going to run into the same  
11 situation going back the other way.

12 MR. CHAIRMAN: You're not going to overcome the hurdle of  
13 having a location exception there and the opportunity  
14 for people to object. Once you had that -- what I was  
15 looking at, once the Board had that knowledge and you  
16 had that knowledge then can better make a decision  
17 here.

18 MR. LEWIS: Right.

19 MR. SWARTZ: Well, the problem is we're kind of trapped  
20 because of the mine plan and the spacing that we need.  
21 So I don't see us coming back and being able to move --  
22 if you look at the location of this panel in relation  
23 to the other panels you can't do much about that in  
24 relation to the boundary lines. I mean, we really  
25 don't have much of an option here. That thing's going

1 to have to go relatively close to where it is. And  
2 regardless of what side of the line it's on the issue  
3 that Ken has raised or the problem that Ken's raised is  
4 going to be there. I guess your alternatives are to  
5 say we're not going to put our seal of approval on this  
6 even though we don't have a solution or we're going to  
7 leave it up to the Gas and Oil Inspector and then our  
8 option is to drill it as a VVH or try to figure out  
9 some way to save the production and come back and see  
10 you guys. I sort of see those as the collection of  
11 choices. That well is going to be there whether it's a  
12 VVH or a gas well. That's our problem. We can't do  
13 anything about it.

14 MR. CHAIRMAN: I understand that language.

15 MR. SWARTZ: If you look at the mine map it's pretty  
16 obvious.

17 MR. KELLY: Is there any reason to believe we wouldn't grant  
18 an exception to that under the proper application?

19 MR. CHAIRMAN: Well, I guess the thing I'm thinking through  
20 as to what they're saying is if they get objections to  
21 the location exception they're just going to vent it,  
22 say it's necessary for the mine plan. And you're three  
23 years in advance.

24 MR. SWARTZ: If we get objections and we don't prevail --  
25 just because somebody objects doesn't necessarily mean



1 MR. CHAIRMAN: Do we have a motion?  
2 MR. EVANS: Mr. Chairman, I move that we deny the petition.  
3 MR. CHAIRMAN: A motion to deny.  
4 MR. LEWIS: I second it.  
5 MR. CHAIRMAN: Any further discussion? A motion and a  
6 second.  
7 MR. HARRIS: Are there other options? What about continuing  
8 it because I know that was discussed earlier?  
9 MR. CHAIRMAN: I offered that. They weren't -- you're  
10 suggesting the Board on its own motion continue it?  
11 MR. HARRIS: Well, Max had talked about that earlier and I  
12 wondered if that was an area we had not explored.  
13 MR. SWARTZ: Can we amend our application?  
14 MR. CHAIRMAN: Sure.  
15 MR. SWARTZ: Let's withdraw the request for this well, the  
16 V-16-B.  
17 MR. CHAIRMAN: We'll take a five minute break and let you  
18 all discuss that.  
19 (AFTER A BRIEF PAUSE OFF THE RECORD, THE HEARING  
20 CONTINUED AS FOLLOWS:)  
21 MR. EVANS: Mr. Chairman, as a point of order we've got a  
22 motion and a second.  
23 MR. CHAIRMAN: We in discussion phase of the motion to deny.  
24 MR. SWARTZ: I had requested an opportunity to talk to my  
25 client about perhaps amending our application and the

1 up shot of our discussion is as follows. Because V-16  
2 and V-16-A have both been permitted -- right, Les?

3 THE WITNESS: Yes, they have.

4 MR. SWARTZ: -- and are being drilled and will be drilled  
5 before we could get back here again and we would like  
6 to produce that gas and sell it we kind of need an  
7 order to allow us to do -- if we don't have an order  
8 we're going to have to vent that gas. Because V-16-B  
9 has not been permitted, no permit is applied for  
10 although the surveyors are about to go out there we  
11 would request that we be allowed to amend our  
12 application to remove the location shown for V-16-B and  
13 to remove it as a frack well which would give us two  
14 options. We want to keep it as an additional well  
15 under the gob well Oakwood II so that we could produce  
16 it to the extent we can figure out some way to move it  
17 which -- Les and I have talked and we're not at all  
18 optimistic we're going to be able to do it. But it  
19 would also give us an opportunity to come back in the  
20 event we could move it or figure out some other way to  
21 satisfy the questions that Ken has raised and give us  
22 an option to come back. But in any event it could be  
23 an additional well under Oakwood II. So we will pull  
24 it out of the frack production end here. The cost  
25 would stay in because it's an additional well that

1 we're going to need under the gob scenario. So if  
2 you're going to participate through the gob which is  
3 the way the costs are calculated the cost number is  
4 going to be there except for the \$60,000. So we'll  
5 have to file a revised estimate to back that up and to  
6 the extent there is other plumbing associated with that  
7 we'd probably be back down in the 150/160 range. But  
8 would those caveats and those amendments we'd ask that  
9 you consider allowing us to amend our application so  
10 that we could produce V-16 and V-16-A.

11 MR. EVANS: Mr. Chairman, I'd like to withdraw my motion for  
12 denial.

13 MR. CHAIRMAN: Okay. We have a motion to withdraw. Do I  
14 have a second?

15 MR. LEWIS: Second.

16 MR. EVANS: Mr. Chairman, I'll make a motion that we grant  
17 the petition subject to counsel's caveats removing well  
18 V-16-B from the frack Oakwood I portion of this and  
19 also backing out the costs and submitting a revised  
20 cost estimate and location -- removing it.

21 MR. CHAIRMAN: We have a motion.

22 MR. LEWIS: Second.

23 MR. CHAIRMAN: A motion and a second. Any further  
24 discussion? All in favor signify by saying yes. (ALL  
25 AFFIRM.) Opposed say no. (NONE.) It's approved.

1 MR. SWARTZ: Thank you all.

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3 ITEM IV

4 MR. CHAIRMAN: The next item on the agenda is a petition  
5 from Equitable Resources Exploration for the pooling of  
6 conventional gas well identified as V-2135, docket  
7 number VGOB-95/08/15-0512. We'd ask the parties that  
8 wish to address the Board in this matter to come  
9 forward at this time.

10 MR. KAISER: Mr. Chairman and members of the Board, Jim  
11 Kaiser representing Equitable Resources Exploration.  
12 Our witnesses in this matter will be -- we have the  
13 reintroduction of Mr. Dennis Baker as our land and  
14 lease acquisition witness and Mr. Bob Dahlin.

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

17 MR. KAISER: Please swear the witnesses at this time.

18 COURT REPORTER: (Swears witnesses.)

19 DENNIS BAKER

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

22  
23 DIRECT EXAMINATION

24  
25 BY MR. KAISER:

1 Q Mr. Baker, could you state your full name for the  
2 record, who you are employed by and in what capacity?  
3 A. My name is Dennis Baker. I'm employed by Equitable  
4 Resources Exploration as a senior landman.  
5 Q. Have you previously testified before the Gas and Oil  
6 Board and been accepted as an expert witness on land  
7 and lease acquisition matters?  
8 A. Yes, I have.  
9 MR. KAISER: I'd once again move Mr. Baker as an expert  
10 witness in this matter.  
11 MR. CHAIRMAN: He's accepted.  
12 Q. (Mr. Kaiser continues.) Mr. Baker, do your  
13 responsibilities include the lands involved here and in  
14 the surrounding area?  
15 A. Yes, they do.  
16 Q. Are you familiar with Equitable's application for a  
17 drilling unit and force pooling order for EREX well  
18 V-2135 dated July 12th, 1995?  
19 A. Yes, I am.  
20 Q. Is Equitable seeking to force pool the drilling rights  
21 underlying the drilling and spacing unit as depicted at  
22 Exhibit #A of the application?  
23 A. Yes.  
24 Q. Has EREX applied for a permit for this well?  
25 A. Yes, we have. The permit is dated July 21st, 1995.

- 1 Q. Does the proposed unit depicted at Exhibit #A include  
2 all the acreage within 2,540 feet of the proposed well  
3 V-2135?
- 4 A. Yes, it does.
- 5 Q. Does Equitable own drilling rights in the unit involved  
6 here?
- 7 A. Yes, we do.
- 8 Q. What is the interest of Equitable in the unit?
- 9 A. At the time of application we had 96.76 percent of the  
10 unit leased.
- 11 Q. Are you familiar with the ownership of drilling rights  
12 of parties other than Equitable underlying this unit?
- 13 A. Yes.
- 14 Q. What is the interest unleased at this time?
- 15 A. The unleased interest at the time of the application is  
16 3.24 percent.
- 17 Q. Are all the unleased parties set out at Exhibit #B to  
18 the application?
- 19 A. Yes, they are.
- 20 Q. Prior to filing the applications were efforts made to  
21 contact each of the respondents and an attempt made to  
22 work out an agreement regarding the development of the  
23 unit?
- 24 A. Yes, they were.
- 25 Q. Subsequent to the filing of the application have you

1 continued to attempt to reach an agreement with the  
2 unleased interest owners listed at Exhibit #B?  
3 A. Yes, we have.  
4 Q. As a result of these efforts have you acquired any  
5 other leases from any of the respondents listed at  
6 Exhibit #B as unleased owners?  
7 A. No.  
8 Q. Were efforts made to determine if the individual  
9 respondents were living or deceased or their  
10 whereabouts and if deceased were efforts made to  
11 determine the names and addresses and whereabouts of  
12 the successors to any deceased individual respondent?  
13 A. Yes.  
14 Q. Were reasonable and diligent efforts made and sources  
15 checked to identify and locate unknown heirs to include  
16 primary sources such as deed records, probate records,  
17 assessors records, treasurers records and secondary  
18 sources such as telephone directories, city  
19 directories, family and friends?  
20 A. Yes.  
21 Q. In your professional opinion, Mr. Baker, was due  
22 diligence exercised to locate each of the respondents  
23 named herein?  
24 A. Yes, it was.  
25 Q. Are the addresses set out in Exhibit #B to the

1 application the last known addresses for the  
2 respondents?

3 A. That's correct.

4 Q. With the exception of those parties which you are  
5 hereby dismissing from this proceeding are you  
6 requesting this Board to force pool all unleased  
7 interests listed at Exhibit #B?

8 A. Yes, we are.

9 Q. Do you seek to force pool drilling rights of each  
10 individual if living and if deceased the unknown  
11 successor or successors to any deceased individual  
12 respondent?

13 A. Yes.

14 Q. Are you seeking to force pool the drilling rights of  
15 the person designated as trustee if acting in the  
16 capacity of trustee and if not acting in such capacity  
17 is Equitable seeking to force pool the drilling rights  
18 of the successor of such trustee?

19 A. Yes.

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

22 A. Yes, I am.

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

24 A. A five dollar per acre cash consideration, a five year  
25 term, one-eighth royalty.

1 Q. Did you gain your familiarity by acquiring oil and gas  
2 leases and other agreements involving the transfer of  
3 drilling rights in the unit involved here and in the  
4 surrounding area?

5 A. Yes, I have.

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

10 A. Yes.

11 Q. Based upon this testimony and as to respondents who  
12 have not voluntarily agreed to pool do you recommend  
13 that the respondents listed at Exhibit #B who remain  
14 unleased be allowed the following options with respect  
15 to their ownership interest within the unit: 1)  
16 Participation. 2) A cash consideration of five dollars  
17 per net mineral acre plus a one-eighth of eight-eighths  
18 royalty. 3) In lieu of the cash bonus and one-eighth of  
19 eight-eighths royalty share in the operation of the  
20 well on a carried basis as a carried operator under the  
21 following conditions: Such carried operator shall be  
22 entitled to the share of production from the tract  
23 pooled accruing to his interest exclusive of any  
24 royalty or overriding royalty preserved in any leases,  
25 assignments thereof or agreements relating thereto of

1 such tracts but only after the proceeds allocable to  
2 his share equal A) 300 percent of the share of such  
3 costs allocable to the interest of the carried  
4 operator of a leased tract or portion thereof or B) 200  
5 percent of the share of such costs allocable to the  
6 interest of the carried operator of an unleased tract  
7 or portion thereof?

8 A. That's correct.

9 Q. Do you recommend the order provide that elections by  
10 respondents be in writing and sent to the applicant at  
11 Equitable Resources Exploration, P.O. Box 1983,  
12 Kingsport, Tennessee, 37662, attention Dennis Baker,  
13 regulatory?

14 A. That's correct.

15 Q. And should this be the address for all communications  
16 with the applicant concerning the force pooling order?

17 A. Yes.

18 Q. Do you recommend the force pooling order provide that  
19 if no written election is properly made by a respondent  
20 that such respondent shall be deemed to have elected to  
21 cash royalty option in lieu of participation?

22 A. Yes.

23 Q. Should the unleased respondents be given 30 days from  
24 the date of the order to file a written election?

25 A. Yes, they should.

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

1 in regard to the payment of well costs any cash sum  
2 becoming payable to such respondent be paid within 60  
3 days after the last date on which such respondent could  
4 have been paid or made satisfactory arrangements for  
5 the payment of well costs?  
6 A. That's correct.  
7 Q. Do you recommend the force pooling order provide that  
8 if a respondent refuses to accept any payment due  
9 including any payment due under said order or any  
10 payment of royalty or cash bonus or said payment cannot  
11 be paid to a party for any reason where there is a  
12 title defect in the respondent's interest that the  
13 operator create an escrow account for the respondent's  
14 benefit until the money can be paid to the party or  
15 until the title defect is cured to the operator's  
16 satisfaction?  
17 A. Yes.  
18 Q. Mr. Baker, who do you request be named the operator  
19 under this force pooling order?  
20 A. Equitable Resources Exploration.  
21 MR. KAISER: That's all I have of this witness at this time,  
22 Mr. Chairman.  
23 MR. CHAIRMAN: Questions, members of the Board? I have one.  
24 Will you clarify in Tract 3 Sarah D. Robinson, widow,  
25 unleased and Sarah D. Robinson, widow, unleased life

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estate?

THE WITNESS: Sarah Robinson acquired this particular tract as her dour interest of the estate and she has a life estate in the entire five acre tract. So she has one tract ownership by herself in addition to a life estate in the remaining tracts. And if you'll notice on Tract 3 there's the heirs of Dan Rush Robinson. She has the life estate in that particular interest of Dan Rush.

MS. RIGGS: Did I understand that there were some dismissals of parties since the filing of the application?

THE WITNESS: No.

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

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

ROBERT A. DAHLIN, II

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Dahlin, I will remind you that you are under oath. Would you state your name, who you're employed by and in what capacity?

- 1 A. Robert A. Dahlin, II. I'm employed by EREX as a  
2 production specialist.
- 3 Q. Have you previously testified before the Virginia Gas &  
4 Oil Board and have your qualifications as an expert  
5 witness previously been accepted by the Board?
- 6 A. Yes.
- 7 Q. Do your responsibilities include the land involved here  
8 and in the surrounding area?
- 9 A. They do.
- 10 Q. Are you familiar with the proposed exploration and  
11 development here under applicant's proposed plan of  
12 development?
- 13 A. Yes, I am.
- 14 Q. What is the total depth of the well under the  
15 applicant's plan of development?
- 16 A. 4,980 feet.
- 17 Q. Will this include formations consistent with the well  
18 work permit?
- 19 A. Yes, it will.
- 20 Q. And will this be sufficient to penetrate and test the  
21 common sources of supplies in these subject formations?
- 22 A. Yes.
- 23 Q. Is the applicant requesting the force pooling of  
24 conventional gas reserves not only to include the  
25 designated formations but any other formations

1           excluding coal formations which may be between those  
2           formations designated from the surface to the total  
3           depth drilled?  
4           A.    We are.  
5           Q.    Is this initial well at a legal location?  
6           A.    Yes, it is.  
7           Q.    What are the estimated reserves of the unit?  
8           A.    We estimate 600 million cubic feet of gas.  
9           Q.    Are you familiar with the well costs for the initial  
10           unit well under the applicant's plan of development?  
11           A.    I am.  
12           Q.    Has an AFE been reviewed, signed and submitted to the  
13           Board?  
14           A.    Yes.  
15           Q.    Was this AFE prepared by an engineering department  
16           knowledgeable in the preparation of AFEs and  
17           knowledgeable in regard to well costs in this area?  
18           A.    Yes.  
19           Q.    Does this AFE represent a reasonable estimate of the  
20           well costs for the proposed initial unit well under the  
21           applicant's plan of development?  
22           A.    It does.  
23           Q.    Could you please state for the Board both the dry hole  
24           costs and the completed well costs for V-2135?  
25           A.    Dry costs are \$140,350 and completed well costs are



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MR. CHAIRMAN: Do we have a motion?

MR. LEWIS: I make a motion to grant the application.

MR. EVANS: Second.

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

All in favor signify by saying yes. (ALL AFFIRM.)

Opposed say no. (NONE.) It's a unanimous approval.

Thank you.

ITEM V

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2  
3 MR. CHAIRMAN: The next item on the agenda is a petition  
4 from Equitable Resources Exploration for the pooling of  
5 a coalbed methane gas well identified as PAC-2628,  
6 docket number VGOB-95/08/15-0513. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward now and identify themselves.

9 MR. KAISER: Mr. Chairman and members of the Board, Jim  
10 Kaiser representing Equitable Resources Exploration.  
11 Once again our witnesses in this matter will be Dennis  
12 Baker on land and lease and Bob Dahlin on well costs  
13 and operation. Before we get into the testimony by way  
14 of introduction on this matter this well was drilled in  
15 November of 1992 under the 500 foot spacing. In  
16 conjunction with bringing this unit into compliance  
17 with the Roaring Fork Field Rules and continuing due  
18 diligence we discovered a different oil and gas owner  
19 on Tract 5. Mr. Baker and his people have made  
20 numerous attempts to reach a voluntary agreement with  
21 these parties and we've been unsuccessful. That's why  
22 we're here before you to pool this very minute  
23 interest. This well went into production. There has  
24 been some production out of it and therefore there will  
25 need to be a very minute reallocation of royalty which

1 Mr. Dahlin will address in his testimony. Are there  
2 any questions up front?

3 MR. HARRIS: Exhibit #A, Tract 5 is down at the bottom  
4 center or so. Is that what we're talking about?

5 MR. KAISER: Yes.

6 MR. HARRIS: The little triangular shape?

7 MR. KAISER: Right. It represents .04 percent in the unit.

8 MR. CHAIRMAN: Other questions? You may proceed with  
9 testimony.

10

11

DENNIS BAKER

12

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

14

15

DIRECT EXAMINATION

16

17

BY MR. KAISER:

18

Q. Mr. Baker, if you could once again state your name for  
19 the record, who you are employed by and in what  
20 capacity?

21

A. My name is Dennis Baker. I'm employed by Equitable  
22 Resources Exploration as a senior landman.

23

Q. Mr. Baker, do your responsibilities include the lands  
24 involved here and in the surrounding area?

25

A. Yes, they do.

- 1 Q. And are you familiar with Equitable's application for  
2 the establishment of a drilling unit and pooling order  
3 for EREX well VAC-2628 dated July 12th, 1995?
- 4 A. Yes, I am.
- 5 Q. Is this well in the Roaring Folk Field and are we  
6 before the Board today to bring it in compliance with  
7 the field rules promulgated May 31st, 1994 effective  
8 April 19th, 1994?
- 9 A. Yes.
- 10 Q. Did EREX receive a permit to drill this well?
- 11 A. Yes, we did. The permit was dated October 9th, 1992.
- 12 Q. Is Equitable seeking to force pool the drilling rights  
13 underlying the drilling and spacing unit as depicted at  
14 Exhibit #A?
- 15 A. Yes.
- 16 Q. Does Equitable own drilling rights in the unit involved  
17 here?
- 18 A. Yes, we do.
- 19 Q. What is the interest of Equitable in the oil and gas  
20 estate in the unit?
- 21 A. At the time of application the gas estate leased was  
22 99.96 percent.
- 23 Q. Are you familiar with the ownership of drilling rights  
24 of parties other than Equitable underlying this unit?
- 25 A. Yes, I am.

- 1 Q. What is the interest?
- 2 A. At the time of the application the unleased interest
- 3 amounted to .04 percent.
- 4 Q. And what percent of the coal estate does EREX have
- 5 under lease?
- 6 A. At time of application we had 100 percent of the coal
- 7 estate leased.
- 8 Q. And are all the unleased parties set out at Exhibit #B?
- 9 A. Yes, they are.
- 10 Q. Prior to filing this application were efforts made to
- 11 contact each of the respondents and an attempt made to
- 12 work out an agreement regarding the development of the
- 13 unit?
- 14 A. Yes, they were.
- 15 Q. Subsequent to the filing of the application have you
- 16 continued to attempt to reach an agreement with the
- 17 respondents listed at Exhibit #B?
- 18 A. Yes, we have.
- 19 Q. As a result of these efforts have you been able to
- 20 acquire any other leases from any of the respondents
- 21 listed at Exhibit #B?
- 22 A. No, we have not.
- 23 Q. Were any efforts made to determine if the individual
- 24 respondents were living or deceased or their
- 25 whereabouts and if deceased were efforts made to

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determine the names and addresses and whereabouts of the successors to any deceased individual respondent?

A. Yes.

Q. Were reasonable and diligent efforts made and sources checked to identify and locate any unknown heirs to include primary sources such as deed records, probate records, assessors records, treasurers records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes.

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

A. Yes, it was.

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

A. That's correct.

Q. Are you requesting this Board to force all unleased interests listed at Exhibit #B?

A. Yes.

Q. Does Equitable seek to force pool the drilling rights of each individual if living and if deceased the unknown successor or successors to any deceased individual respondent?

1 A. Yes.

2 Q. Is Equitable seeking to force pool the drilling rights  
3 of the person designated as trustee if acting in the  
4 capacity of trustee and if not acting in such capacity  
5 is Equitable seeking to force pool the drilling rights  
6 of the successor of such trustee?

7 A. Yes.

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

10 A. Yes, I am.

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

12 A. Yes. A five dollar per acre cash consideration, a five  
13 year term, one-eighth royalty.

14 Q. And did you gain this familiarity by acquiring oil and  
15 gas leases, coalbed methane leases and other agreements  
16 involving the transfer of drilling rights in the unit  
17 involved here and in the surrounding area?

18 A. Yes.

19 Q. In your opinion do the terms you have testified to  
20 represent the fair market value of and the fair and  
21 reasonable compensation to be paid for drilling rights  
22 within this unit?

23 A. Yes.

24 MR. KAISER: Mr. Chairman, at this time in regards to the  
25 testimony regarding elections and participation and

1 when those payments are due I would ask the Board to  
2 incorporate the testimony as elicited in the prior  
3 matter that we heard just before this which would be  
4 VGOB-95/08/15-0512.

5 MR. CHAIRMAN: Any objection? Without objection.

6 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend  
7 the force pooling order provide that if a respondent  
8 refuses to accept any payment including any payment due  
9 under said order or any payment of royalty or cash  
10 bonus or said payment cannot be paid to a party for any  
11 reason where there is a title defect in the  
12 respondent's interest or in the event of a conflicting  
13 claim to the coalbed methane that the operator pay into  
14 an escrow account created by this Board until all costs  
15 or proceeds attributable to conflicting interests shall  
16 be held for the respondent's benefit until such funds  
17 can be paid to the party by order of this Board or  
18 until the title defect or conflicting claim is resolved  
19 to the operator's satisfaction?

20 A. Yes.

21 Q. Who should be named the operator under the force  
22 pooling order?

23 A. Equitable Resources Exploration.

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

1 MR. CHAIRMAN: Questions, members of the Board?  
2 MR. EVANS: Mr. Chairman, I've got one question. In your  
3 relief sought, authorize the drilling or operation of  
4 the well for the production of oil, gas and methane and  
5 pooled acreage. Is this not just a simple coalbed  
6 methane well?  
7 MR. KAISER: What page are you on of the application?  
8 MR. EVANS: Three, at the bottom and four. It's the first  
9 I.  
10 MR. KAISER: No. That should be -- that's a mistake. It  
11 should just be coalbed methane. We can submit an  
12 amended application later today.  
13 MR. EVANS: Thank you.  
14 MR. CHAIRMAN: Anything further?  
15 (Witness stands aside.)  
16 MR. CHAIRMAN: Call your next witness.

17  
18 ROBERT A. DAHLIN, II  
19 a witness who, after having been previously sworn, was  
20 examined and testified as follows:

21  
22 DIRECT EXAMINATION

23  
24 BY MR. KAISER:

25 Q. Mr. Dahlin, would you state for the Board once again

- 1 your name, who you're employed by and in what capacity?
- 2 A. Robert A. Dahlin, II. I'm employed by EREX as a
- 3 production specialist.
- 4 Q. Have you previously testified before the Virginia Gas &
- 5 Oil Board and have your qualifications as an expert
- 6 witness previously been accepted by the Board?
- 7 A. Yes.
- 8 Q. Do your responsibilities include the land involved here
- 9 and in the surrounding area?
- 10 A. Yes.
- 11 Q. Are you familiar with the exploration and development
- 12 here under applicant's plan of development?
- 13 A. I am.
- 14 Q. What is the total depth of the well that was drilled
- 15 here?
- 16 A. 2,500 feet.
- 17 Q. Was this sufficient to penetrate and test the common
- 18 sources of supplies in these subject formations
- 19 consistent with the well permit?
- 20 A. Yes.
- 21 Q. What are the reserves of the unit?
- 22 A. Currently we estimate 210 million cubic feet.
- 23 Q. Are you familiar with the well costs for the initial
- 24 well under the applicant's plan of development?
- 25 A. I am.

- 1 Q. Was an AFE reviewed, signed and submitted to the Board?
- 2 A. An AFE was submitted reflecting actual costs of
- 3 drilling this well.
- 4 Q. Was the AFE prepared by an engineering department
- 5 knowledgeable in the preparation of AFEs and
- 6 knowledgeable in regard to well costs?
- 7 A. Yes.
- 8 Q. Does this AFE represent an actual estimate or an actual
- 9 cost of the well under this plan of development?
- 10 A. Yes, it does.
- 11 Q. What were the actual completed well costs?
- 12 A. \$179,077.
- 13 Q. Did these costs include a multiple completion?
- 14 A. Yes.
- 15 Q. And a reasonable charge for supervision?
- 16 A. Yes.
- 17 MR. KAISER: At this time, Mr. Chairman and members of the
- 18 Board, I'd like to have Mr. Dahlin go through and
- 19 explain how much gas has been produced from this well
- 20 and what the actual reallocation will be versus the
- 21 Greater Wise who is the initial oil and gas owner under
- 22 Tract 5 and the new oil and gas owner which are the
- 23 W.F. Wampler heirs.
- 24 A. (The witness continues.) Since this well has been
- 25 turned on line we have actually produced 18,539 cubic

1 feet of gas. The appropriate royalty then from that  
2 amount would be \$4,412.80. That's the 100 percent of  
3 the royalty. So the four-hundredths of the percent of  
4 the \$4,000 would amount to \$1.76. And our accounting  
5 department will make the appropriate adjustments in the  
6 future disbursements.

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

11 A. Yes, sir.

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

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

15 (Witness stands aside.)

16 MR. CHAIRMAN: Do I have a motion?

17 MR. EVANS: Mr. Chairman, I move that we approve the  
18 petition.

19 MR. CHAIRMAN: A motion to approve.

20 MR. HARRIS: Second.

21 MR. CHAIRMAN: A second. Any further discussion? All in  
22 favor signify by saying yes. (ALL AFFIRM.) Opposed  
23 say no. (NONE.) The record will note the Chair  
24 abstained. I don't know any of the Wamplers to my  
25 knowledge. I'm not going to claim my share of the

\$1.70.

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ITEM VI, VII

MR. CHAIRMAN: The next item on the agenda is a petition from Buchanan Production Company for pooling of a coalbed methane gas unit identified as R-2, docket number VGOB-95/08/15-0514. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. SWARTZ: Mark Swartz appearing for the applicant.

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

MR. SWARTZ: If we could, these are related units that are in the same row, R-2 and S-2, and if you might perhaps agree to call the second one we can do them together since the testimony is going to overlapping.

MR. CHAIRMAN: Okay. We'll do that. We'll also call a petition from Buchanan Production Company for the pooling of a coalbed methane gas unit identified as S-2. This is docket number VGOB-95/08/15-0515. The record will show there are no other parties to that docket number.

LESLIE K. ARRINGTON

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

1  
2 DIRECT EXAMINATION  
3

4 BY MR. SWARTZ:

5 Q. Les, you want to state your name again and title for  
6 us?

7 A. Leslie K. Arrington, permit specialist for Consol,  
8 Incorporated.

9 Q. I'm just going to remind you you're still under oath.

10 A. Okay.

11 Q. Did you prepare the notices of hearing and the  
12 applications and the exhibits with regard to these  
13 applications regarding R-2 and S-2?

14 A. Yes, I did.

15 Q. Are these applications solely under Oakwood II?

16 A. Yes, they are.

17 Q. So we're not going to be talking about frack wells?

18 A. No.

19 Q. Is Buchanan Production Company the applicant in both  
20 instances?

21 A. Yes, they are.

22 Q. Is Buchanan Production a Virginia general partnership  
23 with two corporate partners that are wholly owned  
24 indirect subsidiaries of Consol, Inc.?

25 A. Yes, they are.

- 1 Q. Is Buchanan Production authorized to do business in the  
2 Commonwealth?
- 3 A. Yes.
- 4 Q. In both applications is the applicant requesting that  
5 Consol, Inc. be designated the operator if the  
6 applications are approved?
- 7 A. Yes, they are.
- 8 Q. Is Consol, Inc. a Delaware corporation that is  
9 authorized to do business in the Commonwealth, that is  
10 registered with the DMME and that has a blanket bond on  
11 file with the Department consistent with the  
12 regulations for oil and gas operators?
- 13 A. Yes, it does.
- 14 Q. In both of these -- with regard to both of these  
15 pooling applications have you today given a packet of  
16 exhibits to the Board members?
- 17 A. Yes, I have.
- 18 Q. Toward the last three exhibits in each packet in R-2 it  
19 would be 6, 7 and 8 and in S-2 it would be 8, 9 and 10,  
20 are those exhibits exhibits that are intended to show  
21 the relationship between Buchanan Production Company  
22 and Consol, Inc.?
- 23 A. Yes, it does.
- 24 Q. And that relationship was essentially that Buchanan  
25 Production Company has designated Consol, Inc. to

- 1 manage its affairs and manage its properties?
- 2 A. That's correct.
- 3 Q. Consol, Inc. then has further delegated to certain  
4 specific employees who are named in the last exhibit in  
5 each booklet certain responsibilities in that regard?
- 6 A. That's correct.
- 7 Q. Are both of the units, R-2 and S-2, 80 acre units?
- 8 A. That's correct. They are.
- 9 Q. Do you seek to pool all seams below the Tiller?
- 10 A. Yes, we do.
- 11 Q. Is the production in each case contemplated basically  
12 active gob production?
- 13 A. That's correct.
- 14 Q. There are revised hearing notices here, correct, in  
15 both?
- 16 A. That's correct.
- 17 Q. And the revised hearing notices are shorter because the  
18 initial notice that went out and was published  
19 inadvertently listed a bunch of your lessors?
- 20 A. That's correct.
- 21 Q. So the revised notice has the names of the people who  
22 actually need to be pooled?
- 23 A. That's correct.
- 24 Q. In each instance Exhibit #B has been revised as well?
- 25 A. Yes, it has.

- 1 Q. Tell the Board why it was revised and in what respect?
- 2 A. Exhibit #B, all the respondents stayed the same. It
- 3 lists the Rosa Yates heirs. We have eleven people
- 4 listed as heirs to Rosa Yates. Actually there were
- 5 only ten children to Rosa Yates. One of the children
- 6 have passed away and that person had two children and
- 7 we had eleven people listed. Those two -- instead of
- 8 having one-eleventh everybody had one-tenth and that
- 9 one person since they had passed away their tenth was
- 10 split to one-twentieth.
- 11 Q. So after the mailing and the publication the heirs
- 12 contacted you and there's no additional people but they
- 13 enabled you to straighten their interests out?
- 14 A. That's correct. And we only learned of that change
- 15 over this past weekend.
- 16 Q. But the revisions with regard to Exhibit #B concerning
- 17 R-2 and S-2 were for that same reason you've just
- 18 expressed?
- 19 A. That's correct.
- 20 Q. Again with regard to Exhibit #B-1 which you have
- 21 provided concerning each of these two units, B-1 is
- 22 your statement at this time which interests will
- 23 probably be subject to escrow as conflicting?
- 24 A. That's correct. Conflicting interests, yes.
- 25 Q. With regard to these units if we look at Exhibit #G at

1 the end of either one of the applications it puts the  
2 Oakwood unit grid on top of the VP-3 mine works,  
3 correct?  
4 A. That's correct.  
5 Q. And the mine works to the right which are more detailed  
6 are mine works that are actually completed?  
7 A. That's correct.  
8 Q. And as we get to the left and the information becomes  
9 sketchier those are proposed mine wells?  
10 A. That's correct. It is.  
11 Q. And we're talking about -- going from north to south  
12 basically the two row which is kind of in the middle  
13 here in the R and S units and essentially there are two  
14 panels that affect those units, correct?  
15 A. That's correct.  
16 Q. The interests in terms of the amount of acreage in the  
17 panels and in this unit, those allocations are set  
18 forth in Exhibit #G, Page 1, is that correct?  
19 A. That's correct. It is.  
20 Q. Now, since this is not a frack well situation and we're  
21 talking gob wells here we have not six frack wells but  
22 the estimate is for eleven gob wells, correct?  
23 A. In 3-West. In 4-West it's for ten gob wells.  
24 Q. And it projects the total panel costs for 3-West and  
25 4-West and then allocates that cost based on the

- 1 percentages we just spoke about?
- 2 A. That's correct. It does.
- 3 Q. And Exhibit #B gives a division of interests -- revised
- 4 Exhibit #B gives a division of interest for each person
- 5 that we're proposing to pool in the unit and then in
- 6 the panels as depicted on Exhibit #G?
- 7 A. That's correct. It does.
- 8 Q. Which would enable them to predict their royalty share
- 9 and enable them to calculate their participation or
- 10 carried interest costs?
- 11 A. That's correct.
- 12 Q. Is there also a well cost estimate in both of these
- 13 applications?
- 14 A. Yes, there is.
- 15 Q. Should it have the same number?
- 16 A. Yes.
- 17 Q. It's a generic sort of estimate of a non-fracked gob
- 18 well?
- 19 A. That's correct. It is.
- 20 Q. What is the amount of the estimate?
- 21 A. \$148,689.64.
- 22 Q. And the estimated depth of these wells is what?
- 23 A. Approximately 1,760 feet.
- 24 Q. Is that depth deep enough to reach the distress zone
- 25 and produce from the gob?

- 1 A. Yes, it is.
- 2 Q. Was the original notice that had all the names -- the  
3 people on the revised list as well as some of your  
4 lessors, was that published in the newspaper for both  
5 of these units?
- 6 A. Yes, it was.
- 7 Q. What newspaper and what date?
- 8 A. Bluefield Daily Telegraph. It was published on July  
9 21st.
- 10 Q. In both of the packets of exhibits that would be  
11 Exhibit #3?
- 12 A. Yes, it is.
- 13 Q. As part of Exhibit #2 which is your due diligence  
14 affidavit with regard to mailing and so forth have you  
15 included with regard to each of these units a  
16 certification of notice?
- 17 A. Yes, I have.
- 18 Q. In both instances not everybody but virtually everybody  
19 signed for the mail?
- 20 A. That's correct.
- 21 Q. And it's specified?
- 22 A. Yes.
- 23 Q. Are there also copies of the receipts attached?
- 24 A. Yes, there is.
- 25 Q. In terms of the deemed to have leased situation, if

1 people do not exercise their option what lease terms  
2 would you recommend to the Board to be included in  
3 their order with regard to that issue?  
4 A. One dollar per acre per year, one-eighth royalty with a  
5 five year term. The one dollar per acre is a rental  
6 only payable until we start production.  
7 Q. Is it your view and opinion that the plan of  
8 development which is shown on Exhibit #G basically --  
9 the map -- is a reasonable plan to develop the coalbed  
10 methane within these two units and the adjacent units  
11 and to fairly protect the correlative rights of the  
12 owners in these two units and the adjoining ones?  
13 A. That is correct. Yes.  
14 MR. SWARTZ: That's all I have.  
15 MR. CHAIRMAN: Questions, members of the Board?  
16 (Witness stands aside.)  
17 MR. CHAIRMAN: Do I have a motion?  
18 MR. EVANS: Mr. Chairman, I move we grant the petition.  
19 MR. KELLY: Second.  
20 MR. CHAIRMAN: A motion and a second. Further discussion?  
21 MR. HARRIS: We need to be specific in the motion that we're  
22 looking at two --  
23 MR. EVANS: Both, yes. I move that we grant both petitions.  
24 MR. KELLY: Second.  
25 MR. CHAIRMAN: Further discussion? All in favor signify by

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saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)

Unanimous approval.

MR. SWARTZ: Thank you all.

MR. CHAIRMAN: Anything further, members of the Board? That concludes today's hearing.

(End of Proceedings for  
August 15, 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 August 15, 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 28th day of August, 1995.

\_\_\_\_\_  
DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 1996.