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VIRGINIA OIL AND GAS BOARD

HEARING OF JANUARY 16, 1996

9:05 A.M.

AT THE SOUTHWEST VA. 4-H CENTER

ABINGDON, VIRGINIA

Appalachian Court Reporting Services, Inc.

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January 16, 1996

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2 This matter came on to be heard on this the 16th day of
3 January, 1996 before the Virginia Gas and 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. I'm
8 Deputy Director for the Department of Mines, Minerals
9 and Energy and Chairman of the Gas and Oil Board. I'll
10 ask the members to introduce themselves starting with
11 Mr. Kelly.

12 MR. KELLY: Bill Kelly, oil and gas industry representative.

13 MR. HARRIS: I'm Bill Harris, a consumer public
14 representative.

15 MR. LEWIS: Max Lewis, citizen member.

16 MS. RIGGS: Sandra Riggs, Office of the Attorney General.

17 MR. EVANS: Ken Evans, coal industry representative.

18 MR. FULMER: Tom Fulmer, Department of Mines, Minerals and
19 Energy.

20 MR. CHAIRMAN: Thank you.
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ITEM I

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3 MR. CHAIRMAN: The first item on today's agenda is that the
4 Board will receive a status report from Premier
5 Bankshares Corporation as escrow agent on the escrow
6 accounts established by the Virginia Gas and Oil Board.

7 MR. KING: I'm Bill King with Premier and I have distributed
8 a report -- does everybody have it -- showing -- this
9 time we've consolidated the first couple few years,
10 1992, 1993 and 1994 and then for 1995 we have each
11 quarter. The same format. I would point out the
12 royalty receipts hit over the million dollar mark
13 during the last quarter. The quarter that ended
14 September, 1995 was fairly substantial as far receipts
15 into the escrow fund, very close to \$400,000. The
16 total balance, as you can see, now stands at 1,116,398.
17 The second page shows a picture of the account, the
18 holdings at 12/31/95. We have continued to be fairly
19 conservative as far as the length of term on the
20 average maturity of the money with the -- well, it
21 would be less than a year because the average maturity
22 of the Government select short term fund, which is a
23 money market fund, is around 30 days. Of course, you
24 can see the two Treasury notes, the Tennessee Valley
25 Authority which is a US Government Agency bond is due

1 in 1998. So we have -- at this point probably won't
2 exceed three or four years on any investments. But it
3 has allowed us to lock in some rates, at least on the
4 Treasury and the Government Agency. Money market rates
5 will still continue to fall. So we will probably add
6 another -- again, with the large growth we had in the
7 fall we can really stand to put a little more in
8 intermediate bonds. Again, the rate we will get will
9 not be much higher. Rates are very flat, meaning to
10 exceed money market rates you'd have to really go five
11 years, again talking some very conservative Government
12 bonds. But the idea would be to lock in that because
13 the consensus feeling would be that rates are still
14 trending down and money market rates in these funds
15 will lag that. We're getting 5.3 on the money market
16 funds, but the investments being made in that fund
17 probably are at that level certainly not more than
18 that. You can see the average yield of the fund is
19 about five and a half percent. Any questions on either
20 reports or any other things I can add -- any feelings
21 as to investments?

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

23 MR. HARRIS: Just a very quick question. Mr. King, on the
24 first page, the distributions column?

25 MR. KING: Yes.

1 MR. HARRIS: The numbers in parenthesis, are those numbers
2 of distributions or amounts?

3 MR. KING: No. Those are amounts. Those are amounts paid
4 out. That's all -- I guess that was back in 1994.
5 That probably represented two, if I recall correctly.
6 These were all unlocatable amounts that were in there
7 that were obviously very small ownership interests.
8 But those are dollar amounts.

9 MS. RIGGS: Those amounts are represented by orders that
10 were presented to the Board for applications to
11 withdraw funds where unknown or unlocatable parties
12 came forward and identified themselves and asked that
13 their money -- on conventional units where there
14 weren't conflicting claims of ownership.

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

16 MR. EVANS: The third quarter is \$400,000. Was that due to
17 the previous Board allowing companies to hold a little
18 bit before they made those deposits as opposed to
19 making a 30 cent deposit?

20 MR. KING: I think that somewhat it is.

21 MR. EVANS: Because that's a pretty good jump.

22 MR. KING: Yeah. I don't know how we possibly could -- when
23 we get the reports there probably is a way we can tell
24 if it's regular current money or if it's from -- but I
25 don't think that much of it is from the minimal amounts

1 we're talking about where they can hold it till it --
2 because that hasn't -- in my opinion of what I've seen
3 that hasn't accounted for a whole lot.

4 MR. EVANS: Because it jumps --

5 MR. KING: And then it drops down again.

6 MR. EVANS: And that looks like a holding and then
7 somebody --

8 MR. KING: Well, I think it has to be but I don't know if
9 it's just due to the minimal amounts is what I'm
10 saying. I think there might be some catch up in there,
11 but I understand there's also been somewhat more
12 production.

13 MR. EVANS: Just looking at it that was one of the things
14 that really --

15 MR. KING: Really jumped out at you.

16 MR. EVANS: It's no -- I just thought you might have some
17 inkling of particularly happened.

18 MR. KING: I haven't discussed this with any of the folks
19 that are sending in the money. So I don't know.

20 MR. EVANS: No problem.

21 MR. CHAIRMAN: Other questions? Thank you, Mr. King. We
22 appreciate it very much.

23 MR. KING: Thank you all.

24 MR. HARRIS: As far as investments, do we need to talk about
25 that any more? The other question was about invest-

1 ment. Should we move in some other direction?

2 MR. CHAIRMAN: Really you're saying that unless you go a

3 minimum of five years that you're not talking about a

4 substantial change?

5 MR. KING: No, we're really not. And this spread -- what we

6 try to look at is the spread on these Government

7 Agencies over a Treasury. They've been very small.

8 This one TVA bond happened to be -- I can't even tell

9 you off the top of my head what it was. But it was

10 probably 15 or 20 basis points and that was a lot at

11 the time. It just hasn't been wide spread. Then on

12 time also there's not a lot of spread. In other words,

13 Federal fund rate up to five years -- I mean, it varies

14 a little bit but there's just not that much difference.

15 I think the idea of maybe buying one or two more, say,

16 hundred thousand in a three or maybe even four year

17 bond is not a bad idea because at least in the near

18 future who can guess on even three years out. But I

19 just don't think we're going to see rates any higher in

20 the next couple of years than they are now. Based on

21 that and the fact we have so much in money market --

22 which is a good rate. 5.3 right now in a Government

23 money market fund is a good rate. But I have a feeling

24 if we get 50 basis point drop in Federal Funds rate

25 later this year which is what most all of the fore-

1 casters are saying -- if that happens then this rate
2 will be down probably about that. Half a percent. So
3 we can -- I think as far as equitity and the projects
4 for what might happen in five years probably isn't a
5 problem, especially when I don't think we're going to
6 do beyond 50 percent. My feeling right now from the
7 impute we've had in the past is that we probably
8 wouldn't put more than 50 percent of the fund into
9 permanent investment, meaning other than money market
10 funds. Having said that, we were at a point when the
11 fund maybe was \$500,000 or \$600,000 when we were
12 talking that way. But specifically -- Mr. Harris, does
13 that --

14 MR. HARRIS: Actually I just wondered if you would offer
15 some options for us or just what you thought about
16 this in terms of -- and you've given that.

17 MR. KING: Yeah. I think we would go another 100,000 or
18 200,000 into bonds such as you see here and probably --
19 again, in the latter -- we'll have something come due
20 every year out to maybe four years, maybe five years,
21 if we run into something that seems like a tremendous
22 value where there's a nice difference between the four
23 year and the five year. I don't think five -- right
24 now with the size of the fund I don't think that would
25 be too far out. The one other thing, because of rates

1 falling -- and on the front sheet we're doing every-
2 thing at book value, money coming in. If you note the
3 very first column of the second page report, 1,116,398
4 rounding to the nearest dollar, matches with the
5 balance. If you go over to the next column, market
6 value, it's up about \$2,700 and that's merely because
7 since we've bought the bond rates have come down a
8 little and the bonds have appreciated. So that's
9 actually -- it's additional bookkeeping income. It's
10 not -- we probably will never sell the --

11 MR. EVANS: It's why it comes to maturity.

12 MR. KING: That's right. We bought -- let's see. On the
13 one we'll have a small gain because we bought it at a
14 discount. The other thing that we've tried to do in
15 here is not pay any premium for a bond simply because
16 of the type of fund. If you pay a premium you auto-
17 matically have a principal loss. Now, that generally
18 doesn't matter if you're getting more income you offset
19 those. But in this fund we're trying to do nothing to
20 incur any actual capital loss. In other words, if we
21 liquidated the portfolio net right as of 12/31 we would
22 have made \$2,700 but that's not what we're trying to do
23 here. We're just trying to get a good yield and keep
24 the money very secure.

25 MR. EVANS: You've got \$100,000 coming due 8/31/96 and

1 you're going to have another \$200,000 -- put it this
2 way. If you bought in at, say, \$200,000 more in US
3 Treasury or some other you're going to have an eight
4 month/nine month wait possibly and then you're going to
5 have another \$100,000 not counting contribution.

6 MR. KING: Right. And then we would roll -- in other words,
7 we would take -- when the 1996 Treasury note comes due
8 we roll it so that like if we have something out four
9 years then at that point we might go five. In other
10 words, we'll have a laddered portfolio.

11 MR. EVANS: That's a most conservative plan.

12 MR. KING: It's conservative. That's for sure. But it's --
13 again, we're going to avoid any loss while having a
14 reasonable income and we're really in a good interest
15 rate environment right now as far as not having losses
16 on bonds. Had we done this in late 1993 or early 1994,
17 you know -- of course, we're still holding -- we would
18 possibly back at that point been showing some bookkeep-
19 ing loss because rates had gone up at that time. As
20 long -- the thing to remember is long as we hold the
21 funds to maturity we won't actually incur any gain or
22 loss.

23 MR. CHAIRMAN: Do you need any authorization from the Board
24 or anything that you're seeking to --

25 MR. KING: I don't think so, no. We're in power to do --

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within the guidelines we have set which is what I would say an overall capital preservation looking to get a reasonable yield. That's the type of objective we're running on right now.

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

MR. EVANS: Good job.

MR. CHAIRMAN: Thank you, Mr. King.

ITEM II

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3 MR. CHAIRMAN: The next item on the agenda is a petition
4 from Equitable Resources Exploration for forced
5 pooling of interests in coalbed methane well in the
6 Nora Coalbed Field identified as VC-2585. This is
7 docket number VGOB-96/01/16-0528. We'd ask the parties
8 that wish to address the Board in this matter to come
9 forward at this time.

10 MR. KAISER: Mr. Chairman, members of the Board, I'm Jim
11 Kaiser on behalf of Equitable Resources Exploration.
12 Our witnesses in this matter will be Mr. Dennis Baker
13 and Mr. Bob Dahlin.

14 MR. POWERS: I'm Preston Powers and this is my brother
15 Darrell Powers. We have some land involved.

16 MR. CHAIRMAN: What we'll do is ask them to put on their
17 case as they swear in their witnesses and ask ques-
18 tions. If you have any questions following their
19 questions you can do that and then we'll come to you so
20 you can make your statement.

21 COURT REPORTER: (Swears witnesses.)
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DENNIS BAKER

1
2 a witness who, after having been duly sworn, was examined
3 and testified as follows:
4

5 DIRECT EXAMINATION
6

7 BY MR. KAISER:

8 Q. Mr. Baker, would you please state your name for the
9 Board, who you're employed by and in what capacity?

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

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

14 A. Yes, they do.

15 Q. Are you familiar and have you gone over Equitable's
16 application for the establishment of a drilling unit
17 and pooling order for EREX well VC-2585 which was dated
18 December 13th, 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. Does Equitable own drilling rights in the unit involved
25 here?

1 A. Yes, we do.

2 Q. Does the location proposed for well VC-2585 fall within
3 the Board's order for the Nora Coalbed Field Rules
4 dated March 20th, 1989?

5 A. Yes.

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

8 A. The gas estate at the time of application as well as at
9 the time of the hearing the leased interest is 99.06
10 percent.

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

14 A. Yes, I am.

15 Q. What is the unleased interest in the gas estate at this
16 time?

17 A. The unleased interest in the gas estate is .94 percent
18 of the unit and we have a 100 percent interest in the
19 coal estate leased.

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

21 A. Yes, they are.

22 Q. Prior to filing the application were efforts made to
23 contact each of these respondents and an attempt made
24 to work out an agreement regarding the development of
25 the unit involved?

1 A. Yes.

2 Q. Subsequent to the filing of the application have you
3 continued to attempt to reach an agreement with the
4 respondents?

5 A. Yes, we have.

6 Q. As a result of these efforts have you acquired any
7 other leases from the respondents listed at Exhibit #B
8 as unleased owners?

9 A. No.

10 Q. Mr. Baker, were efforts made to determine if the
11 individual respondents were living or deceased or their
12 whereabouts and if deceased were efforts made to
13 determine the names and addresses and whereabouts of
14 the successors to any deceased individual respondents?

15 A. Yes.

16 Q. Were reasonable and diligent efforts made and sources
17 checked to identify and locate unknown heirs to include
18 primary sources such as deed records, probate records,
19 assessor's records, treasurer's records, and secondary
20 sources such as telephone directories, city directori-
21 es, family and friends?

22 A. Yes.

23 Q. In your professional opinion was due diligence exercis-
24 ed to locate each of the respondents named herein?

25 A. Yes.

- 1 Q. Are the addresses set out in Exhibit #B to the applica-
2 tion the last known addresses for the respondents?
3 A. That's correct.
4 Q. Are you requesting this Board to force pool all
5 unleased interests listed at Exhibit #B?
6 A. Yes, we are.
7 Q. Does Equitable seek force pool the drilling rights of
8 each individual respondent if living and if deceased
9 the unknown successor or successors to any deceased
10 individual respondent?
11 A. Yes.
12 Q. Is Equitable seeking to force pool the drilling rights
13 of the person designated as trustee if acting in
14 capacity of trustee, and if not acting in such capacity
15 is Equitable seeking to force pool the drilling rights
16 of the successor of such trustee?
17 A. Yes, we are.
18 Q. Are you familiar with the fair market value of drilling
19 rights in the units here and in the surrounding area?
20 A. Yes, I am.
21 Q. Could you advise the Board as to what those are?
22 A. Yes. A five dollar per acre consideration, a five year
23 term with a one-eighth royalty.
24 Q. Did you gain your familiarity by acquiring oil and gas
25 leases, coalbed methane leases and other agreements

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involving the transfer of drilling rights in the unit involved here and in the surrounding area?

A. Yes.

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

A. Yes.

Q. Based on your previous testimony and as to the respondents who have not voluntarily agreed to lease do you recommend that the respondents listed at Exhibit #B who remain unleased be allowed the following options with respect to their ownership interest within the unit; 1) Participation. 2) A cash bonus of five dollars per net mineral acre plus a one-eighth of eight-eighths royalty. 3) In lieu of cash bonus and one-eighth of eight-eighths royalty share in the operation of the well on a carried basis as a carried operator under the following conditions: Such carried operator shall be entitled to the share of production from the tracts pooled accruing to his interest exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto of such tracts but only after the proceeds allocable to his share equal A) 300 percent of the share of such

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

6 A. That is correct.

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

12 A. That's correct.

13 Q. Should this be the address for all communications with
14 the applicant concerning the forced pooling order?

15 A. Yes.

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

20 A. Yes.

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

23 A. Yes.

24 Q. If an unleased respondent elects to participate should
25 that respondent be given 45 days from the latter of the

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

1 becoming to such respondent shall be paid within 60
2 days after the last date on which such respondent could
3 have paid or made satisfactory arrangements for the
4 payment of well costs?

5 A. Yes.

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

20 A. That's correct.

21 Q. Who should be named the operator under the forced
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? Do you have
2 any questions, Mr. Powers?

3 MR. POWERS: Yes. Am I to understand that these maps and
4 papers that they sent to us are accurate?

5 THE WITNESS: As far as the certification from the surveyor,
6 yes.

7 MR. POWERS: These are suppose to be accurate?

8 THE WITNESS: Yes.

9 MR. POWERS: Well, on this map that you sent you have us
10 owning Tract 3 and we own Tract 2. If there's a
11 mistake one place it's possible there's a mistake
12 somewhere else.

13 THE WITNESS: Where does Tract 2 --

14 MR. POWERS: Here is a map -- an original map if you care to
15 look at it.

16 THE WITNESS: So you're saying that you own this tract here?

17 MR. POWERS: We own this land here. You've got it as Tract
18 3 and it's suppose to be Tract 2.

19 THE WITNESS: This is a tract designation that we use in our
20 exhibits. It has nothing to do --

21 MR. POWERS: It has nothing to do with our map?

22 THE WITNESS: No. See, we number the tracts on our exhibits
23 that reference this interest, this lease, according to
24 the way the survey plat has it.

25 MR. POWERS: Okay. You were talking you holding the money

1 for so long in escrow and then you send it out. You
2 have another well on our land that we were force pooled
3 in. Well, we each got a check from that for 66 cents
4 for two years.

5 MR. POWERS: We don't think that the State Legislature had
6 this in mind when they passed these laws about this
7 pooling business. We object to the pooling, especially
8 we object to the location of the well that you've put
9 on these leased land that you have. You drop it right
10 down in the corner -- let me show you this, Mr.
11 Chairman. Would you care to look at this map?

12 MR. CHAIRMAN: We'll let you do that but when you put on
13 your case. What we need you to do now is ask questions
14 of this witness and then we'll let you tell us what you
15 want to tell us.

16 MR. POWERS: One other question, do I understand that each
17 person that's pooled in this is required to pay so much
18 cost of drilling the well?

19 MR. KAISER: That's only if you elected to participate. You
20 have three different election options as a force pooled
21 party. If you elect to participate then you'd have to
22 pay your proportionate share of the costs of drilling
23 the well.

24 MR. POWERS: Well, you know, that seems kind of strange.
25 Clinchfield stripped our land over there and they owned

1 the coal. We own the gas under the land now but they
2 owned the coal and they paid a flat royalty for each
3 ton. And they didn't require us to buy bulldozers and
4 stuff like that in order to mine the coal.

5 MR. KAISER: Well, we're not requiring you to do that either
6 unless you want to take a different interest in the
7 well, unless you wanted to participate.

8 MS. RIGGS: If you want a working interest you can elect to
9 participate. Otherwise you're a leased party entitled
10 to a royalty. Of course, that's your choice.

11 MR. POWERS: You're a forced lease party.

12 MR. KAISER: You can elect to participate up to your
13 proportionate interest in the unit.

14 MR. POWERS: In other words, they're going against our will
15 to do this. Do you think that this is a pretty fair
16 return for maybe a year and a half, two years?

17 THE WITNESS: I would need to know what the 66 cents -- I
18 would need to know what it was for. Was it royalty
19 or --

20 MR. POWERS: Now, you must understand that there's five
21 parties involved in this. So that 66 cents would
22 actually be \$3.30 total.

23 THE WITNESS: This says here that it's a bonus payment which
24 would indicate consideration paid to you maybe under
25 the forced pooling order. I'm not sure why this was

1 paid last year unless it was for the well -- under the
2 previous forced pooling order we were required to pay
3 you five dollars per acre for your interest in the
4 unit. For each one of you your proportionate share
5 totals 66.
6 cents.

7 MR. POWERS: In other words, we can look forward to a check
8 like that every two years for 66 cents?

9 THE WITNESS: No. This is the only check that you will
10 receive under this well for a bonus payment.

11 MR. KAISER: It's kin to a delay rental payment for a lease.
12 It's not a royalty payment.

13 MR. POWERS: Are we not due to royalties on this percentage
14 that you're drilling -- where they're drawing gas from
15 our land?

16 THE WITNESS: The royalties on a coalbed methane well -- I
17 believe this particular tract has a conflicting claim
18 between the oil and gas estate and the coal estate.
19 That's one of the things that the Board does, they
20 require the money to be paid into an escrow account
21 until the issue of who owns the CBM is resolved.

22 MR. POWERS: What do you mean by CBM?

23 THE WITNESS: The coalbed methane gas.

24 MR. POWERS: In other words, you're planning to own it?

25 THE WITNESS: No. We don't know who owns it at this point.

1 MR. POWERS: Well, our deed says we own it.
2 THE WITNESS: You have the gas estate. You own the gas and
3 Clinchfield owns the coal.
4 MR. POWERS: True.
5 THE WITNESS: There's a conflicting claim as far as the
6 ownership of the coalbed methane gas.
7 MR. KAISER: Of the minerals in place but via the forced
8 pooling order we have the right to produce the coalbed
9 methane gas as the operator under the order.
10 MR. POWERS: You're putting these people's money and my
11 money and the other people in this well here into
12 escrow?
13 MR. KAISER: Uh-huh.
14 MR. POWERS: Where's your's going? Is your's going into
15 escrow, too?
16 MR. KAISER: No. It's going into the ground, into the well.
17 MR. POWERS: Some of the profits have got to be coming out
18 somewhere. In a two year period of time it looks like
19 it would have some profit. I talked to a lawyer over
20 there one day at this gas well about this other one
21 we're talking about here and I explained to him what we
22 were getting and he was putting a new chart on it. He
23 put the chart on and walked back to his truck and came
24 back. I said that will be about 66 cents per year. He
25 said, "What time it took me to walk to the truck you

1 made more money than that." So somebody is making
2 money.

3 MR. KAISER: Well, see, I don't think you still understand
4 the difference between what that check represents and
5 what your royalty interest is. That check represents a
6 payment for your -- probably failure to elect under the
7 forced pooling order. The Board has to pay respondents
8 that are force pooled a consideration just as if you
9 were voluntarily leased we'd pay you consideration for
10 the lease. That's what that check represents. It's
11 five dollars per net mineral acre divided among the
12 five of you or the different mineral owners that you
13 have there. As far as your actual production royalty
14 out of the well, that's going into an escrow account.
15 That check has nothing to do with that. We can check
16 and see what that -- apparently that well is on line.
17 We can check and see --

18 MR. POWERS: It's been on line for a year.

19 MR. KAISER: We can check and see what that amount is for
20 you. We'll be glad to do that. But that check and
21 what your accrued royalty may be have absolutely no
22 relation whatsoever. It's based upon the same interest
23 within the unit.

24 MR. POWERS: It seems like EREX should have sent us a small
25 letter or a communication letting us know this stuff.

1 It wouldn't have been a big job for them to have done
2 that. We were under the impression that this here was
3 royalties and that would have been cleared up if you
4 all had sent us a letter explaining it to us.

5 THE WITNESS: The way you can determine that right there is
6 this acre right here, this represents the acreage
7 that's inside this unit. If you take the five dollars
8 per acre times this and divide it by the five people in
9 the family it totals to 66 cents.

10 MR. HARRIS: I just have a quick question. Mr. Powers --
11 both of you, you all are aware that when we say gas and
12 then coalbed methane we are talking about two different
13 things?

14 MR. POWERS: Right.

15 MR. HARRIS: And the law is different. In fact, the law --
16 the problem is that several people claim coalbed
17 methane gas and that's why we've got to escrow that.
18 Because the coal company may say, "Oh, since we own the
19 coal the gas is in the coal. So we own the gas also."
20 And you all are saying, "Well, we have a lease to the
21 property or deed to the property that says we own the
22 gas." Coalbed methane was not mentioned probably in
23 that and those are separate in the eyes of the State.
24 Those are two different things.

25 MR. POWERS: Has this been ruled on in the Legislature?

1 MR. HARRIS: It's been in existence for several years.

2 MS. RIGGS: The way the statute treats it because there is a
3 conflicting claim and there have been no court deci-
4 sions yet determining who really owns the coalbed
5 methane the General Assembly has said until that
6 court's make that decision the money will be held in
7 escrow. And then once the court makes the decision it
8 will be paid out to the appropriate parties. So the
9 way the General Assembly dealt with it is with the
10 escrow account until that decision gets made by the
11 courts which is where the decision has to be made on
12 mineral ownership type interests.

13 MR. POWERS: In other words, the small landowner is left
14 out.

15 MR. POWERS: They really don't know right at this particular
16 point who owns the methane. The point is what is the
17 difference in gas and methane gas? They should specify
18 something in there.

19 MR. HARRIS: Apparently the source of it is the question.
20 If it comes from coal or if it's mainly stored in coal
21 areas then the coal companies actually in the past have
22 claimed -- have said that's just part of the coal. We
23 get that also. And I'm not saying that's right or
24 wrong. I'm just saying this is the way it was done.

25 MR. POWERS: I understand.

1 MR. HARRIS: So since the State Legislators could not
2 decide who actually owned it -- because people like
3 you all were coming up and saying, "Wait a minute. I
4 have a deed that says I own the gas." And the coal
5 companies were coming in saying, "Wait a minute. You
6 own deep gas or whatever. You don't own the coalbed
7 methane gas." There's been an argument for years now
8 and that has not been settled. And until that's
9 settled the gas that is pumped that does collect
10 royalty, the royalty proportion that would go to you or
11 whoever the State decides owns this, that's held in
12 escrow. In fact, Mr. King who was here this morning is
13 the person who's responsible for taking care of those
14 accounts. We've heard this before. The problem is
15 that we haven't had any decision in terms of who owns
16 the gas and until that decision is made the money is
17 held. That's where your royalty money is. But I
18 wasn't sure if you knew that -- if you understood the
19 distinction between the two. I've heard people say
20 well, gas is gas but at the same time -- because you
21 use it the same way essentially and I would imagine it
22 may be pumped differently or something, but in terms
23 of ownership there is some question because that gas
24 comes from the coalbeds and that's the problem.
25 MR. POWERS: How long has this question been pending as to

1 witness previously been accepted by the Board?

2 A. Yes, I have and they have.

3 Q. Do your responsibilities include the lands involved

4 here and in the surrounding area?

5 A. Yes.

6 Q. Are you familiar with the proposed exploration and

7 development of the unit involved here and the appli-

8 cant's proposed plan of development?

9 A. Yes, I am.

10 Q. What is the total depth of the proposed well under

11 applicant's plan of development?

12 A. 2,470 feet.

13 Q. Will this be sufficient to penetrate and test the

14 common sources of supply in the subject formations?

15 A. Yes, it will.

16 Q. What are the estimated reserves of this unit?

17 A. 450 million cubic feet.

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

19 unit well under applicant's plan of development?

20 A. Yes, I am.

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

22 A. Yes, it has.

23 Q. Was this AFE prepared by an engineering department

24 knowledgeable in the preparation of AFEs and knowledge

25 in regard to well costs in this area?

1 A. Yes.

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

5 A. Yes, it does.

6 Q. Could you state for the Board and for the Powers both
7 the dry hole costs and the completed well costs for VC-
8 2585?

9 A. The dry costs are \$75,240 and the completed well costs
10 is \$186,000.

11 Q. Do these costs anticipate a multiple completion?

12 A. Yes, they do.

13 Q. Does this AFE include a reasonable charge for super-
14 vision?

15 A. Yes.

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

20 A. Yes, sir, it will.

21 MR. KAISER: I have nothing further of this witness, Mr.
22 Chairman.

23 MR. CHAIRMAN: Questions, members of the Board? Do you
24 gentlemen have any questions of this witness?

25 MR. POWERS: No.

1 MS. RIGGS: What's the well depth?

2 THE WITNESS: 2,470 feet.

3 (Witness stands aside.)

4 MR. CHAIRMAN: Do you have anything further?

5 MR. KAISER: Nothing further.

6 MR. POWERS: One of our questions was these wells they
7 drill, they drill them right next to the -- within 300
8 feet of the line of our tract. I can't understand how
9 that they can say that they just get gas off this
10 section up here but only getting very little off of my
11 section down here. This map here, the square is what
12 they say they're getting the gas out of, but right here
13 is the well. Now, how is that well taking just that
14 amount of gas up there and it don't take this gas down
15 in here? To me they've got it in a square and I think
16 it should be in a circle if they're going to take gas
17 at all. If they can gas up to here they should get gas
18 all the way down to here.

19 MR. KAISER: Well, these wells are permitted and are drilled
20 in accordance with some field rules that the Board
21 approved in, I guess, March of 1989, the Nora Coalbed
22 Gas Field Rules, and those rules were adopted by the
23 Board after a substantial amount of testimony from
24 reservoir engineers as to drainage patterns and various
25 other expert testimony in which it was determined that

1 for this particular pool or this particular coal field,
2 this particular formations that was the optimum size
3 unit and the optimum drainage.

4 MR. POWERS: In other words, it's just draining up toward
5 your land and not going down towards my land?

6 MR. CHAIRMAN: Using the drawings -- and I know this gets
7 difficult as far as testimony goes but I'm just showing
8 you now four circular units to show you just a very
9 rough layman's description of what the Board considered
10 in developing the Nora rules. A lot of substantial
11 testimony was provided at that time and those rules are
12 available for you to look at as well as the testimony
13 at the Gas and Oil Office in Abingdon. But if you go
14 with a circular unit where you have a known field where
15 there's going to be substantial drilling you're going
16 to have a lot of area within these circles -- and I'm
17 going to block those out now to show you -- where no
18 one would get paid. And by having the squares you
19 assure that everyone gets paid. So if you have
20 property next to that you may get more over there than
21 would actually be drained if you were in a circle and
22 vise versa on the other side.

23 MR. POWERS: Even if you put it in a square you take the
24 well the well should be at the center of that square.
25 That square would still be going down into that land

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down there.

MR; POWERS: Our theory is that they have two wells bordering our land at the present time and the one bordering it now -- on this proposal would be number two. Each one is put real close, just enough -- just enough to call for a forced pooling. It just comes in our land, like I said, .9 or something other percent acres. We think that if they moved that well back 50 feet or 100 feet we wouldn't even have to be over here because it wouldn't affect our property.

MR. POWERS: It would still affect our property but not as far as the map goes.

MR. POWERS: It would still draw the gas. Now, this well, like I say, is close to our property -- the one that's in existence. The one they're going to drill is about the same distance from our property. And the next time we come over here, which will probably be a year or two years from now, they're going to have another one down on the next edge of our property. Eventually they would have it all surrounding. There would be no gas left in the property that we own. It's just 50 some acres. But they will cipher all that gas by drilling these wells all around it. We think that's -- we don't think that's right. It might be law but it's not fair. It's not treating people right.

1 MR. POWERS: This is hard to see, but this is our property
2 right here. This is the well that's in existence now.
3 This is the well that they're talking about today.
4 Over here is another site that they've got planned for
5 another one. That will be three wells right around our
6 property and I expect them to put one down here.

7 MR. POWERS: We think the gas company -- by all means they
8 have this land leased. They have the gas leased. They
9 should by all means be allowed to get this gas out.
10 But we think they should get the gas out from the
11 leased land, not on the land that they haven't leased
12 yet.

13 MR. HARRIS: It's really a problem, though. As you could
14 imagine, we don't really know what it looks like
15 underground -- what the pool of gas looks like. And,
16 yes, it's true, probably if you're drilling close to an
17 edge then you're probably going to be in other areas.
18 And that was what the Board was faced with a couple of
19 years ago when we were trying to make what we call the
20 field rules. Some people suggested the circle. Some
21 people suggested squares. We went with the square
22 because they did butt against each other, but all that
23 we did was basically lay a grid over the whole area of
24 squares -- what, 80 acres, I believe these are. I
25 don't remember those. I think there was something

1 other than 80. 60. And what they did basically was
2 laid a grid there. So where ever this happens to fall
3 is where it happens to fall. And I know sometimes it's
4 not fair because again, we've had people come in and
5 say, "That's so close to my area who's to say that it's
6 not going take our gas." I don't know what to say.
7 The only thing that we found that was equitable was to
8 pay people based on a percentage of their land that
9 falls into that square. So the State has actually laid
10 a square grid over that.

11 MR. POWERS: They go along with us -- this is a square. If
12 you put the well right there then you're going to draw.
13 But when you put the well right down here then you're
14 not going to draw this up there any more than you're
15 going to draw this down here.

16 MR. HARRIS: I understand. The reason -- and this may not
17 be always practical to do. Ideally you put the well in
18 the middle of that inner square. The drain sometimes
19 doesn't allow that. If there's coal mines underneath
20 sometimes that doesn't allow it.

21 MR. KAISER: Topography.

22 MR. HARRIS: And what we've run into is that the only way to
23 allow people to do the drilling -- the only way that we
24 saw at the time was to establish a drilling window and
25 say that you need to be inside of this window. It's

1 not saying the center but somewhere inside. Now, I
2 know what you're saying is that this is so close to
3 your all's property it will probably drain a circle --
4 or it may not even be a circle. We don't -- no one
5 really knows how it drains. But there probably will be
6 some drainage in all areas because there's always -- I
7 forger the term. But anyway, it does commute --

8 MR. POWERS: Seeps in.

9 MR. POWERS: Well, if you look at it in that respect it's
10 true there's going to be draining which you could kind
11 of go along with with one well. But when they start
12 dotting them all the way around it's going to drain all
13 of it.

14 MR. HARRIS: Yeah. You're saying that basically it's going
15 to drain all of that.

16 MR. POWERS: And you're not going to be compensated any for
17 it.

18 MR. POWERS: Well, what I'm saying is one this well here --
19 even the drainage and so forth, why couldn't that well
20 have been put up here? If it had been put up here it
21 wouldn't be draining all this. It would be going up in
22 here, too.

23 MR. HARRIS: Yeah. These are the folks to answer about
24 that. Was there a reason for the location?

25 MR. DAHLIN: This particular location I'm not certain of why

1 it's located on the southeast corner. But what I'd
2 like to tell you, though, is that what our plans are is
3 to ultimately develop this to it's maximum. We would
4 prefer to have wells east of this tract also and intend
5 to put it there. What we'd like to do is have a well
6 in every one of these blocks.

7 MR. POWERS: That's what we say. We say that you're going
8 to go all the way around our tract of land with those
9 wells to get this gas out here that we've not leased to
10 you. We understand that. We also understand that you
11 should be able to get the gas out of the land that you
12 have leased. But we don't think it's fair and right
13 and honorable to come over and drill a well down close
14 to somebody else's property, draw their gas out beyond
15 what you have prescribed on the maps -- draw that gas
16 out and not compensate them for it. That's our
17 argument. Our argument is in the location of these
18 wells. Now, we're familiar with these wells over
19 there. We check them out once in a while, go over and
20 look at them. And we know where they could have been
21 drilled in a different place. But I'm sure that the
22 engineers -- we're not engineers, not lawyers. But I'm
23 sure that the engineers and lawyers can sit down and
24 make a real good case as to why this well has to be in
25 this one particular spot when that's not true.

1 THE WITNESS: Well, what we're doing is we're drilling under
2 field rules right now and we're allowed to drill in
3 that unit as it's depicted on the map in front of Mr.
4 Wampler. I can show you where our existing wells are
5 and how it's devised.

6 MR. KAISER: We're allowed to drill anywhere -- in accord-
7 ance to field rules anywhere within this interior
8 square and we didn't check because we didn't have to
9 seek a variance on this one. But my guess is it's
10 there because of the topography.

11 THE WITNESS: This should be 2,009. You're right. It is
12 very small. The main point is this is an existing
13 well. What we're trying to drill a well in every unit
14 out here and if for one reason or another it would
15 happen that the existing well had to be placed close to
16 an edge at the south, for instances, possibly this
17 well, then what we would do is we try to locate a
18 little further away so that we could produce the
19 properties over like you're describing. What we try
20 not to do is drill a well down on the bottom of this
21 one and the top of this one.

22 MR. KAISER: So we have an economic interest obviously in
23 producing the gas as cost effectively as possible.

24 MR. POWERS: This, for example, this is what we're referring
25 to. You can see the location of the well. You can see

1 within this boundary here, the circle. Look how it
2 comes down in here. Now, this well --

3 MR. POWERS: Even if you do that into a square it will still
4 come down in here.

5 MR. POWERS: This well is not going to draw this gas up here
6 and not draw it down here. It's just impossible. It
7 has to bring the gas out of here also, but you're just
8 getting compensated for this one little bit right here.
9 Do you understand?

10 THE WITNESS: But if we had a well here we'd be compensating
11 you from this unit. And what we would do by virtue of
12 having a grid lay on here is to compensate everyone.

13 MR. POWERS: But this is our land that you don't have a
14 lease on. What you're going to over here where
15 Clinchfield owns this piece of property here -- what
16 you're going to do after this well is put in is you're
17 going to drop down here and drill another well --

18 MR. POWERS: This is the well that's in operation right now.
19 This is the well we're talking about today. Here is
20 another well that you've got plans to put in. That's
21 one two, three wells right around us.

22 THE WITNESS: And we'd like to have one on your land.

23 MR. POWERS: And eventually you'll get one down here.

24 THE WITNESS: That's why our land people are contacting you.
25 We'd like to develop this property.

1 MR. POWERS: I understand that. We've had some experience
2 with EREX and it wasn't the best of experience. We're
3 kind of hesitant about doing any more business with
4 them.

5 MR. POWERS: As a matter of fact, we had to get a lawyer on
6 a road they built and destroyed property.

7 MR. HARRIS: It's really unfortunate that things work out
8 like that, but this is really a compromise between
9 several different plans and it's not perfect.

10 MR. POWERS: I would like to ask the Board one thing. When
11 you all came up with these rules and regulations and
12 stuff did you have people -- citizens and non-lawyers
13 and non-gas people?

14 MR. HARRIS: They were invited to come and talk, yes, and we
15 had engineers --

16 MR. POWERS: I'm not talking about engineers. I'm talking
17 about people like us, just ole hillbillies that live
18 back in the mountains and don't know the law and stuff.
19 Did you have any of those people represented here?

20 MR. HARRIS: Yes. And there were people invited -- and I'm
21 knowledgeable -- I'm a citizen like you all -- about
22 gas, oil or whatever but I'm in the same situation.
23 But that's why we have public members on the Board, to
24 try to help to clarify and to show that --

25 MR. POWERS: But these rules you've made and everything, it

1 seems like they all went in favor of the big companies.

2 MR. HARRIS: I don't know how to speak to that, but I do
3 know --

4 MR. POWERS: It might be that all the rules you made were
5 made according to the laws that was passed in the
6 General Assembly. It might be that which, like I say,
7 we don't know those laws. We don't know those rules.
8 What we're after is just a fair shake. We're not
9 trying to beat the gas company out of anything. We
10 wouldn't beat them out of first stalk but we don't
11 want them to beat us out of the first stalk. And that
12 is exactly what they're doing. Through this drilling
13 process that they have here that's what they're doing.

14 MR. HARRIS: And, again, when we first started this there
15 were circular units or at least in lots of places
16 there were circular units because the assumption was if
17 you're drilling a well it's going to draw equally in
18 all directions. That's not known, though, because
19 we're not there. But again, circular units when you
20 butt them together leave gaps and we thought well,
21 there are going to be people there saying, "Oh, I'm not
22 in any of the circles but they're all around me."

23 MR. POWERS: I can understand that.

24 MR. HARRIS: And then what happens to the people in that
25 gap. So the only way we though to alleviate that

1 problem is to use squares which you just butt together.
2 Well, the problem is you have to lay the grid somewhere
3 and we don't go to individual owners and say this is --
4 there's a grid that's laid. One last thing, if you'll
5 look at the upper part of that where you're saying it
6 probably won't draw and you're probably going to say
7 it's unfair that Clinchfield is going to get paid so
8 much money because they own that property above. This
9 could be you all owning that property above and someone
10 else could be saying, "Oh, they're going to draw my gas
11 down here." I'm not trying to turn it around or mix it
12 up or anything like that. But I'm saying that the
13 other --

14 MR. LEWIS: Did you talk to them about leasing these 58
15 acres?

16 MR. DAHLIN: No.

17 MR. POWERS: They wanted to lease the land. First they
18 wanted to buy the land and we weren't interested in
19 selling it. You understand, it's a piece of land that
20 our grandfather was raised on. It's got the old log
21 cabin on it.

22 MR. POWERS: My father was raised on it.

23 MR. POWERS: And at one time it had a split rail fence
24 around the land. It's just kind of something that we
25 want to keep in the family as it is. We had a big

1 decision to make when Clinchfield wanted to strip the
2 land. Of course, they just wanted to strip a small
3 portion of it. So we talked it over and agreed to do
4 that. We did get something out of the land which we
5 put in and helped pay the taxes on it and stuff. We've
6 paid taxes on it for years and years. But then EREX
7 wanted to rent it -- wanted to buy it. We told them we
8 weren't interested in selling it. So they said lease
9 it. I said, "We're not interested in leasing it. We
10 want it left just exactly like it is." I said, "I can
11 take you over there and show you a hickory tree that my
12 grandfather killed squirrels out of, my father's killed
13 squirrels out of, I've killed squirrels out of. I
14 wouldn't want anything to happen to a tree like that."
15 So they said all right. So the next time we went over
16 there they had gone ahead and bull dozed a road right
17 down through this piece of property that we really
18 didn't want messed up and they built this road down
19 through there. The fact is, we had several old timey
20 chestnut trees in there. Of course, they weren't big.
21 They were just about this big. I know after they built
22 that road in there -- they tore some of them down.
23 But I know there's one beside the road that I got
24 chestnuts off of and that chestnut tree died the next
25 year. But it wasn't through the fault of the gas

1 company that it died. These old timey chestnut trees
2 will bear one time and then they'll die, but they'll
3 come back up from the roots again. So we've still got
4 the small chestnut trees on the side of the road but
5 they tore a bunch of them down when they built the road
6 through there.

7 MR. LEWIS: Didn't they have that property leased when they
8 built the road?

9 MR. POWERS: Oh, no, no. They had no lease on it or
10 nothing.

11 MR. POWERS: We did hire a lawyer and they did make compens-
12 ations for it.

13 MR. POWERS: We hired a lawyer and -- of course, like I told
14 them, what money we got out of that wasn't worth to me
15 too big trees or three of the small chestnut trees.
16 And I could use the money. So through that deal there
17 that kind of soured us on EREX and the gas company. We
18 couldn't put any dependence in them. They said, "Well,
19 we'll fix it up. What do you want done?" We told them
20 we'd like to have a gate put across there so nobody can
21 get in there with four-wheelers and stuff. So they did
22 that. And I said, "We want some trees planted and I
23 want it reseeded with grass and trees planted. We
24 don't want locust and pine. We want a mixture of
25 what's similar and growing around it. Walnuts,

1 hickories and maples." They said, "Sure, we can do
2 that." So now we've got three pine trees on that piece
3 of land and thousands of saw bearers. The grass is
4 there.

5 MR. POWERS: They put the trees in but they didn't live.

6 MR. POWERS: They didn't live. They didn't -- you know -- I
7 don't know whether you people have planted any trees or
8 not, but when you plant trees you have to put a little
9 effort in it. You don't just jab a stick down in the
10 ground and say grow. That ain't going to work. So
11 from that time on we didn't have too much confidence
12 in EREX. So we all agreed to leave the land like it is
13 and not lease.

14 MR. KAISER: I'd like to make several points, Mr. Chairman.
15 First of all, we will not require the use of any of
16 their surface for this particular well. Second of all
17 -- and I hope I'm not speaking for the Board, but when
18 the Virginia Gas and Oil Act was written I think
19 probably one of the most important, if not the most
20 important, charges made to the Virginia Gas and Oil
21 Board was to protect the correlative rights of all the
22 various interest owners. And in following that charge
23 when we got into the coalbed and methane situation in
24 order to protect correlative rights they instituted
25 various field rules for various fields. And if we are

1 allowed to ultimately fully develop this area of the
2 Nora Field then you will be fully compensated -- should
3 it be deemed that the gas owner owns the coalbed
4 methane gas you will be fully compensated for your
5 acreage within that field. And it's because of the
6 fact that these fields rules were promulgated we're
7 using square units. As Mr. Wampler tried to tell you,
8 if we were under the circular units then there are
9 occasions -- rare occasions luckily -- that acreage can
10 go uncompensated. So I think you're probably afforded
11 -- as far as receiving your due for your ownership I
12 think you're accorded more protection than you may
13 realize.

14 MR. POWERS: Well, what we're complaining about is where you
15 put your wells right on our line.

16 MR. POWERS: We think you ought to develop the Nora Field,
17 as you call it. It ought to be developed fully, but we
18 don't think it ought to be developed by putting your
19 wells where you're placing them. To me it would be
20 just as simple to put the well close to the center. I
21 understand that in a lot of cases you have ridges and
22 hollows and valleys that you can't put the well there.
23 You have to come up here on the ridge to where you can
24 get to it to put it in -- on the side of a hill. But
25 that well could be put close to the center. Then in

1 the next square the well could be close to the center.
2 But what you're doing is you're dropping it down here
3 and then you're going to drop this other one down here.

4 MR. KAISER: I think the point Mr. Dahlin tried to make to
5 you is if we are able to fully develop this area of the
6 Nora Field and develop each square then we will -- if
7 this well is a little bit -- as far as the interior
8 square, if it's dis-proportionately to the southeast
9 then the next one within the square will be offset. I
10 mean, it's in our best interest to -- we don't need to
11 spend \$186,000 twice to drain the same acreage, in
12 other words. It's in our best interest to maximize the
13 drainage we get from each and every well. The field
14 rules allow us to drill anywhere within that interior
15 square without seeking an exception or a variance from
16 the Board and in most instances there's various factors
17 that go into where that well's located within that
18 square, including topography, including coal company
19 considerations, including the location of the other
20 wells that have previously been drilled in the area of
21 the field. We're not doing because we're trying to get
22 the Powers family.

23 MR POWERS: Well, that's the way it seems. I'm sure that
24 you will get all the gas in those squares and in the
25 meantime you're going to get all the gas in this

1 property. You talk about the money we're going to get
2 -- the royalties we're going to get. It's going to be
3 on this small little corner right here whereas the gas
4 -- if this square was over here we would have a whole
5 lot of royalties coming in.

6 MR. KAISER: The point I was trying to make is if we're
7 allowed to fully develop each of those squares then you
8 will eventually be compensated for 100 percent of your
9 acreage.

10 MR. POWERS: Not the way this is going.

11 MR. BAKER: I'd like to go on record to -- would you be
12 willing to meet and discuss the terms of an oil and gas
13 lease on the 53 acre piece of property?

14 MR. POWERS: There's five people involved in this and we
15 can't make a commitment for the other three people.
16 We would have to talk to them and let them make a
17 decision. We can't decide for them.

18 MR. BAKER: Would you discuss it with your family members
19 and all of you decide whether or not you'd be willing
20 to talk about a lease?

21 MR. POWERS: That is exactly the way we do business. It's
22 done by the whole family.

23 MR. BAKER: I would like to bring in another point here to
24 kind of give you an example of why this well is
25 situated where it is. In May of 1993 we surveyed a

1 location almost in the center of that interior window.
2 It was coalandide. The coal company would not approve
3 it where it's located. We had to move it according to
4 where the coal company would say, "Yes, it's okay to
5 drill." which has ended up in the spot in the south-
6 eastern portion. This plat was done in 1993 but we
7 were unable -- now, if you will notice, this square
8 right here is the same as this square right here. The
9 only thing that changed is the location of the well.

10 MR. POWERS: If you drilled the well there you would be
11 pulling the gas out of here. That could have been
12 about right on our property, but if you moved it down
13 in this corner that means you're going to pull the gas
14 out of this area down here along with this up here.

15 MR. POWERS: I can't understand why the coal company would
16 not favor drilling that well closer to their property.
17 I mean, you've got one little spot here that you say
18 the coal company says, "yeah, you can drill there. We
19 don't have no objections to that. That's close to Mr.
20 Powers' land. We'll let you drill there. But we don't
21 want you to drill up here. We'll get that with another
22 well over here."

23 MR. BAKER: The royalty provided -- or that comes off of
24 this well is paid proportionately to everyone who owns
25 an interest inside this square. Where the well is

1 situated doesn't change the percentage.

2 MR. POWERS: No, but it does change the percentage of how
3 much gas is going to come out of there.

4 MR. POWERS: It does change the area down here where this
5 -- look at this circle here. For example, now, if this
6 well is going to draw the gas from up here look how far
7 down here in this circle it's going to draw it from.
8 That's just a reference. I'm not saying that it should
9 be laid out in circles. What I'm saying is as a
10 reference if this gas is going to draw -- if this well
11 is going to draw gas from this area here it will have
12 to draw it from this area down here.

13 MR. BAKER: Mr. Powers, if you would negotiate and execute
14 an oil and gas lease on your 53 acres we would be able
15 to drill a well down here which would give you the
16 majority of the unit.

17 MR. POWERS: No, sir. I think when we talked to you about
18 that you also said that you would be drilling
19 (Inaudible.) Then you're drilling all these wells
20 around us and by the time you get around to drill there
21 won't be nothing left.

22 MR. POWERS: We don't seem to be talking about the same
23 thing. We're talking about the location of the wells
24 and you're talking about a lease. We're talking about
25 the gas that this well -- existing well is going to

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take out of our property when you're talking about if you'll let us drill a well down here we'll get all of your gas. Well, you're going to get it all anyhow. That's all we have, Mr. Chairman.

MR. CHAIRMAN: Thank you. Anything further, members of the Board?

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

MR. KELLY: Second.

MR. CHAIRMAN: We have a motion and a second to grant the petition. Any further discussion? All in favor signify by saying yes. Opposed say no. One abstention. Thank you. We'll take a quick five minute break.

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

ITEM III

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3 MR. CHAIRMAN: The next item on the agenda is a petition
4 from Equitable Resources Exploration for a force
5 pooling of interests in coalbed methane well identified
6 as VC-3317. This is docket number VGOB-96/01/16-0529.
7 We'd ask the parties that wish to address the Board in
8 this matter to come forward at this time.

9 MR. KAISER: Mr. Chairman, Jim Kaiser representing Equitable
10 Resources Exploration. Our witnesses in this matter
11 will once again be Mr. Baker and Mr. Bob Dahlin. They
12 have been previously sworn. To clear up the record
13 before we get into witness testimony here, in our
14 application for this particular forced pooling we
15 requested -- we sought relief under the newly amended
16 Virginia Code annotated Section 45.1-361.29.F.2.B which
17 is the Section that affords the operator named under of
18 the forced pooling order to -- for the forced pooling
19 order to include a consent to stimulate from an unknown
20 coal owner. In the interim period between the filing
21 of the application and today's hearing we've conclus-
22 ively determined from our title work that the unknown
23 interest owner in this particular unit only owns an
24 interest in the gas estate, does not have any interest
25 in the coal. Therefore, we'd like to amend on the

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record that we do not need that relief requested in the order should it be granted.

MR. CHAIRMAN: It's amended.

DENNIS BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

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

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

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

A. Yes, they do.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and pooling order for EREX well VC-3317 dated December 13th, 1995?

A. Yes, I am.

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

1 A. Yes. Our drilling permit was issued by the State on
2 January 3rd, 1996.

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

6 A. Yes, we are.

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

9 A. Yes.

10 Q. Does the location proposed for well VC-3317 fall within
11 the Board's order for the Nora Coalbed Field Rules
12 dated March 20th, 1989?

13 A. Yes.

14 Q. What is the interest of Equitable in the gas estate in
15 this unit?

16 A. The leased interest in the gas estate at the time of
17 application as well as the hearing is 69.98 percent.

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

20 A. Yes, I am.

21 Q. What is the percentage of the gas estate unleased at
22 this time?

23 A. The unleased gas estate interest is 30.02 percent and
24 of the coal estate we have 100 percent interest under
25 lease.

1 Q. Are all unleased parties set out at Exhibit #B?
2 A. Yes.
3 Q. Prior to filing our application were efforts made to
4 contact each of the respondents and an attempt made to
5 work out an agreement regarding the development of the
6 unit involved here?
7 A. Yes.
8 Q. Am I correct in that the only unleased interests
9 depicted in Exhibit #B are the unknown heirs of George
10 W. Smith, Jr.?
11 A. That's correct.
12 Q. Were any efforts made to determine if the individual
13 respondents were living or deceased or their where-
14 abouts and if deceased were efforts made to determine
15 the names and the addresses and whereabouts of the
16 successors to any deceased individual respondent?
17 A. Yes.
18 Q. Were reasonable and diligent efforts made and sources
19 checked to identify and locate unknown heirs, to
20 include primary sources such as deed records, probate
21 records, assessor's records, treasurer's records and
22 secondary sources such as telephone directories, city
23 directories, family and friends?
24 A. Yes. That's correct.
25 Q. In your professional opinion was due diligence exercis-

- 1 ed to locate each of the respondents named herein?
- 2 A. Yes.
- 3 Q. Are the addresses set out in our Exhibit #B to the
4 application the last known addresses for the respond-
5 ents?
- 6 A. Yes.
- 7 Q. Are you hereby requesting this Board to force pool all
8 unleased interests listed at Exhibit #B?
- 9 A. Yes.
- 10 Q. Does Equitable seek to force pool the drilling rights
11 of each individual respondent if living and if deceased
12 the unknown successor or successors to any deceased
13 individual respondent?
- 14 A. Yes.
- 15 Q. Is Equitable seeking to force pool the drilling rights
16 of the person designated as trustee if acting in such
17 capacity and if not acting such capacity is Equitable
18 seeking to force pool the drilling rights of the
19 successor of such trustee?
- 20 A. Yes, we are.
- 21 Q. Are you familiar with the fair market value of the
22 drilling rights in the unit here and in the surrounding
23 area?
- 24 A. Yes, I am.
- 25 Q. Would you advise the Board as to what those are?

1 A. It's a five dollar per acre consideration, a five year
2 term and one-eighth royalty.

3 Q. Did you gain this familiarity by acquiring oil and gas
4 leases, coalbed methane leases and other agreements
5 involving the transfer of drilling rights in the unit
6 involved here and in the surrounding area?

7 A. Yes.

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

12 A. Yes.

13 MR. KAISER: Mr. Chairman, at this time as to Mr. Baker's
14 testimony as to the election options afforded on any
15 force pooled interest and the different time periods
16 that are included in the order to make payments and to
17 give responses we'd like to incorporate that testimony
18 as it was previously given in VGOB-96/01/16-0528.

19 MR. CHAIRMAN: Without objection you may do that.

20 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend
21 that the forced pooling order provide if a respondent
22 refuses to accept any payment due including any payment
23 due under the order or any payment of royalty or cash
24 bonus or said payment cannot be paid to a party for any
25 reason or there is a title defect in the respondent's

1 interest or in the event of a conflicting claim to the
2 coalbed methane that the operator pay into an escrow
3 account created by this Board into which all costs or
4 proceeds attributable to the conflicting interest shall
5 be held for the respondent's benefit until such funds
6 can be paid to the party by order of this Board or
7 until the title defect or conflicting claim is resolved
8 to the operator's satisfaction?

9 A. Yes.

10 Q. Who should be named the operator under the forced
11 pooling order?

12 A. Equitable Resources Exploration.

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

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

17 MR. CHAIRMAN: Call your next witness.

18
19
20 ROBERT A. DAHLIN, II
21 a witness who, after having been previously sworn, was
22 examined and testified as follows:
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24
25

DIRECT EXAMINATION

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3 BY MR. KAISER:

4 Q. Mr. Dahlin, could you state again who you are employed
5 by and in what capacity?

6 A. I'm employed by EREX as a production specialist.

7 Q. And your qualifications as an expert witness have
8 previously been accepted by the Board?

9 A. Yes, they have.

10 Q. Do your responsibilities include the land involved here
11 for VC-3317 and in the surrounding area?

12 A. That's correct.

13 Q. Are you familiar with the proposed exploration and
14 development plan for this well?

15 A. Yes.

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

18 A. 2,490 feet.

19 Q. Will this be sufficient to include formations consist-
20 ent with the well work permit now pending before the
21 DMME?

22 A. Yes, it will.

23 Q. Will this be sufficient to penetrate and test the
24 common sources of supply in the subject formations?

25 A. Yes.

- 1 Q. What are the estimated reserves of this unit?
- 2 A. We anticipate 400 million cubic feet of gas.
- 3 Q. Are you familiar with the well costs for the well under
- 4 the applicant's plan of development?
- 5 A. Yes.
- 6 Q. Has an AFE been reviewed and submitted to the Board?
- 7 A. Yes, it has.
- 8 Q. Was this AFE prepared by an engineering department
- 9 knowledgeable in the preparation of AFEs and knowledge-
- 10 able in regard to well costs in this particular area?
- 11 A. Yes.
- 12 Q. Does this AFE represent a reasonable estimate of the
- 13 well costs for the proposed well under applicant's plan
- 14 of development?
- 15 A. It does.
- 16 Q. Would you state for the Board both the dry hole costs
- 17 and completed well costs for VC-3317?
- 18 A. Dry hole costs are \$70,480 with a completed well cost
- 19 of \$188,000.
- 20 Q. Do these costs anticipate a multiple completion?
- 21 A. Yes.
- 22 Q. Does the AFE include a reasonable charge for super-
- 23 vision?
- 24 A. Yes.
- 25 Q. In your professional opinion, Mr. Dahlin, will the

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granting of this application be in the best interest of conservation, prevention of waste and the protection of correlative rights?

A. Yes, it will.

MR. KAISER: I have nothing further of this witness, Mr. Chairman.

MR. CHAIRMAN: Questions, members of the Board?

(Witness stands aside.)

MR. CHAIRMAN: Do you have anything further?

MR. KAISER: No.

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

MR. HARRIS: Second.

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

ITEM IV, V, VI, VII

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3 MR. CHAIRMAN: The next item on the agenda is a petition
4 from Buchanan Production Company for a pooling of
5 coalbed methane unit identified as V-28. This is
6 docket number VGOB-96/01/16-0530. We'd ask the parties
7 that wish to address the Board in this matter to come
8 forward at this time.

9 MR. SWARTZ: Mark Swartz on behalf of the applicant Buchanan
10 Production Company. These four units are all the same
11 row basically, in the same mine. The numbers with
12 regard to panels are basically the same in each one. I
13 would -- we can do it any way the Board would prefer,
14 but in the interest of economy I would suggest that we
15 do them all at once unless there's some reason not to.

16 MR. CHAIRMAN: Any objection, members of the Board? Okay.
17 I'm going to go ahead and call the other three docket
18 numbers and, of course, we're discussing these as a
19 package. I'll also call a petition from Buchanan
20 Production Company for pooling of a coalbed methane
21 unit identified as V-29, docket number VGOB/96/01/16-
22 0531. A petition from Buchanan Production Company for
23 the pooling of a coalbed methane unit identified as V-
24 30, docket number VGOB-96/01/16-0532. And a petition
25 from Buchanan Production Company for the pooling of a

1 coalbed methane unit identified as V-31, docket number
2 VGOB-96/01/16-0533.

3 MR. SWARTZ: Mark Swartz appearing on behalf of Buchanan
4 Production Company on those as well, Mr. Chairman.

5 COURT REPORTER: (Swears witness.)
6

7 LESLIE K. ARRINGTON

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

11 DIRECT EXAMINATION

12
13 BY MR. SWARTZ:

14 Q. State your name for the record, Les.

15 A. Leslie K. Arrington.

16 Q. Who do you work for?

17 A. Consol, Inc.

18 MR. SWARTZ: Just an introduction as to what we're dealing
19 with today, all four of these applications are for a
20 pooling order pooling under both Oakwood I and Oakwood
21 II. So all four of these units, V-28, V-29, V-30 and
22 V-31 start out as frack units and then ultimately
23 convert to unsealed gob gas units in the Buchanan mine.
24 To kind of orient you I suggest that you pick any of
25 the four applications and go to Exhibit #G.

1 Q. (Mr. Swartz continues.) Exhibit #G depicts a portion
2 of the mine plan for which mine?
3 A. The Buchanan #1 mine.
4 Q. And what we're really talking about here is the V row
5 at the bottom of this exhibit?
6 A. Yes, it is.
7 Q. The four units that we're here today on are which ones?
8 A. V-28, V-29, V-30, V-31.
9 Q. And are all of those units affected by two longwall
10 panels projected for the Buchanan mine?
11 A. Yes, they are.
12 Q. What are the designation of those two panels?
13 A. One-Left and Two-Left.
14 Q. The one to the north is One-Left or Two-Left?
15 A. The furthest one to the north is Two-Left.
16 Q. So the one at the bottom is One-Left?
17 A. One-Left.
18 Q. On Exhibit #G are the portions of each unit in each
19 panel reported on Exhibit #G?
20 A. Yes, they are.
21 Q. And then those same numbers are also reported on
22 Exhibit #G, Page 1, correct?
23 A. Yes, they are.
24 Q. Getting back to some of the basic information that we
25 would require to pool all of these units, first of all

1 I would ask you whether or not you prepared the notices
2 that are in bound exhibit volumes and the applications?
3 A. Yes, I did.
4 Q. You have also signed all of those?
5 A. Yes, I did.
6 Q. Who is the applicant in each of these applications?
7 A. Buchanan Production Company.
8 Q. Buchanan Production Company is a general partnership,
9 is that correct?
10 A. Yes, it is.
11 Q. And Buchanan Production Company has two partners?
12 A. That's correct.
13 Q. And those two partners are Appalachian Operators, Inc.
14 and Appalachian Methane, Inc., is that correct?
15 A. That's correct.
16 Q. Up until recently those two corporate partners were
17 indirect wholly owned subsidiaries of Consol, Inc., is
18 that correct?
19 A. That's correct.
20 Q. Has that changed since we were last here?
21 A. Yes, it has.
22 Q. Who is now the owner of all of the stock in Appalachian
23 Operators, Inc. and Appalachian Methane, Inc.?
24 A. MCN Corporation.
25 Q. And where is their home office?

1 A. Detroit.

2 Q. When did this occur approximately?

3 A. In December.

4 Q. Of 1995?

5 A. Yes.

6 Q. Have you even met these people yet?

7 A. No.

8 Q. Are they coming to see you next week?

9 A. Yes, they are.

10 Q. Is Buchanan Production Company authorized to do
11 business in Virginia?

12 A. Yes, they are.

13 Q. With regard to all four of these units is there a
14 request in the application that someone be appointed
15 designated operator other than the applicant?

16 A. Yes, it is.

17 Q. And who would that be?

18 A. Consol.

19 Q. Is it your understanding that Consol, Inc. and MCN
20 Corporation have negotiated a number of operating
21 agreements?

22 A. Yes, they have.

23 Q. And that Consol would continue to be the operator of
24 the units that have pooled to date and future units?

25 A. Yes, it is.

- 1 Q. So the request here again today is for Consol, Inc. to
2 be designated the operator?
- 3 A. Yes, it is.
- 4 Q. Consol, Inc. is a Delaware corporation authorized to do
5 business in the Commonwealth?
- 6 A. Yes, it is.
- 7 Q. Has Consol, Inc. registered with the DMME and does it
8 have a blanket bond on file as is required by law?
- 9 A. Yes, it does.
- 10 Q. We've talked about this before with regard to the
11 management committee of the partnership Buchanan
12 Production Company delegating certain responsibilities
13 to Consol, Inc. In each of the bound volumes of the
14 exhibits that have been submitted today are there the
15 resolutions and basic information necessary to demon-
16 strate that Consol, Inc. has received a delegation of
17 authority to manage the Buchanan Production Company's
18 assets?
- 19 A. Yes, they have. It's the last three exhibits in each
20 set of exhibits.
- 21 Q. This transaction where the stock of the corporate
22 partners has changed hands has not affected that
23 delegation of authority?
- 24 A. No, it has not.
- 25 Q. With regard to each of the units in question are the

1 people who you are seeking to pool named in the notices
2 of hearing?
3 A. Yes, they are.
4 Q. And the notice of hearing is in each of these books as
5 Exhibit #1, correct?
6 A. Yes, it is.
7 Q. To the extent that addresses were available did you
8 cause a mailing to go out to each of the named respond-
9 ents?
10 A. Yes, we did by certified mail, return receipt.
11 Q. And in the bound volumes of exhibits is there any
12 information with regard to mailing?
13 A. Yes, there is. There's an affidavit of due diligence
14 along with a copy of each of the certified return
15 receipts.
16 Q. And then there's a summary called a "Certification of
17 Notice", correct?
18 A. Yes, there is.
19 Q. And that shows with regard to each unit and each
20 respondent for whom you had an address, when you
21 mailed, gives a receipt number and indicates when they
22 signed for the mail if they did or if it came back
23 unsigned?
24 A. That's correct. It does.
25 Q. Do you wish to add by amendment or dismiss by amendment

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any respondent with regard to any one of these four units that we're seeking to pool today?

A. No, we do not.

Q. Did you cause a notice to be published with regard to each of these four units?

A. Yes, we did in the Bluefield Daily Telegraph on December 29th, 1995.

Q. Have you filed with Mr. Fulmer's office and also in the pack of exhibits a certificate of publication?

A. Yes, we have. It was filed on January 10th, 1996.

Q. And again, it's enclosed in the bound volume of exhibits today?

A. Yes, it is.

Q. A copy of it?

A. Yes, it is.

Q. When you published the notice in the Bluefield Daily Telegraph the notice itself and the little map that accompanies the notice was published, correct?

A. Yes, it is.

Q. Let's take each of these applications in order starting with V-28 to just identify what it is that needs to be pooled. If we look at application V-28 Exhibit #A, Page 2, can you tell me what interest -- outstanding interest it is that needs to be pooled?

A. Yes. We'd like to pool 24.2835 percent of the oil and

1 gas interest.

2 Q. And 100 percent of the coal interest is either owned or
3 leased by the applicant?

4 A. Yes, it is.

5 Q. So we're just talking about 24.2835 percent of the oil
6 and gas interest with regard to V-29?

7 A. That's correct.

8 Q. With regard to V-29 again with reference to Exhibit #A,
9 Page 2, what interest is it that you're seeking to
10 pool?

11 A. 0.0114 percent of the oil and gas interest.

12 Q. You have control by ownership or lease 100 percent of
13 the coal?

14 A. Yes, we do.

15 Q. There's just a tiny portion of one tract that is
16 involved in V-29?

17 A. That's correct. It is.

18 Q. With regard to unit V-30 again directing your attention
19 to Exhibit #A, Page 2, what interest is it that you're
20 seeking to pool in the application?

21 A. 28.7667 percent of the oil and gas interest.

22 Q. What about the coal interest?

23 A. We have 100 percent of it either owned or under lease.

24 Q. Lastly with regard to the application pertaining to V-
25 31, again turning to Exhibit #A, Page 2, what interest

1 is it that you seek to pool?
2 A. 8.4683 percent of the oil and gas interest and we
3 control 100 percent of the coal either by lease or
4 ownership.
5 Q. In each of these applications there is an Exhibit #B-3,
6 is that correct?
7 A. That is correct.
8 Q. And B-3 is a listing of the interests that need to be
9 pooled?
10 A. That's correct. It is.
11 Q. Did you amend or file today an amendment with regard to
12 one of the Exhibit B-3s?
13 A. Yes, I did. It was unit V-29. It's Exhibit #4. The
14 reason we needed to file a revised Exhibit B-3 is we
15 inadvertently copied the wrong percentage numbers and
16 information on the headers of that exhibit.
17 Q. So in the blue volume today behind Tab 4 is an amended
18 or revised Exhibit #B-3?
19 A. That's correct.
20 Q. And the only thing that changed was the percentages in
21 the header of the fourth and fifth column?
22 A. That's correct.
23 Q. And then in this same unit, the exhibits with regard to
24 V-29, was it also necessary to revise Exhibit #E?
25 A. Yes, it was. The same thing had happened there. We

1 copied the wrong numbers.

2 Q. Basically there was a typo or whatever in the exhibit?

3 A. Yes.

4 Q. But the percentages of interests or the division of

5 interests were correct as originally filed?

6 A. Yes.

7 Q. Directing your attention back to the applications, does

8 each application contain an Exhibit #C?

9 A. Yes, it does.

10 Q. And who prepared that?

11 A. I did.

12 Q. When was it prepared?

13 A. On December 14th, 1995.

14 Q. This indicates your estimate with regard to the costs

15 of drilling, equipping and stimulating each of the

16 proposed wells here, is that correct?

17 A. That's correct. It is.

18 Q. What is the anticipated depth?

19 A. The anticipated depth is approximately 1,801 feet.

20 Q. And what is the estimated total costs of the wells

21 projected for these two panels -- of each well?

22 A. Each well is \$236,566.60.

23 Q. Is it your opinion that that is a reasonable estimate?

24 A. Yes, it is.

25 Q. Now, turning to Exhibit #G, Page 1, is Exhibit #G, Page

1 1, the same in each application?

2 A. Yes, it is.

3 Q. So the Board members could refer to any one of those?

4 A. That's correct.

5 Q. Does Exhibit #G, Page 1, set forth the portions of each
6 panel in each of the four units that we're seeking to
7 pool today?

8 A. Yes, it does. First let me make a correction on my
9 last statement. Exhibit #G, Page 1, is the same except
10 for the total on the bottom of the page which repre-
11 sents each unit.

12 Q. Okay. Would you read into the record for each of these
13 four units, starting with the One-Left panel, the
14 allocation percentage for each unit and then continue
15 on with regard to the Two-Left panel?

16 A. For V-28 the One-Left panel -- the longwall panel
17 percentage allocated for the V-28 unit is 28,205
18 percent and for the Two-Left panel it's 17.655 percent.
19 For the V-29 unit, One-Left longwall panel is 28.364
20 percent. V-29, Two-Left, 18.823 percent. For V-30,
21 One-Left it's 27.913 percent and V-30, Two-Left is
22 16.207 percent. V-31, One-Left, 8.152 percent and V-
23 31, Two-Left, 4.377 percent.

24 Q. Let's take these units then again in order starting
25 with the V-28 unit and referring just to the bottom

1 portion of Exhibit #G, Page 1, what would the allocable
2 costs for both panels be with regard to unit V-28?
3 A. V-28 is \$542,445.25.
4 Q. With regard to unit V-29 what would the allocable costs
5 be?
6 A. \$534,486.18.
7 Q. With regard to V-30 what would the allocable costs be
8 for both panels?
9 A. \$584,558.89.
10 Q. Lastly, with regard to V-31 what are the allocable
11 costs pertaining to both panels?
12 A. \$165,996.85.
13 Q. Does each of these applications seek to pool all
14 interests in coal seams below the Tiller?
15 A. Yes, it does.
16 Q. And at least initially these are 80 acre Oakwood I
17 units?
18 A. Originally they were, yes.
19 Q. Or they will be -- the production?
20 A. Yes.
21 Q. And then ultimately what will happen to these units?
22 A. They're going to change over to Oakwood II with
23 additional wells drilled, short hole production and
24 active gob.
25 Q. And ultimately active gob?

1 A. Yes.

2 Q. Have you set forth in your application proposed
3 language dealing with the allocation of production when
4 they're fracked wells and the allocation of production
5 once they convert?

6 A. Yes, we have.

7 Q. Would you request that the Board include in any order
8 entered here a mechanism for payment as fracked units
9 and the conversion to active gob?

10 A. Yes, we do.

11 Q. In Exhibits #B-3, do those exhibits show the interest
12 of the respondents -- the people that you're seeking to
13 pool in each of the units and in each of the panels?

14 A. Yes, it does.

15 Q. So for an allocation of frack production you would --
16 the respondent should refer to the percentage under the
17 percent of unit column, correct?

18 A. That's correct. They should.

19 Q. And then once the units convert their interest in each
20 of the panels are reported under the One-Left Column or
21 the Two-Left column?

22 A. That's correct. It is.

23 Q. And that would be how production would be allocated at
24 that point?

25 A. Yes, it is.

1 Q. Would those same percentages be relevant in the last
2 two columns to calculating a participation interest or
3 a carried basis interest?
4 A. Yes, it would.
5 Q. You'd use the same percentage?
6 A. You use those percentages in the last two columns.
7 Q. Lastly, Les, would you tell us whether or not it is
8 your opinion that the plan of development that's shown
9 on Exhibit #G here and the wells contemplated by
10 Exhibit #G and the costs set forth in Exhibit #C are a
11 reasonable plan to develop the acreage within and under
12 these units?
13 A. Yes, it is.
14 MR. SWARTZ: That's all I have.
15 MR. CHAIRMAN: Questions, members of the Board?
16 MR. EVANS: Mr. Chairman, I've got one. Before there
17 convert and they're still Oakwood I, your AFE is some
18 number but the total allocation on Exhibit #G, Page 1,
19 takes the total cost for all wells in that panel,
20 correct? What I'm getting at is you've got two fracked
21 wells in two of the units under Oakwood I before they
22 convert. How are we going to handle that again because
23 you've got one well -- as far as a participation cost
24 while they're frack units?
25 MR. SWARTZ: Well, if you look at these units because the --

1 the answer to your question before I give an explan-
2 ation is in for a pound in for a penny is the way
3 we're contemplating it. So if you want in for the
4 frack well you need to come up with the money for the
5 gob. Bearing in mind that there are two frack wells
6 typically allowed, if you weren't going to do anything
7 but frack we're talking roughly \$460,000 just for
8 fracked wells. So there is a difference, but the way
9 these are presented is people want to participate they
10 need to participate through the whole plan. And
11 frankly, why anyone would participate for fracked wells
12 and not hang around for the gob production would escape
13 me totally.

14 MR. EVANS: Oh, I understand.

15 MR. SWARTZ: Because that's where the revenue is. The
16 answer is we contemplate that if you're in the deal
17 you're in for the duration. That's the way we've
18 allocated the numbers.

19 MR. EVANS: This has come up before, hasn't it?

20 MR. SWARTZ: Right. I think what is always in play is a
21 recognition by everybody here that production is so
22 beneficial from the longwall standpoint that that's
23 what makes the development make economic sense really.
24 You can make money on the frack well side but the
25 significant returns in the longwall. From our stand-

1 point I don't think we care --
2 MR. EVANS: I know you don't.
3 MR. SWARTZ: It would make our accounting a little more
4 complicated but I don't think we care, do we, Les?
5 THE WITNESS: No.
6 MR. EVANS: So under frack production I guess the only two
7 units that are of interest are the ones that actually
8 -- well, actually three. V-28, V-29 and V-30 actually
9 have frack wells in them. V-31 doesn't, right?
10 THE WITNESS: Right.
11 MR. EVANS: So under the frack situation those three units
12 are the only ones that will participate in frack
13 production, correct?
14 THE WITNESS: Initially. Initially, that's correct.
15 MR. SWARTZ: Well, except for the -- the way these are
16 mapped, if you just had a frack participation it looks
17 like V-30 -- just relying on the map -- would have one.
18 MR. EVANS: That wouldn't be a problem.
19 MR. SWARTZ: Then we have three on V-29 and three on V-28.
20 MR. EVANS: All these wells are in, I suppose?
21 THE WITNESS: We're working on it when weather permits.
22 MR. SWARTZ: Where do you stand on development of the --
23 THE WITNESS: Mine development as of this map was approxi-
24 mately across the V-28 unit on the One-Left panel. I
25 done the maps yesterday and we're approximately half

1 way across the V-29 unit now.

2 MR. SWARTZ: So you're still on that bottom --

3 THE WITNESS: Yes.

4 MR. SWARTZ: That's all I can give you.

5 MR. EVANS: That's fine.

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

7 What's the average time, if you have one, from the time

8 you drill the frack well till you mine through?

9 THE WITNESS: We like to stay five years ahead. But in this

10 area we're just -- you know, since the acquisition --

11 the two companies, we're just getting out ahead here.

12 So we're going to have a major drilling program in this

13 area this year and possibly next year to get to that

14 five year and then our plans are to stay five years

15 ahead of mining.

16 MR. CHAIRMAN: Other questions?

17 THE WITNESS: That's actually done for drainage.

18 MR. CHAIRMAN: What I was getting at is you're showing three

19 frack wells per unit. We had concerns about getting

20 two and now we're to three?

21 THE WITNESS: A lot of times that's simply a factor of

22 topography, property situations. We like to try to be

23 at 1,000 to 1,200 feet apart but sometimes you can't do

24 that.

25 MR. SWARTZ: To respond, Benny, what has happened on the VPC

1 side since VPC was not fracking it's wells until after
2 there corporate firms were a part of Consol and then
3 they started to frack they were doing ten to twelve
4 unfracked wells and we've got now we're into five to
5 six fracked wells per panel. So, I mean, you're right
6 but we've going half the number of wells but you spend
7 a lot more money per well. It's not dull but it's
8 another \$60,000 at least.

9 THE WITNESS: Uh-huh.

10 MR. CHAIRMAN: Other questions?

11 MR. EVANS: How long do you anticipate or estimate that
12 these frack wells will be in production before they
13 convert over?

14 THE WITNESS: This group of fracked wells in the First-Left
15 panel -- in the First-Left panel, that longwall panel
16 itself is scheduled for production sometime in late
17 1997, early 1998. So that isolation of the First-Left
18 panel will be sometime mid next year and then, you
19 know, soon there after for the Two-Left panel.

20 MR. EVANS: So you're talking three or four -- say in V-28
21 you're talking short hole production in --

22 THE WITNESS: Very soon.

23 MR. EVANS: -- real soon?

24 THE WITNESS: Real soon. That's the reason we're here right
25 there. That's one of the major reasons, the short hole

1 production. That starts early on.
2 MR. EVANS: Do you anticipate short hole production next
3 year?
4 THE WITNESS: No. This year, early --
5 MR. EVANS: I'm sorry. It is 1996.
6 THE WITNESS: Early.
7 MR. EVANS: Early this year as in today, we want to drill
8 them right now or pretty close.
9 THE WITNESS: Yeah. They're real close. It's time to start
10 doing it now.
11 MR. CHAIRMAN: Anything else?
12 (Witness stands aside.)
13 MR. CHAIRMAN: Do I have a motion?
14 MR. KELLY: Mr. Chairman, I'd move that the four applica-
15 tions be approved as submitted.
16 MR. EVANS: Second.
17 MR. CHAIRMAN: A motion and a second. Any further
18 discussion? All in favor signify by saying yes. (ALL
19 AFFIRM.) Opposed say no. (NONE.) Unanimous approval.
20 Thank you.

21
22 (End of Proceedings for
23 January 16, 1996.)
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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 January 16, 1996 at the Southwest Virginia 4-H Center, Hillman Highway, 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 7th day of January, 1996.

DEBORAH J. BISE
NOTARY PUBLIC

My commission expires September 30, 1996.