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VIRGINIA OIL AND GAS BOARD

HEARING OF FEBRUARY 20, 1996

9:00 A.M.

AT THE SOUTHWEST VA. 4-H CENTER  
HILLMANY HIGHWAY  
ABINGDON, VIRGINIA

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Appalachian Court Reporting Services, Inc.

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Abingdon, Virginia

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February 20, 1996

This matter came on to be heard on the 20th day of February, 1996 before the Virginia Gas and Oil Board at the Southwest Virginia 4-H Center, Hillman Highway, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

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

MR. GARVIS: My name is Dennis Garvis from Fairfax County.

MR. LEWIS: My name is Max Lewis. I'm from Buchanan County, a citizen member.

MS. RIGGS: I'm Sandra Riggs, Office of the Attorney General here to advise the Board.

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

MR. EVANS: Ken Evans, coal industry representative.

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

ITEM I

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3 MR. CHAIRMAN: The first item on today's agenda is a petition  
4 from Equitable Resources Exploration for the pooling of  
5 coalbed methane gas well identified as VC-3561. This is  
6 docket number VGOB-96/02/20-0534. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward at this time.

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

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

13 MR. KAISER: Mr. Chairman, at this time we'd move that VGOB  
14 docket number 96/02/20-0534 be continued until the March  
15 docket. We have picked up an additional one acre  
16 interest owner within our unit and we had to provide her  
17 with notice which moves us into the March docket.

18 MR. CHAIRMAN: Any objection to the continuance? Without  
19 objection it's continued.  
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ITEM II

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3 MR. CHAIRMAN: The next item on the agenda is a petition from  
4 Equitable Resources Exploration for pooling of a coalbed  
5 methane gas well identified as VC-3305. This is docket  
6 number VGOB-96/02/20-0535. We'd ask the parties that  
7 wish to address the Board in this matter to come forward.

8 MR. KAISER: Mr. Chairman, members of the Board, Jim Kaiser  
9 once again on behalf of Equitable Resources. We'd ask  
10 that this petition be withdrawn. We had one unleased  
11 interest within the unit and since the date of the  
12 application we have obtained a voluntary oil and gas  
13 lease and have a voluntary unit.

14 MR. CHAIRMAN: Any others that wish to address the Board on  
15 this petition? Any objection to the withdrawal? Without  
16 objection it's withdrawn.  
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ITEM III

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3 MR. CHAIRMAN: The next item on the agenda is a petition from  
4 Equitable Resources Exploration for a well location  
5 exception for well V-3190. This is docket number VGOB-  
6 96/02/20-0536. We'd ask the parties that wish to address  
7 the Board in this matter to come forward.

8 MR. KAISER: Jim Kaiser on behalf of Equitable Resources  
9 Exploration.

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

12 MR. KAISER: Mr. Chairman, we move that this matter also be  
13 continued to the March docket. The coal owner has  
14 requested a resurvey of the location and that has not  
15 been completed as of the date of the hearing today.

16 MR. CHAIRMAN: Any objection to the continuance? It's  
17 continued without objection.  
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ITEM IV

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3 MR. CHAIRMAN: The next item on the agenda is a petition from  
4 Southern Gas Services, Incorporated for unitization of  
5 the Early Grove Field for gas storage purposes. This is  
6 docket number VGOB-96/02/20-0537. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward at this time.

9 MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser  
10 on behalf of Southern Gas Services. We'd ask that this  
11 matter be continued to the March docket. We have out of  
12 state expert witnesses that we intend to use that could  
13 not be here today.

14 MR. CHAIRMAN: Any others that wish to address the Board in  
15 this matter?

16 MS. McCLANNAHAN: Yes. Elizabeth McClannahan with Penn  
17 Stuart, Eskridge and Jones and for Virginia Gas Company  
18 this is Mike Edwards, President of Virginia Gas Company.

19 MR. CHAIRMAN: Go ahead.

20 MS. McCLANNAHAN: We also have out of state expert witnesses  
21 who came to object to the application that was filed by  
22 Southern Gas Services today. All of those witnesses are  
23 here today because we only received notice of their  
24 request for a continuance after 3:00 yesterday afternoon.  
25 Of course, having witnesses and counsel that have

1 traveled long distances costs Virginia Gas Company, my  
2 client, lots of time, money and preparation to prepare  
3 for a hearing like this. We would request that the Board  
4 dismiss this application on the basis that Southern Gas  
5 Services is not prepared to go forward with it's applica-  
6 tion today. In the alternative we would request that the  
7 Board ask Southern Gas Services to withdraw it's applica-  
8 tion because it certainly always has the ability to  
9 refile the application when it is prepared to argue.

10 MR. CHAIRMAN: Do you have any comments?

11 MR. KAISER: No. I think it's been the Board's policy  
12 certainly in the past to grant a petitioner at least one  
13 continuance and we'd submit that we need that continuance  
14 in this case.

15 MS. McCLANNAHAN: If I may correct him about the Board policy,  
16 I believe the Board policy in the past has been that you  
17 have requested that the applicant advise all parties that  
18 were noticed in the original application that it would be  
19 continued prior to the date of the hearing and in some  
20 cases have requested that notice be published about the  
21 request for a continuance so that all parties would be  
22 available or not available depending on what the appli-  
23 cant's request is.

24 MR. CHAIRMAN: Right. The Board has asked for a ten day  
25 notice so there will be the opportunity for notice in the

1 event that was required. Any comments, members of the  
2 Board? First let me ask, are there any others here in  
3 the audience that want to address the Board in this  
4 matter? The record will show there are no others. Does  
5 the Board have any comments?

6 MR. EVANS: Can you give some reason why your out of state  
7 experts are not here for filing of this and to put on  
8 their --

9 MR. KAISER: Well, we have two people that we're going to use  
10 from Oklahoma that had conflicts with previous matters  
11 that they're involved in. Mr. Kelch, my client, is in  
12 Richmond meeting with some members of the Legislature  
13 today and has a scheduled presentation before the Natural  
14 Resources Committee tomorrow. That's the reason he could  
15 not be here. We feel in order to protect our right to a  
16 full hearing on the issues involved here that we're  
17 entitled to one continuance.

18 MR. CHAIRMAN: Any other comments, questions?

19 MS. McCLANAHAN: My client also has the same interests before  
20 the Natural Resources Committee which was scheduled for  
21 tomorrow. So I don't see that as a valid reason for not  
22 coming to a hearing which was filed -- the applicant  
23 filed this. No one else filed this for the applicant.  
24 The Judge didn't set the date. As we all know, we set  
25 our own date when we file the application and we're all

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aware that this Board meets on the third Tuesday of every month and that if you file an application on the deadline prior to that month if that's the date the hearing will be scheduled.

MR. CHAIRMAN: Other questions, comments? We have before us a request for continuance. We have an objection to the continuance.

MR. LEWIS: I make a motion that we deny the continuance.

MR. CHAIRMAN: A move to deny the continuance. Is there a second?

MR. EVANS: I'll second that.

MR. KAISER: Mr. Chairman, I'll make a motion to withdraw the petition this time and then we'll just refile it next month.

MR. CHAIRMAN: Any objection to withdrawal of the petition? The petition is withdrawn. Thank you.

ITEM V

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3 MR. CHAIRMAN: The next item on the agenda is a petition from  
4 Virginia Gas Company under Section 45.1-361.22 for the  
5 vacation of the temporary orders for the testing of the  
6 Price and Little Valley formations as a temporary gas  
7 storage reservoir and the modifications thereof in the  
8 Early Grove Gas and Oil Field. Vacation of the order  
9 covering the Early Grove Gas and Oil Fields and vacation  
10 of the forced pooling order for the Early Grove unit  
11 containing well number 8809, also known as Miller #3  
12 and/or EH-107, located in the counties of Washington and  
13 Scott. This is docket number VGOB-96-02-20-0538 and we'd  
14 ask the parties that wish to address the Board in this  
15 matter to come forward at this time.

16 MS. McCLANNAHAN: Elizabeth McClannahan with Penn Stuart  
17 representing Virginia Gas with Joe Nolty of Derrett,  
18 Ervan & Bradshaw, Richmond, Virginia also representing  
19 Virginia Gas.

20 MR. KAISER: Jim Kaiser on behalf of Souther Gas Services.

21 MR. CHAIRMAN: Any other parties that wish to address the  
22 Board in this matter? If any of you in the audience wish  
23 to address the Board in this matter you'll have an  
24 opportunity to do that now or as the petition matures as  
25 we ask questions. If you will let us know we'll acknow-

1           ledge you at any point in time you want to address the  
2           Board. You may proceed.

3           MR. KAISER: Mr. Chairman, if I may, on behalf of Southern Gas  
4           Services I'd like to seek a continuance of this hearing  
5           at this time for the following reasons; 1) Southern Gas  
6           Services did not receive proper or adequate notice as  
7           owner of the leasehold interest covering approximately  
8           6,000 acres in the Early Grove Field with a percentage --  
9           large percentage of this acreage immediately contiguous  
10          to a certificated area. We're entitled to notice. I  
11          direct the Board to Section 4.F of the VGOB regulations  
12          read in conjunction with Section 19 of the statute which  
13          states that an applicant for a hearing to modify an order  
14          under 45.361.20 shall provide notice in accordance with  
15          Section 19 of the Code of Virginia to each person having  
16          an interest underlying the tract or tracts in the area to  
17          be affected by the proposed modification. Virginia Gas  
18          here seeks to vacate orders previously entered. We  
19          contend that in order to vacate -- if an order to modify  
20          carries a greater burden or greater duty of notice upon  
21          the petitioner certainly an order to vacate which is a  
22          final termination previously granted right carries even a  
23          higher burden of notice and that we should receive notice  
24          to protect our due process rights. And failure for the  
25          notice to be provided could cause irreparable harm not

1           only to my client but to the mineral interest owners  
2           which he has under lease. 2) In conjunction with the  
3           failure to receive adequate notice we've had insufficient  
4           time to prepare and compile our evidence and testimony  
5           in opposition to the relief requested in this petition.  
6           We have expert witnesses, once again, that we intend to  
7           use that are from out of state that had no notice of this  
8           application and are not prepared or not able to be here  
9           today. 3) We feel the issues presented in this applica-  
10          tion essentially involved what I'll call bifurcated  
11          jurisdiction. I direct the Board to 45.1-361.27.C where  
12          the Director under the DMME still has the power to  
13          promulgate rules and regulations relating to storage. We  
14          know that the statute has been changed putting some  
15          jurisdiction in the SCC. We submit if the DMME and  
16          Virginia State Corporation Commission should be given  
17          time to promulgate rules and regulations in regard to gas  
18          storage in the Commonwealth of Virginia and the vacation  
19          of these orders already entered by the VGOB is premature.  
20          4) We contend that there are real issues in controversy  
21          involved here, number one being whether or not the Early  
22          Grove Gas Field is certificated a depleted reservoir and  
23          whether or not native gas is still being produced, and  
24          number two, whether or not the certificated area is a  
25          sealed container and as such in particularly in the case

1 of should these issues be decided before another admin-  
2 istrative form or in a court of law. The status quo as  
3 contained of the orders already issued by the Board needs  
4 to be maintained. So in summary we feel that there  
5 should be a continuance in this matter issued to protect  
6 both my client and the mineral interest owners due  
7 process rights. We're entitled to notice and a full  
8 hearing in this matter.

9 MR. CHAIRMAN: Would you like to address the continuance?

10 MS. McCLANAHAN: Yes, Mr. Chairman. The Southern Gas  
11 Services, Inc. owns no interest under the Early Grove  
12 Field as it's been currently defined by the previous five  
13 orders of this Virginia Gas and Oil Board. They are not  
14 entitled to notice with regard to vacation of the Early  
15 Grove Field Rules and, in fact, don't have standing to  
16 object at this hearing with regard to the Early Grove  
17 Field orders because they don't own any interest.  
18 Virginia Gas Company, as you can see in our application  
19 that was submitted approximately a month ago, we have 100  
20 percent ownership interest under the Early Grove Field as  
21 it's been previously defined by this Board. Therefore,  
22 Southern Gas has no standing to object. I have drafted a  
23 brief on this issue and would like to submit it to the  
24 Board, if I may, at this time.

25 MR. CHAIRMAN: All right. Go ahead and do that.

1 MS. McCLANNAHAN: The standing statute in Virginia under this  
2 Gas and Oil Act indicates that those persons who are  
3 entitled to notice under 45.1-361.19 are the individuals  
4 who have standing before this Board to object or make any  
5 appearance with regard to an application that's been  
6 filed. It's clear that since Virginia Gas Company is the  
7 owner of 100 percent of this Early Grove Field as has  
8 been testified to in previous hearings that Southern Gas  
9 Services has no interest underlying the Early Grove Gas  
10 and Oil Field and therefore would have no standing to  
11 object to our application. We would request that the  
12 Board so rule and allow us to present our application  
13 without a Southern Gas objection since they don't have  
14 standing here today.

15 MR. CHAIRMAN: Let me give the Board a few minutes to read  
16 this.

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

18 MR. CHAIRMAN: Mr. Kaiser, would you like to respond?

19 MR. KAISER: Yes. If I may respond, we do not agree with the  
20 definition of the Early Grove Gas Field just including  
21 1,681 acres. We think it's a 30,000 to 40,000 acre  
22 field, number one, and we do own property rights and  
23 there are correlative rights issues that are affected  
24 certainly by at least a vacation of the field rules as  
25 they pertain to the Early Grove Gas Field. This is the

1 first time I've seen this brief, is right now, and I  
2 think at the very least we should be afforded the  
3 opportunity to respond to that.

4 MR. CHAIRMAN: Does your client fall into any of the categor-  
5 ies in the defined Early Grove Gas Field as coal owner,  
6 gas and oil owner or mineral owner?

7 MR. KAISER: Well, my client if he were here would contend  
8 that we have some leases within that field. I don't have  
9 any evidence of that. I think that we're entitled to  
10 notice under the provisions and under the logical  
11 argument I made under Section 4.F of Virginia Gas and Oil  
12 Board Regulations and I think the Board has a duty to  
13 protect our due process rights.

14 MS. McCLANNAHAN: Mr. Chairman, it strikes me as unusual that  
15 one can make an argument that you should receive notice  
16 based on ownership in a field and yet have no testimony  
17 or any evidence to support the fact that you own any  
18 interest in the field. And we, in fact, have presented  
19 that evidence prior to this hearing with regard to the  
20 fact that we own 100 percent of the interest in the Early  
21 Grove Field. He has admitted that he has no evidence  
22 that he owns any interest in the Early Grove Field.

23 MR. KAISER: I don't think I admitted that at all. I think we  
24 have an interest in the field. I don't think the Early  
25 Grove Field consists of 1,681 acres particularly when it

1 relates to the field rules.

2 MS. McCLANNAHAN: Mr. Chairman, he has no witnesses here today  
3 to testify that he owns any interest anywhere, much less  
4 the Early Grove Field.

5 MR. KAISER: If it please the Board, I have a list of lessors  
6 and leases that we've obtained in the Early Grove Field  
7 if you'd like to see that.

8 MS. McCLANNAHAN: Mr. Chairman, I would object to a list of  
9 leases. You need witnesses here to swear to the truth of  
10 the matter that those leases are actually held.

11 MR. KAISER: They're duly recorded assignments of leases, Mr.  
12 Chairman.

13 MR. CHAIRMAN: I think the Board's heard enough to make a  
14 decision on the argument of whether or not to request a  
15 continuance on this. Does the Board have any questions  
16 of either party? What's your pleasure on dealing with  
17 the request to continue?

18 MR. LEWIS: I make a motion that we deny the continuance.

19 MR. CHAIRMAN: A motion to deny. That motion was to deny  
20 the request for a continuance.

21 MR. EVANS: I'll second that.

22 MR. CHAIRMAN: A motion to deny the request for a continuance  
23 and a second.

24 MR. KAISER: Mr. Chairman, I'll move at this time for an  
25 interlocutory appeal to the Circuit Court of Scott

1 County. If we do not get that then my clients rights are  
2 irrefutably harmed if these orders are vacated without a  
3 chance for us to get a full hearing on the issues.

4 MR. KELLY: I'd like to move that the meeting be recessed  
5 and forward immediately to convene in Executive Closed  
6 Meeting for the purpose of consultation with legal  
7 counsel and/or briefings by staff members and attorneys  
8 pertaining to actual and/or potential litigation of the  
9 matters within the jurisdiction of the Board as permitted  
10 by Section A, Paragraph 7 of Section 2,1-344 of the Code.  
11 This motion is made with respect to the matters ident-  
12 ified as agenda item VGOB-96/02/20-0538.

13 MR. CHAIRMAN: A request to go into Executive Session.

14 MR. LEWIS: I second it.

15 MR. CHAIRMAN: A motion and a second. Further discussion?  
16 All in favor signify by saying yes. (ALL AFFIRM.)  
17 Opposed say no. (NONE.) We're in Executive Session.  
18 The Board will convene in the room in here.

19 (Thereupon, the Board went into Executive Session at 9:35

20 A.M. and reconvened in open hearing at 10:15 A.M.)

21 MR. LEWIS: I make a motion to go out of Executive Session.

22 MR. KELLY: Second.

23 MR. CHAIRMAN: A motion and a second. For the certification  
24 of going out of Executive Session all in favor signify by  
25 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)

1 We're out of Executive Session. We'll do a certification  
2 of Executive Session whereas the Virginia Gas and Oil  
3 Board is convened in Executive Meeting on this date  
4 pursuant to an affirmative recorded vote in accordance  
5 with the provisions of the Virginia Freedom of Informa-  
6 tion Act and whereas Section 2.1-344.1 of the Code of  
7 Virginia requires a certification by this Virginia Gas  
8 and Oil Board that such Executive Meeting was conducted  
9 in conformity with Virginia law. Now therefore be it  
10 resolved that the Virginia Gas and Oil Board hereby  
11 certifies that to the best of each member's knowledge  
12 only public business matters lawfully exempted from open  
13 meeting requirements by the Virginia law were discussed  
14 in the Executive Session to which this certification  
15 resolution applies, and only such business matters as  
16 were identified in the motion convening the Executive  
17 Meeting were heard, discussed or considered by the  
18 Virginia Gas and Oil Board. I'd ask you to identify by  
19 name starting with Dennis and say yes or no.

20 MR. GARVIS: Dennis Garvis. That is correct.

21 MR. LEWIS: Max Lewis. Yes.

22 MR. CHAIRMAN: Benny Wampler. Yes.

23 MR. KELLY: Bill Kelly. Yes.

24 MR. EVANS: Ken Evans. Yes.

25 MR. CHAIRMAN: Thank you. We had asked -- respecting where we

1 are with our finger holding the place in our decision  
2 making we'd ask part of the discussion on the motions for  
3 Tom Fulmer -- I'd asked him earlier to prepare for the  
4 Board the description of the various orders to date. So  
5 we're going as part of this discussion before the final  
6 vote ask Tom to go ahead and make the presentation in  
7 open session to the Board.

8 MR. FULMER: Thank you, Mr. Chairman. Briefly as the Chairman  
9 mentioned, I'll be giving the Board this morning kind of  
10 a briefing of the history of the Early Grove Field and to  
11 bring the Board up to current status in regards to orders  
12 issued by both the current Board plus the Oil and Gas  
13 Conservation Board which was formed under the 1983 Act.  
14 Some of the issues the Board will be requested to address  
15 today occurred prior to this Board's inception. I hope  
16 this information that I'll give you will help you in your  
17 deliberations. The information that I have presented and  
18 which I haven't passed out which are the current Board  
19 orders -- pass those down, please -- copies of the  
20 current Board orders that have been recorded including  
21 all the modifications that has been conducted since 1992.  
22 This report which I have labeled as "The History and  
23 Current Status of the Early Grove Field" I'll be using  
24 and referring back to it during my presentation this  
25 morning. The first three pages contain a time line which

1 depicts the several events or stages of growth which  
2 occurred in the Early Grove Field from 1900 to present.  
3 From 1900 to 1950 there were approximately ten wells  
4 drilled in the area of Early Grove. Of the ten drilled  
5 nine were located in the Early Grove Field. The location  
6 of these wells are depicted on the first map which you'll  
7 see marked as "wells drilled between 1900 and 1950". The  
8 majority of the nine wells drilled in the field occurred  
9 during the 1930s and early 1940s of various interest.  
10 Bristol Natural Gas Corporation obtained the production  
11 rights for these wells and began transporting gas during  
12 the late 30s to the cities of Bristol, Virginia and  
13 Bristol, Tennessee. By 1950 80 of the original mine  
14 wells had been plugged and abandoned. In 1950 the laws  
15 of the Commonwealth were codified. The drilling and  
16 production of gas was replaced under requirements of the  
17 mining statutes and permits were being issued by the  
18 Chief Mine Inspector or his designated assistant. In the  
19 late 70s and early 80s two companies, the Early Grove Gas  
20 Company and Highlander Resources, reentered the field and  
21 drilled a series of six wells resulting in commercial  
22 quantities of gas. A pipeline was built to the East  
23 Tennessee Gas Transmission line which was located a short  
24 distance off of Alternate 58 and a few miles north of  
25 Bristol. The location of the six new wells and active

1 wells drilled prior to July 1, 1983 are depicted on the  
2 second map. On July 1, 1983 the Virginia Oil and Gas Act  
3 became law in which among it's many requirements for gas  
4 and oil operations state established the Oil and Gas  
5 Conservation Commission. Among it's dues it was to  
6 protect correlative rights and conservation of the  
7 resources. In September of 1983 the OGCB issued a  
8 provisional field order for the area known as the Early  
9 Grove Gas Field for the order of the development of the  
10 field until such time permanent field rules could be  
11 instituted. From 1983 through 1991 there were 25  
12 additional wells drilled in the field by two companies.  
13 17 by Early Grove Gas Company and 8 by Penn-Virginia. Of  
14 the 25 wells drilled during this period three were  
15 plugged and abandoned leaving a total of 28 wells  
16 producing in the field. The location of these wells are  
17 depicted on the third map. In 1987 Penn-Virginia  
18 obtained the permitted rights and interest of Early Grove  
19 Gas Company in the Early Grove Field. In August of 1988  
20 the OGCB was petitioned by Penn-Virginia for the estab-  
21 lishment of a pooled unit known as 8809. For reference,  
22 the location of the unit and wells depicted are outlined  
23 in yellow on the third map which is the overlay map. The  
24 OGCB approved the unit on March 20th, 1989. Prior to  
25 July of 1991 a total of 21 units had been formed under

1 the provisional order issued by the OGCB in September of  
2 1983. On July 1, 1991 the Virginia Gas and Oil Act  
3 became effective which among it's requirements establish-  
4 ed the present Virginia Gas and Oil Board. That same  
5 year Edwards & Harding or Virginia Company acquired the  
6 permitting and interest rights to the developed field  
7 from Penn-Virginia. The field had experienced to  
8 continued decline in production in the late 1980s. In  
9 July of 1992 Virginia Gas Company petitioned the Board  
10 for modification of the OGCB order on unit 8809 and  
11 requested a temporary order to test four units in the  
12 field for the feasibility of storage in the field. These  
13 four units are depicted on the overlay for the fourth  
14 map and those units are indicated in yellow -- or are  
15 outlined in yellow. That was VGOB order number 92/07/21-  
16 0233. The order contained requirements for payment of  
17 royalty for in place gas and reporting of testing  
18 results and a 120 day time period for testing. In August  
19 of 1993 the Board upon petition by Virginia Gas approved  
20 the addition of unit EH-96 which is outlined in blue.  
21 All other previous stipulations to the Board order was  
22 included in this new modified order by the Board. In  
23 September of 1993 Virginia Gas Company returned to the  
24 Board to request the addition of four more units for  
25 testing and to modify the previous orders issued by the

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Board. The same stipulations as stated in the previous orders were contained in the modified order issued by the Board. These units are outlined in red on the overlay. In October of that same year Virginia Gas again returned to the Board and requested that the previous order be modified to include the addition of twelve more units to be tested which brought the number of units under the temporary testing order to 21 units -- which, by the way, was the original units formed prior to 1991. The additional twelve units approved by the Board in the modified order is outlined in green on the overlay. The following year in June Virginia Gas returned to the Board and requested a modification of the October order. The petition requested that Virginia Gas be allowed to drill two wells in each unit for testing purposes. The Board in it's order granted the relief Virginia Gas sought and would allow for testing until the year 2000. All previous stipulations were included in the order. On July 1 of 1994 the General Assembly passed and provided under the statute of the State Corporation Commission the authority of the SCC to regulate underground gas storage. In December of 1994 Virginia Gas filed an application with the SCC for a certificate of public convenience and necessity under the Utilities Act. That area that was petitioned by Virginia Gas is marked in

1 blue on the fourth map. Virginia Gas received a final  
2 order of the Commission on September 7th, 1995 granting  
3 them certificate of public convenience and necessity for  
4 the Early Grove Gas Field. This morning Virginia Gas is  
5 before the Board requesting that the previous orders of  
6 the Board and its predecessor be vacated in light of it's  
7 certification. That's been very brief and kind of a walk  
8 through but that's been the history of the Early Grove  
9 Field in regards to the Board and it's previous pre-  
10 decessor, the Oil and Gas Conservation Commission.

11 MR. CHAIRMAN: Do Board members have any questions of Mr.  
12 Fulmer? Okay. We'll return back to where we were. We  
13 had a motion to deny the request for a continuance and a  
14 second. Any further discussion? All in favor say yes.  
15 (ALL AFFIRM.) Opposed say no. (NONE.) The request is  
16 denied. You may proceed.

17 MS. McCLANNAHAN: We would like for the Board to consider our  
18 motion to dismiss Southern Gas Services as a party to  
19 this proceeding on our brief, based on the fact that  
20 Southern Gas Services has no standing in this matter.

21 MR. CHAIRMAN: Ask any question or make any motion in that  
22 regard?

23 MR. EVANS: Mr. Chairman, I move that Southern Gas be  
24 dismissed from this as not having standing.

25 MR. LEWIS: I'll second it.

1 MR. CHAIRMAN: A motion and a second. Any further discussion?  
2 All in favor signify by saying yes. (ALL AFFIRM.)  
3 Opposed say no. (NONE.) You're dismissed from standing.

4 MS. McCLANNAHAN: As I've indicated previously, I'm with Penn  
5 Stuart, Eskridge and Jones and Joe Nolty is with the firm  
6 of Derrett, Ervan & Bradshaw. We represent Virginia Gas  
7 Company in this application to vacate the orders. We had  
8 intended to give you a summary of all of these orders and  
9 I'm very thankful that Mr. Fulmer has done all the work  
10 for us in a most adequate way. So I will skip that  
11 portion of our presentation. As a result of the five  
12 orders that have previously been entered by this Board  
13 with regard to the Early Grove Gas and Oil Field in May  
14 of 1995 the Chairman of your Board, Mr. Wampler, who is  
15 here today indicated that the Gas and Oil Board and the  
16 State Corporation Commission would work hand and baton to  
17 facilitate the issues between these two agencies for the  
18 jurisdiction of the field. Virginia Gas Company has  
19 submitted the State Corporation Commission application  
20 and it has been approved. This particular boundary as a  
21 storage field has been certificated by that Commission  
22 and we are here to have the Gas and Oil Board pass the  
23 baton, as Mr. Wampler indicated, to the State Corporation  
24 Commission. Virginia Gas has previously provided  
25 testimony that this Early Grove Gas Field was nearing

1 depletion as a gas field and that a storage field would  
2 provide the numerous royalty owners who are in this  
3 storage field with a steady income that would otherwise  
4 diminish and eventually terminate with the economic  
5 demise of the gas field. Virginia Gas also has previous-  
6 ly provided testimony that this field demonstrated  
7 characteristics that make it desirable as a storage  
8 reservoir and, as this Board is very aware of, has tested  
9 this field for approximately three years and seven  
10 months, submitting those results both to the Gas and Oil  
11 Inspector as regular reports before this Board both at  
12 Virginia Gas' motion and the Board's own motion. Those  
13 results have proven that this field is suitable as  
14 storage reservoir and as a result Virginia Gas Company  
15 applied for a certificate of public convenience and  
16 necessity and was awarded that. With regard to the  
17 jurisdiction of the Gas and Oil Board and the State  
18 Corporation Commission and the way these two agencies  
19 have been operating together to pass this baton I think  
20 it's important to note that the Department of Mines,  
21 Minerals and Energy has submitted to the Secretary of  
22 Commerce and Trade as well as the Governor's Office at  
23 this point a deletion of regulation Section 23 under 480-  
24 05-22.2 requesting that that regulation which currently  
25 reads "No person may conduct any operation involving

1 storage of natural gas in an underground gas storage  
2 field until the Board had adopted an order governing the  
3 underground gas storage field." The Department of Mines,  
4 Minerals and Energy when it submitted this recommendation  
5 indicated that the inclusion of this section as a  
6 deletion from the regulations for the Gas and Oil Board  
7 was necessary because -- and I quote -- "As the regul-  
8 ation of underground storage of natural gas now falls  
9 under the purview of the State Corporation Commission."  
10 President of Virginia Gas Company, Mike Edwards, will  
11 later testify that it is his understanding that he has  
12 been requested by the State Corporation Commission staff  
13 to at this time seek the vacation of all the orders  
14 effecting the Early Grove Gas and Oil Field as it's set  
15 forth in their application and as Mr. Fulmer has provided  
16 to you in the two exhibits. I do assume but I just want  
17 to state for the record that his documents will be a part  
18 of this record?

19 MR. CHAIRMAN: They are part of the record.

20 MS. McCLANAHAN: Okay. The first witness that I would like  
21 to call is David Leonard. This is a little out of the  
22 normal order that we would do it but Mr. Leonard has a  
23 real job, so to speak, and we would like to allow him to  
24 go back to that job if at all possible.

25 COURT REPORTER: (Swears witness.)

1 MR. LEONARD: Gentlemen, I'm David Leonard. I'm Chairman of  
2 the Russell County Industrial Development Authority. We  
3 have worked with Virginia Gas Company for several years  
4 now to try to establish a supply line of gas into Russell  
5 County for residential and commercial and industrial use.  
6 Last night we had a meeting of the Russell County  
7 Industrial Development Authority in which it was -- a  
8 motion was unanimously passed to support Virginia Gas in  
9 the establishment of their Early Grove Field. We feel  
10 that the establishment of the field there is really  
11 necessary to provide uninterrupted service to the people  
12 that it would supply in Russell County, especially that  
13 we have an interest in. Virginia Gas at this time  
14 supplies in the Castlewood area of Russell County and we  
15 have industrial revenue bonds for them so that they can  
16 provide gas coming on in to the eastern -- more eastern  
17 part of the county and to Lebanon and hopefully event-  
18 ually on into the Honaker/Rosedale area. But we have two  
19 industrial parks in Lebanon that we have people who would  
20 use the gas service. We have prospects now for the large  
21 sites we have in the Cumberland Plateau Industrial Park  
22 and Virginia Gas has been very supportive in meeting with  
23 prospects when we've had them and to assure us that if a  
24 large prospect or industry came in that they would be  
25 there to supply that. In every instance that we have

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called on them they have been there to assist us. We have had no complaint of any kind in the people of Russell County that they supply at this time that I know about or that has been brought to our authority anyway and we are very supportive of them establishing this field so that we can have the uninterrupted service.

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

MS. McCLANNAHAN: I would like to call Brad Swanson as our next witness.

COURT REPORTER: (Swears witness.)

BRADLEY SWANSON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

Q. Mr. Swanson, would you please state your full name for the record?

A. My name is Bradley Lavern Swanson.

Q. And your address?

A. 25000 Lee Highway, Abingdon, Virginia.

Q. Any by whom are you employed?

- 1 A. I'm employed by Virginia Gas Company.
- 2 Q. And your position wit Virginia Gas?
- 3 A. I'm the director of land.
- 4 Q. What are your responsibilities and duties as the director  
5 of land for Virginia Gas?
- 6 A. I supervise and oversee all of the land acquisitions, the  
7 negotiation of leases, rights, rights-of-ways, the entire  
8 land function.
- 9 Q. What is your educational background?
- 10 A. I have a BA degree from Emory & Henry College. I have  
11 some continuing education in real estate.
- 12 Q. Do you hold any licenses in the Commonwealth?
- 13 A. I am a licensed real estate broker in the State of  
14 Virginia.
- 15 Q. Could you please describe your work background for the  
16 Board?
- 17 A. In the gas industry I started with Charles Bartlett in  
18 1980 and worked until about 1984 and then was hired in  
19 1987 with Virginia Gas and have been with Virginia Gas  
20 since 1987.
- 21 Q. Do you have any military service?
- 22 A. I joined the Marine Corp in 1966, did a tour of duty in  
23 Vietnam and ended my Marine Corp career at 8th9 Washing-  
24 ton, D.C. as a Marine Guard.
- 25 Q. Have you ever qualified as an expert witness before the

1 Virginia Gas and Oil Board?  
2 A. Yes, I have.  
3 MS. McCLANNAHAN: Mr. Chairman, I would submit Brad Swanson as  
4 an expert witness.  
5 MR. CHAIRMAN: Without objection. You may proceed.  
6 Q. (Ms. McClannahan continues.) How were the names of the  
7 potential owners and owners of the coal, oil, gas and  
8 minerals identified under the Early Grove Field?  
9 A. We bought the field from Penn-Virginia and subsequently  
10 much of their records. We've done extensive courthouse  
11 work. We've done extensive field work, interviewing  
12 family members and just following up every lead until we  
13 were satisfied that we had identified all of the owners  
14 and had contacted them and were able to negotiate  
15 agreements with them.  
16 Q. Is the notice of hearing that was mailed to the parties  
17 contained in the application to vacate the Early Grove  
18 Gas and Oil Field filed under docket number VGOB-96/02/-  
19 20-0538?  
20 A. That's true.  
21 Q. How was this accomplished? Did you send it by certified  
22 mail?  
23 A. I sent it by certified mail, return receipt requested.  
24 Q. And have those receipts been filed with the Gas and Oil  
25 Board?

1 A. They have.  
2 Q. Were all persons also notified by publication in a  
3 newspaper of general circulation?  
4 A. That's true.  
5 Q. Do you remember when that hearing notice was published in  
6 the Bristol Herald Courier?  
7 A. I'm not sure of that date.  
8 Q. January 26th, 1996, is that right?  
9 A. That's correct.  
10 Q. Were these proofs of publications submitted to the Board?  
11 A. They were.  
12 Q. Earlier?  
13 A. They were.  
14 Q. What percentage of the oil and gas rights underlying the  
15 Early Grove Field is controlled by Virginia Gas Company  
16 and its subsidiaries?  
17 A. 100 percent.  
18 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
19 Swanson.  
20 MR. CHAIRMAN: Questions, members of the Board?  
21 (Witness stands aside.)  
22 MS. McCLANNAHAN: I'd like to call Mike Edwards.  
23 COURT REPORTER: (Swears witness.)  
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Board, please?

A. I was a student at the University of California Burkley, received a Bachelor's degree in physical science in 1979. I received a Master's degree in business administration from Sanford Graduate School of Business in 1981.

Q. Could you delineate your work background for the Board, please?

A. Since approximately 1975 -- from 1975 until 1981 as a student I was employed by Standard Oil Company of California, Union Oil of California. From 1981 until 1986 I was vice-president and director of Petroleum Development Corporation located in Bridgeport, West Virginia. And then my wife and I in 1986 founded our present company with our life savings and a smile on our faces and shine on our shoes and we've been employed in our own company since then.

Q. Have you ever been qualified as an expert witness before the Virginia Gas and Oil Board?

A. Yes, ma'am, I have.

MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Edwards as an expert witness.

MR. CHAIRMAN: Proceed.

Q. (Ms. McClannahan continues.) When was the Early Grove Field established? I believe Mr. Fulmer has indicated this to us before but just as a summary when was that

1 field originally established?

2 A. When was gas first discovered there or --

3 Q. When was the original order from the Board entered?

4 A. I believe 1988 or 1989.

5 Q. That was the first permanent order that you have before  
6 you. The temporary order, was it entered in September of  
7 1983?

8 A. I believe that's correct.

9 Q. When did Virginia Gas Company acquire the right to the  
10 Early Grove Field?

11 A. We purchased the field in partnership with a local  
12 individual, Mr. H.A. Street, and our company each own 50  
13 percent of this field. We purchased that in November of  
14 1991 and then we subsequently formed the Virginia Gas  
15 Storage Company in 1992 which is a Virginia public  
16 service company. We also at the same time founded -- the  
17 same two parties -- ourselves, Virginia Gas Company and  
18 Mr. Street founded Virginia Gas Distribution Company  
19 which is also a Virginia public service company; both of  
20 them regulated by the State Corporation Commission of  
21 Virginia. Our affiliated gas distribution company  
22 provides gas service in a two county territory, in  
23 Russell County and in Buchanan County. We currently  
24 provide service to approximately 200 customers in those  
25 areas and are expanding at the rate of 50 to 70 customers

1 per year.

2 Q. When did you first begin to consider Early Grove as a  
3 possible storage reservoir?

4 A. When we first began operations here in Virginia in 1987  
5 and 1988 we were primarily prospecting for gas and in the  
6 process of studying the different geological character-  
7 istics of this part of the state we noticed the Early  
8 Grove Field very early on. I had previously worked in  
9 West Virginia in which there's very active gas storage  
10 industry. Typically -- well, what's commonly done with  
11 gas reservoirs once they've been fully or partially  
12 depleted if they have the proper characteristics these  
13 reservoirs are frequently converted to use as underground  
14 gas storage facilities. In looking at the particular  
15 characteristics of the Early Grove Field at an early date  
16 I became convinced that this would be a good candidate  
17 for a conversion to storage.

18 Q. What is the purpose of the storage facility?

19 A. The gas customers -- and by this I primarily mean gas  
20 distribution companies that distribute gas to retail  
21 users -- employ gas storage fields either as customers of  
22 the fields or as outright owners of these fields in order  
23 to minimize their cost of acquiring and delivering gas to  
24 their ultimate retail customers. Storage fields like  
25 this field are called market area storage fields meaning

1 that they are close to the ultimate markets where the gas  
2 is consumed. Customers use these facilities to purchase  
3 gas in the summer when prices are low and when transport-  
4 ation capacity on the interstate pipelines is available  
5 and then to store the gas underground and then to withdraw  
6 it in peak demand periods. Ideally for a market area  
7 storage fields which are close to the ultimate customers  
8 they're basically forward supply depositions for the gas in  
9 which the gas is inventoried in low demand period and  
10 then withdrawn in extremely high demand periods such as  
11 we've just experienced in January and February of 1996.

12 Q. During the last three years and seven months of this  
13 testing in the Early Grove Field have you verified the  
14 integrity of the field as a storage container, the  
15 assurance of deliverability for withdrawal and the  
16 adequacy of compression for the injection of gas?

17 A. Yes, ma'am, we believe that we have. In 1993 our gas  
18 distribution affiliate, Virginia Gas Distribution  
19 Company, and another local gas distributor, Roanoke Gas  
20 Company, both began using the field on a testing basis.  
21 We injected modest quantities of gas in the field in the  
22 summer of 1993 and the field responded wonderfully. The  
23 withdrawal rates the wells increased dramatically over  
24 what the wells have been producing naturally prior to the  
25 injection of gas. The pressure curves all behaved as we

1 had hoped. And in that first withdrawal cycle in the  
2 winter of 1993/1994 January of 1994 was an extremely cold  
3 period and many gas companies experienced severe supply  
4 shortages and the availability of gas supplies from this  
5 field were instrumental in helping customers all along  
6 the I-81 corridor from Bristol to Roanoke in keeping  
7 their pilot lights on. This was also true in the next  
8 winter. Even though the next winter of 1994/1995 was a  
9 warmer winter over all there was also a period of cold  
10 temperatures in February of 1995 in which our facility  
11 was also quite helpful in allowing gas service to  
12 continue. In this latest cycle -- January of 1996 and  
13 especially early February of 1996 it's safe to say that  
14 without service from this facility there would have been  
15 major supply curtailments from Roanoke to Bristol. This  
16 was especially true during one period when another local  
17 supplier, Equitable Resources, supplies were not avail-  
18 able for almost a week because of equipment failure.

19 Q. Have you now obtained a certificate of public convenience  
20 and necessity from the State Corporation Commission for  
21 the purposed storage facility?

22 A. Yes, ma'am. We applied in December of 1994 for a  
23 certificate to own and operate this facility within a  
24 defined boundary which approximates the previous area of  
25 the field and we received that certificate this year --

1           excuse me -- late last year. 1995.

2 Q.   With regard to the field boundaries why don't we use Mr.  
3       Fulmer's exhibits here so that you can describe the Early  
4       Grove Field that you're referring to. That under the  
5       jurisdiction of the Gas and Oil Board is shown on Mr.  
6       Fulmer's -- it would be the last exhibit in your book. I  
7       don't believe it has a number.

8 MR. CHAIRMAN: The last map.

9 MS. McCLANNAHAN: The last map that's shown in the exhibit  
10       book.

11 Q.   (Ms. McClannahan continues.) The Early Grove Field as  
12       it's been defined by the Board are those units that are  
13       colored yellow, blue, red and green, is that correct?

14 A.   Yes, ma'am.

15 Q.   The certificated boundary from the State Corporation  
16       Commission is shown in an outline of blue, is that right?

17 A.   Yes, ma'am.

18 MS. McCLANNAHAN: That's better shown, I think, including the  
19       pipeline route which is also included in the State  
20       Corporation Commission boundary by the map that we would  
21       like to submit now as Exhibit #1.

22 Q.   (Ms. McClannahan continues.) Mr. Edwards, could you  
23       please explain the certificated boundary as it's shown on  
24       this map?

25 A.   Yes, ma'am. We applied to the Corporation Commission for

1 a certificated territory of slightly under 3,000 acres  
2 including the formerly productive portion of the field  
3 and a pipeline corridor around our pipeline right-of-way  
4 to the interstate connection. The boundary of the field  
5 as we applied for to the Corporation Commission is  
6 essentially the same as the previous gas production units  
7 applied for by the Board. In an effort to -- this issue  
8 -- we had originally submitted a very similar outline to  
9 the State Corporation Commission when we originally filed  
10 the application. The Commission staff after studying our  
11 original geometry which was essentially an ellipsoid  
12 which -- actually an ellipse which would approximate this  
13 boundary. It turns out an ellipse is difficult to  
14 describe in a meets and bounds fashion and the staff of  
15 the Corporation Commission asked us if we could come up  
16 with a polygon of some sorts so that it would be more  
17 easily describable in a legal notice. And that's how we  
18 arrived at the current geometry of the field.

19 Q. So the certificated area is shown in pink on this Exhibit  
20 #1 and the pipeline corridor is in blue, all of which are  
21 included in the State Corporation Commission certificate?

22 A. Yes, ma'am.

23 Q. I'm going to show you documents which represent the  
24 application and the orders that have been issued by the  
25 State Corporation Commission. Would you please verify

1 that these are, in fact, the orders that have been issued  
2 by that commission and the application that you filed?

3 A. (Pause.) Yes, ma'am. That is the case.

4 Q. With regard to this application that was submitted by the  
5 State Corporation Commission you were also required to  
6 publish a notice and to provide individual notices to a  
7 number of agencies which are included in this applica-  
8 tion, is that correct?

9 A. Yes, ma'am. That is correct. This whole certification  
10 process as well the numerous hearings we've had before  
11 the Gas and Oil Board have all -- in each case we've had  
12 full notice to the landowners and to the general public.  
13 There's never been any opposition to any of the previous  
14 petitions to the Board. There was no opposition to our  
15 certification proceeding before the State Corporation  
16 Commission. As a matter of fact, that application  
17 enjoyed the support of the boards of supervisors of the  
18 counties involved. Both Scott County and Washington  
19 County have gone on record supporting our efforts in this  
20 behalf.

21 MS. McCLANNAHAN: Mr. Chairman, I would submit these certified  
22 copies from the State Corporation Commission as Exhibits  
23 #2, #3, #4 and #5.

24 MR. CHAIRMAN: Accepted.

25 Q. (Ms. McClannahan continues.) Mr. Edwards, would you

1 please characterize the nature and importance of the  
2 service you have provided with this storage field,  
3 particularly as it has been provided in the last couple  
4 of years?

5 A. Yes, ma'am. The Mid Atlantic states and the northeast in  
6 general suffer from a shortage of pipeline capacity on  
7 peak days in the winter. Most of the pipelines that were  
8 built into this area were built in the 1950s or 1960s.  
9 There's been significant economic growth and also  
10 significant population growth since that time and due to  
11 a variety of reasons the interstate pipeline companies  
12 that provide service in these areas have not built new  
13 facilities at a rate fast enough to keep pace with the  
14 growth and demand. As a result there have been --  
15 particularly in the last few years, December of 1989 and  
16 then March of 1993, January of 1994, February of 1995,  
17 January and February of 1996 -- in periods of cold  
18 weather in the east there have been recurring supply  
19 problems and the development of new market area storage  
20 facilities and the construction of new pipeline faciliti-  
21 es in this area are needed. Our company has been  
22 involved in exactly that as well as providing gas  
23 services to local communities directly. Let me illust-  
24 rate one example. If an industry wanted to move into  
25 this part of Virginia and wanted affirmed gas service on

1 an uninterruptable 365 days per year basis without access  
2 to a facility such as our's they would not be able to  
3 obtain that service. Building facilities like this is  
4 critical for the ability of the local counties to  
5 attract new industry.

6 Q. Why did you apply to the Gas and Oil Board for a vacation  
7 of the Early Grove Field orders as they've been listed in  
8 the application?

9 A. We have been requested by the staff of the Corporation  
10 Commission of Virginia to make such a request in order to  
11 clean up the record in this matter.

12 Q. What exactly does the application filed by Virginia Gas  
13 Company under docket number 96/02/20-0538 propose?

14 A. We propose that the previous orders of the Board relating  
15 to this field be vacated since we are now a regulated --  
16 a public service company with a territory that's under  
17 the regulation of the State Corporation Commission.

18 Q. And with regard to the relief that you've requested as to  
19 the statutory statewide spacing can you explain that to  
20 the Board?

21 A. Our request here is that any new wells drilled in search  
22 of production of gas in the vicinity of the storage field  
23 be drilled in accordance with Virginia law using state-  
24 wide spacing.

25 Q. And that statewide spacing request is the present statute

1           that's in existence, is that correct?

2    A.    Yes, ma'am.

3    Q.    Your request is no different than that, statewide

4           spacing?

5    A.    That is correct.

6    Q.    There also is a forced pooling order that has been

7           entered with regard to the Early Grove Field which has

8           not been included in the documents that Mr. Fulmer has

9           entered but is included in our application but I just

10          want to bring the Board's attention to that. That unit

11          contains well number 8809, is that correct?

12   A.    Yes, ma'am.

13   Q.    And that has been known as the Miller #3 unit or the EH-

14          107, is that correct?

15   A.    That is correct.

16   Q.    That forced pooling order is no longer needed as a result

17          of your ownership in this field, is that correct?

18   A.    That is correct. This order was originally put into

19          effect by one of the previous owners of the field because

20          there was some outstanding fractional interests that had

21          not been leased. Through a major effort over several

22          years Mr. Swanson who previously testified located all

23          of the heirs and went to -- personally visited the heirs

24          in four different states including Texas and California

25          at, I might add, significant expense to our company in

1 order to find them. We now have agreements with 100  
2 percent of the owners in that unit and would respectfully  
3 request the forced pooling order be vacated along with  
4 the other orders.

5 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
6 Edwards.

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

8 MR. EVANS: With regard to your request for statewide spacing  
9 of any other well drilled, why do you request that? It's  
10 my understanding that this Early Grove Field is defined  
11 and contained. Why do you need -- why do you ask for  
12 relief on statewide spacing? Statewide spacing is for  
13 the same pool. I assume that your testimony is that this  
14 pool is not in communication with anything else -- any  
15 other pool. I don't understand your request for state-  
16 wide spacing.

17 MS. McCLANNAHAN: I think that's a legal question, if I may  
18 respond first. Actually we wanted the Board to recognize  
19 that once these rules are vacated under all the Early  
20 Grove orders that statewide spacing will automatically  
21 apply because in any area where there is no field rule  
22 then statewide spacing is the rule that applies.

23 MR. EVANS: If you're drilling in the same pool. But by your  
24 testimony you won't be drilling into the same pool  
25 because you own 100 percent of this.

1 MS. McCLANNAHAN: If those wells are within the field. If  
2 those wells are within the State Corporation Commission  
3 certificated boundary.

4 MR. EVANS: I'm not interested in the certificated boundary.  
5 I'm interested in what the Early Grove Field is --

6 MS. McCLANNAHAN: Before the Board.

7 MR. EVANS: -- before the Board.

8 MS. McCLANNAHAN: That's true as well.

9 MR. EVANS: Then I still don't see why you would request that.  
10 This pool has been defined as being those 21 or 22 units  
11 not in communication with any other.

12 THE WITNESS: We're not requesting anything that's not already  
13 in the statute.

14 MR. EVANS: The statute says "in the same pool" and we'll give  
15 you that. But I don't understand why you requested it.

16 THE WITNESS: There's not anything in our request that isn't  
17 already included in the existing (Inaudible.)

18 MR. CHAIRMAN: I think there would be a large debate if the  
19 certificated area is a defined pool and the jurisdiction-  
20 al authority for a certificated area is under the SCC  
21 whether or not you'd even be identifying a well as a well  
22 as far as spacing goes. So we need to establish that for  
23 the record now because as I understand it you have as  
24 part of your certificated area boundary a boundary area  
25 as part of that certificated area that would protect the

1 container, if you will.

2 MS. McCLANNAHAN: Right.

3 THE WITNESS: Yes, sir. That's correct. When we laid out  
4 that boundary one of the operating assumptions when we're  
5 laying the boundary out was that any new drilling -- that  
6 were any new drilling to take place outside of the field  
7 occur that it would be done on statewide spacing. That  
8 was our operating assumption when we laid out the  
9 boundaries of the field. But that's --

10 MR. EVANS: Let me ask you a question. In your application  
11 under Item 4 you have a statement "Early Grove is bounded  
12 and described as follows" and you give meets and bounds,  
13 etcetera. To what do those meets and bounds apply? Is  
14 that Exhibit #A in your -- do those meets and bounds  
15 describe Exhibit #A or do they describe the certificated  
16 area of the State Corporation Commission? Which?

17 THE WITNESS: I believe the meets and bounds description that  
18 you are describing pertain to the units themselves.

19 MS. McCLANNAHAN: Let me find it for him so he can look at it.

20 THE WITNESS: I believe that that pertains to the 21 units,  
21 the outer perimeter of that.

22 MR. EVANS: Is that your testimony, that those are the meets  
23 and bounds -- the outline of 21 units?

24 THE WITNESS: Yes, sir.

25 MR. EVANS: Thank you. Since we were talking about two

1 different areas here I wanted to make sure what you were  
2 asking for in your actual application versus what you've  
3 supplied to us and by reference what Mr. Fulmer has  
4 supplied to us. Okay?

5 MR. CHAIRMAN: The certificated area as a matter of record is  
6 approved by the State Corporation Commission, nothing  
7 that's before the Board in any way or form changes that  
8 at all. Is that correct? Do you agree with that?

9 THE WITNESS: Yes, sir.

10 MR. CHAIRMAN: And the area of the Board orders is a separate  
11 area that Mr. Fulmer testified to and you've also  
12 concurred that that is, in fact, the total area as it  
13 applied to the previous Board rules?

14 THE WITNESS: Yes, sir. That is correct.

15 MS. McCLANNAHAN: And I don't believe it's necessary that the  
16 order contain anything with regard to the statewide  
17 spacing statute. We just felt that it was important to  
18 bring that to the Board's attention in the application  
19 itself. But the law is the law as Mr. Evans has stated  
20 it and would be applied to anyone who would try to drill  
21 a well. And the same thing is true with regard to the  
22 State Corporation Commission's certificated boundary. If  
23 the State Corporation Commission has jurisdiction over  
24 that boundary then any wells drilled within that may be  
25 regulated by the State Corporation Commission and

1           therefore not be subject to this which is, I think, the  
2           point you were trying to make earlier.

3   MR. CHAIRMAN: Are you withdrawing that then from your  
4           application?

5   MS. McCLANNAHAN: It really is a matter of clarification. So  
6           I think that the Board -- we would feel more comfortable  
7           if it's in the order, but my point is that we're not  
8           asking for relief to that effect but it will need to be  
9           made very clear as to what it applies to. And that is as  
10          Mr. Evans has stated; it would apply to wells drilled in  
11          the same pool.

12   MR. CHAIRMAN: I guess I'm having a mental debate here myself  
13          in making sure we have absolute clarity of what that  
14          really means.

15   MR. EVANS: I don't understand why it even needs to be  
16          clarified if you have 100 percent of the interest in the  
17          pool and the pool is not in communication with any other.  
18          I don't understand what's being clarified.

19   MS. McCLANNAHAN: I think it would be great if we could put in  
20          the order that this is a pool and not in communication  
21          with --

22   MR. EVANS: Is that not your testimony?

23   MS. McCLANNAHAN: -- other areas. Yes. Absolutely. But that  
24          hasn't been included in the previous orders.

25   THE WITNESS: We inserted this as a clarifying measure. If



1 MR. CHAIRMAN: It is identified in Paragraph 9 also. It's  
2 just a statement of what it provides. But in the relief  
3 sought -- we're not trying to force you into that  
4 decision. I want to make that clear. Let me try one  
5 attempt to clarify what I think we're saying. If this  
6 table top -- this one from here over is the certificated  
7 area, is the pool, in effect, that we're talking about  
8 and someone were to come in and drill a well here  
9 directly beside that we would not be talking about  
10 statewide spacing having any impact on the pool itself.

11 MS. McCLANNAHAN: I don't think that the Board can make a  
12 decision here to in the future determine that a well that  
13 may be drilled next to the boundary of the Early Grove  
14 Field as it's been previously defined. That's why I  
15 believe that we need to recognize that the statutes apply  
16 with regard to any new wells drilled and would be so  
17 interpreted by the Gas and Oil Inspector. If the Board  
18 feels uncomfortable about making that decision that the  
19 state statute applies then I think it's better for the  
20 Board to remain silent on that issue.

21 MR. CHAIRMAN: I don't think the Board's uncomfortable saying  
22 the law is the law.

23 MS. McCLANNAHAN: Okay.

24 MR. CHAIRMAN: I mean, that goes without saying.

25 MS. McCLANNAHAN: Right.

1 MR. CHAIRMAN: The law's the law.

2 MS. McCLANNAHAN: And that's exactly our position here with  
3 the exception, of course, we do need the grandfather for  
4 the previously permitted wells in that boundary.

5 MR. CHAIRMAN: Do you have anything further?

6 MS. McCLANNAHAN: Well, we would like for that to be stated in  
7 the record. We're reversing our position here as you  
8 have so stated it.

9 MR. EVANS: State your position again then.

10 MS. McCLANNAHAN: The position is that Code Section 45.1-  
11 361.17 will apply with the exception of the previously  
12 permitted wells located within the 1,682.08 acre boundary  
13 depicted on Exhibit #A subject to the certificate of  
14 public convenience and necessity number GS1 that's been  
15 issued by the State Corporation Commission on November  
16 17th, 1995.

17 MR. EVANS: Let me ask one quick question then. 1,682 acres  
18 that you just referred to, that is the acreage contained  
19 within the 21 units?

20 MS. McCLANNAHAN: That is correct. And the meets and bounds  
21 description.

22 MR. EVANS: Thank you. That's what I needed to know.

23 MR. CHAIRMAN: Further questions? Do I have a motion?

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

25 MR. LEWIS: I second it.

1 MR. CHAIRMAN: Further discussion? All in favor signify by  
2 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) The  
3 petition is granted. That concludes the identified  
4 agenda for the Board. We have one other matter that  
5 we're going to bring up. Mr. Fulmer has a matter just to  
6 see if the Board wants to set this for an agenda. He's  
7 going to hand it out.

8 MR. FULMER: Mr. Chairman, just a little note for the Board,  
9 we have two --

10 MR. CHAIRMAN: Folks, excuse me. We're still in session here.  
11 We need you to -- hold on a second. We're still in  
12 session here. Take your seats and please be silent till  
13 we finish up. Thank you. Go ahead, Mr. Fulmer.

14 MR. FULMER: We have two items --

15 MR. CHAIRMAN: Folks, excuse me. I'm sorry. We're not going  
16 to try and talk over you. We're going to ask you to  
17 please be quite till we finish our matters. We won't be  
18 but another few minutes and we'll be happy to let you  
19 have whatever conservations. So if you'll just bear with  
20 us we will be through in just a minute. Thank you.

21 MR. FULMER: We have two current petitions that have been  
22 filed plus the two, I believe -- two continued on this  
23 one. So we have a total of four so far for the next  
24 hearing. The item that I have passed out to the Board  
25 members is in reference to the U-19 unit in Buchanan

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County which is operated by Ratcliff Gas Company. This is some research that I've been doing and I want to provide this information to the Board for their determination and deliberation. Basically the memo is in regards to two previously approved units plus the U-19 unit and the two previous units, the U-18 unit and the V-19 unit which is on the map at the very end of the memo. These are two units currently being operated by Buchanan Production Company and Consol being the operating entity. The U-19 unit is a unit that the Board heard on petition by Ratcliff Gas, ruled with Ratcliff Gas in regards to a active gob area. The purpose of this was to look at the interest and there is indication that there are interests in regards to a one Diane Graham that carries from the V-19 unit over to the U-19 unit. This interest was not indicated in the original U-19 petition that was brought before the Board. In fact, Ratcliff Gas Company claimed 100 percent interest of the unit. This has been brought to us by a representative of Diane Graham as to the exact interest that may or may not lie in U-19 unit. The other thing that I would like to mention to you is the Department has now received information from Consol in regards to the Beatrice Mine and the Beatrice Mine is now officially sealed. So we have a sealed gob situation whereas when this order was previously issued for the

1 U-19 unit it was for active gob. I just wanted to  
2 present that information to the Board.

3 MR. CHAIRMAN: Now, we're not here today to try to go any  
4 further than that. We have to set this for hearing if  
5 that's your pleasure. That was the purpose of having Mr.  
6 Fulmer bring it to the Board's attention. If you want to  
7 set it for hearing that will be the only decision. We'll  
8 set it for hearing for whenever you choose to do that.

9 MR. EVANS: I've got one question, Mr. Chairman. Has Ratcliff  
10 Gas been notified of the sealing to your knowledge?

11 MR. FULMER: I don't know if they've been officially notified,  
12 no. I do not know that.

13 MS. RIGGS: I received a copy of a letter to everybody that  
14 had a well. There were VVHs as well as this particular  
15 unit and letters went out to each of them notifying them  
16 of the date that the mine would be sealed. And I got a  
17 copy of that through our office.

18 MR. EVANS: So we don't know for sure that Ratcliff Gas has  
19 been notified but we suspect they should have been.

20 MS. RIGGS: Well, I got a copy of a letter addressed to them.

21 MR. EVANS: In which case the current situation is for  
22 unsealed gob. We have to make some changes then for --

23 MS. RIGGS: The order was an Oakwood II pooling.

24 MR. EVANS: Oakwood II?

25 MS. RIGGS: Uh-huh.

1 MR. EVANS: So, in other words, due to the change in circum-  
2 stances Ratcliff Gas has some kind of an obligation to  
3 come before the Board and ask for a modification or get  
4 themselves back squared away.

5 MS. RIGGS: Or the Board could set it down on it's own motion.

6 MR. EVANS: Okay.

7 MR. FULMER: One thing that is important that I failed to  
8 mention was the fact that in the report that in the  
9 summer -- early December this well was hooked up Virginia  
10 Gas Company and he has been producing gas since December  
11 into Virginia Gas Company's line whereas he was under  
12 the Board's order he was producing only for his private  
13 use which was allowed under the order.

14 MR. CHAIRMAN: So the question is do you want to set this to  
15 hearing?

16 MR. EVANS: Mr. Chairman, for me personally -- I don't know  
17 how the others feel but yes, I think we should.

18 MR. CHAIRMAN: We'll set it for hearing next month, Tom.

19 MR. FULMER: All right.

20 MR. CHAIRMAN: Anything further?

21 MR. EVANS: Mr. Wampler, I've got one question. Is next month  
22 enough time to give all parties a chance to do the work  
23 necessary to --

24 MR. CHAIRMAN: You want to set it later then?

25 MR. EVANS: Yeah. I would set it one month later than that.

1 MR. CHAIRMAN: Set it for the April hearing.

2 MR. EVANS: Set it for the April hearing in order to give all  
3 parties enough time.

4 MR. CHAIRMAN: All right. Thank you very much. That con-  
5 cludes our business for today.

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7 (End of Proceedings for  
8 February 20, 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 February 20, 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 26th day of February, 1996.

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DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 1996.