

**VIRGINIA GAS
AND OIL BOARD**

**MONTHLY
BOARD
TRANSCRIPT**

MARCH 1997

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VIRGINIA OIL AND GAS BOARD

HEARING OF MARCH 18, 1997

9:00 A.M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER

HILLMAN HIGHWAY

ABINGDON, VIRGINIA

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March 18, 1997

This matter came on to be heard on this the 18th day of March, 1997 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. WAMPLER: 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 Mr. Garbis.

MR. GARBIS: My name is Dennis Garbis. I'm from Fairfax County and I'm a public member.

MR. LEWIS: Max Lewis from Buchanan County, a public member.

MS. RIGGS: Sandra Riggs with the Office of the Attorney General.

MR. KING: Clyde King from Abingdon, a public member.

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

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ITEM I

MR. CHAIRMAN: The first item on today's agenda is a petition from Equitable Resources Energy Company for a well location exception for well V-3582. This is docket number VGOB-97/02/18-0566. We'd ask the parties that wish to address the Board in this matter to come forward and introduce yourselves, please.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser on behalf of Equitable Resources Energy Company. This is a location exception for a conventional gas well. Our witnesses in this matter will be Mr. Don Hall and Mr. Bob Dahlin. I have submitted a letter from the Penn-Virginia Coal Company that will act as an exhibit to this hearing and which Mr. Hall will testify about. At this time I'd ask that the witnesses be sworn.

COURT REPORTER: (Swears witnesses.)

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

MR. KAISER: Our first witness will be Mr. Hall.

DON HALL

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

DIRECT EXAMINATION

1
2
3 BY MR. KAISER:

4 Q. Mr. Hall, could you please state your full name for the
5 record, who you're employed by and in what capacity?

6 A. Don C. Hall. I'm employed by Equitable Resources Energy
7 Company as a district landman.

8 Q. Have your qualifications as an expert witness previously
9 been accepted by this Board?

10 A. Yes, they have.

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

13 A. They do.

14 Q. Are you familiar with the application for a location
15 exception for well V-3582 and the relief requested?

16 A. Yes, I am.

17 Q. Have all interested parties been notified as required by
18 Section 4.B of the Virginia Gas and Oil Board Regula-
19 tions?

20 A. Yes.

21 Q. Would you indicate for the Board the ownership of the oil
22 and gas underlying the unit for well V-3582?

23 A. Penn-Virginia Oil and Gas has 100 percent interest in the
24 unit and which we have 100 percent leased from them.

25 Q. Does Equitable Resources Energy Company have the right to

1 operate the reciprocal wells?

2 A. Yes, we do.

3 Q. Are there any correlative rights issues?

4 A. No. There's no privately owned tracts anywhere within
5 the area. This is basically in the heart of Penn-
6 Virginia -- the acreage.

7 Q. Mr. Hall, in conjunction with the letter that was
8 prepared by Mr. Keith Horton, President of Penn-Virginia
9 Coal, would you explain for the Board why, in essence, we
10 are seeking or why we have to have this location except-
11 ion in order to drill well V-3582?

12 A. As you can see from the letter, this is the only location
13 that Penn-Virginia will allow us to drill from a coal
14 standpoint. In this particular area this location is
15 chosen so that it will avoid the Bullet Mines. It's the
16 only location in that particular area that we can --

17 Q. Which is to the southeast of the approved location?

18 A. Right.

19 MR. KAISER: Mr. Chairman, I don't have anything further of
20 this witness at this time.

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

22 (Witness stands aside.)

23 MR. CHAIRMAN: You may call your next witness.
24
25

1 A. Yes.

2 Q. Is the applicant requesting that this location exception
3 cover conventional gas reserves to include designated
4 formations from the surface to the total depth drilled?

5 A. Yes.

6 Q. In your opinion will the granting of this location
7 exception be in the best interest of preventing waste,
8 the protection of correlative rights and maximizing the
9 recovery of the gas reserves underlying the unit for V-
10 3582?

11 A. Yes, it would.

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

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

15 (Witness stands aside.)

16 MR. CHAIRMAN: Do you have anything further?

17 MR. KAISER: Nothing further.

18 MR. CHAIRMAN: Do I have a motion?

19 MR. LEWIS: I make a motion we grant the application.

20 MR. GARBIS: I second it.

21 MR. CHAIRMAN: Motion and second. Any further discussion?

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

23 Opposed say no. (NONE.) Unanimous approval.

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ITEM VI

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MR. CHAIRMAN: While we're in a little transition here I'll go ahead and bring up Item VI on today's agenda where the -- to the Board we're going to present a status report on Board orders and compliance to Board orders and particularly call out the order issue by the Board for VGOB-91/05/21-0126, CBM Unit 2-12. I propose to continue that till May unless there's anyone here or any Board member that objects to that. It's continued to May.

ITEM II

1
2
3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Buchanan Production Company for the pooling of a coalbed
5 methane unit under the Oakwood I and II Field Orders.
6 This is docket number VGOB-97/01/21-0562. We'd ask the
7 parties that wish to address the Board in this matter to
8 come forward at this time.

9 MR. SWARTZ: Mark Swartz and Les Arrington for Buchanan
10 Production. We thought we'd be sitting here forever on
11 2-12. So we weren't quite ready.

12 MR. CHAIRMAN: That's fine. We're happy to wait.

13 MR. SWARTZ: To productively use some of the time in the
14 beginning here, this was originally set for hearing on
15 the January 21st docket. And what happened -- when we
16 noticed this we noticed as a respondent Buchanan County
17 because we believed that they were going to have about a
18 37 percent interest in this unit. The Department of
19 Corrections was suppose to have deeded a pretty sizable
20 tract, Tract 10, to Buchanan County and we assumed that
21 that was going to happen and we when we noticed it we
22 noticed Buchanan County. Well, it didn't happen. So we
23 had to continue this and we had to renotece the Depart-
24 ment of Corrections, redo all of that, and that's why it
25 got bumped from the January docket. Once we got the

1 attention of the Department of Corrections they went
2 temporarily insane and concluded that the Keen Mountain
3 Correctional Facility was on top of this tract when it's
4 really three and a half to five mile away and wanted a 90
5 day continuance. There was some urgency on our part to
6 get this well drilled. We have interacted with the
7 people from the AG's Office in Richmond, ultimately
8 calmed them down. I think, Benny, they sent you a letter
9 recently which to me indicates that they're withdrawing
10 their objection.

11 MR. CHAIRMAN: That's what they've done. On March 12th they
12 asked for a continuance which I told them it was too late
13 to be granted for today's hearing but then I put them in
14 touch with Mark and they've talked and then on March 17th
15 I received a telefax saying that they withdraw their
16 objection -- or withdraw the continuance request.

17 MR. SWARTZ: Right. With that in mind I think we are ready to
18 proceed today with this continued hearing and we appar-
19 ently have resolved the Department of Corrections issue.
20 They also tell me that they are finally getting around to
21 trying to expedite this deed to make it happen, which
22 they apparently should have done over a year ago. So
23 that may happen. But at this point record title is in
24 the Department of Corrections and we need to pool them.
25 If you could swear the witness, please.

1 COURT REPORTER: (Swears witness.)

2

3

LESLIE K. ARRINGTON

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

6

7

DIRECT EXAMINATION

8

9

BY MR. SWARTZ:

10

Q. Could you state your name for the record?

11

A. Leslie K. Arrington.

12

Q. And who do you work for, Les?

13

A. Consol, Inc.

14

Q. And with regard to the pooling application on W-9 can you
15 tell me whether or not you drafted the notices, the
16 exhibits and the application?

17

A. Yes, I did.

18

Q. In fact, you have signed the notice and revised notice
19 and the application, is that correct?

20

A. Yes, I have.

21

Q. Who is the applicant here?

22

A. Buchanan Production Company.

23

Q. Is Buchanan Production Company a Virginia general
24 partnership?

25

A. Yes, it is.

- 1 Q. Are the two partners in that partnership Appalachian
2 Operators Inc. and Appalachian Methane Inc. and are both
3 of those partners wholly owned indirect subsidiaries of
4 MCN Corporation?
- 5 A. Yes, they are.
- 6 Q. Is Buchanan Production Company authorized to do business
7 in the Commonwealth?
- 8 A. Yes, it is.
- 9 Q. Who are you asking in this application be designated the
10 operator of the unit if it's pooled?
- 11 A. Consol.
- 12 Q. Is Consol a Delaware corporation that is authorized to do
13 business in the Commonwealth?
- 14 A. Yes, it is.
- 15 Q. Has Consol registered with the DMME and does it have a
16 blanket bond on file with regard to its wells?
- 17 A. Yes, it does.
- 18 Q. Has the management committee of Buchanan Production
19 delegated to Consol, Inc. essentially all of the manage-
20 ment responsibilities of Buchanan Production Company with
21 regard to its assets?
- 22 A. Yes, it has.
- 23 Q. Have you filed in the booklet that you've given to the
24 Board members today certain exhibits with regard to that
25 delegation?

1 A. Yes, I have. It's Exhibits #8, #9 and #10.

2 Q. In the process of that delegation of duties by -- or
3 responsibilities by Buchanan Production and the accept-
4 ance by Consol, Inc. are there certain people who have
5 been designated to have certain responsibilities?

6 A. Yes, there is. Claude Morgan being general manager,
7 William Gillenwater as land manager and Randy Albert as
8 regulatory manager.

9 Q. You filed a revised notice of hearing today, correct?

10 A. That's correct.

11 Q. And that straightened out the hearing date which was
12 continued to today?

13 A. That's correct.

14 Q. Was that mailed to all of the people listed in the
15 revised Exhibit #B-3?

16 A. Yes, it was.

17 Q. And the people listed in #B-3 are, in fact, the people
18 sought to be pooled by this application?

19 A. That's correct. They are.

20 Q. Does this application seek to pool under both Oakwood I
21 and Oakwood II?

22 A. Yes, it does.

23 Q. So it would contemplate initially fracked wells followed
24 by active gob production?

25 A. That's correct.

1 Q. Do you want to amend to add any respondents or has your
2 revised notice added anyone?

3 A. Our revised notice has added the Virginia Department of
4 Corrections which was originally in there as Buchanan
5 County.

6 Q. So we need to add them?

7 A. That's correct.

8 Q. Do we need to dismiss anyone?

9 A. Buchanan County.

10 Q. For the reason we've already conveyed?

11 A. That's correct.

12 Q. In terms of notices, the revised notice was mailed to all
13 of the people listed on Exhibit #B-3 on February 20th,
14 1997, is that correct?

15 A. That's correct. It was.

16 Q. With your affidavit of due diligence have you filed with
17 the Board copies of the mailing receipts and an analysis
18 of who signed and when?

19 A. Yes, we have.

20 Q. You had addresses for everyone with regard to this unit?

21 A. That's correct. We did.

22 Q. Did you publish?

23 A. Yes, we did originally on December 27th, 1996 and the
24 second time on February 26th, 1997 in the Bluefield Daily
25 Telegraph.

1 Q. The second publication was required because you had to
2 revise your notice?
3 A. That's correct.
4 Q. Have you filed with the exhibits today copies of the
5 publication certificates?
6 A. Yes, we have.
7 Q. With regard to the standing to be an applicant Exhibit
8 #A, Page 2, of the application kind of brings out the
9 interests that you have acquired and the interests that
10 need to be pooled, correct?
11 A. That's correct. It does.
12 Q. Could you tell the Board what those are?
13 A. Presently we need to pool 83.5875 percent of the oil and
14 gas interest. We control 100 percent of the coal
15 interest and 16.4125 percent of the oil and gas interest.
16 Q. So you've leased all of the coal?
17 A. Yes, we have.
18 Q. And about 16 and a half percent of the oil and gas?
19 A. That's correct.
20 Q. What are the lease terms that you've been offering and
21 that you would recommend to the Board?
22 A. A dollar per acre rental, a one-eighth royalty, a five
23 year term. The rental is payable on an annual basis
24 until production begins.
25 Q. And then after that it would just be the royalty?

1 A. That's correct.

2 Q. W-9 is an 80 acre unit?

3 A. Correct.

4 Q. It's over which mine?

5 A. The VP-8 Mine.

6 Q. It's over how many longwall panels that we need to
7 concerned with?

8 A. Two.

9 Q. And you can tell that by looking at the last exhibit in
10 the application which is the mine map, Exhibit #G,
11 correct?

12 A. That's correct. You can.

13 Q. Have you submitted well cost information?

14 A. Yes, we have.

15 Q. And what is that information?

16 A. The well cost information for the W-9 well is \$229,685.

17 Q. And that's for a fracked well?

18 A. That's correct.

19 Q. Is that a reasonable estimate in your opinion?

20 A. Yes.

21 Q. Who prepared the information -- the cost information that
22 has been submitted today?

23 A. I prepared that on December 20th, 1996.

24 Q. That's more than 60 days ago?

25 A. Yes, it is.

1 Q. Is that information still accurate?
2 A. Yes, it is.
3 Q. What is the projected depth of the target formation here?
4 A. Approximately 1,905 feet.
5 Q. And the W-9 well is anticipated that it will initially
6 produce on a fracked well basis and then ultimately
7 produce from the distress zone created by longwall mining
8 in the Pocahontas #3 Seam, correct?
9 A. That's correct. It will.
10 Q. And you're seeking to pool all seams below the Tiller?
11 A. That is correct.
12 Q. In Exhibit #G, Page 1, which is usually pretty close to
13 the end of the application is a breakdown of percentages
14 of the unit interests and the longwall panels, is that
15 correct?
16 A. That's correct.
17 Q. And it also allocates costs with regard to the two
18 longwall panels that we're concerned with here?
19 A. That's correct. It does.
20 Q. What are the percentages of the W-9 Unit with regard to
21 Panel 3-West and Panel 4-West?
22 A. For the 3-West Panel 4.355 percent and for the 4-West
23 Panel 11.116 percent which is an allocated cost of
24 \$209,295.77 to that unit.
25 Q. To this particular unit?

- 1 A. Yes.
- 2 Q. Exhibit #B-3 in addition to listing the respondents also
3 sets forth the relevant percentages, does it not?
- 4 A. That's correct. It does.
- 5 Q. And there's a revised Exhibit #B-3 which is in the grey
6 folder that you've passed out today?
- 7 A. Yes, it is.
- 8 Q. Could you tell the Board the significance of the columns
9 and the percentages reported?
- 10 A. Yes. The first column is the net acreage within the unit
11 for that individual owner. The second column is their
12 percentage of ownership within that unit.
- 13 Q. And the interest in the unit -- the first percentage is
14 the basis on which royalty during fracked well production
15 would be allocated, correct?
- 16 A. That's correct. It is.
- 17 Q. Continue.
- 18 A. The second and third column are the division of interests
19 for the 3 and 4 West Panels that they will be -- their
20 percentage of allocation.
- 21 Q. And what those percentages in the last two columns
22 pertain to is once active gob production commences the
23 production from those two panels will be allocated using
24 those percentages?
- 25 A. That's correct. It will.

1 Q. Is it your opinion, Les, that this plan of develop which
2 we see on Exhibit #G, Page 1, is a reasonable development
3 plan for the coalbed methane resources under W-9?
4 A. Yes, it is.
5 Q. Is it your view that this plan will contribute to the
6 protection of the correlative rights of the various
7 owners of the methane within and under this unit?
8 A. Yes, it is.
9 MR. SWARTZ: That's all I have.
10 MR. CHAIRMAN: Any questions, members of the Board.
11 MS. RIGGS: I have a question. Are there any wells located on
12 the surface of this unit? I didn't see any shown on the
13 plat?
14 THE WITNESS: Yes, there is.
15 MR. SWARTZ: This well's already been drilled.
16 THE WITNESS: We probably didn't get it on the plat. We do
17 have it on the Exhibit #g.
18 MS. RIGGS: The W-9 well?
19 THE WITNESS: Yes.
20 MR. LEWIS: On this force pooling here you've got Cynthia
21 Deel as one owner. Shouldn't that be Cynthia Roberts?
22 THE WITNESS: It may be.
23 MR. LEWIS: I know those people pretty good.
24 THE WITNESS: You must know her then?
25 MR. LEWIS: Yeah, I know her. I believe that's who it is.

1 MR. CHAIRMAN: You've included a revised Exhibit #E in the
2 handout you gave us?

3 THE WITNESS: Yes.

4 MR. CHAIRMAN: What was the change on that?

5 THE WITNESS: It should be the Virginia Department of
6 Corrections.

7 MR. CHAIRMAN: You've added them and dropped the County?

8 THE WITNESS: Yes.

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

10 (Witness stands aside.)

11 MR. CHAIRMAN: Do you have anything further?

12 MR. SWARTZ: Not on this unit.

13 MR. KING: Mr. Chairman, I move we approve.

14 MR. LEWIS: I second it.

15 MR. CHAIRMAN: Motion and second. Further discussion? All
16 in favor signify by saying yes. (ALL AFFIRM.) Opposed
17 say no. (NONE.) Unanimous approval. Thank you.

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ITEM III, IV, V

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3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Buchanan Production Company for the pooling of a coalbed
5 methane gas unit under Oakwood I and II Field Orders for
6 Unit U-27. This is docket number VGOB-97/02/18-0563.
7 We'd ask the parties that wish to address the Board in
8 this matter to come forward at this time and introduce
9 yourselves.

10 MR. SWARTZ: Mark Swartz and Les Arrington again. I would ask
11 -- I mean this is certainly your call, but the next three
12 items including this one, Unit U-27, 28 and T-28 are
13 basically in the same area of the mine and the maps and
14 the various exhibits all kind of overlap. If you think
15 it makes sense we could, as we have at times in the past,
16 sort of combine these so we don't have to go over the
17 same stuff three times. But it's up to you all.

18 MR. CHAIRMAN: Any objection to doing that? We will combine
19 those three. I'll call the other two. In addition to
20 the one just called we have a petition from Buchanan
21 Production Company for the pooling of a coalbed methane
22 gas unit under Oakwood I and II Field Orders for Unit U-
23 28, docket number VGOB-97/02/18-0564 and a petition from
24 Buchanan Production Company for the pooling of a coalbed
25 methane gas unit under Oakwood I and II Field Orders for

1 Unit T-28, docket number VGOB-97/02/18-0565. We'd ask
2 the parties that wish to address the Board in these
3 matters to come forward at this time. We recognize Mr.
4 Swartz and Mr. Arrington. The record will show there are
5 no others.

6 MR. SWARTZ: Just by way of introduction, these units were
7 originally set for hearing on February 18th, 1997 and
8 Les' secretary had a death in the family right about the
9 time that the mailings were suppose to occur and that
10 just didn't happen on time so that the mailings went out
11 in time for this hearing. We needed a continuance and
12 that's why they've been -- you see that they've got a
13 2/18 hearing date but the proof of notice and so forth
14 went out and it's been filed with you on these units
15 today. I would point out one exhibit change that is
16 peculiar to only one of the books. The yellow book has a
17 -- on the very last page of the yellow book. The yellow
18 book pertains to Unit T-28 which is the third of these
19 three items we're talking about. This map is slightly
20 different than the map in the other two books and the
21 only reason we put it in here is because it pertains to
22 this unit and really doesn't pertain to the other. When
23 they started numbering on the other exhibits you'll
24 notice the very bottom panel here, it says 1-Left Panel,
25 the numbering of the panels got messed up. Everything

1 else is fine. And if affected this unit but the number-
2 ing did not affect any of the information provided with
3 the other two units. So the map is different on T-28 in
4 that respect, in that the numbering starts at the bottom
5 and because of the panels that intersected T-28 it made a
6 difference. But the panel numbering in the other two
7 units is the same as it was in the exhibits submitted
8 with them. The mine plan is the same. The well locat-
9 ions are the same. It's just somebody got the panel
10 identifier in the wrong panel. Les, I'll just remind you
11 that you're still under oath.

12 MR. ARRINGTON: Okay.

13
14 LESLIE K. ARRINGTON

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

17
18 DIRECT EXAMINATION

19
20 BY MR. SWARTZ:

21 Q. State your name again, please.

22 A. Leslie K. Arrington.

23 Q. And who do you work for?

24 A. Consol, Inc.

25 Q. And what is your job title?

1 A. Permit speed

2 Q. Are you responsible for pooling applications?

3 A. Yes, I am.

4 Q. With regard to these three units, U-27, 28 and T-28, did
5 you prepare the notices, the applications and the
6 exhibits?

7 A. Yes, I did.

8 Q. Did you sign the notices and the applications?

9 A. Yes, I have.

10 Q. Were the notices and applications with regard to these
11 three units mailed as required by law?

12 A. Yes, they were.

13 Q. When were they mailed?

14 A. Finally they were mailed on February 7th and February
15 26th of 1997.

16 A. And that's true for all of them?

17 A. Yes, it is.

18 Q. Was there a publication?

19 A. Yes, there was. In the Bluefield Daily Telegraph on
20 February 12th, 1997.

21 Q. Have you submitted proof of mailing, proof of publication
22 in the colored booklets with regard to each of these
23 units?

24 A. Yes, I have. It's Exhibit #6.

25 Q. They're attached to your affidavit of due diligence with

- 1 regard to each of the units?
- 2 A. Yes, they are.
- 3 Q. Is Buchanan Production Company the applicant in all three
4 units?
- 5 A. Yes, we are.
- 6 Q. Is Buchanan Production Company a Virginia general
7 partnership whose two partners are Appalachian Operators
8 Inc and Appalachian Methane Inc?
- 9 A. Yes, it is.
- 10 Q. Are both of those corporate partners wholly owned
11 indirect subsidiaries of MCN Corporation?
- 12 A. Yes, it is.
- 13 Q. Is Buchanan Production authorized to do business in the
14 Commonwealth?
- 15 A. Yes, it is.
- 16 Q. In each of the three applications who is it that the
17 applicant is requesting be designated the unit operator?
- 18 A. Consol, Inc.
- 19 Q. Is Consol, Inc. a Delaware corporation authorized to do
20 business in the Commonwealth?
- 21 A. Yes, it is.
- 22 Q. Has Consol, Inc. registered with the Department of Mines,
23 Minerals and Energy and does it have a blanket bond on
24 file with regard to its wells?
- 25 A. Yes, it does.

1 O. Has Buchanan Production Company essentially delegated its
2 -- delegated the responsibility to manage its assets in
3 the Commonwealth to Consol, Inc?
4 A. Yes, it has.
5 Q. Have you with regard to each of these units filed certain
6 exhibits that demonstrate that delegation and the
7 acceptance of that delegation?
8 A. Yes, we have. It's Exhibits #8, #9 and #10. It shows
9 Claude Morgan as general manager, William Gillenwater as
10 land manager and Randy Albert as regulatory manager.
11 Q. With regard to each of these three units is there an
12 Exhibit #B-3 which identifies the people to be pooled?
13 A. Yes, there is.
14 Q. Exhibit #B-3 has been revised to some extent and is in
15 these pamphlets, is it not?
16 A. Yes. That's correct.
17 Q. And that's true with regard to each of the booklets?
18 There's a revised Exhibit #B-3?
19 A. Yes, there is.
20 Q. Are the people listed on Exhibit #B-3 the people that
21 we're seeking to pool with regard to each of these three
22 units?
23 A. Yes.
24 Q. With regard to standing, if we can start with U-27, could
25 you describe to the Board using Exhibit #A, Page 2 in the

- 1 tion, what is it that we're seeking to pool?
- 2 A. We're seeking to pool 1.605 percent of the oil and gas
3 interest. We control 100 percent of the coal interest
4 and 98.395 percent of the oil and gas interest.
- 5 Q. Turning to the same kind of question with regard to U-28
6 and again with reference to Exhibit #A, Page 2, what is
7 the -- one of these is wrong. Les, you need to look at
8 the exhibit and tell the Board.
- 9 A. We're seeking to pool 18.63 percent of the oil and gas
10 interest. We control 81.37 percent of the oil and gas
11 and 100 percent of the coal.
- 12 Q. And lastly with regard to Unit T-28, again with reference
13 to Exhibit A-2 of that application, what interest are we
14 seeking to pool?
- 15 A. 7.2302 percent of the oil and gas interest. We control
16 100 percent of the coal interest and 92.7698 percent of
17 the oil and gas interest.
- 18 Q. When you say you control 100 percent of the coal you're
19 saying you've either obtained leases -- the applicant has
20 either obtained leases or actually owns it outright?
- 21 A. That's correct.
- 22 Q. With regard to the interest that you have acquired by
23 lease in these three units could tell the Board what the
24 lease terms have been that you've been offering?
- 25 A. A dollar per acre rental, one-eighth royalty, five year

1 term. The rental is payable on an annual basis until
2 production commences and thereafter royalty is payable.

3 Q. Just royalty only?

4 A. Yes.

5 Q. Are those the terms that you would recommend to the Board
6 to be incorporated in any order with regard to people who
7 might be deemed to have leased?

8 A. That's correct.

9 Q. All three of these units are 80 acre units?

10 A. They are.

11 Q. And they're sought to be pooled under both Oakwood I and
12 II?

13 A. That's correct.

14 Q. Have you submitted a DWE or cost information with regard
15 to each of the units?

16 A. Yes, we have.

17 Q. Let's start with Exhibit #G, Page 1, concerning U-27.
18 If you could identify the panels that are affected in U-
19 27 and the percentages and the costs allocated?

20 A. In U-27 that's the second, third and fourth Left Panel.

21 Q. In what mine?

22 A. In the Buchanan #1 Mine.

23 Q. Okay.

24 A. In the second Left Panel the percentage of allocation of
25 that longwall panel would be 3.407 percent. In the third

1 9.519 percent and in fourth Left 1.241 percent.

2 Q. What is the estimated allowable costs that are allocated

3 to Unit U-27?

4 A. \$165,681.81.

5 Q. Turning to U-28 again with regard to Exhibit #G, Page 2,

6 what are the panels -- the longwall panels that affect U-

7 28 and the percentages?

8 A. Again for the U-28 unit it's the second, third and fourth

9 Left Panels.

10 Q. In what mine?

11 A. In the Buchanan #1 Mine.

12 Q. The same mine. Okay.

13 A. The percentage of allocation for the second Left Panel is

14 12.37 percent, third Left is 27.565 percent and the

15 fourth Left is 3.209 percent.

16 Q. What are the costs that are allocated on a percentage

17 basis to U-28?

18 A. \$504,834.20.

19 Q. Lastly with regard to T-28 again with reference to

20 Exhibit #G, Page 1, what are the longwall panels that

21 affect the unit?

22 A. The fourth and fifth longwall panels in the Buchanan #1

23 Mine.

24 Q. And the percentages of those panels within the unit?

25 A. In the fourth Left Panel it's 24.41 percent. The fifth

1 Panel is 27.66 percent of the panel for a cost of
2 \$626,194.82.

3 Q. Each of these units will start out as a fracked well,
4 correct?

5 A. That's correct.

6 Q. So the well estimates that were submitted pertaining to
7 each of the units are fracked well cost estimates?

8 A. They are.

9 Q. And then ultimately it's anticipated that there will be
10 active gob production from each of the units?

11 A. Yes, it is.

12 Q. Does Exhibit #B-3 set forth a division of interest in the
13 unit -- in each unit and a division of interest in each
14 longwall panel that affects the unit for each person that
15 we are seeking to pool?

16 A. That's correct. It does.

17 Q. And those percentages would be relevant to royalty during
18 frack production and then royalty during subsequent
19 active gob production?

20 A. That's correct.

21 Q. And would also be relevant to how you calculate someone's
22 participation interest or carried interest in the unit?

23 A. That's correct.

24 Q. That information on revised Exhibit #B-3 is submitted
25 with regard to each of these units?

1 A. That's correct.

2 Q. There is also an Exhibit #E which lists the interests
3 that need to be escrowed?

4 A. That is correct. For conflicting owners.

5 Q. Right. And there's one of those for each of the units?

6 A. That's correct. It is.

7 Q. You're seeking to pool all seams from the Tiller on down?

8 A. That is correct. We are.

9 Q. Or production from all seams from the Tiller on down?

10 A. Yes.

11 Q. The target formation with regard to all three of these
12 units is the Pocahontas #3 Seam?

13 A. That's correct.

14 Q. Which varies in depth depending on whether you're on the
15 top of the mountain or in the valley from 1,700 and 1,900
16 feet basically?

17 A. That is correct.

18 Q. With regard to each of these applications I think you
19 signed the Exhibit #Cs on the 17th. So they're just
20 slightly more than 60 days old?

21 A. Yes, they are.

22 Q. Are they still good estimates of costs?

23 A. Yes, they are.

24 Q. And still represent your best judgement as to what the
25 reasonable costs of each of the wells would be?

1 A. That's correct.

2 Q. Lastly, with regard to these three units is it your
3 opinion that the development plans which are shown on the
4 plat map, Exhibit #G, and then the wells that are shown
5 and the costs that are allocated on Exhibit #G, Page 1,
6 that this is a reasonable plan to develop the coalbed
7 methane under these three units for the benefit of the
8 royalty owners?

9 A. Yes, it is.

10 Q. Will the development that we're looking at which develops
11 both before and during mining contribute to the protect-
12 ion of correlative rights by capturing and producing gas
13 that might otherwise be vented?

14 A. That's correct. It will.

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

16 MR. CHAIRMAN: Questions, members of the Board? The exhibits
17 you referred to, Exhibit #E and #B-3, you're asking the
18 Board to in issuing its final order utilize the informa-
19 tion in the handout?

20 THE WITNESS: That's correct. Yes, we are.

21 MR. LEWIS: What percentage of surface do you all own on the
22 27, 28 and T-28?

23 THE WITNESS: Right off hand I can't -- without pulling out
24 the plat and track the IDs and doing a little homework
25 here I can't tell you on the surface.

(Business stands aside.)

1
2 MR. KING: Mr. Chairman, do we need a separate motion on each
3 one of these?

4 MR. CHAIRMAN: Yes. Well, your motion could incorporate all
5 three but be treated as a separate motion for each one.
6 We'll vote on each one separately. In other words, you
7 can make a motion and we'll vote separately.

8 MR. KING: I move we approve.

9 MR. GARBIS: Second.

10 MR. CHAIRMAN: A motion and second that we approve. As to
11 U-27 all in favor signify by saying yes. (ALL AFFIRM.)
12 Opposed say no. (NONE.) Unanimous approval. As to U-28
13 all in favor signify by saying yes. (ALL AFFIRM.)
14 Opposed say no. (NONE.) Unanimous approval. As to T-28
15 all in favor signify by saying yes. (ALL AFFIRM.)
16 Opposed say no. (NONE.) Unanimous approval. Thank you,
17 Mr. Swartz. We're going to take a ten minute break.

18 (AFTER A BRIEF RECESS, THE PROCEEDINGS CONTINUED AS
19 FOLLOWS:)

ITEM VII

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3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Equitable Resources Energy Company for pooling of a
5 conventional gas unit for well V-2823. This is docket
6 number VGOB-97/03/18-0567. We'd ask the parties that
7 wish to address the Board in this matter to come forward
8 at this time.

9 MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser
10 on behalf of Equitable Resources Energy Company. We
11 would ask that this matter be continued to the April 15TH
12 docket. We discovered a .25 acre tract that we did not
13 have identified in the unit when we filed this applica-
14 tion. There are seven interest owners within that .25
15 acres. They were noticed last Thursday. So that's more
16 than 30 days prior to the April 15th hearing. And we
17 will have a revised Exhibit #B and revised well plat for
18 you at the April hearing.

19 MR. CHAIRMAN: No objection. It is continued.
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TERM VIII

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Energy Company for pooling of a coalbed methane gas unit in the Nora Coalbed Gas Field identified as VC-3596. This is docket number VGOB-97/03/18-0568. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser on behalf of Equitable Resources Energy Company. Our witnesses in this matter will be Mr. Dennis Baker on land matters and Mr. Bob Dahlin on operations. Mr. Dahlin has been previously sworn. I'll ask at this time that Mr. Baker be sworn.

COURT REPORTER: (Swears witness.)

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

DENNIS BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

- 1 Q. Mr. Baker, could you please state your full name for the
2 record, who you're employed by and in what capacity?
- 3 A. My name is Dennis R. Baker. I'm employed by Equitable
4 Resources Energy Company as senior landman.
- 5 Q. Do your responsibilities include the lands involved in the
6 unit here and in the surrounding area?
- 7 A. Yes, they do.
- 8 Q. Are you familiar with Equitable's application for the
9 establishment of a drilling unit and the seeking of a
10 pooling order for EREC well VC-3596 dated February 13th,
11 1997?
- 12 A. Yes, I am.
- 13 Q. Is Equitable seeking to force pool the drilling rights
14 underlying the drilling and spacing unit as depicted at
15 Exhibit #A of the application?
- 16 A. Yes.
- 17 Q. Does Equitable own drilling rights in the unit involved
18 here?
- 19 A. Yes, we do.
- 20 Q. Does the location proposed for well VC-3596 fall within
21 the Board's order for the Nora Coalbed Field Rules dated
22 March 20th, 1989?
- 23 A. Yes, they do.
- 24 Q. What was the interest of Equitable in the oil and gas
25 estate at the time of the filing of the application?

1 7 At the time of the application the interest leased by
2 Equitable was 89.46 percent. The unleased interest at
3 the time of application was 10.54 percent and the coal
4 estate was leased at 100 percent.

5 Q. Have you since the filing of the application continued to
6 attempt to obtain leases from the unleased parties and
7 have you been successful in obtaining any leases?

8 A. Yes, we have. And we have a revised exhibit. (Pause.)

9 Q. Mr. Baker, could you point out the additional interest
10 owners that you've obtained leases on since the time the
11 application was filed?

12 A. Underlying Tract 3 the interest of James P. Lee has been
13 leased. Currently we have a 93.59 percent interest
14 leased. The unleased interest is 6.41 percent.

15 Q. Thank you. Are all the unleased parties set out at the
16 revised Exhibit #B?

17 A. Yes, they are.

18 Q. Were any efforts made to determine if the individual
19 respondents were living or deceased or their whereabouts,
20 and if deceased were efforts made to determine the names
21 and addresses and whereabouts of the successors to any
22 deceased individual respondent?

23 A. Yes.

24 Q. Were reasonable and diligent efforts made and sources
25 checked to identify and locate unknown heirs, to include

1 primary sources such as deed records, probate records,
2 assessors records, treasurers records and in addition
3 secondary sources such as telephone directories, city
4 directories, family and friends?
5 A. Yes. That's correct.
6 Q. In your professional opinion was due diligence exercised
7 to locate each of the respondents named herein?
8 A. Yes.
9 Q. Are the addresses set out in revised Exhibit #B to the
10 application the last known addresses for the respondents?
11 A. Yes, they are.
12 Q. Are you requesting this Board to force pool all unleased
13 interests listed in the revised Exhibit #B?
14 A. Yes, we are.
15 Q. Does Equitable seek to force pool the drilling rights of
16 each individual respondent if living and if deceased the
17 unknown successor or successors to any deceased individ-
18 ual respondent?
19 A. Yes, we are.
20 Q. Is Equitable seeking to force pool the drilling rights of
21 the person designated as trustee if acting in the
22 capacity of trustee and if not acting in such capacity is
23 Equitable seeking to force pool the drilling rights of
24 the successor of such trustee?
25 A. Yes.

1 Are you familiar with the fair market value of drilling
2 rights in the unit involved here and in the surrounding
3 area?
4 A. Yes, I am.
5 Q. Would you advise the Board as to what those are?
6 A. A five dollar per acre consideration, five year term,
7 one-eighth royalty.
8 Q. Did you gain your opinion by acquiring oil and gas
9 leases, coalbed methane leases and other agreements
10 involving the transfer of drilling rights in the unit
11 involved here and in the surrounding area?
12 A. Yes, I did.
13 Q. In your opinion do the terms you have testified to
14 represent the fair market value of and the fair and
15 reasonable compensation to be paid for drilling rights
16 within this unit?
17 A. Yes.
18 Q. Based on your testimony as to the respondents who have
19 not voluntarily agreed to lease do you recommend that the
20 respondents listed at revised Exhibit #B who remain
21 unleased be allowed the following options with respect to
22 their ownership interest within the unit: 1) Partici-
23 pation. 2) A cash bonus of five dollars per net mineral
24 acre plus a one-eighth of eight-eighths royalty. 3) In
25 lieu of a cash bonus and one-eighth of eight-eighths

1 royalty share in the operation of the well on a carried
2 basis as a carried operator under the following condi-
3 tions; Such carried operation should be entitled to the
4 share of production in the tracts pooled accruing to his
5 interest exclusive of any royalty or overriding royalty
6 reserved in any leases, assignments thereof or agreements
7 relating thereto of such tract but only after the
8 proceeds allocable to his share equal A) 300 percent of
9 the share of such costs allocable to the interest of the
10 carried operator of a leased tract or portion thereof, or
11 B) 200 percent of the share of such costs allocable to
12 the interest of a carried operator of an unleased tract
13 or portion thereof?

14 A. Yes.

15 Q. Do you recommend that the order provide that elections by
16 respondent be in writing and sent to the applicant at
17 Equitable Resources Energy Company, Eastern Region, P.O.
18 Box 1983, Kingsport, Tennessee, 37620-1983, attention
19 Dennis R. Baker, regulatory?

20 A. Yes.

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

23 A. Yes, it is.

24 Q. Do you recommend the force pooling order provide that if
25 no written election is properly made by a respondent then

- 1 respondent should be deemed to have elected to cash
2 royalty option in lieu of participation?
- 3 A. That's correct.
- 4 Q. Should the unleased respondents be given 30 days from the
5 date of the recordation of the order to file written
6 elections?
- 7 A. Yes.
- 8 Q. If an unleased respondent elects to participate should
9 they be given 45 days to pay the applicant for respondent's
10 proportionate share of well costs?
- 11 A. That's correct.
- 12 Q. Does the applicant expect a party electing to participate
13 to pay in advance that party's share of completed well
14 costs?
- 15 A. Yes.
- 16 Q. Should the applicant be allowed 60 days following the
17 recordation date of the order and thereafter annually on
18 that date until production is achieved to pay or tender
19 any cash bonds becoming due under the force pooling
20 order?
- 21 A. Yes.
- 22 Q. Do you recommend that the pooling order provide that if a
23 respondent elects to participate but fails to pay
24 respondent's proportionate share of well costs satisfactory
25 to applicant for payment of well costs the respondent-

1 ent's election to participate should be treated as
2 having been withdrawn and void and such respondent should
3 be treated just as if no initial election had been filed
4 under the pooling order?

5 A. Yes.

6 Q. Do you recommend the pooling order provide that where a
7 respondent elects to participate but defaults in regard
8 to the payment of well costs any cash sum becoming
9 payable to such respondent should be paid within 60 days
10 after the last date on which such respondent could have
11 paid or made satisfactory arrangements for the payment of
12 well costs?

13 A. Yes.

14 Q. Do you recommend the pooling order provide that if a
15 respondent refuses to accept any payment due including
16 any payment due under the order or any payment of royalty
17 or cash bonus or said payment cannot be paid to a party
18 for any reason where there is a title defect in the
19 respondent's interest or in the event of conflicting
20 claims to coalbed methane that the operator pay into an
21 escrow account created by this Board into which all costs
22 or proceeds attributable to the conflicting interest
23 shall be held for the respondent's benefit until such
24 funds can be paid to the party by order of this Board or
25 until the title defect or conflicting claim is resolved

1 to the operator's satisfaction?
2 A. Yes.
3 Q. Who should be named the operator under the pooling order?
4 A. Equitable Resources Energy Company.
5 MR. KAISER: That's all I have of this witness at this time,
6 Mr. Chairman.
7 MR. CHAIRMAN: Questions, members of the Board?
8 (Witness stands aside.)
9 MR. CHAIRMAN: Call your next witness.

10
11 ROBERT A. DAHLIN, II
12 a witness who, after having been previously sworn, was
13 examined and testified as follows:

14
15 DIRECT EXAMINATION
16

17 BY MR. KAISER:

18 Q. Mr. Dahlin, please state your name for the Board, who
19 you're employed by and in what capacity?
20 A. My name is Robert A. Dahlin, II. I'm employed EREX as a
21 production specialist.
22 Q. Have you previously testified before the Virginia Gas and
23 Oil Board and have your qualifications as an expert
24 witness previously been accepted?
25 A. Yes.

- 1 Q. Do your responsibilities include the land involved here
2 and in the surrounding area?
- 3 A. Yes.
- 4 Q. Are you familiar with the proposed exploration and
5 development of the unit here under the applicant's plan
6 of development?
- 7 A. Yes, I am.
- 8 Q. What is the total depth of the well under applicant's
9 plan of development?
- 10 A. 2,550 feet.
- 11 Q. Will this be consistent with the formations listed on the
12 permit now pending?
- 13 A. Yes.
- 14 Q. Will this be sufficient to penetrate and test the common
15 sources of supply in the subject formations?
- 16 A. Yes, it will.
- 17 Q. What are the estimated reserves of the unit?
- 18 A. 500 million cubic feet.
- 19 Q. Are you familiar with the well costs for the proposed
20 initial well under applicant's plan of development?
- 21 A. Yes.
- 22 Q. Has an AFE been reviewed, signed and submitted to the
23 Board with the application?
- 24 A. Yes.
- 25 Q. Was this AFE prepared by an engineering department

1 knowledgeable in the preparation of AFEs and knowledge-
2 able in regard to well costs in this area?
3 A. Yes, it was.
4 Q. In your opinion does this AFE represent a reasonable
5 estimate of the well costs for the proposed well under
6 the plan of development?
7 A. Yes.
8 Q. Would you please set out for the Board both the dry hole
9 costs and the completed well costs?
10 A. Dry hole costs are \$79,139. Completed well costs are
11 \$191,400.
12 Q. Do these costs anticipate a multiple completion?
13 A. Yes.
14 Q. Does the AFE include a reasonable charge for supervision?
15 A. Yes.
16 Q. In your professional opinion, Mr. Dahlin, will the
17 granting of this application be in the best interest of
18 conservation, prevention of waste and the protection of
19 correlative rights?
20 A. Yes.
21 MR. KAISER: I have nothing further of this witness at this
22 time, Mr. Chairman.
23 MR. CHAIRMAN: Questions, members of the Board?
24 (Witness stands aside.)
25 MR. CHAIRMAN: Do I have a motion?

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

MR. GARBIS: I second it.

MR. CHAIRMAN: Motion and second. Any further discussion?

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

Opposed say no. (NONE.) Unanimous approval.

1
2
3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Equitable Resources Energy Company for pooling of a
5 coalbed methane gas unit in the Nora Coalbed Gas Field
6 identified as VC-2931. This is docket number VGOB-
7 97/03/18-0569. We'd ask the parties that wish to address
8 the Board in this matter to come forward at this time.

9 MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable
10 Resources Energy Company. Once again our witnesses in
11 this matter will be Mr. Dennis Baker and Mr. Bob Dahlin.

12 MR. CHAIRMAN: There are no others. They've previously been
13 sworn. You may proceed.

14 MR. KAISER: Thank you, Mr. Chairman.
15

16 DENNIS BAKER

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

20 DIRECT EXAMINATION

21
22 BY MR. KAISER:

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

25 A. My name is Dennis R. Baker. I'm employed by Equitable

- 1 Resources Energy Company as senior landman.
- 2 Q. Do your responsibilities include the land involved in the
3 unit for VC-2931 and the surrounding area?
- 4 A. Yes.
- 5 Q. Are you familiar with Equitable's application for the
6 establishment of a drilling unit and the seeking of a
7 pooling order for EREC well VC-2931 dated February 13th,
8 1997?
- 9 A. Yes.
- 10 Q. Is Equitable seeking to force pool the drilling rights
11 underlying the drilling and spacing unit as depicted at
12 Exhibit #A to the application?
- 13 A. Yes.
- 14 Q. Does Equitable own drilling rights in the unit involved
15 here?
- 16 A. Yes, we do.
- 17 Q. Does this location proposed fall within the Board's order
18 for the Nora Coalbed Field Rules dated March 20th, 1989?
- 19 A. Yes, it does.
- 20 Q. What is the interest of Equitable in the oil and gas
21 estate within the unit?
- 22 A. At the time of application the gas estate leased was
23 99.15 percent. The unleased interest is .85 percent.
24 The coal estate is 100 percent leased.
- 25 Q. Are all the unleased parties set out in Exhibit #B?

1 A. Yes, they are.

2 Q. Prior to filing the applications were efforts made to
3 contact each of the respondents in an attempt to work out
4 an agreement regarding the development of the unit?

5 A. Yes, they were.

6 Q. Subsequent to the filing of the application have you
7 continued to attempt to reach an agreement with the
8 respondents listed at Exhibit #B?

9 A. Yes, we have.

10 Q. As a result of these efforts have you acquired any
11 additional leases from any of the respondents listed in
12 Exhibit #B as unleased owners?

13 A. No, we have not.

14 Q. Were any efforts made to determine if the individual
15 respondents were living or deceased or their whereabouts
16 and if deceased were efforts made to determine the names
17 and addresses and whereabouts of the successors to any
18 deceased individual respondent?

19 A. Yes, there were.

20 Q. Were reasonable and diligent efforts made and sources
21 checked to identify and location any unknown heirs, to
22 include primary sources such as deed records, probate
23 records, assessors records, treasurers records, and in
24 addition secondary sources such as telephone directories,
25 city directories, family and friends?

1 A. Yes.

2 Q. In your professional opinion was due diligence exercised
3 to locate each of the respondents named in Exhibit #B?

4 A. Yes.

5 Q. Are the addresses set out in Exhibit #B to the applic-
6 ation the last known addresses for the respondents?

7 A. Yes, they are.

8 Q. Are you requesting that this Board force pool all the
9 unleased interests listed in Exhibit #B?

10 A. Yes, we are.

11 Q. Does Equitable seek to force pool the drilling rights of
12 each individual respondent if living and if deceased the
13 unknown successor or successors to any deceased individ-
14 ual respondent?

15 A. Yes, we are.

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

21 A. That's correct.

22 Q. Mr. Baker, are you familiar with the fair market value of
23 drilling rights in the unit involved here and the
24 surrounding area?

25 A. Yes, I am.

1 (Would you advise the Board as to what those are?
2 A. A five dollar per acre consideration, a five year term,
3 one-eighth royalty.
4 Q. As a basis for your opinion the fact that you've acquired
5 oil and gas leases, coalbed methane leases and other
6 agreements involving the transfer of drilling rights in
7 the unit involved here and in the surrounding area?
8 A. That's correct.
9 Q. In your professional opinion do the terms you have
10 testified to represent the fair market value of and the
11 fair and reasonable compensation to be paid for drilling
12 rights within this unit?
13 A. That's correct.
14 MR. KAISER: Mr. Chairman and Board members, at this time as
15 to the election options provided to the respondents that
16 we're seeking to force pool and the related questions
17 involving the participation option I would like to ask
18 that you incorporate the testimony from the previous
19 hearing which was VGOB docket number 97/03/18-0568.
20 MR. CHAIRMAN: Okay. That will be incorporated.
21 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend that
22 the pooling order provide that if a respondent refuses to
23 accept any payment due, including any payment due under
24 said order or any payment of royalty or cash bonus or
25 said payment cannot be paid to a party for any reason or

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

10 A. Yes, we do.

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

12 A. Equitable Resources Energy Company.

13 MR. KAISER: That's all we 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 ROBERT A. DAHLIN, II

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

22

23 DIRECT EXAMINATION

24

25 BY MR. KAISER:

1 Mr. Dahlin, once again could you state your name, who
2 you're employed by and in what capacity?
3 A. Robert A. Dahlin, II. I'm employed by EREX as a product-
4 ion specialist.
5 Q. Have you previously testified before the Virginia Gas and
6 Oil Board and have your qualifications as an expert
7 witness been previously accepted?
8 A. Yes.
9 Q. Do your responsibilities include the land involved in the
10 unit for VC-2931 and the surrounding area?
11 A. Yes, they do.
12 Q. Are you familiar with the proposed exploration and
13 development of the unit involved here?
14 A. Yes.
15 Q. What is the proposed depth of the well under the appli-
16 cant's plan of development?
17 A. 2,550 feet.
18 Q. Will this be consistent with the formations listed in the
19 well work permit now pending before the DMME?
20 A. Yes.
21 Q. Will this be sufficient to penetrate and test the common
22 sources of supply in the subject formations?
23 A. Yes, it will.
24 Q. What are the estimated reserves of the unit for 2931?
25 A. 300 million cubic feet.

- 1 Q. Are you familiar with the well costs for the well under
2 the applicant's plan of development?
- 3 A. I am.
- 4 Q. Has an AFE been reviewed, signed and submitted to the
5 Board?
- 6 A. Yes.
- 7 Q. Was this AFE prepared by an engineering department
8 knowledgeable in the preparation of AFEs and knowledge-
9 able with regard to well costs in this particular area?
- 10 A. Yes.
- 11 Q. In your opinion does this AFE represent a reasonable
12 estimate of the well costs for the unit well under the
13 applicant's plan of development?
- 14 A. It does.
- 15 Q. Could you set out for the Board, please, both the dry
16 hole costs and the completed well costs for VC-2931?
- 17 A. Dry hole costs are \$78,367 and the completed well costs
18 are \$193,300.
- 19 Q. Do these costs anticipate a multiple completion?
- 20 A. Yes.
- 21 Q. Does the AFE include a reasonable charge for supervision?
- 22 A. Yes.
- 23 Q. Mr. Dahlin, in your professional opinion will the
24 granting of this application be in the best interest of
25 conservation, prevention of waste and the protection of

ITEM X

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3 MR. CHAIRMAN: The next item on the agenda is a petition from
4 Pocahontas Gas Partnership for pooling of a coalbed
5 methane unit under Oakwood I and II Field Orders identi-
6 fied as unit W-33. This is docket number VGOB-97/03/18-
7 0570. We'd ask the parties that wish to address the
8 Board in this matter to come forward at this time.

9 MS. McCLANNAHAN: As all of you know, I'm Elizabeth McClann-
10 ahan with Penn-Stuart and I represent Pocahontas Gas
11 Partnership. This application was to pool the interest
12 in the coalbed methane gas, the unsealed gob gas, short
13 hole gas and gas from any well that's authorized by the
14 Code pursuant to the Oakwood I and the Oakwood II Field
15 Rules. We seek by this application to force pool the
16 coalbed methane that's in advance of mining which we
17 commonly refer to as "frack gas" and convert the unit to
18 Oakwood II production as mining advances and the longwall
19 panels are isolated. In this unit PGP controls 95.9375
20 percent of the P-3 Seam of coal, 90.1625 percent of the
21 oil and gas and 95.9375 percent of the CBM. The Virginia
22 Department of Transportation which is listed on Exhibit
23 #B-3 of the application has declined to lease or assign
24 it's interest and Mr. Donald Ratliff who is also listed
25 on Exhibit #B-3 of the application has declined to lease.

1 We will be seeking costs under this application for the
2 Oakwood II production wells that are allocated to the
3 longwall panels and we request that the Board authorize
4 the Inspector to grant any future necessary additional
5 wells as may be dictated by the mine plan but we will not
6 seek costs for any additional wells without the prior
7 approval of this Board. All the parties that are listed
8 on Exhibit #B of the application should be force pooled
9 under this order. Les Arrington who works for Pocahontas
10 Gas Partnership will be testifying in this matter. Have
11 you been previously sworn?

12 MR. ARRINGTON: Yes, I have.

13 MR. CHAIRMAN: He's previously been sworn.

14
15 LESLIE K. ARRINGTON
16 a witness who, after having been previously sworn, was
17 examined and testified as follows:

18
19 DIRECT EXAMINATION

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21 BY MS. McCLANNAHAN:

22 Q. Mr. Arrington, would you please state your full name and
23 address for the record?

24 A. Leslie K. Arrington, 26 Mountaintop Drive, Princeton,
25 West Virginia.

1 Q. Would you identify the exhibit that's marked as Exhibit
2 #5?
3 A. Yes. That's my work resume.
4 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
5 Exhibit #5.
6 MR. CHAIRMAN: It's accepted.
7 Q. (Ms. McClannahan continues.) Have you previously
8 qualified as an expert witness before this Board?
9 A. Yes, I have.
10 MS. McCLANNAHAN: Mr. Chairman, I submit Mr. Arrington as an
11 expert witness.
12 MR. CHAIRMAN: All right. Go ahead.
13 Q. (Ms. McClannahan continues.) Mr. Arrington, have you
14 given notice of this application as required by Section
15 45.1-361.19?
16 A. Yes, I have.
17 Q. And how was this notice sent?
18 A. By certified mail, return receipt requested of which a
19 copy is listed at Exhibit #2.
20 Q. The certified mail receipt is at Exhibit #2, is that
21 correct?
22 A. Yes, it is.
23 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
24 Exhibit #2.
25 MR. CHAIRMAN: It's accepted.

1 Q. (Ms. McClannahan continues.) A copy of the hearing
2 notice is at Exhibit #1, is that correct?
3 A. That's correct. It is.
4 MS. McCLANNAHAN: Mr. Chairman, I would move the introduction
5 of Exhibit #1.
6 MR. CHAIRMAN: It's accepted.
7 Q. (Ms. McClannahan continues.) Where did you publish this
8 notice of hearing?
9 A. In the Bluefield Daily Telegraph on February 22nd, 1997.
10 Q. And were copies of the proof of publication previously
11 submitted to the Board?
12 A. Yes, it was.
13 Q. And all of those are listed at Exhibit #3?
14 A. Yes.
15 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
16 Exhibit #3.
17 MR. CHAIRMAN: It's accepted with the condition --
18 THE WITNESS: You can't read the small ones.
19 MS. McCLANNAHAN: Presumably the ones that you have at the
20 Board office are better than the copy. I had the same
21 question but --
22 MR. CHAIRMAN: Right.
23 Q. (Ms. McClannahan continues.) You have filed for a joint
24 force pooling under I and II, is that correct?
25 A. Yes, we have.

- 1 Q. What is the time frame that you anticipate between
2 completion as a fracked unit until mining begins?
- 3 A. Somewhere between zero and two years.
- 4 Q. In this application are you requesting a pooling order
5 under both Oakwood I for frack well production and under
6 Oakwood II for short hole, unsealed, gob and gas from
7 any additional wells authorized by the Code?
- 8 A. Yes, we are.
- 9 Q. Could you explain to the Board what triggers the change
10 from Oakwood I production to Oakwood II production?
- 11 A. Isolation of the longwall panel by the driving of
12 entries.
- 13 Q. Can you explain how the production will be allocated
14 between Oakwood I and II?
- 15 A. Yes. In Oakwood I it's just by -- as a frack unit as the
16 percentage of interest within that unit, as a Oakwood II
17 it's the percentage of the longwall panel within the
18 production unit.
- 19 Q. Could you explain what percentage of the coal, oil and
20 gas and coalbed methane rights in the tracts that
21 comprise the W-33 unit which PGP controls?
- 22 A. Yes. It's 95.9375 percent of the Pocahontas #3 Seam,
23 90.1625 percent of the oil and gas interest, and 95.9375
24 of the coalbed methane estate.
- 25 Q. Do the plat and acreage totals on Exhibit #B of the

1 application reflect the relative contribution that each
2 tract is expected to make to the W-33 unit?
3 A. Yes, it does.
4 Q. Does Exhibit #B of the application also reflect the
5 percentages relevant to the panel contribution that each
6 tract is expected to make?
7 A. Yes, it does.
8 Q. Are the unleased owners and their interests and the
9 conflicting claimants and their interests to be escrowed
10 listed on the exhibits filed with the application?
11 A. Yes, it is on Exhibit #E.
12 Q. With regard to the unleased owners that are listed has
13 PGP attempted to contact them to lease or assign their
14 interests?
15 A. Yes, to the best of my knowledge they were in person, by
16 phone or certified mail.
17 Q. What are the primary terms and the delay rental payments
18 for the oil and gas and coalbed methane leases that PGP
19 has acquired?
20 A. A dollar per acre, one-eighth royalty, five year term.
21 Q. Are you requesting that the Board pool the interest of
22 the parties that are listed on Exhibit #B?
23 A. Yes, we are.
24 Q. Have any well work permits been issued for this unit?
25 A. No, they have not.

1 O. And for what type of wells will PGP be applying for a
2 permit?
3 A. Coalbed methane wells.
4 Q. Have you received any written responses from the owners
5 of the tracts within this unit to the force pooling
6 application that's been filed?
7 A. No, we have not.
8 Q. Does the plat that's attached to the force pooling
9 application indicate the acreage and the shape of the
10 acreage to be embraced within this unit?
11 A. Yes, it does.
12 Q. Does the unit follow the boundary lines of the Oakwood I
13 and II Field 80 acre unit designation?
14 A. Yes, it does.
15 Q. Does the plat attached to the force pooling application
16 indicate the area within which wells will be drilled?
17 A. Yes, it does.
18 Q. And does the drilling unit embrace two or more separately
19 owned tracts?
20 A. Yes.
21 Q. Does Exhibit #G of the application show the longwall
22 panels that will affect this unit?
23 A. Yes, it does.
24 Q. Exhibit #G is also included as Exhibit #4, a color
25 version of that exhibit, is that correct?

- 1 A. That's correct. It does.
- 2 Q. Is that the same Exhibit #G that was filed with the
3 application but this is just a color version?
- 4 A. Yes, it is.
- 5 MS. McCLANNAHAN: Mr. Chairman, we would move the introduction
6 of Exhibit #4. We simply thought that this would explain
7 what's going on with regard to these panels in a more
8 full way than the black and white version after we looked
9 at the application and the copies.
- 10 MR. CHAIRMAN: All right. We accept that.
- 11 Q. (Ms. McClannahan continues.) What are the numbers of the
12 longwall panels that will be affected?
- 13 A. In the W-33 Unit it's the 10 and 11-East Panels.
- 14 Q. Does Exhibit #G of the application show the percentage of
15 panel allocation to the unit?
- 16 A. Yes. The panel allocation is shown on Exhibit #G, Page
17 1.
- 18 Q. Are the costs and expenses for the wells that are
19 allocable to this unit set forth on detailed well
20 estimates and the cost allocation charts that are listed
21 as Exhibits #G and #H to the application?
- 22 A. Yes, it does.
- 23 Q. Do these exhibits reflect the estimated costs of drilling
24 the wells?
- 25 A. Yes, it does.

1 Q. Could you explain how you've calculated those costs?
2 A. Yes. These costs are from the field average for wells
3 drilled within the unit within the area. We have a cost
4 allocation for the W-33 Unit on Exhibit #G, Page 1,
5 which shows a total cost allocation to the W-33 Unit of
6 \$200,516.82.
7 Q. Can you describe how you intend to assess each owner in
8 the unit with his particular amount of well costs in
9 relation to the total production of the wells?
10 A. Yes, I can. Each owner pooled will be allocated their
11 percentage of interest within that unit, their percentage
12 of the \$200,516.82.
13 Q. Are you requesting that PGP be designated as the well
14 operator for the W-33 Unit?
15 A. Yes, we are.
16 Q. Are you requesting the relief sought in Paragraph 4 of
17 PGP's application?
18 A. Yes, we are.
19 MS. McCLANNAHAN: Mr. Chairman, I have no further questions.
20 MR. CHAIRMAN: Any questions, members of the Board?
21 (Witness stands aside.)
22 MS. McCLANNAHAN: We would request that the application be
23 granted as submitted.
24 MR. CHAIRMAN: No questions. Motion?
25 MR. KING: I move we approve, Mr. Chairman.

1 MR. GARBIS: I second it.

2 MR. CHAIRMAN: Motion and second. Any further discussion?

3 MR. KING: I have one question, please. Why would the
4 Virginia Department of Transportation not agree? Is that
5 normal?

6 MS. McCLANNAHAN: Yes, Mr. King. It is quite normal. The
7 best answer I can give you for that is that it takes
8 Government a long time to make decisions about such
9 matters.

10 MS. RIGGS: We use to have an assistant Attorney General that
11 came to all of these hearings out of Bristol and they
12 decided that the economics of processing given that under
13 the pooling order they would be deemed to be leased
14 anyway and get the same terms that they would just stand
15 silent in these applications.

16 MS. McCLANNAHAN: They have requested that we force pool them
17 rather than contact them. We had -- several years ago we
18 had long meetings with the assistant Attorney General
19 who was in charge of VDOT and they insisted that based on
20 the regulations for the Department of Transportation that
21 it would make more sense just to force pool them.

22 MR. LEWIS: They're fast considering the railroad.

23 MR. CHAIRMAN: You didn't mean all Government, did you. Ha.
24 Other questions?

25 MR. KING: Thank you.

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MR. CHAIRMAN: All in favor signify by saying yes. (ALL
AFFIRM.) Opposed say no. (NONE.) Unanimous approval.

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3 ITEM XI

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Pocahontas Gas Partnership for pooling of a coalbed
6 methane gas unit under the Oakwood I and II Field Orders
7 identified as Unit W-34. This is docket number VGOB-
8 97/03/18-0571. We would ask the parties that wish to
9 address the Board in this matter to come forward at this
time.

10 MS. McCLANNAHAN: Mr. Chairman, Elizabeth McClannahan from
11 Penn-Stuart representing Pocahontas Gas Partnership.
12 This also is an application similar to the W-33 in that
13 we are force pooling wells under the Oakwood I Field Rule
14 Order as well as the Oakwood II Field Rule Order. Again
15 the Virginia Department of Transportation is listed on
16 Exhibit #B-3 declining to lease or assign it's interest
17 in the coal, oil and gas estate. We would request that
18 all those parties listed on Exhibit #B be forced pooled
19 under this order. Les Arrington is our witness in this
20 particular application and he has been previously sworn.

21
22 LESLIE K. ARRINGTON

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

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BY MS. McCLANNAHAN:

Q. Mr. Arrington, would you please state your full name and address for the record?

A. Leslie K. Arrington, 26 Mountaintop Drive, Princeton, West Virginia.

Q. Mr. Arrington, is your resume identified and marked as Exhibit #5 for this application?

A. Yes, it is.

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

A. Yes, I have.

MS. McCLANNAHAN: Mr. Chairman, I would move the introduction of Exhibit #5 and submit Mr. Arrington as an expert witness.

MR. CHAIRMAN: Okay. Accepted.

Q. (Ms. McClannahan continues.) Mr. Arrington, have you given notice of this application as required by Section 45.1-361.19?

A. Yes, I have.

Q. Was this notice sent by certified mail, return receipt requested?

A. Yes, it was.

Q. Does Exhibit #1 contain a copy of that hearing notice?

1 A. Yes, it does.

2 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
3 Exhibit #1.

4 MR. CHAIRMAN: It's accepted.

5 Q. (Ms. McClannahan continues.) Could you please identify
6 Exhibit #2?

7 A. Exhibit #2 is a copy of the affidavit of due diligence
8 and the certificate of mailing and return receipts.

9 Q. Have you previously submitted copies of these receipts to
10 the Gas and Oil Board?

11 A. Yes, we have.

12 MS. McCLANNAHAN: Mr. Chairman, I would move the introduction
13 of Exhibit #2.

14 MR. CHAIRMAN: It's accepted.

15 Q. (Ms. McClannahan continues.) Did you publish this
16 notice of hearing?

17 A. Yes, we did in the Bluefield Daily Telegraph on February
18 22nd, 1997.

19 Q. Is a copy of that notice, as is, submitted here before
20 the Board?

21 A. Yes, it is.

22 Q. And you've filed previous copies to the Board as well?

23 A. Yes, we have.

24 Q. And all of those are listed at Exhibit #3?

25 A. Yes.

- 1 Q. What percentage of the coal, oil and gas and coalbed
2 methane rights in the tracts that comprise the W-34 unit
3 which PGP controls?
- 4 A. Of all the interests Pocahontas Gas Partnership controls
5 99.9875 percent of the coal, oil and gas.
- 6 Q. Do the plat and acreage totals on Exhibit #B of the
7 application reflect the relative contribution that each
8 tract is expected to make to the W-34 unit?
- 9 A. Yes, it does.
- 10 Q. Does Exhibit #B of the application reflect the percent-
11 ages relevant to the panel contribution that each tract
12 is expected to make?
- 13 A. Yes, it does.
- 14 Q. Are the unleased owners and their interests and the
15 conflicting claimants and their interests to be escrowed
16 listed on the exhibits filed with the application?
- 17 A. Yes, it is. Exhibit #E.
- 18 Q. With regard to the unleased owners that are listed has
19 PGP attempted to contact them to lease or assign their
20 interests?
- 21 A. Yes, to the best of my knowledge either in person, by
22 phone or certified mail.
- 23 Q. Generally what are the primary terms and the delay rental
24 payments for the oil and gas and coalbed methane leases
25 that PGP has acquired?

1 A. For a coalbed methane lease a dollar per acre per year,
2 one-eighth royalty, five year term.

3 Q. Are you requesting that the Board pool the interest of
4 the parties listed on Exhibit #B of the application?

5 A. Yes.

6 Q. Have any well work permits been issued for this unit?

7 A. Yes, it has for Well W-34A on March 12th, 1997, permit
8 number 3312.

9 Q. Was the location of this well approved by the Inspector?

10 A. Yes, it was.

11 Q. And for what type of well was this permit issued?

12 A. Coalbed methane.

13 Q. Have you received any written responses from the owners
14 of the tracts within this unit to the force pooling
15 application that you filed?

16 A. No, we have not.

17 Q. Does the plat attached to the force pooling application
18 indicate the acreage and the shape of the acreage to be
19 embraced within this unit?

20 A. Yes, it does.

21 Q. Does the unit follow the boundary lines of the Oakwood I
22 and II Field Rules?

23 A. Yes, it does.

24 Q. Does the plat attached to the force pooling application
25 indicate the area within which wells will be drilled?

- 1 A. Yes, it does.
- 2 Q. And does the drilling unit embrace two or more separately
3 owned tracts?
- 4 A. Yes.
- 5 Q. Does Exhibit #G of the application show the longwall
6 panels that will affect the W-34 Unit?
- 7 A. Yes, it does.
- 8 Q. Have you included a color copy of Exhibit #G as Exhibit
9 #4?
- 10 A. Yes, we have.
- 11 MS. McCLANNAHAN: Mr. Chairman, we would move the introduction
12 of Exhibit #4.
- 13 MR. CHAIRMAN: It's accepted.
- 14 Q. (Ms. McClannahan continues.) What are the numbers of the
15 longwall panels that are affected by this unit?
- 16 A. The 11, 12 and 13-East longwall panels of the Buchanan #1
17 Mine.
- 18 Q. Does Exhibit #G show the percentage of panel allocation
19 to the unit?
- 20 A. Yes.
- 21 Q. Are the costs and expenses for the wells allocable to
22 this unit set forth on DWES as Exhibits #G and #H to the
23 application?
- 24 A. Yes, it does.
- 25 Q. Do these exhibits reflect the estimated costs of drilling

1 the wells to total depth and completed for production
2 costs?
3 A. Yes, it does.
4 Q. Generally how did you calculated the costs that are
5 listed in the DWE?
6 A. It's an estimated actual field cost from other wells
7 within the area.
8 Q. How do you propose to allocate the costs among the owners
9 in the unit?
10 A. The total costs of the wells drills within the longwall
11 panel times their percentage of longwall panel within the
12 Oakwood unit.
13 Q. Are you requesting that PGP be designated as the well
14 operator?
15 A. Yes, we are.
16 Q. Are you requesting the relief sought in Paragraph 4 of
17 PGP's application?
18 A. Yes, we are.
19 MS. McCLANNAHAN: Mr. Chairman, those are all the questions
20 that I have.
21 MR. CHAIRMAN: Any questions, members of the Board?
22 (Witness stands aside.)
23 MR. CHAIRMAN: Do you have anything further?
24 MS. McCLANNAHAN: No, sir.
25 MR. CHAIRMAN: Do I have a motion?

1 MR. LEWIS: I make a motion to approve.

2 MR. KING: Second.

3 MR. CHAIRMAN: A motion and second. I'm sorry. We can't
4 vote. We had a member leave and I wasn't aware he left.
5 (Pause.) We had a motion for approval and a second. Any
6 further discussion? All in favor signify by saying yes.
7 (ALL AFFIRM.) Opposed say no. (NONE.) Unanimous
8 approval.

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ITEM XII

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3 MR. CHAIRMAN: Item XII, docket number VGOB-97/03/18-0572 is
4 continued. There's need to do additional mailings, I
5 believe, on that.

6 MS. McCLANNAHAN: Mr. Chairman, the notice was not published
7 in the paper in a timely fashion. So we are requesting a
8 continuance on that unit. We also notified all the
9 parties in that unit about the continuance to next month.

10 MR. CHAIRMAN: And that has been granted.
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ITEM XIII

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3 MR. CHAIRMAN: The last item on today's agenda is a petition
4 from Pocahontas Gas Partnership for pooling of a coalbed
5 methane gas unit in the Oakwood I and II Field Orders
6 identified as Unit Y-32. This is docket number VGOB-
7 97/03/18-0573. We'd ask the parties that wish to address
8 the Board in this matter to come forward at this time and
9 identify yourselves.

10 MS. McCLANNAHAN: Mr. Chairman, Elizabeth McClannahan with
11 Penn-Stuart for Pocahontas Gas Partnership. This force
12 pooling application for the Y-32 Unit is also like the W-
13 33 and W-34 which you've heard previously today. It is a
14 force pooling application to force pool production from
15 the Oakwood I and the Oakwood II units. Ms. Loya Davis
16 is listed on Exhibit #B-3 of the application. She
17 declines to lease or assign her interest in the coal,
18 oil and gas estates to PGP. We are requesting that the
19 interest of all those parties listed on Exhibit #B of the
20 application be forced pooled under this particular unit
21 order. Mr. Les Arrington is the witness on behalf of
22 Pocahontas Gas Partnership and he has been previously
23 sworn today.
24
25

1 Davis. "I have worked all of my life for what I have. I
2 do not want to be force pooled. I ask for nothing that
3 is not mine. I just request to be paid for my gas."
4 Signed, Loya Davis.

5 MR. LEWIS: What percentage does she own in that?

6 MS. McCLANNAHAN: Pocahontas Gas Partnership owns 100 percent
7 of the Pocahontas #3 Seam of coal and 100 percent of the
8 coalbed methane gas estate. So she has --

9 THE WITNESS: 26.625 percent of the unit.

10 MS. McCLANNAHAN: Of the oil and gas.

11 THE WITNESS: Of the oil and gas.

12 MS. McCLANNAHAN: Mr. Chairman, I would object to this
13 evidence in the record because the witness is not here
14 and can't be sworn and cross-examined.

15 Q. (Ms. McClannahan continues.) Mr. Arrington, have you
16 given notice of this application as required by Code
17 Section 45.1-361.19?

18 A. Yes, we have.

19 Q. Was this notice sent by certified mail, return receipt
20 requested?

21 A. Yes, it was.

22 Q. Is Exhibit #1 a copy of the hearing notice?

23 A. Yes, it is.

24 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
25 Exhibit #1.

1 MR. CHAIRMAN: It's accepted.

2 Q. (Ms. McClannahan continues.) Do you have the returned
3 receipts?

4 A. Yes, we do, listed at Exhibit #2 and previously submitted
5 to the Inspector.

6 MS. McCLANNAHAN: Mr. Chairman, I would move the introduction
7 of Exhibit #2.

8 MR. CHAIRMAN: It's accepted.

9 Q. (Ms. McClannahan continues.) Did you publish the notice
10 of hearing as well?

11 A. Yes, we did in the Bluefield Daily Telegraph on February
12 22nd, 1997.

13 Q. Is there a copy of the proof of publication listed at
14 Exhibit #3?

15 A. Yes, it is.

16 Q. Have you also previously submitted a more legible copy to
17 the Board?

18 A. I hope.

19 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
20 Exhibit #3.

21 MR. CHAIRMAN: It's accepted.

22 Q. (Ms. McClannahan continues.) Have filed for a joint
23 force pooling under the Oakwood I and Oakwood II Field
24 Rules?

25 A. Yes, we have.

- 1 Q. What is the time frame that you anticipate between
2 completion as a fracked unit until mining begins?
- 3 A. Approximately zero to three years.
- 4 Q. In this application are you requesting a pooling order
5 under both Oakwood I for frack well production and
6 Oakwood II for short hole, unsealed gob and gas from any
7 additional wells that are authorized by the Code?
- 8 A. Yes, we are.
- 9 Q. What triggers the change from Oakwood I production to
10 Oakwood II production?
- 11 A. Isolation of the wells by the driving of entries for the
12 longwall panel.
- 13 Q. How will the production allocated between Oakwood I and
14 II?
- 15 A. In the Oakwood I as the percentage of interest within the
16 unit, as the Oakwood II their percentage of interest
17 versus the percentage of interest of the longwall panel
18 within the unit.
- 19 Q. What percentage of the coal, oil and gas and coalbed
20 methane rights in the tracts that comprise the Y-32 unit
21 which PGP controls?
- 22 A. 100 percent of the Pocahontas #3 Seam and 73.375 percent
23 of the oil and gas, 100 percent of the coalbed methane
24 gas estate.
- 25 Q. Do the plat and acreage totals on Exhibit #B reflect the

- 1 relative contribution that each tract is expected to
2 make?
- 3 A. Yes, it does.
- 4 Q. Does Exhibit #B also reflect the percentages relevant to
5 the panel contribution that each tract is expected to
6 make?
- 7 A. Yes, it does.
- 8 Q. Are the unleased owners and their interests and the
9 conflicting claimants and their interests to be escrowed
10 listed on the exhibits filed with the application?
- 11 A. Yes, they are.
- 12 Q. With regard to the unleased owners has PGP attempted to
13 contact them to lease or assign their interests?
- 14 A. Yes, to the best of my knowledge either in person, by
15 phone or certified mail.
- 16 Q. Generally what are the primary terms and the delay rental
17 payments for the oil and gas and coalbed methane gas
18 leases that PGP has acquired?
- 19 A. For a coalbed methane lease a dollar per acre per year,
20 one-eighth royalty, five year term.
- 21 Q. Are you requesting that the Board pool the interest of
22 the parties listed on Exhibit #B of the Y-32 force
23 pooling application?
- 24 A. Yes, we are.
- 25 Q. Have any well work permits been issued for this unit?

1 A. No, they have not.

2 Q. For what type of well will PGP apply for permits?

3 A. Coalbed methane wells.

4 Q. Have you received any written responses from the owners
5 of the tracts within this unit to the force pooling
6 application?

7 A. No, I have not.

8 Q. Does the plat attached to the force pooling application
9 indicate the acreage and the shape of the acreage to be
10 embraced within the unit?

11 A. Yes, it does.

12 Q. Does the unit follow the boundary lines of the Oakwood I
13 and II Field Rules?

14 A. Yes, it does.

15 Q. Does the plat indicate the area within which wells will
16 be drilled?

17 A. Yes, it does.

18 Q. And does the drilling unit embrace two or more separately
19 owned tracts?

20 A. Yes.

21 Q. Does Exhibit #G of the application show the longwall
22 panels that will affect the Y-32 Unit?

23 A. Yes, it does.

24 Q. Have you included a color copy of Exhibit #G as Exhibit
25 #4?

1 A. Yes, we have.

2 MS. McCLANNAHAN: Mr. Chairman, I move the introduction of
3 Exhibit #4.

4 MR. CHAIRMAN: It's accepted.

5 Q. (Ms. McClannahan continues.) What are the numbers of the
6 longwall panels that will be affected by this unit?

7 A. The 9-East and 10-East longwall panels of the Buchanan #1
8 Mine.

9 Q. Does Exhibit #G show the percentage of panel allocation
10 to the unit?

11 A. Yes, it does.

12 Q. Are the costs and expenses for the wells allocable to
13 the Y-32 Unit set forth on detailed well estimates at
14 Exhibits #G and #H to the application?

15 A. Yes, it is.

16 Q. Do these exhibits reflect the estimated costs of drilling
17 the wells to total depth and completed for production
18 costs?

19 A. Yes, it does.

20 Q. Could you explain how you calculated the costs that are
21 listed in the DWES?

22 A. This is an estimated cost from other wells within the
23 area.

24 Q. Can you explain why there are two DWES included for the
25 Y-32 unit?

1 A. Yes. As you can see, there's a space, like kind of gap
2 there, so I estimated the cost within the 9-East Panel
3 and the 10-East Panel.

4 Q. The space and the gap that you're talking about is
5 between the 9-East and the 10-East Panel?

6 A. Yes, it is.

7 Q. As shown on the map at Exhibit #4?

8 A. Yes.

9 Q. Can you explain those calculations to the Board?

10 A. Those calculations are from other wells within the area.
11 They're estimated well costs.

12 A. The total costs of the wells drills within the longwall
13 panel times their percentage of longwall panel within the
14 Oakwood unit.

15 Q. Are you requesting that PGP be designated as the well
16 operator?

17 A. Yes, we are.

18 Q. Are you requesting the relief sought in Paragraph 4 of
19 PGP's application?

20 A. Yes, we are.

21 MS. McCLANNAHAN: Mr. Chairman, those are all the questions
22 that I have.

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

25 MR. CHAIRMAN: Do you have anything further?

1 MS. McCLANNAHAN: No, sir. We have no further testimony.

2 MR. CHAIRMAN: Any questions?

3 MR. GARBIS: I'm concerned about the lady who wrote the
4 letter. Was there any outstanding issues or what were
5 the issues she had that she wanted to address? What was
6 her name, Loya Davis?

7 MR. CHAIRMAN: Yes.

8 MR. GARBIS: I mean, she just stated in the letter that she
9 wanted her -- she thought whatever her due was?

10 MS. McCLANNAHAN: Right. I think she -- as I heard it she
11 wants to be paid and this order would certainly allow for
12 her to be paid because if she's force pooled under this
13 statute then she would be deemed to be leased and paid at
14 the rate that the Board enters, and at the statutory rate
15 of a one-eighth royalty.

16 THE WITNESS: Her interest would be escrowed.

17 MR. GARBIS: I understand that. But I think that that would
18 be fairly common knowledge, that if you're forced pooled
19 that she would get some reiteration for her share of the
20 -- is there some other issue there? I'm concerned and I
21 just don't want to blanket approve something and have a
22 citizen out there saying, "Well, big Government as usual.
23 They didn't listen to what I had to say and just did
24 whatever they wanted to do." So I'm concerned about --

25 MR. FULMER: She's in other units and she believes that she

1 owns the gas and the coalbed methane. She believes it's
2 all gas and it's her gas. But her properties lie across
3 several units and she flatly just don't want Consol to
4 drill wells and anybody else.

5 MR. LEWIS: How much surface does she own?

6 MR. FULMER: I don't know what her total tract acreage is, but
7 it lies over a couple of units. We just recently had an
8 informal hearing in regards to her. None of the wells
9 were on her property.

10 MS. McCLANNAHAN: There isn't a well proposed to be drilled in
11 this unit at this time. If a well permit application was
12 filed then if she was the surface owner on that property
13 she would have a right to object to the well permit
14 application.

15 MR. FULMER: And she has in the past on other wells that were
16 involved in a different unit which, like I said, her
17 property expands across a couple of units.

18 MS. McCLANNAHAN: I've never spoken with Ms. Davis but I think
19 the issue here is that Pocahontas Gas Partnership owns
20 the right to produce coalbed methane gas on the tract and
21 they have the right to produce coalbed methane from the
22 coal, the Pocahontas #3 Seam. The oil and gas -- she
23 owns this 20 some percent of the oil and gas that's
24 within this particular unit which puts the oil and gas
25 owner as a conflicting claimant to the coal owner and the

1 coalbed methane lessee. So the statute -- of course, the
2 force pooling statute for coalbed methane gas in Virginia
3 provides for this particular process so that the well can
4 actually be drilled and then any proceeds to which she
5 will be entitled can be escrowed with the escrow agent
6 pursuant to this Board's previous order. And that's the
7 process that's been set up a statutory method to protect
8 her interests. So that money would be escrowed and if
9 she claims that the oil and gas owner is the owner of the
10 coalbed methane gas then she can file a declaratory
11 judgement action in the circuit court and claim that
12 she's the owner of that particular interest. But the
13 reason this statute was developed in Virginia was to
14 encourage development of this resource that we don't know
15 who owns it. And it sounds like from what Mr. Fulmer has
16 indicated that Ms. Davis is suggesting that the oil and
17 gas owner is the owner of the coalbed methane gas as
18 opposed to the coal owner being the owner of the coalbed
19 methane gas. And that issue has not been determined in
20 the Commonwealth of Virginia. So the statutory process
21 was put in place in order to see that this mineral could
22 be developed and all the potential interest owners would
23 be protected by putting this money in escrow.

24 MR. KING: It sounds to me like she wants her money now.

25 MR. CHAIRMAN: As I started to say, typically the folks that

1 are affected by this type of force pooling application
2 want to be paid. They don't want their money to go into
3 escrow. They have two objections. One is in the first
4 place to be affected or have their gas drained. That's a
5 typical challenge that we have. And the second one is if
6 you take the gas then pay me now, don't put it in
7 escrow. Of course, the statute as Ms. McClannahan just
8 said, in order to encourage development causes an escrow
9 of those funds to actually protect all parties until
10 there is an agreement by the parties or a resolution in
11 court of the ownership.

12 MR. GARBIS: Is there any likely outcome of that in the near
13 future?

14 MR. CHAIRMAN: I don't know how you predict it. It's been
15 before the court for five years now at least.

16 MS. MCCLANNAHAN: There is one case pending in Virginia in
17 Buchanan County on this issue of coalbed methane owner-
18 ship and that case is as of -- I know at least December
19 or November of last year has been stale for probably four
20 or five years at least. I believe it was filed in 1991.
21 Don't quote me on that date. But that has been stale.
22 The statutory scheme, though, that's been implemented in
23 Virginia was the first one of its kind in the country to
24 escrow all these proceeds. And the Federal Government
25 considered it such a model statute that they actually

1 adopted that statute for the Federal Government to apply
2 to other potentially producing states in the country. So
3 then West Virginia has also adopted this similar statu-
4 tory scheme like Virginia's. So I think we can at least
5 feel comfortable that this statute which protects the
6 interest of the conflicting claimants of this property
7 has been used as a model in other parts of the country.
8 But this issue of coalbed methane ownership we could
9 probably safely say has not been decided in any state
10 which could be used as a blanket cover for every state.
11 There are decisions in other states like Colorado,
12 Montana, Alabama, Pennsylvania but all of those decisions
13 are based on the severance deed in that particular state,
14 the leases that have been taken on the minerals that have
15 been severed. So the question is can you apply a
16 decision in Alabama that applied to a particular tract, a
17 particular lease and a particular deed to everybody who's
18 in that state. But Virginia is one of the states in the
19 country that doesn't have any decisions. We don't have
20 any president to look to to know who actually owns the
21 interest.

22 MR. GARBIS: Well, again what my concern is I think we're just
23 posturing that this is what her concern is. I just don't
24 want to -- in a way I wish she could have her day in
25 court. I mean, if she has some legitimate objections --

1 again we don't know what they are just reading on the
2 surface what she's saying. And all the things that
3 you've said quite eloquently might be exactly the case.
4 I'm just concerned again we have a citizen out there that
5 has written to the Board. I just want to -- I mean, is
6 there any provision or anything that we could possibly do
7 to investigate this a little bit more or -- I'm looking
8 for some help on this.

9 MR. FULMER: The only thing I can say is on the Y-33 she's a
10 party to the pooling order there. I mean, she's aware of
11 this. She's aware of the process.

12 MS. McCLANNAHAN: And as I understand it, Mr. Fulmer, you said
13 she was here earlier today. Is that what you said?

14 MR. FULMER: No. That was her son. Her son very well knows
15 because he's leased and parties to Consol.

16 MS. McCLANNAHAN: And he left this note from her?

17 MR. FULMER: Yes. He did represent his mother, Loya Davis, at
18 an informal hearing. So they are aware of the issues.

19 MS. McCLANNAHAN: I would certainly agree with you that every
20 party should have their day in hearing. With regard to
21 this particular situation, though, I think she sent her
22 son here and left this note and she was given appropriate
23 notice and in my opinion legally we can't even consider
24 that note because she's not here as a party to cross-
25 examine. So I think if proper notice was given then it

1 shouldn't even be considered.

2 MR. KING: If we approve this application she's going to be
3 force pooled. She is going to have money somewhere down
4 the road. Right? That's the way the system works.

5 MS. McCLANNAHAN: If you approve this application the interest
6 will be -- her interest is 26 percent as calculated by
7 the longwall panel production, that money will go into
8 the escrow account with her name next to the amount of
9 money that's allocable to that interest. Now, the
10 question is does it belong to her or does it belong to
11 Consol or Coal Mountain who is the lessor of Consol for
12 the coalbed methane gas. So that money would be held in
13 escrow and she could file a claim to the money that's in
14 the escrow account.

15 MR. LEWIS: In a case like that if she does own 26 or 28
16 percent of this you're going to escrow her money but you
17 all are going to take your money and use your money. You
18 see. All the money ought to be put in escrow it looks to
19 me like.

20 MS. McCLANNAHAN: Actually the 26 percent will also -- the 26
21 percent of royalty that's allocated to -- the 26 percent
22 is the amount that's in conflict. So that amount of the
23 royalties would all go into escrow. So Consol or Coal
24 Mountain doesn't get it's 26 percent either. That's all
25 in escrow.

1 MR. KING: It all goes in.

2 MS. McCLANNAHAN: Right. So it all goes in with all those
3 names as -- if you look -- the best way to understand
4 this, I think, is to look at this conflicting claimants
5 exhibit in the application because each of those -- where
6 is it. (Pause.)

7 MR. CHAIRMAN: Exhibit #E.

8 MS. McCLANNAHAN: Exhibit #E of the applications shows Coal
9 Mountain Mining as the fee owner of coal at 27.525
10 percent and then you see the oil and gas fee ownership
11 listed right below it as 27.525 percent. So those two
12 are the conflicting claimants to that particular interest
13 under Tract 1. And then under Tract 2 it's the same way,
14 10.275 percent for Coal Mountain and then 10.275 percent
15 for the oil and gas. So both of those are claiming the
16 coalbed methane gas and that 27 percent will go into
17 escrow for both of those parties. So no party gets it.
18 I mean, Ms. Davis doesn't get it. Coal Mountain doesn't
19 get it. Nobody gets it. It all goes into escrow. As
20 you're exactly right, it wouldn't be fair to put her
21 interest in and none of the other. But no one is
22 distributed that percentage of the royalty.

23 MR. LEWIS: Well, that leaves 70 some more percent there.

24 They're going to get their part -- the gas company.

25 MS. McCLANNAHAN: Well, the 75 percent is owned by Coal

1 Mountain Mining without conflict.

2 MR. LEWIS: I know. But they shouldn't get their's either.

3 MS. McCLANNAHAN: No one's claiming --

4 MR. LEWIS: They ought to put it all in there.

5 MS. McCLANNAHAN: Mr. Lewis, no one is claiming the 75 percent
6 other than Coal Mountain.

7 MR. KING: Mr. Chairman, I move that we approve this
8 application. I think this lady's going to be protected.

9 MR. LEWIS: I second it.

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

13 MR. KING: That force pooling means it is a forced pool
14 actually.

15 MR. CHAIRMAN: It does. By its own connotation it causes a
16 lot of --

17 MR. MORGAN: What you're discussing is the very concept of why
18 we're here today. If nobody objected to it there
19 wouldn't be a force pooling.

20 MR. CHAIRMAN: Right. All us mountain folks get upset when
21 you force us to do anything.

22 MS. McCLANNAHAN: I know. Some people have said we should use
23 the word compulsory and I said, "Well, that's no better."

24 MR. CHAIRMAN: That concludes this hearing. Thank you.

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(... of Proceedings for
March 18, 1997.)

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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 March 18, 1997 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 14th day of April, 1997.

Deborah J. Bise
DEBORAH J. BISE
NOTARY PUBLIC

My commission expires September 30, 2000.