

**VIRGINIA GAS  
AND OIL BOARD**

**MONTHLY  
BOARD  
TRANSCRIPT**

**OCTOBER 1997**

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VIRGINIA OIL AND GAS BOARD

HEARING OF OCTOBER 21, 1997

9:00 A.M.

AT THE BREAKS INTERSTATE PARK  
BREAKS, VIRGINIA

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October 21, 1997

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2 This matter came on to be heard before the Virginia Gas  
3 and Oil Board on this the 21st day of October, 1997 at the  
4 Breaks Interstate Park, Breaks, Virginia pursuant to Section  
5 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

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

11 MR. BRENT: I'm Mason Brent. I represent the gas and oil  
12 industry and I'm from Richmond.

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

15 MR. LEWIS: Max Lewis, citizen member, Buchanan County.

16 MR. GARBIS: My name is Dennis Garbis. I'm a citizen member  
17 from Fairfax County.

18 MR. HARRIS: Bill Harris, a public member from Big Stone  
19 Gap.

20 MR. KING: I'm Clyde King from Abingdon, a citizen member.

21 MR. FULMER: Tom Fulmer, Department of Mines, Minerals &  
22 energy.

23 MR. CHAIRMAN: Welcome to the Breaks Interstate Park. It's  
24 unfortunate we can't see the beautiful view at this  
25 time, but maybe we'll get some burnout here a little

later and be able to appreciate the beauty of this  
area.

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ITEM I

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MR. CHAIRMAN: The first item on today's agenda, the Board will receive a quarterly status report from Premier Bank Shares Corporation as escrow agent for the Virginia Gas and Oil Board. We'd ask the persons representing the bank to come forward at this time, please.

MR. REASOR: Good morning, Mr. Chairman.

MR. CHAIRMAN: Good morning, Mr. Senator. We're glad to have you with us.

MR. REASOR: Thank you. I'm glad to be here. Mr. Chairman, members of the Board, my name is Jack Reasor. I'm the president of Premier Trust Company which has been handling this account for the past several years. In just a moment Mr. Bill King who's been the administrator directly involved with this account will go over the report that's being distributed to you now. I just want to make a couple of comments to each of you and to the full Board. As most of you may know, Premier Bank and Premier Trust Company are the process of being purchased by First Virginia Bank. First Virginia Bank Incorporated, of course, is headquartered in Falls Church, Virginia. The trust operations will change somewhat slightly but will continue to have the

1 presence in Southwest Virginia as well. This account  
2 will be administered, if you will, out of our far  
3 Southwest Virginia operations at First Virginia Bank  
4 commonly referred to as First Virginia Bank, Mountain  
5 Empire. The headquarters for First Virginia Bank,  
6 Mountain Empire is in Wise. However, this trust  
7 account and the trust operations will be handled out of  
8 an office in Damascus in Washington County. We will be  
9 working -- in many ways we feel this may be even more  
10 convenient considering the operations for this Board --  
11 really handled out of Abingdon -- and will hopefully  
12 make the transition very, very smooth. The investments  
13 for this account, and that's really the main respons-  
14 ibility for the escrow agent, is handling the invest-  
15 ments. Mr. King who has been handling this account for  
16 the past several years will be the investment officer  
17 for all of Southwest Virginia for First Virginia Bank.  
18 His office will actually be in Roanoke but he will be  
19 responsible for investments throughout Southwest  
20 Virginia. So he will continue to work with this  
21 account. And fortunately, Mr. Robert Martin who is  
22 with Premier Trust Company in Bluefield and has been  
23 with us for several years will be working out of the  
24 Damascus office. So he will be the administrator  
25 handling on a day to day basis for any questions that

1 might arise. Mr. King will continue to handle the  
2 investments. I have not had a lot of contact with the  
3 Board regarding this account. I've always been  
4 available to do so and will continue to be available.  
5 I will continue to have an office in Bluefield. So,  
6 again, we feel like we will be able to continue to  
7 offer you a first class service. We feel like Premier  
8 Trust Company has offered service to you that has met  
9 your needs and we are very confident that First  
10 Virginia Bank will be able to do so. As a matter of  
11 fact, we'll have even greater resources to draw from  
12 since the trust operations for First Virginia Bank are  
13 considerably larger than Premier Trust Company. So I  
14 just wanted to come and let you know that while there  
15 is somewhat of a transition going on hopefully it will  
16 be a very smooth transition and basically will be  
17 seamless to you. You may get information about an  
18 address change. So instead of mailing things to  
19 Bluefield you will mail them to Damascus. But beyond  
20 that the other activities and even the individuals  
21 handling the account will stay pretty much the same.  
22 All of the merger activities should be completed -- or  
23 the merger will be effective between the trust opera-  
24 tions, Premier Trust Company and First Virginia Bank,  
25 as of the last day of this month. So starting November

1 1st you will start to see things in the name of First  
2 Virginia Bank instead of Premier Trust Company but it  
3 will be simply a matter of transferring. The terms and  
4 conditions of the agreement between Premier Trust  
5 Company and VGOB will certainly remain the same.  
6 Again, hopefully the only thing you might see different  
7 would be a name change and an address change. Beyond  
8 that hopefully you'll see things continue just as they  
9 are. We'll be glad to answer an questions. It might  
10 be best for Mr. King to go ahead and review the account  
11 with you and then if there are questions for either one  
12 of us we'll be glad to try to answer those.

13 MR. CHAIRMAN: Thank you, Senator Reasor. We certainly  
14 appreciate the cooperation and fine work effort that  
15 Premier Bank has provided and we look forward to a  
16 continuing working relationship. Mr. King's always  
17 been accessible to the Board and provided quality  
18 information to us. Mr. King, we'll be happy to hear  
19 from you.

20 MR. KING: I appreciate that. I'm glad to be able to  
21 continue in this position. Like I said, we feel like  
22 there are some real changes in effect legally and  
23 everything but we'll go on without missing a beat as  
24 far as service to our clients. The statements them-  
25 selves, other than the name on the statements, the

1 format may change slightly but I don't think it will be  
2 anything substantial. And as far as the frequency of  
3 the reports, that's the same. Of course, we're always  
4 open to -- if there needs to be changes as far as that  
5 frequency or who they're mailed to we only need to be  
6 directed as to how you want that. Did we have enough  
7 of the reports that were passed out? The situation  
8 hasn't changed much at all. I guess the last time that  
9 this report was made was as of March 31st. So the  
10 column, a row down, this report is through September  
11 30th. So those numbers on the very -- well, the second  
12 to last other than the totals would be for the six  
13 months through 9/30. The receipts at \$441,000 are  
14 slightly less on a comparison basis to the first  
15 quarter of the year, being that they're for the six  
16 month period. The distribution shown there is the one  
17 that was in question the last time actually. It was  
18 about that time when we meet. It was actually money  
19 paid out. So we have it on here. Some of that, as I  
20 understand, the way it worked out is that was money  
21 that there were not valid supplemental orders. But  
22 some of that came back in to us. The totals, as you  
23 can see, we were right at three million before. We'll  
24 well over three million at this point. The cost basis  
25 -- what all this report that you're seeing here is

1 based on costs. In other words, dollars in, dollars  
2 out. The portfolio is actually valued at just a slight  
3 premium to the cost, the market value as of 9/30 being  
4 300,185,000. So roughly just a little higher than the  
5 cost basis. Now, we're at a point now in the market  
6 where on interest rates -- and our bonds, of course,  
7 are short. All the bonds in the portfolio are due  
8 between 1998 and 2001. So the furthest is four years  
9 but they're basically one, two, three and four year  
10 Government treasury type investments. The bias would  
11 be probably for rates to be raised slightly which would  
12 mean if that happens the value of the portfolio could  
13 fall slightly. But the effect on this portfolio being  
14 very short, very conservative, should be minimal.  
15 There's been one maturity recently. Due to the fact, I  
16 believe, that there are some distributions anticipated  
17 we've been more conservative than normal. We've left  
18 that money. So we have roughly of the 300,185,000  
19 slightly over 200,000,000 is in cash, in money market  
20 funds. So about a third of the total portfolio is  
21 invested in bonds. As far as distributions at this  
22 point I think we're in very good shape. Also from the  
23 point of view of interest rate, if we would get the Fed  
24 to raise rates and we find that we could put a little  
25 more of the money to work, going out two or three years

1 maybe, that would be a good time to do it because  
2 overall we're not going to see any tremendous run up in  
3 interest rates. That's a very, very unlikely scenario.  
4 So if we get a little increase in rates we feel it  
5 would be a good time to buy bonds. I don't see any  
6 reason now to do anything in light of both that and  
7 the potential distributions that may occur. Are there  
8 any questions on the report?

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

10 MR. BRENT: What is the fee basis?

11 MR. KING: The fee basis is one percent of the market value  
12 of a fund. The fee is charged -- one-twelfth of one  
13 percent per month is the way it's actually taken which  
14 is not in accordance with our regular fee schedule as  
15 the RFP and when Premier was awarded the contract which  
16 was -- I guess it's been over six years now.

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

18 MR. GARBIS: Typically what has been the return of the  
19 moneys that you had to work with?

20 MR. KING: The return basically has been an average of the  
21 money market rates and the treasuries and Governments  
22 that we've gone into. I can tell you right now the  
23 average yield in the portfolio is about 5.6 percent.  
24 The money market fund where we have two-thirds of the  
25 fund is earning 5.35 percent. The bond portfolio looks

1 like an average of about 6 percent. So, again, not  
2 going beyond generally three or four years we're not  
3 locking in high rates. The figures I'm giving you as  
4 yield and in this account because we've kept maturity  
5 short, that yield would be a pretty good approximation  
6 of the total return.

7 CLYDE KING: Do you anticipate a larger amount of royalty  
8 receipts in December of this year like we did last  
9 year?

10 MR. KING: That's something we really don't know.

11 MR. REASOR: Yeah. We don't have any idea really. You  
12 would have a better feel for that than we would.

13 MR. CHAIRMAN: No, not really.

14 MR. KING: I don't know that there's been a real strong  
15 pattern that we can look at and say well, at year end  
16 it's heavier. We haven't done any type of formal study  
17 on that.

18 MR. FULMER: I can basically answer that question. As a  
19 year ago when you had return receipt, (inaudible.)  
20 increase and so forth was the price of gas went back  
21 up. You had a low gas going into the market at the  
22 beginning of last year and once it jumped from \$1.75 up  
23 to \$2.40.

24 MR. CHAIRMAN: Other questions, members of the Board? Thank  
25 you very much. We appreciate your time.

1 MR. KING: Thank you.  
2 MR. REASOR: Thank you.  
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ITEM II

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3 MR. CHAIRMAN: The next item on the agenda is the Gas and  
4 Oil Board on it's own motion will address the need for  
5 designation of a new unit operator for previously  
6 issued Board pooling orders which originally designated  
7 Ashland Exploration as the unit operator. This is  
8 docket number VGOB-97/09/16-0608. We'd ask the parties  
9 that wish to address the Board in this matter to come  
10 forward at this time.

11 MR. MCQUIRE: Grant McQuire. I'm an attorney with Campbell,  
12 Wesbagley in Huntington, West Virginia and Ashland,  
13 Kentucky on behalf of Blazer Energy, formerly known as  
14 Ashland Exploration, Inc. I feel like Ashland Explor-  
15 ation, now known as Blazer, owes the Board an apology  
16 for confusing it. In fairness, it has been confusing  
17 times at Ashland and it's subsidiaries and I would like  
18 to explain what's happened in the last year to let you  
19 know that really there has been no change of the  
20 responsible operator but there have been some name  
21 changes. If I could go back to 1990/1991 when this  
22 Board first came together under the new statute. I  
23 believe I appeared at the first hearing. And Ashland  
24 fussed a good bit with Island Creek and OXY, USA over  
25 who owned the coalbed methane and we litigated that for

1            many years and the appeals are up before the Circuit of  
2            Buchanan County. Ashland also did some drilling on  
3            it's own, had some pooling orders entered, had some  
4            well permits issued. When I say Ashland I'm talking  
5            about Ashland Exploration, Inc. This was a wholly  
6            owned subsidiary of Ashland Oil, Inc. In very late  
7            1994 Ashland settled it's differences with OXY and  
8            Island Creek which at that time their interests were  
9            being purchased by Consol. The agreement called for  
10           wiping the slate clean of all the matters that they've  
11           been fighting over over the years. For reasons unknown  
12           to me, it took about a year to get a contract. We knew  
13           what we had agreed upon. I think that in fairness to  
14           the other side there were a lot of different interest.  
15           There was OXY, USA's interest and Island Creek's  
16           interest and Consol's interest. I worked with Mark  
17           Swartz in coming up with a settlement agreement. But  
18           he had to report to lot of different people in order to  
19           get that document entered and executed. I understand  
20           the document was executed about a year ago. I did not  
21           receive a copy of it until about six months ago, but it  
22           does call for dismissing all of the contested matters  
23           that we had before, wiping the slate clean. I don't  
24           know that it's confidential at all and I'd be happy to  
25           give the Board a copy of it, assuming it's not confid-

1            ential. But it does call for us to take some affirm-  
2            ative steps. It calls for counsel for Ashland and  
3            counsel for now Consol to get together and dismiss the  
4            advisarial proceedings in Buchanan County and take the  
5            steps necessary before the Board to wipe the slate  
6            clean because we had gotten into a stalemate situation  
7            fighting over who owned the coalbed methane. For  
8            whatever reason Consol's interest -- I have been in  
9            contact with Mr. Swartz and with Consol and hope to do  
10           it sooner than later. I know Consol is very busy on  
11           other things. We have not been able to get together to  
12           come to the Board jointly and come to Buchanan Circuit  
13           Court and take care of the paperwork which needs to be  
14           taken care of because I think the Buchanan Circuit  
15           Court's docket and some of your past docket is clogged  
16           with issues that really -- and matters that really  
17           ought to be dismissed under this settlement. I have  
18           mentioned it from time to time with the counsel to the  
19           Board of VGOB that we wanted to do this but for some  
20           reason counsel for Consol has not be able to get  
21           together with me to take those steps. But that is what  
22           we intend to do, wipe the slate clean as to the old  
23           contested matters. We would like to continue our  
24           drilling operations that are here and to hopefully  
25           drill some more. Let me address the change in name

1 because about a year ago there was a lot of newspaper  
2 reports about pressure from institutional investors on  
3 Ashland to improve profitability, to spin off or get  
4 rid of certain pieces of their overall operations. One  
5 of the items that was announced was that Ashland  
6 Exploration, it's oil and gas wing, would change it's  
7 name to Blazer Energy Corp and would position itself to  
8 go public. I'm not telling you anything that hasn't  
9 been reported in the newspapers. So there was a great  
10 deal of uncertainty at Ashland as to what form this  
11 company would take. You also saw in the paper the  
12 Refining Division sold two-thirds of it's interest to  
13 Marathon and you saw the merger of Arch Coal and  
14 Ashland Coal -- I guess Arch Mineral and Ashland Coal  
15 into what is now Arch Coal. So there's been a lot  
16 going on. Frankly, the people at Ashland Exploration  
17 even though their name was changed to Blazer in the  
18 spring did not have a good idea of what their future  
19 would be until this summer. This summer it was  
20 announced that the Eastern Group which is a group  
21 majority owned by Stadd Oil -- a Norwegian oil company  
22 purchased the stock of Ashland Exploration, Inc., now  
23 known as Blazer Energy Corp. So what has happened is  
24 the same entity that came before this Board years ago  
25 is still the responsible operator. It does have a new

1 name. It is Blazer Energy Corp. It does have a new  
2 shareholder. Formerly the shareholder was Ashland, Inc  
3 and now it is the Eastern Group. I believe that  
4 Ashland, now Blazer, confused the Board a bit by  
5 getting certain well permits changed into Blazer's  
6 name by getting a number of bond substitutions which in  
7 hindsight don't appear to have been needed. I think  
8 that they thought because the name had changed that  
9 they should substitute bonds. But actually the company  
10 has always been the same company. And after talking  
11 with Sandra and the Chairman I believe in hindsight we  
12 should have just left the same bonds in place and just  
13 noted that there was a name change because the operator  
14 is still Ashland Exploration, Inc., now called Blazer  
15 and it has a new shareholder. I would like to do  
16 whatever I can do to keep Ashland Exploration, now  
17 Blazer, in the good graces of the VGOB. I apologize  
18 for confusing you. I have to admit it's been confusing  
19 times at Ashland and the majority of the people that I  
20 worked with this summer are no longer there in the  
21 company. A lot of the people looking over the Virginia  
22 operations are people who have been with the Eastern  
23 Group. The operations people are in Charleston, West  
24 Virginia. The management is in Alexandria, Virginia.  
25 But I do not know that there has actually been a

1 management change. I can't report that to you. I'd be  
2 happy to do it if I could confirm it. Because many of  
3 the old Ashland Exploration management came over to the  
4 Eastern Group at the purchase. I'd like to do whatever  
5 I can do. I have given you a notice of the name  
6 change. I think that that should have been done months  
7 ago just to let you all know that there isn't a new  
8 entity out there. It's not the Eastern Group even  
9 though it may appear so in press releases. When you  
10 take a look at the transactions it's still the old  
11 Ashland Exploration, now called Blazer now owned by  
12 Eastern. To the extent I can clear the matters up,  
13 having new contacts substituted for the old contacts,  
14 I'm happy to do it promptly. I do know that there are  
15 a number of items that need to be taken care of. One  
16 of them was a force pooling in which we force pooled  
17 Mountain Mission School. We later voluntarily received  
18 a lease from Mountain Mission and want to dismiss the  
19 old force pooling and get into a voluntary situation.  
20 I talked with counsel for the Board six or eight months  
21 ago about that. I know the procedure, but in the  
22 turmoil of the sale I lost contact with the operations  
23 people at Blazer who were handling that. That is one  
24 that does need to be dismissed. I'll be happy to  
25 submit the paperwork and get that dismissed and

1 converted to a voluntary unit because we do have -- and  
2 also get any moneys of Mountain Mission that are in  
3 escrow out of escrow and start having royalty payments  
4 paid directly to the school.

5 MS. RIGGS: Is that a conventional?

6 MR. MCQUIRE: It is a conventional. And I believe it's GPA-  
7 3. I received some letters which were afforded me from  
8 the company and caused me some alarm and I think they  
9 were intended to because they were sent by Tom Fulmer  
10 to basically say, tell us what you're doing or get  
11 right with the Board or we're going to dismiss some  
12 items that you have before the Board. I would ask that  
13 you bear with us. I would hope that within the next 30  
14 days we can get all the paperwork taken care of to 1,  
15 dismiss GPA-3. If there are any that are non-opera-  
16 tional I'm happy to get those dismissed as quickly as  
17 possible. I'd like to get together with Mr. Swartz,  
18 come back before you and dismiss all of the old  
19 matters. As you may know, these force pooling orders  
20 expire after a year but there was a stay issued by the  
21 Buchanan Circuit Court as to all of ours. It was  
22 requested by the old OXY/Island Creek. Mr. Swartz and  
23 I simply need to get together and get the matters wiped  
24 clean in Buchanan and also wiped clean before this  
25 Board. I've talked a good deal. I'm happy to answer

1 questions to the extent I can. But I will pledge on  
2 behalf of Blazer and it's new parent, Eastern, to get  
3 you what you need and to clean up your paperwork. I  
4 apologize. The last four months have been confusing  
5 and I believe my client added to the confusion by  
6 substituting bonds needlessly, thinking it was doing  
7 the right thing it confused the issue.

8 MS. RIGGS: On a subsequent docket that we have today there  
9 are some dismissals of pooling orders where there's a  
10 failure to drill wells within the 365 days. Ashland  
11 has two items on that docket. I think I sent you  
12 copies of the proposed dismissal orders.

13 MR. MCQUIRE: You did.

14 MS. RIGGS: Those are the two you're referring to?

15 MR. MCQUIRE: Actually I have yet to contact the new  
16 operational people. I don't know of any reason why  
17 they shouldn't be dismissed, but if on the next docket  
18 item you could let me have 30 days I could find out  
19 about those two. I'm afraid I'm just not prepared to  
20 address it and I apologize.

21 MS. RIGGS: So you'll address it when that docket's called?

22 MR. MCQUIRE: Well, I can address it now by saying that I'm  
23 not sure at all. If your records indicate they aren't  
24 drilled I don't know of any reason --

25 MR. CHAIRMAN: You're asking for 30 days.

1 MR. MCQUIRE: 30 days. Let us show some cause, if we can,  
2 on those two matters as to why they shouldn't be  
3 dismissed. If my clients can't do that -- and they may  
4 well not be able to -- then they ought to be dismissed.

5 MR. CHAIRMAN: The registration form, has that been filed  
6 or is that a part of this 30 days you need also?

7 MR. MCQUIRE: I need the 30 days to file it. I believe the  
8 new contact will be --

9 MR. FULMER: We have that.

10 MR. MCQUIRE: Oh, you do?

11 MR. FULMER: Yes, we do. We have Blazer Energy. We had a  
12 bond from Eastern Group.

13 MR. CHAIRMAN: Incorporated. I noticed in the correspond-  
14 ence -- that's why I asked that -- that you're referring  
15 ing to the Eastern Group and the Eastern Group Incorporated.  
16 Is that two different groups or is that just  
17 --

18 MR. MCQUIRE: It is one. I don't mean to confuse you.

19 MR. CHAIRMAN: That's okay.

20 MR. MCQUIRE: And I'm not sure why Eastern -- I have not  
21 seen a copy of the bond. It's unusual that they would  
22 put up a bond because Blazer's bond should have stayed  
23 good. It would be similar to having Ashland Oil, a  
24 parent, put up a bond for Ashland Inc. I'm not quite  
25 sure why Eastern did that, but I know it's intentions

1           were good. It thought it was suppose to. But I don't  
2           think it was necessary.

3 MR. CHAIRMAN: Is it your intent to be back before the Board  
4           next month? Is that part of what you're asking?

5 MR. MCQUIRE: It is.

6 MR. CHAIRMAN: So we can just continue this matter for that  
7           reason?

8 MR. MCQUIRE: If you would please do so.

9 MR. CHAIRMAN: Any objection to that, members of the Board?  
10          To continuing this matter till he can clear up these  
11          various areas? The matter will be continued. Thank  
12          you.

13 MR. MCQUIRE: Thank you.

14 MR. BRENT: Is Eastern Group the sole shareholder of Blazer?

15 MR. MCQUIRE: It is. Much like Ashland Oil was the sole  
16          shareholder.

17 MR. BRENT: Is Stadd Oil the sole shareholder of Eastern  
18          Group?

19 MR. MCQUIRE: On the public documents that I have reviewed  
20          it appears to be 80 percent owned by Stadd Oil. I  
21          don't know the other 20 percent. Those were documents  
22          I saw in the SCC when I observed the mergers.

23 MR. CHAIRMAN: Any other questions, members of the Board? I  
24          didn't mean to cut you off on questions. All right.  
25          The matter is continued.

ITEM III

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MR. CHAIRMAN: The next item on the agenda is the Board will consider approval of orders to terminate previously issued Gas and Oil Board orders for failure to comply with the requirements stated therein. Ms. Riggs has passed out a document to the Board members.

MS. RIGGS: But not the spread sheet.

MR. CHAIRMAN: You have copies of the orders which have already been handed out and Tom's passing out the spread sheet that you've seen before but it's been updated.

(PAUSE.)

MR. FULMER: Mr. Chairman, the only thing I want to mention here on the spread sheet, those that are highlighted are subject to this particular docket item.

MR. CHAIRMAN: Okay. What we're going to do, for those of you that have representation here today, is call these by docket number and talk about the company. The first one is Amvest Oil and Gas Incorporated, docket number 90/09/05-002 and 003 and 005. Does anyone wish to address the Board regarding those three wells?

MS. McCLANNAHAN: Mr. Chairman, I'm Elizabeth McClannahan. I just have one question. Were the companies notified of the --

1 MR. CHAIRMAN: Yes.

2 MS. RIGGS: The orders were drafted, copies of the orders  
3 were mailed out to the companies with a cover letter  
4 telling them it would be on the docket.

5 MR. CHAIRMAN: This particular letter went out September  
6 26th to Amvest. Hearing none, I will call the next  
7 one. The memo went to Mark Swartz, counsel for OXY,  
8 USA Incorporated. This is docket number 90/09/05-006,  
9 well 830, 90/09/05-007, well V-25, and docket number  
10 90/09/05-008, well V-24. And then for Consol Inc,  
11 docket 90/09/06-0015, well CBM-E25, docket 91/05/21-  
12 0122, CBM V-32, docket number 91/09/24-0144, CBM T-7,  
13 docket number 91/10/15-0155, CBM W-12, docket number  
14 91/12/17/-0173, well CBM U-29, docket number 91/12/17-  
15 0174, well CBM U-30. Does anyone here wish to address  
16 the Board in this matter? Hearing no objections the  
17 orders will go forward. The next one went to John M.  
18 Goldsmith for the application of Valley Basin Gas  
19 Associates for the force pooling of interests in a  
20 drilling unit effected by Hedlesky #1 well in the Gloyd  
21 Magistrate District of Pulaski County, Virginia heard  
22 by the Virginia Gas and Oil Board on September 5th,  
23 1990. Anyone wishing to address the Board on this  
24 well? Hearing none, we'll file orders on that. The  
25 next one was a memo to Mr. James Kaiser, counsel for

1 Equitable Resources Energy Company, docket number  
2 90/10/10-0041, well P-512, docket number 93/02/16-0332,  
3 well V-2735, docket number 93/03/16-0344 and 93/05/18-  
4 0371, well P-289-C, docket number 94/05/17-0447, well  
5 VC-3174, docket number 94/09/20-0474 and 95/02/21-0494,  
6 well VC-3225, docket number 94/10/24-0477, well V-3193  
7 and docket number 94/10/24-0479, well VC-3230. I ask  
8 the parties that wish to address the Board in these  
9 matters to come forward. Hearing none, the orders will  
10 go on those. The others that we have are the ones we  
11 just continued but I will go ahead and say to Grant  
12 McQuire, counsel for Blazer Energy Corporation, docket  
13 number 93/09/21-0405, well XXX-34, and 93/09/21-0407,  
14 well GPA-3. Those are continued to next month. Any  
15 questions or any further information, Board?

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ITEM IV

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MR. CHAIRMAN: The next item on the agenda today is the Gas and Oil Board will consider a petition for appeal from Jessie Christian from the decision of the Director of the Division of Gas and Oil entered the 21st day of August, 1997. This is docket number VGOB-97/10/21-0609. We'd ask the parties that wish to address the Board in this matter to come forward at this time. I would also inform the Board that I received a telefax from Mr. Fulmer on the 16th of October, transmitting a letter from Mr. Christian requesting a continuance of today's hearing. I spoke with him on the phone yesterday and told him that I could not grant the continuance because it wasn't timely requested. So we'll let the parties introduce themselves to the Board and proceed. Mr. Christian, if you would go ahead and state your full name.

MR. CHRISTIAN: I'm Jessie Christian, 828 Hillman Highway, Abingdon, Virginia.

MS. McCLANNAHAN: Elizabeth McClannahan with Penn, Stuart & Eskridge in Abingdon, Virginia. I represent Cabot Oil & Gas Corporation.

MR. CHAIRMAN: Mr. Christian, go ahead.

MR. CHRISTIAN: I guess I must have misread this letter

1           because I thought the deadline for filing an appeal was  
2           5:00 P.M. on October 17th, 1997 according to the last  
3           paragraph on the letter.

4 MR. CHAIRMAN: That is intended for filing for next month's  
5           Board agenda.

6 MR. CHRISTIAN: So that's where my mistake was because I  
7           understood -- I didn't see anywhere else in the letter  
8           that gave a time for appeal. How much time I had for  
9           appeal. It may be there but I don't remember seeing  
10          it.

11 MR. CHAIRMAN: You have a timely appeal before the Board. I  
12          want to clarify that for you. It's not that your  
13          appeal is not timely. It's that your request for a  
14          continuance wasn't timely. Okay?

15 MR. CHRISTIAN: All right.

16 MR. CHAIRMAN: So your appeal is properly before the Board.

17 MR. CHRISTIAN: What it was -- due to the vegetation on this  
18          property and the only way I can prove that there is  
19          discrepancies in the testimony from the last hearing is  
20          to video tape this property and video tape the distance  
21          from these springs that the well head is and that the  
22          springs in the area -- which they say there's no  
23          springs in the area, but I know where they're at. I  
24          lived there. And the other thing is they say this is a  
25          wet weather stream. Well, we had cows and horses

1 there for all my young years and that's all they had to  
2 drink out of. Another point was that they did a water  
3 test on Indian Creek which people off of Indian Creek  
4 in the 50s came to our property to get water. So, you  
5 know, why not do it on the property that you're wanting  
6 to drill the well on? I'm making a statement and I  
7 would like to ask Mr. Kyme a couple of questions, if I  
8 could.

9 MS. McCLANNAHAN: Mr. Chairman, I do have one technical  
10 argument that I would like to make before we get into  
11 the substance of issues of this matter.

12 MR. CHAIRMAN: Okay. Go ahead.

13 MS. McCLANNAHAN: The argument is that the petition for  
14 appeal that's been filed by Mr. Christian in this  
15 matter does not include the requisite elements that are  
16 set forth in 4VAC25-160-130. That regulation requires  
17 the petition to include the decision and the date of  
18 the decision that's being appealed from. In this case  
19 he did indicate that it was a decision by the Gas and  
20 Oil Inspector, Mr. Fulmer. He did not indicate the  
21 date of the decision. The basis for his standing to  
22 file the appeal, the reasons for appeal, a statement  
23 that the issues are being raised were also raised in  
24 the Informal Hearing as required by Virginia Code  
25 Section 45.1-361.36.B and the specific relief that he

1 requests. If you'll look at the objection that was  
2 filed by Mr. Christian for purposes of this appeal,  
3 the only two elements of those regulation requirements  
4 that were satisfied were that he indicated the address  
5 and name of the petitioner and also the fact that it  
6 was a decision by the Department of Mines, Minerals and  
7 Energy through Mr. Fulmer as Oil and Gas Inspector.  
8 Every other requirement listed in this regulation was  
9 not complied with. Therefore, I would submit to the  
10 Board that it is an insufficient for appeal.

11 MR. CHAIRMAN: Is there any discussion on that, members of  
12 the Board? I guess we've got several options. We can  
13 note the objection and hear what he has to say or we  
14 can rule on the technical merit that's been presented  
15 to us.

16 MR. LEWIS: I'd like to hear what he has to say.

17 MR. GARBIS: I would like to hear what Mr. Christian has to  
18 say.

19 MR. CHAIRMAN: We'll note your objection, Ms. McClannahan,  
20 and go ahead and hear what he has to say.

21 MR. CHRISTIAN: Well, I'd like to ask Mr. Kyme a few  
22 questions. Mr. Kyme, did you have a conversation with  
23 Mr. Fulmer, Director of Mines, Minerals and Energy of  
24 Abingdon around the first week of October, 1997?

25 MR. CHAIRMAN: We have to get the witnesses sworn in if

1 we're going to have testimony

2 MR. CHRISTIAN: Well, I'm just asking a question.

3 MR. CHAIRMAN: Who ever is going to testify right now.

4 COURT REPORTER: (Swears witnesses.)

5 MR. CHAIRMAN: You may proceed.

6 MR. CHRISTIAN: Do you recall that conversation?

7 MR. KYME: I'm not sure, Jessie.

8 MR. CHRISTIAN: Do you recall mentioning to Mr. Fulmer that

9 you would like this hearing -- today I'm talking about

10 -- to be changed to a different date because it was

11 inconvenient for you for today?

12 MR. KYME: I believe that I did ask Mr. Fulmer if we could

13 have this hearing at another date. I do recall that,

14 yes.

15 MR. CHRISTIAN: So if you wanted to continue it to another

16 date when I called you on the 16th you said you would

17 absolutely see that I couldn't get a continuance on

18 this hearing, is that correct?

19 MR. KYME: I don't think I said such a thing. I said it

20 wouldn't be agreeable to me because we had already

21 committed to this date.

22 MR. CHRISTIAN: Did you tell me that you wanted to see me

23 spend some of money, assuming that I was going to lose

24 today?

25 MS. McCLANNAHAN: Mr. Chairman, I object to this entire line

1 of questioning. It's really not relevant.

2 MR. CHAIRMAN: Sustained. Mr. Christian, it's up to the  
3 Board to decide the relevance of those kinds of things.

4 MR. CHRISTIAN: I understand your point. But what I'm  
5 saying, though, is if it's convenient for him to have  
6 it -- Mr. Fulmer told them it was up to me. But when  
7 it's convenient for me not to have it right now they  
8 object. I need time to show that they misstated some  
9 facts. As a matter of fact, I have a paper here where  
10 they're saying it's un-managed forest land. That was  
11 taken in 1993 and showed me sitting on timber that was  
12 harvested. Now, that's not un-managed forest land.  
13 And I have also pictures here showing vegetation is why  
14 I wanted the delay until this vegetation dies down so I  
15 can get a video of the land and show the true thing on  
16 this land.

17 MR. CHAIRMAN: Are you the surface owners?

18 MR. CHRISTIAN: Yes. I'm the surface owner.

19 MR. CHAIRMAN: Do you own property where this well will be  
20 located?

21 MR. CHRISTIAN: Yes.

22 MR. CHAIRMAN: Do you own any coal rights or other mineral  
23 rights?

24 MR. CHRISTIAN: No. Consolidated owns the coal rights and  
25 they supposedly have a lease but they don't. It's in

1 litigation right now. I have a paper which they  
2 basically agree that they don't have a lease from my  
3 attorney. It's here in my folder.

4 MR. CHAIRMAN: So you're raising your objections as surface  
5 owner objections according to the law, is that correct?

6 MR. CHRISTIAN: That's right. And I would need time really  
7 to really document the surface of that land via video.

8 MS. McCLANNAHAN: Mr. Chairman, I would submit that the  
9 Board has already ruled on whether it would grant the  
10 continuance and, in fact, has denied a continuance.  
11 The only issues before this Board, assuming that  
12 petition for appeal is properly filed, would be those  
13 that were filed in writing or made at the time of the  
14 Informal Hearing. And the objections that were made in  
15 writing were soil erosion and -- actually water supply  
16 and erosion were the only objections that were made in  
17 writing at the Informal Hearing level. None of the  
18 evidence that we've heard here today indicates anything  
19 about those issues. And under the Administrative  
20 Process Act those are the only issues that are before  
21 the Board on petition for appeal.

22 MR. CHAIRMAN: That's correct. I certainly can confirm  
23 that.

24 MR. CHRISTIAN: Mr. Chairman, that is the issue. That's why  
25 I want a video tape to show the location of those

1 springs and those streams in relation to the well and  
2 that their footage is incorrect. I will have it on  
3 video and show that it is incorrect footage that they  
4 have on those wells in relationship to the stream.

5 MS. McCLANNAHAN: Mr. Chairman, I would submit that a video  
6 tape of the property would not give the Board any new  
7 evidence about the location of a spring because before  
8 the Board -- at the Gas and Oil Inspector level, which  
9 is a part of the record for this Board's appeal,  
10 includes a survey which indicates -- and a soil erosion  
11 and sediment control plan, all of which indicate  
12 specifically by survey where these landmarks are that  
13 are relevant to the issue and, therefore, a video tape  
14 of the property would not add any additional inform-  
15 ation for the Board to consider.

16 MR. BRENT: Do I recall when I read this that there had been  
17 two surveys done? Is that right?

18 MS. McCLANNAHAN: There have been two plats submitted. One  
19 plat was submitted -- let me get those dates for you.  
20 (Pause) The first plat that was submitted with the  
21 permit application was dated 12/31/96 and was certified  
22 January 24th, 1997. And then the revised plat was  
23 submitted to the Gas and Oil Inspector on July 7th,  
24 1997. The difference between those plats is a surface  
25 tract that belongs to the Hogston heirs and -- you'll

1 see that the Hogston heirs are included as surface  
2 owners on the revised July 7th, 1997 plat. Those heirs  
3 were also notified by certified mail, return receipt  
4 requested, and Mr. Hogston -- Mr. Hogston, D.C. who is  
5 the caretaker of the property signed a waiver for Cabot  
6 to drill the location. So the revised plat is not  
7 relevant to Mr. Christian's objection but was a change  
8 on the surface owners for that tract including the  
9 Hogston heirs. And all of them have also been notified  
10 by certified mail, return receipt requested, and we  
11 received no objections.

12 MR. CHRISTIAN: On that same item I'd like to make a  
13 statement, if I could. They didn't know -- and that's  
14 why I say those surveys -- until I reminded them that  
15 Mr. Hogston's land joined that. That's why they made  
16 this other one. I mean, to begin with they didn't  
17 include Mr. Hogston. If you look at the two, until I  
18 reminded them at the hearing -- or before the hearing I  
19 guess it was that Mr. Hogston's land joined that  
20 property there. So that's why they made a new survey  
21 and did another plat. So if they didn't check it  
22 originally close enough -- I'm saying if I informed  
23 them so they could include them why should I trust  
24 either plat.

25 MS. McCLANNAHAN: Mr. Chairman, I would submit that again a

1 surface owner's objections are limited to those  
2 specified in the statute. This is not a proper and  
3 valid objection. In addition to that, the fact that  
4 Mr. Hogston was not on the plat is also not an object-  
5 ion that's relevant to Mr. Christian's objection.  
6 And, in fact, Mr. Hogston has signed a waiver as well  
7 as all the Hogston heirs have actually received notice  
8 and have not objected.

9 MR. CHAIRMAN: Mr. Christian, you received Mr. Fulmer's  
10 decision, is that correct?

11 MR. CHRISTIAN: Yes, sir, I did.

12 MR. CHAIRMAN: Can you tell us here today -- I'm trying to  
13 just help you through what you need to address before  
14 this Board -- why you believe that decision to be  
15 incorrect?

16 MR. CHRISTIAN: Well, probably because my information that I  
17 wasn't prepared quite -- he only could go by maps and  
18 plats. I understand that. But what I was objecting to  
19 was because of the distances that were in those plats  
20 and maps is wrong and I wanted to prove them wrong.  
21 That basically -- other than that I haven't much else  
22 that I can say other than what information was brought  
23 forward.

24 MR. LEWIS: Have you measured or had anyone else to --

25 MR. CHRISTIAN: Well, see, I lived there for the first 20

1 years of my life and I know where the well spot is and  
2 I know where the stream is. And I'm sure it hasn't  
3 changed in the last 50 years. From where the well site  
4 is to where the stream is -- I mean, I grew up there.  
5 I lived there all my life -- not all my life now but up  
6 until I went into the service I lived there. Unless  
7 they changed the well site on me -- if it's where it's  
8 suppose to be it's probably 30 feet maybe at the most  
9 from the stream.

10 MR. CHAIRMAN: Mr. Christian, let me focus you back on our  
11 law and help us in what we're dealing with here. The  
12 only objections that you can raise either before Mr.  
13 Fulmer and before this Board as a surface owner is  
14 under 45.1-361.35 and it says, "The only objections to  
15 permits or permit modifications which may be raised by  
16 a surface owner are 1, the operation plan for soil  
17 erosion and sediment control is not adequate or not  
18 effective, 2, Measures in addition to the requirement  
19 for a well's water protection stream are necessary to  
20 protect fresh water bearing strata, and 3, The per-  
21 mitted work will constitute a hazard to the safety of  
22 any person." Now, those are the three areas of  
23 objection.

24 MR. CHRISTIAN: The water is my main objection. There's  
25 storage tanks for the fluids and they will be located

1 according to their plat within 40 or 50 feet of the  
2 stream. I mean, if there's a spill you contaminate not  
3 only that stream but you've contaminated Panther  
4 Branch, Indian Creek because they all run together. My  
5 stream runs into Panther Branch. Panther Branch runs  
6 into Indian Creek. (Pause.) And also if I had time I  
7 could get the environmentalist who reside there in  
8 Tazewell County to go check it themselves. Mr. Jimmy  
9 Steel.

10 MR. GARBIS: Mr. Christian, what would you want Cabot Oil to  
11 do? In other words, I understand that you want a  
12 continuance so that you can have more time. But if you  
13 could work things out what would you like for them to  
14 do? Do I hear you saying that you would like them to  
15 relocate the well?

16 MR. CHRISTIAN: He did offer to do that and that would -- at  
17 the time I was misplaced on where he was talking about.  
18 There are two garden spots. Well, they took the most  
19 level garden spot where they decided on and at the time  
20 I didn't understand that was the one they was taking  
21 which was 30 or 40 from the stream. But they took the  
22 most level garden spot which is, like I say, 40 feet at  
23 the most but closer to 30. The other part -- the  
24 financial part I guess will end up in Circuit Court.  
25 That part I want, too. But if they can move the well

1 further away from the water supply -- but it's hard to  
2 do it because there's water all over that property. We  
3 had water when no one else in Jewel Ridge, Whitaker  
4 Ridge, any of those places had water. That place has  
5 always furnished water for that whole area. People  
6 come off there in the 50s and got water from our  
7 property. So I just don't want to see a water supply  
8 destroyed.

9 MR. LEWIS: Is this well located on your surface?

10 MR. CHRISTIAN: Pardon?

11 MR. LEWIS: Is it located on your surface?

12 MR. CHRISTIAN: Yes, sir, it is.

13 MR. LEWIS: Did they tell you any damages or offer to pay  
14 you any damages?

15 MR. CHRISTIAN: They offered me \$2,000 which is they want to  
16 be there for 30 years. They're going to occupy about  
17 -- they say they can get off of my land in two -- this  
18 is becoming the point. They say they can be off of my  
19 land in 200 feet from the well. There's no direction  
20 you can be off from that well within 200 feet.

21 MS. McCLANNAHAN: Mr. Chairman, I would object to any of  
22 testimony being relevant to the issues before the Board  
23 here today. The record from below will indicate to all  
24 of the Board members that Cabot did offer to change the  
25 location of the well and Mr. Christian actually

1 indicated that that wouldn't satisfy his desire. In  
2 addition to that, again the objections are limited for  
3 a surface owner to the three that you've just outlined.  
4 And none of those issues have been raised by him here  
5 today.

6 MR. CHRISTIAN: Well, I can answer that. I was asked the  
7 question and I'm sure I have to answer the questions of  
8 the Board -- when I'm asked questions directly by a  
9 Board member.

10 MR. CHAIRMAN: Do you have anything else, Mr. Christian?

11 MR. CHRISTIAN: No, sir.

12 MR. CHAIRMAN: Do you have anything, Ms. McClannahan?

13 MS. McCLANNAHAN: Yes, sir. Mr. Christian, you are not an  
14 engineer, is that correct?

15 MR. CHRISTIAN: That's correct.

16 MS. McCLANNAHAN: Do you have a college degree

17 MR. CHRISTIAN: No, I do not.

18 MS. McCLANNAHAN: Are you a geologist?

19 MR. CHRISTIAN: No. And is anyone at this table one?

20 MS. McCLANNAHAN: Do you have a professional license in the  
21 area of engineering, geology or environmental matters?

22 MR. CHRISTIAN: I do not.

23 MS. McCLANNAHAN: Do you have any evidence that the opera-  
24 tions plan for sediment control and soil erosion that's  
25 submitted by Cabot is inadequate?

1 MR. CHRISTIAN: I say it's inaccurate. Not inadequate maybe  
2 but inaccurate. I mean, that's what I'm saying.

3 MS. McCLANNAHAN: Have you submitted any evidence that there  
4 will be any effect on the hazard to the safety of any  
5 person?

6 MR. CHRISTIAN: No, I have not. But I'll tell you what,  
7 there is campers that camp on my land and you should  
8 have seen the camp site and there's also a target area  
9 where guns are fired close to that well site. I mean,  
10 I can't say that there won't be harm to someone. I've  
11 camped there myself.

12 MS. McCLANNAHAN: Have Mr. Kyme and Mr. Pryor attempted to  
13 settle this matter with you previously?

14 MR. CHRISTIAN: Yes, they did. Do you want the convers-  
15 ation? Mr. Kyme told part of the conversation today.  
16 He said that I said I just wanted to be treated fairly.  
17 Then he proceeded to say that they would give me  
18 \$1,000. Well, I refused. He said, "What do you think  
19 is being treated fairly?" I said, "Give me \$5,000 now  
20 and \$5,000 every five years." He said, "We just  
21 absolutely won't do that."

22 MS. McCLANNAHAN: Did the Cabot representatives who did talk  
23 to you offer to move the well and your response was that  
24 that would not be necessary?

25 MR. CHRISTIAN: Yes. At the time I had the wrong garden

1 spot. There's two garden spots there close together  
2 and I had the wrong one. I thought it was the one that  
3 sat upon the hill. They took the most level spot on  
4 the whole property.

5 MS. McCLANNAHAN: Mr. Chairman, I would request that the  
6 Board strike the evidence that has been submitted  
7 before this Board today by Mr. Christian on the appeal  
8 on the basis that Mr. Christian's objections are  
9 outside the scope of the permissible objections that  
10 are provided for in Section 45.1-361.35. He is limited  
11 to those that were made in writing and submitted at the  
12 Gas and Oil Inspector level and the Informal Hearing.  
13 He is not qualified to testify as to the adequacy of  
14 the operations plan for soil erosion and sediment  
15 control or the adequacy of measures to protect the  
16 natural water sources. He's failed to produce any  
17 evidence that the operations plan for soil erosion and  
18 sediment control is not adequate or not effective or  
19 that measures in addition to the requirement for a  
20 well's water protection stream are necessary. And on  
21 the other hand Cabot's evidence conclusively estab-  
22 lishes that the operations plan for soil erosion and  
23 sediment control is adequate and that the measures to  
24 protect the fresh water bearing strata are adequate.

25 MR. CHAIRMAN: I'm going to deny the objection and it will

1           to the weight of whatever the Board's decision is.  
2           The Board having heard the evidence before us here  
3           today. Do you have any further questions, members of  
4           the Board, of either parties?

5   MS. McCLANNAHAN: Mr. Chairman, if you have denied that  
6           motion we have evidence that we would like to submit.

7   MR. CHAIRMAN: Okay.

8   MR. LEWIS: I'd like to say something. Nobody on this Board  
9           here is qualified for sediment control unless it would  
10          be Tom. Not none of us. I think common sense -- when  
11          you go out there and you look at the stream and you're  
12          going to drill a well, common sense will tell you  
13          whether it's going to pollute that stream or not, if  
14          you're really familiar with that location. And  
15          whenever you go out there to drill a well and you pick  
16          a man's garden spot -- maybe the best garden he's got  
17          -- I think these companies ought to pay them a fair  
18          price for that. That's -- I can't sit here and not say  
19          nothing. This may not be none of the issues, but in my  
20          mind's it's an issue.

21   MS. McCLANNAHAN: Mr. Lewis, I will just say on behalf of my  
22          clients that they have attempted to negotiate, and you  
23          will hear that from the testimony today, and have also  
24          offered to pay him to settle this matter. I think  
25          you'll hear that from the testimony today.

1 MR. CHAIRMAN: We'll hear the testimony.

2 MR. LEWIS: Whenever you go to build a location -- I've  
3 built hundreds of them -- it costs you a lot of money  
4 to build a location now. About any time I built a  
5 location I never got by with less than \$17,000 up to  
6 \$150,000. I spent \$150,000 on locations to build. The  
7 company did that I worked for. I think something like  
8 this ought to be took into consideration whenever you  
9 going to try to take a man's garden spot or his yard or  
10 something whenever you go to drill a well.

11 MS. McCLANNAHAN: Mr. Lewis, perhaps it also important to  
12 recognize -- I think maybe if I could ask Mr. Christian  
13 one more question, if the Board would allow me to that,  
14 no one lives on this property. So if this -- it's not  
15 next to someone's house and it's not at a house.

16 MR. CHRISTIAN: But I believe it's in the record that I  
17 stated I was building a house on that property, didn't  
18 I? That I was going to build a house on that property.

19 MS. McCLANNAHAN: Again, I would submit that's not relevant.  
20 But I just wanted Mr. Lewis to understand that those  
21 were the facts in this particular case. I think you'll  
22 understand the settlement --

23 MR. CHRISTIAN: If my water supply is gone I won't have no  
24 reason to build a house, will I?

25 MR. CHAIRMAN: We'll hear from your witnesses.



1 as.

2 Q. Could you give us some information about your work  
3 background, please?

4 A. I've been an independent professional landman for the  
5 past 24 years.

6 Q. Have you been qualified as an expert witness in  
7 Virginia prior to today?

8 A. Yes, I have.

9 Q. Before the Gas and Oil Board?

10 A. Yes, I have.

11 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Pryor as  
12 an expert witness in land matters.

13 MR. CHAIRMAN: Accepted.

14 MR. CHRISTIAN: Can I ask one question? All of this is in  
15 the transcript from the previous hearing in Abingdon.  
16 The very same testimony is in the transcript and I'm  
17 everyone has it. She's just going over testimony  
18 that's in the transcript from Mr. Fulmer.

19 MR. CHAIRMAN: I'll just say this, Mr. Christian. As we  
20 gave you a right to put on evidence that you wanted to  
21 relevant to this they have an opportunity now to put on  
22 their evidence.

23 MR. CHRISTIAN: Yes, sir.

24 Q. (Ms. McClannahan continues.) Mr. Pryor, did you  
25 contact Mr. Christian regarding his objection to the

1 well?

2 A. Yes, I did.

3 Q. And what was the nature of Mr. Christian's objections  
4 when you met with him?

5 A. When Mr. Kyme and I met with him his really only  
6 objection was he wanted -- he was interested in a  
7 monetary settlement.

8 Q. Did you offer to move the location of the well to suit  
9 Mr. Christian?

10 A. Yes, we did.

11 Q. And --

12 A. He said it would not be necessary.

13 Q. And did you have any success in negotiating an agree-  
14 ment with Mr. Christian?

15 A. No, we did not.

16 MS. McCLANNAHAN: Those are all the questions I have for  
17 Mr. Pryor.

18 MR. CHAIRMAN: Questions, members of the Board? Do you have  
19 any questions, Mr. Christian, of this witness?

20 MR. CHRISTIAN: Well, I just want to ask him the same thing  
21 that I was trying to ask Mr. Kyme. Was the rest of our  
22 conversation in that meeting on the 16th of July --  
23 wasn't it that I did state that what I believed was  
24 fair was \$5,000 right now and \$5,000 every five years  
25 as long as the well was on the property? They're

1 bringing this back up, not me.

2 MR. PRYOR: I can't recall the exact figure. The only

3 objection was like he's saying. It was a monetary

4 objection to drilling the well.

5 MR. KING: I have a question.

6 MR. CHAIRMAN: Mr. King.

7 MR. KING: What you're saying is that -- I think I heard a

8 \$5,000 figure mentioned -- if you offered him \$5,000

9 there would be no problem?

10 MR. PRYOR: That's what it appeared to be, yes, sir.

11 (Witness stands aside.)

12 MS. McCLANNAHAN: May I call Mr. Kyme?

13 MR. CHAIRMAN: Sure.

14

15 JEFFREY KYME

16 a witness who, after having been duly sworn, was examined

17 and testified as follows:

18

19 DIRECT EXAMINATION

20

21 BY MS. McCLANNAHAN:

22 Q. Mr. Kyme, would you please state your full name and

23 address for the record?

24 A. Jeffrey L. Kyme, 5909 Steele Road, Marysville, Pennsyl-

25 vania, 15668.

1 Q. What is your profession?

2 A. I'm a landman.

3 Q. And what are your duties as landman --

4 A. Actually I'm Cabot's regional land manager for the

5 Appalachian District. So at the time that I was

6 negotiating with Mr. Christian I was a senior landman

7 for Cabot's Pineville District and I would have been

8 responsible for acquiring all leases, rights of ways of

9 all sorts, negotiating trade with other companies to

10 acquire their acreage, commissioning title opinions,

11 curing title faults, representing counties before

12 matters of this sort for boards and court cases. Just

13 all matters relevant to drilling and producing a well

14 on the land side.

15 Q. Do you hold any professional licenses?

16 A. Yes. I'm a certified professional landman.

17 Q. And what is your work background?

18 A. I've been a landman for nearly 20 years. I think it's

19 about 18 years exactly. I've served as a field landman

20 and later went into the office of (Inaudible.) for a

21 couple of companies to this point.

22 Q. Have you been qualified as an expert witness before the

23 Gas and Oil Board previously?

24 A. Yes, I have.

25 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Kyme as

1 an expert witness in land matters.

2 MR. CHAIRMAN: Accepted.

3 Q. (Ms. McClannahan continues.) Does Cabot own the oil  
4 and gas on the drill site tract for the COGC-24A well?

5 A. Yes, we do.

6 Q. Is that deed recorded?

7 A. Yes, it is.

8 Q. Is the deed recorded at Deed Book 707, Page 9?

9 A. I believe that's correct. Yes.

10 MS. McCLANNAHAN: Mr. Chairman, I would submit this as  
11 Cabot's Exhibit #A.

12 MR. CHAIRMAN: Does Mr. Christian have a copy of that?

13 MR. CHRISTIAN: Yes, I do.

14 Q. (Ms. McClannahan continues.) Did you organize and  
15 provide information for the notification process for  
16 the permit application for the COGC-24A well?

17 A. Yes, I did.

18 Q. When was the application filed?

19 A. The application was filed on or about May 29, 1997.

20 Q. Did Cabot within one day of filing the permit applic-  
21 ation mail by certified mail copies of the application,  
22 well plat and operations plan to Jessie Christian, a  
23 surface owners, as required under Code Section 45.1-  
24 361.30.A?

25 A. Yes. We actually mailed the notice to Jessie prior to

1 one day after on May 13th, 1997

2 Q. Do you have a copy of the receipt that shows Mr.  
3 Christian received the notice?

4 A. Yes, I do. He received the notice on or about May 27,  
5 1997.

6 Q. Is this a copy of those receipts?

7 A. Yes. There is a copy of Mr. Christian's receipt in  
8 this package.

9 Q. Did you also publish a notice of the permit application  
10 in a newspaper of general circulation in Tazewell  
11 County?

12 A. Yes. We published in the Bluefield Daily Telegraph on  
13 April 17, 1997.

14 Q. Did the notice that was mailed and published state the  
15 time in which objections could be made and the name and  
16 address of the person of whom such objections should be  
17 addressed?

18 A. Yes. Yes, it did.

19 Q. Is the first page of the document that I just gave you  
20 the copy of the proof of publication for the published  
21 notice?

22 A. Yes. This is a certificate of publication from the  
23 Bluefield Daily Telegraph.

24 MS. McCLANNAHAN: Mr. Chairman, I would submit this as  
25 Cabot's Exhibit #2.

1 Q. (Ms. McClannahan continues.) Mr. Kyme, did you receive  
2 Mr. Christian's objection to the COGC-24A well?  
3 A. Yes, I did.  
4 Q. Did you attempt to reach a settlement with Mr. Christ-  
5 ian?  
6 A. Yes, I did.  
7 Q. Could you please explain to the Board members the  
8 contacts that you had with Mr. Christian in attempting  
9 to reach a settlement?  
10 A. We spoke on the telephone a few or several times. I  
11 don't have exact notes on that. But I did arrange  
12 finally to have a face to face meeting with Mr.  
13 Christian in Abingdon. Mr. Pryor accompanied me. And  
14 I have a confirmatory letter. I could give you the  
15 date of that meeting if it's relevant, but we had a  
16 lengthy discussion.  
17 MR. CHRISTIAN: July 16th.  
18 A. (The witness continues.) July 16, 1997 we had a  
19 lengthy discussion, went over various issues, asked Mr.  
20 Christian if we could move the facilities to better  
21 accommodate his wishes and it just became clear  
22 eventually that that wasn't going to -- that really  
23 wasn't the issue. That wasn't the problem. He  
24 indicated that he just wanted to be treated fairly, if  
25 I knew what he meant, and I said, "Oh, you mean you

1           "some compensation for this?" And he said, "Yeah,  
2           that's right." And I offered about \$1,000 consider-  
3           ation in addition to the acknowledgement that we would  
4           owe him for damages -- any actual damage we did to the  
5           property. Well, that was an insufficient offer. Mr.  
6           Christian's told you what he's requested and we simply  
7           were unable to come to terms. We thought that was an  
8           awfully extensive consideration for the right to  
9           develop oil and gas minerals which we had previously  
10          bought. It just seemed very, very clear in all of our  
11          discussion that the actual operations weren't disturb-  
12          ing, it was just that he felt he needed to be compen-  
13          sated in some fashion for us being there. Monetary  
14          compensation.

15       MR. CHRISTIAN: Could I ask Mr. Kyme a question, Mr.  
16                    Chairman?

17       MR. CHAIRMAN: Yes, sir.

18       MR. CHRISTIAN: Did you hear me today say, Mr. Kyme, that I  
19                    had the wrong well location -- I mean, the wrong garden  
20                    spot, that I thought you had the one high upon the hill  
21                    because you said it was 115 from the stream and all  
22                    that. So, therefore, I thought it was the garden spot  
23                    on the hill, not the one at the bottom of the hill?

24       MR. CHAIRMAN: Tell me what you mean by that when you say  
25                    that you had the wrong one?

1 MR. CHRISTIAN: See, there's two garden --

2 MR. CHAIRMAN: You mean the other one's -- it's now accept-  
3 able?

4 MR. CHRISTIAN: If he would have moved -- no. The one that  
5 I thought he had it on would have been acceptable  
6 because it does -- that's way above the stream. But  
7 the one they're putting it on is a level spot -- the  
8 only level spot on the property, as a matter of fact.

9 MR. CHAIRMAN: You're saying if they were to locate it on  
10 that other one you don't have any objection?

11 MR. CHRISTIAN: I have no objection to the well as long as  
12 they compensate me -- like I say, that can be settled  
13 in court as far as compensation goes.

14 Q. (Ms. McClannahan continues.) Mr. Kyme, from the date  
15 you indicated previously you submitted a copy of the  
16 permit application with a plat showing the well  
17 location to Mr. Christian?

18 A. Pardon me, Elizabeth. Please ask me that again.

19 Q. You've indicated previously that you submitted a permit  
20 application by certified mail to Mr. Christian and he  
21 received that notice on or about May 27th, 1997  
22 according to a copy of the receipt, is that correct?

23 A. Yes.

24 Q. And that plat that was attached to the permit applic-  
25 ation which Mr. Christian showed the location of the

1 well, is that correct?

2 A. This is correct.

3 Q. Has that well location changed since the date Mr.  
4 Christian received the plat?

5 A. It has not changed. And if I might add something else,  
6 whenever Jessie's objections came up I asked Mike Pryor  
7 to please go out to the location and check it out to  
8 see if there was an veracity or any truth at all in  
9 what Mr. Christian was saying and Mike did this for me  
10 and happened to meet Jessie Christian out there that  
11 same day who was going to look at the well location.  
12 And I believe that this was prior to our meeting in  
13 Abingdon. So I have to say that I honestly believe --

14 MR. PRYOR: It was after.

15 MR. KYME: It was after. Excuse me. I honestly believe  
16 that we had discussions with Mr. Christian after that  
17 meeting and I believe that he has been to the location  
18 and shouldn't be at all confused about where the stake  
19 is in the ground. This is the first we've heard of  
20 this -- there has only been one stake. We did not  
21 move the location because it never was an issue with  
22 Mr. Christian that we move it. He was satisfied with  
23 the location as long as he was treated fairly.

24 Q. (Ms. McClannahan continues.) Were you able to reach an  
25 agreement with Mr. Christian?

1 A. No, I was not.

2 Q. The original plat that was filed was dated December 31,  
3 1996, is that correct?

4 A. Yes.

5 Q. And a revised plat was submitted July 7th, 1997?

6 A. That is the date of the plat, yes. July 7th, 1997.

7 Q. And the well locations on those plats are exactly the  
8 same, is that correct?

9 A. That is correct.

10 Q. Have you notified all the Hogston heirs who are shown  
11 on the revised plat by certified mail, return receipt  
12 requested?

13 A. Yes, we have.

14 Q. Have you received any objection from those heirs?

15 A. We have no objections from the Hogstons.

16 MS. McCLANNAHAN: Those are all the questions I have for Mr.  
17 Kyme.

18 MR. CHAIRMAN: Do you have any questions, Mr. Christian, of  
19 Mr. Kyme?

20 MR. CHRISTIAN: No. The only thing is I just want to note  
21 that maybe the well plat has it, but I don't know that  
22 that's a true plat. I took the two -- which I don't  
23 have here today. I wish I had brought it. There's two  
24 different surveys and if you take the surveys then the  
25 well location would be different than the plat there.

1 CHAIRMAN: Any questions of this witness, members of the  
2 Board, for Mr. Kyme?

3 MR. KING: Am I hearing from Mr. Christian that he says that  
4 the survey is not correct?

5 MS. McCLANNAHAN: I suppose you should ask Mr. Christian  
6 that, Mr. King.

7 MR. CHRISTIAN: Mr. King, what I'm saying is the survey of  
8 1933 and their 1996 survey do not agree. That's what  
9 I'm saying. One surveyor or the other was wrong.

10 MR. KING: That's a court matter, isn't it?

11 MR. CHAIRMAN: It's certainly a matter not in evidence  
12 before us.

13 (Witness stands aside.)

14 MS. McCLANNAHAN: I would like to call my next witness, Ray  
15 Prudnick.

16 MR. CHAIRMAN: Go ahead.

17

18 RAY PRUDNICK, JR.

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

21

22 DIRECT EXAMINATION

23

24 BY MS. McCLANNAHAN:

25 Q. Would you please state your full name and address for

- 1 the record?
- 2 A. Yes. My name is Ray Prudnick, Jr. My address is 1366  
3 Royal Oak Drive, Wexford, Pennsylvania, 15090.
- 4 Q. And what is your profession?
- 5 A. I'm a petroleum engineer.
- 6 Q. By whom are you employed?
- 7 A. Cabot Oil and Gas.
- 8 Q. And your responsibilities and duties as a petroleum  
9 engineer for Cabot?
- 10 A. I'm currently the regional drilling manager for the  
11 Appalachian Region. My responsibilities include well  
12 planning and design, permitting regulatory requirements  
13 as well as compliance. I also take care of all the  
14 drilling bids and contract negotiations for the  
15 company, as well as supervise the daily operational  
16 activities of the rigs in the field.
- 17 Q. And how many years have you been with Cabot?
- 18 A. Approximately seven and a half.
- 19 Q. What did you do before you started at Cabot as a  
20 professional engineer?
- 21 A. I was employed by a Dupont subsidiary, Conico Incorp-  
22 orated in New Orleans, Louisiana. I worked as both a  
23 production engineer and a reservoir engineer for a  
24 period of about five years in the offshore environment.
- 25 Q. Are you a member of any professional associations?

1 A Yes. I'm a member and Board member and past officer of  
2 the Society of Petroleum Engineers.

3 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Prudnick  
4 as an expert witness in petroleum engineering.

5 MR. CHAIRMAN: Without objection he's accepted.

6 Q. (Ms. McClannahan continues.) Did you review the  
7 preparation of the application for the COGC-24A well?

8 A. Yes, I did.

9 Q. Has Cabot filed the appropriate bond with the Gas and  
10 Oil Inspector to insure compliance with the applicable  
11 statutes and regulations?

12 A. Yes, we have.

13 Q. Was the operations plan also filed with the Inspector  
14 in accordance with 4VAC25150.100 including the intended  
15 methods of (Inaudible.) and stabilization drainage  
16 plans?

17 A. Yes, it was.

18 Q. Could you explain to the Board what this operations  
19 plan accomplishes?

20 A. Yes. We have several measures we take to conform to  
21 the standards. One is a water protection stream casing  
22 that we run through all fresh water intervals in the  
23 well and cement that stream back to surface to prevent  
24 any type of infiltration of fresh water to the surface  
25 or within the well bore. We also in digging the

1 cuttings pit for the drilling operation we line that  
2 pit with a 20 millimeter pit liner. That prevents any  
3 infiltration or permeation of the drilling fluids  
4 and/or cuttings from penetrating the surrounding soil.  
5 Those items are then discharged -- are hauled away and  
6 disposed off at the end of the operation so as to not  
7 interfere with the surrounding ground soils. We also  
8 premulch the location once the disturbance is done per  
9 the regulations. We install filter fence to prevent  
10 any type of erosion of sediment into the surrounding  
11 stream areas. We also built ditches along the road and  
12 proper drainage diversions so that the water that runs  
13 off the location is properly contained and none of that  
14 water infiltrates the surrounding ground water.

15 Q. Will the plan that has been filed with the COGC-25A  
16 application adequately protect the nature water supply  
17 in your opinion?

18 A. Yes.

19 Q. Where is the stream that Mr. Christian has discussed at  
20 the Informal Fact Finding Hearing and today located in  
21 relation to the proposed well location?

22 A. It's approximately 100 feet from the well stake itself.

23 Q. Did the permit application state the depth to which the  
24 well will be drilled?

25 A. Yes. 5,550 feet, I believe.

1 Q And is the COGC-24A operations plan in compliance with  
2 all applicable State and Federal rules and regulations?  
3 A. Yes, it is.  
4 Q. Approximately how many operations plans have you  
5 reviewed over the course of your employment?  
6 A. Approximately 250.  
7 Q. In your opinion will this plan that's filed with the  
8 COGC-24A permit application adequately protect against  
9 erosion?  
10 A. Yes, it will.  
11 Q. Did you test the surface water quality in the area of  
12 the proposed COGC-24A well?  
13 A. Yes. We tested at two sites on Indian Creek which are  
14 to the east and the southeast of the proposed location.  
15 Q. Can you explain what those test results showed?  
16 A. Well, we take the test to insure that any fluids that  
17 we use drilling and cementing operations are as good a  
18 quality water as any of the surrounding streams. We  
19 have to use as good a quality or better quality water  
20 in our drilling operations so as not to impair any  
21 water sources that we encounter during the drilling  
22 operation.  
23 Q. Approximately how many wells has Cabot previously  
24 drilled in Virginia?  
25 A I believe it's approximately 20.

1 Q. Has Cabot experienced any significant problems with  
2 erosion control or water supply interruption in  
3 Virginia?  
4 A. Not to my knowledge, no.  
5 MS. McCLANNAHAN: Those are all the questions I have of Mr.  
6 Prudnick.  
7 MR. CHAIRMAN: Questions, members of the Board?  
8 MR. BRENT: You mentioned, as did Mr. McClusky at the  
9 hearing, that you would provide a 20 mill pit liner?  
10 MR. PRUDNICK: That's correct.  
11 MR. BRENT: I see here in the addendum to your permit  
12 application where they're asking for a variance to use  
13 a 10 mill pit liner. Why is that?  
14 MR. PRUDNICK: Occasionally we can get by with a lesser  
15 dense material to properly sustain -- to keep the  
16 fluids in the drill pit. The 20 mill liner is a  
17 requirement in the situations where you might run into  
18 some ground rock and materials in the pit itself that  
19 could possibly puncture that. In this situation, based  
20 on our site inspection, we felt that we could get by  
21 with the 10 mills.  
22 MR. BRENT: Why would you tell this Board and tell Mr.  
23 Christian as well that you're going to use a 20 mill  
24 and then file an addendum to use 10?  
25 MR. PRUDNICK: Well, the 10 mill waivers is something we do

1 on a standard basis to give us the option to do that.  
2 At this time we really reserve the right to use either  
3 size liner. We have the approval to --  
4 MR. BRENT: That doesn't address my question, though. My  
5 question is why would you tell us you are going to use  
6 20 and then use 10?  
7 MR. PRUDNICK: Well, I think we have every intention at this  
8 point in time because of Mr. Christian's concern to use  
9 a 20 mill and forego the waiver to run the 10 mill.  
10 MS. McCLANNAHAN: Would you be willing to withdraw your  
11 request for a waiver of the 10 mill liner?  
12 MR. PRUDNICK: Yes.  
13 MR. BRENT: Would you do so?  
14 MR. PRUDNICK: Yes, sir.  
15 MR. CHRISTIAN: I'd like to ask him a question. Have you  
16 been on that property?  
17 MR. PRUDNICK: No, I have not.  
18 MR. CHRISTIAN: You said according to the well site that you  
19 knew --  
20 MR. PRUDNICK: I'm sorry.  
21 MR. CHRISTIAN: You said you knew what the property was. In  
22 other words, you withdrew your well liner there.  
23 That's fine. But you said that due to the location of  
24 the property that you -- in your testimony that you had  
25 been there.

1 MR. PRUDNICK: That's correct. But I did not indicate that  
2 I had been to the site. I am reliant on the field  
3 people that do the work for us in the field.

4 MR. CHRISTIAN: Let me ask you something else. Why would  
5 you take a water sample one mountain beyond where  
6 you're going to drill the well? I mean, where you're  
7 talking about taking those water samples, there's a  
8 mountain between those. That wouldn't even be the same  
9 water supply. Not at all. I mean, I grew up there. I  
10 know that country. If you took them on Indian Creek  
11 you ain't a mile or maybe two from the property.

12 MR. PRUDNICK: I would defer the question as to where we  
13 took our proposed water samples to Doug Lite. He's our  
14 field representative that picks the locations where the  
15 samples. So I'll have to defer that question to him.

16 (Witness stands aside.)

17 MS. McCLANNAHAN: May I call Mr. Lite?

18 MR. CHAIRMAN: Sure.

19  
20 DOUGLAS LITE

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

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BY MS. McCLANNAHAN:

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

A. Douglas R. Lite, Route 2, Box 958, Pounding Mill, Virginia.

Q. And your profession?

A. I'm director of surveys for Marshall Miller and Associates in Bluefield, Virginia.

Q. How long have you worked as director of surveys for Marshall Miller?

A. For three and a half years.

Q. And your employment prior to Marshall Miller?

A. I was the manager of Interstate Engineering in Buchanan County for 18 years prior to that and I was with a coal company -- Lester Coal Company engineering department prior to that. So about 28 years all together.

Q. Have you been previously qualified as an expert witness in the Commonwealth?

A. Yes.

Q. In what jurisdictions?

A. In Buchanan and in Tazewell also.

Q. Have you previously been qualified as an expert witness

1 before the Gas and Oil Board?

2 A. Yes.

3 MS. McCLANNAHAN: Mr. Chairman, I would submit Mr. Lite as  
4 an expert witness in surveying matters.

5 MR. CHAIRMAN: He's accepted.

6 Q. (Ms. McClannahan continues.) Mr. Lite, have you been  
7 on Mr. Christian's property?

8 A. Yes, I have.

9 Q. Is there a stream located on the property?

10 A. Yes.

11 Q. Could you explain where the stream is in relation to  
12 the location of the well?

13 A. The stream is approximately 100 to 120 feet west of the  
14 site.

15 Q. Did you locate any springs on the property when you  
16 viewed the property?

17 A. I did not see any springs.

18 Q. Did you locate the stake for the well location on the  
19 property?

20 A. Yes.

21 Q. On what date did you do that?

22 A. It was November of 1996, I believe. Somewhere in that  
23 neighborhood. I'm not sure of the exact date.

24 Q. Did you say what year?

25 A. 1996.

1 MR. McCLANNAHAN: Those are all the questions I have for Mr.  
2 Lite.  
3 MR. CHRISTIAN: If Mr. Lite knows about the water situation  
4 -- we've already discussed about the land and the  
5 difference in the opinion of the footage from the  
6 creek. He deferred to Mr. Lite to answer my question  
7 as to why you would take a water sample a mile and a  
8 half away over another mountain? I mean, it's a  
9 mountain. I wouldn't want to climb it.  
10 MR. LITE: Panther Branch is a tributary of Indian Creek.  
11 MR. CHRISTIAN: What?  
12 MR. LITE: Panther Branch is a tributary of Indian Creek.  
13 MR. CHRISTIAN: It is a tributary but took the water sample  
14 on Indian Creek. Okay. Indian Creek is -- you make a  
15 right -- when you going up to Panther Branch you make a  
16 right. You go up Indian Creek -- I mean you make a  
17 left. You go up Indian Creek you make a right. So if  
18 you took it on Indian Creek which it is part -- Panther  
19 Branch is a tributary. But whereabouts on Indian  
20 Creek did you take that?  
21 MR. LITE: We took the samples north of where Panther Branch  
22 dumps into Indian Creek and we also took a sample south  
23 of where Panther Branch runs into Indian Creek.  
24 MR. CHRISTIAN: Why would the surveyor be doing the water  
25 samples is what I'd like to know?

1 MR. LITE: I didn't do the water sample. I had a man pick  
2 up the water samples.

3 MR. CHRISTIAN: So you don't know exactly where he took  
4 them?

5 MR. LITE: Yes, I know exactly where we got them.

6 MR. LEWIS: Did you take a sample right close to his  
7 property there where the well will be drilled?

8 MR. LITE: No, we did not.

9 MR. CHRISTIAN: What would the reason not to take it at the  
10 site where you're going to do the drilling? There's  
11 plenty of water there.

12 MS. McCLANNAHAN: Mr. Lite, is there any water on the  
13 property?

14 MR. LITE: The stream in question is barely a foot wide in  
15 the wet weather season.

16 MR. CHRISTIAN: I'm sorry to disagree. That was what our  
17 cows and horses drank out for all these years and I'm  
18 sure that in the last few years that stream has not ran  
19 dry. It's never been dry when I've been on the  
20 property. That's another reason I wanted to video tape  
21 it.

22 MS. McCLANNAHAN: Mr. Chairman, may I ask a question of Mr.  
23 Pryor? He's also been on the property.

24 MR. CHAIRMAN: Yes.

25 MS. McCLANNAHAN: Mr. Pryor, have you been on the property?

1 MR. PRYOR: I was out there Friday.

2 MS. McCLANNAHAN: The stream that he's indicating is on the  
3 property approximately 100 feet from the location of  
4 the well. Would you describe for the Board the size of  
5 the stream, if one exists?

6 MR. PRYOR: There was no water in it whatsoever. It's about  
7 this wide. It looked like just a wash -- a drainage  
8 ditch. There was no water in it whatsoever.

9 MR. CHRISTIAN: Well, that's strange. We use to have a  
10 swimming hole on it.

11 MR. CHAIRMAN: Mr. Christian, have you been up there  
12 recently?

13 MR. CHRISTIAN: I haven't been there in the last month. I  
14 can tell you -- I was up there -- I believe it was  
15 August and there was water in it then. It was a lot  
16 dryer in August than it was a week ago.

17 MS. McCLANNAHAN: Mr. Christian, how long has it been since  
18 you lived on the property?

19 MR. CHRISTIAN: It's been 30 some years since I lived on the  
20 property. Close to 30 -- well, probably 38 years.

21 MR. GARBIS: I have in some of the documents you provided a  
22 topo and maybe I should ask Mr. Lite. Do you recognize  
23 this?

24 MR. LITE: Yes.

25 MR. GARBIS: If I take my scale over here and scale to the

1 stream -- I guess that's Panther Branch -- it looks  
2 like it's about at least 800 feet. So we're not  
3 talking about that --

4 MR. CHRISTIAN: We're not talking about that one.

5 MR. GARBIS: We're not talking about that. I also note by  
6 looking at the topo here that it appears that where  
7 your planning to drill -- somebody's planning to drill  
8 a well here in this draw as it goes to the west. You  
9 have the ridge lines identified to slope to the ground  
10 and you have your 2,600 elevation marked here clearly.  
11 So what you're saying is that by virtue of the topo-  
12 graphy it naturally drains almost like where the well  
13 is going to be? I mean, you've got high ground in all  
14 directions basically from where the well is. Would you  
15 agree with that?

16 MR. LITE: Sure.

17 MR. GARBIS: I guess as a civil engineer -- I am a register-  
18 ed professional engineer. So I guess I am qualified to  
19 make a comment that were one to delineate this area you  
20 could at least come up with some degree of runoff that  
21 would basically look like -- come directly right to  
22 where this well is going to be.

23 MR. LITE: There is a stream west of the well site. A wet  
24 weather branch basically that runs during wet weather.  
25 That's where it ran when I was there. Now, obviously

1 Mr. Christian seen something I didn't.

2 MR. GARBIS: How would it take to drill the well? I guess  
3 we're talking about the maximum exposure time where  
4 there could be potential damage. What are we talking  
5 about as far as -- are we talking a two or three or  
6 four week exposure period?

7 MR. PRUDNICK: Four to six weeks. The drilling operation  
8 itself takes approximately eight days. Prior to that  
9 it will take three to four days to build the location.  
10 Then the eight days to do the drilling. Within a week  
11 after that we will do the completion of the well  
12 operation and shortly thereafter lay the pipeline in  
13 and set the facilities and reclaim the location.

14 MR. GARBIS: Because you have to upgrade this really. It  
15 says here 14 percent assess. So this road would have  
16 to be upgraded to a higher standard than what it is  
17 presently?

18 MR. PRUDNICK: Yeah, we're going to have to upgrade it.

19 MR. GARBIS: So that road would have to be upgraded. Also I  
20 note here that you have "the stream will be diverted to  
21 accommodate road construction." It looks like you're  
22 going to put in a concrete pipe in here. C&P pipes --  
23 it says here "Stream will be diverted to accommodate  
24 road construction." Will that also be a part of this  
25 operation?

1 MR. PRUDNICK: Yes. We would install a culvert pipe.

2 MR. LITE: That's corrugated metal pipe.

3 MR. GARBIS: It appears to me that there might be some -- I  
4 can understand the concern on the part of Mr. Christian  
5 out there. It could potentially be -- of course, we've  
6 had a pretty dry summer but -- I mean, there's no  
7 guarantee what the future holds. So I can see just  
8 looking at the topography that potentially there could  
9 be a problem with -- if you have heavy rains or a  
10 problem it's going to go down hill and it will go down  
11 to Panther Creek. Would somebody agree, not agree? If  
12 you look at the topography --

13 MR. LITE: We calculate the run off area after we drill. It  
14 probably won't be that much.

15 MR. GARBIS: Yeah. I mean, you're probably scaling it off.

16 MS. McCLANNAHAN: I would just suggest to the Board that  
17 that is the purpose for the soil and erosion control  
18 plan which is submitted with the permit application  
19 which the Gas and Oil Inspector approves. And when the  
20 Gas and Oil Inspector reviewed the soil and erosions  
21 plan the first time it was approved as being adequate  
22 to protect the streams on the site. And then when he  
23 made his findings at the hearing he specifically found  
24 that the location of the proposed well site isn't a  
25 drainage area which contributes to Panther Branch which

1 is the only continuous flowing water stream. These are  
2 the words of the Director. "And is located at an  
3 approximate distance of 850 from the proposed location  
4 and that only wet weather springs occur in the drainage  
5 area during certain periods of rainfall and that the  
6 soil and erosion sediment control plan was adequate to  
7 protect those issues. If they aren't adequate and if  
8 something happens then obviously the Gas and Oil  
9 Inspector under his regulations can issue a violation  
10 to the corporation during the drilling and the corpora-  
11 tion would have to make necessary adjustments.

12 MR. GARBIS: Mr. Christian are you in possession of this?

13 MR. CHRISTIAN: I have one but I don't believe I have it  
14 with me. I am familiar with it, yes.

15 MR. GARBIS: Where he has this well identified, 24-A, you  
16 said that you thought it was at some other location.  
17 What was the other location that you thought --

18 MR. CHRISTIAN: The other location is approximately 200 feet  
19 east of this location. Actually it would be a little  
20 north and east of this location.

21 MR. GARBIS: Well, that would be closer to Panther Creek.  
22 That would be even more --

23 MR. CHRISTIAN: But, understand, this is a contributory  
24 stream here. Whatever they say, it's not a wet weather  
25 stream. I mean, I know better. In 50 some years it's

1 never been a wet weather stream.

2 MR. GARBIS: Well, let's put that issue aside. I want to  
3 know where you think this --

4 MR. CHRISTIAN: If you go north and east is where I thought  
5 the other well site was going to be.

6 MR. GARBIS: So northeast about 200 feet?

7 MR. CHRISTIAN: Yeah. North and east. And more east than  
8 north. You know what I'm saying?

9 MR. GARBIS: That's going to put it -- that's going to put  
10 them right in the -- if you go 800 feet. Did you 200  
11 feet?

12 MR. CHRISTIAN: Approximately 200 feet.

13 MR. CHAIRMAN: It would be right above the A.

14 MR. GARBIS: Well, I can't see why that would make any  
15 significant difference.

16 MR. CHRISTIAN: It's a difference in the grade of land.

17 MR. GARBIS: Yeah. I don't know what the contra-intervals  
18 on your -- Mr. Lite, do you know what the contra-  
19 intervals are here?

20 MR. LITE: That's 400. No. Just 40 foot area.

21 MR. GARBIS: So there might be a little difference in  
22 elevation. But I'm trying to look at -- trying to be  
23 straight up here and be fair. I can see on Mr.  
24 Christian's part where he may have a problem. But I  
25 also heard, Mr. Christian, that your real issue is the

1 fact that -- we could work out the difference in where  
2 the location of the well is but your -- moneywise,  
3 that's what your issue is.

4 MR. CHRISTIAN: We can work out the difference in the  
5 location, correct. Sure. But that is a matter for the  
6 Circuit Court. I suppose if we can't agree between --

7 MR. GARBIS: Just again to refresh my memory, what do you  
8 exactly want? What would you like if you were king for  
9 a day?

10 MR. CHRISTIAN: What I suggested to him was \$5,000 now and  
11 \$5,000 every five years for as long as they're on my  
12 property which to me is very cheap because they're  
13 going to tie up my property for the next 30 years. And  
14 therefore, I think \$1,000 that they offer in compen-  
15 sation really --

16 MS. McCLANNAHAN: Mr. Chairman, I would just submit that the  
17 money settlements with regard to damages between the  
18 landowners and the corporations is not really an issue  
19 that's within the jurisdiction of the Gas and Oil  
20 Board.

21 MR. KYME: Jessie's offer does not include damages. That is  
22 simply consideration in his point of view to allow  
23 Cabot to drill the well. In addition to that he wants  
24 to be paid damages for the property.

25 MR. CHAIRMAN: Of course, it is totally correct the Board is

1 not going to decide that issue. We're not here to  
2 decide money matters at all.

3 MR. HARRIS: Mr. Chairman, I have a question. I'm not sure  
4 where I got this particular document. It's a cross  
5 section. It shows a couple of cross sections of AA and  
6 Section BB and C.

7 MR. CHAIRMAN: That's out of the permit application.

8 MR. HARRIS: Okay. I never could find those cross sections  
9 were. But --

10 MR. KYME: Look at the site plan. They're on the site  
11 plan.

12 MR. CHAIRMAN: It's in the permit application.

13 MR. FULMER: The next one under. What you see on the next  
14 page -- do you see AA?

15 MR. HARRIS: Yeah. AA is vertical.

16 MR. FULMER: And BB and then on the next page is the cross  
17 sections.

18 MR. HARRIS: Yeah. I was asking about those cross sections.  
19 I notice that there's branch down at the bottom that's  
20 approximately 100 feet or so from the proposed well  
21 site. I was wondering, is that the branch that Mr.  
22 Christian is talking about?

23 MR. CHRISTIAN: Yes. That would be the branch. And those  
24 two auxiliary pits are very close.

25 MR. HARRIS: The purpose of the auxiliary pits is what? I'm

1 not sure who I need to ask that.

2 MR. PRUDNICK: Well, we have a primary excavated pit to take  
3 care of the fluids and the cuttings from the well bore.  
4 In the event that we encounter significant flows of  
5 fresh water or salt water from the well bore during the  
6 drilling that the primary pit cannot contain then we  
7 will dig the auxiliary pit, line it, and then let the  
8 overflow liquids go into that auxiliary pit.

9 MR. HARRIS: But that's not done up front. That's done --

10 MR. PRYOR: No, it's not. That's correct.

11 MR. HARRIS: Does it overflow and then you decide --

12 MR. PRYOR: No, no. We are required by regulations to  
13 maintain a two foot breadboard in the primarily  
14 excavated pit. If we see that we cannot maintain that  
15 adequate breadboard then we will contact the Inspector  
16 and notify him that we would like to dig the auxiliary  
17 pit and do so with his approval.

18 MR. HARRIS: But that can take, what, a couple of days?

19 MR. PRYOR: A couple of hours. It really depends on what  
20 type of ground that you're into there. Those are on  
21 locations with the rig. So if it needs to be done you  
22 can immediately dispatch the operator.

23 MR. HARRIS: So in case of a rain -- I mean, if all of a  
24 sudden there's a down pour and it fills that and it  
25 overflows something can be done?

1 MR. PRYOR: That's correct. But I will also that the  
2 surface water from the location itself is diverted so  
3 that it does not enter that primarily excavated pit.  
4 That is simply for fluids that come from the well bore  
5 during the drilling operation and any rain fall that is  
6 exposed to that surface area.

7 MR. BRENT: But you don't want to dig that other pit unless  
8 you have to.

9 MR. PRYOR: That's correct.

10 MR. BRENT: Because you don't want to disturb the environ-  
11 ment.

12 MR. PRYOR: Well, it's a cost factor as well as environmen-  
13 tal issue.

14 MR. BRENT: I just want to be clear on that. Thank you.

15 MR. CHAIRMAN: Did you have anything further, Ms. McClanna-  
16 han?

17 MS. McCLANNAHAN: No, Mr. Chairman, I don't. I would  
18 request that the Board grant our objection to the  
19 petition for appeal and deny Mr. Christian's reversal  
20 of the decision by the Gas and Oil Inspector at the  
21 Informal Fact Finding Hearing. But I also would submit  
22 that Cabot Oil and Gas on the record before the Gas and  
23 Oil Board will request that the waiver for the 20 mill  
24 liner be removed from the permit application.

25 MR. CHAIRMAN: Do you have anything else?

1 MR. CHRISTIAN: I have nothing.

2 MR. GARBIS: I have one question. Mr. Christian, if we were  
3 to grant you an extension what would be the purpose of  
4 this extension?

5 MR. CHRISTIAN: As I stated earlier, is to go there and show  
6 the exact location of that stream and show there is  
7 water in that stream and to show the distances are  
8 wrong as to what they're saying here.

9 MR. GARBIS: But you just told me that the distance from the  
10 well can be worked out. Then you just told me --

11 MR. CHRISTIAN: If they change the well site. The well site  
12 is the only way it can be worked out. If they change  
13 the well site because where the well site is now I want  
14 to show -- and the other dispute is -- of course, this  
15 may be a property matter -- there's no way they can be  
16 off of my property in 200 feet coming from this well  
17 site. There's no way. I mean, here is something I  
18 wanted to show. That if there's one thing they can't  
19 be truthful about how do I know they're being truthful  
20 about anything or how does the Board know they're being  
21 truthful. That's the only thing I'm saying. I want to  
22 put absolute proof that you're not going to deny on  
23 video tape with someone holding a tape in one hand and  
24 a camera showing the footage and somebody else in that  
25 creek over there splashing water. I mean, that's

1 proof.

2 MR. GARBIS: Are you telling me that if they -- am I hearing  
3 you say now that if the location of the well is moved  
4 then that would settle the matter?

5 MR. CHRISTIAN: It would settle the matter if they moved it  
6 to the right location to get away from that stream,  
7 yeah. The money part, no. That's a different thing  
8 which the Board can't take up as we've been informed.  
9 The Board can't take up the money part of it. But also  
10 whether the Board finds for me today or Cabot -- I will  
11 still do the video. All I asked for was for the  
12 vegetation to die enough for me to show the actual  
13 land. When you've got a lot of vegetation and a lot of  
14 trees -- they're not only doing to do damage there.  
15 When they cut a 20 foot lot of trees that are good  
16 timber that could be used right now --

17 MR. GARBIS: But you're going to be compensated for that.

18 MR. CHRISTIAN: Yeah, if we can agree to it. But they don't  
19 want to talk about any compensation.

20 MS. McCLANNAHAN: Mr. Chairman, I believe Cabot has indicat-  
21 ed that damages will be compensated in accordance with  
22 company policy and that testimony is on the record,  
23 that damages will be paid. We would, of course,  
24 request that the permit be issued as well as the  
25 petition for appeal be denied with the modification

1           that we've submitted today

2 MR. CHRISTIAN: One thing I would like to say, why would  
3 Cabot not put that in writing? I mean, I have asked  
4 and asked "Put it in writing." And what is compen-  
5 sation? You can say you were going to compensate me  
6 and say you're going to compensate me and you may get  
7 done and say, "Here's a hundred dollars." I don't know  
8 what you --

9 MR. KYME: I did make a written settlement to Mr. Christian.

10 MR. CHRISTIAN: You offered me \$2,000. Absolutely you made  
11 that offer.

12 MR. KYME: In additions to damages. I made it very clear  
13 you would also be entitled to damages. The \$2,000 was  
14 a consideration to stop harassing us and let us go  
15 about our business.

16 MR. CHRISTIAN: I consider it you guys harassing me when  
17 you're coming on my property.

18 MR. CHAIRMAN: Let's not get into it verbally back and  
19 forth. I think we've heard what we need to hear. Do I  
20 have a motion?

21 MR. KING: I certainly agree, Mr. Chairman. Tom says the  
22 permit has not been issued. If we issue a permit today  
23 would you plan to drill shortly?

24 MR. KYME: Yes, sir.

25 MR. KING: Then it sounds to me like that everything we're

1 talking about is strictly a matter that -- not this  
2 Board but maybe a court action. I would certainly move  
3 that we grant this application.

4 MR. CHAIRMAN: I have a motion. Do I have a second? You  
5 understand that that motion would be a denial of Mr.  
6 Christian's request and a granting of the permit  
7 application?

8 MR. KING: Because I think everything Mr. Christian is  
9 talking about is a matter that's not in this Board's  
10 jurisdiction.

11 MR. HARRIS: Mr. Chairman, one thing about that, though, my  
12 understanding is that at the time the offer was made  
13 Mr. Christian thought that it was on another part of  
14 the property.

15 MR. CHRISTIAN: That's correct.

16 MR. HARRIS: Did you go up there and realize then that it  
17 was different?

18 MR. CHRISTIAN: Yes, I did.

19 MR. HARRIS: You did physically go there?

20 MR. CHRISTIAN: Yes. Well, I can't recall the exact date.  
21 It was after Mr. Kyme had mailed me the papers.

22 MS. McCLANNAHAN: Mr. Chairman, Mr. Christian indicated  
23 before the Informal Fact Finding Hearing that he had  
24 been on the property and the property had already been  
25 stakes with the well location as of the Informal Fact

1 Finding Hearing date. And that objection was never  
2 raised at the Informal Fact Finding Hearing despite the  
3 fact that he had been on the property prior to that  
4 date. In addition to that, procedurally if the issue  
5 was not raised at the Informal Fact Finding Hearing and  
6 was not put in writing then it's not a matter properly  
7 before the Board. But even if you put that procedural  
8 issue aside Mr. Christian was on the property where  
9 this stake was located for the well prior to the  
10 Informal Fact Finding Hearing and did not raise that  
11 issue at the Informal Fact Finding Hearing.

12 MR. CHRISTIAN: I'm sorry to disagree with you. I was on  
13 the property and I believe what I stated at that  
14 informal hearing was that I was on the property but not  
15 to that particular stake.

16 MR. KING: How many stakes do you put?

17 MR. PRUDNICK: Just one stake.

18 MR. CHRISTIAN: But they did a survey -- you know, you can  
19 only survey -- you can't use one stake and run a  
20 survey. They had streamers in the trees. And there's  
21 been two or three surveys done on here without me  
22 knowing -- without my knowledge.

23 MR. HARRIS: Let me get back to the question, though.  
24 You're saying that there's another spot that would be  
25 acceptable to drill in and -- I guess my question is

1 about physically being on the property. You've been  
2 there to see that stake is down here rather than over  
3 here?

4 MR. CHRISTIAN: Yes. Since the last hearing I've been  
5 there. Well, let's see. We had the hearing on August  
6 8th, I believe, and then I was up there shortly after  
7 that. Within a week or so after that because I was --  
8 there's two garden spots and the one is a long way from  
9 the stream -- not a long ways but it's a better  
10 distance from the stream.

11 MR. HARRIS: But you know for sure that they're at the  
12 closer one?

13 MR. CHRISTIAN: If the stakes in the right location there  
14 it's the closer one. That's why I cannot say -- see  
15 how they can say it's a hundred and some feet.

16 MR. CHAIRMAN: I have a motion to what would constitute  
17 approval of Tom Fulmer's decision and to deny Mr.  
18 Christian's appeal. Any further discussion?

19 MR. BRENT: Mr. Chairman, we've taken an awful lot of time  
20 in this case and I think rightfully so. I hope it's  
21 been demonstrated that the Board is concerned about the  
22 issues as they are with everybody else's issues. But  
23 it's kind of clear to me that you your concerns,  
24 although they may be very, very valid, are beyond the  
25 authority of this Board. I would move that we uphold

1           Mr. Fulmer's decision and deny Mr. Christian's appeal.  
2 MR. CHAIRMAN: We have a motion and second. Any further  
3 discussion? All in favor signify by saying yes. (SOME  
4 AFFIRM.) Opposed say no. (ONE ABSTAINS.) We have one  
5 abstention. Thank you. That concludes this matter.  
6 We're going to take a five minute break while the other  
7 parties get to the table. We'll be calling the  
8 petition from Buchanan Production Company.

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

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3 ITEM V

4 MR. CHAIRMAN: The next item on the agenda is the Board will  
5 consider a petition from Buchanan Production Company  
6 for the pooling of coalbed methane unit identified as  
7 O2. This is docket number VGOB-97/10/21-0610. Quiet  
8 please. All right. Go ahead.

9 MR. SWARTZ: Appearing for the applicant, Mark Swartz and  
10 Les Arrington.

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

13 MR. SWARTZ: Mr. Chairman, this is an application by  
14 Buchanan Production Company for a pooling order under  
15 Oakwood I and II. The Oakwood unit that we'll be  
16 dealing with today is Unit O2. It's a pretty straight  
17 forward application. The heirship -- or a portion of  
18 the heirship we have not been able to obtain leases  
19 from are listed as the respondents. My only witness  
20 would be Mr. Les Arrington. If we could have him sworn  
21 we'll get going.

22 COURT REPORTER: (Swears witness.)

23 LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

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BY MR. SWARTZ:

Q. State your name for the record, please.

A. Leslie K. Arrington.

Q. Les, who do you work for?

A. Consol.

Q. Did you draft both the notice of hearing and the application with regard to this matter that we're here on today?

A. Yes, I did.

Q. And you signed both of those?

A. Yes, I did.

Q. Did you also prepare the exhibits?

A. Yes, I did.

Q. Have you filed an affidavit of due diligence with the Board?

A. Yes, we have.

Q. And that's in your packet of exhibits that you've given the Board today?

A. Yes, it is as Exhibit #2.

Q. Along with that affidavit of due diligence you've filed the certification of mailing and return receipts and also you've filed the certificate of publication, is that correct?

1 A. Yes, I did.

2 Q. Who is the applicant here?

3 A. The applicant is Buchanan Production Company.

4 Q. And Buchanan Production Company is a Virginia partner-  
5 ship that has two partners, Appalachian Operators Inc.  
6 and Appalachian Methane Inc., is that correct?

7 A. That's correct.

8 Q. Are those two corporate partners fully owned indirect  
9 subsidiaries of MCN Corporation?

10 A. Yes, they are.

11 Q. Is Buchanan Production Company authorized to do  
12 business in the Commonwealth?

13 A. Yes, it is.

14 Q. Who are you requesting be appointed the designated  
15 operator here?

16 A. Consol.

17 Q. Is Consol Inc. a Delaware corporation?

18 A. Yes, it is.

19 Q. Is it authorized to do business in the Commonwealth?

20 A. Yes, it is.

21 Q. Has Consol Inc. registered with the DMME and does it  
22 have a blanket bond on file?

23 A. Yes, it does.

24 Q. Has the management committee of the partnership  
25 Buchanan Production Company delegated to Consol Inc.

1 certain responsibilities with regard to Buchanan  
2 Production Company's assets?

3 A. Yes, it has.

4 Q. Have you filed with the Board today behind Tabs 4, 5  
5 and 6 documentation with regard to that delegation?

6 A. Yes, we have.

7 Q. Essentially Buchanan Production Company does not have  
8 any employees and relies upon Consol Inc. to manage  
9 it's affairs for it?

10 A. That's correct. It does.

11 Q. And has Buchanan Production Company specified certain  
12 people within Consol to have certain duties?

13 A. Yes, it has

14 Q. Who are those people and what are their general  
15 responsibilities?

16 A. Claude Morgan as general manager, William Gillenwater  
17 as land manager, and Randy Albert as regulatory  
18 manager.

19 Q. And do you work with those three gentlemen?

20 A. Yes, I do.

21 Q. The names of the people that we're seeking to pool,  
22 they are listed in the notice of hearing, correct?

23 A. Yes, they are.

24 Q. Do you wish to add or subtract anybody from the list of  
25 respondents?

1 A. No, we do not.

2 Q. In Exhibit #B3 have you listed the people that we are  
3 seeking to pool and their interests in the unit and  
4 their interests in the division of interest in the  
5 longwall panel that we're dealing with here?

6 A. Yes, we have.

7 Q. And the first column lists net acres in -- I take that  
8 back. The second column lists net acres in unit -- the  
9 third percentage overall and then the last column of  
10 Exhibit #B3 would be the division of interests in the  
11 3-West Panel?

12 A. That's correct. It does.

13 Q. If you look at the plat -- to give the Board some idea  
14 of what we're talking about here, if you look at the  
15 plat, Exhibit #A, there's a tract 4 which is basically  
16 the upper portion of the unit, correct?

17 A. That's correct.

18 Q. And the respondents have undivided interests in that  
19 tract 4?

20 A. That's correct. They do.

21 Q. Is Tract 4 a fee tract?

22 A. Yes, it is.

23 Q. Does the applicant have leases from any of the owners  
24 of that Tract 4?

25 A. Yes, we do.

1 Q Roughly half of the owners are leased and roughly half  
2 are being pooled?  
3 A. That's correct. They are.  
4 Q. And that accounts for the approximate 25 percent  
5 interests of the oil and gas that we're trying to pool  
6 today?  
7 A. Yes, it does.  
8 Q. If you look at Exhibit #A, Page 2, does that set forth  
9 the standing or interests of the applicant as well as  
10 the interests to be pooled?  
11 A. Yes, it does.  
12 Q. Could you summarize what those are for us?  
13 A. Yes. We have leased 100 percent of the coal and we  
14 have leased from the oil and gas interests 75.49021  
15 percent. We're seeking to pool 24.50979 percent of the  
16 oil and gas owners.  
17 Q. That's only in Tract 4?  
18 A. Yes.  
19 Q. Because everything else is leased?  
20 A. Yes.  
21 Q. When did you mail -- as required by the Virginia Code  
22 what was the date of mailing?  
23 A. The date of mailing was September 19th.  
24 Q. 1997?  
25 A. Yes. 1997.

1 Q. And that was by certified mail and you mailed the  
2 notice of hearing and the application with the exhibits  
3 to all the respondents?  
4 A. Yes, we did.  
5 Q. And then there's a certification indicating the status  
6 of the mailing; when it was received or when it was  
7 returned or if it's still outstanding?  
8 A. That's correct. It is.  
9 Q. Was the notice of hearing published?  
10 A. Yes, in the Bluefield Daily Telegraph on September  
11 25th, 1997.  
12 Q. And there's a certificate with regard to that in the  
13 exhibits?  
14 A. Yes, there is.  
15 Q. To the extent that the Board would grant our request  
16 for an application to pool are you recommending certain  
17 lease terms to the Board for people who might deem to  
18 be leased?  
19 A. Yes, we are. For a coalbed methane lease a dollar per  
20 acre rental, one-eighth royalty with a five year term.  
21 Q. And generally would those be the terms that you've  
22 offered to other people that you've leased in the area?  
23 A. Yes, it is.  
24 Q. Unit 02 is an 80 acre Oakwood unit?  
25 A. Yes, it is.

1 Q. It overlies what mine?  
2 A. The VP-3 Mine.  
3 Q. And is it expected to produce active gob from that  
4 mine?  
5 A. Yes, it is.  
6 Q. The location of the unit in relation to a portion of  
7 the VP-3 Mine is depicted on a map you've attached  
8 toward the end of the application as Exhibit #G?  
9 A. Yes, it is.  
10 Q. And that shows the O2 unit?  
11 A. Yes, it does.  
12 Q. And it catches really the upper portion, 9.305 percent  
13 of the 3-West Panel?  
14 A. That's correct. It does.  
15 Q. And there really is not a well located within the )2  
16 unit?  
17 A. No, there is not.  
18 Q. So production will be allocated to that unit?  
19 A. Yes.  
20 Q. Have you attached an Exhibit #C showing average well  
21 costs?  
22 A. Yes, I have.  
23 Q. What would the average well cost be?  
24 A. Approximately \$133,678.70.  
25 Q. Did you prepare that exhibit?

1 A. Yes, I did.

2 Q. Was in prepared within the last 60 days?

3 A. Yes, it was.

4 Q. And the average formation depth or the average depth of  
5 the Pocahontas #3 Seam is what?

6 A. 1,775 feet.

7 Q. And that's shown on Exhibit #C and it's also shown in  
8 your application?

9 A. Yes, it is.

10 Q. In terms of estimating or calculating royalty, partici-  
11 pation costs or carried interests costs the division of  
12 interest shown on Exhibit #B3 is the percentage that  
13 would be used?

14 A. That's correct.

15 Q. And the allocable costs are shown on Exhibit #G, Page  
16 1, is that correct?

17 A. That's correct.

18 Q. Could you state what is shown on Exhibit #G, Page 1,  
19 with regard to the O2 Unit?

20 A. The costs allocated to that unit would be \$124,387.70.

21 Q. Which is roughly 9.3 percent of the cost of the gob  
22 wells within the 3-West Panel?

23 A. That's correct.

24 Q. At least the cost of the wells that are being allocat-  
25 ed?

1 A. That's correct.

2 Q. Your application requests that the allocation of  
3 production and the payment of royalty for active gob  
4 production be as is set forth at Paragraph 4.b which is  
5 really taken from one of the amendments to the Oakwood  
6 Orders, correct?

7 A. That's correct. It is.

8 Q. So you're asking that essentially the royalty and  
9 production be allocated as provide in the Oakwood II  
10 Rules?

11 A. That's correct. We are.

12 Q. Is it your opinion that the plan of development that's  
13 shown on Exhibit #G for this particular unit O2 is a  
14 reasonable plan to develop the coalbed methane resource  
15 in the Oakwood Field, specifically below the Tiller,  
16 for the benefit of the owners of that resource?

17 A. Yes, it is.

18 Q. Is it your opinion that this proposed plan of develop-  
19 ment will, in fact, protect correlative rights?

20 A. Yes, it will.

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

22 MR. HARRIS: Mr. Chairman, I'm just a little confused about  
23 where the actual well will be. In Exhibit #A I don't  
24 see a well location.

25 MR. SWARTZ: There's not one in there.

1 MR. HARRIS: I missed something along the way. While when  
2 something else was going on I kept looking and --  
3 MR. CHAIRMAN: It's an allocation area. There's not a well  
4 in it.  
5 MR. HARRIS: Okay. I knew there wasn't an existing well and  
6 I thought -- so this is an allocation.  
7 MR. SWARTZ: Did you look at Exhibit #G?  
8 MR. HARRIS: Right. That's the one and I drew the circled  
9 O2 --  
10 MR. SWARTZ: Right. There are a goodly number of potential  
11 wells in that panel. I think we're using, what, five?  
12 MR. ARRINGTON: Yes.  
13 MR. SWARTZ: For allocation purposes in terms of cost and  
14 production. So the gas that's allocated to Unit O2  
15 will actually be produced from wells in other areas.  
16 MR. HARRIS: I just wanted to make sure that's what I was  
17 hearing. Okay.  
18 MS. RIGGS: There's ten.  
19 MR. ARRINGTON: There's ten. I'm sorry. There's ten gob  
20 wells in this unit.  
21 MR. CHAIRMAN: Now, you're asking for Oakwood I and II?  
22 MR. SWARTZ: Well, that's what the application asks for but  
23 I don't think we really need that. Do we, Les?  
24 MR. ARRINGTON: No.  
25 MR. CHAIRMAN: You don't need I.

1 MR. SWARTZ: Just Oakwood II. I tried not to confuse that  
2 the application was wrong.

3 MR. CHAIRMAN: Would you like to modify your application?

4 MR. SWARTZ: I tried to indicate in the testimony that we  
5 really only wanted II.

6 MR. CHAIRMAN: Would you like to modify your application?

7 MR. SWARTZ: To the extent that we have to, yes. We are  
8 only seeking active job production under II.

9 MR. KING: Never admit you're wrong.

10 MR. SWARTZ: Well, unless pressed. Unless pressed and Benny  
11 just wouldn't let me up off the mat. You're right.  
12 You're absolutely right.

13 MR. KING: I don't like to either.

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

16 MR. CHAIRMAN: Do you have anything further?

17 MR. SWARTZ: No.

18 MR. CHAIRMAN: Do we have a motion?

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

20 MR. GARBIS: I second that motion.

21 MR. CHAIRMAN: All in favor signify by saying yes. (ALL  
22 AFFIRM.) Opposed say no. (NONE.) The applications  
23 approved.

24 MR. SWARTZ: Thank you all.

25 MR. CHAIRMAN: Thank you.

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3 ITEM VI

4 MR. CHAIRMAN: The next item is a petition from Equitable  
5 Resources Energy Company for pooling of a coalbed  
6 methane unit identified as VC-3672. This is docket  
7 number VGOB-97/10/21-0611. We'd ask the parties that  
8 wish to address the Board in this matter to come  
9 forward at this time.

10 MR. KAISER: Mr. Chairman, members of the Board, I'm Jim  
11 Kaiser on behalf of Equitable Resources Energy Company.  
12 Our witnesses today in this matter will be Mr. Dennis  
13 Baker on land matters and Mr. Bob Dahlin on production  
14 and operations. I would ask at this time that the  
15 witnesses be sworn.

16 COURT REPORTER: (Swears witnesses.)

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

19 DENNIS R. BAKER

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

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BY MR. KAISER:

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

A. Dennis Baker, employed by Equitable Resources Energy Company as senior landman.

Q. Do your responsibilities include the land involved here and the surrounding area and have you qualifications as an expert witness in land matters previously been accepted by the Board?

A. Yes, they have.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and the pooling of unleased interest for EREC well VC-3672 dated September 18th, 1997?

A. Yes.

Q. Is Equitable seeking to force pool the drilling rights underlying the drilling and spacing as depicted at Exhibit #A of the application?

A. Yes, it is.

Q. Does the location proposed for well VC-3672 fall within the Board's order for the Nora Coalbed Field Rules dated March 20th, 1989?

A. Yes.

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

2 A. Yes, they are.

3 Q. Does Equitable own drilling rights in the unit involved

4 here?

5 A. Yes, we do.

6 Q. What is the interest of Equitable in the gas estate

7 within the unit at the time of application?

8 A. At the time of application 89.22 percent was leased to

9 Equitable.

10 Q. Are you familiar with the ownership of drilling rights

11 of parties other than Equitable underlying this unit in

12 the gas estate at the time of application?

13 A. Yes, I am.

14 MR. KAISER: Mr. Chairman, I've got a revised Exhibit #B

15 that I'd like to hand out at this time.

16 (PAUSE.)

17 Q. (Mr. Kaiser continues.) Mr. Baker, subsequent to the

18 filing of the application have you continued to attempt

19 to reach an agreement with the respondents that were

20 listed at Exhibit #B to the application?

21 A. Yes, we have.

22 Q. And as a result of those efforts have you obtained

23 additional leases since the time the application was

24 filed?

25 A. Yes, we have.

1 Q. Could you please note those as they appear in the  
2 revised Exhibit #B for the Board at this time?

3 A. On the revised Exhibit #B on Page 8, third name from  
4 the top, Sharon Breeding is now a leased interest. On  
5 Page 18 of the revised exhibit, fourth name from the  
6 top, Sharon Breeding. Those are the only new lease  
7 that we acquired in both estates, gas and coal.

8 Q. So could you now state for the Board the percentage of  
9 both the gas estate and the coal estate that Equitable  
10 currently has under lease?

11 A. At the time of application the gas estate was 89.22  
12 percent leased. At the time of hearing 89.9165 percent  
13 is leased. The coal estate at the time of application  
14 95.45 percent was leased. At the time of hearing  
15 96.1465 percent is leased.

16 Q. Correspondingly could you list the percent of interest  
17 unleased at time of hearing?

18 A. Of the gas estate at the time of application the  
19 unleased interest was 10.78 percent. The unleased  
20 interest at the time of hearing is 10.0835 percent.  
21 The coal estate at the time of application unleased  
22 interest was 4.55 percent. At the time of hearing  
23 3.8535 percent is unleased.

24 Q. Mr. Baker, were efforts made to determine if the  
25 individual respondents were living or deceased or their

1           whereabouts and if deceased were efforts made to  
2           determine the names and addresses and whereabouts of  
3           the successors to any deceased individual respondents?  
4    A.    Yes, it was.  
5    Q.    In the case of unknown heirs were reasonable and  
6           diligent efforts made and sources checked to identify  
7           and the location of said heirs, to include primary  
8           sources such as deed records, probate records, assess-  
9           ors records, treasurers records, and secondary sources  
10          such as telephone directories, city directories, family  
11          and friends?  
12   A.    Yes.  
13   Q.    In your professional opinion was due diligence exercis-  
14          ed to locate each of the respondents named herein?  
15   A.    Yes, it was.  
16   Q.    Are the addresses set out in revised Exhibit #B to the  
17          application the last known addresses for the respond-  
18          ents?  
19   A.    Yes.  
20   Q.    Are you requesting the Board to force pool all unleased  
21          interests listed at revised Exhibit #B?  
22   A.    Yes, we are.  
23   Q.    Does Equitable seek to force pool the drilling rights  
24          of each individual respondent if living and if deceas-  
25          ed, the unknown successor or successors to any deceased

- 1 individual respondent?
- 2 A. Yes, we are.
- 3 Q. Is Equitable seeking to force pool the drilling rights  
4 of the person designated as trustee if acting in such  
5 capacity, and if not acting in such capacity is  
6 Equitable seeking to force pool the drilling rights of  
7 the successor of such trustee?
- 8 A. Yes, we are.
- 9 Q. Mr. Baker, are you familiar with the fair market value  
10 of drilling rights in the unit and in the surrounding  
11 area?
- 12 A. Yes, I am.
- 13 Q. Could you advise the Board as to what those are?
- 14 A. A five dollar per acre consideration, five year term,  
15 one-eighth royalty.
- 16 Q. Did you gain your familiarity by acquiring oil and gas  
17 leases and coalbed methane leases and other agreements  
18 involving the transfer of drilling rights in the unit  
19 involved here and in the surrounding area?
- 20 A. Yes, I did.
- 21 Q. In your professional opinion do the terms you have  
22 testified to represent the fair market value of and the  
23 fair and reasonable compensation to be paid for  
24 drilling rights within this unit?
- 25 A. Yes.

1 Q Based on your testimony as to the respondents who have  
2 not voluntarily agreed to lease with Equitable do you  
3 recommend that the respondents listed at revised  
4 Exhibit #B who remain unleased be allowed the following  
5 options with respect to their ownership interests  
6 within the unit; 1) Participation. 2) A cash bonus of  
7 five dollars per net mineral acre plus a one-eighth of  
8 eight-eighths royalty. 3) In lieu of a cash bonus and  
9 one-eighth of eight-eighths royalty share in the  
10 operation of the well on a carried basis as a carried  
11 operator under the following conditions: Such carried  
12 operator shall be entitled to the share of production  
13 from the tracts pooled accruing to his interest  
14 exclusive of any royalty or overriding royalty reserved  
15 in any leases, assignments thereof, or agreements  
16 related thereto of such tracts but only after the  
17 proceeds allocable to his share equal A) 300 percent of  
18 the share of such costs allocable to the interest of  
19 the carried operator of a leased tract or portion  
20 thereof or B) 200 percent of the share of such costs  
21 allocable to the interest of the carried operator of an  
22 unleased tract or portion thereof?

23 A. That is correct.

24 Q. Do you recommend that the order provide that any  
25 elections by respondents be in writing and sent to the

1 applicant at Equitable Resources Energy Company,  
2 Eastern Region, PO Box 1983, Kingsport, Tennessee,  
3 37662, attention Dennis R. Baker?

4 A. Yes.

5 Q. Should this be the address for all communications with  
6 the applicant concerning any force pooling order?

7 A. Yes.

8 Q. Do you recommend that the force pooling order provide  
9 that if no election is properly made by a respondent  
10 then such respondent shall be deemed to have elected to  
11 cash royalty option in lieu of participation?

12 A. That's correct.

13 Q. Should the unleased respondent be given 30 days from  
14 the date of the Board order to file written elections?

15 A. Yes.

16 Q. If an unleased respondent elects to participate should  
17 they be given 45 days to pay the applicant for the  
18 respondent's proportionate share of well costs?

19 A. Yes.

20 Q. Does the applicant expect a party electing to partici-  
21 pate to pay in advance that party's share of completed  
22 well costs?

23 A. Yes.

24 Q. Should the applicant be allowed 120 days following the  
25 recordation date of the Board order and thereafter

1                    on that date until production is achieved to  
2 pay or tender any cash bonus becoming due under the  
3 force pooling order?

4    A.    Yes.

5    Q.    Do you recommend that the order provide that if a  
6 respondent elects to participate but fails to pay the  
7 proportionate share of well costs satisfactory to the  
8 applicant for payment of such costs then the respond-  
9 ent's election to participate should be treated as  
10 having been withdrawn and void and such respondent  
11 should be treated just as if no initial election had  
12 been filed under the order?

13    A.    Yes, sir.

14    Q.    Do you recommend the order provide that where a  
15 respondent elects to participate but defaults in regard  
16 to the payment of well costs any cash sum becoming  
17 payable to such respondent be paid within 60 days after  
18 the last date on which such respondent could have paid  
19 or made satisfactory arrangements for the payment of  
20 well costs?

21    A.    That's correct.

22    Q.    Do you recommend that the force pooling order provide  
23 that if a respondent refuses to accept any payment due,  
24 including any payment due under the order or any  
25 payment of royalty or cash bonus, or said payment

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

11 A. Yes.

12 Q. Who should be named the operator under the force  
13 pooling order?

14 A. Equitable Resources Energy Company.

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

17 MR. CHAIRMAN: This well location, is it in the area of the  
18 Nora Field that the Board recently issued a temporary  
19 order?

20 MR. BAKER: Yes, it is.

21 MR. CHAIRMAN: Any questions, members of the Board, of this  
22 witness? This location is within the window?

23 MR. FULMER: No.

24 MR. CHAIRMAN: You can't tell by the plat.

25 MR. FULMER: No, it's not.

1 MR. BAKER: It's located outside the interior window.

2 MR. KAISER: I believe was sought through the permitting  
3 process.

4 MR. CHAIRMAN: And a variance has been requested. Okay.

5 (Witness stands aside.)

6 MR. CHAIRMAN: Call your next witness.

7

8 ROBERT A. DAHLIN, II

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

11

12 DIRECT EXAMINATION

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14 BY MR. KAISER:

15 Q. Mr. Dahlin, could you please state your name, who  
16 you're employed by and in what capacity?

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

19 Q. Have your qualifications in the area of production and  
20 operations previously been -- have you previously been  
21 accepted by the Board as an expert witness?

22 A. Yes, I have.

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

25 A. Yes.

1 Q. Are you familiar with the proposed exploration and  
2 development of the unit here under applicant's plan of  
3 development?  
4 A. Yes, I am.  
5 Q. What is the total depth of the well under the plan of  
6 development?  
7 A. 1,870 feet.  
8 Q. Will this be sufficient to penetrate and test the  
9 common sources of supply in the subject formations?  
10 A. Yes.  
11 Q. What are the estimated reserves of the unit?  
12 A. 500 million cubic feet.  
13 Q. Are you familiar with the cost for the proposed unit  
14 well under the applicant's plan of development?  
15 A. Yes.  
16 Q. Has an AFE been reviewed, signed and submitted to the  
17 Board?  
18 A. It has.  
19 Q. Was this AFE prepared by an engineering department  
20 knowledgeable in the preparation of AFEs and knowledge-  
21 able in regard to well costs in this area?  
22 A. Yes.  
23 Q. In your opinion does this AFE represent a reasonable  
24 estimate of the well costs for the unit well under the  
25 applicant's plan of development?

1 A. Yes, it does.

2 Q. Could you at this time please state for the Board both  
3 the dry hole costs and completed well costs for VC-  
4 3672?

5 A. The dry hole costs are \$92,201 and the completed well  
6 costs are \$206,300.

7 Q. Do these costs anticipate a multiple completion?

8 A. Yes.

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

11 A. Yes.

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

16 A. Yes.

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

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

20 (Witness stands aside.)

21 MR. KAISER: We'd ask the application be approved as  
22 submitted.

23 MR. BRENT: I move that we grant the application.

24 MR. CHAIRMAN: A motion to approve.

25 MR. HARRIS: Second.

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MR. CHAIRMAN: Any further discussion? All in favor signify  
by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)  
It's approved.

ITEM VII, VIII

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3 MR. CHAIRMAN: The next item on the agenda is a petition  
4 from Equitable Resources Energy Company for the pooling  
5 of a coalbed methane unit identified as VAD-3738,  
6 docket number VGOB-97/10/21-0612. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward at this time.

9 MR. KAISER: Mr. Chairman, once again, Jim Kaiser on behalf  
10 of Equitable Resources Energy Company. Mr. Baker and  
11 Mr. Dahlin will again be our witnesses. We have a  
12 somewhat unique situation here today in that this is a  
13 duel well. We are going to produce both conventional  
14 gas and coalbed methane gas. It's also a situation  
15 where we are seeking a force pooling order for both  
16 units -- for both the conventional unit and the coalbed  
17 methane unit. I would like to -- and it depends upon  
18 the Board's pleasure. I don't want to confuse anybody.  
19 But I know we're going to have -- I've talked with Ms.  
20 Riggs and I know that we're going to have to have  
21 separate orders obviously on the separate units, but I  
22 would like to try to -- if we get into an area where we  
23 start confusing both. But I would like to try to  
24 provide the testimony for both units together if  
25 that's okay with the Board.

1 MR. CHAIRMAN: I think we can accommodate that. Can one of  
2 you or yourself just give the Board a little orienta-  
3 tion as to what you mean when you talk about duel  
4 completion.

5 MR. KAISER: I think probably Mr. Dahlin could best address  
6 that.

7 MR. CHAIRMAN: Could we just start with that so that there's  
8 a concept in mind?

9 MR. KAISER: Sure. In the meantime I'll hand out the  
10 revised exhibits.

11 MR. DAHLIN: By duel completion what we're attempting to do  
12 is produce both coalbed methane and the conventional  
13 gas from the one well bore. What this is going to  
14 allow us to do hopefully is to develop the resources a  
15 little more economically where certain parts of the  
16 well drilling are shared. For instance, the location,  
17 the surface pipe. That sort of thing helps us econom-  
18 ically. Where we have been in Nora and Roaring Fork up  
19 until this point has been drilling on the same location  
20 with a second well. What we'll do, it's set out on our  
21 AFEs, is allocate 50 percent of the costs of the  
22 associated portions of the drilling of the well to  
23 both units. Half of the location cost would go to the  
24 coalbed well, half would go to the conventional well.  
25 While I was sitting here -- I didn't bring a present-

1           ation. I thought we'd just describe it verbally.  
2           Excuse my drawing, but this is basically a represent-  
3           ation of how we handle it. The vertical lines here  
4           represent the different casing streams and what we'll  
5           do is at this point of drilling that's all the footage  
6           cost that will be allocated to the coal well. From  
7           this point down will be only conventional. And that's  
8           set out in our AFE.

9   MR. BRENT: What are those depths?

10   MR. DAHLIN: These right here would be the casing streams.  
11           This indicates the cement.

12   MR. BRENT: No. I mean the depths.

13   MR. KAISER: The coal well is 2,600 feet and the convention-  
14           al well, I believe, is 5,780.

15   MR. DAHLIN: Right. So what we do after the completion of  
16           the drilling to this depth is we would run four and a  
17           half and cement it back up into the seven inch pipe.  
18           And then we'd back this part of the four and half off  
19           and run it in with two and three-eighths tubing on a  
20           packer and isolate this section. This is what we've  
21           been doing in the past. It's working well for us. And  
22           then that would afford us the opportunity -- once we go  
23           in and perforate the conventional zones then we can  
24           complete it up and meter it separately. On the coal  
25           side we're run a separate stream of tubing down here

1 and that's where we pump the water from the coal wells.  
2 So then the annular area between this area in here will  
3 be perforated into the coal seams and then this annular  
4 area would come up and be metered separately. So  
5 basically that's our definition of a duel well.

6 MR. CHAIRMAN: All right. You may proceed. Thank you.

7 MR. KAISER: When we get to Mr. Dahlin's testimony we'll go  
8 through the different costs on the AFE and further  
9 allocations.

10 MR. LEWIS: You'll have duel meter runs on that?

11 MR. KAISER: Yes.

12 MR. DAHLIN: We sure will.

13 MR. KAISER: I might add that the technology and the fact  
14 that we're seeking to do this as a duel well -- there's  
15 a possibility in the future that in using this that we  
16 may take what would once be considered marginal areas  
17 and produce reserves because it's more economical.

18 MR. DAHLIN: Right. This well's probably eight to ten miles  
19 from our own production. It's in an area where we do  
20 know definitely that our sand thicknesses are diminish-  
21 ing and it's the reason why we haven't developed up in  
22 here before this time. But where we can have reserves  
23 attributable we think the coal will be light also. But  
24 if there is some reserves -- some additional increment-  
25 al reserves to be had up there in the coal seams then

1 we feel that that will carry the weight of drilling the  
2 whole well to total depth and hopefully make this area  
3 economic to develop.

4 MR. KAISER: Mr. Baker, I'll remind you that you've pre-  
5 viously been sworn.

6  
7 DENNIS R. BAKER

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

10  
11 DIRECT EXAMINATION

12  
13 BY MR. KAISER:

14 Q. State your name for the record, who you're employed by  
15 and in what capacity?

16 A. Dennis Baker, employed by Equitable Resources Energy  
17 Company as senior landman.

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

20 A. Yes, they do.

21 Q. Are you familiar with both of Equitable's applications  
22 for the establishment of a drilling units and the  
23 pooling orders for EREC well VAD-3738 dated September  
24 19th, 1997?

25 A. Yes, I am.

1 Q. Does Equitable own drilling rights in the unit involved  
2 here?

3 A. Yes, we do.

4 Q. Does the proposed unit for the conventional unit  
5 depicted at Exhibit #A include all acreage --

6 MR. CHAIRMAN: Let me stop you right there. Is it better  
7 to accommodate this for you to call the next one as  
8 well?

9 MR. KAISER: Yes, sir. I'm sorry. I didn't even think  
10 about that.

11 MR. CHAIRMAN: We're starting to get testimony and I haven't  
12 really called that one. Let's do that. We're also  
13 going to include here a petition from Equitable  
14 Resources Energy Company for the pooling of a conven-  
15 tional gas unit identified as VAD-3738. This is  
16 docket number VGOB-97/10/21-0613. We'd ask the parties  
17 that wish to address the Board in this matter to come  
18 forward as well. The record will show there are no  
19 others. You may proceed.

20 Q. (Mr. Kaiser continues.) Mr. Baker, does the proposed  
21 unit for the conventional well depicted at Exhibit #A  
22 include all acreage within 2,500 feet, that being a  
23 1,250 foot radius of the proposed well location?

24 A. Yes, it does.

25 Q. Does the proposed unit for the coalbed methane well

1 depicted at Exhibit #A fall within the Board's order  
2 for the Nora Coalbed Methane Field?

3 A. Yes, it does.

4 Q. Does Equitable own drilling rights within both the  
5 conventional and the coalbed methane units?

6 A. Yes, we do.

7 Q. I'm going to go slow through this. Are all unleased  
8 parties set out in Exhibit #B to both applications?

9 A. In revised Exhibit #B, yes.

10 Q. Prior to filing the applications did you make efforts  
11 to contact each of the respondents in an attempt to  
12 work out an agreement regarding the development of the  
13 units?

14 A. Yes.

15 Q. What is the interest of Equitable within the conven-  
16 tional unit at the time of application? What was the  
17 leased interest?

18 A. At the time of application the leased interest was  
19 69.52 percent.

20 Q. At the time of application what was the percentage  
21 unleased?

22 A. The unleased portion at the time of application was  
23 30.48 percent.

24 Q. Subsequent to the filing of the application have you  
25 continued to attempt to reach an agreement with any of

1 the unleased respondents listed at Exhibit #B to the  
2 application for the conventional unit?  
3 A. Yes.  
4 Q. And as a result of those efforts have you obtained  
5 additional leases within the conventional unit?  
6 A. Yes, we have.  
7 Q. In accordance with the revised Exhibit #B could you  
8 please point those out for the Board?  
9 A. At the time of hearing the leased interest is 70.5952  
10 percent. The unleased interest is 29.4048 percent.  
11 Q. Now, prior to the filing of the application did you  
12 attempt to contact each of the respondents and work out  
13 an agreement with them regarding the development of the  
14 coalbed methane unit?  
15 A. Yes.  
16 Q. What was the interest under lease to Equitable in the  
17 coalbed methane unit at the time of filing the applic-  
18 ation?  
19 A. At the time of application the gas estate interest  
20 leased was 80.85 percent.  
21 Q. And there were, obviously, also some unleased interests  
22 within that unit at the time of the filing of the  
23 application. Could you state the unleased percentage?  
24 A. The unleased portion is 19.15 percent of the gas  
25 estate.

1 Q. Subsequent to the filing of the application for the  
2 force pooling of the interest within the coalbed  
3 methane unit did you continue to attempt to reach an  
4 agreement with the respondents listed in revised  
5 Exhibit #B?  
6 A. Yes.  
7 Q. As a result of those efforts did you obtain additional  
8 leases between the time of application and today?  
9 A. Yes, we did.  
10 Q. What is the percentage under lease to Equitable  
11 currently within the coalbed methane unit?  
12 A. The interest leased is 81.4914 percent.  
13 Q. What is the current unleased interest within the  
14 coalbed methane unit?  
15 A. The unleased interest is 18.5086 percent.  
16 MS. RIGGS: Is that for coal and gas and oil?  
17 MR. BAKER: That is the gas estate.  
18 MR. CHAIRMAN: That's the gas estate.  
19 MS. RIGGS: Gas estate only.  
20 MR. BAKER: The coal estate is leased at 100 percent.  
21 MR. KAISER: This is probably a good place to stop and see  
22 if anybody's got any questions on any of that.  
23 MR. CHAIRMAN: Is this well also in the area with a tempor-  
24 ary order?  
25 MR. BAKER: No, it's not.

1 MR. CHAIRMAN: Questions, members of the Board, at this  
2 point? You may continue.

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

9 A. Yes, it was.

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

17 A. Yes, it was.

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

20 A. Yes.

21 Q. Are the addresses set out in both revised Exhibit #Bs  
22 to both applications the last known addresses for the  
23 respondents?

24 A. Yes.

25 Q. Are you requesting this Board to force pool all

1           unleased interests listed at revised Exhibit #B to the  
2           conventional unit and the revised Exhibit #B to the  
3           coalbed methane unit?  
4    A.    Yes, we are.  
5    Q.    Does Equitable seek to force pool the drilling rights  
6           of each individual respondent if living and if deces-  
7           ed, the unknown successor or successors to any deceased  
8           individual respondent?  
9    A.    Yes.  
10   Q.    Mr. Baker, are you familiar with the fair market value  
11           of drilling rights in both the conventional unit  
12           involved here and the coalbed methane unit involved  
13           here and in the surrounding area?  
14   A.    Yes, I am.  
15   Q.    Would you advise the Board as to what those are?  
16   A.    A five dollar per acre consideration, five year term,  
17           one-eighth royalty.  
18   Q.    Did you gain your familiarity by acquiring oil and gas  
19           leases and coalbed methane leases and other agreements  
20           involving the transfer of drilling rights in the unit  
21           involved here and in the surrounding area?  
22   A.    Yes, I did.  
23   Q.    In your professional opinion do the terms you have  
24           testified to represent the fair market value of and the  
25           fair and reasonable compensation to be paid for the

1 drilling rights within the units involved here?

2 A. Yes.

3 MR. KAISER: Mr. Chairman, at this time I would ask that the  
4 testimony as to the election options and the various  
5 time constraints as to when elections can be made and  
6 when costs can be paid that was proffered in our prior  
7 hearing, which was --

8 MR. CHAIRMAN: Docket number 97/10/97-0611.

9 MR. KAISER: Thank you. Yes, sir. Be incorporated into  
10 this hearing.

11 MR. CHAIRMAN: It shall be incorporated.

12 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend  
13 that the orders provide that if a respondent refuses to  
14 accept any payment due including any payment due under  
15 the order or any payment of royalty or cash bonus or  
16 said payment cannot be made to a party for any reason  
17 or there is a title defect or in the case of the  
18 coalbed methane unit a conflicting claim that the  
19 operator create an escrow account for the respondent's  
20 benefit until the money can be paid to the party or  
21 until the title defect or conflicting claimant is  
22 cured?

23 A. Yes.

24 Q. Who should be named the operator under the force  
25 pooling orders?

1 A. Equitable Resources Energy Company.  
2 MR. KAISER: I have no further questions of this witness at  
3 this time, Mr. Chairman.  
4 MR. CHAIRMAN: Questions, members of the Board?  
5 (Witness stands aside.)  
6 MR. CHAIRMAN: Call your next witness.  
7 MR. KAISER: We'll go through this testimony slowly, too.  
8

9 ROBERT A. DAHLIN, II

10 a witness who, after having been duly sworn, was examined  
11 and testified as follows:  
12

13 DIRECT EXAMINATION  
14

15 BY MR. KAISER:

16 Q. Mr. Dahlin, could you please state your name, who  
17 you're employed by and in what capacity?  
18 A. My name is Robert A. Dahlin, II and I'm employed by  
19 EREC as a production specialist.  
20 Q. And you've previously been accepted by the Board as an  
21 expert witness on matters of operation and production?  
22 A. That's correct.  
23 Q. Do your responsibilities include the land involved here  
24 for both units and in the surrounding area?  
25 A. Yes.

1 Q. Are you familiar with the proposed plan of development  
2 for this dual well, 3738?

3 A. Yes, I am.

4 Q. Could you state for the Board the proposed depth for  
5 both the conventional well and the coalbed methane  
6 well?

7 A. The depth of the coal well will be 2,600 feet and the  
8 depth of the conventional well will be 5,780 feet.

9 Q. What are the estimated reserves of the conventional  
10 unit?

11 A. 450 million cubic feet.

12 Q. And what are the estimated reserves of the coalbed  
13 methane unit?

14 A. 250 million cubic feet.

15 Q. Are you familiar with the well costs for the proposed  
16 well under applicant's plan of development?

17 A. Yes.

18 Q. Has an AFE been reviewed, signed and submitted to the  
19 Board?

20 A. Yes.

21 Q. Two AFEs actually. Obviously there's a separate AFE  
22 for the conventional well and a separate AFE for the  
23 coalbed methane well. Were these AFEs prepared by an  
24 engineering department knowledgeable in the preparation  
25 of AFEs and knowledgeable in regard to well costs in

1           this area?

2   A.    Yes.

3   Q.    Do these AFEs represent a reasonable estimate of the

4           well costs for the proposed well under applicant's plan

5           of development?

6   A.    Yes.

7   Q.    Now, if you would, state for the Board first the dry

8           hole costs and completed well costs for the coalbed

9           methane well?

10  A.    The dry hole costs for the CBM well are \$58,950 and the

11           completed well costs would be \$142,050.

12  Q.    Could you state for the Board the dry hole costs and

13           completed costs for the conventional well?

14  A.    Dry hole costs on the conventional side are \$101,150

15           and completed costs are \$222,650.

16  Q.    Do these costs anticipate a multiple completion?

17  A.    In both sides.  That's right.

18  Q.    Both on the CBM side and the conventional side?

19  A.    Yes.

20  Q.    Do both AFEs include a reasonable charge for super-

21           vision?

22  A.    Yes.

23  Q.    Mr. Dahlin, in your professional opinion will the

24           granting of these applications be in the best interest

25           of conservation, the prevention of waste, and the

1 protection of correlative rights?

2 A. Yes.

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

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

6 MR. LEWIS: What's the elevation of the well?

7 MR. DAHLIN: 2,264.

8 MR. LEWIS: 2,264?

9 MR. DAHLIN: Yes.

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

11 MR. KING: I have a question. Can you go back and explain  
12 that drilling procedure again?

13 MR. DAHLIN: Okay. If you just think about it for the first  
14 few steps as just typically drilling a coal well where  
15 the first thing -- you've got your drive pipe which is  
16 to keep your surface from falling in on you and then  
17 you set the surface water or surface protection stream  
18 which we will set and cement to the surface. Then  
19 typically you'll drill a coal well to total depth and  
20 cement the four and a half to surface and that's your  
21 production stream. In this case it will be seven inch.  
22 We'll cement it to the surface. So it's just a  
23 difference in the size. From that point and all these  
24 things that I've described for you will be shared  
25 between both units because both wells are benefiting

1 from it. Now at this point drilling -- right here is  
2 where we'd be now. I don't -- I should have brought  
3 something bigger.

4 MR. LEWIS: What a lot of them don't understand when you're  
5 telling them you're going to cement a well is that  
6 you're taking that cement and you're pushing it down a  
7 pipe and pushing it back up to the surface.

8 MR. DAHLIN: Right. That would be in this area right here.  
9 We'll be pumping it down hydraulically. This wouldn't be  
10 in here at this point. But what we'll be doing is  
11 pumping the cement down in here, forcing it up the back  
12 side to the surface, and that then would be our coal  
13 well at that point.

14 MR. CHAIRMAN: Coalbed methane well.

15 MR. DAHLIN: Right. Coalbed methane well. All these seams  
16 up in here will be the coal. We've drilled into the  
17 Red Rock at this step here. Then we would stop and all  
18 costs that go to the coal well will be stopped until  
19 completion. Then when we would continue we would drill  
20 this hole size right here down to the total depth at  
21 5,000 plus feet. We'd do the same thing that Max was  
22 describing for you about displacing cement down the  
23 tubulars and back up the other side. And that would be  
24 done down through here, would come up in here, up to  
25 and inside this pipe. All right. All these costs

1 would go strictly to the conventional side. Then we'd  
2 run this four and a half production casing to the total  
3 depth. Now, at that time we've got this area out here  
4 we can't touch now because it's behind four and a half.  
5 So we have to unscrew it. We'd have a packer set and  
6 we'd unscrew above the packer and take the pipe out and  
7 lay it down. At that time we've perforated the coal  
8 well. Costs again back to the coal well. We complete  
9 it, clean it up, go back and screw back (inaudible.)  
10 and then we're below it here and we can complete this  
11 section down here. Again, we're just divvying up  
12 the completion --

13 MR. KING: Do you produce out of both at one time?

14 MR. DAHLIN: We'll be producing the conventional area.  
15 We'll be isolated by virtue of this packer. The  
16 perforations will go through the cement, out in the  
17 conventional zone. That will allow the gas to come  
18 into here -- this area -- and then up the four and a  
19 half pipe.

20 MR. LEWIS: You might explain to them about a packer. They  
21 probably don't understand.

22 MR. DAHLIN: Okay. A packer is run in the stream of pipe.  
23 It's screwed on just like each joint of pipe is screwed  
24 on and you go down and you set it by unjaying the  
25 device down hole. It's got a series of slips and

1 rubber packing elements that when you take tension --  
2 when you pull up on it -- then once that jay has been  
3 set. Then the elements -- the slips coil up and  
4 squeeze the elements out and lock it into the other  
5 stream of pipe. And that effects our seal.

6 MR. LEWIS: Seals it off.

7 MR. DAHLIN: Right. We've got probably -- oh, I'd say maybe  
8 200 of these in the field right now. We usually have  
9 different pricing between the tax credit type incent-  
10 ives. So we have isolated in that manner and meter  
11 them separately there, too. So at that point then the  
12 gas is allowed to come into this annular area and will  
13 be producing up to two and three-eighths tubing. The  
14 one and a half tubing will be set in the annular area  
15 between a seven inch and a four and a half. This is  
16 typical for our coal wells also. They produce water.  
17 You have to keep the water off of them in order to  
18 produce the methane. So we'll be pumping the water up  
19 the inch and a half and then taking the gas from this  
20 area, once it's perforated out into these coal seams it  
21 will come into this annular area here and it will be  
22 metered separately off that side.

23 MR. CHAIRMAN: Do you represent that you've got complete a  
24 isolation of the two gases at that point?

25 MR. DAHLIN: Yes. They're cemented separately. They're

1 perforated in the -- and the only areas that are  
2 allowed to communicate with the isolated areas.

3 MR. HARRIS: And the packer then will insure that they're  
4 separate?

5 MR. DAHLIN: Yes.

6 MR. HARRIS: I don't know much about these packers. I  
7 guess, the material -- is there a life expectancy of  
8 that?

9 MR. DAHLIN: No. I started down here in 1975 and those  
10 wells are still producing. And the way we know they're  
11 holding there is we have gauges we put on the two  
12 different sides. If you seek two different pressures  
13 you know you've got two --

14 MR. KING: So basically what you're doing is saving from  
15 drilling two different wells?

16 MR. DAHLIN: Exactly. Up until recently we would drill in  
17 the same area, same location. The conventional wells,  
18 like I said, are 1973 vintage on and now we come on to  
19 that same location and drill a shallower coal well.  
20 Some of them -- since they're currently depleting,  
21 getting beyond their economic life, we have been  
22 converting those wells, plugging them back, using the  
23 top section as our coal well and we make it a coal well  
24 unit at that time. What we're trying to do is just  
25 prevent that ultimate outcome and just do them both at

1 the same time.

2 MR. BRENT: You indicated a total depth of 5,780 feet?

3 MR. DAHLIN: Yes.

4 MR. BRENT: I come up with an extra hundred feet of casing.

5 What is that for?

6 MR. DAHLIN: A hundred feet of --

7 MR. BRENT: I came up with 5,880 feet of casing.

8 MR. DAHLIN: It's probably just an error on our part.

9 MR. BRENT: You have 2,600 feet of seven inch and 3,280 of

10 four and a half inch which adds up to 5,880.

11 MR. DAHLIN: Okay. Well, part of the cost of the four and a

12 half goes to both sides. It's -- we've had some

13 discussion between Sandra and that's how we -- I forget

14 the accounting term. I believe it's copous or some-

15 thing like that.

16 MR. KAISER: We decided to treat the sharing of the expenses

17 on a copous basis which is the accounting method that's

18 used on joint operating agreements.

19 MR. BRENT: Does that explain the extra hundred feet?

20 MR. KAISER: No.

21 MR. DAHLIN: I don't honestly know. It's probably an error.

22 It's pretty complicated the way they've gone through.

23 We have different teams in our company. One group

24 handles the CBM and one group handles the conventional.

25 There's probably been an error in communication between

1 the two.

2 MR. CHAIRMAN: Will you clean that up and file it with the  
3 Board?

4 MR. DAHLIN: Yeah. I sure will.

5 MR. KAISER: There's just a hundred foot too much casing on  
6 the conventional side.

7 MR. CHAIRMAN: When you add them up, in other words, where  
8 ever it is.

9 MR. DAHLIN: We'll clean it up.

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

12 MR. CHAIRMAN: Do you have anything further?

13 MR. KAISER: Nothing further. We'd ask that the applic-  
14 ations be approved as submitted.

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

16 MR. KING: Second.

17 MR. CHAIRMAN: All in favor signify by saying yes.

18 MR. BRENT: Mr. Chairman, I'd like to ask that we make sure  
19 they adjust the cost as part of this granting of the  
20 application.

21 MR. KAISER: We'll file an amended AFE.

22 MR. DAHLIN: Right.

23 MR. BRENT: Can that be included in the second?

24 MR. CHAIRMAN: Who made the motion?

25 MR. LEWIS: I did.

1 MR. CHAIRMAN: Do you have any problem including that as  
2 part of the motion?  
3 MR. LEWIS: No, I don't.  
4 MR. CHAIRMAN: Including filing an amended AFE that  
5 would include amended costs.  
6 MR. LEWIS: Yeah.  
7 MR. CHAIRMAN: Any problem with that, a second?  
8 MR. KING: No.  
9 MR. CHAIRMAN: Let's revote. All in favor signify by  
10 saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)  
11 It is approved. Thank you.  
12  
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1 MR. CHAIRMAN: That concludes the items on the agenda today.  
2 The new business, I've got a couple of things I want to  
3 mention to you. I have a request from a citizen here  
4 today that wanted to talk to the Board for a few  
5 minutes. I also have a request for -- next month's  
6 meeting will be at the new law school over here in  
7 Grundy. I have a request from the Buchanan County  
8 Citizens Group and the Headwater Group to address the  
9 Board. Now, if that's the Board's pleasure to allot  
10 some time to do that on our own motion we'll put that  
11 on the agenda. Ms. McClannahan's here today and had  
12 said that she estimates somewhere around 15 minutes or  
13 so. I'm not trying to put a limit on you, but about 15  
14 minutes or so.

15 MR. LEWIS: You ought to put a limit on it.

16 MR. CHAIRMAN: For each one to talk about what their group's  
17 about and what they do. If it's the Board's pleasure I  
18 can include that as the Board's own motion for the  
19 public notice.

20 MR. GARBIS: What is the topic?

21 MR. CHAIRMAN: They wanted to talk to the Board about their  
22 groups -- the Buchanan County Citizens Group and the  
23 Headwaters Group and, as I understand it, explain what  
24 they're about and what their concerns are of drilling  
25 operations in Buchanan County -- for gas and oil

1 operations. Does everyone agree to put that on the  
2 agenda?

3 MR. LEWIS: And there ought to a time limit and I think  
4 Sandy ought to be the time keeper.

5 MR. KAISER: Mr. Chairman, I'd just make one request and it  
6 should just take a second. In talking with Tom it  
7 looks like the deadline for November was Friday and  
8 apparently the only applications that have been filed  
9 are three that Equitable filed. Would it be possible,  
10 since it's going to be in Grundy and we're all coming  
11 from Kingsport -- there's the one citizen's group that  
12 wants to speak and the three matters. Could we start  
13 like at maybe 10:00?

14 MR. CHAIRMAN: Well, Dennis comes from -- you're talking to  
15 people who have a nine hour trip.

16 MR. KAISER: I imagine them coming the night before. I'm  
17 trying to prevent that. This place won't even be open  
18 at that time.

19 MR. BRENT: We'd like to not have to stay two nights.

20 MR. CHAIRMAN: Yeah, because they're having to drive back.  
21 So that's a problem.

22 MR. BRENT: I'm not sure I understand. Why do you want to  
23 start at 10:00?

24 MR. KAISER: So we don't have to leave at like 5:00 or 6:00  
25 in the morning to get up there because there's really

1 no where to stay up there if we came the night before.

2 MR. DAHLIN: We understand this place will be closed.

3 MR. KAISER: This is closed, isn't it, as of the end of this  
4 month?

5 MR. CHAIRMAN: I'm not sure.

6 MR. KING: She told us last it was going to be open till the  
7 first of December.

8 MR. KAISER: Oh, okay. Whatever you all want to do.

9 MR. CHAIRMAN: Just for the record, if you will just state  
10 your name.

11 MR. DAVIS: My name is Hurley Davis. I'm a Buchanan  
12 citizen.

13 MR. CHAIRMAN: Thank you. Let me let you know just a couple  
14 of things. I need to do this for the record. Obvious-  
15 ly this is under new business. We haven't provided  
16 public notice or anything like that. Therefore, the  
17 Board is not in a position of making any decisions or  
18 responding in any formal way, but we will hear from  
19 you.

20 MR. DAVIS: They've got five wells on the boundary of my  
21 land and they are getting my gas and I have a (In-  
22 audible.) I do own the gas on my land and the company  
23 does not want to put it in escrow. Like I said, I own  
24 the gas. I've got one well about 50 feet from the  
25 boundary and another one about 100 feet and then

1 another one 500 feet and then another one about 1,000  
2 feet.

3 MR. CHAIRMAN: That's off your surface?

4 MR. DAVIS: Yeah.

5 MR. CHAIRMAN: But you're the gas and oil owner. You own  
6 the surface and the gas?

7 MR. DAVIS: Yeah. Another thing, they had to pump the water  
8 out of the slush pond last year into the creek where it  
9 goes by my house and I've got a fishing pond there and  
10 they killed every fish I had in that pond. I've called  
11 Mark Darring in Abingdon and nothing ever was done  
12 about it. They said they were going to check it out,  
13 do this and do that, but nothing never was done.

14 MR. KING: Who's the company?

15 MR. DAVIS: Consolidated Coal.

16 MR. CHAIRMAN: One issue that bring up from the Board's  
17 prospective, you're talking about that this is your  
18 piece of property. You're saying what they're doing is  
19 drilling out around your property?

20 MR. DAVIS: Yeah.

21 MR. CHAIRMAN: Draining your gas. You're saying that the  
22 way this is set up -- now, property line doesn't have  
23 anything to do with the pooling, per say.

24 MR. DAVIS: Well, they come across my land and cut the trees  
25 down.

1 MR. CHAIRMAN: I understand that.

2 MR. DAVIS: They tore my fence up. I can't get nothing out  
3 of that either.

4 MR. CHAIRMAN: Have you leased with them?

5 MR. DAVIS: Huh-uh.

6 MR. CHAIRMAN: You have not leased with them?

7 MR. DAVIS: Huh-uh.

8 MR. CHAIRMAN: Are they producing from these wells that  
9 you're talking about that are around your property?

10 MR. DAVIS: Yeah.

11 MR. CHAIRMAN: Have you been force pooled?

12 MR. DAVIS: Yeah.

13 MR. CHAIRMAN: You have been force pooled. Okay. So your  
14 money is going into escrow?

15 MR. DAVIS: No. Huh-uh. They will not put it in escrow.  
16 That's what I can't understand. I asked the company to  
17 put it in escrow and they said they didn't have to.  
18 They felt like they own it. I said, "You do own the  
19 coal but you don't own the gas on the land." They  
20 said, "We feel like we own both."

21 MR. CHAIRMAN: We'll have to look into that and get back  
22 with you. There's something not right here or maybe  
23 it's our understanding, but we'll try to work with Tom  
24 and get back with you on that.

25 MR. DAVIS: I appreciate it.

1 MR. CHAIRMAN: Thank you. Anything further, members of the  
2 Board? That concludes our business today. Thank you.

3 MR. FULMER: May I suggest that for the November hearing,  
4 there's a couple of things. Right now we have filed --  
5 or what the Board will be looking at in November is  
6 one, the continuance that was granted today. Two,  
7 there has been two force pooling petitions received and  
8 one well location exception received. So those are the  
9 four items on the agenda for November.

10 MR. CHAIRMAN: Plus, on our own motion to hear from Head-  
11 waters and Buchanan County Citizens Group.

12 MR. FULMER: Right. The other suggestion I would like to  
13 suggest to the Board is to bring upon -- under the  
14 spread sheet I handed out today there are ten orders  
15 which the Board had issued or your predecessors had  
16 issued in the 80s and early part of the 90s by which  
17 the order requires internal escrows. I would suggest  
18 that these be brought before the Board to modify those  
19 orders to have those funds be escrowed with our escrow  
20 agent because at the time these orders were made there  
21 was no escrow agent.

22 MR. CHAIRMAN: We'll put those on the Board's own motion and  
23 bring those ten before the Board, if that's the Board's  
24 pleasure.

25 MS. RIGGS: I'll do a proposed order like we did for the

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dismissals.

MR. CHAIRMAN: And send it out.

MR. FULMER: That's all.

MR. CHAIRMAN: Okay. That concludes our business today.

Thank you.

(End of Proceedings for  
October 21, 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 October 21, 1997 at the Breaks Interstate Park, Breaks, 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 17th day of October, 1997.

Deborah J. Bise  
DEBORAH J. BISE  
NOTARY PUBLIC

My commission expires September 30, 2000.