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2 IN THE COUNTY OF WASHINGTON

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8 MARCH 24, 1998

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BOARD MEETING

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Reported by:
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1 BENNY WAMPLER: Good morning. My name is Benny
2 Wampler. I'm Deputy Director for the Virginia Department of
3 Mines, Minerals and Energy and I'm Chairman of the Gas and Oil
4 Board. Let me tell you that the acoustics in here...only those
5 of you in the back of the room can tell how good or how bad they
6 are. These microphones are just recording devices. They're not
7 amplifiers. So, I'd encourage you to seat...feel free to move
8 your chair to where you can hear, if you can't hear. As we're
9 talking, we will all try to speak up enough so that you can hear
10 us today. I'll ask the Board members to introduce themselves,
11 starting with Dennis.

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

14 CLYDE KING: My name is Clyde King. I'm from Washington
15 County and I'm a public member.

16 BILL HARRIS: I'm Bill Harris from Wise County a public
17 member.

18 SANDRA RIGGS: I'm Sandra Riggs with the office of the
19 Attorney General.

20 MAX LEWIS: Max Lewis, a public member from Buchanan
21 County.

22 MASON BRENT: My name is Mason Brent. I'm from Richmond
23 and I represent the Gas and Oil Industry.

24 TOM FULMER: Tom Fulmer, Department of Mines, Minerals
25 and Energy.

1 BENNY WAMPLER: The first item on today's agenda, the
2 Board will consider an appeal filed by Sarah Horn Day to the
3 decision rendered by the Director of the Division of the Gas and
4 Oil on an informal fact finding hearing. This is docket number
5 VGOB-98-03/24-0640. We'd ask the parties that wish to address
6 the Board in this matter today to come forward at this time and
7 introduce yourselves for the record, please.

8 BRYAN SLAUGHTER: Good morning. My name is Bryan
9 Slaughter. I'm a lawyer with Michie, Hamlett, Lowry, Rasmussen &
10 Tweel. We're a firm in Charlottesville, Virginia. Miss Day,
11 would you like to introduce yourself.

12 SARAH HORN DAY: Sarah Day.

13 MARK SWARTZ: I'm Mark Swartz. I'm here with Les
14 Arrington and Claude Morgan.

15 BENNY WAMPLER: You may proceed, Mr. Slaughter.

16 BRYAN SLAUGHTER: Okay.

17 MARK SWARTZ: If I might just...there are two pooling
18 applications on the docket today that pertain to this appeal, I
19 suppose, in a fairly direct sort of way. They're items three and
20 four on the docket pertaining to unit S-36 and T-36, and Miss
21 Horn's appeals pertain to permit applications within those units.
22 I would think that it would make sense for the Board to be aware
23 of that and maybe take those up, if there's not an objection, in
24 the course of this appeal hearing.

25 BRYAN SLAUGHTER: I don't have an objection. Not at

1 all.

2 BENNY WAMPLER: Do you have a specific suggestion that
3 we go to those?

4 MARK SWARTZ: Well, I don't want to preempt Mr.
5 Slaughter. I mean, you know, I feel it's his appeal and...but I
6 certainly wanted him to be aware of the fact that right behind
7 him on the docket and now, I guess, sort of in this procedure,
8 there is literally going to be a...you know, we talked some at
9 the permit hearing---

10 BRYAN SLAUGHTER: Uh-huh.

11 MARK SWARTZ: ---about the fact that because his client
12 was asserting a claim, that it was a conflicting claim, that it
13 would be necessary to pool and we have in fact done that, or at
14 least filed the application.

15 BRYAN SLAUGHTER: I think the same issues are going to
16 be raised in each one. So, it's fine with me.

17 BENNY WAMPLER: Okay.

18 BRYAN SLAUGHTER: I mean, if the Board has no
19 objection, but if it would like to do it as they come up, that's
20 fine also.

21 BENNY WAMPLER: It may be good just to move to the
22 pooling applications then if that's okay with you?

23 BRYAN SLAUGHTER: Well, we'd like to address some of the
24 permitting also, if that's okay.

25 BENNY WAMPLER: That's fine. That's fine.

1 BRYAN SLAUGHTER: Okay.

2 BENNY WAMPLER: Well, we'll go ahead then and address
3 the matter that we have before us.

4 BRYAN SLAUGHTER: All right. How would the Board like
5 to...would it like to hear testimony from Miss Day or would you
6 just like to hear from me? How would you like this procedure to
7 work?

8 BENNY WAMPLER: That's...that's up to you on whether or
9 not to---

10 BRYAN SLAUGHTER: Okay. I didn't know if there were
11 any---

12 BENNY WAMPLER: ---if you do plan to have her testify,
13 you need to have her sworn in is the only thing that we'd ask.

14 BRYAN SLAUGHTER: Okay. All right. I would like to
15 have her testify if you could swear her in.

16

17 SARAH HORN DAY

18 having been duly sworn was examined and testified as follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SLAUGHTER:

21 Q. Miss Day, if I could ask you a few questions.
22 Did you receive a deed from Pocahontas Gas Company stating
23 that...that showed a certain tract that they were going to
24 pool...where they were going to pool gas out of that tract?

25 A. Yes, I did.

1 Q. Okay, and to your knowledge, what tract of land
2 was that?

3 A. That was called on the deed as the Old Home
4 Place.

5 Q. Okay, how do you---?

6 A. The Stilwells.

7 Q. How do you know it was the Old Home Place?

8 A. It was written in the deed.

9 Q. Okay. And that is because it said the Stilwell
10 Home?

11 A. Home Place, yeah.

12 Q. Okay. Okay, and are you aware of the...the
13 property...the actual property in which the gas company wants to
14 drill?

15 A. Yes, I am.

16 Q. Okay. Is that the same as the Old Home Place?

17 A. No, it is not.

18 Q. Okay. And is it true that the Old Home Place
19 deed showed the coal...showed the severance of the coal to the
20 McGuire/Hurt heirs, is that right?

21 A. Right.

22 Q. Okay, but you have seen nothing that shows the
23 severance of the coal on the property in which the gas company
24 wants to drill?

25 A. No.

1 Q. No, you have...you---?

2 A. I have not seen the---.

3 Q. Okay.

4 A. ---where they wanted to drill...the actual well.

5 Q. Okay. So, as far as you are concerned, who owns
6 that coal?

7 A. I believe the Horn heirs own the coal.

8 BRYAN SLAUGHTER: Okay. For now, I will have some
9 other questions, I believe, of the Pocahontas representative. For
10 now that is our position, that they have not...the deed that they
11 presented in their application was not the actual deed that
12 they...that was not the deed for the land that they wish to drill
13 on...upon.

14 CLYDE KING: Mr. Chairman, I have a question, please?

15 BENNY WAMPLER: Mr. King.

16 CLYDE KING: Is this...is this the property location or
17 is this---?

18 BRYAN SLAUGHTER: I believe so, sir.

19 CLYDE KING: Can you identify what you were talking
20 about, the Old Home Place on this?

21 BRYAN SLAUGHTER: Well, I can't identify the Old Home
22 Place because I was just going from the deed that was given to
23 Miss Day by the gas company. That is not in the record, or at
24 least I have not seen it in the record. I do not believe I have
25 the entire application.

1 A. The first spur.

2 Q. Okay.

3 A. So, there are three spurs there, two gorges,
4 beside the first spur is the old home place up there.

5 Q. And that is the deed that you saw given by the
6 gas company initially?

7 A. Right.

8 MASON BRENT: How many property deeds are involved in
9 this whole tract?

10 BRYAN SLAUGHTER: I believe it's...Mr. Swartz...I think
11 they would be able to answer better the total number better than
12 I would.

13 MARK SWARTZ: There is a large coal tract that is the
14 severance deed at issue with these heirs. It's...I think, a 143
15 acre severance deed, severing the coal. It is a much larger
16 tract than the tracts...the tract three in T-36 and the tract 2-J
17 in...in S-36. I mean you can see those are fairly small tracts.
18 The severance deed, as is typically the case, you know, will be
19 way back in time and the tracts are much larger. So, I mean we
20 have...we brought with us today...Mr. Arrington will be talking
21 about it, but we have a map of the...of the coal tract, the 143
22 acre tract, which is a pretty big portion of one of these. You
23 know, it is not so larger portion of another, giving the way it
24 lays. But there is no way that the surface tracts and the oil
25 and gas tracts, that the Linkous Horn heirs are talking about are

1 going to match this because they are little pieces of this coal
2 severance tract. So, you are not going to be able to over lay
3 them, they were subsequent conveyances, obviously.

4 BENNY WAMPLER: Mr. Slaughter, do you have any objection
5 now having heard that representation to go forward, and let Mr.
6 Swartz go forward with the two pooling applications, which would
7 get all of this on evidence.

8 BRYAN SLAUGHTER: I don't have an objection.

9 BENNY WAMPLER: We will withhold, if that is okay with
10 the Board, any ruling as to permit appeal.

11 BRYAN SLAUGHTER: Okay.

12 BENNY WAMPLER: And come back to that.

13 BRYAN SLAUGHTER: Okay.

14 BENNY WAMPLER: I believe that will allow you to get all
15 the evidence in the record that you have a question about. It
16 may answer some questions, hopefully, and allow you then to cross
17 examine. Is that suitable to you?

18 BRYAN SLAUGHTER: Okay, that is fine.

19 MARK SWARTZ: Mr. Arrington needs to be sworn.

20 BENNY WAMPLER: I need to call it.

21 MARK SWARTZ: Oh, okay, I am sorry, I thought we had
22 done that.

23 BENNY WAMPLER: No. Are you suggesting that we go ahead
24 and call both?

25 MARK SWARTZ: Yes, please.

1 BENNY WAMPLER: Okay, we're going to go ahead and
2 suspend any decision on the permanent decision at this point in
3 time, and go ahead and call the next two docket items for---.
4 The Virginia Gas and Oil Board will consider a petition from
5 Pocahontas Gas Partnership for pooling a coalbed methane unit
6 identified as T-36, docket number VGOB-98-03/24-0625, and coalbed
7 methane unit identified as S-36, docket number VGOB-98-03/24-
8 0626, and we would ask the parties that wish to address the Board
9 in those matters to come forward as this time.

10 MARK SWARTZ: I'm Mark Swartz on behalf on Pocahontas
11 Gas Partnership, Les Arrington, and perhaps Claude Morgan.

12 BRYAN SLAUGHTER: May I ask if the permit hearing appeal
13 is granted, then there is no...then you do not go to the pooling
14 part, is that correct? Don't you have to be permitted before you
15 can pool?

16 BENNY WAMPLER: Separate actions.

17 BRYAN SLAUGHTER: Which I realize it's separate, but
18 isn't it...traditionally, doesn't the Board usually do the
19 permitting before the pooling?

20 BENNY WAMPLER: No, sir.

21 BRYAN SLAUGHTER: All right.

22 BENNY WAMPLER: I just need you to identify yourself and
23 her name for the record.

24 BRYAN SLAUGHTER: I am sorry. My name is Bryan
25 Slaughter, I am the lawyer of Michie, Hamlett, Lowry, Rasmussen,

1 and Tweel, and---.

2 BENNY WAMPLER: Again, for the record.

3 SARAH DAY: Sarah Day.

4 BENNY WAMPLER: And if you would, just remind your
5 witnesses that she has already been previously sworn, just trying
6 to keep a record. And Mr. Swartz, you want to go ahead and help
7 your witnesses sworn---.

8 MEMBER OF AUDIENCE: Excuse me. Can we have everybody
9 speak up a little bit, so we can hear, please.

10 BENNY WAMPLER: We will do our best.

11 MARK SWARTZ: Rather than give you exhibits piecemeal,
12 we will just give you the collection at one time here.

13 (Exhibits are handed given to Board Members.)

14 BENNY WAMPLER: You need to have your witnesses sworn.

15 (Witnesses are duly sworn.)

16

17 LESLIE K. ARRINGTON

18 QUESTIONS BY MARK SWARTZ:

19 Q. Les, can you state your name for the record,
20 please?

21 A. Leslie K. Arrington.

22 Q. And who do you work for?

23 A. Consolidation Coal Company.

24 Q. And is...in the course of your duties, is one of
25 your duties to prepare pooling applications, notices of hearings,

1 and related exhibits for the Pocahontas Gas Partnership?

2 A. Yes, it is.

3 Q. Did you in fact prepare the notices of hearing,
4 the applications, and the related exhibits for units T-36 and
5 S-36?

6 A. Yes, I have.

7 Q. And have you passed out a packet of additional
8 exhibits this morning?

9 A. Yes, I have.

10 Q. And have we also given the board a revised
11 Exhibit A, page two with regard to unit S-36? You haven't done
12 that?

13 A. Not yet.

14 Q. Okay. All right. We need to do that.

15 (Hands Board Members a revised exhibit)

16 BENNY WAMPLER: Les, do you have another one?

17 LESLIE K. ARRINGTON: Yeah.

18 MARK SWARTZ: Give each one of them. Yeah. Let's
19 start a little differently because of the fact that we have an
20 appeal than we normally would. What I would like to do is direct
21 your attention to this...this map that we've passed out to the
22 board today.

23 Q. Is this a map of the...the coal severance tract?

24 A. Yes, it is.

25 Q. Okay, and is this tract...the coal under this

1 tract in both applications owned by, under the terms of the
2 severance deed, the McGuire and Hurt heirs?

3 A. Yes, it is.

4 Q. Okay. And is a portion of the surface and/or
5 oil and gas of this tract owned by some of the Linkous Horn
6 heirs?

7 A. Yes, it is.

8 Q. Okay. And is a part of this large coal tract in
9 both of the units that we are talking about today?

10 A. Yes, it is.

11 Q. Okay. If we look at these plat maps that are in
12 your applications, there should be one in each, if we look at the
13 map of...the plat map for S-36. Okay?

14 A. Uh-huh.

15 Q. Okay, and I have tried to outline it in pen, I
16 don't know if you all can see it, but is what I've outlined in
17 pen on the plat map for S-36, the top portion of the coal tract?

18 A. Yes, it is.

19 Q. You see how that matches? So, if you use these
20 exhibits together, the well plat for S-36 and the larger map of
21 the coal severance tract that we've given you today, you can see
22 that the upper portion of the coal tract lies in this
23 configuration in S-36, okay? And then if you turn to the same
24 exhibit in the T-36 unit, you will notice that the lower
25 portion...you can match up...well, on this one, you can match up

1 these lines. It's pretty easy to see them, but the lower portion
2 of the tract then catches the T-36 unit. Just to give you some
3 idea of how this coal tract relates in the severance deed...
4 relates to these two units.

5 Mr. Arrington, with regard to this coal tract, before
6 you prepared the pooling applications, before you sought a permit
7 application or permit applications, did you have someone do title
8 research?

9 A. Yes, we did.

10 Q. Okay, and was that a law firm out of Tazewell?

11 A. Yes, it was.

12 Q. Who was that?

13 A. Altizer, Walk, and White.

14 Q. Okay, and did they in fact do title...coal title
15 for the tract, the larger?

16 A. Yes, they did.

17 Q. Okay, and did they also do a oil and gas title?

18 A. Yes, they did.

19 Q. And in the course of doing that oil and gas
20 title, did they identify the Linkous Horn heirs as having some
21 oil and gas interest in these units?

22 A. Yes, they did.

23 Q. And did they also do surface---?

24 A. Yes, they have.

25 Q. ---inquires?

1 A. Uh-huh. Yes, they have.

2 Q. Okay. With regard to the location of the wells,
3 which...and the frac wells are actually shown on the well plats
4 in the applications, correct?

5 A. They are.

6 Q. Is it true that neither well is in fact located
7 on tracts owned by the Linkous Horn heirs at this point in time?

8 A. On their surface?

9 Q. On their surface.

10 A. That is correct, they are not.

11 Q. They are not. If you just...with regard to T-
12 36, for example, the Linkous Horn heirs surface is which tract?

13 A. T-36, just a minute...2-J.

14 Q. Now, that is in which?

15 A. This is it.

16 Q. That is on T-36.

17 A. We are missing part of that one.

18 Q. Okay, and the well is being drilled on what
19 tract?

20 A. T-36.

21 Q. Right.

22 A. Joe Nipper---.

23 Q. Okay, is who owns the surface?

24 A. ---tract, who owns the surface, that is correct.

25 Q. And in S-36, who owns the surface where the well

1 is being drilled?

2 A. Harlan Osborne.

3 Q. Okay. So, in neither case do the Linkous Horn
4 heirs or the Mrs. Day owns surface where the well is being
5 drilled?

6 A. That is correct.

7 Q. Getting back to the applications now. Are both
8 of these applications for pooling under Oakwood One rules?

9 A. Yes, they are.

10 Q. Okay. So, they only involve the drilling of
11 frac wells at this point?

12 A. That is correct, they do.

13 Q. Okay, and the applicant here is who?

14 A. Pocahontas Gas Partnership.

15 Q. Is Pocahontas Gas Partnership a Virginia General
16 Partnership?

17 A. Yes, it is.

18 Q. Are the partners in that partnership
19 Consolidation Coal Company and Conaco, Inc.?

20 A. Yes, it is.

21 Q. And in both applications, is Pocahontas Gas
22 Partnership requesting that someone be designated the Board's
23 operator?

24 A. Yes, it is, Pocahontas Gas Partnership.

25 Q. Okay, is Pocahontas Gas Partnership authorized

1 to do business in the Commonwealth of Virginia, is it registered
2 with the Department of Mines, Mineral, and Energy, and does it
3 have a blanket bond on file as required by law?

4 A. Yes, it does.

5 Q. In each of the pooling applications and notices,
6 are the names of the people to be pooled listed in the notice of
7 hearing?

8 A. Yes, they are.

9 Q. Okay. And in this instance, was Mrs. Day
10 listed?

11 A. Yes, she is.

12 Q. Okay, in both notices?

13 A. Yes.

14 Q. Okay, and are the people to be pooled also
15 listed in Exhibit B-3?

16 A. Yes, they are.

17 Q. And to the extent that we have addresses for
18 those folks, are they set forth in Exhibit B-3?

19 A. Yes.

20 Q. And is the division of interest on each claimant
21 listed in Exhibit B-3 also set forth?

22 A. Yes.

23 Q. As a percentage of the unit?

24 A. Yes.

25 Q. Okay. Do you want to add any respondents today

1 or dismiss any respondents with regards to either of these
2 applications?

3 A. No, we do not.

4 Q. Did you mail a notice of this...of these
5 applications to all of the respondents that you had addresses
6 for?

7 A. Yes, we did. We mailed that on February 20th of
8 '98.

9 Q. And did you mail everybody listed on Exhibit B-
10 3?

11 A. Yes, we did.

12 Q. Okay. And have you filed the results of the
13 mailing with the Board?

14 A. Yes, we have.

15 Q. So, they can tell by referring to a
16 certification that you filed today, who picked up the mail, who
17 returned it, who didn't?

18 A. Yes, correct, we did.

19 Q. Okay, you filed that this morning?

20 A. Yes.

21 Q. Did you publish public notices in regard to both
22 of these, you know?

23 A. Yes, we did in the Bluefield Daily Telegraph on
24 March 4, 1998.

25 Q. And have you filed certificates of publication

1 with regard to those publications?

2 A. Yes, we have.

3 Q. Let's take Exhibit...lets take T-36 first, in
4 terms of interest in the unit. There's an Exhibit A, page two in
5 T-36, correct?

6 A. That's correct, it is.

7 Q. And the percentage of coalbed methane rights
8 that Pocahontas Partnership owns, has leased, or has previously
9 pooled with regard to coal owners is what percentage?

10 A. A 100 percent.

11 Q. Okay, and with regard to oil and gas owners,
12 what percentage has Pocahontas Gas Partnership acquired by lease
13 or otherwise?

14 A. 65.0547 percent.

15 Q. And how much of the coal under these two units
16 is...do you have coal leases for?

17 A. One hundred percent.

18 Q. Okay, and this application now with regard to T-
19 36, you are seeking to pool zero percent of the coal claims?

20 A. That's correct.

21 Q. Because you have required leases?

22 A. Yes.

23 Q. And what percentage of the oil and gas interest
24 are you seeking to pool?

25 A. 34.9453 percent.

1 Q. With regard to S-36, have you filed today an
2 revised Exhibit A page two?

3 A. Yes, we have.

4 Q. There was a mistake in the original one?

5 A. Yes, it was.

6 Q. Okay. With regard to Unit S-36, what...what
7 amount of coal claims to coalbed methane do you have under lease
8 or have you otherwise acquired?

9 A. We have 100 percent of the coal leased, and we
10 have 56.785 percent of the coalbed methane leased from that
11 owner.

12 Q. From coal owners?

13 A. Coal owners.

14 Q. Okay. With regard to oil and gas, what amount
15 of the oil and gas claims, the coalbed methane, have you leased
16 from oil and gas owners?

17 A. 11.07029 percent.

18 Q. Okay. And what are the interest that are sought
19 to be pulled by this application pertaining to S-36?

20 A. 43.2125 percent of the coal owner and 88.92971
21 percent of the oil and gas owners.

22 Q. Both of these units are eighty acre units?

23 A. Yes, they are.

24 Q. In both instances you are talking about drilling
25 a frac well?

1 A. That's correct, we are.

2 Q. And is the production to come from the Tiller
3 Seam and below?

4 A. Yes, it is.

5 Q. Okay. Basically the pool created by the Oakwood
6 One rules?

7 A. Yes, it is.

8 Q. Do you have an Exhibit C in each of the
9 applications which is a well cost estimate?

10 A. Yes, we do.

11 Q. With regard to T-36, what is the total estimated
12 cost of the frac well?

13 A. Two hundred and fifty thousand four hundred and
14 seventy-five dollars and twenty cents (\$250,475.20).

15 Q. And what is the projected total depth?

16 A. 2,206 feet.

17 Q. With regard to S-36, the projected cost of the
18 frac well is what?

19 A. Two hundred and forty-five thousand and fifteen
20 dollars (\$245,015).

21 Q. And the total depth?

22 A. 2,075 feet.

23 Q. Did you prepare both of these estimates?

24 A. Yes, I did.

25 Q. And when did you do that?

1 A. February 17th, 1998.

2 Q. With regard to lease terms, what are the lease
3 terms that you have offered to people that you have obtained
4 leases from and have offered to people that have not agreed to
5 lease?

6 A. We offer a dollar per acre rental, with a five
7 year term, with a 1/8 royalty.

8 Q. A 1/8 production royalty?

9 A. Production, that is correct.

10 Q. Have your...have your land people on your behalf
11 mailed leases to Linkous Horn heirs and others in the unit?

12 A. Yes, they have.

13 Q. And obviously, a good number of those people
14 have elected not to lease?

15 A. That's correct.

16 Q. With regard to Exhibit B-3 in terms of going
17 forward here and paying royalty, or escrowing royalty, or
18 calculating carried interest, or calculating participation
19 numbers, does Exhibit B-3 allow a pretty straight forward
20 calculation with regard to those matters?

21 A. Yes, sir.

22 Q. Okay, and essentially you have taken the acreage
23 of the various tracts that is...are...is contained with the
24 eighty acre unit?

25 A. That's correct.

1 Q. And you have reported that under acres in unit?
2 A. Correct.
3 Q. And you have divided the acres in unit by eighty
4 acres?
5 A. We have, yes.
6 Q. And then you report that as a percent unit in
7 the last column?
8 A. Correct.
9 Q. So, if for a royalty stream percentage, that
10 would be the percentage you would apply, a carried interest
11 percentage, or a participation percentage?
12 A. Particip...yeah, that is correct, it would be.
13 Q. And you have done that for Exhibit B-3 with
14 regard to both of these?
15 A. We have.
16 Q. And there is also an Exhibit E which lists
17 conflicting owners and claimants?
18 A. That is correct, it does.
19 Q. Which would require escrow?
20 A. It would require the royalty to be escrowed.
21 Q. Okay. And in this particular situation just
22 dealing with Miss Day and the Linkous Horn heirs, is there...do
23 they have a conflicting claim that you report?
24 A. Yes, they do.
25 Q. Okay, and they are in fact listed on Exhibit E?

1 A. Yes, they are.

2 Q. Okay. And you would anticipate that the board
3 order would require that their interest be escrowed?

4 A. Yes, we would.

5 Q. Lastly, have you submitted as Exhibit F, a
6 proposed draft order with regard to each of these?

7 A. Yes, we have.

8 Q. Okay, which contains the basic provisions that
9 you would expect to see in a order?

10 A. Yes, we have.

11 Q. Okay. The last questions I would have for you,
12 are whether or not the frac well development that you proposed
13 here is, in your opinion, a reasonable way to develop the coalbed
14 methane?

15 A. Yes, it is.

16 Q. Okay. And obviously the coal owners, the Hurt/
17 McGuire...I guess I have got it backwards. The McGuire/Hurt
18 heirs, with regard to this coal severance tract have leased to
19 you?

20 A. Their coal, yes.

21 Q. And they are in favor of coalbed methane
22 development?

23 A. Yes.

24 Q. And their lease requires you in fact to pursue
25 that at some reasonable pace?

1 A. Yes.

2 MARK SWARTZ: The last things that I would just point
3 out to the Board, I have handed out just some portions of...of
4 the Virginia Gas and Oil Act dealing with some sort of basic
5 principles of the act. And I think sometimes we...because these
6 issues don't come up all the time, we may have...tend to lose
7 sight of why the law was passed, and basically what I've done is
8 selected a few provisions with regard to construction, with
9 regard to duties and responsibilities of the Board, with regard
10 to pooling, just to kind of refresh everybody's memory as to the
11 basic premise underlying the Virginia Gas and Oil Act; and that
12 basic premise essentially was that the legislature made a
13 decision for a lot of reasons that it would rather not delay
14 coalbed methane development pending title arguments, but would
15 rather allow that methane to be produced and if you look at
16 Section 45.1-361, which talks about construction, it says in
17 general that the provisions of the chapter shall be liberally
18 construed so as to effectuate the following purposes: to foster
19 and encourage safe and efficient exploration for and development
20 production and utilization, to provide a method of gas and oil
21 conservation for maximizing exploration and development. The
22 additional duties of the Board, some of which I listed here,
23 include fostering and encouraging development, maximizing
24 exploration, development, and production, and so forth, and then
25 lastly I would direct your attention to portions of 45.1-361.22,

1 which is the provision, that, specifically the third one down,
2 which specifically deals with pooling coalbed methane gas wells.
3 And it is a mandatory provision, if you look at the statute text
4 at A, it says the Board shall, and I think it drives home the
5 principle that the legislature wanted to effectuate in this
6 state; and that is, when they are conflicting claims to ownership
7 and a claimant makes an application for pooling, the Board shall
8 make an appropriate determination as to how that are to be pooled
9 to allow the production to occur. And that is the whole
10 basis...the whole basis of the law.

11 So, in summary I would recommend that the Board act
12 favorably on the two pooling applications, T-36 and S-36. And
13 that is all I have of Mr. Arrington at this point.

14 BENNY WAMPLER: Any questions from members of the Board
15 of Mr. Arrington? Which of these exhibits do you intend to offer
16 for the record.

17 MARK SWARTZ: All of them.

18 BENNY WAMPLER: Any objection?

19 BRYAN SLAUGHTER: I don't have any objections to that,
20 I would like to ask questions.

21 BENNY WAMPLER: You may ask then, cross examine the
22 witness.

23
24
25

1 CROSS EXAMINATION

2 QUESTIONS BY BRYAN SLAUGHTER:

3 Q. Mr. Arrington, I guess I am drawing your
4 attention to the map that...your exhibit, right in the center it
5 says Danny McClanahan, you see that?

6 A. Yes.

7 Q. That is...that whole entire part is his tract of
8 land, is that right?

9 A. That is correct, to my knowledge.

10 Q. Okay, to your knowledge, and he owns the...that
11 is...there is no, at least from this picture, no differential
12 between his ownership, at least on this map, is that correct?

13 A. That is correct.

14 BRYAN SLAUGHTER: Okay. If I can show the Board, this
15 is nothing more than a picture of the two, Exhibit A and Exhibit
16 B laid on top of each other, just so it matches up. I believe
17 this dotted line is the eighty acres, which is the tract of land.

18 Q. Mr. Arrington, if I could show this to you, I
19 guess. Do you have any explanation as to why Danny McClanahan in
20 the top portion, and this is right above here above the eighty
21 acre line, Danny McClanahan here is the owner of the surface and
22 the Linkous Horn heirs are the gas and oil owners? Whereas,
23 below it's still the same tract of land that goes through right
24 in the middle, Danny McClanahan owns the surface oil and gas?

25 A. Yes, we...yes, we caught that mistake...a

1 mistake there on that tract, and I believe we filed it with Mr.
2 Fulmer's Office, I'm not...I can't recall. I know we did make a
3 mistake on that tract identification.

4 BRYAN SLAUGHTER: I would love to see that.

5 A. Okay.

6 Q. Do you also notice the same mistake has been
7 made with the Lula Osborne?

8 A. On 2J?

9 Q. Yeah.

10 A. Yes.

11 Q. Okay, did you actually do this...these title
12 searches yourself?

13 A. No, the title search was done by Altizer, Walk,
14 and White.

15 Q. And they made a mistake here?

16 A. No, we did...we done the mapping in our office.

17 Q. You did the mapping?

18 A. Uh-huh.

19 Q. Okay, you know of any other mistakes that are on
20 here?

21 A. No, other than the Danny McClanahan and the 2-J.

22 Q. But there could be other mistakes?

23 A. There could be.

24 Q. There could be. So, this was not...this
25 mistake, you are sure, was not done by the Altizer firm?

1 A. No, when we drafted our tract identifications
2 for this plat---

3 Q. Okay, this is when you determined that---?

4 A. ---that's when we...yes, that is when we made
5 the mistake, that is correct.

6 BRYAN SLAUGHTER: Okay. Mr. Fulmer, do you have
7 the---

8 LESLIE K. ARRINGTON: Do you have...I can't remember?

9 BRYAN SLAUGHTER: Does anyone on the Board have a
10 question as to what I'm trying to point out?

11 BENNY WAMPLER: I think we understand.

12 CLYDE KING: I have a question, Mr. Chairman.

13 BENNY WAMPLER: Mr. King?

14 CLYDE KING: When was this originally done?

15 LESLIE K. ARRINGTON: The well permit?

16 CLYDE KING: Uh-huh.

17 LESLIE ARRINGTON: The well permit. I believe it was
18 in November of '97. I believe it was November.

19 SANDRA RIGGS: Is the...I guess the question I have, is
20 the issue that there are parties who are not listed and made a
21 party to these proceedings, or is it just a question of who owns
22 what?

23 BRYAN SLAUGHTER: I think the issue is the accuracy as
24 to their mapping methodology, and possibly their title search.

25 SANDRA RIGGS: Well, that is my question, are we...are

1 we saying that somebody didn't get notice of these proceedings or
2 is it a dispute with respect to the underlying ownership?

3 BRYAN SLAUGHTER: It's...I believe it is to their
4 permit. That they have a mistake, on its face, on its very face
5 in their permit application. And because of that we can't...they
6 don't have their lawyers here or the people who actually made the
7 maps here, which show---

8 SANDRA RIGGS: Well, the purpose of my question is this
9 Board doesn't make title determinations. So, if what we are
10 getting to is a title question, that is one thing. If it is a
11 notice issue, it goes to notice, then it's another. You see what
12 I'm saying?

13 BRYAN SLAUGHTER: I realize that.

14 SANDRA RIGGS: Because the Board...the Board cannot make
15 a title determination.

16 BRYAN SLAUGHTER: I realize a court of law needs to
17 make a title decision.

18 SANDRA RIGGS: So, I am looking...right, exactly.

19 BRYAN SLAUGHTER: That is right.

20 SANDRA RIGGS: So, I am looking at whether you are
21 saying there is a defect in the notice or whether...what you are
22 saying is that somewhere within the internal boundaries of that
23 drilling unit...the internal tracts aren't correct.

24 BRYAN SLAUGHTER: Yeah. I...I think it is the latter,
25 that the internal tracts are not correct. I guess what I'm

1 pointing out is it is the Board's job to consider the permits and
2 that the permits need to be in order. And there is something on
3 its face where the permit is not in order.

4 SANDRA RIGGS: The Board normally would not look at a
5 permit unless it is brought up on appeal here, which is the first
6 docket item that we have here.

7 BRYAN SLAUGHTER: Okay, okay. Which is what I'm doing
8 now, I believe, because we are doing this all at one time.

9 SANDRA RIGGS: I thought we were in the pooling. Okay.

10 BRYAN SLAUGHTER: No, I have...my understanding was I
11 could talk to Mr...he initially---

12 SANDRA RIGGS: Okay.

13 BENNY WAMPLER: We have got them all before the Board.

14 BRYAN SLAUGHTER: Okay.

15 SANDRA RIGGS: Okay.

16 BRYAN SLAUGHTER: Okay. So, just this...I thought he
17 initially questioned him about the pool...I mean about the
18 permitting and then I was going to get a chance to cross examine.

19 SANDRA RIGGS: All right. Okay.

20 BRYAN SLAUGHTER: And that is our position here is that
21 there is something on the face of that application that is not
22 correct, and while Mr. Arrington said he has corrected it, that
23 is not in the record. And that seriously calls into question...
24 it is Miss Day's position that it calls into question their
25 entire methodology of their permitting process and the accuracy

1 of that. And until that is rectified, this...the drilling should
2 not commence.

3 SANDRA RIGGS: I guess the reason I'm confused is I have
4 read the transcript below, and this was not a issue below. Is
5 this a new issue being brought up today?

6 BRYAN SLAUGHTER: It's...it was not brought up, right,
7 below, but it is on the face of the permitting application.

8 SANDRA RIGGS: I thought the issue below was whether or
9 not the permit impinged on Miss Day's royalty interest. That was
10 the basis of her objection.

11 BRYAN SLAUGHTER: That was her initial objection, but
12 that is not her...I was not her attorney at that point.

13 SANDRA RIGGS: Was that expanded in the informal
14 conference before the hearings officer in making the decision he
15 made on the permit?

16 BRYAN SLAUGHTER: I did not see it in there, no.

17 SANDRA RIGGS: That was my question.

18 BRYAN SLAUGHTER: And I believe it says the petition
19 for appeal has to raise the issues from below. I didn't see it
20 concerning the actual appeal. But nevertheless, and I realize
21 that is...that it needed to be raised from below, but I would
22 also say that if there is a problem on the face of the permit,
23 that the Board can...still has the power to address that. I
24 still also have some questions for Mr. Arrington.

25

1 CROSS EXAMINATION RESUMES

2 QUESTIONS BY BRYAN SLAUGHTER:

3 Q. Mr. Arrington?

4 A. Yes.

5 Q. Is it possible that the Horn heirs could own
6 some surface where a well could go on in the future?

7 A. In the future?

8 Q. Yeah.

9 A. They...possibly they could.

10 Q. Okay. * You could potentially decide to drop a
11 well on the 2J Tract, is that correct? You don't know now?

12 A. Don't know now, no.

13 Q. Okay. And I guess since we are talking about
14 the pooling now, what is your procedures for the escrow accounts?

15 A. The escrow accounts, once the well goes into
16 production, the royalty attributable to the interest that we are
17 pooling, seeking to pool today, will be put into the escrow
18 account, the state escrow account.

19 Q. Okay. And is it right that production costs are
20 taken out of that share first, before it goes into escrow
21 account?

22 A. That is correct.

23 MARK SWARTZ: Production? You deduct production cost?

24 A. Well, transportation.

25 MARK SWARTZ: Well, you need to explain to them what

1 you take out or we are going to be here forever.

2 A. Okay. Okay. No, it is transportation cost,
3 not---

4 Q. It's not the cost of drilling the well?

5 MARK SWARTZ: You don't know. We'll talk to Claude.

6 A. We'll talk to Claude. I defer to Claude.

7 Q. I...could you please answer? I'm sorry.

8 A. I defer that answer to Claude.

9 Q. I know your lawyer is there, but if you could
10 just answer---

11 A. I defer that question to Claude.

12 Q. Okay. And what reports are...are made regarding
13 the escrow account to the potential gas owners? Do you make a
14 quarterly statement, a yearly statement, regarding how much is in
15 each escrow account to the potential gas owner?

16 A. No, we do not.

17 Q. Okay. And with regard to your production lease,
18 is the production cost of the well taken out of their share also?

19 A. I defer that to Claude.

20 Q. Okay.

21 MR. SLAUGHTER: Am I allowed to cross examine Claude?

22 MARK SWARTZ: Fine with me.

23 BENNY WAMPLER: That is fine.

24 BRYAN SLAUGHTER: I'm sorry, I don't know your last
25 name?

1 CLAUDE MORGAN: Claude Morgan.

2

3 CLAUDE MORGAN

4 having been duly sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY BRYAN SLAUGHTER:

7 Q. And Mr. Morgan, I believe you heard the
8 questions---

9 A. Could you restate them please?

10 Q. Okay. With regard to the escrow account, is the
11 money...is the cost of production of the wells taken out of the
12 amount that goes into escrow?

13 A. It depends on whether it is a royalty escrow or
14 whether there is a participation.

15 Q. Okay. And if there is a participation, what
16 happens?

17 A. If there is a participation, then yes, cost of
18 production would come out.

19 Q. Okay, if it is a royalty?

20 A. If there is a royalty, cost of production is not
21 a deductible item.

22 Q. Okay. So, they get the full 1/8?

23 A. 1/8 with deductions for transportation cost.

24 Q. For transportation, okay. And that goes into
25 the escrow through these...does the royalty owner or the...does

1 the royalty owner get any notice of what is in that escrow
2 account?

3 A. There is no notice sent directly to the owner.
4 There is a filing with the escrow bank showing the units involved
5 and the production involved with that. It is available for
6 review.

7 Q. Okay. Is that...is that public record? That is
8 public record?

9 A. To my knowledge, that is.

10 Q. Okay. And then in your production leases, I
11 believe that Pocahontas ask the people to sign, are production
12 costs pulled out of the 1/8 share that is offered in those
13 leases?

14 A. Production costs are not.

15 Q. Okay, so they would get the full 1/8?

16 A. It would be 1/8 with a deduction for
17 transportation.

18 Q. Okay.

19 MR. SLAUGHTER: That is all I have for those witnesses.

20 I would just note that there has been no explanation or, I
21 believe Mr. Fulmer has not found the correction to the---

22 TOM FULMER: November 19, and it is---

23 BRYAN SLAUGHTER: Okay, could I see that, please?

24 BENNY WAMPLER: Are you saying there was a correction
25 filed, Tom?

1 TOM FULMER: To the plat, yes.

2 BENNY WAMPLER: Would you give Mr. Slaughter...while he
3 is looking at that, I want to go back to one thing, Mr.
4 Arrington. when you were asked a question about future wells
5 being drilled. This is an Oakwood I application, you would not
6 anticipate any future under Oakwood I, I would assume?

7 MARK SWARTZ: Well, there is a problem here, I think.
8 Claude is probably the better guy to address this.

9 BENNY WAMPLER: Okay.

10 MARK SWARTZ: Most of...well, all of the PGP units that
11 are on the pooling docket today are frac units only. And they
12 revolve around a trade line. Maybe I'll talk to...ask Claude a
13 few questions and he can flush this out for you. Claude, why
14 don't you just...rather than asking a bunch of questions, why
15 don't you explain to the Board how we try to anticipate conflicts
16 between various coal companies on developing a line that matched
17 your grid lines, and how that is going to come back to haunt us
18 here. Just explain the problems to the Board.

19 CLAUDE MORGAN: Various leases were owned in this area
20 by the Pocahontas Gas Partnership and by Buchanan Production
21 Company. Mine boundaries were chosen as a line to clean up the
22 overlapping leases and assignments were made between the two
23 parties such that Pocahontas Gas Partnership would own the leases
24 on one side of the mountain by mines boundary, and Buchanan
25 Production Company would own the leases from the other side of

1 the mine boundary such that any long wall panels involved with
2 the production would be...supposedly at that time, wholly within
3 Pocahontas Gas Partnership or wholly within Buchanan Production
4 Company.

5 MARK SWARTZ: And the line we picked was a grid line on
6 the Oakwood Field, correct?

7 CLAUDE MORGAN: The grid line on the Oakwood Field that
8 matched with the existing mine boundaries. Since that trade was
9 done, Consolidation Coal Company or Consol, Inc. acquired Island
10 Creek Coal Company, who owned the coal on the other side of the
11 lines. So, now the coal was owned by a common parent. The mine
12 boundary has changed and now it appears that a long wall panel
13 will actually extend across that. In order to operate under an
14 Oakwood II, there will have to be operating agreements obviously
15 put in place between Buchanan Production and Pocahontas Gas
16 Partnership to allocate in accordance with the Oakwood II, the
17 production of this location. At this time, those agreements are
18 not in place and that is the reason that we were pooling these
19 under Oakwood I because they will be entirely frac production.

20 MARK SWARTZ: Now, come full circle back to the question
21 you asked. The wells are going to be driven, and are in fact
22 driven by a projected mine plan right now, is that correct?

23 CLAUDE MORGAN: That is correct.

24 MARK SWARTZ: And so it is, you know, the increased
25 density wells that you see in many of our applications because of

1 the long wall development, is that the kind of thing that
2 ultimately they are likely to see in this area, Claude?

3 CLAUDE MORGAN: It is...it is likely to see an increased
4 density, under these force poolings, we are not asking
5 the Board to approve---

6 MARK SWARTZ: I understand.

7 CLAUDE MORGAN: ---if any calls for any additional wells
8 within this Oakwood I ruling. And we are not asking any
9 participant to participate in the cost of any additional wells
10 that would be drilled within this Oakwood I Rule.

11 MARK SWARTZ: But in response to Mr. Slaughter's
12 questions of Mr. Arrington and of you, it would be foreseeable
13 that there will be more wells in the future to deal with the long
14 wall development?

15 CLAUDE MORGAN: That is conceivable if the mine plan
16 holds as it is.

17 SANDRA RIGGS: Does it not then follow that when you are
18 ready to do that you would have to come back before this Board
19 with a new application and new notice---

20 MARK SWARTZ: We would have to repool, right.

21 SANDRA RIGGS: ---to go to Oakwood II, and everybody
22 would get notice of that.

23 MARK SWARTZ: Right. We're...but because of ownership
24 issues, we are not in a position to do that at this point. We
25 going to have the stay...we are going to have to keep it simple.

1 SANDRA RIGGS: Under Oakwood I, there is one well per
2 drilling unit, and that's all you're asking for right now, and
3 that's the well shown on the plat?

4 MARK SWARTZ: Unless we've shown...on some of the
5 applications that we will get to today there, I believe there is
6 more than one well in a unit. There's an increased density frac
7 well. In these particular applications, which are before you
8 right now, that is not the case. The wells...the well we are
9 asking for is shown in that.

10 CLYDE KING: Mr. Chairman, I have a question?

11 BENNY WAMPLER: Okay.

12 CLYDE KING: When Island Creek was sold to Consol, did
13 that...were they the...who was the parent company of Pocahontas
14 Gas before Consol?

15 CLAUDE MORGAN: Pocahontas Gas is a partnership between
16 Consolidation Coal Company and Conoco.

17 MARK SWARTZ: And it is...that has been true before and
18 after the Island Creek transaction.

19 CLYDE KING: All right.

20 MARK SWARTZ: What has happened is that Island Creek
21 transaction has allowed mine development to cross this line and
22 if you have a long wall panel that crosses the line, there is
23 going to have to be some kind of operating agreement to allocate
24 production between Buchanan Production Company and Pocahontas Gas
25 Partnership, and we are going to have to think that through. We

1 thought we had this problem dealt with and then the coal company
2 changes names. So, that is...but that is the issue.

3 BENNY WAMPLER: Did you have some questions, Mr.
4 Slaughter?

5 BRYAN SLAUGHTER: I have no further questions. I
6 believe I would like to move into evidence, this is a type-
7 written copy of the handwritten deed that Miss Day received from
8 Pocahontas. I have underlined...she had...I would like the Board
9 to receive this into evidence if it would. I have underlined in
10 red the Stilwell House, which is what Miss Day is referring to as
11 the Old Homestead Tract. Is that correct?

12 SARAH DAY: Right.

13 BRYAN SLAUGHTER: And it is still her position... I...
14 that the deeds that they are showing that covers this tract of
15 land is not actually the deed that shows the severance, and it is
16 her position that she should have some proof that they own the
17 coal below that, in terms of actual deed for that piece of land
18 showing the severance before they should be allowed to go ahead
19 and drill the land. And I would also point out while it appears
20 that they did make amendments to the McClanahan piece, they did
21 not make amendments for the Lula Osborne, which I can see on
22 these amendments which shows again on its face a problem with
23 their permit. And until those problems are rectified and I think
24 it seriously calls into question their methodology that they are
25 using before making these maps. And I realize they want to drop

1 these wells as quickly as they can, but I think that they should
2 do...that all caution should be used before they go onto people's
3 property and drop these wells. Do you have anything else to say?
4 That is all we have.

5 MARK SWARTZ: We've got two comments. The error in the
6 permit plats that Mr. Slaughter has brought to your attention, is
7 a surface tract error, okay. And it appears to me to have been
8 corrected in the pooling application. So, I mean it was, you
9 know, when Les filed the amendment in November to straighten it
10 out on the plats in the permitting process. And we also, by the
11 time we got to you all, it looks to me like it is straightened
12 out here. And I would...with regard to the last comment that Mr.
13 Slaughter has made, this is the coal tract. If you compare this
14 to the plats you can see the Linkous Horn heirs are within this
15 large severance deed of a hundred and forty-three acres, and
16 that's the only evidence you got on the table this morning. With
17 regard to that...the mapping appears to me to be consistent and
18 to make sense. This is the coal severance deed. You are not
19 going to have some subsequent coal severance deed for some little
20 piece. This is the coal severance deed. Her title came out of
21 this and we are not going to be able to cough up another
22 severance deed. This is it.

23 And then my final observation, and again directing you
24 to the statutes that I gave you pieces of today, the last...in
25 the last section on there doesn't really deal with pooling, but

1 it deals with permitting and, you know, my clients have in the
2 permitting process certified that they have the authority to
3 enter on the surface where they are going to drill the well. That
4 is the certification. The surface that we are going to be
5 entering on is not Miss Day's surface. These wells and these two
6 applications are not on her surface, you know, maybe in the
7 future there will be some. We will be back, I am sure. Maybe
8 there won't, but the wells that we are dealing with today are not
9 on her surface...apparently she admits that they are not, has a
10 concern that they might be in the future. But the only issue
11 that's survived in front of Mr. Fulmer that's up in front of you
12 today on the appeal, is whether or not these pooling applications
13 and these wells impinge on her property rights. You know, there
14 will be an escrow to escrow the money so that the Linkous Horn
15 heirs can litigate this or settle with the McGuire/Hurt people.
16 And the money will be escrowed as Claude described, and I mean
17 this is no different than what this statute contemplates in terms
18 of development. So, that's all I have with regard to the two
19 pooling applications and the appeal.

20 BRYAN SLAUGHTER: Miss Day would also like to have...to
21 know whether that she could access, if they do drill these wells,
22 to the escrow account to have an accounting of the escrow
23 account. So, that she can see what goes in and what they are
24 taking out of that.

25 MARK SWARTZ: It's First Virginia Mountain Empire Trust

1 Department, is---?

2 TOM FULMER: It's best to call the office and we will
3 find that out.

4 BRYAN SLAUGHTER: Okay.

5 TOM FULMER: That is our procedures, so to speak.

6 BRYAN SLAUGHTER: We appreciate the Board's time. Thank
7 you very much.

8 TOM FULMER: I would remind her that when she does call
9 the office in regards to the escrow account, be sure that you
10 have the docket number because if the Board should so rule, that
11 is how the account will be set up by a docket number. So, in
12 other words, we have that when we get to it, so to speak.

13 CLYDE KING: Mr. Chairman, I have a question of Mr.
14 Slaughter?

15 BENNY WAMPLER: Mr. King?

16 CLYDE KING: Is basically what you're contesting is the
17 deed and the...maybe the error that was made in---?

18 BRYAN SLAUGHTER: That error is secondary. I was just
19 pointing that out before the Board. I guess what we are saying
20 is...well, I know what we are saying, is that Miss Day has lived,
21 and her ancestors have lived on this land for over a century.
22 They know the land better than anybody. They saw the deed that
23 said the Old Stilwell House. They know it as the Old Home Place
24 deed, and they know that is not the same piece of property
25 upon...that Pocahontas plans to drill the well. They know

1 that...they know that they are separate. They are separated by a
2 mountain and then another ridge, and it does not seem right to
3 her, it does not seem fair to her that they can come on...when
4 they are not showing the...the correct piece of property that
5 they can come on her land and do what ever damage they do to draw
6 up the wells, in terms of the roads, going through her property,
7 and drop the well onto her piece of property.

8 SANDRA RIGGS: Maybe I misunderstood, but I heard the
9 testimony say there would be no improvements...surface damage to
10 her tracts whatsoever.

11 BRYAN SLAUGHTER: There could be in the future. I
12 mean---.

13 SANDRA RIGGS: Well, but that's the subject of a
14 different proceeding that this---.

15 BILL HARRIS: Yeah, we can't---.

16 CLYDE KING: This permit today is not going to show any
17 damage.

18 BENNY WAMPLER: It wouldn't be on her property is what
19 has been represented to us today.

20 BRYAN SLAUGHTER: To her surface.

21 BENNY WAMPLER: To her surface property. The Board will
22 make no determination as to the ownership issue.

23 BRYAN SLAUGHTER: I realize that is for the Court.
24 That will be another day.

25 BENNY WAMPLER: That is right.

1 MAX LEWIS: Will there be any damages to her property
2 pertaining to the pipe line?

3 LESLIE K. ARRINGTON: Not to my knowledge. I haven't
4 permitted it that way for...on their surface.

5 BENNY WAMPLER: Well, the questions I was asking
6 earlier identifies the fact that they do have a mine development
7 going on in this area. There will be, as they have testified,
8 additional, potentially additional wells...could be pipe lines.
9 So, what we are dealing with today is what is before us today,
10 and that is not before us today, that particular part of it.

11 MARK SWARTZ: And just for...so that you're aware of
12 this, the surface owners, Mr. Arrington identified them, and they
13 are not, you know, Linkous Horn heirs, at least their names don't
14 sound like it, but the surface owners that these wells are
15 identified. Obviously, we try to locate surface facilities on
16 surface where we have an agreement with the surface owner to
17 avoid these kinds of disputes. So, I can assure you that to the
18 extent that we can stay off of her property, we plan on it.
19 Okay, I mean sometimes you can't always, because of the mine
20 plans and so forth, do that, but the standard operating procedure
21 is to be on the surface of people we have an independent
22 agreement with, and to stay off of the surface of people that we
23 would have to be arguing that we have mining rights. I mean,
24 that's the modis operandi, you know, so to the extent that we can
25 stay away from her surface, we are going to do it.

1 BRYAN SLAUGHTER: Just one quick question. Have they
2 done any study showing the effects on the water table. I believe
3 that is required?

4 MARK SWARTZ: Well, you know, I'm not going to reopen
5 the permitting process here for stuff that wasn't raised and
6 those issues was addressed in the permit. We didn't talk about
7 that at the informal fact finding.

8 BRYAN SLAUGHTER: Okay.

9 MARK SWARTZ: And I would object to that at this point.

10 BENNY WAMPLER: Sustained.

11 DENNIS GARBIS: Mr. Chairman.

12 BENNY WAMPLER: Mr. Garbis.

13 DENNIS GARBIS: Miss Day, do you feel that you've
14 had...I mean, do you understand what has transpired here, and do
15 you adequately...do you adequately understand what the
16 legislature of the Commonwealth of Virginia, how it outlines what
17 our duties and responsibilities are. I just want to make sure
18 that you understand everything that is going on because obviously
19 you're a citizen and we want to take that all in account. But
20 there are certain guidelines that we have to go by, and
21 understanding that there was an error, that error appears to have
22 been corrected, but do you understand, you know, how these
23 proceedings have gone? Are you satisfied that you had your day
24 in court?

25 SARAH DAY: Well, I don't understand why that you would

1 get twelve percent, and then have to pay out of that to help the
2 proceedings of the well, and they would get eighty-eight percent,
3 I don't understand about that.

4 BILL HARRIS: If I might, Mr. Chairman and Miss Day, I
5 asked that question of one of the...well, I asked that question
6 of one of the companies...gas company representatives, and they
7 said traditionally, and I know this isn't a satisfactory answer
8 probably, but traditionally if you look back a hundred years ago,
9 two hundred years ago whenever mining was going on coal, gold,
10 everything, for some reason the people who took the risk and the
11 foresight to plan and do whatever, they got most of the profits.
12 And it was always a royalty...if it's just 1/8, was always carved
13 off and given to the people who owned the property. It is
14 something that is just...I don't know, legally if it's in the
15 books, but it is traditional that it is 1/8. Now, I don't know
16 what anyone does to change that, but that is what it has been
17 traditionally for years.

18 BRYAN SLAUGHTER: I think what her concern is that
19 she...that some portion of the proceeds are taken out of that
20 1/8, and she has talked...has talked to people and no one has
21 really seen any substantial amount of money for either from the
22 lease or in a escrow account, and that is worrisome to her.

23 MAX LEWIS: Well, if she don't participate in the
24 drilling, she will get 1/8, that is just the rate.

25 BRYAN SLAUGHTER: I realize that---

1 MAX LEWIS: But less transportation.

2 BRYAN SLAUGHTER: Right. She is...she is just yet to
3 see an escrow account that has any significant amount of money.

4 CLYDE KING: There is an escrow account that has that
5 money in it.

6 BRYAN SLAUGHTER: Do you have any other concerns? This
7 is your---

8 SARAH DAY: No, just what you've got there.

9 BRYAN SLAUGHTER: Okay.

10 BENNY WAMPLER: Mr. Brent?

11 MASON BRENT: May I ask Mr. Arrington a housekeeping
12 question. When you filed the correction to the permit, who or
13 what called your attention to the mistake?

14 LESLIE K. ARRINGTON: I don't remember. We found...we
15 found...we just discovered the mistake and was trying to take
16 care of it.

17 MASON BRENT: You all found it yourself?

18 LESLIE K. ARRINGTON: Yes, we did, that is correct.

19 MAX LEWIS: You all didn't say anything to him about
20 that, or to the company that they had made a mistake?

21 SARAH DAY: No.

22 BRYAN SLAUGHTER: We had just realized that when we put
23 them on top---

24 SARAH DAY: There is still one more mistake that has
25 not been corrected.

1 BRYAN SLAUGHTER: Yeah, there is still the Beulah
2 Osborne one that from what I can see it has not been corrected.

3 SARAH DAY: Beulah Osborne.

4 MASON BRENT: That has not been corrected?

5 SARAH DAY: It has not been---.

6 BRYAN SLAUGHTER: That I have seen, I don't...from what
7 Mr. Fulmer has given me, I don't know.

8 BENNY WAMPLER: Was the portion that you raised, was it
9 corrected, then it...her---?

10 BRYAN SLAUGHTER: The McClanahan appears to be
11 corrected.

12 BENNY WAMPLER: That was corrected.

13 MASON BRENT: But not the Osborne?

14 MAX LEWIS: Not the Osborne?

15 BRYAN SLAUGHTER: Not that I saw from what Mr. Fulmer
16 gave me, I don't---.

17 TOM FULMER: What is the correction for?

18 MAX LEWIS: Filed from tract---.

19 BRYAN SLAUGHTER: Its for the 2I---.

20 TOM FULMER: Well, no, I know, but what is the
21 correction for?

22 LESLIE K. ARRINGTON: Surface, is that what you mean?

23 TOM FULMER: Is it a different name?

24 LESLIE K. ARRINGTON: Yes, yes. Surface only.

25 BRYAN SLAUGHTER: I believe on one Beulah Osborne is

1 surface only, and Linkous Horn has the oil and gas, and on
2 Exhibit A, Beulah Osborne owns everything.

3 BENNY WAMPLER: Did Beulah Osborne receive notice?

4 LESLIE K. ARRINGTON: No, she did not, unless she was
5 one of the Linkous Horn heirs, I can't...you know, I'd just have
6 to look back.

7 MAX LEWIS: Is Beulah Osborne here?

8 BRYAN SLAUGHTER: We appreciate the Board's time.

9 MASON BRENT: I guess, Mr. Chairman---

10 BENNY WAMPLER: Thank you, we're still---

11 BRYAN SLAUGHTER: Oh, okay.

12 BENNY WAMPLER: --we're still wrestling with a couple
13 things trying to plan for Mr.---

14 MASON BRENT: Mr. Chairman, my question is if the permit
15 is flawed, where do we go from here?

16 BENNY WAMPLER: That's what we need to sort out. I
17 think they are trying to sort out that question about notice that
18 I just asked because that notice issue determines whether it's
19 flawed or not, more so than now.

20 MARK SWARTZ: Les, with regard to Osborne's surface,
21 can you tell the Board whether or not you have an agreement with
22 her?

23 LESLIE K. ARRINGTON: Yes, we do have an agreement with
24 Beulah Osborne.

25 MARK SWARTZ: What kind?

1 LESLIE K. ARRINGTON: We have a surface agreement and a
2 coalbed methane lease.

3 MARK SWARTZ: When you say surface agreement, do you
4 have an easement?

5 LESLIE K. ARRINGTON: Yes, we do.

6 CLYDE KING: Mr. Chairman, do we need to make a ruling
7 on her appeal or---?

8 BENNY WAMPLER: Yes.

9 CLYDE KING: Would that be included---.

10 BENNY WAMPLER: We have three things, we have the
11 ruling on the appeal, and the two pooling decisions, so---.

12 CLYDE KING: How did that have to be worded?

13 BENNY WAMPLER: ---I'm just making sure all the
14 questions---.

15 CLYDE KING: Is her appeal---?

16 SANDRA RIGGS: Take them one at a time.

17 BRYAN SLAUGHTER: Just to reiterate, I guess, I
18 wasn't...I was just trying to point that there are mistakes just
19 from the face and that raises concerns that there might be
20 others.

21 BENNY WAMPLER: I understand, that is a good point, and
22 certainly that's one the Board would direct Mr. Fulmer to try to
23 make extraordinary efforts to ensure that these maps are correct
24 when they come forward. Would you agree that the pooling
25 applications, and I'm not trying to put you in a box, but once

1 those are dealt with, the first issue is essentially moot as to
2 ownership since the ownership is not---?

3 BRYAN SLAUGHTER: I can't make that...I won't agree
4 to...I mean, just because I don't know the pooling procedure well
5 enough---.

6 BENNY WAMPLER: I understand, I wasn't trying to put
7 you in a box.

8 BRYAN SLAUGHTER: ---I'm not saying yea or nay.

9 BENNY WAMPLER: As to...I'm going to...Board, what I'm
10 going to do is call the two poolings first because that's...I
11 think that is essential to the ruling on number one, or the first
12 item that we had. As to unit identified as T-36, docket number
13 VGOB-98-03/24-0625, I...do we have a motion. Well, we combined
14 those and S-36 docket number VGOB-98-03/24-0626. Do I have a
15 motion on those two?

16 CLYDE KING: I so move, Mr. Chairman.

17 DENNIS GARBIS: I second.

18 BENNY WAMPLER: Move for approval?

19 CLYDE KING: Yes.

20 BENNY WAMPLER: Is that the nature of the motion. Any
21 further discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying yes.

24 (Members signify by saying yes.)

25 BENNY WAMPLER: Opposed say no.

1 MAX LEWIS: No.

2 BENNY WAMPLER: One no. As to the informal fact
3 finding hearing appeal that the division directors decision
4 docket number VGOB-98-03/24-0640, do I have a motion?

5 MASON BRENT: Mr. Chairman, I move that we deny the
6 appeal.

7 BENNY WAMPLER: And denial based on that being moot, is
8 that---?

9 MASON BRENT: Right.

10 (Member of the Audience): What number do you have
11 there, or are you talking to---?

12 BENNY WAMPLER: The first one that was on that agenda,
13 Docket Number VGOB-98-03/24-0640.

14 (Member of the Audience): All right.

15 BENNY WAMPLER: Do I have a motion?

16 DENNIS GARBIS: Are you looking for a second?

17 BENNY WAMPLER: Yes.

18 DENNIS GARBIS: I'll second it.

19 BENNY WAMPLER: Motion and second, any further
20 discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying yes.

23 (Members signify by saying yes.)

24 BENNY WAMPLER: Opposed say no?

25 MAX LEWIS: No.

1 BENNY WAMPLER: No? Thank you very much.

2 CLYDE KING: I think her...I think she's going to be
3 protected, it's just a matter of court decisions.

4 BRYAN SLAUGHTER: Thank you very much.

5 BENNY WAMPLER: Thank you. Thank you very much. The
6 next item on the Board's agenda is an appeal that was filed by
7 Mr. and Mrs. John Street to the Divisions Director's Decision.
8 This is docket number VGOB-98-03/24-0641. Mrs. Street called me
9 and informed me that her husband had a heart attack, and I told
10 her that we'd have had to go ahead and call the case, but that we
11 would continue that because there wasn't time to get the notice
12 out to everyone. Did anyone come here today to appear on...in
13 regard to that case, I don't want to deny you from having
14 something to say?

15 (No audible response.)

16 BENNY WAMPLER: Okay. The next item on the agenda the
17 Board will consider a petition by Pocahontas Gas Partnership for
18 a coalbed...to pool a coalbed methane unit identified as W-35,
19 this is docket number VGOB-98-03/24-0627. We would ask the
20 parties that wish to address the Board in this matter to come
21 forward at this time. You are invited to move up closer, all of
22 you, so you can hear better, I know it is difficult.

23 MARK SWARTZ: I'm Mark Swartz and Les Arrington
24 appearing for the applicant Pocahontas Gas Partnership, I would
25 point out, Mr. Chairman, that there are only two of the

1 applications today are for both Oakwood I and II, and this
2 applicant is one of them, and then if you go to item number
3 fourteen on the docket, that is the other one. They are sort of
4 companion units that involve some of the same exhibits and I
5 would recommend if there is no objection, that maybe we
6 would...it would make sense to move things, to consolidate item
7 five, which you just called, with item fourteen for hearing?

8 BENNY WAMPLER: Any objection from members of the Board
9 to doing that, or anyone that is here or has appeared? Does
10 everyone now understand what he is asking to do? Since these are
11 Oakwood I and II orders that he is planning to ask for pooling,
12 he is asking to combine those so he can take them...take them up
13 at the same time. That other docket number, I will go ahead and
14 call it and see if we have an objection to that.

15 The Board will consider a petition from Pocahontas Gas
16 Partnership for pooling of coalbed methane unit identified as X-
17 35, and this is docket number VGOB-98-03/24-0636. We would ask
18 the parties that wish to address the Board in that matter to come
19 forward also. Any objection to combining those? You may
20 proceed, Mr. Swartz.

21 MARK SWARTZ: Before we get going, I think it makes
22 sense to have Les pass out the exhibits.

23 BENNY WAMPLER: Remind the witnesses they have under...
24 already sworn and still under oath.

25

1 LESLIE K. ARRINGTON

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MARK SWARTZ:

5 Q. Les, you want to state your name again?

6 A. Leslie K. Arrington.

7 Q. Who do you work for?

8 A. Consol.

9 Q. Did you participate in preparing the pooling
10 applications for X-35 and W-35?

11 A. Yes, I did.

12 Q. Did you prepare the notices, the applications,
13 and the related exhibits that the Board has before it today?

14 A. Yes, I have.

15 Q. And you signed the notices and applications,
16 have you not?

17 A. Yes, I have.

18 Q. Who is the applicant with regard to both of
19 these units?

20 A. Pocahontas Gas Partnership.

21 Q. And is PGP a Virginia General Partnership whose
22 two partners are Consolidation Coal Company and Conaco, Inc?

23 A. Yes, it is.

24 Q. In both units, is the applicant requesting that
25 Pocahontas Gas Partnership be the Board designated operator?

1 A. Yes.

2 Q. Is PGP authorized to do business in the
3 Commonwealth of Virginia; is it registered with the Department of
4 Mines, Minerals, and Energy; and does it have a blanket bond on
5 file as required by law?

6 A. Yes.

7 Q. Okay, in regard to both of these applications,
8 are the people that are sought to be pooled listed on the first
9 page of the notice of hearing?

10 A. Yes, they are.

11 Q. Okay. And are the people who are sought to be
12 pooled also listed in Exhibit B-3?

13 A. Yes, they are.

14 Q. Did you mail copies of the paper work to the
15 respondents?

16 A. Yes, I did.

17 Q. And what have you filed with regard to those
18 mailings?

19 A. We have filed a affidavit of due diligence with
20 Mr. Fulmer's Office.

21 Q. Okay, and this morning, have you also given a
22 certificate of mailing to the Board members?

23 A. Yes, I have.

24 Q. So, that they can track, you know, when the
25 stuff was mailed and when it was signed for and so forth?

1 A. Yes, we did.

2 Q. Okay, was there a publication?

3 A. Yes, there was in the Bluefield Daily Telegraph

4 on March 4th, 1998.

5 Q. With regard to both units?

6 A. Yes.

7 Q. And what was published?

8 A. The notice of hearing.

9 Q. Okay, do you wish to add any with people as

10 respondents to either of the units, or dismiss any people?

11 A. No, we do not.

12 Q. Okay. Now, both of these units you are seeking

13 to pool under Oakwood I and Oakwood II?

14 A. Yes, it is.

15 Q. Okay, and toward the end of both of the

16 applications there's...there's a map, Exhibit G, is there not?

17 A. That is correct it is.

18 Q. Okay, and that map shows the unit in relation to

19 a partial mine plan?

20 A. It does.

21 Q. And also in relation to other degas wells that

22 have been...that are either projected to be drilled or have been

23 drilled in the course of degassing in advance of mining?

24 A. That is correct.

25 Q. Okay, and the last page of each application,

1 which is entitled Exhibit G, page one, is it the same in each
2 application?

3 A. Yes, it is.

4 Q. Except for the heading?

5 A. Except for the heading and the interest within
6 each unit, of what the...each panel.

7 Q. But the photocopy of the document is the same
8 document except for the heading?

9 A. That is correct, basically.

10 Q. Okay, and referring you to Exhibit G, page one,
11 does it set forth the percentages of each panel...each long wall
12 panel, and there are three of them, within both of the units?

13 A. Yes, it does.

14 Q. And then does it allocate cost, and we will come
15 back to cost, but does it allocate cost based on those
16 percentages by panel to each unit and then total the allocated
17 cost?

18 A. It does.

19 Q. And with regard for example to X-36, I guess it
20 is---?

21 A. 35.

22 Q. ---35, what is the total allocated cost from the
23 three panels?

24 A. Just a moment. Four hundred twenty thousand,
25 eight hundred dollars and twenty cents (\$420,800.20).

1 Q. Okay. And with regard to unit W-35, what is the
2 total allocated cost?

3 A. A hundred and thirty-nine thousand, twenty-six
4 dollars and fifty-two cents (\$139,026.52).

5 Q. These...each of these units is an eighty acre
6 unit?

7 A. They are.

8 Q. And the gas sought to be produced is the pool
9 below the Tiller Seam?

10 A. That's correct, it is.

11 Q. Turning to W-35, there is a Exhibit A, page two,
12 correct?

13 A. That's correct.

14 Q. And that's...let's turn to that to look at the
15 interest that you have acquired and the interest you are seeking
16 to pool. How much of the coal under the unit is leased, just
17 with a coal lease?

18 A. 100 percent.

19 Q. Okay, how...what percent of the CBM rights of
20 the coal owners has been leased?

21 A. 100.

22 Q. Okay, and what percent of the CBM claims or
23 rights of the oil and gas owners has been leased?

24 A. 58.2375 percent.

25 Q. Okay. And what is the interest that is sought

1 to be pooled and what is the percentage of that interest?

2 A. The interest is the oil and gas interest, it is
3 41.7625 percent.

4 Q. I would like to make the same inquiry with
5 regard to X-35, how much of the coal under X-35, under that
6 eighty acre unit, is subject to coal leases?

7 A. 100 percent.

8 Q. Now, I am talking about coal leases the Tiller
9 and below?

10 A. That is correct.

11 Q. Okay. How much of the oil and gas...what
12 portion of the oil and gas interest have you obtained coalbed
13 methane leases from?

14 A. 74.0875 percent.

15 Q. And what percent of the coal owners have you
16 obtained coalbed methane leases from?

17 A. 100 percent.

18 Q. Okay. And what is the interest that you are
19 seeking to pool and the percentage of that interest?

20 A. It is the oil and gas interest and that
21 interest...that percentage is 25.9125 percent.

22 Q. Now, let's take a look for a moment---

23 BENNY WAMPLER: Can I interrupt you for just one
24 second, please, while you are on that.

25 Q. Yes.

1 BENNY WAMPLER: You are in the Exhibit...or you are in
2 W-35...or X-35?

3 MARK SWARTZ: X-35.

4 BENNY WAMPLER: In X-35 on Exhibit A, page two?

5 MARK SWARTZ: Right.

6 BENNY WAMPLER: Item two under percentage of coalbed
7 methane rights not on...you have all of it leased...100 percent,
8 right?

9 MARK SWARTZ: Correct.

10 BENNY WAMPLER: And you have 25...you have not leased
11 25.9125 percent of the oil and gas, correct?

12 MARK SWARTZ: Correct.

13 BENNY WAMPLER: All right.

14 MARK SWARTZ: The way these relate, if one says a 100
15 percent---

16 BENNY WAMPLER: Right.

17 MARK SWARTZ: ---then two should be zero.

18 BENNY WAMPLER: Right.

19 MARK SWARTZ: They should...or they should add up to a
20 hundred.

21 BENNY WAMPLER: Right.

22 Q. Let's just turn to B...Exhibit B-3 pertaining to
23 X-35, which would be the next page---

24 A. Uh-huh.

25 Q. ---and just talk about this for a minute. Is

1 there an Exhibit B-3 in both applications?
2 A. Yes, there is.
3 Q. And is it organized the same?
4 A. Yes, it is.
5 Q. Basically, it lists the people that are released
6 and need to be pooled?
7 A. Correct.
8 Q. It gives their net acreage within the eighty
9 acre unit?
10 A. It does.
11 Q. And then it makes a calculation interest in
12 unit?
13 A. It does.
14 Q. And how is that calculated?
15 A. Divides their acreage by eighty.
16 Q. Okay.
17 A. And its percent within unit.
18 Q. Okay, and then there are three columns, one for
19 each of the long wall panels, correct?
20 A. Correct.
21 Q. And the percentage under thirteen east, fourteen
22 east, and fifteen east, on Exhibit B-3 represents the percent of
23 the panel within the unit, correct?
24 A. That is correct, it does.
25 Q. So, basically you take the amount of acreage in

1 a unit on top of the total acreage in the panel, do that
2 calculation and that is how you get this percentage?

3 A. Correct, yes.

4 Q. Okay, and then under each of long wall panel
5 headings, is there a similar calculation for the interest of each
6 claimant?

7 A. Correct, within each individual long wall panel.

8 Q. And then are these the divisions of interest
9 that would pertain to the allocation of royalty, the allocation
10 of costs in case of a participation, and the allocation of costs
11 on a carried interest?

12 A. It would.

13 Q. So, those are the numbers you would use for
14 those kinds of calculations?

15 A. Yes.

16 Q. And that would be true of Exhibit B-3 in both
17 applications?

18 A. Yes.

19 Q. Also, staying with Exhibit X-35, is there a...an
20 Exhibit C, estimated cost per well?

21 A. There is.

22 Q. And what is the estimate for X-35, if you can
23 read it?

24 A. It is two hundred and twenty-eight thousand
25 three hundred and thirty-nine dollars (\$228,339).

1 Q. Okay. And then is there a similar estimate in
2 the W unit?

3 A. Yes, it is.

4 Q. Okay, and have you basically in Exhibit G, page
5 one taken a...taken five frac wells per panel?

6 A. Yes, we have.

7 Q. And allocated those costs?

8 A. Yes, we did.

9 Q. Continuing on in Exhibit E...in X-35 to Exhibit
10 E, is this a list of the folks whose claims are in conflict?

11 A. It is.

12 Q. And would require escrow?

13 A. Yes.

14 Q. And is there such a list in both of these
15 applications?

16 A. There is.

17 Q. And lastly, with regard to the Exhibits, does
18 each application have a proposed order?

19 A. Yes, it does.

20 Q. Which has the general terms that you would
21 normally expect to see?

22 A. It does.

23 Q. With regard to people that you have not leased,
24 what terms would you offer?

25 A. For coalbed methane lease, a dollar per acre

1 rental, a 1/8 royalty with a five year term.

2 Q. The target formation for the frac wells would be
3 the Pocahontas Three?

4 A. That is correct, it would be.

5 Q. And ultimately though, the gob gas would produce
6 from the entire reservoir that was created in the Oakwood II
7 rules?

8 A. That is correct.

9 Q. Lastly, is it your opinion that the plans for
10 coalbed methane development disclosed by each of these
11 applications is a reasonable plan or method to remove the coalbed
12 methane from these units in advance of mining so that it can be
13 captured and sold?

14 A. Yes, it is.

15 Q. That is all I have.

16 BENNY WAMPLER: Any questions of this witness from
17 members of the Board?

18 (No audible response.)

19 BENNY WAMPLER: You have anything further, Mr. Swartz?

20 MARK SWARTZ: No.

21 BENNY WAMPLER: Take these one at a time. As to unit
22 identified as W-35. Do I have a motion?

23 MAX LEWIS: I make a motion we approve the application.

24 BENNY WAMPLER: Motion to approve.

25 BILL HARRIS: Second.

1 BENNY WAMPLER: Second. Any further discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor signify by saying yes.

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed say no. As to unit identified
6 as X-35, do I have a motion?

7 MAX LEWIS: I'll make a motion to approve it.

8 BENNY WAMPLER: Motion to approve.

9 MASON BRENT: Second.

10 BENNY WAMPLER: Second, any further discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor signify by saying yes.

13 (All members signify by saying yes.)

14 BENNY WAMPLER: Opposed say no.

15 (No audible response.)

16 BENNY WAMPLER: You have approval. The next item on the
17 agenda the Board will consider a petition from Pocahontas Gas
18 Partnership for pooling of coalbed methane unit identified as X-
19 36. This is docket number VGOB-98-03/24-0628. We would ask the
20 parties that wish to address the Board in this matter to come
21 forward at this time.

22 MARK SWARTZ: Mark Swartz and Les Arrington. Might
23 make...might make sense to consider doing W-36 as well, which is
24 the next item. The reason for that is the tracts kind of overlap
25 since these units are stacked and that the information is going

1 to be at least pretty similar.

2 BENNY WAMPLER: Any objection to that, Board Members?

3 (No audible response.)

4 BENNY WAMPLER: I will also call the next item is
5 petition for Pocahontas Gas Partnership for pooling of coalbed
6 methane unit identified as W-36. This is VGOB-98-03/24-0629
7 docket number. So, we now have called X-36 and unit W-36. If
8 any of the parties here wanting to address the Board on W-36,
9 please come forward.

10 MARK SWARTZ: Les, I would remind you that you have
11 been sworn and still under oath.

12

13

14 LESLIE K ARRINGTON

15 having been duly sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. SWARTZ:

18 Q. Want to state your name, please?

19 A. Leslie K. Arrington.

20 Q. Who do you work for?

21 A. Consol.

22 Q. Did you draft the notice of hearing, and
23 applications, and related exhibits with regard to this pooling
24 applications W-36 and X-36?

25 A. Yes, I did.

1 Q. And did you sign them?

2 A. Yes, I did.

3 Q. Did you cause these to be mailed?

4 A. Yes, we did by certified mail, return receipt
5 requested, on February 20th, 1998.

6 Q. And have you filed the certification of mailing
7 with the Board this morning?

8 A. Yes, we have.

9 Q. Did you cause the notices to be published?

10 A. Yes, we did, in the Bluefield Daily Telegraph
11 on March 4th, 1998.

12 Q. And have you filed certificates of publication?

13 A. Yes, we have.

14 Q. Are both of these units eighty acre Oakwood I
15 units?

16 A. Yes, they are.

17 Q. And in both of the applications, is Pocahontas
18 Gas Partnership the applicant and is it also seeking to be
19 designated as the Board's operator?

20 A. Yes.

21 Q. Are the partners in Pocahontas Gas Partnership,
22 Consolidation Coal Company and Conoco, Inc.?

23 A. Yes, it is.

24 Q. Is Pocahontas Gas Partnership authorized to do
25 business in the Commonwealth, is it registered with the DMME, and

1 does it have a blanket bond on file?

2 A. Yes, it does.

3 Q. Are the names of the people you are seeking to
4 pool listed both on the front page of...or the first page of the
5 notice of hearing and Exhibit B-3?

6 A. Yes, they are.

7 Q. With regard to either of these applications do
8 you want to add anybody as a respondent or subtract anybody?

9 A. No.

10 Q. In both instances, we are talking about eighty
11 acre units with frac wells to produce from the deep coal below
12 the Tiller?

13 A. That is correct.

14 Q. Do you have Exhibit C, well estimates, in each
15 of the applications?

16 A. Yes, we do.

17 Q. Why don't we take X-36 first, what is the amount
18 of that well estimate?

19 A. Two hundred...two hundred and thirty-four
20 thousand, three hundred and seventy-four dollars and sixty-five
21 cents (\$234,374.65).

22 Q. And the projected depth?

23 A. 1,849 feet.

24 Q. And in the W-36 Unit, what is the estimate?

25 A. Two hundred and forty-eight thousand, one

1 hundred and ninety-two dollars (\$248,192).

2 Q. When we look on the plat map, if you will turn
3 to the plat map for both of these units. In the W-36 unit, there
4 are two wells proposed?

5 A. That is correct, there is.

6 Q. Is that because of a mine plan?

7 A. That is correct, it is.

8 Q. And in terms of allocation of costs, how many
9 wells are you seeking to allocate to someone who might elect to
10 participate?

11 A. One well.

12 Q. In the X-36 Unit, how many wells are proposed?

13 A. One well.

14 Q. Well, at least on your map it shows one.

15 A. One, uh-huh.

16 Q. Okay. Do Oakwood I units have something called
17 a drilling window?

18 A. Yes, they do.

19 Q. Okay, and with regard to X-36, is that proposed
20 well within the drilling window?

21 A. Yes, it is.

22 Q. Okay, and with regard to W-36, does it appear
23 that the proposed well may actually be outside the drilling
24 window?

25 A. They are.

1 Q. Is there a mechanism in the Oakwood I field
2 rules to allow for drilling of wells outside the drilling window?

3 A. Yes, it is.

4 MARK SWARTZ: What I would point out to the Board is
5 the...this item which contains two pages, and has Mr. Wampler's
6 familiar signature on the second page, it is part of the Oakwood
7 field rules or...which I think was entered in '90 or '91 if I'm
8 not mistaken, but I would direct your attention to the first
9 paragraph numbered three which talks about minimum distances from
10 nearest outside boundary of a drilling unit, and then the second
11 sentence of which says any coalbed methane well proposed to be
12 drilled closer to a unit boundary than three hundred
13 feet....there is a three hundred foot drilling window, shall
14 require a location exception order from the Virginia Oil and Gas
15 Inspector. Then if you turn to the next page at the top, there
16 is a paragraph numbered seven, which is also from the Oakwood I
17 order, and it says that the Virginia Oil and Gas Inspector may
18 consider and grant locations for exceptions on a case by case
19 bases for proposed coalbed methane gas wells drilled in the
20 Oakwood Coalbed Methane Gas Field. And I would simply bring this
21 to your attention because...well, if you don't think about the
22 drilling window, it may not have been obvious to you that these
23 wells...are outside of it, and I am just pointing that out to you
24 and that there is a mechanism for us when we are seeking a permit
25 to provide mine plan data to Mr. Fulmer that you all have

1 facilitated to allow that to happen. The other exhibit I have
2 provided to you is simply again a couple of extracts from code
3 provisions which allow you to do what you did. You gave the
4 Oakwood rule just to kind of refresh your recollection in that
5 respect. And particularly the one that is important is 45.1-
6 361.20 which allows the Board at 5-C to accommodate mine
7 development plans, and make well spacing agree with mine
8 development plans. So, that I would just sort of point that out
9 to you as the mechanism that will that we're going to pursue with
10 Mr. Fulmer's office to locate those wells in those locations, if
11 we haven't already done it.

12 Q. With regard to the Exhibit A page 2, the sort of
13 standing in each of these units, lets start with X-36, the amount
14 of coal leased within the unit?

15 A. 100 percent in both.

16 Q. Okay, and the amount of...in staying with X-36,
17 the amount of the percentage of the oil and gas claims to coalbed
18 methane that you have obtained leases for?

19 A. 100 percent of the coal.

20 Q. Right, and how much of the oil and gas?

21 A. 94...in X-36, 94.625 percent.

22 Q. Okay, and what interest are you seeking to pool?

23 A. 5.375 percent.

24 Q. Of the oil and gas?

25 A. Oil and gas.

1 Q. Okay. Turning to the W-36 Unit, you have
2 already indicated you have a 100 percent of the coal leased, what
3 percentage of the coal owners have you obtained coalbed methane
4 leases from?

5 A. 100 percent.

6 Q. And of the oil and gas owners?

7 A. 60.4125 percent.

8 Q. And what interest are you seeking to pool and
9 what percentages in the W-36 Unit?

10 A. 39.5875 percent.

11 Q. With regard to these units, each application has
12 an Exhibit B-3?

13 A. Yes, it does.

14 Q. And since this an Oakwood I Order, there is only
15 one percentage?

16 A. That is correct it is.

17 Q. And is that percentage calculated by taking the
18 acreage, the net acres in the unit and dividing it by eighty?

19 A. Yes, it is.

20 Q. And that percentage then...that one percentage
21 would be relevant to royalty allocation, cost allocation if there
22 is a participation, and carried interest allocations?

23 A. It would.

24 Q. And that is true for both situations?

25 A. Yes.

1 Q. And I assume that this probably requires escrow?

2 A. Yes, it does.

3 Q. And is there an Exhibit E which sets forth the
4 conflicting owners that require escrow in each of the units?

5 A. Yes, it does.

6 Q. Is the plan of development for these two units,
7 which is disclosed by the exhibits, attached to these
8 applications, in your judgment a reasonable plan to remove
9 coalbed methane gas from the Pocahontas III Seam in advance of
10 mining and capture it for sell, as opposed to venting it?

11 A. Yes, it is.

12 Q. That is all I have.

13 BENNY WAMPLER: Questions from the Board?

14 CLYDE KING: Mark, I have a question, please?

15 MARK SWARTZ: Okay.

16 CLYDE KING: Mr. Chairman, if I may? In X-36, are
17 those...what is the little dotted, is that the...right up
18 here...is that an X-36---

19 MARK SWARTZ: Is that in X-36?

20 CLYDE KING: W...excuse me, W-36.

21 MARK SWARTZ: Oh, okay, W. I think that's a road?

22 LESLIE K. ARRINGTON: Yes.

23 CLYDE KING: Are you going to drill it in the middle of
24 the road, I mean?

25 LESLIE K. ARRINGTON: That's one of our proposed access

1 roads.

2 CLYDE KING: Oh, okay. That is not a road, that is
3 your road?

4 MARK SWARTZ: It is not a state road, no.

5 LESLIE ARRINGTON: Right.

6 MARK SWARTZ: That would be a great drilling site, but
7 I don't think we could do that. Good question, though.

8 BENNY WAMPLER: Is there some way you can describe the
9 big picture here of the number of infringements in this area of
10 the three hundred foot window, the exceptions that you---?

11 SANDRA RIGGS: Locations.

12 BENNY WAMPLER: Location exceptions?

13 (Review plats and maps.)

14 MARK SWARTZ: It looks like the rest of them were
15 planned to be within the window, not scaling them. The possible
16 ones...there were four that looked close...W-37, X-37, B-36, and
17 Y-37, and we have just...well, Y-37, forget it, that is not a
18 problem. We have just scaled them, and they are either clearly
19 more than three hundred feet or close enough that it looks like
20 they were planned to be within the window. So, and I...so, I
21 don't think they're...to answer your questions, I think you're
22 seeing...you are seeing the ones that clearly require an
23 exception, and the other ones we have tried to locate within the
24 window. And I believe they are...going forward today.

25 BENNY WAMPLER: Now, the other question is under

1 Oakwood I. Oakwood I contemplated one well per unit, now in this
2 case you have two wells?

3 MARK SWARTZ: Right, and Mr. Arrington has testified
4 that...to the extent anyone participates in those costs of the
5 second well would not be included in the participation costs,
6 which has been our standard procedure.

7 BENNY WAMPLER: Well, we haven't had that as standard
8 procedure under Oakwood I. We've only had one well per unit, I
9 believe.

10 MARK SWARTZ: I am not sure that is the case. I mean,
11 I would have to---.

12 SANDRA RIGGS: It is a correlative rights issue because
13 when you get to Oakwood II, the density doesn't matter because
14 you have isolated the long wall panels and you're producing off
15 of the panels. In Oakwood I, you are producing off of the
16 drilling unit, and when you have the second well right on the
17 boundary, it is correlative rights issue that we are looking at,
18 not the increased density issue once you are into long wall
19 mining and you have isolated long wall panels.

20 MARK SWARTZ: Except---.

21 CLAUDE MORGAN: If I might explain how we got to this
22 situation. This is in the eastern area of the Buchanan Mine and
23 when we started drilling these wells, it was anticipated that
24 mining was going to be in there much sooner. The mine has
25 shifted to the north and out of this area, and we have backed off

1 on the spacing, but the two wells in question here in the W where
2 you have two wells in the unit, were drilled to degasify the
3 mains that were being driven in the barrier adjacent to the
4 mains, and that is what pushed them to the window, was the
5 mains...and they were being drilled in that short time frame
6 ahead of mining at that time. The mine frame switched to the
7 north and that is the reason you are seeing that the rest of
8 these wells aren't going on to the east. We have scattered them
9 on out and going on the eighty acre...eighty acre center. But
10 the mine frame changed on this one which is the reason there is
11 two wells here that was drilled before the mine plan changed.

12 MARK SWARTZ: Well, to respond to your comment, Sandy,
13 45...well, 36120B5C allows multiple wells in drilling units
14 period. And my recollection is I would have to, you know, I have
15 got---

16 SANDRA RIGGS: Based on the mine plan.

17 MARK SWARTZ: Right. Right.

18 BENNY WAMPLER: That is just what he put in. I think
19 that answers that.

20 MARK SWARTZ: In my recollection, I would have to go
21 back and look at my files, but I think we have done this before
22 and with frac---

23 BENNY WAMPLER: Where you had a mine plan, where you
24 had it introduced that you had a mine plan that was a
25 requirement.

1 MARK SWARTZ: And that is why they are where they are,
2 or the reason that Claude has just expressed. I guess, I
3 misapprehended where you coming from.

4 BENNY WAMPLER: Now, we didn't have anything of record
5 that you had...that this was caused by mine plan, and that's---.

6 MARK SWARTZ: I thought I asked Les that, but I may not
7 have.

8 BENNY WAMPLER: If you did, I may have...I may have---.

9 SANDRA RIGGS: We usually have a mine plan attached
10 that shows the long wall panels and where these units are located
11 within the long wall panel, and that is missing in this package.

12 MARK SWARTZ: The reason it is not here is because we
13 are not allocating under Oakwood II. We wouldn't typically
14 submit that.

15 BENNY WAMPLER: All right. Any other questions?

16 (No audible response.)

17 BENNY WAMPLER: As to Unit X-36, do I have A
18 recommendation...a motion?

19 CLYDE KING: Mr. Chairman, I move we approve.

20 DENNIS GARBIS: Second.

21 BENNY WAMPLER: Motion and second. Any further
22 discussions?

23 (No audible response.)

24 BENNY WAMPLER: All in favor signify by saying yes.

25 (Members signify by saying yes.)

1 BENNY WAMPLER: Opposed say no. As to unit identified
2 as W-36, do I have a motion?

3 BILL HARRIS: Mr. Chairman, I move for approval of
4 that.

5 BENNY WAMPLER: Motion to approve.

6 DENNIS GARBIS: I second it.

7 BENNY WAMPLER: Motion and second, any further
8 discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor signify by saying yes.
11 (Members signify by saying yes.)

12 BENNY WAMPLER: Opposed say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. The next item on the
15 agenda is a petition from Pocahontas Gas Partnership for pooling
16 of a coalbed methane unit identified as Y-38. This is docket
17 number VGOB-98-03/24-03...I am sorry, 0630. We would ask the
18 parties that wish to address the Board in this matter to come
19 forward at this time.

20 MARK SWARTZ: Mark Swartz and Leslie Arrington. If
21 there is no objection, I would again suggest that since we have
22 got two stacked here with some overlapping tracts, that maybe it
23 would make sense to call...also call item number---.

24 BENNY WAMPLER: Fifteen probably...Y-37---.

25 MARK SWARTZ: Twelve, Z-38. It's the one right below

1 it. We could probably add some others, but I think maybe doing
2 two related would make some sense.

3 BENNY WAMPLER: Okay.

4 DENNIS GARBIS: What about thirteen...that is right
5 below that?

6 MARK SWARTZ: That would be fine with me as well.
7 What...do you mean---

8 BILL HARRIS: Item---

9 DENNIS GARBIS: Item twelve and thirteen, Z-38, AA-38?

10 MARK SWARTZ: Right, right. That would make sense as
11 well.

12 BENNY WAMPLER: Is that okay with everyone?

13 MAX LEWIS: Z-38---

14 BENNY WAMPLER: No...yeah, Z-38 and AA-38.

15 MAX LEWIS: Yeah.

16 BENNY WAMPLER: Okay, the...we will go ahead and call
17 these other two units, identified as Z-38, docket number VGOB-98-
18 03/24-0634 and Double A or AA-38, docket number VGOB-98-03/24-
19 0635. We would ask the parties that wish to address the Board in
20 these matters to come forward at this time.

21 BENNY WAMPLER: Could you identify yourself for the
22 record, please?

23 JASON SHORT: I am Jason Short, with...one of the heirs
24 of Tom Short.

25 WALTER SHORT: I am Walter Short, one of the heirs of

1 Tom Short.

2 TOM SHORT: I am Tom Short.

3 DOROTHY KEEN: I am Dorothy Keen, I am a heir of Tom
4 Short.

5 ROBERT ROSE: I am Robert Rose. I own the property
6 close to them.

7 HAROLD SHORT: I am Harold Short, one of the heirs of
8 Tom Short.

9 BENNY WAMPLER: Are all of you that just identified
10 yourself, are you concerned about the unit AA-38, which is docket
11 number 0635, is that all of you...is that---.

12 WALTER SHORT: Right.

13 JASON SHORT: yes.

14 BENNY WAMPLER: I just want to make sure we zoom in on
15 that one when we get to it.

16 JASON SHORT: Okay.

17 WALTER SHORT: Right.

18 BENNY WAMPLER: All right, Mr. Swartz, you may proceed.

19 MARK SWARTZ: Mr. Arrington, I will remind you are
20 still under oath, okay?

21 LESLIE K. ARRINGTON: Yes.

22

23

24

25

1 LESLIE K. ARRINGTON

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MARK SWARTZ:

5 Q. You need state your name again?

6 A. Leslie K. Arrington.

7 Q. Who do you work for?

8 A. Consol.

9 Q. With regard to (inaudible), did you provide
10 notice of the hearings in each instance?

11 A. Yes, I did.

12 Q. And how did you do that?

13 A. By certified mail, return receipt. It was
14 mailed on February 20, 1998.

15 Q. With regard to all three units?

16 A. Yes.

17 Q. Okay. And have you have filed certifications of
18 mailing with the Board today?

19 A. Yes, I have.

20 Q. Okay. Did you mail to the Short heirs?

21 A. Yes, I have.

22 Q. And are...I would refer you to Exhibit B-3 in
23 unit AA-38. Does that indicate the person to whom you mailed
24 notice to the Tom Short heirs?

25 A. Yes, I did...yes, it does.

1 Q. And who was that?

2 A. Tommy Short.

3 Q. And did he sign for that mail?

4 A. Yes, he did.

5 Q. On what date?

6 A. On February 23rd, 1998.

7 Q. Did you also provide notice by publication with

8 regard to these three units?

9 A. Yes, we did, in the Bluefield Daily Telegraph on

10 March 4, 1998.

11 Q. The same date of publication for all three?

12 A. Yes, it was.

13 Q. Okay. And have you filed a certificate from the

14 Bluefield Daily Telegraph of that publication with regard to each

15 of these units?

16 A. Yes, we have.

17 Q. Okay. Are all three of these units eighty acre

18 Oakwood I units?

19 A. Yes, they are.

20 Q. And are they all for frac wells to produce gas

21 from below the Tiller Seam?

22 A. Yes, it is.

23 Q. Okay. With regard to Y-38, how many wells are

24 proposed?

25 A. One.

1 Q. Z-38?

2 A. One.

3 Q. And AA-38?

4 A. One.

5 Q. Okay. Do you have...well, let's...let's just
6 start with Y-38, and I'd refer you to the Exhibit A, page two.

7 A. Uh-huh.

8 Q. With regard to the coal under Y-38, how much of
9 it do you have leased?

10 A. 100 percent.

11 Q. With regard to CBM leases from coal owners, how
12 much have you leased?

13 A. 100 percent.

14 Q. With regard to CBM leases from oil and gas
15 owners, how much have you leased?

16 A. 91.125 percent.

17 Q. And what is the interest that is sought to be
18 pooled in Y-38 and the percentage of that interest?

19 A. The interest is oil and gas interest and it's
20 8.875 percent.

21 Q. I'll ask you the same questions with regard to
22 Z-38. First of all, how much coal is leased?

23 A. 100 percent.

24 Q. What percentage of CBM rights from coal owners
25 have you leased?

1 A. 100 percent.

2 Q. And what percentage of CBM rights from oil and
3 gas owners have you leased?

4 A. 71.65...65 percent.

5 Q. And what is it...what's the interest and the
6 percentage that you're attempting to pool in...with regard to Z-
7 38?

8 A. It's the oil and gas interest and it's 28.35
9 percent...28.35 percent.

10 Q. Lastly, with regard to the AA-38 Unit, how much
11 of the coal is leased?

12 A. 100 percent.

13 Q. And what percentage of the CBM Rights from coal
14 owners have you leased?

15 A. 100 percent.

16 Q. And the leases taken from oil and gas owners
17 with regard to coalbed methane are what percent?

18 A. 93.7875 percent.

19 Q. And what is interest that you seek to pool and
20 the percentage of that interest?

21 A. 6.2125 percent of the gas interest.

22 Q. In each of these packets, have you provided a
23 well cost estimate?

24 A. Yes, we have.

25 Q. And with regard to Y-38, what is the cost

1 estimate?

2 A. Two hundred and forty-five thousand, seven
3 hundred and twenty-five dollars and seventy cents (\$245,725.70).

4 Q. With regard to Z-38?

5 A. Two hundred and sixty-one thousand, seven
6 hundred and eighty-eight dollars and fifty-two cents
7 (\$261,788.52).

8 Q. And lastly with regard to AA-38?

9 A. Two hundred and fifty-four thousand, two hundred
10 and ninety-six dollars and twenty-eight cents (\$254,296.28).

11 Q. And those are costs for a well completed in
12 frac?

13 A. Yes, it is.

14 Q. And the...each one of those wells cost estimates
15 in each file shows a total depth, does it not?

16 A. Yes, it does.

17 Q. Okay, and did you prepare those estimates in
18 each instance?

19 A. Yes, I did.

20 Q. And are those reasonable estimates of the cost?

21 A. Yes, it is.

22 Q. Is there...there is an Exhibit B-3 in each
23 application?

24 A. Yes, it is.

25 Q. And that again would identify the net acres of

1 the unleased owners or claimants in the unit?

2 A. Yes, it does.

3 Q. And it would also give a percentage of interest?

4 A. Yes, it does.

5 Q. And how is that percentage calculated?

6 A. The net acres divided by eighty gives you the
7 percent of interest within the unit.

8 Q. Okay. And for example, if you look at the AA-38
9 Unit with regard to the Tom Short heirs, they have 3.28 acres
10 within that unit?

11 A. That's correct.

12 Q. And what is their interest in the unit?

13 A. 4.1 percent.

14 Q. In terms of a royalty interest...the royalty
15 allocated to this eighty acre unit, what will their interest in
16 the royalty be, the Tom Short heirs?

17 A. It will be a conflicting interest.

18 Q. I understand, but what percentage would that
19 conflict be?

20 A. 4.1 percent.

21 Q. Okay. In the event that they were going to
22 participate, what percentage of the development cost would they
23 be required to pay into escrow?

24 A. 4.1 percent of the cost of the well.

25 Q. Okay. And in the event they elected to be

1 carry, that same 4.1 percent would be relevant to their carried
2 interest?

3 A. It would.

4 Q. Is there an Exhibit E in the packet with regard
5 to each of these three applications?

6 A. Yes, it is.

7 Q. And does that set forth a list of conflicting
8 owners and claimants that would require escrow?

9 A. That's correct, it would.

10 Q. With regard to AA-38, are the Short heirs, is
11 their interest going to escrowed?

12 A. Yes, it will be.

13 Q. And the conflict there is with whom?

14 A. Commonwealth Coal.

15 Q. The coal owner under the same tract?

16 A. That's correct.

17 Q. Now in all three of these situations, Pocahontas
18 Gas Partnership is the applicant?

19 A. Yes.

20 Q. And is Pocahontas Gas Partnership a Virginia
21 general partnership that has two partners, Consolidation Coal
22 Company and Conoco, Inc.?

23 A. That's correct, it is.

24 Q. In all three of these applications, is
25 Pocahontas Gas Partnership requesting that it be the Board's

1 operator?

2 A. Yes.

3 Q. Has PGP been authorized to do business in the
4 Commonwealth, is it registered with the DMME, and does it have a
5 blanket bond on file?

6 A. Yes, it does.

7 Q. Do you wish to add or subtract by dismissal any
8 of the respondents from any of these three applications?

9 A. No.

10 Q. With regard to leases that you have obtained,
11 and it's obvious in all three instances you've got almost
12 everything leased, what other lease terms that you've offered to
13 people that you have taken leases from?

14 A. It's a dollar per acre for a coal bed methane
15 lease, five year term, one-eighth royalty.

16 Q. And would you be willing to offer that to people
17 that you have not already taken leases from?

18 A. That's correct, we would.

19 Q. To the extent you haven't already sent them a
20 lease?

21 A. Correct.

22 Q. Would you recommend those terms to the Board in
23 the event that people are deemed to have leased?

24 A. Yes, I would.

25 Q. And lastly, with regard to these three

1 applications and the plan for development that's disclosed by
2 them, do you recommend these to the Board as a reasonable method
3 to degas the Pocahontas Three Seam in advance of mining under
4 each of these three units?

5 A. We do.

6 MARK SWARTZ: That's all I have.

7 BENNY WAMPLER: Questions from members of the Board? Do
8 you have questions you want to ask?

9 JASON SHORT: I see that you all are...this is here for
10 the pooling and I understand that Pocahontas Gas had leased this
11 from Commonwealth back in June the 23rd of 1997. I looked it up
12 and it's---

13 CLYDE KING: Could you speak up a little, please?

14 JASON SHORT: Oh, yeah. I looked it up and it's Deed
15 Book 35, Page 618 through 620. It looks like there are ten
16 tracts in Tazewell County and six tracts in Buchanan County. On
17 this escrow, I wanted to ask a question. After the escrow...is
18 that for the well to be drilled...I mean, to be paid for? After
19 it's paid for, where does the escrow money go? I mean...does
20 it...I understand it goes in an escrow account, but will that be
21 determined in later years who owns the rights, I guess, would be
22 the heirs of my dad's estate, or would it be between us and the
23 Commonwealth, right?

24 MARK SWARTZ: I think you've asked me two questions.
25 I'll answer the easy one first, okay. The cost of the well only

1 gets escrowed if people decide they want to be partners in the
2 well.

3 JASON SHORT: Right.

4 MARK SWARTZ: To give you an example, if you guys
5 decided...you got together and decided that you wanted to be 4.1
6 percent partners, you'd have to come up with 4.1 percent of two
7 hundred fifty thousand...whatever that number is, and that would
8 go in escrow.

9 JASON SHORT: Uh-huh.

10 MARK SWARTZ: So, that's the first question I think you
11 asked me.

12 JASON SHORT: Right.

13 MARK SWARTZ: And that second question you asked me is,
14 as the money for the royalty accumulates, forget about being
15 partners, but just the royalty, the money goes into escrow and
16 it's going to come out basically at one of two times. Its either
17 going to come out if you guys work something out with
18 Commonwealth Coal or you have a declaratory judgment action and
19 the Court determines who owes it. And that's, you know, it's
20 going to stay there until that happens. You know, I can't say
21 that you're definitely going to be able to do this, but the Board
22 has seen...in fact, I think there's some on the docket today
23 where people, rather than suing each other will sit down and work
24 it out and what we've seen today is a 50/50 split rather than
25 arguing about it. I don't have any idea if Commonwealth would

1 talk to you...I don't know. But the money would stay in escrow
2 until you either work something out with the other party or there
3 was Court that said this is what's going to happen.

4 WALTER SHORT: Right. Well, we feel personally this is
5 a small percentage on the damage that would be done and what
6 would be taken out. And we as heirs, we prefer selling the
7 property. It is for sale if you prefer buying it.

8 MARK SWARTZ: I'm sure that they would talk to you about
9 it. I mean, we have occasionally bought oil and gas interests as
10 opposed to leasing it, and if you...if you hang around after this
11 hearing, there are some land people here who could talk to you
12 today and just get that ball rolling. I mean, in fact, things
13 don't always work out, but it's something they've done before and
14 I know they would talk to you about it.

15 WALTER SHORT: I have mentioned this to Mr. Woods
16 before.

17 HAROLD SHORT: We were approached by one of Consol's
18 people and they wanted to pay us like forty-four hundred dollars
19 (\$4,400) for a well. Where they elected to drill it, this
20 property has been in our family for over a hundred years. It was
21 deeded to my dad in 1920 and where they want to drill that well
22 is between the highway and our ten room house...our home place
23 ...that seven bedroom house there, and we're siting back off from
24 the highway approximately five to six hundred foot. They wanting
25 to drill that well between our house and the highway. If they

1 want to drill that well, why don't they move it in behind the
2 house where we've got property two or three thousand foot back
3 there. Where they are wanting to drill, you'll have to pass by
4 the well, which would be to your right, going into our home
5 place.

6 WALTER SHORT: Just a sore eye.

7 HAROLD SHORT: And they're wanting put a hundred foot
8 back and the high wall...as steep as the land is, the high wall
9 will be sixty to eighty feet high if they go like a hundred foot.
10 They can move it on below our house and it's level.

11 MARK SWARTZ: Well, the map I'm looking...is this your
12 house?

13 HAROLD SHORT: I don't know what that is. We've got a
14 ten room house.

15 LESLIE K. ARRINGTON: I think that's one of the wells
16 we've done away with.

17 (Reviews the map.)

18 MARK SWARTZ: The well that I'm looking at isn't between
19 a house...this is the well we're talking about.

20 HAROLD SHORT: Where they have proposed to drill the
21 well will be between...you pass the well coming to our house from
22 the highway. I mean, they have drilled a well just across the
23 road of my property.

24 WALTER SHORT: That was...that was drilled on the
25 Clevinger's property.

1 MARK SWARTZ: I guess for the Board's purposes, the
2 house you're talking about is outside of the unit and down here
3 where my finger is, right?

4 HAROLD SHORT: I guess.

5 WALTER SHORT: But where the well...my--- .

6 CLAUDE MORGAN: The well may be drilled right there.

7 MARK SWARTZ: Claude, unless...have you...were the plans
8 to drill a well near their house?

9 CLAUDE MORGAN: There may have been at one time, but our
10 plans right now are for this well that's already...this well was
11 already drilled and that's the only one in that position at this
12 time.

13 HAROLD SHORT: Okay. Then the next one straight across
14 the road on our property. You're in Buchanan County with other
15 well. You're coming into Tazewell County.

16 MARK SWARTZ: Tazewell County.

17 HAROLD SHORT: All our property is in Tazewell County.
18 And where he showed he wanted to drill, he wants to cut back a
19 hundred foot---.

20 WALTER SHORT: That dot below the house there, is that
21 the place...is that location of the next well?

22 LESLIE K. ARRINGTON: No.

23 CLAUDE MORGAN: There is no next well being considered
24 here or that we've planned. This is the well and it is drilled.
25 It's there now.

1 HAROLD SHORT: Which...I mean, which...whose property is
2 that on?

3 LESLIE K. ARRINGTON: It's on Clevinger.

4 CLAUDE MORGAN: Clevinger.

5 HAROLD SHORT: Street's...John Street?

6 CLAUDE MORGAN: I don't...no, the well is on Clevinger.

7 The road goes across Clevinger.

8 HAROLD SHORT: Tom Clevinger.

9 WALTER SHORT: Clevinger.

10 HAROLD SHORT: All right. Where are you supposed to
11 drill ours if you drill on us?

12 WALTER SHORT: We're in Tazewell County.

13 HAROLD SHORT: They're going to have to cut back a
14 hundred foot (inaudible).

15 (Several people talking among themselves and reviewing
16 the map.)

17 CLAUDE MORGAN: That well is not longer on.

18 LESLIE K. ARRINGTON: That well he's speaking of is no
19 longer planned.

20 CLAUDE MORGAN: Okay. This is the only well we're
21 proposing in this unit.

22 (Mr. Morgan shows the Short heirs.)

23 WALTER SHORT: So, it wasn't projected for a well?

24 CLAUDE MORGAN: At one time, we would like to have
25 drilled a well where they talked to you about, moved back away

1 from that and this the only well that we're putting on this.

2 WALTER SHORT: And there is no other projection for any
3 other well here?

4 CLAUDE MORGAN: There's no projection for any other
5 wells at this time to do anything other than this right here.

6 ROBERT ROSE: Do you plan to?

7 CLAUDE MORGAN: We have no plans other than the one that
8 is right here.

9 GAYLINE DESKINS: They told me one would be across from
10 my trailer right there in front of my house.

11 HAROLD SHORT: They're wanting to pool the gas off of
12 us?

13 CLAUDE MORGAN: Well, that's the subject of the hearing
14 here is that a piece of your property is into the eighty acres
15 that gets allocated to well under the Oakwood area, and this is
16 the means that you would be compensated if you're determined to
17 be the owner by whatever means.

18 HAROLD SHORT: See, there's the Short Family Cemetery
19 was...is land deeded before that, there's coal rights under
20 that's reserved. I mean, you're within four or five hundred foot
21 of that well of that graveyard. I mean, I know you don't own the
22 coal or the rights under the graveyard.

23 WALTER SHORT: Okay, there's no projection that's
24 coming in on the Tom Short heir's property at all?

25 LESLIE K. ARRINGTON: Not at this time.

1 CLAUDE MORGAN: We have no place at all to do that.

2 WALTER SHORT: Okay.

3 TOM SHORT: I have another question. I don't see why

4 that you would be allowed to pool the acreage that you're

5 pooling. You're pooling...in other words, looks like you're

6 total here is about sixteen hundred...you'll be pooling gas off

7 what, sixteen hundred acres of property total?

8 MARK SWARTZ: Eighty.

9 TOM SHORT: Huh?

10 MARK SWARTZ: Eighty. That's eighty acres.

11 WALTER SHORT: Eighty acres, Tom.

12 TOM SHORT: Okay. I was just going by what you're...I

13 guess I was going what you had leased here...is what I had

14 figured up as being fair, sixteen hundred and eighty some acres.

15 HAROLD SHORT: Are they drilling a gas well to pump gas

16 off of coal or just to get the gas itself?

17 MARK SWARTZ: It's to degas the Poca three seam.

18 HAROLD SHORT: Well, I mean, are they drilling---

19 WALTER SHORT: But this gas here goes, and it goes it

20 goes on out the other, you know, Maryland or Ohio.

21 HAROLD SHORT: Maryland.

22 MARK SWARTZ: Where?

23 WALTER SHORT: It goes...I understand it---

24 MARK SWARTZ: It goes into the Columbia System, wherever

25 they go.

1 WALTER SHORT: But that gas, if it's pooled from there
2 and it comes from eighty acres, why pool it from...pool it...say,
3 pool it all up together when you're not on...even on our
4 property? Would you be draining from our---?

5 TOM SHORT: Yeah.

6 MARK SWARTZ: Right. Right. Right. I mean, the idea
7 is that a well there is in all probability going to drain your
8 property and the reason this grid was set up so you get some
9 share of it. I mean, to give you an example of how bad it can
10 be, West Virginia is in the dark ages when it comes to pooling
11 and you can literally, in West Virginia, drill a well on a
12 tract...you don't have to add anything. So, you could put this
13 well down and you wouldn't have to pool anybody even though you'd
14 know that this is going to be taking gas and you get zero share
15 of it. And what...you know, what this law does is it gives this
16 Board an opportunity to say we're going to figure out a system to
17 make sure that there are no gas. That if this gas gets
18 developed, everybody gets a piece of the action and that's
19 essentially, you know, what's happening here. You know and
20 basically, I mean, to put this in perspective, we've gone out and
21 got leases from 92 percent of the people interested in this
22 eighty acre unit and there's about eight...six or eight percent
23 out there that aren't and the Board is going to make sure that
24 six or eight percent that hasn't leased or hasn't sold gets their
25 share. That's...that's the program. I mean, I'm not saying

1 that's good, bad or whatever, I mean, that's...but that's the way
2 the law works and that's what we're asking to happen.

3 TOM SHORT: When was the 1/8...like the 1/8 percent,
4 when was that allocated?

5 SANDRA RIGGS: That's established by statute under 45.1-
6 361.22.

7 TOM SHORT: How long ago?

8 SANDRA RIGGS: 1990.

9 BENNY WAMPLER: 1990.

10 TOM SHORT: I didn't know. I figured it might have been
11 back in the 1900's.

12 BENNY WAMPLER: No, it was 1990.

13 SANDRA RIGGS: It says---

14 TOM SHORT: Are you talking about the cost of living is
15 really the reason?

16 SANDRA RIGGS: "---the coalbed methane gas well operator
17 shall deposit into the escrow account 1/8 of all proceeds
18 attributable to the conflicting interest, plus all proceeds in
19 excess of ongoing operational expenses as provided for under
20 pooling statutes."

21 TOM SHORT: Now, are you all appointed by the governor?

22 BENNY WAMPLER: Yes, sir.

23 TOM SHORT: Okay.

24 WALTER SHORT: Okay. Why...why was something like this
25 passed without the land owners knowing anything about it? We

1 should have had a say in what was put into law concerning our
2 property, should we not?

3 SANDRA RIGGS: Well, the way that process works is
4 through your representatives to Richmond.

5 WALTER SHORT: We've been sold out.

6 SANDRA RIGGS: The legislative process is how statutes
7 get enacted.

8 TOM SHORT: You'll have to take that back to Rick
9 Boucher.

10 SANDRA RIGGS: Well, this is the state...state.

11 CLYDE KING: No, that's...that's your representative in
12 Richmond, not in Washington.

13 TOM SHORT: Is that right?

14 BENNY WAMPLER: What we're trying to do here, we're
15 trying to be open and let you all and...get some questions
16 answered. We obviously have to make some decisions here, but I
17 want to make sure I get everybody's questions to the extent I
18 can---.

19 TOM SHORT: Right.

20 WALTER SHORT: Yeah.

21 BENNY WAMPLER: ---I believe this gentlemen had a---.

22 ROBERT ROSE: Yeah, they brought this around, a paper
23 for me to sign...my rights, and my wife ask them and said, "What
24 will we get out of it?" He said, "Nothing...never." Now, that's
25 what he thought. That's what he said.

1 BENNY WAMPLER: If you leased with them, is that
2 what...I don't what paper...is that a lease?

3 ROBERT ROSE: Huh?

4 BENNY WAMPLER: Is that a lease that you've been asked
5 to sign?

6 ROBERT ROSE: If I would have signed the paper.

7 BENNY WAMPLER: Uh-huh. To lease with them, that
8 you---

9 ROBERT ROSE: And then they offered, I believe, five
10 dollars (\$5)...five dollars (\$5) a acre and pay ten years up
11 front. Talking about the escrow, but he said, "Never." Thought
12 it was a pretty good answer.

13 HAROLD SHORT: Well, I talked to the guy at Consol about
14 the escrow account, he said, "The money would be put there, but
15 not my life time or his life time would that money ever be
16 divided."

17 BENNY WAMPLER: Well, I can tell...I can tell you this,
18 none of us in this room or anybody else that tells you that
19 knows...knows for sure. The parties could come to the Board in
20 agreement with all parties and ask for disbursal and the Board
21 will have mechanisms that it will try to insure that the accuracy
22 of that money that's being disbursed, or somebody will have to
23 initiate a lawsuit and the Courts would determine who owns the
24 gas, and then subsequently that money will be paid out pursuant
25 to that. I mean, none of us in here, including you folks, have

1 any control of that. Even if somebody is sued and there's
2 been...how many lawsuits? There's some lawsuits out there that
3 have been pending for several years now with no action on those.
4 You know...you know, how the Court dockets go. It's whenever
5 they choose to get into it. So, I don't...I don't think anybody
6 could ever tell you that with any certainty either way. I mean,
7 they could...somebody advance a case next year and get a decision
8 or you all could...if you have all the parties here, get together
9 with...in this particular case the coal company that was
10 identified and come to an agreement if they were willing to do
11 that and come forward. Those are the mechanisms that are
12 available to us. None of us, you know, control that.

13 TOM SHORT: Who is over Commonwealth?

14 MARK SWARTZ: Commonwealth, I don't know---

15 TOM SHORT: Where are they located?

16 CLAUDE MORGAN: Their legal representative is Harris
17 Hart. It's a...or a trustee is involved. Harris Hart is their
18 legal representative.

19 TOM SHORT: Harris Hart is their legal representative?

20 CLAUDE MORGAN: Yes.

21 CLYDE KEEN: This Board has distributed some money out
22 of the---

23 SANDRA RIGGS: There are applications pending on the
24 docket today where the coal owner and the gas owner have reached
25 an agreement and are here seeking withdraw of funds from escrow,

1 pursuant to voluntary agreements. Now what we haven't had is
2 where one or the other party has gone into Circuit Court and
3 filed a declaratory action judgment, got a determination as to
4 who within their tract owns the gas and then come back with a
5 court order, that situation has not occurred yet, but we have had
6 voluntary disbursements based on stipulations or negotiations
7 between the conflicting claimants.

8 WALTER SHORT: What you are saying here on this 3.28
9 acres is this is where the gas would be withdrawn from, is that
10 right? Where did they come up this here, and then down here you
11 have 1....quarter acre, 1.25.

12 SANDRA RIGGS: Under the field rules that have been
13 adopted by the Board, the grid was set up and it was...testimony
14 was taken that a well would drain approximately eighty acres of
15 gas. They have the eighty acres squares, and it is presumed for
16 purposes for allocation that well is going to drain that eighty
17 acre drilling unit, and therefore, everybody within that eighty
18 acres should share in the royalty. Unless they choose to
19 participate and go at risk, and you also have that election
20 under...under the pooling statute.

21 BENNY WAMPLER: Before we did that, we have the scenario
22 that Ms. Short was addressing with you where you had circular
23 units around the well and you have a lot of folks...these people
24 that are in these gap areas that wouldn't get anything, what the
25 grid unit does...whether or not the eighty acre sizing is perfect

1 or not, you know, we did that based on a lot of testimony. But
2 whatever that sizing needs to be, what we were interested in was
3 making sure that there were not gaps in between, and that is what
4 we are trying to do. So, that if you have ownership of, you
5 know, the gas and oil, coal ownership that you are not left out
6 by some circle didn't meet at a particular location. Is there
7 anything further?

8 TOM SHORT: I don't have any further questions.

9 BENNY WAMPLER: Do you have anything further, Mr.
10 Swartz?

11 MARK SWARTZ: Yeah, looks like we need to amend so that
12 B-3 and E...the tract identification shows two tracts involving
13 the Short heirs, and we have only listed one in these exhibits
14 and we need to enlist that the larger one---.

15 BILL HARRIS: Excuse me, what well...excuse me, what
16 well...is that well A-30?

17 MARK SWARTZ: It is the Unit AA-38, we need to...we need
18 to amend B-3 and E to add the tract five interest, which is
19 the---.

20 MAX LEWIS: Will that increase that four percent?

21 MARK SWARTZ: Yeah, it would go to---.

22 BENNY WAMPLER: Yeah.

23 MARK SWARTZ: ---5.6625 total, but they are in
24 different tracts so---.

25 MAX LEWIS: Yeah.

1 MARK SWARTZ: But in terms of their interest in the
2 unit, it would be...you know we've got it listed one place but we
3 don't have it listed the other place.

4 TOM SHORT: So, what would the figure go, five---?

5 MARK SWARTZ: In the entire unit if you would add these
6 two, there is a 4.1 we were talking about, but you've also got a
7 1.25 acres in another tract. So, you would have to add those
8 together to...it would be 5.6625. Well, it's already been
9 divided out, so you just need to add those two numbers. Looks
10 like five and a half percent.

11 SANDRA RIGGS: What are the two tract numbers?

12 MARK SWARTZ: It's 4A, is the 3.28 acres, which
13 has...right?

14 HAROLD SHORT: Uh-huh.

15 MARK SWARTZ: 4.1 percent of the unit, and then tract
16 five is 1.25 acres within the unit and it represents 1.5625
17 percent, and then, you know, for their purposes in terms of
18 adding those together, that would be appropriate; for our
19 purposes, cause they are different tracts, we need to keep them
20 separate.

21 HAROLD SHORT: We own about...we own thirty-two acres
22 there.

23 MARK SWARTZ: Right, if you look at the map, you can see
24 that only part of your acreage comes in this unit. That's why
25 it's not---.

1 BENNY WAMPLER: Sir, that is our only...it is only
2 dealing with the portion of your acreage that is within this
3 particular unit. It is not trying to deal with your total
4 acreage. Now, if they were to drill another well somewhere that
5 it was in that...right now what they are dealing with is a
6 portion within that eighty acre unit. Okay?

7 MARK SWARTZ: That is the only thing that this---

8 BENNY WAMPLER: That this hearing pertains to, that is
9 right.

10 MAX LEWIS: You all understand that if you can get the
11 other parties to agree, you can come before the Board and ask
12 them to make an agreement on paying you your part of the royalty.
13 Explain that to him there.

14 TOM SHORT: In other words, you're talking about
15 Commonwealth?

16 MAX LEWIS: Yeah, Commonwealth.

17 WALTER SHORT: If everybody agrees to it, in other
18 words---

19 TOM SHORT: We can work something out with them, with
20 their attorney, then it might be that we split the royalty.

21 BENNY WAMPLER: Well, you have a situation where that's
22 possible probably, because it's one set of heirs dealing with
23 one--.

24 TOM SHORT: Right.

25 BENNY WAMPLER: ---other ownership.

1 TOM SHORT: Yeah, they might be glad to do that because
2 we got a lot to be pooled.

3 BENNY WAMPLER: That's right. Do you have anything
4 further?

5 MARK SWARTZ: No.

6 BENNY WAMPLER: Any further questions, Members of Board?

7 CLYDE KING: At least...will we handle these
8 individually?

9 BENNY WAMPLER: Individually. Yes, sir. As to unit
10 identified as Y-38, do I have a motion?

11 MAX LEWIS: I make a motion that we approve it.

12 CLYDE KING: Second.

13 BENNY WAMPLER: All in favor signify by saying yes.
14 (Members signify by yes.)

15 BENNY WAMPLER: Oppose say no.
16 (No audible response.)

17 BENNY WAMPLER: Methane...coalbed methane unit
18 identified as Z-38.

19 MAX LEWIS: I make a motion that we approve that.

20 BENNY WAMPLER: Motion to approve.

21 CLYDE KING: Second.

22 BENNY WAMPLER: Any further questions?
23 (No audible response.)

24 BENNY WAMPLER: All in favor signify by saying yes.
25 (Members signify by yes.)

1 BENNY WAMPLER: It's approved. Coalbed methane unit
2 identified as AA-38.

3 MAX LEWIS: I make a motion we approve AA-38.

4 BENNY WAMPLER: Motion to approve as amended?

5 MAX LEWIS: Yes...yes, sir.

6 CLYDE KING: Second.

7 BENNY WAMPLER: Motion to approve as amended and second.
8 Any further questions?

9 (No audible response.)

10 BENNY WAMPLER: All in favor signify by saying yes.

11 (Members signify by yes.)

12 BENNY WAMPLER: Oppose say no.

13 (No audible response.)

14 BENNY WAMPLER: It's approved. Would you like to have a
15 five minutes break? We'll take a few minutes break here.

16 (Break)

17 BENNY WAMPLER: Okay. We'll do about five more and then
18 we'll break for lunch, if that's okay. I think we can combine
19 several of these next ones.

20 CLYDE KING: Sounds like a winner.

21 BENNY WAMPLER: The next item on the agenda, the Board
22 will consider a petition from Pocahontas Gas Partnership for
23 pooling of a coalbed methane unit identified as Z-37. This is
24 docket number VGOB-98-03/24-0631. Mr. Swartz, will it work also
25 to go with the next two?

1 MAX LEWIS: Number nine.

2 MARK SWARTZ: Yeah, I'm trying to...I think we can
3 actually do five...I was thinking we could do the thirty-seven
4 roll and then that would only leave V-36 for later.

5 BENNY WAMPLER: Okay. All right.

6 CLYDE KING: Thirty-seven?

7 BENNY WAMPLER: Okay. I'm going to go ahead and call
8 these down the list by...it will be unit W-37, VGOB-98-03/24-
9 0632; X-37, this is VGOB-98-03/24-0633; Y-37, docket number VGOB-
10 98-03/24-0637; and V-37, this is docket number VGOB-98-
11 03/24/0639. We'd ask the parties that wish to address the Board
12 in these matters to come forward at this time. If you don't
13 mind, just tell us your name and which one in particular you're
14 interested in.

15 GRADY MCGLOTHLIN: Grady McGlothlin, X-37.

16 BENNY WAMPLER: X-37?

17 GRADY MCGLOTHLIN: Uh-huh.

18 CLYDE KING: What's that number, Mr. Chairman?

19 BENNY WAMPLER: On your...on your list on here, it will
20 be nine, ten, eleven, fifteen and seventeen.

21 (Parties getting organized.)

22

23

24

25

1 LESLIE K. ARRINGTON

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Mr. Arrington, you need to state your name for
6 us again?

7 A. Leslie K. Arrington.

8 Q. Who do you work for?

9 A. Consol.

10 Q. And I would ask you whether or not you prepared
11 and signed the notices of hearing, the applications and then also
12 prepared the exhibits with regard to pooling applications Z-38,
13 W-37, X-37, Y-37 and B-37?

14 A. I did.

15 Q. In all five of these applications, is Pocahontas
16 Gas Partnership the applicant?

17 A. Yes...yes, we are.

18 Q. And is Pocahontas Partnership a Virginia General
19 Partnership whose two partners are Consolidation Coal Company and
20 Conoco, Inc.?

21 A. Yes, it is.

22 Q. In each of these application, is Pocahontas Gas
23 Partnership requesting that the Board designate it as the
24 operator of these units?

25 A. Yes.

1 Q. Is PGP, or Pocahontas Gas Partnership,
2 authorized to do business in the Commonwealth of Virginia, has it
3 registered with the Department of Mines, Minerals and Energy, and
4 does it have a blanket bond on file?

5 A. Yes, it does.

6 Q. Now, the people that you're seeking to pool, are
7 they listed on the first page of the notice of hearing?

8 A. Yes, they are.

9 Q. And are they also listed on Exhibit B-3?

10 A. Yes, they are.

11 Q. Okay. And to the extent you have addresses for
12 those folks, the addresses would also be listed on Exhibit B-3?

13 A. They are.

14 Q. Did you mail?

15 A. Yes, we did by certified mail, return receipt
16 requested. They were mailed on February 20th, 1998.

17 Q. And have you...have you filed a listing
18 indicating, you know, who got the mail and when they got it and
19 copies of the cards with Mr. Fulmer's office and a list with the
20 Board?

21 A. Yes, we have.

22 Q. Did you publish?

23 A. Yes, we did, in the Bluefield Daily Telegraph on
24 March 4, 1998.

25 Q. And have you filed certificates of publications

1 with regard to each of the units?

2 A. Yes, we have.

3 Q. Do you wish to amend any of the applications to
4 add respondents or subtract respondents?

5 A. I think the only amendments that we have are in
6 the colored booklets, but I believe the applications have already
7 been corrected at the gas and oil office, I think.

8 Q. Shortly, after you filed Z-37 and Y-37, did you
9 catch a mistake?

10 A. Yes, we did.

11 Q. And then did you file with the gas and oil Board
12 office?

13 A. Yes, we did.

14 Q. And you filed revised Exhibits B-3 and E with
15 regard to those two units?

16 A. Yes, we did.

17 Q. And you think they're probably in the packets
18 that the Board Members have?

19 A. They should be. I think they are.

20 Q. And if they're not, you put them in the...the
21 little booklets we distributed today?

22 A. Yes, we did. Yes, we did.

23 Q. And what was the problem that required a
24 revision?

25 A. We were showing a Short...I'll have to get his

1 name, Gerald K. Short, we were showing it as a group...a
2 Shorts...Short heirs---

3 Q. Right.

4 A. ---and it should have...it was incorrect.

5 It should have been Gerald K. Short.

6 Q. Period?

7 A. Period.

8 Q. And that's what got corrected?

9 A. That's correct.

10 Q. Are all of these units eighty acre units?

11 A. Yes, they are.

12 Q. And are you seeking to pool with regard to each
13 of these applications under the Oakwood I rules?

14 A. That's correct, we are.

15 Q. And do each of these exhibits contemplate one or
16 more frac wells producing from below the Tiller?

17 A. Yes.

18 Q. Do each of the applications contain an Exhibit
19 C, which is an estimate concerning well cost?

20 A. It does.

21 Q. And who prepared those exhibits?

22 A. I did.

23 Q. And are the estimates in each instance your best
24 estimate of the proposed cost, or the actual cost?

25 A. Yes.

1 Q. Starting with...I'm just taking them in the
2 docket number order, starting with Z-37, what is the well
3 estimate?

4 A. Two hundred twenty-five thousand twenty-eight
5 dollars and sixty-two cents (\$25,028.62).

6 Q. And is the total depth projected 2,166 feet?

7 A. Yes.

8 Q. With regard to W-37, what is the estimate?

9 A. Two hundred thirty-six thousand eight hundred
10 eighty-two and thirty-five cents (\$236,882.35).

11 Q. And is the total depth to be 1,870.40 feet?

12 A. Yes.

13 Q. With regard X-37, what's the estimate?

14 A. Two hundred thirty-eight thousand four hundred
15 thirty-two dollars and twenty-three cents (\$238,432.23).

16 Q. And is the projected depth 1,895 feet?

17 A. Yes.

18 Q. With regard to Y-37, what's the estimate?

19 A. Two hundred and forty-five thousand seven
20 hundred and seventy-seven and ninety-one (\$245,777.91).

21 Q. And is the projected total depth of that well
22 2,131.30 feet?

23 A. Yes, it is.

24 Q. And lastly with regard to V-37, what's the
25 estimate?

1 A. Two hundred and forty-six thousand three ninety-
2 one whole two (246,391.02).

3 Q. And is the total projected depth 2,006.4 feet
4 for that well?

5 A. Yes, it is.

6 Q. And were all of these estimates prepared on
7 February 17th, 1998 by yourself?

8 A. Yes, it was.

9 Q. Let's just take the...okay, in each of these
10 application, is there an Exhibit B-3 or a revised B-3?

11 A. Yes, it is.

12 Q. And does it set forth the acreage for each
13 person being pooled within the unit?

14 A. Yes, it does.

15 Q. And does it also set forth a division of
16 interest, or interest, in the unit?

17 A. Yes, it does.

18 Q. Just for example to go with...if we look at X-
19 37---.

20 A. Okay.

21 Q. ---which is the unit that Mr. McGlothlin is here
22 on today. If you would turn to, first of all, the tract
23 identifications page.

24 A. Yes.

25 Q. The tract that you're showing is 1-G?

1 A. That's correct.

2 Q. And you're showing Mr. McGlothlin as a having a
3 surface oil and gas interest?

4 A. Yes, we are.

5 Q. Of how many acres?

6 A. .88 acres.

7 Q. And percent?

8 A. Of 1.1 percent.

9 Q. Okay. And that tract in 1-G you can find on the
10 plat map which is the preceding page, correct?

11 A. That's correct.

12 Q. And the well that is proposed to be drilled in
13 X-37...excuse me...in X-37 is not on Mr. McGlothlin's tract is
14 it?

15 A. That's correct. It is not.

16 Q. And it appears to be something on the order of
17 four or five hundred feet away?

18 A. Yes.

19 Q. If you turn to Exhibit B-3, staying with the
20 same application, the X-37 application, is Mr. McGlothlin listed
21 there?

22 A. Yes, it is.

23 Q. And he's under 1-G and we've got the same
24 acreage and the same percentage?

25 A. That's correct, it is.

1 Q. Okay. And then I would ask you to turn...if
2 there's an Exhibit E, would you turn to that?

3 A. Yes.

4 Q. And there is...and again, Mr. McGlothlin is
5 listed on the second page of that?

6 A. He is. That's correct.

7 Q. And who would he be in conflict with?

8 A. Hurt/McQuire.

9 Q. And you've misspelled Hurt/McQuire there,
10 haven't you?

11 A. I see that, yes.

12 Q. Hurt/McJury today?

13 A. Yes.

14 Q. Okay. But in any event, that would be the
15 conflict?

16 A. Yes.

17 Q. And that would be subject to escrow with the
18 Board's escrow agent?

19 A. Yes.

20 Q. Okay. Is there an Exhibit B-3, a tract I.D.
21 plat, you know a tract identification attached to the plat in
22 Exhibit E dealing with escrow in each one of these applications?

23 A. Yes, it is.

24 Q. And are all of these wells intended to degas the
25 Pocahontas number three coal seam in advance of long wall mining?

1 A. Yes, they are.

2 Q. Okay. And all of the wells are proposed to be
3 frac wells?

4 A. Yes, they are.

5 Q. We need to go through, and let's start in the
6 order that they're listed on the docket, we need to go through
7 the interest that you've obtained and the interest that you're
8 seeking to pool in each one of these units and let's start with
9 Z-37, just direct your attention to A, page two. How much of the
10 coal is under lease?

11 A. 100 percent.

12 Q. How much of the...what percentage of the coal
13 owners have you obtained CBM leases from?

14 A. 100.

15 Q. And what percentage of the oil and gas owners
16 have you obtained CBM leases from?

17 A. 96.7125 percent.

18 Q. And now just regard to unit Z-37, what's the
19 interest you're seeking to pool and the percentage of that
20 interest?

21 A. The oil and gas interest and we're seeking to
22 pool 3.2875 percent.

23 Q. Going to W-37. Again, with reference to Exhibit
24 A, page two, what...how much of the coal do you have under lease?

25 A. 100 percent.

1 Q. And how much of the CBM from coal owners do you
2 have under lease?

3 A. 76.4875 percent.

4 Q. And what percentage of the oil and gas owners
5 have signed CBM leases?

6 A. Oil and gas owners.

7 Q. Oil and gas.

8 A. 76.4875.

9 Q. And with regard W-37, what's the interest you're
10 seeking to pool and what's the total percentage of that interest?

11 A. It's oil and gas interest and its 23.5125
12 percent.

13 Q. With regard now to X-37, and again, this is the
14 unit that Mr. McGlothlin is in, what is the situation with regard
15 to coal leased...how much coal is leased?

16 A. 100 percent.

17 Q. And coalbed methane leases taken from coal
18 owners, what's that percentage?

19 A. 100 percent.

20 Q. With regard to coalbed methane leases obtained
21 from oil and gas owners, what has been your success rate there?

22 A. 79.05 percent.

23 Q. And in that unit, the X-37 unit, what's the
24 interest you're seeking to pool?

25 A. Oil and gas interest and it's 20.95 percent.

1 Q. And Mr. McGlothlin's interest is part of that
2 20.95 percent?

3 A. Yes, it is.

4 Q. The leases that you've been able to obtain on
5 the X-37 unit and the other units, what generally have been the
6 terms that you've gotten those leases on?

7 A. Coalbed methane leases---

8 Q. Uh-huh.

9 A. ---a dollar per acre rental, 1/8 royalty with a
10 five year term.

11 Q. And would you be willing to offer that
12 same...those lease terms to Mr. McGlothlin and the other owners
13 of the 20.95 percent?

14 A. Yes, we would.

15 Q. And would you recommend those terms to the
16 Board?

17 A. Yes, we would.

18 Q. Okay. With regard to the next unit Y-37, again,
19 Exhibit A, page two, amount of coal leased?

20 A. 100 percent.

21 Q. CBM from coal owners?

22 A. 100 percent.

23 Q. CBM from oil and gas owners?

24 A. 84.3625 percent.

25 Q. Interest to be pooled in the percentage?

1 A. It's oil and gas interest and it's 15.6375
2 percent.

3 Q. And the last unit of this collection is V-37,
4 the amount coal leased?

5 A. The amount of coal leased is a 100 percent.

6 Q. CBM leases from coal owners?

7 A. 100 percent.

8 Q. CBM leases from oil and gas owners?

9 A. 88.175 percent.

10 Q. And in this one, likewise you're seeking to pool
11 just a portion of the oil and gas interest?

12 A. That's correct, 11.825 percent.

13 Q. Okay. In terms of going back to the X-37 unit,
14 I just direct your attention to B-3 again, with regard to Mr.
15 McGlothlin, his percentage is 1.1 percent, okay?

16 A. That's correct.

17 Q. So, in terms of roy...of the percent of the
18 royalty that would be escrowed for his claim, would it be 1.1
19 percent of the total royalty?

20 A. Yes, it would.

21 Q. Okay. And if Mr. McGlothlin wanted to
22 participate, what percentage of the well costs would he be
23 expected to escrow?

24 A. 1.1 percent.

25 Q. Of two hundred thirty-eight thousand four

1 hundred thirty-two dollars and thirty-two (\$238,432.32)?

2 A. That's correct.

3 Q. And in terms of electing to be carried that 1.1
4 percent would also be the factor that would be applied to
5 the...the carrying costs?

6 A. Correct, it would be.

7 Q. With regard to each of these five units in the
8 37 roll, is it your opinion that the plans for development
9 disclosed by these applications represent a reasonable plan to
10 capture gas taken from the Pocahontas three seam in associated
11 strata in advance of mining so that it can be captured and sold
12 rather than to vent it?

13 A. Yes, it would.

14 MARK SWARTZ: That's all I have.

15 BENNY WAMPLER: Any questions from members of the Board?
16 Do you have any questions, Mr. McGlothlin?

17 GRADY MCGLOTHLIN: Yeah, my concern is...see, my well is
18 in my basement and it's 96 feet deep and when they mess with this
19 well, ain't that subject to come in my well...that gas?

20 BENNY WAMPLER: Can you answer that?

21 MARK SWARTZ: Claude, in terms of protection string
22 issues and so forth.

23 CLAUDE MORGAN: Can I see the what we're talking about?

24 LESLIE K. ARRINGTON: Yeah, yeah. Right there, there's
25 the well.

1 MARK SWARTZ: Is this your house of here on that...in
2 the middle of the map?

3 GRADY McGLOTHLIN: Yeah, yeah. Right there.

4 MARK SWARTZ: Okay. Is it the one on the right?
5 They're two houses.

6 GRADY McGLOTHLIN: Yeah, that's it.

7 MARK SWARTZ: Okay. So, the building in the 1-G tract,
8 the building on the left is your house and your barn is on the
9 right?

10 GRADY McGLOTHLIN: Uh-huh.

11 MARK SWARTZ: Okay. And you see this where the well
12 is---

13 GRADY McGLOTHLIN: Uh-huh.

14 MARK SWARTZ: Okay. Claude, you want to comment on the
15 protection of...?

16 CLAUDE MORGAN: The well will be drilled and the casing
17 set for seaming to a minimum of 400 feet for the protection
18 string and in fact, it was set to 411.7 feet. It should be
19 sufficient to isolate any gas production away from his well at 96
20 foot depth. And in addition to that, a production string will be
21 set from there on down to the producing zones to isolate that
22 also.

23 GRADY McGLOTHLIN: Will they put a monitor on my well
24 for that?

25 MARK SWARTZ: A monitor for what?

1 GRADY McGLOTHLIN: For gas in---.

2 MARK SWARTZ: No.

3 GRADY McGLOTHLIN: ---case it comes in. In other word,
4 any kind of protection.

5 MARK SWARTZ: Well, what he's just told you is they have
6 cemented a pipe basically---.

7 GRADY McGLOTHLIN: Yeah, I know that. I understood
8 that.

9 MARK SWARTZ: ---to 411 feet and you're at 96.

10 GRADY McGLOTHLIN: Yeah.

11 MAX LEWIS: What they do is they put that pipe 490 some
12 feet and they pump cement down in that, push it up around your
13 pipe to the surface to protect your water stream.

14 GRADY McGLOTHLIN: Yeah, but you don't understand what
15 I'm saying. Like if they crack that well, they could be a crack
16 over here on my house all the way to the top, that's what I'm
17 concerned about.

18 BENNY WAMPLER: You don't have any gas in there right
19 now.

20 GRADY McGLOTHLIN: No.

21 BENNY WAMPLER: You're concerned that you will have
22 when they drill the well. Is the well above or below your---?

23 GRADY WAMPLER: Well, I hope I don't for---.

24 BENNY WAMPLER: Well, I understand.

25 MAX LEWIS: Yeah.

1 BENNY WAMPLER: Is the well above or below your
2 house...the proposed well? Do you know that?

3 MAX LEWIS: What's the elevation?

4 GRADY McGLOTHLIN: Above it, yeah.

5 BENNY WAMPLER: It's above. The well will be above your
6 house.

7 GRADY McGLOTHLIN: Uh-huh.

8 MAX LEWIS: But how...what's the elevation---?

9 BENNY WAMPLER: Do you know the elevation difference?

10 MAX LEWIS: ---do you know what the difference between
11 the elevation of the well and your house...your well, how
12 much...how many feet?

13 BENNY WAMPLER: You know, how much?

14 GRADY McGLOTHLIN: I'd say probably 45, something like
15 that.

16 MARK SWARTZ: I'm not sure that we have a topo with us.

17 MAX LEWIS: Have you checked your well lately and see
18 if...it don't have any gas in it?

19 GRADY McGLOTHLIN: No.

20 CLAUDE MORGAN: This well has been...has been cased and
21 stimulated.

22 SANDRA RIGGS: All ready?

23 CLAUDE MORGAN: All ready. The casing was set---.

24 GRADY McGLOTHLIN: If...see, I had the sulfur cased off
25 and then I went on down and got good water.

1 BENNY WAMPLER: You haven't had any impact from the
2 drilling of the well---?

3 GRADY MCGLOTHLIN: Unh-huh.

4 BENNY WAMPLER: ---that they've already drilled?

5 GRADY MCGLOTHLIN: No, not so far. Just heard them bump
6 it. I guess, they---.

7 CLYDE KING: When you frac, does it come that high back
8 up? You're at 1,800, aren't you about. Where are you?

9 CLAUDE MORGAN: The top frac on this one, and I'd have
10 to look at the completion, but typically the top seam to be
11 fractured would be probably 700 or 800 foot deep in that area.
12 I'd have to look at the completion to see.

13 GRADY MCGLOTHLIN: 96 feet.

14 CLYDE KING: 700 to 600 feet below you.

15 BENNY WAMPLER: Have you all monitored how far the
16 frac...upward the frac traveled?

17 CLAUDE MORGAN: Modeling...modeling would suggest that
18 it's less than a 100 feet if that had been my measurement.

19 MASON BRENT: How long ago was this well drilled?

20 CLAUDE MORGAN: The well was drilled in '97. It was
21 just stimulated within the past month, I think.

22 MASON BRENT: Within the past month it's been
23 stimulated.

24 MARK SWARTZ: It looks like it was drilled mid-November
25 or completed mid-November...the drilling was completed mid-

1 November of '97.

2 MAX LEWIS: Has it affected your water in way that you
3 think it has?

4 GRADY MCGLOTHLIN: Not that I can tell.

5 BENNY WAMPLER: Did you have any other questions?

6 GRADY MCGLOTHLIN: No, that's all.

7 BENNY WAMPLER: Any questions from members of the Board?

8 (No audible response.)

9 BENNY WAMPLER: Do you have anything further, Mr.
10 Swartz?

11 MARK SWARTZ: No, I don't.

12 BENNY WAMPLER: Okay. For coalbed methane unit
13 identified as Z-37, do I have a motion?

14 BILL HARRIS: I move we approve it as presented.

15 CLYDE KING: Second.

16 BENNY WAMPLER: All in favor signify by saying yes.

17 (Members signify yes.)

18 BENNY WAMPLER: Opposed say no?

19 (No audible response.)

20 BENNY WAMPLER: For coalbed methane unit identified as
21 W-37, do I have a motion?

22 MAX LEWIS: I make a motion we approve it.

23 MASON BRENT: Second.

24 BENNY WAMPLER: All in favor signify by saying yes.

25 (Members signify yes.)

1 BENNY WAMPLER: Opposed say no?
2 (No audible response.)
3 BENNY WAMPLER: It's approved. Coalbed methane unit
4 identified as X-37.
5 CLYDE KING: I move we approve.
6 BENNY WAMPLER: Motion to approve. Second?
7 DENNIS GARBIS: I second it.
8 BENNY WAMPLER: It was second. Any further discussion?
9 (No audible response.)
10 BENNY WAMPLER: All in favor signify by saying yes.
11 (Members signify yes.)
12 BENNY WAMPLER: Opposed say no?
13 (No audible response.)
14 BENNY WAMPLER: Coalbed methane unit identified as Y-37.
15 All in favor signify by saying yes.
16 MAX LEWIS: Yes.
17 MASON BRENT: You want a motion?
18 MAX LEWIS: Yeah, motion.
19 BENNY WAMPLER: Motion. I'm sorry.
20 MASON BRENT: Motion to approve.
21 BENNY WAMPLER: Second.
22 MAX LEWIS: Second.
23 BENNY WAMPLER: All in favor signify by saying yes.
24 (Members signify yes.)
25 BENNY WAMPLER: Opposed say no?

1 (No audible response.)

2 BENNY WAMPLER: Coalbed methane unit V-37. Motion.

3 MAX LEWIS: I make a---.

4 CLYDE KING: I so move.

5 BENNY WAMPLER: Move to approve.

6 MASON BRENT: Second.

7 BENNY WAMPLER: Second. All in favor signify by saying
8 yes.

9 (Members signify yes.)

10 BENNY WAMPLER: Opposed say no?

11 (No audible response.)

12 BENNY WAMPLER: Those are approved. Let me just say as
13 to the question the gentlemen raised...did he leave?

14 (No audible response.)

15 BENNY WAMPLER: That type of question dealing with the
16 safety of a well and things like that, the place that you have to
17 really raise those are at the permit application stage. That's
18 one of the objections that if you believe that something like
19 that would create a hazard to your...you know, a safety hazard,
20 that's the most appropriate place to raise those kinds of issues.
21 If it's not dealt with there, then you can field those kinds
22 issues to the Board. But that's where you typically need to get
23 those kinds of issues raised. The Board was without
24 jurisdiction. I'm sorry I missed him and he left. Without
25 jurisdiction, really we're trying to help him out and get some

1 questions answered, but we're without jurisdiction to deal with a
2 permit issue here before us today.

3 CLYDE KING: How do they check to see if gas is in the
4 water? Do you just smell it or what?

5 CLAUDE MORGAN: No, there are methane protectors that
6 you can install to protect the presence of methane.

7 BENNY WAMPLER: Yeah, there's instruments called
8 sniffers that will sniff the gas.

9 SANDRA RIGGS: It's like a smoke detector.

10 BENNY WAMPLER: Oh, okay. You did have a detector.
11 They have detectors.

12 MAX LEWIS: They'll monitor it and then you can tell a
13 lot times when you've got gas.

14 BENNY WAMPLER: The next item on the agenda, the Board
15 will consider a petition from Pocahontas Gas Partnership for
16 pooling of coalbed methane unit identified as B-36. This is
17 docket number VGOB-98-03/24-0638. We'd ask the parties that wish
18 to address the Board in this matter to come forward at this time.

19 MARK SWARTZ: Mark Swartz and Les Arrington.

20 BENNY WAMPLER: You may proceed. The record will show
21 there are no others.

22

23

24

25

1 LESLIE K. ARRINGTON

2 having been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Les, I just want to remind you, you're still
6 under oath, okay?

7 A. Yes.

8 Q. Your name, please?

9 A. Leslie K. Arrington.

10 Q. Who do you work for?

11 A. Consol.

12 Q. Did you prepare the notice of hearing and the
13 application with related exhibits?

14 A. Yes, I did.

15 Q. Are the people that we're seeking to pool today
16 listed on the first page of the notice of hearing and listed
17 again on Exhibit B-3?

18 A. Yes, they are.

19 Q. Okay. The applicant is Pocahontas Gas
20 Partnership?

21 A. Yes, it is.

22 Q. Is that partnership composed of Consolidation
23 Coal Company and Conoco, Inc.?

24 A. Yes, it is.

25 Q. Is that partnership authorized to do business in

1 the Commonwealth, is it registered with the Department of Mines,
2 Minerals and Energy, and does have a blanket bond on file?

3 A. Yes, it does.

4 Q. Do you wish to add any respondents or dismiss
5 any respondents?

6 A. No, we do not.

7 Q. Okay. With regard to the people that you have
8 been successful in leasing of this unit, what are the terms that
9 you've offered them?

10 A. A dollar per acre for coalbed methane lease, 1/8
11 rental with a five year term.

12 Q. And would you recommend those terms with regard
13 to any deemed of leased...deemed to have leased order that might
14 be entered?

15 A. Yes, we would.

16 Q. Okay. Are we talking here, again, about an
17 Oakwood I eighty acre unit?

18 A. Yes, we are.

19 Q. Are we talking about a frac well producing from
20 the tiller and below?

21 A. That's correct.

22 Q. Is there a drilled well estimate in this
23 application packet?

24 A. Yes, it is.

25 Q. What's the cost estimate?

1 A. Two hundred and forty-five thousand four hundred
2 and seventy-one dollars and eighty cents (\$245,471.80). The well
3 to a total depth of 2,660.

4 Q. Okay. And this well was drilled as of
5 March...the day before Christmas '97?

6 A. That's correct, it was.

7 Q. Did you mail to the respondents---?

8 A. Yes, we did by certified mail, return receipt
9 requested on February 20th, 1998.

10 Q. And have you filed proof of that mailing with
11 the Board and with Mr. Fulmer's office?

12 A. Yes, we have.

13 Q. Did you publish?

14 A. Yes, we did in the Bluefield Daily Telegraph on
15 March 4th, 1998.

16 Q. And have you filed this certificate of
17 publication?

18 A. Yes, we have.

19 Q. With regard to Exhibit B-3, do you show on that
20 exhibit with regarding each respondent the acreage that they have
21 in the particular unit?

22 A. Yes, we do.

23 Q. And then have you made the calculation to get
24 the percentage of interest in the unit?

25 A. Yes, we have.

1 Q. And that percentage of interest would have
2 pertained to royalty allocations, to cost allocations on a
3 participation bases and to the carried interest allocation?

4 A. Yes, it would.

5 Q. Okay. Is there also an Exhibit E?

6 A. Yes, there is.

7 Q. And I take it you're indicating by Exhibit E
8 that some escrow is going to be required here?

9 A. Yes, it is.

10 Q. And you're identifying the conflicting interest
11 or conflicting claimants whose money needs to be escrowed?

12 A. That's correct, we have.

13 Q. Okay. My last question for you is...does the
14 plan for development here, which contemplates two wells within
15 the unit, okay?

16 A. Yes.

17 Q. You did anticipate allocating the costs of just
18 one well to anyone who might participate?

19 A. It would.

20 Q. And why are there two wells? Is it a mining
21 issue?

22 A. Yes, it is.

23 Q. It's to degas in advance of long wall mining
24 consistent with a mine...with a mining plan?

25 A. Yes, it is.

1 Q. The one well which we've scaled appears to be
2 300 feet of the boundary?

3 A. Yes.

4 Q. And is it your intention to try and stay within
5 the window here?

6 A. Yes, it was.

7 Q. Do you believe that you do not need an exception
8 here for that well?

9 A. I think so.

10 Q. Okay. And lastly, is the plan to degas
11 Pocahontas number three seam in advance of long wall mining which
12 is...which dictates the configuration of these wells and these
13 frac wells in your view a reasonable plan to remove and capture
14 that methane and generate income as opposed to just venting?

15 A. Yes, it is.

16 MARK SWARTZ: That's all I have. That's all I have.

17 BENNY WAMPLER: Any questions from members of the Board?

18 MASON BRENT: 1636A is 300 feet from the...it looks
19 awfully close.

20 MARK SWARTZ: I've scaled it. Well, the 400 scale it's
21 300 feet. So, and my question for Les was are you trying to stay
22 within that and his answer, I believe, was, "Yes". Believe me,
23 we try sometimes to get close. I mean, it's no accident that
24 we're close. But the scale that I'm using at least on this
25 map...its a pretty big dot. So...but it looks like 300 feet.

1 BILL HARRIS: Mr. Chairman.

2 TOM FULMER: Why are there two wells in that unit?

3 MARK SWARTZ: Claude.

4 CLAUDE MORGAN: It's in accordance with the mine panels.
5 The long wall panel projected to run through there and the
6 spacing required for the lead time on the long wall required that
7 many wells.

8 TOM FULMER: Well, why are you doing it at Oakwood I.

9 CLAUDE MORGAN: That is the borderline that I spoke to
10 that we have to get an operating agreement in place between the
11 two companies to cover an allocation under Oakwood II.

12 MARK SWARTZ: We would have to do Oakwood I anyway. The
13 difference is we're not doing Oakwood II at this point and time.
14 To have a frac well, we've got...we've got to have Oakwood I
15 pool.

16 SANDRA RIGGS: Are both of these wells permitted and
17 drilled already?

18 MARK SWARTZ: One of them certainly is.

19 LESLIE K. ARRINGTON: One of them. One. B-36 is
20 permitted, B-36A will soon be permitted.

21 BILL HARRIS: Hopefully.

22 LESLIE K. ARRINGTON: Yeah.

23 MARK SWARTZ: Or we're just going to have one heck of a
24 fight with Tom Fulmer, right?

25 CLYDE KING: You have two different companies there?

1 LESLIE K. ARRINGTON: No, not on this unit.

2 CLYDE KING: Oh.

3 MARK SWARTZ: What happened, and it's hard to...we
4 picked a grid line...a north, south grid line and we had
5 leases...Island Creek leases that came to this side of the line
6 and we had Consolidation Coal Company leases that crossed the
7 line in this direction and when they were leasing, you know, they
8 tried to stay with the line, but the properties, you know,
9 wouldn't line up with this grid. And we had what we called a
10 trade line and we picked a grid, an eighty acre grid line because
11 we thought we'll solve this problem, you know, best laid plans.
12 But...and we got consent from lessors to make those acreage
13 changes because a lot of leases even prevented us from...so, we
14 went, you know, to that time and effort to get the lessors to
15 consent to all of that. The problem we're having now is we've
16 got a mine plan which crosses that line, which has long wall
17 units that are on both sides of that line and we've got the gas
18 interest in two different hands. Buchanan Production Company is
19 owned by a complete third party at this point and they have to
20 get some agreements in place now to deal with long wall panels
21 that will require an allocation of production on either side of
22 that line and that's the problem. And that's why we're only here
23 on Oakwood I today because the eighty acre units, you know, you
24 don't have to cross the line with a frac well. But that's the
25 problem.

1 BENNY WAMPLER: Mr. Harris, you had a question.

2 BILL HARRIS: Actually, it was about V-36 being on the
3 road again. I think we had that before. Is that just close
4 to---

5 LESLIE K. ARRINGTON: Our access.

6 BILL HARRIS: ---and that's an access road, that's not
7 a---?

8 LESLIE K. ARRINGTON: There's our access road, uh-huh.

9 BILL HARRIS: Okay.

10 BENNY WAMPLER: Is the unit next V-36 pooled?

11 LESLIE K. ARRINGTON: Of what?

12 MARK SWARTZ: Next to?

13 LESLIE K. ARRINGTON: We just done that one.

14 MARK SWARTZ: We just did the one to the right.

15 BENNY WAMPLER: The one---.

16 MAX LEWIS: It must 36.

17 BENNY WAMPLER: The one below it.

18 MARK SWARTZ: The one below it. Which would W-37.

19 LESLIE K. ARRINGTON: Yes, W-36.

20 MARK SWARTZ: W-37 was pooled today too.

21 LESLIE K. ARRINGTON: W-36.

22 MARK SWARTZ: Or 36, I'm sorry.

23 BENNY WAMPLER: 36, yeah.

24 LESLIE K. ARRINGTON: And it was pooled today, too.

25 MARK SWARTZ: And W-36 was item seven on the docket

1 today.

2 BENNY WAMPLER: Yeah.

3 MASON BRENT: Is the Division privy to the mine
4 development plan...do they get to see the plan and know what
5 you...?

6 MARK SWARTZ: If they want to, they can. I don't if
7 it's routinely part of the application. It's not a secret. I
8 mean, we certainly would share that with them.

9 CLAUDE MORGAN: Well, there seems to be some concern I'm
10 hearing on the Oakwood I and multiple wells, you know. We have
11 done that repeatedly in the past under Oakwood I. If you
12 remember the old Hurricane Branch area as we called it, in fact,
13 we allocated the cost of more than one well over there on the
14 financial showing. So, it's not something that has not been
15 contemplated and has not been done under Oakwood I repeatedly to
16 this point. Due to the mine plans---

17 BENNY WAMPLER: Before you had mine plans, right.

18 CLAUDE MORGAN: For the mine plan. There is a mine plan
19 in place for this.

20 TOM FULMER: There was at one time a mine plan here.

21 CLAUDE MORGAN: Now, this is the revised mine plan that
22 this---

23 LESLIE K. ARRINGTON: Uh-huh.

24 TOM FULMER: Yeah, but they...once before they was a
25 mine plan.

1 CLAUDE MORGAN: Right.

2 TOM FULMER: Long wall panels that you converted back to
3 eighty acres.

4 CLAUDE MORGAN: The unit immediately to the south of
5 that was the W-36, which also had the two wells in it.

6 BENNY WAMPLER: Right. That's the one I was trying
7 to...I was getting at. That was the one immediately south of it.

8 CLYDE KING: Are all of these wells pretty much the same
9 depth...close to 18?

10 CLAUDE MORGAN: Depending on the project.

11 LESLIE K. ARRINGTON: Yeah.

12 CLYDE KING: And the pressures basically the same on all
13 of them?

14 MARK SWARTZ: They're going to be within a couple of
15 hundred feet because of the terrain. They're basically...you're
16 looking 1,700 to 2,100 is a depth range.

17 MAX LEWIS: Yeah. It's the elevation of where you drill
18 at.

19 MARK SWARTZ: I mean, we'd like to drill them all in the
20 valleys and save that cost, but it doesn't work out that way.

21 BENNY WAMPLER: Did you have the mine plan there,
22 Claude? Was that part of what?

23 CLAUDE MORGAN: I've got just a touch of it. I've
24 showed the development. It doesn't go far enough north to get
25 into long wall panels, but this is the development for that long

1 wall panel right here. This is the mains of the W-36 and W-36C I
2 showed you before. These two in this panel, there's another set
3 of entries that projected right through here.

4 (Claude Morgan shows the plan to Benny Wampler.)

5 BENNY WAMPLER: Could you mark, submit...submit a mine
6 plan for those...for both of those units?

7 MARK SWARTZ: Sure.

8 CLYDE KING: Are you ready for...to question?

9 BENNY WAMPLER: I'm trying to see if we are. I think
10 so.

11 CLYDE KING: I move that we approve.

12 DENNIS GARBIS: I second.

13 BENNY WAMPLER: Motion is second. Any further
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor signify by saying yes.

17 (Members signify yes.)

18 BENNY WAMPLER: Opposed say no.

19 (No audible response.)

20 BENNY WAMPLER: Thank you.

21 MARK SWARTZ: Thank you all.

22 BENNY WAMPLER: We'll take a break for lunch and be back
23 here...is 1:30 okay?

24 CLYDE KING: Great.

25 BENNY WAMPLER: Okay.

1 (Meeting breaks for lunch.)

2 BENNY WAMPLER: Okay. I'm ready. Are we back on?

3 (Court reporter indicates yes.)

4 BENNY WAMPLER: The next item on today's agenda is a
5 petition from Torch Energy Advisors, Incorporated and Pocahontas
6 Gas Partnership for Board orders issued for VGOB-95-04/18-0500
7 and VGOB-95-04/18-500-01, unit X-29. This is to amend the order
8 as related to this unit concerning escrow of funds. The docket
9 number VGOB-95-04/18-0500-02. We'd ask the parties that wish to
10 address the Board in this matter to come forward at this time.
11 Go ahead and identify yourself, please.

12 JILL HARRISON: Mr. Chairman and members of the Board,
13 my name is Jill Harrison. I practice here in Abingdon with Penn
14 Stuart. With me today is Mr. Bob Looney who performs work for
15 Consolidation coal company and Pocahontas Gas Partnership.

16 BENNY WAMPLER: Okay. The record show there are no
17 others, so you may proceed.

18 JILL HARRISON: The application that you're going to be
19 considering today is for the request for the withdrawal of
20 escrowed funds and I prepared a short summary of what has
21 happened with this unit and I'm going to relate it to some of the
22 exhibits that are in the book that you have. The initial pooling
23 application on the X-29 unit was filed March 16th, 1995.

24 The pooling application was heard on April 18th and
25 again, on October 24th, it was continued for other matters, other

1 issues and a pooling request was granted on the October 24th
2 date. The pooling order was signed by the chairman on December
3 11th, 1995. PGP escrowed funds in house and deposited funds with
4 the escrow agent pursuant to the pooling order. There
5 is...Exhibit Number One in your book is a copy of the initial
6 pooling application that was filed with the Exhibit C, which
7 shows all the interest owners in the unit and Exhibit Number Two
8 are copies of all of the orders that have been entered in
9 connection with this unit.

10 Then the next item...it's not the next item, but item
11 number four that you're going to find is a copy of an assignment
12 and bill of sale from Hugh McRae to Torch Energy Advisors,
13 Incorporated, dated December 29th of last year. This is the
14 instrument by which Hugh McRae conveyed its interest in the
15 production royalties related to the coalbed methane on certain
16 tracts to Torch Energy. Item number three in your book is an
17 affidavit that's been signed by Torch Energy Advisors indicating
18 that the agreement attached to the affidavit is a true and
19 correct copy of the agreement that was entered into between Hugh
20 McRae Land Trust, who was the former owner of the royalties,
21 Torch Energy Advisors, Incorporated the new owner and
22 Consolidation Coal Company.

23 And then we filed our application for the withdrawal on
24 February 20th and we're here today to hear the application. I
25 don't believe that Mr. Looney has been sworn in.

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BENNY WAMPLER: You need to be sworn.

BOB LOONEY

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MISS HARRISON:

Q. Please state your name.

A. Bob Looney.

Q. And Mr. Looney, do you perform work for Consolidation Coal Company and Pocahontas Gas Partnership?

A. Yes, I do.

Q. And do your responsibilities include maintaining information regarding ownership interests for the various units in which Pocahontas Gas Partnership owns oil and gas interests?

A. Yes.

Q. Now, in the original application that was filed for this matter, the conflicting interest identified was shown as 0.3780 percent and they related to tract number five. Since filing application, have you discovered or learned that Pocahontas Gas Partnership actually owns more than the 0.3780 percent interest in the unit?

A. Yes, they purchased two other interests. Tract seventeen of 16.74 acres from an Oliver Sisk and in the same tract .6 of an acre from a Fred Sisk.

Q. And so is the new percentage 22.2280 percent?

1 A. Yes.

2 Q. And would you tell me if Exhibit Eight in the
3 exhibit book is a proper reflection of the amended ownership
4 section that shows the interest owned of a conflicting interest
5 related to this tract between Pocahontas Gas Partnership and Hugh
6 McRae?

7 A. Yes, it is.

8 Q. And how did Pocahontas Gas Partnership acquire
9 these additional interest in the X-29 unit?

10 A. By a deed.

11 Q. By deed?

12 A. Yes.

13 JILL HARRISON: All right. And if you'll look at
14 Exhibit Nine and the Board has received more information that it
15 needs, but I guess that's better than less than what you need.
16 The first and last instruments that you'll see in Exhibit Nine.
17 The first deed from Oliver Sisk and the last deed under Exhibit
18 Nine is from Fred Sisk. Those are the two instruments by which
19 Consolidation Coal Company acquired those interests.

20 Q. And to your knowledge, does Hugh McRae Land
21 Trust claim the ownership of the coal underlying tract five and
22 the 16.74 acre and the 0.6 acre portions of tract seventeen?

23 A. Yes, they do.

24 Q. And to your knowledge has Hugh McRae Land Trust
25 conveyed its interest in the royalty related to the production of

1 the coalbed methane for these tracts to Torch Energy Advisors?

2 A. Yes.

3 Q. And if you'll look at Exhibit Four. Is it your
4 understanding that this is the instrument by which Hugh McRae
5 conveyed that interest to Torch Energy?

6 A. Yes, it is.

7 Q. And have Pocahontas Gas Partnership, Hugh McRae
8 Land Trust and Torch Energy Advisors entered into a voluntary
9 agreement that resolved this conflicting claim to the coalbed
10 methane and henceforth how royalties are to be paid from this
11 point forward and how the escrowed funds are to be divided?

12 A. Yes.

13 Q. And if you would look at Exhibit Three, please.
14 Is this...the agreement attached to the affidavit, is that the
15 agreement that has been entered into by Pocahontas Gas
16 Partnership, Hugh McRae Land Trust and Torch Energy Advisors?

17 A. Yes, that's it.

18 Q. And based on this agreement, is Pocahontas Gas
19 Partnership asking the Board to amend its orders to reflect that
20 PGP, Hugh McRae and Torch Energy are no longer conflicting
21 claimants in this unit?

22 A. Yes.

23 Q. And are the petitioners also asking the Board to
24 enter an order directing the escrow agent to disburse escrowed
25 funds and account for them and for the operator to disburse their

1 funds that they have escrowed and operated in accordance with
2 this agreement?

3 A. Yes.

4 Q. Now, one point that I want to make clear. The
5 two deeds that come into...from Fred Sisk and Oliver Sisk are the
6 grantees are Consolidation Coal Company. Has there been a
7 conveyance between Consolidation Coal Company and Pocahontas Gas
8 Partnership conveying its interest to PGP?

9 A. Yes, there's an in house document conveying
10 everything after a certain date from Consolidation Coal Company
11 to Pocahontas Gas Partnership.

12 Q. So that Pocahontas Gas Partnership is the
13 present owner of those interests?

14 A. Right.

15 JILL HARRISON: Simultaneously with the filing of this
16 application, notice of the application of this hearing were sent
17 by certified mail, return receipt requested to all of the
18 individuals and entities that are identified as owners in the
19 unit. Copies of those return receipts are as found as Exhibit
20 Six and a copy of the notice of publication is Exhibit Seven in
21 your book. We had previously filed the affidavits of notice and
22 publication with the Board. Mr. Chairman, I would move for entry
23 of all of the Exhibits at this time.

24 BENNY WAMPLER: Any objection to that?

25 (No audible response.)

1 BENNY WAMPLER: They're accepted without objection.

2 JILL HARRISON: And I have no more questions for the
3 witness.

4 BENNY WAMPLER: Questions from members of the Board?

5 SANDRA RIGGS: If you look...if you look in the packet,
6 the supplemental order isn't in the packet. The amended---

7 BENNY WAMPLER: The Exhibit.

8 SANDRA RIGGS: Well, the supplemental order I don't
9 think is in the packet. You've got the pooling order and the
10 amended pooling order, modified pooling order and---

11 JILL HARRISON: All I can tell you is that these were
12 the orders that were advised by Miss Davis that have been entered
13 related to this unit and if they're not here, I apologize.

14 SANDRA RIGGS: Well, in the Board's packet, they have
15 the supplemental order---

16 JILL HARRISON: Good. All right.

17 SANDRA RIGGS: ---for this unit.

18 JILL HARRISON: And may I have the deed book and page
19 number on that one?

20 SANDRA RIGGS: 453/243. Now, that is the order by which
21 the escrow agent would have opened the account.

22 JILL HARRISON: All right.

23 SANDRA RIGGS: Okay. So, if we go through that order
24 and you don't have it in front of you.

25 JILL HARRISON: No, we'd ask for it, but---

1 SANDRA RIGGS: Could you identify the interest within
2 the Exhibits that are being settled by this agreement?

3 JILL HARRISON: Sure. Thank you. Is this one first?
4 The first interest would be on page one of Exhibit E to that
5 order and it is identified as 0.30 acre tract. The percent of
6 the unit is 0.37500 percent. On the next page, page two,
7 the...what starts at the bottom of page one is a 54.71 acre
8 tract. On the second page, it is E...no, E, F...F4, Oliver Sisk,
9 16.74 acres. 20.29500 percent. And at the top of the next page
10 on number seven, Fred Sisk, 0.6 acres; 0.75000 percent. Those
11 are the three interests.

12 SANDRA RIGGS: Those total 22---.

13 JILL HARRISON: 2280. Yes, ma'am. Who should I return
14 this to?

15 (No audible response.)

16 BENNY WAMPLER: Any questions from members of the Board?

17 SANDRA RIGGS: When you say you want an accounting, are
18 you looking for the royalty statements associated with the escrow
19 deposits? Is that what you're looking for?

20 JILL HARRISON: No, the parties to all three of these
21 applications and ones that you'll hear over the next two months
22 require a statement from the bank indicating the amount that they
23 presently hold related to this unit.

24 SANDRA RIGGS: Total in unit.

25 JILL HARRISON: Total in unit. And Consolidation Coal

1 Company has agreed to provide to the parties a document which
2 identifies the unit, the number of acres in the unit, the number
3 of acres of conflicting acreage for these two parties, a
4 percentage that is to the unit, and a percentage that they would
5 be entitled to out of the escrowed funds. So, that if in this
6 unit and just as a hypothetical numbers, if out of this unit half
7 of the acreage was conflicting so that half...50 percent of the
8 royalties were escrowed, what we want to know and they will
9 provide to us would be how much of that 50 percent that's being
10 escrowed we're entitled to. It should be more than the 22.2280
11 percent that's reflected here, but we'll have to look at the
12 numbers and see. And then what we will do with those
13 mathematical numbers, will be to apply that percentage to the
14 amount held in the escrowed account for that unit.

15 SANDRA RIGGS: And that would cover bonuses and
16 royalties as applied to bonuses and royalties on deposit?

17 JILL HARRISON: We can break that down by acreage and
18 all that.

19 SANDRA RIGGS: And there is no participation in this
20 unit?

21 JILL HARRISON: Not that I'm aware of. Do you know of
22 anybody that's participated in that?

23 BOB LOONEY: No.

24 SANDRA RIGGS: So, we're only talking about bonus and
25 royalty payments and then interest accruing on this unit's

1 account?

2 JILL HARRISON: Yes, ma'am, exactly. And that also
3 applies to the next two units, also.

4 BENNY WAMPLER: Tom, did you have...did you have
5 something?

6 TOM FULMER: No, I didn't.

7 BENNY WAMPLER: I'm sorry. Any questions from members
8 of the Board?

9 CLYDE KING: Maybe I missed it---.

10 JILL HARRISON: Yes, sir.

11 CLYDE KING: ---Jill, but Torch Energy is a Delaware
12 Corporation but is a Texas Company, basically.

13 JILL HARRISON: They're incorporated in Delaware, but
14 their headquarters...their principal place of business is Texas.

15 CLYDE KING: Okay. So, they are acting...they've
16 obtained this and then given it to the---?

17 JILL HARRISON: Well, the two conflicting claimants used
18 to be Pocahontas Gas Partnership and Hugh McRae Land and Trust,
19 the owner of the oil and gas and the owner of the coal.

20 CLYDE KING: Right.

21 JILL HARRISON: And Hugh McRae, the owner of the coal,
22 has retained ownership of the coal but it has conveyed its
23 interest in these royalties to---.

24 CLYDE KING: To Torch.

25 JILL HARRISON: ---to Torch. Yes, sir.

1 CLYDE KING: I'd never had seen the name Torch before.

2 JILL HARRISON: No, it's relatively new for this area.

3 CLYDE KING: I was just try to check out and make sure.

4 JILL HARRISON: Yes, sir.

5 BENNY WAMPLER: Other questions from members of the
6 Board.

7 SANDRA RIGGS: Now, the order will read that from this
8 point forward royalties will be distributed and payments will be
9 made direct---?

10 JILL HARRISON: Yes, ma'am.

11 SANDRA RIGGS: ---and the accounting will be as of a
12 date certain so there will be no more money coming into escrow?
13 Can we fix the date?

14 JILL HARRISON: Well, I guess that's going to depend on
15 when we get the information from the bank...I think the
16 information from Consol will be forthcoming very quickly.

17 SANDRA RIGGS: Will they make no more deposits after
18 today into the escrow account?

19 JILL HARRISON: I would think they would be required to
20 by the orders until they get another order saying stop doing
21 this. I mean, legally, technically I think they have to do.

22 SANDRA RIGGS: Well, they have a hundred and twenty days
23 or sixty days or something like that. What I'm saying is if the
24 escrow agent delivers up that accounting and then they make
25 another deposit, we're just going to have to turn around and do

1 it again. We need a cut off date.

2 BENNY WAMPLER: It'd be better if you...if you can do
3 it, it'd be better to set it as of the end of this month.

4 CLYDE KING: Or when they disburse it...whatever.

5 MAX LEWIS: It's got to be so many days after that.

6 CLYDE KING: Will they disburse it fairly quickly?

7 SANDRA RIGGS: Well, they'll do the accounting...yeah.

8 BENNY WAMPLER: Depends on how they...they have to do
9 the accounting and make sure that---

10 JILL HARRISON: Uh-huh. I don't think the accounting
11 will take very long at all.

12 BOB LOONEY: Not on these.

13 JILL HARRISON: Not on these units. Mr. Morgan was just
14 telling me that probably we would need at least thirty days.

15 CLAUDE MORGAN: Claude Morgan. The accounting checks, I
16 think, are just being cut this week for the normal.

17 BOB LOONEY: Yeah.

18 CLAUDE MORGAN: So, we need to make it with the May
19 accounting for the cutoff on it or excuse me, the April
20 accounting.

21 BOB LOONEY: Yeah.

22 BENNY WAMPLER: Yeah, the April accounting forward?

23 BOB LOONEY: Yeah.

24 BENNY WAMPLER: So, if it is by the end of April, we cut
25 off at the end of April. That is date certain you could probably

1 work with?

2 BOB LOONEY: Yes.

3 BENNY WAMPLER: Yes.

4 JILL HARRISON: That is to me. I just want to make sure
5 that they are protected under the orders. So, I am not sure if I
6 understand, Miss Riggs, what will happen from this point. They
7 will be required to go ahead and make the payment for this month,
8 but we will try to get a order entered before they have to make
9 their payments in April.

10 SANDRA RIGGS: Well, there is a lag time that the order
11 allows from the time they actually do their production until they
12 have to put the money in the escrow account, and I am not sure
13 how their accounting period ties into that. But if...if
14 the...say, this order got entered in a week.

15 JILL HARRISON: Uh-huh.

16 SANDRA RIGGS: The Board acts and it got entered in a
17 week and another check came in after that, we would have to turn
18 around and try to get that money out. So, the accounting you
19 need from the escrow agent, saying total funds on deposit should
20 be of a date that includes all deposits being made towards this
21 interest.

22 BENNY WAMPLER: All deposits that have---

23 JILL HARRISON: I understand what you are saying, but I
24 don't really...I guess I don't see it as a problem because if the
25 order says to disburse the funds, and they receive this

1 percentage of what comes in...because they're are going...not
2 every thing in this unit has been resolved.

3 SANDRA RIGGS: Now, I understand that.

4 JILL HARRISON: Okay. So, I guess in my mind, I don't
5 understand that it's a problem, but if that is satisfactory to
6 you and to the Board, that is fine with me.

7 SANDRA RIGGS: After a date certain ratio will change.

8 BOB LOONEY: Yeah.

9 SANDRA RIGGS: When their interest is no longer going
10 in, the ratio changes, so the calculation would be different.

11 JILL HARRISON: Well, I understand that---.

12 SANDRA RIGGS: So, you want to make sure the principle
13 you are applying the ratio to includes their interest, and that
14 you are not applying it---.

15 JILL HARRISON: I understand---.

16 BOB LOONEY: I asked you---.

17 JILL HARRISON: Okay, that's fine.

18 CLYDE KING: Well, excuse me, Sandra, I am confused.
19 They will still be paying, but they may not pay it into the
20 escrow fund, they are paying---.

21 SANDRA RIGGS: They will be paying for other parties in
22 the escrow, and as to being claimants...they will start paying
23 them direct---.

24 CLYDE KING: Direct.

25 SANDRA RIGGS: ---not in escrow.

1 CLYDE KING: All right. Mr. Chairman, I move we
2 approve.

3 DENNIS GARBIS: I second.

4 BENNY WAMPLER: Motion and second, any further
5 discussion. All in favor signify by saying yes.

6 (Members signify by yes.)

7 BENNY WAMPLER: All opposed say no. It's approved.

8 JILL HARRISON: Thank you.

9 CLYDE KING: I am delighted to see some of that money
10 get disbursed to the people.

11 BENNY WAMPLER: The next item on the agenda the Board
12 will consider a petition from Torch Energy Advisors Incorporated
13 and Consolidation Coal Company on Docket Number VGOB-92/02/18-
14 0190, Unit NELW10, this is to amend order...an order related to
15 this unit concerning escrowing of funds, Docket Number VGOB-92-
16 02/18-0190-01. And we would ask the parties that wish to address
17 the Board in this matter to come forward at this time.

18 JILL HARRISON: Mr. Chairman and Members of the Board,
19 my name is Jill Harrison, I practice here in Abingdon with Penn
20 Stuart; with me today is Bob Looney, who performs work for
21 Consolidation Coal Company and Pocahontas Gas Partnership.

22 BENNY WAMPLER: Okay. The record will show that there
23 are no others. You may proceed. Mr. Looney, you've previously
24 been sworn.

25 BOB LOONEY: Okay.

1 JILL HARRISON: I'll run briefly through the time frame
2 that we're working with on this unit. The pooling application
3 was originally filed January 21, 1992. Again, that's Exhibit One
4 in the book that you have for the NELW10. The hearing on this
5 pooling application was heard February 18, 1992. The pooling
6 order was entered April 29, 1992. Hopefully, you'll have all the
7 orders of Exhibit Two. The escrowing of funds in house and then
8 later deposited through the escrow agent again. Again, we're
9 looking at December 29, 1997 assignment from Hugh McRae to Torch
10 Energy. Then we have the same voluntary agreement that was
11 entered December 30, 1997 that applies to this unit and
12 withdrawal of funds was filed with the application on February
13 20th of this year, and then we're again at today's date on the
14 hearing.

15

16

BOB LOONEY

17 having been duly sworn, was examined and testified as follows:

18

DIRECT EXAMINATION

19 QUESTIONS BY MISS HARRISON:

20

Q. Please state your name.

21

A. I'm Bob Looney.

22

Q. And you've previously testified, Mr. Looney,

23

that you perform work for Consolidation Coal Company and that

24

your responsibilities include the maintaining of ownership

25

information and interest for the various units in which

1 Consolidation Coal Company owns oil and gas interests, is that
2 correct?

3 A. That's correct.

4 Q. And does Consolidation Company claim the
5 ownership of the oil and gas underlying tract eleven of this unit
6 and a two and half acre portion of tract twenty-five?

7 A. Yes, they do.

8 Q. And to your knowledge, does Hugh McRae Land
9 Trust own the ownership of the coal underlying both tracts eleven
10 and tract twenty-five?

11 A. Yes.

12 Q. And to your knowledge, under Exhibit Four, has
13 Hugh McRae Land Trust conveyed its interest in these royalties to
14 Torch Energy Advisors, Incorporated?

15 A. Yes, they have.

16 Q. And under Exhibit Three, the agreement that's
17 attached to the affidavit, is that the agreement under which
18 Consol, Hugh McRae and Torch Energy have decided to divide the
19 escrowed royalties and all future royalties?

20 A. Yes.

21 Q. And based on this agreement, is Consolidation
22 Company and Torch Energy Advisors asking the Board to amend its
23 orders to reflect that Consol, Hugh McRae and Torch Energy are no
24 longer conflicting claimants on this unit?

25 A. Yes.

1 Q. And are you also asking the Board to enter an
2 order directing the escrow agent and the operator to account for
3 the funds and disburse them in accordance with the December 30th,
4 1997 agreement?

5 A. Yes.

6 JILL HARRISON: Again, with the filing of the
7 application, notice of the application of this hearing was sent
8 by certified mail, return receipt requested to all individuals
9 and entities who own and interest or shown to own an interest in
10 this unit. Copies of the return receipts are found at your
11 Exhibit Six and a copy of the notice of the publication with the
12 Bluefield Daily Telegraph is found at Exhibit Seven and we've
13 previously filed with the gas and oil Board office the affidavit
14 for a notice and publication. And Mr. Chairman, I would move for
15 the entry of Exhibits One through Seven at this time.

16 BENNY WAMPLER: Without objection they're accepted.

17 JILL HARRISON: Do you have any questions about the
18 owner?

19 SANDRA RIGGS: Well, you've got the supplemental order
20 in the package under your Exhibit Two.

21 JILL HARRISON: Okay.

22 SANDRA RIGGS: And it says the escrows are listed on
23 Exhibit B-3, you just need to designate the interest coming out.

24 Q. Mr. Looney, I believe that you had testified
25 previously that tract eleven was the two acre tract under which

1 Hugh McRae and Consolidation Coal Company are the conflicting
2 claimants, is that correct?

3 A. That's correct.

4 Q. And I believe you previously testified to that
5 out of tract twenty-five the two and a half acre portion, which
6 is shown as being the coal owned by Hugh McRae and Land Trust and
7 the oil and gas owned by Consolidation Coal Company, is the other
8 tract that's in conflict?

9 A. Yes.

10 SANDRA RIGGS: What list are you looking at, Jill?

11 JILL HARRISON: Well, this one is Exhibit C to the
12 application because they don't...they're not going to show up---

13 SANDRA RIGGS: The supplemental order shows what's being
14 escrowed, which is the last document I think under your Exhibit
15 Two.

16 JILL HARRISON: Uh-huh. Then it would be the first
17 tract shown at the top of the page, the two acre tract on Exhibit
18 E.

19 SANDRA RIGGS: Exhibit E.

20 JILL HARRISON: On that order. And then the two and a
21 half acre tract, which is also shown on that page.

22 BILL HARRIS: Does this say page one at the bottom?

23 JILL HARRISON: Yes, sir, it does.

24 BILL HARRIS: Okay.

25 JILL HARRISON: And at the top it show deed book 462,

1 page 422---.

2 BILL HARRIS: 462/422.

3 JILL HARRISON: --Yes, sir.

4 BILL HARRIS: Okay. Thank you.

5 SANDRA RIGGS: Those two.

6 JILL HARRISON: Yes, ma'am.

7 BENNY WAMPLER: Do you have anything further?

8 JILL HARRISON: No, sir.

9 BENNY WAMPLER: Any questions from members of the Board?

10 CLYDE KING: Is there a question?

11 BENNY WAMPLER: Well, we're having a discussion.

12 SANDRA RIGGS: We don't know.

13 BENNY WAMPLER: We don't know if we have a question or
14 not. I guess what we're looking for is, you know, what...how do
15 we know there's money in escrow---?

16 SANDRA RIGGS: For these two claims.

17 BENNY WAMPLER: ---and for these particular two claims
18 and did you testify there is money in the escrow and for those
19 two?

20 JILL HARRISON: Well, I haven't asked him that specific
21 question. I mean, we have an order that says the money is to
22 be---

23 SANDRA RIGGS: Well, when you look at the supplemental
24 order it says the people on Exhibit B-3 are what's been escrowed.
25 Not Exhibit E---

1 BENNY WAMPLER: That's...see that's---.

2 SANDRA RIGGS: --and they're not on there.

3 JILL HARRISON: He---.

4 BOB LOONEY: Okay. I think that's a typo.

5 JILL HARRISON: Typo.

6 BOB LOONEY: It should be Exhibit E.

7 BENNY WAMPLER: E.

8 SANDRA RIGGS: So, for all the people on Exhibit E,
9 that's what is in escrow.

10 BOB LOONEY: That's right.

11 SANDRA RIGGS: Then we're okay.

12 BOB LOONEY: Okay.

13 JILL HARRISON: Okay. He...Bob just looked at me and
14 said, "Oh, that's a typo."

15 BENNY WAMPLER: Okay. All right.

16 SANDRA RIGGS: Okay. Well, that...okay.

17 BENNY WAMPLER: That took care of our discussion. All
18 right. Anything else?

19 (No audible response.)

20 BENNY WAMPLER: Do I have a motion?

21 BILL HARRIS: I move for approval of the request.

22 CLYDE KING: Second.

23 BENNY WAMPLER: Motion for approval.

24 MASON BRENT: Second.

25 BENNY WAMPLER: A second. Any further discussion?

1 (No audible response.)

2 BENNY WAMPLER: All in favor signify by saying yes.

3 (Members signify by yes.)

4 BENNY WAMPLER: Opposed say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval. Thank you. The next
7 item on the agenda is a petition from Torch Energy Advisors,
8 Incorporated and Consolidation Coal Company on docket VGOB-95-
9 10/24-0526-01 for unit VP8-SGU1 and today's docket number VGOB-
10 95-10/24-0526-01. We'd ask the parties that wish to address the
11 Board in this matter to come forward at this time. Were you
12 folks in this one?

13 GAYLINE DESKINS: We brought...yes, one that it is, but
14 see, I'm just the grandchild. I'm Carl Wade's daughter.

15 BENNY WAMPLER: You're just listening.

16 GAYLINE DESKINS: I'm just listening now.

17 BENNY WAMPLER: I'm just making sure.

18 JILL HARRISON: Mr. Chairman and members of the Board,
19 my name is Jill Harrison. I practice here in Abingdon with Penn
20 Stuart. With me today is Mr. Bob Looney who performs work for
21 Consolidation Coal Company and Pocahontas Gas Partnership.

22 BENNY WAMPLER: The record will show there are no
23 others. Mr. Looney has been previously sworn.

24 JILL HARRISON: And very briefly (inaudible). The
25 pooling application for the unit was filed on September 22nd,

1 1995, and a copy of that is your Exhibit One in your book. The
2 hearing on the pooling application was held on October 24th,
3 1995. The pooling order was entered on April 1st, 1995. Funds
4 were then escrowed by Consol who was designated as the operator
5 on this unit. The assignment and bill of sale is the same on the
6 December 29th, 1997 between Hugh McRae and Torch Energy and the
7 December 30th agreement also applies between Hugh McRae, Torch
8 and Consol and then we filed the application February 20th and
9 we're again to today for the hearing of the application.

10
11
12 BOB LOONEY

13 having been duly sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MISS HARRISON:

16 Q. Would you please state your name?

17 A. Bob Looney.

18 Q. And Mr. Looney, you perform work for
19 Consolidation Coal Company?

20 A. Yes, I do.

21 Q. And you've previously testified that your
22 responsibilities include maintaining information on ownership
23 interests for Consolidation Coal Company's oil and gas interests,
24 is that correct?

25 A. That's correct.

1 Q. And does Consolidation Coal Company claim the
2 ownership of the oil and gas underlying tracts twelve, sixteen
3 and twenty in this units?

4 A. Yes, they do.

5 Q. And if we look at the supplemental order, which
6 is the last instrument in your section two in the book.

7 A. Page four.

8 Q. And is one of the interests that's being...that
9 is presently a conflicting interest at the top of page four tract
10 number twelve, 10.38 acres?

11 A. Yes, it is.

12 Q. And is the next interest at the bottom of page
13 five, which is shown as tract number sixteen, 13.60 acres?

14 A. Yes, it is.

15 Q. And the last tract, is it shown on page seven as
16 tract number twenty, 1.39 acres?

17 A. Yes.

18 Q. And these are the tracts for which funds are
19 being presently escrowed?

20 A. Right.

21 Q. And to your knowledge, does Hugh McRae Land
22 Trust claim the ownership of the coal underlying those tracts?

23 A. Yes.

24 Q. And if you would, please look at Exhibit Four,
25 is it your understanding that this instruments, the agreement

1 attached to the affidavit by which Hugh McRae conveyed its
2 interest in the royalties to Torch Energy?

3 A. You left it out of that one.

4 Q. Right there.

5 A. I just...yes, okay.

6 Q. Yeah. And then is Exhibit Three the agreement
7 attached to the affidavit, is that your understanding that is the
8 instrument by which the three parties have settled their previous
9 conflicting claim as to the ownership of the coalbed methane?

10 A. Yes.

11 Q. And based on this agreement, are the applicants
12 asking the Board to amend its order to show that they are no
13 longer conflicting claimants with regard to these interests?

14 A. Yes.

15 Q. And are the applicants also asking the Board to
16 enter an order directing the escrow agent and the operator to
17 account for the funds escrowed and to disburse those funds in
18 accordance with the December 30th, 1997 agreement?

19 A. Yes.

20 JILL HARRISON: When we filed this application, we
21 sent copies of the application and notice of the hearing
22 certified mail return receipt requested to all of the individuals
23 and entities that were shown as owning an interest in this unit.
24 A copy of those receipts are your Exhibit Six and the copy of the
25 notice of publication is your Exhibit Number Seven, and we've

1 previously filed our affidavit of notice and publication with the
2 gas and oil Board's office. Mr. Chairman, I would move for the
3 entry of Exhibits One through Seven into evidence.

4 BENNY WAMPLER: They're accepted without objection.

5 JILL HARRISON: Thank you. I have no further questions
6 for the witness.

7 BENNY WAMPLER: Could you tell us...in your Exhibit A to
8 the application you reference Exhibit B-3 and Exhibit E, could
9 you tell us which of those we're talking about?

10 JILL HARRISON: I couldn't hear the first part of your
11 question. I'm sorry.

12 BENNY WAMPLER: I'm sorry. You reference Exhibit B-3
13 and Exhibit E.

14 JILL HARRISON: In which document?

15 BENNY WAMPLER: In the application...in the
16 supplemental. I'm sorry. In the supplemental order. And I'm
17 looking specifically at deed book 460, page 744, first page of
18 Exhibit A.

19 SANDRA RIGGS: Paragraph six...which is the list of
20 interest being escrowed?

21 BOB LOONEY: Exhibit E is the list because it includes
22 the B-3 also.

23 SANDRA RIGGS: To develop the ratio, you have to know
24 the total interest being---.

25 BOB LOONEY: I've got them.

1 SANDRA RIGGS: ---so, it's everybody on Exhibit E is---?
2 BOB LOONEY: Right.
3 SANDRA RIGGS: ---what's in escrow and in your
4 development?
5 BOB LOONEY: That's right. Yes.
6 BENNY WAMPLER: Do you have anything further?
7 JILL HARRISON: No, sir.
8 BENNY WAMPLER: Questions from members of the Board?
9 CLYDE KING: I move we approve it.
10 BILL HARRIS: Second.
11 BENNY WAMPLER: Motion and second. Any further
12 discussion?
13 (No audible response.)
14 BENNY WAMPLER: All in favor signify by saying yes.
15 (Members signify by yes.)
16 BENNY WAMPLER: Opposed say no.
17 (No audible response.)
18 BENNY WAMPLER: You have approval.
19 JILL HARRISON: Thank you very much. I appreciate it.
20 BENNY WAMPLER: Thank you. The next item on the agenda
21 is a petition from Equitable Resources Energy Company for pooling
22 of a coalbed methane unit identified as VC-2835, docket number
23 VGOB-98-03/24-0642 and we'd ask the parties that wish to address
24 the Board in this matter to come forward at this time.
25 CLYDE KING: Number twenty-one.

1 BENNY WAMPLER: Twenty-one.

2 (Break)

3 BENNY WAMPLER: Okay. Are you ready?

4 JIM KISER: Ready.

5 BENNY WAMPLER: Just go ahead and identify yourself for
6 the record.

7 JIM KISER: Okay. I didn't know you had called it. Mr.
8 Chairman and members of the Board, Jim Kiser on behalf of
9 Equitable Energy Company. Our witnesses in these four force
10 pooling's today will be Mr. Dennis Baker and Mr. Bob Dahlin. I'd
11 ask that they be sworn at this time.

12 (Witnesses are duly sworn.)

13 BENNY WAMPLER: The record show there are no others.
14 You may proceed.

15

16 DENNIS R. BAKER

17 having been duly sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. KISER:

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

22 A. My name is Dennis R. Baker. I'm employed by
23 Equitable Resources Energy Company as Senior Landman.

24 Q. And is part of your responsibilities include
25 overseeing the leasing activity and the land involved here and in

1 the surrounding area?

2 A. Yes, it does.

3 Q. And are you familiar with Equitable's
4 application for pooling order for Equitable well number VC-2835,
5 which was dated February 19th, 1998?

6 A. Yes, I am.

7 Q. Is Equitable seeking to force pool the drilling
8 rights underlying the drilling unit as depicted at Exhibit A of
9 the application?

10 A. Yes.

11 Q. Does this proposed location fall within the
12 Board's order for the Nora coalbed gas field?

13 A. Yes, it does.

14 Q. Okay. Now, prior to filing the application, did
15 Equitable make efforts to contact each of the respondents in an
16 intent to work out an agreement regarding the development of the
17 unit involved?

18 A. Yes.

19 Q. And does Equitable own drilling rights in the
20 unit involved?

21 A. Yes, we do.

22 Q. What is the interest of Equitable in the gas
23 estate within the unit?

24 A. At the time of application the interest leased
25 was 99.14 percent.

1 Q. And what is the interest of Equitable in the
2 coal estate within the unit?

3 A. The leased interest from the coal estate was 100
4 percent.

5 Q. Now, are all the unleased parties set out in the
6 Revised Exhibit B which you passed out to the Board prior to the
7 hearing?

8 A. Yes, it is.

9 Q. And subsequent to the filing of this
10 application, did you continue to attempt to reach an agreement
11 with the...any respondents listed in the old Exhibit B?

12 A. Yes.

13 Q. And as a result of those efforts, did you obtain
14 additional leases?

15 A. Yes, we have.

16 Q. Could you point those out for the Board at this
17 time?

18 A. Yes, on the revised Exhibit B, on page five
19 third from the top, Sparker Floyd Musick and his wife, Dolly;
20 fourth from the bottom, Milton Musick, single are now leased
21 interest; page six, fourth from the top, Delva Kiser Breeding and
22 Floyd Breeding are now leased interest; on page seven, first name
23 Anita Conaway and husband, Wayne, leased interest; Maudie
24 Stevens, third from the top is now a leased interest; and fourth
25 from the top Donald Kiser is now a leased interest; page eight,

1 the only name that appears, Elsie Mae Kiser Counts is now a
2 leased interest.

3 Q. Okay. Now, with those additional lease you've
4 picked subsequent to the filing of the application, what is the
5 percentage of the gas estate within the unit that is now under
6 lease to Equitable.

7 A. It's 99.56 percent of the unit is leased to
8 Equitable.

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

14 A. Yes.

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

21 A. Yes.

22 Q. In your professional opinion, was due diligence
23 exercised to locate each of the respondents named in the Exhibit
24 B?

25 A. Yes.

1 Q. And are the addresses set out in Revised Exhibit
2 B to this application, the last known addresses for the
3 respondents?

4 A. Yes.

5 Q. And are you requesting this Board to force pool
6 all unleased interest listed as Revised Exhibit B?

7 A. Yes, we are.

8 Q. And does Equitable seek to force pool the
9 drilling rights of each individual respondent if living and if
10 deceased, the unknown successor or successors to any deceased
11 individual respondent?

12 A. Yes.

13 Q. And Mr. Baker, are you familiar with the fair
14 market value of drilling rights in the unit here and in the
15 surrounding area?

16 A. Yes, I am.

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

19 A. A five (5) dollar per acre consideration, for a
20 five year term, one-eighth royalty.

21 Q. Did you gain your familiarity by acquiring oil
22 and gas leases, coalbed methane leases and other agreements
23 involving the transfer of drilling rights in this unit involved
24 here and in the surrounding area?

25 A. Yes.

1 Q. And in your professional opinion, do the terms
2 you have testified to represent the fair market value of and the
3 fair and reasonable compensation to be paid for drilling rights
4 within this unit?

5 A. Yes.

6 Q. Best on your previous testimony and as to any
7 respondents who are listed in Revised Exhibit B who have not
8 voluntarily agreed to lease do you agree...recommend that they
9 should be allowed the following options with respect to their
10 ownership interest within the unit: One, participation; two, a
11 cash bonus of five (5) dollars per net mineral acre plus a one-
12 eighth of eight-eighths royalty; three, in lieu of such cash bonus
13 one-eighth of eight-eighths royalty share in the operational of
14 the well on a carried bases as a carried operator on the
15 following conditions: Such carried operators should be entitled
16 to the share of production from the tracts pooled accruing to his
17 interest exclusive of any royalty, overriding royalty reserved in
18 any leases, assignments thereof or agreements relating thereto of
19 such tracts, but only after the proceeds applicable to his share
20 equal - A) 300 percent of the share of such cost applicable to
21 the interest of the carried operator of a leased tract or portion
22 thereof; or 200 percent of the share of such cost applicable to
23 the interest of the carried operator of an unleased tract or
24 portion thereof?

25 A. That is correct.

1 Q. Do you recommend that the order provide that any
2 election by respondents be in writing and sent to the applicant
3 at Equitable Resources Energy Company, Eastern Region, P. O. Box
4 1983, Kingsport, Tennessee 37662, Attention: Dennis R. Baker,
5 Regulator?

6 A. That's correct.

7 Q. And should this be the address for all
8 communications with the applicant concerning any forced pooling
9 order?

10 A. Yes.

11 Q. Do you recommend that the order provide that if
12 no written elections properly made by a respondent, then such
13 respondent should be deemed or elected to cash royalty option in
14 lieu of participation?

15 A. Yes.

16 Q. And should unleased respondents be given thirty
17 days from the date of the recordation of the Board order to file
18 written elections?

19 A. Yes.

20 Q. If an unleased respondent elects to participate,
21 should they be given forty-five days to pay the applicant for
22 respondent's proportionate share of well costs?

23 A. Yes.

24 Q. Does the applicant expect the party electing to
25 participate to pay in advance that party's share of completed

1 well costs?

2 A. Yes.

3 Q. Should the applicant be allowed a hundred and
4 twenty days following the recording of the Board order and
5 thereafter annually on that date until production is achieved to
6 pay or tender any cash bonus becoming due under the order?

7 A. Yes.

8 Q. Do you recommend that if the order...the order
9 provide that if the respondent elects to participate, but fails
10 to pay respondent's proportionate share of well costs
11 satisfactory to the applicant for payment of said costs, the
12 respondent's election to participant should be treated as having
13 been withdrawn and void and such respondent should be treated
14 just as if no election had been filed under the initial order?

15 A. Yes.

16 Q. Do you recommend that when the order provides
17 that where a respondent elects to participate, but defaults in
18 regard to the payment of well costs, any cash sum becoming
19 payable to said respondent be paid within sixty days after the
20 last date in which such respondent could have been paid or made
21 satisfactory arrangements for the payment of their well costs.

22 A. Yes.

23 Q. Do you recommend that the order provide that if
24 there's a title defect in respondent's interest or in any event
25 of conflicting claims to the coalbed methane, that the operator

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

7 A. Yes.

8 Q. And who should be named the operator under the
9 force pooling order?

10 A. Equitable Resources Energy Company.

11 JIM KISER: Nothing further of this witness at this
12 time, Mr. Chairman.

13 BENNY WAMPLER: Any questions from members of the Board
14 of this witness?

15 (No audible response.)

16 BENNY WAMPLER: Call your next witness.

17
18 ROBERT A. DAHLIN, II

19 having been duly sworn, was examined and testified as follows:

20 QUESTIONS BY MR. KISER:

21 Q. Mr. Dahlin, could you state your full name and
22 who you are employed by and in what capacity?

23 A. My name is Robert A. Dahlin, II. I'm employed
24 by Equitable Resources Energy Company as a production specialist.

25 Q. And you've previously testified for the Virginia

1 Gas and Oil Board on many occasions and your qualifications as an
2 expert in areas of production and operations has been accepted
3 and your responsibilities include the land involved here and in
4 the surrounding area?

5 A. That's correct.

6 Q. And you're familiar with the proposed
7 exploration of drilling of the well for the unit VC-2835?

8 A. Yes.

9 Q. What's the total depth of the proposed well
10 under the plan of development?

11 A. Two thousand three hundred and sixty-eight
12 (2,368) feet.

13 Q. Will this be sufficient to penetrate and test
14 the common sources as supplied in the subjected formations?

15 A. Yes, it will.

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

17 A. Three hundred and fifty million cubic feet.

18 Q. And are you familiar with the well costs for the
19 proposed well under the plan of development?

20 A. Yes.

21 Q. And has AFE been reviewed, signed and submitted
22 to the Board?

23 A. Yes.

24 Q. Was this AFE prepared by an engineering
25 department knowledgeable in the preparation of AFEs and

1 knowledgeable in regard to well costs in this particular area?

2 A. Yes.

3 Q. Does this AFE in your professional opinion
4 represent a reasonable estimate of the well costs for this well
5 under the plan of development?

6 A. Yes, it does.

7 Q. Would you state at this time both the dry hole
8 costs and completed well costs relevant to VC-2835?

9 A. The dry hole costs are eighty-four thousand nine
10 hundred and eight dollars (\$84,908) with the completed well cost
11 of two hundred and eight thousand and five hundred dollars
12 (\$208,500).

13 Q. And do these costs as represent by an AFE
14 anticipate a multiple completion?

15 A. Yes.

16 Q. Does AFE include a reasonable charge for
17 supervision?

18 A. Yes.

19 Q. In your professional opinion, Mr. Dahlin, will
20 the granting of this application be in the best interest of
21 conservation, prevention of waste and protection of correlative
22 rights?

23 A. Yes.

24 JIM KISER: Nothing further of this witness at this
25 time, Mr. Chairman.

1 BENNY WAMPLER: Any questions from members of the Board?
2 (No audible response.)
3 BENNY WAMPLER: Do I have a motion?
4 MAX LEWIS: I make a motion that we approve the
5 application.
6 MASON BRENT: Could I just ask a question?
7 BENNY WAMPLER: Sure.
8 MASON BRENT: On your well location plat, is...is...you
9 sited this well, is it right at three hundred feet from the...it
10 looks like it could go either way? Right where I'm seeing three
11 circles there.
12 ROBERT A. DAHLIN, II: Yeah...the well is just inside
13 the circle and the other two points are reference points.
14 JIM KISER: Survey reference points.
15 BILL HARRIS: Is that where CBM is right above it...like
16 at 1:00?
17 ROBERT A. DAHLIN, II: Yeah.
18 JIM KISER: Yes, the circle right on the dotted right
19 within the interior window.
20 ROBERT A. DAHLIN, II: That's correct.
21 BILL HARRIS: But it would be on interior of that?
22 ROBERT A. DAHLIN, II: That's what I understand. It
23 is...does not require any other exceptions or is in the interior
24 window.
25 BILL HARRIS: I didn't mean to...I know you had a

1 question. I didn't mean to ask for---

2 MASON BRENT: Is it just part of the circle that's
3 outside of the---?

4 ROBERT A. DAHLIN, II: Yeah...yeah.

5 CLYDE KING: Mr. Chairman, I'd like to commend them on
6 giving us an idea of where three hundred feet is.

7 BILL HARRIS: Yeah. It does help a little.

8 JIM KISER: Well, of course, now we know how the process
9 that I somewhat lament where you can seek a location exception
10 under the...we amended the north field rules order to allow
11 applicants to seek a location exception via the permit process.
12 So, if we needed to do that, Mr. Hall would have tried to do that
13 through Mr. Fulmer rather than through me.

14 BENNY WAMPLER: Okay. We have a motion to approve.

15 MASON BRENT: Second.

16 BENNY WAMPLER: Motion and second. Any further
17 discussion?

18 (No audible response.)

19 BENNY WAMPLER: All if favor signify by saying yes.

20 (Members signify by yes.)

21 BENNY WAMPLER: Opposed say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item on
24 the agenda is a petition from Equitable Resources Energy Company
25 for pooling of coalbed methane unit identified as VC-3671. This

1 is docket number VGOB-98-03/24-0643. We'd ask the parties that
2 wish to address the Board in this matter to come forward at this
3 time.

4 JIM KISER: Mr. Chairman and members of the Board, Jim
5 Kiser once again on behalf of Equitable Resources Energy Company.
6 Our witnesses again will be Mr. Baker and Mr. Dahlin.

7

8

9

DENNIS R. BAKER

10 having been duly sworn, was examined and testified as follows:

11 QUESTIONS BY MR. KISER:

12 Q. Mr. Baker, we will start with you, if you could
13 state your name for the record, who you are employed and in what
14 capacity?

15 A. My name is Dennis R. Baker. I'm employed by
16 Equitable Resources Energy Company as senior Landman.

17 Q. And your responsibilities include the land
18 involved in this unit and in the surrounding area?

19 A. Yes, it does.

20 Q. And are you're familiar with the application we
21 filed a pooling order for Equitable well number VC-3671, dated
22 February 19, 1998?

23 A. Yes, I am.

24 Q. Is Equitable seeking to force pool the drilling
25 rights underlying the unit as depicted at Exhibit A?

1 A. Yes.

2 Q. And does this location also fall within the
3 Board's order for the Nora coalbed gas field?

4 A. Yes, it does.

5 Q. And prior to the filing of the application, were
6 efforts made to contact each of the respondents with intent made
7 to work out an agreement regarding the development of the unit
8 involved?

9 A. Yes.

10 Q. And does Equitable own drilling rights in the
11 unit involved?

12 A. Yes, we do.

13 Q. What is the interest of Equitable in the gas
14 estate within the unit?

15 A. Interest leased to Equitable is 89.71 percent.

16 Q. And the interest of Equitable within the coal
17 estate?

18 A. 89.71 percent leased.

19 Q. Are all the unleased parties set out in Exhibit
20 B?

21 A. Yes, they are.

22 Q. Subsequent to the filing of the application,
23 have you continue to attempt to reach an agreement with the
24 respondents listed in Exhibit B?

25 A. Yes.

1 Q. And you've been able to obtain any additional
2 leases, is that correct?

3 A. That's correct.

4 Q. So, therefore, as of both the time of the
5 application and the time of the hearing, could you state the
6 percentage of the gas estate that remains unleased and the
7 percentage of the coal estate that remains unleased?

8 A. The gas estate interest that is unleased is
9 10.29 percent. The interest of the coal estate that is unleased
10 is 10.29 percent.

11 Q. And Mr. Baker, were reasonable and diligent
12 efforts made and the sources checked to identify and locate any
13 unknown heirs including primary sources such deed records,
14 probate records, assessor's records, treasurer's records and
15 secondary sources such as telephone directories, city
16 directories, family and friends?

17 A. Yes.

18 Q. In your professional opinion, was due diligence
19 exercised to locate each of the respondents named in Exhibit B?

20 A. Yes, it was.

21 Q. Are the addresses set out in Exhibit B the last
22 known addresses for the respondents?

23 A. Yes.

24 Q. And are you requesting these Board to force pool
25 all unleased interest listed in Exhibit B?

1 A. Yes.

2 Q. And are you familiar with the fair market value
3 of drilling rights in the unit here and in the surrounding area?

4 A. Yes, I am.

5 Q. Could you advise the Board once again as to what
6 those are?

7 A. Five (5) dollar per acre consideration, five (5)
8 year term, 1/8 royalty.

9 Q. And you gained this familiarity by acquiring oil
10 and gas leases, coalbed methane leases and other agreements
11 involving the transfer of drilling rights in this unit and the
12 surrounding area?

13 A. Yes.

14 Q. In your professional opinion, do the terms
15 you've testified to represent the fair market value of and the
16 fair and reasonable compensation to be paid for drilling rights
17 within this unit?

18 A. Yes.

19 JIM KISER: At this time, Mr. Chairman, I would ask
20 that the testimony taken in our previous hearing, which was---

21 BENNY WAMPLER: Are you looking for the docket number?

22 JIM KISER: Yeah, it's 642, I believe.

23 BENNY WAMPLER: Its VGOB-98-03/24-0642.

24 JIM KISER: ---if that...if the testimony taken
25 concerning the election options and the time deadlines for the

1 unleased force pooled interest be incorporated.

2 BENNY WAMPLER: That will be incorporated.

3 JIM KISER: Thank you.

4 Q. Mr. Baker, do you recommend that the order
5 provide that if there's a title defect in respondent's interest
6 or the event of conflicting claims to coalbed methane, that the
7 operator pay these into an escrow account created by this Board
8 in which all costs or proceeds attributable to a conflicting
9 interest shall be held for the respondent's benefit until such
10 funds can be paid to the party by order of this Board or until
11 the title defect or conflicting claim is resolved to the
12 operator's satisfaction?

13 A. Yes.

14 Q. And who should be named the operator under the
15 order?

16 A. Equitable Resources Energy Company.

17 JIM KISER: Nothing further of this witness at this
18 time, Mr. Chairman.

19 BENNY WAMPLER: Questions from members of the Board?

20 (No audible response.)

21 BENNY WAMPLER: Call your next witness.

22

23

24

25

1 ROBERT A. DAHLIN, II

2 having been duly sworn, was examined and testified as follows:

3 QUESTIONS BY MR. KISER:

4 Q. Mr. Dahlin, would you please again state your
5 name, who you are employed by and in what capacity?

6 A. My name is Robert A. Dahlin, II. I'm employed
7 by Equitable Resources Energy Company as a production specialist.

8 Q. And you're familiar with the proposed plan of
9 development for this well?

10 A. Yes.

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

13 A. That's right.

14 Q. What is the total depth of the proposed well
15 under the plan of development?

16 A. One thousand seven hundred and fifty (1,750)
17 feet.

18 Q. And this will be sufficient to penetrate and
19 test the common sources of supply in the subject formations?

20 A. Yes.

21 Q. And what are the estimated reserves of this
22 unit?

23 A. Five hundred million cubic feet.

24 Q. And you're familiar with the well costs for the
25 proposed well under the plan of development?

1 A. Yes.

2 Q. And has a AFE been reviewed, signed and
3 submitted to the Board with the application?

4 A. Yes.

5 Q. Was this AFE prepared by an engineering
6 department knowledgeable and the preparation of the AFE's and
7 knowledgeable in regard to well costs in this particular area?

8 A. Yes, it was.

9 Q. And in your professional opinion, does this AFE
10 represent a reasonable estimate for the well costs for this unit
11 well under the plan of development?

12 A. Yes.

13 Q. At this time, could you state both the dry hole
14 costs and the completed well costs for VC-3671?

15 A. Dry hole costs are ninety-two thousand nine
16 hundred and one dollar (\$92,901) and the completed well costs of
17 two hundred and one thousand six hundred dollars (\$201,600).

18 Q. And do these costs anticipate a multiple
19 completion?

20 A. Yes.

21 Q. And does your AFE include a reasonable charge
22 for supervision?

23 A. Yes.

24 Q. In your professional opinion, will the granting
25 of this application be in the best interest of preventing waste,

1 conservation and the protection of correlative rights?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this
4 time, Mr. Chairman.

5 BENNY WAMPLER: Any questions from members of the Board.
6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: We'd ask that the application be approved
9 as submitted.

10 MASON BRENT: I move that we approve the application,
11 Mr. Chairman.

12 MX LEWIS: I second.

13 BENNY WAMPLER: Motion and second. Any further
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor signify by saying yes.
17 (Members signify by yes.)

18 BENNY WAMPLER: All opposed say no.
19 (No audible response.)

20 BENNY WAMPLER: You have approval. The next item on
21 the agenda is a petition from Equitable Resources Energy Company
22 for pooling of a coalbed methane unit identified as VC-3416.
23 This is docket number VGOB 98-03/24-0644. We'd ask the parties
24 that wish to address the Board in this matter to come forward at
25 this time.

1 JIM KISER: Mr. Chairman, Jim Kiser once again, on
2 behalf of Equitable Resources Energy Company. Once again we'll
3 have Mr. Baker and Mr. Dahlin as our witnesses. These next two
4 wells are...were moved from Nora field to the Roaring Fork Field.

5
6 DENNIS R. BAKER
7 having been duly sworn, was examined and testified as follows:

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Baker, would you again state your name for
10 the Board, who you are employed by and in what capacity?

11 A. My name is Dennis R. Baker. I'm employed by
12 Equitable Resources Energy Company as senior landman.

13 Q. And are you familiar with the application we
14 filed seeking a pooling order for Equitable well number VC-3416,
15 dated February 20th, 1998?

16 A. Yes, I am.

17 Q. Is Equitable seeking to force pool the drilling
18 rights underlying this spacing unit as depicted at Exhibit A of
19 the application?

20 A. Yes.

21 Q. And does this location proposed fall within the
22 Board's order for the Roaring Fork coalbed gas field?

23 A. Yes, it does.

24 Q. And prior to filing the application, were
25 efforts made to contact each of the respondents and an intent

1 made to work out an agreement regarding the development of the
2 unit involved?

3 A. Yes.

4 Q. And does Equitable own drilling rights within
5 the unit involved?

6 A. Yes, we do.

7 Q. What was the interest of Equitable in the gas
8 estate within the unit at the time of application?

9 A. 90.11 percent was leased.

10 Q. And what was the interest of Equitable in the
11 coal estate within the unit at the time of application?

12 A. 100 percent of the coal estate is leased.

13 Q. Okay. Now, you've just handed a revised Exhibit
14 B to the Board. Are all the unleased parties as they currently
15 exist set out in this revised Exhibit B?

16 A. Yes.

17 Q. And subsequent to the filing of the application,
18 have you continued to attempt to reach an agreement with the
19 respondents listed in revised Exhibit B?

20 A. Yes, we have.

21 Q. As a result of those efforts, Mr. Baker, have
22 you obtained any additional leases?

23 A. Yes, we have.

24 Q. Could you please note those for the Board at
25 this time?

1 A. Yes, on the revised Exhibit B, on page four, the
2 first name that appears, Randall Lee Woodruff is now a leased
3 interest; on page five, fourth name from the bottom, Randall Lee
4 Woodruff is leased; and third from the bottom, Blanche L. Gibson
5 is now a leased interest and that's all.

6 Q. Okay. Mr. Baker, and as a result of obtaining
7 these additional leases subsequent to the filing of application
8 could you now please state for the Board the percentage of the
9 unit for the gas estate and the coal estate that remains
10 unleased?

11 A. The interest in the gas estate that is unleased
12 at the time of hearing is 8.54 percent.

13 Q. And the coal estate is 100 percent leased,
14 right?

15 A. Yes.

16 Q. And in the case of unknown heirs, were
17 reasonable and diligent efforts made and the sources checked to
18 identify and locate these heirs including primary sources such as
19 deed records, probate records, assessor's records, treasurer's
20 records and secondary sources such as telephone directories, city
21 directories, family and friends?

22 A. Yes, it was.

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

25 A. Yes.

1 Q. And are the addresses set out in revised Exhibit
2 B the last known addresses for the respondents?

3 A. Yes, it is.

4 Q. And are you requesting this Board to force pool
5 all unleased interest listed in the revised Exhibit B?

6 A. Yes.

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

9 A. Yes, I am.

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

11 A. Five (5) dollar per acre consideration, five
12 year term, 1/8 royalty.

13 Q. And did you gain this familiarity by acquiring
14 leases both oil and gas and coalbed methane and other agreements
15 involving the transfer of drilling rights not only in the unit
16 involved here, but in the surrounding area?

17 A. Yes.

18 Q. In your professional opinion, do the terms
19 you've testified to represent the fair market value of and the
20 fair and reasonable compensation to be paid for drilling rights
21 within the unit?

22 A. Yes.

23 JIM KISER: Mr. Chairman, at this time we'd ask again,
24 that the testimony relevant to the election options available to
25 the unleased parties as taken in VGOB-98-03/24-0642 be

1 incorporated be into this hearing.

2 BENNY WAMPLER: They will be incorporated.

3 Q. Mr. Baker, do you recommend that the order
4 provide that if there's a title defect in the respondent's
5 interest or in the event of a conflicting claims to the coalbed
6 methane, that the operator pay into an escrow account created by
7 this Board in which all costs or proceeds attributed to
8 conflicting interest shall be held for the respondent's benefit
9 until such funds can be paid to the party by order of the Board
10 or until the title defect or conflicting claim is resolved to the
11 operators satisfaction?

12 A. Yes.

13 Q. And who should be named the operator under the
14 order?

15 A. Equitable Resources Energy Company.

16 JIM KISER: Nothing further of this witness at this
17 time, Mr. Chairman.

18 BENNY WAMPLER: Questions from members of the Board?
19 (No audible response.)

20 BENNY WAMPLER: Call your next witness.

21

22

23

24

25

1 ROBERT A. DAHLIN, II

2 having been duly sworn, was examined and testified as follows:

3 QUESTIONS BY MR. KISER:

4 Q. Mr. Dahlin, once again please state your name,
5 who you are employed by and in what capacity?

6 A. My name is Robert A. Dahlin, II. I'm employed
7 by Equitable Resources Energy Company as a production specialist.

8 Q. And you're familiar with the proposed plan of
9 develop for this unit?

10 A. Yes.

11 Q. What's the total depth of the well under the
12 plan of development?

13 A. Two thousand one hundred and nine feet (2,109).

14 Q. And will this be sufficient to test and
15 penetrate and test common sources of supply in the subject
16 formations?

17 A. Yes.

18 Q. And what are the estimated reserves under this
19 unit?

20 A. Four hundred million cubic feet.

21 Q. And are you familiar with the well costs for
22 this well under the plan?

23 A. Yes.

24 Q. Has a AFE been reviewed, signed and submitted to
25 the Board?

1 A. Yes.

2 Q. Was this AFE prepared by an engineering
3 department knowledgeable in the preparation of AFE's and
4 knowledgeable in regard to well costs in this area?

5 A. Yes, it was.

6 Q. In your professional opinion, does this AFE
7 represent a reasonable estimate of the well costs for the
8 proposed unit well under the plan of development?

9 A. Yes.

10 Q. Could you at this time state both the dry hole
11 costs and completed well costs for VC-3416?

12 A. Dry hole costs are sixty-six thousand nine
13 hundred and fifty dollars (\$66,950) and the completed well costs
14 of one hundred and seventy-three thousand and nine hundred
15 dollars (\$173,900).

16 Q. And does these costs anticipate a multiple
17 completion?

18 A. Yes.

19 Q. Does this AFE include a reasonable charge for
20 supervision?

21 A. Yes.

22 Q. In your professional opinion, will the granting
23 of this application be in the best interest of conservation and
24 prevention of waste and the protection of correlative rights?

25 A. Yes.

1 JIM KISER: Nothing further of this witness at this
2 time, Mr. Chairman.

3 BENNY WAMPLER: Questions from members of the Board?
4 (No audible response.)

5 BENNY WAMPLER: Do you have anything further?

6 MASON BRENT: What is one of your well location...what
7 is V-2540?

8 ROBERT A. DAHLIN, II: Its a conventional well that
9 this well is basically sharing a location with.

10 Q. So, this is twin well versus a dual producer?

11 A. Yes. Right. It's...the existing conventional
12 field we call Buck Knob and we found it's productive for coalbed
13 methane subsequent to a develop of the conventional resource and
14 now we are going in a feeling for coalbed methane.

15 BILL HARRIS: You know, is there no way to...I don't
16 know anything about these things, but is there anyway to go back
17 and use that also? You can't perforate it or anything?

18 ROBERT A. DAHLIN, II: Well, we could. There's
19 difference in ownership and some issue...there's some mechanical
20 problems that you may involve the initial owners of the
21 conventional well in, and so we have chosen to forego that.

22 BILL HARRIS: Okay. I just wondered if it was ever
23 done. I didn't know about the different owners, but---

24 ROBERT A. DAHLIN, II: Yes, you can. We have converted
25 many conventional wells to coalbed methane by re-permitting and,

1 you know, you are aware now we are doing dual completion during
2 the initial drilling. But at that time we can set out the
3 different ownership interests and make it a cleaner...it is
4 harder to go back in and reconfigure a well than configured
5 initially.

6 BILL HARRIS: Initially, yeah. I'd understand.

7 CLYDE KING: But the bulk of it is down deep?

8 ROBERT A. DAHLIN, II: Yes.

9 BILL HARRIS: Of the one that's there, yeah, yeah. I
10 guess. If that's what you're asking.

11 CLYDE KING: Are you finding that there's more...well, I
12 guess, you haven't run them that long, but there is more than
13 four hundred million cubic feet.

14 ROBERT A. DAHLIN, II: I think four hundred million for
15 Roaring Fork is reasonable. This...it is structurally related,
16 but the gas contents...it took us several years to convince
17 ourselves we wanted to develop Roaring Fork because the gas
18 content being lower and the initial rates were lower, but history
19 has shown...as we're gathering information, we're going that
20 we're at least in a desired structural location. It's four
21 hundred million is economic for us. Three hundred and fifty's
22 close and three hundred probably wouldn't be over there.

23 MASON BRENT: What's the market value today for this
24 case?

25 MAX LEWIS: It varies.

1 ROBERT A. DAHLIN, II: Two...two twenty...two thirty,
2 but we're heavily hedged. We do...we do lot of them.

3 MAX LEWIS: It goes up to three fifty. It varies.

4 JIM KISER: I think the hub yesterday was about two
5 twenty-seven. But there's usually some sort of premium attached
6 to the Appalachian Gas.

7 TOM FULMER: Yeah, it depends on what hub you delivered
8 to, too.

9 JIM KISER: Right...well, that's the (inaudible) Henry
10 Hub, but---.

11 MAX LEWIS: Right.

12 CLYDE KING: Does yours go into Colonial also?

13 BILL HARRIS: Columbia, yes.

14 CLYDE KING: Columbia.

15 MAX LEWIS: BTU's got something to do with it, too.

16 CLYDE KING: Columbia.

17 ROBERT A. DAHLIN, II: To Columbia? Yeah. Columbia,
18 yes.

19 CLYDE KING: Yeah.

20 BILL HARRIS: Yeah.

21 JIM KISER: Gas prices in my opinion remain relatively
22 strong given the fact that its not been cold running.

23 MAX LEWIS: You'll get no more money out of your Berea
24 and Devonian than you will your methane.

25 ROBERT A. DAHLIN, II: Yeah, over here---.

1 MAX LEWIS: Of course, BTU's is high.

2 ROBERT A. DAHLIN, II: Yeah, BTU's are higher and the in
3 place gas is much higher also.

4 MASON BRENT: What is this gas, about eleven hundred?

5 ROBERT A. DAHLIN, II: No, it's not that high. It's
6 probably ten fifty...ten sixty something like that.

7 MAX LEWIS: About...it runs about nine hundred. I
8 believe his check it was around nine or nine fifty.

9 CLYDE KING: Of course, when you pump it into Columbia
10 it's mixed, isn't it.

11 ROBERT A. DAHLIN, II: Right. Well, just our gathering
12 system alone mixes it, you know, before it even gets close to our
13 point of sale. It takes a lot of coalbed methane drilling to
14 dilute what we're currently producing. So, we're not in any
15 danger of getting below pipe line quality gas.

16 BILL HARRIS: Wait a minute. What you're saying
17 then---?

18 SANDRA RIGGS: It makes your conventional and coalbed
19 gases.

20 BILL HARRIS: Yeah, but...but see I didn't realize
21 coalbed was less quality than...that's what you all we're talking
22 about the BTU.

23 ROBERT A. DAHLIN, II: Right. The BTU value is lower.

24 BENNY WAMPLER: Yeah.

25 MAX LEWIS: BTU's.

1 BILL HARRIS: Well, I never realized that. Okay.
2 Because everybody, you know, when everybody gas is gas then I
3 just assume that meant the---.
4 ROBERT A. DAHLIN, II: Well, methane---.
5 JIM KISER: It's all different, yeah.
6 ROBERT A. DAHLIN, II: Yeah. Methane is the primary
7 constituent of natural gas, but the deeper seams or the deeper
8 reservoirs---.
9 BILL HARRIS: Is it higher concentration?
10 ROBERT A. DAHLIN, II: --have higher end carbon
11 molecules that add heat value to it.
12 BILL HARRIS: Okay. Concentration is higher, yeah.
13 Okay. So, its...oh, okay. So, it is not just the methane
14 than...
15 ROBERT A. DAHLIN, II: Right. The Pentines, the Butines
16 all these types of things. And those are hotter than methane.
17 BILL HARRIS: Okay. Okay. Okay.
18 CLYDE KING: Methane is still pretty good?
19 ROBERT A. DAHLIN, II: Oh, yeah. Its the primary...it's
20 the primary---.
21 JIM KISER: Component.
22 ROBERT A. DAHLIN, II: ---component of natural gas.
23 CLYDE KING: Mr. Chairman, I move that we approve.
24 DENNIS GARBIS: I second.
25 BENNY WAMPLER: Motion and second. Any further

1 discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor signify by saying yes.

4 (Members signify by yes.)

5 BENNY WAMPLER: Opposed say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. The next item on
8 the agenda is a petition from Equitable Resources Energy Company
9 for pooling of a coalbed methane unit identified as V-3407.
10 Docket number VGOB 98-03/24-0645. We'd ask the parties that wish
11 to address the Board in this matter to come forward at this time.

12 JIM KISER: Mr. Chairman and members of the Board, Jim
13 Kiser once again on behalf of Equitable Resources Energy Company.
14 Our witnesses will again will be Mr. Baker and Mr. Dahlin. Mr.
15 Baker is handing out another revised Exhibit B that reflects
16 changes to the lease and unleased added status of the parties in
17 the original Exhibit B subsequent to the filing of the
18 application.

19 BENNY WAMPLER: The record will show that there are no
20 others. You may proceed.

21

22

23

24

25

1 DENNIS R. BAKER

2 having been duly sworn, was examined and testified as follows:

3 QUESTIONS BY MR. KISER:

4 Q. Mr. Baker, if you'd again state your name for
5 the Board, who you are employed by and in what capacity?

6 A. Dennis R. Baker. I'm employed by Equitable
7 Resources Energy Company as senior landman.

8 Q. And you're familiar with Equitable's application
9 for seeking a pooling order for Equitable well number VC-3407,
10 dated February 20th, 1998?

11 A. Yes.

12 Q. Is Equitable seeking to force pool the drilling
13 rights underlying the unit as depicted at Exhibit A?

14 A. Yes, we are.

15 Q. Does this location proposed location fall within
16 the Board's order for the Roaring Fork coalbed gas field?

17 A. Yes, it is.

18 Q. And prior to filing the application, were
19 efforts made to contact each of the respondents with an intent
20 made to work out an agreement regarding the development of the
21 unit?

22 A. Yes.

23 Q. And does Equitable own drilling rights in the
24 unit?

25 A. Yes, we do.

1 Q. And what was the interest of Equitable in the
2 gas estate within the unit at the time of application?

3 A. The interest leased was 93.27 percent.

4 Q. And the interest of Equitable in the coal estate
5 within the unit at the time of application?

6 A. The interest leased was 100 percent.

7 Q. Okay. Now, as we've previously alluded to
8 you've distributed a revised Exhibit B, are all unleased parties
9 as we see it now set out in revised Exhibit B?

10 A. Yes, it is.

11 Q. And subsequent to the filing of the application,
12 did you continued to attempt to reach an agreement with the
13 respondents listed in revised Exhibit B?

14 A. Yes.

15 Q. And as a result of those efforts were you able
16 to obtain any additional leases?

17 A. Yes, we have.

18 Q. Could you please note those for the Board at
19 this time?

20 A. On the revised Exhibit B on page five, fourth
21 from the top...fifth from the top, I'm sorry, Betty J. Hall
22 represented the Estate of Edward Hall and Betty Hall,
23 individually, is now leased; on page ten, identified as tract
24 number nine we have a new owner as well as new lease, Blanche
25 Gibson is now a leased interest as well as a new owner from the

1 original application; on page twenty-one at the very top of the
2 list, Betty Hall represented of the Estate of Edward Hall and
3 Betty Hall individually is now a leased interest.

4 Q. Okay. And as a result of obtaining these
5 additional leases, could you state for the Board now what the
6 present percentage of the gas estate within the unit that remains
7 unleased?

8 A. The interest leased at present time is 94.79
9 percent.

10 Q. And the interest unleased?

11 A. The unleased is...at the time of the hearing is
12 5.21 percent.

13 Q. Okay, Mr. Baker, in regards to unknown heirs
14 that may be present within this unit, did you make a reasonable
15 and diligent efforts to identify and locate them including
16 primary sources such as deed records, probate records, assessor's
17 records, treasurer's records and secondary sources such as
18 telephone directories, city directories, family and friends?

19 A. Yes.

20 Q. In your professional opinion, was due diligence
21 exercised to locate each of the respondents named in the revised
22 Exhibit B?

23 A. Yes.

24 Q. And are the addresses set out in revised Exhibit
25 B to the application the last known addresses for the

1 respondents?

2 A. Yes, it is.

3 Q. And are you requesting this Board to force pool
4 all unleased interest listed in the revised Exhibit B?

5 A. Yes.

6 Q. And are you familiar with the fair market value
7 of drilling rights in this unit here and in the surrounding area?

8 A. Yes, I am.

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

10 A. Five (5) dollar per acre consideration, five
11 year term, 1/8 royalty.

12 Q. And in your professional opinion, do the terms
13 you've testified to represent the fair market value of and the
14 fair and reasonable compensation to be paid for drilling rights
15 within this unit?

16 A. Yes.

17 JIM KISER: Mr. Chairman, at this time we'd once again
18 ask, that the testimony regarding election options available to
19 the parties who remain unleased and would be subject to the
20 Board's order taken in the hearing for VGOB docket number 98-
21 03/24-0642 be incorporated for this hearing.

22 BENNY WAMPLER: That testimony will be incorporated.

23 JIM KISER: Thank you.

24 Q. Mr. Baker, do you recommend that the order
25 provide that when there's a title defect in the respondent's

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

8 A. Yes.

9 Q. And who should be named the operator under the
10 Board order?

11 A. Equitable Resources Energy Company.

12 JIM KISER: All of I have for this witness at this time,
13 Mr. Chairman.

14 BENNY WAMPLER: Any questions from members of the Board?

15 (No audible response.)

16 BENNY WAMPLER: Call your next witness.

17

18 ROBERT A. DAHLIN, II

19 having been duly sworn, was examined and testified as follows:

20 QUESTIONS BY MR. KISER:

21 Q. Mr. Dahlin, once again please state your name
22 for the Board, who you are employed by and in what capacity?

23 A. My name is Robert A. Dahlin, II. I'm employed
24 by Equitable Resources Energy Company as a production specialist.

25 Q. And you're familiar with the proposed plan of

1 develop for this unit?

2 A. Yes.

3 Q. And what is the total depth of the proposed
4 well?

5 A. One thousand nine hundred and seventy-three
6 (1,973) feet.

7 Q. And this will be sufficient to penetrate and
8 test the common sources of supply in the subject formations?

9 A. Yes, it will.

10 Q. What are the estimated reserves for this unit?

11 A. Four hundred million cubic feet.

12 Q. And are you familiar with the well costs of the
13 proposed well under the plan of development?

14 A. Yes.

15 Q. Has a AFE been reviewed, signed and submitted to
16 the Board?

17 A. Yes.

18 Q. Was this AFE prepared by an engineering
19 department knowledgeable in the preparation of AFE's and
20 knowledgeable in regard to well costs in this area?

21 A. Yes, it was.

22 Q. In your opinion, does this AFE represent a
23 reasonable estimate of the well costs for the proposed well under
24 the plan of development?

25 A. Yes.

1 Q. Could you state for the Board at this time both
2 the dry hole costs and completed well costs for Equitable well
3 VC-3407?

4 A. Dry hole costs are sixty-six thousand one
5 hundred and fifty dollars (\$66,150) and the completed well costs
6 are one hundred and seventy-two thousand and five hundred fifty
7 dollars (\$172,550).

8 Q. And do these costs anticipate a multiple
9 completion?

10 A. Yes.

11 Q. Does this AFE include a reasonable charge for
12 supervision?

13 A. Yes.

14 Q. In your professional opinion, will the granting
15 of this application be in the best interest of conservation and
16 prevention of waste and the protection of correlative rights?

17 A. Yes.

18 JIM KISER: Nothing further of this witness at this
19 time, Mr. Chairman.

20 BENNY WAMPLER: This well is within the three hundred
21 foot window, right, according to your plat?

22 ROBERT A. DAHLIN, II: I'm unfamiliar with this one
23 here. Yes, that's right.

24 JIM KISER: I assume that Mr. Hall will be seeking a
25 location exception.

1 TOM FULMER: Who is Mr. Hall (inaudible)?
2 JIM KISER: Huh?
3 TOM FULMER: He knows better. Mr. Hall will be
4 submitting it to me. I think this was...yeah, we've already
5 discussed this one this morning.
6 BENNY WAMPLER: Any questions from members of the Board?
7 (No audible response.)
8 BENNY WAMPLER: Do you have anything further?
9 JIM KISER: No, Mr. Chairman. We'd ask that the
10 application be approved as submitted.
11 BENNY WAMPLER: Do I have a motion?
12 MASON BRENT: I move that we approve the application,
13 Mr. Chairman as submitted.
14 MAX LEWIS: I second.
15 BENNY WAMPLER: Motion and second. Any further
16 discussion?
17 (No audible response.)
18 BENNY WAMPLER: All in favor signify by saying yes.
19 (Members signify by yes.)
20 BENNY WAMPLER: Opposed say no.
21 (No audible response.)
22 BENNY WAMPLER: You have approval. Thank you very
23 much.
24 JIM KISER: Thank you.
25 BENNY WAMPLER: And finally on today's agenda we have a

1 report by the staff. Mr. Fulmer is going to provide with some
2 information that escrow agent has available or is required to
3 maintain according to our request for a proposal or contract with
4 that escrow agent.

5 (OFF RECORD)

6 TOM FULMER: First thing...I did hand you...this is the
7 newest update that I gave you on the what we have as far as
8 pooling orders, now that's just an update on that. We have done
9 ...actions have been taken since the last time it was updated.

10 BENNY WAMPLER: All the Board orders issued to date and
11 you're keeping it updated.

12 TOM FULMER: All the Board orders updated. From time to
13 time, I'll be giving you an update as they...as things change and
14 they're recorded and so forth. We'd been asked...in the past
15 several hearings there have been questions brought up about as
16 far as the matters involving withdraw of funds and what the
17 escrow agent that we have contracted as escrow agent for the
18 Board's pooling orders and escrow funds as to what their duties
19 are under the RFP because it reflects back to the RFP. I have
20 looked at the contract that we have with...presently with now
21 First Virginia Bank, which used to be Premier Bank. As you know
22 in October, I think, Mr. King appeared before the Board and
23 explained that change. As far as...we've been dealing with First
24 Virginia...hasn't been as smooth as Mr. King predicted...quite a
25 bit because as you know when you put two of these together you

1 have different personnel working. So, we ended up working with
2 two entirely different people. They had no idea what most of
3 this was all about. So, what I've done here and it is not get
4 into really what the escrow agent has. It does have several
5 documents, which I guess Miss Riggs can testify to, that it had
6 been sent by the unit operators. As you know at one of the
7 hearings Mr. Swartz alluded to the fact that the escrow agent had
8 this information. Well, he wasn't entirely wrong. The escrow
9 agent did have the information.

10 BENNY WAMPLER: If I can just refresh the Board's
11 memory. He passed out, if you remember, the copy...the photocopy
12 of the check with the background information and there's reams of
13 that on file with the escrow agent where they...and what the
14 escrow agent has done is simply run a total down this column and
15 make sure that check matches that total and they just simply have
16 it on file.

17 TOM FULMER: They've got boxes of files basically.
18 Otherwise, the instruments which they had been sent really
19 doesn't mean anything to them. What I have on the first sheet,
20 and I've given you, is kind of a just a simplified flow chart of
21 the process that we go through and in the beginning the pooling
22 petition or the modification, the Board order is filed and then
23 placed with the docket. The Board rules on the petition either
24 under 45.1-321 or 22. Board is filed in this county Court or the
25 Circuit Court and recorded copies sent to the petitioner for

1 distribution to the parties to the petition. At this point,
2 elections are made under the order and a supplemental order is
3 sent reflecting those elections made by the various parties in
4 the order. It is submitted to the Board for approval. The
5 approved supplemental orders is recorded and sent to the
6 petitioner and then sent to the escrow agent for establishment of
7 the account. Now, that's the main purpose of the supplemental
8 order is to establish the account.

9 CLYDE KING: I have a question.

10 TOM FULMER: Yeah.

11 CLYDE KING: What county court...in the county court
12 that the---

13 TOM FULMER: The county courthouse. Each courthouse in
14 which the order---

15 CLYDE KING: Like Buchanan County?

16 TOM FULMER: ---you have Buchanan County and then if
17 its in Dickenson County it will be Dickenson County.

18 CLYDE KING: Wherever the well is?

19 BENNY WAMPLER: Yes.

20 TOM FULMER: Wherever the well is located.

21 SANDRA RIGGS: It's in the property records.

22 TOM FULMER: Yeah, it's in the grantor and the grantee
23 listing. Once that is done, again, the supplemental order is
24 sent because that is referred to as a closure of the final order.
25 As you well know, that's not necessary true, but it is in the

1 beginning to establish the account and that's what the account is
2 established on is that supplemental order, which reflects the
3 docket number. Now, the escrow agent then establishes, according
4 to the RFP that we had under contract with the escrow agent, and
5 I'll go over those requirements in the RFP. Funds are then
6 received by the escrow agent and from then operator as further
7 approved supplemental order and the Board order for that unit.
8 Now, on the release of funds which you've heard three cases today
9 and some in the past. Funds are released by Board order in
10 accordance with section 45.1-361.22(A5). That's the section of
11 the statute which allows the release of the funds by a Board
12 order. The factors regarding the release, they're two. The
13 first one is a final legal determination of entitlement, which is
14 a Court decision. The second release is by agreement of
15 claimants. Now, I'm not too sure about this one because I
16 questioned does it require all agreements between all the
17 complainants in the unit. I'm not too sure about that. That's
18 the only point...I want bring it up because that---

19 CLYDE KING: Is that what we did today?

20 BILL HARRIS: Well---

21 BENNY WAMPLER: Well, you had two parties...what he was
22 raising is the issue of whether or not---

23 BILL HARRIS: Does everyone have to do it if a few---

24 SANDRA RIGGS: You have to empty out the whole account
25 before you can empty out any money that went in.

1 CLYDE KING: I wouldn't think so, would you? No. I
2 mean, that would be crazy, wouldn't it?

3 TOM FULMER: I'm just raising it...raising that specter,
4 you know, that argument that may be raised because all it---

5 BILL HARRIS: Well, I've wondered about that, but I
6 didn't know.

7 TOM FULMER: ---because all it says in the law it just
8 says agreement by the claimants.

9 CLYDE KING: Claimants.

10 BENNY WAMPLER: I think, personally I'd just go ahead
11 and say, you know, I think we're okay because you have an
12 accounting of the funds and you're not...you're not messing with
13 the other funds---

14 CLYDE KING: That's right.

15 BENNY WAMPLER: ---from that perspective. So, you
16 know---

17 CLYDE KING: Just distributing that person's.

18 BILL HARRIS: Yeah, and...

19 BENNY WAMPLER: You're distributing those parties that
20 come before the Board...the only thing you have...you possibly
21 have an impact on would be the total pot that is earning
22 interest, you know, when you do that. But I believe that the...I
23 believe it's, you know, supportive of what we done.

24 CLYDE KING: Well, the interest is only on the people
25 that have left their money there, right?

1 MAX LEWIS: After they was---

2 BILL HARRIS: That shouldn't affect anything.

3 CLYDE KING: That shouldn't affect it.

4 BILL HARRIS: Well, it's going to be listed---

5 SANDRA RIGGS: Well, if you read it literally that you'd
6 have to have everybody. You have unknowns and unlocateable would
7 mean you could never distribute the money.

8 BENNY WAMPLER: You'd never...what the gentlemen said
9 this morning would be true, you'd never...nobody would ever live
10 to see it because if you couldn't find an unlocateable, then you
11 couldn't---

12 CLYDE KING: What does happen to those state funds?
13 They're put into the state and general funds, aren't they?

14 BENNY WAMPLER: They escheat to the...they escheat to
15 the state and then they ultimately go to the...well, wherever
16 they...the general assembly signs it right now, I believe it goes
17 into the education endowment that goes into buildings and things
18 like that.

19 DENNIS GARBIS: Like generally you like to be in a
20 position where there was no funds escrowed because everybody was
21 identified...every nickel was distributed to the proper parties.

22 BENNY WAMPLER: That's right.

23 CLYDE KING: It will never happen.

24 DENNIS GARBIS: So, the idea is to make every attempt to
25 get it to the people, who are the rightful owners and minimize

1 the size of the escrow fund.

2 BENNY WAMPLER: I think it creates an incentive.

3 DENNIS GARBIS: I understand that's not going to happen.

4 I mean, that's---

5 BENNY WAMPLER: I think we've done, you know, with Hugh
6 McRae and others, it gives others incentives to try to work
7 together and work out their disagreements.

8 DENNIS GARBIS: Yeah, sure.

9 CLYDE KING: What protects from fraud?

10 BENNY WAMPLER: What protects us from fraud?

11 SANDRA RIGGS: Our own due diligence.

12 MAX LEWIS: Yeah.

13 CLYDE KING: (Inaudible).

14 MAX LEWIS: When you perform?

15 BENNY WAMPLER: I mean, we...as far as the funding of
16 the money the audits---

17 CLYDE KING: Are they bonded?

18 BENNY WAMPLER: That money, of course, we don't...we
19 don't...you're getting at the bond fraud issue?

20 CLYDE KING: Uh-huh.

21 BENNY WAMPLER: Yes, they're covered...the banks are.

22 SANDRA RIGGS: They're regulated.

23 CLYDE KING: And the agent that deals with our money is
24 covered by that bond?

25 SANDRA RIGGS: Well, it's a bank that's regulated

1 by---

2 CLYDE KING: I don't think any King would ever take
3 money he didn't deserve.

4 BENNY WAMPLER: The fund is...the escrow fund is with
5 the bank and the bank is covered. It's not with any individual
6 at the bank.

7 CLYDE KING: So, they have to govern...they have to have
8 to govern that individual?

9 BENNY WAMPLER: That's right.

10 CLYDE KING: They're getting many...so many banks
11 anymore and they're getting taken over by some much that you
12 really never know where you are.

13 BENNY WAMPLER: That's true.

14 TOM FULMER: Yeah, the---

15 CLYDE KING: Watch over you...watch over you is here
16 now.

17 TOM FULMER: Beginning of the...the second sheet is
18 basically a listing of what was agreed to in the RFP by the bank
19 under the contract, and these are items which...which make up
20 really what the bank is willing to do. And the first one is
21 investment of funds from day following receipt, meaning funds
22 when they're deposited and then they're going to automatically
23 invest it. Funds to be disbursed on the second business day
24 following receipt of Board order. So, in two days after they
25 receive a Board order they'll release the funds, whoever they are

1 directed to release them to by Board order. Funds will be
2 invested in the course of Board's approval, which the Board has
3 several times met with the bank to discuss investments of that
4 escrow account. Escrow funds to be maintained in securities
5 issued by the U.S. Government, which is primarily what they've
6 done when the Board order is approved. Segregated interest
7 bearing account would be maintained for funds not invested in
8 specific securities. I have no idea what that means, but there
9 was one part of the agreement of the RFP. Provide monthly
10 reports itemizing the beginning invested funds, all conditions to
11 and disbursements from and any invested funds possession
12 classified by royalty interest and work interest can be
13 furnished.

14 MASON BRENT: And when you were talking before time all
15 they are simply saying I think is that, that what's not invested
16 in securities would be in an interest bearing money market
17 account.

18 BENNY WAMPLER: Yeah, that's right. It can't be
19 suspended and no money accruing, that's what it is.

20 CLYDE KING: I think that's probably what they call CD's
21 and royalty at the bank, isn't it?

22 BENNY WAMPLER: Yeah.

23 TOM FULMER: Now, the second one and the one I just
24 mentioned to classify by royalty interest from working interest
25 can be furnished. When this contract was originally set up we

1 were talking about working interest and royalty interest to them.
2 Basically what they do receive is royalty interest. However,
3 they may be a carried operator involved here too as we talk about
4 participating and blah, blah, blah.

5 SANDRA RIGGS: I don't think we've ever had carried
6 that's paid out, have we---

7 TOM FULMER: No, no.

8 BENNY WAMPLER: No.

9 SANDRA RIGGS: ---were there would actually be money in
10 the escrow?

11 TOM FULMER: And the likelihood is very, very slim that
12 would ever happen.

13 CLYDE KING: What do we do, Tom, when like a company
14 changes hands like Island Creek now is no longer Island Creek so
15 it's Consol, is that just change of name only with us?

16 SANDRA RIGGS: Well, Island Creek is a coal operator.
17 They were never a unit operator.

18 CLYDE KING: So, they never used...they never did gas.

19 SANDRA RIGGS: No, they're coal.

20 CLYDE KING: Oh.

21 BENNY WAMPLER: Oxy if you recall...well, I don't know
22 if you recall or not. Oxy was their operator.

23 CLYDE KING: Yeah, Oxy. I think they were---

24 TOM FULMER: Island Creek did several permits, but they
25 never did the units. Those all came out of Buchanan Production

1 Company or Oxy or Consol. Who became the unit operator, but they
2 were never permitted under Island Creek's name as far as...as far
3 as the wells go. Next item, was investment pool accounting maybe
4 conducted on market value basis on itemized, on...whatever---

5 SANDRA RIGGS: Amortize.

6 TOM FULMER: ---amortized. I'm trying do it right.
7 Cost basis at the Board's option. The next item that was listed
8 in the RFP is reported formats at the Board's discretion. It
9 means there is various ways that the Board may ask them to report
10 accounts and one of the...the next item, it says at the expense
11 of the Board, the Board may access the escrow account information
12 stored on the bank's computer during normal working hours.

13 BILL HARRIS: Tom, let me ask you about---

14 TOM FULMER: Now, that's one I've been working on right
15 now.

16 BILL HARRIS: ---yeah, I was going. Yeah. What does
17 that entail. Is that what we were talking about when you held up
18 the check with payout information or paying information, I guess.

19 TOM FULMER: Well, yeah, right. I mentioned to the lady
20 this morning that if she would like to know what the balance that
21 was in the account that she could give us a call.

22 BILL HARRIS: Yeah.

23 TOM FULMER: Well, right now we're having to manually
24 call the bank to found out. They call us back. The problem now
25 we got with the bank is they don't even have E-mail. So---

1 BENNY WAMPLER: See, we're trying to get set up so that
2 probably our office can access the records.

3 BILL HARRIS: I see. Yeah, yeah.

4 TOM FULMER: And so we can just access the records
5 during normal hours and not have to go through third parties and
6 let this information...because we get tremendous amount of calls
7 on this...tremendous.

8 CLYDE KING: There ought to be a way with the new era of
9 computers and so forth that we could access that without even go
10 through the bank.

11 BENNY WAMPLER: Well, what we will do and as you all
12 have recommendations either here today or at a subsequent meeting
13 prior to the next RFP as we'll nail a few of these things down
14 that we've encounter in the next RFP. One, would be a electronic
15 access at no cost on full line full time.

16 CLYDE KING: That would great. Tom could do that the
17 morning he comes to the meeting.

18 BENNY WAMPLER: Yeah.

19 TOM FULMER: The...I will tell you the current RFP, I
20 think, was only extended a year and it was...I think its up like
21 in July or somewhere in June.

22 BENNY WAMPLER: August somewhere.

23 TOM FULMER: August. The escrow agent will maintain
24 backup for the account. It means he is going to back up each
25 account everyday. That was one of the requirements. The escrow

1 agent will maintain a segregated account with the Federal Reserve
2 Bank, a safe eligible securities. Now, these were the only
3 things listed in the RFP as we...as we agreed to in the
4 beginning...in the very beginning. So, essentially it is the
5 responsibility of the escrow agent to receive funds from the
6 designated unit operator attributed to the royalty interest,
7 participating interest bonus payments, Etcetera., set up accounts
8 in course with the supplemental order and disburse the funds in
9 accordance with Board order. Its basically their whole...whole
10 job.

11 BENNY WAMPLER: And also, under the Board's rules and
12 regulations, the Board has under record keeping section without
13 me trying to go---.

14 TOM FULMER: Yeah. Here, I've got it right here, Ben.

15 BENNY WAMPLER: Oh, okay.

16 TOM FULMER: I was going to mention that. It's under
17 the record keeping regulations in which the Board approved not
18 too long ago listed under 4 back 25160110 and then it talks about
19 record keeping. The A part it says, "each unit operator shall
20 maintain records of production, income, payments made to lessor
21 and escrow agents, any suspending payments and other information
22 prescribed by the Board until the latter of: When the permits
23 for all wells and units have been released by the department,
24 twenty-four months after all escrowed funds for a competing
25 claims to ownership of coalbed methane gas and unit have been

1 paid out under a Board order, or have been so ordered by the
2 Board." So, they're even required under the regulation to have
3 these...this information.

4 MAX LEWIS: I think these backup accounts ought to be
5 probably kept from...from some...for somebody besides the escrow
6 agent.

7 TOM FULMER: Well, I think the backup that they're
8 talking about, you're just backing up the records everyday out of
9 the computers is what they're talking about.

10 BENNY WAMPLER: Yeah, so that---

11 MAX LEWIS: Yeah, I know it. But you can lose that.

12 MASON BRENT: Most backups are taken off the premises
13 anyway.

14 MAX LEWIS: A lot of times a lot of backed up is taped.
15 We had ours all taped.

16 BENNY WAMPLER: They're off premises.

17 MASON BRENT: They're taken off premises.

18 MAX LEWIS: Yeah, that's right. That's what we did.

19 BENNY WAMPLER: Yeah, they're off.

20 BILL HARRIS: Well, of course, we're assuming a lot of
21 this what they're doing now.

22 CLYDE KING: That's right.

23 SANDRA RIGGS: Well, they would have to in the making of
24 the---

25 MAX LEWIS: And we had to keep ours at least four miles

1 filed away from---

2 DENNIS GARBIS: Tom, what is there...how do we know that
3 if operator acts is supposed to put ten (10) dollars into an
4 escrow account for certain well, in fact, they're putting ten
5 (10)---?

6 MAX LEWIS: Supposed to be.

7 DENNIS GARBIS: ---and not nine (9) dollars or eight
8 (8) dollars, I mean, how do we know that from---?

9 SANDRA RIGGS: We don't.

10 DENNIS GARBIS: ---that the operators are doing what
11 they're supposed to do?

12 BENNY WAMPLER: You do not know that.

13 TOM FULMER: You do not know that.

14 SANDRA RIGGS: You do not know that.

15 CLYDE KING: Is there not any way we can---?

16 BENNY WAMPLER: The certification that they make---.

17 DENNIS GARBIS: Not that I don't trust anybody, but I
18 don't trust anybody.

19 BENNY WAMPLER: Yeah. Well, what we've been trying to
20 do, we had a debate. I don't know if you were here when I had
21 the debate. I basically had it. I won't mention who, but with
22 one of the parties recently back and forth about whose
23 responsibility all this was. I think what...I think the Board
24 bears the responsibility to insure that the operator certifies to
25 this Board---

1 CLYDE KING: Yes, sir.

2 BENNY WAMPLER: ---that he's doing all these things.
3 That responsibility is with that operator.

4 MAX LEWIS: Right.

5 BENNY WAMPLER: If, in fact, that some...it goes to
6 Court, their...the culpability has to be with that operator. We
7 would have to have a battery of CPAs to try to trail all this
8 back to production every time a meter went out to adjust and all
9 those kinds things. So, the operator, and I'm just talking
10 openly here. I'm not...the operator in my view is a 100 percent
11 responsible and accountable to backup all the way back to the
12 well head.

13 DENNIS GARBIS: Well, I tell you I think there ought to
14 be---

15 MAX LEWIS: I think so too.

16 DENNIS GARBIS: ---some really strong language when---

17 CLYDE KING: I do, too.

18 DENNIS GARBIS: ---he signs up to that, that...that
19 there would be no doubt in his mind that if things aren't right
20 that he gets hammered to the fullest extent of the law. I mean,
21 there's...you're right, you can't have a battery of CPAs.

22 BENNY WAMPLER: Right.

23 DENNIS GARBIS: I know it's the nineties and everybody
24 lies, cheats and steals and is proud of it, but I mean, there's
25 got to be some degree of trust of that this guy is doing what

1 he's supposed to do and to the maximum extent that were able to
2 do whatever we do to insure that he knows what his obligations
3 and responsibilities are. I would...I would...that would really,
4 I think would be a very severe penalty for that.

5 CLYDE KING: Looks like there would be a way of checking
6 what he produces that and then equate that back to---.

7 DENNIS GARBIS: Maybe even spot check. Maybe there is a
8 way we could spot check. You can do everything.

9 BENNY WAMPLER: See, the thing---

10 SANDRA RIGGS: The problem that you have here is, you
11 have a basic premise of law that says that we can not statutorily
12 intervene with contractual relationships. Now, you hear them
13 testify all the time that they have leases, leases, leases,
14 leases. So, within a particular drilling unit, they'll have 90
15 percent of that unit locked up through voluntary leases in which
16 we are not privy, do not have any understanding, don't know what
17 the arrangement is...

18 CLYDE KING: We're believing them.

19 MAX LEWIS: We don't need to know that.

20 BENNY WAMPLER: See, we never see a 100 percent of the
21 pie.

22 SANDRA RIGGS: We don't even know what the title is to
23 know to accept what they tell us who this money belongs to
24 ultimately. Okay?

25 DENNIS GARBIS: Yeah.

1 SANDRA RIGGS: So, if you start from the premise that
2 they do the title search, they identify the parties, they come in
3 and pool those parties, they enter into leases with 90 some...95
4 percent of them, we are not privy to any of those leases and the
5 only thing we're doing really is receiving money attributable
6 to...in the case of conventional, unknowns and unlocateables
7 because they don't where to send the check and those are the easy
8 ones or if it's a conflicting claim, they're supposed to be
9 escrowing conflicting claims. Now, when you get to that point
10 they say, and that's what this...these questions today about,
11 "are you talking about Exhibit B3, which are unleased parties or
12 are you talking about Exhibit E, which are conflicting claimants"
13 because what the operators have done as they've gone out in a
14 conflicting situation, they've leased both sides of the conflict,
15 but they're not paying either. Now, if they're not...because in
16 the leases it says, "Until you can show us you have clear title,
17 we can suspend payments to you and its your obligation lessor to
18 warrant your title and to prove title and until you do, we can
19 suspend payments." So, an operator may have both sides of that
20 conflict leased and be suspending payments and not escrowing it
21 as a conflicting claim, but suspending under their voluntary
22 leases. Okay?

23 DENNIS GARBIS: So, they're keeping that money.

24 BENNY WAMPLER: In house.

25 SANDRA RIGGS: So, what you have in escrow is not a 100

1 percent of the conflicting claim. So, you've got to figure out
2 of what is in escrow, whose money is that because it's not
3 everybody's money. It's only certain people's money and that's
4 unleased parties---

5 CLYDE KING: That's right.

6 SANDRA RIGGS: ---in some cases. In other cases, it
7 may be everybody. So, on a unit by unit basis you've first got
8 to try to figure out whose money they've put in there to know
9 whose money you're pulling out.

10 BILL HARRIS: The percentage, yeah.

11 CLYDE KING: Aren't we legally responsible to see that
12 they do that?

13 MAX LEWIS: We don't know. We don't---

14 BENNY WAMPLER: Not without protection.

15 CLYDE KING: We're not?

16 SANDRA RIGGS: You don't have any paper trail where you
17 can track that---

18 CLYDE KING: I know, but I mean---

19 SANDRA RIGGS: ---you can't know.

20 BENNY WAMPLER: See, the law even has permissible...its
21 a permissible statute to keep it from coming forward in escrow to
22 start with. It says, "The operator may do this."

23 MAX LEWIS: It don't say that.

24 BENNY WAMPLER: They could run the risk of trespassing.
25 If they chose to do it, they can go do it.

1 SANDRA RIGGS: They could just go drill.

2 MAX LEWIS: They do it.

3 SANDRA RIGGS: They don't have to come to us.

4 CLYDE KING: And then file Chapter 11.

5 BENNY WAMPLER: Well, they---.

6 MAX LEWIS: No, they won't do that.

7 BENNY WAMPLER: But they could run the risk of trespass.

8 I mean, that's the risk.

9 CLYDE KING: Those poor people would be out.

10 BENNY WAMPLER: This allows them to avoid the risk of
11 trespassing that allows them to go ahead and do that.

12 MAX LEWIS: Yeah.

13 BENNY WAMPLER: But they're not...it doesn't mandate
14 they do it.

15 SANDRA RIGGS: What you have is PGP escrowing only
16 unleased conflicting claims and you have Buchanan Production
17 escrowing all conflicting claims. Everybody is not doing the
18 same thing. Okay? So, and---.

19 CLYDE KING: Can we change the rules?

20 SANDRA RIGGS: ---only reason we know that is we had
21 the escrow agent send us this monstrous file that big on Hugh
22 McRae and I went through each and every check. So, what you have
23 in the check attached to that, you have a royalty statement.
24 That royalty statement is not listed by names of individuals, but
25 you will find in there an identification that you track...if you

1 take all your orders and lay them out, you can probably work it
2 back. It could be the tract number or it could be some unique
3 identification that you---

4 MAX LEWIS: Percentages of the---

5 SANDRA RIGGS: ---or you could tie it to a percentage,
6 you know, that ties together. But if you go through that whole
7 box full of papers, you can find the royalty statements for every
8 deposit so that if ten thousand dollars (\$10,000) went into
9 escrow, there is a statement that backs that up that says that
10 ten thousand (10,000) is royalties for the...for these claims.
11 Well, manually to cross check the certification, what you would
12 have to do for a particular drilling unit is sit down and every
13 royalty statement and pull those claims in total month and see if
14 it totals what...what the operator says they've put into escrow
15 for that account. The other option is to make them print out a
16 historical royalty statement unique to that claim---

17 BENNY WAMPLER: Which is what we've---

18 SANDRA RIGGS: ---and certify that they have---

19 CLYDE KING: And they've got it, I'm sure.

20 SANDRA RIGGS: ---X dollars for that claim into that
21 account.

22 CLYDE KING: Yeah, they've got it.

23 BENNY WAMPLER: That's what we asked them to do here,
24 you see. Well, they said they wouldn't do it. Here you had
25 them...with Torch you had them dealing with themselves.

1 SANDRA RIGGS: Yeah, they're getting half the money.

2 BENNY WAMPLER: So, you heard how they...you know, how
3 they were doing that. They were going to give that printout and
4 all of that, which means they can do that for anybody.

5 CLYDE KING: Of course, that was...maybe that was the
6 only way those people could get it worked out, huh? Who knows?

7 SANDRA RIGGS: No, I don't think...no, that's a bigger
8 deal than that. That's...they're not individuals. This is...

9 CLYDE KING: Yeah.

10 DENNIS GARBIS: Well, I think...you really detail the
11 complexity of it, but we need to make sure to the maximum extent,
12 again as I said before, that the units we put on the proper
13 party, if we try to...you going to lose out of the...

14 TOM FULMER: Well, normally...the perfect example---.

15 SANDRA RIGGS: But to say it's the escrow agent is the
16 wrong answer.

17 DENNIS GARBIS: Yeah, I don't think so.

18 SANDRA RIGGS: No way can that escrow agent---.

19 DENNIS GARBIS: No.

20 SANDRA RIGGS: ---give them what they're given by an
21 individual.

22 TOM FULMER: The perfect example, what came up and I
23 don't think any of us had really a clear picture of what was
24 going on. Through some inquiring, we found out that in
25 looking...and we started doing kind of an audit when we escrow

1 accountants with their knowledge and we come across this one
2 which had three hundred dollars thousand (\$300,000) in it. But
3 you look at the supplemental order and it says no funds to be
4 escrowed.

5 SANDRA RIGGS: To be escrowed. So, you can't match the
6 supplemental order to the funds that are in there.

7 CLYDE KING: So, somebody put three hundred thousand
8 (300,000) in it?

9 TOM FULMER: There's no paper trail.

10 BENNY WAMPLER: Without...without---

11 SANDRA RIGGS: Without...

12 BENNY WAMPLER: ---the Board opening an account.

13 CLYDE KING: They just thought they had it.

14 MAX LEWIS: Well, they did.

15 SANDRA RIGGS: It was there. They deposited it.

16 BENNY WAMPLER: The bank...no, they put it in the bank.

17 MAX LEWIS: They did.

18 CLYDE KING: I know, but that's...whoever deposited it
19 thought they had an order, huh?

20 TOM FULMER: Well, as it turned out, when we sent the
21 three hundred thousand dollars (\$300,000) back and that's when
22 the Board asked us how we done that and so forth.

23 CLYDE KING: Yeah.

24 TOM FULMER: When it was redeposited it come back at a
25 hundred and fifty thousand dollars (\$150,000).

1 CLYDE KING: So, they kept a hundred and fifty (150).

2 SANDRA RIGGS: Well, they didn't escrow a 100 percent.
3 They...see that's the...that's the difference. If you're
4 escrowing a 100 percent of all conflicting claims, its going to
5 be one number, but if you're only escrowing unleased conflicting
6 claims, its going to be another number. It depends on what
7 you're escrowing.

8 MAX LEWIS: Uh-huh. Right.

9 DENNIS GARBIS: And if everybody is doing something
10 different, that further complicates the problem.

11 BENNY WAMPLER: Right.

12 DENNIS GARBIS: Of course, I think, to be honest with
13 you...I mean, my personal opinion...I mean, look at 1/8 royalty
14 and then you subtract the transportation costs, that don't come
15 down to diddely.

16 BILL HARRIS: This is one of the things we hear.

17 BENNY WAMPLER: Well, that's another factor.

18 DENNIS GARBIS: That's another issue, but I don't how
19 you---.

20 BENNY WAMPLER: But...I'm agreeing with you, though. I
21 mean, you know, to try to mail out---.

22 CLYDE KING: Yeah.

23 DENNIS GARBIS: But see what we don't want to do is go
24 down the line and somebody looks at this with the anticipation,
25 I'm going to get this thing settled and that's going to be a big

1 pot of gold at the end and all of sudden they get a check for
2 eighteen dollars and thirty-four cents (\$18.34) and so, I'm taken
3 you guys to Court because you guys were, you know, not the
4 essence involve.

5 BENNY WAMPLER: That's right.

6 TOM FULMER: I think they almost of this is concern that
7 when people like Hugh McRae or somebody comes in with these
8 agreements and they look to the Board and say now we want an
9 accounting of that...and they...what they want to know is how
10 much was taken out of the transportation, how much...what was the
11 price of the gas at the time it was taken out, when it was taken
12 out, how much interest was put in there and if you're talking
13 about that and if that's what the Board wants to delivery, you're
14 talking about a lot of CPAs just running around hunting these
15 figures, which---

16 SANDRA RIGGS: And that's not the money that was put
17 into escrow anyway. What's put into the escrow is the net
18 royalty after all that has happened and that's where our
19 responsibility starts. When that check goes on deposit, whatever
20 it represents, that's our responsibility because we're the keeper
21 of that fund. Whatever happens before it goes into escrow,
22 that's the operators responsibility and if they haven't put in
23 what they need to put in, then they're subject to suit for that.

24 BENNY WAMPLER: Dennis is exactly right though, you
25 know, whatever we can do and that's why we've got to always in

1 shaping our questions and everything, make sure the operator
2 understands that liability responsibility, etcetera because we
3 can't inherit that. We don't have an ability to take that on.

4 CLYDE KING: But you don't...with all these companies
5 being taken over, does the take oversee know that he's going to
6 be responsible for what's happened?

7 SANDRA RIGGS: Well, the unit operator is not changing.
8 I don't think we've seen any unit operators change and that's who
9 we look to.

10 CLYDE KING: You mean the Consol people or Island Creek
11 people?

12 SANDRA RIGGS: Well, Consol...Consol is the unit
13 operator on some of them.

14 CLYDE KING: Were they over it when Island Creek had it?

15 TOM FULMER: No, Island Creek has never had a unit.

16 SANDRA RIGGS: They were the coal operator.

17 TOM FULMER: They...the only thing they were permittee
18 well was all.

19 CLYDE KING: So, there was no gas pumped out of that
20 area when Island Creek had it?

21 TOM FULMER: Oh, yes.

22 SANDRA RIGGS: Well, they weren't gas...they owned the
23 coal.

24 BENNY WAMPLER: Buchanan Production Company.

25 TOM FULMER: Buchanan Production Company owned it and

1 all Island Creek did was become a permittee for labor reasons.
2 That's about the only way I can say it...or labor reasons.

3 CLYDE KING: You know, there's an awful lot of money
4 though involved, isn't there?

5 BENNY WAMPLER: Yes.

6 BILL HARRIS: Uh-huh, there is.

7 BENNY WAMPLER: Well, thank you all very much. That
8 concludes the hearing.

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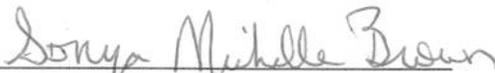
11 STATE OF VIRGINIA,

12 COUNTY OF BUCHANAN, to-wit:

13 I, SONYA MICHELLE BROWN, Court Reporter and Notary
14 Public for the State of Virginia, do hereby certify that the
15 foregoing hearing was recorded by me on a tape recording machine
16 and later transcribed under my supervision.

17 Given under my hand and seal on this the 15th day
18 of April, 1998.

19


NOTARY PUBLIC

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21 My commission expires August 31, 2001

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