

1 IN THE COUNTY OF WASHINGTON

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3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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4 VIRGINIA GAS AND OIL BOARD

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8 AUGUST 17, 2004

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12 APPEARANCES:

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MASON BRENT - OIL & GAS REPRESENTATIVE

BILL HARRIS - PUBLIC MEMBER

13

BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

DONALD RATLIFF - COAL REPRESENTATIVE

14

JIM McINTRYE - CITIZEN APPOINTEE

15

SHARON PIGEON - ATTORNEY WITH THE ATTORNEY GENERAL'S OFFICE

BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND

16

PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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1 \*\*\*Attached copy of the docket

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3

4 BENNY WAMPLER: Okay. We'll go ahead and call the  
5 meeting to order. Good morning. My name is Benny Wampler.  
6 I'm Deputy Director for the Virginia Department of Mines,  
7 Minerals and Energy, and Chairman of the Gas and Oil Board.  
8 I'll ask the Board members to introduce themselves, starting  
9 with Mr. Brent.

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

12 BILL HARRIS: I'm Bill Harris from Wise County.  
13 I'm a public member.

14 SHARON PIGEON: I'm Sharon Pigeon with the office  
15 of the Attorney General.

16 DONALD RATLIFF: I'm Donald Ratliff, representing  
17 the coal industry from Wise County.

18 JIM McINTRYE: Jim McIntrye from Wise, Virginia, a  
19 citizen representative.

20 BOB WILSON: I'm Bob Wilson. I'm the Director of  
21 the Division of Gas and Oil, and Principal Executive to the  
22 staff of the Board.

23 BENNY WAMPLER: The first items are items one

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1 through eleven on the Board's docket today. They are docket  
2 numbers VGOB-93-0622-0381, VGOB-93-0420-0363, 0355, VGOB-95-  
3 0818-0511, VGOB-95-0718-0509, VGOB-96-1016-0555, VGOB-92-  
4 0721...I'm sorry, strike that, 0243, VGOB-95-0718-0508, VGOB-  
5 95-0815-0510, VGOB-92-1215-0305, and VGOB-95-0...I'm sorry,  
6 1024-0526. We'd ask the parties that wish to address the  
7 Board in these matters to come forward at this time. State  
8 your name for the record, please.

9           PETER GLUBIACK: Good morning, Mr. Wampler. For  
10 the record, my name is Peter Glubiack...Glubiack. I  
11 represent the petitioners in the docket numbers that you have  
12 just read; and I am here this morning to hopefully discuss  
13 with the Board, answer the Board's questions and arrive at a  
14 conclusion with regard to a procedure for disbursement of the  
15 moneys, which were ordered disbursed at the April the 20th  
16 Board meeting, but later, I guess, withdrawn subject to the  
17 Board's discussions today. What I am hoping to accomplish  
18 today is discuss the presentation of indemnification letter,  
19 a copy of which was faxed to Mr. Wilson's office this  
20 morning, furnished to him. I furnished a copy to Ms. Pigeon.  
21 A copy has been faxed this morning to Mr. John Byrum at  
22 Richmond, the Office of the Attorney General. I will  
23 represent to the Board, while I understand that this letter  
24

1 is essentially hot off the presses, it addresses his  
2 con...Mr. Byrum's concerns. I will also state that based on  
3 the phone conversation yesterday, that I think we have  
4 reached a...while I don't necessarily agree with the need for  
5 the indemnification letter, I think we have reached what I  
6 consider to be the holly grail of what you're looking for.

7           The terms of the indemnification letter are quite  
8 clear with singular exception of Mr. Bill Ratliff, who indeed  
9 has a number of federal tax liens. Each and every one of the  
10 additional parties, the group of petitioners, in what I would  
11 style the Harrison-Wyatt versus Ratliff case, are the subject  
12 of this indemnification letter. I do not think it gets any  
13 better than this, nor can it get any better than this. The  
14 letter essentially, to paraphrase, it states that there are  
15 no liens and judgments against these individuals; while there  
16 may be similar named individuals, there simply exists no  
17 liens or judgments; and if, in fact, not one, not two, three,  
18 but four attorneys are wrong, Land Title Company, a copy of  
19 its Declarations Errors and Admissions page is attached to  
20 the indemnification letter, agrees to indemnify, the magic  
21 words, indemnify and hold harmless the Board in the event  
22 that any of those four...all of those four attorneys are  
23 wrong, and in fact there does exist a lien and judgment,

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1 which is collectable and the results in a damage claim or a  
2 claim against the Board. Quite simply---

3 BENNY WAMPLER: Let me get Mr. Swartz on record.

4 MARK SWARTZ: I haven't seen any of this stuff.

5 BENNY WAMPLER: Do you have an extra copy?

6 BOB WILSON: Yes.

7 PETER GLUBIACK: No, there isn't an extra copy.

8 Mr. Chairman, I guess at this point my question is what is  
9 Mr. Swartz's interest in this matter? His client has paid  
10 this money into the escrow fund and I object to the fact that  
11 he has an interest at all today. I'd like to explain...would  
12 like for the Board to explain to me what Mr. Swartz's  
13 interest on behalf of CNX even is. This Board has ordered  
14 the disbursement of the money. The Office of the Attorney  
15 General speaks for this Board. I'm not sure what Mr. Swartz  
16 has to say.

17 BENNY WAMPLER: Well, let me explain one thing.  
18 This Board is reconsidering its prior decision today. So,  
19 you don't have a decision...I mean, you have a decision, but  
20 you have a reconsideration from that standpoint.

21 PETER GLUBIACK: My objection is for the record.

22 BENNY WAMPLER: Your objection is overruled.

23 (Mr. Swartz reviews the documents.)

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1           MARK SWARTZ: Do you have the title reports of  
2 Kilgore and Coleman?

3           SHARON PIGEON: We have letters similar to this.

4           MARK SWARTZ: I mean, you know what a title opinion  
5 is. Is it a title opinion?

6           SHARON PIGEON: (Indicates in the negative.)

7           MARK SWARTZ: It's not?

8           SHARON PIGEON: Not in my opinion.

9           MARK SWARTZ: Okay.

10           (Mr. Swartz continues to review the documents.)

11           PETER GLUBIACK: Mr. Chairman---

12           BENNY WAMPLER: Excuse me, I'm giving him time to  
13 read the letter, then we'll proceed.

14           (Mr. Swartz continues to review the documents.)

15           BENNY WAMPLER: Les, do you want to identify  
16 yourself for the record, too, please?

17           LESLIE K. ARRINGTON: Yes, Leslie Arrington, CNX  
18 Gas.

19           BENNY WAMPLER: All right, Mr. Glubiack.

20           PETER GLUBIACK: Mr. Chairman, while I understand  
21 that the Board has withdrawn the order of April the 20th, I'd  
22 still---

23           BENNY WAMPLER: We haven't withdrawn it.

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1           PETER GLUBIACK: Okay.

2           BENNY WAMPLER: We're reconsidering it here today.

3           PETER GLUBIACK: Reconsidering it. I'm...I stand  
4 corrected. I continue to be somewhat perplexed, respectfully  
5 so, regarding the Board's awaiting Mr. Swartz's comment on  
6 it. I simply don't know...I do not have any idea what his  
7 standing is, why he has an opportunity to speak. This money  
8 has been paid into the escrow fund years ago. We have a  
9 final order of the Court. We have a Supreme Court decision.  
10 Why is it...we have a representative advising the Board.  
11 Why is it that Mr. Swartz and his company, his client  
12 presumably, have any standing to talk at all?

13           MARK SWARTZ: We're the unit operator.

14           BENNY WAMPLER: Mr. Glubiack, you should know, if  
15 you've paid attention and sat through hearings, and you have,  
16 we would hear from anyone here that wanted to come forward  
17 today.

18           PETER GLUBIACK: Okay. All right. Well,  
19 that's---

20           BENNY WAMPLER: Now, whether or not that has  
21 relevance to our decision is a matter for the Board to  
22 consider.

23           PETER GLUBIACK: Okay. Thank you.

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1           BENNY WAMPLER: But you may proceed.

2           PETER GLUBIACK: Thank you. Am I---?

3           BENNY WAMPLER: Yes.

4           PETER GLUBIACK: Okay. Just for the Board's own  
5 information, we were here on April the 20th with a relatively  
6 new...well, not relatively new, but a new question. We had a  
7 Supreme Court order affirming the decision of the Circuit  
8 Court of Buchanan County, awarding the moneys on escrow to my  
9 clients. We've presented pages and pounds of paper with the  
10 petitions and the notices. This Board reviewed it and the  
11 Board entered the disbursement of the moneys on escrow  
12 subject to verification as to exact amounts.

13                   Now, I would point out for the Board's information,  
14 that when we investigated this matter, it turned out that  
15 substantially no gas had been pumped from these wells since  
16 1998. What I'm telling you is over the period of the last  
17 six years, there are essentially, with the exception of very  
18 minor interest calculations, there hasn't been any variation.

19                   So, we have the numbers down. I spoke to Mr.  
20 Wilson on several occasions. The issue left was, and  
21 admittedly has become a very rancorous issue, is what do we  
22 have to prove to the Board such that if they disburse the  
23 money as they...as they ordered...as you all ordered on April

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1 the 20th, that you would be protected in the event that there  
2 were any liens or judgments against the individuals involved  
3 in the individual disbursement orders?

4 I issued what is quite frankly a very...very short  
5 brief to the point e-mail that based on my retaining  
6 independent counsel in Grundy to review the records that with  
7 the exception of Mr. Bill Ratliff, each and every one of the  
8 other individuals was not the subject of any liens or  
9 judgments. That was rejected by Ms. Pigeon. I then retained  
10 the services of the attorney who had searched the records for  
11 me, Ms. Joyce Kilgore, to provide what, in my opinion, is  
12 title opinion, and I've been doing this for twenty-two  
13 years...now, obviously, we have a disagreement over what's a  
14 title opinion and what isn't. But, in my opinion, what was  
15 provided was a very clear succinct statement of the record  
16 with regard to liens and judgments. Ownership of this  
17 property has already been adjudicated by final order. That's  
18 not at issue before this Board. It's not for this Board to  
19 determine.

20 Ms. Pigeon's position was that Ms. Kilgore was not  
21 an independent opinion. I retained the services of Mr.  
22 Gerald Coleman, an attorney in Grundy, to once again  
23 independently review the records and determine whether there  
24

1 were any liens or judgments against these people. For the  
2 third time, a letter was issued to Ms. Pigeon which was  
3 rejected. Now, I have not spoken to Ms. Pigeon in quite a  
4 while. As...as many of you probably know, in frustration, I  
5 filed a show cause action in Buchanan Circuit Court against  
6 Mr. Wilson, Mr. Wampler and Ms. Pigeon herself. I have  
7 withdrawn that. That has been non-suited and dismissed.

8           At length, after further discussion, this matter  
9 ended up in Richmond with Mr. Roger Chafe, a Senior Assistant  
10 to the Deputy Attorney General and another Deputy for the  
11 Assistant Attorney General, Mr. John Byrum, who apparently is  
12 the attorney who is now involved in this. I've spoken to him  
13 on numerous occasions. A meeting was held. I was not able  
14 to be present at that meeting between an attorney for a title  
15 company that I retained, Mr. Chafe and Mr. Byrum. I did talk  
16 to Mr. Chafe and Mr. Byrum subsequent to that meeting, and it  
17 appeared the only thing that was going to satisfy them in  
18 order for them to advise the Board that there was no question  
19 of loss or possible claim would be an indemnification letter  
20 from a title company backed up by their E & O coverage. I've  
21 spent the last week and a half negotiating with Mr. Sam  
22 Beale, a highly qualified, well known attorney in Richmond,  
23 who was also the principal in Land Title Company, to provide

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1 me just that. We provided what we thought was enough. Mr.  
2 Byrum suggested last week that it wasn't enough. The only  
3 thing that was going to satisfy the AG's office was, quite  
4 frankly, flat out, an indemnification letter.

5           Mr. Beale and I, as late as yesterday afternoon,  
6 put the finishing touches on what we felt to be very clear  
7 and quite simply is just that, an indemnification letter. If  
8 you'll permit me, I'll read the very last paragraph to you.  
9 "Consistent with the coverage provided in our Errors and  
10 Omissions policy, based upon the opinions and affidavits  
11 supplied, Land Title Company agrees to indemnify and hold  
12 harmless the Virginia Gas and Oil Board from any liens or  
13 judgments related to claims against the plaintiffs with the  
14 exception of Bill Ratliff." Attached to this is a copy of  
15 their Errors and Omissions Declaration page.

16           Now, once again, I've been at this for four months.  
17 I understand there was no policy or procedure. I do not  
18 agree that you need an indemnification letter, but what I'm  
19 here today to do is quite frankly request, beseech, plead  
20 with you to set a policy, and if it is such that you require  
21 and are going to require an indemnification letter from a  
22 reputable licensed insured title company with regard to no  
23 liens and judgments, then so be it. But I think you have in  
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1 your power today to say quite simply we are requiring a  
2 document that meets the blessing of the AG's office that  
3 essentially holds us harmless and indemnifies us if we pay  
4 the money pursuant to Court order to the individuals involved  
5 in this case and subsequent cases. There is no policy.  
6 There is no procedure. There's no rule. There's no  
7 regulation. Essentially what we have is what does the AG's  
8 office tell you, you have to have. What I'm here this  
9 morning to tell you is, you have a Court order to disburse;  
10 you have met, you have reviewed, you have decided to order  
11 the disbursement. There was a hanging question out there  
12 with regard to the existence or non-existence of liens and/or  
13 judgments docketed against these individuals in Buchanan  
14 Circuit Court, which would effect...potentially effect the  
15 Board should it disburse all the money held in escrow on  
16 behalf of these plaintiffs.

17           Now, I would point out that I have not one, not  
18 two, not three, but four and an attorney...a Land Title  
19 Company opinion that, in fact, these proceeds are personality  
20 and not realty and are not subject to any claims or judgments  
21 docketed against these individuals, but we're not here to  
22 fight about that today. I might take that to Court at some  
23 later time and you'll have a Court order protecting you. But

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1 I don't have that now. I only have the opinion of four  
2 individual attorneys and the title company. That's not at  
3 issue. What's at issue is, how are you protected? How is  
4 the Board protected if you disburse the money? If there is a  
5 claim or a judgment against one of these individuals which  
6 turns out later to result in a claim against the Board, you  
7 are being held harmless and you're being indemnified by a  
8 licensed insured reputable title company. That's as good as  
9 it gets. In my opinion, there are no issues left.

10           Now, I've read you the letter. I've told you it's  
11 hot off the presses. I don't expect you...I'd like you to,  
12 but I don't expect you to jump and say, fine, we're done.  
13 Let's go home. Obviously, it's a subject to Mr. Byrum's  
14 opinion and discussions with Ms. Pigeon. But what I would  
15 like you to do today is quite simply say, it appears  
16 reasonable to us as citizen members of these Board...of this  
17 Board to say that if we get an indemnification letter stating  
18 if we pay the money out, again, pursuant to Court order,  
19 we're fine. If there turns out to be some judgment, some  
20 claim, some lien that was missed by any number of attorneys,  
21 was missed by the title company, they are on the hook and  
22 they will...they will protect you. They will hold you  
23 harmless. They will defend you. Ultimately if they lose,

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1 they will pay you the claim or the judgment that results.  
2 That's it. That's as simple as it gets. That's as clear as  
3 it gets.

4           What we need today, what my clients desperately  
5 need, is a clear policy that says this is what we want. I  
6 think...we have fought about this for four months. But I've  
7 thrown in the towel. I've got a title company that has given  
8 you an indemnification letter, and if you choose to establish  
9 that as a benchmark today, then everybody will know what you  
10 need. I think quite clearly, that's it. That's the end of  
11 the story. You've got an indemnification letter. There are  
12 no liens and judgments. Ownership has been...has been  
13 adjudicated. We're done. All that's left for you today, I  
14 respectively submit, is to say, okay, that's our policy.  
15 We're not going to take any risk here. We're going to be  
16 indemnified before we pay the money out.

17           Now, I would point out that you have paid out  
18 money. Apparently, and I'm happy to report, the Jerry Raines  
19 check, one of the plaintiffs, a small amount though it may  
20 be, was paid by Wachovia, has been deposited and we're done.  
21 So, somewhere along the line somebody believed me that Jerry  
22 Raines had no liens. Of course, there weren't any, but that  
23 was believed. But, at this point, I've gone one step

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1 further. I've provided you with a blanket indemnification  
2 letter that says that if there are any claims, any liens, any  
3 judgments, you will be reimbursed, held harmless, and  
4 defended.

5           Again, I'd ask you, beseech you, request you, let's  
6 just put this policy down if that's what you want, then we're  
7 done. The public will know, I will know, every other  
8 attorney that comes in asking to have this money disbursed  
9 will know, this is what you come with. Once we have...and  
10 that will be done in advance. So when the petitions come in,  
11 that will all be done in advance. We didn't know that  
12 before, so we didn't have it. So, we've revisited this  
13 issue. We've exhaustively analyzed and, again, I think we've  
14 answered the question. So, that's what I'd ask. Not that  
15 you necessarily rubber stamp this, subject to the approval of  
16 the AG's office, and I'm willing to live with that. I've  
17 discussed it with them. I think this answers their question.  
18 But when an indemnification letter is there and the AG's  
19 office is willing to say, you're okay, then we're done.  
20 That's really where I am.

21           I thank you for your time. I ask you, simply,  
22 let's put this matter to an end.

23           BENNY WAMPLER: Questions from members of the  
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1 Board?

2 BILL HARRIS: Mr. Chairman---

3 BENNY WAMPLER: Mr. Harris.

4 BILL HARRIS: ---I do have a question. This is  
5 actually more for personal information. The...the letter  
6 that was faxed that you provided to us, on the last page is a  
7 certificate of insurance.

8 PETER GLUBIACK: Yeah.

9 BILL HARRIS: Could I ask, and I'm just---?

10 PETER GLUBIACK: Yeah.

11 BILL HARRIS: ---not aware of these things, but  
12 what...what does this cover, this certificate of insurance?  
13 Does it...basically, does it say that if we erred, then we're  
14 protected? Is that what this is saying or what---?

15 PETER GLUBIACK: If you're asking me, sir---.

16 BILL HARRIS: Well, I'm asking anyone who could  
17 explain what---.

18 PETER GLUBIACK: The answer is yes, that's what  
19 it's there for. It's provided as a Declarations page. They  
20 have an effective...a policy in effect, which up to those  
21 limits and if those limits in this case exceed the amount of  
22 money in question, it's covered.

23 BILL HARRIS: So, this basically says these folks

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1 will...if we pay and then find that we should not have paid,  
2 what was paid, this covers---

3           PETER GLUBIACK: Well, first...I mean, it's a  
4 procedure like anything else in the world. The first thing  
5 that would happen is it would probably be...you know, there  
6 was a defense of the claim. There would be an investigation  
7 of the claim. I mean, if the insurance company or the title  
8 company determined the claim was valid, they'd have to pay  
9 it. That doesn't mean they can't defend against, fight it,  
10 take it to Court or whatever. But in the end, if there  
11 resulted a final judgment against the Board for that claim,  
12 then the insurance company would have to pay the claim.

13           BILL HARRIS: I do have a concern, though, that the  
14 effective date is 8/19/2003 to 8/19/2004.

15           PETER GLUBIACK: It's a yearly policy.

16           BILL HARRIS: So, it's renewed---

17           PETER GLUBIACK: They have to...by law in Virginia  
18 they have to have E & O coverage. The policies are issued on  
19 a yearly period.

20           BILL HARRIS: It's...well, I guess I'm just sort  
21 of...it's interesting that it expires in two days. I guess,  
22 is there---?

23           PETER GLUBIACK: That's just...I mean, if you want  
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1 to direct...if the Board wants to direct that there be proof  
2 of a continued insurance policy, that's fine. They have to  
3 do that. It happened...unfortunately, I didn't even look at  
4 that, but it happened. That's their policy period. But they  
5 do, you know, 300 million dollars worth of business a year.  
6 They're going to have E & O coverage. So---

7 BILL HARRIS: Thank you.

8 PETER GLUBIACK: And that's fine. I mean, you can  
9 require that they effective in...E & O coverage in effect and  
10 that's...the Virginia Insurance Bureau requires that, the law  
11 requires that. That's fine.

12 BILL HARRIS: Okay, thank you. Thank you, Mr.  
13 Chairman.

14 BENNY WAMPLER: Other questions from members of the  
15 Board?

16 MASON BRENT: Yes, Mr. Chairman, just one question.

17 BENNY WAMPLER: Mr. Brent.

18 MASON BRENT: Here, again, I'm soliciting  
19 information. This letter seems to deal with...I'm reading  
20 the first paragraph. It's Mr. Beale's opinion that the  
21 Plaintiffs have...do not have any liens or judgments docketed  
22 against them. How does this address the title question  
23 itself that was raised?

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1                   PETER GLUBIACK: There are no title questions.  
2 That's my point. I mean, Mr. Swartz, I think is going to  
3 jump up and disagree with me. But there are no title  
4 questions.

5                   These individual Plaintiffs presented their  
6 individual deeds at a hearing in Court and were found to own  
7 this particular piece of property. That's a final judgment.  
8 There are no title questions. There is apparently...I have  
9 copies of it, apparently an old Oxy abstract, which  
10 raises...in '92, which raises a bunch of superfluous issues,  
11 all of which have been answered.

12                   By the way, for your information, a letter was sent  
13 to Ms. Pigeon in a preceding federal piece of litigation  
14 involving, and if this is in fact dealing with Ms. Graham's  
15 property, which was a subject of a question at the earlier  
16 hearing, that matter was exhaustively treated by the firm of  
17 Penn Stuart in that case. It went all the way to the Fourth  
18 Circuit, and Penn Stuart recommended to its client, Consol,  
19 which subsequently paid Ms. Graham \$180,000 for damage to her  
20 home on this property. That's a done deal. That issue was  
21 litigated, done, finished. We had an opinion of Mr. Coleman  
22 to Mr. Steve Hodges here in Abingdon; that was accepted.  
23 That was done years ago. Any issues regarding title to Ms.

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1 Graham or any other individual are nothing but a red herring,  
2 have no bearing today. I have a final order in my hands,  
3 which adjudicates the ownership of the surface of these  
4 individuals' individual piece of properties. That's not the  
5 subject of today.

6           We're not arguing about title. This Board has no  
7 authority to investigate title. I have a Court order that  
8 says that these folks own these parcels of land. We  
9 don't...the Court order didn't know, I don't know, how much  
10 money is in individual units; how much money is owed to these  
11 people, that's your job; and that's what we petitioned the  
12 Board to do, was to determine what the amounts were. The  
13 Board then, in turn, procedure, I suppose, is to ask Consol;  
14 Consol told you. We accepted those numbers. And the money  
15 is there in Wachovia in Philadelphia. We got an order in  
16 April. The question was what about liens and judgments  
17 against these people? Now, admittedly, there was some  
18 confusion. I've answered those questions. Four attorneys  
19 have answered those questions. That wasn't good enough.

20           MASON BRENT: So, my reading of this letter is  
21 correct, that it's just liens and judgments?

22           PETER GLUBIACK: Absolutely. It is not, we are not  
23 insuring title to this property because that is not

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1 necessary.

2           MASON BRENT: As I recall correctly, April is the  
3 month?

4           PETER GLUBIACK: April 20th, yes.

5           MASON BRENT: Didn't you say that you would give us  
6 a title opinion letter?

7           PETER GLUBIACK: I said I would give you a title  
8 opinion, and I recall this is what...Mr. Carey's statement is  
9 seared into my memory, and Ms. Pigeon has reminded me on the  
10 record, in writing. I did not promise a title policy because  
11 one is not necessary. What is necessary, I would argue, is  
12 the title opinion. We have issued not one, not two, not  
13 three but four of them. All of which have been essentially  
14 said that's not enough. The final conclusion, based on my  
15 conversations with Mr. Byrum, last week and this week were,  
16 the only thing that is going to satisfy us is that if you  
17 hold the Board harmless and indemnify them from any claims or  
18 from liens or judgments, and that's what you have in front of  
19 you. It is critically, vitally important that you understand  
20 that you're not here...you've got a court order saying who  
21 owns this property; disburse the money to these people.

22           We're not here as a title abstract opinion panel.  
23 You're here as administrators of a fund that has been ordered

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1 to disbursed. You had concerns of whether there might be  
2 preceding, precedent, superceding claims against this money  
3 by anybody who holds judgments, liens or claims against these  
4 individuals. I have told you, unfortunately for Mr. Bill  
5 Ratliff, there in fact is an IRS lien. We're negotiating  
6 that as we speak. I'm not sure what the procedure is going  
7 to be with that. But, I guess, we're going to return to this  
8 Board with a compromised settlement with the IRS so that they  
9 can be paid. And I have every reason to believe that at  
10 least 50% of that money belongs to Mr. Ratliff's wife,  
11 Geneva, so we'll see. But I'm...you know, that's not on the  
12 table. That is admittedly excepted. It's excepted from  
13 everyone of the opinions.

14           However, we are not here to talk about who owns  
15 this property. We're here to talk about, because you raised  
16 a concern at the April meeting, over who might have claims  
17 against this property. Are there, in fact, judgments against  
18 these people? Are there liens? Are there lis pendens?  
19 We've answered all those. We've answered them from Ms.  
20 Kilgore. We've answered them from Mr. Coleman, and now we  
21 have indemnified you and held you harmless even if all these  
22 people were wrong.

23           I don't know how much better it can get. I think  
24

1 that's...well, I was about to say I think that's a reasonable  
2 requirement. I don't think it's a reasonable requirement. I  
3 think a title opinion was issued. There seems to be some  
4 discretion about what a title opinion is. That's not on the  
5 table. I think what I would proffer to you is, you have an  
6 easy answer. We want a title company to indemnify us and  
7 hold harmless...hold us harmless if there are any claims.  
8 You got it. I'd argue you got it. If you say that's the  
9 rule, then that's the rule. You set the rules. So, that's  
10 the answer to the discussion.

11 BENNY WAMPLER: Other questions from members of the  
12 Board?

13 (No audible response.)

14 BENNY WAMPLER: You would agree, I would assume,  
15 that the Board has the fiduciary responsibility---?

16 PETER GLUBIACK: Absolutely.

17 BENNY WAMPLER: ---of this money?

18 PETER GLUBIACK: Absolutely.

19 BENNY WAMPLER: And that it would be reasonable for  
20 this Board to ask questions to make sure that there are no  
21 outstanding judgments, and have a document in its hand to say  
22 that?

23 PETER GLUBIACK: Absolutely. The question before  
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1 the Board is to what level do you take that investigation.  
2 The ultimate level, in my opinion, is what the AG's office  
3 has essentially asked for is, we don't care what three or  
4 four attorneys say, we want somebody to say if they're all  
5 wrong, we've got a title company standing behind it and  
6 that's what you've got.

7 BENNY WAMPLER: Mr. Swartz, do you have any  
8 comments?

9 MARK SWARTZ: The only thing, regardless of what  
10 you do with Mr. Glubiack today, if you could keep U-16 open  
11 on your docket until next month. We have a split agreement  
12 from one of the Reedy heirs that we would just like to file  
13 and we can't do that with a supplemental order. So as long  
14 as we have an open matter, I mean it wouldn't hold up  
15 entering an order with regard to his situation, but if you  
16 could just keep U-16 open until next month, I'd appreciate  
17 that. That's all I have.

18 PETER GLUBIACK: I have no objection.

19 BENNY WAMPLER: So, we'll be continuing VGOB-93-  
20 0622-0381 for what purposes you stated?

21 MARK SWARTZ: Thank you.

22 PETER GLUBIACK: Mr. Chairman, I just want to be  
23 clear, that's because one of the individuals in that unit has

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1 apparently entered into a split agreement with Consol and  
2 that will be introduced at the September meeting, I guess?

3 MARK SWARTZ: That's what I asked for.

4 BENNY WAMPLER: Other questions or concerns?

5 DONALD RATLIFF: Mr. Chairman, I would like to  
6 ask---

7 BENNY WAMPLER: Mr. Ratliff.

8 DON HALL: ---Ms. Pigeon if this, in her opinion,  
9 satisfies what the Board is asking for?

10 SHARON PIGEON: Well, I, of course, just got this  
11 this morning. So, I haven't had an opportunity to look at it  
12 and evaluate the situation.

13 I will just make the following comments: The first  
14 paragraph, "Based upon my review of the reports and  
15 Affidavits...", and he is referring there to the reports and  
16 Affidavits done by Ms. Kilgore and Mr. Coleman. Obviously,  
17 that says to me that Mr. Beale has not done any independent  
18 research. He is relying on the underlying work of the two  
19 attorneys that we have previously had offered and rejected.

20 Mr. Frank Kilgore and that office are co-counsel  
21 for our applicants here. So it appears to be that it would  
22 be inappropriate for us to look to the claimants' own  
23 attorneys for an independent evaluation of the situation.

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1           Mr. Coleman, as I recall, although I don't have his  
2 letter in front of me, also relied on Joyce Kilgore's actual  
3 courthouse work. So, again, we are all ultimately going back  
4 to Joyce Kilgore, whose firm is co-counsel on this matter.

5           Mr. Coleman has also represented these folks  
6 independently in some instances. Some of the various deed  
7 documents that have been attached from time to time, just  
8 various things that Mr. Glubiack has provided, were prepared  
9 by Mr. Coleman. One of those deeds, I will just say from  
10 memory, gave me a great deal of trouble. It purported to be  
11 a quitclaim deed from parties, who according to the  
12 instrument itself, did not own any interest in the property.

13         There was no consideration cited in the document. Later in  
14 the document, it purported to convey general warranty title  
15 as opposed to quitclaim title and it recited within it that  
16 the reason it was being done was because one of the grantors  
17 had previously attempted a conveyance to another family  
18 member when she, in fact, did not own the property.

19           When you have deeds, for whatever reason done,  
20 conveying property when the party has admittedly have no  
21 ownership interest, that would cause me some concern. As it  
22 happened with that particular one, I did look then to the  
23 referenced earlier deed to see what had transpired there and,

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1 in fact, that deed, also perhaps prepared by Mr. Coleman, I'm  
2 not sure, was actually not with the mother's name on it. It  
3 was the mans ex-wife's name. So, you know, after looking at  
4 all that I have no idea what it was ultimately supposed to  
5 do.

6           Going to paragraph two there: "While there are no  
7 judgments against an Ira Ratliff...while there are  
8 judgments," excuse me, "against an Ira Ratliff, they do not  
9 apply to the interest held by Ira Gordon Ratliff." We have  
10 been provided a deed by Ira and Juanita Ratliff, I believe,  
11 conveying to Ira Gordon Ratliff and if that is the basis for  
12 Ira Gordon Ratliff's ownership interest, that was a deed of  
13 gift, no consideration. Liens would not be affected by a  
14 deed of gift and an intra-family conveyance particularly  
15 would be one that would require closer scrutiny.

16           "Connie Sue Ratliff, no judgments were listed  
17 against her with the exception of a Connie L. Ratliff and by  
18 Affidavit she has stated that this is not her." Well, I am  
19 not familiar with instances when you simply accept an  
20 Affidavit by a party that does not apply to them without  
21 collateral evidence to support that. For instance, you would  
22 perhaps accept an Affidavit in the situation where a husband  
23 or wife had passed away and a property was held by the

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1 entirety, therefore an Affidavit would supply the missing  
2 information about the death. Again, maybe in a divorce  
3 situation. But just to say, that's somebody else, that's not  
4 me, if that were the case, I would assume we could all do  
5 that regularly. But in any event, Connie Ratliff did have,  
6 according to the information provided to us by Mr. Glubiack,  
7 IRS liens, and by Joyce Kilgore as well and allegedly we have  
8 been provided a release of that. The only release provided  
9 has the name of Ira Gordon Ratliff on it. So, you know, I  
10 sort of assumed then that we were talking about maybe a  
11 spouse. But then Connie Sue Ratliff's Affidavit says that  
12 she's married to Eugene Ratliff. Then we have a deed from  
13 Eugene Ratliff to Connie Ratliff. If this is a husband to  
14 wife transfer, this is the type of transfer that requires  
15 closer scrutiny...scrutiny...because, again, liens that are  
16 gifts or...have reason to require closer scrutiny. A  
17 transfer like that will not necessarily lose any lien  
18 incumbrance.

19           We have Donald R. Ratliff with liens. My memory  
20 is that Donald Ratliff has passed away since this started.  
21 No personal representative has been nominated and brought in  
22 to any of these matters to receive money on behalf of Mr.  
23 Ratliff, and that is of some interest to me because Mr.

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1 Glubiack has said that he maintains that this is personality  
2 and not realty but he is not going to pursue that. Well, if  
3 it's personality, we can only pay to a personal  
4 representative. So we would need that. But in any event,  
5 that is a collateral matter. If Donald R. Ratliff has liens  
6 against the property in Rowe, Virginia, that is roughly seven  
7 miles from where Donald R. Ratliff in Oakwood would live, I  
8 drive a lot further than that to work every day. I  
9 don't...and these are post office box addresses that we've  
10 been provided primarily. These are not physical addresses.  
11 So, they really haven't told us anything.

12           The next paragraph: Jerry and Phyllis Raines. He  
13 has acknowledged that money has been paid.

14           Diana L. Graham's property. Now, throughout all of  
15 the civil lawsuit and the applications to the Board, this  
16 claimant has been presented as Diana and Curtis Graham, her  
17 husband. Yesterday I received a copy of a letter saying that  
18 this money would not be paid to Curtis Graham, that he had no  
19 liens against him, no other previous title examination or  
20 lien examination has given us any information about Curtis  
21 Graham. So this came up because if Mr. Beale in this report  
22 is simply relying on the underlying information provided by  
23 the previous reports, there wasn't anything in the previous  
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1 reports about Curtis Graham. So the question was asked, you  
2 know, "How can he say there are no liens against Curtis  
3 Graham if no one else has done that", and that's what you're  
4 looking at. So, Mr. Glubiack has provided a letter that  
5 says, "The deed conveys the property to Diana L. Graham only  
6 and no liens against Curtis. It would not attach  
7 individually. The funds are going to be paid to Diana  
8 Graham." Well, the application to the Board was made on  
9 behalf of Curtis Graham, as well. So for us to just now  
10 decide that he is not relevant to the proceedings that are  
11 actually before the Board, I think is inappropriate. The  
12 information that I have been provided by way of Mr. Glubiack  
13 referring me over to Penn Stuart shows that Diana Graham  
14 testified under oath that she and Curtis bought this property  
15 with primarily his wages from their marriage and actually  
16 that other members of the family have money in the property  
17 as well. So, yes he has provided us a deed that has her name  
18 on it alone, but this family has had approximately ten  
19 matters of record affecting the title to this property within  
20 the family since approximately...well, within the past  
21 twenty-two years. And that is what is of record that, you  
22 know, we have seen and the documents that have come across my  
23 desk. That was not a title search. That was not an

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1 exhaustive search and all of that. When you have ten  
2 recorded instruments affecting title within the same  
3 property, because it has all been within the same  
4 property...I mean within the same family, that is a situation  
5 that is troubling and requires closer scrutiny.

6 Anna Pearl Ratliff's interest, she's a surviving  
7 spouse of Donald, I believe, Ratliff. The only underlying...  
8 no, of Ira Ratliff.

9 PETER GLUBIACK: She is the widow of Donald.  
10 That's correct.

11 SHARON PIGEON: I am not sure that I have anything  
12 other than an Affidavit signed by her and also signed by her  
13 on behalf of Donald after his passing. Again, we don't have  
14 a personal representative and the widow cannot do that. I  
15 don't know that that...I don't know how she decided to do that,  
16 but that document would not suffice.

17 Geneva Ratliff, her ownership was apparently a  
18 joint ownership of Bill Ratliff. So as long as there's a  
19 question about Bill Ratliff's ownership or lien status, we  
20 would certainly be on notice about that.

21 The standard that the Board has to comply with is  
22 the prudence of a reasonable, careful and cautious person and  
23 the same care they would use in investing or conducting their  
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1 own business. That's the duty they have in conducting  
2 fiduciary business. I'm giving you this information, and I  
3 don't have a vote on this Board, I am not a member of this  
4 Board, but you can decide if the information that you've been  
5 provided meets that standard.

6           And we'd go to the paragraph, "Since this is  
7 somewhat an unusual circumstance, we are not in fact insuring  
8 title." He's made it very specific that he's not doing a  
9 document here that has really any relevance to title and he's  
10 relying on other things and that is despite whatever Mr.  
11 Glubiack said previously, he would provide us concerning the  
12 title and lien situation. But this is of concern to me,  
13 "...based on the Circuit Court final order which adjudicates  
14 ownership of the property of the above individuals." Now,  
15 I've looked at these decisions several times and neither the  
16 Circuit Court decision nor the Supreme Court decision, which  
17 is a relevant one at this point, if the Court...the Circuit  
18 Court no longer has jurisdiction of this matter after it has  
19 gone to the Supreme Court and it was not remanded back.  
20 Nothing in those decisions adjudicates the individual  
21 ownership of these tracts of land. What that case decides  
22 is who owns coalbed methane gas, the coal only owner or the  
23 surface owner. And the surface owner in these cases where

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1 they were successful, and not all of them were, were surface  
2 owners who had retained all of the other rights to the  
3 property except coal, very specifically except coal, and it's  
4 a very specific decision about that situation.

5           So, despite what Mr. Glubiack has told you, I  
6 disagree strongly that these decisions, whether you're  
7 looking at the Circuit Court one or the Supreme Court one has  
8 decided that Diana Graham or Anna Pearl Ratliff or Bill  
9 Ratliff or whoever individually owns this property. That  
10 issue was not placed before any of these courts. The parties  
11 simply litigated as surface owners and mineral rights owners.  
12 And in that capacity, the decision was made. No title chains  
13 has ever been done. Mr. Glubiack answered my question to  
14 that effect before this Board at his first appearance, that  
15 no, his clients had not done chain of title documentation.  
16 Neither these clients nor, at this point, any of the other  
17 ones that he has spoken with prospectively at his town  
18 meeting situation.

19           So, you know, I have no vote here. I only can say  
20 to you that I, again, printed out on 7/3/04 a listing of the  
21 title insurance companies authorized to do business in the  
22 State of Virginia and Land Title Company is not on this  
23 document. Now, I am not going to say anything except this  
24

1 could be wrong. I don't put a lot of faith in that sort of  
2 thing myself. But it would lead me to ask some questions  
3 about that and I have not had this document to evaluate  
4 before this morning, so I haven't done that.

5 PETER GLUBIACK: If I might respond.

6 BENNY WAMPLER: You may.

7 PETER GLUBIACK: Obviously, contrary to...I  
8 strongly disagree with Ms. Pigeon as strongly as she  
9 disagrees with me. The fact of the matter is this piece of  
10 litigation has been in the Courts for over four years. We  
11 brought this as an action on behalf of the surface owners  
12 against the coal owners. Mr. Sexton and I, a representative  
13 ...attorney for Harrison-Wyatt LLC., decided to make this as  
14 careful a piece of litigation as we possibly could. The  
15 deeds were introduced, admitted into evidence and the Judge,  
16 and I am strongly disagreeing with Ms. Pigeon, agreed and  
17 there never was a dispute, that surface owners were those  
18 individuals listed as Plaintiffs and petitioners. The Judge  
19 awarded the ownership of coalbed methane to the surface  
20 owners. He did, in fact, reach a finding that they were the  
21 surface owners subject to documents which were duly admitted  
22 into evidence with no objection. My clients, the  
23 petitioners, own the surface. They own the property. These

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1 matters are not open for dispute.

2           As you probably are aware, but if you're not, you  
3 should be, title in Southwest Virginia is a very complex  
4 issue. I will be the first to admit that in Ms. Graham's  
5 case, there was a piece of property that has had many  
6 convoluted turns. However, I will remind you once again that  
7 I am the happy recipient of a check of \$180,000 from Consol  
8 based on there being no disagreement about Diana Graham's  
9 ownership of this property less than two years old. That's  
10 not an issue. Yes, Mr. Coleman was involved with these  
11 individuals before, in just that very instance to explain  
12 that, in fact, Diana Graham is the rightful owner of this  
13 property subject to the deed that Ms. Pigeon has referenced.

14 Every...each and every one of these other individuals is  
15 owner of the property and is the recipient of an order  
16 ordering you, the Board, to distribute money to them.

17           Now, you do have a fiduciary obligation, but at  
18 some point reason has got to enter the process. You do not  
19 have to investigate who owns the surface. You have been told  
20 by a Circuit Court, Donald and Anna Ratliff, Diana Graham,  
21 Connie L. Ratliff...Connie Sue Ratliff, Ira Gordon Ratliff,  
22 Jerry and Phyllis Raines own the surface, pay them the money.  
23 Figure out what money is due them and pay it to them.

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1           JIM McINTYRE: Was that written in an order?

2           PETER GLUBIACK: It sure is. That's what the order  
3 was. Carefully written.

4           SHARON PIGEON: I haven't seen an order that says  
5 that.

6           PETER GLUBIACK: Well, we can go through the order  
7 in detail if you'd like, but the order was these individuals  
8 own the coalbed methane in these particular units, pay them,  
9 okay? The next issue is, are there any liens or judgments  
10 which would supercede the money that is on account in escrow  
11 for these people. Now, Ms. Pigeon and I strongly disagree.  
12 We apparently went to different property law classes.  
13 However, she blows off Ms. Kilgore simply because she  
14 practices with her father, she blows off Mr. Coleman simply  
15 for I don't know what reason, she has blown off me because I  
16 am obviously an interested biased party. Mr. Beale, an  
17 independent party, a very prominent commercial attorney...  
18 commercial real estate attorney in Richmond in the eastern  
19 part of the state, owner of a number of title companies, has  
20 decided to rely, rightfully so, on the opinions of a number  
21 of attorneys, has looked at the records, has looked at the  
22 documents Ms. Kilgore has, has comprehensively looked at  
23 things. Has he gone to Grundy? No. But he has looked at

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1 the records that were compiled and he has determined that in  
2 his opinion back with his title insurance company and his  
3 insurer and his E & O policy that this is okay. There are no  
4 claims or judgments against these people and if there are,  
5 you will be held harmless, defended and indemnified. You  
6 know, I can't say this, there are lots of convoluted terms.  
7 There are...this property has changed hands, that property  
8 has changed hands. This person has been involved, that  
9 person has been involved. But the fact of the matter is, the  
10 Circuit Court of Buchanan County ordered that the Gas and Oil  
11 Board, subject to your rules and regulations, disburse the  
12 money to these individual Plaintiffs because they do own the  
13 coalbed methane.

14           What had to be determined is how much money is on  
15 account. We know that now. That number is fixed, we know  
16 what that number is. The only issue left remaining is,  
17 what's reasonable in your fiduciary capacity to require these  
18 people to do? What's reasonable, you know, I'm being forced  
19 to agree and we've done it, is that if anything goes wrong,  
20 you'll be held harmless. These people own the property. The  
21 Court has ordered it. I don't know what more could be done.

22           BENNY WAMPLER: Let me ask you one question,  
23 though. In the lead-in paragraph of the letter presented to  
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1 us today, it says, "Pursuant to the request of Mr. Peter  
2 Glubiack to review the outstanding records pertaining to the  
3 claims listed below, I have examined the reports of Ms. Joyce  
4 Kilgore and Mr. Gerald Coleman, as well as supporting  
5 affidavits and title material." So, his indemnification  
6 would go to the extent, as I would read that, you tell me  
7 from an attorney standpoint, as to what he's reviewed they  
8 gave him and not what actually may be.

9           PETER GLUBIACK: If they're wrong, then presumably  
10 he goes against them. What he's saying is, he's relying on  
11 their reports. He's examined their reports, he's examined  
12 their backup documentation and the Affidavits supplied and he  
13 is issuing this indemnification. If he's wrong, and if there  
14 is a claim, he would presumably have to pay the Board for any  
15 loss that might be suffered. Now, clearly if Mr. Coleman and  
16 Mr. Kilgore or myself are wrong, then he has a right, and he  
17 has discussed this with them...I mean they have malpractice  
18 insurance. They have coverage. He has a right to proceed  
19 against them if they have misled him or we have incorrectly  
20 given him information or there exists a record out there of a  
21 judgment that they have flat missed, then, you know, that's  
22 why they were hired to look. That's what people do, that's  
23 what title searchers do, that's what real estate attorneys do

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1 everyday. You know, they guarantee that they are right, they  
2 searched the records. If there is in fact a judgment that's  
3 there that they missed, then that's why they have malpractice  
4 E & O coverage, they're on the hook. Mr. Beale...I say Mr.  
5 Beale, it's Land Title Company...Land Title Company is  
6 essentially saying, "I've relied on these. This is what the  
7 basis is. If they're wrong, you know, I'll go after them.  
8 But I've relied on them. I'm giving this opinion and I'll  
9 hold you harmless."

10 BENNY WAMPLER: I read his letter saying he will  
11 hold us harmless to the extent that these records are  
12 correct. I don't read it that they'll hold us harmless to  
13 the extent that they are not. I mean, you are the attorney  
14 but---

15 PETER GLUBIACK: I'm the attorney but I'm not your  
16 attorney. I'll have to get...I mean if that is unclear...I  
17 think that's clear. I can certainly clarify that. All I'm  
18 asking for today is guidance from the Board. I didn't ask  
19 you...I didn't expect you to rule on this letter---

20 BENNY WAMPLER: I understand.

21 PETER GLUBIACK: ---this morning. If you have some  
22 questions, that's fine. Your attorney's here and I'm going  
23 to talk to Mr. Byrum and if this needs to be tweaked a

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1 sentence or two, we can certainly do that. I'm clear because  
2 I have spoken with Mr. Beale. If it is unclear to the Board,  
3 that's fine. But what I need from the Board is, what do you  
4 want? And what I think you want is that you want to be held  
5 harmless from any claims, liens or judgments with regard to  
6 these petitioners or any other petitioners. That way when we  
7 come back, if I come back or another attorney comes back, the  
8 rules of the road are clear and we know what we have to  
9 provide. And I think that this is a step, and I will argue  
10 it was a complete answer, if it's not a complete answer, you  
11 know, we can answer it. But what I need is...I don't want to  
12 come back in thirty days, and sixty days and ninety days  
13 and keep doing this. What we need is...I think you are all  
14 intelligent people, you know what the issues are. Basically,  
15 your fiduciary worry and my opinion should be, if there's a  
16 claim or judgment or a lien out there, then we have to  
17 satisfy it ourselves.

18           I think this issue of what happened in '92 or what  
19 happened in '86 or what happened in '62, these people are the  
20 surface owners. In fact, the fee simple ownership of this  
21 property is not even the subject. The subject of this  
22 property is...this case is do you have to pay the money that  
23 has ordered by the Court to these people? I think the answer  
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1 is yes. You have been ordered by a Court to do it. You've  
2 accepted that, you've accepted the testimony of the  
3 petitioners and the Court order. Your question, and I  
4 understand, I disagree with some of it, is we don't want, in  
5 a year and a half, the IRS or X-Y-Z Company or Joe Smith, who  
6 has a judgment against one of these people, come back and say  
7 "you paid these people \$105,000; and I had a judgment for 20,  
8 you shouldn't have paid them, you should have paid me, too."  
9 If that happens, that's what this letter answers. And all I  
10 need to know is that we want an ironclad assurance, an  
11 indemnification and hold harmless letter that says that if  
12 that happens, we are covered. My job...that's what we do  
13 here. And if there's a question about that, you know, they  
14 get off the hook, Land Title gets off the hook if Coleman and  
15 Kilgore are wrong, I can answer that. That's not the case.  
16 He's just saying that's what I relied on. You know, if  
17 they're wrong, then he's going against them, I assume. But  
18 not...you know, that doesn't get them off the hook or the  
19 company off the hook.

20 BENNY WAMPLER: Other questions from the members of  
21 the Board?

22 (No audible response.)

23 SHARON PIGEON: I would like to make one comment in  
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1 response to that. The Court's order says, 'The surface owner  
2 shall be paid escrowed funds and future royalties from the  
3 production of coalbed methane on the mineral tracts at issue  
4 according to their interest shown in any existing or revised  
5 pooling order by the Virginia Gas and Oil Board.' Obviously,  
6 it's not just a matter of what they own as far as surface  
7 versus mineral. It's what has valid liens attached to it.  
8 That is what we're trying to determine.

9 PETER GLUBIACK: I...I missed...I missed the point.

10 SHARON PIGEON: The pooling orders noted that there  
11 were liens against these properties. That is what Judge  
12 Williams says they will be paid according to the pooling  
13 orders.

14 PETER GLUBIACK: I understand that and that's what  
15 you issued...you wanted...my point is the ultimate answer to  
16 that question is the satisfaction by a title company and  
17 insurance and the E & O carrier for the amount that, in fact,  
18 there are no liens or judgments or claims which would  
19 supercede my clients' interest in the property. That's what  
20 I have provided, you know, and that's what I would like you  
21 to say "that's what we want." So, the answer to that is,  
22 yes, okay, there are some liens noted and we've answered  
23 those issues.

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1           SHARON PIGEON: Today with this document?

2           PETER GLUBIACK: Yes. And it doesn't matter what  
3 you think, what I think, what Mr. Coleman thinks, what Ms.  
4 Kilgore thinks at this point. You've removed the  
5 subjectivity...I have removed the subjectivity pursuant to  
6 your request and the AG's request. We want an  
7 indemnification letter. We just don't believe you. We don't  
8 want to rely on you. We don't want to do whatever everybody  
9 else does. We're not going to take a title opinion. Let's  
10 just forget that word. What we want is we want an  
11 indemnification letter from a licensed title company saying,  
12 "if there are claims, if they are liens, if they are  
13 judgments, and we pay it and they turn out to be, you  
14 know...they turn out to be a claim against the Board, then  
15 you'll hold us harmless, you'll defend us and you'll pay it."  
16 That's what we've done. So, we've taken out the realm of  
17 subjectivity. We've eliminated this issue of, I don't like  
18 your opinion, I don't like your opinion, but maybe I'll like  
19 your opinion. I don't know how many opinions. We don't deal  
20 with that anymore. What we're dealing with is a title  
21 company has said if there are claims, liens, or judgments  
22 we'll indemnify you and hold you harmless. So, all this  
23 business of Ms. Kilgore's independence, Mr. Coleman's

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1 connection with the case, my lack of objectivity are off the  
2 table, you know.

3           What I'm asking you to do today, if nothing else,  
4 is to simply say we want assurance from a licensed, insured,  
5 reputable company that there are no claims or judgments ahead  
6 of us. We've been told by the Court to pay these people  
7 pursuant to their interest in the property pursuant to the  
8 pooling unit. There was some...there was some liens noted in  
9 the pooling orders of ten or twelve years ago. We've taken  
10 those...we've answered those. They're not there anymore.  
11 They have been taken care of. They've been satisfied.  
12 They've been released. They weren't correct. Regardless of  
13 Ms. Pigeon's and my disagreement about what constitutes a  
14 title opinion, that's not the issue. You're, I guess at this  
15 point, capable today of saying forget this title opinion  
16 thing. We want an indemnification letter from a title  
17 company. End of the story.

18           Now, we can go back if Mr. Byrum or Ms. Pigeon  
19 wants something, you know, slightly different language to  
20 make it clear. I think it's clear as a bell. But we  
21 can...we can rehash that in the next day or so and get that.

22 I have every confidence having talked to Mr. Beale and  
23 that's what he's doing and that's what he can do. The fact

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1 of the matter is, that's it. It's as good as it gets. It  
2 answers your questions. It removes any...any liability  
3 issues, any fiduciary obligation or issues from you.

4 BENNY WAMPLER: Well, you understand following my  
5 question to you, you had to say, "I presume he would do  
6 this." I mean, it doesn't say he would do that. That...I  
7 mean, we don't have to be told what he would take. But the  
8 concern I have, he seems to be relying strictly on what was  
9 provided---

10 PETER GLUBIACK: I understand.

11 BENNY WAMPLER: I'm not questioning what they  
12 provided. But the Board, by having a fiduciary  
13 responsibility---

14 PETER GLUBIACK: Right. I understand your  
15 question. And I---

16 BENNY WAMPLER: Let me finish.

17 PETER GLUBIACK: I'm sorry.

18 BENNY WAMPLER: The Board, by having a fiduciary  
19 responsibility, is on notice any time that there's a lien or  
20 judgment out there. Wouldn't you agree with that?

21 PETER GLUBIACK: I would agree.

22 BENNY WAMPLER: Whether or not we know about it,  
23 and we should have known about it if it's of record

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1 somewhere.

2                   PETER GLUBIACK: Well, certainly if it's in the  
3 pooling order and certainly it was of record earlier, that's  
4 fine. We answered that question. The issue that has been  
5 bantered about for the past four months is how to answer that  
6 question. My reluctant agreement is there...the ultimate  
7 answer to that is, get insurance. Get an indemnification  
8 letter...I say insurance, get an indemnification letter and a  
9 hold harmless clause from a title company backed up by E & O  
10 coverage. That has been given, Mr. Wampler. I understand  
11 your question. If that...you know, that can be resolved with  
12 a sentence, then I will...I will do that. I'm clear and if  
13 you need to be made clear with some additional language that  
14 we're not letting you...we're not seeking to be let off the  
15 hook if Mr. Coleman and Ms. Kilgore or Mr. Glubiack were  
16 wrong. We're relying on them and their expertise and their  
17 malpractice coverage to issue this indemnification letter and  
18 it's an unqualified indemnification letter on claims, liens  
19 and judgments.

20                   BENNY WAMPLER: Other questions from members of the  
21 Board?

22                   MASON BRENT: I'm still...Mr. Chairman, just direct  
23 this toward you, I'm still...still kind of murky on the

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1 title...the whole title issue. If indeed the Court order  
2 specifically commands us to distribute funds to these people,  
3 I'd like to see that myself. Is that available to us?

4 SHARON PIGEON: Here is the lower Court's opinion.  
5 I think maybe the Supreme Court opinion is attached---

6 MASON BRENT: Do they refer to these parties  
7 specifically?

8 SHARON PIGEON: No.

9 MASON BRENT: Did you not indicate that the Court  
10 order referred to these parties specifically in distributing  
11 the funds?

12 PETER GLUBIACK: Yes, the plaintiffs. Yes, by  
13 name. I mean, there are plaintiffs and there were defendants  
14 in this case. Judge Williams ordered the distribution to the  
15 surface owners. The surface owners were listed, testified,  
16 the deeds were introduced, the evidence was produced, and  
17 they were the surface owners. The orders...I mean, I don't  
18 know how much clearer it can be.

19 SHARON PIGEON: Not all of the plaintiffs were  
20 successful in this.

21 PETER GLUBIACK: No, there was...there was  
22 some...some withdrawal...some people...in fact, Carl Robinson  
23 who is sitting here before you, we agreed to continue that.

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1 We're in a disagreement about that right now. But the  
2 individuals who were left at the end of the case, those  
3 petitioners who were brought before the Board, the  
4 petitioners, were the recipients of the order by the Circuit  
5 Court, which was later affirmed by the Supreme Court as the  
6 rightful surface owners...I'm sorry, as the surface owners  
7 who under law rightfully own the coalbed methane and,  
8 therefore, should be paid the determined calculated amount,  
9 which is in escrow attributable to their percentage interest  
10 of the unit.

11           What was left for the Board to do was to direct Mr.  
12 Wilson, who then with CNX, determine what these percentages  
13 are. As I've said, in these particular parties cases,  
14 virtually all the gas was pumped in '98. Those numbers have  
15 been fixed for some time so that the numbers are not...  
16 there's not much confusion about that. So, I'm not...I mean,  
17 I don't know what confusion there can be. The people who  
18 were the subject of the order was affirmed by the Supreme  
19 Court, the Board was ordered to take steps to calculate the  
20 amounts due to these people and pay them.

21           SHARON PIGEON: Well, here's the opinion. Just  
22 show him.

23           PETER GLUBIACK: Well, okay. I mean, I've  
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1 got...are we going to debate the language of the Supreme  
2 Court this morning? I mean, what's---?

3 MASON BRENT: Well, no, let's not do that. That's  
4 really not my question. Back to what you were looking for,  
5 Mr. Glubiack, where I am is I want a level of comfort with  
6 regard to any judgments and that kind of thing. I also want  
7 to be comfortable that we're distributing these funds to the  
8 rightful owners, okay?

9 PETER GLUBIACK: Right.

10 MASON BRENT: And what I'm asking of our folks over  
11 here that support the Board is to provide me as a Board  
12 member, trying to exercise my fiduciary responsibility,  
13 provide me something from the AG's office that they say,  
14 "Yeah, you know, it's my opinion that this should give you  
15 good comfort on those two issues." That's what I need.  
16 That's what I want.

17 PETER GLUBIACK: Well, I was not aware and have not  
18 been aware that there has ever been a dispute about the  
19 rightful owners. We've done that. It has been to Court. It  
20 has been litigated.

21 MASON BRENT: That's fine.

22 PETER GLUBIACK: It has been heard. I will...I  
23 guess, if necessary, I will get with Mr. Byrum and Ms. Pigeon

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1 and establish the language that there has never been any  
2 question about the rightful owners. The rightful owners have  
3 been determined by a Court. I mean, that certainly wasn't an  
4 issue with Mr. Sexton and Harrison-Wyatt and would have been  
5 raised. I've proffered to you, for instance, the issue of  
6 Diana Graham's ownership has been previously litigated and  
7 has been conceded and a judgment has been paid. Consol is  
8 not in the business usually of paying out \$180,000 to people  
9 who are questionable owners. I mean, that...that...I hate to  
10 do things to reinvent the wheel. We didn't go out  
11 and...well, our minimal obligation was to introduce title, a  
12 vesting deed with a property description during the trial  
13 for these people who were the petitioners, only the  
14 petitioners before this Board. A number of other parties  
15 were dismissed.

16           We started with a cast of thousands in this case.  
17 We got rid of half a dozen. In fact, by Mr. Swartz's  
18 agreement, we got rid of Consol because they weren't a  
19 necessary party. The necessary parties to this case were the  
20 people who owned the surface pursuant to a title...to a  
21 vesting fee simple deed and the owner of the coal pursuant to  
22 a severance deed successor, you know, many hundred years  
23 later. We determined it was Harrison-Wyatt. We determined

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1 it was my clients, the petitioners, here. That was...you  
2 know, Judge Williams was...we don't want any messiness about  
3 who is who here, and we did that. We brought in the deeds.  
4 The record is full of those documents. They were accepted  
5 into evidence. You know, I...I'll take it up with the AG's  
6 office, but I just don't think that's an issue. My clients  
7 are the surface owners, and again, as Ms. Pigeon just read,  
8 the Court ordered the payment of these people according to  
9 their respective interest in the pool, not whether they own  
10 the property or not. That wasn't...that wasn't an issue.  
11 That was done.

12           So, I can do nothing other than say I will take  
13 that up with them, but I don't think that's an issue. What I  
14 thought we were here for today was the issue of, could there  
15 be any superceding liens or claims which might cause the  
16 Board problem down the road? The answer to that, in my  
17 opinion and the title company's opinion and Mr. Coleman's  
18 opinion, everybody's...Mr. Byrum's opinion at the AG's  
19 office, was an indemnification letter. I wish he was here.  
20 He said he was going to be here. He's not here. But that  
21 was the answer. It was the answer on last Friday. It was  
22 the answer yesterday when I spoke to him on the phone.

23           We didn't have this until today. So, I don't...I

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1 don't expect you to say, you know, "I bless this letter."  
2 But what we do need is, rather than waste more time, a clear  
3 guidance from the Board saying we want to be sure that, you  
4 know...and I don't know mind, I guess, we'll have to  
5 prove...we did prove, but these people own it and these  
6 people don't have any claims or judgments.

7           SHARON PIGEON: Just to clarify what you just said.  
8 I was in communication with Roger Chafe and John Byrum in  
9 the AG's office yesterday afternoon until after 5:00---.

10           PETER GLUBIACK: Okay.

11           SHARON PIGEON: ---they did not tell me they had  
12 reached any sort of agreement. John Byrum did not say he  
13 would be attending this Board meeting. I called Roger Chafe  
14 this morning after you handed me this letter to determine if  
15 they had had an opportunity to review this or if this were  
16 acceptable or what. Their position was, and he said, "We  
17 have not have an opportunity to see this letter and we have  
18 no opinion on it until we do see it." So, I think what you  
19 have just stated on the record is quite misleading.

20           PETER GLUBIACK: I will say once again to you, Ms.  
21 Pigeon, I spoke to Mr. Byrum and he indicated to me that if  
22 they got an indemnification letter, that would seem to answer  
23 the question. Did we reach a final agreement? No. Did I

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1 say, "John, I break down. I finally...I will get you an  
2 indemnification letter. Will that answer it?" He said,  
3 "Yeah. I don't see what else you could do. That would  
4 answer the question." That's what he said.

5 SHARON PIGEON: And you said he said he would be  
6 here today.

7 PETER GLUBIACK: No, I did not. Well, he told me  
8 last week twice he was going to be here. Yesterday  
9 afternoon, he told me he had a brief to do and he would not  
10 be here. If I implied otherwise, I am mistaken. But until  
11 yesterday when I spoke to him, he was definitely going to be  
12 here because we've been directed to direct all correspondence  
13 to Mr. Byrum and that's what we've been doing.

14 BENNY WAMPLER: That was because of the lawsuit---.

15 PETER GLUBIACK: That was because of the lawsuit.

16 BENNY WAMPLER: ---which you've non-suited now.

17 PETER GLUBIACK: Which I have non-suited and  
18 dismissed.

19 BENNY WAMPLER: Ms. Pigeon is the Board's  
20 representative.

21 PETER GLUBIACK: I was told last week that Mr.  
22 Chafe and Mr. Byrum were still involved and that's where the  
23 correspondence are to go.

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1                   BENNY WAMPLER: Okay. I'm just clarifying that  
2 that early on that was my understanding. I've not been told  
3 different. Just so we have that...that part of the record  
4 clear. I mean, I don't know if someone else has been  
5 designated to represent this Board. Ms. Pigeon is the  
6 representative of this Board.

7                   PETER GLUBIACK: They...let me be clear, they  
8 don't...never have I been told what we say goes. What I've  
9 been told is you're negotiating with us and we'll tell you  
10 what we think is appropriate. My last conversation with Mr.  
11 Byrum was quite clear, "Look, let's just get to the bottom of  
12 this. An indemnification letter will answer the questions."  
13 And so when I spoke to Mr. Beale yesterday, we went through  
14 the language. We attempted to draft what I considered to be  
15 a very clear indemnification letter saying that's it. If  
16 there are claims or judgments or liens against these people,  
17 we will handle it. If we lose, we will pay you. Now, I  
18 think the first paragraph...I understand your question, Mr.  
19 Wampler, but the first paragraph is there to say, this didn't  
20 come out of thin air. I did rely on their opinions. I did  
21 rely on what they told me. I relied on their supporting  
22 documentation and the copies of the records they got from the  
23 Courthouse. But I will make it crystal clear that isn't an

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1 out. That isn't a way to get off the hook. That's just...I  
2 didn't fashion this out of thin air. So, that's what you're  
3 capable of doing today. We've been down a rocky road. But I  
4 implore you to just make a decision today that we want to be  
5 held harmless, we want to be indemnified, and we want to be  
6 clear that we're not going to be on the hook and that's  
7 what...you know, if we can satisfy the AG's office that  
8 that's what this letter says, then we're done.

9           BENNY WAMPLER: Well, I think Mr. Brent said it  
10 best, we're trying to make sure we're satisfying our  
11 fiduciary responsibilities to this Board to insure that the  
12 money is being paid and it's being paid properly, and nothing  
13 more than that. We'd be happy...I'd be happy to sign orders  
14 right here today if we...if we were clear on all of that.

15           PETER GLUBIACK: Well, I'd like you to, Mr.  
16 Wampler, but I don't think we're going...I'm not that  
17 optimistic of a guy. But I think that we've bent over  
18 backwards to do everything you've asked us to do, ultimately  
19 resulting in an indemnification letter and we're quibbling  
20 over documents that really are meaningless at this point.  
21 They're Mr. Beale and the title company's problem. If I'm  
22 wrong, if Ms. Kilgore's wrong, if Mr. Coleman's wrong, then  
23 he's on the hook and he's going to come after us. But the

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1 Board has been...I mean, that's the classic language,  
2 indemnify and hold harmless and that's what you've been told.

3 BENNY WAMPLER: Any other questions from members of  
4 the Board?

5 JIM McINTYRE: It appears to me that we're  
6 discussing two different insurances: Whether you want a full  
7 blown title policy or we want a letter of indemnification of  
8 insurance, is that correct? You've already said that the  
9 Court---

10 PETER GLUBIACK: I suppose we are, sir. I'd  
11 strongly disagree with that. I mean---

12 JIM McINTYRE: I know, but I mean that's what it  
13 appears to me like the Board is looking for a title policy  
14 and you're offering a title...am I incorrect on that  
15 assumption?

16 PETER GLUBIACK: Well, what I would...and, I guess,  
17 I'm going to lose it here. I'm really sorry. But---

18 JIM McINTYRE: Don't lose it.

19 PETER GLUBIACK: I mean, that's not the deal. We  
20 have a Court order that says, pay these folks according to  
21 their respective interest.

22 JIM McINTYRE: Yeah, I've heard---

23 PETER GLUBIACK: You, the Board, had a concern  
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1 about whether there were liens or judgments or any claims  
2 against these people---.

3 BENNY WAMPLER: No. Liens of record, just for  
4 clarification.

5 PETER GLUBIACK: Well, we've gone further, if  
6 there's anything. I mean, you know, but that's right.

7 BENNY WAMPLER: But what there...if they were on  
8 record for the Board.

9 PETER GLUBIACK: There were some liens of record  
10 that we...at least the title company is satisfied, either  
11 don't exist or are against the wrong people or have been  
12 released. They're no longer of any force and effect. That's  
13 what you're being told. So, I don't think, respectively,  
14 that a full blown title opinion...title insurance policy,  
15 which could costs thousands of dollars...thousands and  
16 thousands of dollars is necessary, is a part of your job, is  
17 relevant...no...you know. And again, I guess what I'm  
18 concerned about is, this is...again, here we are...we're  
19 moving the ball. You know, we were here four months ago  
20 try...I came here in January. I came here last fall to say  
21 please come up with some policy so we don't spend a year  
22 quibbling about this stuff. I came here in April

23 with a Supreme Court order. I asked you guys to distribute  
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1 the money. We went through the petitions. We went through  
2 the argument. You ordered the money distributed. You had  
3 some queasy concern, rightfully so, about some fiduciary...  
4 fiduciary obligations. What about liens? What about  
5 judgments? I said I would provide a title a opinion. I  
6 provided, in my opinion, not one, but three. None of which  
7 were accepted by Ms. Pigeon. The ultimate question was,  
8 okay, what will do it?

9

10 I wish Mr. Byrum were here today. He's not. Ms.  
11 Pigeon and I seem to have a disagreement about what he said.  
12 But he told me, "I think the indemnification letter is it.  
13 I don't know what else...you know, that answers the  
14 question." So, I called Land Title. I spoke to Mr. Beale.  
15 He was satisfied that he had all the relevant information.  
16 All the liens, judgments and claims were taken care of. He  
17 issued this letter. Mr. Wampler raises a concern regarding  
18 some language, we'll address that. You know, it's an  
19 ironclad indemnification, if there are liens or judgments or  
20 claims on the record that effect title to this property that  
21 result in a judgment...that is...results in a loss to the  
22 Board...I mean, those are insurance language types of terms,  
23 but if there is a loss to the Board, they are on the hook.

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1 Okay, that's the answer. That's I think what your obligation  
2 is. That's satisfying anything you could possibly be  
3 required to do in your fiduciary obligation. Reinventing old  
4 title issues, old questions that presumably could have been  
5 raised and weren't, it's just not the time nor the place to  
6 do that. You're not a court of law. You're not a title  
7 company. You're not a...you're a Board administering a fund.  
8 You've been ordered to pay the fund out to these people.  
9 You have concerns about anything that might intercede ahead  
10 of your paying these people. That's, I think, what this is  
11 about. I'd ask you to establish a policy that says, "We want  
12 to be sure that if we pay money out to these people, that  
13 there's no liens, claims or judgments ahead of them, and that  
14 we're protected if we pay the money to them." And that's  
15 what you've ordered done. You've ordered the money paid  
16 subject to a title opinion. What we're here this morning  
17 about is not reinventing the wheel, but deciding how best do  
18 you answer the question, if there are liens or judgments or  
19 claims out there, do you protect yourself? I'm here to offer  
20 to you the best that can be done is an indemnification letter  
21 from a title company saying, "We're satisfied. You should be  
22 satisfied. But if you're not, and if we're wrong, we'll pay  
23 you."

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1           BENNY WAMPLER: Other questions or comments?

2           (No audible response.)

3           BENNY WAMPLER: Mr. Swartz, do you have anything  
4 further?

5           MARK SWARTZ: No.

6           BENNY WAMPLER: Is there any action the Board  
7 thinks we should take?

8           DONALD RATLIFF: I'd move to table it until October  
9 until all the clouds are removed, Mr. Chairman, all questions  
10 are answered and the Attorney General's office is satisfied.

11           PETER GLUBIACK: Given the fact that...well, if I  
12 might interject, I don't want to wait two more months and be  
13 told that you want a title insurance policy. If that's what  
14 you want, I can disagree with you, but I may as well get it  
15 at the cost of many, many thousands of dollars. If...and I'm  
16 going to argue with the AG's office. I...I...you know, for  
17 all I know, we've got to go Court to resolve this. That  
18 looks like that's what's going to have to happen. I'm sorry,  
19 but I think it's clearly within your purview to say this is  
20 enough. But you don't apparently want to do that. You  
21 apparently don't want to make a decision. So, if...I guess,  
22 you know... maybe at least do this, if you want a title  
23 policy, ask for a title policy, nothing else will do. If I

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1 can get one of those, then we're done. I can...I can go to  
2 court and fight with you about later whether you need it or  
3 not. But I can at least get this part done. To be this far  
4 down the road and have you say you don't know what to do is  
5 inexcusable.

6 BENNY WAMPLER: I haven't heard anybody say.

7 BILL HARRIS: No.

8 DONALD RATLIFF: I'm not for sure that we said  
9 that. I made a motion, Mr. Chairman.

10 BENNY WAMPLER: I understand. We have a motion on  
11 the floor. Is there a second?

12 MASON BRENT: I second the motion.

13 BENNY WAMPLER: The motion is seconded. Any  
14 further discussion?

15 (No audible response.)

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

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have unanimous approval to be  
22 continued until October. The next item on the agenda is a  
23 petition from Equitable Production Company for a well

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1 location exception---

2 JIM KISER: Mr. Chairman, we're going to let CNX go  
3 ahead and do theirs. If that's okay with the Board.

4 MARK SWARTZ: Thank you, Jim.

5 JIM KISER: Then we'll follow up on the last part  
6 of the docket.

7 BENNY WAMPLER: Okay. The next item on the agenda  
8 is a petition from CNX Gas Company, LLC for pooling of a  
9 coalbed methane unit BB-31, docket number VGOB-04-0817...I'm  
10 sorry, 1317. I'm going to have to get longer arms. We'd ask  
11 the parties that wish to address the Board in this matter to  
12 come forward at this time.

13 MARK SWARTZ: Mark Swartz and Les Arrington. Mr.  
14 Chairman, if there's no objection, I'd ask the Board to  
15 consider combining this docket with the next one. These are  
16 the two Oakwood units that we have.

17 BENNY WAMPLER: Okay. We'll also call docket  
18 number VGOB-04-0817-1318. We'd ask the parties that wish to  
19 address the Board in this matter to come forward as well.

20 MARK SWARTZ: Mark Swartz and Les Arrington on that  
21 one.

22 BENNY WAMPLER: The record will show there are no  
23 others. You may proceed. I'll give the Board a few minutes

24

--

1 break after while, but we'll go ahead and---.

2 BILL HARRIS: Excuse me, what was the other---?

3 BENNY WAMPLER: Thirt...it's fourteen and fifteen  
4 on yours.

5 BILL HARRIS: And fifteen?

6 BENNY WAMPLER: Yes.

7 (Leslie K. Arrington passes out exhibits.)

8 BENNY WAMPLER: In fact, Ms. Pigeon got called  
9 away. We might should take a break now. She had to leave  
10 the room. So, we'll...we'll go ahead and take a ten minute  
11 break.

12 (Off record.)

13 BENNY WAMPLER: Back on the record. The record  
14 will show there are no others. You may proceed.

15

16 LESLIE K. ARRINGTON

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. SWARTZ:

19 Q. Les, would you state your name for me,  
20 please?

21 A. Leslie K. Arrington.

22 Q. Would you be sworn.

23 (Leslie K. Arrington is duly sworn.)

24

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1 Q. Who do you work for?  
2 A. CNX Gas Company, LLC.  
3 Q. Okay. Is CNX Gas Company, LLC a Virginia  
4 General Partnership?  
5 A. Yes, it is.  
6 Q. Is it a wholly owned indirect subsidiary of  
7 Consol Energy, Inc.?  
8 A. Yes, it is.  
9 Q. Is it authorized to do business in the  
10 Commonwealth?  
11 A. Yes, it is.  
12 Q. Who is the applicant on these two Oakwood  
13 units?  
14 A. CNX Gas Company.  
15 Q. Okay, and is CNX requesting that someone be  
16 appointed designated operator if these applications are  
17 approved?  
18 A. CNX Gas Company.  
19 Q. Okay. And with regard to the operator  
20 issue, is...has CNX authorized with the Commonwealth of  
21 Virginia and...generally, and with the DMME in particular?  
22 A. Yes, it is.  
23 Q. And does CNX have a blanket bond on file  
24

1 with the DMME?

2 A. Yes, it does.

3 Q. These are two Oakwood I units, is that  
4 correct?

5 A. Yes.

6 Q. And they're both 80 acre units?

7 A. Yes.

8 Q. And you're proposing how many wells?

9 A. One.

10 Q. And in both of these cases, is that...is the  
11 proposed well located in the drilling window?

12 A. Yes, it is.

13 Q. What did you do to notify the folks that  
14 you're seeking to pool that there would be a hearing today?

15 A. We published in the Bluefield Daily  
16 Telegraph for BB-31 on July the 23rd, 2004; and BB-33, again  
17 in the Bluefield Daily Telegraph on July the 23rd, 2004.  
18 Mailed by certified mail return receipt requested on July the  
19 16th, 2004.

20 Q. In both instances?

21 A. In both instances, yes.

22 Q. Have you filed this morning with...with Mr.  
23 Wilson proofs of publication and your certificates with

24

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1 regard to mailing?

2 A. Yes, we have.

3 Q. Do you want to add any respondents to either  
4 of these pooling applications or dismiss any today?

5 A. No.

6 Q. As will become apparent when we're  
7 discussing the interest to be pooled here, you have...you  
8 have leased or acquired...you, meaning the applicant, have  
9 leased or acquired most of both of these units, is that  
10 correct?

11 A. Yes, we have.

12 Q. And what are the terms that you have  
13 traditionally offered and have offered the folks in these  
14 units to lease their interest?

15 A. For a coalbed methane lease, it's a dollar  
16 per acre per year with a five year paid up term; and a one-  
17 eighth production royalty.

18 Q. And would you recommend those terms...those  
19 lease terms to the Board for folks who might be deemed to  
20 have been leased if there's a pooling order entered?

21 A. Yes, we would.

22 Q. Turning first to BB-31, if you would, which  
23 is docket item fourteen. Could you tell the Board what  
24

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1 interest you've succeeded in acquiring before today with  
2 regard to coalbed methane and what you're seeking to pool?

3 A. Yes, we've leased 99.8907% of the coal, oil  
4 and gas. We're seeking to pool 0.1093% of the coal, oil and  
5 gas owner's claim to coalbed methane.

6 Q. Actually, I think there's...I may have  
7 misheard you, but I think the number is different with regard  
8 to coal than from oil and gas, Les.

9 A. It is, I'm sorry.

10 Q. If you'd look at---?

11 A. It is.

12 Q. If you'd look at Exhibit A, page two, let's  
13 do that again.

14 A. It is.

15 Q. What interest---?

16 A. Yes.

17 Q. ---are you seeking to pool?

18 A. Yes, for the coal owner, we have 99.8907%.  
19 The oil and gas owner is 98.8907%.

20 Q. Okay.

21 A. And we're seeking to pool 0.1093% of the  
22 coal owner's claim to coalbed methane, and 0.2093% of the oil  
23 and gas owner's claim to coalbed methane.

24

--

1 Q. It was roughly a tenth of a percent  
2 difference?

3 A. Yes.

4 Q. Okay. This...as we kind of work through the  
5 application here. In Tract 4 you've got an address unknown.  
6 So, you're going to require an escrow for that, if you look  
7 at Exhibit B-3?

8 A. Yes. Yes.

9 Q. Okay. And then the next exhibit, next page  
10 of B-3, also in Tract 4 it's the same recurring address  
11 unknown, correct?

12 A. Yes.

13 Q. So, we're just talking about Tract 4 with  
14 somebody who has an address unknown, right?

15 A. Yes.

16 Q. Okay. Then you've got a well cost estimate.

17 A. Yes, we do.

18 Q. What's the estimate of cost for BB-31?

19 A. \$219,050.52 to a total depth of 2,093.61  
20 feet. The permit number is 6156, and that well was drilled  
21 May 24, 2004.

22 Q. Okay. Now, you filed an Exhibit E with the  
23 Board?

24

--

1 A. Yes, we did.

2 Q. Okay. And that Exhibit E shows a conflict  
3 in Tract 3A, is that correct?

4 A. Yes, it does.

5 Q. And it shows a potential conflict...well, it  
6 shows a conflict in 3C, but also a title issue on the oil and  
7 gas side, is that correct?

8 A. That's correct, it does.

9 Q. So, with regard to 3C there would be two  
10 reasons to escrow?

11 A. Yes.

12 Q. And then you filed an Exhibit EE, is that  
13 correct?

14 A. Yes.

15 Q. And that pertains to Tract 3B?

16 A. Yes, it does.

17 Q. And are you requesting that in the event  
18 that the Board pools this unit, they would allow the operator  
19 to pay the conflicting claimants identified in Exhibit EE in  
20 accordance with their split agreement rather than escrowing  
21 their funds?

22 A. Yes, we would.

23 Q. Now, turning to the next item on the docket,  
24

--

1 which is docket item fifteen---

2 BENNY WAMPLER: Wait just one second. About the  
3 unknown---

4 MARK SWARTZ: Okay.

5 BENNY WAMPLER: ---should that be on E?

6 MARK SWARTZ: We use our Exhibit normally for  
7 conflicts and historically have not listed unknowns. So, I  
8 usually---

9 SHARON PIGEON: We have changed that.

10 MARK SWARTZ: Okay. So, you want us to do that.

11 SHARON PIGEON: Anything that has to be escrowed,  
12 we want on E.

13 MARK SWARTZ: Okay, you need to make a note of  
14 that.

15 LESLIE K. ARRINGTON: Okay.

16 SHARON PIGEON: Anita knew that.

17 MARK SWARTZ: Well, we live in different places.

18 SHARON PIGEON: I know.

19 MARK SWARTZ: But we'll take care of that.

20 BENNY WAMPLER: You can proceed.

21 MARK SWARTZ: Fair enough. Not a problem. I think  
22 that simplifies things as well, okay.

23 Q. With regard to fifteen then, Les, if you  
24

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1 would turn to the interest, Exhibit A, page two, or your  
2 notes that you've provided the Board. What...what have  
3 you...what has the applicant been able to acquire in this  
4 unit with regard to coalbed methane ownership and/or claims,  
5 and what are you seeking to pool?

6 A. Okay. On BB-33, we have 98.7625% of the  
7 coal, oil and gas, coalbed methane interest leased. We're  
8 seeking to pool 1.2375% of the coal, oil and gas owner's  
9 claim to coalbed methane.

10 Q. Okay. Then if we look at Exhibit B-3, we  
11 don't have any unknowns, do we?

12 A. No.

13 Q. And then turning to the well cost estimate,  
14 what's your estimate?

15 A. \$218,589.44, to a depth of 2,074.18 feet.  
16 The permit number is 6213, and it was drilled June 29, 2004.

17 Q. Okay. And you've got an exhibit...there's  
18 no escrow for conflicts here because the person you're  
19 pooling owns the minerals in fee, correct?

20 A. That's correct.

21 Q. But there...but there is a Exhibit EE. With  
22 regard to Tract 2, are you asking that if the Board approves  
23 this application, they allow the folks identified on Exhibit  
24

1 EE to be paid directly by the operator as opposed to  
2 escrowing their funds in accordance with the terms of their  
3 split agreement?

4 A. Yes, we are.

5 Q. With regard to both of these units, is it  
6 your opinion that the plan for development that's disclosed  
7 by the applications and related exhibits, which is  
8 specifically to drill one frac well in the drilling window of  
9 each unit is a reasonable plan to develop coalbed methane?

10 A. Yes, it is.

11 Q. Is it your opinion that if you take the  
12 leasing efforts that you've been successful in and the leases  
13 that you already have and then you combine that with a  
14 pooling order affecting the people that you have identified  
15 as respondents in both of these case, that those two things,  
16 the leasing, the voluntary leasing and the voluntary  
17 agreements, coupled with a pooling order will serve to  
18 protect the correlative rights of all claimants and owners  
19 that you've been able to identify of record in both of these  
20 units?

21 A. Yes, it will.

22 Q. Okay. That's all I have.

23 BENNY WAMPLER: Questions from members of the  
24

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Is there a motion?

4 JIM McINTYRE: I make a motion to approve.

5 DONALD RATLIFF AND BILL HARRIS: Second.

6 BENNY WAMPLER: Second. Any further discussion?

7 (No audible response.)

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

10 (All members signify by saying yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval.

14 MARK SWARTZ: To sort of alert you, the next four  
15 units, which would be sixteen through nineteen, are Nora  
16 units and, you know, assuming there's an interest in putting  
17 those together, we'd be in favor of that.

18 BENNY WAMPLER: Okay. I'll go ahead and call  
19 dockets number VGOB-04-0817-1319, VGOB-04-0817-1320, 1321,  
20 and 1322. We'd ask the parties that wish to address the  
21 Board in these matters to come forward at this time.

22 MARK SWARTZ: Mark Swartz and Les Arrington on  
23 behalf of the applicant.

24

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1           BENNY WAMPLER: The record will show there are no  
2 others. You may proceed.

3           MARK SWARTZ: I would like to incorporate the  
4 testimony with regard to the applicant and the operator and  
5 with regard to lease terms, if I might, from the two that  
6 we've just heard.

7           BENNY WAMPLER: That will be incorporated.

8

9                                   LESLIE K. ARRINGTON

10                                   DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12           Q.       Les, let's talk a little about what you did  
13 to notify the folks that you've listed as respondents in  
14 these four units of the hearing today.

15           A.       Okay, for well...for unit BE-99, we  
16 published it in the Bluefield Daily Telegraph on July the  
17 22nd, 2004. It was mailed by certified mail July 16, 2004.  
18 Unit BF-103, we published in the Bluefield Daily Telegraph on  
19 July the 22nd, 2004; and mailed certified mail July 16, 2004.  
20 Unit BF-104, we published in the Bluefield Daily Telegraph  
21 July the 21st, 2004, and mailed certified mail July the 16th,  
22 2004. Unit BG-104, published in the Bluefield Daily  
23 Telegraph July the 22nd, 2004, and mailed certified mail July

24

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1 16, 2004.

2 Q. With regard to these four Nora units, do you  
3 want to add any respondents today or dismiss any respondents?

4 A. No.

5 Q. Okay. Starting...oh, and have you filed  
6 proofs of publication and your certificates with regard to  
7 mailing and copies of the green cards and so forth with Mr.  
8 Wilson this morning?

9 A. Yes, we have.

10 Q Okay. Starting with BB-33, which is docket  
11 item...I'm sorry, sixteen...docket item sixteen, which is BE-  
12 99, okay. Let's...that's a Nora unit, correct?

13 A. Yes, 58.79 acres.

14 Q. Okay. And what's the proposal to develop  
15 this lease or this unit?

16 A. One frac well in the unit.

17 Q. Okay. And that...the well in this instance  
18 with regard to BE-99 is located inside the window?

19 A. Yes, it is.

20 Q. Okay. Let's turn to the information with  
21 regard to the interest that you've been able to acquire and  
22 the interest that you're seeking to pool. Would you tell the  
23 Board about that?

24

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1           A.       Yes.     BE-99, we have 100% of the coal  
2 owner's claim to coalbed methane leased; 99.437% of the oil  
3 and gas owner's claim to coalbed methane. We're seeking to  
4 pool 0.5613% of the oil and gas owner's claim to coalbed  
5 methane.

6           Q.       If you would turn to the estimated cost with  
7 regard to the well, what's your estimated cost?

8           A.       \$215,019.74 to a depth of 1923.75 feet.  
9 It's permit number is 6195, drilled June the 22nd, 2004.

10          Q.       And with regard to the requirement of  
11 escrow, you filed an Exhibit E, is that correct?

12          A.       Yes, we have.

13          Q.       Okay, and with regard to Tract 2A, there's a  
14 conflict requiring escrow?

15          A.       That's correct.

16          Q.       And with regard to Tract 2B, there's both a  
17 conflict and a title issue on the oil and gas fee side that  
18 would require escrow, is that correct?

19          A.       That's correct.

20          Q.       Turning to BF-103, this is also a Nora unit,  
21 right?

22          A.       Yes, it is.

23          Q.       What's the acreage?

24

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1           A.       58.77.

2           Q.       And the development proposal?

3           A.       One well within the drilling unit.

4           Q.       And in all the instances, we're talking

5 about a frac well?

6           A.       Yes, it is.

7           Q.       Okay. Turning to the Exhibit A, page two,

8 would you tell the Board what interest the applicant has been

9 able to acquire and what interest you're seeking to pool

10 here?

11           A.       Yes. We have 100% of the coal owner's claim

12 to coalbed methane leased, 69.236% of the oil and gas owner's

13 claim to coalbed methane, and we're seeking to pool 30.764%

14 of the oil and gas owner's claim to coalbed methane.

15           Q.       And this is a...the person that you're

16 seeking to pool here has...has essentially a fee mineral

17 claim?

18           A.       Yes.

19           Q.       Wait a minute. I'm not sure, hold on. No,

20 she doesn't. Strike that. Let's look at...the person you're

21 seeking to pool here is in two tracts, correct?

22           A.       Yes.

23           Q.       3A and 3B?

24

1 A. Yes.

2 Q. Okay. Turning to your well cost estimate,  
3 Exhibit C, what's your estimate?

4 A. \$228,774.36, to a depth of 2503.38, permit  
5 number is 6190 and it was drilled July the 15th, 2004.

6 Q. Now, looking at escrow requirements, you  
7 filed an Exhibit E, correct?

8 A. Yes, we have.

9 Q. Okay, with regard to Tract 3A, there's a  
10 escrow requirement because of a conflict and also because of  
11 a title issue on the oil and gas fee ownership side, is that  
12 right?

13 A. Yes. That's for 3A, 3B, 3C and 3D.

14 Q. Okay. The same requirement and same title  
15 issue in each one of those?

16 A. Yes, it is.

17 Q. Going to docket item eighteen, which is BG-  
18 104. Get that in front of you.

19 A. That would be BF.

20 Q. I'm sorry, did I get them out of here? I'm  
21 sorry, okay.

22 BENNY WAMPLER: On that last one, I'm sorry to go  
23 back, but when you said the same title issue on all of those  
24

--

1 tracts---?

2 MARK SWARTZ: There's a title conflict.

3 BENNY WAMPLER: Different parties?

4 MARK SWARTZ: Right. But I meant there's a title  
5 conflict issue, sorry.

6 BENNY WAMPLER: Okay.

7 MARK SWARTZ: Okay.

8 Q. Let me look at the docket here, Les. BF-104  
9 is the next one on the docket, right---?

10 A. Yes.

11 Q. ---which is eighteen, okay. I had it  
12 misnumbered.

13 A. Uh-huh.

14 Q. Okay. With regard to BF-104, that's a Nora  
15 unit as well?

16 A. Yes. 57.25 acres.

17 Q. And what's the plan?

18 A. One well within the drilling window.

19 Q. Okay. And what's...what's your cost  
20 estimate with regard to that well?

21 A. The cost estimate is \$235,840.37. This is  
22 permit number 6233, and I failed to put a copy of the  
23 estimate within the package. I'll submit that. I don't know

24

--

1 how I done that.

2 Q. Now, just with regard to that, however, if  
3 we look at page two of the notice of hearing, did that, in  
4 fact, state the cost estimate with regard to this well?

5 A. Yes, it did.

6 Q. Okay. And, again, in the application  
7 paragraph ten, was there a statement with regard to the cost  
8 estimate?

9 A. Yes, it was.

10 Q. Okay, are you going to supplement the record  
11 to provide---

12 A. Yes, I will.

13 Q. ---the Board with the actual Exhibit C?

14 A. We will.

15 Q. Okay. Going back to this application, if  
16 you could turn or direct your attention to A, page two, and  
17 tell the Board what interest you've been able to acquire and  
18 what interest you're seeking to pool?

19 A. For unit BF-104, we have leased 100% of the  
20 coal owner's claim to coalbed methane, and 99.9932% of the  
21 oil and gas owner's claim to coalbed methane. We're seeking  
22 to pool 0.0068% of the oil and gas owner's claim to coalbed  
23 methane.

24

--

1 Q. Okay. On Exhibit B-3, there's an indication  
2 that we've got an address unknown in Tract 2C that's going to  
3 require some escrow, correct?

4 A. Yes.

5 Q. Okay. And then as we go to Exhibit E we  
6 have, with regard to Tracts 2A, 2B, 2C and 2D, a requirement  
7 of escrow for two reasons: One, because they are conflicts  
8 in each tract.

9 A. Uh-huh.

10 Q. And also with regard to the oil and gas fee  
11 ownership interest, there's a title issue in each tract  
12 apparently?

13 A. Yes.

14 Q. Okay.

15 JIM McINTYRE: Tract 2D, that's not showing in your  
16 exhibit here.

17 LESLIE K. ARRINGTON: On my listing, I left that  
18 out.

19 JIM McINTYRE: Okay.

20 Q. But it is on the Exhibit E, correct?

21 A. Yes, it is.

22 JIM McINTYRE: Uh-huh.

23 Q. With regard then to nineteen, I believe, is  
24

1 BG-104.

2 A. Yes.

3 Q. Yes, it is.

4 MASON BRENT: Before you move onto that.

5 BENNY WAMPLER: Mr. Brent.

6 MARK SWARTZ: Okay.

7 MASON BRENT: Has this well been drilled?

8 LESLIE K. ARRINGTON: No.

9 Q. You've got a permit, but it hasn't been  
10 drilled?

11 A. Correct. Probably tomorrow or the next day,  
12 I think it is. It's on the schedule.

13 MASON BRENT: You do have a permit for it?

14 A. Yes.

15 BENNY WAMPLER: Proceed.

16 Q. With regard to BG-104 then, is this a Nora  
17 unit, Les?

18 A. Yes, it is. 57.27 acres.

19 Q. And the plan?

20 A. One well within the drilling unit...window.

21 Q. And this...okay, and this...this unit shows  
22 a well that we see occasionally that's right on the edge of  
23 the drilling window, do you see that?

24

--

1           A.       Yes, it is.

2           Q.       Was it the intention that it be surveyed and  
3 located just inside the window?

4           A.       Yes.

5           Q.       So, as far as you know, it is in the window?

6           A.       I hope it is.

7           Q.       Okay. It should be?

8           A.       Yes.

9           Q.       Okay. The...and, again, this is a frac  
10 well?

11          A.       Yes, it is.

12          Q.       The interest that the applicant has been  
13 able to acquire and the interest you're seeking to pool are  
14 what?

15          A.       We've leased 100% of the coal owner's claim  
16 to coalbed methane, leased 99.9244% of the oil and gas  
17 owner's claim to coalbed methane. We're seeking to pool  
18 0.0756% of the oil and gas owner's claim to coalbed methane.

19          Q.       If we look at B-3 on this one, we've got an  
20 address unknown again, correct?

21          A.       Yes.

22          Q.       And that would be in Tract 1D, as in David,  
23 right?

24

1 A. Yes.

2 Q. Okay. Your cost estimate on this well is?

3 A. \$234,588.72 to a depth of 2723.68 and permit  
4 number is 6233...36, I'm sorry.

5 Q. 6236 is the permit?

6 A. Yes.

7 Q. Okay. Turning to Exhibit E, we have an  
8 Exhibit that indicates the following tracts require escrow  
9 1A, 1B, 1C and 1D and that the reasons for escrow are; 1,  
10 that there's a conflict in each of these tracts, correct?

11 A. Uh-huh. Yes.

12 Q. And also with again with regard to the oil  
13 and gas side of the mineral ownership, there is a title  
14 conflict in each one of the tracts?

15 A. Yes, I believe...is it on all three, yeah.

16 Q. Yeah.

17 A. Yeah, all four of them.

18 Q. All four of them?

19 A. Yes.

20 Q. Okay. Also, it does not look like you've  
21 got any split agreements in this?

22 A. That's correct.

23 Q. In general then with regard to these three  
24

1 Nora units that we've just talked about, is it your opinion  
2 that the plan to develop the coalbed methane within and under  
3 these units as disclosed by the applications and the  
4 exhibits, which is to drill one frac well in the drilling  
5 window of each these units is a reasonable plan to develop  
6 this coalbed methane resource in these four units?

7 A. Yes, it is.

8 Q. And if you combine the leasing activities  
9 and the successful leasing program that the applicant has  
10 engaged in with a pooling order pooling the interests of the  
11 truly limited number of respondents that we've named in these  
12 four units today, that those two things take in together will  
13 protect the correlative rights of all owners and claimants of  
14 record in these four units?

15 A. Yes, it will.

16 MARK SWARTZ: That's all I have.

17 BENNY WAMPLER: Questions from members of the  
18 Board?

19 (No audible response.)

20 BENNY WAMPLER: Is there a motion?

21 DONALD RATLIFF: Motion that we approve, Mr.  
22 Chairman.

23 JIM McINTYRE: Second.

24

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1           BENNY WAMPLER: Motion to approve and a second.

2 Any further discussion?

3           (No audible response.)

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

6           (All members signify by saying yes.)

7           BENNY WAMPLER: Opposed, say no.

8           (No audible response.)

9           BENNY WAMPLER: You have approval. The next item  
10 on the agenda is a petition from CNX Gas Company, LLC for  
11 pooling for pooling of coalbed methane unit BG-106. This is  
12 docket number VGOB-04-0817-1323. We'd ask the parties that  
13 wish to address the Board in this matter to come forward at  
14 this time.

15           MARK SWARTZ: Mark Swartz and Les Arrington.

16           BENNY WAMPLER: This is number twenty for the Board  
17 members consideration. The record will show there are no  
18 others. You may proceed.

19           MARK SWARTZ: Mr. Chairman, I'd like to incorporate  
20 the testimony from the first two today with regard to the  
21 applicant, the designated operator and the lease terms.

22           BENNY WAMPLER: That will be incorporated.

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LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, if you would turn to docket item twenty, BG-106. What kind of unit is this?

A. It's a Middle Ridge unit. It's 58.74 acres, with one well within the drilling window.

Q. Okay. And the...would you indicate to the Board what the leasing and acquisition program has allowed you to do and what you're seeking to pool today?

A. We have 100% of the coal owner's claim to coalbed methane, 99.4503% of the oil and gas owner's claim to coalbed methane. We're seeking to pool 0.4597% of the oil and gas owner's claim to coalbed methane.

Q. Okay. And you've listed as the respondent here, Glen Roger Dotson, correct?

A. Yes.

Q. Okay. And what did you do to let him or his heirs, successors and assigns know of the hearing today?

A. We mailed by certified mail return receipt on July the 16th, 2004. We published on July the 21st, 2004 in the Bluefield Daily Telegraph.

Q. And have you filed the newspaper's proof or

1 certificate of publication and your certificates with regard  
2 to mailing with Mr. Wilson today?

3 A. Yes, we have.

4 Q. It looks like Mr. Dotson's interest is in  
5 oil and gas...on the oil and gas side, correct?

6 A. Yes, it is.

7 Q. Okay. And what is your well cost estimate?

8 A. \$232,603.43 to a depth 2664.74 feet, permit  
9 number 6230.

10 Q. 6230, okay. And you filed an Exhibit C, is  
11 that correct?

12 A. Exhibit E?

13 Q. I'm sorry, Exhibit E, yeah.

14 A. Yes, for Tract No. 3.

15 Q. Okay, and the reason for escrow here...the  
16 only reason for escrow here would be that there's a conflict  
17 between the parties identified on Exhibit E with regard to  
18 Tract 3?

19 A. Yes.

20 Q. Is it your opinion that if you take the  
21 acquisition program and leasing program, and the fact that  
22 you've been able to acquire most of the interests in this  
23 unit, combine that with the pooling order, that the

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1 correlative rights and claims of all owners and claimants of  
2 record with regard to coalbed methane in this unit would be  
3 protected?

4 A. Yes, it would.

5 Q. And is it your opinion that the plan to  
6 develop coalbed methane from within unit BG-106 is a  
7 reasonable plan as disclosed by your application and  
8 exhibits, which is to drill one frac well in the drilling  
9 window?

10 A. Yes, it is.

11 MARK SWARTZ: That's all I have, Mr. Chairman.

12 BENNY WAMPLER: Any questions from members of the  
13 Board?

14 MASON BRENT: Exhibit C indicates that no permit  
15 has been issued, shows none.

16 LESLIE K. ARRINGTON: Yes. Sometimes those  
17 exhibits get drafted prior to the permit being issued, and  
18 then we incorporate it on our spreadsheet.

19 MARK SWARTZ: There's a permit today, 6230, with  
20 regard to this well?

21 LESLIE K. ARRINGTON: Yes. Yes, there is.

22 BENNY WAMPLER: Other questions from members of the  
23 Board?

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1 (No audible response.)

2 BENNY WAMPLER: Is there a motion?

3 JIM McINTYRE: Motion to approve.

4 BILL HARRIS: Second.

5 BENNY WAMPLER: Motion to approve and second. Any  
6 further discussions?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying  
9 yes?

10 (All members signify by saying yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval.

14 MARK SWARTZ: Thank you very much.

15 BENNY WAMPLER: We'll go back to number twelve on  
16 the Board's docket. The next item on the agenda is a  
17 petition from Equitable Production Company for a well  
18 location exception for proposed well V-535986. This is  
19 docket number VGOB-04-0817-1315. We'd ask the parties that  
20 wish to address the Board in this matter to come forward at  
21 this time.

22 JIM KISER: Mr. Chairman, members of the Board, Jim  
23 Kiser on behalf of Equitable Production Company. Our witness

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1 in this matter and all of our other matters today will be Mr.  
2 Don Hall. We'd ask that he be sworn at this time.

3 (Witness is duly sworn.)

4 BOB WILSON: Mr. Chairman.

5 BENNY WAMPLER: Mr. Wilson.

6 BOB WILSON: On this docket number, we received a  
7 revised plat. It was too late for it to go out in the mail  
8 and I'll pass it out.

9 BENNY WAMPLER: Okay. Thank you.

10 (Mr. Wilson passes out revised plat.)

11 DON HALL: (Inaudible). George send you that?

12 BOB WILSON: Well, I don't know, Don. Actually  
13 some gentleman by the name of Jim Kiser provided this.

14 BENNY WAMPLER: That's not a revised one. It's the  
15 plat. I was just going to let you sweat for a while before I  
16 told you.

17 JIM KISER: Okay.

18 BOB WILSON: It is the plat.

19 JIM KISER: The plat, it should have been submitted  
20 with the application.

21 BENNY WAMPLER: Right.

22 JIM KISER: Now we're clear. Ready?

23 BENNY WAMPLER: The record will show there are no  
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1 others. You may proceed.

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DON HALL

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

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DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

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

9 A. My name is Don Hall. I'm employed by  
10 Equitable Production Company as District Landman.

11 Q. And your responsibilities include the land  
12 involved here and the surrounding area?

13 A. They do.

14 Q. Are you familiar with the application that  
15 we filed seeking a location exception for well V-535986?

16 A. Yes.

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

20 A. They have.

21 Q. In this particular case, the only coal, oil  
22 or gas owner in this unit is ACIN, LLC?

23 A. That's correct.

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1 Q. And would that be the ownership of the oil  
2 and gas underlying the unit for this well?

3 A. Yes.

4 Q. And does Equitable have the right to operate  
5 the one reciprocal well that we're seeking the exception  
6 from, which is VAD-4603?

7 A. We do.

8 Q. So there's no correlative rights issues?

9 A. No.

10 Q. We're seeking an exception of 102 feet?

11 A. Yes, that's correct.

12 Q. And can you explain for the Board in  
13 conjunction with the plat why we need this exception?

14 A. This was a spot that was chosen by ACIN to  
15 get a coal block in a mining area that they're operating in,  
16 or that they plan to operate in.

17 Q. In the event this location exception were  
18 not granted, would you project the estimated loss of reserves  
19 resulting in waste?

20 A. 375 million cubic feet.

21 Q. And what is the total depth of the proposed  
22 well?

23 A. 6625 feet.

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1 Q. Would this be sufficient to penetrate and  
2 test the common sources of supply in the subject formations?

3 A. Yes.

4 Q. Are you requesting this location exception  
5 cover conventional gas reserves to include the designated  
6 formations from the surface to the total depth drilled?

7 A. Yes.

8 Q. And the permit has been applied for in this  
9 case?

10 A. That's correct.

11 Q. In your opinion, would the granting of this  
12 location exception be in the best interest of preventing  
13 waste, protecting correlative rights and maximizing the  
14 recovery of the gas reserves underlying the unit for well  
15 V-535986?

16 A. Yes.

17 JIM KISER: Nothing further of this witness at this  
18 time, Mr. Chairman.

19 BENNY WAMPLER: Questions from members of the  
20 Board?

21 (No audible response.)

22 JIM KISER: Is your plat dated 6/30, 2004?

23 DON HALL: Yes.

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1           BENNY WAMPLER: Do you have anything further?

2           JIM KISER: We'd ask that the application be  
3 approved as submitted.

4           BENNY WAMPLER: Is there a motion?

5           JIM McINTYRE: Motion to approve.

6           BILL HARRIS: Second.

7           BENNY WAMPLER: Motion to approve and second. Any  
8 further discussion?

9           (No audible response.)

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

12          (All Board members signify by saying yes.)

13          BENNY WAMPLER: Opposed, say no.

14          (No audible response.)

15          BENNY WAMPLER: You have approval. The next item  
16 on the agenda is a petition from Equitable Production Company  
17 pooling of coal bed methane unit VC-501827. This is docket  
18 number VGOB-04-0817-1316. We'd ask the parties that wish to  
19 address the Board in this matter to come forward at this  
20 time.

21          JIM KISER: Again, Mr. Chairman and board Members,  
22 Jim Kiser and Don Hall on behalf of Equitable Production. In  
23 this particular case, we revised an Exhibit E and sent that

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1 to Diane and Mr. Wilson. And I guess you got those and got  
2 them in everybody's file.

3 BOB WILSON: They should have been included in the  
4 package that was mailed out.

5 JIM KISER: Okay.

6 DON HALL

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Hall, again state your name, who you're  
10 employed by and what capacity?

11 A. Don Hall. I'm employed by Equitable  
12 Production Company as District Landman.

13 Q. And again, your responsibilities include the  
14 land involved in this unit and the surrounding area?

15 A. They do.

16 Q. And are you familiar with the application we  
17 filed seeking to pool any unleased interest in the unit for  
18 this well?

19 A. Yes.

20 Q. Does Equitable own drilling rights in the  
21 unit involved here?

22 A. We do.

23 Q. And prior to filing the application, were  
24

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1 efforts made to contact each of the respondents listed with  
2 an ownership interest in the unit, and an attempt made to  
3 work out a voluntary lease agreement?

4 A. Yes.

5 Q. What is the interest of Equitable within the  
6 gas estate in the unit?

7 A. We have 97.57% leased.

8 Q. And in the coal estate?

9 A. A 100%.

10 Q. And in fact, I guess the only unleased  
11 interest is a small undivided interest in the gas estate in  
12 Tract 8 owned by Anderson Mullins?

13 A. That's correct.

14 Q. So the unleased percentage of the gas estate  
15 is 2.425%?

16 A. That's correct.

17 Q. And again the coal estate is a 100% leased.

18 In this particular case, we don't have any unknown or  
19 unlocateable interest owners, is that correct?

20 A. That's correct.

21 Q. In your professional opinion, was due  
22 diligence exercised to locate each of the respondents named  
23 in Exhibit B?

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1 A. Yes.

2 Q. Are the addresses set out in Exhibit B the  
3 last known addresses for the respondents?

4 A. They are.

5 Q. Are you requesting the Board to force pool  
6 all the unleased interest listed at Exhibit B-3?

7 A. Yes.

8 Q. Are you familiar with the fair market value  
9 of drilling rights in the unit here and in the surrounding  
10 area?

11 A. Yes.

12 Q. Could you advise the Board as to what those  
13 are?

14 A. Five dollar bonus, on a five year term and  
15 with a one-eighth royalty.

16 Q. In your opinion, do the terms you've  
17 testified to represent the fair market value of and the fair  
18 and reasonable compensation to be paid for drilling rights  
19 within this unit?

20 A. They do.

21 Q. Now, as to those respondents listed at  
22 Exhibit B-3 who remain unleased, do you agree that they be  
23 allowed the following options with respect to their ownership  
24

1 interest: one, participation; two, a cash bonus of five  
2 dollars per net mineral acre, plus a one-eighth of eight-  
3 eighths royalty; or three, in lieu of a cash bonus and a one-  
4 eighth of eight-eighths royalty, a share in the operation of  
5 the well on a carried basis as a carried operator under the  
6 following conditions: Such carried operator shall be  
7 entitled to his share of production from the tracts pooled  
8 accruing to his interest exclusive of any royalty or  
9 overriding royalty reserved in any leases, assignments  
10 thereof, or agreements relating thereto of such tracts but  
11 only after the proceeds applicable to his share equal, A),  
12 300% of the share of such cost applicable to the interest of  
13 a carried operator of a leased tract or portion thereof; or  
14 B), 200% of the share of such cost applicable to the interest  
15 of the carried operator of an unleased tract or portion  
16 thereof?

17 A. Yes.

18 Q. Do you recommend that the order provide that  
19 the elections by respondents be in writing and sent to the  
20 applicant at Equitable Production Company, 1710 Pennsylvania  
21 Avenue, P. O. Box 2347, Charleston, West Virginia 25328,  
22 attention Melanie Freeman, Regulatory?

23 A. Yes.

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1           Q.       Should this be the address for all  
2 communications with the applicant concerning any order?

3           A.       Yes.

4           Q.       Do you recommend that the order provide that  
5 if no written election is made by a respondent, then such  
6 respondent should be deemed to have elected the cash royalty  
7 option in lieu of participation?

8           A.       Yes.

9           Q.       Should unleased respondents be given 30 days  
10 from the date the Board order, execution of the Board order,  
11 to file their written elections?

12          A.       Yes.

13          Q.       If an unleased respondent elects to  
14 participate, should they be given 45 days to pay for their  
15 proportionate share of well costs?

16          A.       Yes.

17          Q.       Does the applicant expect that party  
18 electing to participate to pay their share of completed well  
19 cost in advance?

20          A.       We do.

21          Q.       Should the applicant be allowed 120 days  
22 following the recordation date of the Board order, and  
23 thereafter annually on that date until production is

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1 achieved, to pay or tender any cash bonus or delay rental  
2 becoming due under the force pooling order?

3 A. Yes.

4 Q. Do you recommend the order provide that if  
5 the respondent elects to participate but fails to pay their  
6 proportionate share of well costs to the applicant for the  
7 payment of those costs, then the respondent's election to  
8 participate should be treated as having been withdrawn and  
9 void, and such respondent should be deemed to have leased?

10 A. Yes.

11 Q. Do you recommend that the order provide that  
12 where a respondent elects to participate but defaults in  
13 regard to the payment of costs, any cash sum becoming payable  
14 to that respondent be paid within 60 days after the last date  
15 on which such respondent could have paid those costs?

16 A. Yes.

17 Q. Okay, now in this particular case we do have  
18 conflicting claimant situation between the gas estate and the  
19 coal estate?

20 A. That's correct.

21 Q. So the Board does need to establish an  
22 escrow account?

23 A. That's correct.

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1 Q. Okay. And who should be named the operator  
2 under any force pooling order?

3 A. Equitable Production Company.

4 Q. What is the total depth of the well?

5 A. 3,050 feet.

6 Q. Estimated reserves for the unit?

7 A. 350 million cubic feet.

8 Q. Now, are you familiar with the well costs  
9 for this well?

10 A. Yes.

11 Q. Has an AFE been reviewed, signed and  
12 submitted to the Board as Exhibit C?

13 A. It has.

14 Q. Was the AFE prepared by an engineering  
15 department knowledgeable in the preparation of AFEs and  
16 knowledgeable in regard to well costs in this area?

17 A. Yes.

18 Q. In your opinion, does it represent a  
19 reasonable estimate of the costs?

20 A. It does.

21 Q. Could you state both the dry hole costs and  
22 the completed well costs?

23 A. The dry hole cost is \$131,956, and the  
24

1 completed well cost is \$292,057.

2 Q. Do these costs anticipate a multiple  
3 completion?

4 A. They do.

5 Q. Does your AFE include a reasonable charge  
6 for supervision?

7 A. Yes.

8 Q. In your professional opinion, would the  
9 granting of this application be in the best interest of  
10 conservation, the prevention of waste and the protection of  
11 correlative rights?

12 A. Yes.

13 JIM KISER: Nothing further of this witness at this  
14 time, Mr. Chairman.

15 BENNY WAMPLER: Questions from members of the  
16 Board?

17 (No audible response.)

18 BENNY WAMPLER: Do you have anything further?

19 JIM KISER: We'd ask that the application be  
20 approved as submitted, Mr. Chairman.

21 BENNY WAMPLER: Is there a motion?

22 BILL HARRIS: Motion for approval.

23 JIM McINTYRE: Second.  
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1           BENNY WAMPLER: Motion and second. Any further  
2 discussion?

3           (No audible response.)

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

6           (All members except Donald Ratliff signify by  
7 saying yes.)

8           BENNY WAMPLER: Opposed, say like---.

9           DONALD RATLIFF: I'll abstain, Mr. Chairman.

10          BENNY WAMPLER: One abstention, Mr. Ratliff.

11 The next item on the agenda is a petition from Equitable  
12 Production Company pooling of coal bed methane unit VC-  
13 501854, docket number VGOB-04-0817-1324. We'd ask the  
14 parties that wish to address the Board in this matter to come  
15 forward at this time. This is the Board's item twenty-one.

16          JIM KISER: Mr. Chairman, again Jim Kiser and Don  
17 Hall on behalf of Equitable Production. Don is going to hand  
18 out a whole set of revised exhibits for this one, which will  
19 include B, B-2, B-3, and E.

20          BENNY WAMPLER: The record will show there are no  
21 others. You may proceed.

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DON HALL

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DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Hall, you're familiar with the application we filed seeking to pooling order for well VC-501854?

A. Yes.

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

A. We do.

Q. And prior to filing the application, were efforts made to contact each of the many respondents named in this united and an attempt made to work out an agreement?

A. Yes.

Q. Voluntary agreement?

A. Yes.

Q. Okay. At the time the application was filed, what was the leased interest of Equitable in the gas estate?

A. 90.5961%.

Q. And at the time the application was filed, what was the interest of Equitable in the coal estate?

A. A 100%.

Q. And since the filing of the application, did

1 your plan department continue to make efforts to reach  
2 voluntary agreements with unleased parties?

3 A. Yes.

4 Q. And as a result of those efforts, were you  
5 successful?

6 A. Yes. We picked up two more leases that's  
7 reflected in those exhibits that I---.

8 Q. And that's why these exhibits were revised?

9 A. That's correct.

10 Q. Could you point those leases out for the  
11 Board?

12 A. On Exhibit B, page 11, Jean Brian is leased.

13 Q. At the very bottom of the page?

14 A. Bottom of the page. And at the top of the  
15 page, page 12, Gretta Shaws has leased. And they're  
16 dismissed in Exhibit B-2.

17 Q. Okay. So now, at this time, at the time of  
18 the hearing, obviously the coal estate is still 100% leased.

19 Could you state for the Board the percentage of the gas  
20 estate that now is leased and unleased?

21 A. 90.80%.

22 Q. Is leased?

23 A. Yes.

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1 Q. And the unleased percentage?

2 A. It's 9.20%.

3 Q. In this particular unit we do have some  
4 unknown interest owners, is that correct?

5 A. Yes.

6 Q. Were reasonable and diligent efforts made  
7 to locate these unknown heirs, including primary sources such  
8 as deed records, probate records, assessors records,  
9 treasurer's records, and secondary sources such as telephone  
10 directories, city directories, family and friends?

11 A. Yes.

12 Q. In your professional opinion, was due  
13 diligence exercised to locate each of the respondents named  
14 in Exhibit B, revised Exhibit B?

15 A. Yes.

16 Q. And are the addresses set out to revised  
17 Exhibit B to the application the last known addresses for the  
18 respondents?

19 A. Yes.

20 Q. And are you requesting the Board to force  
21 pool all unleased interest listed at revised Exhibit B-3?

22 A. Yes.

23 Q. Are you familiar with the fair market value  
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1 of drilling rights in the unit here and in the surrounding  
2 area?

3 A. Yes.

4 Q. Could you again advise the Board as to what  
5 those are?

6 A. Five dollar bonus, one-eighth...five year  
7 term and a one-eighth royalty.

8 Q. In your opinion, do the terms you've just  
9 testified to represent the fair market value of and fair and  
10 reasonable compensation to be paid?

11 A. They do.

12 JIM KISER: Mr. Chairman, at this time, regarding  
13 the testimony in regards to the statutory elections afforded  
14 any unleased parties and their time periods in which to make  
15 those, and the implications of making those, that was taken  
16 previously in docket number 04-0817-1316, we'd ask that that  
17 be incorporated for purposes of this hearing.

18 BENNY WAMPLER: That will be incorporated.

19 Q. In this particular unit, Mr. Hall, we have  
20 not only several unknown interest owners, we also have  
21 conflicting claims?

22 A. That's correct.

23 Q. So, the Board does need to establish an  
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1 escrow account?

2 A. Yes, that's correct.

3 Q. And who should be named the operator under  
4 any order?

5 A. Equitable Production Company.

6 Q. And the total depth of this well?

7 A. Is 2401 feet.

8 Q. And the estimated reserves for the unit?

9 A. 250 million cubic feet.

10 Q. Now, are you familiar with the well cost for  
11 this well?

12 A. Yes.

13 Q. Has an AFE been reviewed, signed, and  
14 submitted to the Board as Exhibit C?

15 A. It has.

16 Q. In your opinion, does it represent a  
17 reasonable estimate of the well cost?

18 A. It does.

19 Q. Could you state the dry hole cost and the  
20 completed well cost for this well?

21 A. The dry hole cost is \$129,652, and the  
22 completed well cost is \$299,336.

23 Q. Do these costs anticipate a multiple  
24

1 completion?

2 A. They do.

3 Q. Is there a charge, reasonable charge, for  
4 supervision?

5 A. Yes.

6 Q. In your opinion, would the granting of this  
7 force pooling application be in the best interest of  
8 conservation, the prevention of waste and the protection of  
9 correlative rights?

10 A. Yes.

11 JIM KISER: Nothing further of this witness at this  
12 time, Mr. Chairman.

13 BENNY WAMPLER: Questions from members of the  
14 Board? Mr. Hall, I probably know the answer to this, but in  
15 a number of these address unknowns in here, they have people  
16 with the same last names that you have leased and then  
17 address unknown, I'm sure you're asking those people if they  
18 know?

19 DON HALL: Yes. As a matter of fact, not relative  
20 to this well, but I got a call yesterday from a person that  
21 we had initially listed as unknown in another well, he and  
22 his sister. He gave me his address and when I asked him  
23 about his sister, he said he didn't know her address and  
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1 didn't have her phone number.

2           BENNY WAMPLER: I just had to ask that. Other  
3 questions from members of the Board?

4           (No audible response.)

5           BENNY WAMPLER: Do you have anything further?

6           JIM KISER: Mr. Chairman, we'd ask that the  
7 application be approved as submitted with the revised set of  
8 exhibits.

9           BENNY WAMPLER: Is there a motion?

10          JIM McINTYRE: Motion to approve.

11          BILL HARRIS: Second.

12          BENNY WAMPLER: Second. Any further discussion?

13          (No audible response.)

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

16          (All members except Donald Ratliff signify by  
17 saying yes.)

18          BENNY WAMPLER: Opposed, say no.

19          DONALD RATLIFF: I'll abstain, Mr. Chairman.

20          BENNY WAMPLER: One abstention, Mr. Ratliff. The  
21 next item on the agenda is a petition from Equitable  
22 Production Company pooling of coalbed methane unit VC-505241,  
23 docket number VGOB-04-0817-1325. We'd ask the parties that

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1 wish to address the Board in this matter to come forward at  
2 this time.

3           JIM KISER: Again, Mr. Chairman and Board members,  
4 Jim Kiser and Don Hall on behalf of Equitable Production.  
5 Again, we picked up some additional leases, so again we have  
6 an entire set of revised exhibits.

7           (Mr. Hall passes out exhibits.)

8           BENNY WAMPLER: The record will show there are no  
9 others. You may proceed.

10

11

DON HALL

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DIRECT EXAMINATION

13 QUESTIONS BY MR. KISER:

14           Q.       Mr. Hall, are you familiar with the  
15 application we filed seeking to pool all the unleased  
16 interests in the unit for well VC-505241, which was dated  
17 July the 16th, 2004?

18           A.       Yes.

19           Q.       Does Equitable own drilling rights in the  
20 unit involved here?

21           A.       We do.

22           Q.       Again, could you go through, for the Board  
23 as I've already stated, we did pick up, at least that I'm

24

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1 aware of, at least one additional lease?

2 A. That's correct, that was all.

3 Q. Which was a Mr. Paul Adkins in Tract 3?

4 A. That's correct.

5 Q. Could you through for the Board and Ms.

6 Pigeon what the interests were at the time of the

7 application, the leased and unleased? Again, noting that the

8 coal estate is 100% leased, and then what the interests are

9 after the Adkins lease?

10 A. At the time of the application, we had

11 83.79...83.794% leased, and with the new piece that we have

12 leased, that increased to 83.94%; and leaving the unleased

13 portion initially was 16.205%, and is now 16.06%.

14 Q. Now, as we go through the various exhibits

15 listing the respondents for this particular unit, and again,

16 notice that there's quite a few unknown interest owners?

17 A. That's correct.

18 Q. And is it your testimony that you made

19 reasonable and diligent records by checking all kinds of

20 different sources to try to identify and locate these unknown

21 parties?

22 A. That's correct.

23 Q. And in your professional opinion, due

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1 diligence was exercised to attempt to locate each of them?

2 A. Yes.

3 Q. And are the addresses set out in the revised  
4 B to this application the last known addresses for the  
5 respondents, at least for those that we know?

6 A. They are.

7 Q. Are you requesting this Board to force pool  
8 all unleased interests as listed in revised Exhibit B-3?

9 A. Yes.

10 Q. And again, are you familiar with the fair  
11 market value of drilling rights in the unit and in the  
12 surrounding area?

13 A. I am.

14 Q. And advise the Board as to what those are?

15 A. Five dollar bonus, on a five year term with  
16 a one-eighth royalty.

17 Q. Okay. In your opinion, do the terms you've  
18 just testified to represent the fair market value of and fair  
19 and reasonable compensation to be paid for these drilling  
20 rights?

21 A. They do.

22 JIM KISER: Again, Mr. Chairman, at this time, I'd  
23 ask that the testimony taken 04-0817-1316 be incorporated for

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1 purposes of this hearing.

2 BENNY WAMPLER: That will be incorporated.

3 Q. Mr. Hall, we have many unknowns, and we have  
4 conflicting claimants between the gas and coal estate, so  
5 again, the Board will need to establish an escrow account?

6 A. That's correct.

7 Q. And who should be named the operator under  
8 any force pooling order?

9 A. Equitable Production Company.

10 Q. And the total depth of this well?

11 A. Is 2453 feet.

12 Q. The estimated reserves?

13 A. 250 million cubic feet.

14 Q. Has an AFE been reviewed, signed, and  
15 submitted to the Board as Exhibit C?

16 A. It has.

17 Q. In your opinion, does it represent a  
18 reasonable estimate of the well cost?

19 A. Yes.

20 Q. Could you state both the dry hole cost and  
21 the completed well?

22 A. The dry hole cost is \$117,608, and the  
23 completed well cost is \$283,555.

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1 Q. Do these costs anticipate a multiple  
2 completion?

3 A. They do.

4 Q. Does your AFE include a reasonable charge  
5 for supervision?

6 A. Yes.

7 Q. The best interest...in your professional  
8 opinion, would the granting of this application be in the  
9 best interest of conservation, the prevention of waste and  
10 the protection of correlative rights?

11 A. Yes.

12 JIM KISER: Nothing further of this witness at this  
13 time, Mr. Chairman.

14 BENNY WAMPLER: Questions from members of the  
15 Board?

16 BILL HARRIS: Mr. Chairman, I do have a question,  
17 and just curiosity. The Exhibit B that you handed out, on  
18 the front page, there's a tract on Eva Adkins that's leased.  
19 Down at the bottom of the page, tract 3, the same person is  
20 unleased for tract 3. I just found that kind of curious.

21 JIM KISER: Good pick up.

22 DON HALL: That's correct, it's the same person.

23 BILL HARRIS: Did not---?  
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1           JIM KISER: I asked the same question.

2           DON HALL: Tract number one is a lease that we've  
3 had for quite a number of years and her husband, during his  
4 lifetime, bought out a lot of the heirs in Tract 3 and never  
5 recorded the deeds and his house burned. He was never able  
6 to get new deeds from those parties. In the meantime, it got  
7 expanded, got larger, so our only choice...the ownership of  
8 record was the parties that he didn't record his deeds to.  
9 So we made an attempt to lease those parties, the ones that  
10 we could find, and I guess because of the situation which she  
11 felt...probably feels like she owns it all even though she  
12 doesn't have any deeds for it, she just doesn't want to sign  
13 a lease at this time.

14           BILL HARRIS: I just thought that was kind of---.

15           JIM KISER: She didn't sign it to avoid the  
16 controversy.

17           BILL HARRIS: Yeah.

18           JIM KISER: I asked him the same question.

19           BILL HARRIS: I just saw that and I thought that  
20 was sort of odd. Thank you.

21           BENNY WAMPLER: I saw another one in there I  
22 thought a little odd, it's just unknown heirs.

23           DON HALL: All these people, Adkins heirs, there's  
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1 just more of them. We don't think we got them all.

2 BENNY WAMPLER: Other questions from members of the  
3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Do you have anything further?

6 JIM KISER: We'd ask that the application be  
7 approved as submitted, Mr. Chairman, with the revised set of  
8 exhibits that were presented.

9 BENNY WAMPLER: Is there a motion?

10 JIM McINTYRE: Motion to approve.

11 BILL HARRIS: Second.

12 BENNY WAMPLER: Motion and second. Any further  
13 discussion?

14 (No audible response.)

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

17 (All members except Donald Ratliff signify by  
18 saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 DONALD RATLIFF: I'll abstain, Mr. Chairman.

21 BENNY WAMPLER: One abstention, Mr. Ratliff. The  
22 next item on the agenda is a petition from Equitable  
23 Production Company a well location exception for proposed  
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1 well V-502681, docket number VGOB-04-0817-1326. We'd ask the  
2 parties that wish to address the Board in this matter to come  
3 forward at this time.

4 JIM KISER: Mr. Chairman, once again, Jim Kiser and  
5 Don Hall on behalf of Equitable Production.

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DON HALL

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DIRECT EXAMINATION

9 QUESTIONS BY MR. KISER:

10 Q. Mr. Hall, you are familiar with the land  
11 involved in the unit for this well and the surrounding area?

12 A. Yes.

13 Q. And you're familiar with the application we  
14 filed seeking a location exception for this well?

15 A. Yes.

16 Q. Have all interested parties been notified as  
17 required by Section 4(B) of the Virginia Gas and Oil Board  
18 regulations?

19 A. They have.

20 Q. In that case, being Penn Virginia. Could  
21 you indicate for the Board the ownership of the oil and gas  
22 underlying the unit for well V-502681?

23 A. Penn Virginia Oil and Gas Corporation owns a  
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1 100%.

2 Q. And does Equitable have the right to operate  
3 the one reciprocal well that we're seeking an exception from,  
4 which will be well V-502700?

5 A. We do.

6 Q. So there's no correlative rights issues?

7 A. No.

8 Q. And in conjunction with the plat that was  
9 filed with the application, could you explain why you're  
10 seeking this exception?

11 A. A coal group, Penn Virginia, have strip mine  
12 plans in the area and they placed this location in this  
13 particular spot to least impact their operations.

14 Q. It's an exception of 168 feet, is that  
15 correct?

16 A. That's correct.

17 Q. In the event this location exception were  
18 not granted, could you estimate the project the estimated  
19 loss in reserves resulting in waste?

20 A. 400 million cubic feet.

21 Q. And what is the total depth of this well  
22 under the proposed plan of development?

23 A. 5675 feet.

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1 Q. And are you requesting this location  
2 exception cover conventional gas reserves to include not only  
3 designated formations but surface to total depth drilled?

4 A. Yes.

5 Q. In your opinion, would the granting of this  
6 location exception be in the best interest of preventing  
7 waste, protecting correlative rights and maximizing the  
8 recovery of gas reserves underlying the unit for V-502681?

9 A. It would.

10 JIM KISER: Nothing further for this witness at  
11 this time, Mr. Chairman.

12 BENNY WAMPLER: Questions from members of the  
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Do you have anything further?

16 JIM KISER: We'd ask that the application be  
17 approved as submitted.

18 BENNY WAMPLER: Is there a motion?

19 DONALD RATLIFF: So moved, Mr. Chairman.

20 BENNY WAMPLER: Motion to approve.

21 JIM McINTYRE: Second.

22 BENNY WAMPLER: Motion to approve and second. Any  
23 further discussion?

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1 (No audible response.)

2 BENNY WAMPLER: The next item on the agenda is a  
3 petition from Columbia Natural Resources, LLC for creation  
4 and pooling of a conventional gas unit 24540. This is docket  
5 number VGOB-04-0817-1327. We'd ask the parties that wish to  
6 address the Board in this matter to come forward at this  
7 time.

8 JIM KISER: Mr. Chairman, Jim Kiser on behalf of  
9 Columbia Natural Resources, LLC. We'd ask at this time that  
10 this particular item be continued over to the September  
11 docket. We noticed somewhat lately when we were doing our  
12 witness prep for the force pooling hearing that we're also  
13 going to need a location exception for this well. So, we'll  
14 get that filed hopefully by Friday so we'll have both on the  
15 September docket.

16 BENNY WAMPLER: That will be continued. Mr.  
17 Wilson, do you have anything?

18 BOB WILSON: No. I might mention that last month  
19 we said that we had a new Board member appointed who was Mr.  
20 Ken Addison here in town. Since that meeting of the Board  
21 Mr. Addison has withdrawn his appointment, or asked to have  
22 his appointment withdrawn, because he perceived a possible  
23 conflict of interest with his business, which was surveying  
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1 and such. So we still don't have a new Board member, to my  
2 knowledge.

3 BENNY WAMPLER: They're working on it. Do the  
4 Board members have anything further? Minutes from the last  
5 meeting, have you had an opportunity to review those?

6 DONALD RATLIFF: I move that they be approved as  
7 presented, Mr. Chairman.

8 MASON BRENT: Second.

9 BENNY WAMPLER: Motion to approve and second. Any  
10 further discussion?

11 (No audible response.)

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

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval.

18 DON HALL: Where are we with...I'm sorry.

19 BENNY WAMPLER: That's okay.

20 DON HALL: Where are we with the regulations, Bob?

21 BOB WILSON: We are in the very initial stage of  
22 review. At this time, we are putting together some  
23 recommended changes from the Department and basically

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1 constructing a document to work from as we go into the  
2 section. I would anticipate that probably October would be  
3 the earliest we would set any work group meetings. We'll  
4 make sure that everybody is fully aware of that. We have to  
5 go through a thirty day public notice period before we can  
6 set all of this. So, we're in the very early stages of  
7 getting that going right now.

8 BENNY WAMPLER: And we decided to open the Board  
9 regs as you know as well as the other regs.

10 DON HALL: Yeah.

11 BENNY WAMPLER: Okay, thank you. That's it.

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1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, Sonya Michelle Brown, Court Reporter and Notary  
4 Public for the State of Virginia, do hereby certify that the  
5 foregoing hearing was recorded by me on a tape recording  
6 machine and later transcribed under my supervision.

7 Given under my hand and seal on this the 8th day of  
8 September, 2004.

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NOTARY PUBLIC

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12 My commission expires: August 31, 2005.

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