

IN THE COUNTY OF WASHINGTON:

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
VIRGINIA GAS AND OIL BOARD

FEBRUARY 17, 2009

APPEARANCES:

BOARD MEMBERS:

MARY QUILLEN - PUBLIC MEMBER
PEGGY BARBAR - PUBLIC MEMBER
KATIE DYE - PUBLIC MEMBER
BILL HARRIS - PUBLIC MEMBER
DONNIE RATLIFF - COAL REPRESENTATIVE

CHAIRMAN:

BUTCH LAMBERT - ACTING DIRECTOR OF DMME AND CHAIRMAN

DAVID ASBURY - DIRECTOR OF THE DIVISION OF GAS & OIL AND
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

SHARON PIGEON - ASSISTANT IN THE ATTORNEY GENERAL'S OFFICE

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BUTCH LAMBERT: Good morning. It's after 9:00 o'clock. It's time to start our proceedings this morning. Let me start off by saying if you have a cell phone or pager or any other electronic devices, I'd ask you to turn those off or at least put them on vibrate. We will be recording these proceedings this morning. Also, I would ask that you...if you do need to take a call, please take it outside. I would ask that...you notice that we have a crowd this morning, I would ask that you keep your talking down to a very minimum so it won't be so disruptive. It's hard to hear up here, especially for those in the back. So, if you would help us out, we would certainly appreciate it. I'd like to begin this morning by asking the Board to introduce themselves. I'll begin with Ms. Quillen.

MARY QUILLEN: Mary Quillen, public member.

PEGGY BARBAR: Peggy Barbar, public member.

KATIE DYE: Katie Dye, public member.

SHARON PIGEON: Sharon Pigeon with the office of the Attorney General.

BUTCH LAMBERT: Butch Lambert with the Department of Mines, Minerals and Energy.

BILL HARRIS: Bill Harris, public member from Wise County.

DONNIE RATLIFF: Donnie Ratliff with Alpha

representing the coal.

DAVID ASBURY: David Asbury, Director of the Division of Gas and Oil and Principal Executive to the Staff of the Board.

BUTCH LAMBERT: Thank you. The first item on our agenda this morning is the Board will receive a quarterly and a year-end report on the escrow account as administered by Wachovia Bank, escrow agent for the Virginia Gas and Oil Board. In addition, the Board will receive a report on the status of the RFP for the audit of the Board's escrow account. I'll turn it over to Mr. Asbury.

DAVID ASBURY: Thank you, Mr. Chairman. First, the escrow account that we received from Wachovia Bank showed the December, 2008 balance and also on the presentation, which each Board members has, it shows the year-end 2007 balance of 18.5 million. Through 2008, we have had contributions into the escrow account of \$5,374,000. We've had income interest income into the escrow account of \$346,000. We've also had disbursements and expenses out of the fund of \$252,000. Leaving a new balance at year-end 2008 of \$23,893,000. Year-end 2007 was \$18,514,000. So, roughly, a \$5,000,000...also a \$6,000,000 increase in the balance. Do any of the Board members have any questions?

(No audible response.)

DAVID ASBURY: Okay. The second item that we had was the RFP or Request for Proposal for the accounting audit. We received four that was open in public on February the 5th. One of the four was a no bid or a no request from KPMG Audit Firm. We had three others. The three that we had began with Accounting Associates, which was a bid from a single CPA firm with a price of \$5,000. A second one from the firm that audited the Board the last time in 1999, which Roberts & Cox gave a bid for the Board of \$13,600. We also had another bid of...excuse me just a minute. Let me find the page here.

(Pause.)

DAVID ASBURY: Sorry, I'm not seeing the third bid. We did receive a third bid from a firm and a young lady that does...highly qualified to do this type of investment accounting. She's a CPA, a certified financial analyst, and forensics accounting analyst. What I'd like to do...her bid was \$105,000 or a \$105,600. Rather than debate that and take time of the Board today, I'd like to provide each Board member with a package of those three bids in which to make a decision. I'd like for you to look at that package independently and respond with your vote back to me and your request back to me. We did do a ranking

internally. I will share that ranking with you one through three of those. So, instead of taking this morning's time, what I will do, you will see that information tomorrow via electronic email. If some of you don't receive it, I will call and confirm that you receive it, and give you an opportunity to review each of those bids for us. Again, the Office of General Services did recall each one of those who bid on the package to insure that the request for proposal did in their response met with the intention of the Board to do the random sampling of gas operators and provide to the Board an audit of the escrow account. We did, as we discussed in the previous meeting, find that the last audit was done in 1992. So, this audit encompasses seven years, 2000...the year 2000 through 2007 and maybe 2008. I believe it was through 2008 was the request. So, what I would like to do is provide each of you with a full copy of those three that were submitted for bid. Allow you a time to review, ask questions and then make your comment on your choice. I will also share the negotiated ranking of the RFP that was done by the Office of General Services in our Department shortly after receiving those bids. Basically, it will come down to the question of how much money that the Board would like to spend for this audit as they range from \$5,000 to a \$106,000. That money, as you know, does come out of the

interest that goes into the escrow account. So, that's where that money comes from. There are no fees that would cover that amount. I will provide that package to each one of you before noon tomorrow. That's all I have, Mr. Chairman.

BUTCH LAMBERT: Thank you, Mr. Asbury. I think Mr. Harris has a question on the escrow balance.

BILL HARRIS: Yeah, I just looked at this after we passed that and went to something else.

DAVID ASBURY: Sure.

BILL HARRIS: The 2008 year-to-date, I notice to the left of that we actually have...March, June, September and December, I guess, those are the quarterly...excuse me, quarterly reports?

DAVID ASBURY: Yes, sir.

BILL HARRIS: Is that year-to-date then the end of the year or is---?

DAVID ASBURY: Yes.

BILL HARRIS: Okay. So, that's really end of the year. One other comment, I noticed...now, the withdrawals, these are disbursements?

DAVID ASBURY: They are only disbursements plus the accounting fees for Wachovia as the Board has contracted them, yes.

BILL HARRIS: I guess, the comment that I'm...it may be a question, at the year-end 2007 we had a little over a million paid out?

DAVID ASBURY: Yes.

BILL HARRIS: 1,062,000. At the end of 2008, \$252,000, is that correct?

DAVID ASBURY: That's correct.

BILL HARRIS: So, we have paid out a whole lot less this past year than the previous year?

DAVID ASBURY: That's correct.

BILL HARRIS: About a fifth as much. We need to get more out.

DAVID ASBURY: That is one our targets to be able have clean disbursements, Mr. Harris. It does fluxate based on what the operators bring for disbursement and the numbers that is brought before the Board as compared to 2007. The number of disbursements brought before the Board is down. 2007 was...as far as number in volume was a big year. We also have some disbursements pending that we're working with the operators to make sure. But you are correct and that is one of our focuses this year to make sure the backlog is caught up and that the moneys are disbursed in a timely manner.

BILL HARRIS: Is most of that a backlog then, do

you think, or...I'm just...I'm surprised then, I guess, how much...how little is paid out and how much is there.

DAVID ASBURY: Right. The...some...based on the unit number, sometimes the amount you can disburse one and have a large amount versus disbursing a hundred small ones. So, that's going to vary from time to time as well.

BILL HARRIS: Okay. Thank you.

DAVID ASBURY: But that is one of our department focuses this year is to make sure that our backlog is caught up, as well as make timely disbursements.

BILL HARRIS: Okay. Is there anything we can do to encourage this to move along quicker because...I mean, I don't know---.

DAVID ASBURY: We are working with our operators---.

BILL HARRIS: And I'm not really talking about the backlog, I'm talking about a lot of this is money that belongs to a lot of folks probably here to, but---.

DAVID ASBURY: Certainly.

BILL HARRIS: ---to speed that up. I don't know if there is one thing that's holding it up.

DAVID ASBURY: A lot of times the process involves obtaining W-9s from the individuals being disbursed. Since my time at the Division, I've understood that a lot of times

that process of obtaining the W-9s and we're working with our operators to do two things for the Board for these disbursements. It's our future intent that when operators come before the Board for disbursements that these disbursement have been previously prepared and are ready for the Chairman's signature once it's requested here. But a lot of times from the backlog, it has been left to obtain the W-9 forms and Wachovia can't disburse unless they have a W-9 form. That has been some of the holdup. The second holdup is the actual accounting. The Board is use to just receiving a percentage of ownership. And if it's the fifth disbursement within...within that unit, and sometimes there can be multiple disbursements of ownerships, we're working with the operators and building from the '01 disbursement to the '05. Sometimes we have found issues in '02, '03 and '04 that would prevent making '05. We're causing the operators...we're working with the operators to resolve this. But they will come back before the Board and correct their testimony. We see that...during the 2009 year, you'll see an increase, hopefully, in disbursements and elimination of the backlog that existed back to 2005.

BILL HARRIS: Okay. Thank you.

BUTCH LAMBERT: Any other questions from the Board of Mr. Asbury?

(No audible response.)

BUTCH LAMBERT: The next item on the agenda is the Board committee considering post production cost allowances when involuntarily pooled will present their recommendation to the full Board. Our Chairman to that work group, Mr. Prather, is not able to be with us because of some health issues this morning. So, I'll ask Ms. Quilling if she will give us an update.

MARY QUILLEN: The committee met two weeks ago and there was no agreement reached or a decision made on that item that we were charged to consider.

BUTCH LAMBERT: So, the work group has no recommendation to put before the Board?

MARY QUILLEN: We have no recommendation.

BUTCH LAMBERT: Thank you. As most of you know, there is legislation before the General Assembly at this time considering post production costs. The Board at this time will take no further action on post production costs and we will allow the General Assembly to take action whatever they feel is necessary for legislation. So, that item will be moved until the March docket.

DAVID ASBURY: Mr. Chairman, may I ask a question?

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Mr. Prather is not here, but I

understood when we adjourned at our last committee meeting that we adjourned in a committee as well as---.

MARY QUILLEN: That is correct.

DAVID ASBURY: That the committee was adjourned.

MARY QUILLEN: correct.

DAVID ASBURY: So, there will be no future meetings of the committee as I understood the testimony. Is that correct?

MARY QUILLEN: That is correct.

PEGGY BARBAR: That is correct.

BUTCH LAMBERT: Thank you, Mr. Asbury. The next item is a petition from CNX Gas Company, LLC for the creation and pooling of coalbed methane unit TA-132. This is docket number VGOB-09-0120-2423. All parties wishing to testify, please come forward.

MARY QUILLEN: Mr. Chairman---

BUTCH LAMBERT: Yes, ma'am.

MARY QUILLEN: ---before we go to the first docket item. I have a request to revisit one of the docket items from the previous Board meeting just for a clarification.

BUTCH LAMBERT: Yes, Ms. Quillen. Go ahead.

MARY QUILLEN: Would you like for me to do that or hold it until later?

BUTCH LAMBERT: I don't think all of the parties

are up here. So, let's go ahead and do it now.

MARY QUILLEN: Okay. Just a clarification on docket item twenty and twenty-one from the previous Board meeting, docket item number twenty, VGOB-09-0120-2432 was carried forward until March. The second item, which was basically the same request, which was number twenty-one, VGOB-09-0120-2433. This was regarding 488 conventional horizontal drilling unit identified. I just wanted to clarify in the description that we received that the owner, which is Equitable Production, is the owner of the rights to develop and produce gas in 100% of the acreage and that is a traditional 320 and then a 160 from an adjoining 320. My question is that 160 acres of that adjoining 320, does Equitable have that leased or have drilling rights on that part of that? What will happen to that if it's not leased because I know that the reason for doing the 420...excuse me, the 480 acre was because the drilling would be not within the 320, but all of the gas that would be taken out would come from the 320 acres. I just wanted a clarification on that, if we could get that. I don't know that they would be able to do that right now, but...if they would have that information. But if they could just clarify that.

BUTCH LAMBERT: Mr. Asbury, do you know if those

permits have been issued or that one permit---?

DAVID ASBURY: They have not.

BUTCH LAMBERT: ---has been issued?

DAVID ASBURY: They have not.

BUTCH LAMBERT: I guess, what we could do, Ms. Quillen, is ask for a stay to be put on that permit and ask---.

MARY QUILLEN: And give them enough---.

BUTCH LAMBERT: ---for them to come before the Board to answer that question.

MARY QUILLEN: Oh, okay. Okay, very good. I'm just concerned about the 160 acres of that second 320 that might be stranded or, you know, do they have leases on that and do they plan to develop that?

BUTCH LAMBERT: Okay, Mr. Asbury, I'll ask that you place a stay on that application and notify Equitable with that docket number to put it back on the docket to come back and answer that question.

MARY QUILLEN: Because we do have...and the reason that is because that...the first one, docket number twenty, it was continued until March. So, they could just address that in both of those---.

BUTCH LAMBERT: Okay.

MARY QUILLEN: ---if that would be suitable with

them.

DAVID ASBURY: Ms. Quillen, would you give me that first docket number again, please?

MARY QUILLEN: It's VGOB-09-0120-2432. That's the one that was carried forward to March. The one that we addressed was VGOB-09-0120-2433.

BUTCH LAMBERT: Do you have a question, Mr. Harris?

BILL HARRIS: I'm a little confused. The second one that you mentioned, that was approved. Is that not correct?

MARY QUILLEN: Yes. We approved that, but there was some questions that I had about it is the reason that I asked for a clarification.

BILL HARRIS: Okay. Can we revisit approved, I guess, we can, approved projects?

MARY QUILLEN: Yes.

BILL HARRIS: Okay.

BUTCH LAMBERT: Yes.

BILL HARRIS: And the other thing is that the other one was continued until March. Were we not be presented with the material at that time.

MARY QUILLEN: Well, they're basically the...it's basically the same issue. It's just two different

ones...two different items and two different orders. One was carried forward, the other one was approved. That's the reason I asked that because they will be presenting the other one that they could clarify that question when they present...or when they come before the Board in March for that item.

BILL HARRIS: I guess I was a little confused about the stay for a---.

MARY QUILLEN: Confused about what?

BILL HARRIS: The stay for a permit.

BUTCH LAMBERT: We're just asking...Mr. Harris, we're just asking Mr. Asbury not to issue the permit until---.

BILL HARRIS: And that's for number twenty-one?

BUTCH LAMBERT: That's for number twenty-one, yes, sir.

BILL HARRIS: Oh, okay. Okay. Because I was going to say the one that hasn't been called...I mean, the other one, I mean...okay, never mind. I'm confused.

MARY QUILLEN: But it's the same issue on---.

BILL HARRIS: Yes...yeah, because it was the same---.

MARY QUILLEN: ---both. We will just clarify them both at the same time in March.

BILL HARRIS: Okay.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: So, that I understand, I will put a stay to insure that there's no wells drilled in these units until the units are further defined. Both of these are Equitable?

BUTCH LAMBERT: Yes.

MARY QUILLEN: Yes, I believe that's correct.

DAVID ASBURY: Okay. So, we will ask Equitable to come back. They might be able to answer some of those questions today.

RITA BARRETT: I need to know what the question was. I will say, the 480 acre unit that we have on the March docket, we intend to withdraw that.

MARY QUILLEN: Oh, that takes care of that.

BUTCH LAMBERT: So, do you still plan to proceed with the one that was approved?

RITA BARRETT: Yes, sir, we do.

BUTCH LAMBERT: Okay. So, you can come back in March to answer those question or maybe wait until the end until we get to the end of that docket.

JIM KAISER: I probably could answer it now if I had the file with me. I didn't know this was coming up.

RITA BARRETT: If we could wait until the end of the docket, I can call our office in Big Stone and have them send me some information.

BUTCH LAMBERT: Okay.

MARY QUILLEN: Oh, okay.

BUTCH LAMBERT: Yeah, let's move that to the end of the docket.

RITA BARRETT: Thank you.

MARY QUILLEN: Thank you.

BUTCH LAMBERT: Mr. Swartz, are you all by yourself?

MARK SWARTZ: Yes, because we would like to withdraw the application for TA-132. It was set for last month and continued until this month and we would just like to withdraw our application.

BUTCH LAMBERT: Withdraw, okay. Yes, sir.

LINK SMITH: I'm Link Smith. I'm part of this application that they're wanting to withdraw. I would like to present some evidence because I am the surface owner where they've drilled this well. Also, well 122 I'm a surface owner of which that well encompasses also. Under their original application for this 132, they listed me as oil and gas owner. I'm contending that I own the oil and gas. They own the coal. I'll present this through that

case from Buchanan County as my interest.

BUTCH LAMBERT: Okay. I understand that the application is being withdrawn. So, we're not going take any action on that today.

LINK SMITH: Okay.

BUTCH LAMBERT: We will take your papers and we'll review those.

LINK SMITH: Okay. I'd like to file a complaint then. I'd like that to go on the record.

BUTCH LAMBERT: Okay. To file a complaint against CNX---?

LINK SMITH: Yes.

BUTCH LAMBERT: ---I would ask that during the break or sometime during the day that if you would see Mr. Asbury and get with him and he'll take your information.

LINK SMITH: Okay.

BUTCH LAMBERT: Okay, thank you.

DAVID ASBURY: May I have your name again, sir?

LINK SMITH: Link Smith.

DAVID ASBURY: Linkous?

LINK SMITH: Link.

MARK SWARTZ: Link.

LINK SMITH: L-I-N-K.

DAVID ASBURY: Okay.

LINK SMITH: Smith.

DAVID ASBURY: All right, sir.

BUTCH LAMBERT: Thank you, Mr. Smith. I appreciate it.

LINK SMITH: Thank you.

MARK SWARTZ: Mr. Chairman Lambert I have one other housekeeping matter as long as I'm up here. I'm about to exit.

BUTCH LAMBERT: Okay.

MARK SWARTZ: But with regard to item number nineteen, which is a pooling application for AP-81, we are going to be moving at least one of the wells in that unit and we want to get that accomplished before we try to pool it. We'd like to continue that for two months, if we could.

BUTCH LAMBERT: Yes, sir, we'll continue that, Mr. Swartz.

MARK SWARTZ: Thank you very much.

SHARON PIGEON: Until April.

BUTCH LAMBERT: Thank you. That will be until April, is that correct?

MARK SWARTZ: Yes, that will be great.

BUTCH LAMBERT: The next item is a petition from Equitable Production Company for disbursement of funds from escrow and authorization of direct payments of royalties on

Tract 3. This is well VC-505247, docket number VGOB-03-0415-1145-02. All parties wishing to testify, please come forward and be recognized.

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser and Rita Barrett on behalf of Equitable Production Company.

(Rita Barrett is duly sworn.)

BUTCH LAMBERT: Mr. Kaiser, you may proceed.

RITA BARRETT

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, we were before the Board on this petition for disbursement last month and we had some...one particular area in our spreadsheet as far as the various dates. So, we're back here to correct that. This is a petition to disburse escrowed proceeds attributable to Tract 3 and the unit for well number 505247. The proceeds were escrowed because we have a conflicting claim between the coal owner and the oil and gas owner, correct?

A. That's correct.

Q. And the coal owner is Range Resources-Pine

Mountain Oil and Gas?

A. That's correct.

Q. And the oil and gas owner is the Stanley trust with all of the various beneficiaries listed, being Mark Stanley, et al?

A. That's correct.

Q. And the petition included a royalty split agreement between the conflicting claims with 80% going to the beneficiaries under the Stanley Trust and 20% going to the coal owner, that being Range Resources-Pine Mountain, is that correct?

A. That's correct.

JIM KAISER: And that's what we're here to ask the Board to do today is to disburse based upon the spreadsheet that we've given them, which is good through 8/30/08. We did have to make one correction. You'll see we wrote in...the very first beneficiary should have been 16%. 5 X 16 being 80 and then 22 to Range Resources. We apologize for that typo that we had to correct there.

Q. The exhibit...the spreadsheet that they now have in front of them should be accurate to the best of our knowledge, right?

A. That's correct.

Q. And we would ask the Board to disburse

based upon the owner's percentage in escrow, which is in the next to the last column on the right and the amounts shown in escrow, of course, are through 8/30, but the key being the owner percentage in escrow to be disbursed up to current and then I'd also ask that on a going forward basis these...the order direct that the royalties be paid directly to these parties as exhibited on the spreadsheet?

A. That's correct.

JIM KAISER: Nothing further fo this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

DONNIE RATLIFF: Second, Mr. Chairman.

BUTCH LAMBERT: I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next agenda I think we have competing interest for this particular unit. I'll ask that...I'm going to call items five and item fifteen together. Item five is a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-199, unit F-37. This is docket number VGOB-09-0120-2439. We're also calling a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit F-37. This is docket number VGOB-09-0120-2453. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of Appalachian Energy.

TOM MULLINS: Tom Mullins on behalf of GeoMet.

BUTCH LAMBERT: Seeing no others.

(Laughs.)

JIM KAISER: It---.

BUTCH LAMBERT: Do you want some gloves or how are we going to do this?

(Laughs.)

JIM KAISER: Just twenty paces. No, we're going... actually, we'd ask that you also call six, seven, eight, nine, twelve, thirteen...eleven, twelve, thirteen and fourteen.

BUTCH LAMBERT: Wait a minute. Six, seven---.

JIM KAISER: They called fifteen, I think.

BUTCH LAMBERT: I'm sorry, go ahead.

TOM MULLINS: Six, seven, eight and nine---.

JIM KAISER: Six, seven, eight and nine---.

TOM MULLINS: ---eleven---.

JIM KAISER: ---through fourteen.

TOM MULLINS: ---twelve, thirteen and fourteen and fifteen. You've already called fifteen.

JIM KAISER: So, anyway, all of the competing applications.

BUTCH LAMBERT: How about fifteen?

JIM KAISER: You just called that.

TOM MULLINS: Fifteen as well.

BUTCH LAMBERT: Oh, are we going to do them all? Okay---.

DAVID ASBURY: Six through fifteen, Mr. Chairman, all except ten as I understand it.

TOM MULLINS: Five through---.

JIM KAISER: Five through fifteen, all except ten.

TOM MULLINS: Except ten.

BUTCH LAMBERT: Five through fifteen---.

DAVID ASBURY: I stand corrected.

BUTCH LAMBERT: ---all except ten. Okay, that's

easy. Okay, we're also calling a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-237. This is unit F-36, docket number VGOB-09-0120-2440. We're also calling a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-245. This is unit F-35, docket number VGOB-09-0120-2441. Calling a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-243, unit F-34. This is docket number VGOB-09-0120-2442. Calling a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-241, unit F-33, docket number VGOB-09-0120-2443. Calling a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit F-33. This is well Rogers 416, docket number VGOB-09-0120-2449. Calling a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit F-34. This is Rogers well 417, docket number VGOB-09-0120-2450. Calling a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit F-35, Rogers well 418, docket number VGOB-09-0120-2451. Calling a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit F-36, well Rogers 419, docket number VGOB-09-0120-2452.

JIM KAISER: Mr. Chairman, at this time we would jointly ask that these five competing petitions be continued until the March docket. We were real close to having

something worked out by today. I told you it was all going to be you. I think...I really do, and I think Mr. Mullins will echo, have a sense that we'll be able to withdraw these in March and have a voluntary agreement worked out.

BUTCH LAMBERT: Thank you, Mr. Mullins and Mr. Kaiser.

SHARON PIGEON: Holding that as a carrot to get it.

BUTCH LAMBERT: Thank you, folks. These will be continued until March.

TOM MULLINS: Mr. Chairman, I'd like to...I'd also ask on behalf of GeoMet on docket items twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine and thirty, we're going to ask that those be continued as well. We're going to be talking to some folks. I hope to get something maybe worked out either to simply those or maybe get them withdrawn as well. So, I'd like to ask twenty-four through thirty inclusive be continued.

BUTCH LAMBERT: Until March?

TOM MULLINS: Until March.

BUTCH LAMBERT: Okay. Those will be continued until March.

TOM MULLINS: Thank you.

BUTCH LAMBERT: Thank you, gentlemen.

JIM KAISER: Since we're housekeeping, I'd ask the Board to turn their attention to items forty-one and forty-two. You're not going to need lunch today. Forty-one and forty-two, I'm here on behalf of Chesapeake Appalachia, LLC. We'd ask that those two items be continued until the April docket.

BUTCH LAMBERT: Thank you, Mr. Kaiser. Those will be continued.

BUTCH LAMBERT: Do you know which item we're on?

TOM MULLINS: Ten.

PEBBLES DEEL: Ten.

BUTCH LAMBERT: We're calling a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit E-37, Rogers well 426. This is docket number VGOB-09-0120-2447. All parties wishing to testify, please come forward.

TOM MULLINS: Tom Mullins and Pebbles Deel on behalf of GeoMet and Ryan Carter.

SHARON PIGEON: I'm sorry, what was the name?

PEBBLES DEEL: Ryan Carter.

SHARON PIGEON: Ryan Carter.

TOM MULLINS: Carter.

SHARON PIGEON: Thank you.

MARK SWARTZ: Mark Swartz on behalf of Island

Creek.

(Ryan Carter is duly sworn.)

PEBBLES DEEL: Mr. Chairman, before we get started, I want to point out a clerical error on the plat. I was informed by T Engineering that the Magisterial District indication is incorrect. It states that it's in North Grundy Magisterial District. It's actually in the Garden Magisterial District.

BUTCH LAMBERT: Okay.

SHARON PIGEON: You will need a revise---

BUTCH LAMBERT: We'll need a revised map.

PEBBLES DEEL: Yes, sir, I'll have that filed.

BUTCH LAMBERT: Okay. Thank you.

RYAN CARTER

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

DIRECT EXAMINATION

QUESTIONS BY MS. DEEL:

Q. Mr. Carter, can you please state your name?

A. Ryan Carter.

Q. And by whom are you employed?

A. GeoMet Operating Company, Inc.

Q. And what are your job duties?

A. Oversee development, placement of the wells, drilling, stimulation and completion.

Q. Are you familiar with this pooling application in this unit?

A. Yes.

Q. How many acres are in this unit?

A. 80.

Q. And what drilling field is the unit located?

A. Oakwood.

Q. What is the unit number?

A. E-37.

Q. And does GeoMet have drilling rights in this unit?

A. Yes.

Q. Are there any parties respondents listed in Exhibit B-3 which need to be dismissed today?

A. No.

PEBBLES DEEL: Can you hear him?

COURT REPORTER: No.

PEBBLES DEEL: Can you speak up just a little bit?

A. No.

Q. What is the percentage of the coal ownership that GeoMet has under lease currently?

A. 79.45%.

Q. What is the percentage of gas ownership in the unit that GeoMet has under lease?

A. 79.45%.

Q. Was notice to those parties entitled to notice pursuant to Virginia Code Section 45.1-361.19 by certified mail---

A. Yes.

Q. ---return receipt requested?

A. Yes.

Q. And were the return receipt cards or green cards filed at Mr. Asbury's office?

A. No, but I will ensure that the receipt cards will be filed with Mr. Asbury's office.

Q. Post hearing?

A. Yes.

Q. Was there also notice provided by advertisement in a newspaper of general circulation for the time period required by statute?

A. Yes.

Q. And was that in the Bluefield Daily Telegraph?

A. Yes.

Q. And do you have the certification of the

notification for filing today?

A. Yes.

Q. Is GeoMet authorized to do business in the Commonwealth of Virginia?

A. Yes.

Q. And have a they filed a blanket bond with the Department as required?

A. Yes.

Q. What terms did GeoMet generally offer to those who voluntarily enter into the lease agreement with them?

A. GeoMet offers \$20 per acre for a five years paid up lease with a one-eighth royalty.

Q. And are these lease terms fair and reasonable?

A. Yes.

Q. And what is the percentage of gas and oil estate that GeoMet is seeking to pool from this unit?

A. 20.55%.

Q. And what is the percentage of the coal estate that is sought to be pooled in this unit?

A. 20.55.

Q. Are there any unknown owners?

A. Yes.

Q. And who are they?

A. The Helen Cole Heirs.

Q. And are there any parties whose interests are in dispute?

A. Yes, listed as conflicting owners in Exhibit B-3.

Q. Who are those parties?

A. They are the N. J. Coal Heirs, Luther and Ola Mae Davis and Lester Guther-Jessop.

Q. And which tract is that?

A. 4.

Q. And what is the percentage of the unit that will be in conflict?

A. 19.96%.

Q. And has there been an Exhibit E filed showing the conflicting ownership?

A. Yes.

Q. And is GeoMet requesting that the Board pool the unleased owners in this unit?

A. Yes.

Q. Where should any correspondents be sent for any person wishing to make any election?

A. It should be sent to Joseph L. Stevenson, Land Manager, GeoMet Operating Company, Inc., 5336 Stadium

Trace Parkway, Ste. 206, Birmingham, Alabama 35244 is the area code or the zip code.

Q. Did you assist in the preparation of the estimated well costs for this application?

A. Yes, I did.

Q. And since the application was filed, have those well costs been admitted?

A. Yes.

Q. And do you have those well costs for filing today?

A. Yes.

Q. What is the total depth of the well for the proposed unit?

A. I don't recollect that right off.

Q. Here I'm showing you the AFE for the well.

A. Okay.

Q. Is the depth indicated on that AFE?

A. It is.

Q. What is the depth?

A. It's 1943 feet.

Q. And what are the estimated reserves for this particular unit?

A. I believe that to be 995 million cubic feet.

Q. What is the estimated well costs for the completion of this well?

A. \$476,170.50.

Q. And what are the dry hole costs?

A. Dry hole costs are \$377,570.

Q. And has there been an exhibit attached to the application listing---

A. Yes.

Q. ---these estimated costs?

A. Yes.

Q. And do you have an amendment to that exhibit to be filed today?

A. Yes.

Q. Did the estimated well costs include a reasonable charge for supervision of the drilling of the well?

A. Yes.

Q. And would the granting of this application promote conservation, protect correlative rights and prevent waste?

A. Yes.

Q. And is GeoMet asking to be named operator of this unit?

A. Yes, we are.

MARY QUILLEN: Mr. Chairman---

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: ---I have a question because the figures that they have just given us don't match up with what we have been given.

PEGGY BARBAR: The dry hole costs and the---

MARY QUILLEN: This is the revised one that you just gave, right?

RYAN CARTER: Correct.

MARY QUILLEN: And those don't match up. The reserve we not what we have in the application.

(Tom Mullins and Pebbles Deel confer.)

RYAN CARTER: I'm sorry, I've...I have misquoted the dry hole cost.

MARY QUILLEN: Okay. What was that?

RYAN CARTER: The dry hole costs are actually \$252,800...\$252,818. The proposed estimated production for the life of this well is 936 million cubic feet.

MARY QUILLEN: Okay, very good. And what was that depth again?

RYAN CARTER: It was 1943 feet.

MARY QUILLEN: Okay, thank you.

SHARON PIGEON: 43?

RYAN CARTER: Yes.

BILL HARRIS: Mr. Chairman---

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: ---let me just ask just a couple of questions. Could we get some idea of your background and the preparation that you have for the position that you have?

RYAN CARTER: That I'm in?

BILL HARRIS: Yes.

RYAN CARTER: I use to be contracted through... actually through CNX. I started...I worked in their gas field back in 1990. I've done a lot of various jobs for them. I assisted in production. I assisted in a lot of the operations. Then in 2004, I got employed with GeoMet. I then worked beside of Jeff Taylor, which I believe all of you know. I have been...I was their production manager for approximately three years until I got moved into the job that I currently have now.

MARY QUILLEN: What's your educational background?

RYAN CARTER: George Wythe High School. I graduated. I had some college, but no undergraduate degree.

MARY QUILLEN: And your training that you've received in this field, you received from the companies that you were employed by?

RYAN CARTER: That's correct.

SHARON PIGEON: What's your current job title? I know you gave us that, but I didn't get it.

RYAN CARTER: My current job title is drilling and completion manager.

SHARON PIGEON: Thank you.

PEGGY BARBAR: Mr. Chairman, may I ask a question?

BUTCH LAMBERT: Ms. Barbar.

PEGGY BARBAR: How much were you involved with the preparing of the AFE?

RYAN CARTER: I assigned all of the drilling costs, the completion costs, the stimulation costs, the cementing costs and the casing costs.

PEGGY BARBAR: So, who...what does Donna Walker do with you company?

RYAN CARTER: She is our financial analyst. She takes the numbers that I provide her and writes the AFE.

PEGGY BARBAR: Okay. Just curious about the structure. Thank you.

BILL HARRIS: Mr. Chairman, I do have...oh, well, I think I see it now. Let me ask the question anyway. The original AFE I did not see the depth mentioned. The handout that you gave us, I guess it's on the front page where it has project description. That's the 1943. That was my question about the depth being shown on the AFE, but I do

see it now. Thank you.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: In our application, and this may have caused some confusion that we've copied out, the Exhibit B, the tract identification shows on coal and gas it shows 79.5% that's leased. Then it says 15.81 is unleased.

PEBBLES DEEL: Yes, sir. I do have the revised exhibits. All of the data is correct. I just had an addition problem at the end.

DAVID ASBURY: Okay.

PEBBLES DEEL: Everything else is the same.

SHARON PIGEON: Which ones will you be revising?

PEBBLES DEEL: Just for completion purposes, I've got a whole new set for B-3 and E. All of them have the same addition problem at the end, but all of the data incorporated into the individual tracts are the same. It was just adding of the percentages at the end that was off.

SHARON PIGEON: We need an Exhibit E correction apparently as well.

PEBBLES DEEL: Yes, ma'am, I have that right here.

SHARON PIGEON: Pardon me?

PEBBLES DEEL: I have---.

SHARON PIGEON: E?

PEBBLES DEEL: Yes, ma'am.

SHARON PIGEON: His testimony doesn't match what we have. You need to correct that on the record.

TOM MULLINS: What the error?

SHARON PIGEON: We have Tract 2 on the old one and he testified to Tract 4.

PEBBLES DEEL: It is Tract 4.

SHARON PIGEON: We need our witness to tell us that under oath.

TOM MULLINS: I think he said Tract 4.

RYAN CARTER: I did.

SHARON PIGEON: He did. But Exhibit E Tract 2.

TOM MULLINS: We've got the new Exhibit E that has Tract 4.

SHARON PIGEON: But we need to have testimony that connects to a revised exhibit.

RYAN CARTER

DIRECT EXAMINATION

QUESTIONS BY MR. MULLINS:

Q. Is it your testimony as to Tract 4 concerning the pending application as to the amended Exhibit E?

A. Yes.

BUTCH LAMBERT: Mr. Harris, do you have a question?

BILL HARRIS: Oh, no, no. I was commenting, I'm sorry.

BUTCH LAMBERT: Thank you.

MARY QUILLEN: Mr. Chairman, just one question.

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: These figures on your revised exhibits match up with the figures that you testified to, is that correct?

RYAN CARTER: Any other questions from the Board?

KATIE DYE: Mr. Chairman, I have a question.

BUTCH LAMBERT: Ms. Dye.

KATIE DYE: In looking at the Exhibit E---.

BUTCH LAMBERT: The handout.

KATIE DYE: The revised ones, yes.

BUTCH LAMBERT: Okay.

KATIE DYE: Under the Ellen Cole Heirs and devisees you have one-twelfth of a 115.97 acres, but the others back through the application, I think it's just a typo---.

PEBBLES DEEL: It is a typo, ma'am.

KATIE DYE: ---it shows one-twelfth of 15.97.

PEBBLES DEEL: It's a typo, ma'am.

SHARON PIGEON: So, we need another revised Exhibit E.

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Swartz.

MARK SWARTZ: Just a couple of questions.

RYAN CARTER

CROSS EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. There are four tracts in this unit? It's on your plat.

A. No.

BUTCH LAMBERT: Mr. Swartz, could you speak up, please.

Q. There are four tracts in this unit on your plat?

A. There are...yes, you are correct. There are four.

Q. Okay. And two of those tracts are LBR Holdings tracts?

A. That is correct.

Q. And is the proposed well located on an LBR

Holdings tract?

A. That is correct.

Q. Okay. I notice with regard to Tract 3 in some of your exhibits you indicate who the coal lessees are. Do you see that?

A. I see Tract 3.

Q. Okay, that would work, the page you have. Do you see that under Tract 3 there the Tazewell Coal and Iron and then it says in bold, "**Leased coal**" and then it has the names of the lessees, correct?

A. Yes.

Q. Okay. I notice that you don't have any information with regard to coal leases for Tracts 1 and 2, is that correct on your exhibit?

A. I show the coal estate is leased.

Q. To whom?

A. To---.

PEBBLES DEEL: Objection, Mr. Chairman. This man didn't do the title work and he has no information as to what the title report is.

MARK SWARTZ: I would simply point out 4VAC251670 at A.7 that the applicant is required to submit a plat or an attachment to a plat that gives the names and owners of record of all people involved in the tracts. I think they

know what they're supposed to because they're showing the coal lessee in Tract 3, but they're giving us know information with regard to coal lessee with regard to Tract 1 and 2. And my question simply is, is the coal leased? If it is, why didn't you put down the name of the coal lessee with regard to those two tracts as you have with regard to Tract 3? That's my only question because I think they're required to do that and they have. So, if they tell me the coal is unleased, I'm done. If they tell me it's leased, they need to modify the exhibit.

BUTCH LAMBERT: Ms. Deel, do you have someone here that can testify to that?

PEBBLES DEEL: No, sir.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: I'm going to overrule your objection and ask that you either submit a new exhibit again, update it with lease information. Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do you have anything further, Ms. Deel?

PEBBLES DEEL: No, sir.

BUTCH LAMBERT: Mr. Swartz, do you have anything

further?

MARK SWARTZ: No, I do not.

BUTCH LAMBERT: Do I have a motion from the Board?

BILL HARRIS: A motion to continue until that information is provided to the Board.

TOM MULLINS: We can do that post hearing. We're going to obviously have to submit a new Exhibit E. We can submit that hearing post hearing, Mr. Chairman, if that is the will of the Board. That's not unusual.

BILL HARRIS: If that's satisfactory, I'll withdraw that. Well we still would need to---.

BUTCH LAMBERT: We still need your motion.

BILL HARRIS: Well, the motion was to continue though. I don't know that we would need a continuance if that's...if it's satisfactory. That's provided post hearing.

BUTCH LAMBERT: You can modify it or change your motion.

BILL HARRIS: Is that satisfactory...let me ask that question to provide that post---?

MARK SWARTZ: Well, I just think there needs to be testimony, which is sort of where you...I think where you're coming from. I mean, you can provide something...if you testify to it, then you can just catch up. I think the

problem is there is no answer to the question is what you're focused on, I think.

BILL HARRIS: I really think we...I really think we ought to continue that though to answer that question because I think we'll need testimony as well besides just the information. So, I'll just leave the motion there that we continue this for...until the next---

DONNIE RATLIFF: Until March.

BILL HARRIS: Until March...the March hearing.

DONNIE RATLIFF: Second.

BUTCH LAMBERT: I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: We'll continue this until March. Thank you, folks. The next item is a petition from CNX Gas Company, LLC for creation of drilling unit and pooling of conventional gas unit F10CV. This is docket number VGOB-09-0217-2460. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

(Anita Duty is duly sworn.)

ANITA DUTY

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, could you state your...Anita, could you state your name for us, please?

A. Anita Duty.

Q. Who do you work for?

A. CNX Gas Company.

Q. And what's your title with them?

A. Pooling supervisor.

Q. And with regard to this application that we have to create a unit and then pool it concerning F10CV, who signed the notice?

A. I did.

Q. And how about the application?

A. I did.

Q. And did you either prepare these documents for this pooling hearing today or cause them to be prepared under your supervision?

A. Yes.

Q. What did you do to notify people that there would be a hearing today concerning the application with regard to F10CV?

A. We mailed by certified mail, return receipt requested on January the 15th, 2009. We published in the Bluefield Daily Telegraph on January the 30th.

Q. Okay. And when you mailed to people, what did you send them in the mail?

A. The notice of hearing and location exhibit.

Q. When you mailed and not when you published. When you mailed, what did you send them?

A. The notice.

Q. Okay.

A. The notice.

Q. Okay. Actually, when you mail to people do you send them everything?

A. Yes.

Q. Okay. So, you would have sent the notice

of hearing, the little map and the plat, correct?

A. Yes.

Q. And the application and any related exhibits?

A. Yes.

Q. Okay. And when you published do you send something different to the paper?

A. The notice as well as the location exhibit.

Q. Okay. And that's what appears in the paper?

A. Yes.

Q. Okay. Have you provided your certificates with regard to mailing and your proof of publication that you get from the newspaper to the director?

A. Yes.

Q. So, you filed those. Do you wish to add any people as respondents today?

A. No.

Q. Do you wish to dismiss any?

A. No.

Q. So, the people that we're seeking to pool today with regard to this docket item are listed in the 2 section of the notice of hearing and then listed again in Exhibit B-3, correct?

A. Yes.

Q. Who is the applicant?

A. CNX Gas Company.

Q. And is there a request that someone be appointed operator if the unit is created and pooled?

A. Yes, CNX.

Q. Okay. And is CNX Gas Company, LLC a Virginia Limited Liability Company?

A. Yes.

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

A. Yes.

Q. Has it registered with the Department of Mines, Minerals and Energy?

A. Yes.

Q. Does it have a bond on file as is required for gas operators by law?

A. Yes.

Q. In this unit that you're seeking to create, is there a map of it in the application?

A. Yes.

Q. And it's a circular unit?

A. Yes.

Q. And what's the radius?

A. 1250 feet.

Q. And the well is located in the very center?

A. Yes.

Q. This is a statewide spacing unit?

A. Yes.

Q. And how many acres does it contain?

A. 112.69.

Q. Would you tell the Board what percentage of the acreage you have been able to either lease or acquire and what percentage it is that you're seeking to pool?

A. We've leased 93.7498% of the oil and gas owners claim. We're seeking to pool 6.2502%.

Q. And there's no escrow requirement here?

A. No.

Q. And have you indicated in the application what formations would be included or explored for production and also an estimate of the amount of reserves in the unit?

A. It would include, but no limited to the Salt Sands, Raven Cliff, Madison, Big Lime, Berea, Gordon and Devonian Shells.

Q. Okay. What is the estimated amount of production and reserves here?

A. 400 mmcf.

Q. Have you provided a cost estimate for this

well with your application?

A. Yes, it's \$637,027.94.

Q. And did you actually prepare that yourself?

A. Yes.

Q. What is the proposed depth of this well?

A. 7,100 feet.

Q. And it doesn't have a permit as yet?

A. It does.

Q. Oh, it does?

A. Uh-huh.

Q. What's the number?

A. 1068.

Q. And is it drilled or not?

A. No.

Q. Okay. What terms would you recommend to the Board to be included in its order if this unit is created and pooled with regard to folks who might be deemed to have been leased?

A. Five dollars per acre for a five year paid up term.

Q. Okay. And the royalty percentage on fracture would be?

A. One-eighth royalty.

Q. Do you contemplate that this well would be

fractured and that cost is...is that at line 132, I think, right?

A. Yes.

Q. And you've estimated that fracture cost as what?

A. 160,000.

Q. Okay. And that multiple formations potentially?

A. Yes.

Q. Okay. Is it your opinion that if you combine the leases and acquisition efforts that the applicant has been successful with a pooling order pooling the 6.2502% of the folks or an interest that you haven't been able to acquire that the correlative rights of everyone will be protected?

A. Yes.

Q. And is it your opinion that drilling a well in the center of the statewide spacing unit is a reasonable way to produce the conventional gas, which you hope to find under the unit?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

PEGGY BARBAR: Second.

BUTCH LAMBERT: I have a motion and a second. Is there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you, Mr. Swartz. It's approved.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is a petition from CNX Gas Company, LLC for creation of a drilling unit and pooling of conventional gas unit G9CV. It's docket number VGOB-09-0217-2461. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: Seeing no others, Mr. Swartz, you may proceed.

MARK SWARTZ: Thank you. If I could, I would like

to incorporate Anita's testimony regarding the applicant and operator, her employment and the standard lease terms from the prior hearing if I could.

BUTCH LAMBERT: It's accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to...you do need to state your name again though, okay.

A. Anita Duty.

Q. Okay. And you're still under oath?

A. Yes.

Q. Okay. With regard to this application, were you the person who signed the notice of hearing and the application?

A. Yes.

Q. And did you either personally prepare these documents or caused them to be prepared under your supervision?

A. Yes.

Q. What kind of a unit is it that you're seeking to create in regard to G9?

A. It's a statewide spacing.

Q. And you've provided the Board with a map?

A. Yes.

Q. And where is the well located in the unit?

A. In the center.

Q. And it's a circular unit?

A. Yes.

Q. What's the radius?

A. 1250 feet.

Q. And how many acres does it contain?

A. 112.69.

Q. Have you listed the folks that you're seeking to pool in the notice of hearing and in Exhibit B-3?

A. Yes.

Q. And do you want to add any folks as respondents today?

A. No.

Q. Do you want to dismiss anybody?

A. No.

Q. What did you do to let the respondents know that there would be a hearing today?

A. We mailed by certified mail, return receipt requested on January the 15th, 2009 and published in the Bluefield Telegraph on January the 29th, 2009.

Q. And when you mailed to folks, what was included in the envelope?

A. The notice, application and exhibits.

Q. Everything the Board has?

A. Yes.

Q. Okay. And when you published, was something different published?

A. The notice and the location map.

Q. And have you provided the director with copies of your certificates concerning mailing and the proof of publication that you got from the newspaper?

A. Yes.

Q. What interest has the applicant be able to acquire in this unit...this proposed unit and what interest are you seeking to pool?

A. We've acquired 83.3859% of the oil and gas owner's claim. We're seeking to pool 16.6141%.

Q. Is it your opinion that if you combine a pooling order with leasing and acquisition efforts that the applicant has been successful with that the correlative rights of everyone would be protected?

A. Yes.

Q. With regard to the proposed well here, have you provided a cost estimate?

A. Yes.

Q. And who signed that?

A. I did.

Q. And is that something that you actually prepared?

A. Yes.

Q. And does the well that's proposed here also contemplate that it would be fraced?

A. Yes.

Q. In multiple formations?

A. Yes.

Q. Okay. What is your cost estimate for this well?

A. \$549,822.46.

Q. And what's the estimated depth?

A. 7,134 feet.

Q. And do you have a permit now?

A. Yes.

Q. And what's that number?

A. 10,070.

Q. And has the well been drilled yet?

A. No.

Q. Okay. There's no escrow requirement here, correct?

A. Right.

Q. And the target formations, have you listed those in your application?

A. Yes.

Q. Okay. At the bottom of the first page they are...they include what?

A. The Salt Sands, Raven Cliff, Maxion, Big Lime, Berea, Gordon and Devonian Shells.

Q. And you've provided a production and it was your estimate of what?

A. 400 mmcf.

Q. Okay. Is it your view or opinion that drilling one frac well in the center of a statewide spacing unit is a reasonable way to produce the conventional gas that you hope to find under the unit?

A. yes.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve, Mr. Chairman.

MARY QUILLEN: Second.

BUTCH LAMBERT: I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify saying yes.

(All members signify by saying yes, but Katie Day.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is a petition from CNX Gas Company, LLC for creation of a drilling unit and pooling of conventional gas unit G11CV. This is docket number VGOB-09-0217-2462. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you. If I could, I would like to incorporate Anita's testimony from the first hearing today with regard to the applicant, the operator, her employment at CNX and the standard lease terms.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name again.

A. Anita Duty.

Q. And I'm going to remind you that you're still under oath?

A. Okay.

Q. Is this also a conventional unit?

A. Yes.

Q. Is it a statewide unit?

A. Yes.

Q. What's the shape of the unit?

A. It is a circle.

Q. What is it's radius?

A. 1250 feet.

Q. And how many acres does it contain?

A. 112.69.

Q. Have you listed the folks that you're seeking to pool in the 2 section of the notice of hearing and again in Exhibit B-3?

A. Yes.

Q. Have you filed a revised...any revised exhibits with the Board today?

A. Yes.

Q. And do you wish to delete someone from the list of respondents?

A. Yes, the George Belcher estate.

Q. Okay. And why is that dismissal or deletion being requested?

A. We have them leased.

Q. Okay. And when you lease somebody, does that change some of the other exhibits, the percentages, which we'll talk about in a minute?

A. Yes.

Q. And have you provided revised exhibits to reflect the fact that you now have more leased than you did when you filed?

A. Yes.

Q. Okay. What did you do to notify people that there would be a hearing today?

A. We mailed by certified mail, return receipt requested on January the 15th, 2009 and published the notice and location exhibit in the Bluefield Daily Telegraph on January the 28th, 2009.

Q. Okay. And when you mailed to people, what did they get?

A. The notice, the application and attached

exhibits.

Q. And when you published, what appeared in the newspaper?

A. The notice and location exhibits.

Q. Okay. And have you provided the Director with copies of the certificates with regard to mailing and the proof of publication that you got from the Bluefield Daily Telegraph?

A. Yes.

Q. What interests have you been able to acquire and what interest are you seeking to pool today, and with regard to that, we need to refer to the revised, right?

A. Yes.

Q. Okay. And the last page of that indicates what?

A. We have leased 83.0213% of the oil and gas owner's claim and seeking to pool 16.9787% of the oil and gas owner's claim.

Q. And there's no escrow required here?

A. No.

Q. And is it your opinion that if you combine the leasing and acquisition efforts where CNX has been successful with a pooling order pooling the outstanding 16.9787% that the correlative rights of everyone in this

unit will be protected?

A. Yes.

Q. With regard to the proposed well, I think you indicated earlier that it's located in the center of the unit?

A. Yes.

Q. Is it intended to be a frac well?

A. Yes.

Q. And have you provided in your cost estimate for treatment or frac?

A. Yes.

Q. Okay. And what is your cost estimate with regard to G11CV?

A. \$645,683.69.

Q. And is that an estimate that you prepared and signed?

A. Yes.

Q. What's the proposed depth?

A. \$7,190 feet.

Q. And do you have a permit now?

A. Yes. 10,071.

Q. Is it your opinion, based on your experience, that drilling a frac well in the center of this statewide unit is a reasonable way to seek to produce the

conventional gas that might be found within the unit?

A. Yes.

MARK SWARTZ: I believe that's all I have, Mr. Chairman.

BUTCH LAMBERT: Any questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: I think at this point, we're going to take a ten minute break.

(Break.)

BUTCH LAMBERT: The next item on our docket is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit BB92, docket number VGOB-09-0217-2464. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us, again.

A. Anita Duty.

Q. I'm gong to remind you that you're still under oath.

A. Okay.

MARK SWARTZ: Mr. Chairman, I'd like to incorporate Anita's testimony regarding the applicant and operator, her employment and standard lease terms if I could.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

Q. This unit is a CBM unit, correct?

A. Yes.

Q. And what field is it in?

A. Nora.

Q. And how many acres does it contain?

A. 58.78.

Q. What did you do to notify people that we would be having a hearing on this today?

A. Mailed by certified mail, return receipt requested on January the 15th and published in the Bluefield Daily Telegraph January the 28th, 2009.

Q. Okay. Have you filed your certificates with regard to mailing and your proof of publication with the Director?

A. Yes.

Q. When you mailed to people, what did you send them?

A. The notice, application and attached exhibits.

Q. Okay. And when you published, what appeared in the newspaper?

A. The notice and the location exhibits.

Q. Do you want to add any respondents today?

A. No.

Q. Do you want to dismiss anybody today?

A. No.

Q. What interest have...has the applicant been able to acquire in this unit and what interest are you seeking to pool?

A. We've acquired 98.3838% of the coal, oil and gas owner's claim. We are seeking to pool 1.612% of the coal, oil and owner's claim.

Q. Okay. There's no escrow required here?

A. No.

SHARON PIGEON: Excuse me, Mark. Is that 612 or 6162?

MARK SWARTZ: I think it's 6162---?

ANITA DUTY: 6162.

MARK SWARTZ: ---correct?

ANITA DUTY: Did I...okay. It's 6162.

SHARON PIGEON: Thank you.

Q. Have you provided a cost estimate for the proposed well?

A. Yes.

Q. What is that estimate?

A. \$291,598.12.

Q. Is this a frac well that's proposed?

A. Yes.

Q. What's the estimated depth?

A. 2,551 feet.

Q. Okay. Again, you've put your signature right through the number down there.

A. I didn't this last time.

Q. Okay. All right. We're going to get that straightened out.

BUTCH LAMBERT: We talked to her about that at the last hearing.

MARK SWARTZ: For those of us who can't see like me, you know.

ANITA DUTY: I had already signed those before the last hearing.

Q. Okay. Do we have a permit number for this well?

A. Yes. 10,134.

Q. Okay. And this...I think I asked you, but to be sure, this is proposed to be a frac well?

A. Yes.

Q. Okay. Have you shown the proposed location of this well on the plat?

A. Yes.

Q. And is it within the drilling window?

A. Yes.

Q. At least at this point, this is the only

well proposed for this unit?

A. Yes.

Q. Is it your opinion that if you combine a pooling order with the leasing and acquisition efforts that the applicant has been successful with regard to, if you combine those two things that the correlative rights of everyone who has a claim or interest in this unit would be protected?

A. Yes.

Q. Is it your opinion, based on your experience, that drilling one frac well in the drilling window of this Nora unit is a reasonable way to produce the coalbed methane gas located within and under this unit?

A. Yes.

Q. And, basically, you're seeking to produce from all seams and strata below the tiller?

A. Yes.

Q. And you provided an estimate of production and reserves in a range?

A. Yes.

MARK SWARTZ: Mr. Chairman, that's all I have on this unit.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Swartz, have you provided any testimony on terms or---?

MARK SWARTZ: I incorporated that.

BUTCH LAMBERT: You did, okay.

MARK SWARTZ: Yeah.

BUTCH LAMBERT: Thank you.

SHARON PIGEON: Was that though including coalbed methane as opposed to conventional?

MARK SWARTZ: It was on purpose, yes.

SHARON PIGEON: Okay.

MARK SWARTZ: Is the five dollars and the one-eighth, correct.

SHARON PIGEON: Okay.

MARK SWARTZ: Good question, but that was the intent of that testimony.

BUTCH LAMBERT: Okay.

SHARON PIGEON: (Inaudible).

MARK SWARTZ: Correct?

ANITA DUTY: Yes.

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties on Tract 2. This is well AX-135. This is docket number VGOB-04-12...0249-01. All parties wishing to testify, come forward, please.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: I'd like to incorporate Anita's

testimony with regard to her employment and with regard to the operator. I'd like to do that.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us, again.

A. Anita Duty.

Q. And who do you work for?

A. CNX Gas Company.

Q. I'll remind you that you're still under oath.

A. Yes.

Q. Okay. This is an application to allow or to direct the escrow...the Board's escrow agent to disburse some funds, is that correct?

A. Yes.

Q. What tract or tracts does this application pertain to?

A. Tract 2.

Q. Okay. And that would be Tract 2 in an

escrow account established for unit AX-135?

A. Yes.

Q. In order to...let's strike that. Have you obtained copies of the bank's or escrow agent's records with regard to this unit and this tract and have you compared them to the operator's payment records?

A. Yes.

Q. And when you compared them, what did you find?

A. The payments that we had sent for this account were accounted for in the escrow.

Q. Okay. So, you saw a deposit for every payment that you've made?

A. Yes.

Q. And then, obviously, did you also see in the escrow agent's records a provision for interest that would have been added to the account and a provision for deducts of charges that made to manage the account?

A. Yes.

Q. Okay. And have...did you then undertake to calculate the percentage of the tract in terms of the percentage of funds escrowed for AX-135?

A. Yes.

Q. Okay. And this Tract 2, the only tract in

escrow with regard to this unit?

A. Yes.

Q. So, the...if this disbursement is improved, then that...approved, then that entire escrow account for AX-135 will go away?

A. Yes.

Q. Okay. And did you do your comparison the royalty payment records of the operator to the bank's records through a date?

A. December the 31st, 2008.

Q. Okay. And would it be your expectation that there would be additional moneys added since then?

A. Yes.

Q. And is your recommendation that if the escrow agent is directed to make a disbursement that the division be based on a percentage of the total on hand at the time the disbursement is made as opposed to picking some certain to date?

A. Yes.

Q. Okay. As of the date that you squared up the account balance, what was in the account?

A. \$43,481.52.

Q. And how is that to be split?

A. 50% to Cole Creek and 50% to Kenneth

Anders.

Q. So, when the disbursement order is entered, if one is, the agent should simply be directed to disburse half to each of the folks that you've identified here?

A. Yes.

Q. And are you also asking that the Board allow the operator to pay the people who are parties to this split agreement directly in the future rather than continuing to escrow?

A. Yes.

Q. Have you actually seen the split agreement?

A. Yes.

Q. And you can testify then that it is in an equal split agreement?

A. Yes.

Q. Okay. With regard to the original...when this unit was originally pooled, who was the conflicting owner as opposed to Cole Creek Coal Company? What was his or her name?

A. It was Emogene Vance.

Q. Okay. What has happened with regard to Emogene Vance since this unit was originally pooled?

A. She is deceased.

Q. Okay. Have you been able to find her Will

and her Estate records?

A. Yes.

Q. And how many Heirs did she have?

A. Just the one.

Q. And who was that?

A. Kenneth Anders.

Q. okay. And so that would...and he is now party to the agreement---?

A. Yes.

Q. ---split agreement?

A. Yes.

Q. And so that's why we have him instead of Emogene Vance in the disbursement request?

A. Yes.

Q. Have you provided the Board with a revised Exhibit EE to make that name change?

A. Yes.

Q. And is that in your application?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Swartz, just so that I understand it, Ms. Duty testified that there's \$43,481 and

\$50.52 there now, but there will be additional moneys. Whatever is there come time of disbursement, that's the amount that will be split?

MARK SWARTZ: Correct.

BUTCH LAMBERT: Okay. Thank you. Any other questions from the Board?

MARY QUILLEN: Just a point---

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: ---Mr. Chairman, like the amount due owners, if they could just put as of that date so that's on the---

MARK SWARTZ: It actually is.

SHARON PIGEON: Up here at the top.

MARK SWARTZ: In the title.

MARY QUILLEN: Oh, I see. I'm sorry. I'm sorry.

MARK SWARTZ: It's all right.

MARY QUILLEN: I was looking down here. I apologize.

MARK SWARTZ: I was looking for it today as well, but it's actually there.

SHARON PIGEON: I did the same thing.

MARK SWARTZ: Yeah.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

DAVID ASBURY: Mr. Chairman. Just as an enhancement for the Board's knowledge and things that we need to before actually making the Board and recording the Board order going forward, we would ask the Board's consideration to require operators in the future to come with their full accounting up to this point for any particular unit they're getting ready to disburse as well as bring the W-9 forms for those individuals being asked to disburse. If we had that accounting at the time that they request that from the Board, then there's no question after disbursement. So, on the operator's side, if they would bring their full accounting as well as the W-9 form, then the Division will endeavor to make sure that those Board orders are prepared to not have a time lag as far as disbursements. So, if we have the accounting, the W-9 before the Board as they're requesting disbursement, the Division then will work to prepare and have the disbursement order ready for that disbursement, which can be signed the same day that the Board approves that. This is one particular case that we can do this so that we don't develop a future backlog and that all of the accounting and percentages and acreage for disbursement is timely. This is the first case that we're trying to work with our operators

to do that. This particular disbursement is ready for our signatures today. But there has always been a question about the moneys from the operators that go into the unit, which we have no accounting from. The second element is the W-9 for the individuals being disbursed, which we're asking the operators to present before the Board so that when they ask for the disbursement from this body and it's approved, everything is in place and we can make that disbursement in a timely manner.

BUTCH LAMBERT: Mr. Asbury, would you prepare a memo to the operators---?

DAVID ASBURY: Yes, sir.

BUTCH LAMBERT: ---as your request for the Board Chairman's signature?

DAVID ASBURY: I will do that.

BUTCH LAMBERT: Thank you.

MARK SWARTZ: I would like to offer an observation with regards to that. I think the W-9s are totally appropriate. These people want the money. It will be easy to get W-9s from them at this moment, so I think that's a great idea. With regard to the accounting, we have the accounting records, but they're voluminous. So, are you suggesting that we simply need to have it here if there's a question or do we...I mean, you have the bank records? We

get them from you all. So, you know, we...do you want us to bring it? Do you want us to file it? I mean, what---?

DAVID ASBURY: The accounting as far...this goes back to the one-eighth royalty. As long as there is...if you're getting ready to disburse an individual that has been pooled and you're getting ready to disburse from the escrow account the full accounting of your payments into that escrow on that individual's behalf is important for the Board to know so that if we make...and it's our...going to be our intent and effort going forward to reduce our escrow account significantly. But as you come before the Board and prepare the disbursement, the Board members will have evidence of the accounting and how it was paid into the escrow account. That would include volume, price, deduction from the wellhead price and those things as required by the Board order. They would be only following the...and have evidence that those payments had been made appropriately from the Board order itself.

MARK SWARTZ: Okay. I guess, there are two issues that you raised. What Anita checks and what she testifies to is when they cut a...when the operator cuts a royalty check, did it get into the escrow account? That's what she just testified to. That every cent that they paid is she able to see a deposit into the escrow account? You know,

that... those...so, basically, by having the escrow account records, you already have all of the deposits, okay. Now, what I hear you asking for is check detail and I'm not sure that we can even come up with that. You know, we're talking---

ANITA DUTY: It's a lump sum that was paid to the account during that month.

MARK SWARTZ: This is five years of records that you're asking for check detail on this particular unit, which I'm not sure we have hard copy of.

DAVID ASBURY: Well, the accounting is important to make an accurate disbursement. Just like the escrow audit that's just about ready to happen, the accounting people have to make sure the escrow agent has properly received payment during this time period just as if they had been paid directly from your office with your royalty statements. It would be similar to a person receiving royalty or someone receiving a statement of royalty payment.

MARK SWARTZ: The bank gets those every month, you know, so, I guess, they're bank record. I mean, you know, we don't retain hard copy of check stubs.

ANITA DUTY: There's one check that goes per account---

DAVID ASBURY: And does the---

ANITA DUTY: ---and it has all of the detail behind every person that is in conflict in that unit as a lump sum and not as an individual.

MARK SWARTZ: But the volumes are shown...they get the same check detail that any royalty owner would get and they're getting it on a monthly basis, the bank. They get that hard copy. We don't retain a hard copy of that. I mean, it would be meagerly undertaking. I can't speak for other companies, but I'm not sure that we could even drag our data for that at this point. I mean, so...you know, the W-9s and the reconciliation of the deposits I don't have a problem with that, but the check detail the bank already has or should...well, they do have.

BUTCH LAMBERT: Well, Mr. Swartz, we'll take your comments under consideration and we'll work together and come up with a solution.

MARK SWARTZ: Because I think we need to think about this is what I'm saying.

BUTCH LAMBERT: Yeah, okay, we'll do that.

DAVID ASBURY: And the bottom line here, you're asking the Board, under testimony, to make a disbursement based on one line percentage of acreage. They have no evidence to know the payments into this escrow unit have been paid properly and there are issues with our land owner

and the individuals who has been disbursed in the past who, once they're disbursed and receive their check, they have questions on payments. So, this would be transparent for the Board members to be able to see those payments properly and make sure that they agree with the percentage being disbursed at that time due to acreage and an amounts being paid into each unit.

MARK SWARTZ: Okay. I couldn't agree with you less in a way. Cole Creek and Anders are not here...they're in agreement with this disbursement, you know. So, we don't have an argument with them. They're not here. They don't have a lawyer. They have entered into a split agreement, you know. We've discussed the disbursements with them. They're cool with it. So, you're asking us to provide...I mean, this is their data come and say we don't like what we've...what you're paid into the escrow. I mean, you know, it's...I understand what you're talking about, but, you know, if people...and I don't anticipate we're going to have...I mean, we've got three disbursements on the docket today. I don't anticipate that Hurt McGuire Trust is going to be here complaining either. So, are we implementing a procedure potentially that is completely unnecessary because the people are happy with the amount of money that they're getting and they're having a day today. If they're not,

they need to come.

BUTCH LAMBERT: Again, to move us along, I hear your comments and we'll take...we'll take it under advisement. I'll work with Mr. Asbury and other Board members to reconcile the differences.

MARK SWARTZ: I just felt like it was an opportunity to raise those issues. I'm sure you'll think about them.

BUTCH LAMBERT: We need a motion on this docket number.

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. All in favor, signify by saying yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: I have one abstention, Mrs. Dye.

BUTCH LAMBERT: Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties on Tract 2. This is...I'm sorry...no, we're right, on Tract 2, well

AW-135. This is docket number VGOB-04-0120-1248-02. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: I'd like to incorporate, Ms. Duty's testimony with regard to her employment and the operator.

BUTCH LAMBERT: It's accepted.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us.

A. Anita Duty.

Q. And who do you work for?

A. CNX Gas Company.

Q. And I'm just going to remind you that you're still under oath.

A. Okay.

Q. This application for disbursement pertains to what drilling unit?

A. AW-135.

Q. And what tract in that unit?

A. Tract 2.

Q. And have you provided a similar Exhibit A

for this unit?

A. Yes.

Q. Okay. And it looks like there are two tracts in escrow?

A. Yes.

Q. And you're only requesting a disbursement from one of them?

A. Yes.

Q. So, that would mean that this escrow account would survive the disbursement?

A. Yes.

Q. Okay. The...have you gone back and compared the payments...the list of payments of royalty that the operator has made into the escrow...or to the escrow agents to the booked deposits of the escrow agent?

A. Yes.

Q. And when you did that, how did they compare?

A. They were all accounted for in the escrow account.

Q. Okay. And then in addition the bank would have shown interest additions and transaction deductions?

A. Yes.

Q. Did you run the comparison through a date?

A. December the 31st, 2008.

Q. Okay. And as of December the 31st, 2008, what was the total amount in the escrow account?

A. \$34,212.04.

Q. And then you have allocated that \$34,000 as of 12/31 between Tract 2 and Tract 3B?

A. Yes.

Q. And then you have calculated the percentages?

A. Yes.

Q. So, that we know what percentage of the account should come out with regard to Tract 2 and what should remain with regard to Tract 3B?

A. Yes.

Q. And is it your request when the escrow agent makes the disbursement, which will obviously be sometime in the future, that the...they use...use the percentage to make the disbursements to preserve the ratio that you've established as of 12/31/08?

A. Yes.

Q. And, also, are you asking the Board to allow you at least with regard to Tract 2 to make payments directly to the people that have the split agreement?

A. Yes.

Q. And do we have the same situation here that we had in the last unit where we've got Cole Creek and Kenneth Anders who is the sole Heir of Emogene Vance?

A. Yes.

Q. And have you provided the Board with regard to this unit a revised Exhibit E that changes...that makes the change necessary to reflect this disbursement?

A. Yes.

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

BUTCH LAMBERT: Any questions from the Board?

BILL HARRIS: Mr. Chairman.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: Let me just ask a question. Actually, this is about the plat. I'm just a little confused about the Tract 2 and where it ends and where 1 is. If you'll look at...I'm looking at Exhibit A, the plat, about where Tract 2 goes up at an angle toward the northeast and it sort of ends. Where...where...I guess my confusion there's a horizontal that looks like a dotted line across the plat and I don't know if that's...that's---

ANITA DUTY: That's a road.

BILL HARRIS: That...I'm sorry.

MARK SWARTZ: Is that where the tract ends?

ANITA DUTY: It comes down here and follows the

road all the way down and---.

BILL HARRIS: Is the west side of 1 sort of---?

MARK SWARTZ: Does that help?

BILL HARRIS: Okay.

BUTCH LAMBERT: It comes down the road.

MARK SWARTZ: The road basically.

ANITA DUTY: It follows the road.

BUTCH LAMBERT: Okay.

BILL HARRIS: So, it comes down...yeah, okay.

MARK SWARTZ: Yeah. Actually, the road is on the east side.

BILL HARRIS: Yeah. My confusion, I guess, you can see where it intercepts that---.

MARK SWARTZ: The dash line?

BILL HARRIS: Yeah, there's...it looks like a dash line horizontally across the page right above it.

MARK SWARTZ: You mean it running sort of from... generally from the southwest to the northeast, that dash line?

BILL HARRIS: Yes. Where it ends there looks like there's a horizontal line and I don't know if it's just an artifact from the xerox copy.

MARK SWARTZ: Oh, he's talking about this, Anita. Is that a line or is that just some defect in the copy?

ANITA DUTY: Oh, that's just...yeah, that's just---.

BILL HARRIS: Is that just trash on the copier?

ANITA DUTY: ---the copy. This is a 2004...this is the last plat...the plat that was actually in the originally pooling.

BILL HARRIS: Uh-huh.

ANITA DUTY: I think the 2004. And that is from the copier.

BILL HARRIS: An artifact?

ANITA DUTY: Uh-huh.

BILL HARRIS: The xerox process. I mean, I'm not sure how technically---

MARK SWARTZ: It looks like there is a line that is parallel to the top and bottom of the plat---

BILL HARRIS: Yeah.

MARK SWARTZ: ---that runs somewhat visible just below---

BILL HARRIS: Yeah, just below---

MARK SWARTZ: ---the block 3A.

BILL HARRIS: Yes, yes.

ANITA DUTY: Uh-huh.

MARK SWARTZ: And that is not a property line. That's some artifact---

ANITA DUTY: No.

MARK SWARTZ: ---from copying. Is that correct?

ANITA DUTY: Right. Right.

BILL HARRIS: Okay. Okay. I think I'm okay.

Thank you.

BUTCH LAMBERT: So, the northeastern line for Tract 2 ends at the creek, comes and follows the creek down or does it go over to the road?

ANITA DUTY: Yes.

MARK SWARTZ: You need to tell him.

ANITA DUTY: It appears to follow the creek.

BUTCH LAMBERT: Okay.

SHARON PIGEON: Do you think you could get us a revised plat that had it a little clearer markings on it just to keep in the file?

MARK SWARTZ: We can't revise the plat, but we can make it clearer.

SHARON PIGEON: Well, that's fine. A revised exhibit.

MARK SWARTZ: Yes.

ANITA DUTY: A better copy.

SHARON PIGEON: A better copy of this---.

BUTCH LAMBERT: Okay.

ANITA DUTY: Okay.

MARK SWARTZ: We certainly can do that.

SHARON PIGEON: Thank you.

BUTCH LAMBERT: Okay, thank you.

BILL HARRIS: Thank you.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

PEGGY BARBAR: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is a petition from CNX Gas Company, LLC for disbursement of funds from escrow

and authorization for direct payments of royalties on a portion of Tract 2A and Tract 2C. This is well T-36, docket number VGOB-98-0324-0625-06. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: Would you all please state your names for the record, please?

SHIRLEY KEEN: I'm Shirley Keen.

MARTHA WILLIAMS: Martha Williams, Salem, Virginia.

KENNETH OSBORNE: I'm Kenneth Osborne, Roanoke, Virginia, designated spokesman for the Linkous Horn Heirs. I'm a Linkous Horn Heir and an O. H. Keen Heir.

RONNIE OSBORNE: I'm Ronnie Osborne. I'm an O. H. Keen Heir and a Horn Heir.

BUTCH LAMBERT: Would you all raise your right hands, please?

RONNIE OSBORNE: I can't swear, but I can affirm.

BUTCH LAMBERT: Okay.

(Ronnie Osborne, Shirley Keen, Kenneth Osborne and Martha Williams are duly sworn.)

BUTCH LAMBERT: We could probably pull up another chair if you all would like to sit down. I think we have enough chairs there.

COURT REPORTER: Just speak up when you speak,
okay?

RONNIE OSBORNE: Okay.

BUTCH LAMBERT: Mr. Swartz, you may proceed.

MARK SWARTZ: Okay. I'd like to incorporate
Anita's testimony with regard to her employment at CNX and
with regard to the operator.

BUTCH LAMBERT: It's accepted.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us,
again.

A. Anita Duty.

Q. Who do you work for?

A. CNX Gas Company.

Q. I'm going to remind you that you're still
under oath, okay?

A. Okay.

Q. Let's turn to the last page of the
application, okay, which has the Exhibit A.

A. Okay.

Q. What tracts are you seeking a disbursement

from?

A. A portion of Tract 2A and all of 2C.

Q. And after the disbursements that you're asking for...if they're made and after they're made, would this escrow account still need to continue in existence because there are other undisbursed tracts?

A. Yes.

Q. And have you shown all of those tracts on your Exhibit A?

A. Yes.

Q. Okay. Have there been previous disbursements out of Tract 2A?

A. Yes.

Q. And have you shown those in the last column opposite the names of the folks who have received previous disbursements from 2A and are now receiving their royalty payments directly?

A. Yes.

Q. Okay. And then have you indicated the amounts and percentages with regard to 2A in the second column from the right would be the percentages of the additional five people that are requesting disbursements from Tract 2A?

A. Yes.

Q. And in the owner's percent of escrow column, it looks like their each proposing to receive .5913%?

A. Yes.

Q. And as of...what was the date that you did this calculation or this comparison?

A. December the 31st, 2008.

Q. Okay. And as of December the 31st, 2008 and the balance that was in the account at that point, have you calculated the percentage and then applied that percentage to the balance as of 12/31/08 to illustrate what the amount was?

A. Yes.

Q. Okay. And what was the...what records did you use to assess the accuracy of the escrow account balance as of 12/31/08?

A. I compared the payments that we had sent to the escrow account to make sure that they were accredited.

Q. Okay. And what did you find when you made that comparison?

A. They were all there.

Q. Okay. And did you also find that the escrow account had added interest and subtracted costs?

A. Yes.

Q. With regard to the second Tract 2C, how many people are anticipated to receive the payments from that?

A. Just Hurt McGuire as a coal owner and Joe Nipper as the oil and gas owner.

Q. Okay. And is that a 50/50 split?

A. Yes.

Q. And with regard to 2A, the folks that...the five folks that are going to receive...proposed to receive funds out that, is that a 50/50 split as well?

A. Yes.

Q. Okay. And with regard to Tract 2C, have you reported the percentage that each of the owners and beneficiaries of the split agreement should receive when a disbursement is made?

A. Yes.

Q. And is it recommendation to the Board that the escrow agent be directed to utilize the percentage and apply that percentage to the balance at the time of the disbursement?

A. Yes.

Q. As opposed to using some dollar amount?

A. Yes.

Q. And the reason for that is because there is

money going into this account on and after 12/31?

A. Yes.

Q. Have you submitted revised Exhibit EE to the Board and E with regard to this application?

A. Yes.

Q. And have you revised those exhibits to reflect what they should look like after the disbursements that you're contemplating be made?

A. Yes.

MARK SWARTZ: Mr. Chairman, I think that's all I have.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Would there be any one representing to speak or do you all plan to testify?

KENNETH OSBORNE: Do you all want to speak or---?

MARTHA WILLIAMS: I do.

RONNIE OSBORNE: The only thing I need to show is contract stuff or other than me speaking, no.

MARTHA WILLIAMS: We need to stop this first of all. We need to object to this because Mr. Swartz was supposed to have presented us with a copy of each split agreement that had been signed. See, we have no idea who has signed and who has not, which we was supposed to have

gotten back in December, which was continued until January and then continued until February. We have not received any of these. We have not seen the copies. He was supposed to bring them...Mr. Swartz was supposed to bring them to the Board meeting. Last month then it turned into February. We have no idea. So, we need to object to this until we have seen and have knowledge of who has signed these split agreements and who has not.

MARK SWARTZ: I don't believe I was ordered to produce private agreements involving people who are not these people. I mean, we're representing to the Board that we have split agreements from the people that we're seeking to pay. Those are private agreements. We're not going to produce leases or split agreements

MARTHA WILLIAMS: The Chairman of the Board asked you to do that if we gave you written permission because we're entitled to public knowledge. That's not any big secret. You can go to the Courthouse. If I sell my house tomorrow, then it's going to be public knowledge.

BUTCH LAMBERT: Ma'am, could I ask just for the Board's...so we can be able to keep up with this and for my benefit, you're representing?

MARTHA WILLIAMS: Well, we're the Linkous Horn Heirs.

KENNETH OSBORNE: Linkous Horn Heirs.

BUTCH LAMBERT: The Linkous...all of you---.

MARTHA WILLIAMS: Part of T-36.

BUTCH LAMBERT: The Linkous Horn Heirs.

ANITA DUTY: It's not the tract that we're disbursing here.

BUTCH LAMBERT: Not the separate tract---.

MARTHA WILLIAMS: It's not T-36.

ANITA DUTY: It's that unit, but it's not the tract.

BUTCH LAMBERT: Okay. Because that was the question that I had when you said Linkous Horn Heirs. I didn't see it on the list.

MARK SWARTZ: These are the Thomas Stilwell Heirs.

DAVID ASBURY: Mr. Swartz, is Joseph Horn in this tract on T-36?

SHIRLEY KEEN: Joseph Horn is our uncle. He's in the same tract that we're in. If he's on there, ours should be too because he's in the same thing we are.

MARTHA WILLIAMS: We also had a couple of people that have been deceased for several years.

DAVID ASBURY: Is he in this tract?

MARK SWARTZ: Not in 2A.

ANITA DUTY: Not the one that we're disbursing.

The Linkous Horn Heirs have an interest in 3A, 3A1 and 3A2 and 3B and 3C. The ones that are still remaining in escrow.

DAVID ASBURY: Joseph Horn is not in 2A or 2C?

ANITA DUTY: No, all of the owners are listed in Exhibit A.

SARA DAY: He signed a year and a half ago.

COURT REPORTER: Ma'am, what is your name?

SARA DAY: Sara Day. I'm Horn Heirs to.

BUTCH LAMBERT: We will ask to have...if you're going to speak, you'll have to give us your name and you'll have to be sworn in.

SARA DAY: Okay. I'm Sara Day.

COURT REPORTER: And your name, please.

MARTHA SMITH: Martha Smith.

COURT REPORTER: Are you going to speak? I'm sorry?

MARTHA SMITH: Martha Smith.

(Martha Smith and Sara Day are duly sworn.)

BUTCH LAMBERT: Okay. So, according to the plat that we have been supplied, the Linkous Horn Heirs is not in Tract we're looking for a disbursement.

SHIRLEY KEEN: Is Joe Horn in where you're disbursing?

ANITA DUTY: No.

SHIRLEY KEEN: Okay.

BUTCH LAMBERT: No.

SARA DAY: He signed a 50/50 split a year and a half ago.

BUTCH LAMBERT: Do you know the tract that he signed to?

SHIRLEY KEEN: It's T-36.

BUTCH LAMBERT: Well, that would be the---.

SHARON PIGEON: The unit.

BUTCH LAMBERT: ---unit number.

SHARON PIGEON: Tract.

KENNETH OSBORNE: It would be the same tracts as---.

SARA DAY: As the Horn Heirs.

KENNETH OSBORNE: ---they just mentioned. It would be---.

BUTCH LAMBERT: T-36, that unit incorporates several different tracts.

KENNETH OSBORNE: You're correct, Mr. Chairman. It's Tract 3A. It's 3A1, 3A2, 3B and 3C.

BUTCH LAMBERT: Okay.

SHARON PIGEON: We're not dealing with those.

BUTCH LAMBERT: And they're not asking for a disbursement under those tracts. They're asking a disbursement under 2A and 2C.

KENNETH OSBORNE: Correct. Now, if understood Mr. Swartz, he said this was the Thomas Stilwell Heirs.

BUTCH LAMBERT: Yes.

KENNETH OSBORNE: Or at least for Tract 2A.

BUTCH LAMBERT: Yes.

KENNETH OSBORNE: Okay, my objection is, I mean, to start with this ton and ton of paperwork is hard enough to figure out, but when you've got...I've got a docket exhibit, Exhibit 3B...well, I've got a docket exhibit here, list of owners. This was dated 6/14/99. It lists Tract 2A, Thomas Stilwell Heirs at 30.05 acres. They have a disburse...they have copy of a tract by tract escrowed calculation where it lists Tract 2A for the Thomas Stilwell Heirs with the amount of acreage of 32.30 acres. My question is, where did they come up with the extra 2. whatever acres. I've never seen anything in paperwork showing where the extra acreage come in. I've also got a document here on tract identification again where it lists for Tract 2A 32.30 acres. But the acreage listed here, and I apologize for not having copies to pass out to the Board, the acreage listed here for Tract 2A is 30.05 acres. I mean, could you explain where the extra acreage came in at?

MARK SWARTZ: Right. You'll see the little 03 after the docket number. This thing has been repooled three

times. We were back here at least once in a dispute with Danny McClanahan over acreage and the acreages were revised by Board order. So...I mean, that's...you know, we've been here three times modifying or repooling this unit. That's what the 03 is.

SHARON PIGEON: The documentation that he has is not latest as far as comparing it to what you have here today.

MARK SWARTZ: Well, the 32.3 is the latest, but the 99--.

SHARON PIGEON: Right. But---

MARK SWARTZ: ---number has been revised because, you know, we've been here at least three times before and not including disbursement trips.

BUTCH LAMBERT: Okay.

MARK SWARTZ: So, that 32.3 is in a Board is what I'm saying.

BUTCH LAMBERT: Okay.

SARA DAY: T-36 was the first well that they dug on the property where we own the mineral rights. It's the first well that they dug on the property that we own the mineral rights. It wasn't the Stilwells.

BUTCH LAMBERT: Ma'am, you're with?

SARA DAY: The Horn Heirs.

BUTCH LAMBERT: The Horn, okay.

SARA DAY: And the Keens.

KENNETH OSBORNE: My second question, they're asking for a disbursement on 2A and 2C, correct?

BUTCH LAMBERT: Yes.

KENNETH OSBORNE: As I mentioned before on this copy of the tract identification, they've got 2C listed at 1.25 acres and on their...on this document of the Tract 2C, they've got it listed as 12.07 acres. I mean, I don't understand what is the...such a jump in the acreage.

BUTCH LAMBERT: The 2B that you gave us the acreage from...I'm sorry, 2B is the 1.25 acres that you stated.

KENNETH OSBORNE: I'm talking about the 2C.

BUTCH LAMBERT: I can't see that far.

KENNETH OSBORNE: I apologize. May I approach you?

BUTCH LAMBERT: Yes.

(Kenneth Osborne shows and explains Butch Lambert.)

BUTCH LAMBERT: Well, let me ask Mr. Swartz. Mr. Swartz, is there a possibility that the tract numbers changed?

ANITA DUTY: When it was repooled, if there was a

tract, it could have been renumbered, yes.

BUTCH LAMBERT: Okay, because the documentation that he does have shows different tract number for the numbers that you provided in acres.

ANITA DUTY: Well, if you actually took a plat and used the reference numbers and made sure that that is the same track and then we know. Like the 1.25---

MARTHA WILLIAMS: Shouldn't we be...shouldn't we be notified of that?

ANITA DUTY: You were.

SARA DAY: We've never got---

MARTHA WILLIAMS: Apparently not.

ANITA DUTY: Well, we have copies of cards at the office if we need to get those. One---

MARK SWARTZ: The other problem here with regard to acreage---

MARTHA WILLIAMS: We may need to do that.

MARK SWARTZ: ---Mr. McClanahan is a surface owner. If you look at just for the heck of it page two of nineteen of Exhibit E that you got with this application, you'll see down toward the bottom there's a Tract 3A and it's escrowed due to title conflict/surface claimant. Mr. McClanahan was here a lot about a claim that he wanted to assert and we had to carve tracts. We had some boundary

dispute issues with him. That's why, you know, there was renumbering because he came forward and said I'm surface owner, but I claim an ownership interest in the CBM. Some of the folks that have signed split agreements have not been able to resolve Mr. McClanahan's claim, so we haven't been able to disburse them. So, there was tract renumbering and there was also a boundary issue that Mr. McClanahan raised which would change some numbers as well. Like I say, you know, we've been here three times, some of which provoked by Mr. McClanahan's issues, which had to be addressed by the Board in terms of percentages and acreage.

KENNETH OSBORNE: Mr. Swartz, if that's case then on this same exhibit right here you have...again, this is...this is a tract by tract escrow calculation. My cousins is the ones you're talking about. You have them listed here. You've only got 3B and 3C listed at 0.87 acres and showing the disbursements that they would get from this allege... well, from this agreement you said they signed. Why is only 3B and 3C listed? I mean, what about the rest of it? You're showing a disbursement for them four 0.87 acres and right here on the exhibits for 3A Linkous Horn 9.48 acres, 3A1 Linkous Horn 1.30 acres, 3A2 Linkous Horn 2.03 acres, 3B and 3C Linkous Horn 0.87 acres. Why isn't the other acreage and the other tracts listed on this escrow

calculation if you'd like to take a look at that?

MARK SWARTZ: It's the same number that we have today for 3B and C. It's .87. This was back in '06.

KENNETH OSBORNE: Okay, if they signed...as you said, if they signed a split agreement then what's with Tract 3A at 9.48 acres, 3A1 1.30 acres, 3A2 2.03 acres, 3B and 3C, which is what you've got listed there, the 0.87. I mean, why isn't the other acreage listed in this calculated--?

MARK SWARTZ: We had to split 3 into pieces because of the McClanahan claims. But when I look at the document that you just handed me from well 6, I'm seeing the same percentage.

SARA DAY: McClanahan don't have no claim.

MARK SWARTZ: Well, that's your story. His is that he does.

BUTCH LAMBERT: Excuse me, folks. I need you to address the Chairman and not each other.

SARA DAY: I'm sorry.

KENNETH OSBORNE: Sir, McClanahan bought the land off of my...my dad sold the land. He exempted gas, oil, iron, trees...he exempted everything. They bought to the top of the land. They did do that. So, if he's got a claim, how has he got a claim?

MARTHA WILLIAMS: Well, Mr. Chairman, according to Danny McClanahan who came here and disrupted the meetings profusely, according to him Mr. Les Arrington, who is not here today, approached him and suggested that he come and make these claims and statements, which he...I'm not just saying anything. It should be in the records somewhere. He actually made those statements in this...not this particular room, but where we were meeting at.

KENNETH OSBORNE: Regardless, Mr. Chairman, I don't understand why if they signed a split agreement on this...

(Kenneth Osborne's cell phone rings.)

SARA DAY: While he's doing that---

KENNETH OSBORNE: I apologize.

SARA DAY: ---I want to address this. I had a brother that passed away in '79. His wife passed away probably five or six year ago. He said he had a document where my brother signed a split agreement. In '79 we hadn't heard about this. So, that's what he was supposed to bring a document. So, we've got...he didn't have no children. Earnest Horn. So, him and his wife both is deceased.

MARTHA WILLIAMS: His wife was dying with cancer and she was on morphine. She was not capable of making any decisions. We can get doctors' statements for that. But

one of the statements that...one of the documents that he was supposed to present to us to prove was he says that...Mr. Swartz says that Ms. Dorothy Horn has signed this. Okay, she illiterate. She could not read or write her name. So, what we're asking for is to see who witnessed the signing of whatever she did and who notarized it. Also, Henry Horn who is deceased supposedly they have a signed document from his wife Iva. She's also deceased. So, we want...we're asking to see that and see who witnessed her signing or whatever. She also died with cancer who would have been...she was on Morphine. I don't know that...I don't know that these people signed. But it's just conflicting. I don't see why that we cannot just see who has signed these split agreements and what...I don't see why we have to be kept in the dark. I mean, this is knowledge. We're all in this together. I just think that we should be able to know what's going on. They all have the right to do it. I understand that. That's their personal right if they want to sign or if they don't. But we just want to know who did and especially with Mr. Dorothy Horn and Ms. Iva Horn because the both are deceased. They cannot make a statement. They were both very, very ill at the time these documents were supposedly signed.

BUTCH LAMBERT: Response?

MARK SWARTZ: Two responses, those people aren't in these tracts, okay. Secondly, you know, people's private agreements are their private business. We have told them if you get consents from the people that have signed the agreements to allow us to give you copies, we will do that. But, you know, they're not in this unit. They're private agreements. You know, I don't hear these people saying we signed an agreement and we lost it and we would like you to give us another copy. I mean, that's not what we're talking about. So, you know, they're five people in this unit who want their money. We're trying to get it to them.

SARA DAY: They can't get it if they're deceased.

BUTCH LAMBERT: Are there any questions from the Board?

KENNETH OSBORNE: Back to the...if I may---

BUTCH LAMBERT: Hang on just a minute, sir. Let me see if there's any questions that the Board has for you.

(No audible response.)

BUTCH LAMBERT: Go ahead, sir.

KENNETH OSBORNE: Back to what we were discussing before about the tracts. On the 3A, I also don't understand why 3A1 it has the Linkous Horn Heirs/Thomas Stilwell Heirs all minerals except the coal. Under it it has gas and oil CBM leased if owned by the Linkous Horn Heirs or if owned by

the Thomas Stilwell Heirs. As far as Danny McClanahan, it's just got surface and in parenthesis gas and oil claimant. I mean, you know, why is the Stilwell Heirs and the Horn Heirs signaled out with this if owned by and Danny McClanahan is just listed in parenthesis.

SHIRLEY KEEN: If I may, I'm Shirley Keen. I sold the land to...that Danny McClanahan owns. When I owned the land, it was top soil only. There was nothing...no gas, no oil or no nothing because it had already been taken out by our grandfather. Danny McClanahan has no claim on nothing but top soil---.

KENNETH OSBORNE: And all of that reflects back---

SHIRLEY KEEN: ---because I owned the land myself. I know it was already out before I owned the land. When I sold the land he had what I had.

KENNETH OSBORNE: And we've had these issues before. We've been in front of the Board where at one time there were plat maps submitted where they stated and Claude Morgan signed that the tracts were surveyed and they weren't surveyed. That was another issue of bringing in Danny McClanahan and him making claims to something that he didn't own. But I don't understand how you can let them disburse money and...as of today, I'm still not clear on who's

percentage is what because you go from 30 acres to 32 acres. You list the 3B and 3C 0.87. It's supposed to be my cousin's percentage of what they signed for a split agreement. Frankly, I can't understand why this escrow battle is going on. I mean, why can't it just be resolved? Their answer... Consol's answer is they can resolve it if we will agree to give Hurt McGuire, which I haven't seen any proof that Hurt McGuire owns any of this. They will disburse us money if we agree to give them half of what they're not even giving us to start with. That's what it boils down to. But my question...I just don't understand how you can let them disburse money and through all of this mess over the years, the tracts have been changed, the surveyed lines have been changed. They have been submitted as surveyed. We proved that they weren't surveyed.

BUTCH LAMBERT: Okay. Let me...let me back up to the question I asked earlier. They're asking for a disbursement of Tract 2A and Tract 2C. And what we have before us is that you're not listed in these tracts, that you all are saying you up in Tracts 3 and...okay. So...and it appears, again, that what you're reading from is a copy of an old Board order. So, it might be helpful if you had the copy of the new order. Can we supply them with that...with the new...the latest order?

MARK SWARTZ: We obviously can. I'm not sure we brought it with us.

BUTCH LAMBERT: Oh, I understand.

MARK SWARTZ: Yeah, yeah, but obviously we have it and that's where these numbers came from. We can do that.

BUTCH LAMBERT: Okay.

MARK SWARTZ: I mean, if they want to leave their names and addresses, I'll give them a sheet and they can sign up so I got current addresses and we will get, you know, all of these people a copy of the latest Board order with relevant exhibits.

KENNETH OSBORNE: With all due respect, we've been made promises before. I'd feel much better if this would be carried over until the next hearing so they can present these documents.

RONNIE OSBORNE: Sir, I'm afraid to sign anything else. I've got proof of paperwork right here (inaudible) that I'm afraid to sign anything else without a lawyer. I---.

BUTCH LAMBERT: What tract are you---?

RONNIE OSBORNE: I'm with the Horn Heirs.

BUTCH LAMBERT: Okay.

RONNIE OSBORNE: This don't pertain this one you said. So, (inaudible).

BUTCH LAMBERT: Well, I not sure. What was your name again? I apologize.

RONNIE OSBORNE: Ronnie Osborne.

BUTCH LAMBERT: Ronnie Osborne.

SHARON PIGEON: Donnie.

BUTCH LAMBERT: Donnie-.

RONNIE OSBORNE: Ronnie.

SHARON PIGEON: It's Ronnie. I'm sorry.

BUTCH LAMBERT: Ronnie, okay.

RONNIE OSBORNE: I just...I just wanted them to explain to me how my name ended up on a blank contract.

BUTCH LAMBERT: This is the last disbursement that you all had isn't it?

SHARON PIGEON: Uh-huh.

BUTCH LAMBERT: I don't see anything else on the docket.

MARK SWARTZ: Correct. But I will say, if you look at...to respond to what I'm hearing, if you look at 3A1, which is the tract identification. It will be page two of three. He's, you know, part of the problem with the title. If you look at 3A1, for example, you've got Hurt McGuire Land Trust. They think they own the coal. You've got the Linkous Horn Heirs and Thomas Stilwell Heirs claiming they own all minerals except coal. If you look

down below that, CNX has oil, gas and CBM leased, 10% of it, if it's owned by the Linkous Horn Heirs. There is a conflict on the oil and gas title between the Linkous Horn Heirs and the Thomas Stilwell Heirs, which would have to be resolved for this money to come out of escrow. In addition, Danny McClanahan is claiming an oil and gas interest as a surface owner. So, this is the Tract 3 nightmare of title, which is the tract that they're in and which has been broken out into pieces to deal with some of these title conflicts between the Linkous Horn Heirs and the Stilwell Heirs, which has been broken out to deal...into, you know, four pieces to deal with the Danny McClanahan claims. That's the 3A. That's, you know, probably one of the reasons we're not here on 3A today because, you know, we can't...we can't deal with those issues. They're...you know, they require the people who are the claimants to reach an agreement, which is the operator.

SARA DAY: But the Stilwell property adjoined the Linkous Horn property. So, it's two different properties. So, I don't know how the Stilwell got in on the Linkous Horn.

MARTHA WILLIAMS: Well, the Stilwell Heirs have been settled with anyway.

SARA DAY: Yeah, they signed a 50/50 agreement.

MARTHA WILLIAMS: Yeah, they've signed split agreements.

SARA DAY: It's not theirs.

MARTHA WILLIAMS: They've been dealt with. They shouldn't even...they should not even be entering into this.

SARA DAY: Their property---.

KENNETH OSBORNE: Mr. Chairman---.

COURT REPORTER: One at time, please.

BUTCH LAMBERT: Yes.

KENNETH OSBORNE: If I may say, I mean, all of this is going back to a 50/50 split agreement with the top name being Hurt McGuire. Mr. Swartz just said and it states right here on this 3A, Hurt McGuire Land Trust coal only. Why does there have to be a split agreement with Hurt McGuire if they just own the coal because it has already been proven in Court that the coal owner is not the coalbed methane owner? So, why...I mean, why does Hurt McGuire even come into the picture? It states right here that they only own the coal. I don't see minerals, gas and oil anywhere, just the coal. Why do they even come into the equation?

BUTCH LAMBERT: Okay. I understand, but let's go back all up again. We're here for a disbursement of Tract 2A and 2C. That's what the Board has to act upon today, you know. If at such point in time these other tracts come

before us for disbursement, that's the time that we would need to deal with the issues that you all have brought before us today.

KENNETH OSBORNE: Yes, sir, Mr. Chairman, I understand that. But, again, it goes back to the issue right here of 2A, a split agreement with Hurt McGuire, the coal owner. This is to the...I mean, I can't speak for the...for the Stilwell Heirs. But the Albert Bell Heirs, the Stilwell Heirs and my cousins, the Linkous Horn Heirs, this all boils down to a split agreement 50/50 with Hurt McGuire. Again, how does CNX/Consol how do they figure owns...are entitled to 50% of the gas and oil?

SHARON PIGEON: Because they have a split agreement where they've agreed between themselves, as they have a right to do, to share this 50/50 in order to get a payout. They don't have to have a reason if they choose to do that.

KENNETH OSBORNE: That just...I'm sorry, Ms. Pigeon, that just sounded bad right there. They done this in order to get a payout.

SHARON PIGEON: No, the individual owners---

KENNETH OSBORNE: I mean, are you saying---

SHARON PIGEON: Not them. The individual owners.

KENNETH OSBORNE: So, are you saying or suggesting

that we have to enter a 50/50 split agreement with Hurt McGuire to get a payout? I mean, it's kind of---.

SHARON PIGEON: No, I'm not suggesting that at all. I'm suggesting that's what these parties chose to do. The Ratliff case that you're referring to made a decision about ownership of coal and mineral rights and gas based on very specific deeds. I don't think your alls deeds have ever been looked at by a Court. If they have, then I'll stand corrected. But those cases were decided on the basis of very specific deed language. So, you can't generalize to the Hurt McGuire Land Trust.

KENNETH OSBORNE: Well, the deed language is...the Linkous Horn retained all of the mineral rights.

SHARON PIGEON: But a Court has to see your deed. That's my point. It wasn't a part of the Ratliff case, as I understand the order or anything after that.

MARTHA WILLIAMS: The Ratliff case was the case that went to the Supreme Court if that's what you're referring to.

SHARON PIGEON: Yes.

KENNETH OSBORNE: Uh-huh.

MARTHA WILLIAMS: But Mr. Glubiack has brought the deeds here before. Yeah, they have been presented. I don't know why. There have been surveyors here whose words were

not taken. They were surveyed. This thing has been going on. But how long is it proper for this money to sit in this escrow account. I know for a fact that there has been since 1992. So, I mean, actually when you do actually come down and settle and---?

BUTCH LAMBERT: Well, that's what we're here for today is---.

MARTHA WILLIAMS: But if we're not agreeable to sign a split agreement? If we're not agreeing to give Hurt McGuire half of the part that has already been stolen, if we're not agreeable to give them 50% of whatever is left then what do we do from here.

MARK SWARTZ: You need to sue them and beat them into submission. I'm serious. I mean, you know, you either settle with people or you sue people. That really is your choice. This Board can't like make you do either of those things. I mean, we---.

MARTHA WILLIAMS: Well---.

MARK SWARTZ: ---could be talking about this twenty years from now.

MARTHA WILLIAMS: Yeah, we are...we hate to go that route. We don't really want to go that route.

MARK SWARTZ: Which is okay. You don't have to.

MARTHA WILLIAMS: I don't care from day one.

SARA DAY: We was appointed---

BUTCH LAMBERT: One at a time, please. It's hard for the---

SARA DAY: It was appointed that the people get 12 and 1/2% and the gas company get 87 and 1/2% out of the 100%. That should be clear. That has been proven in Court. So, they should stand by that, but they want half of the 12 and 1/2% that we was supposed to get. The ones that signed for that, they have been paid. We do know that. If they paid them, why can't they pay the 12 and 1/2%?

BUTCH LAMBERT: Yes.

KENNETH OSBORNE: Sir, do I need to bring these papers back at a later day.

BUTCH LAMBERT: It must be at a later date. You don't have another disbursement before us today. So, it must be on the docket for another month.

MARK SWARTZ: I don't think...we can't...they don't have an agreement. We can't---

BUTCH LAMBERT: No, he's separate.

RONNIE OSBORNE: I've got the page one.

MARK SWARTZ: Okay. Are you in conflict with McClanahan? Do you know? What is your name, sir?

RONNIE OSBORNE: I'm Ronnie Osborne.

MARK SWARTZ: Is he in conflict?

(Anita Duty confers with Mark Swartz.)

RONNIE OSBORNE: For the record, I want to ask that redheaded lady if she has ever been to my home too?

BUTCH LAMBERT: If you'll ask me, then I'll ask her.

RONNIE OSBORNE: Okay.

BUTCH LAMBERT: Is there something coming up for Mr. Osborne that he has---?

ANITA DUTY: No, I need to let Anita testify as to what the story is with regard to Mr. Osborne---

BUTCH LAMBERT: Okay. Let's get the one that's before us dealt with and then we'll let you address Mr. Osborne.

MARK SWARTZ: ---because we've had a hearing before where we tried to disburse money to him and he refused to take it and there's documentation of that. So, I mean, we just need to remind him of what happened in the past.

BUTCH LAMBERT: Okay. So, we don't get confused---

MARK SWARTZ: Okay.

BUTCH LAMBERT: ---Mr. Osborne, let's get this one...deal with this one and then we'll address yours really quick.

RONNIE OSBORNE: What about the...I signed it. I agreed that I signed, but how did it end up from a four page contract into a sixteen page contract is what I'm trying...but, you know, I just---

BUTCH LAMBERT: Okay. Let's deal with this and then we'll get right back to you, I promise.

RONNIE OSBORNE: All right.

BUTCH LAMBERT: Okay.

RONNIE OSBORNE: This is confusing me. Like I said, I don't have an education. I've turned it over to a lawyer. I'm just going to give him my paperwork. They will have to deal with him because I don't...I ain't got the education to deal with them.

BUTCH LAMBERT: Okay, okay. Let us get us back on track for this one that we're here for right now.

RONNIE OSBORNE: Okay.

BUTCH LAMBERT: CNX is asking to disburse Tracts 2A and Tracts 2C. I understand that you folks have a disagreement with the Hurt McGuire Land Trust. You don't agree that you signed a 50/50 split agreement, is that correct?

KENNETH OSBORNE: Well, we know that we didn't.

SARA DAY: We haven't signed that.

BUTCH LAMBERT: Okay. Then that's something that

you will have to deal with in Court and not before this Board.

MARTHA WILLIAMS: Well, we do need to make...get an understanding of our two deceased...the deceased relatives who we don't know if they signed, but we do need to know who witnessed the signing of them.

BUTCH LAMBERT: Okay. This is something that the Board cannot require them to do. I apologize for that, but we don't have the authority to order them to do that.

KENNETH OSBORNE: Mr. Chairman, I know this kind of got sidetracked. But the whole point today is objecting to the disbursement of any moneys until...you know, we can be sure that the acreage is accurate. I mean, you know, you've got...we've got different acreages. That's my whole point of the objection is disbursing money and, you know, not knowing that the acreage is correct.

BUTCH LAMBERT: Okay. Let me understand. I think I heard something different right then. You are in disagreement with the 50/50 split of Hurt McGuire. That's one issue, is that correct? And then second issue is you're challenging their acreage and disbursement of Tracts 2A and 2C?

KENNETH OSBORNE: Correct.

BUTCH LAMBERT: Any questions from the Board?

(No audible response.)

SARA DAY: I wanted to ask you this, can they send us, since they changed everything, paperwork on...where ours is?

BUTCH LAMBERT: Yes, ma'am. Mr. Swartz asked that if you would give him your name and address he would be happy to send you the updated...the latest Board order.

MARK SWARTZ: Exhibits and Board order.

RONNIE OSBORNE: Sir, I would like them to write my name though. I don't want to...I don't want to write my name. I'll give them my name, but I want him to write it.

BUTCH LAMBERT: Okay. I'm sure Mr. Swartz can do that.

RONNIE OSBORNE: I will not sign---

MARK SWARTZ: It's just amazing the lengths that I will go to help people.

BUTCH LAMBERT: And we appreciate that, Mr. Swartz, we really do.

MARK SWARTZ: Thank you, sir. Thank you.

MARTHA WILLIAMS: I have one more question for Mr. Swartz.

RONNIE OSBORNE: One more question and I'll get out of your way.

SHIRLEY KEEN: Let him get this one taken care of.

BUTCH LAMBERT: Yeah, Mr. Osborne, again, if you'll let us...while we're in the middle of this one, if---
.

RONNIE OSBORNE: Okay, sorry.

BUTCH LAMBERT: ---you'll let us take care of this one, we'll get right back with you. Ma'am, you have one more question.

MARTHA WILLIAMS: Sir, I have to ask this, are you planning to take the settlement back from Danny McClanahan that you guys gave him and bring him back here to interfere and agitate with this again and then to get a settlement or are you going to have him reimburse you the settlement that you paid him?

BUTCH LAMBERT: Ma'am, if you could ask me that question and then I'll ask Mr. Swartz if he'll respond?

MARTHA WILLIAMS: Okay. I want Mr. Swartz to tell me if he's...I mean, there has been a settlement with Danny. Danny showed it to us. He told us about it and all of this kind of junk, you know. I want to know, is he going to go to Danny and take this money and then have Danny come back here to fight with everybody again to get the money back a second time.

BUTCH LAMBERT: Mr. Swartz, you can respond if you feel it's necessary.

MARK SWARTZ: I feel like I got to know Danny pretty well. I don't like my chances of going to Danny and asking him to give me anything. If you know Danny, you know it. I mean, I like him, but he's tough customer. I don't see that that's happening.

BUTCH LAMBERT: Okay.

KENNETH OSBORNE: Mr. Chairman.

BUTCH LAMBERT: Yes.

KENNETH OSBORNE: In that case, how does this link him a claimant?

MARTHA WILLIAMS: A conflict. How does this make him---?

KENNETH OSBORNE: How is he in conflict now? If you would ask Mr. Swartz, please.

MARK SWARTZ: What I would like to do on the acreage, I would like to submit to the Board a copy of the most recent order that you all entered with the exhibits. If those exhibits agree with the acreage in the disbursement, which I believe they will in the disbursement request, I would ask that we move forward and that you enter the order.

KENNETH OSBORNE: Mr. Chairman, that didn't answer the question.

MARK SWARTZ: If they are not congruent with that,

then we can come back. But these people, you know, are entitled to this money. These folks are not in these tracts. We need to try to move forward on an efficient basis with regard to these disbursements. So, you know, I'm representing to you because Anita assures me she has been over this with a microscope that the acreages in the request are consistent perfectly and agree with the last order and exhibits. So, I'd like to get that to you all. If it proves...you know, if it compares favorably, I'd like to move forward. If not, you know, we'll come back and we'll thrash it out again. But I don't anticipate that there will be a difference.

BUTCH LAMBERT: Okay. Do I have a motion in front of the Board?

MARY QUILLEN: This is for item twenty-three?

BUTCH LAMBERT: Yes...yes, Ms. Quillen.

MARY QUILLEN: Motion to approve disbursement.

BUTCH LAMBERT: I have a motion. Do I have a second?

BILL HARRIS: I'll go ahead and second that since this does involve folks that are not currently here, but since the folks that are here on another tract. Then, in terms of this particular item I think we're okay to go forward. So, I would second that.

BUTCH LAMBERT: Okay, with...before I call a vote.
Mr. Swartz, you did agree to send these folks a current---?

MARK SWARTZ: If they give me their addresses,
we'll---

BUTCH LAMBERT: When I send to probably to David,
then I'll send to them as well so that they get the same
thing.

BUTCH LAMBERT: Okay.

BILL HARRIS: Can I ask a question? If there is
a...well, but that's not actually the question. If there
is...of course, we're looking at a total number of acres in
this unit and if there is a discrepancy that has been shown,
however we choose to do that---

MARK SWARTZ: If this document doesn't agree with
the last order, we need to come back is what I'm saying
because there is a discrepancy. But what I'm predicting
based on my conversations with Anita is that that's where
the numbers came from, so there will not be a variance.

BILL HARRIS: Okay. Well, I'm...this wrench is a
different type that I'm throwing in, I guess.

MARK SWARTZ: Okay.

BILL HARRIS: If the acreage, which is apparently
in dispute, if that is shown to be not correct in the last
Board order, what's the process there.

MARK SWARTZ: Well, you can't do that because McClanahan was saying the boundary line was wrong and so we created a tract that was area in dispute---

BILL HARRIS: In dispute.

MARK SWARTZ: ---of the boundary line and that's never going to be resolved short of an agreement between the land owners or a Court case. So, I mean---

BILL HARRIS: I guess my question is, if these folks show that their acreages is greater than what's currently shown...I don't know---

MARK SWARTZ: Well, they had a chance to do that when we were here---

BILL HARRIS: Would that not affect the percentage of the acreage in the whole unit?

MARK SWARTZ: That's why we have been here so many times on this unit. There has been a contest with regard to the boundary lines and the acreages because of the wrench that Mr. McClanahan threw into the mix not only saying I'm surface owner and I have a claim, but saying the boundary is wrong.

BILL HARRIS: I guess, I'm asking just what happens...if we approve this and moneys are given out and then---

MARK SWARTZ: Right.

BILL HARRIS: ---it surfaces later that the acreages were incorrect and so these percentages even with our disbursements are---.

MARK SWARTZ: It's a binding order on everybody. I mean, if the order that I provide to the Board was not appealed within the period of time to be appealed, that is a final order that determines for an ongoing forward basis this is the acreage. I mean, this...you know, when you make decisions and they're not appealed, it's like a final Court order. I mean, it's over. So, for purposes of going forward, you know, the acreage that was defined in the last order and the time for appeal has run is the acreage. There's no, oh, I would like it to be different if you didn't appeal from that order. I mean, that's the...you know, it may not be an answer that you like, but that's the reality.

KENNETH OSBORNE: I mean, that was appealed and that was when it was brought to light that Claude Morgan falsified the plat maps by stating that they were, in fact, surveyed and they weren't.

BUTCH LAMBERT: Okay. I have a motion and second before the Board. Are there any further discussions?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying

yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: I have one abstention, Mrs. Dye. Thank you, Mr. Swartz. It's approved. You'll get that information to those folks---?

MARK SWARTZ: Right and to David.

BUTCH LAMBERT: We're going to break for lunch. Everyone be back by 1:00 o'clock. I'm sorry, wait a minute. I don't need to break for lunch. We have Mr. Osborne. We promised Mr. Osborne we'd answer his questions.

RONNIE OSBORNE: Yeah. I was just wanting to know if...what's your name?

ANITA DUTY: Anita Duty.

RONNIE OSBORNE: Anita Duty, I was wanting to know if she had ever...had ever been to my home?

BUTCH LAMBERT: Would you like to answer---?

ANITA DUTY: No.

RONNIE OSBORNE: I just wanted to know because she said once before when this first come up that she was the one paid me in hand at my home.

BUTCH LAMBERT: Anything further, Mr. Osborne?

RONNIE OSBORNE: That's all. I wanted that on the record.

BUTCH LAMBERT: Okay. We have it.

RONNIE OSBORNE: Thank you.

BUTCH LAMBERT: Thank you, sir.

(Lunch break.)

BUTCH LAMBERT: Ladies and gentleman, this is a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit I-38 served by wells AE-208 and AE-209. This is docket number VGOB-09-0217-2473. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser, Justin Phillips and Frank Henderson on behalf of Appalachian Energy.

(Justin Phillips and Frank Henderson are duly sworn.)

BUTCH LAMBERT: Mr. Kaiser, seeing no others you may proceed.

JUSTIN PHILLIPS

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Justin, before we get into your standard testimony, we just provided the Board with a revised Exhibit

B and Revised Exhibit B-3. Could you explain why?

A. Yes, we had incorrectly listed Tract 4, which is Norfolk & Southern Railway as unleased on the gas estate and, in fact, they are leased.

Q. Okay. And you're employed by who and in what capacity?

A. Appalachian Energy, Inc. as land manager.

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

A. Yes, they do.

Q. Now, this unit being I-38 was previously approved for increased density drilling, in other words, two wells?

A. That is correct, yes.

Q. And we're force pooling the unit today to serve both of those wells?

A. That is correct.

Q. Okay. And you're familiar with the application that we filed seeking to pool any unleased interest in this unit?

A. Yes.

Q. Now, does Appalachian Energy own drilling rights in the unit involved here?

A. Yes, we do.

Q. And prior to the filing of the application, did you make an attempt to work out a voluntary lease agreement with each of the interest owners within this unit?

A. Yes, we did.

Q. And at this time, could you state the percentage of the gas estate that's under lease to Appalachian Energy?

A. 86.04% of the gas.

Q. And what percentage of the coal estate is under lease?

A. 91.95% of the coal.

Q. And are all of the unleased parties that we're seeking to force pooled set out in our revised Exhibit B-3?

A. Yes, they are.

Q. So, would I be correct in stating that at this time then 13.96% of the gas estate remains unleased?

A. That is correct.

Q. And 8.05% of the coal estate?

A. That's correct.

Q. Okay. Do we have any unknowns in this unit?

A. No, we do not.

Q. Okay. In your professional opinion, was

due diligence exercised to locate each of the respondents named in Exhibit B?

A. Yes.

Q. Are you requesting this Board to force pool all unleased interest listed at Revised Exhibit B-3?

A. Yes, we are.

Q. Now, are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes, we are.

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

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

Q. In your opinion, do the terms that you've just testified to represent fair market value of and fair and reasonable compensation to be paid for drilling rights in this unit?

A. Yes.

Q. Now, as to the respondents listed on revised Exhibit B-3 who remain unleased, do you agree that they be allowed the following statutory options with respect to their ownership interest within the unit: 1) Direct participation; 2) a cash bonus of five dollars per net

mineral acre plus a one-eighth of eight-eighths royalty; or
3) in lieu of a cash bonus and one-eighth of eight-eighths
royalty share in the operation of the well on a carried
basis as a carried operator under the following conditions:
Such carried operator shall be entitled to the share of
production from the tracts pooled accruing to his or her
interest exclusive of any royalty or overriding royalty
reserved in any leases, assignments thereof or agreements
relating thereto of such tracts, but only after the proceeds
applicable to his or her share equal, A) 300% of the share
of such costs applicable to the interest of the carried
operator of a leased tract or portion thereof; or B) 200% of
the share of such costs applicable to the interest of a
carried operator of an unleased tract or portion thereof?

A. Yes.

Q. Do you recommend that the order provide
that elections by the respondent be in writing and sent to
the applicant at Appalachian Energy, Inc., P. O. Box 2406,
Abingdon, Virginia 24212-2406, Attention: Justin Phillips?

A. Yes.

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

A. Yes.

Q. Should the unleased respondents be given 30 days from the date that they receive the recorded Board order to file their written elections?

A. They should.

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

A. Yes.

Q. Should the applicant be allowed a 120 days following the recordation date of the Board order and thereafter annually on that date until production is achieved to pay or tender any delay rental becoming due under the force pooling order?

A. Yes.

Q. Do you recommend that if a respondent elects to participate but fails to pay their proportionate share of actual well costs, then that respondents election should be treated as having been withdrawn and void and such respondent should be treated just as if no initial election had been filed under the pooling order, in other words, deemed to have leased?

A. Yes.

Q. And we do not have...even though it's a

coalbed methane well, we do not have...it's a fee...they're fee mineral tracts. There's no conflicting claim?

A. No conflicting claims.

Q. And there's no unknowns, so the Board does not need to establish an escrow account for this unit, is that correct?

A. That is correct.

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

A. Appalachian Energy, Inc.

JIM KAISER: Nothing further of this witness.

BUTCH LAMBERT: Mr. Phillips, would you speak up a little bit, please?

JUSTIN PHILLIPS: Yes. I'm sorry.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BUTCH LAMBERT: Any questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

FRANK HENDERSON

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Henderson, state your name, who you're employed by and in what capacity?

A. Frank Henderson, Appalachian Energy, President.

Q. And what's the total depth of the proposed well?

A. 1970 feet.

Q. The estimated reserves for the life of the unit?

A. 375 million cubic feet.

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

A. Yes, it has.

Q. In your opinion, does it represent a reasonable estimate of the well costs for this proposed well?

A. Yes, it has.

Q. Could you state for the Board both the estimated dry hole costs and completed well costs and lets start with AE-208 and then go to AE-209?

A. Well AE-208, \$158,163 for the dry hole costs and the completed well costs of \$452,044. AE-209 \$144,151 and completed well costs of \$409,735.

Q. So, that means that when these unleased parties will get...when they get their election it will be as to both wells. Correct me...let me see if this is correct, the dry hole costs for the two wells combined would be \$302,314?

A. That's correct.

Q. And the completed well costs for both wells combined would be \$861,779?

A. That's correct.

Q. Do these costs anticipate a multiple completion?

A. Yes, they do.

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

A. Yes, it does.

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

A. Yes.

JIM KAISER: Nothing further at this time of this witness, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved.

JIM KAISER: Thank you.

FRANK HENDERSON: Thank you.

JUSTIN PHILLIPS: Thank you.

BUTCH LAMBERT: The next item is a petition from Equitable Production Company for pooling of coalbed methane unit VC-537054. This is docket number VGOB-09-0217-2474. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, in this docket number, it will be Jim Kaiser and Rita Barrett on behalf of Equitable Production Company.

(Rita Barrett is duly sworn.)

BUTCH LAMBERT: Mr. Kaiser, you may proceed.

RITA BARRETT

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, if you'd state your name for the Board, who you're employed by and in what capacity?

A. Rita McGlothlin Barrett. I'm employed by Equitable Production Company of Big Stone Gap, Virginia as a landman four.

Q. And do your responsibilities include the land involved here and in the surrounding area?

A. They do.

Q. And you're familiar with the application that we filed seeking to pool any unleased interest within this unit?

A. I am.

Q. Now, does Equitable own drilling rights in the unit involved here?

A. We do.

Q. Prior to the filing of the application, were efforts made to contact each of the respondents owning

an interest in the unit and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. Okay. And at this time, what is the percentage under lease to Equitable within the gas estate?

A. 0.

Q. And why is that?

A. Because it's an unknown/unlocateable owner, Galley Friend.

Q. Yellow Popular?

A. Yes.

Q. And what is the interest of Equitable in the coal estate in the unit?

A. A 100%.

Q. So, all of the unleased parties are set out in Exhibit B-3?

A. They are.

Q. So, again, a 100% of the gas estate is unleased and 0% of the coal estate is unleased?

A. 100% of the coal estate is leased and 0% of the oil and gas estate.

Q. That's what I meant. All right. In your professional opinion, was due diligence exercised to locate each of the respondents?

A. They were.

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

A. Yes.

Q. Are you requesting this Board to force pool all unleased interest listed at B-3?

A. Yes.

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

A. I am.

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

A. A five dollar bonus, five year term and one-eighth royalty.

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

A. Yes.

JIM KAISER: Mr. Chairman, at this time, I'd ask with the Board and Ms. Barrett's agreement that we incorporate the testimony regarding the statutory options afforded any unleased parties that was previously taken in

item number 2473 just previously.

BUTCH LAMBERT: Do you agree, Ms. Barrett?

JIM KAISER: Yes, I do.

BUTCH LAMBERT: We'll accept that, Mr. Kaiser.

JIM KAISER: Thank you.

Q. The Board does need to set up an escrow account, obviously, for this well?

A. Yes.

Q. And that will be for---

A. Tract 1.

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

A. Equitable Production Company.

Q. The total depth of the proposed well?

A. Total depth is 2,376 feet.

Q. Estimated life...estimated reserves of the unit over the life of the unit?

A. 230 million cubic feet.

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

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of well costs?

A. It does.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$145,831. Completed well costs are \$376,634.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. It does.

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

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Kaiser, looking at the plat just for clarification, it's inside the window?

RITA BARRETT: It is. Actually, I have an email from my surveyor. It is inside the unit. I had the footage, Mr. Chairman, but apparently I don't have it with

me.

JIM KAISER: But it is inside the...the actual location is inside the interior window?

RITA BARRETT: It is.

BUTCH LAMBERT: Okay, thank you. Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next agenda item is a petition from Equitable Production Company for pooling of coalbed methane unit VC-536880. This is docket number VGOB-09-0217-

2475. All parties wishing to testify, please come forward.
You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, you're familiar with the application that we filed here seeking to pool any unleased interest within this unit?

A. I am.

Q. And does Equitable own drilling rights in the unit involved here?

A. We do.

Q. Prior to the filing of the application, were efforts made to contact each respondents owning an interest and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What is the interest under lease to Equitable within the gas estate in the unit?

A. 64.28%.

Q. And what is the interest under lease within the coal estate?

A. A 100%.

Q. Are all unleased parties set out in Exhibit B-3?

A. They are.

Q. So, 35.72% of the gas estate remains unleased?

A. That's correct.

Q. The majority of that is represented, again, by the Yellow Poplar?

A. That's correct.

Q. Okay. 0% of the gas estate is unleased?

A. That's correct.

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

A. Yes.

Q. Again, are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. I am.

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

A. A five dollar bonus, a five year term with a one-eighth royalty.

Q. In your opinion, do the terms that you've just testified to represent the fair market value of and the

fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Again, Mr. Chairman, with your agreement and Ms. Barrett's approval, I'd like to incorporate the statutory election option testify taken previously in 2472.

BUTCH LAMBERT: Do you agree?

RITA BARRETT: Yes.

BUTCH LAMBERT: Accepted, Mr. Kaiser.

Q. Okay. We do need to establish an escrow account...or the Board does, correct?

A. Yes, Tracts 1, 2 and 3.

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

A. Equitable Production Company.

Q. The proposed depth of this well?

A. 2,431 feet.

Q. Estimated reserves over the life of the unit?

A. 230 million cubic feet.

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

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of well costs?

A. It does.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$127,471. Completed well costs are \$350,308.

Q. Do these costs anticipate a multiple completion?

A. They do.

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

A. It does.

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

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next item is a petition from Equitable Production Company for pooling of coalbed methane unit VC-537003, docket number VGOB-09-0217-2476. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser and Rita Barrett on behalf of Equitable Production Company.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, do your responsibilities

include the land involved in this unit?

A. It does.

Q. And are you familiar with the application we filed seeking to pool any unleased interest within this unit?

A. I am.

Q. Does Equitable own drilling rights within this unit?

A. We do.

Q. And prior to the filing of the application, was an attempt made to contact each of the respondents and an attempt made in that regard to obtain a voluntary lease from each?

A. Yes.

Q. What is the percentage of the gas estate within this unit that's under lease to Equitable?

A. 95.45331334%.

Q. And the percentage of the coal estate that's under lease?

A. 95.45331334%.

Q. Okay. So, we've got fee mineral tracts here?

A. Yes.

Q. Okay. The only thing that's unleased is

Mr. Terry Ball...Terry and Lisa Ball's interest in Tract 4?

A. That's correct.

Q. So, 4.5466666% of the gas estate and coal estate remain unleased?

A. That's correct.

Q. Okay. We don't have any unknowns in this unit?

A. No, we do not.

Q. Are you asking the Board to force pool all unleased interest as listed at Exhibit B-3?

A. I am.

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

A. I am.

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

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

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

A. Yes.

JIM KAISER: Again, Mr. Chairman, I'd ask that we be allowed to incorporate the statutory election option testimony taken in 2473 earlier today.

BUTCH LAMBERT: Do you agree, Ms. Barrett?

RITA BARRETT: I do.

BUTCH LAMBERT: Accepted, Mr. Kaiser.

Q. In this particular unit, the Board does not need to establish an escrow account, correct?

A. No, they do not.

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

A. Equitable Production Company.

Q. The total depth of this proposed well?

A. 2,308 feet.

Q. The estimated reserves over the life of the unit?

A. 230 million cubic feet.

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

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of well costs?

A. It does.

Q. Could you state both the dry hole costs and

completed well costs for this well?

A. Yes. Dry hole costs are \$168,161. Completed well costs are \$422,951.

Q. Do these costs anticipate a multiple completion?

A. They do.

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

A. It does.

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

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying
yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's
approved.

JIM KAISER: Thank you.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next item is a petition from
Equitable Production Company for pooling of coalbed methane
unit VC-537055. This is docket number VGOB-09-0217-2477.
All parties wishing to testify, please come forward.

JIM KAISER: I'm sorry, Mr. Chairman, Jim Kaiser
and Rita Barrett on behalf of Equitable Production Company.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, again, do your
responsibilities include the land involved in this unit?

A. They do.

Q. Are you familiar with the application that

we filed seeking to pool any unleased interest within this unit?

A. I am.

Q. Now, is this well actually located outside the interior window?

A. It is. It is outside the interior window and it is 20.5 feet from the exterior.

Q. And it's a Nora well?

A. It is.

Q. So, in conjunction with the Nora Field Rules order you will seek a location exception for this well through the permitting process with Mr. Asbury?

A. Yes.

Q. Okay. Now, does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to the filing of the application, did you make an attempt to lease all of the respondents owning an interest in this unit?

A. Yes.

Q. What is the percentage of the gas estate under lease to Equitable in this unit?

A. 46.88%.

Q. And the coal estate?

A. 100%.

Q. All unleased parties are set out at B-3 to the application?

A. They are.

Q. So, 53.12% of the gas estate remains unleased?

A. That's correct.

Q. Okay. Do we have any unknowns in this unit?

A. Yes. Galley Friend unknown/unlocateable Tract 1 there will be...need to be an escrow set up.

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

A. I am.

Q. Again, are you familiar with the fair market value of drilling rights in this unit?

A. I am.

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

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

Q. In your opinion, do the terms you've testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights

within this unit?

A. Yes.

JIM KAISER: Mr. Chairman, again, I'd ask that we incorporate the statutory election option testimony taken in item 2473.

BUTCH LAMBERT: Do you agree, Ms. Barrett?

RITA BARRETT: I do.

BUTCH LAMBERT: It's accepted, Mr. Kaiser.

Q. The Board does need to establish an escrow account for any proceeds attributable to Tract 1 in this unit?

A. That's correct.

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

A. Equitable Production Company.

Q. The proposed depth of this well?

A. 2,386 feet.

Q. The estimated reserves over the life of the unit?

A. 230 million cubic feet.

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

A. It has.

Q. In your opinion, does it represent a

reasonable estimate of well costs?

A. It does.

Q. Could you state the dry hole costs and completed well costs for this well?

A. Dry hole costs are a \$142,321. Completed well costs are \$373,544.

Q. Do these costs anticipate a multiple completion?

A. They do.

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

A. It does.

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

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Kaiser, could you just clarify the percentage of unleased to the gas, please, sir? I don't know if I understood you.

JIM KAISER: 53.12.

BUTCH LAMBERT: Thank you. I thought you said 51,
but thank you. Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. All
there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying
yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's
approved.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next item is a petition from
Equitable Production Company for a pooling of coalbed
methane unit VC-531010. This is docket number VGOB-09-0217-
2478. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, again, Jim Kaiser and
Rita Barrett on behalf of Equitable Production.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, again, do your responsibilities include the land involved in this unit?

A. They do.

Q. And are you familiar with the application that we filed seeking to pool any unleased interest in this unit?

A. I am.

Q. And prior to filing this application, did you attempt to contact each of the respondents owning an interest and an attempt to make a...to get a voluntary lease agreement?

A. We did.

Q. And does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And what percentage of the gas estate is under lease to Equitable in this unit?

A. 98.88%.

Q. And the percentage of the coal estate?

A. 100%.

Q. And are all unleased parties set out at Exhibit B-3?

A. They are.

Q. So, the only thing that remains unleased in this unit is 1.12% of the gas estate?

A. That's correct.

Q. Okay. In reviewing our exhibits, I see that we do not have any unknowns, correct?

A. That's correct.

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

A. I am.

Q. Again, are you familiar with the fair market value of drilling rights in this unit and in the surrounding area?

A. I am.

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

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

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

within this unit?

A. They do.

Q. Now, this particular well is, again, also located outside the interior window, is that correct?

A. Yes.

Q. And you provided a...in your plat that's attached to the application, you've provided a 750 foot radius circle to show that number one, that aren't any correlative rights issues and; number two, you will submit a request for a location exception with your permit as allowed under the Nora Coalbed Gas Field order?

A. Yes.

JIM KAISER: As to the one party, a Mr. Rusty Strouth and his wife who remain unleased who they own the gas in Tract 4, do you agree that...well, let's not go through that. Can we incorporate, again, the statutory election option testimony taken earlier in 24.73?

BUTCH LAMBERT: Do you agree, Ms. Barrett?

RITA BARRETT: I do.

BUTCH LAMBERT: We'll accept it, Mr. Kaiser.

JIM KAISER: Thank you.

Q. We do need to...the Board does need to establish an escrow account for this well due to conflicting claims?

A. That's correct. Tracts 1, 5, 6 and 7.

Q. Is it 1?

A. Wait a minute.

Q. I think it's 4, 5, 6 and 7.

A. I think it's 4.

Q. 4, 5, 6 and 7.

A. I'm sorry, 4, 5, 6 and 7.

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

A. Equitable Production Company.

Q. And what's the total depth of this proposed well?

A. 1,989 feet.

Q. Estimated reserves over the life of the unit?

A. 230 million cubic feet.

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

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of the well costs for this well?

A. It does.

Q. Would you state the dry hole costs and completed well costs for this unit?

A. Dry hole costs are \$114,327 and completed well costs are \$319,542.

Q. Do these costs anticipate a multiple completion?

A. They do.

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

A. It does.

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

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Is there any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying

yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved.

JIM KAISER: Thank you.

RITA BARRETT: Thank you.

JIM KAISER: Mr. Chairman, before you call the next item I think we can probably go ahead and combine thirty-seven and thirty-eight for establishing 320 acre provisional units for the purposes of horizontal drilling and they're both 100% Penn Virginia units.

BUTCH LAMBERT: Calling the next item is a petition from Equitable Production Company for the establishment of a provisional drilling unit consisting of 320 acres for the drilling of horizontal of conventional gas well. This is unit EPC-2479. This is docket number VGOB-09-0217-2479. We're also calling a petition from Equitable Production Company for the establishment of a provisional drilling unit consisting of 320 acres for the drilling of a horizontal conventional gas well, unit EPC-2480, docket number VGOB-09-0217-2480. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, it will be Jim Kaiser, Rita Barrett and Chris Hinte for Equitable Production. Mr. Hinte need to be sworn at this time.

(Chris Hinte is duly sworn.)

BUTCH LAMBERT: Mr. Kaiser, you may proceed.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, would it be your testimony that Penn Virginia own a 100% of the oil and gas within these units that we're attempting to establish?

A. That's correct and both are a 100% leased.

Q. Okay. And have all coal, oil and gas owners been notified of this hearing as required by 361.19 of the statute?

A. They have.

JIM KAISER: Okay. Nothing further of this witness at this time.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may call your next witness at this time.

CHRIS HINTE

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hinte, if you would state your name for the Board, who you're employed by and in what capacity?

A. Chris Hinte. I'm employed with Equitable Production. I'm a regional drilling manager in Big Stone Gap, Virginia.

Q. Okay. And you have testified before the Board previously on the establishment of these provisional units?

A. Yes, I have.

Q. Okay. In conjunction with the presentation or handout that you've prepared, if you would go through that and go through our theory for establishing these units and, you know, why we want to continue to drill these horizontal wells?

A. Getting straight into Exhibit AA, horizontal conventional drilling units in Virginia we're proposing a 320 acre square unit, which will have dimensions of 3,733 feet by 3,733 feet with 5,280 foot diagonal. We'll see this more in detail in Exhibit BB. We'll also have 300 feet interior window with a 600 foot standoff from adjacent grid horizontal Wellmore. We will be able to drill surface

location outside of a unit so long as production comes from within the unit. A minimum of a 600 foot distance between horizontal wellbore and any vertical well producing from that horizon. Allow for multiple wells and/or laterals for maximum drainage. In some cases, two or more wells may be able to use the same pad to terrain restrictions. On to BB, as I was talking before, it pretty much shows the square unit with the diagonals. The two sides at 3,733 feet and the diagonal at 5,280 feet. On Exhibit CC some benefits of horizontal drilling, fewer issues with the coal mining, less surface disturbances, more effectively extract the resources. Laterals can be reached into areas otherwise inaccessible by vertical boreholes, high depletion rates and shorter lives to wells. It will encourage development of the resource. On DD, it's a map of Wise County showing the units in green. We're seeking approval for, which EPC-2479 is for item thirty-seven and EPC-2480 it item thirty-eight. EE-1, it's a zoomed in unit of EPC-2479 for the unit we're seeking approval for, as is EE-2 is a zoomed in unit of EPC-2480 unit we're seeking approval for.

BUTCH LAMBERT: Anything further, Mr. Kaiser?

JIM KAISER: No, I'm sorry. Nothing further of this witness, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Hinte, let me ask you, from EE-1 and EE-2 is EPC-2479 represented by the black in the---

CHRIS HINTE: It's represented by the green box.

BUTCH LAMBERT: The green box, okay.

CHRIS HINTE: Uh-huh. As with the 2480 is the green---.

BUTCH LAMBERT: Okay, thank you.

CHRIS HINTE: ---box on the second page.

JIM KAISER: Mr. Chairman, I think if you're questioning, that will be an existing vertical well.

BUTCH LAMBERT: Okay. That was the question. Is that an existing...? Any further questions from the Board?

BILL HARRIS: Mr. Chairman, just one question. So, we don't have the proposed location or a suggested location at the moment.

CHRIS HINTE: From my understanding, on the eastern side is where we're looking at. There's nothing set in stone yet.

JIM KAISER: Mr. Hinte, we've been taking these laterals for the most part from the southeast to the northwest, I guess, has been our inclination?

CHRIS HINTE: Yes.

JIM KAISER: Okay.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Ms. Barrett, we very much like your exhibits the way that the unit has been laid out. It also combines the four 80 acre unit. It shows us, you know, how it's going to be pooled and which units are going to be pooled. Understanding that the actual unit, the other four go away and it just becomes one unit. But we do very much like the exhibit that was presented with the application. It shows the first four units and how you're pooling them.

RITA BARRETT: Thank you.

DAVID ASBURY: It makes good sense with the 320 acre pooling.

BUTCH LAMBERT: Mr. Hinte, this makes upwards of twenty of these provisional units now of horizontal. When you do you plan on gathering data from these wells are we just going to keep seeing these come before the Board?

CHRIS HINTE: I think right now it's too soon to see any data.

BUTCH LAMBERT: How many drilled now just for---?

CHRIS HINTE: Ten, I believe.

BUTCH LAMBERT: You've got ten of them drilled? When do you expect any data to start that you can bring back

before this Board of those ten?

CHRIS HINTE: Anything good, it will be months.
But it's hard to say.

BUTCH LAMBERT: Months meaning years? Seven or
eight months?

CHRIS HINTE: Possibly.

BUTCH LAMBERT: Do you have a question, Mr.
Harris?

BILL HARRIS: I thought if it was years then we
may need to take a look at that.

JIM KAISER: Well, let me...let me trying to maybe
help you here. How many of the ten that you've drilled are
actually on line? Do you know?

CHRIS HINTE: Seven or eight.

JIM KAISER: Okay. So, you have seen...and how
long have they been on line?

CHRIS HINTE: Most of them within the last
probably five months.

JIM KAISER: So, would it be safe to say that you
normally would need to see probably a little more time out
of the...those wells on line to see what they'll actually
produce over some period of time?

CHRIS HINTE: Yes.

JIM KAISER: Okay. But then say in a given period

of six to nine months we could very possibly have that data and then be able to come back to the Board and present that to them?

CHRIS HINTE: Yes.

JIM KAISER: Okay.

BUTCH LAMBERT: I guess, where we're coming from is I think the Board is getting a little uncomfortable of keep issuing these and not...you know, we keep hearing every month that we're going to get...we're getting feedback...we'll get you...we'll get you some data and come back. We're not there yet. So, I was just trying to get a sense of when are we going to start seeing that if we're going to keep---

RITA BARRETT: I think that...Chris probably should answer this, but we can provide the Board with data as far as what the wells are producing now with the understanding that, you know, we're waiting for the wells to maybe calm down and level out to get an average production. But we can provide you data on the wells that are in line.

BUTCH LAMBERT: Okay. I guess, we'd probably like to start seeing that in some of these presentations.

RITA BARRETT: Okay.

BUTCH LAMBERT: It would give us some kind of idea or what is happening because, again, I don't know if we're

just going to keep being comfortable issuing these and not seeing anything back.

MARY QUILLEN: Mr. Chairman, I think that what you have said that we could begin to receive some preliminary data with the understanding that that's not the bottom line that we would...you would be able to do that say after six months or so? Does that sound reasonable?

BUTCH LAMBERT: Yes, thank you, Ms. Quillen.

JIM KAISER: I think that's fair.

RITA BARRETT: I do to.

BUTCH LAMBERT: Any further questions or comments from the Board?

BILL HARRIS: Let me just ask one other.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: Are any of those drilled in these areas that we've approved these for? Have any of the previous---

JIM KAISER: Are any of the ten drilled in close proximity of these two?

BILL HARRIS: Yes, thank you.

CHRIS HINTE: I'm not sure. I'd have to look at another map to say yes or no.

JIM KAISER: I don't think so, Mr. Harris, because the Penn...my guess is no because the Penn Virginia...the

last couple of months have been the first Penn...these were all Penn Virginia units in this particular area of Wise County and I think it has just been within the last couple of months that we've been forming the units. So, my guess is---

RITA BARRETT: That's correct.

JIM KAISER: So, my guess is none of them has been drilled yet.

BILL HARRIS: Thank you.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Are you asking for a motion on both items?

RITA BARRETT: Yeah, we combined those.

BUTCH LAMBERT: The next one...we combined them both, yes.

MARY QUILLEN: A motion to approve.

BUTCH LAMBERT: Do I have a second?

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. Both of those are approved.

JIM KAISER: Thank you.

RITA BARRETT: I have a question. The data that we provide is that something that we can provide to Mr. Asbury and can be distributed to the Board outside of these hearings?

BUTCH LAMBERT: I think that would be fine to do that, yes. We would just like to see something back, you know---

RITA BARRETT: All right. That's understandable.

BUTCH LAMBERT: Yeah.

RITA BARRETT: Okay.

DAVID ASBURY: The process, Mr. Chairman, and you correct me if I'm wrong, but after a pooling, it's maybe six, seven or eight months before the well is drilled and could be two or three more months before it's connected and actually producing. So, it may be this fall before we even see some of the first results from those that were approved

at the end of last year. So, it's about a year downstream from the Board hearing.

RITA BARRETT: But we can provide the data---?

JIM KAISER: Yeah, we can provide the preliminary data.

RITA BARRETT: Yeah. Right.

JIM KAISER: But as Ms. Quillen said, to get any real---.

RITA BARRETT: Right.

JIM KAISER: ---good data you really you've got... the need to be on line for a while.

DAVID ASBURY: Thank you.

BUTCH LAMBERT: The next item is a petition from Equitable Production for disbursement of funds from escrow and authorization for direct payments of royalties on Tract 3, well VC-537869, docket number VGOB-07-1016-2046-01. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, again, Jim Kaiser and Rita Barrett on behalf of Equitable Production Company. This will give us kind of a chance to sort of flush out where we're going with these things as we were doing earlier with CNX and make sure we kind of understand what Mr. Asbury wants. What we have just passed out is a reconciliation between the bank's numbers and our numbers. I think we know

that you want that. You want the spreadsheet with that percentage...owner percentage of escrow in the unit. He wants W-9s, which we don't have today, but we're going to continue...we'll get in the future. Then, I was a little cloudy from there. Now, as far as the...I understand that you're probably having a problem with a small percentage of these disbursements and that people are confused as to how much...whether or not the amount of acreage or the percentage of the unit that they have is being accurately represented. I would think that maybe a way to do that, and we can start doing that with our applications, is attaching a copy of the original Board order or the most current Board order, you know, that's final that lays that out. Maybe we could, you know, include that with our petition. That may help some in the confusion. Maybe before we get into this particular item here to help Mr. Harris and I understand where he was coming from is all of this money in this account and less went out in 2008 that went out in 2007. That could be attributable, at least in my opinion to several factors, one, a lot of it is unknown and unlocateable folks, number one. Number two, there's two ways to get this money out of escrow for somebody that's in a conflicting claim situation. If you're unknown and unlocateable if you've got to be found to get it out. But

if you're in the conflicting claimant situation, which is the other case that you have escrow you can...the two conflicting claimants, the coal owner and the oil and gas owner can strike an agreement, that's one way. Two, you've got to go to your jurisdictional Court whether it's Dickenson County, Buchanan County, Wise County or whatever and get a declaratory judgment from that Court as to who owns the coalbed methane whether it's the coal owner or the oil and gas owner. You get an order from the Court and then you bring it to the Board. I would submit that the reason that you're not seeing more of this money coming out is, one, again, the unlocateable/unknowns; and, two, the unwillingness of some of the conflicting claimants to either strike these agreements and/or spend the time and effort to get an adjudication as to the ownership. I don't think...I mean, certainly, the operators don't care. We're not making any money off of this. So, I think maybe if there was an...I think at least on...not on behalf of any of my clients, but my own behalf, if there was something that we could do to maybe help some of these royalty owners and conflicting claimants to understand exactly...you know, some sort of educational process for them to understand how they can get out this money, you know, whether it's just doing a little memo or a little flyer, you know, out to them saying,

you know, here's the two ways you can get it. It's up to you. You know, maybe that would be helpful. Now, I know once they...once one of those two things happens it is under statute, the operator's obligation to file the petition to get it out. But we can't do that until one of those two things happens. So---

SHARON PIGEON: I think too, Mr. Kaiser, that some confusion has grown out of the Ratliff case. That applies statewide.

JIM KAISER: Yeah, they think that's pervasive for some reason.

SHARON PIGEON: Right. And instead of it applied to those folks specifically and those deeds specifically. It wasn't a case that overturned the law for the state in any fashion.

JIM KAISER: Good point.

BUTCH LAMBERT: And just so that you know, we are considering doing some public outreach that would include this very item.

JIM KAISER: Yeah, because, I mean, I'm not even sure a lot of people know how to get it out.

RITA BARRETT: And, you know, we do care. As an operator, we do care because we want people to get their money. It doesn't do anyone any good to sit in escrow.

JIM KAISER: Well, I didn't mean you didn't care.
I just mean that you didn't have (inaudible) interest in it.

RITA BARRETT: Right. I know, but I just wanted
to clarify that. We do care.

SHARON PIGEON: She wanted to make sure---.

(Laughs.)

BUTCH LAMBERT: You know, plain speak goes a long
way.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. All right. As to this particular
application for disbursement, we are...we have filed a
petition on behalf of Edmond and Linda Edwards and Pine
Mountain Oil & Gas to have the money in escrow for Tract 2
in the unit for well 537869...I'm sorry, Tract 3, in the
unit for well 537869 disbursed, is that correct?

A. That's correct.

Q. And we have provided the Board with a bank
reconciliation?

A. That's correct.

Q. And it all matches up and we've provided
them with a spreadsheet that shows...reflects the 75/25

royalty split that the conflicting claimants agree to?

A. That's correct.

Q. And we would direct them to the next to the last column in the spreadsheet that shows the owner percentage in escrow?

A. Yes.

Q. And...is that correct?

A. It is.

Q. And these figures are good through 11/30/08, is that correct?

A. That's correct.

Q. As is the reconciliation?

A. That's correct.

Q. And would you...are we here before the Board today to ask that they disburse whatever the current amount is in escrow for that tract based upon the owner's percentage in escrow?

A. Yes.

Q. Not necessarily based upon these numbers, but based upon what the actual proceeds are?

A. right.

Q. And we'd also ask that on a going forward basis that they order us to disburse those royalties on these percentages directly to the two claimants here?

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

SHARON PIGEON: Will this close out this tract?

JIM KAISER: I believe it will want it?

RITA BARRETT: I think so.

JIM KAISER: Yeah, because it's not---

RITA BARRETT: It does. It does.

JIM KAISER: It will close it out. It's no longer on Exhibit E.

RITA BARRETT: Right.

JIM KAISER: And we look forward to getting the memos as to exactly what all...besides what we're doing now that you need from us because I know this provides a lot of issues for you office.

DAVID ASBURY: We certainly appreciate what you presented today. It's good information and that's...going forward we'll give the Board an opportunity to look at the actual accounting that has gone into the unit prior to disbursements so that if they have questions---

JIM KAISER: Okay. So, you do like that...that reconciliation is what you're looking for?

DAVID ASBURY: Yes.

JIM KAISER: Okay.

DAVID ASBURY: Just for the unit accounting.

JIM KAISER: Right. Because it has got the interest and everything on there.

DAVID ASBURY: I think that will allow the Board to look at payments that has gone into the unit and have any questions before they actually make the disbursement decision. Thank you for bringing that today.

RITA BARRETT: You're welcome.

JIM KAISER: We actually had it (inaudible) too and I didn't give it you. I can give that to you.

DAVID ASBURY: Okay.

JIM KAISER: I was confused. It was before...it was before the CNX one.

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Any further discussions?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying

yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved.

JIM KAISER: Thank you.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next item is a petition from Range Resources-Pine Mountain, Inc. for the establishment of a provisional drilling unit consisting of 320 acres for the drilling of horizontal conventional gas well, unit Range-2481. This is docket number VGOB-09-0217-2481. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman and Board, Jim Kaiser, Phil Horn and Gus Janson for Range Resources-Pine Mountain, Inc.

(Phil Horn and Gus Janson are duly sworn.)

PHIL HORN

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Now, Mr. Horn, we'll start with you'd state your name for the Board, who you're employed by and in what capacity?

A. My name is Phil Horn and I'm a land manager for Range Resources-Pine Mountain, Inc.

Q. Now, according to my exhibit and my green cards and my green card tracking, we have five different parties that would have been required to be noticed to this hearing, being oil, gas or coal owners under 361.19?

A. That's correct.

Q. And to the best of your knowledge, have all of those parties been notified?

A. Yes, they have.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may call your next witness, Mr. Kaiser.

GUS JANSON

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Janson, if you would state your name for the Board, who you're employed by and in what capacity?

A. Gus Janson. I'm manager of geology for Range Resources-Pine Mountain, Inc.

Q. You've testified before this Board on the unit establishments on numerous occasions?

A. That's correct.

Q. Okay. Now, in conjunction with the handout that you've prepared, would you go through your reasoning for wanting to continue to establish these units and drill these horizontal conventional wells?

A. Yes. If the Board will refer to the handout on Exhibit AA, that's a schematic drawing of the counties in Southwest Virginia showing the location of existing adjacent units that have been approved by the Board as well as a proposed unit Range-2481, which is indicated by the red dash lines. These units do conform to the same pattern even though it may look a little bit like they've done it from the picture. It's just a little bit further apart. We are building on the same building block pattern that we have been in the past in this area.

Q. Is 2481 the number that we're assigning to this unit?

A. That's correct.

Q. Okay.

A. Exhibit BB is a schematic drawing showing the 320 acre square unit with the dimensions of 3,733 feet by 3,733 with a maximum lateral length of 4431, which is the maximum you could achieve in this unit. Exhibit CC are some of the...further discussion of the unit. The dimensions again are stated there. The requirement for the 300 foot interior window with a 600 foot standoff from adjacent grid horizontal wellbore. A 600 foot distance between horizontal wellbore and any vertical well producing from within the same horizon of the lateral. This will allow for multiple wells and/or laterals for a maximum drainage of all conventional reservoirs. It will also allows to be able to do a location inside or outside the unit so long as production is within the unit and inside the interior window. Exhibit DD is our typical horizontal well plan and this schematic is basically to indicate that we are meeting the same requirements for vertical wells on our casing plan that we...for the same requirements for a surface casing and a coal production stream. Exhibit EE is also the benefits of horizontal drilling. Again, we have...and it will benefit the working interest owner, royalty owners and the county will benefit by maximizing the production, promote the conservation of gas resource and prevent waste by more

effective extraction of the resources. The laterals will allow us to drill into areas otherwise inaccessible from the surface. We will again be able to use multiple wells on the same pad. It minimized the surface disturbance and have less impact on the coal. Again, the square units allow for no stranded acreage in the areas.

Q. And, Mr. Janson, could you update the Board where Range is on some of their horizontal drilling?

A. Yes, I can do that. At this point, we've drilled eleven horizontal wells. Nine of those have been completed. We have a minimum amount of production since we've really only been in this program for a year, at various stages throughout the year. At this point, we've also only drilled into separate formations. That being the Devonian Shale and the Berea Sand and we have intentions this year to experiment with at least one additional formation. So, those different formations will require some further investigation on the technical side and being able to drill and complete those formations. At this point, we're a little bit different than maybe what's going on in Kentucky. We have a different geological setting. They've drilled several hundred wells in Kentucky, which is really where this...a lot of this is spurring from. They have a different set of depletion issues over there that we don't

have here. So, we're not quite comparing apples to apples at this point. So, that's one of the reasons this is going to take a bit of time to do this. There's basically no substitute for production data to see the economic viability of these wells. That's going to take some time. I just want the Board to understand that. At this point, we are submitting our monthly production data to the state and that data is available, you know, for the Board to review it anytime. We can maybe provide that data in some kind of format that would be useful if the Board would like to see that outside of this forum.

BUTCH LAMBERT: Okay. If you will just work with Mr. Asbury on that information, he'll see that the Board gets it. Thank you.

GUS JANSON: Okay.

BUTCH LAMBERT: Anything further?

JIM KAISER: We'd ask that the application be approved as submitted, Mr. Chairman. Do we have any questions from the Board?

BILL HARRIS: Mr. Chairman, just one question.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: Actually, this is on the first page, you're use of the word "adjacent". I always thought that meant next to and I notice none of these touching. I don't

mean to be picking about this, but---

JIM KAISER: Somewhat adjacent.

GUS JANSON: Somewhat...closest approved units to...yeah, closest Range of units that we've been approved. This is sort of a step out area from where we've been.

BILL HARRIS: Yeah, I know what you did. But, I mean---

GUS JANSON: Right.

BILL HARRIS: ---the use of the "adjacent" to me says they're physically in contact with each other.

GUS JANSON: I agree.

BUTCH LAMBERT: Mr. Janson, let me ask you one question, on Exhibit EE your last bullet, "square units have no stranded acreage". I understand that. But if you'll turn back to Exhibit AA, are those going to match up when they get...the gaps get filled in?

GUS JANSON: Yes. We have a group pattern established in this general area right here that each of these units will conform to the pattern...to a pattern, which I think I stated that earlier.

BUTCH LAMBERT: This is just a representative drawing and not to scale, just for exhibit only.

GUS JANSON: Right. It's just an exhibit...just for showing the location.

BUTCH LAMBERT: Okay. Because if I look at that it does---.

GUS JANSON: It does look like it. If the Board would like to see this, I've actually got a drawing with the pattern on there.

BUTCH LAMBERT: Oh, okay. It would have been good to have that one.

SHARON PIGEON: That's the one you should---.

BUTCH LAMBERT: That's the one we should have had.

GUS JANSON: And if we can, if you'd like me, we can do that in the future rather than...this grid becomes a little bit...comes through if you've got several units on here trying to see everything.

BUTCH LAMBERT: Okay. All right. Thank you, Mr. Janson. Any further questions from the Board?

KATIE DYE: I have a question, Mr. Chairman.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: On their Exhibit A, the one thing I don't see is the seal or the signature for the land surveyor or the licensed professional engineer. I'm not sure that we require that. But typically we do see that on the plat.

PHIL HORN: Since there's not a well proposal, we're just getting the unit, we're just submitting Exhibit A and that's what we thought when we first started doing this.

So, you don't see a proposed well in there. Once we...once we propose a well inside this unit, then the seal will be on there---.

JIM KAISER: When they apply for the permit, it will have a seal.

PHIL HORN: Right.

JIM KAISER: Thank you.

PHIL HORN: Yes, ma'am.

DAVID ASBURY: Mr. Chairman, one question.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Since we're still new in the horizontal well, I wanted to make sure from the Division's standpoint that we're clear that as long as the well is within the unit that they can drill it outside the window as long as they're producing within the window that does not require any special location exceptions on the Division's behalf. I mean, when the Board approves that here, we're not going through a second step for a location exception. I wanted to make sure that was...what we're supposed to be doing with the Board and make sure the Board understood that.

JIM KAISER: But it would require, obviously, a lease or some kind of agreement with the surface owner that we're drilling on it.

DAVID ASBURY: Yes. You're going through the notice application, but it's only...we don't have a field established and location exceptions for coalbed fields can be approved through our office. Location exceptions for conventional gas is required to come before you for these horizontals when you approve this and the wells outside... inside the unit, but outside the window but is producing within the window. We're not going through any additional location approval for permit. I wanted to make sure that the Board understood that and was clear on that issue.

BUTCH LAMBERT: Any further questions?

BILL HARRIS: Well, now I'm confused because I'm not sure.

DAVID ASBURY: All right. For this---.

BILL HARRIS: I understand the process. I'm not sure why you're reminding us because it seems to me in the past whenever it has been outside actually of the 320 acres that we've asked about whether or not they have permission to drill or have leased that particular property. Are you saying that's still in play here? I mean, I'm not---.

DAVID ASBURY: What I'm saying is that the Board, as far as approval for a location exception because this is conventional, that when you approve this that we are not going through a second step for a location exception. That

you are approving this location today that they're going to drill outside of the window, but within the unit and produce from within the unit. So, when the permit comes there's not a second step that we are requiring to come back before the Board.

BILL HARRIS: This is because it's conventional, is that correct?

DAVID ASBURY: That's correct.

MARY QUILLEN: Mr. Chairman, just to clarify---

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: ---if they drilling outside of the unit and producing within the unit then they would have to ask for an exception---

DAVID ASBURY: From you. For a conventional gas.

MARY QUILLEN: Right.

DAVID ASBURY: I just wanted to make that clear.

GUS JANSON: Would you say that again?

JIM KAISER: Let's go back. Let's go...okay. We can only...in any case, no matter where the top hole, the surface hole is...the surface hole location is, no matter where it is, whether it's inside the 320 acres or outside the 320 acre, we can only produce...the lateral can only produce from inside that interior window. Now, as far as where that actual surface location is, there's no...if it's

not in the unit...no matter where it is all we have to have is permission or legal right of some sort from that surface owner to drill that location there whether it would be from an oil and gas lease or a separate surface agreement or whatever. What he's saying is, unlike the coalbed methane situation where you're outside the interior window and you have to get a location exception through the permitting process or in these vertical conventional well sense, if you're less than 2500 feet from another existing well you have to apply for a separate location exception.

MARY QUILLEN: I was just clarify what he said. You said that if they...it had to...they had to produce within the window, but they could drill as long as it's inside of the unit. Is that what you said?

DAVID ASBURY: It could be inside or outside of the unit as long as the production is within the window.

MARY QUILLEN: And they don't have to have a well exception?

DAVID ASBURY: We're not going through the second step for an exception, that's my point.

SHARON PIGEON: The orders on these have given them that---.

MARY QUILLEN: Right.

SHARON PIGEON: ---each time.

MARY QUILLEN: I just wanted to be sure that I understood what he said.

SHARON PIGEON: And then Jim has added, of course, that they have to have permission from the surface owner---.

MARY QUILLEN: Right.

SHARON PIGEON: ---if that's what it involves. But that's---.

MARY QUILLEN: Right. Yeah.

SHARON PIGEON: ---a private contractual matter between them and whoever owns the surface where the pad might be. It's not going to be a two stage process on this.

MARY QUILLEN: Right. That was my question to clarify that that it was not.

SHARON PIGEON: okay.

BUTCH LAMBERT: Any other questions?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Kaiser?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved as submitted.

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussions?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved.

JIM KAISER: Thank you.

BUTCH LAMBERT: The next item is a petition from Range Resources-Pine Mountain, Inc. for a well exception for proposed well V-530156. It's docket number VGOB-09-0217-2484. All parties wishing to testify, please come forward.

TIM SCOTT: Mr. Chairman, we're asking...we're going to withdraw that application.

BUTCH LAMBERT: Okay.

BUTCH LAMBERT: The next item is a petition from Range Resources-Pine Mountain, Inc. for a well location exception for proposed well V-536731. This is docket number VGOB-09-0217-2485. All parties wishing to testify, please come forward.

TIM SCOTT: Tim Scott, Phil Horn and Gus Janson for Range Resources-Pine Mountain, Inc.

BUTCH LAMBERT: You may proceed, Mr. Scott.

TIM SCOTT: Thank you.

PHIL HORN

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Horn, would you please state your name, by whom you're employed and your job description?

A. My name is Phil Horn. I'm land manager for Range Resources-Pine Mountain, Inc. One of my job descriptions is to see that we get wells permitted and drilled.

Q. Are you familiar with this application now pending before the Board?

A. Yes, I am.

Q. And you participated in the preparation of the application?

A. Yes, I have.

Q. Are you familiar with the ownership within the bounds of the unit?

A. Yes, I am.

Q. And is the ownership correctly set forth on the exhibit to the application?

A. Yes, it is. It's owned by Pine Mountain-Range Resources and Standard Banner owned all of the oil and

gas inside this unit.

Q. Who operates well V-502018?

A. Equitable Production Company.

Q. Do you also participate in the operation of that well?

A. Yes, we do.

Q. Now, as far as the parties listed on Exhibit B to the notice of hearing, how were those parties notified of this hearing today?

A. They were notified by certified mail.

Q. And have we provided an affidavit of mailing to Mr. Asbury?

A. Yes, you have.

TIM SCOTT: That's all I have for, Mr. Horn.

BUTCH LAMBERT: Any questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may call your next witness, Mr. Scott.

GUS JANSON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Janson, would you please state your name, by whom you're employed and your job description?

A. Gus Janson, manager of geology. I'm employed by Range Resources-Pine Mountain, Inc.

Q. And are you also familiar with this application?

A. Yes, I am.

Q. And did you participate in the preparation of this application?

A. Yes, I did.

Q. Would you please explain to the Board why we're seeking a well location exception today?

A. Yes.

Q. If the Board will refer to Exhibit AA, which I handed out, you'll see the location of the proposed well 536731. This well is...a location exception is primarily needed for this well due to the topographic terrain located in this area. We've actually spotted this well on an old abandoned surface mine area. In order to find another location, we would have to move the well approximately a 1,000 feet to the southeast across a small hollow there onto another bench due to the steepness of the terrain in that area. So, in that case, we are infringing upon the 502018 well.

Q. So, that is topographical issues today then, is that right?

A. That's correct.

Q. What's the proposed depth of this well, Mr. Janson?

A. 6,135 feet.

Q. And what would be the potential loss of reserves if this application is not approved?

A. 400 million cubic feet.

Q. Then, in your opinion, would the granting of this application be in the best interest of protecting correlative rights, prevention of waste and promote conservation?

A. Yes, it would.

TIM SCOTT: That's all I have for Mr. Janson.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Janson, refer to Exhibit AA in the overlapping area---

GUS JANSON: Uh-huh.

BUTCH LAMBERT: ---about those folks.

GUS JANSON: Yes. If there is indeed an overlapping unit established in an adjacent well, we pay both ownership in both units.

BUTCH LAMBERT: Thank you. Any further questions?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. Are there any further discussions?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Scott. It's approved.

TIM SCOTT: Thank you.

BUTCH LAMBERT: At this time, we'll...the Board will receive public comments. All of those wishing to comment, please come forward and state your name for the record.

KYLE ROBINSON: My name is Kyle Robinson. As you may know, I was here last month before the Board asking for a copy of my escrow account. To this day, I haven't received it. I ask this Board to give me an accounting within thirty days. I was put in escrow by the Board and that's the Board's duty to give me my accounting. I've

tried for sixteen years to get an accounting. I've yet to get one today. I think it's time this Board took action.

BUTCH LAMBERT: As I recall, Mr. Robinson, CNX agreed to provide you with a copy of that and you haven't received it.

KYLE ROBINSON: No.

BUTCH LAMBERT: Mr. Asbury, could you follow up with CNX and get an update for us?

DAVID ASBURY: I did email CNX representatives and ask them what the status was two weeks ago and did not receive a reply. I will, again, ask CNX to provide that account. Yes, sir, I will.

BUTCH LAMBERT: Okay. We'll get you an answer, Mr. Robinson.

KYLE ROBINSON: Well, I think I need an accounting within at least thirty days. That will make them sixty days. If they can't provide me with an accounting in sixty days they're not going to provide me one. That's what I feel.

BUTCH LAMBERT: Okay.

KYLE ROBINSON: I ask this Board to take action to get me an accounting.

BUTCH LAMBERT: I'll ask Mr. Asbury to give you a call when he talks with CNX.

KYLE ROBINSON: Okay, thank you.

BUTCH LAMBERT: Thank you, sir.

RONNIE OSBORNE: I'm Ronnie Osborne. I've got them contracts that I was wanting to get on record, you know, where I signed one and end up being sixteen pages. I've got a blank one. I wanted CNX to explain to me how my name got on a sixteen page on record in Grundy and I've got the blank copy that they sent me that I didn't sign. But somehow my name got on a sixteen page in the records at Grundy. That's the reason I've been objecting on disbursing any of my money on the Horn Heirs because I'm turning it back over to a lawyer. I don't have the education to fight them with. I'm going to give him a copy of all three of these contracts to see exactly what has went on and how they got my name on a piece of paper in Grundy on a sixteen page contract when I signed a four page contract for coalbed methane only. According to the sixteen page contract, they own my coal, my gas, my oil, coal seam gas, gob gas, you name it and they've got it. But I've been trying to get Mark Swartz to tell me how my name got there, him and Booth...Jerry Booth and Phillip Lowe and I don't know how many people I've talked to from CNX trying to explain to me how my name got on a sixteen page contract. I've also got probably five or six brothers and sisters they done the same

thing to.

SHIRLEY KEEN: There's nine.

RONNIE OSBORNE: Nine?

SHIRLEY KEEN: Nine.

RONNIE OSBORNE: According to them. But I'm going to send these to the lawyer and he's going to check them out and see what they done, how they done it and, you know...I just wanted you all to see the paperwork. I ain't saying it's fraud. I'm going to let the lawyers say what happened. Is my identity stolen? You know, I don't know. I just want...I'd like to have proof of how they got my name on a sixteen...I've got a blank one. I've got the four page one. I've got the one on record. I'd like to give you all a copy of them to let you see. I mean, they ain't explaining nothing to me. You know, it's bothering me.

SHIRLEY KEEN: I'm Shirley Keen. I'm his sister. They signed...the contract was signed was four pages and it was for coalbed methane only. Well when it goes to the Courthouse in Grundy, it has got coalbed methane, it has got gob gas, it has got methane gas, oil...it has got everything. The contract that was signed was four pages and in the Grundy Courthouse. Right here is what we got...all of these pages on a four page contract that was signed. Nine of our family signed the four page one. Everyone of them

went into the Courthouse with that many pages. Nine people signed for coalbed methane. Nine people in the Grundy Courthouse has signed away their oil, their gas, gob gas, everything. So, there is...there is a major problem with CNX Gas going to Grundy and putting stuff on record like this that has not been signed. But somehow they're signatures has got on the back pages of these contracts. It turned from a four page to a fourteen page. That's not right. Bill Mason...Mr. Mason when he was here, we brought this same thing before the Board. Consol...I mean, CNX Gas was told then, you do not record that. Well, we didn't even know it was recorded and somebody went to the Courthouse and there it is, right in the Courthouse it is...it is put in the Courthouse that they signed it and they didn't sign it. They've been mailed through the mail that they signed them. They did not sign the contracts.

DAVID ASBURY: Mr. Chairman, we need to make sure that we document these exhibits properly, please. Mr. Osborne---

RONNIE OSBORNE: yes.

DAVID ASBURY: This...if you'd help me with the exhibits here. This four page...the four page document that he passed out, we'll call that RO Exhibit 1.

SHARON PIGEON: This is a royalty split agreement.

RONNIE OSBORNE: I did sign it.

DAVID ASBURY: Royalty split---

RONNIE OSBORNE: I did sign that.

SHARON PIGEON: And we're going to call that---?

DAVID ASBURY: RO Exhibit 1. Is that okay? And
you did sign---

SHARON PIGEON: The initials are?

DAVID ASBURY: RO Exhibit 1.

COURT REPORTER: Ronnie Osborne.

BUTCH LAMBERT: RO, Ronnie Osborne.

SHARON PIGEON: Not O.

DAVID ASBURY: RO...RO, I'm sorry. RO Exhibit 1.

SHARON PIGEON: Do we have numbers on these too?
I'm getting a little confused here.

DAVID ASBURY: Okay, the next one I'm looking at
is a recorded document "Oil, Gas and Coal Seam Gas Lease".
The first page, it has copy on it and it's Book 0605, Page
0712. This is a...it's sixteen pages as well. We'll call
this Exhibit RO-Exhibit 2.

MARY QUILLEN: I'm sorry, what was that. R what?

DAVID ASBURY: RO-Exhibit 2.

SHARON PIGEON: The letter O and not the number 0.

MARY QUILLEN: Exhibit number what?

DAVID ASBURY: 2.

MARY QUILLEN: 2, okay.

DAVID ASBURY: Mr. Osborne, this is one that you did not sign?

RONNIE OSBORNE: That's the one that's on record that I---.

DAVID ASBURY: This is one---.

RONNIE OSBORNE: How my signature got there, I have no idea.

DAVID ASBURY: Okay.

SHARON PIGEON: And then we have a blank one.

RONNIE OSBORNE: That is the one they sent me.

SHARON PIGEON: Okay.

RONNIE OSBORNE: That is the one they sent me.

SHIRLEY KEEN: We have nine family members that was done the same way.

RONNIE OSBORNE: And if you all could on that page on the one that has got my name on it, would you all initial that in case you all had a car wreck and that piece of paper got lost with my name on it, you know. Just in case it got misplaced and my signature is used---.

SHARON PIGEON: The one you signed?

RONNIE OSBORNE: Yeah. The one that's on record I think it is.

SHARON PIGEON: The recorded one?

RONNIE OSBORNE: Yeah.

BUTCH LAMBERT: The recorded one.

RONNIE OSBORNE: Because---.

SHARON PIGEON: So, that would be Exhibit 2.

RONNIE OSBORNE: ---I would like to know how that sheet of paper got in there with my name on it, you know.

BUTCH LAMBERT: Exhibit 2.

SHARON PIGEON: Okay. I'm going to put my initials here next to your name.

RONNIE OSBORNE: Thank you. I don't want to sign nothing---.

DAVID ASBURY: On page fifteen?

BUTCH LAMBERT: Yes.

DAVID ASBURY: Yes. We'll put our initials.

SHIRLEY KEEN: And if you need my other family member names, I can give you every one of them.

DAVID ASBURY: All right, now, the blank one that you presented us, that will be RO Exhibit 3.

RONNIE OSBORNE: That's the one that they sent me to sign and because of the literature and stuff, I would not sign it because it was taking everything...you know, everything I own. The four page one that I signed trying to get some of my money, you know. I thought it was going to be fair, but, you know, I don't know what happened.

SHARON PIGEON: We'll look into it.

RONNIE OSBORNE: Thank you.

SHIRLEY KEEN: We have to different tracks of land. One of them is O. H. Keen. That's supposed to be the four page one. The Linkous Horn Heirs is not included in with the same Heirs, but it's two different tracks of land. So, when they recorded it in the Courthouse, they're trying to do the whole thing, you know...they're trying to make them take the Linkous Horn with the O. H. Keen.

RONNIE OSBORNE: When you look at the...when you look at the four page, it says, "coalbed methane only". When you look at the sixteen page, see what and all it says. I mean, you know.

BUTCH LAMBERT: Okay.

SHARON PIGEON: Okay, we will, sir.

SHIRLEY KEEN: It's got it all.

RONNIE OSBORNE: Thank you.

BUTCH LAMBERT: Thank you, Mr. Osborne. State your name again for us please for the record.

KENNETH OSBORNE: I'm Kenneth Osborne from Roanoke, Virginia, one of the Linkous Horn and O. H. Keen Heirs. As we was discussing earlier about the acreage. One of my questions was the...where did the extra acreage come in and Mr. Swartz kept referring to supplemental orders and

so on and so forth. But I think a question was raised by Mr. Harris about obtaining records or showing records for that. Then Mr. Swartz replied that he didn't know if they had them on hand or not. The law states that they're supposed to maintain those records and supply a copy to the Gas and Oil Board. I would like to make sure that they are doing that. One of my other...one of the other problems that I'm having to deal with is the fact, and I've brought this up several times to the Gas and Oil Board, is the figures...the figures that are turned in from the amount pumped from the wells and the escrow figures that are submitted or the numbers that are deposited into the bank. The law states that the Gas and Oil Board governs that to make sure that those accurate. In the past, I had many conversations with Bob Wilson, and when I've been in front of the Board and I've brought this up before, the answer that I received was that the Gas and Oil Board did not have the resources or the man power to govern this. So, when I asked who regulates this, who checks these figures to make sure they're right, the answer was nobody. They accept them as...as they're turned in they accept them to be right. I think there should be...as the law states, I think it should be regulated by the Gas and Oil Board to make sure that these figures are correct and accurate, the percentages

being paid on the acreage are correct and accurate and, I mean, above everything else it is the law.

BUTCH LAMBERT: Mr. Osborne, to address that concern is that as you probably heard in a discussion this morning the audit of the escrow account, we're getting ready to do that. We just have to select the firm to do that audit. We should do that within the next month. What are you on track for, Mr. Asbury, for a selection?

DAVID ASBURY: At least within the next month. Hopefully, within the next two weeks.

BUTCH LAMBERT: And as part of that, some of the concerns that you just raised will be made a part of that audit of that escrow account.

KENNETH OSBORNE: My other question is, when you speak of due diligence or when you speak of notification and I've heard so many times of parties that are unlocateable. What's the process involved with trying to notify claimants or Heirs?

BUTCH LAMBERT: Well, due diligence mean they have done everything within their power to try and locate the owner.

KENNETH OSBORNE: I guess my question is, what...what have they done? The reason I ask this, I'm an insurance fraud investigator. Sometimes I get little or no

information on people that they have not produced any records for them for several years and, I mean, I manage to locate them. So, you know, I don't understand why some people can't be located or, in fact, in our case with CNX we were told about...we received notice of having royalty...owning royalties in 1996. It wasn't until about two or two and a half years ago that we received notice that we own the royalties in the O. H. Keen. They had addresses on us. You know, why weren't we notified about that? I mean, they knew where we were? I just don't understand how, you know, they...I don't understand how they can say these people are, you know, unlocateable. It doesn't make sense to me.

BUTCH LAMBERT: Okay.

KENNETH OSBORNE: I just wanted to make this comment on the record.

BUTCH LAMBERT: Sure.

KENNETH OSBORNE: Thank you.

BUTCH LAMBERT: Thank you, Mr. Osborne. Any others? Come on down, ma'am. Go ahead, Catherine, I'm sorry.

SARA DAY: I've already been sworn in.

BUTCH LAMBERT: Just state your name for the record, please. And would you scoot that microphone down

for us. Thank you.

SARA DAY: I'm Sara Day.

BUTCH LAMBERT: Go ahead, Ms. Day.

SARA DAY: Okay, they brought up...I mean, Swartz brought up this morning about the Stilwells and the Horns. How that come down, the Horns' great grandparents, the Stilwell's grandparents and my father the Horn bought some much land, a 190 acres. Then, the Stilwells, it was Tom Stilwell. So, the Stilwells' father bought so much. I don't know how much they did buy. But they're no conflict against the Horns and the Stilwells. Not at all. We're cousins. We talk all the time. Which they, the Stilwells, signed for the 50/50. The Stilwells has got their money, all of them. They still refuse to give the Horns theirs. That's what I don't understand. We've got deeds stating to that fact. Our great grandparents were Stilwells. The Stilwells that has drawn off the land is the Stilwells grandparents.

MARY QUILLEN: Mr. Chairman, could I ask a question?

BUTCH LAMBERT: Yes, Ms. Quillen.

MARY QUILLEN: When you say "they won't give us our money", are you---?

SARA DAY: I'm talking about CNX.

MARY QUILLEN: CNX, oh, okay.

SARA DAY: Yeah. Or Hurt McGuire or whichever. I don't know which.

MARY QUILLEN: I don't know---.

SARA DAY: Whoever is over the escrow account is what I'm talking about.

MARY QUILLEN: I'm not sure who it is.

BUTCH LAMBERT: Yeah, I'm kind of confused too.

SARA DAY: It would probably be CNX over the escrow account.

SHARON PIGEON: They're not over the escrow account. The escrow account is an adjunct of this Board. They pay into---.

SARA DAY: Okay.

SHARON PIGEON: ---it for conflicting claims or unlocateable claimants. I don't know...I think maybe who you're referring to is whoever supposedly has a conflicting claim.

SARA DAY: Right. Now, what I'm getting to is the Stilwells all of them that signed 50/50 they all have been paid because we talk to them all the time and there's no conflict. Mr. Swartz says that's part of the problem that there's a conflict between the Stilwells and the Horns.

BILL HARRIS: Mr. Chairman, my understand of this

Hurt McGuire Land Trust is claiming ownership in that case. If the Stilwells...I'm just kind of recounting what I remember from it. If the Stilwells signed a 50/50 split, what they did was to agree with that agency that they would split 50/50 the amount in escrow due to the Stilwell group.

SARA DAY: Yes.

BILL HARRIS: Now, if that...Hurt McGuire is claiming...I'm not saying 50%, but claiming ownership of the coalbed methane or the conventional gas that you all are claiming, then they're on record as being a claimant and before the escrow money can be given out there has to be some kind of agreement between you all and them.

SARA DAY: Well, they don't even give us a contract. Well, CNX is the ones drawing up the contracts.

BILL HARRIS: Well, now, I think between you all and Hurt McGuire you all have to decide on---.

SARA DAY: Well, now, my brother, Joe Horn, he was here this morning, but he had to leave. He has got papers where he signed an agreement 50/50---.

BILL HARRIS: With Hurt McGuire?

SARA DAY: I guess, Hurt McGuire.

MARTHA WILLIAMS: With CNX.

SARA DAY: But anyway, they told him within six months he would have his money. It has been almost two

year. He still---

MARY QUILLEN: So, the money hasn't been released...the Stilwells...the 50 split...the 50/50 split, the 50 that went to the Stilwells went to them. They've already gotten theirs. The money that the Horns...I'm trying to keep all the names straight. The Horns have not been released to you. Is that what you're saying?

SARA DAY: That's what I'm saying, yeah.

MARY QUILLEN: It seems to me that if that was the case, then CNX would have to come to us and say...petition that that money be released. Is that right? Is that what hearing?

DAVID ASBURY: Mr. Chairman, if I can, your conflict is with Hurt McGuire. It's not with CNX. If the Horns agrees with Hurt McGuire and both parties sign, there could be a time elapse between when the Horns sign and when Hurt McGuire signs, okay. Whatever percentage is agreed upon is strictly between Hurt McGuire and the Horns. You all can negotiate that. That will become a private agreement. Once that agreement is reach between those two conflicting parties, then that agreement can come to CNX who will then bring it before the Board for disbursement. I'm not sure...I think if there is a signed agreement from the Horns and if Hurt McGuire has signed it, then CNX can get a

docket and bring it before for disbursement. I'm not sure where the hangup is there.

MARY QUILLEN: Did you say that there was no...didn't you just say that...who did you say there was no conflict with you?

SARA DAY: With the Stilwells that Mr. Swartz-.

MARY QUILLEN: The Stilwells.

SARA DAY: ---said this morning that---.

JIM KAISER: Personal conflicts and not conflict of ownership.

DAVID ASBURY: Right. The conflict as I understand it is not between the Horns and CNX at this point. It's between the conflict between the Horns and Hurt McGuire. Once that agreement is made between those two parties, then CNX will bring that agreement ask for a disbursement for you and Hurt McGuire before the Board. Now, all of this is a process. The process, first of all step one, is to get the agreement. Step two if for the gas operator to bring it before the Board. Step...and I guess a split agreement has to be recorded in the county Courthouse where the agreement is made. Then, they bring that split agreement before the Board and the Board approves the disbursement. Disbursement orders have to be written. That has to be recorded. Then, once recorded, that comes back to

the Division to communicate that to Wachovia and ten days later then the disbursement happens. But that's quite a process to be able to get things in place.

BILL HARRIS: Well, with all due respect, I wouldn't think that would take two years though. You're---

DAVID ASBURY: No.

BILL HARRIS: ---saying that it's two years... there's something---

SARA DAY: It has been a---

BILL HARRIS: ---something else happening here. I'm not sure what that is.

SARA DAY: I don't either and he don't either.

BILL HARRIS: But he---

SHARON PIGEON: Are you signatory to this agreement? You personally?

BILL HARRIS: Did you sign the agreement also?

SARA DAY: No, I've not got the contract. I've asked them for one.

SHARON PIGEON: So, it was just your brother. He's really the one who needs to come and tell the Board---

SARA DAY: Yeah, well, he was here this morning, but he was real sick, so he had to leave.

BILL HARRIS: Yeah. See my---

SHARON PIGEON: ---so when can get the facts

straight.

BILL HARRIS: I misunderstood because I...my understanding was that you all were disputing Hurt McGuire's claim to the methane and that---.

SARA DAY: Well, I have asked them, you know, how to get in touch with Hurt McGuire. CNX told me to go to the CNX lawyer, oh, what is his name? Bowman or something. Jerry Bowman, I think. I called him. I told him that I would like to get in touch with Hurt McGuire. He said he would fix me up a contract and that has been probably a year ago. I ain't see it.

DAVID ASBURY: Mr. Chairman, if I can, I'll be glad to help Ms. Day in getting touch with Hurt McGuire and that could be the complete holdup that they haven't signed it. Now, and Diane reminded me of this, regardless of the gas operator if there's two parties in conflict and you have a signed agreement, a split agreement, you can bring it to us and we can compel the gas operator to bring it before the Board within a certain time period, 30 days. So, as soon as that split agreement is signed, then, yes, we can get disbursement. But, again, this...this is something that we will need to do a better job with educational outreach. But this is a process. Sometimes the conflicting parties are the ones that need to make the agreement and it's not really

the gas operator. So...but I will contact you and get Hurt... well, if it's okay, Patricia usually talks with you and I have Patricia's contact information, and I will put Hurt McGuire in touch with Patricia to see where this stands, if that's acceptable to you.

SARA DAY: Oh, okay.

MARY QUILLEN: Is your brother the only one that has signed?

SARA DAY: Yes. In my immediate family, yes. But he---

MARY QUILLEN: Yeah, okay. So, there may be other people that would also need to sign.

JIM KAISER: (Inaudible) and that one person can get their undivided interest as long as they (inaudible).

SARA DAY: So, that's about it. I appreciate you all listening to me.

BUTCH LAMBERT: You're welcome, Ms. Day. Mr. Asbury will contact you.

SARA DAY: Oh, okay.

BUTCH LAMBERT: Okay.

SARA DAY: Thank you.

KENNETH OSBORNE: I apologize. I know I've already spoke once.

COURT REPORTER: You need to come down here.

BUTCH LAMBERT: Yeah, you need...sorry.

KENNETH OSBORNE: Kenneth Osborne, Roanoke, Virginia. I thought that everybody was aware, Hurt McGuire, their contact...Hurt McGuire is a knock off company of CNX. The address to contact Hurt McGuire is a P. O. Box in Bluefield, West Virginia/Virginia for CNX. I mean, I thought everybody was aware of that. That's what the big problem is this Hurt McGuire deal. Hurt McGuire is CNX/Consol/Pocahontas Gas Partnership/whatever name they're going by this month or whatever part of the tally they got in this account and this account and this account. Charles Green is the contact person for Hurt McGuire, which is also the contact person for CNX, which is also the contact person for Consol. It all goes back to a P. O. Box. I apologize, I don't have it on hand with me, but I can certainly get you all the P. O. Box and the address for the P. O. Box in Bluefield, Virginia/West Virginia where all of the inquiries of Hurt McGuire goes to.

PEGGY BARBAR: Well, the Trustees of the Hurt McGuire are spelled out. It's Charlie Green, David Perry and H. C. Gillespie. They're all Tazewell County natives, I believe. I don't know. This is off the record. But these people are not employees of CNX. They---

DAVID ASBURY: I think it is the land trust, Ms. Barbar, and you're...I think you're correct about the different parties in this. Hurt McGuire is its own land trust.

MARY KEEN: May I say something?

BUTCH LAMBERT: Ma'am, you need to come forward and state your name for the record.

MARY KEEN: I am Mary Keen. I was an Osborne. I lived on Osborne Mountain when Hurt McGuire...when I was about this size when they was tearing the mountain all to pieces. That has been how many, sixty some years ago. Hurt McGuire could have died out before now because Hurt McGuire was back before all of t his other stuff come up. So, how can they just keep on going when they ain't a life?

SHARON PIGEON: Legally we can make you live forever and that's---.

MARY KEEN: That's what I thought.

SHARON PIGEON: Probably a corporation name now or---.

DAVID ASBURY: I am certain that it exists as a land trust.

MARY KEEN: Just an excuse to have three or four companies to stick money into two or three different places just in case you have to pay a whole bunch of money out to

certain people? You can't answer that because it's the truth, ain't it? That's all it is, ain't it?

SHARON PIGEON: There are reasons, as far as lease language why these names need to be maintained because the leases are in the names of certain entities---.

MARY KEEN: They're paying taxes, aren't they---?

COURT REPORTER: Ma'am, one at a time.

MARY KEEN: They're paying people.

SHARON PIGEON: Well, addressing the leases, for instance, that is one good reason to keep a corporate name alive.

MARY KEEN: I know what that corporate name means and we are still in the dark without getting paid. They should have paid us in '92 before they even started getting a permit for each well. Like these people who was here a while ago or somewhat and didn't know where these people was that you gave those permits for that gas, well, they should have found them people before they come here to get a...to get like a builder's permit. You get a permit to drill on somebody else's property before you even find out who owns the gas. That shouldn't even be considered until you find them people. Just like us, we are people too. You're sitting here getting paid to do their dirty work and we ain't getting paid.

BUTCH LAMBERT: Thank you, ma'am. I appreciate your comments.

MARY KEEN: That's true. I'm gone.

MARTHA WILLIAMS: I don't think the Board is---

MARY KEEN: But I will be praying for you.

MARTHA WILLIAMS: I'm sworn in. But could I just ask---

SHARON PIGEON: She has been waiting. It's her turn.

CATHERINE JEWELL: Well, no, they're all the same, right? Go ahead.

MARTHA WILLIAMS: We're friends.

CATHERINE JEWELL: It's getting interesting.

MARTHA WILLIAMS: They have to leave. I'm Martha Williams, Salem, Virginia. I've been sworn in before. Okay, what we're talking...one of the things that Ronnie and Brenda Justus want to get at and Patsy Moore, but she left is Stilwells have...you know, we're telling you we are all related with the Stilwell family. Okay, the Stilwell family have signed these split agreements with Hurt McGuire. They have all been paid. We're all friends. We know this. But Brenda Justus and Patsy Moore and Ronnie Osborne, see they have signed a split agreement also with Hurt McGuire or with whoever through CNX for 50/50 on the Keen property. This

occurred like a couple of years ago. That's what part of their questions are. They have never been compensated. They have never gotten money from the escrow account. I'm just...I don't...okay, Brenda Justus, she has never been paid from the escrow. Ronnie...I mean, these were the legitimate contracts because they were between the Keen property.

SHARON PIGEON: And they have signed split agreements?

MARTHA WILLIAMS: They have signed split agreements in '06. That's one of their concerns is they have never been...they have never been paid. They've never even been contacted by anybody except here Mark Swartz...I wish this had come up this morning when Mark was still here. But, I mean, he brought it in and told the Board that, you know, they had signed it. But that was the end of it. So, they've got checks for a \$1.14 and \$1.09 or, you know. But they have never gotten the escrow. That's their concern. That's my concern too. I have not signed because I waiting to see what happened to them. So, you know, it scared me pretty good.

RONNIE OSBORNE: Could I speak one more time and I'm gone? The reason mine ain't been disbursed is because I've been objecting because---

MARTHA WILLIAMS: No, I'm talking about the Keen.
I'm not talking about that.

RONNIE OSBORNE: ---I've turned my over to a lawyer. I'm going to let him to do it all because like I said I don't have the education to fight these people. I'm going to give all of mine to him and they can deal with him, you know. I'm going to object on any disbursement of anything until he gets done with this paperwork. You know, that's the only thing I want out of mine because he has got an education to fight them and I don't. To me, that's the smartest thing for me to do is leave it in his hands. But that's the reason that mine hasn't been disbursed. The Board told them not to on my part because I asked them not to because of the contracts and try to get all of this worked out. I mean, you know---

SHARON PIGEON: So, they did what you asked?

RONNIE OSBORNE: Yeah.

SHARON PIGEON: Thank you.

MARTHA WILLIAMS: Could we have Mr....would it be possible to have Mr. Asbury to contact Mark and whoever he's...I know Mr. Arrington is gone and he's probably happy about it because he doesn't have to put up with us anymore, but could...would it be possible to have Mr. Asbury to have Mr. Mark Swartz to give them an explanation as to why

they...the others haven't been compensated, not received escrow or what...you know?

BUTCH LAMBERT: Well, I think we've...I think we've already addressed that this morning on what the issue was. The issue isn't with this Board and the escrow account. It's between the parties that signed the split agreements and you have to decide and then bring it---

MARTHA WILLIAMS: No, no, I'm not talking about... I'm talking about the members that have signed the split agreement. See, the Stilwells have signed. They have gotten the 50%, but the Horn Heirs that have signed have not...I mean, they signed in '06.

BUTCH LAMBERT: If you have that copy of that split agreement, I would ask that you supply a copy of that to Mr. Asbury for his review and for the Board to look at that as well.

MARTHA WILLIAMS: Okay.

(Martha Williams and Catherine Jewell confer.)

BUTCH LAMBERT: Well, it just hard. Mr. Wampler is gone.

SHARON PIGEON: Yeah, we've driven him away.

MARTHA WILLIAMS: Oh, no, you didn't. We did. Well, thank you for listening, but I mean that is a concern. We just need answers.

BUTCH LAMBERT: Okay.

MARTHA WILLIAMS: Fact finding.

SHARON PIGEON: Well, we really need the people involved who signed---.

MARTHA WILLIAMS: True. Yeah, well, that's why they're here.

SHARON PIGEON: They need to present their case. Yeah, they're there, but, you know, you can't act as their lawyer.

MARTHA WILLIAMS: We call the delegates constantly. They say these are fact finding hearings and that we're to come here to get the facts.

BUTCH LAMBERT: Well, that's not exactly true.

SHARON PIGEON: That's not exactly true. They're giving you a little bit of a run around. Just keep that in mind.

MARTHA WILLIAMS: Oh, don't worry. We call them every day.

SHARON PIGEON: That's fine with me.

BUTCH LAMBERT: Thank you, Ms. Williams.

MARTHA WILLIAMS: Thank you.

BUTCH LAMBERT: Ms. Jewell.

SHARON PIGEON: Quickly. Don't let them get in there. Grab your turn.

CATHERINE JEWELL: Yeah, this morning...Catherine Jewell. Mark Swartz had made the statement that they didn't have the accounts. They couldn't provide the accounts that had been provided to the bank. I just want to remind everybody what Section 45.1-361.21 and .22 says of the Code. What it says is basically...it addresses some of their problems upon...one of these is upon discovery of the identity. The location of any unknown property owner, dah, dah, dah, the Board within designated operator shall within thirty days file the Board a petition, dah, dah, dah. The petition shall include a detailed accounting of all funds deposited in escrow that are subjected to the proposed disbursement. Now, that's what the person who gets his money out of escrow has never seen a statement. He has not idea what's in his account. He is entitled to receive a detailed statement. This is all on computers. It's very easy to access. Now, your own Board regulations under record keeping for 4VAC25-160-110 says, "Each unit operator shall maintain records of production and income payments made to lessor and escrow agents any suspended payments and other information prescribed by the Board until the later of when the permits and the wells have been released by the Department thirty-six months after all escrow funds for competing claims to ownership of coalbed methane gas in the

units have been paid out." Thirty-six months after they've been paid out. All of these things are supposed to be recorded and retained. It goes on. "...thirty-six months after all costs...", you know, it continues. But the point is that it elaborates exactly what is supposed to be kept. Exactly what should be available to the person whose money has been escrowed and to the Board. Now, the Virginia Gas and Oil Act in 1990 established the layout of the Board and provided for compensation to be received by members of the Board. I don't know that that's occurring. The Act stated that the Board shall have the powers necessary to execute and carry out all of the duties that were specified in the Chapter. The Board is authorized to investigate and inspect such records and facilities as are necessary and proper to perform its duties under the Chapter. The Board may employ such personal and consult...personnel and consultants as may be necessary to perform its duties under the Chapter. The Act states the Board shall...shall, not may. administer procedures for recognition and protection of the rights of gas or oil owners within interest in gas or resources contained in the pool. Prevent waste through design spacing or unitization of wells, pools or fields. Protect correlative rights. Establish maximum allowable production rates for the prevention of waste for the protection of

correlative rights. I don't know that any of the production rates that have been established by this Board have ever been checked. I mean, I recently checked a unit, which is on the surface property of...my family's surface property, three wells on that unit and it already exceeds about a 125 mmcfs what was estimated. It was estimated between I think 50 and 550. It has already, you know, exceeding that. None of that stuff is checked. Collects data and makes investigation and inspections, examines property, leases, papers and records and requires or provides for record keeping and the making of reports. It requires additional data from party...from parties to any hearing. So, you know, you can request that. Now, what's interesting is that all of these pooling orders make the following statement: "The relief requested and granted is just and reasonable and is supported by substantial evidence and will afford each person listed and named in the order the opportunity to recover or receive such persons just and fair share of production from the subjected drilling unit. The granting of the application and the relief requested therein will ensure to the extent possible the greatest ultimate recovery of gas, prevent or assist in the preventing of various type of waste prohibited by statute and protect or assist in protecting the correlative rights of all persons in the

subjected lands." By, you know, approving all of these orders, you're consenting to that statement. You know, I've been before this Board and I've shown evidence of what happens...you know, what takes place in other states, what took place here just sixteen years ago, and I just...I'm interested in where is the substantial evidence that these pooling orders are, in fact, just and that the options that are...you know, the elected options are, in fact, just because I personally don't see it. I think the past two months I've provided, you know, an example of what things, you know, look like and I compared it with some other state. Now, I handed out...real quick like, which I probably don't have a copy, I handed out two things. The first one is a January the 11th, 1991 pooling order by this Board, okay. What is missing is participation. This is part of it because, you know, it's getting expensive to make all of these copies. Besides a cash consideration, you will note that the cash consideration...okay, it says one-eighth free of all costs, expense and risk incurred. We all know that. It was changed after this. The carried interest, what's interesting is that on page thirteen...and please take the time to read this. I mean, this is very interesting because this is what a pooling order should say. This is a protection that it should give the person that you are force

pooling of which you are taking their property and putting them in a situation they do not elect to be in. It says, "Within sixty days after completion of the well covered herein, they shall furnish the carry well operator...", well, you can read it, okay. And they also shall furnish to the state gas and oil inspector this data and this information. Whatever happened to that? Well, the interesting thing is it vanished. In fact, the two pages I gave you is what our pooling orders today say. There is no protection. This is only part of what's there. There is no protection for any of this stuff. Nothing. You know, one says it's reasonable. No definition of reasonable. You know, this is a good pooling order. I don't know...I do know why these were changed and change...the one that was changed had the name of the previous attorney I mentioned. You know, please people you are...when you agree to these you are agreeing to the language of the pooling orders. If you don't think that it can...that it does, you know, provide for that important statement, then I think maybe reconsider whether or not to grant it. The other question that I've had and I've heard this over and over is where we have overlapping pooling orders. Okay, where you have two conventional wells about a 112 acres and they're overlapping and the question is what do you do with this? Well, we pay

this guy twice, right...pay that guy twice. Now...so, what they do is they pay this person here and they pay...so, actually, you're circle now is about 90...maybe a 100 acres. Okay, it's decreased when you have that overlap, 90 or a 100 acres or so. I want to ask you, what happens to this guy here? What happens to this guy here, especially when you have another one right here, and we've seen this, and another one right here? Okay, and this guy here is lost. Is he being paid? No. I mean, isn't it more realistic to draw a line down the middle, square off the top, square off the bottom, now, this guy goes here and this guy goes there? In fact, in 1990 and 1992 you all were doing just that. You have the most bizarre shaped (inaudible). You started with a circle and then you realized that this circle was here. Well, you couldn't pay this person twice because this person's gas that you're paying twice is not twice as valuable as the other persons. Correlative rights again, okay. You can't prove to me or to that person that he's actually producing twice of the stuff under his field is going to that well. He can't be paid twice. What they did is they rigged these things? So, they started with the first circle and then the next unit had that taken out. That was good. Each one was about 112 acres, okay, depending a little bit where you put the gas well. I would

rather you move the gas well and not have to have it in the center as long as everybody got paid. I mean, in fact, the conventional...I mean, the horizontal conventional wells you're not saying that there has to be a 1250 foot drawing around the lateral, are you? No. So, anyway, I have this, you know. This is the same map that I think a person said, well, it has only got one certification. Well, that's because this one here is certified. I cut these out and put these together. But this how this very Board deal with the question in 1990 and 1991. Because of that, all of the area is included. Nobody is left out. You all have had these before. Maybe just, you know...but I think it's...you know, it's a fair way to deal with it. Thank you. That's all. I appreciate it.

BUTCH LAMBERT: Anyone else?

JUANITA SNEEUWJAGT: We agree with what Ms. Jewell said.

(Claps.)

CATHERINE JEWELL: Thank you, guys.

BUTCH LAMBERT: Anyone else for public expression?

PATRICIA STILWELL: I have one question. My name is Patricia Stilwell. I'm power of attorney for Nancy Stilwell for the Linkous Horn Heirs/O. H. Keen Heirs. Earlier they were talking about the escrow accounts. The

question I had is how often is the gas companies required to send moneys to the banks on the gas wells?

DAVID ASBURY: Monthly.

PATRICIA STILWELL: Monthly?

DAVID ASBURY: Yes, ma'am.

PATRICIA STILWELL: And is it done regularly on monthly?

DAVID ASBURY: Yes.

PATRICIA STILWELL: And how can we get a copy of that each month on our wells?

DAVID ASBURY: On your particular unit?

PATRICIA STILWELL: Yes.

DAVID ASBURY: You can request that through our office.

PATRICIA STILWELL: So, we have twenty-four wells on one and seven on the other, but you only go by certain well numbers, right?

DAVID ASBURY: They're paid by units.

PATRICIA STILWELL: By units?

DAVID ASBURY: Yes.

PATRICIA STILWELL: Okay.

DAVID ASBURY: You'd have to tell us which units have been pooled and we can give you the accounting up to the last month's accounting or input of dollars that went

into that unit---.

PATRICIA STILWELL: Okay.

DAVID ASBURY: ---and whether or not that unit has...how much interest that unit has received by Wachovia and how much, if any, disbursements have been withdrawn from that particular unit as approved by the Board.

PATRICIA STILWELL: Okay. I sent a copy of all of those well numbers to your office.

DAVID ASBURY: Uh-huh.

PATRICIA STILWELL: I haven't received anything yet.

DAVID ASBURY: Okay.

PATRICIA STILWELL: Can you get me a copy of those, please?

DAVID ASBURY: Yes.

PATRICIA STILWELL: And can you email me that?

DAVID ASBURY: Yes, I think so. I think I still have it.

PATRICIA STILWELL: Okay. One more question, who is Hurt & McGuire. If somebody can give me a sheet of paper that tells me and it being stamped and certified and sealed and tell me that there is a company that he is Hurt & McGuire, I will kiss them on the face. I cannot find anything that has Hurt & McGuire on it. In order to get our

claim settled, I would like to know that.

BUTCH LAMBERT: Are you related to Ms. Day?

PATRICIA STILWELL: Yes, sir, I am.

BUTCH LAMBERT: Well, David is going to work with Ms. Day to get her that information.

DAVID ASBURY: Actually, Ms. Stilwell is the individual who Ms. Day---

PATRICIA STILWELL: Yes.

DAVID ASBURY: ---asked me to provide that information through. So, I will do that.

PATRICIA STILWELL: If I can get that one piece of information. I have searched and searched and searched and I still haven't have not found anything.

DAVID ASBURY: Okay.

PATRICIA STILWELL: And every time I try to get information, it always go through CNX. I called CNX to get information and they said they would get back with me. They never did. I called you, Mr. Asbury, you give me the information that Scott Hodges talked to. I called their office and they give me another name to call, Mr. Green. I haven't even...he hasn't even contacted me. So, they're not even willing to even sit down and talk to us at all.

BUTCH LAMBERT: Mr. Asbury is going to work with you.

PATRICIA STILWELL: I mean, eighteen years is too long for this to have been going on. I appreciate your time.

BUTCH LAMBERT: Okay, we've got one final item on the agenda. Has the Board had time to review the minutes of the last meeting?

(No audible response.)

BUTCH LAMBERT: Are there any changes or additions?

(No audible response.)

BUTCH LAMBERT: Do I have a motion to accept?

MARY QUILLEN: Motion to accept.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second. All in favor, say I or yes.

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you all.

STATE OF VIRGINIA,

COUNTY OF BUCHANAN, to-wit:

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

Given under my hand and seal on this the 13th day of March, 2009.

NOTARY PUBLIC

My commission expires: August 31, 2009.