

IN THE COUNTY OF RUSSELL:

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

JUNE 16, 2009

APPEARANCES:

**BOARD MEMBERS:**

DONNIE RATLIFF - PUBLIC MEMBER  
KATIE DYE - PUBLIC MEMBER  
BRUCE PRATHER - OIL REPRESENTATIVE  
BILL HARRIS - PUBLIC MEMBER

**CHAIRMAN:**

BUTCH LAMBERT - CHAIRMAN OF THE VIRGINIA GAS & OIL BOARD

DAVID ASBURY - DIRECTOR OF THE DIVISION OF GAS & OIL AND  
PRINCIPLE EXECUTIVE TO THE STAFF OF THE BOARD  
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BUTCH LAMBERT: Good morning, ladies and gentlemen. It's 9:00 o'clock. It's time to begin our hearings for the today. Before we begin, I'd like to ask if you have cell phones or pages or other devices, please turn those off and or put them on vibrate. If you do need to take a call, we'd ask that you please step outside. Just reminders that these proceedings are being recorded and we need to be able to pick up the testimony that's taking place. At this time, I'll begin by asking our Board members to introduce themselves and I'll begin with Mr. Ratliff.

DONNIE RATLIFF: I'm Donnie with Alpha Natural Resources. I'm your coal representative.

KATIE DYE: I'm Katie Dye from Buchanan County and I'm a public member.

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

BUTCH LAMBERT: And I'm Butch Lambert with the Department of Mines, Minerals and Energy.

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

BRUCE PRATHER: I'm Bruce Prather. I represent the oil and gas industry on the Board.

DAVID ASBURY: Good morning, David Asbury, Director of the Division of Gas and Oil and Principal Executive to

the Staff of the Board. I have two members with me of the Division of Gas and Oil, Diane Davis and Gary Eide.

BUTCH LAMBERT: Thank you.

AUDIENCE MEMBER: Does them speakers don't work?

BUTCH LAMBERT: The speakers?

AUDIENCE MEMBER: Yeah, I can't hardly hear.

BUTCH LAMBERT: No, sir, we don't. Could I get you to move down in front of us maybe?

AUDIENCE MEMBER: Okay. (Inaudible).

SHARON PIGEON: These are for her recording that she---.

AUDIENCE MEMBER: Oh, okay. Yeah.

BUTCH LAMBERT: Let me begin this proceedings this morning by given a nod of thank you to our Division of Gas and Oil...the Virginia Division of Gas and Oil and also to the gas industry that participated in the three public forums that has been held. We hope that folks that attended those forums was able to come away with a better knowledge of how the gas and oil industry and how the Division of Gas and Oil how we function as an agency and as an industry. So, thank you, David, to your Division for taking the lead in putting those together.

DAVID ASBURY: Thank you, Mr. Chairman.

BUTCH LAMBERT: And, also, thank you to Jerry

Grantham. I don't think Jerry is here. But, anyway, thank you, Jerry, for your help as well. Another item that's not on the agenda, if you haven't already seen the press releases, we now have the opinions from the Attorney General on the questions that Delegate Phillips asked before this Board a couple of months ago. And if you have not seen those opinions, I have a few copies with me, but I don't have enough for everyone, I apologize that I won't be able to share those with you. Instead of reading the entire opinion, which is kind of lengthy. I would like to just read you the opinion from the Attorney General back to Delegate Phillips addressing the question of whether or not this Board had the compulsory right to enforce the force pooling. So, the conclusion that the Attorney General Mans wrote back to Delegate Phillips says, "Accordingly, it is my opinion that the Virginia Gas and Oil Board may issue compulsory pooling orders that permit deduction of post production costs downstream of the wellhead when computing owner's one-eighth royalty interest." It says, "Thank you for letting me be of service to you. Attorney General Mans." That's back to this Board and to Bradley C. Lambert, which is me, as the Chairman of the Board. Again, if you'd like some of those opinions, I have copies of those for you or as Mrs. Pigeon reminded me, you can go on line to the

Attorney General's office and read those opinions there.

DONNIE RATLIFF: Are these all the same?

BUTCH LAMBERT: No. No, the top one is Delegate Phillips back to me and the other one is...I mean, the Attorney General back to me and the other one is the Attorney General back to Delegate Phillips. Ladies and gentlemen, if you have the time to look at the docket for today's meeting, we have fifty-eight items on the docket. We ask those folks that are here for public comment to please be brief. We have...we have a lot of items to cover today. Also, again, I would remind you just so that we can be sure that we address your questions properly, if you have a question, please submit it in writing as well to this Board so that we can get your answer back in a timely and correct manner. Please understand that this Board may not have all of the answers to your questions. If it's well specific or lease specific, we cannot address those issues for you. But, if you would submit your questions in writing, we'll do our best to get back to you as soon as possible. The first person on public comment is John Sheffield.

JOHN SHEFFIELD: Mr. Chairman.

BUTCH LAMBERT: Good morning, Mr. Sheffield.

JOHN SHEFFIELD: How are you doing?

BUTCH LAMBERT: Good.

JOHN SHEFFIELD: Good. Have you tried to call the old DGO office number? Sorry for the question, but I have. For the first month, there was no answer. Now, you get a recording saying that this number has been disconnected and check you number. Should there have been a recording to give a new number or anything?

BUTCH LAMBERT: There should have been, Mr. Sheffield. I thought that had been taken care of. But I'll ask Mr. Asbury, has that been taken care of?

DAVID ASBURY: We've requested that to be taken care of and added from our office of General Services.

JOHN SHEFFIELD: Yes, sir.

DAVID ASBURY: To my knowledge, like you, we continue to make that request and the phone number never was changed. We did publish the move to Lebanon in several papers---

JOHN SHEFFIELD: I understand.

DAVID ASBURY: ---and published our new phone numbers and such. For the first month or so, we were in temporary quarters. But specific to your question, no, the number was never changed and nor was the recording that we had requested ever added to the phone system.

JOHN SHEFFIELD: And how does that go? What

chain...I mean, you send that to Richmond in their office?

DAVID ASBURY: That's requested from our Division through the office of General Services, which is its own entity within the State government.

JOHN SHEFFIELD: Okay.

BUTCH LAMBERT: And let me help you to, Mr. Sheffield, Virginia...the State of Virginia is now under an organization called VITA. It's the Virginia Information Technology Association...I forget what the A stands for. But everything we do electronically, even with our phones, has to go through that VITA organization and those requests sometimes take forever. We have no control over VITA, but we hear you.

JOHN SHEFFIELD: They have control over you.

BUTCH LAMBERT: Yes, sir.

JOHN SHEFFIELD: Because I'm sure...I mean, I'm in business and a lot of other people understand we have a State organization here or State agency. You know, that's just unheard of, I would think.

BUTCH LAMBERT: We hear you and I appreciate your comment.

JOHN SHEFFIELD: Okay.

BUTCH LAMBERT: We will relay that to our VITA---.

JOHN SHEFFIELD: I mean, we can break telephone

silence. I just called it outside and it tells you it's disconnected.

BUTCH LAMBERT: Okay.

JOHN SHEFFIELD: And you've reached in the number in error.

BUTCH LAMBERT: Well, thank you, Mr. Sheffield.

JOHN SHEFFIELD: You bet.

BUTCH LAMBERT: We'll bring that up to our VITA folks. Thank you. Catherine Jewell.

CATHERINE JEWELL: I just had some general comments. First to state, I'm not surprised nor impressed with the Attorney General's opinion. After all, the Office of the Attorney General is the Commonwealth's law firm and Virginia State Government Agencies and Boards are its clients. One of the duties of the AG's office is to defend the constitutionality of the State laws when challenged in Court. For the Commonwealth Attorney to provide an official opinion that question the laws and regulations and actions of VGO and the Board could be construed as derelict of duty. immunity, which some in this room might do well to review. At the May meeting, I gave comments and submitted documents concerning the 1991 procedural rule and I'm asking this Board to consider those, which I guess this is on the docket this time. Hopefully, the people that weren't here received

those comments.

I notice the docket has consideration of investment risk assessment on the escrow account. I truly hope this Board is not considering investing escrow money, which they are charged with overseeing. This money should be in banks. It does not belong to you nor do you have the right to gamble with it.

I have made my thoughts on the auditing of the escrow accounts known. Last Fall, I presented data, which should have been of concern to this Board. Anything less than a complete and thorough audit of what is in these accounts and what should be in this account is not acceptable.

A note on disbursements. The statute and Board regulations require disbursements from escrow be accompanied by detailed accounting of all funds deposited in escrow and the operator's records of deposit. It also requires an affidavit from all parties petitioning for disbursement from escrow.

Modifications, once again, it looks like we have companies that are requesting modification of field rules to allow for additional wells in the unit. I believe you have heard testimony last year from Jewell Smokeless on how these wells are sterilizing coal seams and condemning the coal.

These units were established so that one well would adequately drain the unit. That was the basis of establishing them. I've never seen any evidence that additional wells do anything except drain the area faster. Each well inhibits mining and a 400 foot diameter around the well sterilizing every seam in that area. It's the job of DGO and this Board to maximize the production, recovery of coal and to recognize the uses of surface for gas and oil development should only be that which is reasonably necessary to obtain the gas and oil. That the Gas and oil informational meeting at Grundy...and I want to thank everybody in the public who went to those meeting. There's always two parts to those educational series. At any rate, I presented Mr. Asbury with some questions. Since I was to put these in writing, I've put them in writing. Now, I'm going to present to the Board. These are in three sections, general, environmental and constitutional. Do well to read these, all right? They aren't just questions. They contain a lot of information like errors in the regulations, okay. Wrong...reference to the wrong laws, all right. So, it might behoove to read through these and I'd like a response. I've sent copies of this to every Legislature which is affected, has county...property in the county where oil and gas takes place. I've sent copies to all of those guys.

I've asked you all to send a response to these.

BUTCH LAMBERT: Thank you, Ms. Jewell. We're going to deviate again from the docket. First on the items up, we're going to hear disbursement orders. We want to clear those up before we enter into the other docket items. The first item on the docket that we will be calling is docket item sixteen. It's a petition from Equitable Production Company for disbursement of funds from the escrow and authorization for direct payment of royalties in a portion of Tract 5. This is under VC-536070, docket number VGOB-04-0921-1337-04. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser and Rita Barrett on behalf of EQT. I think you can probably go ahead and call seventeen and eighteen also. We'll just consolidate them. These were the ones that we continued from last month at the request of Ms. Pigeon. We can wrap them all up at one time.

BUTCH LAMBERT: All right. We're also calling item seventeen. It's a petition from Equitable Production Company for disbursement of funds from escrow and authorization for direct payments of royalty into a portion of Tract 4, unit VC-702835, docket number VGOB-98-0324-0642-02. Also calling docket item eighteen, a petition from

Equitable Production Company for disbursement of funds from escrow and authorization for direct payment of royalties in a portion of Tract 5, unit VC-501853, docket number VGOB-00-0516-0815-04.

(Rita Barrett is duly sworn.)

BUTCH LAMBERT: You may begin, Mr. Kaiser.

JIM KAISER: Ms. Barrett is going to pass out the letter that Ms. Pigeon asked us to get from Mr. Counts.

RITA BARRETT

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

A. I'm Rita McGlothlin-Barrett. I'm employed by EQT in Big Stone Gap as a landman four.

Q. And we were before the Board on these three disbursement items last month, is that correct?

A. We were.

Q. And we provided testimony as to the amounts in escrow and the owner's percentage of escrow and then we

ran into a problem with the representation of one of the heirs, is that correct?

A. Yes. The letter that he wrote to us was not notarized and Ms. Pigeon requested that we get a notarized letter from him, which I just distributed to her.

Q. And that letter is asking that...this is Mr. Chris Counts and he's asking that his father Maynard Counts actually be the disbursee, I guess, it would be called?

A. That's correct.

Q. And have we provided Ms. Pigeon with a letter from Mr. Counts that is notarized to that effect?

A. Yes.

SHARON PIGEON: As you both know, this is not done as it should have been done.

RITA BARRETT: I agree with that. I told him I needed a notarized letter and that's what he sent me.

SHARON PIGEON: The Board can decide to accept this if they choose to. It does have a notary scribe on it, but it does not...well, it has a notary stamp. It doesn't have a notary scribe that sets out that this is the individual appearing before her. As it should, it's quite remarkable that a notary decided to sign off on that. They have signed off on it. They've stamped it and put their

expiration of their notary. So, it's irregular, but I think it's offered in good faith.

BUTCH LAMBERT: Let me take a moment and let the other members review. Would you like to introduce yourself, Ms. Quillen, since you came in a little late?

MARY QUILLEN: That's okay. It's difficult to get over here.

JIM KAISER: I do think that Ms. Barrett tried to explain exactly what it was we needed and that's what we got.

SHARON PIGEON: I think the better course in the future is to send them something to take to a notary and sign that has the format already on the letter, you know.

BRUCE PRATHER: I have a question. What did he notarize on this?

RITA BARRETT: That notary is saying that Christopher Counts wrote that letter in front of them and signed it in front of them.

JIM KAISER: Basically, acknowledging that his father should receive the disbursement and not himself.

MARY QUILLEN: Should there not be a description of what this property is identifying this property?

JIM KAISER: Well, that would be in the application.

BRUCE PRATHER: It would have been helpful if there had been a reference.

RITA BARRETT: I agree. Like Ms. Pigeon said, there should have been a statement saying that he signed it in front of her. He misunderstood. He lives in Kentucky. I tried to explain to him what he needed. I guess he thought that stamp was sufficient.

SHARON PIGEON: The notary should have known better---.

RITA BARRETT: I agree.

SHARON PIGEON: ---than to sign off on---.

RITA BARRETT: I agree.

SHARON PIGEON: ---something without the---.

JIM KAISER: Yeah, that kind of surprised us.

SHARON PIGEON: I'm not surprised that he didn't know, but the notary---.

RITA BARRETT: I agree.

SHARON PIGEON: ---herself should have had the appropriate form on the bottom of the page. But in the future, I would just say send a form to sign, the signature only in front of a notary.

JIM KAISER: And an instruction page.

SHARON PIGEON: But this goes to the weight of the evidence as far as the Board's consideration. There's no

requirement in the statute that a certain format be followed or anything. This is just a question of the weight of this---.

JIM KAISER: And they aren't showing any other heirs here contesting this contention.

BUTCH LAMBERT: Any discussion from the Board?

KATIE DYE: What would happen in this case if at some point this...I can't read his name, if he changed his mind?

BUTCH LAMBERT: Christopher Counts.

SHARON PIGEON: Christopher Counts.

KATIE DYE: Christopher Counts. What...in your opinion, what would happen?

SHARON PIGEON: I'm not familiar with what he's doing here in the first place. He's apparently telling you that your title work---.

RITA BARRETT: He's saying that he was incorrectly identified as an heir to these wells and that his father...he wants his father to have the royalties that are here for disbursement.

SHARON PIGEON: Well, was he incorrectly identified as an heir or has he just decided that he wants his father to have it?

RITA BARRETT: He was identified as an heir. We

thought his father was deceased.

SHARON PIGEON: So, you identified him as an heir of his father?

RITA BARRETT: Right.

SHARON PIGEON: And, obviously, his father is not deceased. He has been making you aware of that on a daily basis you have informed us.

RITA BARRETT: Yes, ma'am, he has.

SHARON PIGEON: And so---.

RITA BARRETT: Not daily, but weekly.

SHARON PIGEON: I think you testified daily the last time. So, if that's how he had interest as an heir. Obviously, it was a mistake.

BUTCH LAMBERT: Any further discussion from the Board?

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: On the petition just as a matter of paperwork correction, the exhibit shows 133-01. We want to change that to 131337-04 in the exhibits. It does have a page number. That's the one that shows the percentage split agreement and payment to Maynard D. Counts. If it's okay, Mr. Kaiser, we'll just strike the -01 and make it -04 for the record. And we also do not have an EE exhibit.

RITA BARRETT: An EE. I will provide the EE with the acreage.

DAVID ASBURY: Okay. Thank you very much.

BUTCH LAMBERT: Anything further, Mr. Asbury?

DAVID ASBURY: A question concerning the W-9 for this. Do we know if we have a W-9 for this disbursement?

RITA BARRETT: I gave you a W-9 at the last hearing, but we have another one here.

DAVID ASBURY: Okay.

RITA BARRETT: It's a copy. But you have the original W-9 from the first---

DAVID ASBURY: Nothing further, Mr. Chairman.

BUTCH LAMBERT: Any discussion of the Board on the exhibit that we received?

BILL HARRIS: Does this apply only to one tract or all three tracts that we're considering just out of curiosity?

RITA BARRETT: It's on three wells.

JIM KAISER: All three wells.

BILL HARRIS: On three?

RITA BARRETT: Yes.

BUTCH LAMBERT: If we have no further discussion from the Board, I would like to recommend that we ask you to take this back and get the proper notary on it and we will

continue it until next month.

RITA BARRETT: Okay.

SHARON PIGEON: Send him a form.

RITA BARRETT: Can I have that letter back?

SHARON PIGEON: Yes.

RITA BARRETT: I will explain to him exactly what he needs his notary to do.

SHARON PIGEON: Well, what you should do is type the form---

RITA BARRETT: I will.

SHARON PIGEON: ---and mail it to him and that---

RITA BARRETT: I will.

SHARON PIGEON: ---just leaves places for him to sign and for her to sign. In fact, Jim had mentioned an affidavit the last time and I think we kind of agreed that would be even the better way to go. It's up to you. I mean---

BUTCH LAMBERT: Would you like this continued until May...I mean, until July?

RITA BARRETT: Yes, please.

BUTCH LAMBERT: The next item on the docket is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tract 3. This is unit AV-111, docket number

VGOB-01-0116-0852-01. All parties wishing to testify, please come forward.

DONNIE RATLIFF: What docket item?

BUTCH LAMBERT: It's twenty-three.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX.

PETER GLUBIACK: I'm sorry, Mr. Chairman, Peter Glubiack on behalf of the plaintiffs involved in this disbursement order, the Whited...commonly known as the Whited heirs.

BUTCH LAMBERT: Thank you.

MARK SWARTZ: Mr. Swartz, you may begin.

(Anita Duty is duly sworn.)

HELEN WHITED: Did you say the Whited?

PETER GLUBIACK: If you're a Whited heir, you're certainly welcome to sit up here, yeah.

MARK SWARTZ: Anita, would you state your name for the record, please?

BUTCH LAMBERT: Mr. Swartz, could we wait just a second? I need to get these folks to introduce themselves for the record.

FERRELL WHITED: I'm Ferrell Whited. I'm an heir of Columbus Earl Whited.

HELEN WHITED: Helen Whited, heir of Columbus Earl

Whited.

BUTCH LAMBERT: And you, folks...are they going to be testifying, Mr. Glubiack?

PETER GLUBIACK: I'm not going to be testifying...I don't anticipate testifying.

BUTCH LAMBERT: If they---

PETER GLUBIACK: They'll have to speak for themselves. I'm representing the estate.

HELEN WHITED: Right.

BUTCH LAMBERT: Okay. Are you folks going to testify?

HELEN WHITED: We're going to see how it goes here.

BUTCH LAMBERT: Let's go ahead and put them under in case that we get there.

(Ferrell Whited and Helen Whited are duly sworn.)

COURT REPORTER: Can I get your name again, please?

HELEN WHITED: Helen Whited.

BUTCH LAMBERT: Go ahead, Mr. Swartz.

ANITA DUTY

having been duly sworn, was examined and testified as

follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

BUTCH LAMBERT: Could you speak up, Mr. Swartz? We can't hardly hear you up here with the air conditioner running.

MARK SWARTZ: Okay.

Q. State your name for us, please.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. And what do you do for them in relation to these disbursement applications?

A. I compare the royalties that were sent to the escrow account to make sure all of the deposits are credited to the account.

Q. And do you also oversee notice and publication and the preparation of the application that gets heard on the disbursement docket?

A. Yes.

Q. Okay. And did you do that with regard to a number of matters involving the Whited heirs today?

A. Yes.

Q. Did you prepare a map for the Board to show them the units that are under consideration today---

A. Yes.

Q. ---for disbursements? And did you also prepare...so you can pass all of this out at one time, did you also prepare, at the Board's request I think at the last hearing, they wanted an indication of what wells were contributing to the escrow for each of the units and did you prepare a schedule in that regards?

A. Yes.

Q. And then lastly, between the time that you filed this disbursement application and other applications, did you receive a letter from the Whited heirs with regard to their preference on how the disbursement might be handled?

A. Yes.

Q. And have you brought enough copies of that for the Board as well?

A. Yes.

Q. Could you go ahead and give the Board members a copy of each of those three documents so that they're aware of that?

MARY QUILLEN: Mr. Chairman, could I ask Mr. Swartz

a question?

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: Mr. Swartz, do all of these...I know that the same heirs are involved in numerous items on the agenda. Are we addressing all of these or are we doing them one at a time?

MARK SWARTZ: I think once you see the map, you'll be able to tell that all of the docket items for CNX disbursements pertain to the same people and the same units. And then, you know, it might make sense to discuss this once. But I thought I would sort of lay that foundation before we decided what we were going to do in that regards.

Q. Anita, there are number of disbursements and requests involving CNX on the docket today. From the one that the chairman just called, which is item twenty-two, right, or, no, I'm sorry, item twenty-three then going down through item thirty-three, correct?

A. Yes.

Q. Do all of those disbursement applications or petitions involve essentially the same issues, the Whited heirs and the disbursement to them?

A. Yes.

Q. And does your...the map that you provided that's highlighted in yellow, does that show all of the

units that are the subject of these disbursement requests today?

A. Yes.

Q. And then have you provided a well list, and apparently I think there was only one CBM well in each of these units, if I'm not mistaken?

A. Yes.

Q. But you've given that list to the Board as well?

A. Yes.

Q. Okay. Is the concern that we have...strike that. When you filed your miscellaneous petitions, did you essentially make the same request with regard to how the disbursement would be handled in each instance?

A. Yes.

Q. And was it contemplated that the Board would order its escrow agent to pay all of the money attributable to all of the Whited heirs to Mr. Glubiack for deposit in his trust account?

A. Yes.

Q. And was it your understanding that that was okay with him?

A. Yes.

Q. And then after you filed these

applications, did you then receive the letter from the heirs of which you have given to the Board?

A. Yes.

Q. And is it...and are we bringing this to the Board's attention because we believe that the Board needs to resolve the question of how is this money paid and to whom? We are not arguing that it shouldn't be disbursed. It's just...they should be aware of this issue that has arisen before they make an order?

A. Yes.

Q. And we don't really have a dog in that hunt, do we?

A. Right.

MARK SWARTZ: Okay. But you need to be aware of it and probably take some testimony from the heirs that have come today and perhaps get Mr. Glubiack's views on the matter. Now, with regard to the collection of units and in response to the Board's inquiry, I think you might, Mr. Chairman, want to consider putting these together so that we do this once. I mean, not the accounting, but at least where is the money going issue?

BUTCH LAMBERT: Okay.

MARY QUILLEN: Mr. Chairman---

BUTCH LAMBERT: Okay.

PETER GLUBIACK: Mr. Chairman, if I might---

MARY QUILLEN: ---I have just one---

PETER GLUBIACK: ---Mr. Swartz...are you...I don't want to interrupt---

MARK SWARTZ: I'm taking a break to punt to him. So, yeah, it would be appropriate.

BUTCH LAMBERT: I have a question from the Board, Mr. Glubiack. Could you hold yours just for one second?

PETER GLUBIACK: Sure. Sure.

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: I have just one clarification from Mr. Swartz. Now, listed on our Exhibit EE, Ferrell Whited is listed on each one of this and I believe you said you were an heir...his heir?

HELEN WHITED: Michael Whited, I'm his wife.

MARY QUILLEN: Michael...oh, Michael, okay.

HELEN WHITED: Michael.

MARY QUILLEN: But he is not deceased?

HELEN WHITED: No.

MARY QUILLEN: Okay. So, you're not an heir. You're just...you're his wife, correct?

HELEN WHITED: Yes. Right.

MARY QUILLEN: Okay.

HELEN WHITED: Sorry.

BUTCH LAMBERT: Thank you, Mr. Glubiack.

PETER GLUBIACK: Thank you, Mr. Lambert. First of all, I have no knowledge of this letter. I did not know that Mr. Whited and Mrs. Whited were going to be here. This has...in fact, next month will be four years of discussing this particular matter. As...I'm not sure who has it. I know Mr. Asbury has a copy of it and Ms. Davis has a copy of it. There was an agreed order, I have a copy of it here in front of me, entered by the Russell County Circuit Court on February the 23rd of this year, an agreed order of royalty split, which designated how this was going to be split. There, obviously, was not an agreement between Buck Horn Coal and the estate of Columbus Earl Whited. The order was entered by Judge Moore. It was signed by myself as the attorney for the estate representing Mr. Ralph Snead who was the...is the administrator of the estate. As far as that goes, it was also signed by the attorney for Mr. Whited and Ms. Whited at that time. This is complicated enough without dealing with who gets what. This money agreed and ordered by the Court to be disbursed to the estate. Mr. Snead and I had been working with these individuals' attorneys now for almost six months. This process is pretty straight forward. We've submitted the W-9s. There has already been a disbursement of some suspense funds and that's worked pretty

well. The only way this system is going to work is if the properly designated party under the terms of the Circuit Court order, that being the estate of Mr. Columbus Earl Whited, who is deceased. There are six heirs. Ms. Whited's husband is one of those heirs. I haven't seen this letter. I don't know what they want to do. But the only way this process is going to proceed is pursuant to the Court order, this is a little bit different...this isn't a voluntary split agreement. This was an order of the Circuit Court. We're constrained to follow the order. The order designates the estate. The estate has received funds already and has distributed those funds. That's worked this way. The contemplated process...I have to confess, I didn't know there was a letter out there. Ms. Duty and I have talked several times and I thought the process was pretty straight forward. We were going to go through the orders. There are, I believe, eleven different tracts up for disbursement order today. There was one more unit and tract that will, hopefully, be on the July docket and we will be finished. I haven't talked to these individuals. I don't know what their request is. Frankly, I haven't seen the letter. So, I don't know. But my position would be, I'm here as the attorney for the estate representing Mr. Snead. We would ask the funds be disbursed as Mr. Swartz and Ms. Duty have

indicated. There really isn't any dispute. The funds get distributed to the estate. The administrator distributes the funds. That process will go forward and everybody gets their money. So, I don't even know if we have a fight.

BUTCH LAMBERT: Mr. Swartz, do you have anything to add?

MARK SWARTZ: I don't have an answer, you know. I just brought the problem to your attention. I mean, the order doesn't say where the money is to go, at least as I read it. I mean, there's no doubt that Mr. Glubiack represented the people in this case that he says he represented. There's no doubt the Court entered a final order. That the Court determined that there would be 50/50 split between the coal and the oil and gas people. That all royalties should be divided on that 50/50 basis. But the Court did not go on...as I read the order, although frankly, what Mr. Glubiack is talking about makes sense to me, but, I mean, the Court order doesn't say how the disbursement was to be made. I mean, I may be wrong Peter.

PETER GLUBIACK: If I might, Mr. Swartz, I think we can settle it. I don't have any problem...Mr. Snead's office two blocks down here. Let him get the money. He's the administrator duly appointed by the Court. I mean, typically this happens, but I have no question or no problem

if that's what these two individuals are here. If that's what this is about today, that's fine. Let's get beyond that. Let's have CNX, pursuant to Board order, distribute the money to the administrator and we're done. That's fine.

FERRELL WHITED: That's all the letter is asking that the money be dispensed to Mr. Snead instead of Mr. Glubiack.

PETER GLUBIACK: Fine.

FERRELL WHITED: That's all the letter is---

PETER GLUBIACK: And I agree we didn't contemplate that because the process is pretty typical. Some of it has already happened. But if that's what we're here about, there's no sense wasting the Board's time. Just in the order, distribute the money to the administrator Mr. Snead and he can handle it as he handles other estate matters. That's fine.

SHARON PIGEON: Does he have account?

FERRELL WHITED: We have no problem...we have no problem---

PETER GLUBIACK: He has an account, yes.

SHARON PIGEON: Locally here?

HELEN WHITED: Yes, he does.

PETER GLUBIACK: Yeah, he has...you know, we've got W-9s for the estate. We have W-9s for all of the heirs.

We're fine. We just...that's fine. If that makes this process go smoother than that's okay. That's fine.

BUTCH LAMBERT: Do you have a comment?

FERRELL WHITED: We have no problems. We're just requesting that the money be sent to the administrator.

MARK SWARTZ: To Mr. Snead?

FERRELL WHITED: Yeah, to Mr. Snead.

MARK SWARTZ: Okay. And we don't have a problem with that either. But we needed to address this.

PETER GLUBIACK: I didn't...I wouldn't even aware of this, so that's fine.

MARK SWARTZ: Sorry, Pete, we thought...the letter was allegedly addressed to you, so I figured you had seen it, but I guess not.

MARY QUILLEN: Mr. Chairman, I have just one. The same issue has come up again about the signatures being notarized. There is no seal. There's not a stamp. There's nothing on this letter. Just a person that has signed off on it and saying when their commission expires.

PETER GLUBIACK: Ms. Quillen, respectively, I'm not sure that that matters. We're all in agreement.

HELEN WHITED: We're in agreement.

PETER GLUBIACK: CNX is just waiting for direction of where to send the money. They have a W-9. Just send it

to the administrator. Everybody's happy.

SHARON PIGEON: She's correct, this is not the way a notary is supposed to notarize anything, but we're going to be disbursing if you do order that, pursuant to this Court order. So, this is really just for evidentiary purposes.

BUTCH LAMBERT: Okay. Yes, sir.

FERRELL WHITED: We do have a problem with getting some figures on...at our dad's death. We have tried for the last seven or eight months. It's in the letter.

BUTCH LAMBERT: Is that related to disbursements?

FERRELL WHITED: We have to know the figure at our dad's death that was in escrow. We keep getting put off and off down the line. Nobody seems to want to give us that figure. We have to have this before the money can be disbursed...this last money can be disbursed because it figures in the percentage of the administrator and stuff. We have to have those figures.

BUTCH LAMBERT: Mr. Asbury, can you work with Mr. Whited on---?

DAVID ASBURY: I'll be glad to. Do you know the date of your father's death?

FERRELL WHITED: Yes.

DAVID ASBURY: What is that date?

FERRELL WHITED: October the 14th of '06.

BUTCH LAMBERT: Ms. Duty.

ANITA DUTY: I have requested...I have received a phone call from Charlie Hart, which represents Buck Horn Coal, which is the coal owner. I did request that information through him. That's how I knew that they needed that...the date....that amount. Right now I don't have all of the information yet, but I have requested it.

BUTCH LAMBERT: Okay.

PETER GLUBIACK: Once, again, it doesn't affect the distribution of what you're doing today.

MARK SWARTZ: Mr. Snead is going to need that or Peter is going to need that to make the distribution...their distribution. But you don't know that because---

FERRELL WHITED: No.

HELEN WHITED: No.

MARK SWARTZ: ---you're talking about putting the total amount out.

PETER GLUBIACK: That's an estate administration matter handled by Mr. Snead. So, we can get that information.

HELEN WHITED: Right.

BUTCH LAMBERT: Just as a courtesy, we'll work with Mr. Whited--.

PETER GLUBIACK: Thank you.

BUTCH LAMBERT: ---and Ms. Duty to try to come up with that. So, we're going to go ahead and call the other docket numbers and take a vote on all together. Is that...is that what you're requesting since they're all similar?

MARK SWARTZ: Or we could simply just take a vote on this one and make the ruling and incorporate in the rest of them. I don't...it might actually be easier to do that because the accounting is different for each one. So, we really need to talk about each one.

BUTCH LAMBERT: You want to talk about...okay, all right, we need to do that.

SHARON PIGEON: Let me ask one more question here. The exhibits that you've handed out though, are they going to be relevant to all of the items twenty-three through thirty-three?

MARK SWARTZ: Right, the letter that we received and---

SHARON PIGEON: Right. Okay.

MARK SWARTZ: ---so forth are relevant to all ten, I guess...ten or eleven.

SHARON PIGEON: Okay.

BUTCH LAMBERT: Okay. Do I have a motion on---?

SHARON PIGEON: Has he presented his---?

MARK SWARTZ: We need to do the accounting testimony and then...sorry. The hard part is gone, but...okay. All right.

ANITA DUTY

DIRECT EXAMINATION RESUMES

QUESTIONS BY MR. SWARTZ:

Q. Anita, as is your custom with regard to these disbursement requests, did you do some accounting work?

A. Yes.

Q. What did you do?

A. I compared the deposits that were sent to escrow on behalf of unit AV-111 to make sure that they were all in balance.

Q. Okay. So, you basically took a list of the royalty checks that you had paid into escrow and you compared that to deposits that the bank showed to make sure that they agreed?

A. Yes.

Q. And when you made that comparison, was there an agreement?

A. Yes.

Q. And except for the addition of interest and the deduction of fees from the bank accounts, were the accounts consistent?

A. Yes.

Q. And did you do this analysis as of a date?

A. It was March the 31st, 2009.

Q. Okay. And as of March the 31st, 2009, what was the balance in the portion of the escrow account that we're dealing with here...the total?

A. \$28,225.36.

Q. Okay. And then did you use the interests of the various folks shown on your balance exhibit to split that amount of money?

A. Yes.

Q. And so in the last column there are dollars and cents figures which would show how that money would be divided?

A. Yes.

Q. Okay. Is the disbursement request here with regard to AV-111 limited to just Tract 3 or is it there...is it also Tract 5?

A. No, just Tract 3.

Q. Okay. After the disbursements that you're requesting are made from Tract 3, will there still be

necessary to maintain an escrow account for AV-111?

A. Yes.

Q. Are you requesting that when the escrow agent is directed to make the disbursement for Tract 3 that the escrow agent use the percentages rather than the dollar amounts?

A. Yes.

Q. And are you requesting that the escrow agent essentially sum the six percentages with regard to the Whited heirs, add them together, which I assume equals 42.4784%?

A. Yes.

Q. And pay that total amount of money into attorney Snead's client's trust account?

A. Yes.

Q. With the understanding that attorney Snead will be responsible for dividing it further?

A. Yes.

Q. Are you also asking that the Board upon entry of its order authorize the operator to pay the six folks listed on your exhibit directly rather than escrowing their royalties?

A. Yes.

MARK SWARTZ: I think that's all I have.

SHARON PIGEON: Did you just ask her if it's to go to Mr. Glubiack's trust account?

MARK SWARTZ: No, I thought I said Mr. Snead.

SHARON PIGEON: Okay.

HELEN WHITED: Yes.

SHARON PIGEON: Okay.

MARK SWARTZ: I'm sure that my friend...my new friend would have said something.

(Laughs.)

SHARON PIGEON: Well, I hope so because I thought I heard that you said that. I wanted to make sure that all of this time we spent talking about this---

MARK SWARTZ: It's okay.

SHARON PIGEON: Thank you.

BUTCH LAMBERT: Mr. Glubiack, do you have anything further?

PETER GLUBIACK: Yes, that's fine.

BUTCH LAMBERT: That's okay. All right. Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I have a motion and a second.

All in favor, signify by saying yes.

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

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: A paperwork issue on this one.

We'll need to work with CNX to get a new exhibit showing Mr. Snead as the disbursee and a percentage and his correct address.

SHARON PIGEON: Mr. Glubiack, we need to get a copy of your Court order.

DAVID ASBURY: We have...we have the Court order.

SHARON PIGEON: Okay. Thank you.

PETER GLUBIACK: Yes. Mr. Snead now is very convenient and he'll make sure it works.

BUTCH LAMBERT: Okay, thank you.

PETER GLUBIACK: And they already have a W-9 from the estate, so that shouldn't be a problem.

BUTCH LAMBERT: I'm calling item twenty-four on the docket. It's a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for

direct payment of royalties from Tract 3D and a portion of Tracts 3A, 3B and 3C in unit AV-110. It's docket number VGOB-01-0320-0870-02. All parties wishing to testify, please come forward.

MARK SWARTZ: Mr. Chairman, on behalf of CNX, it would be Mark Swartz again and Anita Duty.

PETER GLUBIACK: Once, again, Peter Glubiack for the Whited estate.

BUTCH LAMBERT: Are you folks---?

MARK SWARTZ: You need to tell us your name again.

FERRELL WHITED: Ferrell Whited.

HELEN WHITED: Helen Whited.

BUTCH LAMBERT: Mr. Swartz, you may proceed.

MARK SWARTZ: Mr. Chairman, I would ask that you incorporate the three exhibits that we tendered with regard to the prior item, the well list, the map...the unit map and the letter into the record with regard to this docket item, if you would.

BUTCH LAMBERT: It's accepted. Mr. Swartz, let's label those so that we can refer back to them quickly.

MARK SWARTZ: What do you want to call them, Sharon?

SHARON PIGEON: A, B and C.

MARK SWARTZ: Okay.

BUTCH LAMBERT: We'll call the letter Exhibit A.  
We'll call the unit location B. The well listing is C.

MARK SWARTZ: Okay. And I would also like to incorporate the testimony and discussion that we had on the first docket...disbursement docket item with regard to those three exhibits so that we have that record present in this.

BUTCH LAMBERT: Okay, it's accepted.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. Did you do an accounting with regard to this unit?

A. Yes.

Q. And to do that, did you compare the royalty payments that CNX had made to the royalty payments that the bank records show that they had received?

A. Yes.

Q. And did you make that comparison as of a specific date?

A. March the 31st, 2009.

Q. Okay. And when you compared the royalty records, your royalty records to the bank's deposit records, what did you find?

A. They were in balance.

Q. Okay. And as of 3-31-09, what was the total under consideration in the escrow account?

A. \$69,058.67.

Q. And this request concerns which tracts in unit AV-110?

A. A portion of 3A, 3B and 3C and all of 3D.

Q. Okay. And I assume then since you're said portion a couple of times that this escrow account needs to continue in existence after these disbursements because there will still be money on deposit?

A. Yes.

Q. Okay. Have you indicated with regard to Tracts 3A, 3B, 3C and 3D the folks that you're requesting to receive a disbursement or that a disbursement be made on their behalf?

A. Yes.

Q. Okay. Are those the folks...would that be Buck Horn Coal and the Jacob Fuller heirs as listed?

A. Yes.

Q. And have you opposite each name of a

company or a person that you are asking a disbursement be made to or on behalf of, opposite everybody's name have you indicated the percentage that the escrow agent should use when making the disbursement?

A. Yes.

Q. And would you request that the Board make sure that the escrow agent be requested to use the percentage rather than the dollar amount reported on your exhibit?

A. Yes.

Q. And that's because the balance will change between now and the time of the disbursement and the percentage needs to be used?

A. That's right.

Q. Are you also asking that after...if this disbursement request is approved, that the operator be allowed to pay these folks directly rather than escrowing their future royalties?

A. Yes.

Q. Is this a 50/50 agreement or a Court order, I guess?

A. Yes.

Q. Have you actually reviewed the order?

A. Yes.

Q. And it is a 50/50 between coal, oil and gas?

A. Yes.

Q. And are you requesting that the Board order the escrow agent to make the disbursement for the White heirs to the administrator of the estate?

A. Yes.

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

BUTCH LAMBERT: Mr. Glubiack.

PETER GLUBIACK: We're in agreement with that, Mr. Chairman.

BUTCH LAMBERT: Okay. Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

DONNIE RATLIFF: Second.

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

DONNIE RATLIFF: Second.

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

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

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

DAVID ASBURY: Mr. Chairman, again, a paperwork issue with CNX. We'll work with you on the exhibit to show disbursement directly to Mr. Snead rather than the individual heirs.

MARK SWARTZ: I'm not sure...I think the order just needs to say that. I mean, it's the simplest thing. We just need to supply you with an address for Mr. Snead. Peter can do that, I'm sure. We're good to go.

DAVID ASBURY: The order...the docket we have the escrow agent would disburse based on the percentage to each individual. So, we'll need to change the...we'll need to change the exhibit so that there's only two lines. One line to the coal company---

SHARON PIGEON: Do you attach that exhibit to your disbursement order?

DAVID ASBURY: Yes.

SHARON PIGEON: Then---

DAVID ASBURY: Because we...this is a recorded document---

SHARON PIGEON: ---we need an exhibit that had been

tracked exactly.

DAVID ASBURY: So, we'll work with---.

SHARON PIGEON: You could maybe even use a different...I mean, not a replacement of that one, but an additional---.

MARK SWARTZ: Well, I guess, you know, to limit the possibility of confusion, I mean, really we are departing from...we have to provide the accounting information that we've given you---.

SHARON PIGEON: Correct.

MARK SWARTZ: ---because that's really their interest. But the order simply needs to say that the escrow agent is to pay...give me the last one or the one that's currently under consideration. That the escrow agent should pay with regard to Tract 3A 31.13124% of the escrow account to Mr. Snead. I mean, it's that simple.

SHARON PIGEON: I'm understanding. I'm just saying that they attach that exhibit and that's what they're paying from as a general protocol procedure.

MARK SWARTZ: Well, I understand what you're saying, but we need to have this exhibit because those are the people---.

SHARON PIGEON: You do need that exhibit for this hearing. But we want to make sure that when it gets into

Wachovia's hands that they're not saying, "Where is our exhibit that we have our payment instructions on?" Is that what you're saying now?

MARK SWARTZ: We'll do a payment exhibit, but both of them need to be a part of the order because they're part of the record and that's how we got the---

PETER GLUBIACK: The reason that that becomes increasingly important is going forward we have a rather simple system for disbursement of what's in escrow. That the Board is disbursed to the escrow agent or to the administrator Mr. Snead. But that exhibit is necessary because this order also directs going forward the direct be payment be made to all of these six individuals.

MARK SWARTZ: Right. So, we've got to have both.

PETER GLUBIACK: I guess, the only thing to do is have a supplemental page for payment order, insofar as the agreement goes. So, it wouldn't be a substitute. I would agree with Mr. Swartz. It's an additional payment order that indicates the initial amounts held by you, Wachovia, are to be disbursed to Ralph Snead, the administrator of the estate of at this address.

BUTCH LAMBERT: And I think that's what you were asking for.

DAVID ASBURY: Yes.

MARK SWARTZ: In fairness to Mr. Asbury, it never occurred to me that the bank wouldn't read the order that you gave them, which is why I would have put it in the order, and sort of reading between the lines here, I think he's afraid that they don't read the order and they just look at the chart and a mistake might occur. I think I'm getting it now. But, you know, normally I would expect people would actually read a Court order, but I guess banks don't necessarily do that.

SHARON PIGEON: They don't necessarily---.

PETER GLUBIACK: Can we then agree that...this is a little but new ground, that's why I'm asking this, can we agree that there be a supplemental payment order page. I don't know if you call it exhibit whatever, but that's what needs to be attached. The last page of this is when the Clerk or whoever is reading this thing says this amount in escrow gets disbursed to Ralph Snead.

MARK SWARTZ: Well, we're going to do a supplemental exhibit. We'll give you a copy of it and everybody so that, you know, hopefully the bank can get it right the first time.

DAVID ASBURY: Thank you, Mr. Swartz.

SHARON PIGEON: You probably wouldn't have perceived that a notary would notarize a blank page without

a notary scribe either.

MARK SWARTZ: Well, it's not blank. There are signatures on it.

(Laughs.)

SHARON PIGEON: Were there before or not? We really don't know, do we?

BUTCH LAMBERT: Okay. So, we're...Mr. Asbury, you'll be receiving an exhibit to clarify the discussions.

SHARON PIGEON: For all of these.

DAVID ASBURY: Thank you, Mr. Chairman.

BUTCH LAMBERT: Okay. We'll be calling item number twenty-five. It's a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties from Tract 1, unit AW-111, docket number VGOB-01-0320-0871-02. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX.

PETER GLUBIACK: Peter Glubiack for the estate of Columbus Earl Whited.

FERRELL WHITED: Ferrell Whited.

HELEN WHITED: Helen Whited.

BUTCH LAMBERT: You may continue...proceed, Mr. Swartz.

MARK SWARTZ: Mr. Chairman, I would like to incorporate Exhibits A, B and C from docket twenty-three and the testimony and discussion that was had during docket twenty-three with regard to those three exhibits.

BUTCH LAMBERT: Accepted.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you prepare the account balance data that was submitted with this application?

A. Yes.

Q. When you prepared it, what general documents did you use?

A. I compared the deposits that we had sent to escrow to make sure that they were accounted for.

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

A. It was in balance.

Q. Okay. Did you do this accounting as of a date ascertain?

A. March the 31st, 2009.

Q. Okay. And as of March the 31st, 2009, the amount in escrow that we're concerned about with regard to this petition was what amount?

A. \$141,133.85.

Q. Okay. And are you...are you requesting a disbursement today from the account established for AW-111 that will zero out that account or will just disburse a part of it?

A. Just a portion.

Q. Okay. And what tract are we talking about a disbursement from?

A. Tract 1.

Q. Okay. And have you listed on your exhibit the interests of the owners and claimants to Tract 1?

A. Yes.

Q. Have you seen the Court order that was entered with regard to this tract?

A. Yes.

Q. Was it a 50/50 order?

A. Yes.

Q. And under that order, if we look at it collectively, would Buck Horn Coal receive...what percent would Buck Horn Coal receive?

A. 20.5971%.

Q. And collectively what percent would be payable to the Earl Whited heirs?

A. 20.5971.

Q. Okay. And by agreement and discussion in prior hearings today with regard to these disbursements, is it your understanding that the Board's order will direct the escrow agent to pay the 20.5971% as a lump sum to Mr. Snead who is the administrator?

A. Yes.

Q. And is it your understanding that you've been asked to give the Board a payment exhibit for the Board's use in making the disbursement to lessen the likelihood of a mistake?

A. Yes.

Q. And you'll do that?

A. Yes.

Q. Okay. Are you asking that the Board after it enters this order disbursing these funds with regard to the folks listed who have interests and claims in Tract 1 that the operator be allowed to pay those people their

royalty interests directly rather than escrowing them?

A. Yes.

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

BUTCH LAMBERT: Mr. Glubiack.

PETER GLUBIACK: We agree, Mr. Chairman.

BUTCH LAMBERT: Okay.

MARY QUILLEN: Mr....Mr. Chairman.

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: I'd just like to clarify, on the tract by tract escrow calculations, the docket number on this one is different from on our docket. Are the last two digits 01 or 02?

DIANE DAVIS: I think it should be 02.

DAVID ASBURY: It should 02.

DIANE DAVIS: It's just one that was missed.

MARY QUILLEN: On the tract by tract escrow, it has 01. It should be 02?

ANITA DUTY: If it is, I didn't...I wasn't aware of it.

SHARON PIGEON: The petition has 01 as well.

MARK SWARTZ: It would depend on how many times we've back here. We just don't know as we sit here today. I presume---

ANITA DUTY: Never during disbursements.

MARK SWARTZ: Well, she has never done a disbursement, so she's thinking it should be 01.

DAVID ASBURY: There was a revision.

MARK SWARTZ: There was a revision, okay.

DAVID ASBURY: That's correct.

MARK SWARTZ: If there was a revision, then it's 02.

BUTCH LAMBERT: So, we'll change this to 02.

MARK SWARTZ: You probably need to check because we're not sure there was a revision. I don't know.

ANITA DUTY: We can work...we can work with the DGO office and if it is, I will give them a new exhibit.

BUTCH LAMBERT: We'll ask that you work with...okay. All right. Thank you, Ms. Quillen. Any further discussion from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

BUTCH LAMBERT: Do I have a second?

DONNIE RATLIFF: Second.

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

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

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Approved with the submittal of the new...once this is worked out with DGO and the submittal of new...Ms. Quillen or Mrs. Dye, I'm sorry.

KATIE DYE: I would just like to explain to Ferrell and Helen, the Earl Whited family has been long time friends of ours. I want you to understand why I'm abstaining on all of your alls applications. It is due to litigation with CNX. It has nothing to do with us.

BUTCH LAMBERT: The next item will be item twenty-six. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tracts 1, 2, 3, 4, 5 and 6 in unit AX-110. This is docket number VGOB-01-0320-0872-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX.

PETER GLUBIACK: Peter Glubiack on behalf of the estate Columbus Earl Whited.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you, Mr. Chairman. I'd like to incorporate, if I could, Exhibits A, B and C that were offered during the testimony and discussion concerning docket number twenty-three. I would also like to incorporate the testimony with regard to those exhibits and the discussion with regard to those exhibits.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you prepare the account balance exhibit with regard to this application?

A. Yes.

Q. To do that, what documents did you have access to and use?

A. Compared our deposits or the checks that we had sent to the escrow bank with their ledger sheet

information.

Q. And when you compared the checks that you had sent and the amounts of those checks, the deposits that the bank said it received, how did that comparison work out?

A. They were in balance.

Q. Okay. Did you do that check of the balances as of a date ascertain?

A. March the 31st, 2009.

Q. Okay. And at that time, what was the total in the escrow account?

A. \$215,398.59.

Q. Is the disbursement that you're requesting today going to zero that account out or is that account going to continue to be necessary after the Board makes these disbursements?

A. The account will need to stay open.

Q. Okay. And you've shown, for example, Tract 7?

A. Yes.

Q. We're not requesting a disbursement today?

A. Yes.

Q. Okay.

A. 4 or 7.

Q. Okay. And disbursements, you are

requesting would come from Tracts 1, 2, 3, 5 and 6, is that correct?

A. Yes.

Q. And are these disbursements to be 50/50 between coal, oil and gas?

A. Yes.

Q. Have you seen the order that established that?

A. Yes.

Q. Have you reported opposite everyone's name who is to receive a disbursement the percent of the amount being disbursed that they should be assigned?

A. Yes.

Q. Do you understand that the Earl Whited disbursement, although there are six folks listed, will be made in one lump sum to administrator Snead?

A. Yes.

Q. And when that lump sum disbursement is made with regard to, I guess, Tract 3, 5 and 6, could you give the percentage...the lump sum percentage that should be used when the lump sum amount is transmitted to Mr. Snead as administrator? So, for Tract 3 it would be---?

A. 1.9932%.

Q. Okay. For Tract 5?

A. 17.1380%.

Q. And for Tract 6?

A. 16.2436%.

Q. Okay. And are you going to provide the Board with another exhibit, which will be the payment instruction exhibit, which will show the lump sum rather than the individual payments?

A. Yes.

Q. After...if the Board approves this order...this petition and enters an order allowing these disbursements, is it your request that the operator be allowed to pay the folks subjected to the split agreements directly in the future so that they don't have to have their funds escrowed?

A. Yes.

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

BUTCH LAMBERT: Mr. Glubiack.

PETER GLUBIACK: The estate is in agreement, Mr. Chairman.

BUTCH LAMBERT: Okay. Questions from the Board?

BILL HARRIS: Mr. Chairman.

BUTCH LAMBERT: Mr. Prather.

BILL HARRIS: Just a quick question.

BUTCH LAMBERT: Mr. Harris. I'm sorry.

BILL HARRIS: Just a quick question. The...and I may have just misheard. The petition as what we have number twenty-six does list Tract 4, but I didn't hear Tract 4 mentioned in the testimony. I thought I heard 1, 2, 3, 5 and 6 and those are the ones that I circled. Is 4 included?

ANITA DUTY: No.

MARY QUILLEN: They said except 4 and 7.

MARK SWARTZ: The docket lists 4. The petition does not.

BILL HARRIS: So, 4 should not be included?

MARK SWARTZ: Should not.

BILL HARRIS: Okay.

MARK SWARTZ: It's on the docket by mistake. It's correct in the petition.

BILL HARRIS: Okay. Thank you.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: Thank you, Mr. Harris. Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

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

DONNIE RATLIFF: Second.

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

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

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. The next item is item twenty-seven. It's a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tract 2 in unit AX-111, docket number VGOB-01-0320-0873-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX Gas.

PETER GLUBIACK: Peter Glubiack on behalf of the estate of Columbus Earl Whited.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Mr. Chairman, I would ask that you incorporate Exhibits A, B, C and the testimony and discussion that was had with regard to those exhibits in the hearing on docket number twenty-three.

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 who do you work for?

A. CNX Land Resources.

Q. Were you the person who prepared the disbursement exhibit to this petition?

A. Yes.

Q. And what did you do use...what records or documents did you use to prepare this?

A. I compared the deposits that were sent to escrow and the ledger sheets from Wachovia to make sure all of the deposits were accounted for.

Q. Okay. And when you made the comparison, what did you learn?

A. They were in balance.

Q. Okay. What was the amount...strike that. Was this...was this a comparison that you made as of a date ascertain?

A. March the 31st, 2009.

Q. Okay. As of March the 31st, 2009, what was the balance in the escrow account?

A. \$73,757.23.

Q. Was this disbursement request for a partial disbursement from the account?

A. Yes, Tract 2 only.

Q. Okay. And, again, we have the Whited heirs, correct?

A. Yes.

Q. And is this disbursement request with regard to Tract 2 going to leave a balance on deposit?

A. Yes.

Q. And the escrow account would need to be maintained even after this disbursement?

A. Yes.

Q. Are you asking that in the event the Board enters an order authorizing this disbursement that the operator be allowed by that order to pay the Whited heirs on a going forward basis rather than escrowing their royalty funds?

A. Yes.

Q. Okay. Is this a 50/50 agreement?

A. Yes.

Q. Is that the result of a Court order?

A. Yes.

Q. And have you seen the order?

A. Yes.

Q. And is it your understanding that the disbursement...the lump sum disbursement to be made to Mr. Snead as administrator, what is the percentage that that should be of the funds on deposit when the disbursement is made?

A. 11.0647%.

Q. Okay. And the other 11.0647% would be to Buck Horn Coal?

A. Yes.

Q. And that would zero out Tract 2 at least?

A. Yes.

Q. Are you going to provide the Board with a further spreadsheet that will essentially be the disbursement exhibit for the bank to use?

A. Yes.

Q. And that will show just two disbursements, one to Buck Horn and one to Mr. Snead?

A. Yes.

MARK SWARTZ: That's all I have.

PATSY MOORE: Nothing further, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is item twenty-eight. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tracts 2, 3 and a portion of 1B in unit AW-109, docket number VGOB-01-0821-0909-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX.

PETER GLUBIACK: Peter Glubiack on behalf of the estate of Columbus Earl Whited.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Mr. Chairman, I'd like to incorporate, if I might, Exhibits A, B, C, the testimony with regard to those three exhibits and the discussion had with regards to those three exhibits in docket twenty-three.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Anita, did you prepare the accounting exhibit to this petition?

A. Yes.

Q. And what...what information did you use to

prepare this exhibit?

A. Compared the deposits that were sent to escrow with Wachovia's ledger sheets.

Q. And when you made the comparison, what did you determine as to whether or not they were in agreement?

A. They were in balance.

Q. Okay. What tracts in this unit are you requesting that disbursements be made from?

A. Tracts 2 and 3 and a portion of 1B.

Q. Because you've said there's only a portion of 1B coming out, would it be true then that this escrow account with regard to AW-109 will survive these disbursements and need to be maintained?

A. Yes.

Q. Was this comparison that you did as of a date ascertain?

A. March the 31st, 2009.

Q. And at that point, what was the total on deposit in escrow?

A. \$86,762.57.

Q. The disbursements with regard to Tracts 2 and 3, again, involve the Whited heirs, correct?

A. Yes.

Q. And is it your...strike that. Was...is

this disbursement division a result of a Court order?

A. Yes.

Q. And was that a 50/50 order---

A. Yes.

Q. ---between oil and gas and coal?

A. Yes.

Q. And is it your request that the Board order provide that the oil and gas portion, which would go to the six Whited heirs, be disbursed as one lump sum to Mr. Snead who is the administrator?

A. Yes.

Q. And are you going to provide the Board with a disbursement exhibit to assist the bank in making that disbursement?

A. Yes.

Q. And that exhibit with regard to Tracts 2 and 3 will show Buck Horn Coal receiving what percent of the amount then on deposit?

A. 23.9182%.

Q. And will show the lump sum to be paid to Mr. Snead as what percent of the total on deposit?

A. 23.9182.

Q. Okay. And with regard to Tract 3, what are the percentages the payment exhibit will show for Buck Horn

and the disbursement to Mr. Snead?

A. 4.0030%.

Q. For each---?

A. To both Buck Horn Coal Company and Mr. Snead.

Q. And after the disbursements that are requested here are made with regard to AW-109, are you requesting that the people listed on your accounting exhibit as receiving disbursements that you be allowed to pay them directly in the future rather than escrowing their royalties?

A. Yes.

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

PETER GLUBIACK: Nothing further, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

SHARON PIGEON: Tracts 2 and 3 will be closed with this?

ANITA DUTY: Yes.

MARK SWARTZ: They're zeroed out, right.

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

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 Board members signify by saying yes, but  
Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is item twenty-nine.  
A petition from CNX Gas Company, LLC for disbursement of  
funds from escrow and authorization for direct payment of  
royalties for Tracts 2A, 3 and a portion of 1B in unit AX-  
109, docket number VGOB-01-0821-0912-01. All parties  
wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf  
of CNX.

PETER GLUBIACK: Peter Glubiack for the estate of  
Columbus Earl Whited.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you. I would ask that you

incorporate Exhibits A, B and C, the testimony with regard to those exhibits and the discussion with regard to those exhibits from docket number twenty-three.

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. Who do you work for?

A. CNX Land Resources.

Q. Did you prepare the escrow account analysis with regard to this application?

A. Yes.

Q. And when you did the analysis, what records or documents did you use?

A. I compared the deposits that we sent to escrow. That's Wachovia's ledger sheets.

Q. And when you made the comparison, what did you find?

A. They were in balance.

Q. Was this balance of the account done as of

a date ascertain?

A. March the 31st, 2009.

Q. And what was the total in the account for this unit?

A. \$45,226.63.

Q. And this request asks that a portion of Tract 1B's funds be disbursed?

A. Yes.

Q. And that portion that's to be disbursed is shown on your disbursement...on your exhibit to the application?

A. Yes.

Q. And because it's only a portion of Tract 1B this escrow account with regard to AX-109 would need to continue in existence after these disbursements were made?

A. Yes.

Q. And with regard to Tracts 2A and 3, would it be a complete disbursement with regard to the funds associated with those two tracts?

A. Yes.

Q. And is the disbursement with regard to 1B the result of split agreement?

A. Yes.

Q. Is it a 50/50 agreement?

A. Yes.

Q. Is the disbursement request with regard to Tracts 2A and 3 the result of a Court order?

A. Yes.

Q. Is it a 50/50 order?

A. Yes.

Q. Based on our discussions during docket number twenty-three, are you going to submit an exhibit to the Board that they can use to provide to the escrow agent when it's making the disbursement?

A. Yes.

Q. And it will show everybody in Tract 1B that you've listed here, right?

A. Yes.

Q. But with regard to Tracts 2A and 3, it will simply show that two tracts need to be cut, one to Buck Horn Coal and one to Mr. Snead as the administrator of the Whited estate?

A. Yes.

Q. With regard to the disbursements from 1B have you set forth the percentages that each owner should receive in the owner's percent of escrow 50% column?

A. Yes.

Q. With regard to Tract 2A, what is the

percentage that should be paid to Buck Horn?

A. 32.8089%.

Q. And what is the percentage that should be paid in a lump sum to Mr. Snead?

A. 32.8089%.

Q. And with regard to Tract 3, what are the percentages that should be paid one check to Buck Horn and one check to Mr. Snead?

A. 1.6511% to both.

Q. Okay. And after these...after the order is entered by the Board is it your request that the operator be allowed to pay all of these folks directly that are listed on this exhibit rather than escrowing their funds?

A. Yes.

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

PETER GLUBIACK: Nothing further.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Ladies and gentlemen, we've been going at this for quite a while. I think some of the Board members need to take a quick break, if that's all right. So, we'll take a ten minute break and then we'll reconvene.

(Break.)

BUTCH LAMBERT: The next item is number thirty. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tracts 1E, 1F, 2 and a portion of 1G in unit AZ-111, docket number VGOB-02-0416-1023-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX Gas Company.

PETER GLUBIACK: Peter Glubiack on behalf of the estate of Columbus Earl Whited.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you. If I could, I would like you to incorporate Exhibits A, B, C and the testimony with regard to those three exhibits and a discussion that was had in regard to those three exhibits from docket number twenty-three today.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to give us your name again.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you prepare the account analysis, an exhibit that is a part of the petition for disbursements in regard to AZ-111?

A. Yes.

Q. And when you prepared...what documents did you use to prepare this spreadsheet?

A. I compared the deposits that were sent to the account with Wachovia's ledger sheets.

Q. And after you made that comparison, what did you learn?

A. That they were in balance.

Q. And what was the total amount on deposit as of the date that this statement reflects?

A. \$54,122.20.

Q. Why do I have a 105? It is 111.

A. Oh, I'm on the wrong one.

Q. Did you just give me the number for another unit?

A. Yes.

Q. Okay. What was the amount on deposit as of 3/31/09 in the escrow account for AZ-111?

A. \$105,932.50.

Q. That's way better.

A. Okay.

Q. Okay. What tracts are the subjected of this disbursement request?

A. 1E, 1F, 2 and a portion of 1G.

Q. Not 1B and not 1D?

A. 1D should be.

Q. Is there another tract that wasn't listed in the application but that is ready to be disbursed today?

A. 1D.

MARK SWARTZ: If the Board feels comfortable doing that...we probably can't. I don't know.

ANITA DUTY: They received notice because they're---.

PETER GLUBIACK: I didn't hear. There was a tract that---.

MARK SWARTZ: Well, 1D could go today, but it wasn't stated in---.

ANITA DUTY: They received the notice for 1D.

MARK SWARTZ: I mean, they got...they got the not...well, Sharon, you need to tell me. Can we bootstrap that or---?

SHARON PIGEON: Did the individuals involved get notice?

ANITA DUTY: Yes. She's actually...Goldie Hess is actually one of the heirs to be disbursed in 1G.

SHARON PIGEON: And what you had originally noticed up were 1E, 1F, 2 and 1G?

MARK SWARTZ: Correct.

ANITA DUTY: 1D is the---.

PETER GLUBIACK: And 1D is not a part of the order, Mr. Swartz, is that correct?

MARK SWARTZ: Correct.

PETER GLUBIACK: Yeah. And we don't have any---.

SHARON PIGEON: It's not part of your order?

PETER GLUBIACK: No, it's not part of the order.

It's a separate...apparently, it's another tract in the unit ready to disburse.

ANITA DUTY: The same royalty split that covers the disbursement for 1G would cover 1D. The same parties and the same royalty split agreement.

SHARON PIGEON: I don't think we should go down that road. We've got a Court order on these others and we're comfortable with that.

MARK SWARTZ: That's cool. Not a problem. I mean, I just wanted you to know we could do it. There seems to be a---

SHARON PIGEON: I appreciate that.

MARK SWARTZ: ---push to get it done. Okay, it's all right.

SHARON PIGEON: Everybody has to be covered on the---

Q. Okay. So, what we're talking about, Anita, so that there's no confusion going forward is 1E, 1F, 1G...a portion of 1G and 2, okay?

A. Yes.

Q. With regard to Tracts 1E, 1F, 1G and 2, are all of those splits the result of a Court order?

A. Yes.

Q. And have you seen that order?

A. Yes.

Q. And what does it provide in terms of the split?

A. 50/50.

Q. Okay. With regard to each of those four tracts, have you set forth opposite the name of the companies and the people who are to receive disbursements the percentage that should be used to quantify their interest?

A. Yes.

Q. Okay. With regard to 1E, what are you asking be disbursed on a percentage basis to Buck Horn Coal?

A. 33.2256%.

Q. Okay. And then we have the six Whited Heirs that we've talked about previously today?

A. Yes.

Q. And are you asking that one check be cut for them collectively and sent to Mr. Snead, the administrator?

A. Yes.

Q. And what percentage should be used for that check?

A. 33.2256%.

Q. Okay. And should we have the same two checks only with regard to 1F?

A. Yes.

Q. And the percentage that should be sent to Buck Horn is what percent?

A. 0.5361%.

Q. And the percentage that should be sent to Mr. Snead is what percent?

A. 0.5361%.

Q. Again, should we have two checks...strike that. With regard to Tract 1G, we're going to need a number of checks, correct?

A. Yes.

Q. And are the percentages of the people that are to receive disbursements out of 1G listed in the owner's percent of escrow?

A. Yes.

Q. And would you read the names of the people who are to receive disbursements out of 1G and the relevant percentage?

A. Patty Chambers 0.0772%, Goldie Hess 0.0241%, (inaudible) Perkins 0.0241%, Arlene Compton 0.0241%, Easter Newton 0.0093%.

Q. And then you've got a note here on pay from first with regard to the balance of the people, correct?

A. Yes.

Q. Okay. And there's no disbursements sought for those folks on this application?

A. No.

Q. That is correct?

A. Yes, that is correct. Sorry.

Q. Okay. With regard to Tract 2, are you contemplating that the escrow agent would only cut two checks?

A. Yes.

Q. One to Buck Horn?

A. Yes, 6.2242%.

Q. And the other to Mr. Snead, the administrator?

A. Yeah, 6.2242%.

Q. Okay. If the Board approves these disbursements and orders them to be made by the escrow agent, is it your request that the operator be allowed to pay the folks who are receiving these disbursements as you've just indicated directly in the future rather than escrowing their funds?

A. Yes.

Q. Is the escrow account here going to be required on a going forward basis because there will be still money in it that remains undisbursed?

A. Yes.

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

PETER GLUBIACK: Nothing further, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Comments?

DAVID ASBURY: A clarification, Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Mr. Swartz, on the exhibit that we have, this one did not include three individuals that were on previous disbursements in 1G. It did not include Mary Keen, Fletcher Enterprises and Marvin Fuller. Are those to be disbursed? They're not a part of this particular disbursement?

ANITA DUTY: No, the reason...I meant to take it off the exhibit. Those owners were part of all of the others when it came to the Jacob Fuller heirs. I didn't want somebody...one of them to think that I had forgotten them on here. I wanted them to know that they were already being paid for this unit. So, they were a part of all of the others.

DAVID ASBURY: I see.

ANITA DUTY: But I should have not put it in the actual order.

DAVID ASBURY: And we do not have W-9s for these individuals.

ANITA DUTY: Which, the Jacob Fuller heirs?

DAVID ASBURY: The heirs here being disbursed. Do you have W-9s for each of the individuals?

ANITA DUTY: Not with me---.

DIANE DAVIS: Have they all previously been disbursed?

ANITA DUTY: Yeah.

DAVID ASBURY: Okay.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

DONNIE RATLIFF: Second.

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

(No audible response.)

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

(All Board members signify by saying yes, but

Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is thirty-one. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tracts 1C, 1D, 1E, 1F and 1G in unit AZ-110, docket number VGOB-01-0917-0170-02. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX Gas Company.

PETER GLUBIACK: Peter Glubiack on behalf of the Columbus Earl Whited estate.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: Mr. Swartz, you may proceed.

MARK SWARTZ: Thank you. Mr. Chairman, I'd ask that you incorporate Exhibits A, B and C and the testimony with regard to those three exhibits and a discussion that was had with regard to those exhibits from today's docket item number twenty-three.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you prepare this petition?

A. Yes.

Q. Did you prepare the escrow account balance analysis?

A. Yes.

Q. When you did that account balance analysis, what documents and records did you refer to?

A. I compared the deposits that were made to escrow with Wachovia's ledger sheets.

Q. Okay. And when you made the comparison, what did you learn?

A. They were in balance.

Q. Did you do that balance as of a date ascertain?

A. March the 31st, 2009.

Q. And on that date, what was the balance...the total balance on deposit?

A. \$54,122.20.

Q. Okay. Is this a request for a partial disbursement from the AZ-110 sub-account?

A. Yes.

Q. So the account would continue to be required after these disbursements were made?

A. Yes.

Q. What tracts...with reference to tract by tract escrow calculation and the balances, what tracts are you asking for disbursements today?

A. 1C, 1D, 1E, 1F and 1G.

Q. Okay. With regard to each of those tracts, is it your request that the disbursement be made using the percentage that you report in the owner's percent of escrow 50%?

A. Yes.

Q. Are each of the agreements, with regard to these five tracts that are under consideration, each of those split agreements 50/50 agreements?

A. Yes.

Q. And to the extent that there's a Court

order with regard to the Whiteds have you seen that order?

A. Yes.

Q. Is it a 50/50 order as well?

A. Yes.

Q. Okay. Let's start with Tract 1C. How many checks would you anticipate that the escrow agent would be cutting?

A. Two.

Q. And would those be to Buck Horn Coal and Clyde and Goldie Hess?

A. Yes.

Q. And what would the percentage that the escrow agent should use for each of them?

A. 0.1263%.

Q. Okay. With regard to the Tract 1D, we would have the same two payees?

A. Yes.

Q. And what percent should the escrow agent use for each of them?

A. 28.4425%.

Q. And then with regard to 1E, 1F and 1G, we have Buck Horn Coal again and the Earl Whited heirs, correct?

A. Yes.

Q. And for each of those tracts, would  
contemplate that the escrow agent would be cutting only two  
checks?

A. Yes.

Q. One to Buck Horn and one to Mr. Snead?

A. Yes.

Q. With regard to Tract 1E, what would the  
relevant percentage be for each of the two checks the escrow  
agent would need to cut?

A. 0.2428%.

Q. Okay. With regard...the same question with  
regard to 1F.

A. 1.6222%.

Q. The same question with regard to 1G.

A. 2.9725%.

Q. After these disbursements are made to the  
folks that we've just discussed, is it your request that the  
Board allow the operator pay them their royalties directly  
and not escrow those wells?

A. Yes.

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

PETER GLUBIACK: Nothing further.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is thirty...item thirty-two. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties from Tracts 1, 2, 4, 5 and 6 in unit AY-110, docket number VGOB-01-0320-0875-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX Gas Company.

PETER GLUBIACK: Peter Glubiack on behalf of the

estate Columbus Earl Whited.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you, Mr. Chairman. I would ask that you incorporate Exhibits A, B, C, the testimony with regard to those exhibits and the discussion that was had regarding those exhibits from today's docket item twenty-three.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, state your name for us, please.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you prepare the petition for disbursements with regard to AY-110?

A. Yes.

Q. And that pertains to it looks like five tracts?

A. Yes.

Q. And those are 1, 2, 3, 4---

A. Not 3.

Q. I'm sorry, not 3. 1, 2, 4, 5 and 6, correct?

A. Yes.

Q. And if we look at the account balance exhibit there are other tracts in escrow in that unit, correct?

A. Yes.

Q. They are not the...that you're not requesting a disbursement today?

A. Right.

Q. So, this escrow sub-account with regard to AY-110 would have to continue forward?

A. Yes.

Q. With regard to the request that you're making and the percentage and so forth, did you do an escrow calculation?

A. Yes.

Q. And did you also a balance calculation?

A. Yes.

Q. And that was as of what date?

A. March the 31st, 2009.

Q. And did you, yourself, prepare the balance and calculation exhibit that's a part of this application?

A. Yes.

Q. And what documents or information did you use to create this exhibit?

A. I compared the deposits that were sent to the escrow agent with Wachovia's ledger sheets.

Q. Okay. And when you made that comparison of what CNX sent to the bank and what the bank says it received, how did that compare?

A. They were in balance.

Q. Okay. And as of March 31, '09 what was the total in this account...sub-account?

A. \$96,193.71.

Q. Okay. The disbursements...actually the disbursement with regard to Tract 1 goes to two people, right?

A. Yes.

Q. One-half...strike that. Do they have an agreement Buck Horn and Rasnake?

A. Yes.

Q. And is it a 50/50 agreement?

A. Yes.

Q. And you've seen that?

A. Yes.

Q. And are you requesting two checks with regard to Tract 1?

A. Yes.

Q. One to Buck Horn and one to Mr. Rasnake?

A. Yes.

Q. And what the percentage be that the escrow agent should use for each of those folks when it's calculating the amount due them?

A. 8.0153%.

Q. Okay. With regard to Tracts 2, 4, 5, do we have a Court order?

A. Yes.

Q. And does that Court order establish the split?

A. Yes.

Q. Does it establish it as a 50/50 split?

A. Yes.

Q. With regard to Tracts 2, 4 and 5, is it your request, based on the discussions that we had with regard to docket twenty-three, that the escrow agent would

cut only two checks for each of those tracts?

A. Yes.

Q. One check in all instances would go to Buck  
Horn?

A. Yes.

Q. The other check would go to Mr. Snead, the  
administrator?

A. Yes.

Q. With regard to Tract 2, what is the  
percentage the escrow agent should use in calculating the  
amounts of those two checks?

A. 2.7939%.

Q. Okay. With regard to Tract 4, what's the  
percent?

A. 9.6848%.

Q. And with regard to Tract 5?

A. 14.0630%.

Q. With regard to Tract 6, would there be two  
payees out of the account?

A. Yes.

Q. Buck Horn and Clyde and Goldie Hess,  
correct?

A. Yes.

Q. Do they have an agreement?

A. Yes.

Q. And what's the percentage they've agreed on?

A. 50/50.

Q. Have you seen their agreement?

A. Yes, I have.

Q. And what percentage should the escrow agent use to calculate the amount of...the check due each of them, meaning Buck Horn Coal and Clyde and Goldie Hess collectively?

A. 0.7070%.

Q. Okay. After...if this petition is approved and after an order is entered, is it your request to the Board that the operator be allowed to pay the recipients of these proposed disbursements directly rather than escrowing their funds?

A. Yes.

Q. Is it your...at least with regard to the Whited heirs and the payment to Mr. Snead, based our discussion with regard to docket twenty-three, is it your intention to submit a further payment exhibit that the Board can use in its order to hopefully get the bank to make the right disbursements?

A. Yes.

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

BUTCH LAMBERT: Mr. Glubiack.

PETER GLUBIACK: Nothing further, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

MARY QUILLEN: Mr. Chairman, I have one question.

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: Should there not be an Exhibit EE  
with this.

MARK SWARTZ: Can I answer that?

ANITA DUTY: Yeah, go ahead.

MARK SWARTZ: Not really. Well, there is EE, but  
it doesn't need to accompanied this kind of a petition. You  
know, we normally would see them, but it's usually in the  
pooling context because it's addressed in the order.

MARY QUILLEN: Okay.

MARK SWARTZ: And we're not asking for an order  
here that would address who might have entered into split  
agreements. I guess, that's the answer to that.

MARY QUILLEN: Thank you.

BUTCH LAMBERT: Any other questions?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion for approval.

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

second?

DONNIE RATLIFF: 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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz. The next item is thirty-three. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tracts 2, 4 and 5 in unit AY-111, docket number VGOB-01-0320-0876-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf of CNX Gas Company.

PETER GLUBIACK: Peter Glubiack on behalf of the Columbus Earl Whited estate.

HELEN WHITED: Helen Whited.

FERRELL WHITED: Ferrell Whited.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Mr. Chairman, Anita tells me that she has ready access to an Exhibit EE for the prior hearing. She will submit it to the Board so that's complete. I mean, it's not an effort to do that.

BUTCH LAMBERT: Thank you.

MARK SWARTZ: You're welcome. And with regard to this particular application, AY-111, I would ask that we be allowed to incorporate Exhibits A, B and C, the testimony with regard to those exhibits and the discussion that was had concerning those exhibits and the issues raised in those papers...during docket item twenty-three today.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Okay. Did you prepare the petition with

regard to AY-111?

A. Yes.

Q. Did you prepare the tract by tract escrow calculation, which is the second page of that petition?

A. Yes.

Q. When you prepared the calculation and the balance calculation, what records did you refer to?

A. I compared the checks that were sent to Wachovia on behalf of AY-111 to Wachovia's ledger sheets.

Q. And when you made the comparison, what did you learn?

A. They were in balance.

Q. What was the amount on deposit in the sub-account regarding AY-111 on the date you made the comparison?

A. \$144,467.

Q. And what was that date?

A. March the 31st, 2009.

Q. Okay. Which tracts are you requesting a disbursement from?

A. 2, 4 and 5.

Q. Will the disbursement that you're asking for zero out the entire amount on deposit with the escrow agent for AY-111?

A. No.

Q. Okay. So, the account would need to continue forward?

A. Yes.

Q. With regard to Tracts 2, 4 and 5, do we have the Whited heirs in each of the tracts?

A. Yes.

Q. And how many checks would you ask that the Board direct the escrow agent to cut with regard to Tracts 2, 4 and 5?

A. 2.

Q. And one in all instances would be to Buck Horn Coal, correct?

A. Yes.

Q. And the other would be to Mr. Snead as administrator of the Whited estate?

A. Yes.

Q. And with regard to Tract 2, what percentage should the escrow agent use in calculating each of those checks?

A. 18.5434%.

Q. With regard to Tract 4, what percentage should the escrow agent use?

A. 4.5230%.

Q. With regard to Tract 5?

A. 1.2862%.

Q. And would you also ask that the Board in the event this petition is approved and an order entered that the operator, CNX, be allowed to pay the folks listed on this escrow calculation exhibit directly rather than escrowing their funds as we move forward?

A. Yes.

Q. And is it your intention to provide the Board with a payment exhibit that would just show two checks pertaining to each tract that can be sent to the escrow agent?

A. Yes.

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

PETER GLUBIACK: Nothing further, sir.

BUTCH LAMBERT: Questions from the Board?

SHARON PIGEON: Are you paying out completely on these tracts so they don't need to be maintained or not?

ANITA DUTY: The tract or the unit?

SHARON PIGEON: Tracts.

ANITA DUTY: The tracts are completely paid out, yes.

MARK SWARTZ: The unit is not.

SHARON PIGEON: She testified to that. I was just

clarifying.

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Motion to approve.

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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

BUTCH LAMBERT: Okay, we're going to jump back next on the agenda to item number two quickly. Item number two is the Board on its own motion will review the escrow account first quarter 2009 activities as provided by Wachovia Bank. Mr. Asbury.

DAVID ASBURY: Thank you, Mr. Chairman. I'll call the Board member's attention to the summary handout. Each of you should have it in front of you. The first quarter

report from Wachovia shows contributions to the escrow account of \$678,181. It also shows net income of \$4,993. It shows disbursements and withdrawals for the first quarter was \$89,730 with an ending balance of \$24,568,005.

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

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Asbury.

DAVID ASBURY: Thank you, Mr. Chairman.

BUTCH LAMBERT: I'm going to move down to item number four on the agenda. The Board on its own motion will discussion the procedural rule of January the 5th, 1991. This was the item that was continued from May. I think Mr. Mullins, do you have a handout for the Board?

TOM MULLINS: I do. I presented last time to the Board that I would be making a written submission in addition to an oral submission. I do have very limited comments. It's more in the line of a question, Mr. Chairman, as opposed to any further comments on the merits. If the Board is considering, which you are, whether to adopt this rule whether it's going to be applied retroactively or only prospectively to future applications file or whether it's only going to be applied to situations where there are competing applications? I don't know what the Board

pleasure is on that. If it intends to adopt it or whether those issues are going to be addressed and how they will be addressed is the question that I have.

BUTCH LAMBERT: Thank you, Mr. Mullins. I hope that the Board has had time---

GEORGE MASON: Mr. Chairman.

BUTCH LAMBERT: Sir, we're not taking comments and discussions on the procedural rule. This has already been before the Board. This is up for discussion for the Board. I just allowed Mr. Mullins to speak because he offered at the last meeting that he had documentation that he would like for the Board to consider. So, we---

GEORGE MASON: I would just like to say that LBR Holdings joins in memo and the position taken by GeoMet Operating Company.

BUTCH LAMBERT: Okay, thank you, sir. I appreciate that. I hope that the Board has had time to review that procedural rule that was handed out, I guess, back in May. Are there any discussions from the Board pertaining to that rule?

(No audible response.)

BUTCH LAMBERT: Are there any questions from the Board?

(No audible response.)

BUTCH LAMBERT: Okay. If there's no discussions or questions, I need...I'd like to entertain a motion from the Board on whether or not this Board needs to reinstate that rule of January the 5th, 1991.

MARY QUILLEN: Mr. Chairman, I have just one question on that. If this was a motion that was adopted in 1990, when was this amended or changed that it would...when you ask for it to be reinstated...?

BUTCH LAMBERT: The rule...would you like to take shot at that, Ms. Pigeon.

SHARON PIGEON: The procedural rule has apparently just fallen off the radar screen due to the fact that people were not for many years filing competing applications. Around the time that the procedural rule was enacted, that had been done to a certain extent. In subsequent years, it was not done. The rule was never formally repealed or otherwise...it did not have a sunset provision. It was not part of the emergency enactments when the Gas and Oil Act was first being revised in 1990. So, it's not part of that. It's a coincidentally in time to a certain extent. But that emergency rule was passed in...or the order was passed in March of 1990 and this procedural rule was on the Board's docket in November of 1990. So, there was some time there. It's sort of defacto repealed in the sense that it hasn't

been followed, but it was never formally appealed. So, technically, it's still out there.

MARY QUILLEN: I mean, that's the way I interpreted this. That was the reason for my question.

SHARON PIGEON: Well, that...that is correct. Your interpretation is correct. I think that perhaps the Chairman is asking for a motion because it has defacto fallen into disuse. So, perhaps to revive it, if you will, would be the purpose for the motion.

MARY QUILLEN: Okay. Thanks.

BRUCE PRATHER: It was never amended?

SHARON PIGEON: It was never amended or repealed.

BRUCE PRATHER: Okay.

BUTCH LAMBERT: Any further discussion?

KATIE DYE: I have a question to be clear on this. Has the consent to stimulate not always, as a rule, been decided by the Director in the permitting process?

BUTCH LAMBERT: In the past, the way that it has worked is the applicant had to produce the consent to stimulate in order to get a permit.

KATIE DYE: So, if we adopt this procedural are we not going to create a conflict with the Director in the permitting process?

BUTCH LAMBERT: I don't think so.

DAVID ASBURY: Mrs. Dye, I don't see it that way. Mr. Chairman, if I can, I'd like to offer some research into the procedural rule. Some of the information that dealt with this issue, it was discussed...again, we just received Mr. Mullins' information. But I'd like to read a part of what the Gas and Oil Board's response was to some of the procedural rule allegation, which at that time was an issue between Edwards and Harding and Oxy USA. It talks about different things that the Board had authority to do. It says, "The Board is without authority to decide disputes or conflicts between a coal or gas owner under Section 45.1-361.22. However, the Board determined that with competing application it was in a better position to approve the one who produced coalbed methane from a unit because it had consent of the coal operator for stimulation of coal seams. At that time, the stimulation of coal seams was essential to maximizing production and protect correlative rights of all parties involved." That came as a response from then, the Gas and Oil Board and from testimony that had been taken in transcript regarding the consent to stimulate in these two competing applications in 1990. The procedural rule was put in place as part of that. Also, at that time, if I understand history...reading the history, procedural rules at that time lasted for thirty days.

SHARON PIGEON: No. Emergency orders lasted thirty days. The same as...that's the same now under the statute. That's an entirely different thing.

DAVID ASBURY: That's correct. I mispoke.

SHARON PIGEON: The emergency order was enacted in March of 1990. Then that lead into the enactment of the act that was enacted in July of 1990...effective July of 1990. So, no, these are separate things in time. The case that you're referring to though, if you look at the petition, if you happen to have that there, the Edwards and Harding case, as you can see, even in the petition it states that the basis for the appeal is a decision based on the statute...the statutory consent to stimulate. That case is not about the procedural rule in any fashion. I got the case from the Courthouse and reviewed those documents. The procedural rule was not the basis of the appeal or the basis of the decision. That case was then---

DAVID ASBURY: They were two different issues.

SHARON PIGEON: ---settled. It was not the subjected of a Court decision or opinion. The parties worked out a settlement. We don't have the settlement agreement. But that would not be any kind of precedential authority for what this Board does now on their own procedural rule.

BUTCH LAMBERT: I think the bottom line, Mrs. Dye, what it comes down to, if the operator doesn't have a consent to stimulate...when he comes before the Board and he doesn't have a consent to stimulate to get the permit, then he gets no permit. So, he has got to have the consent to stimulate whether it be here or whether it be there.

KATIE DYE: But as a rule, it always been there, right?

BUTCH LAMBERT: Yes.

KATIE DYE: And if I understand like the history and some of the testimony and everything that we've heard, the consent to stimulate was initially to protect miners...mining.

BUTCH LAMBERT: That was part of it, yes.

SHARON PIGEON: Just to comment on that a little bit. We're going back so far in history that I don't have a good handle on it. None of us here were there, but we have some very old Regs that pertain to enhanced recovery that incorporate the permitting requirements with pooling applications in that. So, I don't think it is 100% accurate to say historically it was always in front of the...it would have been the inspector then. It wasn't even the same Board. It wasn't the same title even for the various people involved. As far as the consent to stimulate issues that

have been historically in the more recent past heard by the Division Director though, obviously, those items always came immediately on appeal in these cases where we have competing applicants to the Board. So, I mean, it's, you know, a change what the requirements are. You have to have a consent to stimulate if you're going to frac a coal seam whether you produce it there or you produce here. The only difference is if you have a pooling order and you don't have a permit, you kind of gone the backdoor way. Then you can have pooled units that are not permitted units that are sitting sterilized for the time of whatever it takes to clarify that.

KATIE DYE: But on the other hand, if we have like a major coal owner that refuses the consent to stimulate, you know, that could also sterilize a lot of coal or a lot of gas.

SHARON PIGEON: But that's the way the law is written right now. That would need to be addressed in the legislature. I'm not saying that shouldn't be addressed. I'm just saying that's where that needs to be addressed.

KATIE DYE: But I don't understand, you know...I guess, what I'm saying is what's the point of the Board requiring it when it's already required in the permitting process?

SHARON PIGEON: Are you asking me that?

KATIE DYE: Uh-huh.

SHARON PIGEON: As I've said, you've got units that have pooling orders that don't permits that are close to three years now and some that I've been involved on without permits. So, those units are not getting produced for a period of time. Whereas, if they had...if one had to have a permit before he got a pooling order there would not be any question that they're going to be able to produce that unit as soon as you get your pooling order. But, again, the changes to the law would be required if you want to change the consent to stimulate issue. That's already in the law and has been in the law like that for some period of time.

DAVID ASBURY: Mr. Mullins was right in his comments that there was a ruling by...there was a decision by the Board. That decision was appealed to the Circuit Court.

SHARON PIGEON: Yes.

DAVID ASBURY: There was a settlement---

SHARON PIGEON: And that's the file that I looked at...the Court's file.

DAVID ASBURY: Yeah, there's a settlement by...you know, before the Circuit Court and we don't know that decision. There was a settlement.

SHARON PIGEON: But the Court didn't participate in the settlement. The parties---

DAVID ASBURY: The parties, yes.

SHARON PIGEON: ---worked out a settlement and that was the end of...the Court just closes their file when the case is settled. So, there's no Court decision and there's no Court mandated settlement or...a settlement overseen by the Court or anything like that.

DAVID ASBURY: And in 1990 when these two competing cases and the consent to stimulate issue was before the Board, it said...there was considerable discussion in the history here, but it said that...the Oxy motion, "To dismiss Edwards and Harding's petition for this particular well on the basis of the failure to demonstrate to the Board that Edwards and Harding had consent to stimulate from the coal operator."

SHARON PIGEON: Correct. And the petition to the Circuit Court then also repeats that, but on the basis of the statutory provision and not in reference to the procedural rule.

TOM MULLINS: There were two appeals. There were two separate appeals. One appeal on the actual unit that was the subject matter and a separate appeal solely on the procedural rule. I have a copy of that appeal as well. So,

there was actually two separate appeals. The settlement and dismissal occurred after the Board adopted its permit regulation and did not incorporate or give notice of and including the procedural rule as part of that permanent regulation.

SHARON PIGEON: Well, one of the regulations that was adopted at the time of the new regulations and this isn't new to those, it has been repeated through out the regulations, is that they have reaffirmed regulations that were in effect unless otherwise changed by the new regulations. That's in what have now and that's pretty common.

TOM MULLINS: Which was done---

BUTCH LAMBERT: Thank you, Mr. Mullins. We appreciate your comments. Any further discussion?

KATIE DYE: I would like some time, I think, to review this...the handout because there's no way we can look through all of this today.

BUTCH LAMBERT: Would you like to put that in the form of a motion, Mrs. Dye?

KATIE DYE: Yes, I would. I make a motion that we carry this forward until we've got time to review the handout from Mr. Mullins, maybe until the July hearing.

BUTCH LAMBERT: Was you all able to hear the

motion, Ms. Quillen?

BRUCE PRATHER: Do you hear it? I didn't hardly hear it.

MARY QUILLEN: You can't hear it.

BUTCH LAMBERT: Could you restate that, Mrs. Dye? They couldn't hear you.

KATIE DYE: I'm sorry. I'll speak a little louder. I make a motion that we carry this forward until July so that we all have time to review the handout by Mr. Mullins.

BILL HARRIS: I second that.

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

(No audible response.)

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

(All Board members signify by saying yes, but Donnie Ratliff, Mary Quillen, Butch Lambert, Bruce Prather.)

BUTCH LAMBERT: All opposed.

DONNIE RATLIFF: No.

BRUCE PRATHER: No.

MARY QUILLEN: No.

BUTCH LAMBERT: The motion dies. Any further discussion or any other motions before the Board?

DONNIE RATLIFF: The motion dies?

BUTCH LAMBERT: The motion dies, yes.

SHARON PIGEON: It failed.

BUTCH LAMBERT: It failed.

DONNIE RATLIFF: I move that we react the procedural rule dated January the 5th, 1991 and make it effective July 1, 2009.

BRUCE PRATHER: Second.

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

(No audible response.)

BUTCH LAMBERT: I need to ask the Board one further question before we vote. In making this effective...if we make this effective July 1. Do we make it effective to all pending cases on the docket as of today or dockets filed after July 1?

SHARON PIGEON: I would recommend two motions on that...I mean, two separate---

BUTCH LAMBERT: Okay. All right.

BRUCE PRATHER: It's already in effect essentially defacto, isn't it?

SHARON PIGEON: It is. But I still recommend you---

BUTCH LAMBERT: Okay.

SHARON PIGEON: ---do this in this in a---

BUTCH LAMBERT: Okay. Let me...let me entertain the first motion. All in favor, signify by saying yes.

BILL HARRIS: Could you repeat the---?

BUTCH LAMBERT: Donnie, would you repeating?

DONNIE RATLIFF: That we reaffirm the procedural rule that was enacted on January the 5th, 1991 and make it effective July 1, 2009.

BUTCH LAMBERT: I have a motion and I think Mr. Prather second it.

BRUCE PRATHER: I second.

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

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

BUTCH LAMBERT: Opposed.

KATIE DYE: No.

BUTCH LAMBERT: Okay. Motion is carried. Now, I'll entertain another motion about whether or not this motion will pertain to cases that are on the docket or only to those cases filed after July 1.

BRUCE PRATHER: I'll make a motion that it ought to cover past, present and future really as far as I'm concerned. There shouldn't be no cutoff. If thing is in effect defacto irregardless of how you look at it, it should

cover anything that we're doing and have done in the past. I don't know whether I can make a ruling out of that or not, but that's one I think should be done.

BUTCH LAMBERT: Okay. If I understand motion, Mr. Prather, you're saying that the ruling should apply to all cases presently on the docket and future cases.

BRUCE PRATHER: Past, present and future.

SHARON PIGEON: The past certainly not.

BUTCH LAMBERT: It wouldn't apply to the past, but---

SHARON PIGEON: I don't know if that was serious, but certainly not for past. Whatever---

BRUCE PRATHER: okay.

SHARON PIGEON: ---decisions have been made are good.

BUTCH LAMBERT: I have a motion on the floor that the rule would affect dockets....or docket items presently plus any future docket items. Do I have a second?

DONNIE RATLIFF: Mr. Chairman, do we have competing items on the docket today?

KATIE DYE: Yes.

BUTCH LAMBERT: Yes, we do.

KATIE DYE: We have about five or six units.

BUTCH LAMBERT: We have five units competing today.

SHARON PIGEON: If...just as clarification, you've already voted for the rule to be effective July 1 and not in June. Yes, there are cases pending on the docket today. That would not apply to them.

KATIE DYE: You can't have it both ways.

SHARON PIGEON: Right. If the rule is going to be reaffirmed of July 1, it would not apply today's docket based on this vote.

BUTCH LAMBERT: So, I'll call one further time. I have a motion. Do I have a second?

DONNIE RATLIFF: Second.

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

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

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: No.

BUTCH LAMBERT: Then the motion carries. Thank you.

TOM MULLINS: Mr. Chairman, just a point of order, and I'm not trying to be argumentative, I think Mr. Ratliff has recused himself in the past on AEI or Appalachian units. Since the competing applications are Appalachian units, he may want to rethink that.

BUTCH LAMBERT: Mr. Ratliff, did bring that to my attention that he had recused himself. But as Mr. Ratliff found out later and he has informed the Board that he was wrong in those holdings. That they were not the cases that were competing.

TOM MULLINS: Thank you.

DONNIE RATLIFF: Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff.

DONNIE RATLIFF: If I'm wrong correct me. Don't lead me down the road. After I went back and looked, I had two companies confused. I don't know that we have any holdings in those companies. If you know of any, I'd like to know that.

TOM MULLINS: I thought that GeoMet and Alpha had some, but I'm not sure about that. I can't represent that. That's why I sat back down. I wasn't confident enough to say that out loud. That's when I turned and asked my people and they didn't know. I thought that Alpha and GeoMet had some units in which Alpha had some interest in because I know that Jill has appeared before.

DONNIE RATLIFF: I'd have to ask our legal people. I don't know.

BUTCH LAMBERT: Yeah, I think we need to maybe clarify this. We're only voting on a procedural rule at

this point.

TOM MULLINS: But it has been made applicable to pending case. So, it's not just a procedural rule, but it's a procedural rule that we're now targets specific interests that are pending before the Board for a decision today.

SHARON PIGEON: Well, there's a problem with that. We've got people that have recused themselves for various cases. You're going to have competing applications. For instance, Mrs. Dye has recused herself on CNX related things. So, on a procedural rule I think that's a step beyond what we're doing here.

TOM MULLINS: That's up to the Board to decide and each individual Board member to decide. Does this rule apply only to competing applications, Mr. Chairman?

BUTCH LAMBERT: I don't know why it would apply to those that were not competing.

TOM MULLINS: The way the rule is written, it is subjected to two different interpretations. So, if the Board saw fit to clarify that, it would be---

BUTCH LAMBERT: Thank you, Mr. Mullins.

DONNIE RATLIFF: Mr. Chairman, is that in the Nicewonder acquisition? Is that how those GeoMet wells came in?

TOM MULLINS: We don't know.

DONNIE RATLIFF: I don't either.

MARK SWARTZ: Mr. Chairman, you might...because I see an appeal coming, you might want to recite on the record the number of votes for and against so that an Appellate Court can know that the swing of one vote would make no difference in the outcome. Just a suggestion.

BUTCH LAMBERT: Thank you, Mr. Swartz. I think we have that recorded.

MARK SWARTZ: I just wanted to make sure.

DONNIE RATLIFF: Mr. Chairman, having voted on the prevailing side, could I ask for a revote?

BUTCH LAMBERT: Revote on?

DONNIE RATLIFF: The last motion.

BUTCH LAMBERT: The motion to---?

DONNIE RATLIFF: Make it effective today. Mr. Prather's motion.

SHARON PIGEON: I don't think procedurally you can.

BUTCH LAMBERT: I'm not so sure we can do that procedurally.

DONNIE RATLIFF: Okay.

MARY QUILLEN: Mr. Chairman, could we postpone this until Mr. Ratliff has an opportunity to check about Alpha's involvement.

SHARON PIGEON: His proposed conflict here doesn't

affect voting on a procedural matter. Just as Mrs. Dye who regularly has abstained on matters and Mr. Prather has, those are ongoing things. This is more in the nature of an in-house rule of how they handle their proceedings. Is that the question that you have?

MARY QUILLEN: Yes. Yes. That clarifies what you...yes.

SHARON PIGEON: So, these things do not impact his ability---

MARY QUILLEN: Okay.

SHARON PIGEON: ---or Mrs. Dye's ability or Mr. Prather's ability to vote on this motion.

MARY QUILLEN: Okay. Yes, that clarifies it. Thank you.

BUTCH LAMBERT: The next item is item number six. A petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit 420VA unit F-37, docket number VGOB-09-0421-2504. All parties wishing to testify, please come forward.

TOM MULLINS: Mr. Chairman, did the Board say one way or the other whether this was going to apply to only competing applications or not? I didn't hear that. That was not...if it was clarified, I missed it.

BUTCH LAMBERT: Yeah, I think at this point this

will apply to competing applicants.

TOM MULLINS: And not just stand alone petitions?

BUTCH LAMBERT: At this point in time, we're only considering for competing applications.

TOM MULLINS: Mr. Chairman, we are on the verge of working something out. In light of the Board's action, that may cause a wrinkle in the workout between AEI and GeoMet. It may have gummed up those works, so to speak. Can I have a moment to speak with Mr. Kaiser. They have set things backwards for us.

BUTCH LAMBERT: Okay. Let me ask the Board. We're going to skip down to item fourteen.

TOM MULLINS: That will be fine. That's one of the competing units.

BUTCH LAMBERT: Yeah, you're right. I'm sorry. We'll skip down to item nineteen. Probably...can you be ready as soon as we come back from lunch?

TOM MULLINS: Yes, sir.

JIM KAISER: Sure.

BUTCH LAMBERT: Okay. Okay, that docket item will be continued until after lunch. Next we're calling item number nineteen on the agenda.

JIM KAISER: Mr. Chairman.

BUTCH LAMBERT: Mr. Kaiser.

JIM KAISER: Just real quick before you get on to number nineteen to confirm the two motions that the Board made. So, what you're basically saying is that this procedural rule will only apply to competing applications?

BUTCH LAMBERT: At this---

JIM KAISER: I mean, I don't understand why it wouldn't apply to every application.

BUTCH LAMBERT: Well, we didn't discuss that as a Board. That's just something that I offered up. The Board...we can take that up for discussion if you think it would---

JIM KAISER: Well, I mean, I don't think it would make any sense any other way.

BRUCE PRATHER: I kind of agree with you.

MARY QUILLEN: Yeah. In order to drill a well---

BUTCH LAMBERT: Okay. I'll offer open discussion from the Board?

MARY QUILLEN: ---you have to have consent, you know.

BUTCH LAMBERT: Okay. We'll clarify that if the Board is in agreement that this will apply to all orders.

JIM KAISER: Okay. All applications.

BILL HARRIS: Do we need a motion?

SHARON PIGEON: Well, just to make a comment here

since you looked at me...it is a reaffirming of a rule that's already there and written down. So, I would---

JIM KAISER: Right. That always applied to every application.

SHARON PIGEON: ---recommend that the rule, as it's written, be applied or if you don't want to do that, then what you want to vote on is a revision to that rule.

BUTCH LAMBERT: Okay.

SHARON PIGEON: But reaffirming it means you affirm it as it was written and originally passed.

JIM KAISER: And as it was applied.

KATIE DYE: So, we was in error...error...this Board was in error anytime that we said that the consent to stimulate was a permitting application?

SHARON PIGEON: It is really both those things.

BUTCH LAMBERT: It could go both ways.

KATIE DYE: It's a permitting issue. I mean, you know, before---

SHARON PIGEON: It's both things.

BUTCH LAMBERT: It's both.

KATIE DYE: ---we've always said that was a permitting issue and we've not acted on things.

SHARON PIGEON: And that's why we have things that are now deadlocked. That was probably the reason for the

rule originally and not to get into this position because there were competing applications filed.

KATIE DYE: I know in the past cases, you know, I remember that happening---

SHARON PIGEON: Yeah.

KATIE DYE: ---that we said, you know, the Board don't get involved in that because that consent to stimulate is strictly a permitting issue.

SHARON PIGEON: Well, it's not strictly a permitting issue. Before you went through those steps first, but that's how we got into this deadlocked situation that we're in. I think for a long period of time historically competing applications were not being filed and that's how it sort of fell off the radar screen for everyone.

TOM MULLINS: Mr. Chairman, as one of the people that was there in 1990 and that's here now, I can give you the historical prospective of it if the Board wants to know how it has been applied and what has been done.

SHARON PIGEON: Well, we've had the opportunity to read the transcript on it. So, we saw that.

BUTCH LAMBERT: And we---

TOM MULLINS: But there's no transcript on the subsequent actions. I know what's in the transcript on the

day that it was adopted. I was there and I've read the transcript. But the conduct of the Board and of the Chairman who was Chairman at the time the rule was adopted, the Chairman at the time that the permanent regulations were adopted and Chairman when he refused to permit evidence to be admitted for consent to stimulates in pooling applications is the interpretation of the agency that that rule is no longer in force and effect. That's part of the written presentation that we made. He is the one constant on the Board. So, historically it's a little different than as, I guess, the action that the Board has taken today has seemed to have implied.

BUTCH LAMBERT: Again, thank you for the comments. We appreciate that. I guess the discussion on the table now is, as Ms. Pigeon has pointed out, do we need to reaffirm that this would apply to all applicants and not just conflicted?

MARY QUILLEN: Do you need a motion?

BRUCE PRATHER: Do you need a new motion?

BUTCH LAMBERT: Yes, we'll take that in the form of a motion. I'd make a motion that this ruling affect all of the poolings and things from the Board and I think that it should cover everything.

BUTCH LAMBERT: I have a motion.

SHARON PIGEON: All pooling applications.

BUTCH LAMBERT: All pooling applications.

BRUCE PRATHER: Okay.

BUTCH LAMBERT: Do I have a second?

MARY QUILLEN: Second. I have a motion and a second. Any further discussion?

(No audible response.)

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

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

BUTCH LAMBERT: Opposed.

KATIE DYE: No. I think in order to do that, you know, and keep the Board from being in maybe jeopardy somehow, that would have to be retroactive, wouldn't it? Didn't we have...shouldn't we have required that along?

BUTCH LAMBERT: Well, I don't know how you make retroactive to applications we've already approved. I don't know how you go back and pull those up.

KATIE DYE: Well, you know, according to what I understand and what you guys are telling us today, that consent to stimulate should have been in all of those applications, right?

BRUCE PRATHER: It's being...it's a defacto thing

that has been in effect every since 1991. It just hasn't been used basically is what it amounts to.

SHARON PIGEON: Well, just to---.

KATIE DYE: Do we use part of what---?

SHARON PIGEON: Just to clarify---.

KATIE DYE: What's the standard? When do we use it and when do we don't?

SHARON PIGEON: Just to clarify, some of those had permits---.

BRUCE PRATHER: Well, I mean, it has applications.

SHARON PIGEON: Some of those pooling application were permitted. They were not all pooling applications without permits. So, there's no across the Board statement on this.

BUTCH LAMBERT: Okay. The motion has passed. We are back to item nineteen.

TOM MULLINS: One...can I ask one procedural point because this has to do with notice? If the pooling applications did not include the consent to stimulate document as a required filing, would there be a notice defect now for every pending application that did not include that as part of the applicant packet sent for every pending application here today? If it's a required filing, it's required to be attached to the application. If that

was not attached, would every single pending pooling application now have to be renoticed since there's a required filing that has not been made and included.

BUTCH LAMBERT: You still have to have your permit application. You would have to have that in the application. It would be my suggestion that when you present for your application and you have that consent to stimulate, that would cover what we've done here today.

TOM MULLINS: No. For the pending pooling applications, that's now a stand alone requirement that a consent to stimulate be accompanied the application itself for pooling...not for permitting, but for pooling. As a required document, that would need to be included in the application because the Board is now required that as a filing. It would have to be included as part of each pooling application filed, separate and apart from the permitting process because the Board has said now you've required it in both processes.

BUTCH LAMBERT: You're saying in the future?

TOM MULLINS: No. You didn't make it in the future. You didn't apply it for prospective. You applied it for every...every on the docket today and everything in the future. So, everything on the docket today that did not include a consent to stimulate document is a defective

notice under .19 of the Act.

SHARON PIGEON: Just to address that. What's required to be filed in the application and the notice is set out in the regulations and the statute. That is not this. This is part of the evidence that's going to be required in order for the Board to rule on this. So, it's not in that listing. That listing is set out in Regs.

TOM MULLINS: The Regs don't include this provision either.

SHARON PIGEON: The Regs don't include a whole lot of the stuff that's required to be presented in evidence in order to support your pooling application.

TOM MULLINS: No, I disagree. I think the regulation hit every item that must be proven before the Board to be able to---.

SHARON PIGEON: But you're saying two different things. Not what has to be proven. This does have to be proven, but it doesn't have to be put in your application. It's sent out ahead of time. There's a difference.

TOM MULLINS: It's a required...you just made it mandatory. As a mandatory attachment, how can someone make a decision?

MARK SWARTZ: My threshold of pain is finally exceeded here. I listened to the motions. Neither motion

said you have to file a written consent to stimulate with an application. None of the motions that have passed today have said that. My view of this, although perhaps somewhat simple minded is, you put your witness on the stand and you say, "Do you have a consent to stimulate?" And if they say, "Yes." you're good to go unless somebody proves they're lying, you know, which I don't think happens here. I mean, somebody is not going to come in and make that up. So, to go with Ms. Pigeon, you don't have to file a consent to stimulate. You're simply saying somebody needs to say, "We have the power to stimulate this unit to develop this unit." That's what I understood was being passed today. I'm sorry.

BUTCH LAMBERT: Thank you, gentlemen. We're moving on to item nineteen.

MARK SWARTZ: Okay. We're ready.

BUTCH LAMBERT: Item nineteen is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit N-73, docket number VGOB-09-0616-2523. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita for CNX.

(Off record discussion.)

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

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Yes.

Q. But need to know your name again.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Okay. And with regard to this application, what are your relevant job duties?

A. I'm the pooling supervisor.

Q. Okay. And did you either prepare or supervise the preparation of the notice of hearing and the application and the exhibits with regard to this pooling application for N-93?

A. N-73.

Q. N-73, I'm sorry.

A. Yes.

Q. And did you sign both the notice and the application?

A. I did.

Q. Okay. What kind of a unit is this?

A. Nora.

Q. How many acre?

A. 58.66.

Q. How many wells are proposed?

A. Two.

Q. Are they both in the window?

A. Yes.

Q. And have you given the Board a revised plat today?

A. Yes.

Q. And that revised plat, the only difference is you added the second well so they know where it is?

A. Yes.

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

A. Mailed by certified mail, return receipt requested on May the 15th, 2009. Published in the Bluefield Daily Telegraph on May the 29th, 2009.

Q. And you've got one respondent listed in the notice and in Exhibit B-3. Do you want to dismiss him?

Probably not, huh?

A. No.

Q. Okay. Do you want to add anybody?

A. No.

Q. All right. Have you provided the Director with your certificate that you got from the newspaper with regard to publication and with regard to your certificates concerning mailing?

A. Yes.

Q. When the notice was published in the newspaper, what appeared in the newspaper?

A. The notice and the location exhibit.

Q. Okay. So, the two page notice and then the little location exhibit that's next to the notice?

A. Yes.

Q. All right. This pertains to CBM wells, right?

A. Yes.

Q. And they're both intended to be fraced?

A. Yes.

Q. And do you have consent to stimulate, you meaning CNX, from the coal owners?

A. Yes.

Q. And who would the coal...relevant coal owner be here?

A. Island Creek.

Q. And let's look at your plat, are either one

of these wells drilled yet?

A. N-73 is.

Q. And that was obviously permitted before it was drilled?

A. Yes.

Q. And you had to file a consent to stimulate to get that permit?

A. Yes.

Q. Okay. What are you seeking...what interests are you seeking to pool in N-73?

A. 73.6618% of the oil and gas...of the coal from the oil and gas owner.

Q. Start again. What interests are you seeking to pool?

A. I'm going to pool 26.3382% of the oil and gas.

Q. Okay. And how much of the coal interest do you have under lease?

A. 73.6618%.

Q. Is that the coal or the oil and gas?

A. The oil and gas.

Q. Okay. And how much of the coal do you have leased?

A. A 100%.

Q. Okay. Is there escrow required?

A. Yes. For 1A, 1B, 1C and 4.

Q. Okay. And is the escrow requirement predicated upon conflicts between the coal and the oil and gas owners?

A. Yes.

Q. Have you accounted for and have an address for the one respondent?

A. Yes.

Q. So, you don't have any unlocateable issue?

A. No.

Q. Who is the applicant?

A. CNX Gas Company.

Q. And who is the applicant requesting be approved as the designated operator if the application is approved?

A. CNX Gas Company.

Q. Is CNX Gas Company 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 blanket bond on file as is required by law?

A. They do.

Q. Is it your opinion that if you take or combine the leasing and acquisition efforts in which CNX has been successful with a pooling order pooling Burton McClanahan that the rights and interests of all owners and claimants in this unit...the correlative rights and interests of all owners and claimants in this unit would be protected?

A. Yes.

Q. Is it your opinion, based on your experience with CNX over the years, that drilling two wells in the drilling window of this Nora unit is a reasonable way to produce the coalbed methane from within and under this unit?

A. Yes.

Q. Have you provided the Board with a cost estimate for these two wells on a combined basis and also on an individual basis?

A. Yes.

Q. What's the combined total dollar cost of

the two wells?

A. \$671,803.95.

Q. Okay. Taking either well, could you cover the details of the depth and permit number or not and the costs?

A. For N-73, the estimated depth is 2,326 feet and the permit number is 3287. N-73A the estimated depth 2,360 feet and there is no permit.

Q. Okay. And with regard to N-73, just breaking that out of the total cost, what's the estimated cost for that well?

A. \$347,472.10.

Q. N-73A?

A. \$324,331.85.

Q. And with regard to the interest that you were able to lease, what are your standard lease terms that you have offered?

A. Five dollars an acre per year with a five year paid up term and a one-eighth royalty.

Q. And would you recommend those terms...those lease terms to the Board to be inserted in any order that it might enter with regard to folks who could be deemed to have been leased?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

BILL HARRIS: Mr. Chairman.

BUTCH LAMBERT: Mr. Prather.

BILL HARRIS: There's a sign here.

BUTCH LAMBERT: Where's your sign? Right here.

BILL HARRIS: Just actually two or three little...I don't know if they're minor, but a couple of things. In your application, the second page, it says, "Notice is further given that this cause has been set forth." The hearing there is given as a Virginia Highlands Center where on the front the place is correctly listed here. Does that need to be changed or is that a problem in that application? It's just on the second page where we have, "Notice is further given..." The second paragraph from the end. That just indicates that the hearing will be today, but at the Higher Ed Center.

ANITA DUTY: That does need to be changed. Also, on the cover letter we do put---

BILL HARRIS: Right. I saw that. So, for people who were noticed, I guess is my question, would they have...of course, we can't say what they read. Hopefully, no folks are there waiting for us to present...for you all

to present the case. But it does have notice of hearing.  
It does give the correct location there.

ANITA DUTY: Well, there's also another cover sheet that goes with this that we put on top of it saying that it is in Lebanon.

BILL HARRIS: And this location is given...or was given for that?

ANITA DUTY: Yes. But that's something that I will make sure that---

BILL HARRIS: We fix.

ANITA DUTY: Yes.

BILL HARRIS: Okay. I don't know if it's a problem. It's one of those things that if it's a problem we would know about it by now, I guess. You would get calls or something. Another question. In your plat, I notice this is asking for two wells, N-73 and---

MARK SWARTZ: You have a revised plat.

BILL HARRIS: Ah, okay, that takes care of that question. Okay, one last---

MARK SWARTZ: Sometimes we actually catch mistakes in advance of getting here. Not always.

BILL HARRIS: That's...that's very good.

MARK SWARTZ: All right.

BILL HARRIS: That's very good. It's

good...because that was my question about where the other well was.

MARK SWARTZ: Fair enough. Fair enough.

BILL HARRIS: Okay. One last question, it's about the amount. This seems to be a lot higher than what we've been seeing before coalbed methane wells. Can you maybe address...you know, we've seeing...well, the 100s went to 200s and now we're 370 something. Is there...or whatever. Is there any particular item that may have gone up? I guess, I'm just curious...I mean, 347 that just seems like it's another notch above where we have been looking.

MARK SWARTZ: Just to kind of help Anita out---

BILL HARRIS: Yes.

MARK SWARTZ: ---and then you can respond. I remember, because I'm geezer, when we were under 200.

BILL HARRIS: Yes.

MARK SWARTZ: Okay. And then we did get into the 200s. But I'm thinking that we've been at 300 or above for a good while. Is that true, Anita?

ANITA DUTY: At least close to 300, yes. And there may be a site cost here that might be a little bit higher because of where we are and I could probably get you an answer.

BRUCE PRATHER: If you knew the elevations of

these...if these were way up on top of the mountain that will increase your AFE.

BILL HARRIS: That will increase the drilling depth. Okay, I'm just curious. I just see these rising and---

ANITA DUTY: My...just my recollection of these, these are over in our Bull Creek and this is where we're just actually getting over to where we're getting the pipeline in there. I can ask one of our guys that have stepped out for a minute if that's actually the case because it looks like the site prep costs is a little high too on these.

MARK SWARTZ: Because of that.

ANITA DUTY: Because of that.

MARK SWARTZ: Because of that, yes.

BILL HARRIS: Well, and related to that...it just left me. Wait a minute.

ANITA DUTY: This is way out to the west of our...most of our project.

BILL HARRIS: Yes.

ANITA DUTY: So, I'm...that's just my thought right now.

BILL HARRIS: Okay. Well, and related to that, one of these has been drilled already. So, are these costs...I

know some of them are in bold and I guess those are the actual costs.

ANITA DUTY: Yes.

BILL HARRIS: But I would think if this has already been drilled would not all of these be actual costs for the well---?

ANITA DUTY: It depends on like the AFEs and things if they're all closed because sometimes they're still costs that come through and there's maintenance and that type of thing. So, I don't...at this point, I don't think that it's hold enough to where all of these would be actual right now.

BILL HARRIS: Yeah, okay, this goes back to years ago I used to ask about, you know, actual costs that we wouldn't see. But...or didn't see. But, I guess, that just goes back to that. But anyway...okay. Thank you very much for your response.

SHARON PIGEON: Mark, would you provide a copy of this letter that has the correct location for the hearing---?

MARK SWARTZ: Sure. Do you have one with you? The cover letter?

ANITA DUTY: The cover letter? I have a copy of it.

MARK SWARTZ: We may have a copy with us right now

that we can use.

SHARON PIGEON: 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.

BRUCE PRATHER: 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 Board members signify by saying yes, but Katie Dye and Donnie Ratliff.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

DONNIE RATLIFF: I'll abstain.

BUTCH LAMBERT: Two abstentions, Mr. Ratliff and Mrs. Dye. Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: Ms. Duty, can we have this as an exhibit?

MARK SWARTZ: Yes.

ANITA DUTY: I don't have a copy of it. That's my

only---.

MARK SWARTZ: Can you send us a copy back?

BUTCH LAMBERT: We will make a copy.

ANITA DUTY: Okay.

MARK SWARTZ: Cool.

SHARON PIGEON: Yeah. And this will be Exhibit AA attached to this.

MARK SWARTZ: I think we already have an AA maybe. Do we...no, we're good. We're good. AA would work.

BUTCH LAMBERT: Okay, thank you, Mr. Swartz. You're approved. Mr. Mullins, are we back to---?

TOM MULLINS: Not to jump....I know you've jumped around a lot. I think GeoMet and I believe Appalachian is wanting to join in the request to continue docket items six through fifteen, if the Board would be so kind.

BUTCH LAMBERT: We'll continue those and I'll read them into the record after lunch.

TOM MULLINS: Okay.

BUTCH LAMBERT: Ladies and gentlemen, at this time, we're going to break for lunch.

MARY QUILLEN: Is that to July, one month?

JIM KAISER: Yes, July.

BUTCH LAMBERT: We're going to break for lunch. We'll resume again at ten after 1:00.

(Lunch.)

BUTCH LAMBERT: Okay, ladies and gentlemen, we're ready to reconvene. At this time, the following items will be continued to the July meeting: This is a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit 420 VA unit F-37, docket number VGOB-09-0421-2504; a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit 419 VA unit F-36, docket number VGOB-09-0421-2505; a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit 418 VA unit F-35, docket number VGOB-09-0421-2506; a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit 417 VA unit F-34, docket number VGOB-09-0421-2507; a petition from GeoMet Operating Company, Inc. for pooling of coalbed methane unit 416 VA unit F-33, docket number VGOB-09-0421-2508; a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-199 (F-37), docket number VGOB-09-0421-2517; a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-241 (F-33), docket number VGOB-09-0421-2518; a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-237 (F-36), docket number VGOB-09-0421-2519; also calling a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-245 (F-35), docket number VGOB-

09-0421-2520; and also calling a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-243 (F-34), docket number VGOB-09-0421-2521. Those items will be continued until the July meeting.

The next item is item number twenty. A petition from CNX Gas Company, LLC for pooling of coalbed methane unit S-57, docket number VGOB-09-0616-2524. 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're still under oath. Do you understand that?

A. Yes.

Q. Could you state your name for us, please?

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. And what is your job description or title with regard to the petition that we're here on today?

A. I'm the pooling supervisor.

Q. Okay. And did you either prepare the notice of hearing and application and related exhibits or supervisor their preparation?

A. Yes.

Q. And is it true that you signed both the notice of hearing and the application?

A. Yes.

MARK SWARTZ: Mr. Chairman, I would like to incorporate Anita's testimony with regard to the applicant, operator, her employment in general and her standard testimony with regard to standard lease terms from the prior docket item.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

Q. What kind of a unit is this?

A. Oakwood.

Q. 80?

A. 80 acre, uh-huh.

Q. Okay. How many wells are proposed for this unit?

A. Two.

Q. And where are they located in relation to the drilling window?

A. Within the window.

Q. And what interests have you been able to acquire in this unit?

A. 100% of the coal interest and 99.5% of the oil and gas interest.

Q. Okay. And then you're seeking to pool what interest or percentage of interest?

A. None of the coal and 0.5% of the oil and gas.

Q. Okay. What did you do to notify the people that you listed as respondents and other people that might be interested in this application or this hearing today?

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

Q. And have you---

BUTCH LAMBERT: We're having trouble hearing up here.

MARK SWARTZ: Oh, okay.

BUTCH LAMBERT: It must be the air conditioner or whatever.

Q. And have you provided the Director with copies of the certificate of publication from the newspaper?

A. Yes.

Q. And have you also provided the Director with your certificate with regard to mailing?

A. Yes.

Q. Between the time that you filed this application and today, have there been some changes that would effect who is you need to pool?

A. Yes.

Q. Have you provided the Board with some revised exhibits in that regard?

A. I have.

Q. And essentially is it true that what has happened is you have leased some additional interests and you need to pool fewer people?

A. Yes.

Q. Is the only respondent that needs to remain for purposes of pooling, Mr. Oscar F. Daily?

A. Yes.

Q. Okay. Have you provided the Board today with an Exhibit B-2?

A. Yes.

Q. And in B-2 have you listed the folks that you would like to dismiss as respondents and give them the reason?

A. I have.

Q. Okay. And those people by name are?

A. Holly Altizer Billbro, Donald Graham  
Altizer and Michael Newton Altizer.

Q. Okay. And those essentially are successors  
and assigns of the George D. Altizer heirs?

A. Yes.

Q. And the reason for dismissal is that you've  
been able to lease those people?

A. Yes.

Q. Okay. And the only person now remaining  
unleased or uncounted for in terms of an agreement at this  
moment is Oscar F. Daily and you don't want to dismiss him?

A. That's correct.

Q. Okay. Have you...in addition to  
submitting Exhibit B-2, have you revised any exhibits to  
reflect the fact that it's no longer necessary to pool these  
folks?

A. Yes. Exhibit A, page two.

Q. Okay. So, Exhibit A, page two the  
percentages change between the time that you filed and the  
time of the hearing because you need to pool less folks,  
right?

A. Right.

Q. And the testimony that you've given is to

the correct or updated percentage?

A. Yes.

Q. And you've also tendered a revised Exhibit B-3, which now is down to just one respondent, Mr. Daily?

A. Yes.

Q. And you have tendered a revised Exhibit E as well?

A. Yes.

Q. And is escrow required in this unit?

A. Yes, it is.

Q. For what reason?

A. Conflicts.

Q. Are there any split agreements in this unit?

A. No.

Q. Have you provided the Board with a cost estimate for these two wells?

A. Yes.

Q. What's the total?

A. \$610,242.38.

Q. Okay. And then taking them individually, if you could give us the costs, whether or not there's a permit and the estimated depth?

A. For S-57 the estimated cost is \$324,331.85.

The estimated depth is 2,360 feet. No permit. S-57A  
\$285,910.53, 1,982 feet estimated depth and permit number  
10510.

Q. And you've provided the Board with a  
revised Exhibit A-1, correct?

A. Yes.

Q. What changed?

A. Up in the upper lefthand corner it was  
labeled as Tazewell and Buchanan County. That unit is only  
in Tazewell County.

Q. It's still the same place on the grid? I  
was just---

A. Yes, it was just labeled up in the upper  
lefthand corner as Buchanan County also.

Q. Okay. Is it your opinion that if you could  
take...or combine a Board order pooling Mr. Daily with the  
leasing and acquisition efforts that CNX has been successful  
in that the correlative rights of all owners and claimants  
in this unit will be protected?

A. Yes.

Q. Is it your further testimony, based on your  
experience in the industry, that drilling two CBM wells and  
fracing them in this 80 acre Oakwood unit is a reasonable  
way to produce coalbed methane from, under and within this

unit?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

MARY QUILLEN: Mr. Chairman, just to clarify.

Anita, did you say that this is actually in Tazewell County or in Buchanan County?

ANITA DUTY: It's in Tazewell County.

MARY QUILLEN: It is in Tazewell County?

ANITA DUTY: Yes.

MARY QUILLEN: Okay.

BRUCE PRATHER: Mr. Chairman, I've got a question regarding that. What does Tennessee mean up here? Is that a state line?

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: That may be an indication of the Tennessee Valley Divide.

ANITA DUTY: I bet it is. Yeah.

DAVID ASBURY: It's not the state of Tennessee. It's probably the Tennessee Valley Divide. We need to confirm that, but that would be my guess.

ANITA DUTY: I can't give you an answer right now, but I can get you one.

MARK SWARTZ: Well, you can give them an answer.  
It's definitely not in the state of Tennessee.

(Laughs.)

BRUCE PRATHER: I was just wondering maybe the---

MARK SWARTZ: I would hope.

(Laughs.)

ANITA DUTY: It's not in Tennessee.

BRUCE PRATHER: Okay.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do you have anything further, Mr.  
Swartz?

MARK SWARTZ: Just that's just so hard to get to go  
places sometimes, you know.

(Laughs.)

MARK SWARTZ: No, I'm done.

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 Board members signify by saying yes, but  
Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank  
you, Mr. Swartz. It's approved. The item is a petition  
from CNX Gas Company, LLC for pooling of coalbed methane  
unit Z-56, docket number VGOB-09-0616-2525. All parties  
wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty on behalf  
of CNX Gas Company.

BUTCH LAMBERT: Seeing no others, 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 again  
for us.

A. Anita Duty.

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

A. Yes.

Q. Okay. Who do you work for?

A. CNX Land Resources.

Q. And what do you do for them in relation to this application?

A. Pooling supervisor.

Q. Okay. This is an application to pool an Oakwood 80 unit, is that right?

A. Yes.

Q. How many wells are proposed?

A. Two.

Q. Where are they located in relation to the window?

A. They're within the window.

Q. Okay. What did you do to notify people that are listed as respondents and others who might be interested in the fact that there was going to be a hearing today?

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

Q. And have you filed your proof of publication that you got from the newspaper and your certificates with regard to mailing with the Director?

A. Yes.

Q. When you published, what was it that actually appeared in the newspaper?

A. The notice and the location exhibit.

Q. Okay. Which is the A-1 exhibit?

A. Yes.

Q. Have you listed all of the respondents in the notice of hearing and again in B-3?

A. Yes.

Q. Do you want to add any today?

A. No.

Q. Do you want to dismiss any?

A. No.

Q. Okay. Could you tell the Board what interests you've acquired in this unit and what interests you're seeking to pool?

A. We have 99.0337% of the coal leased and we're seeking to pool 0.8663% of the coal. We have 97.1687% of the oil and gas leased and we're seeking to pool 2.8313%.

Q. Okay. Are there...is there an escrow requirement with regard to this unit?

A. Yes, Tract 3.

Q. Okay. And in that regard, have you provided the Board with a revised Exhibit E today?

A. Yes.

Q. And the change, I think, that you made was to simply delete a comment from the---

A. Yes.

Q. ---Exhibit E that accompanied the original filing?

A. Yes.

Q. And that comment appeared about a third of the way down on page one of four?

A. Yes.

Q. And would you read the comment you've deleted and then tell the Board why you did that?

A. According to the agreement between the parties named above, they will split the CBM royalties 50/50. I had also changed the heading above Penn Virginia Oil and Gas Corporation to say that they are the CBM royalty owner from the coal only. I didn't want it to be confused that they were going to split the royalty with the M. H. Lowe heirs as oil and gas owners.

Q. You didn't want to send that message?

A. Right.

Q. Okay. And is that...are those two changes on page one the only changes when you compare the original Exhibit E to the revised one?

A. Yes.

Q. And you've also tendered a revised Exhibit A-1, correct?

A. Yes.

Q. And why was that?

A. It was previously shown as Buchanan and Tazewell County in the upper lefthand corner also.

Q. The same issue we had the other one?

A. Yes.

Q. Okay. Have you provided the Board with a cost estimate?

A. Yes.

Q. And in that regard, what is the total cost for the two wells?

A. \$595,071.42.

Q. And then individually...could you give us the individual well costs, the permit numbers, if any, and the depths?

A. For Z-56, the costs is \$286,701.60. The estimated depth 1,422 feet and no permit. Z-56A \$308,369.82, the estimated depth 1,562 feet and the permit number is 10375.

Q. Is it true that there are no split agreements that you're aware of that affect this unit?

A. That's correct.

Q. Is it your opinion that drilling two frac wells in this Oakwood 80 within the drilling window is a reasonable way to develop the coalbed methane within and from this unit?

A. Yes.

Q. Is it your further testimony that if you combine a pooling order pooling order pooling the folks listed in the notice of hearing as respondents with the leasing and acquisition activities that CNX has been successful in that you will, in effect, have protected the correlative rights of all owners and claimants?

A. Yes.

MARK SWARTZ: Mr. Chairman, I don't think I requested that you incorporate Anita's prior testimony with regard to the applicant and operator, her employment and standard lease terms. I'd ask you to do that, if you would.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you. That's all I have.

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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

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

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item is item twenty-two. A petition from CNX Gas Company, LLC for the modification of the Middle Ridge Field Rules to allow for more than one well to be drilled in units AV114-124, AW114-124, AX114-124, AY114-124, AZ114-118, AZ121-124, BA114-117, BB114-119, BC114-115, BD114-115, BE114-119, BF114-119, BG114-119, BH114-119, BI114-117, BJ114-115, BK114-115, BL114-116, BM114-116, docket number VGOB-00-1017-0835-05. All parties with to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty and Jeremy Hayhurst on behalf of CNX.

(Jeremy Hayhurst is duly sworn.)

MARK SWARTZ: Anita is going to give you a

couple...we have two extra large maps of the area that we're talking. If you could perhaps share these to get a better sense of where we are. There should be an individual packet of the data exhibits for each of you, however.

DONNIE RATLIFF: Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff.

DONNIE RATLIFF: Just to clarify. We you call AW-114 and AW-124 you're calling the entire roll from 114 to 124.

BUTCH LAMBERT: That's correct, yes.

MARK SWARTZ: Right. That was his intent even though it didn't sound like it. Great. But that's good to clear that up. Now, if he had said, Ms. Pigeon, then I would have said it wasn't his intent.

(Laughs.)

SHARON PIGEON: Apparently, you can hear me.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. And I'm going to remind you that you've

been sworn before.

A. Okay.

Q. Who do you work for?

A. CNX Land Resources.

Q. Okay. Did you prepare this application for modification of the Middle Ridge I Field Rules to allow for infill drilling?

A. Yes.

Q. And did you undertake either personally or under your supervision to provide notice to the folks that you've listed in the II section of the notice of hearing?

A. I did.

Q. Okay. And what did you mail to those people for whom you had addresses?

A. The notice and that attached exhibits.

Q. Okay. And have you provided the Director with your certificates of publication in that regard?

A. Yes.

Q. And in addition to mailing, did you also publish?

A. Yes.

Q. And what did you publish?

A. The notice...the first three pages, the notice, application...no, just the notice and the location

plat.

Q. Okay. And that location plat is actually part...the last page of the---

A. Yes.

Q. ---application that the Board should...or the petition that the Board should have and the shaded area...that map with the shaded area actually appeared in the newspaper?

A. Yes.

Q. Have you provided...also provided the Director with the newspaper's certificate of publication concerning that publication?

A. Yes.

Q. Okay. And did you tell us when you published?

A. It was May the 30th, 2009.

Q. Okay. Do you want to add any respondents that were here today?

A. No.

Q. Okay. Do you want to dismiss any?

A. No.

Q. And is it true that in the description of the effective units it's actually from the first unit to the second one with the dash?

A. Yes.

Q. And just to anticipate a question, when you were putting this unit together, do you make an effort to only include units...when you were putting this application together, do you make an effort to only include units in the application that you've completed title on?

A. Yes.

Q. That's because you want to mail to everybody?

A. Correct.

Q. Is the irregular edge on the east a function of incomplete title?

A. Yes, it is.

Q. Okay. So, if you had more title completed you would be further to the east?

A. Yes.

Q. Okay. It's not driven by some difference underground, it's driven by title issues?

A. That's right.

Q. Okay. Are you asking the Board if this application is approved to allow you to drill more than one unit in the Middle Ridge units which are kind of in the turquoise color in the center of the larger map? Is that what you're requesting?

A. Yes.

Q. And is there a distance limitation that you acknowledge needs to be met between the two wells?

A. Yes.

Q. What's that distance? 600 feet?

A. Yes.

Q. Okay. And is it...is there also an requirement that we have accepted in the past that the second well be in the window?

A. Yes.

Q. Okay. And on a going forward basis, are you acknowledging that both of those requirements should be in the order?

A. Yes.

Q. The larger map that we've provided to the Board have you attempted in the colored areas surrounding the mining to give reference to the Board's docket numbers when we've been here for infill drilling before?

A. Yes, it is.

Q. And, obviously, we've been here on a number occasions?

A. We have.

MARK SWARTZ: Okay. I would like to switch gears and ask some questions of Mr. Hayhurst at this point.

Although, if there are questions of Anita, I can---

BUTCH LAMBERT: Let me see if the Board has any questions.

MARY QUILLEN: Just one clarification, Mr. Chairman. This says it's in Russell County. However, that...right here where it shows it on this it does not look like that's Russell County.

BRUCE PRATHER: It looks like Tazewell.

MARY QUILLEN: It's either Tazewell or Buchanan up in that upper ridges there...I mean, up in that upper area of that little schematic right there. It looks too far north to be Russell.

ANITA DUTY: Mine says Russell County. I don't know.

MARK SWARTZ: I'm not sure that we understand what you're---

BRUCE PRATHER: It...see this little sketch here?

MARK SWARTZ: Yes.

BRUCE PRATHER: Okay. If you look at that, this thing looks like it's in Tazewell County. It's just almost abutting up against the ones that we previously looked at.

MARY QUILLEN: Yeah. And Russell County doesn't go up that far comparing it to what was on the other one.

MARK SWARTZ: Actually they're talking about this.

ANITA DUTY: I know. But right here is the line on the---

MARK SWARTZ: Go up and show her that, okay.

(Anita Duty explains to Mary Quillen and Bruce Prather the line.)

MARY QUILLEN: Thank you. And here is Tennessee again.

BILL HARRIS: Yeah, Tennessee again.

(Laughs.)

BUTCH LAMBERT: But this map...but this map clears it up. That's the Tennessee Valley Divide.

(Laughs.)

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Swartz.

MARK SWARTZ: Okay, thank you. I'd like to call Jeremy Hayhurst.

JEREMY HAYHURST

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Jeremy, you've been sworn, right?

A. Yes.

Q. Okay. Could you state your name for us,  
please?

A. It's Jeremy Hayhurst.

Q. And who do you work for, Jeremy?

A. CNX Gas Corporation.

Q. And do you have a title with them?

A. I'm a senior reservoir engineer.

Q. Okay. And how long have you worked for  
CNX?

A. Just a little over five years.

Q. Are you graduate engineer?

A. Yes.

Q. When did you graduate?

A. In 2005 when I got my Masters.

Q. Okay. And what is your Masters in?

A. Petroleum Natural Gas Engineering.

Q. Okay. And when did you graduate with your  
undergraduate degree?

A. 2002.

Q. Okay. And what was that degree in?

A. In mechanical engineering.

Q. Okay. And has your work activities with

CNX with the last five years had a special emphasis?

A. Yes, it has.

Q. And what has that been?

A. On coalbed methane.

Q. In what areas or what states? Including Tennessee perhaps?

(Laughs.)

A. I've dealt with Tennessee, Illinois, Pennsylvania and Virginia.

Q. Okay. And to some extent West Virginia?

A. Yes, West Virginia also.

Q. Okay. And in looking or working as an engineer in Virginia, could you give the Board some idea of some of the issues that you have considered and looked into?

A. Just for---?

Q. Like just for illustrative purposes in terms of your experience.

A. It seems like in Virginia there's a lot of difference between West Virginia on a number of coals you can complete, horizontal drilling, permeability, gas content, relative perm, just, you know, completion procedures and just things you have to keep in mind when you're designing how you want to develop the field.

Q. And in Virginia you've addressed all of

those matters and what not?

A. That's correct.

Q. And, in fact, you've testified in front of this Board in the past.

A. I've not at this one.

Q. Oh, it's been---

A. It was in West Virginia.

Q. ---in West Virginia.

A. That's correct.

Q. Okay. Okay. I sometimes forget where I am. The...this large map that we've provided to the Board today, have you addressed so that you can share your views with the Board the question of infill drilling in this sort of turquoise area that we're here about today from the standpoint of a petition to allow additional wells?

A. Yes, I have.

Q. Have you review historical production data that we've previously provided to the Board when we've been here on infill drilling before?

A. Yes, I have.

Q. And in the packet of...did you prepare a packet of information to share with the Board today in support of this application?

A. Yes, I did.

Q. And can you tell me whether or not you attempted to sort of update the data from what had been submitted in the past to more current production data?

A. Yes, I did.

Q. Okay. If you could, refer to your...I don't know if you have an extra copy perhaps for me of this stuff. If not, I can share.

ANITA DUTY: I do.

Q. Great. Jeremy, if you could kind of work through your...actually before you do that, what is the basic reason why CNX and other companies are interested in infill drilling? I mean, what's the point of it?

A. Mostly why we want to infill drill is to get more gas out. If we're only getting a certain amount of recovery with one well, we want to drill another well to see if we can increase that recovery percentage.

Q. Is there something different about coalbed methane as opposed to conventional gas that makes second wells in close proximity to the initial well make more sense?

A. It's just a function of desorption, which is the pretty main factor in coalbed methane production. If you can drill wells closer together you can accelerate desorption and cause some positive interference between the

wells.

Q. Okay. Which is...which is not typically something that you would expect or experience in conventional wells?

A. No, that's correct.

Q. Okay. So, this is...this infill drilling desorption issue is something that is particular to coalbed methane?

A. That's correct.

Q. And, in general, what is the effect that you're looking for when you drill a second well and then we'll get to the data? But what is a petroleum engineer have in mind when you're drilling that second coalbed methane well?

A. We want to draw the reservoir pressure down as fast as you can...as fast as the reservoir will allow to influence desorption. It's based on the langloir isotherm and it's a function of pressure and gas content. The further you lower the pressure the more gas that's depleted. So, you want to drill another well to kind of accelerate the draw down so you can get more gas out before the well goes uneconomic...the original wells in the unit.

Q. Although this may not...this may be somewhat counterintuitive, I think what you...is what you're

telling us essentially that as you decrease pressure you increase production?

A. That's correct. Because in coalbed methane, more gas is stored at lower pressures.

Q. Let's work through your data.

A. Okay.

Q. The first chart that I have is an AW136 versus AW136 a daily production and that is over in the Brown area on the large map to sort of locate it. I'm I right?

A. That's correct.

Q. Okay. So, we're talking about...this would be actual data from this area?

A. That's correct.

Q. Okay. So, it would be an area to the east, right?

A. Yes.

Q. Is it from two units that you've identified?

A. That's one unit.

Q. One unit with two wells?

A. Two wells. We actually had a thirty acre well in that unit.

Q. Tell...tell the Board about the data and

then your conclusions based on the data with regard to your first chart.

A. Just what I wanted to share was how the original well was affected by the infill well. To show was there an increase in production, was there not an increase in production and actually what the thirty acre well produced. You also want...I wanted to kind of show it two different ways. As the time zero shifts, you can kind of look at it's actually production against the original well. Then showing when the well was actually drilled and the life of the original well. To show the impact that you would have just due to that increased interference desorption rate.

Q. Okay. Let's start with the times zero. That would be to the left. It would be...we would be paying attention to the blue line and the red line to the left of the chart, correct?

A. That's correct.

Q. And essentially you've got the two zeros there and that's the times zero starting point, right?

A. Yes.

Q. And the blue line starting at times zero is where the data on the original well began?

A. That's correct.

Q. And then the red line is the data on where the new well began and how it has been producing?

A. Yes.

Q. And are they...I mean, the red line data stops more quickly because that well was...that second well hasn't been in production as long, correct?

A. That's correct.

Q. But it appears that the red well or the second well is producing significantly more gas than the first well?

A. That's correct.

Q. And that it spiked pretty quickly in its life?

A. Yes.

Q. Okay. Is that something that you would expect based on your experience and your training?

A. Yes.

Q. If this is working, that's what you see?

A. That's correct.

Q. Okay. Now, shifting over to the other plot, which would be on the right hand side of this chart, what are we seeing over here in terms of the affect, in any, of the second well on the production of the first well?

A. We actually saw an increase and that's just

due to drawing the pressure down over a larger area so you can produce more gas and you can desorb more gas.

Q. This actually...the data from these two wells is almost like a textbook case isn't it?

A. That's correct.

Q. If you look at the production of this well, the blue line, at the time...at about the time the second well came online it was about 50 a day, right?

A. That's correct.

Q. And within a fairly short period of time the production from the first well went up to...now, it looks like it's up to nearly a 100?

A. That's correct.

Q. It almost doubled?

A. Yes.

Q. So, the idea here worked in this unit?

A. Yes, it did.

Q. Your next chart is some more data on two wells in another neighboring unit, right?

A. Yes.

Q. And this would also be two wells in another unit in this sort of brown small area to the east?

A. That's correct.

Q. Okay. And have you plotted the same that

you've plotted, the chart that we just spoke about?

A. Yes, we I did.

Q. Okay. Without going through this in detail, would you tell the Board whether or not the results here are consistent with the concept?

A. Yes, they do. I mean, when we drilled the second well we started seeing an increase in the offset well to increase the production and the desorption.

Q. And your second well came in at a great production level pretty quickly?

A. That's correct.

Q. Okay. Then we have a third chart which is...which does what for us? We've got AV-138. Is that the same general area just off to the east?

A. Yes, it is.

Q. Okay. And that's roll abutting the Oakwood Field?

A. That's correct.

Q. Okay. And once again, does the actual production from these well...is the actual well production from these two wells consistent with the idea or the idea or the theory?

A. That's...yes, it does.

Q. Then we have...a filler page with regard to

future results and now the charts that follow, are those to some extent predictions that you have made?

A. Yes, they are.

Q. Okay. Let's take the first time zero 60 acre and 30 acre infill chart and go ahead and tell the Board what you're plotting there and what this illustrates?

A. The 68 wells that's the original well in the unit. So, I kind of lumped a lot of the wells in this area that we're trying to get approvals on and shifted everything back to zero counting the variability with the production rates for each well. I wanted to take that data and kind of forecast what those wells would produce. Then I also wanted to show what the thirty acre wells were doing as opposed to the 60 acre wells.

Q. And the 60 acre wells is the blue line?

A. That's correct.

Q. And that's a combination of a number of wells?

A. That's correct.

Q. And is the red line also a combination of data of some of the wells that we've looked at?

A. Yes.

Q. Okay. And how do they compare then? I mean, what's the point? What do you observe from this?

A. Pretty much just we want to see what the variability is between the production of a 30 and 60. I mean, that's about it.

Q. Okay. And then we have accumulative productive chart which follows, correct?

A. Yes.

Q. And what have you shown here?

A. What we tried to do here was estimate the recoverable reserves from the original wells in the unit. We did this two...with two different methods. We did the decline curve analysis and we also did history matching with a simulator. What I did was take the 60 acre well times zero and I took into account all of the known reservoir perimeters and built that into a simulator and then I changed some variables that we don't know or can't control, which is frac half way. We know relative perm. We know permeability just due to injection fall off testing. We know our coal thickness and gas content. I just wanted to kind of build in everything that we knew and what we didn't know and try to history match the actual production that we're seeing from the original wells in the unit. We came up with a reserve total of about 560 million cubic feet of gas.

Q. Based on a combination of data and

simulation?

A. That's correct.

Q. And you've reported that total down at the bottom of this chart that numbered page eight?

A. Yes.

Q. Okay. Now, if we go to the next page, are you showing the increased or enhanced piece of the cumulative production due to the second well?

A. Yes.

Q. Okay. Go ahead and tell the Board how this shows that?

A. Yeah, I took the model and I took just a single well in the unit and then I built in a second well just based on the average time that our initial well was on production. With the first well you only recover about 56% of the gas in place. So, gas in place is about a bcf. With this extra well, you kind of have a combination of both some incremental and some acceleration. But the total incremental that you get from the well is a 175 million cubic feet, which brings your recovery percentage up to about 75%.

Q. Okay. So, what you're saying is the second well recovers a higher percent of the reserves in the unit than the one well would be expected to recover over the same

period?

A. That's correct.

Q. And is it also true that it recovers that additional gas quicker?

A. That's correct.

Q. And to some extent, I suppose, have you built in the fact that it might enhance the production of the first well?

A. Yes.

Q. Okay. So, you've taken all of those factors into account. Have you looked at whether or not the increase in production over the life of the well, as well as the enhanced or accelerated production whether or not that makes the second well economically sensible for your company---

A. Yes, we have.

Q. ---and what the economics---

A. Yes.

Q. And what is your view in that regards?

A. When you run the economics on that incremental case it's pretty complex. You have to take the wells that unaffected against the wells affected plus the incremental that you get from adding another well. We ran the economics just the other day and we exceed our cost a

capital, which means that they were economic just based on the incremental.

Q. Okay. Having look at the data...the actual data, having looked at the simulations and so forth, is it your opinion that from an engineering standpoint...from a reservoir standpoint it makes good engineering sense to infill drill the turquoise area that we're here on today?

A. Yes, it does.

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

BUTCH LAMBERT: Mr. Swartz, I'd like to make this as Exhibit AA.

MARK SWARTZ: That would be great. And maybe the big map could be a BB or something. Would that---

BUTCH LAMBERT: Mr. Hayhurst, I have a couple of question.

JEREMY HAYHURST: Okay.

BUTCH LAMBERT: Come back to your graphs on pages three, four and five.

JEREMY HAYHURST: Okay.

BUTCH LAMBERT: Can you tell me what happened to the second well between days 300 and days 1100?

JEREMY HAYHURST: On graph three?

BUTCH LAMBERT: Graph three.

JEREMY HAYHURST: Yeah, I don't know if it was

production issues. We don't have close communications with the field to know if something went on there production wise, were they holding pressure, some of the things that's going on there we don't...we don't know from the engineering point of view.

BUTCH LAMBERT: And you would say the same on graph four and graph five?

JEREMY HAYHURST: Yes, that's correct.

BUTCH LAMBERT: Okay. Then looking over at... turning it on over to page seven, if you're asking us to take into account the pages three, four and five, those graphs with that missing data that we don't have, which is a substantial missing link, how can we draw that...from looking at seven...on page seven, you're showing a decrease in your 60 acre well while an increase in the other...in your well. How can we make that relation?

JEREMY HAYHURST: There's a lot more wells in this subset and there's also wells that don't have infill wells drilled in the unit. So, you wouldn't have seen any incremental production increased desorption rate just based on this graph here. You have several hundred wells that goes into this number here.

BUTCH LAMBERT: So, I'm confused. If you're asking us to look at the data three, four and five.

BILL HARRIS: Mr. Chairman, let me...there may be a misinterpretation of three, four and five. My understanding of three, if we can go back and just talk about one of them, the red that's there is the second well. Is that correct?

JEREMY HAYHURST: That's correct.

BILL HARRIS: It went online about 1100 days after the first went online. Is that...about the times 0 is to lift that curve and bring it back and drop it in at zero times?

JEREMY HAYHURST: That's correct.

BILL HARRIS: So, that's the same data that is...that doesn't actually show up until the latter half of that. In reality it doesn't show up until then. But you graphically lifted that and put it at the beginning to show what that's doing in relation to what one by itself would have done.

JEREMY HAYHURST: That's correct.

BILL HARRIS: So, I'm not sure that there was a gap in---

BUTCH LAMBERT: Well, Mr. Harris, if you look at the two lines, they don't even match. They're different graphs of the second well. I could understand what Mr. Harris is saying if times zero matched the coming on production at 1100, but it doesn't.

BILL HARRIS: Well, that was my interpretation...  
yeah, I know what you're saying.

BUTCH LAMBERT: See if you overlap those two, I  
don't think they would match.

MARY QUILLEN: Yeah, if you looked at this one and  
dropped it back into...to point 0 and you overlaid that it  
wouldn't match up because there is some differences in---.

JEREMY HAYHURST: There's slight differences. I  
mean, there's not a lot.

BILL HARRIS: Well-.

BRUCE PRATHER: There's no increase in that  
first...in your over (inaudible) well, there's no increase  
in this one. As a matter of a fact, it's going down the  
last information you've got.

JEREMY HAYHURST: On the times 0 for all of them  
together?

BILL HARRIS: Are you look at---?

BRUCE PRATHER: I'm looking at the blue one times.

BILL HARRIS: You're looking at five.

BRUCE PRATHER: Yeah. Looking at blue on five.

MARK SWARTZ: Let me ask. When you look at the  
times 0, the production of the first well predated the  
drilling of the second well. So, that production on the  
times zero was completely unaffected by the second. I mean,

that's the historical data.

JEREMY HAYHURST: Oh, yes, that's correct.

MARK SWARTZ: Okay. And then when you put the second well in, taking page three as an example at roughly 1100 days, then you can...when it actually came online you can see its production and you can see its affect on the production of the first one. I mean, that...that's the real time...I mean, the stuff to the right, which is the real time (inaudible) the position of production. The other question that I would have for Mr. Hayhurst. Although you can look at the left and right hand red curves and I think legitimately say they're not identical, is the data the same and should they be identical?

JEREMY HAYHURST: Yes.

MARK SWARTZ: So, if there's a difference, it's...well, do you know how to account for the slight difference that appears?

BRUCE PRATHER: It just looks to me like you haven't got a connection between the original well and the new well on five. It look like you haven't reached that point.

JEREMY HAYHURST: Well, it depends on how far away the infill well was from the original well whether or not you would increase desorption on the original well when you

drill it, but there was no negative affect from drilling it. It's pretty much what we wanted to show.

BUTCH LAMBERT: So, let me finish my first question. What's...in this presentation and the discussion we just heard, what are we to take away from page seven on your graphs?

JEREMY HAYHURST: Seven is just to show you how the actual wells were going to produce and how the thirty acre wells were going to produce to show you that you can forecast through that data for the 60 acre wells and see what your recovery is going to be. Therefore, if you can get increase recovery from your 30 acre well that you wouldn't have gotten with your 60 acre well. I mean, it's tell you that you're getting incremental gas and it's going to be beneficial to drill that well.

MARY QUILLEN: Mr. Chairman, could I ask just a follow up on that?

BUTCH LAMBERT: Ms. Quillen.

MARY QUILLEN: If you...if you stretched this time out to more months and this is what you're just projecting, but if you should take it out then what you're saying is that the 30 acre is going to surpass the 60 acre production based on what you have or---?

JEREMY HAYHURST: It will probably cross the line.

It's not going to surpass with total reserve or recovery.

BRUCE PRATHER: Yeah, these things just go out so far and then they start down the slope.

JEREMY HAYHURST: Yes, that's correct.

BRUCE PRATHER: Yeah.

MARY QUILLEN: But, you know, if you took it out a little further it would give us a little bit better picture of that.

JEREMY HAYHURST: Of this actual?

MARY QUILLEN: Uh-huh.

JEREMY HAYHURST: I mean, that's all the data we have.

BRUCE PRATHER: That's all he has got.

BILL HARRIS: In other words---

MARY QUILLEN: Oh, this is the actual.

JEREMY HAYHURST: This is actual production.

BRUCE PRATHER: Actually, yeah. Yeah.

MARY QUILLEN: Okay. Okay. Okay.

BILL HARRIS: So, you have---

JEREMY HAYHURST: Shifted to times 0.

BILL HARRIS: ---twenty some months of infill drilling experience. So, that's what---

MARY QUILLEN: Okay.

BILL HARRIS: ---is showing.

MARY QUILLEN: I misunderstood. I thought this was a projection.

BUTCH LAMBERT: Any other questions from the Board?

DONNIE RATLIFF: Real quick, Mr. Chairman, if I may.

BUTCH LAMBERT: Mr. Ratliff.

DONNIE RATLIFF: You said that a 175 mmcf on your incremental reserves would cover the costs of the capital.

JEREMY HAYHURST: Yes.

DONNIE RATLIFF: And that time line is over 66 years.

JEREMY HAYHURST: 65 years. But most of your incremental comes within 16 years...16 and a half years.

DONNIE RATLIFF: So, if you're protecting the correlative rights and you're trying to recover the cost per capital, what...what are you looking at, a rate return, 15 or 20%?

JEREMY HAYHURST: At these gas prices, you're probably around 16%.

DONNIE RATLIFF: Okay.

BUTCH LAMBERT: Any other questions?

MARY QUILLEN: Mr. Chairman, just one more question. In this area that we have on this map, are there already wells drilled in each of these, most of them, some

of them, none of them?

JEREMY HAYHURST: Most of them have wells drilled in the units.

MARY QUILLEN: Most of them have one well?

JEREMY HAYHURST: 60 acre wells. Just one well in the unit.

MARY QUILLEN: Yeah. Okay. Most of them?

JEREMY HAYHURST: Yes.

MARY QUILLEN: Okay.

BUTCH LAMBERT: I don't have the big map in front of me, Mr. Hayhurst, but in your petition here, you mentioning that multiplication of the Middle Ridge and also the Oakwood Fields. Is that correct?

JEREMY HAYHURST: That's what it says. I noticed that earlier.

SHARON PIGEON: What should it say?

JEREMY HAYHURST: It should say Middle Ridge on the bottom two.

SHARON PIGEON: That's more understandable.

MARK SWARTZ: It's all in the Middle Ridge.

BUTCH LAMBERT: Any other questions from the Board?

BRUCE PRATHER: I have a question.

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: I assume these coal seams that

you're completing are all the same in both of these areas? In other words you have an area to the right about two or three miles east of it. I assume that you're certain that you'll have the same coal seams over there and you're not fracturing different coal seams.

JEREMY HAYHURST: Yeah, we have a pretty good geological model showing our coal thicknesses from area to area, plus we have quite a bit of desorption data showing the similarities between the two. So, yeah, we know that from here to here we pretty much have similar coals.

BRUCE PRATHER: It has been my experience that when you have a curve like you have on your 30 acre wells that usually you're going into the zone that has got real good permeability. In other words, they will built up for two or three years and maybe even further than that. But when you don't get into a zone that has got good permeability you're liable to just go up and straight down.

JEREMY HAYHURST: Go straight down?

BRUCE PRATHER: Yeah.

JEREMY HAYHURST: You've got...there's a (inaudible) of coalbed methane where you have a pressure dependent permeability, plus you then have major shrinkage. So, you end up with a permeability decrease initially just due to the draw down of pressure. But then you have the

major shrinking just due to production of coalbed methane, which kind of gives you an increase in permeability later on in the life. So, usually the major shrinkage gives you two times the permeability that you had initially.

BUTCH LAMBERT: Just another point of clarification, Mr. Hayhurst. In your petition under relief sought, I just want to make sure that you're asking for only one more additional well in the unit and not more than one in this petition, is that correct?

JEREMY HAYHURST: That's correct.

BUTCH LAMBERT: Any other questions from the Board?

BRUCE PRATHER: I've got a question. I assume that when you're talking about lowering the pressure, what you're actually talking about is pumping the water off the reservoir.

JEREMY HAYHURST: That's correct.

BRUCE PRATHER: Yeah.

BUTCH LAMBERT: Do I have a motion?

MARY QUILLEN: Motion to---.

DAVID ASBURY: Mr. Chairman, a question. Excuse me.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Is there an issue that this was published May the 30th and the mailing if for certification

that went out May 20? We're past the objection time with the notice. The affidavit or the notice was---

BUTCH LAMBERT: I'm sorry, we can't hear you, David.

DAVID ASBURY: The notice was May 30...publication was May the 30th and a lot of the notices were May 20, '09. Granted this is the second well.

MARK SWARTZ: I guess I don't understand because we don't have to publish. I mean, we publish voluntarily. You know, as long as we mailed within the time, we're good to go.

ANITA DUTY: The problem with the mail, just to kind of clarify it, we had over 500 notices to mail. We couldn't mail...we didn't think it was right to mail half of them at one point and half at another time. So, we ended up mailing all 500...I think 572 a few days later from the other notices. So, that was the reason...but we have proof of all of the mailing.

BUTCH LAMBERT: What was the date again, Mr. Asbury?

DAVID ASBURY: May the 30th. Under 361.19 it says that, "Such notice should be published at least twenty days.", and not it's ten days. It has been changed to ten on our part.

MARK SWARTZ: That's your publication requirement.

DIANE DAVIS: Yeah. That's what I told him.

That's ours.

MARK SWARTZ: It's not ours.

(Diane Davis explains to David Asbury.)

DAVID ASBURY: Maybe we don't.

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 Board members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, say no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz. Ladies and gentlemen, we're going to kind of deviate the agenda again just so that we can accommodate those citizens that are here waiting on cases. I would ask that if there are folks here that's waiting on cases, I'd ask that you let us know and we'll try to work you in today.

I know that we have a couple over here. Are there any others that are waiting to hear cases? If you could give us your docket number, please.

AUDIENCE MEMBER: It's docket number forty-seven.

BUTCH LAMBERT: Forty-seven. And over here, you alls was?

AUDIENCE MEMBER: Fifty-eight.

BUTCH LAMBERT: Fifty-eight.

AUDIENCE MEMBER: Fifty-six.

AUDIENCE MEMBER: Fifty-six.

AUDIENCE MEMBER: Forty-four.

BUTCH LAMBERT: Forty-four?

MARY QUILLEN: Forty-four.

BUTCH LAMBERT: Okay. We're going to take a quick ten minute break. Then when we come back, we'll get to those three---.

MARY QUILLEN: Forty-four and fifty-six.

BUTCH LAMBERT: ---cases.

(Break.)

BUTCH LAMBERT: Okay, ladies and gentlemen, we're ready to resume. At this time, I'd like to call item forty-four on our docket. That's a petition from Equitable Production Company for pooling of coalbed methane unit VC-502284, docket number VGOB-09-0616-2537. All parties

wishing to testify, please come forward.

JIM KAISER: Now, Mr. Chairman and Board members,  
Jim Kaiser and Rita Barrett on behalf of---

MERKE BROOKS: I've already talked to Mr. Garrett.

BUTCH LAMBERT: Okay. So, did you get your  
questions answered Ms. Brooks?

MURKEY BROOKS: I think so, yes. I guess so.

BUTCH LAMBERT: Okay.

BRUCE PRATHER: You're welcome to come up.

BUTCH LAMBERT: Would you like to come up and  
testify?

MERKE BROOKS: Well, I don't know. Well, yeah.

BILL HARRIS: You never know.

BUTCH LAMBERT: I'm sorry, Mr. Kaiser.

JIM KAISER: It's Jim Kaiser and Rita Barrett on  
behalf of EQT Production Company.

BUTCH LAMBERT: Ma'am, we need you to state your  
name for the record, please.

MERKE BROOKS: Merke Brooks...Merke Brooks.

BUTCH LAMBERT: Okay, thank you.

RITA BAILEY: Rita Bailey.

BUTCH LAMBERT: Rita Bailey, okay.

JUSTINE ROBERTS: Justine Roberts.

MURKEY BROOKS: This is my daughters.

BUTCH LAMBERT: Mr. Kaiser, you may proceed. You may proceed.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, if you'd state your name for the record, who you're employed by and in what capacity?

A. Rita Barrett, EQT, Big Stone Gap, Landman Four.

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

A. They do.

Q. Are you familiar with EQT's application seeking to pool any unleased interest in the unit for well number VC-502284, which was dated May the 15th, 2009?

A. Yes.

Q. Does EQT own drilling rights in the unit involved here?

A. We do.

Q. Prior to the filing of the application, was effort made to contact each of the respondents and an attempt made to work out a voluntary lease agreement with each?

A. Yes.

Q. What is the interest under lease to EQT within this unit?

A. The gas estate is a 100% leased.

Q. And the interest under lease to EQT within the coal estate in the unit?

A. 58.650%.

Q. Are all unleased parties set out at Exhibit B-3?

A. They are.

Q. So, 41.35% of the coal estate remains unleased?

A. That's correct.

Q. Okay. We don't have any unknowns in this unit?

A. We do not.

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

A. Yes.

Q. Are the addresses set out in Exhibit B to the application, the last known addresses for the respondents?

A. They are.

Q. Are you requesting this Board to force pool all unleased interest listed at Exhibit 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 twenty-five dollar bonus paid up, a five year term and a one-eighth royalty.

Q. And did you gain your familiarity with these fair market value rates by acquiring oil and gas leases, coalbed methane leases and other agreements in the unit involved here and in surrounding area?

A. Yes.

Q. In your opinion, do the terms you 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.

Q. Now, as to those respondents listed at 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) 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 respondents be in writing and sent to the applicant at EQT Production Company, Land Administration,

P. O. Box 23536, Pittsburgh, Pennsylvania 15222, Attention: Nicole Atkinson, Regulatory?

A. Yes.

Q. And should this be the address for all communications with the applicants concerning any force pooling order?

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Yes.

Q. Does the applicant expect the party electing to participate to pay those actual well costs in advance?

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 or cash bonus becoming due under the force pooling order?

A. Yes.

Q. Do you recommend that the order provide that if a respondent elects to participate but fails to pay their proportionate share of well costs, then the respondent's election to participate should be treated as having been withdrawn and void and such respondent should be deemed to have leased?

A. Yes.

Q. Do you recommend that the order provide that where a respondent elects to participate but defaults in regard to the payment of well costs any cash sum becoming payable to that respondent from the applicant be paid by the applicant be paid within 60 days after the last date on which that respondent could have paid or should have paid for their payment of well costs?

A. Yes.

Q. In this particular unit, we do have...we have a conflicting claim in---

A. Tract 2.

Q. ---Tract 2. So, the Board does need to

establish an escrow account for any proceeds attributable to Tract 2, is that correct?

A. That's correct.

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

A. EQT Production Company.

Q. What's the total depth of this proposed well?

A. 1,811 feet.

Q. Estimated reserves over the life of the unit?

A. 330 million cubic feet.

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

A. It has.

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. The dry hole costs are \$129,821. The completed well costs are \$327,128.

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: Ms. Brooks, do you have any comments?

MERKE BROOKS: Well, I just wanted to say that I own the coal and I have heard that when they get the gas out that the coal won't be saleable after that.

RITA BARRETT: Or damage it or make it not as marketable.

MERKE BROOKS: And that's why I'm objecting or not agreeing on it.

BUTCH LAMBERT: So, you are the coal owner. I think they submitted that information that you're the coal

owner in Tract 2.

RITA BARRETT: In Tract 2, yes.

JIM KAISER: Yes. It's a conflicting claim on Tract 2. Mr. Chairman, I would point out that the wellbore is over 750 feet from her property line.

BRUCE PRATHER: So, it's not on her---?

RITA BARRETT: No, sir.

JIM KAISER: No.

BRUCE PRATHER: ---property...her surface?

RITA BARRETT: Here's Ms.---

MERKE BROOKS: They have been coming to see me though or calling.

RITA BARRETT: Yeah, we've been trying to lease you.

RITA BARRETT: For three years.

MERKE BROOKS: For us to sign the lease. I must have something---

RITA BARRETT: She owns the coal. It's a coalbed methane well. But this is her tract---

JIM KAISER: Look at your plat.

RITA BARRETT: ---right here. 750 radius, you can see is not touch her tract. So, it isn't a correlative rights issue.

BILL HARRIS: So, what you're saying then is the

coal under her property should not be affected by the well that's drilled?

JIM KAISER: Correct.

RITA BARRETT: Yes.

BILL HARRIS: I just wanted to hear somebody say that.

RITA BARRETT: Yes.

BILL HARRIS: Okay.

RITA BAKER: Well, he just told us though that it would be fragmented two to three hundred---

RITA BARRETT: Frac...we explained the fracing process to them.

RITA BAKER: ---feet.

BILL HARRIS: From the well---

RITA BAKER: Yes.

BILL HARRIS: But, again, according to our plat 750 feet is drawn around it. So, it shouldn't be out that far. So, it should not reach the holdings that she has under Tract 2.

RITA BARRETT: Right. And we explained to Ms. Brooks and her daughters that coal is migratory.

BILL HARRIS: Not coal.

JIM KAISER: Gas is migratory.

RITA BARRETT: I'm sorry, coalbed methane is

migratory.

BILL HARRIS: I was going to say if that's

migratory.

RITA BARRETT: The gas---.

BILL HARRIS: Yes.

RITA BARRETT: ---will be drawn off of her tract,  
but it won't affect her coal.

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

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Ms. Brooks, do you understand---?

BUTCH LAMBERT: Can you speak, Mr. Asbury? We  
can't hear you up here.

DAVID ASBURY: Do you understand that you're not in  
conflict with EQT? That your conflict with the other gas  
owner of record, which is Ms. Deel? Do you understand that  
part?

MERKE BROOKS: Yes. But why do I have to sign it  
then if I'm not---?

DAVID ASBURY: Okay.

JIM KAISER: You don't have to sign anything.

DAVID ASBURY: No, you have rights as your coal.

MERKE BROOKS: Well, how come they sent me a  
contract---?

JIM KAISER: Well, we'd like to lease your

property. That's what we try to do before we come here.

MERKE BROOKS: Well, I know...I know I don't have to.

RITA BARRETT: For and I quote, "\$100".

COURT REPORTER: One at a time.

DAVID ASBURY: Well, it's important that you know that you do have rights as the coal owner. You do not have to sign anything---.

MERKE BROOKS: I know I didn't have to, but they keep asking me to.

DAVID ASBURY: Well---.

SHARON PIGEON: Well, they do have a burden to try to work with people. They have a due diligence requirement. So, that's part of the reason they keep asking you.

MERKE BROOKS: Yeah. Well, that's why I'm here objecting to. I just don't want to.

DAVID ASBURY: And even...even if...and Equitable, as I understand from this conversation, is trying to work with you on their gas lease.

MERKE BROOKS: Yes, they have been trying.

DAVID ASBURY: And if they try to work with you, one, it's under...it's important that you understand, you are not in conflict with them. But if you do get a lease with Equitable that a conflict still exists between you and

this Ms. Deel who says she owns the gas estate.

MERKE BROOKS: I agree that she owns it. I knew I owned just the coal only. That's why I didn't see no need for me to sign a lease.

BUTCH LAMBERT: You don't, Ms. Brooks. You aren't required to sign that lease. That's your option.

MERKE BROOKS: Good. I'm glad to hear somebody say that.

SHARON PIGEON: They are required to try.

BUTCH LAMBERT: They are required to ask you. That's right.

MERKE BROOKS: I'm sure they are. Yes, everyone has been real nice especially her.

RITA BARRETT: I'm a pretty nice person.

BUTCH LAMBERT: But, Ms. Brooks, what they are telling this Board that the well that they are asking to drilled will not impact your coal.

MERKE BROOKS: Yes, I understand what she's saying. I've just heard many things the opposite way.

JIM KAISER: Well, maybe it also need to be said that the reason the statute...the consent to stimulate statute was set up like that is for that very reason to protect any damage to coal. So, since this wellbore is more than 750 feet from your property line, your boundary line,

then there's a, at the very least, a statutory presumption that it won't affect your coal.

SHARON PIGEON: And, of course, your coal would need to be degassed if it were going to be mined anyway. But that's not before the Board.

MERKE BROOKS: Well, we have to decided that we'd go back home and think about it and talk it over. My husband it dead. So, there's just me and my two daughters.

MARY QUILLEN: Have you been...have you been approached or have been asked by this Ms. Deel to permit the drilling in that coal seam where she owns the gas rights and you own the coal rights?

MERKE BROOKS: I don't think no one has mentioned that.

MARY QUILLEN: No.

MERKE BROOKS: Well, except Brandon Baker.

JIM KAISER: Why would that occur?

SHARON PIGEON: It's just to avoid escrow.

JIM KAISER: Yeah, we talked to them about...we did tell them that as far as being able to get their one-eighth royalty they needed to go to her and try to work out a royalty split agreement or buy her gas interest or she even mentioned that she might want to sell her coal so she could...maybe they way to go is to sell her coal to Ms. Deel

and then there's no conflict and, you know, that's that.

MERKE BROOKS: Well, I had offered to seel it to Rural before he died. He said he wasn't...said he would have maybe if he had been younger. That's just been just a little while before he died that I talked to him. He called me a time or two. I guess he owned it and gave it to his sister probably. I don't know for sure now how that come about. But she owns it after he died.

RITA BARRETT: It was via his Will.

MERKE BROOKS: Yes, I guess so.

BUTCH LAMBERT: Okay, Ms.---

BILL HARRIS: Well---

BUTCH LAMBERT: I'm sorry, Mr. Harris.

BILL HARRIS: Let me just make a comment. Because one of the daughters mentioned about just \$100. We're not talking about...first of all, I guess, as a coal owner you have claim to the gas as well as---

RITA BAKER: I mean, I'm just quoting what they told her.

BILL HARRIS: Yes, yes. But we're not talking hand you a \$100 and that's it. It shouldn't it. We're assuming that if the gas is produced...a lot of things have to fall in place. But if the gas is produced and it is a well that produces and if there is some agreement between her and Ms.

Deel about who actually owns the gas. Now, see, the thing is there's still a disagreement as to do the coal owners or do the surface owners...oil people. But if that's agreeable between the two of them they could agree to a 50/50 split, for instance, and the one-eighth royalty that could be tens of dollars, hundreds or thousands of dollars or whatever, you would still get that if some agreement is reached with Ms. Deel. So, we're not talking about you get a \$100 and then that's it.

RITA BARRETT: Actually, she was offered \$2,500. That's our---

RITA BAKER: The last time.

MERKE BROOKS: The last time.

RITA BAKER: The first time you called it was a \$100.

SHARON PIGEON: But we're talking about two different things.

BILL HARRIS: But that's...but that's...we're talking two different things.

BUTCH LAMBERT: Wait, folks. We need just one speak at a time so we can...we can get this recorded.

BILL HARRIS: The amount of money they're talking about offering was a bonus for signing.

RITA BARRETT: Yes.

BILL HARRIS: Okay. That's what I understand. That should be in addition to royalties that you would be entitled to. So, we're not saying that you would get a \$100 and then that's it or 2500 and that's it. Presumably, there's going to be more. That was...that's what this is all about is that hopefully the gas is going to be able to be produced. If it is, then you would get...well, we say one-eighth royalty, but it's adjusted based on your percentage of ownership.

JIM KAISER: If they could set up a royalty split agreement with the gas owner, let's just say 50/50, then they would basically get about twenty and a half percent of one-eighth.

BILL HARRIS: So, you stand to get a substantial amount of the royalties from that well. But the \$100 or the 2500 is a bonus for signing a lease. Then everything else goes above that. So, they're not try to buy you out for a \$100 or for \$2500. The only reason I'm saying that is I heard you comment \$400 and I'm thinking wait a minute, hopefully, you don't have the idea that that's what...they're going to give you that and then walk away. No, that was a bonus for---

RITA BAKER: I was just quoting what they told her.

BILL HARRIS: Yes, I understand and I'm not

criticizing that. I'm just saying that you may just misunderstand how the whole system works. But that's...for signed the leasing that's a bonus for signing the lease. Then, once the gas is being produced you...again, you have to make some agreement because somebody else claims they own the gas as well. If you get with her and decide that you all will get 50/50...50 split, 50/50, then whatever money is attributable to you, whatever goes to you you would just split wit her. But the assumption is there's going to be more money from the gas once it's produced.

MERKE BROOKS: Well, I was going to say that I don't disagree that she owns it.

DAVID ASBURY: But you don't disagree that you own the coal or your deed---.

RITA BAKER: She owns the coal.

MERKE BROOKS: I own the coal. I have a deed for the coal only though.

BRUCE PRATHER: Is it just one seam or is it several seams?

MERKE BROOKS: I don't know.

RITA BAKER: We don't know.

MERKE BROOKS: We've never been told that.

RITA BAKER: It's a 100 acres.

JIM KAISER: You don't see a lot of horizontal

severances in Virginia.

RITA BAKER: It's a 100 acres of property.

BILL HARRIS: Who can they talk...they really...they need to talk with, I guess, somebody about what...because I'm not sure that you all have an accurate picture of what's happening.

MERKE BROOKS: Well, I agree. I don't know too much about it.

BUTCH LAMBERT: I think...I would suggest that you probably need to have an attorney whose versed in gas and oil law and talk to those folks.

MERKE BROOKS: Yes.

BUTCH LAMBERT: And I would...if Rita doesn't mind, I would say keep the communications open with Ms. Barrett and EQT.

RITA BARRETT: They have my business card.

BUTCH LAMBERT: But what we're today to decide whether or not to approve this petition based on the information we're given and what we're getting is that this well will not impact your coal.

MERKE BROOKS: Okay. All right. I'll just have to think about it I guess.

DAVID ASBURY: It's very complicated. Again, Counsel can help you and our office is available to help you

with questions. Again, it's real important that you understand that you're not in conflict with the gas company. You're first step is with the coal and gas owner, which is Ms. Deel.

BUTCH LAMBERT: Mr. Kaiser, do you have anything further?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved as submitted.

BUTCH LAMBERT: Do I have 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. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes, but Donnie Ratliff.)

BUTCH LAMBERT: Opposed, say no.

DONNIE RATLIFF: Abstain, Mr. Chairman.

BUTCH LAMBERT: One abstention, Mr. Ratliff.

Thank you, Mr. Kaiser and Ms. Barrett. It's approved.

Thank you for coming, Ms. Brooks.

MERKE BROOKS: Thank you.

BUTCH LAMBERT: I'll be calling item forty-seven.

It's a petition from Equitable Production Company for pooling of coalbed methane unit VCI-531370, docket number VGOB-09-0616-2539. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, again, Rita Barrett and Jim Kaiser on behalf of EQT Production.

COURT REPORTER: Please state your names, please.

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

LINDA NEECE: I'm Linda Neece, land owner.

BUTCH LAMBERT: I'm sorry, the recorder couldn't get that. Could you---?

LINDA NEECE: I'm Linda Neece.

JESSEE NEECE: I am Jessee Neece.

BUTCH LAMBERT: And we'll need you to raise your hand and be sworn, please.

(Linda Neece and Jessee Neece are duly sworn.)

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, if you'd again state your name for the record, who you're employed by and in what capacity.

A. Rita Barrett, EQT Corporation, Big Stone Gap, Virginia, Landman Four.

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

A. They do.

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

A. Yes.

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

A. We do.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What is the interest under lease to EQT within the gas estate in this unit?

A. 92.58%.

Q. And what is the interest of EQT under lease to the coal estate in this unit?

A. 92.58%.

Q. Are all unleased parties set out at Exhibit B-3?

A. They are.

Q. So, that means 7.42% of both the gas estate and coal estate remain unleased at this time?

A. That's correct.

Q. Okay. We don't have any unknowns in the unit?

A. No.

Q. Are you requesting this Board to force pool all unleased interest as 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. Twenty-five dollar an acre 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, at this time, I'd ask that the Board consider incorporating the testimony taken in docket number 2536 the previous item just heard regarding the three statutory options afforded any unleased parties and the ramifications and time frames in which they need to make those.

BUTCH LAMBERT: Accepted.

Q. Ms. Barrett, in this particular case, we have all fee mineral tracts. We do not have a conflicting claim. So, the Board does not need to establish an escrow account, is that correct?

A. That's correct.

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

A. Equitable Production Company.

Q. What's the total depth of this well?

A. 2,257 feet.

Q. Estimated reserves over the life of the unit?

A. 200 million cubic feet.

Q. Has an AFE been signed...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. Yes.

Q. Could you state the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$136,267. Completed well costs are \$372,528.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and 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. and Mrs. Neece, do you all have

questions or comments for us?

JESSEE NEECE: Well, I sent a certified letter, which I think that Mr. Asbury has an actual copy of. I faxed it to him, you know, email it to him and actual certified mail. Today was the first time that I had ever talked to someone about, you know, this well. We own...the well is going to be drilled on adjacent land to ours. In the said location where it's going to be drilled, we own ten acre mineral tract, coal and all. If you look on the...on the actual plat itself, we are the ones with Tom...the Tom Wright heirs. It says that we own gas, oil, coal and the CBM. You know, we've actually been up to this, you know, site where they're going to...you know, they actually drove a stake in the ground. It's within 150 feet of, you know, our actual...our property line. If you look at the actual plat...the well plat itself back on this page of where...you know, they have an actual, you know, sketch of how it's going to be. From the actual well VCI-531370 they're actual measurements bring it from this line back if you have to...200 feet. The property damage is going to be within 50 feet of our property line. Within and also which I just talked to, they said that it's actually not going to hurt us at all. But in the actual well...the well permit itself, it lists us that is actually going to be...the surface is

going to be disturbed on page 2 of 4B part. That to me, I mean, I don't...you know, that's my first reason for objection to this well. Secondly, this well is going to be drilled on the same...the same side of our property, which is our actual...our main like water source, pond and all, you know, where that's going to be there. We're, you know, actually fearing that this is going to sink our water. It could, in fact, pollute the pond that we have for our actual livestock that has, you know, actual fish in it and things like that. I was going to put a actual...a house seat next to where this well is going to be drilled. Now, they're wanting to put a well within, you know, 50 foot of where I was going to put a house up there on the top. We have been dealing with them for the past five years. We have never got, you know, any kind of, you know, cooperation with them. Now, they serve me a force actual pooling thing. That's, you know, some of my actual concerns, which I did, you know, document in writing and sent to this Board. So, I mean, this is going to potentially harm the water. I am the actual coal...you know, actual owner. I've read stuff about fracing, you know, with...you know, when their actual well plat is within one...at least 150 feet from my well...you know, what's to say they can't go in and under us, you know, and get our gas out, you know, our oil...or I'm sorry, not

oil, but, you know, coal that we own in and under there. I just think, you know, this is a very bad place for a well to be. When I just spoke with the people today when I show up to this hearing, which I don't think they really expected me to be here. So, that's what...that's what my actual feeling is.

BUTCH LAMBERT: Is there an actual...is the permit already issued for this well? Do you have a permit for this well, Ms. Barrett?

RITA BARRETT: I'm not sure. I know we have an application obviously. But I don't think that it has been approved yet.

DAVID ASBURY: I don't think it's...I think it's a pending application at this time.

BUTCH LAMBERT: Okay.

DAVID ASBURY: I can follow up on it, but that's my recollection.

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

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: Does this not go back to what we were talking about this morning, needing a consent to stimulate since they are fee mineral owners?

SHARON PIGEON: Effective next month, number one.

JIM KAISER: Well, I haven't seen...I did not get a

copy of the letter from Mr. Neece, nor did my client. But it sounds to me, at least at first blush, that these are mostly permit issues. I'm going to assume...I don't know for a fact, but I'm going to assume if we have a permit in Mr. Asbury's office, then we've got a consent to stimulate or we sure as heck wouldn't have filed it.

JESSEE NEECE: Well, you know, if I may add something---

JIM KAISER: It's a bifurcated process here.

JESSEE NEECE: -I...I have never signed nothing for them to...you know, to actual drill this well at all, you know...you know, nothing at all. I just actually, you know, carried out the instructions, which was the letter sent here and, you know, it said if you have an actual objection, please send a letter in writing within fifteen days to actual, you know...you know, him. I did that. I have phone...actual contact with Ms. Hagy in, you know, their office and Diane. So, that's what actually they...you know, that's what they told me to do. So, that's, you know... that's what I did because I, you know, Lord, didn't even know about this. Today is the first time that I actually got to speak to somebody, you know, about this said well.

JIM KAISER: Let's keep this in context. This is an increased density well. So, it's a second well in this

unit. So, I'm going to guess that he or somebody signed one for the first well because the first well is within 750 feet of his boundary. These things are treated as units. So, we're probably relying on a consent that they signed for the first well, would be my guess.

BUTCH LAMBERT: Would that be VC-3561?

JIM KAISER: Yeah.

RITA BARRETT: That's correct.

BRUCE PRATHER: Does he get income off---?

JESSEE NEECE: No.

BRUCE PRATHER: ---the first well?

JESSEE NEECE: Nothing.

RITA BARRETT: I'll have to verify who royalty is being paid on that tract in 3160...I'm sorry, in 3561.

BRUCE PRATHER: If it's being used I'd say he should have some royalties.

JIM KAISER: I'd say he was probably force pooled on that well.

BRUCE PRATHER: Yeah.

RITA BARRETT: And there's no conflict. So, there should be royalties being---.

JIM KAISER: Yeah. There's no escrow because they are fee mineral tracts.

JESSEE NEECE: Well, I'm telling you, I have never

received a cent and I am the land---

LINDA NEECE: None of us.

JESSEE NEECE: ---owner. So, you all can, you know...you can actual believe me or them. I am telling you the actual God's honest truth. I have never received and have never...I have never signed.

LINDA NEECE: I haven't either, Mr. Chairman.

JIM KAISER: We understand that. I don't know when that well was drilled or if it's even on line yet. But we can certainly, obviously, check on that.

BILL HARRIS: Let me...let me just ask a question also about...I'm just a little confused about the ownership here. The well down at the bottom of this square unit, the one that we're talking about, 531370, and it shows the well and all of the...you know, the circles are drawn based on that. Now, immediately above and to the right of that, it has Linda and Jesse Neece surface and that's you all.

JESSEE NEECE: Uh-huh.

BILL HARRIS: But I can't see what tract that...because four is shown separately unless I'm misreading something---

JESSEE NEECE: Four is actual...four, I believe, is our actual gas...our actual gas tract for our coal and gas, our actual mineral tract that we're actually on.

BILL HARRIS: So...I'm not sure who this question is for, but is this in two or where is--?

SHARON PIGEON: The well is in one.

BILL HARRIS: The well is in one, but what I'm saying is where they are listed right above that what tract is that considered to be in.

JIM KAISER: Yeah, I---.

MARY QUILLEN: It looks like two.

BILL HARRIS: But see, they're not listed.

JIM KAISER: Their mineral tract is that little...is the square right 3:00 o'clock if it was a clock.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: I've got a handout from another party that also has a conflict in this particular well. I think we faxed this. Terry...this came in from Terry---.

JESSEE NEECE: Terry Ball probably.

DAVID ASBURY: ---Ball. And the best I can piece this together is this unit was drilled with this first well in 1980...1996. The unit was approved. It was drilled. At that time, the tract you're speaking of was identified as Terry Ball and Viola M. Wright, surface, coal, oil and gas, which was unleased. So, I'm believing that's a force pooled entity. And---.

BUTCH LAMBERT: Mr. Neece, how long have you owned the property?

JESSEE NEECE: Our aunt passed away in May 2004. We have owned it since then. She, you know, actually did a Will. A actual...a Deed of Gift to me and my...you know, to me and, you know, my mother.

JIM KAISER: They actually both own 25%. Terry Ball own s 50%.

DAVID ASBURY: That's correct.

BUTCH LAMBERT: That's what I was getting at.

MARY QUILLEN: It looks like this is the Heirs...listed as Heirs of Tom Wright. Is that---?

JESSEE NEECE: That's us.

MARY QUILLEN: Well, Tom Wright isn't you. Who is Tom Wright?

LINDA NEECE: No, that's---.

JESSEE NEECE: No. But Tom...Tom Wright Aunt Viola's husband.

MARY QUILLEN: Okay. And then the Heirs are listed as Linda Neece and Jerry Neece owning one-half of the interest and Terry Ball owning one-half, 50% of the interest, and you all---.

JESSEE NEECE: The mineral actual tract.

LINDA NEECE: Just the mineral tract.

JESSEE NEECE: The...the actual land tract is all  
ours.

MARY QUILLEN: The gas, oil, coal and CBM.

BRUCE PRATHER: You own the surface.

JESSEE NEECE: Yes, the surface...all of the  
surface.

LINDA NEECE: We own all of the surface.

JESSEE NEECE: He...you know, he has actual  
interest in that one, you know, section.

MARY QUILLEN: It's listing gas, oil, coal and CBM.

JESSEE NEECE: Yeah. Coal actual...coal actual bed  
methane.

MARY QUILLEN: CBM. And that's what is listed---.

BILL HARRIS: But that's for Tract 4, is that  
correct?

MARY QUILLEN: That's what---.

JESSEE NEECE: Yes.

MARY QUILLEN: ---yeah, Tract 4.

BILL HARRIS: But just below that we have---.

MARY QUILLEN: I see...uh-huh.

JIM KAISER: Yeah, they have a separate tract of  
surface that's below their mineral tract.

RITA BARRETT: Right.

BILL HARRIS: And that's marked surface here.

JIM KAISER: Right.

RITA BARRETT: Right.

MARY QUILLEN: Right. And that's still...that's in Tract 2.

BILL HARRIS: Well, that's---.

DAVID ASBURY: I believe that's Terry Ball-

JESSEE NEECE: If, you know, I may...if I can draw your attention back to the page, the operation's plan for the in fact well---.

BUTCH LAMBERT: Mr. Neece, you're looking at the permit application and we don't have that in front of us.

JESSEE NEECE: Oh, okay.

MARY QUILLEN: We do not have any of that.

JESSEE NEECE: Well, I can actually, you know, show it to you, if you will, because I think it's something that is kind misconstrued myself. Right here, the surface owns on, you know, the actual records, you know, to be disturbed is ours.

MARY QUILLEN: Don't read it to me. I will read it.

JIM KAISER: Is Diane here?

DAVID ASBURY: She has gone to get the first---.

BUTCH LAMBERT: I guess one of the main question we have here is whether or not you were properly notified.

JESSEE NEECE: Well, I...you know, I actually spoke to the first actual man, you know...you know, just about twenty-five minutes ago.

JIM KAISER: Well, look here, I've got a green card signed by Jessee Neece.

BUTCH LAMBERT: That was my question. Mr. Neece, what did you receive in the mail that prompted you to write the letter to Mr. Asbury?

JESSEE NEECE: We received...I received something from EQT on May the 16th and from Wilhoit-.

LINDA NEECE: And Kaiser---

JESSEE NEECE: ---and Kaiser on May the 16th and that's why I actually wrote the letter.

BUTCH LAMBERT: Okay. And what did those documents ask you or inform you?

JESSEE NEECE: That...that actually there was going to be a forced...a forced actual pooling done.

SHARON PIGEON: Today?

JESSEE NEECE: Yes.

LINDA NEECE: Mr. Chairman, if I could---

JESSEE NEECE: And Mr...what was the guy's name we just talked to...just you know, twenty-five minutes ago?

LINDA NEECE: ---say something.

RITA BARRETT: Mark Draper.

LINDA NEECE: Mark Draper.

JESSEE NEECE: Yes.

RITA BARRETT: And we would like for him to be sworn.

(Mark Draper is duly sworn.)

BUTCH LAMBERT: Okay. Yeah, Mrs. Neece, you have a question.

LINDA NEECE: My concern is our water supply. Where we live upon top of a mountain, the only thing we have water wise, we don't have public water. The only thing we have is hand dug wells. That's our only water supply to furnish our homes and our pond and animals that we...you know, we was going to get animals, you know. We've not got them yet. But that's our only water supply that we have. That is mostly my objection of this well.

BUTCH LAMBERT: Okay. Mr. Neece, do you have anything further before I ask Mr. Kaiser a question?

JESSEE NEECE: I guess I'll wait until hear you....ask him a question because I don't have none at this time except to state that I actually total object to this well being drilled.

BUTCH LAMBERT: Mr. Kaiser, do you have anything further?

JIM KAISER: As far as the water issue goes, again,

that's an objection that would be handled at the permit level with the DGO. We could maybe to make him...to make Mr. Neece feel a little more comfortable we could bring somebody in to explain the water protection stream casing that's set and the statute that allows for replacement of the water if the water is damaged. You know, Mr. Asbury could comment as to history, how many wells have been drilled in Southwest Virginia and how many water problems there have been. Other than that, I guess I would say, in the main part, these obviously appear to be primarily permit objections. If you want to address his concerns with Equitable's efforts to contact him and reach an agreement with him, then we can put Mr. Draper on.

BUTCH LAMBERT: Actually, I would like to hear more about trying to talk with Mr. Neece on the issues that he has raised.

JIM KAISER: Okay.

BUTCH LAMBERT: So, if Mr. Draper could testify.

MARK DRAPER

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Draper, you've been sworn?

A. Yes, I have.

Q. Could you state your name for the record and who you're employed by?

A. Mark Draper.

Q. Okay. And could you just give us the total history and background on your attempts to contact Mr. Neece?

A. Well, I've...obviously, I've sent leasing to his mother and himself and Terry Ball. Any unleased parties in the unit. I've spoken with Ms. Farley on at least one...two occasions and indicated to her that I would like to get with her and her husband and her son, who's here today. I've been by both their house. I've left business cards at Mr. Neece's house with a note that I would be happy to get with him at any time that was mutually convenient. He told me today that he apologized or indicated that he had some work issues or just a lot going on that had inhibited him from getting with me. I did my best to answer their questions today about the preservation of water quality. If he had a concern about that, we could also perhaps a lease with an exhibit that would address well spring damage and that sort of thing. But I have made several trips to the Middle of World at his residence and several calls to try to get up with him.

BUTCH LAMBERT: Mr. Kaiser, can we get on the

record what his experience is?

Q. I'm sorry. Your experience with Equitable in the industry.

A. Six years in the industry of oil and gas. I'm a registered professional landman.

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

BRUCE PRATHER: I have a question.

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: You say that your water well is up on the hill, is that correct?

LINDA NEECE: Yes, it is.

BRUCE PRATHER: Is the elevation of this location is it above...would it be above or below where this well is?

JESSEE NEECE: It's about the same. It's about the same.

BRUCE PRATHER: Is the well on top of the hill too? It has got an elevation of 2200 feet.

JESSEE NEECE: The well is up on top of the hill. And, you know...so, you know, it's actually going to be close.

BRUCE PRATHER: Is it lower than your water well? Would it be starting, the drilling, lower than where your water well is?

JESSEE NEECE: No. No. It's---.

BRUCE PRATHER: Is it above your water well?

JESSEE NEECE: Yes.

BRUCE PRATHER: Okay. You would be getting some...okay.

RITA BARRETT: Well, the permit application should address that with the casing program.

BRUCE PRATHER: Normally...how deep is your water well?

JESSEE NEECE: The hug dug one, it's 25 feet...you know, 20 feet or somewhere in there. The pond actual source of water, I'm not sure how actual deep it is.

BRUCE PRATHER: Yeah, okay. Where the dug is, then does the water from the dug well seep into your pond? Is that your second spot?

JESSEE NEECE: It could...it could. I'm actually really not sure. It's a fairly large size pond that actually comes down in the same actual area. So, it's actual...it's very possible that it could.

BRUCE PRATHER: Normally, only takes about ten minutes to drill thirty feet. If they put a string a pipe in your wouldn't have any problems. It all depends really on what the conditions are and how much water they get. That's another problem you get. But if you're not very

deep, they can cover you pretty quick with casing and that's all you've got to...once you cover the casing up, no water...your water is going to be where it is. If they cement that water string in, they've got to use municipal water in their cements. So, you know, that's another safety factor that you've got. In other words, you've not got plenty of water in the cement.

BUTCH LAMBERT: Ms. Barrett, do you expect this well to be drilled before July 1?

RITA BARRETT: No.

BUTCH LAMBERT: Okay.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Diane's question about the permit and the filing of the permit. We did receive the permit application. It is on file with the Division of Gas and Oil, as well as your objection that was filed on May the 29th, received timely. So, the permit is on hold pending resolution of your objection. The note that we have is that EQT is working with the Neeces as far as a location of this well. And that the potential was there for EQT, it says, "Need to relocate due to surface owner objections." That's what the information that we have on file.

BUTCH LAMBERT: Is that a note from EQT?

DAVID ASBURY: That was a note received from EQT on this particular application.

BUTCH LAMBERT: And Mr. Neece is saying that they've never discussed those issues---.

JESSEE NEECE: I've never spoke to a man except for today.

KATIE DYE: Mr. Chairman.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: So, we don't have any concrete evidence so far, let me be clear on this and let me understand it, that these folks have given a consent to stimulate...a letter of consent to stimulate.

DAVID ASBURY: In the very...the answer is that we don't know right now. We can research that and find out for sure. But this unit, and I'm almost certain, as Mr. Kaiser has testified, when this unit was first developed in 1996 and the first well drilled, I'm almost positive that they had the consent to stimulate here or the well wouldn't have been---.

KATIE DYE: But there should be a record of that somewhere.

DAVID ASBURY: Yes. Yes.

KATIE DYE: And I think what...you know, what we should have these folks understand is, you know, their

rights and, you know, they have the right to deny consent to stimulate. Right? Am I correct?

DAVID ASBURY: Yes.

KATIE DYE: Where their coal is within this 750 foot radius, right?

DAVID ASBURY: As it was from---.

JIM KAISER: Well, I don't know. I may have misspoke there. With the plat that Mr. Ratliff gave me, it looks like that tract may be more than 750 feet from that first well.

JESSEE NEECE: It...you know, it actual states within that actual well permit that it's within that. That's, you know, what they, you know, came to.

BRUCE PRATHER: Mr. Chairman, I've got a comment. If the well is not going to be on your property, why does Equitable need to get a consent to stimulate? I mean, where the well---.

KATIE DYE: Because they're within---.

BRUCE PRATHER: ---is drilled is where you need the consent to stimulate.

KATIE DYE: Because they're within 750 feet of their block of coal and they don't have consent to stimulate. Am I correct, Mr. Asbury?

RITA BARRETT: We are...we're looking at the letter

that Mr. Ratliff gave us. The initial well was more 750 feet off the tract. We're going to continue this 1370 until we can A) move the well; or B) that Mr. Neece and his sister are comfortable with this.

BUTCH LAMBERT: Okay, Mr. Neece, we'll continue this until July.

RITA BARRETT: August.

BUTCH LAMBERT: August. Continue it until August. Thank you, Mr. Kaiser. Thank you, Mr. and Mrs. Neece. I appreciate it.

JESSEE NEECE: Can I please have the permit or whatever?

LINDA NEECE: They might want a copy of it.

BUTCH LAMBERT: No, we have it.

JESSEE NEECE: Thank you.

LINDA NEECE: Thank you.

BUTCH LAMBERT: Thank you.

(Off record discussion.)

BUTCH LAMBERT: Okay. We'll be calling item fifty-six. That's a petition from Range Resources-Pine Mountain, Inc for the establishment of a unit and pooling of well V-530110, docket number VGOB-09-0616-2546. All parties wishing to testify, please come forward.

TIM SCOTT: Tim Scott, Phil Horn and Gus Janson for

Range Resources-Pine Mountain, Inc.

COURT REPORTER: Please state your names.

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

MATTHEW OWENS: Matthew Owens.

GARY OWENS: Gary Owens.

JERLENE OWENS: Jerlene Owens.

BUTCH LAMBERT: We need to raise your raise your hands so you can be sworn.

(Phil Horn, Gus Janson, Matthew Owens, Gary Owens, Jerlene Owens are duly sworn.)

BUTCH LAMBERT: Mr. Scott, you may proceed.

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, please?

A. My name is Phil Horn. I'm employed by Range Resources-Pine Mountain, Inc. as land manager. I'm in charge of running the land department. One of my job descriptions is to get wells permitted and drilled.

Q. And you participated in the preparation of

this application, is that right?

A. Yes, I did.

Q. And how many acres does this unit contain?

A. 112.69.

Q. So, it's subjected to statewide spacing, is that correct?

A. Yes.

Q. Does Range Resources-Pine Mountain have drilling rights in this unit?

A. Yes, we do.

Q. Now, we've just now passed out to the Board members and to Mr. Asbury revised Exhibits B and B-3, is that correct?

A. That's correct.

Q. And why did we do that today?

A. Because we picked up some leases since we've applied for this application.

Q. As a result, are there individuals who should be dismissed from this application?

A. Yes, there are.

Q. And would you please list those people for us, please?

A. Owners in Tract 5, Deborah Green, Timothy and Lynn Reece, Michael Reece, Shirley and John P. Davidson,

Mildred Smith, (inaudible) Mullins, Luther Lee Sutherland, Lou Sutherland and Keith Sutherland.

Q. So, they should be dismissed today, is that right?

A. That's correct.

Q. Okay. So, you have a voluntary agreement with these individuals?

A. Yes.

Q. Now, as to the other parties listed on Exhibit B-3, have you tried to reach agreements with those persons?

A. Yes, we have. We've contacted and we've met with some of them. There are some unknowns that we could not find. The ones that we could find we either met with him at their residence or we've mailed them leases with a couple of them explaining what we're doing.

Q. Okay. So, you have made efforts to reach an agreement with those people?

A. Yes, we have.

Q. What percentage of the unit does Range Resources-Pine Mountain have under lease now that you have reached agreements with some of the parties respondent?

A. 78.987444%.

Q. And those parties who received notice of

this hearing, how were they notified?

A. By certified mail.

Q. And by what other means?

A. Also by publication in the Dickenson Star on June the 3rd, 2009.

Q. Are there any unknown owners in this unit?

A. Yes, there are.

Q. And have you tried to locate these persons?

A. Yes, we have.

Q. And how did you do that?

A. We checked the title at the Courthouse.

We've contacted people on the ground. We've contacted relatives. We've used the Internet and the White pages. We weren't able to find those particular people.

Q. Okay. So, you did make efforts to locate them, is that right?

A. Yes, we have.

Q. Okay. Have you filed proofs of publication and proof of mailing with Mr. Asbury?

A. Yes, we have.

Q. Okay. Is Range Resources-Pine Mountain authorized to conduct business in the Commonwealth?

A. Yes, we are.

Q. Is it registered with the Board or the

Department?

A. Yes.

Q. Is there a bond on file?

A. Yes, there is.

Q. If you were able to reach an agreement with the parties who are listed on Exhibit B-3 with whom you've not reached an agreement, what would those terms be?

A. Twenty-five dollars per acre for a five year paid up lease that provides for a one-eighth royalty.

Q. Okay. Is this a reasonable payment for such rights in this area?

A. Yes, it is.

Q. Okay. What percentage of the oil and gas estate is Range-Resources attempting to pool here?

A. 21.0125556%.

Q. And you just indicated that we have some people who we don't know, right?

A. That's correct.

Q. So, we do have an escrow requirement here?

A. Yes, we have.

Q. Have we submitted an Exhibit E with our application?

A. Yes, we have.

Q. What tracts are subjected to escrow?

A. Tracts 2 and Tracts 5.

Q. And what percentage of the unit is subjected to escrow?

A. 10.4526667%.

Q. Are you now requesting the Board to lease the parties or to force pool the parties listed on Exhibit B-3?

A. Yes, we are.

Q. And are you asking that Range Resources-Pine Mountain be listed as the operator?

A. Yes.

Q. Now, if we...if we the Board grants our application today, who should any elections be sent to and to where?

A. It would be to Range Resources-Pine Mountain, Inc., P. O. Box 2136, Abingdon, Virginia 24212, Attention: Phil Horn.

Q. And this is for all communications?

A. Yes.

Q. Okay.

TIM SCOTT: That's all I have for Mr. Horn.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. and Mrs. Owens, do you have any

comments?

MATTHEW OWENS: I've actually got a question or two. This might be elementary, but if their lease all, of course, lays out three options for the property owner. So, if force pooling is enforced by the Board, what sort of detailed information will we receive to make a determination on which of those three we would like to chose? For example, establishment of a reasonable fee for the operator. Would that be established today or is that kind of a working number or how does...how would that work?

BUTCH LAMBERT: Would you like to address that, Mr. Asbury?

DAVID ASBURY: The options, if you're a gas owner, you will receive a supplemental order if approved by the Board and your options will be laid out in paragraphs 9:1, 9:2 and 9:3. The reasonable cost estimate, if you decide that you want to be part of the operator and have your share of the gas and participate and make an election to participate with the gas owner, the way that's calculated they're going to present evidence before the Board today that the well is going to cost them a certain amount of money. Let's assume that's \$400,000. Then you would take your percentage of ownership in this unit divided by...your acres divided by the number of acres in this unit, which

represents your percentage share of the gas in this unit. You would then take that percentage times the \$400,000 and that would be the money that you would pay up front. Now, there's time elements stipulated here. The supplemental order, you have to respond within thirty days that you want to make one of these elections. The second thing is you have to pay...under option one you would pay your money up front. There's also other options in there which talks about being a carried base operator, which means you...if you're leased it's 300%, if you're unleased it's 200%. All of this is spelled out in plan language in the Board itself. But if you decide you want to make that election, be a part of that well operation, again, you have to understand that you share the risk and benefits of this well as the operator. So, it's like a business venture. You have benefits if the well is a high production well that you would own part of this business for acreage percentage. But also if there's a catastrophic event associated with that, your percentage of that liability also carries. So, it's a business decision. Those elections are spelled out to you in the supplemental order that you would receive from the gas operator after the Board approves that. You have thirty days to make that election. Forty-five days if there's money transactions up front. Absent that, paragraph ten

says if you make no election, then you are deemed to have leased. Then you would be more or less a royalty owner and that's where you would be paid a royalty of one-eighth less post production costs.

BUTCH LAMBERT: Thank you, Mr. Asbury. Does that answer your question, Mr. Owens?

MATTHEW OWENS: Well, somewhat. Just option two kind of having a working interest in the well would require a lot more data to determine things like timing, for example. It looks like the proposed costs are \$607,000. I wouldn't think you would just write a blind check of a percentage of that without any information on the schedule of when they're going to drill the well or any other details about the well.

BUTCH LAMBERT: I think that would be something that you would work out with the company once you receive the supplemental order if we approve the force pooling. Once you get that order, then that's when you would enter into your negotiations with the company on which option you would elect and how you would participate with that option.

MATTHEW OWENS: Under the supplemental order, if you...would you have to...what I'm saying is if you chose number two do you blindly chose number two or do you get the information before you decide which of the three that you're

going to chose to participate in or that you chose to negotiate?

BUTCH LAMBERT: In just a few minutes I think we're going to hear testimony of what this projected well is going to cost. Of course, that's one option that you have to participate. For the other two options, that would be something that you negotiate with the company.

DAVID ASBURY: And it is your...it is your right if you want to make the election, then it's important for you to know in making these elections that you get it in writing to the operator within that thirty days that you want to make this election. Then, your part of this business and you have to negotiate. It's not up to the Board. It's not up to the Division. It's up to you now as a partner with this gas producer to negotiate your business arrangements.

MATTHEW OWENS: And that would be my concern if it's a force pooling, you've got one of three elections to make and the second election is a working interest in this business. It would difficult for me to say, yes, I want to get in this business if I don't have details of like the timeliness of when construction on the well would start and when expected production would be and if they're going to provide that shortly---.

BUTCH LAMBERT: Yeah. And that's why it's very

important that you respond within that time frame...that you meet that time frame. That gives you the opportunity to enter into these negotiations with the company.

DAVID ASBURY: And ask those questions.

BILL HARRIS: If I might, be opened about this, yes, there is a risk. It's like any other business. You're not really sure what the production is going to be. The only obligation is whether they start within two years after the initial order on something. The order expires within two years. I may be wrong in that two years.

DAVID ASBURY: The order...the permit application expires.

BILL HARRIS: Yeah. Once they're granted a permit to drill, they have to do that within two years. Otherwise that's dead. Now, see this is...this is some of the risky part of it when you elect to pay money up front because there are certain things that nobody knows until it happens. Hopefully, everything goes well. But, yeah, you're asking the question I think everybody would ask. How do I know this is a good investment, you know? How do I know it's going to get drilled right away and that there's not going to be problems? Nobody knows that.

DAVID ASBURY: And you're asking good questions.

MATTHEW OWENS: There may or may not be problems,

obviously. I know you can't predict what the well will produce.

BILL HARRIS: Yeah. But the main thing they can do is give you a dollar figure that it will probably cost this amount and that if you elect...if your part is 10% to come up with the 10%. Again, there are a variety of ways to do that. You can actually be carried, but they would have to accumulate money before they start paying you. But you could actually still benefit that way without putting money up front. But---

MATTHEW OWENS: As a hypothetical if you did chose to participate in the well as full participation, would you...by detailed terms and conditions, I mean, would you stroke a check right then and just wait or would you be able to invest as they invest in this well? The production cost is estimated at \$607,000.

BILL HARRIS: Yeah, if you had 10% that's---

MATTHEW OWENS: The dry hole costs is 331. So, I assume that it's 10%. It would \$33,100. By detailed terms and conditions, I mean, when would you actually, you know...is that something that negotiated after you commit to be in the business venture?

BILL HARRIS: Once you make that commitment isn't it forty-five days...I think it's forty-five days before you

hand money over during which the well may not be drilled and, of course, they may start it during that time if this is...and if it doesn't get started at that time it doesn't mean that they've taken your money and nothing is going to happen. There are different time lines and they do overlap. But usually companies...I don't know this is in the state regulations about money being paid up front, but it is being paid up front.

MATTHEW OWENS: Okay. So, you make an election within thirty days---

BILL HARRIS: And you pay---

MATTHEW OWENS: ---and if you chose the working interest, what information we have today is the only information that you're going to have?

BILL HARRIS: Unless they come forward with something else. I'm not saying they are withholding stuff from you. I'm saying some things are just not known.

MATTHEW OWENS: Uh-huh.

MARY QUILLEN: And working with the company, they are the source of the information. They've going to be, you know, the day to day operations and this...they do this day in and day out. They are the experts. They have pretty good insight. When they have drilled wells in that area and if you have listened to the testimony we ask, you know, what

was production...what was the production of the previous well in the same area, the same coal seams and that sort of thing? So, they have...they can give you...in this particular well, they do have a proposed life production of that well. Working closely with them, they would provide you with the information. Since I have been on this Board I have never had heard anybody that has come in that is a participating partner in a well that has had any kind of concerns of not getting information or having difficulty getting information when they're a working partner with one of the companies. You would probably know better than I do.

DAVID ASBURY: You want to make sure. It's just like you're going into any other business with anybody else. You need to know your business partners. There has to be an open communication and a level of trust before you get into that business relationship.

MATTHEW OWENS: And then you have a contractual obligation to them and they do to you.

DAVID ASBURY: Yes.

MATTHEW OWENS: And that's what I was getting at is the terms and conditions of that contractual obligation. One of those, of course, would be if it was a reasonable fee the applicant as an operator for operating costs. That would be a fee that they would be paid. I was just

wondering if that would be established by the Board today or perhaps that's what they're going to request themselves.

BRUCE PRATHER: Usually those operating costs are on a monthly basis. In other words, whatever it costs them to operate the well. Once it becomes a well then the operator and they will bill you on a monthly basis. Either that or deduct it from whatever the income is. It's usually---

BUTCH LAMBERT: We do not set those.

BRUCE PRATHER: We don't set those, but that's the way it's done.

SHARON PIGEON: You approve it.

MATTHEW OWENS: Oh, okay. I just saw that relief sought number. It says the relief that they're seeking was to establish a reasonable fee for it.

BUTCH LAMBERT: We approve that as part of this application, but we don't set the costs.

MATTHEW OWENS: Okay. Okay, so the determination of reasonable would be---

MARY QUILLEN: It varies from...yeah, it will vary from well to well.

BRUCE PRATHER: (Inaudible).

BILL HARRIS: Oh, I'm sorry, I didn't---

SHARON PIGEON: Another day...a full day.

BILL HARRIS: My chuckle had nothing to do with the operators. I'm just saying reasonable that's a question that we get all the time, what's reasonable and that's very difficult to answer. But it is...you know, once you make that decision you could stand to do very well financially, but then there's...like anything else there's also a risk involved. The nice thing about participating is you get into the other seven-eighths that's not available to you just as a royalty. So, that's why you might want to participate is that other seven-eighths you actually buy into part of that.

MATTHEW OWENS: And there will actual be an instrument that allows you to do that---?

BILL HARRIS: Yes.

MATTHEW OWENS: ---and I'm sure it's much more detailed---?

BILL HARRIS: And percentagewise and everything, yes.

MATTHEW OWENS: Okay.

KATIE DYE: Mr. Chairman.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: In order to maybe help Mr. Neece is the units that are adjacent to this unit, have they been drilled or are they producing until he could get an idea from what's

going on in the area?

DAVID ASBURY: That would be a very good question for them to ask that. We could ask...the gas producer could answer that question.

KATIE DYE: It would kind of give him something to look at, to give him an idea of what's going on.

MATTHEW OWENS: I think they estimated it 350 million cubic feet.

SHARON PIGEON: Mr. Owens, you don't have to wait on these things to happen in order to talk to them.

MATTHEW OWENS: Oh, yeah, we've spoke to them before.

SHARON PIGEON: These are just the cut off time limit that you've been quoted today. You can be negotiating as it were right now. In the election that you have, you notice there was a 200% for being an operator on one level, if you were unleased in 300%, if you were leased as a carried operator. Part of the reason there's a difference there is because you can work out a lease with terms of mutual advantage here. So, that's the reason there's a difference in that participating number anyway. So, that would address perhaps some of questions as far as the reasonableness of some of the costs that are approved potentially.

BRUCE PRATHER: Mr. Chairman, may I make a comment?

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: I tell you one thing that you probably want to do and that is have you got a CPA that does your taxes?

MATTHEW OWENS: I'm a certified public accountant.

BRUCE PRATHER: Okay. Then you know about the intangibles and the depletion.

MATTHEW OWENS: I do. Yes, sir.

BRUCE PRATHER: Okay. I was just going to tell you that that's part of the benefit.

MATTHEW OWENS: That's good advice though.

BUTCH LAMBERT: Anything further, Mr. Owens?

(No audible response.)

BUTCH LAMBERT: Mr. Scott.

TIM SCOTT: Thank you.

GUS JANSON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Janson, would you please state your name, by whom you're employed and your occupation?

A. My name is Gus Janson. I'm employed by Range Resources-Pine Mountain, Inc. as the manager of geology.

Q. And did you participate in the preparation of this application?

A. Yes, I did.

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

A. 4,873 feet.

Q. And what are the estimated reserves for this well?

A. 350 mcf.

Q. We've submitted an AFE, is that correct?

A. That's correct.

Q. And it was attached to the application, is that right?

A. Yes, sir.

Q. And did you participate in the preparation of that AFE?

A. Yes, I did.

Q. As a result, are you familiar with the proposed well costs?

A. Yes, I am.

Q. What's the estimated dry hole costs for this well?

A. \$331,815.

Q. And the estimated completed costs?

A. \$607,235.

Q. And, again, you did participate in the preparation of this AFE, is that right?

A. That's correct.

Q. Does AFE provide for...provide a reasonable charge for supervision? Is that right?

A. Yes, it does.

Q. And in your 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, it will.

TIM SCOTT: That's all I have for Mr. Janson.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Owens, do you have anything

further?

MATTHEW OWENS: No, sir.

BUTCH LAMBERT: Okay. 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 Board 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: Thank you, Mr. and Mrs. Owens and Mr. Owens. Thank you all for coming. Ladies and gentlemen, we're going to deviate from the docket one more time. This is just a procedural as a cleanup matter. If you look at agenda item number two, the Board on its own motion will review the escrow account...oh, I'm sorry, we've already done that. Item number three, the Board on its own motion will consider the investment risk assessment from the

Board's escrow agent Wachovia Corporation. Also, item number four, the Board...item number five, I'm sorry, the Board on its own motion will consider the revised scope of work and request for RFP related to an audit of the Board's escrow fund. This item was continued from May. Due to procedural reasons, we're going to continue those items until July.

JIM KAISER: Number two and five?

BUTCH LAMBERT: Two and five.

SHARON PIGEON: Three and five.

BUTCH LAMBERT: Three and five, I'm sorry. I'm sorry, three and five.

MARY QUILLEN: Three and five?

BUTCH LAMBERT: Three and five, yes. The Board...we were going into close session to hear those items, but due to circumstances, we will continue this until July. The next item is item thirty-four. It's a petition from Range Resources-Pine Mountain, Inc. for pooling of horizontal conventional gas unit VH-530149, docket number VGOB-09-0616-2526.

TIM SCOTT: I'm afraid to stand up.

BUTCH LAMBERT: All parties wishing to testify, please come forward.

TIM SCOTT: Tim Scott, Aaron Anderson and Gus

Janson for Range Resources-Pine Mountain.

(Aaron Anderson is duly sworn.)

BUTCH LAMBERT: You may continue, Mr. Scott.

TIM SCOTT: Thank you.

AARON ANDERSON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Okay. Mr. Anderson, have you...you've not testified before the Board before, is that right?

A. No, sir.

Q. Can you please tell us your name, your occupation, by whom you're employed and a little bit about your job experience?

A. I'm Aaron Anderson. I'm employed by Range Resources-Pine Mountain, Inc. I'm a land tech. I graduated from Virginia Tech in 2001 with a B.S. in natural resource management. I've worked with Range for two and a half years. I do title, land work and most of the exhibits for these Board hearings.

Q. And that's why I get five thousand emails from you, right?

A. That is correct.

Q. So... but you, as you just indicated, you did participate in the preparation of this application, is that correct?

A. Yes, sir.

Q. Now, this is...this unit contains how many acres?

A. 320 acres.

Q. Now, this is the unit that was established by the Board back in January, is that correct?

A. That's correct.

Q. Okay. Does Range Resources have drilling rights in this unit?

A. Yes.

Q. And are there any parties who are listed as respondents on Exhibit B-3 that we wish to dismiss today?

A. No.

Q. Okay. As to any of the individuals listed on Exhibit B-3, have you tried to reach a voluntary agreement with those persons?

A. Yes, we have.

Q. Okay. What percentage of this unit has Range Resources-Pine Mountain have under lease?

A. 85.37%.

Q. And as to those parties listed on Exhibit B, how was notice of this hearing affected?

A. By certified mail.

Q. And was there any other means?

A. We published in the Dickenson County Star and that was published May the 13th, 2009.

Q. And have those proofs of publication or proof of mailing been provided to Mr. Asbury?

A. Yes.

Q. Okay. Do we have any unknown owners in this unit?

A. Yes.

Q. And have you tried to locate these persons?

A. Yes. We did title work at the Courthouse, through relatives, Internet, tax tickets and all of that.

Q. Okay. So...but you did make a diligent effort to locate these people, is that correct?

A. Yes, sir.

Q. Has Pine Mountain registered with the Department?

A. Yes.

Q. And is there a blanket bond on file?

A. Yes.

Q. And you are authorized to conduct business

in the Commonwealth, is that correct?

A. That is correct.

Q. Now, if we were to reach a voluntary agreement with those parties listed on Exhibit B-3, what terms would you offer?

A. Twenty-five dollars per acre for a five year paid up lease and a one-eighth royalty.

Q. Is this considered to be a reasonable value for a lease in this area?

A. Yes.

Q. Okay. What percentage of the oil and gas estate is Range Resources-Pine Mountain seeking to pool?

A. 14.63.

Q. And we just indicated that we do have some unknowns, is that right?

A. That is correct.

Q. So, we do have an escrow requirement?

A. Yes.

Q. And can you please tell the Board what tract...tracts are subjected to escrow?

A. Tract number 7.

Q. And what is the percentage that's subjected to escrow?

A. 4.53.

Q. So, ultimately, you're asking the Board to pool those parties listed on Exhibit B-3, is that correct?

A. That is correct.

Q. And you're also asking that Range Resources-Pine Mountain be designated as operator under any pooling order, is that correct?

A. That's correct.

Q. And if...when the elections are sent out under a pooling order, who...to whose attention should it be addressed and at what address?

A. It should be attention Phil Horn, Range Resources-Pine Mountain, Inc., P. O. Box 2136, Abingdon, Virginia 24212.

Q. And this is...the address for all communications?

A. Yes.

TIM SCOTT: That's all I have for Mr. Anderson.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue.

TIM SCOTT: Thank you.

GUS JANSON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Janson, would you please again state your name, by whom you're employed and what your job description is.

A. Gus Janson, employed by Range Resources-Pine Mountain, Inc. as manager of geology.

Q. Now, we've filed our application with the Board. Did you participate in the preparation of that application?

A. Yes, I did.

Q. And you're familiar with the application?

A. Yes, I am.

Q. What's the proposed depth of this well?

A. 9,000 feet.

Q. And what are the estimated reserves for this well?

A. 1,000 mcf.

Q. And we also provided with our application an AFE, is that right?

A. That's correct.

Q. And I believe your signature is on that AFE, is that right?

A. Yes, it is.

Q. So, you participated in the preparation

thereof?

A. Yes.

Q. And are you also familiar with the proposed costs of this well?

A. Yes, I am.

Q. What's the estimated dry hole costs?

A. \$878,745.

Q. And the completed well costs?

A. \$1,572,249.

Q. Does the AFE also provide a reasonable charge for supervision?

A. Yes, it does.

Q. And ultimately does the granting of this application will it prevent waste, promote conservation and protect correlative rights?

A. Yes.

TIM SCOTT: That's all I have for Mr. Janson.

BUTCH LAMBERT: Questions from the Board?

BILL HARRIS: Mr. Chairman.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: This is going to be a stupid question. I'm sure it sounds that way. 9,000 feet. Can you tell us a little bit about that? It looks like most times that we've had wells they have been much less than

that. 5,000, I guess, were conventional. What's happening there?

GUS JANSON: As we stated there, this is a horizontal well unit, 320 acre unit. So, this will be a proposed horizontal well.

BILL HARRIS: Oh, okay. So, you're talking 9,000?

GUS JANSON: Correct, measured down. The total depth of the well.

BILL HARRIS: Okay. The word depth I'm thinking 9,000...I'm thinking woe, okay.

GUS JANSON: That's the standard terminology for measuring the depth of the well.

BILL HARRIS: Even though it's horizontal?

GUS JANSON: Correct.

BILL HARRIS: Thank you. That's it for me.

BUTCH LAMBERT: Any other questions?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Scott?

TIM SCOTT: That's all I have, Mr. Lambert.

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 Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Scott. It's  
approved. Next is item thirty-five. A petition from Range  
Resources-Pine Mountain, Inc. for a well location exception  
for proposed well V-530057, docket number VGOB-09-0616-2527.  
All parties wishing to testify, please come forward.

TIM SCOTT: Aaron Anderson and Gus Janson and Tim  
Scott for Range Resources-Pine Mountain.

BUTCH LAMBERT: You may proceed, Mr. Scott.

TIM SCOTT: Thank you.

AARON ANDERSON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Anderson, please state your name, by  
whom you're employed and again your job description.

A. Aaron Anderson, Range Resources, Land  
Technician.

Q. Are you familiar with this application?

A. Yes.

Q. And are you familiar with the ownership of the minerals underlying this unit?

A. Yes.

Q. And who operates wells number P-63 and P-22?

A. EQT Production.

Q. Does Range Resources-Pine Mountain also participate in that operation of those wells?

A. Yes, we do.

Q. And in this particular unit, Range Resources is not only an operator, it's also an oil and gas owner, is that correct?

A. That's correct.

Q. There's something a little unusual about this particular plat. I'd like Mr. Anderson to explain that. Up in the upper left corner, we have a designation. Could you please tell the Board what that is?

A. It's 37 acres of unlocateable coal.

Q. And we know who those individuals are, right? If we could find out where they are we know who the parties are.

A. It's the Oscar Count's heirs.

Q. And we've listed those on Exhibit B, is that correct?

A. That's correct.

Q. And we've also notified them by certified mail, is that correct?

A. That's correct.

Q. And as a result, have we provided proof of mailing to Mr. Asbury?

A. Yes.

TIM SCOTT: Okay. That's all I have for Mr. Anderson.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Scott.

TIM SCOTT: Thank you.

GUS JANSON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Janson, again, your name, your occupation and by whom you're employed.

A. My name is Gus Janson. I'm employed by Range Resources-Pine Mountain, Inc. as manager of geology.

Q. And did you also participate in the

preparation of this application?

A. Yes, I did.

Q. And do you have an exhibit that shows what we're attempting to do today?

A. Yes. I passed out to the Board members an Exhibit AA, which locates the proposed well 530057. You can see from the location of the well there are several existing offset wells in this area at this time and there would be no legal location without moving the well a significant distance away from the proposed location. In that event, we would stand approximately 105.41 acres of reserves that would not be produced.

SHARON PIGEON: Could you repeat that number for me?

A. 105.41 acres.

Q. What's the proposed depth of this well?

A. 4,631 feet.

Q. And what would be the potential loss of reserves if this application is not granted today?

A. 300 mcf.

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

A. Yes, it would.

TIM SCOTT: That's all I have for Mr. Janson.

BUTCH LAMBERT: Questions from the Board?

BILL HARRIS: I do have one just procedurally.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: I notice the circle in the handout.

Actually, there's an overlap with P-63. At what point do...and this is probably...maybe not asking you, but maybe asking someone here. At what point is a location exception...I know if there's overlap. But is there a minimum amount of overlap before that is submitted or are we considering the exception there as well?

TIM SCOTT: They were both listed in the application.

BILL HARRIS: Both were?

TIM SCOTT: Yes, sir.

BILL HARRIS: I miss...okay, that takes care of it.

Thank you.

BUTCH LAMBERT: Any other questions?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: 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 Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, say no.

(No audible response.)

BUTCH LAMBERT: The next item is thirty-six. A petition from GeoMet Operating Company for pooling of coalbed methane unit Rogers 211 VA unit ZZZ-39, docket number VGOB-09-0616-2528. All parties wishing to testify, please come forward.

PEBBLES DEEL: Mr. Chairman, Pebbles Deel on behalf of GeoMet Operating Company. With the Board's consent, GeoMet wishes to continue docket number item thirty-six until the July hearing.

BUTCH LAMBERT: Thank you, Ms. Deel. That will be granted. That item will be continued until July.

BUTCH LAMBERT: We're calling item thirty-seven. A petition from GeoMet Operating Company for pooling of coalbed methane unit Rogers 209 Rogers ZZZ-41, docket number 09-0616-2530. All parties wishing to testify, please come forward.

PEBBLES DEEL: Dallas Nestle and Pebbles Deel on

behalf of GeoMet Operating Company.

(Dallas Nestle is duly sworn.)

BUTCH LAMBERT: Ms. Deel, you may proceed.

PEBBLES DEEL: Thank you.

DALLAS NESTLE

DIRECT EXAMINATION

QUESTIONS BY MS. DEEL:

Q. Mr. Nestle, can you please state your full name?

A. Dallas Nestle.

Q. And by whom are you employed?

A. GeoMet Operating Company.

Q. And what is your title with GeoMet Operating Company?

A. Project manager.

Q. And what are your job duties?

A. Oversee the production, gathering and compression and moving up the gas in the Virginia and West Virginia properties.

Q. Does that include the overseeing of force pooling applications?

A. Yes, it does.

Q. Can you please give the Board a brief

educational and work history?

A. I work for Conoco Phillips for eighteen years and then Consol Energy/CNX for four years, (inaudible) Gas for fours years and GeoMet for seven months.

Q. And have you testified before this Board regarding force pooling on behalf of GeoMet Operating Company?

A. I have.

Q. Are you familiar with this application?

A. I am.

Q. And what is the unit number?

A. Rogers 209 VA unit ZZZ-41.

Q. And what field is this unit located?

A. Oakwood Field.

Q. And how many acres are in this unit?

A. 80.

Q. Are there any parties respondents listed in Exhibit B-3 who should be dismissed today?

A. No.

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

A. 100%.

Q. Mr. Nestle, I'm going to draw your attention to...and the Board's attention to the Exhibits B

and B-3. On Exhibit B under the coal estate and on B-3 for the coal estate, it shows LBR Holdings as the owner of the coal, is that correct?

A. Correct.

Q. Now, are you familiar with the fact that Island Creek Coal Company has a right to mine the coal underlying that tract?

A. Yes.

Q. And the omission in the Exhibit B in the application, is that a mistake? Is Island Creek supposed to be listed as having a right---

A. Yes.

Q. ---to mine on Exhibit B?

A. Yes.

Q. And was it a mistake that it was omitted?

A. Yes.

Q. Okay. Mr. Nestle, how much of the gas ownership does GeoMet have under lease?

A. 75%.

Q. And was notice sent to all the parties listed pursuant to the Virginia Code Section 45.1-361.19 by certified mail return receipt requested?

A. Yes.

Q. And are the receipt cards or green cards,

are those available for filing in Mr. Asbury's office post hearing?

A. Yes, they will be.

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

A. Yes.

Q. And has GeoMet filed a bond with the Department as required?

A. Yes.

Q. And what terms does GeoMet offer to those who voluntarily enter into a lease agreement with them?

A. Twenty dollars per acre with a five year paid up lease with a one-eighth royalty.

Q. And in your opinion, are these terms reasonable and fair?

A. Yes.

Q. What is the percentage of the oil and gas estate that GeoMet is asking the Board to pool in this unit?

A. 25%.

Q. And is there any percentage of the coal estate that needs to be pooled?

A. No.

Q. Are there any unknown or unlocateable owners in this unit?

A. No.

Q. What about parties whose interests are in dispute?

A. Yes.

Q. And are those located in the one and only tract in this unit?

A. Yes, they are.

Q. And what is the percentage that needs to be escrowed for the conflicting owners?

A. 25%.

Q. And has...and have you submitted an Exhibit E showing the conflicting owners?

A. Yes.

Q. Is GeoMet requesting that the Board pool the unleased interest in this unit?

A. Yes, we are.

Q. And are you asking that GeoMet be named operator of this unit?

A. Yes.

Q. Are you familiar with the total depth of the well in the proposed unit?

A. Yes.

Q. What is it?

A. 2,045 feet.

Q. And what about the estimated reserves for the unit?

A. 858 million cubic feet.

Q. And did you submit an estimated well cost with the application?

A. Yes.

Q. Was that estimated well cost sheet prepared at your direction?

A. Yes.

Q. And what is the estimated well completion costs?

A. \$478,058.

Q. And what about the dry hole costs?

A. \$259,570.

Q. And do these costs include a reasonable charge for supervision for the drilling of this unit?

A. Yes, they do.

Q. And would...in your opinion, would granting of this application promote the conservation and protect the correlative rights of the owners and claimants and prevent waste?

A. Yes.

PEBBLES DEEL: That's all I have, Mr. Chairman.

BUTCH LAMBERT: Any questions from the Board?

MARY QUILLEN: Has a permit been filed with this?

PEBBLES DEEL: I do not believe a permit has yet been filed, but one is definitely in the works to be filed shortly.

BUTCH LAMBERT: Ms. Deel, under Exhibit B as per your testimony, we will require an update...a revised Exhibit showing the Island Creek---

PEBBLES DEEL: That's not a problem, Mr. Chairman. We'd like to orally amend that exhibit on the record and ask the Board to consider force pooling it today with that one exception. It shouldn't...it doesn't affect the force pooling of the other.

BUTCH LAMBERT: Sure. But you'll go ahead and supply us a new exhibit?

PEBBLES DEEL: Yes, sir.

BUTCH LAMBERT: Okay. Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: 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 Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Ms. Deel.

PEBBLES DEEL: Thank you.

BUTCH LAMBERT: The next item is number thirty-eight. A petition from GeoMet Operating Company for pooling of coalbed methane unit Rogers 281 unit A-3, docket number VGOB-09-0616-2531. All parties wishing to testify, please come forward.

PEBBLES DEEL: Mr. Chairman, Pebbles Deel on behalf of GeoMet Operating Company. With the consent of the Board, GeoMet would wish to continue this docket item until July.

BUTCH LAMBERT: Thank you, Ms. Deel. That item will be continued until July.

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: This is also one that as far as the state is concerned we have unit issues with cross border unitization in West Virginia based on this plat.

BUTCH LAMBERT: Okay.

DAVID ASBURY: We'll have to...we'll also have to

work with our counterparts in West Virginia to get some type of understanding of how this unit will work as we go across state borders.

BUTCH LAMBERT: Just for the Board's information, is that why we're continue it?

PEBBLES DEEL: No, sir, that is not the original reason. But that is correct, it is a border well. It's about 43 and some odd acres bordering West Virginia.

BUTCH LAMBERT: Okay. Mr. Asbury is correct. We'll need to work jointly with West Virginia to resolve any issues they may have.

PEBBLES DEEL: Yes, sir.

BUTCH LAMBERT: That item will be continued. Thank you. The next item is number thirty-nine. A petition from GeoMet Operating Company for pooling of coalbed methane unit Rogers 284 VA unit B36, docket number VGOB-09-0616-2532. All parties wishing to testify, please come forward.

PEBBLES DEEL: Pebbles Deel and Dallas Nestle on behalf of GeoMet Operating Company.

BUTCH LAMBERT: You may proceed, Ms. Deel.

PEBBLES DEEL: Thank you.

DALLAS NESTLE

DIRECT EXAMINATION

QUESTIONS BY MS. DEEL:

Q. Mr. Nestle, can you please state your full name?

A. Dallas Nestle.

Q. And have you previously been sworn?

A. I have.

PEBBLES DEEL: Mr. Chairman, I'd like to incorporate all of his previous work history and educational history into this docket number from the previous, is that's okay.

BUTCH LAMBERT: Accepted.

Q. Are you familiar with this pooling application?

A. Yes.

Q. What is the unit number in the pooling application?

A. Rogers Well 284 VA unit B36.

Q. And what drilling field is this unit located?

A. The Oakwood Field.

Q. And how many acres is it?

A. 80.

Q. Are there any parties respondents listed in Exhibit B-3 who should be dismissed today?

A. No.

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

A. 100.

Q. And what is the percentage of the gas ownership that GeoMet has under lease?

A. 91.41%.

Q. Again, directing your attention Mr. Nestle to the Exhibit B of the filed pooling application, all four tracts in this application lists LBR Holdings as the coal owner, is that correct?

A. Correct.

Q. And are you aware that Island Creek Coal Company has a right to mine the coal underlying those tracts?

A. Yes.

Q. And is that omission a mistake?

A. Yes.

Q. Has notice been sent to the parties indicated as pursuant to the Virginia Code by certified mail return receipt requested?

A. Yes.

Q. And are the green slips or return slips are those available for filing in Mr. Asbury's office post

hearing?

A. Yes, they are.

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

A. Yes.

Q. And has GeoMet got a bond with the Department as required?

A. Yes, they have.

Q. What is the lease term that GeoMet generally offers to those who voluntarily enter into a lease?

A. Twenty dollars per acre with a five year paid up lease with one-eighth royalty.

Q. And in your opinion, are these reasonable and fair terms?

A. Yes, they are.

Q. What is the percentage of the oil and gas in this unit that GeoMet is asking the Board to pool?

A. 8.59%.

Q. And is there any of the coal estate that needs to be pooled?

A. No.

Q. Are there any unknown or unlocateable owners?

A. No.

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

A. Yes.

Q. And are those in Tract 2 and 4?

A. Yes, they are.

Q. And are those the Rogers Cousins?

A. They are.

Q. What is the total percentage of the tracts in dispute?

A. 8.59%.

Q. And are you asking the Board to set up an escrow account for that interest to be escrowed?

A. Yes, we are.

Q. And have you also filed an Exhibit E showing the conflicted ownerships?

A. Yes.

Q. Is GeoMet requesting that the Board pool all unleased owners in this unit?

A. Yes, we are.

Q. And that GeoMet be named operator of the unit?

A. That's correct.

Q. Are you familiar with the total depth of

the proposed well?

A. Yes. It's 2,000 feet.

Q. And what about the estimated reserves?

A. 702 million cubic feet.

Q. Have you also supplied an AFE with this application?

A. Yes, we have.

Q. And was that prepared at your direction?

A. Yes.

Q. So, what is the estimated well completion costs?

A. \$470,125.

Q. And what about the dry hole costs?

A. \$252,592.

Q. And does these estimated costs include reasonable charge for supervision of the drilling?

A. Yes.

Q. And, in your opinion, would the granting of this application promote the conservation, protect the correlative rights of the claimants and owners and prevent waste?

A. Yes, it would.

PEBBLES DEEL: Mr. Chairman, just the same as the previous one, we'd like to orally amend the Exhibit B to

reflect that Island Creek Coal Company has a right to mine the LBR properties indicated. With that said, I don't have any further questions.

BUTCH LAMBERT: Okay. And you will submit that to us?

PEBBLES DEEL: Yes, sir.

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

BRUCE PRATHER: Mr. Chairman, I've got a question.

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: The 18 acres that we're pooling here, I guess under the Rogers lease you don't have the right to stimulate. In other words, you don't have the stimulation contract. Are we basically pooling you a location so you can drill this unit?

PEBBLES DEEL: I'm sorry, sir. I can't hear you.

BRUCE PRATHER: Well, what I'm saying is that there's eighteen acres that we're pooling this thing. If the Rogers Estate does not have the right to stimulate, then what we're doing with our pooling is we're making you a location on the pooled property.

PEBBLES DEEL: Sir, LBR owns a 100% of the coal. The Rogers own 25% of the gas only. We do have a consent to stimulate from Island Creek Coal Company for this well.

BRUCE PRATHER: Oh, you do?

PEBBLES DEEL: Yes, sir.

BRUCE PRATHER: Okay. Okay. You've answered my question. Because if you didn't I was wondering if we were pooling a location for you.

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Nestle, could you comment on...your depth is 2,000 feet and your cost is over \$470,000?

DALLAS NESTLE: You know what, I pulled the wrong sheet, Mr. Chairman, on that. Some how I ended up with ZZZ-.

PEBBLES DEEL: No, that's right. That's right.

DALLAS NESTLE: Oh, is it.

PEBBLES DEEL: Yeah, that's a typo up there.

DALLAS NESTLE: Okay, the header is. I'm sorry. The question once again?

BUTCH LAMBERT: Just comparing the depth to the well completion costs, I was just asking if you could comment on why that cost may be so much higher than what we even heard here today for well costs for depth...wells that deep.

DALLAS NESTLE: Compared to CNX or somebody else?

BUTCH LAMBERT: Other wells we've heard? Okay, we've heard in the morning a \$300,000 range for a well that would be 2,000 feet deep. Why would...could you just comment on why GeoMet's costs has gone so high?

DALLAS NESTLE: Well, I mean, it's not...not everything is just in the depth of the well, but it's in the cementing, casing string, perforating, the number of zones, completed---.

BUTCH LAMBERT: Why would that...why would that be higher than any other---?

MARY QUILLEN: It's the same thing in other wells.

DALLAS NESTLE: Are you referring to---?

BUTCH LAMBERT: Well, I'm just---.

DALLAS NESTLE: ---\$300,000 for somebody else drilling a well 2,000 feet deep? Is that what you're saying?

BUTCH LAMBERT: Yes.

DALLAS NESTLE: Well, it depends on how they complete that well, the number of zones, the number of fractures and the stages that they may complete. I mean, I can't sit here and tell you how another company completes their wells exactly. I have an idea. It could have some differences in the---.

BUTCH LAMBERT: I'm not asking for your opinion on other wells. I'm just---

DALLAS NESTLE: Oh, okay.

BUTCH LAMBERT: ---asking you for a general comment on why yours may be \$200,000 for the same depth of a well that we've heard testimony on here not only today but in past hearings.

DALLAS NESTLE: So, you're referring to the dry hole costs, the \$200,000?

BUTCH LAMBERT: No completed costs.

DALLAS NESTLE: Which is \$470,000?

BUTCH LAMBERT: \$470,000. Just a comment.

DALLAS NESTLE: Well, we could...I've got our general manager here that could probably comment on---

BUTCH LAMBERT: I don't think that's necessary. I just wanted to know if you could comment...since you participated in the completion of the AFE, I thought maybe you might have some knowledge of that.

DALLAS NESTLE: Well, I mean, I can tell you what goes into that. I mean, obviously, the location, topography, the roads that we have to build to get there to the site, not just...I mean, the elevation is one thing, but depending on where it's at with the topography and existing roads and infrastructure to get to it, the road costs can be

quite substantial at times depending on where it's at. In addition to if it's a lot of rock in that area where you might have to chip rock to build a pit or to build that location versus a strip bench that the road and the site would already be there. So, I mean, all of these costs go into each individual well depending on where it's at.

BUTCH LAMBERT: Okay.

DALLAS NESTLE: Does that help?

BUTCH LAMBERT: Okay. I appreciate it.

BRUCE PRATHER: May I make a comment?

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: At the last meeting we had, we had your drilling costs averaging anywhere from \$17 to \$25 a foot per well. This one is about \$25 a foot. Is there any...I mean, I've done quite a bit of contracting drillers and stuff, but I've never seen that kind of a variation in your drilling costs. In other words, is \$25 a foot what you're paying for this? You take your drilling costs and divide it by 2,000 feet and you've got \$25 a foot. The last time---

DALLAS NESTLE: Are you taking the...I mean, that's the entire cost per foot. That takes into consideration the things that we just talked about, the road, the site---

BRUCE PRATHER: Well, I mean, your drilling costs

are your drilling costs. The other stuff is your---

DALLAS NESTLE: Sure.

BRUCE PRATHER: ---construction---

DALLAS NESTLE: But, I mean, the overall costs for the well, right.

BRUCE PRATHER: Yeah. Whatever you're paying that contractor by foot. In other words, when I've contracted them out, it has always been by the foot. The last time we were here, we had a variation on your drilling costs of \$17 to, what was it, \$22 or something like that. This one is up to \$25.

PEBBLES DEEL: If it pleases the Board, we have our drilling manager down here. Maybe he's more apt to answer the Board's questions, if we can get him down here and swear him in.

MARY QUILLEN: Did he help---

BUTCH LAMBERT: Do we need to do that to answer your question, Mr. Prather?

MARY QUILLEN: ---prepare this AFE?

BRUCE PRATHER: Well, I mean---

DALLAS NESTLE: He participated in it, yes, ma'am.

BRUCE PRATHER: Normally, when you contract something, you contract it by the foot. You know, there are also day work contracts. I wouldn't thinking a 2,000 foot

hole you would need a day work contract, but maybe you do.

DALLAS NESTLE: And we do it by the foot depending on the diameter of the bore.

BRUCE PRATHER: Yeah.

DALLAS NESTLE: I mean, it's different costs---

BRUCE PRATHER: Sure.

DALLAS NESTLE: ---depending on what size of bit you're drilling with.

BRUCE PRATHER: But you're not drilling very deep.

KATIE DYE: Mr. Chairman.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: Yeah. One of the things that I noticed with the GeoMet applications all of the time is that their estimated production over the life of the well usually runs higher than the other applications that we see. So, what I'm wondering is due you fracture more seams of coal?

DALLAS NESTLE: Well, I mean, part of that, the reason is that because our techniques of completion are different and it costs more money to complete, but our return on our investment is our overall recoverable reserves, which will more than offset those capital costs up front.

KATIE DYE: Would justify your higher costs is what you're saying?

DALLAS NESTLE: Exactly. I mean, you could definitely drill a well 2,000 feet and spend a lot less money, but your recoverable reserves will reflect it.

MARY QUILLEN: And you have tracking information on wells that you have projected or not? Do you have any kind of historical data?

DALLAS NESTLE: We do in our reservoir group. Alabama keeps an eye on that and tracks it. I think you've heard the testimony from them. They do all of the reserve calculations based on the actual production data from the different wells and how they're completed and fractured.

MARY QUILLEN: In this particular area? I know we've heard in other locations, but in this area do you have any historical data in this particular---?

DALLAS NESTLE: Well, this area in particular is a lot closer to our production area. I mean, real close to the West Virginia border on the ZZZ. So, our data that we have...and they build those curves based on the coal thickness, the porosity...I mean, the geographical information. I mean, it's not just the swagger or a guess. It is specific to each of these wells.

BUTCH LAMBERT: Any further questions?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: 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 Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Ms. Deel. It's approved.

PEBBLES DEEL: Thank you.

BUTCH LAMBERT: The next item is number forty. A petition from GeoMet Operating Company for pooling of coalbed methane unit Rogers 434 unit C-35, docket number VGOB-09-0616-2533. All parties wishing to testify, please come forward.

PEBBLES DEEL: Dallas Nestle and Pebbles Deel on behalf of GeoMet Operating Company.

BUTCH LAMBERT: You may proceed, Ms. Deel.

DALLAS NESTLE

DIRECT EXAMINATION

QUESTIONS BY MS. DEEL:

Q. Mr. Nestle, can you please state your full name?

A. Dallas Nestle.

Q. And were you previously sworn?

A. Yes, I was.

PEBBLES DEEL: Mr. Chairman, I ask that all of his work history and educational background be incorporated into this docket number as the previous docket numbers.

BUTCH LAMBERT: Accepted.

Q. Are you familiar with this application?

A. Yes, I am.

Q. What is the unit number?

A. Rogers 434 unit C-35.

Q. And where is this unit located?

A. Oakwood.

Q. And how many acres is in this unit?

A. 80 acres.

Q. Are there any parties respondents listed in Exhibit B-3 who should be dismissed today?

A. No.

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

A. 100%.

Q. And what is the percentage of gas ownership that GeoMet has under lease?

A. 83.5175,

Q. Mr. Nestle, showing your attention and the Board's attention to Exhibit B, for the three tracts located in this unit all three tracts show the coal ownership as for LBR Holdings, is that correct?

A. That is correct.

Q. And you're aware that Island Creek Coal Company has a right to mine these three tracts, is that correct?

A. That is correct.

Q. And GeoMet Operating Company has a consent to stimulate from Island Creek Coal Company regarding this unit, correct?

A. That is correct.

Q. And the omission of Island Creek Coal Company in Exhibit B is a mistake?

A. Correct.

Q. Was notice sent to the parties respondent pursuant to the Virginia Code by certified mail return receipt requested?

A. Yes.

Q. And are those return cards or green cards

available for filing in Mr. Asbury's office post hearing?

A. Yes, they are.

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

A. Yes.

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

A. Yes, they have.

Q. What terms does GeoMet offer those who voluntarily enter into a lease with them?

A. Twenty dollars per acre, a five year paid up lease with one-eighth royalty.

Q. And, in your opinion, are these terms fair and reasonable?

A. Yes, they are.

Q. What is the percentage of the oil and gas estate that GeoMet seeks to pool?

A. 16.4825.

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

A. 0.

Q. Are there any unknown or unlocateable owners?

A. No, there are not.

Q. Are there any tracts where there are conflicting ownership?

A. Yes.

Q. And is that in Tract 2?

A. Yes, it is.

Q. And does that involve the Rogers Cousins?

A. Yes, it does.

Q. What is the total percentage of the unit that is in conflict?

A. 16.4825%.

Q. And are you requesting the Board to set aside an escrow account and escrow that percentage?

A. Yes, we are.

Q. And have you presented the Board with an Exhibit E showing the conflicting ownerships?

A. Yes.

Q. Are you...is GeoMet requesting that the Board pool the unleased interest?

A. Yes, we are.

Q. And that GeoMet be named operator of this unit?

A. Yes.

Q. Are you familiar with the depth of the well that's proposed in this unit?

A. Yes, I am.

Q. And what is that depth?

A. 1950 feet.

Q. Are you familiar with the estimated reserves in this unit?

A. Yes.

Q. And what are they?

A. 676 million cubic feet.

Q. What...did you all file an AFE as part of the pooling application?

A. Yes, we did.

Q. And was that compiled at your request?

A. Yes.

Q. What is the total completion costs... estimated total completion costs?

A. \$481,468.

Q. What about the estimated dry hole costs?

A. \$262,570.

Q. And do these estimated costs include a reasonable charge for supervision of the drilling?

A. Yes, they do.

Q. And in your opinion, would the granting of this application promote conservation, protect the correlative rights of the owners and claimants and prevent

waste?

A. Yes.

PEBBLES DEEL: Mr. Chairman, again, we have the motion to amend Exhibit B including Island Creek Coal Company has having the right to mine the LBR tracts. With that, I don't have any further questions of Mr. Nestle.

BUTCH LAMBERT: And you'll submit that for us?

PEBBLES DEEL: Yes, sir.

BUTCH LAMBERT: Okay, thank you. Questions from the Board?

BILL HARRIS: Mr. Chairman, let me ask one. About the AFE, and I may have asked this before in general, I'm looking for the depth drilled or the drilling distance and I don't see that listed explicitly on the AFE. I just find that sort of unusual. I may have missed it. But I know you can figure some things. But I just find it odd that an AFE wouldn't say---

DALLAS NESTLE: Well, there's another...there's another sheet that---

BILL HARRIS: Yeah, I see one that says Exhibit C at the top. I would presume that's the front sheet.

DALLAS NESTLE: Well, something that you're not seeing here when we look at a particular well, there are other things that go into these numbers. I mean, if we

listed everything on this sheet, it would get quite complicated. What you're not seeing is the back up that goes into preparing the AFE that we use as an inter---

BILL HARRIS: Well, I---

BRUCE PRATHER: We don't need the back up.

MARY QUILLEN: We see generally on almost all AFEs have the depth and the permit number if there's a permit.

BILL HARRIS: Yeah, it just says depth drilled.

BRUCE PRATHER: Yeah, what we need is the depth. And it would really help if we had those casing...amount of casing that you're putting. In other words, if you're putting in 16" casing, are you putting in 20 feet or are you putting a 100. All you've got is what it costs. We don't know what kind of pipe you're running. We don't know anything. I mean, that would help. I know Mr. Asbury is kind of working on an AFE, which will be presented---

DALLAS NESTLE: Well, I remember the...last month because we talked about that. Mr. Asbury was getting close to having a standardized sheet---

BRUCE PRATHER: Right.

DALLAS NESTLE: ---and we said if you've guys have got something that you would like for us to use we'd more than happy to use it so that everybody uses the same format. I haven't---

MARY QUILLEN: We waste a lot of time trying to find stuff that's hidden within...I mean, I take several hours every month reviewing and looking. A lot of this stuff is hidden in this and you just have to search for it. If it all appeared...and many of the AFEs do have all of that information on it.

DALLAS NESTLE: Has that been sent out yet or finalized the---?

DAVID ASBURY: No, it hasn't. But it will be shortly.

DALLAS NESTLE: Okay.

BRUCE PRATHER: The other thing that's kind of... almost about this one is this is \$28 a foot.

DALLAS NESTLE: Yeah, there's \$50 difference or 50 feet difference in the total depth.

BRUCE PRATHER: Yeah, but \$28 a foot? I mean, we're talking about \$3 a foot. That's 6,000---.

MARY QUILLEN: Is 50 feet shallower?

DALLAS NESTLE: Right. That's what it says.

BRUCE PRATHER: Yeah. I mean, I've never heard of anybody contracting wells on a---.

DALLAS NESTLE: Well, like I said, we can get our drilling manager up here to explain some of that. He's definitely more intimate with the drilling process.

BRUCE PRATHER: I mean, all I'm saying is that there has to be a per foot basis. I mean, you can kick all you want to into it, but a drilling contractor drills your well on a per foot basis. That's the way it has always been as long as I've been around it. When yours is just going all over the place, how much credence can we put in that?

DALLAS NESTLE: Well, you're taking the total depth divided by the \$481,000?

BRUCE PRATHER: Yeah. No, no, no, no.

MARY QUILLEN: No, no, no. The drilling---

BRUCE PRATHER: I'm just taking the drilling costs.

DALLAS NESTLE: The drilling piece of it.

MARY QUILLEN: The drilling costs.

BRUCE PRATHER: And divide it by 19---

BILL HARRIS: And it says footage drilling contract.

DALLAS NESTLE: Okay. The \$55,440.

BRUCE PRATHER: Yeah. Yeah. And divide it by the footage. And it's just all of over the place.

DALLAS NESTLE: Well, I've like for Ryan to give you some insight on that because he is the drilling manager. Quite frankly, he's the one that prepares these numbers and I'll be honest with you he knows them better than I do on the specifics of the drilling.

BRUCE PRATHER: I mean, the thing that I've always been in contact with is there's a certain per foot rate that these drilling contractors are getting for that. I mean, there are day work and there's extraneous things. But usually, you know, if you drill four wells, the contractor will give you a contract for so much per foot. That's what he drills unless he has problems.

(Ryan Carter is duly sworn.)

COURT REPORTER: Please state your name.

RYAN CARTER: Ryan Carter.

RYAN CARTER

DIRECT EXAMINATION

QUESTIONS BY MS. DEEL:

Q. By whom are you employed, Mr. Carter.

A. GeoMet.

Q. And what is your position GeoMet?

A. Drilling and completion manager.

Q. Can you please give the Board of your educational background and work history experience?

A. I was contracted for CNX up until five years ago and then I was...when I say...I was a contractor for CNX. I was not employed by CNX. Then five years ago, as of February the 16th, I've been working for GeoMet.

Q. What are some of your duties at your job at GeoMet?

A. Supervise the drilling of the wells. I help prepare the AFEs as far as the drilling and as far as the stimulation. I help...I design the frac jobs. I determine how much sand we're putting away, what seams we're shooting.

Q. Are you familiar with the AFE that was submitted by GeoMet Operating Company regarding the unit C-35, Rogers 434?

A. I am. I helped write it.

Q. Are you familiar with the footage drilling contract?

A. I am. To give the explanation of why you're seeing the footage costs vary, we do pay by the foot on a contract drilling. As far as I know everybody does.

BRUCE PRATHER: Per well?

A. But it depends...it strictly depends on the size of hole you're drilling.

BRUCE PRATHER: Oh, sure.

A. Which adds to the cost per foot. We may have a surface that we have to drill deeper in one well than we do another well, which raises its costs higher than what maybe...I mean, you could have a higher elevation well that

costs you less than a well down in the valley depending on what size of hole you drill.

BRUCE PRATHER: Sure. What size of hole are you drilling?

A. You may have to---

BRUCE PRATHER: See we don't know because we don't know what...what the casing is.

A. ---drill by casing string that cost more.

DALLAS NESTLE: Right. Do these have any upper seams that have to be mined---

BRUCE PRATHER: But...and I will agree with you.

COURT REPORTER: One at a time.

BUTCH LAMBERT: Wait a minute. Excuse me. One at a time, please.

DALLAS NESTLE: Okay.

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: I will agree with you that if you're drilling a bigger hole then they're going to charge you more per foot. There's no question about that. But, you know, supposedly you drill every well the same way particularly the top hole and stuff unless you're up on top of the mountains and this, that and the other. But that shows up in your casing. That doesn't show up in your drilling. That shows up in your casing.

RYAN CARTER: It does show up in your drilling.

BRUCE PRATHER: I mean, your drilling...your drilling is so much a foot period.

RYAN CARTER: No, it varies based on the size of hole.

BUTCH LAMBERT: Okay, Mr. Carter, what size of holes are drilling in this one?

RYAN CARTER: On this particular hole---.

BUTCH LAMBERT: Since we don't have it in the AFE, can you tell us what it is?

RYAN CARTER: Do what?

BUTCH LAMBERT: Since we don't have it in the AFE, can you tell us what size of hole it is?

RYAN CARTER: There will be two holes drilled. Two different sizes of holes.

MARY QUILLEN: What are those sizes?

RYAN CARTER: Do what?

MARY QUILLEN: What are those sizes?

RYAN CARTER: Those sizes are...one will be 11 and 1/4" and the other will be 7". The 11 and 1/4" is for the surface casing. The 7" is for the production casing.

BRUCE PRATHER: You're not running...you're not running a conductor?

RYAN CARTER: Do what?

BRUCE PRATHER: You're not running a conductor?

RYAN CARTER: It's 20 feet.

BRUCE PRATHER: Yeah, okay.

RYAN CARTER: But there's...because it's so short, it's usually...that 20 feet they give it to you for the same price as they would the 11.

BRUCE PRATHER: Well, you use it to pull it out there anyway when you get through.

RYAN CARTER: There is a different charge when you make that change from 11 and 1/4" to 7".

BRUCE PRATHER: You're fracing down 7" is what you're doing.

RYAN CARTER: No, we're fracing down 5 and 1/2".

BRUCE PRATHER: 5 and 1/2"?

RYAN CARTER: That's our casing that we run.

BRUCE PRATHER: Okay. But we have to drill 7" just to be able to get that 5 and 1/2" in the hole.

BUTCH LAMBERT: For the record, Ms. Deel, could you give Mr. Carter's educational background on the record?

PEBBLES DEEL: I'm sorry.

Q. Can you tell the Board your educational background?

A. High school and some college. I graduated from George Wythe in Wytheville, Virginia.

Q. What year did you start working in the gas and oil industry?

A. 1990.

Q. And has that...your work in the gas and oil industry been consistent since 1990?

A. Yes, it has.

Q. So, most of your knowledge about the gas and oil industry has been on a work experience basis?

A. That is correct.

BUTCH LAMBERT: Thank you.

MARY QUILLEN: Could I ask just one clarify? You said you graduated from a community college.

RYAN CARTER: George...no, I said I graduated from George Wythe High School.

MARY QUILLEN: Okay. But you said--.

RYAN CARTER: And I've took some college classes, but I do not have a diploma.

MARY QUILLEN: What...were they some pre-engineering or some science---?

RYAN CARTER: Math and---.

MARY QUILLEN: Not specific...degree specific directly?

RYAN CARTER: No.

MARY QUILLEN: And I don't believe that this

gentlemen gave his educational background either?

DALLAS NESTLE: I've got a two year associate degree in Industrial Engineering and Technology from Oklahoma State Tech.

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: 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 Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Ms. Deel. It's approved.

PEBBLES DEEL: Thank you, Mr. Chairman.

BUTCH LAMBERT: The next item is item forty-one. A petition from Equitable Production Company for repooling of conventional gas unit V-502028, docket number VGOB-05-0816-

1492-02. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, with your permission, we'd ask that this item be continued until the July docket.

BUTCH LAMBERT: Thank you, Mr. Kaiser. That item will be continued until July.

JIM KAISER: And since we're kind of getting late here. As another item of housekeeping, if you'd call item number fifty please.

BUTCH LAMBERT: Item fifty. A petition from Equitable Production Company for the establishment of a provisional drilling unit consisting of 320 acres for the drilling of horizontal conventional gas well EPC-2543, docket number VGOB-09-0616-2543. All parties wishing to testify, please come forward.

JIM KAISER: Jim Kaiser on behalf of EQT Production. Mr. Chairman, at this time, we'd ask that that petition be withdrawn from the docket.

BUTCH LAMBERT: Thank you, Mr. Kaiser. That will be withdrawn. We'll be calling item forty-two. A petition from Equitable Production Company for pooling of coalbed methane unit VC-537887, docket number VGOB-09-0616-2534. All parties wishing to testify, please come forward.

JIM KAISER: Jim Kaiser and Rita Barrett. We've

got some revised exhibits for this one.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, if you'd state your name for the record, who you're employed by and in what capacity?

A. Rita McGlothlin-Barrett, EQT Corporation, Big Stone Gap, Virginia, Landman Four.

Q. Are you familiar with the application that we filed seeking to pool any unleased interest in the unit for EQT well number VC-537887, dated May the 15th, 2009?

A. Yes.

Q. 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 and an attempt made to work out a voluntary lease agreement with each?

A. Yes.

Q. What is the interest at this time under lease with the revised exhibits under lease to Equitable

within the gas estate in the unit?

A. Yes. The new interest is 94.395238%.

Q. So, 94.395238?

A. That's correct.

Q. And the revised exhibits reflect that? So, you picked up some additional leases since we filed the application?

A. We did. We leased Roger Vaugh Deel on Tract 5.

Q. Okay. And how about the coal estate? What percentage of it is under lease to EQT?

A. A 100%.

Q. Are all unleased parties set out at Revised Exhibit B-3?

A. They are.

Q. So, at this time, the only thing that remains unleased is 5.604762% of the gas estate?

A. That's correct.

Q. Okay. There are no unknowns in this unit, is that correct?

A. That's correct.

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

A. I am.

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. Twenty-five dollar bonus, a five year term paid up and a one-eighth royalty.

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

A. Yes.

JIM KAISER: Mr. Chairman, at this time, I'd like to incorporate the statutory election option testimony that was first taken in docket number 2536.

BUTCH LAMBERT: Accepted.

Q. Ms. Barrett, the Board does need to establish an escrow account for conflicting claims to Tract 5, is that correct?

A. That's correct.

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

A. Equitable.

Q. The total depth of the proposed well?

A. 2,249 feet.

Q. The estimated reserves for the unit?

A. 300 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 \$136,863. The completed well costs are \$375,222.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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?

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

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: Ms. Barrett, in looking at page three of three, your acreage in the unit leased is given as 58.82, but it is a 58.77 acre unit.

RITA BARRETT: I'm sorry, I didn't hear you, Mrs. Dye.

KATIE DYE: In looking at page three of three under Exhibit B, your acreage in the unit that you have listed as leased you have 58.82?

RITA BARRETT: Mrs. Dye, that's the coal lease exhibit.

KATIE DYE: It's what?

RITA BARRETT: It's the coal exhibit...Exhibit B for the coal.

KATIE DYE: The coal?

RITA BARRETT: Yes.

KATIE DYE: But you have more acreage leased---?

RITA BARRETT: Yeah. That's a typo. Acreage in the unit leased should say 58.77 instead of 58.82.

KATIE DYE: Okay. Thank you. That's what I

thought.

RITA BARRETT: I can revise that. I'm sorry.

BUTCH LAMBERT: Any further questions?

(No audible response.)

BUTCH LAMBERT: Any further, Mr. Kaiser?

JIM KAISER: No, we'd ask that the application be approved with the revised page three to Exhibit B to reflect the correct acreage.

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 Board 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: Next is item forty-three. A petition from Equitable Production Company for pooling of

coalbed methane unit VC-550453, docket number VGOB-09-0616-2535. All parties wishing to testify, please come forward.

JIM KAISER: Jim Kaiser and Rita Barrett.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Barrett, you've already stated your name, who you're employed by and in what capacity. Are you familiar with the application that we filed seeking a pooling to pool any unleased interest in the unit for EQT well number VC-550453, dated May the 15th, 2009?

A. Yes.

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

A. Yes.

Q. Prior to the filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement with each?

A. Yes.

Q. What's the interest under lease to Equitable in the gas estate in the unit?

A. 90.87%.

Q. And the coal estate?

A. A 100%.

Q. Are all unleased parties set out at B-3?

A. Yes.

Q. So, 9.13% of the gas estate remains unleased?

A. That's correct.

Q. And that is attributable to Tract 6 in the gas estate Exhibit, which is the Nancy A. Hale Heirs unknown and unlocateable?

A. Yes.

Q. And were reasonable and diligent efforts made and sources checked to identify and locate these unknown heirs?

A. They were.

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

A. Yes.

Q. Are you requesting the 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. Twenty-five dollars an acre, paid up bonus and a five term with a one-eighth royalty.

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

A. They do.

JIM KAISER: Mr. Chairman, we'd again ask that the statutory election options afforded unleased parties testimony regarding the same be incorporated for purposes of this hearing as it was taken in item 2536.

BUTCH LAMBERT: Accepted.

Q. Ms. Barrett, we've got a lot of conflicting claims in this particular unit. So, the Board does need to establish an escrow account covering proceeds from Tracts 1, 2, 3, 6 and 7?

A. That's correct.

Q. Who should be name operator under the force pooling order?

A. EQT Production Company.

Q. The total depth of the proposed well?

A. 2,549 feet.

Q. Estimated reserves for the unit?

A. 300 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. Yes.

Q. State both the dry hole costs and completed well costs for this well.

A. Dry hole costs \$133,415 and completed well costs are \$390,210.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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: Ms. Barrett, for the Board's information, would you tell us the processes you use for locating these unlocateables and unknowns?

RITA BARRETT: We use Internet. We do research in the Courthouse. We look for affidavit of descent, Wills and death certificates. We use the Yellow Pages. NEU.com. We knock on doors of people in the area to see if they can give us a history of the family. We do some genealogy research.

BUTCH LAMBERT: Thank you. Any further questions?

DAVID ASBURY: Mr. Chairman. We'll need a revise exhibit for the gas estate. On that page, there's a typo at the bottom about the acreage leased and unleased.

JIM KAISER: The unit might be that. Sometimes they're not exactly 58.77.

BUTCH LAMBERT: We couldn't hear you, Mr. Asbury.

DAVID ASBURY: I'm sorry.

JIM KAISER: That's the correct unit size.

RITA BARRETT: This unit is 58---.

JIM KAISER: They're not always 58.77.

RITA BARRETT: This unit is surveyed 58.82 acres.

DAVID ASBURY: Right. And you have leased as 58.82  
and unleased as 5.37.

RITA BARRETT: I see that.

JIM KAISER: You're right.

RITA BARRETT: I will revise that.

DAVID ASBURY: Thank you.

BUTCH LAMBERT: But do you know what that should  
be, Ms. Barrett?

RITA BARRETT: Yes. It should be...well, it will  
be 58.82 less 5.37 acres.

DAVID ASBURY: It's a...it's a typo.

RITA BARRETT: It is a typo. The summation picked  
up the Hale Heirs, unknowns and unlocateable apparently.

JIM KAISER: 53.45 would be---.

RITA BARRETT: Uh-huh.

BUTCH LAMBERT: You will be submitting a new  
Exhibit B?

RITA BARRETT: I will.

BUTCH LAMBERT: Any further discussion?

(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 Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. You're approved.

RITA BARRETT: Thank you.

BUTCH LAMBERT: The next is item forty-five. A petition from Equitable Production Company for pooling of coalbed methane unit VC-536640, docket number VGOB-09-0616-2538. All parties wishing to testify, please come forward.

JIM KAISER: Jim Kaiser and Rita Barrett on behalf of EQT Production.

JOHN SHEFFIELD: John Sheffield, owner in the unit.

BUTCH LAMBERT: Raise your right hand and be sworn, please.

(John Sheffield is duly sworn.)

MARY QUILLEN: Mr. Chairman, would you repeat that docket number, please?

BUTCH LAMBERT: Docket number VGOB-09-0616-2537.

MARY QUILLEN: Thank you.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

RITA BARRETT

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Are you familiar with the...Ms. Barrett, if you've stated name, your employment and your job duties already. Are you familiar with the application that we filed seeking to pool any unleased interest in the unit for VC-536640?

A. Yes.

Q. Does 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 respondent and an attempt made to work out a voluntary agreement regarding the development of the unit?

A. Yes.

Q. What's the interest under lease to EQT in the gas estate?

A. 54.843531%.

Q. And that is the interest to...under lease to Equitable in the coal estate?

A. It's the same as the gas. It's 54.843531%.

Q. And you just handed out some revised exhibits. Can you explain why?

A. I did. Initially, some of the Ebach (inaudible) Jennings and others had their elections going to a gentleman named John Erwin...John Erving in Texas. They requested that everything be sent to addresses. He is no longer their agent apparently.

Q. Are all unleased interest set out in B-3?

A. Yes.

Q. So, at this time both...in both the gas and the coal estate 45.156469 remain unleased?

A. That's correct.

Q. Okay. There aren't any unknowns in this unit?

A. That's correct.

Q. Are you requesting the 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. Twenty-five dollar paid up bonus, five year term and 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: Again, Mr. Chairman, we'd ask that the statutory election option testimony afford unleased parties as taken earlier in docket number 2536 be incorporated for purposes of this hearing.

BUTCH LAMBERT: Accepted.

Q. It's a coalbed methane well, but we don't have any conflict claims. No reason for an escrow to be set up for this unit, correct?

A. That's correct.

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

A. EQT Production Company.

Q. The total depth of the proposed well?

A. 2,479 feet.

Q. Estimated reserves over the life of the unit?

A. 430 million cubic feet.

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

A. Yes.

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

A. Yes.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$160,263 and completed well costs are \$405,794.

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 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: Ms. Barrett, Exhibit E you're showing...your revised Exhibit E showing Tract 3 the Owens and Hurley, you show those as leased. We don't normally get those if there's---

RITA BARRETT: I'm sorry?

SHARON PIGEON: You've supplied us an Exhibit E, but you're telling us...you've just done it even though it shows those interests are leased. There's no need for escrow.

RITA BARRETT: I'm not---

SHARON PIGEON: We don't usually get an Exhibit E---

JIM KAISER: Yeah, there is a need for escrow.

RITA BARRETT: Yeah.

JIM KAISER: There's a conflicting claim in Tract 3.

RITA BARRETT: It's a conflicting claim on Tract 3, Sara Geneva Owens and Range Resources.

JIM KAISER: So, the Board does need to establish an---

RITA BARRETT: Yes.

JIM KAISER: ---escrow for proceeds attributable to Tract 3?

RITA BARRETT: That's correct. The 1.30%.

JIM KAISER: Mr. Chairman, there's a royalty...we've just been informed by Range that there's a royalty split agreement on that. So, we need to submit that and an EE too.

BUTCH LAMBERT: Okay. So, we'll get another updated Exhibit EE?

RITA BARRETT: Yeah, I apologize.

BUTCH LAMBERT: Any other questions from the Board?

KATIE DYE: Mr. Chairman---?

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: ---do you have a plat in your application?

RITA BARRETT: You don't have a plat?

BUTCH LAMBERT: No. We don't have a plat.

MARY QUILLEN: Yeah, there's no plat.

JIM KAISER: I do.

BUTCH LAMBERT: Mr. Asbury, did you have a plat in your file?

DAVID ASBURY: Yes, sir, we do.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Sheffield.

JOHN SHEFFIELD: Yes, thank you, Mr. Chairman. By the way, don't feel left out. I don't have a plat either. Let's see here, I do have a few questions. Has tract...in respect to Tract 2, has there ever been...has it been force pooled before?

RITA BARRETT: Yes.

JOHN SHEFFIELD: Were you able to...let me ask another question. Were you able to notify everybody on that previously?

RITA BARRETT: Yes.

JOHN SHEFFIELD: You were? Well, I have a docket number here. I believe it was the first time it was force pooled. It has been force pooled...this is the third time. I got notified this time. Previously two times before I was not notified. I'll hand you this over.

RITA BARRETT: That's because we have the address of your---

JOHN SHEFFIELD: Yeah.

RITA BARRETT: ---Trust was different.

JOHN SHEFFIELD: Yes, it was previously and changed in January of 2005.

RITA BARRETT: And last year you provided me...when

was that, this past...it was actually this past April, I think, that you notified me of your new address?

JOHN SHEFFIELD: March, yeah. That's when I called Jim's office and he told me to call you.

RITA BARRETT: Right.

JOHN SHEFFIELD: So, can we possibly get an election or a repool or something on that so that I can be notified. I believe that was returned certified mail on that first one? The second one I did catch notice of that while I was at the hearing in August. So, I'm fine with that as long as, you know, I get elections on that since I'm an unleased individual.

BUTCH LAMBERT: Mr. Kaiser, would you like to respond?

JIM KAISER: We'll be glad to talk to him after the hearing about, you know, any other wells he has. But as far as this hearing goes, we'd like to stay on this unit, which is what's before you.

JOHN SHEFFIELD: I have no problem. I was just trying to clean it up on the tract. That tract has been force pooled again. I have...we have talked about it before and I haven't seen anything yet.

SHARON PIGEON: But it's not this unit, is that right?

JOHN SHEFFIELD: Not the drilling unit. It's the same tract. Yes, ma'am, you are correct. I do have a question concerning...let's see here, under the application number 2, let me see would that be D...2D. This is a coalbed methane well, correct?

JIM KAISER: Uh-huh.

JOHN SHEFFIELD: And we're at 2,479 feet. We're under the Nora Coalbed Methane Gas Field. I noticed something that...in this that says that there's..."Applicant proposes to drill a permit...the permitted location to an approximate depth of 2,479 feet on the subjected lands to test for oil, gas and coalbed methane in the subjected formations." I didn't know if that was common or not common. I hadn't seen that before.

MARY QUILLEN: Would you repeat where you said this was located?

JOHN SHEFFIELD: I believe it's under the application 2D, is that correct?

BUTCH LAMBERT: Yes, that's correct.

BRUCE PRATHER: Well, there's no oil.

JOHN SHEFFIELD: I understand.

BRUCE PRATHER: There might be some water.

JOHN SHEFFIELD: It's not my application, right?

BRUCE PRATHER: Just extraneous wording is what I

say it is.

BUTCH LAMBERT: Mr. Kaiser, would you like to respond to that question?

JIM KAISER: Yeah, my response would be that the order would just cover the production of coalbed methane gas and going forward it probably wouldn't be a bad idea just to word it that way. It's just...I think it's just generic wording that we've used forever.

JOHN SHEFFIELD: Okay. I just hasn't seen it before so I was kind of curious about that. So, that would...so under the authorization for expenditures that would probably complete that information there we take it from 2D and we don't have to complete it there on the authorization for expenditure up at the top.

JIM KAISER: I'm sorry, I couldn't hear you?

JOHN SHEFFIELD: I'm sorry. On the authorization on expenditures where it's not filled out for the top---

JIM KAISER: Uh-huh. The AFE?

JOHN SHEFFIELD: Yes, sir, the AFE.

RITA BARRETT: What's your question?

JOHN SHEFFIELD: I was just saying that he will be filled out. I mean, it doesn't have...need to be filled out at this time at the top there later, the feet?

RITA BARRETT: What are you talking about?

JOHN SHEFFIELD: Right up here.

RITA BARRETT: I'll have to ask Chris Hinte who prepares these to address that.

JOHN SHEFFIELD: Okay.

BUTCH LAMBERT: Mr. Asbury, isn't that information that you get in your permit application?

DAVID ASBURY: Yes.

BUTCH LAMBERT: The location?

DAVID ASBURY: That's correct, Mr. Chairman.

(Chris Hinte is duly sworn.)

CHRIS HINTE: This information gets put in almost right before we drill the well because once we find an exact spot because things move over once in a while. So, right when we get ready to drill a well is when that information gets put in there.

JOHN SHEFFIELD: Okay. Thank you. Mr. Kaiser or maybe it might be Rita, what...where this location of the well is and all that, the area of Buchanan County, what pipeline will that feed into...the coalbed methane go into?

RITA BARRETT: I'm not sure.

JOHN SHEFFIELD: Okay.

RITA BARRETT: I can't answer that. I can provide that information to you later.

JOHN SHEFFIELD: Okay.

RITA BARRETT: But I'm not sure if you're talking about...it will flow into an Equitable pipeline.

JOHN SHEFFIELD: Okay.

RITA BARRETT: There's no foreign pipeline that we put this through.

JOHN SHEFFIELD: And what hub or where does that go to?

RITA BARRETT: I'm not sure.

JOHN SHEFFIELD: Okay.

RITA BARRETT: But I can ask our marketing department and get back to you on that.

JOHN SHEFFIELD: Okay. That's fine. Now, I've been in different situation where some companies use some of the gases such as in coal dryers, sometimes in peak power plants and things. So, that was the reason for that question for the accountability of the gas because I don't...as far as it being counted before...I don't know if you guys do anything like that. I don't think you do. I don't know your company that well. But do you ever use the guys in compression or anything like that or do you have any...do you have any agreements with any peak power plants or---?

RITA BARRETT: Not to my knowledge.

JOHN SHEFFIELD: ---a company that uses coal

dryers or anything like that?

RITA BARRETT: Not to my knowledge.

JIM KAISER: My guess would be that this goes through an Equitable gathering system to some interstate pipeline and then on to---.

BUTCH LAMBERT: Mr. Sheffield, I appreciate your questions. Could you keep your questions to the docket item? These are general questions that probably you need to talk to the companies outside of the Board? We want to...I mean, drying of the gas has nothing to do with this particular well unless you're---.

JOHN SHEFFIELD: Well, I might be a participant---.

JIM KAISER: I think he's asking whether or not we have any in users. I don't think we do in that area.

BUTCH LAMBERT: Okay.

JOHN SHEFFIELD: Yeah.

BUTCH LAMBERT: Okay, then I misunderstood your question.

JOHN SHEFFIELD: I'm sorry.

BUTCH LAMBERT: Okay. All right.

JOHN SHEFFIELD: All right. And...let's see. And you drilling into what strata was that? In to the top of the Raven, is that correct?

JIM KAISER: From the top of the Raven, but not

limited to. Then we list the different coal seams that you will find from surface to the total depth.

JOHN SHEFFIELD: Okay.

JIM KAISER: That's what that is.

JOHN SHEFFIELD: All right.

JIM KAISER: Then I assume...again maybe this is for Mr. Hinte, but I assume some of those seams they complete and some they don't.

JOHN SHEFFIELD: Yes, sir. Thank you for that. Let's say somebody is willing to be a carried interest. I guess that's a question you have to ask now. What...what means do we use for the pricing of the gas? In other words, is there any index that we can go by? Is there something like this or that or do you know?

JIM KAISER: No, a carried interest would just be subjected...you would have your actual completed well costs---

JOHN SHEFFIELD: Right. Right. 200...200%.

JIM KAISER: ---so whatever that figure is. Let's use something easy like 400,000. Then depending on whether you're a leased or unleased tract, you're subjected to a penalty of either 200 or 300%.

JOHN SHEFFIELD: Correct.

JIM KAISER: So, the well would have to reach...if

the total cost is 400 and your penalty is 200 then once the working interest proceeds from that well reach 800,000 then the carried working interest would kick in.

JOHN SHEFFIELD: Right. And the measurement of gas, I understand you can get...myself as an individual, if I were being a participant...a carried interest, excuse me, I could get that from the oil and gas Division. But I was asking about the actual pricing on the gas. Is there an index that you would go by? That would be something up on me to keep with because I don't think there's anything there for me to go by. The state doesn't get involved or anything like that.

JIM KAISER: That I don't know. I mean, obviously, it will fluxate unless it's all under contract or edged. It will fluxate (inaudible). I mean, a year ago it was \$13 and now it's \$4.

JOHN SHEFFIELD: Right. Believe me I understand.

BRUCE PRATHER: Could I make a comment, please?

BUTCH LAMBERT: Mr. Prather.

BRUCE PRATHER: You might be able to find what you're looking for...Henry Hub puts out a future's gas prices. It's for about thirteen years. It starts like right now and it would go in the future for quite a ways. That's about all you can really work with right now.

JOHN SHEFFIELD: Okay. And my question for that is because that's not something for the state to do. If somebody such as myself chose to be a carried interest, then that would be up to me. Is that correct to follow that?

BRUCE PRATHER: Yeah.

JOHN SHEFFIELD: Because there's no other...there's no other types of paperwork or agreement between us except that you make your election. Is that correct?

RITA BARRETT: You can make a request from our accounting department and we would send you an accounting of where your well was as far as payout or how near you were payout. I mean, we can furnish you with this spreadsheet of the actual numbers. And you can---

JIM KAISER: Yeah, you can request...just request to the operator.

RITA BARRETT: You need to request that to Equitable, our accounting department.

JOHN SHEFFIELD: Okay.

JIM KAISER: And one you reach that full penalty, then you'll become a working interest partner and then we'll have you sign a JOA.

RITA BARRETT: Right.

JOHN SHEFFIELD: And in the 200%...this is just a question. I'm not trying to pick at anything. I'm trying

to work it from a business standpoint. Would the post production costs then be accountable into that so it would really be more than...do you see what I'm saying? In my mind...my mind's probably way off. Into that 200% because then it wouldn't be actually---

JIM KAISER: I don't think...I think it would...no, I don't think the royalty burden would count. It would be straight out seven-eighths working interest.

JOHN SHEFFIELD: Just a straight out. The post production would not be---

RITA BARRETT: Right.

JOHN SHEFFIELD: ---counted into that because it really wouldn't be...it just---

JIM KAISER: Right. Because that's royalty.

JOHN SHEFFIELD: Okay.

JIM KAISER: We're dealing with working interest as far as getting to the 200 or 300%.

JOHN SHEFFIELD: Okay. So, the post production costs would not be an attributable part of the 200% if you were a carried interest, for instance.

JIM KAISER: Right.

JOHN SHEFFIELD: Okay. I mean...does that sound okay?

JIM KAISER: Uh-huh.

JOHN SHEFFIELD: Okay. I think that's all the questions I have for now.

BUTCH LAMBERT: Okay. Thank you, Mr. Sheffield.

JOHN SHEFFIELD: Thank you.

BUTCH LAMBERT: Any questions from the Board?

(No audible response.)

BUTCH LAMBERT: Okay, thank you, Mr. Sheffield.

JOHN SHEFFIELD: Thank you.

BUTCH LAMBERT: Anything...anything further, Mr. Kaiser?

JIM KAISER: We'd ask that the application be approved and submitted with...yeah, we've got to get some revised exhibits to you. I guess Mr. Asbury did have a plat. So, you've got that. His office has that.

BUTCH LAMBERT: We've got that. 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 Board 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: Ladies and gentlemen, it's after 5:00. We're going to conclude these hearings. The rest of the docket will be continued until July.

GUS JANSON: I'd ask the Board for thirty seconds.

BUTCH LAMBERT: Yes.

GUS JANSON: At the risk of throwing myself under the bus here---

BUTCH LAMBERT: Huh, oh, be careful, Gus.

SHARON PIGEON: You really are.

JIM KAISER: Get on the bus, Gus.

RITA BARRETT: I may be behind him.

GUS JANSON: I just know the complexities that the Board is dealing with here at this hearings. It's becoming very time consuming issues that are getting longer and longer each month apparently. We've had this issue to happen in April. We did not complete the Board. The month we did not take any new docket items due to that fact. Many of those items have been continued before. Today we continued seventeen items forward again on this Board. Ten

did not get address. At this point, it's starting to affect our business and our drilling program. If we do not make some attempt to get through some of these items, we're going to start affecting people's livelihood out. We wanted to make the Board aware of that.

BUTCH LAMBERT: We hear you, Mr. Janson. We would love to get through them.

GUS JANSON: Just as a consideration, the Board may consider either extending the Board to two days until we catch up with this backlog that seem to be carried forward every month for part of this year or to do some other mechanism to clear this docket off from the continuation and this type of thing. Range Resources would like for some discussion be made about that.

RITA BARRETT: And so would Equitable because if this start affecting our business enough, and I think Gus will agree, we will start to lose rigs.

GUS JANSON: Right.

BUTCH LAMBERT: Okay. I hear you. Let me say to you folks, we would certainly appreciate complete applications when you come before---.

RITA BARRETT: I agree.

BUTCH LAMBERT: ---the Board so we can get through them in a timely manner. So, I would encourage to do as

good of a job as you can on your applications---.

RITA BARRETT: I agree.

BUTCH LAMBERT: ---so we don't have to continue items or we don't have to redo items. So, that would help the Board as well.

SHARON PIGEON: (inaudible) permits and all. Coming in for a pooling order if you're not going to get a permit for however long---.

RITA BARRETT: That was a mistake on our permitting groups.

SHARON PIGEON: Well, that's not just your---.

JIM KAISER: And we're not saying we don't make mistakes too.

RITA BARRETT: We make mistakes.

JIM KAISER: All we're asking is for possible consideration if this keeps kind of backing up if we could just have one month where we have two days to clear it up.

RITA BARRETT: And a lot of reasons we make these mistakes is we're rushing to get this stuff applied for because we have such a quick deadline from one hearing to the next.

BUTCH LAMBERT: We hear you. But keep in mind, myself included and the rest of the Board, we have jobs that we have to go to everyday. So---.

JIM KAISER: Oh, we know.

RITA BARRETT: Oh, we know that.

JIM KAISER: We know this is civic duty believe me.

BUTCH LAMBERT: I really appreciate and thank you for your patience with the Board and these items. Mr. Asbury---

MARY QUILLEN: If we do...Mr. Chairman, if we do decide that we would go two days, I would need fairly substantial notification so I could make arrangements. There's only two people in my office. My staff clerk had to be out today, so there's no one in my office. So, I have been monitoring what's going on when I can during the day.

RITA BARRETT: We'd be willing to give a...devote a half a day on a Saturday.

JIM KAISER: Good luck with that.

(Laughs.)

BILL HARRIS: Does that include putting us up for the night?

(Laughs.)

(Off record discussion.)

BUTCH LAMBERT: I'm sorry, if the Board. We've got one more item for the Board we need to take care before we adjourn. I need approval...first of all let me ask, are there any additions or deletion we need to do to our minutes

from last month?

(No audible response.)

BUTCH LAMBERT: Do I have a motion to accept the minutes of last month's meeting?

KATIE DYE: Motion to accept.

BRUCE PRATHER: Second.

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

(All Board members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you. The minutes are approved.

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 in this the 20th day of July, 2009.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: August 31, 2009.