

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, September 17, 2019

Lebanon, Virginia

BOARD MEMBERS:

Mary Quillen- Public Member

Donnie Rife- Public Member- Dickenson Co.

Bruce Prather- Oil & Gas Industry Representative

Bradley Lambert- Chairman of the Virginia Gas & Oil Board

Rita Surratt- Public Member

APPEARANCES:

Rick Cooper- Director of the Division of Gas & Oil and
Principal Executive to the Staff of the Board

Sarah Gilmer- Staff Member of the Division of Gas & Oil

Sally Ketron- Staff Member of the Division of Gas & Oil

Daniel Ingersoll- Virginia Attorney General

Transcribed by: Darlene Gibson

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1 **ITEM NUMBER 1**

2 **Bradley Lambert:** Thank you Ladies and Gentleman. At this time, we'll go into public
3 comment but before we do that, I'll ask if you any communication devices, cell phones or pagers
4 to please turn those off or silence them. If you must take a call, please do so out in the hall. On
5 public comment this morning, I have Shirley Keene. Ms. Keene, would you please come forward
6 please.

7 **Bradley Lambert:** Ms. Keene, could you state your name for the record please.

8 **Shirley Keene:** Shirley Keene.

9 **Bradley Lambert:** Thank you Ms. Keene.

10 **Shirley Keene:** I'm here on behalf of my family, myself. My grandfather, Linkous Horne and
11 my mother was his daughter. The rest of the family is getting their money from this GU2 and
12 mom's family is getting nothing. I would like to know why it took me nine months almost to get
13 the check. My sister, Mary was the only one that got it and it took me nine months. I had this
14 before you before and Rick Cooper and them, they helped to get my check and I just got it about
15 three weeks ago. But on this GU2, some of the family has received money, we haven't received
16 nothing.

17 **Bradley Lambert:** We will have Mr. Cooper look into that for you Ms. Keene.

18 **Shirley Keene:** Thank you.

19 **Bradley Lambert:** You're welcome. Thank you.

20 **Shirley Keene:** Thank you, have a nice day.

21 **Bradley Lambert:** I have no one else signed for public comment, but if there is someone that
22 came in late and didn't get signed up that would like to speak? I'm going to ask you to please
23 come forward. [No response] Hearing no other; we'll begin this morning with Item Number 2 on
24 our docket this morning. A petition from Pocahontas Gas, LLC for (1) the disbursement of
25 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 2, as
26 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the
27 parties listed in the petition and (3) dismissal of coal owner(s). This is docket number VGOB 01-
28 0116-0856-03, all parties wishing to testify please come forward.

29 **Item Number 2**

30 **Mark Swartz:** Mark Swartz and Kelli Berry.

31 **Bradley Lambert:** Good morning.

32 **Mark Swartz:** Good morning.

1 **Kelli Berry**: Good morning.

2 **Bradley Lambert**: You may begin Mr. Swartz. Sarah?

3 **Sarah Gilmer**: Ms. Berry, do you swear or affirm that your testimony is the truth, the whole
4 truth and nothing but the truth?

5 **Kelli Berry**: I do.

6 **Bradley Lambert**: Mr. Swartz I can tell you from the beginning that we've looked into this
7 petition and I hope you can explain this one for us.

8 **Mark Swartz**: It's really simple.

9 **Bradley Lambert**: Okay, good.

10 **Mark Swartz**: I have a plan so I'm going to give you an outline of my plan and then we'll get
11 into the details of it. Items 2-8 are all related on the docket. I don't want you to call them at the
12 same time but they are all the same story basically. If you would look at pdf page 18 of the
13 current docket item, that's a court order issued by the circuit court in Russell County. In
14 summary, what has happened here, there has been a title dispute with regard to a 55 ½ acre tract
15 that over lapse all of these units and/or the parties in that tract and the interest over lap all of
16 these units. The circuit court in Russell County decided the title issue and decided who gets paid
17 with the help of the lawyers because essentially what happen was the Circuit Court adjudicated a
18 number of claims as not having merit and then adjudicated the claims that had potential merit
19 based on a settlement agreement. If you go to paragraph one (1) the Court determined that all
20 necessary parties were in front of the Court, it adjudicated known and unknown heirs and then it
21 comes down to, if you look at paragraph three (3). The plaintiffs have not proved the claim other
22 than as heirs of Alta Perkins and together with Swain Perkins, CNX Gas Company and the
23 formally unknown heirs of Alta Perkins now represented by John Keene, they are the owners of
24 the gas and oil estates on and under the property that is the subject of this litigation by reason of
25 being successors in interest of Alta Perkins. So we have a court adjudication of who owns the oil
26 and gas under that estate. Then the court goes on in paragraph four (4) to say that these folks
27 have compromised their claimed interest and that the settlement basically; the comprised
28 agreement requires them to transfer. We're in paragraph four (4), still on page eighteen (18), to
29 transfer their interest to CNX Gas which also has interest under Alta Perkins in exchange for a
30 share of the current monies in escrow held by the Virginia Gas & Oil Board as to the 55.5 acre
31 tract and then the courts list the units. There's seven here that have money in escrow pertaining
32 to these folks pertaining to that tract. Now if you move to the next page, the court says as of
33 April 30, 2019, if you aggregate the escrowed monies pertaining to these folks pertaining to the
34 55 ½ acre tract, the balance was \$576,944.82. Paragraph five (5), after the transfer of the
35 successful parties in this case to CNX, CNX will own 100% of the gas and oil under this tract
36 that comes through the estate so that's the direct pay going forward. Then there were either,

1 probably children; there may have been some incompetence's, well there were people that
2 needed guardians to resolve the cases. So paragraph six (6) says, the court appointed guardians
3 for various parties in interest to represent their interest and like I said, it was probably minor
4 children cause there's a statute that allows you to do that in the oil and gas scenario. The court
5 said these lawyers need to be paid these amounts and there specified in paragraph six (6). Then
6 in paragraph 7A, the court summarizes the settlement agreement with regard to the money that
7 other settling parties are to receive, not the guardians, but other settling parties and there's a
8 \$100,000 payment, a \$180,000 payment, another \$100,000 payment and a \$50,000 payment in
9 consideration to the transfer to CNX and then paragraph B which is at the top of page 19, that's
10 the list of the ten (10) checks that we're going to be asking the Board to direct the escrow agent
11 to issue pursuant to this Board order to resolve the escrow balance's in regard to the 55.5 acre
12 tract with regard to these people claiming under this estate. Then if you go to the end of
13 paragraph B, the payment checks 1-10; this is a court order, shall deliver to David Grant Altizer
14 for delivery by him to the attorneys and the parties. Now that's the reason we're here on these
15 first items 2-8, it's a court order that is very specific in terms of who gets what out of the
16 collection escrow accounts. The problem that Kelli had when she was organizing the payments
17 and you'll see this as we work through the tables. We've got some pretty substantial payments
18 and we can't make all of them out of one escrow account, so as we go through here, the various
19 units you'll see that we're asking that regard to a particular escrow account, we may ask the
20 escrow agent to just pay the guardians and to pay any balances that's left over to CNX . With
21 regard to other escrow accounts, we may pay most of the large payments; you know the
22 \$100,000, the \$50,000. In one instance, there's not enough money to make all of the large
23 payments out of an account so \$15,000 out of a \$100,000 payment comes out of the next account
24 but all of the petitions pertaining to this court order pertain to the escrow money for these folks
25 out of this 55 ½ acre tract and then the tables; tables 1 and sometimes table 2, pertain to how do
26 we get the money out to the guardians and to the people that's settled; in the amounts that they
27 settled and then the balance, whatever it is because more money has gone in since April. The
28 balance, whatever it is, in the various escrow accounts would then come out to CNX. All of the
29 checks however; including CNX's check need to go to Altizer because he is essentially swapping
30 the checks for deeds which is what the court order says. That, in a nutshell, is why we are here
31 and what we're trying to do and if that isn't clear, we probably just need to stay with this topic.

32 **Bradley Lambert**: Yes, we do. I have a couple questions about following the logic through the
33 court order as it relates to the account in how much money is in the account when the court order
34 says of April 30, 2019, \$576,944.82 in the account but I think I caught this part of, if you add up
35 what the judge ordered to come out of that account, it doesn't equal that money.

36 **Mark Swartz**: It's less.

37 **Bradley Lambert**: But you're saying that's the money that's been added since?

1 **Mark Swartz**: Well, I think there was probably money at the time we settled that didn't exhaust
2 that amount.

3 **Kelli Berry**: That's correct. The parties agreed to settle for these block amounts in exchange for
4 ownership but the total of the amounts that are listed as items 1-9 in the order do not exhaust the
5 entirety of the accumulative escrow accounts for this property.

6 **Mark Swartz**: The 579 was more than the total of first nine (9) payments.

7 **Bradley Lambert**: So that leads me to the next question, you stated we are going to have to
8 borrow from other accounts to make up the difference?

9 **Kelli Berry**: The amounts are being divided among the different accounts in order to pay them in
10 full in blocks with the remainder being paid to CNX pursuant to item 10 of the order.

11 **Bruce Prather**: Who gave them that original amount? If you had the proper amount in there to
12 begin with, this would have been resolved, wouldn't it?

13 **Mark Swartz**: No, no.

14 **Bruce Prather**: I think what happen is that they got money monthly from the time this thing is
15 being resolved, what you got here is you got too much money.

16 **Mark Swartz**: We had too much money when it was irrupted, people settled for specific
17 amounts.

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: and they knew what their amount was going to be. CNX settled for an unknown
20 amount. CNX settled. We are going to make these payments to everybody and whatever's left,
21 we get. That was the settlement.

22 **Mary Quillen**: So there's no specific amount?

23 **Mark Swartz**: Correct, for CNX. Every account will zero out.

24 **Mary Quillen**: and all of these are more than what that total amount but there is money that has
25 accumulated since the settlement, is that what you're saying?

26 **Mark Swartz**: Well, no. If you look at paragraph B and the nine (9) checks, okay?

27 **Mary Quillen**: Yes, I'm looking at that.

28 **Mark Swartz**: The big checks are only \$410,000 and then if you had the guardian checks, it's
29 another maybe \$20,000 so at the time they settled, the judge knew and everybody knew that
30 there was over \$100,000 that was going to go to CNX and its obviously the continued payment

1 and the escrow was going to be more so everybody except CNX settled for a specific payment
2 and CNX settled for to zero out the accounts.

3 **Mary Quillen**: This was for X date, whatever the cut-off date was?

4 **Mark Swartz**: No, it's when the payments were made.

5 **Mary Quillen**: So this would include anything that has accrued since?

6 **Mark Swartz**: Right.

7 **Mary Quillen**: Oh, got you, okay.

8 **Mark Swartz**: So ten (10) is to CNX Gas Company all of the remaining balances in the said
9 escrow accounts so there will be some substantial money in some of these accounts and then
10 there will be some zero and odd money in the other accounts. As we go through, you'll see most
11 of these accounts. Exhibit E, the escrow account, most of these will zero out now and the
12 accounts can be closed. I think there's an account or two that is a little piece left over, we'll see
13 as we work through it.

14 **Mary Quillen**: Yes, yes.

15 **Mark Swartz**: So CNX gets the remaining balances from the individual accounts after specific
16 payments are made to the people that we settled with.

17 **Mary Quillen**: Okay, now one other question. Now these people that are settling, they still have
18 a percentage of ownership?

19 **Mark Swartz**: No.

20 **Mary Quillen**: They are totaling gone, after they are paid? This settles?

21 **Mark Swartz**: They're transferring their interest to CNX, which is why CNX gets the balance,
22 gets the going forward payments.

23 **Mary Quillen**: Okay, so this will be the final payment to all on this big list of people, so this is
24 everything.

25 **Mark Swartz**: Correct, they will disappear as owners and claimants.

26 **Mary Quillen**: Okay, so that extra money, even though there was more in that total amount than
27 what is designated here in or listed here in Paragraph B.

28 **Mark Swartz**: Right.

29 **Mary Quillen**: Is what goes to CNX?

1 **Mark Swartz**: Correct and the future payments.

2 **Mary Quillen**: and the future payments because CNX is going to be owning those percentages
3 and so it will go to CNX instead of these individuals?

4 **Mark Swartz**: Right.

5 **Mary Quillen**: Got you, okay.

6 **Bruce Prather**: Did they buy out their interest?

7 **Mark Swartz**: Yes, that's what this does.

8 **Kelli Berry**: Basically, yes.

9 **Bruce Prather**: So in time you bought out the interest?

10 **Mark Swartz**: Well, actually the purchase is going to be when Altizer has these checks, the
11 deeds are going to swap for the checks. So the purchase is to occur at that point.

12 **Mary Quillen**: The transfer will be made, yes, their ownership, yes. Papers for their check,
13 correct, got you. Okay.

14 **Bradley Lambert**: Mr. Swartz, in your relief sought it says begin paying directly a few parties. I
15 thought everybody was going to be bought out in this time. Who are you continuing to pay?

16 **Kelli Berry**: Well, in the relief sought, you have to list everyone that you are paying within your
17 petition even in cases where we are paying prior owners or owners who no longer own the
18 property. We're still required to list their name because we are releasing funds to them. Although
19 going forward, in this case CNX is the only party that will be paid the royalty. We still have to
20 show the names of the individuals whose payments account for what is being disbursed from
21 escrow.

22 **Bradley Lambert**: But that doesn't include the people in the Judge's order, under your
23 explanation?

24 **Kelli Berry**: They aren't all being paid under one escrow account but the payments are being
25 divided up between the escrow accounts.

26 **Mary Quillen**: Just one additional question in relation to that, like on Item #2 it says paying
27 these royalties directly to and there's a list of people. These people are not in that group that
28 settled, is that correct?

29 **Kelli Berry**: For example, for this particular docket item which is Unit AW112, we are paying
30 per the order all the guardians ad litem fees that were outlined in the order. All of those payments

1 will come from this account with the remaining balance going to CNX and the remaining
2 payments are addressed in additional dockets.

3 **Mary Quillen**: Right, but this particular one, it says authorization to begin paying royalties
4 directly to and it names: one, two, three, four, five, these are people that were not in that
5 settlement group. Is that correct?

6 **Kelli Berry**: Oh okay, those are the guardians ad litem who are being paid their fees from this
7 escrow account.

8 **Mary Quillen**: Okay.

9 **Kelli Berry**: Yes, that is correct.

10 **Mary Quillen**: That clarifies that, thank you.

11 **Mark Swartz**: I guess the problem is we are actually using royalty money to pay them, which is
12 kind of your question.

13 **Bradley Lambert**: Yes, that's it in a roundabout way.

14 **Mark Swartz**: Yea, it could have been said more artfully perhaps, because that's what being
15 escrowed or has been escrowed, but pursuant to the court order we're using the funds from this
16 unit to pay the Guardians.

17 **Bradley Lambert**: Okay, you want to move on or any other questions from the Board? [No
18 response] You want to go onto the tables and try to explain those?

19 **Mark Swartz**: I'm sorry, yes. I just need to take a little tiny bit of testimony from Kelli.

20 **Bradley Lambert**: Okay.

21 **Mark Swartz**: You need to give us your name?

22 **Kelli Berry**: Kelli Berry.

23 **Mark Swartz**: Who do you work for?

24 **Kelli Berry**: CNX Resources.

25 **Mark Swartz**: Are you here today on behalf of Pocahontas Gas, LLC?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: and you're here in regard to a petition for a disbursement from an escrow account
28 pertaining to AW112?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: We've had a discussion with the Board about a collection of applications to
3 effectuate a court order, correct?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: Under this particular unit, AW112, you've prepared a table one (1) with regard to
6 requested payments, correct?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: In table one (1), it has a pay exact dollar amount page, correct?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: On that page, you've listed the five (5) guardian's ad litem; that the court ordered
11 paid?

12 **Kelli Berry**: Yes, that's correct.

13 **Mark Swartz**: Have you used the amounts that the court ordered?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and those appear in the right hand column as a description?

16 **Kelli Berry**: Correct.

17 **Mark Swartz**: So the request with regard to what the escrow agent should be ordered to do with
18 regard to closing out the escrow account for this unit AW112 is the escrow agent should be
19 ordered to write five (5) checks to the five (5) guardians identified, their addresses are provided
20 in the amounts provided in the right furthest column to the right on Table one (1)?

21 **Kelli Berry**: Correct.

22 **Mark Swartz**: Then if we go to the next page, which is Table two (2), pay percentage on
23 balance after deducting whatever is left over would be paid to CNX Gas, correct?

24 **Kelli Berry**: That's correct.

25 **Mark Swartz**: With regard to AW112?

26 **Kelli Berry**: That's correct.

27 **Mark Swartz**: and it's not going to be the amount that you show there but it's going to be a
28 substantial amount?

1 **Kelli Berry**: That's correct.

2 **Mark Swartz**: and if we go to the next exhibit; Exhibit E, there's a tiny bit of money that is
3 going to be remaining in conflict, right, in the unit?

4 **Kelli Berry**: Yes, in the unit.

5 **Mark Swartz**: Not with the regard to the 55.5 acre tract?

6 **Kelli Berry**: Correct.

7 **Mark Swartz**: That acreage and some other tract(s) is 2.1475 and actually it's in tract four (4).

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Okay, 17.118 acre tract. So this one we will not be closing out the escrow
10 because there's another tract that needs to be escrow?

11 **Kelli Berry**: Correct.

12 **Mark Swartz**: In going forward, you've provided a revised Exhibit EE?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: and that's how people are going to be paid, going forward?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: and you're showing there that CNX will be receiving the funds for the 55 ½ acre
17 tract going forward?

18 **Kelli Berry**: Correct.

19 **Mark Swartz**: You've done an Exhibit J, which is account reconciliation?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: You've compared the payments that the operator has made to deposits that were
22 recorded and did you identify some problems?

23 **Kelli Berry**: A few, yes.

24 **Mark Swartz**: You've highlighted those in yellow?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: You've highlighted potential problems that you were able to resolve by reference
27 to the records; you've sort of highlighted those in a black outline?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: Some you've been able to resolve, some you have not?

3 **Kelli Berry**: Correct.

4 **Mark Swartz**: Ultimately, did you do a comparison calculation at the end?

5 **Kelli Berry**: That's correct.

6 **Mark Swartz**: You considered prior disbursement, you considered the First Bank balance as of
7 June, 2019 and when you compared your calculation to the bank balance, was there a difference?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: What was that difference?

10 **Kelli Berry**: \$20.41.

11 **Mark Swartz**: Since it is in red or has a negative in front of it, the bank had \$20.41 more?

12 **Kelli Berry**: Correct.

13 **Mark Swartz**: Then we've got a request that Buckhorn Coal be dismissed?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and proof of notice to them?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: The last thing is the order we've discussed?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: Just one more time, the escrow agent needs to be directed to send all of the
20 checks to Mr. Altizer?

21 **Kelli Berry**: That's correct.

22 **Mark Swartz**: Not to be payable to him, but to be sent to him?

23 **Kelli Berry**: Correct.

24 **Mark Swartz**: That's all I have Mr. Chairman.

25 **Bradley Lambert**: Mr. Swartz, I'll have to tell you, my confusion in looking at this petition was
26 that usually when we see a Table 1, that's an owner, but in this case, these are not owners?

1 **Mark Swartz**: Correct.

2 **Kelli Berry**: Correct.

3 **Bradley Lambert**: That was my confusion. I was trying to make the connection.

4 **Mark Swartz**: This is a complication adventure here. In all of these kind of hang together here
5 and now that you've got the program I think you'll see they're going to be partial payments as
6 we move forward until we zero it out, pursuant to the court order.

7 **Bradley Lambert**: Okay.

8 **Donnie Rife**: A very simple thing became a complicated matter.

9 **Mark Swartz**: I think it started complicated.

10 **Bradley Lambert**: I had a wise man ask me one time, have you never had this happen before?
11 Well, no. It's always something new.

12 **Kelli Berry**: Yes.

13 **Bradley Lambert**: Anything further Mr. Swartz?

14 **Mark Swartz**: No.

15 **Bradley Lambert**: Any questions from the Board?

16 **Daniel Ingersoll**: I might have a couple questions? I hate to a fly in the oil.

17 **Bradley Lambert**: No, no, absolutely. Go ahead.

18 **Daniel Ingersoll**: I think I'll give you on this one as I'm reading 361.22:2D does say the
19 prevailing gas claimant can entitled to recover cost in attorney's fees. You think that could
20 broadly construe to include Guardians ad litem in the case?

21 **Mark Swartz**: I don't think. I think that was to enable the Board to kind of to order which
22 you're not really doing here. I mean the Court ordered it. I mean I understand the question but I
23 think...

24 **Daniel Ingersoll**: So you're saying that part of the statute enables the Board to award this fee?

25 **Mark Swartz**: Yes, and I've seen that happen in the past.

26 **Daniel Ingersoll**: Okay, my concern and I'm wondering if you can answer this question. My
27 concern is the finality of this order? And how that affects this, whether this is final is positive of
28 this case, whether the plaintiffs have the right to an appeal and how the monies are going to be

1 held in escrow by Mr. Altizer until the quitclaim deeds? Are they in possession of Mr. Altizer
2 now?

3 **Kelli Berry**: Yes, they are.

4 **Mark Swartz**: Yes, he has them.

5 **Kelli Berry**: He has them in his possession awaiting the funds.

6 **Daniel Ingersoll**: So we're not going to have any... monkey business about 'I don't like how this
7 quitclaim deed is drafted; do it again'; they're all in his possession currently?

8 **Mark Swartz**: It's how you settle these cases. You're absolutely right; I mean people need to
9 have a kind of a closing. Essentially, what David is going to be doing is he's got the deeds
10 awaiting the amounts pursuant to order so that he can essentially have a closing. Receive the
11 funds, deliver the funds and then record the deeds. That's the process. Now, on the appeal
12 question, this is a final order. I'm sure this order, like all your other orders will say 'you got an
13 appeal right here'. Theoretically, even these people have settled, they could file an appeal to the
14 Circuit Court.

15 **Kelli Berry**: I believe once the funds are delivered and the deeds are recorded, then the
16 attorney's will go back to the court to testify that this has all taken place for the matter to be
17 closed.

18 **Mark Swartz**: For the court case to be closed but this order disbursing from escrow, like any
19 other order is appealable.

20 **Daniel Ingersoll**: Do we typically wait for an appeal period to come and go before they come
21 before the Board?

22 **Mark Swartz**: No, they would have to and there's no automatic stay either. You would have to
23 affirmatively petition the Board for a stay if you wanted that to occur. So no, the Board does
24 have the power to stay orders, permits and so forth which occasionally has been done.

25 **Bradley Lambert**: Any other questions from the Board? [No response] Anything further Mr.
26 Swartz?

27 **Mark Swartz**: No.

28 **Bradley Lambert**: Do I have a motion?

29 **Donnie Rife**: Motion made for approval Mr. Chair.

30 **Bradley Lambert**: Do I have a second?

31 **Mary Quillen**: Second.

1 **Bradley Lambert**: I have a motion and I have a second, any further discussion? [No response]
2 All in favor signify by saying yes.

3 **Board**: Yes.

4 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz, that one is approved.

5 **Item Number 3**

6 **Bradley Lambert**: Now calling Docket Item Number three (3) a petition from Pocahontas Gas,
7 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
8 Agent, attributable to Tract 2, as depicted upon the annexed table; and (2) authorization to begin
9 paying royalties directly to the parties listed in the petition and (3) dismissal of coal owner. This
10 is docket number VGOB 01-0320-0874-02. All parties wishing to testify please come forward.

11 **Mark Swartz**: Mark Swartz and Kelli Berry.

12 **Bradley Lambert**: You may proceed Mr. Swartz.

13 **Mark Swartz**: Thank you. Kelli, would you state your name for us again?

14 **Kelli Berry**: Kelly Berry.

15 **Mark Swartz**: Who do you work for?

16 **Kelli Berry**: CNX Resources.

17 **Mark Swartz**: You're here on behalf of Pocahontas Gas, LLC?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: Are you here to pursue a petition for a disbursement of escrow funds?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: Pertaining to Unit AX113?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: Mr. Chairman, I would ask that the testimony and discussion with regard to the
24 court order be incorporated from the last docket item; docket item two (2), because it's the same.

25 **Bradley Lambert**: Accepted.

26 **Mark Swartz**: Okay, so let's go directly to the exhibit or the tables. Table 1 is at pdf page 5. It
27 identifies payments to be made pursuant to the settlement of \$100,000 payment, \$50,000
28 payment, \$180,000 payment and an \$85,000 payment and you will discover the next docket item

1 4 that we come to is going to make up \$15,000 that was missing from the \$85,000. Okay, so
2 there's going to be a kind of a carry forward there, right Kelli?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: So we're asking the Board to order, let's go to the court order just to confirm that
5 we're on the same theory. If you go to page nineteen (19) of the court order in this docket, you're
6 going to see item six (6) is the \$100,000, item seven (7) is the \$50,000, item eight (8) is the
7 \$180,000 and then item nine (9) is to John Keene. The \$100,000 as I previously indicated on
8 Table 1, we're paying \$85,000 out of this escrow account and then we will pick up the other
9 \$15,000 in the next docket item. Then if we go back to Table 2, which is pdf page 6, there we're
10 going to have with regard to tract 1 and 2A, there we are going to have 100% of the remaining
11 balance pertaining to tract 1 going to CNX to zero that account out in this unit. Then we got a
12 split agreement here?

13 **Kelli Berry**: That's correct.

14 **Mark Swartz**: Which is going to be paid with regard to Tract 2A and that's 50/50 split and that
15 will go to half of the money with regard to Tract 2A would go to Buckhorn at the address stated
16 and half would go to CNX. That payment does not pertain to the 55 ½ acre tract, that's a
17 different payment but we're trying to make one trip. Then in this particular case, if you go to the
18 next page which is pdf 7, those disbursements will actually cause the escrow balance to go to
19 zero and the escrow account can be closed with regard to this unit. So that's good news on this
20 one. Then if we come down, Kelli, you did an Exhibit J again, the reconciliation?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: It looks like you got an early check of \$57.41 that you were unable to account
23 for?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: You got some issues on the next page, pdf page 10, some of which you were able
26 to resolve the ones that highlighted with black borders and then you weren't able to resolve in
27 yellow, right?

28 **Kelli Berry**: Yes.

29 **Mark Swartz**: As we work through, we see a couple more. Then we get to the very end and
30 you've your own calculation with regard to the total and you've compared that to the bank
31 balance and there's a difference?

32 **Kelli Berry**: Yes.

33 **Mark Swartz**: How much?

1 **Kelli Berry**: \$587.28.

2 **Mark Swartz**: Is that the bank has excess of your calculation?

3 **Kelli Berry**: In excess, yes.

4 **Mark Swartz**: and that is more than enough money to cover the specific payments here?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: Lastly, I think on this we have an acknowledgement that Buckhorn has provided
7 a split agreement with regard to part of this unit but to the extent that split agreement does not
8 apply and they should be dismissed as a coal owner?

9 **Kelli Berry**: Correct.

10 **Mark Swartz**: You've got proof of that notice and then again the order in which we've already
11 discussed. Mr. Chairman, that's all I have on docket item 3.

12 **Bradley Lambert**: Any questions from the Board?

13 **Mary Quillen**: Just a couple of questions, if you remember previously on these checks that were
14 issued to different owners that were sent directly to Shea Cook. They were made directly to the
15 owner but sent to him to be delivered to them but on this they're one is just on behalf of the
16 plaintiffs and the other one is on the behalf of this other person, the check is made to those?

17 **Mark Swartz**: The court order says what we're to do. You know it says the check to Shea Cook
18 on behalf of the plaintiff for \$100,000, then its then up to him. So the check would actually be
19 made....

20 **Mary Quillen**: So because this is a court order, then that relieves us of responsibility once it is
21 written? We're following the court order? I just wanted that on the record and clarify because we
22 have run in, we've had this previously.

23 **Mark Swartz**: We've had the problem.

24 **Mary Quillen**: Yes, over and over. I just wanted to be sure that was on the record.

25 **Kelli Berry**: Yes.

26 **Mary Quillen**: Thank you.

27 **Bradley Lambert**: We have the same court order that says that they will be delivered to David
28 Altizer and then he takes care of it.

29 **Mark Swartz**: Right, well he gets the check to Cook and then Cook is going to settle with his
30 people.

1 **Bradley Lambert:** Yes, okay. So Ms. Quillen, it says the checks will be delivered to David
2 Grant Altizer.

3 **Mary Quillen:** Right, I just wanted to be sure.

4 **Bradley Lambert:** Any other questions from Board? [No response] Anything further Mr.
5 Swartz?

6 **Mark Swartz:** No, thank you.

7 **Bradley Lambert:** Do we have motion?

8 **Donnie Rife:** Motion made for approval Mr. Chair.

9 **Bradley Lambert:** Do we have a second?

10 **Mary Quillen:** Second.

11 **Bradley Lambert:** I have a motion and I have a second, any further discussion? [No response]
12 All in favor signify by saying yes.

13 **Board:** Yes.

14 **Bradley Lambert:** Opposed, no? [No response] Thank you Mr. Swartz, that one is approved.

15 **Mark Swartz:** Thank you.

16 **Item Number 4**

17 **Bradley Lambert:** We're calling Docket Item Number four (4), a petition from Pocahontas Gas,
18 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
19 Agent, attributable to Tracts 2 & 4, as depicted upon the annexed table; (2) authorization to begin
20 paying royalties directly to the parties listed in the petition and (3) dismissal of coal owners. This
21 is docket number VGOB 01-0821-0915-04 all parties wishing to testify, please come forward.

22 **Mark Swartz:** Mark Swartz and Kelli Berry.

23 **Bradley Lambert:** You may proceed Mr. Swartz.

24 **Mark Swartz:** Kelli, would you state your name for us again.

25 **Kelli Berry:** Kelli Berry.

26 **Mark Swartz:** Who do you work for?

27 **Kelli Berry:** CNX Resources.

28 **Mark Swartz:** You're here on behalf of the petitioner Pocahontas Gas, LLC?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: Are you here to address a petition requesting a disbursement of some escrow
3 funds from AY113?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: and the reason we're here is we've got this court agreement that we have
6 previously discussed and we're making additional payment with regard to that, correct?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: We've got some coal dismissals here?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: Mr. Chairman, I ask that Kelli's testimony and the discussion that we had regard
11 to docket item #2 and the settlement agreement and the court order be incorporated into this
12 record?

13 **Bradley Lambert**: Accepted.

14 **Mark Swartz**: Thank you. If we go here directly to pdf page 5, this is in Table 1; we've got an
15 exact payment here, correct?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: You've indicated Attorney Keene is to receive another \$15,000 payment?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: and that makes up the shortfall from the prior unit where he got \$85,000 instead
20 of a \$100,000?

21 **Kelli Berry**: Correct.

22 **Mark Swartz**: So then this satisfies the court order with regard to that \$100,000 payment?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Then if we go to Table 2, we have a payment to CNX of 100% of the balance
25 pertaining to the 55 ½ acre tract?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: We also have a payment to HC Bostic Coal Company on a different tract; Tract
28 4, right?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: and Bernie Darin Dye, correct?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and they each receive the percentages shown in the 3rd column from the right?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: So HC Bostic Coal would receive 14.6161% of the balance on hand when the
7 disbursement was calculated?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: and Bernie Darin Dye would receive 23.3386% of the balance pertaining to tract
10 4 on hand when the disbursements are made?

11 **Kelli Berry**: Correct.

12 **Mark Swartz**: Those payments go directly to the people and the addresses you've shown on
13 Table 2?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: Then you've provided us a revised Exhibit E which shows the escrow account is
16 no longer required?

17 **Kelli Berry**: Correct.

18 **Mark Swartz**: and can be closed. We've got revised Exhibit EE going forward?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: Now we have Exhibit J reconciliation and again at the very beginning we've got
21 a slight difference that you can't account for?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: As you go through there, we've got some differences that you've noted but were
24 able to account for?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: At the end, you did your calculation and compared it to the June bank balance
27 and there was a difference of what?

28 **Kelli Berry**: \$179.33 in excess.

1 **Mark Swartz**: Now we've got a notice that was sent on various dates to a lot of coal owners,
2 correct?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: We have a summary of the certificates of notice to those owners and we have a
5 couple; three (3) that were unclaimed and one (1) that was in transit?

6 **Kelli Berry**: Yes.

7 **Mark Swartz**: The unclaimed would be Michelle Cooper, right?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Andrew David Justice, Kenneth Samuel Lester and then the in transit, Joe Noel.
10 With the exception of those four (4), you show delivery and you've provided the receipts for
11 that?

12 **Kelli Berry**: Yes.

13 **Mark Swartz**: Again, we've attached the court order and are you requesting the coal owner(s)
14 with the exception of the unclaimed and in transit of the four (4) people be dismissed?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: That's all I have Mr. Chairman.

17 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Swartz?

18 **Mark Swartz**: No.

19 **Bradley Lambert**: Do I have a motion?

20 **Donnie Rife**: Motion made for approval Mr. Chair.

21 **Mary Quillen**: Second.

22 **Bradley Lambert**: I have a motion and I have a second, any further discussion? [No response]
23 All in favor signify by saying yes.

24 **Board**: Yes.

25 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz, that one is approved.

26 **Mark Swartz**: Thank you.

27 **Item Number 5**

1 **Bradley Lambert**: We're calling docket item number five (5), a petition from Pocahontas Gas,
2 LLC, for (1) the disbursement of escrowed funds heretofore deposited with Board's Escrow
3 Agent attributable to Tracts 2 & 4, as depicted upon the annexed table (2) authorization to begin
4 paying royalties directly to the parties listed in the petition. This is docket number VGOB 01-
5 0821-0916-04, all parties wishing to testify please come forward.

6 **Mark Swartz**: Mark Swartz and Kelli Berry.

7 **Bradley Lambert**: You may proceed Mr. Swartz.

8 **Mark Swartz**: Kelli, would you state your name for us again.

9 **Kelli Berry**: Kelli Berry.

10 **Mark Swartz**: Who do you work for?

11 **Kelli Berry**: CNX Resources.

12 **Mark Swartz**: Are you here on behalf of Pocahontas Gas, LLC, the petitioner with regard a
13 request for disbursement regarding escrow funds pertaining to Unit AY114?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and the reasons for the trip here you've summarized at pdf page 2 the court order
16 that we've previously discussed today?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: and then we've got some gas claimants in another tract?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: and then we've got some coal claimants to be dismissed, right?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: Then we want to be able to pay directly the gas claimants Bernie Dye and HC
23 Bostic?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: in regard to the tract that is not part 55.5 acre tract?

26 **Kelli Berry**: Correct.

27 **Mark Swartz**: If we go to Table 1, this is a percentage table?

28 **Kelli Berry**: Yes.

1 **Mark Swartz**: To effectuate the settlement that we've been discussing, CNX would receive
2 100% of the funds on deposit with escrow agent with regard to the 55 ½ acre tract, which in this
3 unit is Tract 2?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: and Mr. Dye and Bostic Coal would receive disbursements for pertaining to Tract
6 4?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: This Bernie Darin Dye at the address provided will receive 57.9384% of the
9 amount on deposit at the time the disbursement is to be made?

10 **Kelli Berry**: Correct.

11 **Mark Swartz**: and Bostic Coal at the address provided would receive 40.8018% of the amount
12 on deposit with regard to Tract 4 at the time the disbursement is made?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: Mr. Chairman, I would like to incorporate the testimony and the questions and
15 the discussion with regard to the settlement agreement from docket item 2?

16 **Bradley Lambert**: Accepted.

17 **Mark Swartz**: and this is another situation where once those disbursements are made as we can
18 see it at pdf page 6, there will no longer be an escrow requirement?

19 **Kelli Berry**: Correct.

20 **Mark Swartz**: The Board and the Escrow Agent can close this account?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: Going forward, you've given us an amended Exhibit EE showing the payment
23 plan going forward, right? If the disbursements are made and then you got an Exhibit J again,
24 account reconciliation?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: Once again we have some differences that you can't completely resolve and some
27 that you can?

28 **Kelli Berry**: Yes.

1 **Mark Swartz**: If we get to the last page, you done your comparison and calculation but you
2 didn't do the math I don't think, it got cut off. There is a difference, right?

3 **Kelli Berry**: Upload a corrected Exhibit J?

4 **Mark Swartz**: What's the amount?

5 **Kelli Berry**: The First Bank and Trust account is in excess of \$142.44 as compared to our
6 account balances.

7 **Mark Swartz**: and you will upload the missing number?

8 **Kelli Berry**: We will upload a revised Exhibit J which includes that final number there that's
9 been cut off of the exhibit.

10 **Mary Quillen**: I thought that was an excessive amount?

11 **Bradley Lambert**: Yes, I've never seen one like those numbers.

12 **Mary Quillen**: Thank you.

13 **Mark Swartz**: Occasionally they balance but not often.

14 **Mary Quillen**: Not that one, a big difference.

15 **Mark Swartz**: Not this one. This one doesn't work.

16 **Bradley Lambert**: Excuse me Mr. Swartz, how come or what made such a big difference that
17 we have on Exhibit J with \$55,000 on it?

18 **Kelli Berry**: The Exhibit J that was uploaded ends with the account balance and the First Bank
19 and Trust difference that is below that has been cut off of the pdf so we will upload or revise
20 Exhibit J that shows that number that was accidently cut off.

21 **Bradley Lambert**: Okay.

22 **Mary Quillen**: What is the true difference?

23 **Kelli Berry**: \$142.44.

24 **Bradley Lambert**: Okay, thank you. I'm sorry Mr. Swartz, you may proceed.

25 **Mark Swartz**: then we've got an affidavit in regards to a series of mailings to coal owners just
26 like we saw in the last?

27 **Kelli Berry**: Correct.

1 **Mark Swartz**: We have a certification of notice once again and it looks like the same for folks
2 that we talked about in the prior hearing?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: That did not receive notice and that would be Michelle Lee Cooper, Andrew
5 David Justice, Kenneth Samuel Lester and Joe Noel, correct?

6 **Kelli Berry**: Yes.

7 **Mark Swartz**: With the exception of those four people, are you requesting that the Board
8 dismiss the other coal owners for failure to provide proof of litigation or an agreement?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: Then we have the Board order as the last exhibit Mr. Chairman and that would be
11 all I have on this one.

12 **Bradley Lambert**: Any question from the Board? [No response] anything further Mr. Swartz?

13 **Mark Swartz**: No.

14 **Bradley Lambert**: Do I have a motion?

15 **Donnie Rife**: Motion made for approval Mr. Chair.

16 **Bradley Lambert**: Do I have a second?

17 **Mary Quillen**: Second.

18 **Bradley Lambert**: I have a motion and I have a second, any further discussions? [No response]
19 All in favor signify by saying yes.

20 **Board**: Yes.

21 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz, that one is approved.

22 **Item Number 6**

23 **Bradley Lambert**: Now calling Docket Item Number 6, a petition from Pocahontas Gas, LLC
24 for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent,
25 attributable to a portion of Tracts 1B and 2, as depicted upon the annexed table; and (2)
26 authorization to begin paying royalties directly to the parties listed in the petition. Docket
27 Number VGOB 03-1118-1220-02, all parties wishing to testify please come forward.

28 **Mark Swartz**: Mark Swartz and Kelli Berry.

1 **Bradley Lambert**: You may proceed Mr. Swartz.

2 **Mark Swartz**: State your name for us?

3 **Kelli Berry**: Kelli Berry.

4 **Mark Swartz**: Who do you work for?

5 **Kelli Berry**: CNX Resources.

6 **Mark Swartz**: Are you here on behalf of the petitioner Pocahontas Gas, LLC requesting a
7 disbursement from the Escrow Account pertaining AX112?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: and the reasons for the requests are listed at pdf page 2, correct?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: We have a court order that we have not seen before today anyway involving the
12 Rasnic's, right?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: Now we also have the order that we talked about repeatedly today?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: and in that regard, I would like to incorporate the testimony and the discussion
17 from Docket Item 2 earlier?

18 **Bradley Lambert**: Related to the first pool?

19 **Mark Swartz**: Yes.

20 **Bradley Lambert**: Accepted.

21 **Mark Swartz**: We also have some coal dismissals here?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: So if we go to Table 1, it pertains to two different tracts; 1B and 2, correct?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: Tract 2 is related to the 55 ½ acre tract and the settlement and the court order that
26 we've been discussing in all of the hearing today?

27 **Kelli Berry**: Correct.

1 **Mark Swartz**: and Tract 1B pertains to another court order?

2 **Kelli Berry**: Yes.

3 **Mark Swartz**: You've also provided as an exhibit?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: So with regard to the payments that we are asking the Escrow Agent to make
6 concerning Tract 1B, we're asking the Escrow Agent to pay Gent Enterprises and Buckhorn Coal
7 at the addresses you've provided?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Fifty percent (50%) of the balance in the escrow account pertaining to Tract 1B
10 on the day the checks are cut and then regard to Tract 2 we're asking the Escrow Agent to be
11 directed to pay 100% of the balance on hand to CNX Gas Company on the date the disbursement
12 is made?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: We're asking for the ability to pay these folks on Table 1 directly going forward?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: With regard continued escrow, we've got a revised Exhibit E but there is a
17 continuing need for escrow that you have disclosed on that Exhibit?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: It pertains to 123.8 acres?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: and on Exhibit J, right?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: and once again you've looked for deposits corresponding to checks?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: In yellow, we've got some that you can't completely resolve?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: and surrounded in a black outline are ones that you were able to match them?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: We get to the last page of Exhibit J, there's a difference?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: What is it?

5 **Kelli Berry**: \$5.35.

6 **Mark Swartz**: and the bank has that amount more?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: than your calculation?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: In regard to Coal dismissals, we've got a situation where Buckhorn has provided
11 a split agreement with regard to the tract issue but it doesn't apply to all their interest in this unit?

12 **Kelli Berry**: Correct.

13 **Mark Swartz**: To the extent that they provided a split agreement, they need to be paid pursuant
14 to the Table to the extent that they have not provided for all of the coal tracts and they should be
15 dismissed?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: You've given proof of notice to Buckhorn and you've attached copies of both of
18 the orders?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: That's all I have Mr. Chairman.

21 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Swartz?

22 **Mark Swartz**: No.

23 **Bradley Lambert**: Do I have a motion?

24 **Donnie Rife**: Motion made for approval Mr. Chair.

25 **Bradley Lambert**: Do I have a second?

26 **Mary Quillen**: Second.

27 **Bradley Lambert**: I have a motion and I have a second, all in favor signify by saying yes.

1 **Board**: Yes.

2 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz that one is approved.

3 **Item Number 7**

4 **Bradley Lambert**: We're calling Docket Item Number 7, a petition from Pocahontas Gas, LLC,
5 for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent,
6 attributable to Tracts 2 & 4, as depicted upon the annexed table: (2) authorization to begin
7 paying royalties directly to the parties listed in the petition. This is Docket Number VGOB 01-
8 0116-0859-03 all parties wishing to testify please come forward.

9 **Mark Swartz**: Mark Swartz and Kelli Berry.

10 **Bradley Lambert**: You may proceed Mr. Swartz.

11 **Mark Swartz**: Kelli, your name again?

12 **Kelli Berry**: Kelli Berry.

13 **Mark Swartz**: Who do you work for?

14 **Kelli Berry**: CNX Resources.

15 **Mark Swartz**: and are you here today on behalf of the petitioner Pocahontas Gas, LLC with
16 regard to a request for disbursement for Unit AX114?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: Have we given the Board the reasons for this visit on page 2 of the pdf?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: We have the court case that we've been talking about today?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: Involving the settlement?

23 **Kelli Berry**: Correct.

24 **Mark Swartz**: Then we have some gas claimants under the act?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: that has split agreements as well?

27 **Kelli Berry**: No.

1 **Mark Swartz**: No, just gas claimants under the act?

2 **Kelli Berry**: Yes.

3 **Mark Swartz**: Okay, then we got some coal dismissals apparently?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: Okay. So if we go to Table 1 then, we got two tracts; Tract 2 and Tract 4 and
6 regard to Tract 2, that is a payment to CNX pursuant to the court order and the settlement?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: That would zero out the escrow account pertaining to the 55 ½ acre tract that is
9 identified as Tract 2 in this unit?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: Now we have further disbursement once again to Mr. Dye, Bostic Coal Co and
12 this one you've given their names and their addresses in Tract 4, correct?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: The Escrow Agent should be directed to pay on the day the checks are cut,
15 2.9359% to Bernie Darin Dye and 3.7448% to HC Bostic Coal Company the account balance
16 pertaining to Tract 4 on the date the checks are cut?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: Okay. Then we have... I messed this up.

19 **Kelli Berry**: You didn't? A unique circumstance in which I utilized the exact pay table to pay
20 HC Bostic and Bernie Dye will be paid the amounts on both Tables for Tract 4.

21 **Mark Swartz**: Okay.

22 **Kelli Berry**: I have provided an explanation which I believe has been provided to the Board as
23 well. I found when reviewing this unit for disbursement as to Tract 4 only the acreage paid into
24 escrow is different for Unit/Well AX114 than it is for AX114A. So in order to correctly pay out
25 the balances due to these owners for the acreage that has paid into escrow for each well I utilized
26 the exact pay table. Table 1 represents the amount the acreage that has paid into escrow for
27 AX114A and Table 2 represents the acreage that has paid into escrow for these owners for Well
28 AX114.

29 **Mark Swartz**: Okay.

30 **Mary Quillen**: Does that close that out?

1 **Kelli Berry**: Yes, yes it does.

2 **Mary Quillen**: Okay.

3 **Mark Swartz**: I'm just trying to process this to make sure, so you're saying...

4 **Kelli Berry**: They are only in reference to Tract 4, Tract 2 is the same.

5 **Mark Swartz**: Okay.

6 **Kelli Berry**: Which is our tract involving our settlement agreement.

7 **Mark Swartz**: Okay.

8 **Kelli Berry**: For Tract 4, the acreage that has paid into the escrow account is different for each
9 well that is producing in that unit. Therefore; I separated the payment to these owners for Tract 4
10 as to Table 1 represents the acreage that has paid into escrow for their interest for Well AX114A
11 and Table 2 represents the acreage the has paid into escrow for their interest for Well AX114.

12 **Mark Swartz**: Why was there a difference?

13 **Kelli Berry**: It appears that a decision was made by those in this position prior to me to escrow a
14 percentage of their interest based on the facts that they owned a portion of gas and coal, the same
15 but a portion of their gas ownership differed from the coal ownership. So we paid the percentage
16 they owned that was the same as to the coal, oil and gas. As to their percentage owned of the gas
17 that was in conflict with coal owners; that was escrowed.

18 **Mark Swartz**: That accounts for the difference, okay.

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: So the \$34.94 and \$44.57 accounts for the disparity in ownership of these folks
21 between coal and oil and gas.

22 **Kelli Berry**: Yes, for Well AX114A.

23 **Mark Swartz**: Got you, that's the explanation of that?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: Then I assume the Escrow Agent should be directed to pay the \$34.94 to Mr. Dye
26 and the \$44.57 to HC Bostic before applying the percentages that I mentioned with regard to
27 Table...?

28 **Kelli Berry**: They are separate percentages.

1 **Mark Swartz**: Right, I understand. The exact pay in Table 1 of those two dollar amounts should
2 be made to with regard to Tract 4 should be made to Dye and Bostic Coal before the percentages
3 are applied in Table 2?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: and it doesn't really matter how CNX is paid because with regard to Tract 2 they
6 get 100% of the money?

7 **Kelli Berry**: Yes, that is correct.

8 **Mary Quillen**: One comment on that are, those two small amounts, they are just taking care up
9 to a point? Moving forward on everything, it will go to this correct percent of escrowed funds
10 that is shown on the percentage page?

11 **Kelli Berry**: Yes.

12 **Mary Quillen**: Okay.

13 **Mark Swartz**: What happens is if you go to the next page; Exhibit E. It zero's out the account,
14 so Bostic and Dye are getting 100% of the money with regard to their Tract, it's just being paid
15 that way to make sure it's divided appropriately between them. If there was still money
16 remaining in the account it would be a nightmare, okay, but this zero's out Tract 4 for these two
17 people and accounts for differing interest?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: Well, fortunately otherwise I don't know what we would do.

20 **Bradley Lambert**: It makes it clear that it will be closed. They'll be paid out their percentage on
21 Table 2, going forward?

22 **Mark Swartz**: and that zeros it out and the slight adjustment is as Kelli described, but they are
23 getting 100% of the money, those two people. The company and the person that was escrowed
24 with regard to that particular Tract so we don't have some accounting issue going forward
25 between them?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: Is it true then that if the disbursements are made we will no longer require
28 escrow?

29 **Kelli Berry**: Yes, that's correct.

30 **Mark Swartz**: You've given us a revised Exhibit EE with regard to the path forward?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: and then Exhibit J, once again you did account reconciliation?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and we've got some differences over the history where you've not been able to
5 resolve discrepancies and then other where you were able to work through it and resolve them
6 and finally you gave us a comparison of your calculation or estimate of the balance and the
7 bank's as of June, 2019, right?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: What's the difference?

10 **Kelli Berry**: \$35.75.

11 **Mark Swartz**: more in the bank?

12 **Kelli Berry**: Yes.

13 **Mark Swartz**: Then we have the same multiple letters to coal owners; we got a certification of
14 notice. Once again we have Michelle Lee Cooper, Andrew David Justice, Kenneth Samuel
15 Lester and Jo Noel as folks that did not receive notice, correct?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: You're asking with the exception of those four (4) folks, the Board dismiss the
18 coal owners' claims for failure to provide proof of litigation or a settlement agreement with
19 regard to the other folks that you noticed?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: Once again, we have provided a copy of the court order and settlement agreement
22 with regard to the CNX disbursement?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: I can't remember because there's been so many times that I've asked you to
25 incorporate the testimony and the discussion from Item 2, I'd asked you to do it maybe again?

26 **Bradley Lambert**: I don't think we did but it's accepted this time.

27 **Mark Swartz**: Okay, thank you. That's all I have Mr. Chairman.

28 **Bradley Lambert**: Any questions from the Board? [No response] Do I have a motion?

1 **Donnie Rife**: Motion made for approval Mr. Chair.

2 **Bradley Lambert**: Do I have a second?

3 **Mary Quillen**: Second.

4 **Bradley Lambert**: All in favor signify by saying yes, if there's no further discussion? [No
5 response] All in favor signify by saying yes?

6 **Board**: Yes.

7 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz that one is approved.
8 We're going to take about a ten (10) minute break. We'll be back at about twenty after.

9 [BREAK]

10 **Item Number 8**

11 **Bradley Lambert**: To get started back on our Docket this morning. We're calling Docket Item
12 Number 8, a petition from Pocahontas Gas, LLC, for (1) the disbursement of escrowed funds
13 heretofore deposited with the Board's Escrow Agent, attributable to Tract 2, as depicted upon the
14 annexed table; and (2) authorization to begin paying royalties directly listed in the petition and
15 (3) Dismissal of coal owner(s). This is Docket Number VGOB 01-0116-0857-02, all parties
16 wishing to testify please come forward.

17 **Mark Swartz**: Mark Swartz and Kelli Berry.

18 **Bradley Lambert**: You may proceed Mr. Swartz.

19 **Mark Swartz**: This is the last of the settlement petitions so I would like to incorporate the
20 testimony and discussion from Docket Item 2?

21 **Bradley Lambert**: Accepted.

22 **Mark Swartz**: Kelli, you need to state your name for us again.

23 **Kelli Berry**: Kelli Berry.

24 **Mark Swartz**: Who do you work for?

25 **Kelli Berry**: CNX Resources.

26 **Mark Swartz**: and are you here on behalf of Pocahontas Gas, LLC?

27 **Kelli Berry**: Yes.

1 **Mark Swartz**: and we're here on a disbursement request pertaining to CBM Unit AW113,
2 correct?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: You've stated the reasons for this visit at pdf page 2; we have pursuant to the
5 settlement agreement a payment to CNX, correct?

6 **Kelli Berry**: Yes.

7 **Mark Swartz**: We also have some coal owners' dismissals?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Go to Table 1, we actually got a pretty simple story here, right? So CNX would
10 receive 100% of the funds on deposit pertaining to Tract 2 at the time the disbursement is made?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: That payment will zero out the escrow account and could be closed?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: You've got an Exhibit E that says that?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: Going forward, you've provided an Exhibit EE?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: You have also provided an Exhibit J, which shows your comparison of checks
19 issued to deposits made?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: You've identified some issues that you were not able to fully resolve and some
22 issues that at first appeared to be a problem but you were able to resolve?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Was there a difference in your estimate with regards to the balance and to the
25 bank's?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: What was that difference?

1 **Kelli Berry**: The Bank shows \$231.95 less than what we show.

2 **Mark Swartz**: and in your recap, you've accounted for a prior disbursement, correct?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and you've also accounted for a missed deposit which was corrected?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: With regard to the dismissals we are looking to dismiss Buckhorn Coal and
7 you've provided them with a notice back in 2016, we got proof of mailing and Buckhorn has not
8 produced either proof of litigation or proof of an agreement and should be dismissed?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: Once again, we've provided the court order regarding the settlement and that's all
11 I have Mr. Chairman.

12 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Swartz?

13 **Mark Swartz**: No.

14 **Bradley Lambert**: Do I have a motion?

15 **Donnie Rife**: Motion made for approval Mr. Chair.

16 **Bradley Lambert**: Do I have a second?

17 **Mary Quillen**: Second.

18 **Bradley Lambert**: I have a motion and I have a second, any further discussion? [No response]
19 all in favor signify by saying yes.

20 **Board**: Yes.

21 **Bradley Lambert**: Opposed, no? [No response] thank you Mr. Swartz that one is approved.

22 **Item Number 9**

23 **Bradley Lambert**: We're calling Docket Item Number 9, a petition from Pocahontas Gas, LLC,
24 for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent,
25 attributable to Tract 1B, 1D, 1G1, 1G2, 1J1, 1J2, 1K1, 1K2, and 1L and (2) authorization to
26 begin paying royalties directly to the parties listed in the petition and (3) Dismissal of coal
27 owner. Docket Number VGOB 99-1019-0758-02, all parties wishing to testify please come
28 forward.

1 **Mark Swartz:** Mark Swartz and Kelli Berry.

2 **Bradley Lambert:** You may proceed Mr. Swartz.

3 **Mark Swartz:** Kelli, could you state your name for us please?

4 **Kelli Berry:** Kelli Berry.

5 **Mark Swartz:** Who do you work for?

6 **Kelli Berry:** CNX Resources.

7 **Mark Swartz:** Are you here on behalf of the petitioner Pocahontas Gas, LLC?

8 **Kelli Berry:** Yes.

9 **Mark Swartz:** and we're here with regard to a disbursement request pertaining to CBM Unit
10 S53?

11 **Kelli Berry:** Yes.

12 **Mark Swartz:** and the reasons for our visit today are summarized at page 2 of the pdf, correct?

13 **Kelli Berry:** Yes.

14 **Mark Swartz:** We've got a court case, we have gas claimants under the act and we have a
15 request for some coal dismissals?

16 **Kelli Berry:** Yes.

17 **Mark Swartz:** We got to Table 1 which is one page, right?

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** It is a percentage disbursement request?

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** It pertains to the nine Tracts listed?

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** and with regard to each tract, have you provided the name and address of the
24 payee?

25 **Kelli Berry:** Yes.

26 **Mark Swartz:** For each payee, have you provided a percentage in the 2nd column of the right
27 hand edge of the table that the Escrow Agent should use when calculating the payments?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: The Escrow Agent should use the percentage you've given for each person or
3 company multiply that times the balance on hand with regard to the tract that's at issue and that
4 will generate the dollar amount?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: Then going forward, are you asking for order allowing the operator to pay the
7 folks identified on Table 1 directly?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Have you provided a revised Exhibit E that would reflect the changes in escrow
10 requirements?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: and we still have quite a few acres in escrow here?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: Have you provided a revised Exhibit EE with regard to the path forward in terms
15 of payments?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: Once again, did you do a reconciliation comparing royalty checks issued to
18 deposits made?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: and again we got some differences that you were not able to fully account for?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: and some differences that you were able to account for?

23 **Kelli Berry**: Correct.

24 **Mark Swartz**: and again the ones that you couldn't completely work through are highlighted in
25 yellow?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: and the ones that you could account for on some, having done some math; are
28 outlined in black?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: or heavier black. Then at the end we've got your estimate amount of the balance,
3 the bank's actual balance as of May, 2019 and used the math to figure out the difference?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: and that is?

6 **Kelli Berry**: The First Bank and Trust account shows \$345.82 less than our....?

7 **Mark Swartz**: Estimate?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Okay. We've got an affidavit with regard to the Ginger Rita Mustard payment,
10 that's page 21 of the pdf, right?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: It says to quote, 'Terrance Shea Cook is my authorized Attorney in fact to receive
13 for distribution on my behalf all funds held in Escrow by VGOB', right?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and the tracts in the units include S53 at the top?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: We've got a notice; I guess we have a second affidavit?

18 **Kelli Berry**: We do.

19 **Mark Swartz**: Okay, there's a second affidavit? Why do we have two?

20 **Kelli Berry**: There's one for Ginger Rita Mustard and there's one for Ms. Reedy.

21 **Mark Swartz**: Okay, got you and the one from Ms. Reedy has the same paragraph regarding Mr.
22 Cook?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Then we've got a coal notice, Pocahontas Resources, LLC, a proof of mailing
25 and we're asking that company be dismissed as a coal owner who has not provided proof of
26 litigation or an agreement?

27 **Kelli Berry**: Yes.

1 **Mark Swartz**: That's all I have Mr. Chairman.

2 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Swartz?

3 **Mark Swartz**: No.

4 **Bradley Lambert**: Do I have a motion?

5 **Donnie Rife**: Motion made for approval Mr. Chair.

6 **Bradley Lambert**: I have a motion, do I have a second?

7 **Mary Quillen**: Second.

8 **Bradley Lambert**: I have a motion and a second, any further discussion? [No response] All in
9 favor signify by saying yes.

10 **Board**: Yes.

11 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz that is approved.

12 **Mark Swartz**: Thank you.

13 **Item Number 10**

14 **Bradley Lambert**: We are now calling Docket Item Number 10, a petition from Pocahontas
15 Gas, LLC, for (1) the disbursement of escrowed funds heretofore deposited with Board's Escrow
16 Agent, attributable to a portion of Tract 1C, as depicted upon the annexed table; and (2)
17 authorization to begin paying royalties directly to the parties listed in the petition. This is Docket
18 Number VGOB 03-0715-1158-05 all parties wishing to testify please come forward.

19 **Mark Swartz**: Mark Swartz and Kelli Berry.

20 **Bradley Lambert**: You may proceed Mr. Swartz.

21 **Mark Swartz**: Thank you, Kelli your name again?

22 **Kelli Berry**: Kelli Berry.

23 **Mark Swartz**: Who do you work for?

24 **Kelli Berry**: CNX Resources.

25 **Mark Swartz**: Are you here on the petitioner Pocahontas Gas, LLC?

26 **Kelli Berry**: Yes.

1 **Mark Swartz**: We're here regarding a request for disbursement from escrow pertaining to CBM
2 AX100?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: The reasons for this petition are set forth at pdf page 2. We have first of all a split
5 agreement?

6 **Kelli Berry**: Yes.

7 **Mark Swartz**: Actually, each has split deeds but it's an agreement that divides that. Is it an
8 equal 50/50?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: Okay. Then we also have some gas claimants under the act?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: We have previously dismissed H-W Financial, LLC, to the extent that they don't
13 have an agreement?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: Okay. If we go to Table 1, which is pdf page 6; we're talking about Tract 1C?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: You've identified the people and company that are to receive checks?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: This is a percentage disbursement?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: Each of the four payees should receive a check calculated by using 5.134% of the
22 account balance for Tract 1C on the date the checks are issued and that will generate the dollar
23 amount?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: You've given names and addresses for the Escrow Agent to use, correct?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: Having done that, oh and we would like the Board to authorize us to pay them
28 directly, these four folks?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: Then having done that there is still an escrow requirement?

3 **Kelli Berry**: Correct.

4 **Mark Swartz**: You've modified Exhibit E to reflect the direct payment of these four folks?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: You've also given us a revised Exhibit EE, correct?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: Then we've got Exhibit J?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: In that exhibit you've compared the royalty checks issued to the deposits?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: and in some instances identified in yellow highlighted, you weren't really able to
13 account for a difference and in others outlined in a darker black, you indicated differences where
14 you were actually able to make them balance?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: Okay and at the end of Exhibit J, you've done your usual accounting so you
17 estimated the amount that you ought to be on hand?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: and in doing that you accounted for, I guess four prior disbursements?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: and there's a difference?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: What is that amount?

24 **Kelli Berry**: The Escrow Agent shows \$62.32 more than our balance estimate.

25 **Mark Swartz**: Okay and then with regard to the coal owner in part, H-W Financial has provided
26 proof of an agreement, right?

27 **Kelli Berry**: Yes.

1 **Mark Swartz**: and to the extent they have and they're going to be paid according to Table 1 to
2 the extent that they have not provided evidence of a court proceeding or an agreement with
3 regard to other coal interest in this unit, their claims will be dismissed?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: You've provided a copy of the Affidavit and proof of mailing with regard to the
6 coal dismissal and you've also provided a copy of the deed that is essentially a 50/50 split
7 agreement?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: That's all I have Mr. Chairman.

10 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Swartz?

11 **Mark Swartz**: No.

12 **Bradley Lambert**: Do I have a motion?

13 **Donnie Rife**: Motion made for approval Mr. Chair.

14 **Bradley Lambert**: Do I have a second?

15 **Mary Quillen**: Second.

16 **Bradley Lambert**: I have a motion and a second, any further discussion? [No response] All in
17 favor signify by saying yes.

18 **Board**: Yes.

19 **Bradley Lambert**: Opposed, no? [No response] Mr. Swartz, that one is approved.

20 **Mark Swartz**: Thank you.

21 **Item Number 11**

22 **Bradley Lambert**: Calling Docket Item Number 11, a petition from Pocahontas Gas, LLC, for
23 (1) the disbursement of escrowed funds heretofore deposited with Board's Escrow Agent,
24 attributable to a portion of Tract 2A, as depicted upon the annexed table; and (2) authorization to
25 begin paying royalties directly to the parties listed in the petition. This is Docket Number VGOB
26 04-0316-1261-06 all parties wishing to testify please come forward.

27 **Mark Swartz**: Mark Swartz and Kelli Berry.

28 **Bradley Lambert**: You may proceed Mr. Swartz.

1 **Mark Swartz**: Kelli would you give us your name again?

2 **Kelli Berry**: Kelli Berry.

3 **Mark Swartz**: Who do you work for?

4 **Kelli Berry**: CNX Resources.

5 **Mark Swartz**: Are you here on behalf of the petitioner Pocahontas Gas, LLC?

6 **Kelli Berry**: Yes.

7 **Mark Swartz**: We're here with a request for disbursement from escrow pertaining to CBM Unit
8 AZ98?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: The reasons for the petition are set forth at pdf page 2?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: The first reason is we have a split agreement/deed involving H-W Financial that
13 we would like to use for this disbursement and then we have some gas claimants under the act
14 who are entitled to 100% to the royalties in their interest and then we've got a reference to coal
15 dismissals and that's already happened this morning?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: If we go to Table 1 it pertains to disbursements regarding the escrow deposits in
18 Tract 2A?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: We have three people and one company that we are requesting be paid?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: You've provided their names and addresses?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: This is a percentage disbursement?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: You're asking the Escrow Agent apply the percent which is the same for
27 everybody, 14.2857% to the balance on hand when the checks are cut to come up with the

1 appropriate amount and pay these folks as indicated at their addresses and then also allow the
2 operator to pay them directly in the future?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and we still got an escrow requirement for a teeny tiny amount of acreage?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: You've provided a revised Exhibit E that shows that?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: So unfortunately this account cannot be closed?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: That was a no?

11 **Kelli Berry**: No, it cannot.

12 **Mark Swartz**: Okay, going forward you have given us a revised Exhibit EE for future
13 payments?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: Once again, we have an Exhibit J where you compared royalty checks issued to
16 deposits booked. Page 3 of that exhibit there is a minor difference that you couldn't completely
17 resolve?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: At the end, you have an estimated after five (5) disbursements, a balance and
20 you've reported the June 2019 First Bank and Trust balance and there is a \$.06 difference, right?

21 **Kelli Berry**: That's correct.

22 **Mark Swartz**: and that is a plus that the Bank has \$.06 more than you're estimating?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: We have an indication of the prior notice to the coal owner that was dismissed in
25 the past, we have a copy of the deed or the 50/50 split agreement that we are using?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: I think that's it your honor.

1 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Swartz?

2 **Mark Swartz**: No.

3 **Bradley Lambert**: Do I have a motion?

4 **Donnie Rife**: Motion made for approval Mr. Chair.

5 **Bradley Lambert**: Do I have a second?

6 **Rita Surratt**: Second.

7 **Bradley Lambert**: I have a motion and a second, any further discussion? [No response] All in
8 favor signify by saying yes.

9 **Board**: Yes.

10 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Swartz that is approved.

11 **Mark Swartz**: Thank you.

12 **Bradley Lambert**: Thank you all for today.

13 **Kelli Berry**: Thank you.

14 **Item Number 12**

15 **Bradley Lambert**: We're calling Docket Item Number 12, a petition from EnerVest Operating,
16 LLC, for pooling. Unit VCI-530590, Docket Number VGOB 19-0820-4219 all parties wishing to
17 testify, please come forward.

18 **Tim Scott**: Tim Scott, Gus Janson and Aaron Anderson for EnerVest Operating, LLC.

19 **Bradley Lambert**: Good Morning. I guess it is still morning.

20 **Sarah Gilmer**: Mr. Janson and Mr. Anderson, do you swear or affirm that your testimony is the
21 truth, the whole truth and nothing but the truth?

22 **Gus Janson**: Yes, I do.

23 **Aaron Anderson**: Yes.

24 **Bradley Lambert**: You may proceed Mr. Scott.

25 **Tim Scott**: Mr. Chairman, one of the things I wanted to get taken care of up front is Mr. Lamie
26 is the only party respondent representing Yellow Poplar Lumber Company, for some reason he
27 wasn't noticed so I contacted Mr. Lamie and he was agreeable to signing an affidavit that he

1 waived the defect in the notice which I have the original of right here and we've uploaded it into
2 the file.

3 **Bradley Lambert**: You have it? Okay, thank you Mr. Scott.

4 **Tim Scott**: Mr. Anderson, please state your name, by whom you're employed and your job
5 description.

6 **Aaron Anderson**: Aaron Anderson, employed by EnerVest Operating, LLC, as an Associate
7 Landman.

8 **Tim Scott**: You're familiar with this application, is that correct?

9 **Aaron Anderson**: That's correct.

10 **Tim Scott**: Is this unit located in Nora Coalbed Gas field?

11 **Aaron Anderson**: Yes.

12 **Tim Scott**: How many acres does it contain?

13 **Aaron Anderson**: 58.73.

14 **Tim Scott**: EnerVest has both an ownership interest and has obtained leases for this unit, is that
15 correct?

16 **Aaron Anderson**: That's correct.

17 **Tim Scott**: Are we going to dismiss any party respondent listed on Exhibit B3 today?

18 **Aaron Anderson**: No, sir.

19 **Tim Scott**: How was notice of this hearing provided to Mr. Lamie?

20 **Aaron Anderson**: Via email and affidavit from the party respondent.

21 **Tim Scott**: Which we have provided to the Board, is that correct?

22 **Aaron Anderson**: That's correct.

23 **Tim Scott**: Do we have any unknown owners in this unit?

24 **Aaron Anderson**: No, sir.

25 **Tim Scott**: Again, we've talked about Mr. Lamie. The unit does contain Yellow Poplar Lumber
26 Company acreage, is that correct?

27 **Aaron Anderson**: That is correct.

1 **Tim Scott**: As the usual case with this type of a situation we've provided an affidavit showing
2 the location of this unit within Tract 11 of the Yellow Poplar Lumber Tract, is that correct?

3 **Aaron Anderson**: That's correct.

4 **Tim Scott**: That's been uploaded to the website, is that also correct?

5 **Aaron Anderson**: Yes, sir.

6 **Tim Scott**: EnerVest is authorized to conduct business in the Commonwealth, is that correct?

7 **Aaron Anderson**: That's correct.

8 **Tim Scott**: There's a bond on file with the Department, is that also correct?

9 **Aaron Anderson**: There is.

10 **Tim Scott**: If you were able to reach an agreement with Mr. Lamie, what would be terms you
11 would offer?

12 **Aaron Anderson**: \$25.00 an acre with a five-year paid up lease with a 1/8th royalty.

13 **Tim Scott**: This is to be considered a reasonable compensation for a lease in this area?

14 **Aaron Anderson**: Yes, sir.

15 **Tim Scott**: What percentage of the unit does EnerVest have under lease presently?

16 **Aaron Anderson**: 5.19%.

17 **Tim Scott**: This does include acreage in which EnerVest has an ownership interest, is that
18 correct?

19 **Aaron Anderson**: That's correct.

20 **Tim Scott**: What percentage of the unit are you seeking to pool today?

21 **Aaron Anderson**: 4.81.

22 **Tim Scott**: With regard to this unit, do we have an escrow requirement?

23 **Aaron Anderson**: No, sir.

24 **Tim Scott**: We are asking the Board to pool the unleased party listed on Exhibit B3?

25 **Aaron Anderson**: That's correct.

26 **Tim Scott**: Also that EnerVest be named the operator for this unit, is that also correct?

1 **Aaron Anderson**: Yes, sir.

2 **Tim Scott**: If the Board were to grant our application and approve our application today, what is
3 the address used for making any election under the order entered by the Board?

4 **Aaron Anderson**: EnerVest Operating LLC, 408 West Main Street, Abingdon VA 24210
5 Attention: Chuck Akers, Land Manager.

6 **Tim Scott**: This should be the address for all communication, is that correct?

7 **Aaron Anderson**: That is correct.

8 **Tim Scott**: That's all I have from Mr. Anderson.

9 **Bradley Lambert**: Any questions from the Board? [No response] You may continue Mr. Scott.

10 **Tim Scott**: Thank you Mr. Chairman. Mr. Janson; you're name, by whom you're employed and
11 you're job description, please?

12 **Gus Janson**: My name is Gus Janson, employed by EnerVest Operating, LLC, as a Geology
13 advisor.

14 **Tim Scott**: You've participated in the preparation of this application, is that correct?

15 **Gus Janson**: I did.

16 **Tim Scott**: What's the proposed depth of this well?

17 **Gus Janson**: The proposed depth is 2,450 feet.

18 **Tim Scott**: What are the estimated reserves?

19 **Gus Janson**: The estimated reserves are 900 million cubic feet of gas.

20 **Tim Scott**: Your familiar with the well cost, is that correct?

21 **Gus Janson**: I am.

22 **Tim Scott**: Because you participate in the preparation of the AFE, is that also correct?

23 **Gus Janson**: I did.

24 **Tim Scott**: What's the estimated dry hole cost?

25 **Gus Janson**: The estimated dry hole cost \$181,200 and the estimated completed well cost is
26 \$413,550.

1 **Tim Scott**: In your opinion, if the Board grants our application today, would it prevent waste,
2 promote conservation and protect correlative rights?

3 **Gus Janson**: Yes, it would.

4 **Tim Scott**: That's all I have for Mr. Janson.

5 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Scott?

6 **Tim Scott**: That's all I have for this one Mr. Chairman.

7 **Bradley Lambert**: Do I have a motion?

8 **Donnie Rife**: Motion made for approval Mr. Chair.

9 **Mary Quillen**: Second.

10 **Bradley Lambert**: I have a motion and I have a second, any further discussion? [No response]
11 All in favor signify by saying yes.

12 **Board**: Yes.

13 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Scott that's approved.

14 **Tim Scott**: Thank you Mr. Chairman.

15 **Item Number 13**

16 **Bradley Lambert**: We're calling Docket Item Number 13, a petition from EnerVest Operating,
17 LLC, for pooling. Unit V-536901, Docket Number VGOB 19-0917-4221 all parties wishing to
18 testify, please come forward.

19 **Tim Scott**: Tim Scott, Gus Janson and Aaron Anderson from EnerVest Operating, LLC.

20 **Bradley Lambert**: You may proceed Mr. Scott.

21 **Tim Scott**: Thank you Mr. Chairman, Mr. Anderson again your name; by whom you're
22 employed and your job description, please.

23 **Aaron Anderson**: Aaron Anderson, employed by EnerVest Operating, LLC, as an Associate
24 Landman.

25 **Tim Scott**: You're familiar with this application, is that correct?

26 **Aaron Anderson**: That is correct.

27 **Tim Scott**: This is a conventional well, is that right?

1 **Aaron Anderson**: It is.

2 **Tim Scott**: So it's subject to state-wide spacing?

3 **Aaron Anderson**: Yes, sir.

4 **Tim Scott**: How many acres does this unit contain?

5 **Aaron Anderson**: 12.69.

6 **Tim Scott**: Again, EnerVest has both drilling rights and ownership interest within the boundary
7 of this unit, is that right?

8 **Aaron Anderson**: That's correct.

9 **Tim Scott**: Are we going to dismiss any party respondent listed on Exhibit B3?

10 **Aaron Anderson**: Yes, Donald Whitaker who is now leased.

11 **Tim Scott**: and we're going to if we haven't already done so upload the revised exhibits, is that
12 correct?

13 **Aaron Anderson**: That's correct.

14 **Tim Scott**: How was the notice of this hearing provided to the parties listed on Exhibit B3?

15 **Aaron Anderson**: Certified mail with return receipt requested.

16 **Tim Scott**: We've provided proof of mailing to the Board, is that correct?

17 **Aaron Anderson**: That's correct.

18 **Tim Scott**: and we do have unknown owners in this unit, and is that also correct?

19 **Aaron Anderson**: Yes, sir.

20 **Tim Scott**: How were these parties notified?

21 **Aaron Anderson**: We were published in the Coalfield Progress on August 23, 2019.

22 **Tim Scott**: Have we provided proof of publication to the Board, is that right?

23 **Aaron Anderson**: Yes.

24 **Tim Scott**: As you're required to do, you provided a letter to Mr. Cooper indicating your efforts
25 to locate these individuals, is that right?

26 **Aaron Anderson**: Yes, sir.

1 **Tim Scott**: and your efforts are ongoing, is that also correct?

2 **Aaron Anderson**: That's correct.

3 **Tim Scott**: Again, EnerVest is authorized to transact business in the Commonwealth, is that
4 correct?

5 **Aaron Anderson**: That's correct.

6 **Tim Scott**: There's a bond on file with the Department, is that right?

7 **Aaron Anderson**: Yes, sir.

8 **Tim Scott**: If you were able to reach an agreement with the parties listed on Exhibit B3, what
9 terms would you offer?

10 **Aaron Anderson**: \$25 per acre for a 5-year paid up lease with a 1/8th royalty.

11 **Tim Scott**: Again this is reasonable compensation for a lease in this area, is that right?

12 **Aaron Anderson**: That's correct.

13 **Tim Scott**: What percentage of the unit does EnerVest presently have under lease?

14 **Aaron Anderson**: 53.6%.

15 **Tim Scott**: and again that does include acreage that EnerVest has an ownership interest, is that
16 right?

17 **Aaron Anderson**: That's correct.

18 **Tim Scott**: What percentage are you seeking to pool today?

19 **Aaron Anderson**: 46.4.

20 **Tim Scott**: We have unknowns as you testified, is that right?

21 **Aaron Anderson**: That's correct.

22 **Tim Scott**: So we do have an escrow requirement?

23 **Aaron Anderson**: That is correct.

24 **Tim Scott**: Which tract and what percentage of the unit are encompassed by or need to be
25 escrowed?

26 **Aaron Anderson**: Tract 5, which encompasses 1.48% of the unit.

1 **Tim Scott**: Your requesting the Board to pool the unleased parties listed on Exhibit B3, is that
2 right?

3 **Aaron Anderson**: That's correct.

4 **Tim Scott**: and that EnerVest be named the operator is that also correct?

5 **Aaron Anderson**: That is correct.

6 **Tim Scott**: If the Board grants our application today and an order is entered, what would be the
7 address used to make any elections under an order entered by the Board?

8 **Aaron Anderson**: EnerVest Operating, LLC, 408 West Main Street, Abingdon VA 24210,
9 Attention: Chuck Akers, Land Manager.

10 **Tim Scott**: Again, this should be the address for all communications regarding this order, is that
11 right?

12 **Aaron Anderson**: That is correct.

13 **Tim Scott**: That's all I have for Mr. Anderson.

14 **Bradley Lambert**: Any questions from Board? [No response] You may continue Mr. Scott.

15 **Tim Scott**: Thank you Mr. Chairman. Mr. Janson, your name; by whom you're employed,
16 please?

17 **Gus Janson**: My name is Gus Janson, employed by EnerVest Operating, LLC, as a Geology
18 Advisor.

19 **Tim Scott**: You're familiar with this application, is that correct?

20 **Gus Janson**: I am.

21 **Tim Scott**: What's the proposed depth of this well?

22 **Gus Janson**: The proposed depth of the well by the permit is 5,890 feet; we have some
23 discrepancy there that we will correct with the footage at the well location surveys. So we will
24 get that corrected.

25 **Tim Scott**: So we are going to provide and upload a revised AFE, is that correct?

26 **Gus Janson**: That's correct.

27 **Tim Scott**: Targeting the depth, is that right?

28 **Gus Janson**: That is correct.

1 **Tim Scott**: Are you also familiar with the reserves of this unit?

2 **Gus Janson**: The projected reserves for this well unit 950 million cubic feet in gas.

3 **Tim Scott**: and also the well cost?

4 **Gus Janson**: Yes, the estimated dry-hole cost is \$256,600 and the estimated completed well cost
5 is \$540,650.

6 **Tim Scott**: In your opinion, if the Board grants our application today would it prevent waste,
7 promote conservation and protect correlative rights?

8 **Gus Janson**: Yes, it would.

9 **Tim Scott**: That's all I have for Mr. Janson.

10 **Bradley Lambert**: Did you say the AFE will have to be changed too since your correcting the
11 depth?

12 **Gus Janson**: Yes.

13 **Tim Scott**: We'll upload that Mr. Chairman.

14 **Bradley Lambert**: You'll upload that, okay, thank you. Are there any other questions from the
15 Board? [No response] Anything further Mr. Scott?

16 **Tim Scott**: That's all I have Mr. Chairman.

17 **Bradley Lambert**: Do I have motion?

18 **Donnie Rife**: Motion made for approval Mr. Chair.

19 **Bradley Lambert**: I have a motion, do I have a second?

20 **Rita Surratt**: Second.

21 **Bradley Lambert**: Any further discussion? [No response] All in favor signify by saying yes.

22 **Board**: Yes.

23 **Bradley Lambert**: Opposed, no? [No response] Thank you Mr. Scott that one is approved.

24 **Tim Scott**: Thank you very much.

25

26

27

1 **Item Number 14 & 15**

2 **Bradley Lambert**: Calling Docket Item Number 14 is a petition from EnerVest Operating, LLC,
3 for pooling of Unit V-536897, Docket Number VGOB 19-0917-4222. All parties wishing to
4 testify please come forward.

5 **Tim Scott**: Mr. Chairman with regard to the next two docket items, during our title examination
6 we determined that there were additional parties that needed to be notified so we'd ask to be
7 continued and those new parties have been notified by certified mail so we sent out packets to
8 them as well. So it needs to be continued to the next hearing date.

9 **Bradley Lambert**: You want to continue Docket Items 14 and 15?

10 **Tim Scott**: Yes sir, please.

11 **Bradley Lambert**: So that's continued, so I'll read docket item number 15 into the record a
12 petition from EnerVest Operating LLC for a Well Location Exception, Unit V-536897, Docket
13 Number VGOB 19-0917-4223 will also be continued. Mr. Cooper, are these the two..?

14 **Rick Cooper**: No, that will be two (2) in addition to the two (2) that we already have so we
15 would have four (4) for October.

16 **Bradley Lambert**: Alright, okay. Thank you.

17 **Tim Scott**: Thank you.

18 **Item Number 16**

19 **Bradley Lambert**: The next item is the Board will receive an update of Board and Division
20 activities from the staff. Mr. Cooper?

21 **Rick Cooper**: I just wanted to, as I guess as continued progress of what we're doing on the
22 disbursements as you can see on what I handed out. Since we started this, July 1, 2015, we've
23 disbursed out \$20,537,952.52 and so far this fiscal year started in July we've disbursed out a
24 little over \$87,000 so far. After today, I can see those numbers go up quite a bit. Of the account
25 itself, we originally started with \$30,000,000 several years ago. We are down to \$9.8 million;
26 there are 673 accounts still in the escrow account. Those have really dwindled down, not
27 counting today so we only have four (4) items in the escrow account that had more than
28 \$300,000. So there are more than 100 of those that have less than \$100. We only have eighteen
29 (18) accounts that have more than \$100,000 in them, the other 400-500 falls anywhere from
30 \$101 up to \$99,000. In our No W-9's, we have 426 accounts in that where a total of almost
31 \$40,000. I think, I don't know the exact number but this is about 13,000 checks that have been
32 written to disburse this money out. With that, I'll answer any questions?

33 **Bruce Prather**: How many of those checks have been signed? You know we got a ton...

1 **Rick Cooper**: You know, we got a bunch of those I think Ms. Maney will report the next time
2 but there's a bunch of those still hanging out there. I don't know what the number is; do you
3 know Sarah, how many checks there are?

4 **Sarah Gilmer**: *****

5 **Rick Cooper**: There's a lot, you're right. There is still several and it is not uncommon for them
6 to be there for three (3) or six (6) months. It narrows down after a year or two most of the time.

7 **Bradley Lambert**: Rick, while you are up here you may want to update the Board on where we
8 are with the Escrow Agent and the contract expiring in December. Let the Board know what
9 measure we have taken so far as the Agency to try to move this forward.

10 **Rick Cooper**: Okay, so I think when we last met, First Bank and Trust had brought a potential 1-
11 year contract in front of us; currently we are going to have to go a different route with that. I
12 think we are going to have to because we have already exceeded the original five-year contract
13 and then we extended it five (5) years. So we're going to have to bid this out and we're working
14 on a contract to move forward and bid this out. Now we are currently looking at it, it will be for
15 five (5) years but it can be renewed annually if situations arise if the person that gets the contract
16 will have to just come back in front of the Board and make a request every year. It will be for
17 five (5) years, but renewable annually.

18 **Mary Quillen**: Upon approval of the Board, right?

19 **Rick Cooper**: That is correct. I guess do we need approval to move forward on that?

20 **Bradley Lambert**: No, we don't. We don't have any choice. We have to move forward but the
21 plan is right now is while we are hoping and working really close with the Office of General
22 Services, who is over all of our contracts is to have something in place and out to the public by
23 the 1st of October with bids back in by the end of that month so we can make a decision. All of
24 those will come before the Board, and then the Board will approve the selection of the Escrow
25 Agent.

26 **Rick Cooper**: I don't see any problem. We've been working on that contract that we cannot
27 have it ready. I see no obstacles that would stop it.

28 **Bradley Lambert**: I don't either, so are there any other questions on the RFP or Rick's
29 disbursements? [No response]

30 **Rick Cooper**: I will take any questions. So do I just need to lead into the unknown, un-
31 locatable?

32 **Bradley Lambert**: Yes, that's the next one we need to do. You can go ahead and start it and I'll
33 fill in the blanks.

1 **Rick Cooper**: Okay, so we know that we have approximately, give or take \$3 million in
2 unknown, un-locatable and we've talked about that here numerous times before. During the
3 Legislative Session...

4 **Bradley Lambert**: Last year.

5 **Rick Cooper**: Yes, last year. Mr. Lambert went in front of the Financial Committee and will talk
6 about that just a little bit but some of this \$3 million and I can say the bulk of this \$3 million, the
7 percentage of this \$3 million is divided among three (3) companies basically. It is pretty much
8 three (3) companies, there's some small amounts with some other companies but it's EnerVest,
9 Pocahontas and Diversified. That's the three (3) major companies that have the unknown, un-
10 locatable, at a minimum 90% of all the dollars are affiliated with those three companies which
11 they stand to be logical because they had 90% of the permits also.

12 **Donnie Rife**: Is there a possibility we can get a break down by county?

13 **Rick Cooper**: We do have it broken by county, I don't know if I have that in front of me but we
14 do know it by county.

15 **Bradley Lambert**: What we are going to take a few minutes here and show you is a recording of
16 the budget hearings in Richmond during the General Assembly Session to let know the Board
17 know the feeling of the General Assembly is and their discussion that the Chairman of Budget
18 Committee and how he led that and how he talks specifically about the funds being held by our
19 agency through our Escrow Agent that are unknown, un-locatable or not accounted for as any
20 specific owner that may be out there. We thought it was important to show this clip to the Board
21 members just to give you a sense of what the folks at the General Assembly on their feelings on
22 those funds. So if you have it ready Sarah, let it go.

23 [Pause- Clip of General Assembly shown to the Board]

24 https://virginia-senate.granicus.com/MediaPlayer.php?view_id=3&clip_id=2477

25 **Bradley Lambert**: So that gives you a little bit of the sense of what Senator Norman thinks we
26 should be doing. I can tell you that I have had discussions with Ms. Bridgeman over the years but
27 nothing since this session has taken place. We have not been contacted by Ms. Bridgeman or the
28 Department of Accounts on this money. We just thought it was important that the Board get a
29 sense of the feeling of the General Assembly and especially this committee on the funds. So I
30 guess we'll just hold on until we hear. We are ready to work with the Department of Accounts
31 but it's not going to be as easy as Senator Norman led it to believe. When we transfer these
32 monies, they're going to have to do the same accounting that Rick and his staff and the bank are
33 doing now so hopefully they'll realize that and we will let Ms. Bridgeman and her staff know
34 when they do contact us. So any discussion we need to have? [No response] Donnie, to your
35 question; yes, the counties weren't addressed in this and I know that's been your concern.

1 **Donnie Rife**: I just feel like the money should go back to the counties that the gas is extracted
2 from. We know where every bit of it is. I think the counties that provided the gas should collect
3 and support its own tourism. As for the Spearhead Trail, I was sitting on VCEDA whenever we
4 initiated funds for the Spearhead Trail and it was supposed to be self-sufficient after five (5)
5 years and that's kind of got me a little bit concerned because apparently it's not and as far as the
6 Heart of Appalachia, let them do what they need to do but I would prefer to sponsor our own
7 tourism in the counties that the gas come from. That's my concern and I think that's where the
8 money belongs and you'll end up giving the money back to the counties that would be taking this
9 money and be providing education and everything else with it and it's basically coming from the
10 three (3) counties that need it more than any project that I know. That's my opinion on it and if
11 this Board's got any say so and where that money goes, I'll be the first one to step on the podium
12 and soapbox and scream to give it back to the counties that the gas come from.

13 **Mary Quillen**: Well I think it's ironic that this gentleman was comparing the Spearhead Trails to
14 tourism in Williamsburg. I mean that's sort of laughable.

15 **Donnie Rife**: No, that's crazy.

16 **Mary Quillen**: Does he think we don't know what or we've never been to Williamsburg? We
17 don't know what goes on down there? It's kind of insulting.

18 **Rick Cooper**: So we just table it for now? If anything comes up, we'll inform you as we know.

19 **Donnie Rife**: I would rather be informed before they make a decision than after they make a
20 decision because I think that this Board should be involved in the decision making of where that
21 money should go to.

22 **Rick Cooper**: I defer those types of comments or questions to either Mr. Ingersoll or Mr.
23 Lambert. I don't really know how to answer that to be honest.

24 **Bruce Prather**: Do they have any local Legislator that would support what he's talking about of
25 giving back to the counties?

26 **Rick Cooper**: I think they tried that two (2) years ago, did they not Mr. Lambert? They
27 attempted to do that but they could really do anything with it, correct?

28 **Bradley Lambert**: That's correct.

29 **Rick Cooper**: Not in this last Legislative Session but last year they tried to do that but they
30 couldn't get any traction to move forward with it.

31 **Donnie Rife**: Well that was one of the reasons why I was asking, do we know how much each
32 county should get back because if each county representative knew how much money the county
33 could receive, I think they would work a little bit harder for it.

1 **Rick Cooper**: So we do know that, I don't have it now.

2 **Donnie Rife**: Apparently they don't.

3 **Rick Cooper**: Yes, so you could say proportionally wise, the majority goes to Buchanan County
4 and the second most goes to Dickenson County, that's proportional wise how it would go.
5 Probably 75% goes to those two counties.

6 **Donnie Rife**: Well I'll bet you a \$100 to a hole in a donut that Buchanan County and Dickenson
7 County could utilize it better than anybody else they plan on giving it to.

8 **Rick Cooper**: I don't know how to answer that, no one disagrees with you but I think there's a
9 process has to be in place and I'm not sure how that's going to work out.

10 **Donnie Rife**: I think we need to look into it very hard and I would ten times rather look into it
11 while the horse is still in the barn.

12 **Rick Cooper**: Understood.

13 **Bradley Lambert**: Any other discussion?

14 **Bruce Prather**: Is there any other possibility that we could find any of these claimants? They
15 might come back after they dispose of these funds.

16 **Rick Cooper**: Yes, I think that's a question you bring in front of the operators every time they
17 bring a petition and I think that was even asked 'are you continuing to look and find these
18 people?' I believe they are and I think that's something that you would really have to have them
19 come in front of you to tell you what their processes are. They've testified on that historically in
20 the past but it never hurts to have a refresher course on that; maybe the next hearing that we
21 have, we can ask the operators, 'how do you look for these unknown, un-locatable?'

22 **Bruce Prather**: I'd hate to allocate these funds some place and all of a sudden the owners show
23 up.

24 **Rick Cooper**: Yes, I believe in that situation they would go to them to get the money. They
25 wouldn't come in front of the Board.

26 **Donnie Rife**: The odds of everybody coming to collect their money.... The counties, if they
27 received it then they actually could hold back some of the money in case some of this stuff does
28 comes up. The odds of everybody coming to collect this money after all this period of time is
29 almost zero but the fact of the matter is they made it look like it was just going to be a simple
30 transfer, they don't have a clue the doggone...

31 **Mary Quillen**: and one person has been down here and done this. I mean these other people
32 don't have a clue.

1 **Donnie Rife**: No, and they don't have a clue how much paperwork it's going to be involved until
2 they get a hold of this and I don't believe they got people up there in Richmond smart enough to
3 do it. Just to be honest with you.

4 **Rick Cooper**: I think our process is to bring a petition forward and write a check to them. It
5 would work just like a disbursement coming out of the account as far as the Board is actually
6 involved. The petition would come forward to disburse the money out and we would write it A,
7 B and C just like we normally do, that would be the Board's extent of that.

8 **Bradley Lambert**: It could be potentially that once the Department of Accounts understands it,
9 they may decide they don't want it.

10 **Rick Cooper**: That's correct. I think that is what Mr. Rife is saying if they knew the complexity
11 behind the accounts.

12 **Donnie Rife**: That's exactly right. I believe we could take our current Bank and let them give
13 them a pretty good education real quick.

14 **Mary Quillen**: I agree with that.

15 **Rick Cooper**: So any more questions or concerns? We will continue to report this out.

16 **Donnie Rife**: Thank you Mr. Cooper.

17 **Item Number 17**

18 **Bradley Lambert**: Okay, if there no other questions or comments about that one we'll go ahead
19 and I'll ask for approval of the minutes from the last meeting?

20 **Donnie Rife**: Motion made for approval Mr. Chair.

21 **Mary Quillen**: Second.

22 **Bradley Lambert**: I have a motion and a second. All in favor signify by saying yes.

23 **Board**: Yes.

24 **Bradley Lambert**: What we got to do the next time and I think we got two options, we can...
25 lunch is here?

26 **Rick Cooper**: It is.

27 **Bradley Lambert**: We can either do lunch now or do our iPad training after lunch, how long
28 will this take Mary?

29 **(Mary Baker)**: The training itself is not going to take that long but each individual will need to
30 log into their iPad, get set-up, tie their email to it and that's the part I need.

- 1 **Bradley Lambert**: So this could take a while?
- 2 **Rick Cooper**: Twenty to thirty minutes probably.
- 3 **Bradley Lambert**: So let's go ahead and adjourn and close the session for today and go ahead
4 and do lunch, then we will come back after lunch and do our new iPads. Is that okay? [No
5 response] Do I have a motion to adjourn?
- 6 **Donnie Rife**: Motion made Mr. Chair.
- 7 **Bradley Lambert**: Do I have a second?
- 8 **Mary Quillen**: Second.
- 9 **Bradley Lambert**: I have a motion and a second. All in favor signify by saying yes.
- 10 **Board**: Yes.
- 11 **Bradley Lambert**: Opposed, no? [No response]
- 12 **Meeting Adjourned**