

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

Minutes and results of hearings, September 16, 2008

Pursuant to Sections 45.1-361.9.B and 45.1-361.22.B of the Code of Virginia, the Virginia Gas and Oil Board conducted a hearing that commenced at 9 a.m. on Tuesday, September 16, 2008, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, Virginia.

Board members present included Mr. Butch Lambert (Acting Deputy Director, filling in for Chairman Benny Wampler), Mr. Bruce Prather, Mrs. Kate Dye, Mrs. Mary Quillen, Mrs. Peggy Barber, Mr. Donnie Ratliff and Mr. Bill Harris. Ms. Sharon Pigeon Esq. representing the Attorney General's Office was present along with Mr. David E. Asbury, Principal Executive to the staff of the Board.

The board heard and addressed the following items:

1. The Board received a **status report** from the Gas and Oil Board Committee addressing Post Production costs.

The status report was presented by Bill Harris who commented the committee had met in both July and August. The next scheduled meeting is Thursday September 18, 2008 at which time the committee will continue its review of public comments and related research documents regarding Post Production Cost Allowances from those "pooled" by the Board. Mr. Harris outlined several potential recommendations being considered by the committee.

2. Petitions and Memorandum of Law filed by S. T. Mullins and J. Scott Sexton on behalf of GeoMet operating **appealing a decision** by the Director of the Division of Gas and Oil regarding Informal Fact Finding Conference IFFC 20908. (Jewell Smokeless Coal Corp. who originally filed objections in conjunction with Island Creek Coal has been dismissed from this continuance after an agreement addressing safety concerns was reached between Jewell Smokeless Coal Corporation and GeoMet Operating Company Inc.) Docket Number VGOB-08-0617-2259. .

Legal Counsels for GeoMet Operating Company have submitted an appeal of the Directors Decision in Informal Fact Finding Conference (IFFC), docket 20908. In his the decision the Director stated:

"With standing established, the remaining consideration is coal owner objections and the invocation of § 45.1-361.12.A by the objecting parties. That section is very straightforward and unequivocal. It does not require the objecting coal owner to provide explanation or justification, and does not allow for any discretion on the part of the Director. Simply put, the statute requires that, in the absence of an agreement between the Coal Owner and the Applicant regarding a well location within 2500' of any existing well, the permit shall be denied. Both Jewell and Island Creek stated that they will not agree to any locations within the units.

Based on the requirements of Section 45.1-361.12.A of the Virginia Gas and Oil Act, it is, therefore, the decision of the Director to deny the permits for operations Rogers 201 CBM Unit F-44 (application # 10140) (based on objections by Jewell Smokeless Coal Corporation and Island Creek Coal Company) and Rogers 202 CBM Unit F-45 (application #10141)

(based on objections by Island Creek Coal Company).” **The petition was continued to the October 21, 2008 meeting by the Board.**

3. A petition from S. T. Mullins on behalf of GeoMet Operating Company **appealing a decision** by the Director of the Division of Gas and Oil regarding Informal Fact Finding Conference IFFC 21008. Docket Number VGOB-08-0617-2260. Continued from August.

Legal Counsel for GeoMet Operating Company has submitted an appeal of the Directors Decision in Informal Fact Finding Conference (IFFC), docket 21008. In his the decision the Director stated:

“With standing established, the remaining consideration is coal owner objections and the invocation of § 45.1-361.12.A by the objecting parties. That section is very straightforward and unequivocal. It does not require the objecting coal owner to provide explanation or justification, and does not allow for any discretion on the part of the Director. Simply put, the statute requires that, in the absence of an agreement between the Coal Owner and the Applicant regarding a well location within 2500’ of any existing well, the permit shall be denied. Island Creek stated that they will not agree to any locations within the units.

Based on the requirements of Section 45.1-361.12.A of the Virginia Gas and Oil Act, it is, therefore, the decision of the Director to deny the permits for operations 431 VA-D37 Rogers (Application #11243), 430 VA-D36 Rogers (Application #11244), 429 VA-D35 Rogers (Application #11245), 425 VA-E36 Rogers (Application #11246), 424 VA-E35 Rogers (Application #11247), and 423 VA-E34 Rogers (Application #11248).” **The petition was continued to the October 21, 2008 meeting by the Board.**

4. A petition from Mark A. Swartz on behalf of Island Creek Coal Company **appealing a decision** by the Director of the Division of Gas and Oil regarding Informal Fact Finding Conference IFFC 21108. Docket Number VGOB-08-0617-2261. Continued from August.

Legal Counsel for Island Creek Coal Company has submitted an appeal of the Directors Decision in Informal Fact Finding Conference (IFFC), docket 21108. In his the decision the Director stated:

“Since promulgation of the Virginia Gas and Oil Act of 1990, the Division of Gas and Oil has instituted requirements that are in accord with the view of Island Creek. That is, a consent-to-stimulate coal within 750 feet of the proposed coalbed methane well has been required from the mine operator, the coal lessee, or the coal fee owner in that order. Stated differently, all coals subject to stimulation as defined in § 45.1-361.29.F (2) are required to have a consent to stimulate from some owner. This is the real point of contest in this IFFC, and is one that has apparently not been raised before. GeoMet is challenging DGO’s procedures and interpretation of statutes that require consent from some “Coal Owner” and is proposing that the “Coal Operator” definition is much narrower and is what the law demands. A compelling case was made that the intent of the law is well demonstrated by the fact that the Virginia Gas and Oil Act contains separate definitions for “Coal Operator” and “Coal Owner”, and refers only to the “Coal Operator” in its requirement for consent to Stimulate. On reflection, it seems illogical that two definitions would be used if there was no difference in the meaning of the two terms or complete overlap between them. While 18 years of precedent at DGO is not to be ignored, any possibility that that precedent was built on false interpretation of statute must be addressed.

It is, therefore, the decision of the Director that Island Creek Coal Company is not a “Coal Operator” in the area of the subject Applications, and that no consent to stimulate from Island Creek will be required for Rogers 209 VA-ZZZ41 (Application # 10080), Rogers 201 CBM F44 (Application # 10140), or Rogers 202 CBM F45 (Application # 10141). Because this decision is contrary to years of practice at DGO, it will not be instituted into general policy,

if appeals are filed and expeditiously pursued, until all appeals have been heard or appeal rights have expired. DGO reserves the right to implement policy changes at any time with appropriate notice.” **The petition was continued to the October 21, 2008 meeting by the Board.**

5. A petition from Equitable Production Company for **pooling of coalbed methane unit VC-535592**, Hurricane District, Buchanan County, Virginia. Docket number VGOB-08-0617-2252. Continued from June and July.

In the VC-535592 58.77 acre unit, the applicant controls 95.58% of the coal and 98.48 % of the gas interests, and seeks to pool the remaining 4.42 % of the coal and 1.52% of the gas interests. Unleased coal acreage totals 2.59 acres and the unleased gas acreage subject to pooling totals 0.33 net acres having two unleased claimants in two tracts. There are two unknowns subject to escrow (Tracts 1 and 2). **The petition was approved.**
6. A petition from Equitable Production Company **for the establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by well VH-539923, Gladeville District, Wise County, Virginia. Docket Number VGOB-08-0715-2267. **The Board approved a continuance of the petition to the November 18, 2008 meeting as requested by the applicant.**
7. A petition from Equitable Production Company for **pooling of 320 acre unit** served by well VH-539923, Gladeville District, Dickenson County, Virginia. Docket Number VGOB-08-0715-2275. **The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.**
8. A petition from Range Resources-Pine Mountain, Inc. for a **well location exception** for proposed well V-537747, Ervinton District, and Dickenson County, Virginia. Docket Number VGOB-08-0819-2321.

The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.
9. The board will hear **correction of testimony** by CNX Gas Company, LLC regarding the preparation and recording of a board order associated with the pooling of the combined 208.63 acre conventional horizontal gas units including **Nora Unit AB78CV**, Oakwood Unit P (-3), and Oakwood Unit P (-4). Docket Number VGOB-08-0715-2288.

Testimony was corrected by the applicant and approved by the Board.
10. A petition from CNX Gas Company, LLC **to correct testimony** and re-record order to allow for escrowing of Unit O (-1), Prater District, Buchanan County, Virginia. This petition seeks a **modification** of an order enter January 15, 2008 to correct the Tract Identifications exhibit to the Plat pertaining to the referenced Unit submitted with the pooling application incorrectly identified the owners and claimants within **Tract 4** of the Unit; it identified Garden Realty Corporation as owning all minerals when it should state that Garden Realty Corporation owned the coal and John Pobst, et. al. owned the Oil and Gas. Docket Number VGOB-07-0821-1984-01.

Testimony was corrected by the applicant and approved by the Board.

11. A petition from CNX Gas Company, LLC **to correct testimony** and re-record order to allow for escrowing of Unit O (-2), Prater District, Buchanan County, Virginia. This petition seeks a modification of an order enter June 19, 2007 to correct the Tract Identifications exhibit to show a conflict in **Tract 3** and to allow the Board's Designated Operator for the said Unit to escrow funds regarding **Tract 3** with the Board's escrow agent. Docket Number VGOB-06-0815-1696-01.
Testimony was corrected by the applicant and approved by the Board.
12. A petition from CNX Gas Company, LLC to **re-pool** coalbed methane unit P (-3), Prater District, Buchanan County, Virginia. Docket Number VGOB 06-0718-1669-01.
The petition seeks a Re-pooling all the interests and estates of in the Oakwood Coalbed Methane Gas Field 1 of CBM P (-3) permit #7494. The applicant seeks to re-pool ACIN LLC, Range Resources-Pine Mountain Inc., Carol C. Welch and Mark Welch. The re-pooling is due to this second well in the unit. Tract 4 has a conflict and requires the establishment of an escrow. **The petition was approved by the Board.**
13. A petition from CNX Gas Company, LLC to **re-pool** coalbed methane unit P (-4), Prater District, Buchanan County, Virginia. Docket Number VGOB-06-0718-1670-01.
The petition was approved by the Board.
14. A petition from CNX Gas Company, LLC to **re-pool** coalbed methane unit J-36, Garden District, Buchanan County, Virginia. Docket Number VGOB 08-0318-2159-01.
After deliberations, the Board continued the petition to the October 21, 2008 meeting so to allow the parties an opportunity to further review their evidence and standing in this matter.
15. A petition from CNX Gas Company, LLC to **re-pool** coalbed methane unit FF-30, Garden/New Garden Districts, Buchanan and Russell Counties, Virginia. Docket Number VGOB 02-0917-1074-02.
The petition was approved by the Board.
16. A petition from Equitable Production Company for **disbursement of funds** from escrow and authorization for direct payment of royalties on a portion of Tract 1, well 501853 in the Castlewood District, Russell County, Virginia. Docket Number VGOB 00-0516-0815-02.
The disbursement was approved by the Board.
17. A petition from Equitable Production Company for **disbursement of funds** from escrow and authorization for direct payment of royalties on Tract 2, Well 535686, Prater District, Buchanan County, Virginia. Docket Number VGOB 06-0117-1568-01.
The disbursement was approved by the Board.
18. A petition from Equitable Production Company **for disbursement of funds** from escrow and authorization for direct payment of royalties on Tract 3, Well 702914, Prater District, Buchanan County, Virginia. Docket Number VGOB 93-0420-0367-01.
The disbursement was approved by the Board. A sub-account will no longer be required after this disbursement.

19. A petition from Equitable Production Company for **disbursement of funds** from escrow and authorization for direct payment of royalties on Tract 6, Kenady District, Dickenson County, Virginia. Docket Number VGOB 07-0821-1989-01.
The disbursement was approved by the Board.
20. A petition from Equitable Production Company for **disbursement of funds** from escrow and authorization for direct payment of royalties on Tract 4, Ervinton District, Dickenson County, Virginia. Docket Number VGOB 93-0119-0309-02.
The disbursement was approved by the Board.
21. A petition from Equitable Production Company for **establishment of a provisional drilling unit consisting of 480 acres** for the drilling of **horizontal conventional gas wells served by wells VH-531022 and VH-531104**, Gladeville District, Wise County, Virginia. Docket Number VGOB 08-0916-2322.
The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.
22. A petition from Equitable Production Company for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by wells **VH-531024 and VH-539988**, Roberson District, Wise County, Virginia. Docket Number VGOB 08-0916-2323.
The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.
23. A petition from Equitable Production Company for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by well **VH-539574**, Gladeville District, Wise County, Virginia. Docket Number VGOB 08-0916-2324.
The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.
24. A petition from Equitable Production Company for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by well **VH-539576**, Gladeville District, Wise County, Virginia. Docket Number VGOB 08-0916-2325.
The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.
25. A petition from Equitable Production Company for **pooling** of coalbed methane drilling unit **VC-537057**, Prater District, Buchanan County, Virginia. Docket Number VGOB 08-0916-2326.
The petition was approved by the Board.
26. A petition from Equitable Production Company for **pooling** of coalbed methane drilling unit **VCI-538611**, Kenady District, Dickenson County, Virginia. Docket Number VGOB 08-0916-2327.
The petition was approved by the Board.

27. A petition from Equitable Production Company for **pooling** of coalbed methane drilling **unit VC-539762**, Sandlick District, Dickenson County, Virginia. Docket Number VGOB 08-0916-2328.
The petition was approved by the Board.
28. A petition from Equitable Production Company for **pooling** of coalbed methane drilling **unit VC-539764**, Sandlick District, Dickenson County, Virginia. Docket Number VGOB 08-0916-2329.
The applicant provided a revised exhibit detailing newly leased and remaining unleased parties. The petition was approved by the Board.
29. A petition from Equitable Production Company for **pooling** of coalbed methane drilling **unit VC-539776**, Sandlick District, Dickenson County, Virginia. Docket Number VGOB 08-0916-2330.
The applicant provided a revised exhibit detailing newly leased and remaining unleased parties. The petition was approved by the Board.
30. A petition from Equitable Production Company for **modification** of the Nora Coalbed Gas Field Rules to allow for drilling of an additional well in **Units BX47, BX48 and BY50**, Nora and St. Paul Quadrangles, Dickenson County, Virginia. Docket Number VGOB 89-0126-0009-33.
The petition was approved by the Board.
31. A petition from Range Resources-Pine Mountain, Inc. for **modification** of the Nora Coalbed Gas Field Rules to allow for drilling of an additional well in **Units AD70, AD72, AE70, AE71, AE72 and AF70**, located in the Prater Quadrangle, Buchanan County, Virginia. Docket Number VGOB 89-0126-0009-34.
The petition was approved by the Board.
32. A petition from Range Resources-Pine Mountain, Inc. for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas served by well **VH-530145**, Willis and Sandlick Districts, Dickenson County, Virginia. Docket Number VGOB 08-0916-2331.
The petition was approved by the Board.
33. A petition from Range Resources-Pine Mountain, Inc. for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by well **VH-530142**, Kenady and Ervinton Districts, Dickenson County, Virginia. Docket Number VGOB 08-0916-2332.
The petition was approved by the Board.
34. A petition from Range Resources-Pine Mountain, Inc. for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by well **VH-530143**, Kenady District, Dickenson County, Virginia. Docket Number VGOB 08-0916-2333.
The petition was approved by the Board.
35. A petition from Chesapeake Appalachia, LLC for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells served by

well **826868 (HY-10-H)**, Rocklick District, Buchanan County, Virginia. Docket Number VGOB 08-0916-2334.

The petition was approved by the Board.

36. A petition from Chesapeake Appalachia, LLC for **pooling of conventional well unit 826869**, Rock Lick District, Buchanan County, Virginia. Docket Number VGOB-08-0916-2336. In the **826869, (HCS-40) 112.69 acre unit**, the applicant controls 81.77% of the gas interests.

The petition was approved by the Board.

37. A petition from Chesapeake Appalachia, LLC for **pooling of conventional well unit 826975**, Knox District, Buchanan County, Virginia. Docket Number VGOB-08-0916-2337.

In the **826975, (PP-134) 112.69 acre unit**, the applicant controls 91.29% of the gas interests.

The petition was approved by the Board.

38. A petition from Chesapeake Appalachia, LLC for a **well location exception** for proposed well **825696 (PP-165)**, Knox District, Buchanan County, Virginia. Docket Number VGOB-08-0916-2338.

The petition was approved by the Board.

39. A petition from Chesapeake Appalachia, LLC for **re-pooling of horizontal conventional unit 826879** Knox District, Dickenson County, Virginia. Docket Number VGOB-08-0715-2287-01.

The Board approved a continuance of the petition to the October 21, 2008 meeting as requested by the applicant.

40. A petition from Range Resources-Pine Mountain, Inc. for a **well location exception** for **proposed well V-530064**, Castlewood District, Russell County, Virginia. Docket Number VGOB-08-0916-2339.

The petition was approved by the Board.

41. A petition from Range Resources-Pine Mountain, Inc. for a **well location exception** for **proposed well V-530096**, Hurricane District, and Buchanan County, Virginia. Docket Number VGOB-08-0916-2340.

The petition was approved by the Board.

42. A petition from Range Resources-Pine Mountain, Inc. for **establishment of a drilling unit and pooling of conventional gas unit V-530073**, Sandlick District, Dickenson County, Virginia. Docket Number VGOB-08-0916-2341.

The petition was approved by the Board.

43. A petition from Range Resources-Pine Mountain, Inc. for **establishment of a drilling unit and pooling of conventional gas unit V-530104**, Hurricane District, Buchanan County, Virginia. Docket Number VGOB-08-0916-2342.

The petition was approved by the Board.

44. A petition from Range Resources-Pine Mountain, Inc. for **pooling of horizontal conventional gas unit VH-530140**, Kenady and Ervinton Districts, Dickenson County, Virginia. Docket Number VGOB-08-0916-2343.

The petition was approved by the Board.

45. A petition from Range Resources-Pine Mountain, Inc. **for pooling of coalbed methane unit Haysi-154, CBM Unit AD-72**, Prater District, Buchanan County, Virginia. Docket Number VGOB-08-0916-2344.

The petition was approved by the Board.

46. A petition from Range Resources-Pine Mountain, Inc. **for pooling of coalbed methane unit Haysi-155, CBM Unit AE-72**, Prater District, Buchanan County, Virginia. Docket Number VGOB-08-0916-2345.

The petition was approved by the Board.

The Virginia Gas and Oil Board heard public comments immediately following the final docket item.

(1) Mr. J. C. Franks asked to be heard by the Board during the public comment period. Mr. Franks stated that he represents approximately 36 individuals as land agent and was asking for help to resolve problems with CNX Gas Company LLC that continue in regard to the J.H. Franks estate. Mr. Franks presented a packet of information and detailed mapping and accounting issues related to a number of coalbed methane wells. Mr. Franks stated while CNX was mostly cooperative in hearing his complaints, the problems have persisted for years with seemingly no ending being given serious thought. **After Mr. Frank's presentation, the Board requested him to return at a future time, bringing his request forward before the Board as a miscellaneous petition.**

(2) Mr. John Sheffield appeared before the Board with a question regarding operator's statutory election options. Mr. Sheffield was provided information from § 45.1 -361.21 (C7)

Mr. Sheffield questioned whether this was a "contract" and was told this is a "board order" and not a contract.

(3) Mr. Jerry Grantham, President of the Virginia Oil and Gas Association (VOGA), appeared before the Board. He informed the Board that VOGA was planning their Fall Meeting at the Martha Washington Inn in Abingdon, Virginia on Tuesday Evening October 21, after the VGOB Hearings. Additionally Mr. Grantham presented the Board with a fact sheet regarding Virginia gas production and explained VOGA's attempts to publicize the positive effects of gas exploration on Virginia's economy.

(4) **The Board reviewed and approved the Minutes of the August 19, 2008 hearings.**

The meeting was adjourned.

Information concerning the above docket items can be viewed from 8 a.m. to 5 p.m. Monday through Friday at the office of the Department of Mines, Minerals and Energy, Division of Gas and Oil, 230 Charwood Drive, Abingdon, Virginia. All questions concerning the agenda should be directed to the Division of Gas and Oil by telephoning 276-676-5423.

Special accommodations for the disabled will be made available at the hearing on request. Anyone needing special accommodations for the **September** hearing should contact the Department of Mines, Minerals and Energy, Division of Gas and Oil at 276-676-5423 or by calling the Virginia Relay Center TTY/TDD 1-800-828-1120 or 1140 **by September 9, 2008**.

The deadline for filing of petitions to the Board **for the October hearing is 5 p.m. September 19, 2008** with **the hearing scheduled** for 9 a.m. on Tuesday, **October 21, 2008** at the Southwest Virginia Higher Education Center, Abingdon, Virginia.