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VIRGINIA OIL AND GAS CONSERVATION BOARD

HEARING OF FEBRUARY 19, 1991

9:00 A. M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER

ABINGDON, VIRGINIA

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1 These matters came on to be heard before the Virginia Oil
2 and Gas Conservation Board on this the 19th day of February,
3 1991, at the Southwestern Virginia 4-H Center, Abingdon,
4 Virginia.

5
6 MR. WAMPLER: Good morning. My name is Benny Wampler. I'm
7 Assistant Director for mining for the Department of
8 Mines, Minerals and Energy and Chairman for the Gas and
9 Oil Board. I now call our meeting today to order and
10 I'll ask our Board members to introduce ourselves and
11 I'll begin to my extreme left with Mr. McGlothlin.

12 (MEMBERS INTRODUCED.)

13
14 (ITEM I)

15
16 MR. WAMPLER: Today's hearings are for held pursuant to
17 Section 45.1-361.19B and 361.23B. The agenda has been
18 published and the first item on the agenda is the appeal
19 of the Inspector's decision by Donald and Gloria Askins
20 to proposed well P-509 located in Clintwood District.

21 MR. COUNTS: Mr. Chairman, I'm Richard Counts representing
22 Equitable Resources. I'd like to report to the Board
23 that Equitable Resources and Mr. & Mrs. Askins have
24 reached an agreement with regard to this and I would
25 like to present a copy of a letter from Mr. Askins

1 withdrawing his objections to the drilling of well
2 P-509.

3 MR. WAMPLER: Okay. Chair acknowledges receipt of the letter
4 signed by Mr. Askins.

5 MR. MCGLOTHLIN: Mr. Chairman.

6 MR. WAMPLER: Mr. McGlothlin?

7 MR. MCGLOTHLIN: Mr. Counts, you are going to bring some
8 extra copies?

9 MR. COUNTS: Yes, sir, I certainly will. I'm afraid I got
10 that in very late last night on a FAX machine. I
11 apologize for the quality of the copy, as well, Mr.
12 McGlothlin.

13 MR. MCGLOTHLIN: Thank you.

14 MR. WAMPLER: Any comments from members of the Board?

15 (Pause.) There being no comment, docket number VGSB-
16 0122-76, the appeal of the inspector's decision by
17 Donald and Gloria Askins has been withdrawn.

18 MR. COUNTS: Thank you, Mr. Chairman.

19 MR. WAMPLER: Before we begin the next item on the agenda,
20 which is the establishment of drilling units and forced
21 pooling requested by OXY -- and those folks that wish to
22 address the Board regarding that may move forward as the
23 Board takes care of some other business. I will be
24 passing out to the Board members copies of material that
25 was presented to the Board's Regulatory Work Committee

1 on a meeting this past Friday for your review and I'll
2 ask Mr. Mason to bring us up to date on what we talked
3 about at that meeting.

4 MR. MASON: Thank you, Mr. Chairman. The Regulatory Work
5 Committee pursuant to the motion of this Board creating
6 such committee held a hearing on February 15th, 1991 at
7 the State Water Control Board Headquarters in Roanoke,
8 Virginia. At this meeting all the members were present
9 except for two. The State staff from the Bureau of
10 Mines, Minerals and Energy brought to this meeting a
11 draft or working paper for the purposed regulations, at
12 which time these proposed regulations or working draft
13 was presented to the Work Committee and the Work Commit-
14 tee went through these proposals and discussed them with
15 the various comments from the members. There were only
16 two people from the public who were present at that
17 hearing. The areas that were particularly emphasized and
18 which were sort of referred to the staff for additional
19 study and proposals were notices requirements, the
20 question of certification -- whether it should be
21 certified and as to when, as to the unknown owners,
22 unknown interest -- also, their problems related to the
23 creation of the escrow accounts for which we spent a
24 great deal of time and a number of proposals were
25 discussed. Those were several of the areas that con-

1 considerable emphases was placed on. I know of at least
2 two other members of the group that were present are
3 here today. If anyone has any questions about it or is
4 interested in what is going on I would suggest that you
5 would either contact myself or any other member of the
6 committee or Mr. Wampler. We are scheduled to have
7 another hearing in April. Do you know the date?

8 MR. WAMPLER: I believe it's March 14.

9 MR. HASON: March 14?

10 MR. WAMPLER: Yes.

11 MR. HASON: To which time we will further consider these
12 proposals as well as any other things that the Committee
13 members have to propose. If anyone has any additional
14 comments they should file them with the Committee. If
15 they wish to have some additional comments presented at
16 the meeting. I would suggest that you contact a member
17 of the Committee and see if any of those members will
18 present those comments for you. The rules that we
19 established for the working group require that comments
20 during the course of the hearing be directed through one
21 of the committee members. There will be at each hearing
22 a public comment period, but it seems to work much better
23 if the comments are brought to and through one of the
24 committee members. So I urge any of you that have any
25 interest in being involved in this regulatory process to

1 do so. The Committee welcomes comments and suggestions
2 and we hope you'll contact a member of the committee and
3 assist us in this project. Thank you.

4 MR. WAMPLER: Thank you, Mr. Mason, and thank you for the
5 fine job you did Friday in leading the discussions at
6 the work group. Mr. Mason will -- the Board has its
7 meeting next month and will also bring us up to date as
8 part of our continuing updates of the status. Any
9 concerns any members of the Board has, of course, as Mr.
10 Mason said, direct them to him. Yes.

11 MR. MCGLOTHLIN: Mr. Chairman, where is the location for the
12 next meeting?

13 MR. WAMPLER: We're not able to get it confirmed. They are
14 going to try and have it at Roanoke at the Water Control
15 Board Office again but we will get that information out
16 to you. Any further comment? (Pause.)

17
18 (ITEM II)

19 MR. WAMPLER: The next item on the agenda is the Number II,
20 the establishment of drilling unit and forced pooling
21 for the CBMS-12 coal bed methane well in the Garden
22 District of Buchanan County as requested by Oxy, USA
23 Incorporated and this is docket number VGOB-0219-78.

24 MR. SCOTT: Mr. Chairman, my name is Tim Scott and I represent

1 OXY today and there's a couple of preliminary matters I
2 want to get out of the way before we take testimony. We
3 had previously provided the Board with Proof of Notice of
4 the application as well as Proof of Notice of the hearing
5 and since the time we have provided this to the Board we
6 have received additional Proof of Notice, our green
7 cards, for this well and I wanted to provide those to
8 you. I will pass those out.

9 MR. MCGLOTHLIN: Mr. Chairman.

10 MR. WAMPLER: Mr. McGlothlin?

11 MR. MCGLOTHLIN: In my booklet on this application we have a
12 typo on that. I have docket number 0219-80.

13 MR. SCOTT: I can address that. When we filed the application
14 that was the docket number we were given, but when the
15 agenda came out it was a different number.

16 MR. MCGLOTHLIN: Okay. Just wanted to make sure I had the
17 right docket.

18 MR. WAMPLER: Thank you for calling that to our attention,
19 Mr. McGlothlin. (Pause) Does Mr. Scott have a copy of
20 the stipulation of evidence by Ashland?

21 MR. SCOTT: Yes.

22 MR. WAMPLER: We will also note the same correction of VGOB-
23 0219. It says, 80 and it should be 78.

24 MR. SCOTT: That is an additional matter. As the Board is
25 aware, Ashland did file objections to the application

1 and OXY responded to those objections. However, they
2 were written stipulations entered into between the
3 parties regarding the evidence and so on and I wanted to
4 apprise Board that there is an objection outstanding.
5 I'd like to call the first witness, please. Martin
6 Wirth.

7 MR. WANPLER: Could you swear him, please?

8 COURT REPORTER: (Swears witness.)
9
10

11 MARTIN E. WIRTH

12 a witness who, after having been duly sworn, was examined and
13 testified as follows:
14

15 DIRECT EXAMINATION
16

17 BY MR. SCOTT:

18 Q. Would you state your name, please?

19 A. Martin E. Wirth.

20 Q. And by whom are you employed?

21 A. Oxy, USA.

22 Q. Your title?

23 A. Project Land Manager.

24 Q. Have you ever testified before the Department?

25 A. Yes, I have.

1 Q. And were your qualifications accepted?

2 A. Yes, they were.

3 Q. Do your responsibilities include lands involved in this

4 drilling unit?

5 A. Yes, it does.

6 Q. Are you familiar with proposed exploration and develop-

7 ment of the unit involved here under Oxy's proposed plan

8 of development?

9 A. Yes.

10 Q. Are you familiar with the application in this matter?

11 A. Yes, I am.

12 Q. Is OXY, USA seeking to force pool the drilling rights in

13 an approximate 80 acre drilling and spacing unit iden-

14 tified as drilling unit S-32 in the Oakwood Coal Bed Gas

15 field for all coal seams below the Tiller seam?

16 A. Yes, it does.

17 Q. Are you familiar with the ownership of drilling rights

18 in the unit involved here?

19 A. Yes.

20 Q. Does the applicant own drilling rights in the unit

21 involved here?

22 A. Yes.

23 Q. And what is the interest of the applicant?

24 A. Oxy has 100 percent of the coal interest lease and Oxy

25 has coal bed methane specific leases from 97.2 percent

1 of the coal owners and 97.2 percent of the oil and gas
2 owners within the drilling unit.

3 Q. All right. Does Oxy wish to dismiss any of the respon-
4 dents?

5 A. No, not at this time.

6 Q. What are the interest that OXY is seeking to force pool?

7 A. Any interest in the coal bed methane lying within the
8 unit and owned by certain of the Richard Deskin heirs,
9 which include Lester and Edith P. Bennett, Horace B.
10 Guno and Elizabeth A. Guno, Nellie H. Hunt, Hazel
11 McNeil, Darless Deskins and Madeline Deskins, Edith
12 McGlothlin, Lydia G. Vandyke, Shirley Mutter, Edwin
13 Wiseman, Janet M. Weatherford, Ruby Saberhorn, Jean D.
14 Lapp, Ralph Mutter, Russell D. Mutter, Ross Atkins
15 Holland, Eula Kiser, Stanton McNeil, Thomas McNeil,
16 Jocetta McNeil, Juanita McNeil, Virginia McNeil, Joy
17 McNeil, Lydia Holsgraffy, Ralph E. Deskins, Kaylin Horn,
18 Jimmy Siet, Sr., Jaunita Colley, Billy R. Deskins, Lois
19 Horne, Joyce Ratliff, Joan E. Deskins, Joseph Deskins, C.
20 P. Deskins, Eula Matney, Orph Masters, Edward A. Matney,
21 Esquire, agent and other unknown heirs, devisees,
22 successors or signs in Richard Deskins, deceased, if any,
23 totaling 2.8 percent of the unit. And any claim by
24 Ashland Exploration properties, a/k/a Ashland Explora-
25 tion, Inc., which has a conventional oil and gas lease

1 from Alpha C. Stickley heirs, which include, Betty
2 Hopkins, M. W. Dunford, Charles C. Weaver, Jack P.
3 Hankins, Southern Bank and Trust Company, Esley Johnson,
4 Central Fidelity Bank, N. A. Trust Company, trustee for
5 Fern L. Weaver and Lillian B. Weaver, Peggy T. Ure, Ruth
6 Hankins, and John E. Caffery, covering 82 percent of this
7 unit.

8 Q. All right. Does the applicant seek an order pooling all
9 interest or estate in the coal bed methane drilling unit
10 for the development and operation thereof?

11 A. Yes, it does.

12 Q. Does the applicant seek to force pool the drilling right
13 of each individual notified if living and if deceased,
14 the unknown successors, successors, any such deceased
15 individual?

16 A. Yes.

17 Q. Were any efforts made to determine if the individuals
18 notified were living or deceased or their whereabouts
19 and if deceased were efforts made to obtain the name and
20 addresses and whereabouts of the successors to any
21 deceased individual?

22 A. Yes.

23 Q. Are the address set out in Exhibit B to the application
24 the last known addresses for the respondents notified
25 and was due diligence exercised to locate each of the

1 respondents?

2 A. Yes. And as to the respondents for which we had no
3 known address, notice was given by publication also.

4 Q. That's included in the Proof of Notice and the Proof of
5 Notice for the application that we provided to the
6 Board. Prior to this hearing were efforts made or cause
7 to be made to contract each of these persons or attempt
8 to work out an agreement regarding the development of the
9 units involved here and the where conflicting claims do
10 not exist?

11 A. Yes. Each party that was located, was contracted either
12 by phone or in person and also by certified mail and
13 offered to lease their coal bed methane to Oxy, USA. I
14 would like to ask the Board, with your permission since
15 it is such a long list of heirs, we have contacted most
16 of them and have verbal commitment from almost the whole
17 majority of them. There are some unknowns that we're
18 still chasing down and as of last night may have found a
19 good lead in another state. But upon parties executing
20 a lease with Oxy, USA provide this information to the
21 Board and to the Attorney General's Office that they may
22 be able to dismiss those parties upon proof of a executed
23 lease or whatever you would like, if that's possible. It
24 may save the Board and the Attorney General's Office
25 time.

1 MR. WAMPLER: Is that the parties in Exhibit B?

2 THE WITNESS: Yes, sir.

3 MR. WAMPLER: All the parties --

4 THE WITNESS: All those parties.

5 MR. WAMPLER: -- with noted exceptions?

6 THE WITNESS: No noted exceptions.

7 MR. WAMPLER: No noted exceptions?

8 THE WITNESS: No. Is there any time frame, cut off date
9 line?

10 MR. WAMPLER: We have 30 days.

11 Q. (Mr. Scott continues.) Then in your opinion a bona fide
12 effort was made to reach an agreement with these persons?

13 A. Yes.

14 Q. Have Oxy prepared an exhibit which sets forth lease
15 terms that would propose as well as recommendations
16 concerning provisions to be included in the pooling
17 order if you do not reach an agreement with these
18 parties?

19 A. Yes.

20 MR. SCOTT: Mr. Chairman, we have previously provided exhibits
21 to Mr. Wirth's testimony and I have copies of those
22 exhibits for the Board.

23 MR. WAMPLER: Did you designate this as an exhibit number or
24 letter?

25 MR. SCOTT: It would be D, because Exhibit C to the applica-

tion is the DWE. I would like to apprise the Board as well that prior to the hearing date we offered an ten copies of the consent to stimulate was required by the January 5 order of the Board and that should be in the record as well.

MR. WAMPLER: It is.

MR. SCOTT: That's all the questions I have for Mr. Wirth.

MR. WAMPLER: Any questions members of the Board?

MR. SCOTT: Thank you.

(The witness stands aside.)

COURT REPORTER: (Swears witness.)

MARK STEVEN KARAM

a witness who, after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q. Would you please state your name?

A. Mark Steven Karam.

Q. And by whom are you employed?

A. Oxy. USA.

Q. And your capacity?

1 A. I'm a Regulatory Engineer.

2 Q. Have you ever testified before the Department of Mines,
3 Minerals and Energy?

4 A. No.

5 Q. Could you give us a bit about, information about your
6 background and education, please?

7 A. I have a BS in Petroleum Engineer from Louisiana Tech
8 University and have a law degree from the University of
9 Tulsa College of Law.

10 Q. Where have you worked previously?

11 A. I worked for Plasadol four and a half years as a petrol-
12 eum engineer and as an attorney I held various land
13 positions and I was an associate with a firm whose
14 practice was limited to oil and gas development with
15 emphasis on coal bed methane development in the Central
16 Appalachian Basin.

17 Q. Okay. Are you affiliated with any professional associa-
18 tion?

19 A. Yes. I a member of the American Association of Profes-
20 sional Landmen and the Appalachian Association of
21 Professional Landmen.

22 Q. Okay.

23 MR. SCOTT: Mr. Chairman, I would like to offer Mr. Karam as
24 an expert witness in this matter.

25 MR. WAMPLER: Would you clarify what you --

1 MR. SCOTT: Engineer.

2 MR. WAMPLER: Engineer expert?

3 MR. SCOTT: Yes, sir. I'm sorry.

4 MR. WAMPLER: Okay.

5 MR. MASON: Excuse me, Mr. Chairman.

6 MR. WAMPLER: Mr. Mason?

7 MR. MASON: Are you currently employee with Oxy?

8 THE WITNESS: Yes.

9 MR. MASON: I don't know if you said that or not.

10 THE WITNESS: Yes.

11 MR. SCOTT: Yes.

12 Q. (Mr. Scott continues.) Mr. Karam, what is the projected
13 total depth of the propose initial well under applicant
14 plan of development?

15 A. 1,650 feet, approximately.

16 Q. In your opinion will this be sufficient to penetrate and
17 test the formations involved here?

18 A. Yes.

19 Q. Are you familiar with the well cost for the proposed
20 initial well under the applicant's plan of development?

21 A. Yes, I am.

22 Q. Was the detailed well estimate prepared within the last
23 90 days?

24 A. Yes, 90 days.

25 Q. Are you knowledgeable in the preparation of DWE's and

1 knowledgeable in regard to well cost in this area?

2 A. Yes.

3 Q. In your opinion does the DWE represent a reasonable

4 estimate of the reasonable well cost for the proposed

5 initial well under Oxy's plan of development?

6 A. Yes, it does.

7 Q. Has the DWE been previously provided to the Board by Oxy

8 marked as Exhibit C to its force pooling application?

9 A. Yes.

10 MR. SCOTT: And you all do have that with the application. I

11 have no additional questions for Mr. Karam.

12 MR. WAMPLER: Any questions members of the Board?

13 (The witness stands aside.)

14 MR. WAMPLER: Any questions on the DWE? (Pause.)

15 MR. WAMPLER: Mr. Scott, is it your opinion that the issues

16 raised by Ashland in the appeal are the same issues that

17 have been previously raised?

18 MR. SCOTT: Yes, sir, they are, in fact.

19 MR. WAMPLER: Are there any different issues there? Are you

20 saying that they are the same?

21 MR. SCOTT: Yes, sir. They are the same issues that's been

22 previously raised by Ashland.

23 MR. WAMPLER: Anything else Mr. Scott?

24 MR. SCOTT: No, sir, that's it.

25 MR. WAMPLER: Any questions members of the Board?

1 MR. MASON: Mr. Scott, I noticed in their objections on
2 several occasions that they reserve the right to
3 present evidence and cross-examine your witnesses. I
4 noticed in your ails stipulation of facts. Are they
5 here?

6 MR. SCOTT: No, sir, they're not.

7 MR. MASON: Is it your understanding that they do not intent
8 to exercise either one of those reservations?

9 MR. SCOTT: That's correct.

10 MR. MASON: Thank you.

11 MR. WAMPLER: Any other questions? (Pause.) The relief
12 sought is spelled out in the application on page 5 and 6.
13 Any member ready to make a recommendation? (Pause.)

14 MR. MASON: I'd like to ask one question.

15 MR. WAMPLER: Go ahead.

16 MR. MASON: Until the rules with respect to these escrow
17 accounts are established, what do you all anticipate
18 doing as far as requirements to escrow?

19 MR. SCOTT: I think it's been previously testified to the
20 Board that there is an interest bearing account which
21 OXY has internally that they've been using and separating
22 those, those accounts is any purchaser would in an
23 expense account that's being, it's interest bearing and
24 being designated as those particular interest.

25 MR. MASON: Okay. And I assume that Oxy would agree that if

1 and when these regulations are promulgated that they
2 would even though they would recognize the right of the
3 Board to amend this order and that Oxy would comply with
4 those escrow requirements as and when adopted.

5 MR. SCOTT: Yes, sir. That's correct.

6 MR. WAMPLER: Thank you, Mr. Mason. Any other questions?

7 MR. EVANS: Mr. Chairman?

8 MR. WAMPLER: Mr. Evans.

9 MR. EVANS: I make a motion to grant Oxy's request for forced
10 pooling of this unit as stipulated in the relief sought
11 while noting that Ashland has objected.

12 MR. WAMPLER: I have a motion. Any second?

13 MR. MASON: Second.

14 MR. WAMPLER: Motion is second. Any further discussion? All
15 in favor signify by saying, yes. (All agreed.) Opposed
16 say, no. (None.) The motion carries.

17
18 (ITEM III)

19
20 MR. WAMPLER: The next item on the agenda is the establishment
21 of drilling unit and force pooling for the CBM-Q33 coal
22 bed methane well in the Garden District of Buchanan
23 County as requested by Oxy, USA Incorporated. The
24 docket number is VGOB-0219-79.

25 MR. SCOTT: Mr. McGlothlin, we have the same problem with the

1 docket number on this one I think.

2 MR. MCGLOTHLIN: No, mine's fine.

3 MR. SCOTT: You've got the right one? Okay. I'd like to
4 call my first witness is Martin Wirth and remind him he
5 is under oath.

6
7
8 MARTIN E. WIRTH

9 a witness who, after having been previously sworn, was
10 examined and testified as follows:

11
12 DIRECT EXAMINATION

13
14 BY MR. SCOTT:

15 Q. Would you state your name, please?

16 A. Martin E. Wirth.

17 Q. And by whom are you employed?

18 A. By OXY. USA Inc.

19 Q. As?

20 A. As a Project Land Manager.

21 Q. And you have testified before the Board?

22 A. Yes, I have.

23 Q. Okay. And do your responsibilities include the lands
24 involved here?

25 A. Yes, it does.

1 Q. Are you familiar with the proposed exploration develop-
2 ment of the unit involved in this application?
3 A. Yes, I am.
4 Q. Are you familiar with the application?
5 A. Yes, I am.
6 Q. Does OXY seek to force pool the drilling rights in an
7 approximate 80 acre drilling unit as identified as Q-33
8 in the Oakwood coal bed gas field for all seams below the
9 tiller seam?
10 A. Yes, it does.
11 Q. Are you familiar with the ownership of drilling rights
12 in the unit involved here?
13 A. Yes, I am.
14 Q. Does OXY own drilling rights in the unit involved here?
15 A. Yes, it does.
16 Q. And what would that interest be?
17 A. Oxy has coal bed methane specific leases from 100 percent
18 of the coal owners and 100 percent of the oil and gas
19 owners within the drilling unit.
20 Q. All right. Does OXY wish to dismiss any of the persons
21 notified?
22 A. No, it does not.
23 Q. What are the interest OXY is seeking to force pool?
24 A. Any claim made by Ashland Exploration, Inc. which has a
25 conventional oil and gas lease from the Elpha C. Stickley

heirs which include, Betty Hawkins, Pam W. Dunford,
Charles C. Weaver, Jack P. Hankins, Southern Bank and
Trust Company, Esley Johnson, Central Fidelity Bank,
H. A. trustee for Fran L. Weaver and Lillian B. Weaver,
also Peggy T. Ure, Ruth Hankins and John E. Caffery,
covering approximately 2.5 percent of the unit.

MR. SCOTT: I would like to interject something at this point.
We do have the same objections by Ashland and the
stipulations have also been entered into for this
drilling unit.

Q. (Mr. Scott continues.) Does the applicant seek an
order for pooling all interest for estates in this coal
bed methane drilling unit for the development operation
thereof?

A. Yes, it does.

Q. Does the applicant seek to force pool the drilling
rights of the company listed on Exhibit B to this
application?

A. Yes.

Q. Are the addresses set out in exhibit B to the application
the last known address for the respondent notified and
was due diligence exercised to locate this respondent?

A. Yes, it was.

Q. Were any efforts made or cause be made to work out an
agreement regarding the development of units involved

1 here and with conflicting claims do not exist?

2 A. Yes.

3 Q. In your opinion then was a bona fide effort made to reach
4 an agreement with these persons on behalf of Oxy?

5 A. Yes.

6 Q. Has Oxy prepared an exhibit which sets forth lease terms
7 that it would propose to the respondents and recommenda-
8 tions to the Board concerning provisions to be included
9 in the pooling order?

10 A. Yes, it has.

11 MR. SCOTT: This would be Exhibit D, Mr. Chairman. That's
12 all the questions I have for Mr. Wirth.

13 (The witness stands aside.)

14 MR. WAMPLER: I'll ask Mr. Fulmer to advise the Board of
15 additional materials. Those identified as an exhibit --
16 are those identified as an exhibit?

17 MR. FULMER: There are no stipulation for the application.

18 MR. WAMPLER: By Ashland?

19 MR. FULMER: Yeah.

20 MR. MCGLOTHLIN: Mr. Chairman.

21 MR. WAMPLER: Mr. McGlothlin.

22 MR. MCGLOTHLIN: While Mr. Fulmer is doing that could I
23 request not only of OXY but all the oil and gas companies
24 that on their maps if they would bring a larger topo that
25 we could get a more generalized -- or more precise

1 definition of the area that's involved.

2 MR. WIRTH: Could you help me out, Mr. McGlothlin on what
3 size. Do you just need the 1/2000 scale?

4 (AFTER A BRIEF DISCUSSION OFF THE RECORD, THE PROCEEDINGS
5 CONTINUED AS FOLLOWS:)

6 MR. WAMPLER: We'll make the stipulation of evidence and
7 procedure by Ashland part of the record in both the
8 previous hearing and this one.

9 MR. SCOTT: Mr. Chairman, the objections are the same.

10 MR. WAMPLER: Thank you.

11 MR. SCOTT: Next I'd like to call Mark Karam and I'd remind
12 him your under oath.

13
14
15 MARK B. KARAM

16 a witness who, after having been previously sworn, was
17 examined and testified as follows:

18
19 DIRECT EXAMINATION

20
21 BY MR. SCOTT:

22 Q: Would you state your name, please?

23 A: Mark B. Karam.

24 Q: And by whom are you employed?

25 A: CRV, USA.

1 Q. In what capacity, please?
2 A. As a regulatory engineer.
3 Q. And you have previously testified before the Board?
4 A. Yes, I have.
5 Q. And your qualifications were accepted?
6 A. Yes, they were.
7 Q. Mr. Karam, what is the projected total depth of the
8 proposed initial well under applicant's plan of develop-
9 ment?
10 A. Approximately, 2,010 feet.
11 Q. Will this be sufficient to penetrate and test the
12 formations involved here?
13 A. Yes.
14 Q. Are you familiar with the well cost for the proposed
15 initial well under applicant's plan of development?
16 A. Yes, I am.
17 Q. Was the detailed estimate prepared within the last 90
18 days?
19 A. Yes.
20 Q. Are you knowledgeable in the preparation of DWE's and
21 knowledgeable in regard to well cost in this area?
22 A. Yes.
23 Q. Does the DWE, provided to the Board previously, represent
24 a reasonable estimate, reasonable well cost for the
25 proposed initial well under applicant's plan of develop-

1 ment?

2 A. Yes, it does.

3 Q. As I stated earlier, the DWE was previously provided to

4 the Board as Exhibit C to its application.

5 A. Yes, it was.

6 MR. SCOTT: And I have no further questions for Mr. Karam.

7 (The witness stands aside.)

8 MR. WAMPLER: Any questions members of the Board? Mr. Mason.

9 MR. MASON: Mr. Scott, same stipulations with regard to the

10 escrow?

11 MR. SCOTT: Yes, sir.

12 MR. WAMPLER: On the DWE -- and I guess this is evolution as

13 we work through these various cases -- I think it would be

14 helpful to the Board if you would have these DWE's dated

15 and signed by the person that prepared those.

16 MR. SCOTT: Okay.

17 MR. WAMPLER: Mr. Fulmer will direct it as you work with

18 companies in the future come before the Board that they

19 are aware of that.

20 MR. FULMER: Thank you, Mr. Chairman.

21 MR. SCOTT: We'll be glad to comply.

22 MR. WAMPLER: Any other questions? Do you have anything

23 further?

24 MR. SCOTT: No, sir.

25 MR. EVANS: Mr. Chairman?

1 MR. WAMPLER: Yes.

2 MR. EVANS: I move that we grant Oxy's request for foran
3 pooling of this unit and noting Ashland's objections.

4 MR. WAMPLER: I have a motion to grant the release of with
5 noting of Ashland's objection.

6 MR. MASON: Second.

7 MR. WAMPLER: Have a motion and a second. Any further
8 discussion? If not, all in favor signify by saying,
9 yes. (All agree.) Oppose, say no. (None.) Motion
10 carries. Thank you.

11 MR. SCOTT: Thank you.

12 MR. WAMPLER: We'll take a 10 minute recess and let the other
13 parties come forward.

14 (AFTER A BRIEF RECESS, THE PROCEEDINGS CONTINUED AS
15 FOLLOWS:)

16
17 (ITEM IV)
18

19 MR. WAMPLER: We'll now reconvene after a break. We'll go to
20 Item Number 4 on the agenda, the well location exception
21 for conventional gas well RFNS number 6, Richmond
22 District, Wise County as requested by A & R Production
23 Company. The docket number is VGOB-0219-80.

24 MR. COUNTS: Thank you, Mr. Chairman. Mr. Chairman, members
25 of the Board. If it please the Board, Item Number 4 on

1 the docket represents a separate, distinct location.
2 Items 5, 6, 7, 8, and 9 all represent locations that are
3 upon the same mineral tract. As a result for expediency
4 and also for proficiency, I'd like to go ahead and hear
5 the matter on docket number 4 first and then if it
6 please the Board I'd like to consolidate items 5, 6, 7,
7 8, and 9. Mr. Chairman, I'd like to present exhibits that
8 will be used with regard to Item Number 4 on the docket.
9 Exhibit A. It's a well plat of M8-6.

10 (Well Plat marked as Exhibit A, VGOB-0219-80.)

11 MR. COUNTS: Mr. Chairman, with regard to M8-6, the relief
12 requested is an exception from the state wide spacing,
13 particularly from the provision of Sub-Part B, which
14 provides for a distance limitation of 2,640 feet between
15 wells. This is the presume drainage under state wide
16 spacing. This relief will be requested based upon
17 topographic mining and engineering considerations and we
18 will attempt to indicate that this location exception
19 will prevent the waste of some 450 to 750 million cubic
20 feet of gas. The witnesses that will be making appear-
21 ances include, Mr. Ron Halfacre, Landsman for A & R, Mr.
22 Keith Horton, on behalf of Penn-Virginia, who is a
23 royalty owner under this tract and also Mr. Ned Shiflett,
24 who will be an engineer testifying on behalf of A & R
25 Production Company in that sequence. I'd like to begin

1 the proceedings now by calling Mr. Ron Halfacre.
2 COURT REPORTER: (Swears witness.)
3
4

5 RON HALFACRE

6 a witness who, after having been duly sworn, was examined and
7 testified as follows:
8

9 DIRECT EXAMINATION
10

11 BY MR. COUNTS:

12 Q. Mr. Halfacre, who are you employed by and in what
13 capacity?

14 A. I'm with Costal Oil and Gas Corporation, A & R Production
15 Company as District Land Manager.

16 Q. Would you indicate for the Board your background, your
17 education?

18 A. I attended the University of Alabama, Tuscaloosa and
19 received a Bachelor of Science degree in Business
20 Administration. I received a Law degree from the School
21 of Law at University of Alabama. I worked for Chevron
22 Oil Company five and a half years. I then practiced law
23 and did independent land work for approximately six
24 years. Since that time, the last thirteen years I've
25 been employed by the A & R Production Company, Costal

1 Oil and Gas Corporation on the systems. I've attended
2 numerous legal and land seminars. I've a member of the
3 Alabama Bar Association, American Bar, Mississippi Oil
4 and Gas Lawyers, several landman associations.

5 MR. COUNTS: Mr. Chairman, I'd like to offer Mr. Halfacre as
6 an expert witness in this matter testifying as to land
7 matters.

8 MR. WAMPLER: Okay. Proceed.

9 Q. (Mr. Counts continues.) Mr. Halfacre, do your respon-
10 sibilities include the lands here and in the surrounding
11 area?

12 A. They do.

13 Q. And approximately how long have you worked with regard
14 to the Roaring Fork project?

15 A. Approximately five years.

16 Q. Would you indicate your duties specifically involving
17 these lands?

18 A. All the land functions come under my responsibility,
19 which include acquisition of leases, rights-of-way, work
20 with the permitting processes, the pipe lines, contracts,
21 land/owner relations.

22 Q. Mr. Halfacre, approximately how many wells is A & R
23 operating in Virginia?

24 A. Approximately, 100.

25 Q. And are you familiar with the application for a location

1 exception for H0#6 and the release requested thereby?

2 A. Yes, I am.

3 Q. Mr. Halfacre, using a larger blow-up of Exhibit A on the
4 board to your right and the Board's left, would you
5 describe the gas ownership of the lands underlying
6 approximately 1,320 foot radius of this well?

7 A. This is just a larger map of Exhibit A each of you have.
8 The area -- this is the town of Appalachia, just off the
9 map there you have shown right here in the southeast
10 corner of the map. Just northwest of -- I think it's
11 Highway 160. It's just off the road -- the Bullitt mine,
12 which is operated by Westmoreland Coal and Penn-Virginia
13 Resources is this area in here. And that's one of the
14 problems we're having. This dark line that you see
15 coming down in a north/south direction and then coming
16 east then in a southerly direction is the tract outline
17 for Westmoreland Coal Company's tract #211, that's 1,129
18 foot tract. They own 100 percent of the oil and gas in
19 that tract. To the west you see several other smaller
20 tracts, T67, T58, T59. Those are each Penn-Virginia
21 Resources tracts. They own the oil and gas 100 percent
22 in each of those tracts. Of course, our well indicated
23 in red near the property line. We propose (inaudible)
24 voluntary unit. We have oil and gas leases from both.
25 We own a 100 percent working interest with our par-

1 participants in our project and --

2 Q. In other words, Mr. Halfacre, the units involved in the
3 1,320 foot radius included PVRC tracts 58 and 67 and
4 Westmoreland tract 211?

5 A. That's correct.

6 Q. Mr. Halfacre, does A & R have the right to drill and
7 produce gas from under these tracts?

8 A. Yes, we do.

9 Q. What percent of the leasehold does A & R and Roaring Fork
10 partners have within this 1,320 foot radius?

11 A. One hundred percent.

12 Q. Have owners of the respective leases covering these three
13 tracts agreed to voluntarily pool their interests and do
14 you the respective oil and gas lease forms covering these
15 tracts specifically authorize the lessees to pool these
16 interests?

17 A. Yes.

18 Q. Is it your opinion that by granting this location
19 exception the Board will protect the rights of all
20 parties?

21 A. Yes, it is.

22 MR. COUNTS: Thank you. No more questions.

23 MR. WAMPLER: Any questions, members of the Board? Mr.
24 Evans?

25 MR. EVANS: I have a question.

CROSS-EXAMINATION

BY MR. EVANS:

Q. The spacing -- your asking for variance for two wells?

A. Two producing wells.

Q. Those are the two producing wells -- what's the ownership?

A. Penn-Virginia Resources.

Q. Okay. And are there any other parties involving those wells?

A. No, sir.

Q. Okay.

A. There is -- I believe Well 1020, which we are not asking exception to because of distance. Westmoreland and Penn-Virginia do share the royalty from that well. But not the ones we are asking for the exception to.

MR. WAMPLER: MR. McGlothlin?

CROSS-EXAMINATION

BY MR. MCGLOTHLIN:

Q. How much of the site now is to the west of -- in a westerly direction, how much of the mined area there is now being mined?

1 A. I would defer that to Mr. Horton, who can be more
2 specific than I. The white stripe you see is approxi-
3 mately eighty feet wide and then what's we would have to
4 drill it in. To the northwest of your location there is
5 reclaimed area that we can't get in also. Mr. Horton can
6 address that better than I, if that's what you're --

7 MR. WAMPLER: Any other questions.

8
9
10 CROSS-EXAMINATION
11

12 BY MR. MASON:

13 Q. I want to ask why you picked that particular location?

14 A. That's the only one out there because of the mining in
15 the present or past.

16 Q. In other words in order to drill in this area you have to
17 go through that open space (inaudible.)

18 A. Yes, sir that's correct.

19 Q. There's no other feasible locations within this area?

20 A. No.

21 Q. Would it be your opinion then that if the exceptions are
22 not allowed that it would deny the ability to exploit the
23 minerals from this area?

24 A. That is correct.

25 (Witness stands aside.)

1 MR. COUNTS: I would like to call Mr. Keith Horton.

2 COURT REPORTER: (Swears witness.)

3
4
5 KEITH HORTON

6 a witness who, after having been duly sworn, was examined and
7 testified as follows:

8
9 DIRECT EXAMINATION

10
11 BY MR. COUNTS:

12 Q. Mr. Horton, would you indicate for the Board who you are
13 employed by and in what capacity?

14 A. I'm Keith Horton, Vice President of Coal Operations for
15 Penn-Virginia Resources.

16 Q. And would you indicate your background and your education?

17 A. I have a Bachelor of Science degree in Mining Engineering
18 from West Virginia University. I was employed by
19 Westmoreland Coal Company for four years, employed by
20 Penn-Virginia Resources for the last eleven years.

21 Q. Does your area of responsibilities at Penn-Virginia
22 include the Hoaring Fork project area?

23 A. Yes, it does.

24 Q. Would you also tell the Board your professional associa-
25 tions or affiliations that you may have?

1 A. I'm a member of SME of the American Institute of Mining
2 Engineers and on the Board of Directors for Virginia
3 Mining Reclamation Association.

4 MR. COUNTS: Mr. Chairman, I would like to offer Mr. Horton as
5 expert witness in this matter, as a mining engineer.

6 MR. WAMPLER: Okay.

7 Q. (Mr. Counts continues.) Are you familiar with the
8 application for the location exception and the well
9 permit application filed by A & R?

10 A. Yes, I am.

11 Q. Mr. Horton, you've heard Mr. Halfacre testify as to the
12 ownership of the oil and gas underlying the unit for
13 M886. What is Penn-Virginia's interest in subject well?

14 A. We have a royalty interest and a working interest in this
15 well.

16 Q. In other words, Penn-Virginia has a great deal at stake
17 with regard to the drilling of this well?

18 A. That is correct.

19 Q. Is Penn-Virginia actively involved in the process of
20 selecting locations for well which A & R will operate?

21 A. Yes, we are. We evaluate, do the site surveying, and
22 well platting.

23 Q. Would you explain briefly for the Board the factors that
24 Penn-Virginia considers in approving locations? In other
25 words, if a location is submitted to you by A & R and

1 they want to go out and drill it, is it just an automatic
2 approval by Penn-Virginia?

3 A. No, it's not. We evaluate the location for compatibility
4 with our other land interest.

5 Q. And what would some of those other interests include?

6 A. Coal mining, timber, oil and gas and coal.

7 Q. Do you also evaluate the location from a topographic
8 consideration?

9 A. Yes, we do.

10 Q. Does Penn-Virginia attempt with regard to well locations
11 to maximize competing uses?

12 A. Certainly, that's the primary objective.

13 Q. Would you indicate what some of those competing uses are
14 again for the Board, please?

15 A. Well, typically we will coordinate the site to minimize
16 effects on our coal interests as a land owner and coal
17 owner. We attempt to maximize recover of both the oil
18 and gas and the coal and try to prevent conflicts between
19 the two land uses, as well as surface uses -- where we
20 own surface.

21 Q. Now, Mr. Horton, Penn-Virginia is also active as a oil
22 and gas operator, is that not correct?

23 A. That is correct.

24 Q. So another one of your considerations for selecting a
25 site would be to insure the maximum efficient drainage.

1 is that right?

2 A. Certainly. Yes, it is.

3 Q. Mr. Horton, would you describe for the Board using
4 Exhibit A, these considerations that you've discussed as
5 they apply to M0867

6 A. Mr. Halfacre eluded to the Bullitt Mine which is shown
7 cross-etched on your Exhibit A, as well. This is the
8 Bullitt Mine of Westmoreland Coal Company. It is an
9 active underground mine, approximately 500 feet below the
10 surface. Currently there is ongoing mining in this area
11 that's active and these supporting works are attached to
12 the active operation. We have in this area a barrier
13 block -- what is known as a barrier block or a block left
14 between mine workings -- of approximately eight feet in
15 width. This barrier block is orientated in a southwest,
16 northeasterly direction and we must avoid mine workings
17 in this area for the safety, etc., of underground miners
18 in the Bullitt Mine. We chose this particular site due
19 to topographic constraints that overly this particular
20 barrier block. The surface topography is such that it
21 would be impossible to get a site without extensive site
22 preparation and we have to protect the State road. So
23 to maintain any kind of spacing in the area, maximize
24 drainage, we must stay in that block and minimize the
25 surface damage.

1 MR. MASON: Mr. Chairman.

2 MR. WAMPLER: Mr. Mason?

3
4 CROSS-EXAMINATION
5

6 MR. MASON:

7 Q. Sir, would it be your best judgement that this particular
8 location would -- well, assuming you have to drill in
9 this block -- this mine support block -- would this
10 particular site present the least environmental damage
11 and disturbance to this area?

12 A. Yes, it would.

13 Q. That is your judgement?

14 A. Yes, it is.

15 Q. You all looked at that and considered that in doing this?

16 A. Yes, sir, we did. There is a reclaimed refuge pile that
17 was done by the Abandoned Mine Land Reclamation Fund to
18 the northwest of this site, which limits any ability to
19 move to the northwest without disturbing that. A
20 particular refuge pile -- that is a factor as well, the
21 stability of that pile, the location adjacent to the
22 creek and the highway certainly confined our ability to
23 relocate the site.

24 MR. WAMPLER: Other questions?

25 MR. MCLOTHLIN: Mr. Chairman.

1 MR. WAMPLER: Mr. McGlothlin?

2
3 CROSS-EXAMINATION

4
5 BY MR. MCGLOTHLIN:

6 Q. How much of the area has been mined to the west of this
7 site?

8 A. To the west?

9 Q. Yeah, in a -- I mean to the -- easterly direction?

10 A. Well, all of this area that's shown cross-halved has been
11 mined previously to the east. Everything we show has
12 already been --

13 Q. If you move the site then you would be drilling in a gob?

14 A. That is correct. And those gob areas are connected to
15 active workings. They would have ventilated underground,
16 so we must avoid intersecting the mine workings in this
17 case.

18 MR. WAMPLER: Mr. Counts?

19
20 DIRECT EXAMINATION

21
22 BY MR. COUNTS:

23 Q. Mr. Horton, does Penn-Virginia support A & R's applica-
24 tion for this location exception?

25 A. Yes, we do.

1 Q. In your professional opinion is this the only possible
2 location which would allow this well to be drilled and as
3 a result have recovery of these gas reserves?

4 A. Yes, it is.

5 Q. In your opinion will the granting of this location
6 exception by the Board prevent waste, protect royalty
7 rights and promote effectively (inaudible) practices?

8 A. Yes, it does.

9 MR. COUNTS: Mr. Chairman, I don't have any other questions.

10 MR. MASON: Mr. Chairman, I have one more.

11
12 RECROSS-EXAMINATION

13
14 BY MR. MASON:

15 Q. In your capacity as a representative of Penn-Virginia --
16 you all are the owner of the working interest in the two
17 conflicting wells?

18 A. That is correct.

19 Q. And your position here is that you specifically waive
20 your objection not only as a land owner in here but also
21 as the operator and working interest owner of those
22 wells?

23 A. We were not the operator of those wells, but we do waive
24 any objection as a working interest partner.

25 Q. Who is the operator?

1 A. A & R Production.

2 MR. HALFACRE: May I?

3 MR. WAMPLER: Yes, sir.

4 MR. HALFACRE: We operate all these wells. Penn-Virginia is
5 not only the lessor, but they also have a working
6 interest in each of wells and the 180 wells I mentioned.
7 They have only a royalty interest in the majority of them
8 and a working interest in all of them. But they are a
9 non-operator. We are the operator.

10 Q. (Mr. Mason continues.) Well, what I'm just trying to
11 clarify is the operator and the working interest owners.

12 A. It's the very same -- the working interest is the same in
13 every well shown on this plat.

14 Q. Okay.

15 A. The only time the royalty interest is going to vary is
16 when you cross over to tract 211 and Westmoreland owns
17 the royalty interest there.

18 Q. This is probably technical. I'm just trying to establish
19 that both the working interest and the operators agree
20 that there are no exceptions to -- in those specific
21 capacity.

22 MR. WAMPLER: Other questions?

23 (The witness stands aside.)

24 MR. COUNTS: I'd like to call Mr. Shiflett.

25 COURT REPORTER: (Swears witness.)

1 NED SHIFLETT

2 a witness who, after having been duly sworn, was examined and
3 testified as follows:

4
5 DIRECT EXAMINATION

6
7 BY MR. COUNTS:

8 Q. Mr. Shiflett, who are you employed by and in what
9 capacity?

10 A. Coastal A & R Production and I'm an Operations Superin-
11 tendent for them.

12 Q. Would you indicate for the Board your educational
13 background?

14 A. I have a Petroleum Engineering degree from Marietta
15 College and have worked in engineering for 14 years.

16 Q. With whom has that employment been with, Mr. Shiflett?

17 A. City Service for 5 years and Thomas-North America for 3
18 years and Coastal A & R.

19 Q. Would you indicate for the Board your area of respon-
20 sibility at A & R?

21 A. General inspection operations.

22 MR. COUNTS: Mr. Chairman, I would like to offer Mr. Shiflett
23 as an expert witness in this matter as an engineer.

24 MR. WAMPLER: Okay.

25 Q. (Mr. Counts continues.) Mr. Shiflett, are you familiar

1 with the application for location exception for well MB86
2 by A & R?

3 A. Yes.

4 Q. And would you discuss for the Board, using Exhibit A, why
5 in your opinion this location is necessary for this well?

6 A. Going back to what Mr. Horton had talked about the mine
7 works in here predominantly dictate where we put this
8 well. The extreme terrain up to the north and to the
9 south make drilling locations any place else very risky
10 and expensive and site damage to the environment. So we
11 worked with Penn-Virginia to come up with this location.

12 Q. Mr. Shiflett, how does this location exception that's
13 proposed prevent waste?

14 A. It allows us to drain the remaining gas reserves in this
15 area that wouldn't otherwise be recovered.

16 Q. In other words without this location exception those
17 reserves cannot be recovered?

18 A. Correct.

19 Q. In the event the location exception well is not drilled
20 can you estimate the loss of reserves?

21 A. \$50,000,000 to 750,000,000 cubic feet.

22 Q. And in addition to A & R would other parties be impacted
23 as a result of this loss?

24 A. Yes.

25 Q. The other joint venture partners that Mr. Hallacre

1 testified to, correct?

2 A. Correct.

3 Q. Should all formations from the surface of the ground to
4 the total depth well be covered by any order issued by
5 the Board?

6 A. Yes.

7 Q. In your professional opinion is there any other feasible
8 location which would allow the reserves underlying this
9 well to be captured?

10 A. No.

11 Q. In your opinion, would you agree that this exception
12 location as being in the best interest of conservation,
13 public safety, prevention of waste and protection of
14 royalty rights?

15 A. Yes.

16 MR. COUNTS: That's all I have, Mr. Chairman.

17 MR. WAMPLER: Mr. Evans?

18
19 CROSS-EXAMINATION
20

21 BY MR. EVANS:

22 Q. Is this mine workings -- on this map that you have up
23 there it just shows mine works. Do you know the type of
24 mine works we are talking about? Is it reaming paller
25 with retreat or are we talking about longwall panels?

1 MR. COUNTS: Would it be possible to allow Mr. Horton to
2 address that question?

3 MR. WAMPLER: Sure.

4 (The witness stands aside.)
5
6

7 KEITH HORTON

8 a witness , after having been previously sworn, was
9 examined and testified as follows:
10

11 CROSS-EXAMINATION
12

13 BY MR. EVANS:

14 A. Both types of mining have been used in this particular
15 coal mine.

16 Q. Can you differentiate which panel has been --

17 A. Currently these panels that are immediately adjacent to
18 the well site are (inaudible) filler panels.

19 Q. Okay.

20 A. These areas to the south and west have been longwall
21 mined.
22
23
24
25
26
27
28

CROSS-EXAMINATION

BY MR. WAMPLER:

Q. Does Penn-Virginia own any coal seam that might be intersected by this well?

A. Yes, we do. We own the Dorchester seam in the entire area, even under the Westmoreland tract which is the seam that the mining is located in.

Q. What is the total depth of the well?

A. 5,200 feet.

CROSS-EXAMINATION

BY MR. EVANS:

Q. What size pillars are adjacent to the site?

A. Immediately adjacent to it?

Q. Yes, sir.

A. Approximately, 50 by 50 pillars are left in place. The entry centers were 70 by 70 in this particular area.

Q. There's not been any retreat mining -- is it split or --

A. In some areas there has been retreat mining but for protection of the stream it was an area where there was not pillars.

MR. WAMPLER: Any other questions?

(The witness stands aside.)

1 MR. MASON: Mr. Chairman, I would move that this exception be
2 granted.

3 MR. WAMPLER: I have a motion that the location exception be
4 granted as proposed.

5 MR. EVANS: Second

6 MR. WAMPLER: Motion is seconded. Any further discussion?

7 MR. EVANS: I can't understand why they can't have a 50 foot
8 pillar -- and move that without changing the distance
9 from the site. I see I'm the only one that's --

10 MR. MASON: Mr. Chairman, I would certainly be willing to, if
11 he would, to withdraw my motion and let somebody address
12 that issue. Is that the only concern you have?

13 MR. WAMPLER: I don't think it is necessary at this time to
14 withdraw the motion if we can hear some questions on the
15 motion.

16 MR. COUNTS: We would be happy to have Mr. Horton address
17 that, if you would like sir.

18 MR. WAMPLER: Okay.

19 MR. HORTON: First of all, we have -- this color is larger
20 which affords more protection to the mine workings.
21 Secondly, we cannot relocate within at any 50 foot
22 pillar and still not have a spacing conflict, because of
23 surrounding wells. If we relocated in other pillars
24 we're still not gaining enough distance for the Board --
25 for the exception and find a desirable surface location

1 and protect -- minimize environmental damage. This is a
2 very steep drainage area and you basically have to stay
3 down next to the stream and the road. And private
4 housing to the southeast of here also dictates some of
5 the site locations.

6 MR. MASON: If I may, are you telling us that if were to find
7 a -- if I understand there are 50 by 50 pillars in here.
8 If you were to move this site to any of the other 50 by
9 50 pillars you would then be within 2,600 feet of one of
10 the other wells, is that what you are saying?

11 MR. HORTON: Well, -- we can't be 2,600 feet from all wells in
12 this particular area.

13 MR. MASON: That's what I'm saying. In other words if you
14 moved to one of these other pillars you may move away
15 from one of these two wells, but you would move then
16 within 2,600 feet of another well.

17 MR. HORTON: That's correct.

18 MR. WAMPLER: Any further questions? All in favor signify by
19 saying yes. (Agreed.) Opposed say no.

20 MR. MCGLATHLIN: No.

21 MR. WAMPLER: One no. Motion carries.

22
23 (ITEM V - IX)
24

25 MR. WAMPLER: Mr. Counts, you said earlier that 5 through 9

1 were the same mineral tract. Do you have any recommenda-
2 tion on how we proceed? I would typically call number 3,
3 but how do you propose we --

4 MR. COUNTS: Mr. Chairman, as a result of the fact that all 5
5 of these requests for location exceptions are located
6 upon the same mineral tract and there none closer than
7 1,320 feet to the boundary of that tract I would request
8 that the Board allow us to present those at one time.

9 MR. WANPLER: Okay. The next items on the agenda the Board
10 will consider well location for a conventional gas well,
11 COUS #11, VS #2, VS #6, and US #20 in the Lipps District
12 of Wise County as requested by A & R Production Company.
13 The docket numbers are VGOB-0219-81 through 85.

14 (Map marked as Exhibit A, VGOB-0219-81
15 through 85.)

16 (Environmental Impact Statement marked as
17 Exhibit B, VGOB-0219-81 through 85.)

18 (1986 Decision Notice marked as Exhibit C,
19 VGOB-0219-81 through 85.)

20 (1990 Environmental Assessment marked as
21 Exhibit D, VGOB-0219-81 through 85.)

22 (1990 Decision Notice marked as Exhibit E,
23 VGOB-0219-81 through 85.)

24 (Map marked as Exhibit F, VGOB-0219081
25 through 85.)

1 MR. COUNTS: Thank you, Mr. Chairman. I would like to provide
2 the exhibits, if I may, to the Board. These would be
3 exhibit marked for identification A - F and would include
4 Exhibit A being a map. Exhibit B being an Environmental
5 Impact Statement. Exhibit C being a 1986 Decision Notice
6 with regard to that Environmental Impact Statement.
7 Exhibit D, a 1990 Environmental Assessment. Exhibit E, a
8 1990 Decision Notice. Exhibit F, a map depicting the
9 approved location and the 1990 Environmental Assessment.
10 So again the relief is requested from the 2,640 foot
11 distance limitation required between wells, being that
12 presumption of state-wide spacing, 361.17. As I indi-
13 cated, Mr. Chairman, all of these locations are on the
14 same 3,939 acre mineral boundary with common ownership,
15 no well is closer than 1,330 feet to mineral tract
16 boundary, that topographic, environmental, and engineer-
17 ing considerations dictate these location exceptions and
18 that up to an estimated 3,000,000,000 cubic feet of gas
19 could be lost without these exceptions. We would also
20 like to show to the Board that the cause of the common
21 ownership with no impact on correlative rights will
22 issue. As a result the only considerations is whether
23 the waste will be prevented by the granting of these
24 location exceptions. At this time with regard to
25 witnesses, testifying on the behalf of A & R will be Mr.

1 Ron Halfacre, again, as Landman. Mr. Jim McIntyre, on
2 behalf of the United States Forest Service. Mr. Keith
3 Horton, as royalty owner on behalf of Penn-Virginia
4 Resources. Mr. Ned Shiflett, as engineering. If it
5 please the Board, I would like to call now, Mr. Halfacre.

6
7
8 RON HALFACRE

9 a witness who, after having been previously sworn, was
10 examined and testified as follows:

11
12 DIRECT EXAMINATION

13
14 BY MR. COUNTS:

15 Q. Mr. Halfacre, are you familiar with the application for
16 locations exceptions for the subject wells and the relief
17 requested?

18 A. I am.

19 Q. Mr. Halfacre, on Exhibit A would you locate for the
20 Board each of the wells for which A & R have requested
21 these location exceptions and familiarize them more with
22 this area?

23 A. Yes. This is a larger scale of the map you already have.
24 The dark outline around the border is the outline of the
25 this mineral tract, referred to as Penn-Virginia tract

1 1602, a 3,939 acre mineral tract. The dark border inside
2 -- it's still common mineral ownership, the oil and gas
3 ownership is the same. The surface ownership inside this
4 is different. The larger portion of the surface owner-
5 ship is the United States Forest Service. This interior
6 tract of surface is owned by individuals within the
7 Forest Service. Another legend on the map is a red dot
8 and are the wells that are subject to our applications
9 today. Existing gas wells are shown with the symbol with
10 the long lines drawn through them. Starting with our
11 well U8 #11 to the west it will be an exception for a
12 permitted well and an existing well. To the east we have
13 a well V8 #2, would be an exception to the well I just
14 mentioned plus our well V8 #1, which is a permitted well.
15 Moving to the east our well V8 #4, 10929, is more than
16 1,320 feet from our mineral line, which is shown by this
17 dark line. It is an exception to our V8 #3 and our V8
18 #7. Not shown on this map due to this happening so
19 recently is Edwards & Harding has filed a permit for a
20 well off of our tract across this dark line to the east.
21 It is approximately 2,300 feet from this well. The
22 permit is pending -- the application for a permit is
23 pending, let me put it that way. It has not been approved
24 and this would be an exception to that, that non-per-
25 mitted well, but applied for well. It is approximately

1 2,300 feet from this well and 400 and so feet from our
2 line on their lease. Our well VB #6 is an exception to
3 permitted wells also. And our last well UB #20 is an
4 exception to an existing gas well, our 10959, and we are
5 over 1,420 feet from our mineral tract line.

6 Q. Mr. Halfacre, under Virginia Code 461.17 it creates a
7 presumption of drainage that all wells should be 1,320
8 feet from the mineral boundary or an exception should be
9 requested. Are any of these wells located under 1,320?

10 A. None of them are within 1,320 of our exterior mineral
11 line.

12 MR. WAMPLER: Mr. Halfacre, you mentioned that Edwards &
13 Harding had an application pending. You're not request-
14 ing this Board to grant a location exception to that well
15 of Edwards & Harding that is pending, are you?

16 MR. HALFACRE: I don't know the procedure, Mr. Wampler. I
17 just know that it is pending.

18 MR. COUNTS: We are only taking notice of the fact that that
19 application is pending before the Board.

20 MR. HALFACRE: That's the main thing. We wanted the Board to
21 be aware that this -- it doesn't show over here -- it
22 would be within 2,350 and I didn't know the proper
23 procedure --

24 MR. WAMPLER: I will accept that as information. Thank you.

25 Q. (Mr. Counts continues.) Mr. Halfacre, would you also

- 1 describe the ownership of that particular tract, T1602.
- 2 A. The oil and gas ownership is 100 percent Penn-Virginia
3 Resources. The working interest is A & R Production
4 Company/Penn-Virginia Resources and its working interest
5 participants, the entire tract. Each well that is
6 represented on this map within the 1,600 foot tract is
7 the same, the working interest is the same and royalty
8 interest is the same.
- 9 Q. Mr. Halfacre, does A & R have an oil and gas lease
10 covering this tract?
- 11 A. Yes, we do.
- 12 Q. Are the owners of the off-setting wells to those wells
13 which you requested location exceptions common to the
14 acreage on which each location exception well is located?
- 15 A. Yes, they are.
- 16 Q. Is it your opinion that by granting these location
17 exception the Board will protect the correlative rights
18 of all parties?
- 19 A. Yes.
- 20 Q. Would you explain to the Board your reasoning for that?
- 21 A. Without these exception location we will be unable to
22 drill some of these wells and therefore we would not be
23 able to obtain the reserves and the royalty owners
24 therefore would receive no royalty and gas would be left
25 in the ground.

1 MR. COUNTS: That's all the questions I have of this witness,
2 Mr. Chairman.

3 MR. MASON: Mr. Chairman.

4 MR. WAMPLER: Mr. Mason?

5
6 CROSS-EXAMINATION

7
8 BY MR. MASON:

9 Q. If you were not granted any exceptions -- you've got
10 here, let's see, five wells?

11 A. Yes, sir.

12 Q. How many wells would you drill without the exceptions in
13 this area? If you had to space them all 2,300 feet or
14 more plus the 1,300 boundary?

15 A. I really couldn't answer that with the exact number. We
16 could drill the ones that are shown with the blue dots.
17 It would eliminate the others. And of those five -- I
18 don't believe we could drill those five for replacement
19 wells for them due to topographic reasons and matters
20 that Mr. McIntyre will get into. So would drill the ones
21 that are shown on here in the dark blue and not drill
22 these five.

23 Q. So these five wells and drainage of them would be lost?

24 A. Yes, sir.

25 Q. So what these are these five wells are a part of what, a

1 twenty well drilling program, is that what --

2 A. Approximately, yes, sir. The drilling program is even
3 larger than that. This is just in this one area.

4 Q. In this tract?

5 A. Yes.

6 Q. These five wells are a part of it?

7 A. Yes.

8 Q. Is it your professional opinion that these wells are
9 necessary to adequately drain this entire mineral tract?

10 A. They are.

11 Q. Without these exceptions you do not think that that can
12 occur?

13 A. No, sir. That's my opinion.

14 MR. COUNTS: Mr. Mason, also, with regard to the drilling
15 program I think it is an approximate 26 well program, but
16 it would be covered by the Environmental Assessment which
17 was rendered in 1990, which has been provided to the
18 Board as Exhibit D. Also the map, Exhibit F, depicts all
19 those locations as approved through that Environmental
20 Impact Statement and Environmental Statement.

21 MR. WAMPLER: Any other questions?

22 (Witness stands aside.)

23 MR. COUNTS: Mr. Chairman, if there are no further questions I
24 will call Mr. McIntyre.

25 COURT REPORTER: (Swears witness.)

1 JAMES F. MCINTYRE

2 a witness who, after having been duly sworn, was examined and
3 testified as follows:

4
5 DIRECT EXAMINATION

6
7 BY MR. COUNTS:

8 Q. Mr. McIntyre, would your complete name for the record and
9 your employment?

10 A. James F. McIntyre. I'm a forester with the US Forest
11 Service in Wise, Virginia.

12 Q. Would you state for the Board your educational back-
13 ground?

14 A. I have a BS degree in Forestry from Michigan State
15 University.

16 Q. Would you also indicate for the Board your work ex-
17 perience?

18 A. I've worked 26 years for the Forest Service in five
19 different states in two different regions. I worked on
20 the Clinch District here in Wise for 13 years as a
21 resource forester. My duties include fire, recreation,
22 law enforcement, minerals, and management.

23 Q. Do your areas of responsibilities also include the
24 coordinating of gas and oil development underlying these
25 areas?

1 A. Yes.

2 Q. Would you also indicate to the Board your professional
3 associations?

4 A. I'm a member of the Sea/Air Club and Nature Conservancy
5 and the Chesapeake Bay Foundation.

6 MR. COUNTS: Mr. Chairman, I would like to offer Mr. McIntyre
7 as an expert witness in this matter in regards to
8 forestry matters and environmental concerns.

9 MR. WANPLER: Okay. Proceed.

10 Q. [Mr. Counts continues.] Mr. McIntyre, you saw Mr.
11 Halfacre indicate the tract outline for tract T-1602.
12 What is the Forest Service's interest in this unit?

13 A. The Forest Service is the surface owner, with the
14 exception of the piece noted in the middle.

15 Q. Do part of your duties for the Forest Service involve
16 monitoring the oil and gas operations on the surface by
17 the US Forest Service?

18 A. Yes, sir.

19 Q. Is A & B required to file a permit application with the
20 Forest Service to obtain a permit for these wells?

21 A. Yes.

22 Q. And are you familiar with these applications?

23 A. I am.

24 Q. Would you describe for the Board what your duties for the
25 Forest Service involve insofar as approval of well site

1 locations and permitting process?

2 A. All right. My job basically is to go out on the ground
3 and insure that the locations are in compliance with the
4 1988 Environmental Impact Statement, that's been amended
5 in 1990. I need to look at it to insure that specialist
6 involved have all inputted the process, that the ar-
7 cheologist have looked at the project, that the soil and
8 water people and the wildlife people -- all the various
9 landscape architects, all the various resources that the
10 Forest Service has concerns with have already been
11 addressed in the document and that sitings on the ground
12 are in compliance with that document.

13 Q. You have indicated that you wanted to make sure that the
14 sites on the ground are in compliance with the surface
15 permit. Is this an attempt to be consistent with the
16 Environmental Assessment?

17 A. Yes.

18 Q. Has the Environmental Impact Statement been conducted on
19 the Forest Service property where these wells are located
20 and did this study include all of tract T-1602?

21 A. Yes.

22 MR. COUNTS: Mr. Chairman, this Environmental Impact State-
23 ment, the introduction of the index has been provided to
24 the Board as Exhibit B. This is not a complete book.
25 The book is some inch and a half thick. I will be happy

1 to provide that to the Board, should the Board so
2 request. Also a copy of the Decision Notice has been
3 incorporated into the record as Exhibit C, which was a
4 1988 Decision Notice -- which was dated February 24,
5 1988.

6 Q. For what purpose was this Environmental Impact Statement
7 undertaken?

8 A. The Forest Service made the determination when they were
9 originally approached by Coastal A & R to drill in the
10 National Forest that -- the significant impact on the or
11 significant federal action if we were to authorize and
12 allow pipelines and drilling as proposed by Coastal to
13 take effect on the surface. So we did what we call a
14 scoping job, public information. We wrote to 103 people
15 that we have on a district mailing list that are con-
16 cerned with the managing of the National Forest. Not
17 only individuals, but state organizations. There was
18 also Federal agencies that we contacted with the proposal
19 and with the impact, insofar as it affected a broader
20 scope than this. We originally looked at approximately
21 180 locations. We did that for accumulative effects. We
22 didn't look at these 180 locations at sites specific.
23 But we did look at that is what their accumulative
24 effects would be on the National Forest and the various
25 pipelines and equipment necessary to extract the oil and

1 gas, where the roads would be located and the pipelines.
2 And through that process we also determined that there
3 were rare and endangered species in the Clinch River
4 that needed to be protected. There was also 21 rock
5 shelters or prehistoric dwellings on property that needed
6 to be protected. Since this document was written the
7 (inaudible) Gorge has become a State Scenic River. So we
8 had a lot of different resources that we were concerned
9 with in protection of those resources and what impacts
10 this project would have on the National Forest surface.
11 And so it was kind of a balancing act that we had. We
12 recognized right up front that the National Forest did
13 not have the right to say to Coastal Oil and Gas "You
14 can't drill it." That decision was made in deeds in
15 1936 when Penn-Virginia reserved the mineral rights when
16 they sold was the surface. So our basic concern was the
17 protection of the surface of the National Forest land.
18 And through the process of moving -- and playing musical
19 dots, so to speak, with these drilling sites we came up
20 with an acceptable plan to the various public agencies.
21 And that was approved and the Decision Notice of 1988 was
22 signed off on it. The decision at that time gave Coastal
23 the authority to drill 24 wells. The pipelines and
24 everything they were later addressed -- they were
25 addressed in the document for those 24 sites. That's how

1 site specific it was. When they were going to drill that
2 over a three year plan to be expanded in five years to a
3 fifty well package. We said in that document with the
4 additional environmental -- documentation for those
5 additional wells. That's what the 1990 PA is. So at
6 this point in time we had done the required public
7 scoping and the work necessary to drill those fifty wells

8 Q. You indicated that a lot of work and effort went into
9 these studies. Would you give the Board some idea of the
10 Forest Service ID team that was involved, the individual
11 components of this team?

12 A. Yes, I was the co-team leader. There were two of us.
13 Mike (inaudible) and myself. Mike is a geologist in our
14 office in Roanoke. And we had various specialist. We
15 had wildlife biologist, fisheries biologist. We had a
16 landscape architect, a geologist, a forester. We have
17 engineers represented, so we had plenty -- a broad range
18 of people looking at it from their interest.

19 Q. Did you also have on your team soil scientist, hydro-
20 logists and archeologist?

21 A. That's correct.

22 Q. What essentially was the purpose of this team?

23 A. To identify what the issues and concerns were of the
24 public, to identify the issues and concerns of the
25 various state and federal and our own agency. And from

1 those interests and concerns we derived at alternatives
2 to the development of the gas fuel. We have four
3 different alternatives. We looked at above-ground lines,
4 we looked at below-ground lines, and we looked at a
5 blend.

6 Q. Did you also review public comments in this process?

7 A. That's correct.

8 Q. And I believe the map that has been provided to the
9 Board, Exhibit F, indicates an alternative, is that
10 correct?

11 A. Yes.

12 Q. Approximately how long did it take to undertake this
13 study?

14 A. The EIS represented approximately one year and you kind
15 of have to look at it in reference to the scoping. We
16 sent out these letters. We gave the public probably
17 thirty days to respond and then we got various government
18 agencies involved. The Fish and Wildlife Service was
19 very concerned as was the TVA. There are 67 different
20 species of mussels in the Clinch River. Thirteen were
21 rare and endangered. There was in the Guest River
22 Drainage, Frazier sedge which was a rare and endangered
23 plant. So that all gave rise to various concerns and
24 from this documentation that we did we set up a base line
25 survey monitoring system on several of the streams in the

1 area to collect invertebrate samples. We do that four
2 times a year to determine what effect we would have on
3 the mussels down range.

4 Q. And Forest Service continues to monitor those water
5 sheds?

6 A. Correct.

7 Q. Using Exhibit A, would you indicate for the Board each
8 individual well site that constitutes a location excep-
9 tion and give the Board some idea of the factors that
10 concerned in terms of requiring that those exceptions be
11 utilized? Would you also indicate for the Board -- you
12 referred to the Guest River Bridge, which comes under the
13 Scenic Rivers Act, would you indicate the proximity of
14 that?

15 A. Yes. Right in here, running from southeast is the Guest
16 River. Highway 72, south of Coeburn, crosses the Guest
17 River from a point approximately -- right here where this
18 line starts down to the contours of the Clinch River, a
19 distance of approximately six miles. The Guest River had
20 been designated as a State Scenic River. The railroad
21 grade across from the river all along down through the
22 river was donated to the National Forest as a scenic
23 trail and we are in the process now of developing plans
24 for that.

25 Q. If you could start with US #11, otherwise known as 10912

1 and just work clockwise with regard to those location
2 exceptions.

3 A. Where 10912 is located there was no way we felt like we
4 could move this site any closer up here into this branch,
5 because there are rugged broken cliff lines down in
6 through here and there are, in each one of these drain-
7 ages, rock overhangs where we have got those rock
8 shelters that I was telling you about that we have to, by
9 Federal law, protect the location of all of those rock
10 shelters. So we felt like that this location right here
11 was optimal. If you notice all of these location on the
12 National Forest surface are up on top of ridges rather
13 than down in drainages or in the repairing areas. We
14 view that as optimal locations because we don't have
15 adverse grades on our roads and we don't have a lot of
16 excavation and road construction. And we keep it out of
17 these drainages so we don't silt up the river and impact
18 the mussels. That was the primary concern. So we feel
19 like 912 is optimal location in regards to the drainage.
20 10918, that site -- if we move that farther to the south
21 we would get it over into the Pine Orchard Branch and if
22 we moved it much farther to the north we would be up into
23 this Jay Bird Branch --

24 MR. WAMPLER: Excuse me, Mr. McIntyre, just so record -- we
25 are going by the number, that is 10918. If you will call

1 out the VII number too as an example. Each time that you
2 call out the larger numbers if you will call out the
3 others it will just help our record correspond to the
4 docket.

5 A. (The witness continues.) That's V8 #2. Site V8 #4 --
6 originally we had it located out on the ridge to the
7 north and to the west, but when we went out on the ground
8 and looked at the site it's actually a very narrow ridge
9 and it's a solid rocky structure up to the top and we
10 felt like anything we did up in here would require
11 extensive blasting in order to put a road on down through
12 this ridge area and it was real close to the gorge and
13 we felt like that we would have a real negative impact,
14 not so much from the visual down here in the gorge but
15 just by having to blast -- the extensive blasting and
16 destruction we would do to the ridge top up here to put a
17 road down onto this site. Site V8 #6, was originally
18 located out more towards the southwest on the end of that
19 flat area out there, but when our archaeologist went out
20 on the grounds they discovered enough evidence there that
21 they wanted to protect that site and move the site to the
22 north and to the west. Then V8 #20, that one was also
23 located between the two drainages out on the very extreme
24 end of a point and we felt if we were to shift that to
25 the north we would be in a drainage, or to the south we

1 would be down into a drainage, and over to the east we
2 would still be in a drainage. So we asked that that be
3 located up on top of the ridge.

4 Q. With respect to each individual well site did you
5 consider this conforming with the 1988 EIS obtain an
6 archeological approval, soil and water approvals, road
7 approvals, did you mark timber and access roads and mark
8 pipeline roads?

9 A. Yes.

10 Q. Has the 1988 EIS been updated and were these specific
11 well locations approved?

12 A. These well locations were all looked at in that 1990
13 Environmental Assessment because they were part of the 26
14 wells that were not looked at in depth in the original
15 EIS.

16 MR. COUNTS: Mr. Chairman, the 1990 Environmental Assessment
17 and Decision Notice previously provided to the Board, as
18 Exhibits D and E, are those studies that Mr. McIntyre is
19 referring to now.

20 Q. (Mr. Counts continues.) Does the map introduced as
21 Exhibit E, which the Board has in front of it, reflect
22 these locations as approved by the Forest Service?

23 A. That's the alternative form here?

24 Q. Yes, sir.

25 A. Yes, they do.

1 Q. And do these locations conform with those shown in
2 Exhibit A?

3 A. Yes.

4 Q. In your professional opinion are these locations neces-
5 sary in order to comply with the plan of development
6 approved by the BIS and the subsequent Environmental
7 Assessment?

8 A. Yes. From our standpoint this is an optimal plan.

9 Q. Was the general public notified and comments received as
10 to the proposed plan of development in the field and
11 specifically regarding these wells?

12 A. Yes.

13 Q. In your opinion what would be the result if these
14 location exceptions were not to be approved by the Board?

15 A. From the Forest Service standpoint I think that it would
16 be a considerable loss. From us, I mean, from a stand-
17 point of time and expenditure of manpower over the last -
18 - since 1968 in the planning process of this operation.

19 Q. Is it your professional opinion that these well locations
20 exceptions represent well locations which are necessary
21 to protect the environmental and facilitate effective
22 land management practice?

23 A. Yes. They're all optimally located.

24 MR. COUNTS: Mr. Chairman, I have no further questions of this
25 witness.

(The witness stands aside.)

MR. WAMPLER: Is there any other parties that wish to address the Board regarding these proposed location exceptions?

MS. MCCLANAHAN: Yes, sir. I'm Elizabeth McClanahan. I'm representing Edwards & Harding Petroleum and Coal Group. We talked to A & R before the hearing today and we don't have any objection to their location of well 10929, which is also designated as V8 #4, as long as the Board enters an order that that particular location is also an exception to our V8 #87. Mr. Wampler, I think earlier you asked the question whether they were asking for an exception to our location and their answer was no. So I just -- we want to object if the Board is not wanting to consider this an exception to #87 location.

MR. WAMPLER: Okay. Thank you. We'll unravel that in a few minutes. I just wanted to identify if there were others. Any other parties? (Pause.) Any questions of Mr. McIntyre?

MR. EVANS: I've got one.

MR. WAMPLER: Mr. Evans.

MR. EVANS: Who ever wants to answer this is fine. On this blue line copy I know the red dots indicate the -- in the legend it says, "Permitted Locations" and "Permit Pending" and I can't tell the difference between those dots.

1 MR. HALFACRE: When the permit is issued there will be in
2 parenthesis below the dot a WS sign. I think those were
3 colored dots originally and it just didn't come out that
4 way.

5 MR. EVANS: That's all I needed to know.

6 MR. MASON: Mr. Chairman.

7 MR. WANPLER: Mr. Mason?

8
9 CROSS-EXAMINATION

10
11 BY MR. MASON:

12 Q. Would it be fair to say -- the summation of what you are
13 telling us is that the Forest Service working with the
14 mineral owner her has spent a tremendous amount of time
15 and energy to come up with these locations that are
16 generally acceptable to all involved? Would that be a
17 fair characterization?

18 A. Yes, sir.

19 Q. To change these locations or to deny them would -- in
20 order to bring about a development of this mineral would
21 it require additional time and resources to be committed
22 to do that?

23 A. It would if the drill sites were moved in locations that
24 were other than what they are, yes.

25 Q. Out of curiosity would you give an estimate of -- if we

1 were to deny one of these locations and require it to be
2 put somewhere else how much time would it take somebody
3 to approve that from your standpoint?

4 A. It depends. If you are just doing to from a well to well
5 basis, one well her, one well there, you're probably
6 looking at several months, two or three months because we
7 have to bring engineers out on the ground and re-develop
8 roads and that type thing. If you move those drill sites
9 into a drainage or something we have already told the
10 public we would put them out there, that that's not a
11 process we want to do.

12 Q. Is it your belief that to move these sites so as to
13 arrive at this 2,600 foot spacing would, in fact, require
14 moving these well into the areas that you consider to be
15 damaging tot he environment?

16 A. Yes, sir.

17 MR. WAMPLER: Any other questions?

18 (The witness stands aside.)

19 MR. COUNTS: I would call my next witness, Mr. Keith Horton.

20
21
22 KEITH HORTON

23 a witness who, after having ben previously sworn, was examined
24 and testified as follows:
25

DIRECT EXAMINATION

BY MR. COUNTS:

Q. Mr. Horton, have your qualifications as an expert witness previously been accepted by this Board?

A. They have.

Q. And are you familiar with the applications for the location exceptions and the well permit applications filed by A & R?

A. Yes.

Q. In Penn-Virginia involved in the process of selecting these locations and have you approved these locations?

A. Yes, we have. We have been involved from the beginning in coordinating the locations with the Forest Service and with A & R and to protect our other interest in the area.

Q. What is Penn-Virginia's interest in the subject wells?

A. We are a royalty owner on all the wells applied for for exceptions as well as a working interest owner.

Q. Mr. Horton, would you explain briefly for the Board the factors that Penn-Virginia has considered with regard to approval of these locations?

A. Well, certainly in this particular area there is no current coal mining ongoing. However, we look at the locations for optimizing the potential to mining in the future, underground mining, as well as maximizing the

1 drainage, etc., for the oil and gas. And our royalty
2 interest -- we reviewed the topographic circumstances
3 surrounding them to minimize cost and effective land
4 management uses.

5 Q. Does Penn-Virginia as royalty and working interest owner
6 support A & R's application for the requested well
7 location exceptions?

8 A. Yes, we do.

9 Q. And in your professional opinion will the granting of
10 these location exceptions by the Board prevent waste,
11 protect correlative rights and promote effective land
12 management practices?

13 A. Yes, it would.

14 MR. COUNTS: Mr. Chairman, that's all the questions I have of
15 Mr. HORTON.

16 MR. WAMPLER: Any questions, members of the Board?

17 (The witness stands aside.)

18 MR. COUNTS: I'd like to call now, Mr. Ned Shiflett.

19
20
21 NED SHIFLETT

22 a witness who, after having been previously sworn, was
23 examined and testified as follows:
24
25

DIRECT EXAMINATION

BY MR. COUNTS:

Q. Are you familiar with the applications for these location exceptions filed by A & R?

A. Yes.

Q. Was it necessary to spot wells at these locations due to topographic considerations, economic constraints and conform with US Forest Service requirements?

A. Yes.

Q. You've heard the testimony of Mr. McIntyre regarding the need for these location exceptions based upon environmental and land management considerations. Taking into consideration these concerns of the Forest Service is it also your professional opinion that these locations are necessary to maximize recoverable oil and gas?

A. Yes.

Q. Would you briefly summarize for the Board from A & R's prospective the purpose of these location exceptions?

A. To maximally drain the gas reserves in this area.

Q. In the event that these exception wells are not drilled can you project the estimated loss of reserves?

A. 450,000,000 to 750,000,000 cubic feet of gas per well.

Q. That would be approximately a total of how much for each five wells?

1 A. Three BCF.

2 Q. Approximately 2.25 to 3.7 BCF, is that correct, sir?

3 A. Yes.

4 Q. You've heard Mr. McIntyre's testimony also whereby he
5 indicated any new environmental assessment would require
6 at least one year. Assuming that the new Environmental
7 Assessment was completed and approved within the one or
8 one and a half years, are there any guarantees that the
9 -- first of all that the Environmental Assessment would
10 be approved?

11 A. No.

12 Q. Are there any guarantees that you would still not have to
13 come before the Board requesting another location
14 exception based upon the approved location by the
15 Environmental Assessment?

16 A. No, we would still have to go through the same proce-
17 dures.

18 Q. Will the gas produced from these wells qualify under the
19 Todd Sands provision of Windfall Profits and Tax Act and
20 thereby provide an economic incentive to drill these
21 wells?

22 A. Yes, they would.

23 Q. In order to qualify for the tax credit must these wells
24 be drilled prior to the end of 1992?

25 A. Yes.

1 Q. If the drilling of these wells were to be delayed to the
2 extent that drilling could not be commenced prior to this
3 date is it probable that the drilling of these wells
4 would be delayed?

5 A. Yes.

6 Q. Is it possible they might not be drilled at all?

7 A. Correct.

8 Q. Should all formations from the surface of the ground to
9 the total depth drilled be covered any order issued by
10 the Board?

11 A. Yes.

12 Q. In your professional opinion is there any other feasible
13 locations on tract 1602 which will allow these wells to
14 be drilled without requiring location exceptions?

15 A. No.

16 Q. In your opinion will granting these location exception be
17 in the best interest of preventing waste, protecting
18 correlative rights, and maximizing recovery of gas
19 reserves underlying tract 1602?

20 A. Yes.

21 MR. COUNTS: That's all the questions I have, Mr. Chairman.

22 MR. WAMPLER: Any questions members of the Board?

23 MR. EVANS: I have one question.

24 MR. WAMPLER: Mr. Evans.

CROSS-EXAMINATION

BY MR. EVANS:

Q. Has there been any potential determined for any coal bed methane in this area?

A. No, none.

Q. There is no potential at all?

A. We don't recognize as it having any.

Q. What's the lowest coal seam, in elevation?

A. Keith might be able to help us with that.

MR. HORTON: The Burton would be the lowest coal seam. And because this particular area is on an anti-clinal structure it varies from top to approximately 1,000 feet.

Q. (Mr. Evans continues.) What are your target formations relative to that coal seam?

A. We would hit Berea and the Morning Shell formations at 4,200 to 5,000 feet.

Q. The reason I ask these questions is the statement was made "from the surface down" and that's all I was asking was to see where they were talking about.

MR. WAMPLER: Does the permit application reflect --

MR. COUNTS: Let me restate that, Mr. Evans, if I may.

REDIRECT EXAMINATION

BY MR. COUNTS:

Q. Should all conventional gas formations from the surface of the ground to total drill be covered by any order issued by the Board?

A. Yes.

(The witness stands aside.)

MR. MASON: Mr. Chairman.

MR. WAMPLER: Mr. Mason.

MR. MASON: This private tract of land that's in the center, is there anybody here involved in that or owners in that or have anything to do with it?

MR. COUNTS: Again, Mr. Mason, that is surface only and not a mineral tract. Penn-Virginia owns the minerals underlying that tract.

MR. MASON: Okay. Thank you.

MR. MCGLOTHLIN: Mr. Chairman.

MR. WAMPLER: Mr. McGlothlin.

MR. MCGLOTHLIN: I would like to address this to Mr. McIntyre. On your Exhibit D you have several different alternatives, 1, 2, 3, and 4. Which alternative is --

MR. MCINTYRE: The alternative was the Alternative 4.

MR. MCGLOTHLIN: I understand that, but which one -- did the Forest Service endorse Alternative 4 --

1 MR. MCINTYRE: Alternative 4 was our preferred alternative.

2 MR. EVANS: Mr. Wampler, I have another question for Mr.

3 McIntyre. On -- what is it, 10910 I notice out to the
4 east there you have another -- if you move your finger
5 directly about an inch right under the 9, the last 9 or
6 8. Is that ridge top flat also?

7 MR. MCINTYRE: Yes, this large area out in here.

8 MR. EVANS: Was that evaluated and why was that determined not
9 to be a suitable location?

10 MR. MCINTYRE: We evaluate the dots basically on the spacings
11 that we're kind of given and shifted spacings around
12 with the company. This site out here being flat and
13 being out on top, if there was no archeological problem
14 with it we could be able to drill. I don't know what the
15 company is looking at with their spacing between other
16 wells.

17 MR. EVANS: In looking at this I was just trying to see if we
18 could get to a point since we've got an exception of 24
19 from 10917 up the top. If we moved that well out there
20 that would eliminate that one.

21 MR. MCINTYRE: You'd just move it closer to the V8 #3 or
22 10920.

23 MR. EVANS: And that's what I'm asking is what the distance
24 was there.

25 MR. MCINTYRE: Yes, sir.

1 MR. EVANS: Whether we would have another exception.

2 MR. MCINTYRE: That I really don't know. What we're looking
3 at is kind of the spacings and working with the spacings
4 that the company gets. As far as us measuring the dots
5 off and everything, we did. We go out underground and
6 look at it. If this dot is here then we go out under-
7 ground and look at this particular spot and we evaluate
8 it. It was all of our -- with our studies and basically
9 on where the locations were that were given to us. And
10 if the site was down in the drainage here then we would
11 move it up here and ask their analyst if that was
12 satisfactory, but as far as us doing spacing formation
13 our agency doesn't do that.

14 MR. COUNTS: Mr. McIntyre, by moving 10918 to the east does
15 that get you into the Pine Orchard Branch water shed?

16 MR. MCINTYRE: If you would move it directly to the east it
17 would, yes.

18 MR. COUNTS: And is that water shed now being monitored with
19 regard to the endangered musc?e?

20 MR. MCINTYRE: No, sir. This is the one that had the -- Jay
21 Bird Branch is the one that's being monitored. Pine
22 Orchard Branch here is the one we have the archeological
23 sites located along those drainings.

24 MR. WAMPLER: Mr. Shiflett, does your permit application
25 contain a request for the production of all formations

1 totaled out?

2 MR. SHIFLETT: Yes.

3 MR. WAMPLER: Okay.

4 MR. HASON: Mr. Chairman,

5 MR. WAMPLER: Mr. Hason.

6 MR. HASON: As a matter of procedure on this we've taken this
7 evidence in light of all these wells and specific
8 questions. I would propose their purposes of determina-
9 tion of the Board's action on each one of these, that we
10 take them up individually in order which they appear in
11 our agenda so that we can -- in other words, as taking
12 them up in blank, that we individualize each determina-
13 tion.

14 MR. WAMPLER: No problem with that.

15 MR. MCGLOTHLIN: Mr. Chairman, I'd like to express my concern
16 that I'd like to have some more information on the
17 environmental impact statement and possibly get a copy of
18 that.

19 MR. WAMPLER: Be sure and supply that to Mr. McGlothlin.

20 MR. MCGLOTHLIN: Mr. Counts, does that also include in each
21 well the reasons why they would have to go in that one
22 particular area or -- as Mr. McIntyre testified with
23 dwellings, prehistoric dwellings or is that included?

24 MR. MCINTYRE: The archeological survey is not in the Environ-
25 mental Impact Statement. That was a separate document.

1 The archeologist, when he looked at the spacings and the
2 drill site had that -- I mean, he did the original study
3 on the archeological sites. So he was aware of where
4 they are located.

5 MR. MCGLOTHLIN: Right. I guess what I'm asking is -- there
6 is obviously a record of that, but who would we get for
7 each individual well, why it needs to go in that loca-
8 tions and specific reasons for that?

9 MR. COUNTS: I think it's very important, Mr. McGlothlin and
10 I would like to demonstrate. What we have is within this
11 entire almost 4,000 acre mineral boundary what we -- what
12 A & R has attempted to do is work with the surface of it
13 here at the US Forest Service with regard to the ar-
14 cheological considerations and all the other factors
15 that we heard with regard to the expert witness tes-
16 timony. Also making sure that we are 1,320 feet from
17 our mineral boundary, but at the same time while making
18 sure that there all no correlative rights issued involved
19 here as a result of not being within 1,320 feet, trying
20 to maximize our drainage in order to comply with our
21 covenants and also to maximize production. And it has
22 obviously involved a merit of complex issues. And as
23 testimony has indicated this process has probably taken
24 eighteen months at a minimum just to come up with these
25 particular locations.

1 MR. MCGLOTHLIN: One other question, Mr. Counts, to A & R
2 itself. Has A & R been as diligent with other land
3 owners as with the US Forest Service, United States
4 Government in getting site locations?

5 MR. COUNTS: Mr. McGlothlin, I would certainly like to think
6 so. This specific tract here does involve only the
7 surface owned by the Forest Service.

8 MR. WAMPLER: I note that the wells designated as V8 #1, #3
9 and #7 show permit pending, I believe, according to the
10 information we've been provided. Do you also plan to
11 request locations exception for those?

12 MR. COUNTS: What we're attempting to do, Mr. Chairman, and I
13 believe that we have coordinated with the Department of
14 Mines, Minerals and Energy is to make sure that these
15 wells were filed in the proper sequence. Is, for
16 instance, with regard to V8 #1 was initially filed
17 without any addition filing. That well in and of itself
18 would not constitute a request for a location exception.
19 And was basically a question of, you know, do you file
20 V8 #2 first and then file V8 #1 in request for location
21 exception. So it's our position that he have tried to
22 file these sequentially so that the only locations
23 exceptions requesting would be the ones designated by the
24 red dot that section V8 #1 was filed prior to V8 #2 that
25 it would not cost you a location exception.

1 MR. WAMPLER: Well, given that information, wouldn't it be
2 true then that if the Board in approving location
3 exceptions as proposed would also be granting location
4 exceptions for #1, #3, and #7?

5 MR. COUNTS: Each of these wells would obviously cost you a
6 location exception to each other without regard to the
7 date of files.

8 MR. EVANS: Mr. Chairman, a question real quick. On this
9 particular area -- and anyone from A & R can answer the
10 question -- are these all of the well sites that you plan
11 to present -- obviously, this whole plan is laid out on
12 paper somewhere and right now you're here before us with
13 these particular five exception locations. The drilling
14 program for the rest of this area, are we going to see
15 you back again looking for more exceptions?

16 MR. COUNTS: Mr. Evans, these are the initial location
17 exceptions. There will be probably additional location
18 exceptions requested. Unfortunately, it's a problem that
19 you always encounter and the fact that the well may be
20 planned today or proposed today, but for some reason or
21 other it never ends up being actually proposed or
22 permitted. What we are trying to do is a result of the
23 fact that this again is within one unit boundary. I
24 think that your question really goes to the issue as
25 spacing and field rules. As a result of the fact this is

1 a one individually boundary and based particularly upon
2 the fact that we have attempted to work with the Forest
3 Service, if the Environmental Assessment has been
4 approved, etc., etc. Those are the reasons why we feel
5 like this is the correct way to approach this particular
6 situation is on a location exception basis. For in-
7 stance, if you superimposed a grid system over this we'd
8 be back in front of the Board again requesting location
9 exceptions based upon those proposal locations as based
10 upon the locations requested by the Forest Service, but,
11 yes, there will be additional requests for location
12 exceptions. We will keep the Board updated as to our
13 development of this particular tract.

14 MR. MASON: Are there anticipated additional well sites within
15 FVR tract 16027

16 MR. COUNTS: Yes, sir.

17 MR. COUNTS: We are really trying to put together a develop-
18 ment program which will totally develop basically this
19 tract and maximize recovery thereunder.

20 MR. EVANS: Would it be permissible to ask how many wells are,
21 at least, on the drawing board for this tract?

22 MR. COUNTS: We would be glad to answer that as long as we are
23 not held to having to permit all of those.

24 MR. EVANS: Is there plans, that's exactly what I'm asking.

25 MR. HALPACRE: What's represented on this plan it. We have

1 one more well that would be east of the 10907, a well
2 that we have talked about over there that doesn't show
3 on here. And up there in the northwest corner where it
4 says "creek" --

5 MR. EVANS: I was looking for gaps on the map here and i said
6 "well, they could put one here na done down there and
7 possible one other." I'm asking, are there going to be
8 any --

9 MR. COUNTS: As of today we have, in fact, proposed -- I
10 believe it's three additional applications for location
11 exceptions which will be on this tract. But this by far
12 constituted the majority of the location exceptions that
13 will be requested.

14 MR. HALFACRE: And another thing we have to keep in mind here
15 is the performance of the wells. If the wells do not
16 perform well then we may not --

17 MR. EVANS: I understand. I'm not trying to -- I'm not going
18 to hold you feet to the fire on anything. I was just
19 asking about your plans for this particular tract and if
20 so how many, you know, on a very preliminary basis.

21 MR. MASON: You are saying there's a possibility of three more
22 wells?

23 MR. HALFACRE: Definitely, yes, sir. And another five or six
24 possible.

25 MR. WAMPLER: Exhibit A identifies wells that are existing

1 wells, permitted locations where permits are pending
2 where you have location exceptions requested all within
3 the designated boundary. Have you identified all pending
4 permits or existing wells or permitted locations outside
5 that boundary that may fall within the location excep-
6 tions?

7 MR. HALFACRE: There would be none on the north side at this
8 point that I can recall. I know there are no existing
9 wells up there. All the existing wells are shown and we
10 have preliminary locations off of this tract where it
11 says "National Forest" -- do you see that?

12 MR. WAMPLER: Uh-huh.

13 MR. HALFACRE: There's a couple projected in there. Those are
14 very contingent at this time.

15 MR. WAMPLER: The only one you are aware of is the one that
16 you acknowledged to the Board, the Edwards & Harding well
17 that --

18 MR. HALFACRE: Yes, sir, that's the only one that I can recall
19 at this moment.

20 MR. COUNTS: What also is included in the ownership to the
21 north of this tract is also owned by Penn-Virginia, is
22 that correct?

23 MR. HALFACRE: Yes.

24 MR. WAMPLER: The reason, Ms. McClanahan, that I have stipu-
25 lated in front of all parties here that what I did before

1 about EH #87, is that that is not on the agenda today. I
2 understand your concerns, but I would say that we would
3 have to proceed, that we could not approve a location
4 exception for EH #87 today because it is not before the
5 Board properly at this time. Given the fact that we
6 have, I guess it's V8 #4, that -- and I don't know. You
7 may have to correct me. It could possibly be V8 #7 that
8 may, in fact, create a location exception for EH #87, if
9 you will. At some later date we may want to at least
10 consider how we deal what's before us today, being aware
11 that there is some other well on here that's also in a
12 pending permitted status, the same as V8 #7 and V8 #4.
13 In other words those two are pending as well.

14 MR. MASON: Mr. Chairman.

15 MR. WAMPLER: Mr. Mason.

16 MR. MASON: There think there's a -- I think perhaps based on
17 some of the questions and some of the legal things
18 involved in that that may be of interest do you think
19 that we might adjourn to executive session to consider
20 some of these things in terms of procedural matters and
21 concerns that the Board members may have about the
22 procedural way to go about them.

23 MR. WAMPLER: I think that was a motion that we go into
24 executive session.

25 MR. EVANS: I second.

1 MS. MCCLANAHAN: Mr. Chairman, may I just make before you go
2 into executive session?

3 MR. WAMPLER: Yes, ma'am.

4 MS. MCCLANAHAN: The EH #93 is also within 2,640 of land
5 owners V8 #7 and V8 #4. And that permit application is
6 pending. And if you'll note the dates on the permit
7 application Edwards & Harding permits were both filed
8 prior to the filing of A & R's permits. Mr. Fulmer has
9 all that information.

10 MR. COUNTS: Mr. Chairman, I was not aware of the EH #93, but
11 I would again stipulate that our V8 #4 and V8 #7 are not
12 filed closer than 1,320 feet. It does sound like the two
13 Edwards & Harding wells would constitute location
14 exceptions with regards to the 2,640 between wells. I
15 would, however, request that the Board consider the
16 distance from the mineral boundary, that all four of
17 these wells would be located. The V8 #4, the V8 #4, the EH
18 #87, and I believe Ms. McClanahan said the EH #93.

19 MR. WAMPLER: Okay. The request to go into executive session
20 which has been seconded is on the table right now. This
21 hearing is not over by any means. We are just going --
22 had a request to consult legal counsel under the provi-
23 sions of the Administrative Process Act. All in favor
24 signify by saying yes. (All agreed.) Opposed say no.
25 (None.) We are in Executive Session.

1 (THEREUPON, THE BOARD WENT INTO EXECUTIVE SESSION AT
2 11:45 A.M. AND RETURNED AT 12:35.)

3 MR. WAMPLER: I have a motion to come out of executive
4 session. Motion is seconded. All in favor signify by
5 saying yes. (All agreed.) Opposed say no. (None.)
6 Before we finalize that I will need each member to
7 identify yourself or do a roll call.
8 (MEMBERS POLLED.)

9 MR. WAMPLER: The Chair is open for a motion.

10 MR. MASON: I would like to -- for the purposes of my motion
11 to note the Board's recognition of the uniqueness of this
12 particular group of applications in that they deal with
13 property that's subject to very stringent requirements of
14 the US Forest Service and the fact that we have taken
15 into consideration the amount of time, effort, and energy
16 that's been devoted to this by the various parties. And
17 in taking that and recognizing that uniqueness I would
18 move that we approve the exceptions for well US #20 and
19 well US #11. I would further move that we take under
20 advisement well VS #2, VS #4, and VS #6. In doing so I
21 would note that my motion is based upon the Board's
22 conclusion that no exception should be granted to an
23 unpermitted well and that the wells for which we have
24 taken this under advisement, the exceptions sought are
25 with respect to wells as yet unpermitted. And that upon

1 such permits being permits being granted it would be
2 timely to take up the exceptions to those wells.

3 MR. EVANG: Second.

4 MR. WAMPLER: Motion is seconded by Mr. Evans. Any further
5 discussions? All in favor signify by saying yes. (All
6 agreed.) Opposed say no. (None.) Motion carries.

7 MR. WAMPLER: May I point out that since it is taken under
8 advisement for V8 #2, #4, and #6 that the information
9 presented by the US Forest Service evidence here today
10 will be preserved for consideration.

11 MR. COUNTS: May I ask you a question, Mr. Chairman, with
12 regard to #2, #4, and # 6? Is it the Board's decision
13 that in the event that the -- I guess what I'm hearing is
14 that it is not the Board's decision that these wells --
15 that the exception location for these wells would be
16 approved conditioned upon the permit approval of V8 #1,
17 #3 and #7.

18 MR. WAMPLER: They are taken under advisement. Once permit
19 approvals are granted for the other wells, I believe #1,
20 #3 and #7, then you could petition the Board for location
21 exceptions and not have to re-present the Forest Service
22 information. We've said that we will preserve that
23 information for that consideration, but that we're not
24 going to make a decision on that today. We are taking
25 that under advisement for those wells.

1 MR. COUNTS: Thank you.

2 MR. WAMPLER: Any further business before the Board? (Pause.)

3 There being none this hearing is closed. Thank you.

4
5 (End of proceedings for
6 February 19, 1991.)
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2 CERTIFICATE
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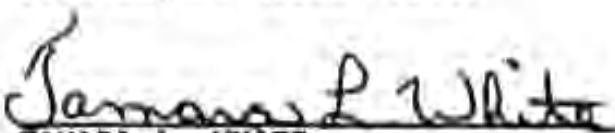
4 COMMONWEALTH OF VIRGINIA

5 COUNTY OF WASHINGTON
6

7 I, Tamara L. White, Notary Public in and for the Common-
8 wealth of Virginia, at Large, do hereby certify that the
9 foregoing proceedings were taken by me at the time and place
10 in the foregoing caption specified, and that the foregoing is
11 a true and correct transcript of the proceeding as aforesaid
12 to the best of my ability.

13 I further certify that I am not a relative, counsel, or
14 attorney for either party, or otherwise interested in the
15 outcome of this action.
16

17 GIVEN under my hand this 11th day of March, 1991.
18

19 
20 TAMARA L. WHITE
21 NOTARY PUBLIC
22

23 My commission expires January 21, 1992.
24
25