

1
2
3
4
5
6 VIRGINIA OIL AND GAS CONSERVATION BOARD
7

8 PUBLIC HEARING

9 ON MARCH 26, 1991
10

11 10:00 A. M.
12

13 AT THE ATTORNEY GENERAL'S OFFICE
14

15 ABINGDON, VIRGINIA
16
17
18
19
20
21
22
23
24
25

INDEX

<u>SPEAKER:</u>	<u>PAGE</u>
Bob Brendlinger	5
Claude Morgan	8, 39
Howard Epperly	13
Kenneth Hutchinson	15
Barney Bellly	16
John Graham	18
Issias Ortiz	30
Glenn Vangolen	35
James Ciech	43
Bryan Wolcott	45
Rex Edwards	55

March 26, 1991

This Public Hearing came on to be heard before the Committee of the Division of Gas and Oil at the Offices of the Attorney General, Abingdon, Virginia on this the 26th day of March, 1991.

(Thereupon, the Sign-In Sheet for this Public Hearing was made a part of the record.)

MR. TOM FULMER: Good morning. My name is Tom Fulmer. I'm the Director of the Division of Gas and Oil for the Department of Mines, Minerals and Energy. I will be presiding over today's Public Hearing to receive comments on proposed regulatory actions of the Department of Mines, Minerals and Energy. The proposed regulatory changes govern underground mines, vertical ventilation holes, and gas and oil operations. This is the second of two public hearings being held by the Department of the proposed regulatory actions. I would like to introduce, at this time, the other representatives of the Department of Mines, Minerals and Energy who are present today. Mr. Harry Childress with the Division of Mines. Mr. Steve Wals, with the Department -- administration in Richmond. Today's hearing will have two parts. During the first part we will take comments concerning the proposed limits to the regulations governing vertical ventilation holes and mining near gas and oil wells. After all persons

1 have completed their comments on the vertical ventilation
2 hole regulation we will take comments on proposed gas and
3 oil regulations. The proposed amendments to the regula-
4 tions governing vertical ventilation holes and mining
5 near gas and oil well will update the standards for
6 vertical ventilation holes for underground coal mines
7 and for mining near or through gas and oil wells. The
8 amendments are designed to allow mine operators to safely
9 drill holes from the surface down to coal seams to allow
10 methane gas to escape, to provide for the safe conduct
11 of mining activity near and through vertical ventilation
12 holes, natural gas wells and oil wells, to protect
13 minable coal seams, to facilitate conversions between
14 vertical ventilation holes and coal bed methane gas
15 wells, and to provide for protection of ground water.
16 The proposed gas and oil regulation will send the
17 Department's regulatory program over gas and oil explora-
18 tion and development. The changes are being proposed in
19 response to the passage of the Virginia Gas and Oil Act
20 of 1990, which replaced the 1982 Act. The proposed gas
21 and oil regulation will replace the rules and regulations
22 for conservation of oil and gas resources in well spacing
23 and the emergency gas and oil regulations. The new
24 regulation is designed to protect the Commonwealth's land
25 and water resources and the public safety from the risks

1 associated with gas, oil or geo-physical operations. The
2 regulation will set standards for permitting, technical
3 and administrative practices and enforcement actions of
4 the Department. The regulation has separate parts
5 governing conventional gas and oil wells, including
6 injection wells, coal bed method wells, gathering
7 pipelines and geo-physical operations, such as core hole
8 drilling. Notice of intended regulatory action for
9 these regulations were issued on June 4th and July 30th
10 of 1990. A public meeting was held on June 21st, 1990 to
11 receive comments on the Department's plans to amend the
12 regulations. The Department used regulatory work
13 committees representing the affected industries, citizens
14 and environmental advocacy groups to draft recommenda-
15 tions for the regulations. The Department drafted the
16 proposed regulations which were then issued on January
17 26th, 1991. In addition to today and tomorrow's public
18 hearings the Department will accept written comments
19 until 5:00 p. m. this Friday, March 29th, 1991. The
20 Department will carefully consider and respond to all
21 oral and written comments when we prepare the final
22 regulations. Comments may be submitted to the Division
23 of Gas and Oil in Abingdon, the Division of Mines in Big
24 Stone Gap, or the Department in Richmond. Information on
25 submitting comments, as well as addresses where comments

1 may be sent, are available at the table at the rear. I
2 would like to note that the Virginia Gas and Oil Board is
3 also promulgating new regulations. The Board's regula-
4 tions, which will address conservation of gas and oil
5 resources and protection of correlative rights of re-
6 source owners, are not being addressed today. The Vir-
7 ginia Gas and Oil Board will hold a separate public hear-
8 ing on its proposed regulations. When you came in we
9 asked you to sign our attendance list and indicate
10 whether you wished to speak about either regulatory
11 action. I plan to use this list to call speakers. I
12 will provide opportunity for persons who did not sign up
13 to speak after all persons on the sign-up list have
14 finished. If you have written comments you may summarize
15 them orally and submit the full written text. All com-
16 ments, whether written or spoken, will become part of the
17 official record of the development of these regulations.
18 Both today's and tomorrow's hearings will be recorded. A
19 transcript will be available in approximately three weeks
20 at a cost to the Division of Gas and Oil. I will start
21 with those persons who indicated they wished to speak on
22 the regulations governing vertical ventilation holes and
23 mining near gas and oil wells. If you indicated you
24 wished to speak about both regulations, I will give you
25 another opportunity to speak on the gas and oil regula-

1 tions. When I call your name come forward to the lectern
2 and speak clearly. Please begin with your name and the
3 name of any organization you may represent. The first
4 person I have on my list is Kenneth R. Hutchinson.

5 KENNETH HUTCHINSON: Yes, sir.

6 MR. FULMER: Which do you wish to speak on?

7 MR. HUTCHINSON: The proposed amendments to vertical ventila-
8 tion.

9 MR. FULMER: Barney Reilly.

10 BARNEY REILLY: I'll be speaking on gas and oil.

11 MR. FULMER: John Graham.

12 JOHN GRAHAM: Gas and oil.

13 MR. FULMER: Isaias Ortiz.

14 ISAIAS ORTIZ: Coal bed methane.

15 MR. FULMER: Glenn Vangolen.

16 GLENN VANGOLEN: Gas and oil.

17 MR. FULMER: Bob Brendlinger.

18 BOB BRENDLINGER: Vertical ventilation holes. My name is Bob
19 Brendlinger. I represent Jewell Smokeless Coal Corpora-
20 tion. I guess Jewell Smokeless is affected by vertical
21 ventilation holes in pretty much over all our property
22 and these proposed regulations -- what I've done is list-
23 ed the parts, the title, the section number and respec-
24 tive page number of the proposed amendments to the "Rules
25 and Regulations Governing Vertical Mine Ventilation

Holes, VR 480-05-96." So I begin with "Part I: Definitions, Section 1.1, 4 of 32 - "Well" definition should include any vertical ventilation hole where methane is vented or flared." Number 2 would be also, in "Part I: Definitions, Section 1.1, 5 of 32, "Workable Coal Seam" should read as follows: means a coal seam in fact being mined commercially or uncommercially, or of which, is of minable and merchantable quality to be mined and in the judgment of the Chief, can, reasonable be expected to be mined, and which, when mined, will require protection if wells are drilled through it." Number 3. "Part I: Definitions, Section 1.1, 2 of 32 -- Description of Hole and Well." These two words -- they need clarification in the revised regulations. I guess the word "hole" I guess we see a vertical ventilation hole taking several meanings. It may be a frack hole. A well is actually different than a vertical ventilation hole, so I think we need some clarification in those areas. Number 4. "Part II: Applications for permits. Notice, Section 2.1, 6 of 32 -- last sentence of section should read, A survey accuracy of 1:10,000 is required for the location of the subject hole with reference to the two permanent points or landmarks as shown on the map or plat." This is more or less meaning that with the equipment that's available today that a survey accuracy of 1:10,000 should be what

1 should be expected. Number 5. "Part IV: Issuance of
2 permit when no objection filed, Section 4.1, 9 of 32."
3 There should be an additional sentence to read as such:
4 "The Chief shall send by certified mail to all surface
5 and mineral owners notified under Part II of the intent
6 to drill such well a copy of the document granting
7 issuance to the respective operator." In the past we --
8 there are several wells which, as the money company,
9 we're not aware if they have been approved, if there's
10 problems and I think that we do need documentation to
11 show that the operator has been issued a license and I
12 think that would just add a little clarity for the coal
13 companies that are mining above as to whether the VVM has
14 been approved or denied. Number 6. "Part VI: Fixing
15 location of hole penetrating workable coal seam, Section
16 6.1, 12 of 32. Add sentence that the Chief should con-
17 sider a virgin coal bed that is minable and merchantable
18 and the effects that a vertical ventilation hole may
19 cause to the owner of the respective virgin coal bed. The
20 Chief would discuss the impact of the VVM with the owner
21 of the virgin coal bed and see if a suitable location
22 could be made through the seam." Number 7. "Part VII,
23 Mining operations near vertical ventilation holes and gas
24 or oil wells, Section 12.1, 12.2 and 12.3, 18 and 19 of
25 32. Delete reference made to any vertical ventilation

1 hole projected in a permit." I guess I'm uncertain as to
2 what you mean by projected, but I guess we feel that that
3 means that it's in a permitting process and we feel that
4 if it's just in a permitting process and hasn't been
5 approved then we really shouldn't have to be notifying
6 the Chief of the 300 and 200 foot runs. At this time
7 that's all I have to say. Thank you.

8 (Mr. Brendlinger's written testimony was made a part of
9 the record.)

10 MR. FULMER: Thank you, Bob. The next speaker I have listed
11 is Claude Morgan.

12 CLAUDE MORGAN: I'll be speaking on both.

13 MR. FULMER: Do you want to come up and speak on the vertical
14 ventilation hole first?

15 MR. MORGAN: Yes. My name is Claude Morgan. I'm Regional
16 Manager of Engineering for Consolidation Coal Company.
17 We operate mines in Virginia and we also have an interest
18 in the VVH and the gas regulation being promulgated to-
19 day. On the vertical ventilation holes I'll be submit-
20 ting more detailed written comments, but I'd like to
21 address two areas of general concern. The first area I
22 want to talk about is the simultaneous application
23 provision for vertical ventilation holes later to be
24 converted to coal bed methane wells or coal bed methane
25 wells converted to vertical ventilation holes. Both

1 Divisions, I think, are to be applauded for trying to
2 come up with a means of doing some sort of simultaneous
3 application process to cover this switching of holes. I
4 think this is a needed process. This is something that's
5 needed to conserve a resource in Virginia. However, the
6 process as it has been outlined in the proposed regula-
7 tions remains much too cumbersome. I would think that
8 since the notification requirements and the casing re-
9 quirements are very similar that there should be a means
10 for combining of both permit applications into one ap-
11 plication to be approved by both divisions. The applica-
12 tion would address the requirements of both sets of
13 regulations. Application could be submitted to both
14 Chief and the Oil and Gas Inspector with notice to all
15 the required parties. The application would have to be
16 approved by both divisions. Once that application was
17 approved by both divisions the conversion from a coal bed
18 methane well to a vertical ventilation hole or from a
19 vertical ventilation hole to a coal bed methane well
20 should only require notification of the Chief and Oil and
21 Gas Inspector. A formal conversion of permits should not
22 be necessary since the Oil and Gas Act explicitly allows
23 for venting of coal bed methane for mine safety. I would
24 think that the one permit should be able to cover that so
25 that we could get our gas if we need to for mine safety,

1 which is our primary concern. Any extend of notification
2 process will only result in the loss of marketable coal
3 bed methane. And the reason I say that is that during
4 the active stages of a vertical ventilation hole when
5 mining is in process the quality of methane being lib-
6 erated out of that hole is almost a daily change. You
7 can see a daily change, a very short term change. And
8 you're looking at short term, high volume outputs of coal
9 bed methane. We need the flexibility so when quality
10 dictates we can put that methane into the gas line in-
11 stead of waiting 10 or 15 days and throwing millions of
12 cubic feet of methane into the air while we're waiting on
13 a transfer. The other area that really gives me some
14 concern is a new provision that has appeared in the ver-
15 tical ventilation regulations. That being the section
16 concerning mining below -- section 12.6, concerning
17 mining below a vertical ventilation hole or coal bed
18 methane well or gob well. I tried to see where the
19 authority for this regulation comes from and the only
20 thing I could see that anybody could draw on would be
21 section 45-102.1. which these regulations are supposed
22 to be addressing concerning mining closer than 500 feet
23 and mining closer than 200 feet to a wall or vertical
24 ventilation hole. I would submit that that authority is
25 not there, that this language which has been around for

1 years has always referred to horizontal distance and the
2 fact that a coal bed methane well is located above the
3 mine should not require this notification and objection
4 process. But even if you concluded, which we don't agree
5 -- if you concluded that this Section of the Act author-
6 ized Section 12.6 then there are specific distance limit-
7 ations in the Act. For instance, it says within 500 feet
8 you will notify. Within 200 feet you will notify and
9 that the owner can object. If it is determined, and I
10 put a big if in there -- if it is determined that this
11 section of the Act authorizes this type of regulation
12 then it should at a minimum containing the same distance
13 limitations as contained in the Act. Notification, if
14 it's within 500 feet, notification with the right to
15 object within 200 feet. That's all I have.

16 MR. FULMER: The next person I have on the list is Ben
17 Ratliff.

18 BEN RATLIFF: I'm not speaking.

19 MR. FULMER: The next person is Jeffrey Deel.

20 MR. DEEL: I'm not speaking.

21 MR. FULMER: Bob Barnes.

22 BOB BARNES: No comments.

23 MR. FULMER: D. James Crech, II.

24 D. JAMES CRECH: Gas and oil.

25 MR. FULMER: Howard Epperly.

1 HOWARD EPPERLY: My name is Howard Epperly and I represent
2 Island Creek Coal. The first comments we would like to
3 make -- and I may add at this point we'll be filing
4 written comments on Friday and we won't go into detail on
5 each section today, but we will touch on each section
6 that we will be filing comments for. First of all, in
7 Definitions in Part I: Section 1.1, in coal bed methane
8 gas well we are suggesting that the words "for capture"
9 be added to the definition. The reason for this is we
10 want to reinforce the distinction between a coal bed
11 methane gas well and a vertical ventilation hole. The
12 next Definition: gob well, we are suggesting that con-
13 sideration be given to eliminate this term from the reg-
14 ulations and replacing it with the term coal bed methane
15 gas well in every case wherever it appears. As defined,
16 a gob well is a type of coal bed methane gas well and the
17 term gob well is not defined in the proposed regulations
18 for gas and oil. However, if it's decided to retain this
19 definition we've suggested the words "that as captured"
20 be inserted after the words coal bed methane. We feel
21 this is necessary to reinforce the distinction between
22 the type of wells. The next Definition: workable coal
23 seams, Island Creek feels that the definition should stand
24 as defined with the wording in the judgement of the
25 Chief. The VVH's are in for a relatively short period of

1 time and it is felt that unworkable seams should not pro-
2 hibit the use of these VWH's. In Part II: Section 2.2,
3 the Chief has adopted a form which is entitled "Notice
4 and Application" and what is felt here is there needs to
5 be some consistency with the language in the preceding
6 two sentences. We're suggesting the deletion of the sen-
7 tence or the words "The notice shall inform all persons
8 withstanding to object to the permit of their right to
9 object to the proposal occasion and shall state the pre-
10 scribed time limit for objections." We are also suggest-
11 ing a waiver of notice and objection by a person entitled
12 to notice. And the reason for this in some cases written
13 agreements entered into between the party and the coal
14 company -- and there's no purpose in going through the
15 time consuming process of notification when prior agree-
16 ments have been signed. In Section 9.1, Island Creek is
17 suggesting the word "completion" be deleted and "casing,
18 i.e." inserted in its place. In this case completion is
19 very different from what is intended. And completion is
20 defined in the Oil and Gas Act and the proposed regula-
21 tions. Under Part XI: Section 11.2, deviation from the
22 vertical should be allowed below the bottom of any coal
23 protection string of casing. It is felt there is no
24 practical reason for regulating deviation from the vert-
25 ical below the protection string of casing. Allowing de-

1 viation below the bottom of the string would reduce the
2 number of surface sites necessary for vertical ventila-
3 tion holes. And it would also allow for ventilation of
4 areas that might not otherwise be difficult to reach --
5 might otherwise, I'm sorry. Part XII: Section 12.1, the
6 words "unless the casing extends through that seam"
7 should be eliminated at the end of the section. Fiber-
8 glass casing is presently being used in the seam being
9 mined and this will facilitate mine through. We are also
10 suggesting language be added creating a new Section,
11 12.8. And, briefly, it is felt that temporary plugging
12 should be allowed and this temporary plugging, we feel,
13 should be at the discretion of the Chief. The language
14 will be filed Friday. Also, we feel that an application
15 shall not be required for mining through vertical vent-
16 ilation holes in a seam from which the mine ventilation
17 hole is intended to ventilate. We have some obvious
18 errors that are in Section 9.4. Part IX should read Part
19 XI: Section 12.4 has some typos or omissions that should
20 be added. 12.5 has a typo with a letter that should be
21 added and the heading for -- or subheading for Section 14
22 is shown as Part XIX and should be Part XIV. And the
23 sub-heading for Part V should also be changed. Again,
24 these will be filed in our written comment. That's all I
25 have. Thank you.

1 MR. FULMER: Thank you. The next person on my list is Bryan
2 Wolcott.

3 BRYAN WOLCOTT: I'll be speaking to oil and gas.

4 MR. FULMER: And the next person is Rex Edwards.

5 REX EDWARDS: Oil and gas.

6 MR. FULMER: This concludes the list of speakers who asked to
7 comment on the proposed vertical ventilation hole
8 regulation. Now, if there's anyone else who would like
9 to comment on the proposed vertical ventilation hole reg-
10 ulation, please come forward. No further comment. I
11 will now use the sign-in list to call persons wishing to
12 speak on the proposed gas and oil regulation. The first
13 person is Kenneth Hutchison.

14 KENNETH HUTCHISON: My name is Kenneth Hutchison and I
15 represent APD Lime Corporation. I'd like to speak to the
16 disposal of solids, Page 92, 1.43. In the part that's
17 written it explains that you can dispose of the cuttings
18 in a pit with plastic liners. From the work I've been
19 doing I think there is an alternative that should be
20 offered to the industry and that alternative is to treat
21 that material with hydrated lime. It will dry the mat-
22 erial out. If there are metals in it it will lock those
23 metals up and take care of the problem of the wet cut-
24 tings. This material could then be land applied or left
25 in the pit as a safe material. My biggest concern in all

1 of this is that the one single method is in here and that
2 all other methods would have to be approved by the
3 Director. I think that should be looked at and if there
4 are other methods then, that should be detailed out in
5 some manner. Thank you very much.

6 MR. FULMER: Thank you. The next person I have on the list is
7 Barney Reilly.

8 BARNEY REILLY: "My name is Bernard Reilly and I am President
9 of the Dickenson County Citizens Committee. I am here
10 today to thank the Division for holding this public
11 hearing and comment session before the final action on
12 the proposed Gas and Oil Regulations. During the past
13 months, in fact over the past two years, we have been en-
14 gaged in the preparation of the Gas and Oil Act and now
15 these regulations implementing that Act. It has been an
16 enlightening experience and wholly enjoyable. We learned
17 how things were done in the Department of Mines, Minerals
18 and Energy as well as the General Assembly of Virginia.
19 We found out who exercises a lot of influence and who
20 doesn't. And we were, at various times, elated, frustra-
21 ted, happy, disgusted, and sometimes even satisfied
22 during these past two years. Today we end the entire
23 process with the final comment period shortly coming to a
24 close. We appreciate the opportunity we had to be a part
25 of this unexpectedly monumental task. The Department

1 processed many, many comments from the participants,
2 generated reams of paper work, and published minutes and
3 comments of the various subcommittees, and also managed
4 to find appropriate meeting places throughout the entire
5 period. Our hats are off to all of you - the people in
6 Richmond, in Big Stone Gap and here in Abingdon. In my
7 old Air Force vernacular - you done good! Industry re-
8 presentatives and the other participating groups are also
9 worthy of note. We all came in with our own agendas and
10 pushed for them with all our might. The air became
11 charged a time or two but civility was maintained
12 throughout the process. We also thank each of them for
13 contributing to our education concerning how things are
14 done in Virginia. This final opportunity to make public
15 comment does not find me without suggestions. We have
16 reviewed the proposed Regulations and find some things
17 contrary to our expectations. The Gas and Oil Act re-
18 cognizes the authority of local government bodies and
19 their ordinances. However, little acknowledgements of
20 that recognition is reflected in the Regulations. The
21 periods of time to receive notice of gas and oil activ-
22 ities is too short. Little heed is paid to the protec-
23 tion of surface estates. Gas and oil activity is per-
24 mitted too close to inhabited buildings. Soil stabiliza-
25 tion is inadequate. Domestic water wells are ignored.

1 Inspections by Division personnel are not addressed. Let
2 me present my comments on these subject in a separate
3 paper. I will either leave it at the Division Office
4 today or, at the latest, before the end of the comment
5 period this Friday." I would like to make some comment
6 about the fact that over a year ago we identified two
7 wells that sort of reflected poor reclamation and poor
8 attention to land owner concerns. Both of those wells,
9 P2-08 and P2-16 are still sitting out there as bare as
10 they always have been and nothing very much has happened.
11 And it looks like we've got another candidate to add to
12 that list of impending environmental disaster and that's
13 EH-83. We'll hear a whole lot about that, I think, in
14 the coming months. "We thank all of you, again, for this
15 golden opportunity to participate in the formulation of
16 the Act and the Regulations. We look forward to a com-
17 prehensive end-product, one that will satisfy all of Vir-
18 ginia." Thank you.

19 MR. FULMER: Thank you, Barney.

20 (Mr. Kelly's written testimony was made a part of the
21 record.)

22 MR. FULMER: The next speaker I have on my list is John
23 Graham.

24 JOHN GRAHAM: Good morning, Mr. Fulmer, Mr. Childress. My
25 name is John Graham and I appear today on behalf of the

1 Virginia Oil and Gas Association. As you are well aware
2 our Association counts among its number virtually all of
3 the producers of natural gas and oil in the Commonwealth,
4 as well as many interstate gas pipeline companies, local
5 distribution companies and service companies working in
6 oil and gas exploration and production. We have said
7 many times that our Association represents virtually all
8 aspects of the natural gas industry in the Commonwealth
9 from the well head to the burner tip. It is with a sense
10 of foreboding urgency that I appear here today to tell
11 you that the regulations that you have proposed consti-
12 tute a dire threat to the health of the oil and gas in-
13 dustry in Virginia. Indeed, to its continued existence.
14 Over the years our Association has been very active in
15 the legislative and the regulatory arenas here in the
16 Commonwealth. Legal and technical committees of our
17 Association worked long and hard throughout 1981, more
18 than 10 years ago, in reaching a consensus with the coal
19 industry that ultimately led to the passage of the Oil
20 and Gas Act of 1982. In 1982 the Oil and Gas Act was a
21 landmark piece of legislation and its passage permitted
22 and facilitated the steady growth and development of the
23 oil and gas resources in the Commonwealth. Beginning in
24 1988 parties interested in pursuing the development of
25 coal bed methane began a review of the provisions of the

1 1982 Act. That review ultimately led to the passage of
2 House Joint Resolution Number 364 by the 1989 General
3 Assembly charging the Virginia Coal and Energy Commission
4 with a year long study of the 1982 Act, how well it was
5 working and whether or not changes were appropriate. It
6 was that year long study that led to the introduction in
7 the 1990 General Assembly of Senate Bill Number 382, re-
8 vising the Oil and Gas Act and Senate Bill Number 381
9 establishing emergency provisions for coal bed methane
10 development. At the same time that this was going on the
11 oil and gas industry was preparing for a flurry of drill-
12 ing activity in 1990. Coal bed methane projects were on
13 the drawing board and the tax credit that was stipulating
14 interest in coal bed methane was originally scheduled to
15 expire in December of that year. That tax credit was, of
16 course, extended. The Oil and Gas Act of 1990, which
17 sailed through the General Assembly, stressed efficiency
18 of regulation. A single Gas and Oil Board replaced the
19 Well Review Board and the Conservation Board of the 1982
20 Act. The new Act's provision set statewide application
21 and established an administrative procedure that promised
22 to operate efficiently. However, the statute was an
23 enabling statute and the ultimate test was to be recog-
24 nized in the regulations that were promulgated to flush
25 out its provisions. In considering these regulations the

1 Department commissioned four working groups from various
2 areas, and these groups spent a significant amount of
3 time considering issues with which the regulations might
4 deal. The working groups did not draft the regulations
5 since the drafting of the regulations was considered the
6 province of the Department itself. And unlike the
7 process of promulgating regulations by the Gas and Oil
8 Board that's going on right now, a process that our
9 association is participating in and that we consider to
10 be going very well, the Department's working groups
11 considered issues in the abstract. The end result of
12 hundreds of hours, hundreds of man hours and woman hours
13 of meetings was embodied in four option papers, one for
14 each of the four sub-groups. The administrative stan-
15 dards sub-group, the permitting standard sub-group, the
16 technical standard sub-group and the environmental stan-
17 dard sub-group. When the proposed regulations themselves
18 were published at the end of January the worst fears of
19 the oil and gas industry were realized. These 136 pages
20 of proposed regulations are, we believe, a manifestation
21 of an increasingly hostile regulatory climate that seems
22 destined to hamper and impair rather than encourage and
23 promote the development of the Commonwealth's natural gas
24 resources. More importantly, the promulgation for com-
25 ment of 136 pages of regulation dealing just with oil

1 and gas development and not with the conservation matters
2 to replace a total of 65 pages of existing regulations
3 that deal with conservation, as well as with oil and gas
4 development, ignores the policies, we believe, of the
5 United States that set forth the National Energy Strategy
6 that the Bush Administration put out just a month ago. It
7 ignores the policies of the Commonwealth set forth by the
8 General Assembly in the Gas and Oil Act of 1990. And
9 ignores the policies of the Department itself in imple-
10 menting the regulatory work group process. The work
11 group, when they commence the process of considering
12 regulations, adapted a three step analytical inquiry.
13 Asking first, is a regulation necessary at all. Second,
14 if a regulation is necessary is the existing regulation,
15 if there is one, adequate. And third then and only then
16 should a regulation be drafted. This analysis was
17 overlooked, we feel, in the drafting of this proposed
18 regulation. Moreover, in many instances the Department
19 also ignored the product of the regulatory working
20 groups, the four sub-groups papers entitled Gas and Oil
21 Regulation Options, and adopted, instead, a model of
22 surface mining regulation that pays little or no heed to
23 the very different impact of gas and oil operations on
24 the environment. On behalf of our Association we'll be
25 submitting detailed written comments on the deficiencies

1 of the proposed regulations. For the purposes of my
2 comments today, however, I will highlight only a number
3 of areas of the proposed regulation that we feel are most
4 detrimental to the conduct of oil and gas operations in
5 Virginia. While these comments will address only the
6 most egregious abuses of the proposed regulation, unless
7 these areas are substantially re-written or, in many
8 cases simply deleted, the Department will have succeeded
9 in driving oil and gas operators out of Virginia, thereby
10 defeating the purpose of the 1990 Act. The most serious
11 deficiencies of the regulations are as follows: First,
12 Regulation 1.05: application for a permit has a require-
13 ment that a written permit modification be applied for
14 and received, a written receipt, prior to plugging the
15 dry hole in a continuous drilling operation. This is, we
16 submit, ridiculous. It merely generates additional paper
17 work for the Department while at the same time increasing
18 the cost of the operator either by shutting down a rig
19 that will remain on site until the plugging operation's
20 completed or by requiring operations to be shut down at
21 that point and then commenced for the simple purpose of
22 plugging a well. In the same regulation the section
23 heading a state agency review form appears to be a back
24 door effort to acquire an Environmental Impact Assessment
25 for all wells in Virginia, a procedure that the General

1 Assembly specifically limited to wells only in Tidewater
2 Virginia. Secondly, in Regulation: 1.09, dealing with
3 plats the proposed regulation's mandatory scale makes it
4 impossible, physically impossible, to fit the plat on the
5 mandatory size form. Moreover, the requirement that all
6 permit modifications be submitted with a re-certified
7 plat adds additional surveying costs to such modifica-
8 tions without producing any commensurate benefit.
9 Thirdly, Regulation: 1.10, dealing with operations plans,
10 we feel, is redundant. The requisite information is
11 contained in the erosion sediment control plan and the
12 other exhibits of the operations plan, so the requirement
13 of an operations plan itself can be deleted. Fourth,
14 Regulation: 1.11, dealing with permit amendments and
15 modifications seems designed to generate additional paper
16 work and additional fee income to the Department without
17 any perceptible benefit. While permit amendments may be
18 appropriate, the minor changes in permitting activities,
19 the requirement of written application and written
20 approval simply ignores the necessities and realities of
21 operations in the field. The proposed regulation's
22 requirement for permit modifications, including notifica-
23 tion to everyone who received notification of the origi-
24 nal permit application, is a blatant example of an
25 instance where the Department ignored the comments that

1 it sought. In this case, Recommendation Number 20 from
2 the permitting sub-group, which was a unanimous recom-
3 mendation from that broad based group. Fifthly, Regula-
4 tion: 1.12, dealing with the transfer of a permit places
5 undue restrictions on transfer ability of wells and oil
6 and gas operations, which may well constitute an uncon-
7 stitutional regulatory taking and restriction on aliena-
8 tion. Once again, the provisions of this section go far
9 beyond the recommendation to both the administrative
10 standards sub-group and the permitting standards sub-
11 group. Sixth, Regulation: 1.21, dealing with monthly
12 reports contains a requirement to identify the first
13 purchaser of natural gas or oil. A requirement that not
14 only seeks, improperly we feel, proprietary information,
15 but also attempts to impose by regulation a requirement
16 which the drafters of the 1990 Act decided to delete in
17 the statute itself after the industry demonstrated the
18 impossibility of compliance. The requirement of reports
19 on transportation of natural gas also go beyond the
20 statutory authority of the Department. In Regulation:
21 1.25, the Department has imposed 15 pages of regulations
22 for blasting to a problem that simply doesn't exist in
23 oil and gas operations. The imposition of a regulation
24 pulled whole cloth from the surface mining act, where
25 blasting is a normal and necessary part of the extractive

1 process, shows a lack of knowledge or simple disregard of
2 normal oil and gas operations. Eight, Regulation: 1.26,
3 dealing with erosion and sediment control also bars from
4 other dissimilar activities extensive and expensive
5 requirements that have no place or need in oil and gas
6 operations. The proposed regulation, such as the
7 requirement of a sediment basin, for permits where more
8 than three acres of disturbed land are involved and the
9 prohibition of more than 500 feet of open trench for
10 gathering pipelines would add significantly to the cost
11 of preparing well sites, of constructing gathering
12 systems, and in many instances will simply eliminate many
13 current sites from consideration for oil and gas opera-
14 tions. More importantly, compliance with the regulation,
15 at great additional cost, will produce virtually no
16 counter veiling environmental advantage. In many cases
17 the ground disturbance of compliance would exceed that
18 originally contemplated by the measures sought to be
19 controlled. Ninth, Regulation: 1.27, dealing with storm
20 water management also seeks to impose at great expense a
21 comprehensive regulatory scheme designed for permanent
22 structures that will remain in place over a significant
23 period of time, totally ignoring the nature of oil and
24 gas operations. Drilling activities will, by and large,
25 be commenced and be completed within 30 or certainly no

1 more than 60 days. Compliance with these regulations
2 would in many cases result in far more land disturbance
3 and environmental danger than the current operations
4 incur. Tenth, in Regulation: 1.28, dealing with logs and
5 surveys the Department has with the sweep of a pen
6 ignored a compromise position that has facilitated
7 operations between oil and gas and coal operators for
8 more than a decade, and has imposed on the oil and gas
9 operator the additional costs estimated at between \$8,000
10 and \$10,000 a well being drilled through coal seams of
11 running a continuous directional survey. When the cost
12 of re-surveying the actual well location after the well
13 is drilled is added to the cost of this directional
14 survey the proposed regulation has gone a long way
15 towards shutting down traditional oil and gas operations
16 in the Commonwealth. This, and other regulations,
17 require significant additional expenditures, presumably
18 to produce information which the Department thinks would
19 be nice to have, without any showing of necessity for
20 such information and without any conceivable advantage to
21 any person other than the regulators. Eleven, Regula-
22 tion: 1.31, dealing with tanks now proposes to require a
23 liner in diked areas, a requirement that adds cost to
24 solve a problem that's never been a problem. Twelve,
25 with regard to Regulation Section: 1.38, dealing with

1 accidents, spills and unpermitted discharges. The
2 regulation fails to recognize any de minimis standard
3 limits, even though federal agencies and other state
4 agencies recognize such limits. This regulation simply
5 must be re-written to clarify that its provisions deal
6 only with spills that pose a reasonable likelihood of
7 affecting human health or the environment. Thirteenth,
8 Regulation: 1.43, dealing with disposal of solids takes
9 from another department, the Department of Waste Manage-
10 ment, standards for land fills, standards which have no
11 bearing to oil and gas operations. For all that goes
12 into the pits are natural substances that are removed
13 from the earth itself. The regulation imposes a require-
14 ment of a 20 mill liner for disposal of pit solids. A
15 liner that is not only significantly more expensive, but
16 also so heavy as to make the handling of such a liner
17 extraordinarily difficult in the rough terrain where most
18 oil and gas operations take place.

19 The requirement of a 12 inch layer of dirt between two 10
20 mill liners is equally inappropriate. Particularly where
21 the application of that layer would, in all probability,
22 require operations that would be likely to puncture the
23 lower liner. This section is yet another example of the
24 listing of regulations from another department to require
25 operations that have no serious consideration on oil and

1 gas operations. Finally, Regulation 2.04, dealing with
2 set-back requirements imposes a 200 foot setback from any
3 inhabited building, a provision that ignores recommenda-
4 tions of two of the sub-groups and imposes a requirement
5 that is nowhere authorized by statute. I commented here
6 today on only a handful of the more important changes
7 that must be made to this regulation. In each of these
8 instances the regulation imposes significant administra-
9 tive or monetary burdens, or both, upon oil and gas
10 operators without commensurate benefit to any affected
11 party. In our written comments, which will be submitted
12 later this week, we will deal with specific changes that
13 must be made in these regulations before they become
14 final. If the Department refuses to make these changes
15 it must accept the responsibility of taking actions that
16 by design or not have the affect of telling the oil and
17 gas industry in Virginia that the Commonwealth does not
18 want its energy resources developed. If the Department
19 does not modify these proposed regulations it will have
20 justly earned the reputation as the main perpetrator of a
21 hostile regulatory environment. Virginia and our nation
22 need abundant and efficient energy. This energy can be
23 generated without adverse effects to the environment or
24 to the health, safety or welfare of any party. If,
25 however, regulations such as these heap mounds of paper

1 and piles of dollars upon those that are already required
2 then, Virginia must accept the responsibility for telling
3 an industry upon whose success the future of all Ameri-
4 cans depends that there's no place for it in the Common-
5 wealth. This is not what the General Assembly expects
6 and this is not what the Commonwealth or the nation
7 needs. These proposed regulations must go back to the
8 drawing board to be pared down to something that will at
9 least permit the energy resources to be developed in
10 this state. Thank you.

11 MR. FULMER: Thank you, John. The next person I have on my
12 list is Isaias Ortiz.

13 ISAIAS ORTIZ: Good morning. My name is Isaias Ortiz. I'm
14 speaking on behalf of the Virginia Coal bed Methane
15 Association. Our Association represents -- it's a newly
16 formed Association, in 1990, represents coal operators,
17 coal and gas operators, other oil and gas associations,
18 private citizens, royalty owners, lawyers, engineers,
19 geologists, consultants. We plan to submit extensive
20 comments by Friday at 5:00 p. m. I will attempt to make
21 my comments of a general nature brief. "The proposed
22 regulations are extensive. We appreciate and congratu-
23 late your efforts to draw on all public, private and
24 government sectors and resources in the rules making
25 process. We feel this process was successfully achieved.

1 However, the resulting proposed regulations are so
2 cumbersome and complex that the Association believes that
3 they will not meet the objectives of fostering, encourag-
4 ing and promoting the safe and efficient development of
5 the Commonwealth's resources, but rather will hinder the
6 oil, gas and coal bed methane development they seek to
7 encourage. Slightly over one hundred wells are drilled
8 each year in Virginia. Yet, the proposed regulations are
9 ten times more burdensome and costly than the regulations
10 found in states where thousands of wells are drilled each
11 year. In essence, the proposed regulations have taken
12 the day to day management of the field operations from
13 the operators and placed that responsibility with the
14 DMME. The proposed practice as outlined in the regula-
15 tions in many cases are unsound, costly and environ-
16 mentally ineffective. In the oil and gas industry, the
17 decision to spend monies on exploration and development
18 programs are made for the most part by companies whose
19 headquarters are outside the Commonwealth. The primary
20 driving factor in the decision making process is the cost
21 of developing and producing oil and gas reserves. States
22 compete with one another in enticing investment for the
23 development of their oil and gas resources. The added
24 cost of these proposed regulations will severely diminish
25 the investment now being made by most oil and gas

1 companies operating in the Commonwealth. The resulting
2 impact could be a loss of jobs, loss of income to the
3 Commonwealth in the form of severance taxes, loss of
4 income to royalty owners, loss of income to hotel, motel,
5 restaurant owners and related industries and to private
6 citizens of the Commonwealth.

7 There has been a great deal of input by private citizen
8 groups into the regulatory process. In many cases, those
9 concerned citizens own the surface rights which have been
10 severed from the mineral estate. In most instances,
11 these surface owners have not considered the property
12 rights of the mineral estates underlying their surface.
13 The Association recognizes the rights of all owners,
14 including the rights of coal operators, oil and gas
15 operators and gas lessees, landowners, and the most
16 precious need to protect the environment. Because oil
17 and gas development is in its infancy in Virginia, the
18 DMME is in a unique position to set a course at the
19 outset that will maximize the potential benefits of the
20 development of its natural resources being oil, gas and
21 coal bed methane. These proposed regulations do not
22 serve that purposes. The Association makes the following
23 general recommendations on the below listed items. Our
24 general aim is to add flexibility to the regulations in
25 order to minimize unnecessary time and expense both to

1 the Commonwealth and the operators while maintaining safe
2 and sound environmental practices.

3
4 1. General Performance Standard: The Association
5 recommends the use of general and prescriptive standards
6 wherever possible. This would allow the flexibility
7 necessary to address changes in technology and operations
8 which may be either anticipated or unanticipated at each
9 well site, depending on the specific conditions en-
10 countered. If the Department thinks that there are some
11 areas where minimum, specific prescriptive standards are
12 required, the Association would then recommend then
13 adoption of specific standards in those instances.

14
15 2. Variances: The Association supports the concept of
16 giving the Director and his designates an overall
17 variance power that would give him the latitude and
18 discretion he needs to effectively administer the statute
19 and these regulations. This could be achieved by adding
20 the words "unless a variance has been granted by the
21 Director" to a number of sections in the proposed
22 regulations. Such a variance power would allow the DOME
23 and the operator to address site specific problems.

24
25 3. Field Rules: The Association recommends that a

1 procedure be instituted for the establishment of field
2 rules, and that comments be solicited regarding the
3 procedure to obtain field rules. This procedure will be
4 extremely important to coal bed methane development and
5 conventional operations in that it will provide efficien-
6 cy and consistency in operations and minimize the amount
7 of paper work and cost to the Commonwealth and operators.
8

9 4. Duplicative Data: Throughout the proposed regula-
10 tions, many of the requirements for filing forms and data
11 are redundant. The Department should assess the amount
12 of paper that will be required to be filed and the
13 associated manpower that will be needed to manage this
14 volume of data.
15

16 5. Forms: Whenever a particular form is specified, the
17 form number should be specified in the regulations in
18 parentheses. The Association reserves the right to
19 comment on the forms when the final regulations have been
20 issued.

21 Until these changes have been addressed, the Association
22 recommends the extension of the emergency regulations.
23 Please recognize that coal bed methane development in the
24 Commonwealth is in its infancy. Over regulation will
25 burden the potential development of this resource. The

1 proposed regulations put additional requirements on CBM
2 wells which are not necessary and are not placed on
3 conventional wells. The primary considerations in CBM
4 development should be safety, environmental concerns and
5 coordination with coal mining. The proposed additional
6 regulations are not needed at this time. Representatives
7 of the Association will be happy to discuss these
8 recommendations with you or your staff at your con-
9 venience. Thank you.

10 MR. FULMER: Thank you, Isaias.

11 (Mr. Ortiz's written statement was made a part of the
12 record.)

13 MR. FULMER: The next speaker I have is Glenn Vangolen.

14 GLENN VANGOLEN: I am Glenn Vangolen. I represent Oxy USA.

15 In December, 1987 Oxy began to study and assess potential
16 development of marketing of coal bed methane gas in
17 Virginia. At that time the lack of statutory and
18 regulatory framework with the coal bed methane develop-
19 ment and the overwhelming legal issues relating to
20 ownership were obstacles to the development of this
21 resource which seemed too formidable to overcome.
22 Nonetheless, Oxy USA and other individuals, companies,
23 associations and other governmental agencies and their
24 representatives undertook to revise the Oil and Gas Act
25 to allow coal bed methane development to commence. I

1 know there are a lot of people who are glad that Oxy came
2 and did this. Oxy USA used the adaptation of the
3 Virginia Gas and Oil Act of 1990 as a very significant
4 event in the history of the development of long gas law.
5 Not only in the Commonwealth, but also with respect to
6 development of this resource throughout the Appalachian
7 basin and in other states where ownership had prevented
8 this development. Oxy USA holds coal bed methane leases
9 within the Commonwealth covering approximately 190,000
10 acres gross. It has early drilled 54 coal bed methane
11 wells and it plans to do an additional 70 this year.
12 It currently has filed permits in forced pooling applica-
13 tions for an additional 30 or some odd wells. The
14 potential for this development of this resource is
15 enormous. Just to capture the sale of coal bed methane
16 gas which is currently being vented for mine safety
17 purposes would alone have a significant impact on the
18 economy of Southwest Virginia. The obvious benefits of
19 coal bed methane development to the Commonwealth and its
20 citizens would include increased employment, increased
21 taxes paid, increased purchase of goods and services
22 within the Commonwealth and revenue to the local royalty
23 owners. Oxy USA welcomes the opportunity to comment on
24 the regulations which have been proposed by the Depart-
25 ment to implement portions of Chapter 22.1 of the Act.

1 It is obvious that a comprehensive draft regulations
2 under consideration today requires significant amount of
3 time and effort on the part of the DMME staff. I'd like
4 to reiterate Mr. Reilly's comments and applaud their
5 efforts. Oxy USA has thoroughly reviewed the proposed
6 regulation. Oxy USA believes that any effort to regulate
7 an industry should consider weighing balance the reason-
8 able and legitimate concerns of the Commonwealth and its
9 citizens against the reasonable requirements and the
10 needs of the group sought to be regulated. If a regulat-
11 ory scheme proves to be so burdensome and expensive that
12 it stifles further development one must ask is that the
13 result intended by the regulators. To state it another
14 way, if a government agency may conclude that a specific
15 activity is not welcome within its jurisdiction, the
16 example of out of state solid waste disposal. Under such
17 circumstances regulations may be intentionally drafted so
18 that disposal of out of state solid waste within the
19 jurisdiction is difficult and expensive. Surely this is
20 not the intent of the Department. Based on Oxy USA's
21 prior dealings with the DMME, Virginia Gas and Oil Board,
22 it is Oxy's opinion that the intent and desire to
23 regulate coal bed methane gas producers, conventional oil
24 and gas producers out of business is not in the interest
25 of the Commonwealth. What does concern Oxy, however, is

1 that DMME may inadvertently so increase the cost and
2 complexity of the regulatory compliance that the boom in
3 the gas development may become a bust. When one compares
4 these proposed regulations to those which exist in states
5 where ongoing development of oil and gas resources has
6 occurred for decades one is immediately struck by the
7 comparatively few number of regulations in other states
8 and relative ease of compliance. Oxy believes that this
9 difference and level of involvement of regulation in
10 other states is not an indication that these states care
11 less about their citizens or their natural resource.
12 But, rather, is an indication that oil and gas explora-
13 tion and development does not require either the number
14 or breath of the regulations proposed here. Approximate-
15 ly, 100 coal bed methane wells have been drilled within
16 the Commonwealth in one form or another. Given this
17 level of experience the question should be has occurred
18 regulation -- this our regulatory environment function
19 well. If not, what tinkering needs to be done to solve
20 the problems. Unless there is a consensus that the
21 current regulations have not worked well as a reasonable
22 compromise and a combination of legitimate interest of
23 the Commonwealth, its citizens and members of industry
24 Oxy submits that no comprehensive regulatory scheme
25 should be substituted for an approach which has worked

1 well at the risk of it limiting further investment and
2 development. Regulations should address actual problems.
3 They should not address hypothetical concerns predicated
4 upon assumptions or fear that industry members will not
5 act prudently. Oxy will submit formal written comments
6 by Friday. Just some comments off the prepared statement
7 here. Oxy has gone on a precursory view of the require-
8 ments that are proposed. We're looking, right now, at
9 approximately \$10,000 a well in order to comply with
10 these new regulations. That does not include any legal
11 fees or objections which may occur as a result of the new
12 regulations. Hopefully, our brother N. Cohen will
13 present the list. Bogus comments are generally good, but
14 Oxy will submit changes to those. We had a significant
15 volume. As our lawyers' pens got going it got thicker
16 and thicker. I thank you for your time.

17 MR. FULMER: Thank you, Glenn. The next speaker I have is
18 Claude Morgan.

19 CLAUDE MORGAN: Thank you. I'm Claude Morgan, Regional
20 Manager of Engineering for Consolidation Coal Company and
21 I guess I'm here wearing two hats on these regulations.
22 My primary concern is protection of the coal mining
23 industry. But I also need to look at trying to stimulate
24 development of the coal bed methane which we do have a
25 potential interest in. It can be seen from the volume

1 of regulations and the documents that went back and forth
2 prior to these drafted regulations that a lot of work had
3 gone into these. There are many improvements, but many
4 other areas still need revision. We will be submitting
5 more detailed written comments, but I'd like to address
6 three or four points here today. The first area that I'd
7 like to talk briefly on is the section dealing with storm
8 water management. I am a civil engineer and I'll have to
9 confess it confused me. It appears to have exemptions
10 built in, but when you read it close there are no
11 exemptions. One section will say that if you determine
12 that there will be no increase in flow from this distur-
13 bance due to a two year rainfall, then, you're exempt
14 from this requirement. But you're required to assume
15 that conditions are good and good ground cover before you
16 start that. I'll submit under any rainfall calculation
17 you want to do or runoff calculation, anytime you disturb
18 ground with good cover you increase the runoff. So, you
19 have no exemption. The further requirement to analyze
20 natural channels and, if necessary, upgrade them to a
21 condition where two year frequency storms all over the
22 top of the banks you would be dredging most of the creeks
23 in southwest Virginia. And I don't think we want to be
24 in a stream stirring that up. This section, as it was
25 written, it uses terms -- retention basin, potential

1 basin and different terms, I don't quite understand. To
2 me they all sound like sediment ponds and it sounds like
3 there's a sediment pond on every site. The next theory I
4 want to talk a little bit about -- I'll put on my coal
5 hat, is the directional survey. Maybe it's confusing on
6 what is involved here with a directional survey and it
7 may be the word continuous. Are some people interpreting
8 continuous to mean that that's something you run con-
9 stantly during the drilling process? Directional surveys
10 are something that we have done on every VWH that we've
11 done for the mining industry. We are operating in
12 probably what will be the lowest coal seams that would
13 require a directional survey. With holes, VWH's ranging
14 upwards of 2,000 feet or more deep. We've run direction-
15 al surveys at a cost of about \$1,600 a hole. That's two
16 times in the hole. Set the surface casing, run the
17 directional survey, drill through the lowest coal seam
18 and run the directional survey. The cost is \$1,600.
19 Directional surveys, we think, are critical for these
20 lower seams such as our Pocahontas #3 which is 2,000 feet
21 deep and only requires a deviation of less than one and a
22 half degrees to miss by a hundred foot pillar at that
23 depth. It is critical. I would like to know that when
24 the continuous miner is heading toward that well bore I
25 would like to have some confidence that that well bore is

1 actually in the middle of that 100 X 100 block that I've
2 planned around it. The other topic is something that
3 I've talked about in the VVH's, the vertical ventilation
4 holes, is the conversion process from coal bed methane
5 wells to vertical ventilation holes and back to coal bed
6 methane wells. As I said before, this process had been
7 made much more cumbersome than necessary and since the
8 Act specifically allows filling the coal bed methane for
9 mine safety, I see no real reason for switching from it.
10 If it's going to remain a coal bed methane well after its
11 service as a ventilation hole. Casing requirements --
12 putting back on my coal bed methane hat. Coal bed
13 methane wells which will serve as a vertical ventilation
14 hole should only be cased through minable seams. The
15 purpose of the vertical ventilation hole is to liberate
16 coal bed methane not only from the seam being mined, but
17 from the other coal seams in the strata immediately above
18 the seam being mined. The area associated with what is
19 commonly referred to as gob where the D stress is on. To
20 require casing through these seams would negate the
21 effectiveness of a vertical ventilation hole. Gas can't
22 get into the hole if it's cemented off. We cannot mine
23 our Pocahontas #3 seam in Southwest Virginia without
24 vertical ventilation holes. If we're forced to cased all
25 coal bed methane wells through all coal seams we'll be

1 forced to drill these holes as vertical ventilation holes
2 only to facilitate mining and the result will be large
3 quantities of potentially marketable methane sent into
4 the atmosphere. A section should be added which would
5 allow a combination vertical ventilation holes and coal
6 bed methane wells to utilize the coal production stream
7 as the production stream for those coal seams located
8 between the seam being mined and the lowest minable seam
9 above the seam being mined. Existing regulations only
10 require casing of any coal seam not to be produced. This
11 would seem to allow for production of these seams through
12 the vertical ventilation hole without casing of the non-
13 minable areas. Again, I want to thank the Division for
14 the opportunity to comment and we will be submitting more
15 detailed comments by the close of the hearing.

16 MR. FULMER: The next person I have on my list is James Czech.

17 JAMES CZECH: My name is Jim Czech. I'm with Michael Baker,
18 Jr., Incorporated. We are a consulting engineering
19 firm. "Baker has performed services for a number of oil
20 and gas companies throughout the United States including
21 work on the oil and gas lines in Alaska and lines along
22 the eastern seaboard of Virginia." We've also been
23 heavily involved with a number of coal companies since
24 the inception of our firm in 1940. I have just a few
25 brief comments here that I'd like to touch on. "We do

1 appreciate the opportunity to make these comments." In
2 the proposed regulations, "Part I: Item 1.26, Erosion,
3 sediment control and reclamation; We are of the opinion
4 that the proposed regulations should reference the
5 already existing "Virginia Erosion and Sediment Control
6 Handbook." This will avoid conflicting requirements
7 between the two bodies. With reference to the sedimenta-
8 tion basins (Section C8), we would submit that the oil
9 and gas drilling operations are of the short-lived nature
10 in duration, and thus, permanent sedimentation basins
11 would normally be an unnecessary expense. As long as the
12 erosion and sedimentation plan adequately addresses the
13 construction period and re-establishment of permanent
14 vegetative cover, permanent sedimentation basins should
15 not be necessary. With reference to open trenches which
16 is (Section C13a) we believe that limiting open trench
17 excavation to 500 feet is unduly restrictive and un-
18 economical. Gas and Oil pipeline construction, to be
19 feasible and economical typically requires open trenching
20 of several times the 500 foot which is listed." "Part I:
21 Item 1.27, Storm water management; We would respectfully
22 request reconsideration of these requirements because the
23 typical oil and gas development operations are of a
24 temporary nature insofar as surface disturbance is
25 concerned; the erosion and sedimentation control require-

1 ments adequately control and manage storm flow; and the
2 EPA's Clean Water Act specifically exempts gas and oil
3 operations. We are accustomed to designing storm water
4 management facilities for industrial, commercial,
5 residential and other developments where there is
6 significant paving or other improvements which cause
7 significantly greater and more rapid concentrations of
8 flows, but we would question the need, where normal oil
9 and gas operations are involved."

10 "Part V: Section 5.02; General requirements for gathering
11 pipelines. The statement that "Gathering pipelines shall
12 be installed and maintained to be compatible with other
13 uses of the area appears vague and could very easily lead
14 to contention and dispute. In light of that we would
15 suggest either deletion of this statement or expand
16 greater clarity on the matter." Again, we thank you for
17 the opportunity to comment on those regulations.

18 MR. FULMER: Thank you.

19 (Mr. Czech's written statement was made a part of the
20 record.)

21 MR. FULMER: The next speaker I have listed is Bryan Wolcott.

22 BRYAN WOLCOTT: Thank you, Tom. My name is Bryan Wolcott.

23 I'm Vice-President of engineering operations for Equi-
24 table Resources Exploration, also known as EREX, a
25 Division of Equitable Resources Energy Company. I appear

1 here today to voice the concerns of EREX regarding the
2 regulations proposed by the Virginia Department of Mines,
3 Minerals and Energy to the 1990 Virginia Gas and Oil Act.
4 As you may know, EREX has drilled and operated gas wells
5 in Southwest Virginia since 1972. During the past five
6 years alone we have drilled 230 wells, including 50 coal
7 bed methane wells in Southwestern Virginia for a total
8 capital investment of about \$66,000,000. As the largest
9 exploration production company in Virginia EREX has
10 worked within the framework of all of Virginia's gas and
11 oil statutes and regulations. Our development of
12 conventional gas wells, as well as coal bed methane gas
13 wells in Southwest Virginia has been conducted without
14 damage or danger to the environment and with due regard
15 to other natural resources and the rights of owners of
16 those resources. We have worked to achieve a record of
17 responsible development of Virginia's gas resources and
18 we're proud of that record. In discussing EREX's
19 concerns over the regulations proposed by the Department
20 it's important to review briefly the process that led us
21 to this point. The 1982 Oil and Gas Act was a landmark
22 piece of legislation and its adoption permitted unparal-
23 leled development of the gas and oil resources of
24 Virginia. The 1982 Act structure, however, was somewhat
25 cumbersome with, for example, two citizen boards having

1 somewhat confusing jurisdiction. Consequently, House
2 Joint Resolution number 364, adopted by the 1989 General
3 Assembly, authorized a study of the 1982 Act to determine
4 what worked well and what needed to be changed and sought
5 recommendations regarding the needed changes. At the
6 time of the commencement of the study by the Coal and
7 Energy Commission, the gas and oil industry was an-
8 ticipating an increase in drilling activity in Virginia.
9 No coal bed methane gas well drilling was planned and the
10 cumbersome machinery of the 1982 Act was seen as an
11 impediment to the efficient development of that and other
12 natural resources. The year long study by the Coal and
13 Energy Commission culminated in the passage of the 1990
14 Gas and Oil Act which EREX and the oil and gas industry
15 reluctantly supported. During the 1990 session of the
16 Virginia General Assembly EREX, along with the Virginia
17 Gas Association and its industry members also supported
18 Senate Bill 94 and House Bill 717, increasing by 1%
19 severance tax on natural gas produced in Virginia. This
20 has increased the severance taxes EREX will pay by 50% in
21 addition to other oil and gas industry members. Our 1991
22 tax payments to local governments in Virginia are ex-
23 pected to exceed \$1,000,000. That's EREX alone. Clear-
24 ly, EREX is an important corporate citizen in Southwest
25 Virginia. In accordance with the 1990 Act EREX has paid

1 the Department's permitted substance fee for 1989 in the
2 amount of \$24,900. And the permitted substance fee for
3 1990 is \$27,500. As further indication of EREX's long
4 term commitment to the Commonwealth of Virginia, effec-
5 tive July 1, 1990 EREX increased its surety bond to
6 \$100,000. This was initiated a year before it was re-
7 quired by that 1990 Act. However, the proposed regula-
8 tions are excessive and without comprehensive changes
9 they threaten EREX's long term commitment to the growth
10 of its operations in Virginia. 1990 emphasized efficien-
11 cy with a single citizen board, state-wide application of
12 the statute and a revised administrative process designed
13 to streamline the permitting and the objection provi-
14 sions. It was and is a lean statute, much shorter and
15 more broadly worded than the 1982 Act. EREX, as well as
16 other members of the oil and gas industry look forward to
17 a more streamlined process of permitting and drilling
18 wells under the new Act. Unfortunately, experience to
19 date has not borne out the promise of a more efficient
20 process under the Act. In fact, it's been exactly the
21 opposite. Since July 1, 1990 the average elapsed time
22 for filing of a permit application to the issuance of a
23 permit has increased from 17 days to 27 days in Virginia.
24 By comparison the average lapsed time for a permit from
25 filing to issuance in Kentucky is about 14 days. The

1 cost of the process has increased. Under the 1990 Act
2 the average number of man hours for preparing a permit
3 application in Virginia has increased to 90 for oil and
4 gas wells and to 56 for coal bed methane gas wells. This
5 is significantly more than, for example, in Kentucky
6 where 44 man hours on the average are required to prepare
7 a permit application. Further complicating the time
8 factor is the fact that modifications to permits or
9 operations plans must be approved in writing in advance
10 of its preparation. Since July 1, 1990, the effective
11 date of the Act, and during the public participation
12 process EREX, along with other industry members, deve-
13 loped a nominative sense of what regulations the Depart-
14 ment might propose. Now that we have examined the re-
15 sulting proposal it seems that our worse fears have
16 materialized in that the Department, from the first
17 instance, has proposed an expensive, comprehensive and
18 all inclusive regulatory scheme of vastly more complex
19 scheme than what has heretofore been in place, efficien-
20 cy. Under the new Act EREX and other members have
21 experienced regulatory delay. Wells are taking longer to
22 permit. Permit applications are becoming more difficult
23 and more expensive to prepare and the Gas and Oil Board
24 faces a huge and growing docket. The Department es-
25 tablished regulatory working groups composed of represen-

1 tatives from the oil and gas industry, coal industry,
2 state agencies, environmental groups and citizens which
3 commenced the public participation process of drafting
4 regulations. During the initial meetings of those
5 regulatory working groups we agreed to adopt the three
6 step process of analysis advocated by the Department.
7 First, you identify subject areas where regulations may
8 be required and ask whether such regulation is really
9 necessary. Secondly, examine the existing regulation, if
10 there is one, and decide whether it's adequate. And,
11 thirdly, if there is an existing regulation which is
12 clearly inadequate, an area with a definite need for
13 regulation, then, and only then consider the adoption of
14 a new regulation. As we look back over the regulations
15 proposed by the Department it's important to remember the
16 initial goals. New regulations should be adopted only,
17 and I stress only if a regulation is needed and existing
18 regulations are inadequate. While the regulatory working
19 groups may well have employed these goals, it is clear
20 that the Department threw them out the window. The
21 geology of petroleum exploration and development is not
22 confined by political boundaries. The geological
23 formations being drilled and produced in Virginia are
24 found in neighboring states as well. Exploration and
25 production dollars in company budgets are scarce com-

1 modities. They will be invested where they can produce
2 returns most efficiently and most expeditiously. In
3 discussions with members of VOCA regarding the regulatory
4 climate in Virginia versus that in neighboring states it
5 is clear that our regulatory process is far more burden-
6 some than those of our neighbors. It's also clear that a
7 greater proportion of exploration and development funds
8 from VOCA members will go elsewhere unless this regula-
9 tory climate improves. What the Department perceives as
10 interesting, informative or nice to have information we
11 perceive as time consuming, expensive and unnecessary.
12 The regulations as proposed by the Department are replete
13 with costly and unnecessary reporting requirements for
14 some of which we question the Department's statutory
15 authority while others have questionable constitutional
16 validity which should not be done because the primary
17 purpose of the 1990 Act is to foster, encourage and
18 promote safe and efficient exploration for in the
19 development, production, utilization and conservation of
20 Commonwealth's gas and oil resources. Some, but not all,
21 of the time consuming, expensive and unnecessary regula-
22 tions which must be simply deleted in order to improve
23 the regulatory climate in Virginia are as follows and I'm
24 not going to go through everything that we want to raise
25 issues about. There will be a written comment during

1 this period and a lot of these points have already been
2 covered. I'm just going to quickly run through them. We
3 endorse most of what's been said in terms of changes of
4 regulations that are necessary. The first item is the 15
5 page blasting and explosives regulation which appear at
6 section 1.25. We don't need them. The four pages of
7 storm water management regulations under Section 1.27.
8 For example, the EPA under the Clean Water Act has
9 exempted most oil and gas operations from its storm water
10 regulations. Three, continuous directional surveys and
11 well location re-surveys required under section 1.28.
12 Continuous directional surveys are run after the fact.
13 You've already got the well drilled. They're more
14 expensive. They take rig time in addition to what you
15 pay for the job itself. The current method of determin-
16 ing where you are in well bore is shop surveys done as
17 you drill. You know where you are as you're going, so
18 you can change it and get the well bore to where it needs
19 to be. It's cheaper. It works. Why change it? Fourth,
20 the definition of transporter found in section 1.01, as
21 well as 1.21, which relates to measurement of gas by a
22 transporter and the reporting of the quantities of gas by
23 a transporter under section 1.40. Next, requirement for
24 a permit modification and fee to plug the dry hole under
25 section 1.08. The operations plan under section 1.10,

1 since it is repetitive of erosion and sedimentation plan
2 the permit application and other forms and reports
3 addressing other areas of the proposed regulations,
4 Seventh, the requirement that an operator must obtain a
5 separate permit for gathering lines pursuant to section
6 3.01. Also, delete the requirement under section 1.11,
7 an operator must wait for the Director's written approval
8 of request for permit modifications. Section 1.22, which
9 requires a certification from the Commissioner of Revenue
10 of the county in which the oil or gas is produced. The
11 requirement under section 1.43 that the operator install
12 a 20 mill liner or two 10 mill liners. And, finally, the
13 provision under section 3.04 of the proposed regulations
14 that allows casing variances in vertical ventilation
15 holes drilled prior to July 1, 1991 which are converted
16 to coal bed methane wells. This is the tip of the ice-
17 berg. If the Department is allowed to implement these
18 regulations we can certainly estimate the cost increase
19 of 10 percent. We'll add \$20,000 to \$30,000 to the cost
20 of drilling a well in Virginia. When you consider that
21 EREX plans to drill 70 wells in Virginia during 1991,
22 you'll add as much as \$2,000,000 to our drilling budget.
23 This is completely unacceptable. EREX is a member of
24 VONGA. along with members of the oil and gas we'll be
25 filing extensive comments with the Department concerning

1 this proposed regulations. New regulations should not be
2 implemented without the specific recommendations put
3 forth by VOCA. Furthermore, the existing emergency
4 regulations should be retained till a comprehensive re-
5 write of the Department's proposed regulations are com-
6 pleted. Energy policy in the United States is simple. We
7 must reduce our dependance on foreign energy sources and
8 more efficiently develop our domestic natural resources.
9 Virginia's fortunate because it is blessed with a wealth
10 of such natural resources, coal, oil, natural gas, now
11 coal bed methane gas. Increasing development of these
12 natural resources is in the best interest of our country
13 and of Virginia. For this country and this Commonwealth
14 to thrive and, indeed, to survive in this climate we must
15 encourage natural resource development. The burdensome
16 regulatory package proposed by the Department does
17 exactly the opposite. It can and will force the oil and
18 gas industry from the borders of Virginia to its finan-
19 cial detriment. As we review the Department's proposed
20 regulations we must hold fast to the original analytical
21 framework. First, is a regulation necessary at all.
22 Second, is the existing regulation adequate. And, third,
23 if not then, and only then, the existing regulation
24 should be modified or a new regulation promulgated.
25 Unfortunately, the regulations that you have before you

1 prepared by the Department have not followed this
2 framework. What you have are regulations for the sake of
3 regulations. We firmly believe that these regulations
4 must not be implemented in their current form. Thank
5 you.

6 MR. FULMER: Thank you. The next speaker is Rex Edwards.

7 REX EDWARDS: Good morning. My name is Rex Edwards. I'm a
8 staff attorney for Columbia Natural Resources out of
9 Charleston, West Virginia. In addition to the comments
10 that are going to be delivered here today, CNR through
11 its General Counsel and Neil Pierce will attend in
12 continent of the hearing in Richmond tomorrow and will
13 also submit detailed written comments to the Department
14 later this week. It is with a great deal of concern for
15 the future of the oil and gas industry in Virginia that
16 CNR approaches the submission of comments regarding the
17 proposed regulations. Despite repeat pleas for minimal
18 changes from understudy representatives who participated
19 in drafting the 1990 Oil and Gas Act and the proposed
20 regulations, the proposed regulatory scheme advocates
21 wholesale changes to current practice in Virginia. Many
22 of these changes, while serving no actual purpose, are
23 unnecessarily burdensome and prohibitively expensive.
24 In light of the time constraints necessarily imposed on
25 comments in the present form, CNR offers the following

1 non-exhaustive comments on specific aspects of the pro-
2 posed regulations. One agreed upon change in the 1990
3 Gas and Oil Act was an increase in permit fees set by the
4 statute. This included recognition that some postdrill-
5 ing activities should require permit modification and
6 that an additional permit fee would be required. From
7 this starting point, however, the Department has created
8 a set of regulatory proposals which make virtually any
9 change of operating conditions or operator plans a cir-
10 cumstance requiring a permit modification. In addition
11 to removing flexibility to operate and creating expensive
12 delays, the proposed regulations handily generate a per-
13 mit fee to the Department for every conceivable part of
14 an oil and gas operation. In several cases the proposed
15 rules allow or require men on the original permit which
16 simply is not manned at the time, generating an automatic
17 need for subsequent permit modification and an accompany-
18 ing fee. One of the primary examples of proposed regula-
19 tions -- patent abuses, statutory permit fee scheme, ex-
20 isting requirement for a permit modification to plug a
21 dry hole. In virtually every other oil and gas state
22 plugging a dry hole is an integral part of the original
23 permit. In other words, the original permit extends to
24 the completion of the well. Such is the case in Virginia
25 under existing regulations which allow an operator to

1 plug and abandon a well on which well work has been con-
2 tinuously progressing pursuant to a permit on the verbal
3 permission of the inspector. This practice has worked in
4 the past and there is no reason, other than to generate a
5 permit modification fee, that this practice should be
6 changed in the proposed regulations. At an estimated
7 cost of \$4,500 a day, on average, for a manned rig, the
8 potential inefficiency of the operation is self evident.
9 Further, transferring a permit is not the sort of per-
10 sonal activity contemplated in the Act required permit
11 modification. Such requirement clearly exceeds the
12 authority granted the Department under the Act. CNR
13 recommends in the alternative the adoption of a written
14 application to transfer. Recognizing that the authority
15 of a new permittee to conduct operations prior to the
16 Director's approval since they will transfer the well
17 permit, CNR proposes that the Department adopt a new
18 regulation relating to permit transfers which allow
19 proposed new permittee to conduct activity on the
20 permitted site prior to obtaining the Director's approv-
21 al. The Department's concern in assuring that a finan-
22 cially responsible operator maintain responsibility for
23 the permitted area during the transfer period would be
24 adequately addressed by requiring the current permittee
25 to remain responsible for any violation on the site.

1 including any activity conducted by the proposed new
2 permittee prior to the Director's approval of an applica-
3 tion for transfer. The current permittee would also
4 remain responsible for unabated violations occurring
5 prior to an application to transfer unless the new
6 permittee agree to assume such liability and reported
7 such grievance to the Director in its application for
8 transfer. In reviewing an application to transfer the
9 Director should approve the transfer unless the proposed
10 new permittee has outstanding violations on other
11 permitted operations under the Director's jurisdiction.
12 Or if the current permittee is subject to a current
13 unabated, unappealed closure order on the operation
14 subject to the transfer. Finally, with regard to
15 permitting, CNR believes that the new requirement for the
16 separate permitting and gathering lines clearly exceeds
17 the Department's statutory mandate. The Department has
18 no valid reason to abandon the tried and proven existing
19 procedure. Therefore, this section should be deleted in
20 favor of the existing regulation. The proposed rules are
21 also replete with examples of significant changes from
22 current regulation which serve no rational purpose other
23 than to arbitrarily conform the division of gas and oil
24 regulations to surface mining regulations. Also, adding
25 conditions where no problems have been shown to exist or

1 to create rules simply in order to have a rule. For
2 instance, you've heard the discussion about 1.25 on
3 blasting and explosives. This section proposes that the
4 oil and gas industry, with the exception of perforating
5 the seismic operations, the exact blasting requirements
6 under which the coal industry operates. The drafters of
7 these regulations have failed to recognize that the coal
8 industry utilizes blasting on a routine basis as part of
9 their extraction process while the oil and gas industry
10 utilizes blasting, if required, only in isolated inci-
11 dents as part of road and location preparation. Oil and
12 gas permittees generally do not employ blasters as part
13 of their staffs. Instead, blasting is generally per-
14 formed on a contract basis and only if needed. These
15 contract blasters store and handle the materials. The
16 materials are not store permanently on any oil and gas
17 site because they are not needed once the site is pre-
18 pared. To oil and gas industry's knowledge there have
19 been no incidents reported with respect to blasting and
20 oil and gas operation which would suggest the need for a
21 change from current regulations. Moreover, no such in-
22 cidents were discussed in the public process. This pro-
23 posed regulation, being inapplicable to the oil and gas
24 industry, is thus an example of regulation that is not
25 needed. Simply because the coal industry is regulated in

1 this manner is not adequate justification for the oil and
2 gas industry to be made subject to the same regulations.
3 If the Department feels that blasting should be regu-
4 lated, regulations that take into account the minimal
5 blasting in oil and gas operations should be designed.
6 Otherwise, CHR recommends retention of the current
7 regulation. The addition of storm water management
8 regulations appears to be solely due to the fact that
9 there is no such requirement in current regulations.
10 This section should be deleted in its entirety as it will
11 serve to prohibit, not to promote, the efficient develop-
12 ment of oil and gas resources in the Commonwealth. The
13 federal EPA in the Clean Water Act has recently exempted
14 most oil and gas operations from its storm water regula-
15 tions. The EPA has determined that oil and gas opera-
16 tions do not adversely affect the environment in a manner
17 that would justify these operations being subject to
18 storm water management provisions. An exception is made
19 where a reportable oil spill has occurred within three
20 years. Thus, if Virginia followed these EPA guidelines
21 and exempted oil and gas operations from storm water
22 management the stated goal of protecting the citizens and
23 the environment of the Commonwealth, along with the goal
24 of fostering and encouraging and promoting the safe and
25 efficient development of oil and gas resources would be

1 fulfilled. Instead, however, the proposed regulation
2 will increase the time and cost necessary to apply for a
3 permit in Virginia. The end result being that less wells
4 will be drilled in the Commonwealth because of these
5 stringent and unnecessary requirements. CNR suggest that
6 the EMS plan of an operator will be able to provide
7 adequate assurance that down spring properties and
8 waterways will be protected from sediment, deposition,
9 erosion and damage. The Department, if concerns exist in
10 this area, can withhold approval of the EMS until
11 satisfied that adequate protection will be provided.
12 Thus, the stormwater management regulations should be
13 deleted from the proposed regulations. With regard to
14 the erosion sediment control plan, the EMS plan should be
15 a separate plan. No purpose is served by requiring the
16 plan to be part of an overall operations plan and, in
17 fact, no purpose at all is served by the operations plan
18 that's contemplated in the proposed regulations. The
19 operations plan, as proposed, is redundant and confusing
20 and should be omitted and the specific items of the plan
21 should be distributed throughout the remaining framework
22 of the proposed regulations. CNR notes its objection to
23 three specific areas of the erosion and sediment control
24 standards as follows: First, Section B of the EMS
25 control standards requires construction of a sediment

1 basin with surface runoff from the disturbed area. It's
2 composed of float and drainage areas greater than or
3 equal to three acres. In oil and gas operations the
4 actual well site is much smaller than three acres. The
5 well road leading to the well site may vary from a few
6 hundred feet to a few miles. If the well road is taken
7 into account with the site the acreage would be over
8 three acres in many instances. However, it is impract-
9 ical to apply this sediment basin requirement to the well
10 road and location. Since the road could, and probably
11 will, cross many different drainage basins it would serve
12 no purpose other than to create an even larger surface
13 disturbance to erect a sediment basin solely on the basis
14 of the erosion site to the more than three acres. The
15 road location and drilling operations are only temporary
16 land disturbances. The stormwater control board proposed
17 regulations with similar requirements are designed for
18 operations that are more permanent in nature. CNR re-
19 commends that this provision be amended to exclude well
20 roads and to measure three acres on the basis of post-
21 drilling disturbance only. Second, under Section 14B, a
22 temporary stream crossing is required when a live water
23 course must be crossed by construction vehicles more than
24 twice in any six month period. Depending on the given
25 circumstances this requirement will add a minimum of

1 \$5,000 to the price of road construction. Well location
2 site construction and drilling usually require one to two
3 weeks to prepare the road and location and one to three
4 weeks to drill and complete the well. Even during this
5 period stream crossing by construction vehicles would not
6 be continuous or even daily, but would occur as relative-
7 ly isolated incidents. After drilling and completion
8 there are no construction vehicles involved during
9 ordinary production of the well. This section attempts
10 to regulate the oil and gas industry by means which may
11 be applicable to mining or heavy excavation construction,
12 but are burdensome, prohibitively expensive and arbitrary
13 given the relative size of oil and gas sites and the
14 typical construction activity associated with them. To
15 prevent the erosion that occurs during the short time of
16 construction activity in oil and gas operations CMR
17 recommends that the regulations should only require that
18 a erosion be minimized. Third, proposed Section 15
19 regarding installation of underground gathering pipe-
20 lines. The utility lines allow only 500 linear feet of
21 trench be open at any one time. The current method of
22 laying pipeline in the oil and gas industry is to employ
23 approximately three crews at a time to lay pipeline.
24 These crews prepare the pipeline right of way and dig the
25 trenches. Open trench could vary from a few hundred

1 feet to thousands of feet depending on the line being
2 laid and the right of way train. The trench is dug, the
3 pipeline is prepared and, then, dropped into the trench.
4 This proposed regulation would double the labor cost and
5 add an average of \$7,000 per location. Many well sites
6 would be uneconomical and thus potential drilling sites
7 will not be developed. The oil and gas industry to date
8 has had no problems operating under the three crew
9 system. No justification has been presented to require
10 the oil and gas industry to adhere to such stringent
11 guidelines. This section should be deleted in its
12 entirety. This regulation may be appropriate for utility
13 lines in densely populated areas, minimum guidelines for
14 open trenches are not needed as open pipeline trench in
15 oil and gas industry operations. Depends on the size and
16 type of line and the right of way to be utilized. Under
17 Sub-section B of EMS plan dealing with reclamation
18 statutes CNR agrees that water bars should be required.
19 The regulation as proposed, however, is impractical.
20 The placement of water bars should depend on the terrain
21 of the well location road. Requiring water bars to be
22 placed at arbitrary distances would cause these bars to
23 be placed at locations where they would accomplish no
24 purpose. The requirement of placing water bars depends
25 on the percent of the grade of the road and will automat-

1 ically add a minimum of \$2,500.00 to each location
2 because all well roads will now need to be surveyed.
3 This extra surveying expenditure is simply not justified
4 since the place of water bars at some arbitrarily defined
5 distance does not take into account either the nature of
6 the construction or variances in terrain. The rule, as
7 proposed, will add a significant cost and does not addi-
8 tionally add to the protection of the environment. CNA
9 recommended no pre-defined distances should be set out in
10 regulations. Finally, section 1.38 relating to spills,
11 discharges and unpermitted discharges unnecessarily re-
12 quires the operator to report any spill, no matter how
13 small. For example, as written, if one gallon of fresh
14 water drops on the ground an operator would be obligated
15 to report it. Spills should be defined in the defini-
16 tions consistently with other federal or state laws. The
17 operator can then be cognizant of definitive operating
18 perimeters. Federal law defines spill as a determinable
19 minimum. Oklahoma is also considering a similar change
20 in its laws that requires reporting only of significant
21 occurrences. Texas regulations define minor spills as
22 less than 5 barrels of oil or 35 barrels of water if they
23 do not reach a water course. A similar rule should be
24 adopted in these regulations by defining the term spill
25 in section 1.01 of those regulation. To conclude, in

1 CNR's view the proposed rules are deficient in several
2 regards including general failure to one, evaluate the
3 need for each requirement in light of proposes establish-
4 ed by the Act. Two, consider alternate approaches and
5 particularly cost to the regulated community. Three,
6 consider a performance rather than prescriptive stan-
7 dards. Four, provide for varying conditions operating
8 flexibility and innovation. As will be demonstrated in
9 CNR's written comments to follow, there are literally
10 dozens of changes to the proposed regulations which must
11 be made if Virginia expects to maintain a viable indust-
12 ry. Others which should be made to reduce unnecessary
13 regulatory cost and others which should be made for the
14 sake of regulatory simplicity or clarity or to avoid
15 either arbitrary or simply silly results. In CNR's view
16 the Department's work in these proposed regulations has
17 only just begun.

18 MR. FULMER: Thank you. That concludes the list of speakers.
19 Does anybody else have any comments they would like to
20 make at this time? If not, I want to thank you for your
21 valuable input on the proposed regulations and the
22 Department will take all comments under consideration in
23 our responses back. If there's no further comment we'd
24 like to thank you for coming today and, again, I'd like
25 to remind you we have a public hearing on the regulations

1 in Richmond, Virginia at 1:00 tomorrow in the Assembly
2 Building. House Room D in the General Assembly Building.
3 Thank you.
4

5 (End of proceedings for
6 March 26, 1991.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2 CERTIFICATE
3

4 COMMONWEALTH OF VIRGINIA

5 COUNTY OF WASHINGTON
6

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

14 I further certify that I am not a relative, counsel, or
15 attorney for either party, or otherwise interested in the
16 outcome of this action.
17

18 GIVEN under my hand this 4th day of April, 1991.
19

20 
21 CLEADYS D. GRIFFIN
22 NOTARY PUBLIC
23
24
25

My commission expires March 19, 1993.

DEPARTMENT OF MINES, MINERALS AND ENERGY
VERTICAL VENTILATION HOLE & GAS AND OIL REGULATIONS
SIGN-IN SHEET

PUBLIC HEARING: MARCH 26, 1991

Check if You Wish To Speak On:
 Vertical Ventilation ☐
 Gas and Oil Regulation ☒

Name and Address

610 ¹	Kenneth R. Hutchison	107 Hazelnut Rd, Elkview, WV 25071
610 ²	BARNEY REILLY	RT1 BOX 602 CLINGCO VA 24226
610 ³	John Graham,	ONE James Center #800 Richmond, VA 23219
610 ⁴	ISAIAH Dietz	Park West One Suite 170 Pitts. Pa 15225
610 ⁵	Glenn Vanyoken	1600 Mont St. Richland Vg. 24641
610 ⁶	Glenn McCluskey	PO Box 1273 Charleston, WV 25325
610 ⁷	Bob Brendlinger	Jewell Smokers Coal Corp P.O. Box 70, Unstet, VA 24626
610 ⁸	Claude Morgan	P.O. Box 1297 Bluefield, VA 24605
610 ⁹	BEN RATHIFF	Box 330 CEDAR Bluff VA. 24609
610 ¹⁰	Jeffery Deal	Indian Creek Coal Co Drawer L Oakwood, Va. 24631

DEPARTMENT OF MINES, MINERALS AND ENERGY
VERTICAL VENTILATION HOLE & GAS AND OIL REGULATIONS
SIGN-IN SHEET

PUBLIC HEARING: MARCH 28, 1991

Name and Address

Check If You Wish To Speak On:
Vertical Gas and Oil
Ventilation Regulation
Hole Regulation

21. Bryan Walcott
G10 ✓ Kingsport, TN

22. Rex L. Eawans, Jr.
G10 ✓ Charleston, WV (CAR)

23

24

25

26

27

28

29

30

DEPARTMENT OF MINES, MINERALS AND ENERGY
VERTICAL VENTILATION HOLE & GAS AND OIL REGULATIONS
SIGN-IN SHEET

PUBLIC HEARING: MARCH 28, 1991

Name and Address

Check If You Wish To Speak On:
Vertical Ventilation Gas and Oil
Hole Regulation Regulation

11. Mr. Bob Barnes ORX ust Draner Q
Richmond VA 24681

12. D. JAMES CEECH II MICHAEL BAKER, JR., INC.
4201 DUTCH RIDGE RD.
BEAVER, PA. 15009

13. VWH. Howard Egan's Island Creek Vent Hole

14.

15.

16.

17.

18.

19.

20.

VIRGINIA
COALBED
METHANE
ASSOCIATION

P.O. Box 15718
Pittsburgh, PA
(412) 787-7880

March 11, 1991

Department of Mines, Minerals and Energy
Division of Gas and Oil
P.O. Box 1486
230 Charwood Drive
Abingdon, VA 24210
Attn: Mr. Benny R. Wampler

RE: Proposed Gas and Oil Regulations

Dear Mr. Wampler:

Enclosed please find comments submitted on behalf of the Virginia Coalbed Methane Association ("Association").

The proposed regulations are extensive. We appreciate and congratulate your efforts to draw on all public, private and government sectors and resources in the rules making process. We feel this process was successfully achieved. However, the resulting proposed regulations are so cumbersome and complex that the Association believes that they will not meet the objective of fostering, encouraging and promoting the safe and efficient development of the Commonwealth's resources, but rather will hinder the oil, gas and coalbed methane development they seek to encourage.

Slightly over one hundred wells are drilled each year in Virginia. Yet, the proposed regulations are ten times more burdensome and costly than the regulations found in states where thousands of wells are drilled each year. In essence, the proposed regulations have taken the day to day management of the field operations from the operators and placed that responsibility with the DMME. The proposed practices outlined in the regulations in many cases are unsound, costly and environmentally ineffective.

In the oil and gas industry, the decision to spend monies on exploration and development programs are made for the most part by companies whose headquarters are outside the Commonwealth. The primary driving factor in the decision making process is the cost of developing and producing oil and gas reserves. States compete with one another in enticing investment for the development of their oil and gas resources. The added cost of these proposed regulations will severely diminish the investment now being made by most oil and gas companies operating in the Commonwealth. The resulting impact could be a loss in jobs, loss of income to the Commonwealth in the form of severance taxes, loss of income to royalty owners, loss of income to hotel, motel, restaurant owners and related industries and to private citizens of the Commonwealth.

There has been a great deal of input by private citizen groups into the regulatory process. In many cases, those concerned citizens own the surface rights which have been severed from the mineral estate. In most instances, these surface owners have not considered the property rights of the mineral estates underlying their surface.

The Association recognizes the rights of all owners, including the rights of coal operators, oil and gas lessees, landowners, and the most precious need to protect the environment. Because oil and gas development is in its infancy in Virginia, the DMME is in a unique position to set a course at the outset that will maximize the potential benefits of the development of its natural resources, i.e. oil, gas and coalbed methane. These proposed regulations do not serve that purpose.

The Association makes the following general recommendations on the below listed items. Our general aim is to add flexibility to the regulations in order to minimize unnecessary time and expense to both the Commonwealth and the operators, while maintaining safe and sound environmental practices.

1. GENERAL PERFORMANCE STANDARDS:

The Association recommends the use of general and prescriptive standards wherever possible. This would allow the flexibility necessary to address changes in technology and operations which may be either anticipated or unanticipated at each well site, depending on the specific conditions encountered. If the Department thinks that there are some areas where minimum, specific prescriptive standards are required, the Association would then recommend the adoption of specific standards in those instances.

2. VARIANCES:

The Association supports the concept of giving the Director and his designee an overall variance power that would give him the latitude and discretion he needs to effectively administer the statute and these regulations. This could be achieved by adding the words "unless a variance has been granted by the Director" to a number of sections in the proposed regulations. Such a variance power would allow the DMME and the operator to address site specific problems.

3. FIELD RULES:

The Association recommends that a procedure be instituted for the establishment of field rules, and that comments be solicited regarding the procedure to obtain field rules. This procedure will be extremely important to coalbed methane development and conventional operations in that it will provide efficiency and consistency in operations and minimize the amount of paper work and cost to the Commonwealth and operators.

4. DUPLICATIVE DATA:

Throughout the proposed regulations, many of the requirements for filing forms and data are redundant. The Department should assess the amount of paper that will be required

to be filed and the associated manpower that will be needed to manage this volume of data.

5. FORMS:

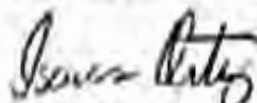
Whenever a particular form is specified, the form number should be specified in the regulations in parentheses. The Association reserves the right to comment on the forms when the final regulations have been issued.

Until these issues have been addressed, the Association recommends the extension of the emergency regulations.

Please recognize that coalbed methane development in the Commonwealth is in its infancy. Over regulation will burden the potential development of this resource. The proposed regulations put additional requirements on CBM wells which are not necessary and are not placed on conventional wells. The primary considerations in CBM development should be safety, environmental concerns and coordination with coal mining. The proposed additional regulations are not needed at this time.

Representatives of the Association will be happy to discuss these recommendations with you or your staff at your convenience. Thank you for the opportunity to comment on these proposals.

Virginia Coalbed Methane Association



Isaias Ortiz, President

Baker

Michael Baker Jr., Inc.
Box 280, 4301 Dutch Ridge Road
Beaver, Pennsylvania 15009-0280

(412) 495-7711
FAX (412) 495-4001

March 25, 1991

Department of Mines, Minerals and Energy
Division of Gas and Oil
P.O. Box 1416
230 Charwood Drive
Abingdon, VA 24210

Re: Proposed Gas and Oil Regulations

Gentlemen:

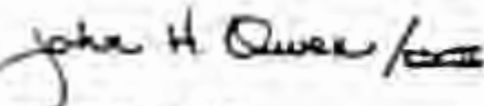
Thank you for the opportunity to review and comment on the proposed regulation.

Baker has performed engineering services for many Gas and Oil companies throughout the U.S., including Alaska, and has also been heavily involved in providing services to numerous coal mining companies since the inception of the firm in 1940. The firm currently operates over 20 offices, including locations in Richmond, Alexandria and Richlands, Virginia.

Our review comments are enclosed as Attachment A to this letter. Again, we appreciate this opportunity to share our thoughts with you. If you have any questions or wish to discuss these issues in greater detail, please call me in Richlands at (703) 963-8118.

Sincerely,

MICHAEL BAKER, JR. INC.



John H. Owen, P.E.
Engineering Manager

JHJ/awc

Enclosure

ATTACHMENT A
TO LETTER OF MARCH 23, 1991
CONCERNING
DMME PROPOSED GAS AND OIL REGULATION

PART I, ART. 3, ITEM 1.26
EROSION, SEDIMENT CONTROL AND RECLAMATION

We are of the opinion that the proposed DMME regulation should reference the already existing "Virginia Erosion and Sediment Control Handbook," to avoid conflicting requirements.

With reference to sedimentation basins (Section CB), we submit that oil and gas drilling operations are short-lived in duration, and permanent sedimentation basins would normally be an unnecessary expense. As long as the E&S plan adequately addresses the construction period and re-establishment of permanent vegetative cover, permanent sedimentation basins should not be necessary.

With reference to open trenches (Section CI5a), we believe that limiting open trench excavation to 500 feet is unduly restrictive and uneconomical. Gas and Oil pipeline construction, to be feasible and economical typically requires open trenching of several times this amount.

PART I, ART. 3, ITEM 1.27
STORMWATER MANAGEMENT

We respectfully request reconsideration of these requirements because the typical oil and gas development operations are of a temporary nature insofar as surface disturbance is concerned; the erosion and sedimentation control requirements adequately control and manage stormflow; and the CWA's Clean Water Act exempts oil and gas operations. We are accustomed to designing storm water management facilities for industrial, commercial, residential and other developments where significant paving and other improvements cause significantly greater and rapid concentrations of flows, but we question the need, where normal oil and gas operations are involved.

PART V, ART. 3.02
GENERAL REQUIREMENTS - GATHERING PIPELINES

The statement that "Gathering pipelines shall be installed and maintained to be compatible with other uses of the area," appears vague and could easily lead to contention and dispute. We suggest deletion or greater clarity.

END OF ATTACHMENT A

I N T R O D U C T I O N

My name is Bernard Reilly and I am President of the Dickenson County Citizens Committee. I am here today to thank the Division for holding this public hearing and comment session before final action on the proposed Gas and Oil Regulations.

During the past months, in fact over the past two years, we have been engaged in the preparation of the Gas and Oil Act and now these regulations implementing that Act. It has been an enlightening experience and wholly enjoyable.

We learned how things were done in the Department of Mines, Minerals and Energy as well as the General Assembly of Virginia. We found out who exercises a lot of influence and who doesn't. We were, at various times, elated, frustrated, happy, disgusted, and sometimes even satisfied during these two years.

Today we end the entire process with the final comment period shortly coming to a close. We appreciate the opportunity we had to be a part of this unexpectedly monumental task. The Department processed many, many comments from the participants, generated reams of paper work, published minutes and comments of the various subcommittees, and also managed to find appropriate meeting places throughout the entire period. Our hats are off to all of you - the people in Richmond, in Big Stone Gap, and here in Abingdon. In my old Air Force vernacular - you done good!

Industry representatives and the other participating groups are also worthy of note. We all came in with our own agendas and pushed for them with all our might. The air became charged a time or two but civility was maintained throughout the process. We also thank each of them for contributing to our education concerning how things are done in Virginia.

This final opportunity to make public comment does not find me without suggestions. We have reviewed the proposed Regulations and find some things contrary to our expectations.

The Gas and Oil Act recognizes the authority of local government bodies and their Ordinances. However, little acknowledgement of that recognition is reflected in the Regulations.

The periods of time to receive notice of gas & oil activities is too short.

Little heed is paid to the protection of surface estates.

Gas & oil activity is permitted too close to inhabited buildings.

Soil stabilization is inadequate.

Domestic water wells are ignored.

Inspections by Division personnel are not addressed.

Let me present my comments on these subjects in a separate paper. I will leave it at the Division Office either today or, at the latest, before the end of the comment period on March 29, 1991.

We thank all of you again for this golden opportunity to participate in the formulation of the Act and the Regulations. We look forward to a comprehensive end-product, one that will satisfy all of Virginia.

Bernard Reilly
P.O. Box 402
Clinchco, Virginia 24226
703/835-8857

COMMENTS
OF
BERNARD REILLY
PRESIDENT
OF THE
DICKENSON COUNTY CITIZENS COMMITTEE

BEFORE THE
GAS AND OIL INSPECTOR
DIVISION OF GAS AND OIL
VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

AT THE PUBLIC HEARING REGARDING VR 480-05-11.1
GAS AND OIL REGULATIONS
HELD AT ABINGDON, VIRGINIA
MARCH 26, 1991

* Section 1.03 Other laws and Regulations. This Section states that "Nothing in this regulation shall relieve a permittee of the duty to comply with other laws and regulations." We take this to include County Ordinances as outlined in Section 161.3 of the Act.

* Section 1.04 Application for a Permit. lists all the documentation to be submitted to the Division of Gas & Oil when asking for a permit. However, there is no reference here to the requirement to satisfy local ordinances.

Gas wells in Wise County now require a special use permit from the Board of Supervisors. This is required by their new Zoning Ordinance. We can look forward to similar ordinances throughout southwestern Virginia.

Dickenson County does not permit injection wells and the same ordinance prohibiting these wells also exists in the other Counties of southwestern Virginia.

We feel the Division should concern itself as much with local ordinances as it does with its own or EPA directives. Remember that the Gas & Oil Act, Section 161.3.6. directs that the citizens and the environment are to be protected. Our first, last, and sometimes only line of defense or protection out in the Counties, is our local land-use ordinances. The energy developers are not except from these ordinances and we want the Director to make these ordinances a vital part of the permit review process.

It seems to us that with all the fine engineers, geologists, hydrologists, executives, and administrators available to the industry and regulators, that someone would think to check first with the folks "on-the-ground" before putting all that effort into

permitting a gas or oil activity.

Our local Boards of Supervisors are elected officials with a charter to protect their little section of the State and the people who live there. Their method of doing this is through Ordinances. Neither industry nor the State can ignore these ordinances lest our counties and towns lose their freedom and authority granted by Article VII of the Virginia Constitution.

Therefore, we request that Section 1.08.C.16, be changed to 1.08.C.17 and a new paragraph 1.08.C.16 be inserted in the Gas and Oil Regulations, to read: "16. Certification that the proposed gas or oil activity complies with local land-use ordinances."

In addition, Section 1.11 Permit Amendments and Modifications, should also reflect this reference to local ordinances. We request that Section 1.11.B.3.h, be changed to 1.11.B.3.i, and a new paragraph 1.11.B.3.h, be inserted in the Gas & Oil Regulations to read: "h. Certification that the proposed gas or oil activity complies with local land-use ordinances."

We fully expect the Division to maintain close contact with local governments and to be fully aware of any local requirements affecting gas or oil activities.

This recommended change also impacts Part II of the Gas & Oil Regulations, Section 2.01.A through Section 2.01.D.

* Section 1.13. Notice of Permit Applications and Modifications, did not reflect the appropriate times we expected. Section 1.13.B. indicates only a 10 day waiting period to consider all those notices required by Section 361.30 of the Act as complete. We expected this section to show 15 days.

The notice mailed on a Friday evening, day one, usually sits in the Post Office until Monday, day four. If delivery is attempted by day five or six, and the addressee is away for any reason, the carrier leaves a Post Office Form alerting the addressee to the Certified Mail. The Post Office then holds the Certified mail until the addressee arranges delivery, or 7 days pass. Another attempt is made after that time using the same procedure.

As you can see, the ten day period can be too short because of a simple trip to the grocery store or medical appointment. This ten day period must assume that people are always at home or only away for a moment or two at a time. This is assuming on a grand scale.

A 15 day period would be more appropriate and what we expected. We request that Section 1.13.B. reflect that 15 day period rather than the ten day period suggested. Change Section 1.13.B to read: "B. If notice required under 45.1-361.30 of the Code of Virginia has been sent by certified mail, return receipt requested, and the notice has not been delivered within 10 15 days of mailing the notice, the Director shall consider notice to be given."

* Section 1.23. Commencement of Activity, should reflect the requirements of the Act to consider surface property when engaging in gas or oil activities. Section 361.3.7. states: "7. To recognize that use of the surface for gas or oil development shall be only that which is reasonably necessary to obtain the gas or oil."

We request an addition to Section 1.23. as subparagraph "E" to read: "E. Permittees shall meet the requirements of 45.1-361.1 Code of Virginia regarding reasonable use of surface lands."

* Section 1.25. Blasting and Explosives, outlines in Section 1.25.D., blasting safety. We feel a gross oversight has been made here. To permit blasting operations so close to inhabited buildings is unconscionable. Characteristically, blasting within 300' of a water well or inhabited building is sure to cause damages. Also, there is no reference to notification of individuals living in the area of blasting. If well sites may be as close as 200' of an inhabited building, then the inhabitants of that building should be just as aware of the blasting as someone who owns a well, pipe line or transmission line within 300'.

We request Section 1.25.D.1. be amended to read: "1. When blasting operations will be conducted within 300 300 feet of an inhabited building, a gas or oil well, pipeline or high voltage

transmission line, the blaster or person in charge of the blasting operations shall take due precautionary measures for the protection of the inhabited building, well or line, and shall notify the inhabitants of the building and the owner of the well, pipeline or high voltage transmission line or his agent that such blasting operations are intended.*

Further on in our comments we will support the change from 200' to 300'.

* Section 1.26.C.2. deals with erosion and sediment controls and reclamation, a subject recently covered by new regulations of the Department of Conservation and Recreation. The temporary soil stabilization required in the Gas and Oil Regulations contradicts the Department of Conservation and Recreation regulations which, we feel, are more appropriate.

We request that Section 1.26.C.2.a. be amended to read:
"a. Temporary soil stabilization shall be applied to denuded areas that may not be at final grade but will be left inactive for one year or less longer than 30 days."

* Section 2.04.A. Setback Restrictions, permits a well within 200' of an inhabited building or place of public meeting. We want this setback to remain at 300'.

During gas or oil development procedures, the area surrounding a well site undergoes considerable activity. The initial measurement from the proposed well bore to an inhabited building will be greatly impacted as site preparation progresses. The interval may end up showing earth moving activity closer to 100' between the well site and inhabited building. Blasting this close will surely damage the building and cause excessive dust and probably flyrock as well. If a water well is also within this sphere, it is doomed.

The existing 300' setback restriction will provide greater safety and environmental protection to surface owners. Therefore, we request Section 2.04.A and Section 3.06.A (dealing with coalbed methane wells) be amended to read: "A. No well shall, after July 1,

1991 be drilled closer than 200 300 feet from any inhabited building or place of public meeting.*

* The operational theory apparently accepted by the gas and oil industry and the Department includes the belief that the water protection string protects ground water. To the contrary, we consider the water protection string as only a protection of the well product from local ground waters.

Actual experiences of surface owners in the gas fields punches holes in that theory. Whenever a well is drilled, anyone living within nearly a mile of that well is subject to lose all or part of their water supply, or show heightened amounts of gas or chlorides in their water. Our ground water resources must be very sensitive to any underground development, and rapidly react to any intrusion. We need to expand these gas and oil regulations to include information dealing with private water resources. Permittees must be required to monitor these private supplies. Any adverse impact should be corrected by the permittee.

Therefore, we request Section 1.09. Plans, be amended to include Section 1.09.D.4. to read: "4. Identify private water wells and other domestic water resources within 3000' of the well which is the subject of the application. These wells and water resources will be tested for quality and quantity prior to commencement of gas or oil activity. Any adverse impact to these wells or water resources will be corrected by the permittee.*"

An appropriate symbol identifying a domestic water resource should be included in Section 1.09.D.3.

* The proposed Gas and Oil Regulations detail much information required of the permittee. Even when things go wrong, it is left for the permittee to advise the Division in a timely manner. Are we to assume from all this that if the Division hears no news to the contrary, all is considered right with the world?

Surely you aren't that confident that your published regulations will insure 100% compliance with Virginia laws.

We know you will be inspecting the various roads, sites, well drilling operations, erosion and sediment control practices, evidence of spills, and adequate reclamation. What we would like to see is confirmation of your involvement with gas and oil activity in print! We want to be reassured that you don't just take the industry's word that they are "proceeding according to plan" and everything is just fine.

Therefore, we request a short item in the gas and oil regulations dealing with inspections by the Division. The Division has had sufficient experience to know where and when inspections are needed without waiting for a citizen's complaint. If it would not be exposing confidential procedures, we would like a schedule of inspections in the gas and oil regulations.

* This concludes our comments.

Jewell Smokeless Coal Corporation



P. O. Box 70

Venmont, Virginia 24656

Telephone 935-BB10

March 25, 1991

Mr. Bill Edwards
Division of Mines, Minerals and Energy
3201 West Broad Street
Richmond, Virginia 23220

Re: Proposed Amendments to the "Rules and Regulations
Governing Vertical Mine Ventilation Holes, VR 480-05-96

Dear Mr. Edwards:

Jewell Smokeless has several comments on DMME's proposed amendments as referenced above. In particular, the following is a listing of comments addressed by Part No., Title, Section Number and respective page of proposed amendments to the "Rules and Regulations Governing Vertical Mine Ventilation Holes, VR 480-05-96:"

1. PART I: DEFINITIONS, Section 1.1, 4 of 32 - "WELL" definition should include any vertical ventilation hole where methane is vented or flared.
2. PART I: DEFINITIONS, Section 1.1, 5 of 32, "WORKABLE COAL SEAM" should read as follows: means a coal seam in fact being mined commercially or uncommercially, or of which, is of mineable and merchantable quality to be mined and in the judgment of the Chief, can, reasonably be expected to be mined, and which, when mined, will require protection if wells are drilled through it.
3. PART I: DEFINITIONS, Section 1.1, 2 of 32 - Description of HOLE and WELL are synonymous and need clarification in the revised regulations.
4. PART II: APPLICATIONS FOR PERMITS: NOTICE, Section 2.1, 6 of 32 - Last sentence of section should read "A survey accuracy of 1:10,000 is required for the location of the subject hole with reference to the two permanent points or landmarks as shown on the map or plat."
5. PART IV: ISSUANCE OF PERMIT WHEN NO OBJECTION FILED, Section 4.1, 9 of 32 - Add additional sentence to read as such: The Chief shall send by certified mail to all surface and mineral owners notified under Part II of the intent to drill such well

Mr. Bill Edwards
March 25, 1991
Page 2


a copy of the document granting issuance to the respective operator.

6. PART VI: FIXING LOCATION OF HOLE-PENETRATING WORKABLE COAL SEAM, Section 6.1, 12 of 32 - Add sentence that the Chief would consider a virgin coal bed that is mineable and merchantable and the effects that a vertical ventilation hole may cause to the owner of the respective virgin coal bed. The Chief would discuss the impact of the VVH with the owner of the virgin coal bed and see if a suitable location could be made through the seam.
7. PART XII: MINING OPERATIONS NEAR VERTICAL VENTILATION HOLES AND GAS OR OIL WELLS, Section 12.1, 12.2 and 12.3, 18 and 19 of 32 - delete reference made to any vertical ventilation hole projected in a permit.

If you have any questions concerning the aforementioned comments, please contact me. Thank you for your time and consideration in this matter.

Sincerely,

JEWELL SMOKELESS COAL CORPORATION


Robert L. Brendlinger
Chief Engineer

FLB/smr:BEG32591

pc: C.E. Ellis
J.P. Calhoun
B.E. O'Guin
M. Lewis
File