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5 VIRGINIA OIL AND GAS CONSERVATION BOARD  
6

7 HEARING OF MAY 21, 1991  
8

9 9:00 A. M.  
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11 AT THE SOUTHWEST VIRGINIA 4-H CENTER CONFERENCE ROOM  
12 ABINGDON, VIRGINIA  
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May 21, 1991

This matter came on to be heard on this the 21st day of May, 1991, before the Virginia Gas and Oil Board, at the Southwest Virginia 4-H Center, Abingdon, Virginia.

MR. CHAIRMAN: Good morning, my name is Benny Wampler. I'm Assistant Director for Mining for the Virginia Department of Mines, Mineral and Energy. Welcome to the Virginia Gas and Oil Board meeting. I'll start by having our Board members introduce themselves, starting to my left, Mr. McGlothlin.

(MEMBERS INTRODUCED.)

(ITEM 1)

MR. CHAIRMAN: The first item on today's agenda is petition from Helen Leonard requesting designation of a drilling zone under Section 45.1-361.22 for the PC-320 Permit number 1564. This is Docket Number VGOB-0326-86. Mr. Johnson.

MR. JOHNSON: I'm Lloyd Johnson representing Helen B. Leonard. First, I want to thank the Board for allowing me to continue this matter for the past two months because of other schedules that I've been involved in. With regard to this application, what we are asking here is fairly straightforward. I don't know to the extent that which

1 the Board would wish to hear evidence. I'll proceed on  
2 the basis that I can tell you what the case is about and,  
3 then, we'll put on whatever evidence the Board thinks  
4 necessary. PC-319 is a well application for a coal bed  
5 methane well located in Castlewood District of Russell  
6 County, Virginia. In its application -- Well PC-320.  
7 We've got a lot of wells going on up there. In its  
8 application, which is dated October the 4th, 1990,  
9 Equitable Resources Exploration filed its permit and  
10 named my client, along with several other co-owners of  
11 the interest in the surface, as surface owners in this  
12 property. Subsequently, there was a hearing, I believe,  
13 held in front of Mr. Fulmer. I was not present at that  
14 but there was a hearing for objections to the well. As a  
15 result of that hearing, and as a result of the applica-  
16 tion, Mr. Fulmer issued the permit to Equitable Resources  
17 Exploration as requested. I am here representing what is  
18 at a minimum, surface owners who wish to have a unit  
19 formed and an escrow account established pursuant to  
20 Section 43-1-361.22. That's the basis upon which we  
21 appear. I don't believe there's any dispute as to  
22 whether or not my client, at least, own a interest in the  
23 surface. They may have some legal dispute with regard to  
24 the mineral title. We know that we're not here to  
25 resolve that. I'm not going to spend any time with this

1 board trying to argue anything other than there is a  
2 recognition that my clients own a interest in, at least,  
3 the surface of this real estate. They ask that a unit be  
4 established by the Board as a condition to the production  
5 from well 320. We can put on evidence if the Board  
6 wishes to hear any. What this code section was set up  
7 for was for any claimant to be able to have the Board  
8 establish a unit or, really, force the board to establish  
9 a unit to protect their rights. The issue of coal bed  
10 methane, as this Board knows, has not been resolved. The  
11 Board has also heard countless applications from operators  
12 in which they have included surface owners in their  
13 applications and have established escrow accounts in  
14 order to protect the interest in the well.

15 MR. CHAIRMAN: Thank you, Mr. Johnson. Why don't we give Mr.  
16 Counts an opportunity to make some remarks. We'll sort  
17 out the differences.

18 MR. COUNTS: Thank you, Mr. Chairman. I think there were two  
19 fundamental concerns we had with regard to the applica-  
20 tion on PC-320. First off, as Mr. Johnson alluded to, an  
21 informal hearing was held with regard to this well. The  
22 decision was issued to issue a permit to Equitable  
23 Resources for the drilling of PC-320 and that has been  
24 done. One of the objections raised at that time by the  
25 surface owners, primarily the owners of the Rasmake

1 estate, was that they owned the coal bed methane, or an  
2 interest in the coal bed methane, underlying this unit.  
3 The inspector properly indicated that he did not have the  
4 jurisdiction to hear that issue. Our position is that  
5 that issue is properly heard before the Circuit Court.  
6 Certainly, Section 361.22 was set up by the Virginia  
7 General Assembly to facilitate coal bed methane opera-  
8 tions recognizing that there are competing claims.  
9 However, Mr. Johnson has indicated that there have been  
10 countless situations, I believe were his words, where  
11 applicants have identified surface owners and pooled  
12 those interests. I would take issue with that fact.  
13 There is no case law anywhere, that I am aware of, which  
14 gives the slightest credibility to the issue that a  
15 surface owner may own any interest whatsoever in coal bed  
16 methane. In fact, quite the contrary. It's well  
17 established that the coal bed methane is going to be  
18 owned by one of two parties. That is, either the owner  
19 of the coal estate or the owner of the oil and gas estate  
20 as a result of title examinations. As a result of the  
21 permit application which they filed, Equitable indicated  
22 that its ownership reports found title to be vested 100%  
23 in its last seam. That was from a coal, oil and gas, and  
24 mineral standpoint. As a result, the Whitt Rasnake  
25 estate is an estate which is entitled to surface owner-

1 ship and nothing more than surface ownership. What Mr.  
2 Johnson and his client are attempting to do is turn this  
3 forum into Circuit Court and have a resolution or have a  
4 decision made that the owner of the surface estate owns  
5 an interest in coal bed methane. First off, that's not  
6 properly within the jurisdiction of this board. Second-  
7 ly, I don't believe that any Circuit Court, and quite  
8 frankly we have some precedent out of Wise County with  
9 regard to that -- any Circuit Court in the State of  
10 Virginia, or any other state for that matter, is going to  
11 award ownership of coal bed methane to any surface owner.  
12 The forced pooling provision, 361.22, was set up to  
13 facilitate operations between competing claimants.  
14 Competing claimants being potential coal owners or  
15 potential oil and gas owners, but was not envisioned with  
16 regard to surface ownership. The other major concern  
17 that we have is, in fact, in terms of the application  
18 itself. The application submitted -- I would like to ask  
19 all the board members, if you would, to take a look at  
20 it -- at least, the only application that I have is a  
21 letter dated December 13, 1990. I'd really like to read  
22 the letter to you because this is the application that  
23 we're relying upon with regard to this unit. It says,  
24 "Dear Mr. Fulmer, I am the owner of an interest in the  
25 surface land surrounded by a proposed coal bed methane

1 well to be drilled by Equitable Resources Exploration.  
2 My ownership interest is as an heir to the Whitt Rasnake  
3 estate. As you know, I, along with other members of my  
4 family, appeared at the hearing held on November 9, 1990.  
5 You have issued an opinion allowing for the drilling of  
6 the well by an order signed on December 3, 1990. I am  
7 writing to request that the Board require that a drilling  
8 unit be established prior to any production from the  
9 proposed well pursuant to Section 45.1-361.22 of the Code  
10 of the Virginia." Now, this application, if you will,  
11 does not come any where close to complying with the  
12 requirements of the Board procedural rules. Particular-  
13 ly, with regard to the procedural rules adopted by the  
14 Board on September 3, 1990. Particularly, with regard to  
15 Section 4C which goes forth and sets out what the  
16 application will contain and, basically, what the  
17 application is going to involve in order to put other  
18 parties on notice of the application. We would submit  
19 that that has not been in this situation. In addition,  
20 although Mr. Johnson may well have these, Virginia Code  
21 Section 361.19 requires that on the date simultaneous  
22 with the filing of an application -- if the Board were to  
23 determine that this letter of December 13, 1990 were an  
24 application -- that simultaneously with the filing of  
25 that letter that certified mail return receipt request

1 must be sent to each gas or oil owner, coal owner, or  
2 mineral owner having an interest underlying this tract.  
3 We would also submit that this has not been done. So I  
4 think we have two primary considerations. Number 1,  
5 fundamentally, this is not an application for purposes of  
6 this board and, as a result, should be dismissed.  
7 Secondly, this Board is not an appropriate substitute for  
8 the Circuit Court and does not have the jurisdiction to  
9 be able to determine ownership issues.

10 MR. CHAIRMAN: Thank you, Mr. Counts.

11 MR. JOHNSON: I would like to respond to that. First thing,  
12 with regard to what the Board is supposed to do and what  
13 the statute is all about. I think all the Board has to  
14 do is read Section 45.1-361.22 to find out whether or not  
15 a surface owner who claims an interest in the coal bed  
16 beneath is entitled to ask this Board for a unit. I  
17 mean, it's obvious. That's the whole purpose of this  
18 statute was to get around the quagmire problems that were  
19 going to result from coal owners or oil and gas owners  
20 going in and trying to drill a well. The whole purpose  
21 of this statute was to force surface owners to give up  
22 by putting the money in escrow and all the other things  
23 that this statute is designed to do. With regard to the  
24 application, I think it's clear that my clients do not  
25 intend to be operators, do not intend to drill the wells,

1 do not intend to pay out the money, do not intend to get  
2 a competing permit. What we would ask is that the Board  
3 require that before any production from the well that a  
4 unit be established and that all proceeds put in escrow  
5 pursuant to this statute. We are not asking to circum-  
6 vent the Circuit Court. If Equitable Resources wishes to  
7 go to Circuit Court to resolve the issue, they may do so  
8 or we may do so. But the purpose of the statute is to  
9 allow these wells to be drilled without litigation and to  
10 allow the money to be escrowed without litigation. Then,  
11 to allow litigation or some settlement between the  
12 parties to permit those escrow funds to be disbursed. We  
13 have given Mr. Wampler the certified, which we would ask  
14 to be part of the record in this case. We have notified  
15 everybody, or my clients attempted to notify everybody,  
16 that's involved in this. This matter has been pending  
17 for about three or four months. I think everybody that  
18 is involved is very much aware of this proceeding,  
19 particularly, Equitable and Clinchfield Coal Company.  
20 The issue as to whether or not a surface owner has any  
21 claim in the coal bed methane has not conclusively  
22 resolved in the Commonwealth. As this Board knows,  
23 there was such a thing as a migratory gas statute which  
24 has been repealed but which gave credence to the owner-  
25 ship rights of surface owners. All that we ask is that

1 the Board follow this statute and what it was intended  
2 for. It was intended to allow the wells to be drilled  
3 and to put the money in escrow. Equitable Resources has  
4 decided that if they have the coal and they have the oil  
5 and gas rights sewed up, as they think, that they don't  
6 have to come to this board and ask for a pooling order.  
7 But they're forcing the surface owners to do that.  
8 That's why we're here, because we're surface owners and  
9 we feel that we have a right in the coal bed methane.  
10 We're being ignored by the gas company and the coal  
11 company. That's their right to ignore us, but the board  
12 does not have that right. We ask that the Board issue an  
13 order which requires that a unit be established for this  
14 well, with the well in the center thereof, and that the  
15 money or proceeds from the production of the well be  
16 escrowed pursuant to the statute whereby all of the coal  
17 bed methane wells in this Commonwealth are being drilled.

18 MR. COUNTS: Mr. Chairman, may I inquire as to the date of the  
19 notices -- that they were sent out?

20 MR. CHAIRMAN: Mid March -- 14th or 15th.

21 MR. COUNTS: As you'll note, the application is dated December  
22 the 13th. Again, 361.19 requires that the applications  
23 and notices be sent out simultaneously with the filing of  
24 the application. I suggest that the application is  
25 defective on its face, not only from the standpoint of

1 notice, but from the standpoint of the fact that under  
2 Section 4C of the Board regulations -- I could read the  
3 entire thing, I'm not going to do that -- it, basically,  
4 says, "The application shall be headed by a caption, et  
5 cetera. No compliance. The body of the application  
6 shall contain the following citations of statute rules:  
7 No compliance, statement of relief sought -- suggests no  
8 compliance here -- type of well, permit number, descrip-  
9 tion of area" -- and it go on and on. If the Board  
10 allows this to be an application, then I would suggest to  
11 the Board that, basically, the procedural rules adopted  
12 by the Board are simply thrown out the window. There is  
13 no force, fact or validity. Mr. Johnson has made the  
14 point that he is trying to get, basically, the -- he does  
15 not want the Board to ignore the situation of his client.  
16 Jurisdiction of the Board certainly is to inquire in  
17 terms of (inaudible) and, certainly, the agency does  
18 that with regard to its well permit application where,  
19 basically, the applicant provides an affidavit to the  
20 effect that these are the owners. That's what Equitable  
21 is fully -- believes and stands behind. Mr. Johnson has,  
22 however, I think, mischaracterized the purpose of 361.22.  
23 361.22 was not enacted by the General Assembly to make  
24 the Virginia Gas and Oil Board a substitute for the  
25 circuit court. What is was enacted to was to facilitate

1 operations. There has to be a fundamental business risk  
2 decision made by the operator at this point in time.  
3 361.22 is for the benefit, essentially, of the operators.  
4 Because, without 361.22, an operator in Virginia could  
5 not, in good faith and with reasonable business risk, go  
6 out and drill a well where there is the possibility of  
7 additional interests out there which are not covered by a  
8 lease or other exploration agreement, et cetera. If  
9 there are other ownership interests out there which may  
10 have a legitimate claim to coal bed methane, your  
11 operator -- and Equitable in this particular situation --  
12 is going to come before this board under 361.22 because  
13 361.22 is that operator's protection. That's not the  
14 situation here. This operator has made the determina-  
15 tion, through their own title results and their own title  
16 analysis, that they have 100% of the potential coal bed  
17 methane interest under lease. As a result, they are  
18 prepared to go ahead and conduct operations and assume  
19 those business risks. Now, Mr. Johnson's client does not  
20 -- feels that it is aggrieved. Of course, Mr. Johnson  
21 did, fortunately, indicate that the migratory gas act of  
22 Virginia has been repealed. If he feels like his client  
23 has been aggrieved, then his appropriate form is not  
24 before the Virginia Gas and Oil Board with the frivolous  
25 application such as this being considered. His form is

1 in front of the Circuit Court. That's where we would  
2 suggest that he needs to be. We would request that this  
3 application be dismissed.

4 MR. CHAIRMAN: Any questions, Members of the Board?

5 MR. MASON: Mr. Chairman.

6 MR. CHAIRMAN: Mr. Mason.

7 MR. MASON: I think in order to resolve this, there's several  
8 legal issues relating or underlying the decision to be  
9 made in this matter. I would move that the Board enter  
10 into executive session and consult with its counsel  
11 regarding these matters.

12 MR. CHAIRMAN: Okay. I have a motion that we go into execu-  
13 tive session.

14 MR. MCGLOTHLIN: Second.

15 MR. CHAIRMAN: The motion is seconded that the Board go into  
16 executive session. All in favor signify by saying yes.  
17 Oppose say no. The board is now in executive session.

18 The Board is currently in executive session under the  
19 authority authorized by Section 2.1-344, specifically,  
20 (leg 7, requesting legal counsel in the discussions.  
21 (BOARD GOES INTO EXECUTIVE SESSION.)

22 MR. CHAIRMAN: Back on record. I'll entertain a motion to  
23 come out of executive session.

24 MR. MCGLOTHLIN: So moved.

25 MR. CHAIRMAN: I have a motion.

1 MR. KELLY: Second.  
2 MR. CHAIRMAN: Motion and a second. All in favor signify by  
3 saying yes. Oppose say no. We're now out of executive  
4 session. Let me take a vote -- I'll ask each of you, by  
5 name, to affirm that all we did was discuss with legal  
6 counsel the legal issues surrounding this case. Mr.  
7 McGlothlin?  
8 MR. MCGLOTHLIN: Yes.  
9 MR. CHAIRMAN: Mr. Mason?  
10 MR. MASON: Yes.  
11 MR. CHAIRMAN: I'm Benny Wampler. Yes.  
12 MR. EVANS: Ken Evans, yes.  
13 MR. KELLY: Bill Kelly, yes.  
14 MR. MASON: Mr. Chairman?  
15 MR. CHAIRMAN: Mr. Mason.  
16 MR. MASON: Since it is important that the issues presented to  
17 the Board be in compliance with the Board rules and  
18 regulations, which are designed to create a complete  
19 record for the protection of everyone's interest, I move  
20 for dismissal of this petition for non-compliance with  
21 the board rules and regulations.  
22 MR. CHAIRMAN: I have a motion.  
23 MR. EVANS: Second.  
24 MR. CHAIRMAN: A motion and second. All in favor signify by  
25 saying yes. Oppose say no. [Motion carries.]

1 MR. JOHNSON: If the Board, please, we would ask that we be  
2 allowed to amend the petition that was filed. As this  
3 Board may or may not be aware, this procedure requires  
4 surface owners to pay \$100 up front in order to even come  
5 before this Honorable Board. We would ask that the Board  
6 permit the applicant to amend the petition and to get  
7 credit for the filing fee which has been paid,  
8 MR. COUNTS: Mr. Chairman, I would request, again, that the --  
9 stipulate that the filing was inappropriate and that it  
10 should be dismissed on its face and the subsequent filing  
11 would have to be a new filing and not an amended filing.  
12 MR. CHAIRMAN: In the discussion, I guess -- in the dismissal  
13 of the petition, we don't have a petition before us,  
14 properly, so it will have to come back fully before the  
15 Board.  
16 MR. JOHNSON: I think this Board needs to be aware of that  
17 obnoxious fee that's being required of these people every  
18 time they come up here. If the Board is going to shove  
19 these things away, we should reconsider what you're doing  
20 in terms of forcing people to file new fees every time  
21 they come up here. It may be very reasonable for  
22 operators, but they're not for surface owners. I just  
23 ask the Board to consider that in the future. I realize  
24 I'm speaking without reference to a now valid petition.  
25 We'll come back and redo this and have this hearing

1 again. Thank you, very much.

2 MR. COUNTS: Mr. Chairman, I would submit that if Mr. Johnson  
3 would submit his grievance in the appropriate form, that  
4 he wouldn't have to file and pay these obnoxious fees as  
5 he indicated.

6 MR. CHAIRMAN: The Board will make no further comment.  
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(ITEM 16 & 17)

MR. CHAIRMAN: The next item on the agenda is --

MR. JOHNSON: Mr. Wampler, we have two more of these which are the same thing. I don't know the extent to which the Board finds irregularities in those, but we have two more that are similar. I would propose on those that the Board allow a continuance on those and allow us to amend those applications so that we don't run into this problem again.

MR. COUNTS: Mr. Chairman, all the parties are here -- all parties are present. We would object to any request for a continuance.

MR. JOHNSON: That's White and Holbrook.

MR. CHAIRMAN: Which docket number?

MR. COUNTS: 16 and 17, Mr. Chairman.

MR. CHAIRMAN: I'll just talk open on the record here with the Board members to get your pleasure. I think the Board has been fairly liberal in continuance and I don't believe items 16 and 17 have -- I've seen 16 and 17 -- actually we're talking about -- I'll have to get it confirmed.

MR. JOHNSON: White and Holbrook.

MR. CHAIRMAN: VGOB-0531-117 and 118.

1 MR. JOHNSON: I'd like to ask that the Board continue these  
2 for two months and allow us to amend.

3 MR. COUNTS: Mr. Chairman, I would object because I don't  
4 believe that they have a valid application which has been  
5 submitted which can be amended. This is not a matter of  
6 simple procedural or minor substantive issue which needs  
7 to be amended. This is the fact that you've got an  
8 application on file which is de facto invalid. It's not  
9 an application. It does not meet any of the criteria  
10 required by the Board and this result is not right for an  
11 amendment.

12 MR. MASON: Mr. Chairman, I think, as you pointed out, this  
13 board has been very liberal to all parties in the past in  
14 terms of being able to continue these matters. To some  
15 degree, we're all trying to learn and work our way  
16 through this stuff. If these petitions have not yet come  
17 up on this docket for any kind of consideration and the  
18 fact that there has been a continuance motion proposed  
19 prior to any consideration, it seems to me it would be  
20 premature for us to decide whether they're effective,  
21 ineffective, or anything else, until such time as they  
22 actually come up for hearing. Consequently, I think that  
23 a continuance motion, made prior to any action by us,  
24 would have to be based solely on the request and not any  
25 underlying determination of the validity of the petition.

1 MR. CHAIRMAN: Any further discussion? We have a request for  
2 a continuance to the July docket. That will be July  
3 16th,  
4 MR. MCLOTHLIN: I'm just thinking that July 16th is going to  
5 be a pretty busy time for us.  
6 MR. CHAIRMAN: Do I have a motion on the request?  
7 MR. HADDON: I move we accept it.  
8 MR. CHAIRMAN: We have a motion to accept. Do I have a  
9 second?  
10 MR. MCLOTHLIN: Second.  
11 MR. CHAIRMAN: I have a motion and a second that we accept the  
12 continuance. All in favor signify by saying yes. Oppose  
13 say no. Motion carries.  
14 MR. FULMER: Just for the record, Mr. Chairman, could you  
15 repeat the docket numbers, please?  
16 MR. CHAIRMAN: Yes, the docket numbers are VGOB-0521-117 and  
17 VGOB-0521-118.  
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(ITEM 2)

MR. CHAIRMAN: The record will show the next item on the agenda schedule would be VGOS-0326-99 and we have granted a continuance in that so the parties can -- that's item number 2.

MR. MCGLOTHLIN: Is being continued --

MR. CHAIRMAN: Yes.

MR. MCGLOTHLIN: -- to the next meeting?

MR. CHAIRMAN: To the July meeting.

[ITEM 3]

MR. CHAIRMAN: The next item on the agenda is petition for exception of statewide spacing. Edwards & Harding. Parties that wish to address the Board, please come forward. This is Docket Number VGOB-0326-87. Are you folks ready? Do you want introduce yourself and go forward?

MR. BASNAKE: I'm James Basnake. I'm here on behalf of Edwards and Harding Petroleum Company. We come before the Board requesting a variance. I have with me 10 copies of a letter from Mr. Bryan Wolcott.

MR. CHAIRMAN: Do you have a copy of this, Mr. Counts? Would you spell out for us, please, what you're requesting?

MR. BASNAKE: We're requesting a variance to statewide spacing as far as producing additional formations rather than, I think, Havencruff, which was named in the application -- the permit application. I think at last month's meeting we had indicated that this well has already been drilled. There was a technicality, I think, that came up that apparently disallowed us from completing any other formations other than Havencruff.

MR. LYONS: Mr. Basnake, are the additional formations above us below the Havencruff?

1 MR. BARRETT: I think the additional formations requested were  
2 the Big Lime, Maxim, Berea and one other I can't recall  
3 the specific.  
4 MR. MASON: The original application was for Berea. As I  
5 understood it, you all wanted additional authority to  
6 complete in the Ravenscliff, Maxim and Big Lime. Isn't  
7 that the way it was?  
8 MR. FULMER: Yeah.  
9 MR. MASON: So what you're actually asking for, is it not, is  
10 an amendment of your original application to include the  
11 right to produce in these three additional formations?  
12 MR. BARRETT: Yeah.  
13 MR. MASON: Excuse me, Mr. Chairman.  
14 MR. CHAIRMAN: That's fine. Mr. Counts, do you have any  
15 objections?  
16 MR. COUNTS: No objection, sir.  
17 MR. CHAIRMAN: Mr. Fulmer, do you have anything that you think  
18 you need to say to the Board regarding this application?  
19 MR. FULMER: Well, in regard to the application, as far as the  
20 statewide spacing statute requires certain distance  
21 limitations between wells and wells drilled from the same  
22 pool. In this instance, they had the right to produce  
23 from the Berea in one section within the spacing distance  
24 from another well. The other well had producing -- or  
25 application -- approved application to produce (in-

audible) Barea. In this case, what they're asking for is to be able to produce the formation above the Barea in the Edwards and Harding well. That is within the statewide spacing that's spelled out in the statute -- in other words, less than 2,600 feet. The other well is Equitable Resources well.

MR. CHAIRMAN: That's the letter on voluntary consent that we have for them.

MR. BASNAKE: Yes.

MR. CHAIRMAN: Just confirm for the record, there's no objection? There's no one here in the room that objects to this? What's the Board's pleasure?

MR. EVANS: Mr. Chairman, I'd like to make a motion that we grant this petition for variance of statewide spacing.

MR. CHAIRMAN: Motion to grant the petition.

MR. HAEON: Second.

MR. MCGLATHLIN: Mr. Chairman, I would like to point out the fact that it is my understanding that Edwards & Harding is delinquent in sending evidence to the Board on a previous matter and that we not grant it -- this motion or any motion to Edwards and Harding -- until such evidence has been caught up with the Board.

MR. CHAIRMAN: Are you talking about the maps?

MR. MCGLATHLIN: Yes, sir. Those maps were offered in evidence and copies have not been obtained from Edwards

1        & Harding. If we're going to follow procedures and rules  
2        and regs, I think this is a good time to penalize Edwards  
3        & Harding, so to say.

4        MR. COUNTS: Mr. Chairman, I would also like to ask that this  
5        letter be made part of the record as a result of the fact  
6        that we're basically having reciprocal releases or  
7        letters of non-objection.

8        MR. CHAIRMAN: You're speaking, specifically, of the letter  
9        dated May 17th from Bryan Wolcott?

10       MR. COUNTS: Yes, sir. 1991. Yes, sir.

11       MR. CHAIRMAN: That is part of the record. Okay, I have a  
12       motion before the Board -- you heard the discussion --  
13       the motion as it has been made. Is there a second to the  
14       motion?

15       MR. MASON: Which motion, Mr. Chairman?

16       MR. CHAIRMAN: Well, I was taking the motions in order. I had  
17       a motion from Mr. Evans. Mr. Mason?

18       MR. MASON: Oh, I just did --

19       MR. CHAIRMAN: You did second it?

20       MR. MASON: I guess this is probably inappropriate from a  
21       procedural rule standpoint? I'm just curious if Edwards  
22       & Harding would like to make any comment on the fact that  
23       these maps have not been forthcoming.

24       MR. FASHAKE: To the best of my knowledge, the maps are very  
25       huge and we've been unable to find anybody that can

1 reproduce the whole map within a reasonable fee. We'd be  
2 gied to photocopy them and paste them together if that's  
3 sufficient.

4 MR. MCGLOTHLIN: A map's a map, but -- I mean, I think they  
5 need to clean up some of their old files first.

6 MR. MASON: MR. Chairman, I was just curious. What's accep-  
7 table to the inspector's office as far as the require-  
8 ments of these maps?

9 MR. FULMER: Well, as far as the staff is concerned, whatever  
10 the Board's pleasure is.

11 MR. CHAIRMAN: They've presented to the -- if your question  
12 is, "Did they get requirements from the inspector's  
13 office for the maps", they did. What Kevin's referring  
14 to is the map that they had on the wall that they  
15 presented to the Board and didn't bring ten copies as  
16 required by the procedural rules.

17 MR. MCGLOTHLIN: To my knowledge, we didn't even get the one  
18 copy.

19 MR. CHAIRMAN: I think that's correct, because they were going  
20 to take that back and produce the copies from it.  
21 Procedurally, I have a motion and a second before us  
22 recommending approval of a variance. All in favor  
23 signify by saying yes. Opposed, no. Motion carries.

24 MR. MCGLOTHLIN: Let the record reflect that I'm voting no  
25 because of the delinquent maps.

1 MR. CHAIRMAN: Right. Motion carries 3-2.

2 MR. FULMER: Mr. Chairman, as a matter of clarification on the  
3 letter -- reference to the reciprocal agreement, is the  
4 Board's pleasure that they would allow that EREX be able  
5 to drill the (inaudible) formation and produce?

6 MR. CHAIRMAN: I don't think it's before us. I think what was  
7 -- it was a just a confirmation that this letter is part  
8 of the record for today's hearing. To accomplish what  
9 you stated, they would have to come before the Board, I  
10 think.

11 MR. HASON: Not only that, if I may be so bold -- I think that  
12 the fact that the letter recites the fact that they're  
13 giving this in reliance on Edwards and Harding giving it  
14 to them. doesn't necessarily make it so.

15 MR. CHAIRMAN: Mr. Rasmake. I strongly urge you -- obviously  
16 you can see the Board's concern for not having the maps  
17 -- that we not have another hearing without having the  
18 record complete on that.

(ITEMS 4 - 7)

MR. CHAIRMAN: The next item on the agenda is the petition for exception of statewide spacing by Coastal/ANR Production Company for Wells CG V8-2. This is Docket Number VGOB-0219-83. Parties that wish to address the Board regarding this, come forward, please.

MR. COUNTS: Thank you, Mr. Chairman. I think by now the Board is probably intimately familiar with PVRC Tract 1602. This request for location exceptions for the V8-2 and the U8-19 will be on that tract of land. In addition, as shown on Exhibit A, this will also involve request for location exceptions on U8-25 and V8-10, both are which are on the Hagan Estates Tract 136. As you will note on Exhibit A, as depicted in the red boundary, all these requests for location exceptions are within the U. S. Forest Service -- Jefferson National Forest boundary and are primarily as a result of operational problems, topographical constraints, and compliance with the environmental impact statement necessitate these requests for location exceptions. Essentially, Mr. Chairman, with the Board's pleasure, I would like to consolidate the next four items on the docket which will involve V8-2, or Well Number 10918, and Docket Number

1 VGOB-8219-81. Well US#25, also known as Well 20903,  
2 Docket Number VGOB-0326-89. US#10, Well Number 20008,  
3 Docket Number VGOB-0326-90. US#19, also known as Well  
4 Number 10915, Docket Number VGOB-0326-88. As a result of  
5 the fact that all of these location exceptions are on  
6 these two tracts of land, as a result of a voluntary  
7 agreement between the Hagan Estates and the PVRC Tract  
8 1602, I would represent to the Board that there will be  
9 no correlative rights issues. The only issues before the  
10 Board are really issues of waste which would result in  
11 the event these location exceptions were not approved.  
12 With the Board's approval, I will proceed on that basis,  
13 Mr. Chairman.

14 MR. CHAIRMAN: Okay, go ahead. As you've done already, please  
15 keep the docket and the record straight for us.

16 MR. COUNTS: I will do my absolute best. Please let me know  
17 if I need to further qualify. My first witness, I'd like  
18 to call Mr. Ron Halfacre.  
19  
20  
21

22 RON T. HALFACRE

23 A witness who, after having been duly sworn, was examined and  
24 testified as follows:  
25

DIRECT EXAMINATION

BY MR. COUNTS:

Q. Mr. Halfacre, would you state your full name, please, and who you are employed by?

A. My name is Ron Halfacre. I'm employed ANR Production Company/Coastal Oil and Gas Corporation, as Regional Land Manager for the southeast area.

Q. Have your qualifications as an expert witness previously been accepted by this Board?

A. Yes, they have.

Q. Mr. Chairman, I would like to offer Mr. Halfacre as an expert witness in this matter. Mr. Halfacre, do your responsibilities include the lands involved in these applications?

A. Yes, it does.

Q. How long have you worked with or been familiar with this area?

A. Approximately five years.

Q. Are you familiar with all the applications for these location exceptions including V8#2, U8#25, V8#10, and U8#10?

A. Yes, I am.

Q. Mr. Halfacre, can you indicate for the Board, using Exhibit A which has been provided previously to the Board, the wells for which ANR has requested a location

1 exception?

2 A. Yes, I will. Refer first to well V8#2 on the map that is  
3 shown as Exhibit A. It's represented by the green dot --  
4 the northern most green dot. This is a exception to  
5 Well V8#1 and U8#11. The distances for which it is an  
6 exception is 156.45 feet as to V8#1 and 311 feet as to  
7 U8#11.

8 MR. MCGLOTHLIN: Excuse me, Mr. Halfacre. I don't have a V8#1  
9 and U8#11.

10 THE WITNESS: Okay, U8#11 is 10912 and that would be 311.91  
11 feet -- is 2640 less the distance of 2328.90.

12 MR. CHAIRMAN: And the other one?

13 THE WITNESS: 10917, as shown on the plat, is also V8#1. It's  
14 to the north of our V8#2. It's 2,483 feet away for an  
15 exception distance of 156.45 feet.

16 MR. MCGLOTHLIN: I just wanted to clarify that for the record.

17 THE WITNESS: I'm sorry. I didn't realize that it didn't have  
18 both numbers on there, Mr. McGlothlin. I'm glad you  
19 noted that for me. V8#2 is Docket Number VGOB-0219-83,  
20 for the record. The next well is U825, also designated  
21 as 20003. It will be the green in the southwestern  
22 portion of the map. It is an exception to Well U821,  
23 which is shown on this map as 20002, to the northwest.  
24 It's 2,559.46 feet and exception distance of 80.54 feet.  
25 This Well is also an exception to Well U8#26, shown on

1 our map as Well 20007. It's 2,633.78 feet from that  
2 well. Being an exception distance of 6.22 feet. This  
3 well is Docket Number VGOB-0326-89. U8#25. V8#10 is the  
4 northeastern most green dot on our map, also shown as  
5 Well 20008. It is Docket Number VGOB-0326-90. This well  
6 is an exception to U8#26, also shown as 20007. Distance  
7 of 2,208.33 feet apart and exception distance of 431.67  
8 feet. The fourth well, U8#19, also shown as 10915. Is  
9 Docket Number VGOB-0326-88. This well is close to the  
10 center of the map. It is an exception to our permitted  
11 well 20007 to the south. A distance of 2212 feet. It's  
12 an exception to Well 10907. A distance of 2213 feet or  
13 an exception distance of 426.64 feet. It's also an  
14 exception to our Well 10914, which is a distance of  
15 2462.64 feet and exception distance of 177.4 feet. Those  
16 are the four wells that we have asked for exceptions and  
17 where they're located and the wells to which they will be  
18 exceptions.

19 (Mr. Counts continues.) Mr. Halfacre, would you describe  
20 for the Board the ownership of the lands underlying these  
21 wells for which you are requesting location exceptions?  
22 Taking them in the same order, again, V8#2, which is also  
23 Well 10918, the northern most well. The ownership is  
24 Tract 1682, the Panq Virginia tract 100%, with the U. S.  
25 Forest Service owning the surface only. The next well,

1 U8#25, being 20003, down to the southwest. The mineral  
2 ownership is the Hagan Estates, Inc., with the surface  
3 being owned by the United States Forest Service. The  
4 third well, U8#10, being the eastern most well, and  
5 #20008, also. It's located with the boundary of Hagan  
6 Tract T-136, Virgil Young tract and Bernard Brickey  
7 tract. The surface is owned by the United States Forest  
8 Service. Well U8#19, also represented as 10915, is  
9 located within the boundary of Penn Virginia Tract 1602  
10 and the Hagan Mineral Tract 136. The surface owner is  
11 United States Forest Service.

12 Q. Mr. Halsey, you requested location exceptions for  
13 existing permitted wells of differing distances.  
14 Obviously, you are aware that the Board's primary concern  
15 is to protect the correlative rights of all parties.  
16 Does AHR own 100% of the leasehold within 1,320 feet,  
17 which is existing statewide presumption on drainage, of  
18 each of these wells?

19 A. Yes.

20 Q. Wells U8#19 and U8#26 are located less than 1,320 feet  
21 from the adjacent mineral boundary. Have you secured a  
22 voluntary agreement between the parties to allow these  
23 wells to be drilled at the permitted locations?

24 A. Yes, we have. We received consent of both Penn Virginia  
25 Resources and the Hagan Estates and we have exhibits

1 prepared to show that.

2 Q. Mr. Chairman, and Members of the Board, that will be  
3 Exhibit B -- approval from both estates. Mr. Halfacre,  
4 is it your opinion that by granting these location  
5 exceptions, that the Board will protect the correlative  
6 rights of all parties and to prevent waste?

7 A. Yes, it will.

8 MR. COUNTS: That's all the questions I have, Mr. Chairman.  
9 We will be calling, for the benefit of the Board, Mr.  
10 Mark Milliken for Operations. I'll also be calling Gus  
11 Sanders, engineer for ANR.

12 MR. CHAIRMAN: Mr. Halfacre, on V8#10, do you know the  
13 distance of that well from the boundary shown here --  
14 the Brickey/Young?

15 MR. COUNTS: Mr. Chairman, I might stipulate -- let Mr.  
16 Halfacre expand upon this, but ANR also has leases from  
17 the Young and Brickey interest.

18 MR. HALFACRE: Yes, sir. It's 816.26 feet. That would be to  
19 the Young tract. What we have propose is we will form a  
20 voluntary unit with a radius of 1320 feet, which will  
21 include portions of the Hagan estates lease, our Virgil  
22 A. Young lease and the Bernard Brickey, et al lease. All  
23 of which we have obtained leases from these parties.  
24 They will all share in production from this well based on  
25 voluntary unit.

1 MR. COUNTS: Basically, Mr. Chairman, the 1320 foot radius  
2 from Well 20006, or V8810, will extend beyond the U. S.  
3 Forest Service boundary line.

4 MR. CHAIRMAN: Any other questions, Members of the Board?  
5 Okay. Call your next witness.

6 MR. COUNTS: Mr. Chairman, I would like to call, now, Mr. Mark  
7 Milliken.

8  
9  
10 MARK MILLIKEN

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

13  
14 DIRECT EXAMINATION

15  
16 BY MR. COUNTS:

17 Q. Mr. Milliken, who are you employed by and what capacity?  
18 A. AMR Production Company/Coastal Oil and Gas.  
19 Q. Have your qualifications as an expert witness previously  
20 been accepted by this Board?  
21 A. Yes, they have.

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

24 MR. CHAIRMAN: Okay. Proceed.

25 (MR. COUNTS CONTINUES.) Mr. Milliken, do your respon-

1        activities include the lands involved here and the  
2        surrounding area?

3        A.    Yes, they do.

4        Q.    Are you familiar with the application for location  
5        exceptions for each of these wells?

6        A.    Yes, I am.

7        Q.    Mr. Milliken, who owns the surface underlying all of the  
8        wells for which you are seeking location exceptions?

9        A.    United States Forest Service, designated as the Jefferson  
10        National Forest.

11       MR. COUNTS: Mr. Chairman, at this time, I would to request  
12       that the Board adopt the prior testimony of Mr. Jim  
13       McInlyre regarding the Jefferson National Forest acreage  
14       and, specifically, the considerations involved in  
15       locating the wells on U. S. Forest Service acreage and  
16       the Environmental Impact Statement and assessor.

17       MR. CHAIRMAN: Any problems, Members? Okay. Proceed.

18       Q.    (Mr. Counts continues.) Mr. Milliken, has the Environ-  
19       mental Impact Statement been updated and were these  
20       specific well locations for V8a2, U8a25, V8310, and  
21       U8a19 approved as part of that Environmental Impact  
22       Statement?

23       A.    Yes, sir; they were part of a environmental assessment  
24       completed in 1990.

25       Q.    Is it your testimony that the location of proposed wells

1 V8a2, U8a25, U8a19 and V8a10 are the only locations in  
2 compliance with the official plan of development approved  
3 by the Environmental Assessment?

4 A: Yes, it is.

5 Q: Would you discuss briefly for the Board what factors make  
6 these location exceptions necessary?

7 A: Yes, the primary concern is topography. Then, we look  
8 for guidelines established in the Environmental Impact  
9 Statement maintaining those guidelines with respect to  
10 minimum land disturbance. We strive to locate sites on  
11 level areas avoiding drainages utilizing existing roads.  
12 We stay in compliance with the Virginia Gas and Oil soil  
13 and sediment control measures.

14 Q: Mr. Hilliken, is it your professional opinion and  
15 understanding that these well location exceptions  
16 represent locations which are required by environmental  
17 constraints and effective land management practices?

18 A: Yes, it is.

19 MR. COULTER: Mr. Chairman, I have no further questions of Mr.  
20 Hilliken.

21 MR. CHAIRMAN: Any questions, Members of the Board? Okay,  
22 Proceed, sir.

23 MR. COULTER: Thank you, sir. I'd like to call Mr. Gus  
24 Somers.

1 GUS SANDERS

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

4  
5 DIRECT EXAMINATION  
6

7 BY MR. COUNTS:

8 Q. Mr. Sanders, who are you employed by and in what capa-  
9 city?

10 A. AHB Production Company/Coastal Oil and Gas Corporation as  
11 a Petroleum Engineer.

12 Q. Have your qualifications as an expert witness previously  
13 been accepted by this Board?

14 A. Yes, they have.

15 MR. COUNTS: Mr. Chairman, I would like to offer Mr. Sanders  
16 as an expert witness in this matter.

17 MR. CHAIRMAN: Proceed.

18 Q. (Mr. Counts continues.) Mr. Sanders, are you familiar  
19 with the applications for each of wells?

20 A. Yes, I am.

21 Q. Mr. Sanders, was it necessary to spot these wells at  
22 locations due to topographic considerations, economic  
23 constraints, engineer considerations, and to conform with  
24 the U. S. Forest Service requirements?

25 A. Yes.

- 1 Q. Mr. Sanders, in the event that these location exception  
2 wells are not drilled, can you project the estimated loss  
3 of reserves?
- 4 A. I'd estimate that it would be between 450,000,000 and  
5 750,000,000 cubic feet of gas per well.
- 6 Q. Is it your professional opinion that these location  
7 exceptions are necessary to maximize recovery of this  
8 gas?
- 9 A. Yes.
- 10 Q. Mr. Sanders, you are familiar with Mr. McIntyre's and the  
11 U. S. Forest Service policy whereby any new Environmental  
12 Impact Assessment would require at least one year and  
13 assuming that a new Environmental Impact Assessment was  
14 completed within one to one and a half years, is there  
15 any guarantee that the Environmental Assessment would be  
16 approved?
- 17 A. No.
- 18 Q. Based upon your knowledge and experience in working, what  
19 factors would you base your answer on, Mr. Sanders?
- 20 A. The requirements of the Environmental Assessment,  
21 geological and engineering constraints and the topography  
22 and the spacing requirements of the Virginia Gas and Oil  
23 Act.
- 24 Q. Mr. Sanders, should all formations from the surface of  
25 the ground to the total depth drilled be covered by any

1 order issued by the board?

2 A. Yes.

3 Q. In your professional opinion, is there any other feasible

4 location on these tracts where these wells could be

5 drilled without requiring a location exception?

6 A. No.

7 Q. In your opinion, will granting these location exceptions

8 be in the best interest of prevention of waste, protect-

9 ing correlative rights and maximizing recovery of gas

10 reserves underlying these tracts?

11 A. Yes, it will.

12 MR. COUNTESS: Mr. Chairman, I have no further questions.

13 MR. CHAIRMAN: Any questions, Members?

14 MR. EVANS: Mr. Chairman, I'd like to make a motion.

15 MR. HASON: Can I ask one question before we do that? I

16 notice on this map that these wells lie right on Scott/-

17 Wise County line. I don't know what the policy of

18 either the Attorney General's Office or the Inspector's

19 Office -- the orders that relate to these exceptions,

20 would they be recorded in both counties or just in --

21 H. PULHART: They wouldn't be recorded.

22 H. LEPCHITZ: Pooling orders are the only ones that gets

23 recorded.

24 H. HASON: Are they the only ones recorded?

25 H. CHAIRMAN: Uh-huh.

1 MR. MASON: Okay. I'm just curious as to how, you know,  
2 people in one county or the other would have notice  
3 of --  
4 MR. LEPCHITZ: Just on what's in Tom's office.  
5 MR. CHAIRMAN: And they've been noticed by publication of  
6 today's hearing.  
7 MR. EVANS: Mr. Chairman, I would like to make a motion that  
8 we accept these spacing exceptions for these four wells  
9 presented.  
10 MR. CHAIRMAN: Okay. I have a motion to accept the --  
11 MR. MASON: Second.  
12 MR. CHAIRMAN: I have a motion and a second. All in favor  
13 signify by saying yes. Oppose say no. It's unanimous.  
14 (Motion carries.)  
15 MR. COUNTS: Thank you, Mr. Chairman, Members of the Board.  
16  
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1 (AFTER A BRIEF RECESS, HEARING CONTINUED AS FOLLOWS:)

2  
3 (ITEM 24)

4  
5 MR. CHAIRMAN: Back on record. Mr. Counts has requested that  
6 we skip to Number 24. I think you have something here  
7 you can get off the record for today, Mr. Counts?

8 MR. COUNTS: Yes, sir, Mr. Chairman. This is the last item  
9 I've got today. It involves a Edwards & Harding well.  
10 It is my understanding from talking to Mr. Rasmake, that  
11 they're going to withdraw those applications.

12 MR. CHAIRMAN: If Mr. Rasmake is here, come forward, please.

13 MR. RASNAKE: The applicant, Edwards and Harding, requests  
14 that the Board withdraw all of our applications pertain-  
15 ing to Item Number 24.

16 MR. CHAIRMAN: This is Docket Number VGOB-0521-127. It's your  
17 pleasure that we remove this?

18 MR. COUNTS: Yes, sir. That the request for withdrawal be  
19 granted by the Board.

20 MR. CHAIRMAN: Withdrawn. Okay. Any objections to with-  
21 drawal? If not, so granted.

22 MR. COUNTS: Thank you, Mr. Chairman.  
23  
24  
25

(ITEMS 8 - 15)

MR. CHAIRMAN: We'll return to Item Number 8 on the agenda. Petition for the establishment of compulsory pool drilling unit under Section 45.1-161.22 from OXY. USA, Inc. This is Docket Number VGOB-0430-99. Would all the parties that wish to address the Board regarding this docket number please come forward.

MR. SWARTZ: Mr. Chairman, Mark Swartz and Tim Scott appearing for OXY. USA on Docket Item 8. I would like to request that the Board permit us to dismiss Docket Items 8, 9, 10, 11, 12, 13, 14 and 15. The VGOB numbers are VGOB-0430-99 through 106. The only adverse party on all of those pooling applications was EREX. These were continued from the last hearing. I indicated that we were optimistic we could work out a voluntary agreement with EREX. We have. Therefore, that's why we're asking that these be dismissed.

CHAIRMAN: Any questions? Just for the record, on these numbers, I'll entertain a motion to accept the dismissal?

MR. SWARTZ: So move.

CHAIRMAN: We have a motion.

MR. SWARTZ: Second.

CHAIRMAN: A motion and a second. All in favor signify by saying yes. Oppose say no. So granted.

(ITEM 18)

MR. CHAIRMAN: The next item on the agenda is 18. Petition for the establishment of a compulsory pool drilling unit under Section 45.1-361.22 from OXY, USA, Inc. This is Docket Number VGOB-0521-119.

MR. SWARTZ: Mr. Chairman, again, Mark Swartz and Tim Scott for OXY, USA on Unit Number P-35. I have some exhibits that I would like to file with regard to this unit before we start so that you have them. I'd like to file ten copies of Exhibit H, which is a proposed order for this unit. I would like to file ten copies of exhibit -- that we've marked as Exhibit I, which deals with DWE costs. The familiar affidavit of Ken Price with regard to the authority of Mr. Epperly to sign consent to frack forms, which I think is Exhibit G.

MR. CHAIRMAN: It is Exhibit G.

MARTIN E. WIRTH

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Could you state your name for the record, please?

A. Martin E. Wirth.

Q. Who do you work for?

A. OXY, USA, Inc.

Q. Your title?

A. Project Land Manager.

Q. Do your responsibilities as Project Land Manager include responsibilities with regard to the unit in question today, or at this point, which is P-35?

A. That's correct.

Q. What are your responsibilities that would involve this unit?

A. I administer all land activities, file all applications, monitor all the activities pertaining to royalties, working interest.

Q. Did you actually sign both the notice and the application that were filed with regard to P-35?

A. Yes, I did.

Q. So you've reviewed the documents and participated in their preparation?

A. That's correct.

Q. Have you testified before this Board before?

1 A. Yes, I have.

2 Q. Have your qualifications been accepted?

3 A. Yes, they have.

4 Q. Could you tell me what State OXY, USA is incorporated in?

5 A. It's a Delaware corporation.

6 Q. Is OXY, USA authorized to do business or transact

7 business in the Commonwealth of Virginia?

8 A. Yes, we are. We have filed a record with the Department

9 -- all certifications and requirements as required by the

10 State of Virginia.

11 Q. Have you filed any bonds with the Department?

12 A. Yes, we have. We have and all bonds covering the

13 activities.

14 Q. Are those blanket bonds?

15 A. Yes, they are.

16 Q. With regard to the respondents that you are seeking to

17 force pool in this unit, P-35, there is a list of folks

18 contained within the Notice of Hearing, is there not?

19 A. That is correct.

20 Q. There were 26 people identified in the original Notice of

21 Hearing?

22 A. That's correct.

23 Q. Subsequent to filing the Notice of Hearing, can you tell

24 me whether or not you learned of additional people that

25 you believed you should notify?

1 A- Yes, we were. Upon sending out notices and letters --  
2 through the Franks' Estate, Mr. J. C. Franks was kind  
3 enough to inform us of an up-to-date mailing address and  
4 also parties that do come under the estate and was very  
5 helpful in that information. At that time, I filed an  
6 amended Exhibit B before the Board to indicate so parties  
7 and their new addresses.  
8 Q- Exhibit E is attached, or was attached, to the applica-  
9 tion, was it not?  
10 A- That's correct.  
11 Q- When you filed an amended Exhibit B, did you write the  
12 word "amended" on it so the Board would know that they  
13 had an amended exhibit?  
14 A- No, I did it by cover letter.  
15 Q- Okay. How would the Board tell which is the amended  
16 exhibit and which was the original Exhibit B?  
17 A- It would be very hard without the cover letter.  
18 Q- Well, actually it might be easy. Are there more people  
19 on the amended exhibit?  
20 A- There are more people, yes, sir.  
21 Q- So the exhibit that's amended has how many folks listed?  
22 A- It has 30 respondents listed.  
23 Q- So, for the record, the difference and the way to  
24 identify the amended Exhibit B is if it has 30 respon-  
25 dents listed -- that's the amended exhibit?

1 A: Yes, Sir.

2 MR. SWARTZ: There is also one additional amendment which we  
3 will get to when Mark Karen testifies. As long as we're  
4 scratching things out or making sure we've got the  
5 amendments -- if you would turn to Exhibit C. There is a  
6 double entry on Exhibit C which is the DWG for this Unit  
7 P-35. If you come down below the 200 feet of 2" line  
8 pipe, you'll see the second entry after that is sub-sur-  
9 face casing equipment. That item appears twice. You'll  
10 notice it down toward the bottom again. The first entry  
11 for \$1,700 is actually a tank on the surface. It's a 100  
12 barrel tank. Mr. Karen will explain that. So the  
13 numbers don't change, but for some reason the tank was  
14 called casing equipment. So you might make a note on  
15 Exhibit C. This will recur, unfortunately, on the  
16 balance of all six of these today.

17 (Mr. Swartz continues.) Have you mailed, or attempted to  
18 mail, a notice, by certified mail, return receipt  
19 requested, to all of the respondents listed on the  
20 appended Exhibit B?

21 A: Yes, we have.

22 Was there a duplicate mailing, or was there a change,  
23 with regard to Myrtle Arthur?

24 A: Yes, there was. Again, by the assistance of Mr. Franks,  
25 he informed us that there was a change in the -- I

1 believe she is deceased and Charles Myrtle is the one I  
2 should contact.  
3 Q. Charles Arthur?  
4 A. Arthur, excuse me.  
5 Q. On the original Exhibit B, Myrtle Arthur was listed as  
6 number 10 on the respondent's list. On the amended one,  
7 Charlie B. Arthur is listed in her stead, is that  
8 correct?  
9 A. That's correct.  
10 Q. Have you mailed to Mr. Arthur?  
11 A. Yes, I have.  
12 Q. Can you tell me whether or not a notice was published in  
13 any newspaper with regard to Unit P-35?  
14 A. Yes, it was.  
15 Q. Which newspaper would that have been?  
16 A. That would have been the Virginia Mountaineer.  
17 Q. The date of publication?  
18 A. April 25.  
19 Q. 1991?  
20 1991.  
21 Q. What was published in the newspaper?  
22 Published the notice as given to the Board and presented  
23 to the Board -- the complete Notice of Application.  
24 The Notice of Hearing?  
25 A. That's correct.

1 Q. Was there a little map published as well?

2 A. That's correct.

3 Q. That little map is Exhibit A1, is it not?

4 A. That is correct.

5 Q. That shows the approximate location of Unit P-35?

6 A. That is correct.

7 Q. With regard to Unit P-35, have you received cards back

8 from all of the respondents that they have received their

9 mail?

10 A. We received cards or the envelopes were returned back as

11 not accepted or forwarded to further address.

12 Q. Have you filed with the Board as, I believe it would be

13 Exhibit F, copies of all receipts for certified mail,

14 which you got when you delivered the mail to the post

15 office and, then, the domestic return receipts that the

16 people signed for the mail or copies of the items that

17 were returned by the post office?

18 A. Yes, we have.

19 (CHAIRMAN): Excuse me, Mr. Swartz. Folks, I'm going to

20 have to ask you to not have discussions because it does

21 interfere with the recording transcript. Thank you for

22 your cooperation. Continue.

23 (Mr. Swartz continues.) Mr. Worth, I'd like you to

24 direct your attention now to the question of Oxy's

25 standing to be an applicant to attempt to obtain a

1 compulsory pooling order here. I realize at some point,  
2 hopefully, the next hearing, we're going to have a little  
3 different exhibit, but if you would refer to Exhibit A  
4 and the map. Actually, it might be easier for the Board  
5 if you'd look at the well location map, which is Exhibit  
6 A, page 1. If you'll notice, Mr. Worth, that I colored a  
7 little piece of that map?

8 A. Yes, sir.

9 Q. What is the significance of this corner with regard to  
10 standing questions and ownership questions?

11 A. That is the acreage involved for the J. H. Franks estate  
12 and, also, Edwards and Harding reserved coal properties.  
13 That represents 4.5% of the 80 acre unit that's involved  
14 on this.

15 Q. The 30 people that are named as respondents in Exhibit B,  
16 is there interest, if any, limited to the little area  
17 that is colored yellow here in this little corner of the  
18 unit?

19 A. That's correct.

20 Q. With regard to the balance of the unit that is not  
21 colored yellow on the plat map, could you generally  
22 describe Oxy's interest, if any, with regard to the  
23 balance?

24 A. Yes, Oxy has coal and methane leases covering 95.5% for  
25 the remaining of the unit. Also, Oxy has 100% of the

1 coal leased under the remaining of that unit there.

2 Q. The coal that's leased is -- could you describe that with  
3 regard to the seams that we're talking about?

4 A. That is from below the Tiller seam or drainage as it  
5 referred to the Pocahontas Number 3 seam.

6 Q. The proposed well here would produce coal bed methane  
7 from what coal seams?

8 A. That would produce from Pocahontas Number 3 up to the  
9 Tiller.

10 Q. So no seams -- you're not seeking to pool or produce from  
11 any seams above the Tiller?

12 A. No. That's correct. It was drilled under the Oakwood  
13 Field Rules.

14 Q. Now, you'll recall that we've had some discussions in the  
15 past with regard to the plat maps and the unit size  
16 that's shown on here. There's a little box at the foot  
17 of Exhibit A, Page 1 that has an acreage notation. What  
18 is that?

19 A. That is the acres -- if you'll notice above that, it  
20 says, "farm" and, then, "tract". It says, "BVP-  
21 107", referring to Big B -- Pocahontas Tract 107.  
22 In that tract, there's approximately 465, some odd  
23 acres on that.

24 Q. The unit that is shown as P-35 on the plat map, Exhibit  
25 A, Page 1, contains how many acres?

1 A. That is an 80 acre grid.

2 Q. What instructions have you given, if any, to your staff  
3 and surveyors and engineers with regard to future maps?

4 A. Future maps will also state on the plats for Exhibit A --  
5 will also contain the number of acres inside each unit  
6 for the Board's reference and everyone's reference.

7 Q. Have you previously filed with the Board copies of an  
8 Exhibit D -- a consent to stimulate?

9 A. Yes, we have.

10 Q. That consent was obtained from whom?

11 A. Island Creek Coal Company.

12 Q. What is their relationship to the seams that you're  
13 intending to produce from?

14 A. They're the coal lessee in and under the coal seams that  
15 we wish to try to produce from within 750 feet of the  
16 well bore.

17 Q. Have we also filed today ten copies of a affidavit of  
18 authority, Exhibit G, signed by Ken Price?

19 A. Yes, we have.

20 Q. Who is Ken Price?

21 A. Ken Price is the vice president, general manager of the  
22 Virginia Division of Island Creek Coal.

23 Q. In essence, what does that affidavit state?

24 A. It's an affidavit saying that a person -- Harold Epperly  
25 -- working for the division which Mr. Price is the vice

1 president and does have the authority to execute any  
2 consent to stimulate forms that may be submitted.

3 Q. Mr. Epperly is the gentleman who signed the consent to  
4 stimulate with regard to P-35, correct?

5 A. Yes, he is.

6 Q. We have also tendered to the Board today, because we have  
7 had questions and concerns in the past with regard to  
8 DWE's, a exhibit which may serve to confuse the issue  
9 further, but that is not why it was tendered. Exhibit I  
10 is a collection of some charts -- or spread sheets and  
11 graphs. What we have done on the first page -- this will  
12 all be in the record by the time we finish today -- we  
13 have tracked the six wells that we're going to be dealing  
14 with today. We've identified them by unit number. We've  
15 sorted them -- if you take the first page of Exhibit I --  
16 We sorted them in relation to the depth. So we started  
17 out with a 1,610 deep well and go down, in order, to a  
18 2,418 foot well. We recapture the cost not shown on the  
19 DWE's that you'll be hearing about today. We break it  
20 out on a cost per foot basis. Then, most importantly, I  
21 think -- this is a point that we try to convey to the  
22 board, I think unsuccessfully -- this is one of the  
23 things we'd like to show you today is to show you the  
24 relationship of fixed costs. In other words, regardless  
25 of whether you're drilling a 1400 foot well or a 2,500

1       first well, you've got "x" number of fixed costs. They  
2       are very, very similar. They may vary slightly, but  
3       they're going to be about the same for any well. Then,  
4       we looked at the variable costs. So we've got a spread  
5       here of about 800 feet in depth. You can see how the  
6       variable costs do vary and do change over that depth.  
7       Then, we've just broken up fixed costs as a percentage of  
8       total cost in the second to last column. Variable costs  
9       is a percentage of total costs in the last column on the  
10      first page. The chart, which is the second page of  
11      Exhibit I, again picks the six drilling units that we're  
12      actually going to be talking about today, sorts them from  
13      left to right with regard to depth -- from the shallowest  
14      to the deepest -- then shows the cost of the wells. The  
15      next chart does about the same thing, but what it does --  
16      the darker, shaded portion of the bar graph shows the  
17      fixed costs and the spotty, or dotted, portion on the top  
18      -- it's a stacked bar -- shows the variable costs. It  
19      just gives you a graphic representation of fixed and  
20      variable costs with regard to each of these wells. The  
21      solid line, which kind of runs across, tracks the well  
22      depth. Another thing that we've done is we've taken a  
23      well -- unfortunately, it's on one of the ones that we  
24      discovered because we didn't know until late last night  
25      that we were going to be dismissing it -- but I took the

1 DWE that was filed with regard to Unit G-33 -- you'll see  
2 the next page is entitled "DWE Cost Descending Order".  
3 We simply sorted them from the most expensive item to the  
4 least expensive item, then gave you a chart to give you  
5 some idea of the impact of fixed costs in a visual way.  
6 Obviously, item one, which is the longest line, or  
7 tallest line in the chart, is fracture stimulation.  
8 That's \$81,000. That's a fixed cost. If you stimulate  
9 three seams, that's what it's going to cost. Item two is  
10 contract drilling, which is the most expensive. If you  
11 take the shallowest well that we have that was under  
12 consideration today, it's 1610 feet, we're at approxi-  
13 mately \$20.00 a foot for contract drilling. That's the  
14 number we're using in the DWE's. So you can see that  
15 \$32,000 is going to be built in as a starting point for  
16 the shallowest well. So we're up around \$110,000 -- just  
17 the first two items. Location and title for every well,  
18 we're assuming, is about the same. We're up to about  
19 \$150,00 in just the three items. You can see where the  
20 bulk of the money is and get some sense of where it is.  
21 Obviously, once you get to item 12, for example, it looks  
22 like you're well under \$5,000 and you're tailing off to  
23 almost nothing at item 23. But it gives you a sense of  
24 where the money is. The next page, which is a well depth  
25 cost versus well cost -- in fact, there are three very

1 similar charts. This is similar to the ones you've  
2 already seen. Then, there's a final page which sorts  
3 well costs versus well depth. What I think these charts  
4 show you, or at least I hope what they show, I think we  
5 all have a -- our common sense tells us that a shallower  
6 well ought to cost less than a deeper well. If you look  
7 at these charts, that's confirmed by that. What they  
8 also show you, and I'll get into this with Mark to  
9 explain why of these numbers are what they are -- but  
10 they also show because the variable costs are a fairly  
11 minimum percentage of the overall total cost, the  
12 variation well cost from one well to the next is not  
13 going to be dramatic. I mean, the variation, if you look  
14 at the six wells we're talking about here in raw dollars,  
15 the least expensive well is \$227,000 at 1610. The most  
16 expensive, at 2,418 is \$259,000. We're talking about a  
17 \$32,000 difference over approximately 808 feet. So, it's  
18 not a dramatic difference but it does show in general, I  
19 think, or at least I hope, that there is a relationship  
20 between depth and cost. Generally, the deeper the well,  
21 the more expensive it is. You will notice here, and  
22 we'll talk about this, that some of the wells when you  
23 look at these charts, seem to kind of pop out of the line  
24 that you would expect. We will discuss why that is and  
25 try to explain why there are such variations. I'd like

1 to call Mark Karem and have him testify.

2 MR. CHAIRMAN: While you're doing that, I would like to  
3 commend you for the little map and attempt to do a  
4 little more to notice the public on where the area is  
5 located, as well as this exhibit to attempt to clarify a  
6 lot of questions that the Board has had. We may have  
7 others, but we appreciate that.

8 MR. SWARTZ: We try. We don't always succeed, but we try.  
9  
10

11 MARK S. KAREM

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

15 DIRECT EXAMINATION  
16

17 BY MR. SWARTZ:

18 Q. Could you state your full name, again, for me?

19 A. Mark Steven Karem.

20 Q. Who do you work for?

21 A. OXY. USA.

22 Q. Out of what office?

23 A. The Richlands office.

24 Q. Have you testified before the Board before?

25 A. Yes, I have.

1 Q. Have your qualifications been accepted?

2 A. Yes, they were.

3 Q. In addition to your law degree, do you also have an

4 engineering degree?

5 A. Yes.

6 Q. In what?

7 A. Petroleum engineering.

8 Q. Did you prepare the six DWE's that we're going to be

9 talking about today?

10 A. Yes, I did.

11 Q. With specific reference to Unit P-35, did you prepare the

12 DWE?

13 A. Yes.

14 Q. Do you want to make a change with regard to the terminol-

15 ogy that you used when you originally prepared the DWE on

16 P-35?

17 A. Yes.

18 Q. Could you tell the Board what change that is?

19 A. Under the 100 feet of the 2" pipe line, 2 items down, I

20 had inadvertently had subsurface casing equipment. I

21 have that twice, which is incorrect. What was supposed

22 to go there was 100 barrel fiberglass tank. The cost is

23 the same. That was correct. It was just the wrong

24 nomenclature for the detail.

25 Q. What is the purpose of that 100 barrel fiberglass tank?

1 A. Once the wells are put on production, they will produce a  
2 small amount of water. That's where -- the water will be  
3 diverted to that tank.

4 Q. Is the subsurface casing equipment related to the  
5 production of water, that shows later, or is that related  
6 to something else?

7 A. It would be more related to the drilling and cementing.

8 Q. Referring to Exhibit I for a minute, Mark, when we look  
9 at -- if we go to the last page, for example, of Exhibit  
10 I. You'll notice that it seems, from the deepest well to  
11 the shallowest well, we could almost put a ruler on there  
12 and get a line showing a decline. Do you see that?

13 A. Yes.

14 Q. There are some, for example, the well that's projected to  
15 cost \$250,000, which is 210, it kind of jumps out of  
16 scale, doesn't it?

17 A. Right.

18 Q. Without looking at that specifically -- because we'll  
19 eventually be talking about that today -- what are, in  
20 your experience in preparing these DWE's, what are the  
21 kinds of things that can cause the cost of any given well  
22 -- let's say, you've got two wells and they're both 1,800  
23 feet deep -- what are the kinds of things that sometimes  
24 make one 1800 foot well cost a lot more than another  
25 1,800 foot well?

1 A. That could be affected by the depths of the water table  
2 and the coal seams in the area where there will be coal  
3 mining operations. Usually, we will work out some  
4 agreement with the coal companies to run a string of  
5 casing to a certain depth. On different locations, these  
6 things may be deeper or shallower than the other ones.  
7 So we'll have to run our protective string either deeper  
8 or more shallower. That affects the cost, probably,  
9 greater than anything else.

10 Q. Let's look at ground water protection for a minute. Are  
11 you required to provide for any ground water protection  
12 in every well?

13 A. Yes.

14 Q. What is it, physically, that needs to be done?

15 A. The well -- the side -- that bit has to be drilled and  
16 penetrated beyond that seam or that formation, whether  
17 it's a coal seam or a water seam. Then, that seam has to  
18 be protected by pumping cement up the back side -- casing  
19 off that particular zone.

20 Q. So basically what you're saying is you have to go below  
21 the ground water?

22 A. Right.

23 Q. You have to put in a casing?

24 A. Right.

25 Q. To whatever depth that may be?

1 A. Correct.

2 Q. And you have to cement it?

3 A. Correct.

4 Q. Is that depth going to vary from one well to the next?

5 A. Yes, it will.

6 Q. Will we see that today when we look at these?

7 A. We should, yes.

8 Q. Now, with regard to coal seams, what does the law require

9 you to do, that might cost more in one well than another,

10 with regard to coal seams?

11 A. Basically the same -- to penetrate it and to have it

12 cased off.

13 Q. In a real common sense, are you required to case off

14 minable coal seams?

15 A. Yes.

16 Q. When you're dealing -- let's say you're dealing with two

17 different coal companies and you're in the same seam, you

18 go to them -- is it possible that you'll get one coal

19 company saying this seam is minable in our view and we

20 want you protect it. And the other one will say we're

21 never going to mine that?

22 A. Yes.

23 Q. Is it up to, in a sense, the judgment of the coal

24 company you happen to be dealing with as to whether or

25 not you're going to have to install casing in any given

1 seam?

2 A. That's correct.

3 Q. Are we going to see some situations where that may be

4 affected today?

5 A. Yes. Yes.

6 Q. Going to Exhibit C, when did you prepare Exhibit C with

7 regard to Well P-357?

8 A. That one is dated March 22nd.

9 Q. 1991?

10 A. 1991.

11 Q. So that's within 90 days of today's hearing?

12 A. Right. Yes.

13 Q. You signed it?

14 A. Yes.

15 Q. Tell me what the total cost is?

16 A. \$236,590.

17 Q. Can you tell me whether or not that sum is your -- is a

18 reasonable estimate as to the probable cost of drilling

19 the proposed well?

20 A. Yes, it is.

21 Q. What is the target formation of this well?

22 A. P-357 is Number 3 coal seam.

23 Q. It's anticipated you would be fracking and producing from

24 that seam?

25 A. That's correct.

1 Q. In this well deep enough to accomplish that purpose?  
2 A. Yes.  
3 Q. With regard to the provision in the DWE for frack, how  
4 many fracture stimulations are you assuming will occur?  
5 A. Three.  
6 Q. With regard to this particular exhibit on P-35, how much  
7 have you allocated for that?  
8 A. \$79,000.  
9 Q. In your duties with Oxy, do you also have responsibilit-  
10 ies with regard applications and exhibits, other than  
11 just the detailed well estimate?  
12 A. Yes.  
13 Q. In general, what are some of your other duties?  
14 A. Permitting, helping to prepare permits, water disposals,  
15 areas like that.  
16 Q. Would it be fair to say, then, that you are specifically  
17 aware of the proposed well here and the work permit  
18 application?  
19 A. Yes.  
20 Q. And aware of the application that was filed in this  
21 permit?  
22 A. Yes.  
23 Q. Can you tell me whether or not it is your opinion that  
24 the applicant's plan for developing the coal bed methane  
25 follow the latter in Unit P-35 is a reasonable plan which

1 will serve to protect the correlative rights and avoid  
2 both physical and economic waste?  
3 A. Yes, it is.  
4 Q. Are you recommending to the Board that they approve this  
5 application?  
6 A. Yes, I am.  
7 MR. SWARTZ: That's all I have.  
8 MR. EVANS: Mr. Chairman?  
9 MR. CHAIRMAN: Mr. Evans.  
10 MR. EVANS: Since you've opened the can of worms, how do you  
11 determine the depth of the ground water?  
12 THE WITNESS: Usually, in most of these areas that have core  
13 holes drilled by various coal companies and we get to  
14 look at their logs.  
15 MR. EVANS: Are those logs generally resistivity logs or were  
16 the water log?  
17 THE WITNESS: Yes, it probably would be resistivity -- it  
18 could show.  
19 MR. EVANS: I'm asking -- is that done as a matter of course  
20 -- is the resistivity log done as a matter of course on a  
21 coal exploration hole, which I'm assuming --  
22 THE WITNESS: I don't think on the methane wells. I think  
23 they run density logs.  
24 MR. EVANS: So how do you determine where your ground water  
25 is?

1 THE WITNESS: Well, with the resistivity curve, you can see  
2 where a water formation is. It'll be a highly, resist-  
3 ivity zone. I guess, on these core holes. But that's  
4 more or less what we're basing them on -- and our  
5 proposed depths.

6 MR. EVANS: That's why I was asking, because I know it's not  
7 -- some companies generally will run gamma and  
8 density --

9 THE WITNESS: Gamma ray logs, density logs, yeah.

10 MR. EVANS: On a coal --

11 THE WITNESS: Right.

12 MR. EVANS: I'm assuming you're talking about -- when you talk  
13 about a -- you're talking about a coal exploration?

14 THE WITNESS: Right.

15 MR. EVANS: As opposed to anything else?

16 THE WITNESS: Yeah, a gamma ray, you know, you'll see your  
17 formations. The same, you know, we have higher areas of  
18 permeability or porosity, which would be a water sand,  
19 you see, so that's how we're able to --

20 MR. EVANS: Translate.

21 THE WITNESS: Right.

22 MR. EVANS: That it could be a water sand. There's no  
23 guarantee that it has water in it.

24 THE WITNESS: No, but it's more likely, I would think.

25 MR. EVANS: (He waits continues.) Could you indicate, approximate-

1 ly, how many core samples are available to you all?

2 A. I don't know if I could give an exact figure, but it's

3 you know, it's hundreds. There's been many.

4 MR. SWARTZ: How many core samples do you have in the Oakwood

5 field that are available to you, approximately.

6 MR. WORTH: Approximately 230 core holes in the acreage that

7 we're developing.

8 MR. MCGLOTHLIN: Mr. Chairman.

9 MR. CHAIRMAN: Mr. McGlothlin.

10 MR. MCGLOTHLIN: First of all, I'd like to commend Mr. Karem

11 on his new DWE. I like it. However, how much trouble

12 would it be to add the depth to that?

13 MR. KAREN: Proposed depth?

14 MR. MCGLOTHLIN: Yes.

15 MR. KAREN: I think on our June DWE's I have it. The ones

16 that I submitted for June has proposed depth -- or it has

17 a depth on it. If the well has been drilled, I put

18 actual and if it's proposed, I put proposed.

19 MR. MCGLOTHLIN: Also, how many wells has Oxy drilled to date?

20 MR. KAREN: To date?

21 MR. MCGLOTHLIN: Yes, sir.

22 MR. KAREN: If I could count them real quick, I'd --

23 MR. MCGLOTHLIN: Several. What --

24 MR. KAREN: 55.

25 MR. MCGLOTHLIN: Oh, okay. What is your percentage of error

1           Q    What was the actual cost of the well?

2   MR. LARSEN    A    That's a tough question because there's a lot

3                of things in the DNE we haven't done, you know, as far

4                as --

5   MR. LARSEN    A    They haven't completed any of them.

6   MR. SWARTZ    A    We're not done.

7   MR. LARSEN    A    Yeah, we haven't run completions or fracked any of

8                them.

9   MR. WOLFFSTEIN,   Q    Okay. I'll table that question until you

10               complete some.

11   MR. SWARTZ    A    Well, you will see later today that, for example

12                -- oh, no, it's on one of the ones we dismissed, isn't

13                it? One of the ones that we dismissed we projected at,

14                I think, about 2,100 feet, and we had to move the loca-

15                tion. It turned out it was about 2,400 and some feet.

16                We did it ahead the DNE we were going to file with you

17                this morning. So, I mean, sometimes -- depending on, you

18                know, changing the location or whatever, it can change

19                pretty dramatically. That was one of the ones with ESEK

20                -- we dismissed so I can't show you that.

21   MR. LARSEN    A    I was just curious to see how much your

22                figuring -- how accurate you are.

23   MR. WOLFFSTEIN,   Q    Any other questions. Do you have any other

24                --

25   MR. SWARTZ    A    No.

1 MR. CHAIRMAN: What's your pleasure?  
2 MR. MCGLOTHLIN: I move that we accept Oxy's petition.  
3 MR. MASON: Second.  
4 MR. CHAIRMAN: I have a motion to approve the petition. You  
5 said accept, you meant to approve it?  
6 MR. MCGLOTHLIN: Yes, sir.  
7 MR. CHAIRMAN: To approve it.  
8 MR. MCGLOTHLIN: To approve it.  
9 MR. CHAIRMAN: And second. All in favor signify by saying  
10 yes. Oppose say no. Unanimously approved.  
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1 (AFTER A LUNCHEON RECESS, HEARING CONTINUED AS FOLLOWS:)

2  
3 (ITEM 19)

4  
5 MR. CHAIRMAN: The next item on the agenda is petition for  
6 establishment of compulsory pooled drilling unit under  
7 Section 43.1-361.22 from OXY, USA, Inc. This is Docket  
8 Number VGOB-0521-120. I'd ask any of the parties that  
9 wish to address the Board in this regard to come forward,  
10 please.

11 MR. SWARTZ: Every once in a while somebody makes a mistake.  
12 There's a mistake on this one and I've got an alternative  
13 for you. Of all the people to neglect to give notice to,  
14 for some reason or another we did not mail a notice to  
15 Ashland Exploration, which Marty and I caught on Sunday.  
16 We anticipate that, perhaps, they might have wanted to  
17 receive notice based on their past performance. So we  
18 think we have two alternatives to offer. If there are  
19 any folks here with regard to this unit who have traveled  
20 here, I would propose that we accommodate them and hear  
21 whatever they have to offer, let us proceed and, then,  
22 adjourn this without any decision until the next hearing  
23 so that Oxy can give notice to Ashland. They gave  
24 notice, apparently, to everybody else -- it's amazing.  
25 so if they plan to object as they usually do, they can

1 tender that objection at the next hearing. If there are  
2 no people here that want to participate, what I would  
3 propose to do is move the Board to let us adjourn it for  
4 the purpose of just giving notice to Ashland of the  
5 adjourned hearing date so they can be here next month.

6 MR. CHAIRMAN: Are there any parties here that wish to address  
7 the Board regarding Well Q-35? Docket Number VGOB-0521-  
8 120. Any of you that are here today that want to address  
9 the Board regarding this? The record will show that  
10 there is no one here. What's your proposal, Mr. Swartz?

11 MR. SWARTZ: In that event, since no one would be incon-  
12 venienced, I would like to move the Board to adjourn this  
13 until the next hearing for the express purpose of  
14 allowing us to give notice by mail to Ashland Explora-  
15 tion.

16 MR. CHAIRMAN: So we'll just continue it?

17 MR. SWARTZ: Yes.  
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20  
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(ITEM 20)

MR. CHAIRMAN: The next item on the agenda is petition for establishment of compulsory pooled drilling unit from OXY, USA, Inc. Docket Number VGOS-0521-121. Anyone that wishes to address the Board regarding this, please come forward.

MR. SWARTZ: Mr. Chairman, Mark Swartz and Tim Scott for the applicant. Mr. Wirth would be my first witness.

MARTIN E. WIRTH

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q Could you state your name for the record again, Marty?

A Martin E. Wirth.

Q I'll just remind you that you've previously been sworn today and you're still under oath.

A Yes.

Q Who are you employed by?

1       Oxy. USA, Inc.  
2       Q.   Your title with Oxy?  
3       A.   Project Land Manager.  
4       Q.   Have you been involved in the preparation of the notice  
5       of hearing, some of the exhibits, and the application  
6       with regard to Unit Z-10?  
7       A.   Yes, I have.  
8       Q.   Are you familiar with this unit -- the proposed plan of  
9       development and the application?  
10      A.   Yes, I am.  
11      Q.   The notice of hearing lists four people or groups of  
12      people. Correct?  
13      A.   That's correct.  
14      Q.   Can you tell me whether or not service by mail -- or  
15      notice by mail was accomplished with regard to these  
16      people?  
17      A.   Yes, if was.  
18      Q.   How was that done?  
19      A.   Certified, return receipt requested.  
20      Q.   Is there an Exhibit B which also lists the persons  
21      concerning that you are seeking to pool in this unit?  
22      A.   Yes, there is.  
23      Q.   That Exhibit B, with regard to Unit Z-10, lists four  
24      people, does it not?  
25      A.   Correct.

1 Q. There's a column "gross acreage within unit"?

2 A. That's correct.

3 Q. Then, it shows the undivided acreage within unit?

4 A. Undivided interest, yes, sir.

5 Q. Could you use the plat map, which is Exhibit A, page 1 --

6 if you could turn it around and highlight or point to

7 the portions to show the Board where the interests of the

8 respondents are located and what we're talking about

9 here.

10 A. On Exhibit A, I've highlighted -- the top of the map

11 being north -- the smallest percentage of the acreage of

12 the northwest corner. This acreage represents .73

13 percent of the 80 acre unit or .59 acres. Of this

14 tract, there are basically two families involved -- the

15 Price heirs and the Mary Lester heirs. The majority

16 interest of the Price heirs have leased, but there are

17 three remaining respondents that have not executed a

18 lease with OXY, USA at this time. The Mary Lester heirs

19 are still unknown because of probate. I explained in the

20 previous hearings that they're trying to get a probate

21 proceeding to straighten out her estate.

22 With regard to the balance of the acreage, or the 80 acre

23 unit, that is shown on Exhibit A, page 1, could you

24 describe OXY, USA's interest in the rest of the acreage --

25 -- judging that little triangle that we've been discuss-

- 1 ing in the northwest corner.
- 2 A. OXY, USA in net figures -- I won't go into the gross --  
3 we have over 93 percent of the parties under lease -- the  
4 coal owners and the oil and gas owners. With the coal  
5 bed methane lease, we also are designated operator -- as  
6 an operator under any coal lease of Island Creek Coal  
7 Corporation.
- 8 Q. Now, when we're talking about coal, are we talking about  
9 some of the seams, or not all of the seams, and if so,  
10 which ones?
- 11 A. These seams, again, are the Tiller and below, which is  
12 the drainage to the Pocahontas Number 3.
- 13 Q. The production proposed for this unit, 2-10, would be  
14 from the tiller or below?
- 15 A. It would be below the Tiller, yes, sir.
- 16 Q. Now, again, we've got a plat map here which shows, a big  
17 "K", tract 10, and shows 100 acres. What is the actual  
18 acreage that is contained within Unit 2-10 that we're  
19 seeking to pool?
- 20 A. If you'd notice on the right hand side, it is marked 80  
21 acre grid. This is a plan that most of the surveyors  
22 will try to mark off to indicate this is an 80 acre unit.  
23 The problem we have, as you can see on this one, it gets  
24 pretty cluttered. That, basically, will have lines  
25 showing if it's an 80 acre or 111 acre, or whatever unit

1       it will be.

2   Q-   Essentially what you're pointing to is a measurement that

3       is reported to the right of the eastern boundary of the

4       80 acre unit?

5   A-   That's correct.

6   Q-   It shows the dimension of the side of the square and

7       shows that it's an 80 acre grid unit?

8   A-   That's correct.

9   Q-   Can you tell me whether or not any notice was published

10       in the newspaper with regard to this unit?

11   A-   Yes, again in the Virginia Mountaineer. We published on

12       April 25, 1991, the notice of hearing and application was

13       filed before the Virginia Gas and Oil Board.

14   Q-   Was a map placing this unit in its approximate location

15       published with that notice?

16   A-   Yes. GKY, USA is now placing maps of record of the

17       approximate area where this unit falls.

18   Q-   Was a consent to stimulate filed with regard to this

19       unit?

20   A-   I believe you filed it this morning, is that correct?

21       Is that one of the ones we filed this morning? Did we

22       file this consent to stimulate? Is that one of the ones

23       we filed this morning?

24   A-   (Witness nods head yes.)

25

1                                    MARK S. KAREM

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

4  
5                                    DIRECT EXAMINATION  
6

7    BY MR. SWARTZ:

8    Q.    Would you state your name again?

9    A.    Mark S. Karem.

10   Q.    I would remind you that you're still under oath from this  
11          morning.

12   A.    Okay.

13   Q.    What is your title with Oxy?

14   A.    Regulatory Engineer.

15   Q.    Did you prepare a DWE with regard to Unit 2-107

16   A.    Yes.

17   Q.    Is that Exhibit C7

18   A.    Yes.

19   Q.    Do we need to make a correction similar to what we talked  
20          about earlier this morning?

21   A.    Yes, that's a Uniform correction.

22   Q.    What would that correction be on Exhibit C7

23   A.    That the first notation of subsurface casing be changed  
24          to a 100 barrel fiberglass tank.

25   Q.    The amount of \$1,700 would remain the same?

1 A. Right.

2 Q. When was this DWE prepared?

3 A. April 12, 1991.

4 Q. Who prepared it?

5 A. I did.

6 Q. Did you sign it?

7 A. Yes.

8 Q. What's the total cost shown with regard to this well

9 estimate?

10 A. \$250,800.

11 Q. Is it your opinion that the sum of \$250,800 is a reason-

12 able estimate with regard to the probable cost of

13 drilling and completing the well in question?

14 A. Yes, it is.

15 Q. The depth of this well, as shown on Exhibit 1 -- for ease

16 of reference, that we referred to this morning -- Z-10 is

17 what?

18 A. 2,293 feet.

19 Q. With regard to the casing and tubing for this well, the

20 estimate for Z-10, could you comment with regard to the

21 purpose served by some of the casing that's listed here

22 and the reason why there appears to be so much of it for

23 this well?

24 A. Well, on this well there's a little over 600 feet of 9

25 1/2" casing. That's, again, to protect any freshwater

1        formations or any coal seams that may be mined in the  
2        future.  
3        Q.    That's the purpose of that 603 feet?  
4        A.    Right.  
5        Q.    That would include both water protection string and any  
6        string that was installed to protect minable coal seams?  
7        A.    Movable coal seams, right.  
8        Q.    What is the target of this particular well?  
9        A.    Pottawatomie Number 3 coal seam.  
10      Q.    Is this well, in your opinion, deep enough to produce  
11      from that coal seam?  
12      A.    Yes.  
13      Q.    Based on your review of the application and the engineer-  
14      ing data available to you do you have an opinion as to  
15      whether or not Oxy's plan to drill this well is a  
16      reasonable method to develop the coal bed methane within  
17      Unit E-10 -- is an effort and will achieve the protection  
18      of correlative rights of the people within that 80 acre  
19      unit and serve to protect against economic and physical  
20      waste?  
21      A.    Yes, it should.  
22      Q.    It should do that?  
23      A.    Yes.  
24      MR. SWARTZ:    That's all I have.  
25      MR. CHAIRMAN:    Any questions, Members of the Board?    Some of

1 you folks came in after we started this case. We're  
2 discussing Well 2-10. If you have any interest in  
3 appearing before the Board, you need to let us know that  
4 right now.

5 MR. MASON: I move the acceptance and approval of this  
6 petition.

7 MR. CHAIRMAN: I have a motion to approve the petition -- to  
8 accept it as presented.

9 MR. EVANS: Second.

10 MR. CHAIRMAN: A motion and a second. All in favor signify by  
11 saying yes. Oppose say no. Unanimous. (Motion car-  
12 ries.)

1  
2 (ITEM 21)  
3

4 MR. CHAIRMAN: Again, some of you folks came in after we got  
5 started. While you were out, just for us to go back and  
6 reconfirm that no one here was interested in discussing  
7 with the Board any matters regarding Well Q-35. That was  
8 Docket Number VGOB-0521-120. Is there anyone here that  
9 came here today to address the Board regarding that well?  
10 The record will reflect that no one came forward. The  
11 next item is a petition for the establishment of compul-  
12 sory pooled drilling unit from OXY, USA, Inc. for  
13 proposed Well V-32. This is Docket Number VGOB-0521-122.  
14 I would ask that anyone that wishes to address the Board  
15 come forward at this time.  
16  
17

18 MARTIN E. WIRTH

19 a witness who, after having previously been sworn, was  
20 examined and testified as follows:  
21

22 DIRECT EXAMINATION  
23

24 BY MR. DWARTZ:

25 Q: Wirth, would you state your name again, please?

1 A. Martin E. Wirth.  
2 Q. Your employer?  
3 A. OXY, USA, Inc.  
4 Q. Before we get started with regard to Unit V-32, you had  
5 previously indicated to me that there were certain people  
6 that you propose that we dismiss as respondents. I  
7 included their names in the proposed order which is  
8 Exhibit G with regard to this well, which I filed this  
9 morning. Could you read those names, Marty, from the  
10 proposed order in terms of paragraph five -- dismissals?  
11 A. Thomas Milton McNeill, Joseph H. Deskins, Barbara A.  
12 Shabon, and Joseph Lacey Honaker. I also would like to  
13 include a Donald P. Shortt. All parties have executed a  
14 lease with OXY, USA.  
15 Q. So with the exception of Mr. Shortt, the proposed order  
16 that was filed includes the other four names and Mr.  
17 Shortt's name should be added as being dismissed?  
18 A. That's correct.  
19 Q. Do you propose any amendments to the application with  
20 regard to this unit, V-32?  
21 A. No, not at this time.  
22 Q. Who prepared the notice of hearing and application with  
23 regard to this unit?  
24 A. That was I.  
25 Q. Austin, does the notice of hearing list all of the people

1 that you initially desired to make respondents?

2 A. Yes, it does.

3 Q. The only people that you have not dismissed that remain,  
4 if I have kept good notes, are Linda G. Van Dyke, Dellis  
5 Deskins and Matthew C. Deskins, is that correct?

6 A. That's correct.

7 Q. Did you attempt to mail notice of hearing and a copy of  
8 the application to these three people who remain as  
9 parties respondent?

10 A. Yes, they were all notified by certified, return receipt  
11 mail. We received all -- we did a letter for a forward-  
12 ing address to Ms. Van Dyke, her address has been  
13 changed. If the Board desires, I can present it now or  
14 we'll present it under modified at a later time.

15 Q. Let me ask you -- let's go at it this way. I take it  
16 that you got signed return receipt cards back from Dellis  
17 Deskins and Matthew Deskins?

18 A. Yes, that's correct.

19 Q. Those have been filed as Exhibit F with Board?

20 A. That's correct.

21 You've also filed, as Exhibit F with the Board, the  
22 receipt for certified mail that you mailed to Linda G.  
23 Van Dyke which came back with a forwarding address?

24 A. That's correct.

25 Q. That's on file as Exhibit F?

1 A. That's correct.

2 Q. I would ask you if you have subsequently caused the  
3 notice and application to be mailed to Linda Van Dyke at  
4 the forwarding address?

5 A. That's correct.

6 Q. Have you had any contact with her after you did that  
7 mailing?

8 A. I had contact from her daughter who represented -- and  
9 signed by Ma. Van Dyke, that she has in her possession  
10 a letter, notice of hearing and application.

11 Q. You could file that with the Board if they were so  
12 inclined?

13 A. That's correct.

14 Q. So, in effect, what you're saying is you have received a  
15 letter back from Linda Van Dyke, even though you don't  
16 have the receipt that indicates that she or her daughter  
17 have received your mail?

18 A. That's correct.

19 V. Turning to the well plat, if you could --

20 A. I'd like to also state for the record for the Board's  
21 behalf, and the staff, that Matthew Clifford Deskins is a  
22 minor without a court-appointed guardian. We've tried to  
23 explain -- but we cannot act as counsel to the parties --  
24 but we told them it would be in their best interest to  
25 try to correct that problem -- that he does need a

1 guardian. That's all I have.

2 Q. Turning to Exhibit A, Marty, page 1, the plat map. If  
3 you could indicate to the Board, again by using a colored  
4 marker, the area or areas that the respondents may have  
5 an interest in.

6 A. Basically, the western half -- there are two tracts  
7 involved. Richard Deskins' heirs is the upper left hand  
8 tract. Below it is Donald -- you'll see Donald P.  
9 Shortt, having the oil and gas with Yukon Pocahontas  
10 owning the coal. Those were the two -- we dismissed Mr.  
11 Shortt so there's no conflict of -- no need to name as a  
12 respondent. Those are the two tracts of land that were  
13 in question.

14 Q. If we refer to Exhibit B that was filed with regard to  
15 this unit, it appears to me to show that their interests  
16 are essentially in, approximately, 40 acres of the unit?

17 A. That's correct.

18 Q. Could you describe for the Board, with regard to the  
19 question of standing, Oxy's interest in the unit?

20 A. Again, to assess, we have 96.3% net interest of all  
21 parties under lease by coal bed methane. We have 100% of  
22 the coal owners under lease. We have, like I said, a  
23 little over 96% net of the oil and gas owners under  
24 lease. We also have 100% of the coal leased through  
25 Island Creek Coal Company.

1 Q. Essentially, if I understand your testimony correctly,  
2 what you're telling the Board is, again with reference to  
3 Exhibit A, page 1, you have coal bed methane leases from  
4 oil and gas owners for the portion that you have not  
5 outlined in yellow?

6 A. I have coal bed methane leases from all in the unit,  
7 except for a very minor part of these three people that  
8 we're talking -- which is -- the Richard Deskina have  
9 approximately 72 parties as ownership. This, probably,  
10 represents a little over 2% outstanding that has not  
11 executed a lease.

12 Q. Okay, when you're talking about gross acreage within the  
13 unit, you're talking about people who have an undivided  
14 interest in that gross acreage and you have most of the  
15 to some people under lease and are just missing the ones  
16 you've identified here?

17 A. That's correct. One is very, very ill and cannot  
18 negotiate at this time and we did not press the matter,  
19 of course. It may be possible that she will. The other  
20 one is still undecided, so we had to proceed,  
21 we have filed ten copies of a consent to stimulate with  
22 the Board on this one?

23 Q. That's a previously -- did you submit it this morning?

24 A. Was it filed this morning or previously? They've all  
25 been --

1 A: This is this morning's that you've got.  
2 MR. SWARTZ: I need to check my file. I intended to file an  
3 Exhibit G with you this morning, Mr. Chairman, on this  
4 well. I don't know if I've got -- do you have it? You  
5 didn't get this one?  
6 MR. CHAIRMAN: I don't think we did.  
7 MR. EVANS: We didn't. The only Exhibit G we got was --  
8 MR. SWARTZ: Here's ten copies of Exhibit G for VGOB-0521-122.  
9 MR. CHAIRMAN: Okay. Thank you.  
10 Q. (Mr. Swartz continues.) Mr. Wirth, I can't remember if I  
11 asked you whether or not, with regard to this unit, there  
12 was publication?  
13 A: Yes, again we published in the Virginia Mountaineer on  
14 April 25, 1991 with the map.  
15 Q. With the map, okay. As I previously indicated, we have  
16 submitted a proposed order. It shows some amendments and  
17 dismissals in addition to the one that you've just  
18 mentioned. I would propose that you use the affidavit of  
19 Ken Price, which we have previously filed today with  
20 regard to the authority of Howard Epperly, and would not  
21 offer that every time.  
22 DR. HADON: Excuse me, Mr. Chairman. Mr. Wirth, I noticed on  
23 this survey that this well location is down in this 300  
24 foot window.  
25 THE WITNESS: That's correct.

1 MR. HASON: Why is that?

2 THE WITNESS: In this area, specifically, we have four  
3 different shallow coal operators. Island Creek is along  
4 them. To have to comply with mining plans under the laws  
5 of Virginia. We also have -- surface topography is a big  
6 problem. We try to physically get it inside the window.  
7 If not, we submit it to the DMME and the inspector has to  
8 approve any variances. Should he approve that, then we  
9 may proceed.

10 MR. HASON: You all haven't applied for a permit for this yet?

11 THE WITNESS: Let me check in the application. No, sir.

12 MR. HASON: Okay. As I understand it, you saying that there  
13 are other mine plans besides the Poco Number 3 involved  
14 here?

15 THE WITNESS: Yes, sir. There's the -- you have the shallow  
16 -- any where from strip mining on the surface -- you have  
17 the Raven, the Jaw Bone and, then, there's -- so I think,  
18 in this area specifically, there's four different  
19 operators that -- you've got mine plans like this that  
20 you've got to try to put a well straight down.

21 MR. HASON: Thank you.

22 MR. CHAIRMAN: I'd like to ask just a follow-up to make sure I  
23 understand. The unit that you're asking for, then, is  
24 outside of the 80 acre -- typical 80 acre unit, right?

25 THE WITNESS: No, sir, it's inside the 80, but it's outside

1 the 300 foot bumper zone. The dash line inside is a 300  
2 foot offset on that Exhibit A. It does fall within the  
3 80 acre unit.

4 MR. CHAIRMAN: Okay.

5 MR. EVANS: You're just not in the drilling window.

6 MR. SWARTZ: Right.

7 THE WITNESS: That's correct.

8 MR. SWARTZ: On that issue, I might remind the Board because  
9 we've talked about this from time to time, the original  
10 order in May of 1990 provided these windows -- drilling  
11 windows. As I recall, specifically authorized the  
12 inspector to grant variances. What we have done in our  
13 applications, is to try and keep this somewhat generic.  
14 If you look at the chart at the top of page two of the  
15 application, it talks about the coolant formations, unit  
16 shape and size -- 80 acres -- and, then, permitted well  
17 location. What we are asking you to approve is to allow  
18 us to drill a well at any point within the drilling unit  
19 allowed by order number OGCB390. Essentially what we're  
20 saying is if we're within the drilling window, we don't  
21 need anybody's permission and that's within the order.  
22 If you ever see us, as in this well, outside of the  
23 drilling window, obviously we need to get his permission.  
24 But the Oakwood Coal Bed Gas Field Order recognizes that  
25 as a legal limit if you get the inspector's permission.

1       So that's the generic request that we're making on these  
2       applications.

3       MR. MASON: Mr. Chairman, I just wanted to make sure that we  
4       weren't, by our action here, taking away the determina-  
5       tion that somebody's got to make as to the application  
6       for drilling in this window.

7       MR. SWARTZ: We have to -- I suppose in theory -- this is a  
8       cost saving measure. In theory, we probably wouldn't  
9       even have to show the well location on these units when  
10      we come before you all for a pooling order. But I think  
11      we're using these maps for multiple purposes. They get  
12      filled with the drilling permits so you see something that  
13      eventually goes to the inspector.

14      MR. MASON: I just want to -- I mean, my point is just to make  
15      it clear that the action by the Board in approving this  
16      petition is not an implicit approval of the location of  
17      the well itself. Determination will be made by the  
18      inspector and the appropriate procedures there.

19      THE WITNESS: That's always understood by us.

20      MR. SWARTZ: That's our understanding.

21  
22  
23                               MARK B. KAREM

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Could you state your name again, please?

A. Mark B. Karem.

Q. I'll just remind you that you're still under oath.

A. Okay.

Q. With reference to the application, Mark, does the application indicate the depth of this well?

A. Yes, it's proposed depth.

Q. What is the proposed depth of this well that we're talking about?

A. 1610 feet.

Q. Did you prepare a DWE with regard to this well?

A. Yes.

Q. Is it identified as Exhibit C7?

A. Yes.

Q. Do we need to make the same change?

A. Yes.

Q. Just for the record, what is that?

A. That two lines under the 200 feet of 2" line pipe, that that be changed to 100 barrel fiberglass tank.

Q. So just strike the words subsurface casing equipment and substitute 100 barrel fiberglass tank?

A. Right. Yes, that's correct.

1 Q. The cost of that tank is, in fact, \$1,700?

2 A. Yes.

3 Q. When was this DWE prepared?

4 A. April 10, 1991.

5 Q. Who prepared it?

6 A. I did.

7 Q. What is the total estimated cost shown on the DWE for

8 this 1,610 foot well?

9 A. \$227,930.

10 Q. I would ask you whether or not, in your opinion, the sum

11 of \$227,930 represents a reasonable estimate as to the

12 probable cost of drilling and completing the well in

13 question?

14 A. Yes, it does.

15 Q. One additional question with regard to Exhibit C. The

16 last well -- DWE that we looked at, there were 603 feet

17 of water protection -- I just made a note -- of casing

18 and coal seam casing. This one has how many feet of that

19 casing?

20 A. 30 feet.

21 Q. About half?

22 A. Right.

23 Q. Approximately, what have you been estimating that at per

24 foot?

25 A. Around \$11 a foot.

1 Q. So that's about a \$1500 difference, just for purposes of  
2 comparison?

3 A. Yes.

4 Q. My final question would be is it your opinion that the  
5 proposed development by GXY, USA with regard to this  
6 unit, specifically V-32, is a reasonable plan to develop  
7 the coal bed methane resource? Is a reasonable plan to  
8 protect correlative rights and prevent either economic or  
9 actual waste?

10 A. Yes.

11 Q. One last question, what is the target seam?

12 A. Pocahontas Number 3 coal seam.

13 Q. Is the well, at 1,610 feet, deep enough to produce from  
14 that seam?

15 A. Yes.

16 MR. SWARTZ: That's all I have.

17 MR. CHAIRMAN: Any questions of Mr. Karem?

18 MR. EVANS: Who do you propose to use as your drilling  
19 contractor?

20 MR. KAREM: Probably Gasco.

21 MR. EVANS: What are their contract drilling -- excuse me --  
22 what do those services consist of?

23 MR. KAREM: Providing a rig and crews. To perform, you know,  
24 in a workmanlike manner.

25 MR. EVANS: Normal rig costs? Normal building costs.

1 MR. KAHEN: Right. Big cost.  
2 MR. EVANS: That's all. Just -- \$20.50 a foot, huh?  
3 MR. KAHEN: That's more or less what we're going on. \$20.55.  
4 MR. WORTH: OXY, USA has a policy where we have to bid out.  
5 We take the lowest bidder and that is a flat rate bid of  
6 what we get. Usually, we have a ten well package and,  
7 maybe, they will lower the price or something like that.  
8 MR. EVANS: Thanks, Mr. Worth. That answers my questions more  
9 so than just \$20.55 is how that figure is arrived.  
10 MR. CHAIRMAN: Any other questions? Motion?  
11 MR. MASON: I move the petition be approved.  
12 MR. EVANS: Second.  
13 MR. CHAIRMAN: I have a motion and a second. All in favor  
14 signify by saying yes. Oppose say no. Unanimous  
15 approval.  
16  
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(ITEM 22)

MR. CHAIRMAN: The next item before the Board is petition for the establishment of compulsory pooled drilling unit from OXY, USA for proposed well U-11. This is Docket Number VGON-0521-125. I'd ask now that anyone wishing to address the Board regarding this well to come forward.

MR. SWARTZ: Again, Mark Swartz and Tim Scott and Marty Wirth.

MARTIN E. WIRTH

A witness who, after having previously been sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Marty, would you state your name again, please?

A. Martin E. Wirth.

Q. Will remind you that you're still under oath. Who do you work for?

A. OXY, USA, Inc.

Q. The Exhibit G which we have tendered to the Board, which is a proposed order with regard to this unit, shows a

1 request by us that we dismiss -- or that Brenda L. Young  
2 be dismissed as a respondent. That's at paragraph five.  
3 Is that your request to the Board?  
4 A. That is correct. Ms. Young has executed a lease with  
5 OXY. USA.  
6 Q. With regard to this Unit U-11, are you requesting that  
7 any other respondent be dismissed?  
8 A. No, not at this time.  
9 Q. Are you requesting that any amendments be made?  
10 A. No, not at this time.  
11 MR. CHAIRMAN: Excuse me one second. Are you referring to an  
12 Exhibit G?  
13 MR. SWARTZ: Yes, I gave it to you all this morning. I gave  
14 you a big stack of ten copies of orders on -- oh, I'm  
15 losing it. Here's 10 of Exhibit G for 0521-120. Here's  
16 10 of 121.  
17 MR. MCGLOTHLIN: Mr. Chairman, can I ask Mr. Wirth a question  
18 while Mr. Swartz is passing those out?  
19 THE WITNESS: Yes, Mr. McGlothlin?  
20 MR. MCGLOTHLIN: On the W. W. Baldwin heirs, do you have a  
21 listing of those heirs or --  
22 THE WITNESS: While we speak, we're trying to get -- yes.  
23 We're working that out. Some of the parties' names --  
24 what we could try to ascertain. Some of those parties  
25 are in there on the Baldwin heirs. With the assistance

1 of a lot of them, we're making contacts and chasing down  
2 the records we can.

3 MR. MCGLOTHLIN: Could you give me a little bit more -- I  
4 might be skipping ahead. I'm contemplating something  
5 here. The location on that property?

6 THE WITNESS: The location?

7 MR. MCGLOTHLIN: Yes, sir.

8 THE WITNESS: Let me get the little map out we published. It  
9 falls southeast of Three Fork Branch -- in between Three  
10 Fork and Murphy Fork, near 620 -- in between highway 620  
11 and 627.

12 MR. MCGLOTHLIN: That's not the part of the county they call  
13 "The Winding Ridge" section -- are you familiar with  
14 that?

15 THE WITNESS: Yes, I'm trying to -- no, sir, I don't believe.  
16 It's nearby, but not on Winding Ridge.

17 MR. MCGLOTHLIN: Okay, thank you.

18 THE WITNESS: I can check on that for you real quick if you'd  
19 like, Kevin.

20 MR. MCGLOTHLIN: No, I think that's okay.

21 MR. SWARTZ: Before we move back to this unit, I'd just like  
22 the record to reflect that I did file with you all today  
23 the proposed order on Q-35, the one that was adjourned,  
24 as long as we've got it, so you'll have it for next time.

25 (MR. SWARTZ CONTINUES.) Mr. Wirth, with regard to this

1 unit being Unit D-11 did you again prepare both the  
2 notice of hearing or participate in the preparation of  
3 the notice of hearing and the application?  
4 A. Yes, I did.  
5 Q. There are 23 people listed on the notice of hearing,  
6 correct?  
7 A. That's correct.  
8 Q. Did you attempt to mail notice to those people?  
9 A. Yes, we did.  
10 Q. Were there some people that you did not have an address  
11 for that you could not mail to?  
12 A. Yes.  
13 Q. Does Exhibit B show the people that you were unable to  
14 mail to by listing them as address unknown?  
15 A. That's correct.  
16 Q. So if the Board wanted to tell who you mailed to, you  
17 mailed to everyone whose address is shown on Exhibit D?  
18 A. Yes.  
19 Q. Who you didn't mail to, you couldn't -- the two people  
20 that you didn't show an address for?  
21 A. That's correct.  
22 Q. With regard to the people that you mailed to, did you get  
23 back return receipts from those folks?  
24 A. Yes, we did.  
25 Q. Did you file the mailing information with the Board as

1 Exhibit F with regard to this unit?

2 A. Yes, we did.

3 Q. With regard to those people that you didn't have addres-  
4 ses for, did you publish?

5 A. Yes, we did.

6 Q. Where?

7 A. Virginia Mountaineer.

8 Q. When?

9 A. April 25, 1991.

10 Q. Did the notice that was published also include a little  
11 map showing the approximate location of this unit?

12 A. Yes, it did.

13 Q. With regard to this unit, it looks like a consent to  
14 stimulate was filed as Exhibit B by mail with the Board  
15 in advance of the hearing, is that correct?

16 A. That's correct.

17 Q. That consent pertains to what coal?

18 A. Below the tiller formation.

19 Q. If you would refer to your Plat A, which you had a moment  
20 ago, if you could again show the Board where the inter-  
21 ests that you are seeking to force pool are in relation  
22 to the 80 acre unit?

23 A. Again, on Exhibit A, OXY, USA is trying to -- requesting  
24 the Board for relief to pool the outstanding interest not  
25 under lease by OXY, USA. Basically, the northern half

1 and dipping into a little bit below the center of the two  
2 tracts identified as W. W. Baldwin heirs. Also, one  
3 tract under there, it's identified as -- I believe that  
4 is W. Clyde Dennis tract.  
5 Q. Exhibit B. that you filed with the Board, actually breaks  
6 the people that you're noticing out into those that  
7 relate to the W. W. Baldwin tract and those that relate  
8 to the W. Clyde Dennis tract, does it not?  
9 A. That's correct.  
10 Q. It looks like the Baldwin tract is about 27.4 acres?  
11 A. 27.30 and 27 -- yeah, approximately 27.40 acres.  
12 Q. Okay, and the Dennis tract is approximately 22.55 acres?  
13 A. That's correct.  
14 Q. With regard to the Baldwin tract, do you have some of the  
15 undivided interest under lease?  
16 A. Yes, we do.  
17 Q. With regard to the W. Clyde Dennis tract, does Oxy have  
18 some of the undivided interest in the oil and gas for  
19 that 22.55 acres under lease?  
20 A. Yes.  
21 Q. Do you have more people under lease, with regard to  
22 Dennis, than you don't? If you recall?  
23 A. Yes, we do.  
24 Q. In a general sense, could you describe Oxy's interest in  
25 this 60 acre drilling unit?

1 A. Basically, OXY, USA has a 100% of the coal lessors under  
2 lease, less and except a methane lease from Garden Realty  
3 Corporation. There's an outstanding oil and gas lessee,  
4 Columbia Gas Transmission, who is now, as we found out  
5 last month -- these were filed the day before the hearing  
6 -- in Columbia Natural Resources. So that would be  
7 Columbia Natural Resources is the lessee of -- back on  
8 Exhibit A, Buchanan Realty Limited Partnership. Consol-  
9 idated Coal Company is the oil and gas lessee of Garden  
10 Realty Corporation. These are the -- Garden Realty, Con-  
11 solidated, and Columbia are the parties with Island  
12 Creek under the W. Clyde Dennis. All the known heirs  
13 that we could -- through due diligence in the courthouse  
14 -- of the W. W. Baldwin heirs that we could locate at the  
15 time of filing the application, is noted on here. We  
16 have since, like I said, are working with the help of  
17 some of the heirs. This list is growing every day -- the  
18 Baldwin heirs. We are going from Tazewell County into  
19 Alabama and into Wisconsin to find parties involved.  
20 One last question, Mr. Wirth. Have you also filed an  
21 Exhibit E, in advance of the hearing, which is a certifi-  
22 cate of publication from the newspaper?

23 Q Yes, we have.

24 Q (HATHMAN) I have a question. If I can take you to  
25 Exhibit 5, page 2, when you list Island Creek Coal

1       Company as unleased?

2       THE WITNESS: Exhibit B, page 2, we have Island Creek Coal  
3       Company. They are the coal lessee of Carden Realty  
4       Corporation. That is your conflict between Columbia  
5       Natural Resources or Consolidated -- like, you see,  
6       Consolidated Coal is the oil and gas lessee. They're not  
7       a coal lessee. They're an oil and gas lessee. So  
8       there's a conflict as to the ownership between Island  
9       Creek and Consolidated Coal -- or between the oil and gas  
10      estate and the coal estate. So Island Creek was named in  
11      the party on this one.

12     Q. (Mr. Swartz continues.) What may be confusing -- can I  
13      assume that you -- meaning Oxy -- does not have either a  
14      designation of operatorship or a coal bed methane  
15      specific lease from Island Creek with regard to this  
16      22.55 acres?

17     A. On this W. Clyde Dennis tract, no. There was a petition  
18      -- a chancery suit involved, therefore, it was excluded  
19      between internal agreements between OXY, USA and Island  
20      Creek because of this ongoing litigation and -- it might  
21      have caused some problems. This is why we named Island  
22      Creek as a party in this.

23     MR. CHAIRMAN: So all four of these parties under here, then,  
24      are part of that?

25     THE WITNESS: That's correct.

1 MR. SWARTZ: It wasn't a mistake to include Island Creek is  
2 what I'm trying to -- for the reasons expressed.  
3 MR. CHAIRMAN: I was a little confused.  
4 MR. BAILEY: Mr. Chairman, may I interrupt while you're on  
5 notice? I'm here representing a committee of some of the  
6 Baldwin heirs. They believe they own some property  
7 that's near this location.  
8 MR. CHAIRMAN: Would you identify yourself, please?  
9 MR. BAILEY: I'm sorry. My name is Dwight Bailey. I'm an  
10 attorney representing at least part of the Baldwin heirs  
11 from Jacob Baldwin. At this point in time, I've just  
12 gotten into this thing recently -- just as I heard  
13 somebody say in the audience -- at the midnight hour --  
14 we're not here in opposition of any development. Just  
15 that our interest be noted for the record and that we be  
16 given notice of further development of property in this  
17 area. I believe that they will, at this point in time --  
18 they believe they own property that is either in or near  
19 this development. At this point in time, I know the  
20 company has made attempts to contact some of the people.  
21 At least part of the heirs are getting notice and part of  
22 them aren't. We would just like to make that request.  
23 We're not in opposition of any development, just that we  
24 would like to have future notices if this property is  
25 developed, you know, and extended.

1 MR. EVANS: I have a question, sir.  
2 MR. CHAIRMAN: Mr. Evans.  
3 MR. EVANS: You say Jacob Baldwin. Would that be William J.  
4 Baldwin, address unknown, or is that another one of the  
5 heirs?  
6 MR. BAILEY: I think -- I believe Jacob was W. W.'s father. I  
7 may be mistaken, but I think that's correct.  
8 THE WITNESS: I believe Captain Jacob Baldwin was W. W.'s  
9 father.  
10 MR. BAILEY: Captain was the father of W. W. Under that line,  
11 and, you know, there's so many people and there's some  
12 different -- you know, with all the family tree coming  
13 down, I can't tell you exactly right now under which line  
14 and which property, that kind of thing. But we just  
15 request notice, basically, is all I can do here today.  
16 I'm not opposing any of the development at all. I  
17 understand at this procedure we need to make our interest  
18 known.  
19 THE WITNESS: He provided me with a letter earlier that some  
20 heirs did get, and we will provide any and all informa-  
21 tion that is required for these wells to him in the  
22 future, and everything.  
23 MR. CHAIRMAN: Do you do have a list from him?  
24 THE WITNESS: Yes. Well, his law firm is representing the  
25 committee of the heirs for Captain Jacob Baldwin or

1 Jacob Baldwin.

2 MR. CHAIRMAN: And you've included him on your list to provide  
3 notice so that he can assist in assuring that those folks  
4 are notified?

5 THE WITNESS: That's correct. Plus, we might be doubling up,  
6 because we will -- I don't know who that list is.

7 MR. CHAIRMAN: I understand.

8 MR. BAILEY: I understand the committee has approximately 150  
9 names on mailing list so they get can get some informa-  
10 tion to you. So it should make things -- facilitate the  
11 procedure. That's basically all I wanted to say. I  
12 appreciate you letting me interrupt. Thank you.

13 MR. SWARTZ: Excuse me, Mr. Bailey, just hang on one second.  
14 Just so there's no confusion, we have been talking today  
15 a little bit, to try and make sure that we can share in  
16 information and that we do get notice to the folks that  
17 need to get notice. My understanding, however, so that  
18 this record is not a mess, and correct me if I'm wrong,  
19 is that you are not suggesting to the Board that anyone  
20 ~~was~~ needed to get notice with regard to this unit --  
21 this particular unit. What you are saying, though, is  
22 that your clients have interest in adjoining properties  
23 and when we get to those properties, you want to make  
24 sure that they're notified.

25 MR. BAILEY: That's right.

1 MR. CHAIRMAN: One thing that would be helpful to the Board,  
2 is that if both you folks would submit to the Board the  
3 list that you have on Baldwin heirs so that we can have  
4 something to compare future hearings to. So we would  
5 request you to present that to us as well.

6 THE WITNESS: We'll provide you with an amended Exhibit B as  
7 we did on Deskins. He just gave me another 150, so with  
8 the 100 I have -- please bear with us. At this point,  
9 we're straight here. If there should be an amendment --

10 MR. CHAIRMAN: We understand that. Thank you.

11  
12  
13 MARK S. KAREM

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

16  
17 DIRECT EXAMINATION

18  
19 BY MR. SWARTZ:

20 Q Could just state your name again for us?

21 A Mark S. Karem.

22 Q I'm going to remind you that you're still under oath.

23 A Yes.

24 Q Who do you work for?

25 A OXY. USA.

1 Q. What's your title or job description?  
2 A. Regulatory engineer.  
3 Q. Did you prepare an Exhibit C with regard to Unit U-11?  
4 A. Yes.  
5 Q. Do you want to make a change?  
6 A. Yes. Two lines below the 200 foot of 2" line pipe, that  
7 needs to be changed from subsurface casing equipment to a  
8 100 barrel fiberglass tank.  
9 Q. Would the cost remain \$1,700?  
10 A. Yes.  
11 Q. Is that the cost of the tank?  
12 A. Yes.  
13 Q. What is the total amount of this well estimate -- Exhibit  
14 C -- for Unit U-11?  
15 A. \$259,260.  
16 Q. Is that sum, in your opinion, a reasonable estimate as to  
17 the probable cost of drilling and completing this well?  
18 A. Yes.  
19 Q. Is this well already drilled or is it a proposed well?  
20 A. I think it's been permitted. It hasn't been drilled.  
21 Q. What is the proposed depth of this well?  
22 A. 2410 feet.  
23 Q. This is the deepest well we're dealing with today?  
24 A. Yes.  
25 Q. I notice here with regard to the 9 5/8" casing, you've

1            got 1,000 feet of casing?

2    A.    Yes.

3    Q.    We've noted two other wells -- one with around 300 some  
4           feet, one was 600 feet, now we've got 1,000 feet.

5    A.    That's correct.

6    Q.    What was the problem here? Why do you need so much more?

7    A.    I think on this well, also, they anticipated encountering  
8           coal seams and possible the water -- for water protection  
9           purposes.

10   Q.    Can I assume that, at this depth, coal seams had to be a  
11          factor when we got down to an extra 1,000 feet?

12   A.    Yes. That's correct.

13   Q.    Again, what was the price of this casing, that you've  
14          been using, per foot on these recent DWE's?

15   A.    \$11.10 a foot for the 9 5/8".

16   Q.    This DWE with regard to U-11 was prepared when?

17   A.    April 17, 1991.

18   Q.    It was prepared by you and signed by you?

19   A.    Yes.

20   Q.    The target is the --

21          Pocahontas Number 3 coal seam.

22   Q.    Is this well deep enough to produce coal bed methane from  
23          the Pocahontas Number 3 coal seam?

24   A.    Yes.

25   Q.    Is it your opinion, based on your review of the documents

1 and data with regard to this well, that the proposed  
2 development of U-11 is a reasonable plan to develop the  
3 coal bed methane within Unit U-11; is a reasonable plan  
4 to protect correlative rights of folks in that unit; and  
5 a reasonable plan that would avoid, to the extent  
6 possible, both economic and physical waste?

7 A. Yes.

8 MR. SWARTZ: That's all I have.

9 MR. CHAIRMAN: Any questions, Members of the Board?

10 MR. MCGLOTHLIN: Mr. Chairman.

11 MR. CHAIRMAN: Mr. McGlothlin.

12 MR. MCGLOTHLIN: Mr. Kares, for the last hour or so we've been  
13 hearing -- seeing these DWE's. I brought this to your  
14 attention once before -- Cement and cement services.  
15 They keep coming back -- even though they're different  
16 elevations, they keep coming back at the same price. Can  
17 you explain that?

18 THE WITNESS: I think at the last hearing you had mentioned  
19 that that would probably be a cost that was, you know,  
20 affected by depth. It would be. It would increase  
21 slightly on one like this. Hopefully, for the June  
22 docked ones, we've addressed -- we're trying to hone it  
23 down as closely for the Board as possible -- everything  
24 that could be affected, you know, directly by depth. Of  
25 course, this may be a little more, but basically the

1 charges aren't going to vary that much for cement.

2 MR. MASON: Mr. Chairman -- excuse me.

3 MR. CHAIRMAN: Mr. Mason.

4 MR. MASON: I don't understand. You know, you indicated  
5 earlier -- isn't it true that you cement the surface  
6 casing from the foot of it to the top?

7 THE WITNESS: Yeah.

8 MR. MASON: So you're telling me that there's not a lot of  
9 difference between the amount of cement for 300 feet of  
10 pipe, than there is for 1,000 feet of pipe?

11 THE WITNESS: It shouldn't be that much. Most of the charges  
12 for cement, you know, getting the unit out there and  
13 pumping charges. For that much, it'll vary. I'm not  
14 going to say it's not. It'll cost a little more.  
15 Hopefully, for the -- when I did these, back in April --  
16 for the upcoming ones, I'm going to try to get a cost per  
17 foot to cement. You'll see on the June docket ones, I  
18 tried to hone it down as close as possible.

19 MR. MCCLOTHLIN: Mr. Mason, I was going to give him the  
20 benefit of the doubt and wait to the June one, myself.

21 MR. MASON: I'm a little troubled by that. You're saying here  
22 -- you're telling us that on the June docket that you're  
23 hoping to get this more honed down. That sounds to me  
24 like you're telling me that these are inaccurate and the  
25 ones in June are going to be accurate.

1 THE WITNESS: No. Well, they will be more accurate, I should  
2 say.  
3 MR. MASON: Well, accuracy, in my opinion, is not a matter of  
4 relativity. It's a state of fact. Is this accurate or  
5 not?  
6 THE WITNESS: It's fairly accurate. Again, a lot of these  
7 tickets, you know, we're kind of behind for the tickets  
8 to come in. So I can't just --  
9 MR. MASON: Well, I understand. I'm sympathetic to your  
10 problem, but we're here representing a quasi-judicial  
11 body who's supposed to make a factual determination  
12 based on your representation to us that this is accurate  
13 information. Now you're telling me that because you're  
14 behind on your costs, that you can't tell me that's true?  
15 THE WITNESS: I'm saying that for a lot of these services --  
16 cement services, et cetera -- you know, you have a lot of  
17 factors that come into consideration. Which our upper  
18 beams, we have to blend the cement lighter weights if you  
19 go through a pillar, or an open hole. I'm saying it's  
20 hard, especially for a well that's never been drilled, to  
21 come in and say, "Oh, yeah, this cement will cost a  
22 certain amount."  
23 MR. MASON: Okay. We'll wait and see what happens in June.  
24 THE WITNESS: Okay. I'll try to --  
25 MR. MASON: I would strongly recommend it.

1 Q: (Mr. Swartz continues.) Let me ask -- let's talk about  
2 report. Can I assume that some of the proposed wells,  
3 and the actual wells that have been drilled, have  
4 penetrated mined out areas?  
5 A. Yes.  
6 Q. So that your casing goes through an area that may be a  
7 void -- the coal is gone?  
8 A. That's correct.  
9 Q. Some of the areas that it goes through, there may have  
10 been collapses and the roof may have fallen?  
11 A. Uh-huh.  
12 Q. What happens when you're pumping cement into that area?  
13 A. You won't get any returns.  
14 Q. It won't circulate and return?  
15 A. It won't circulate, correct.  
16 Q. Does that make it difficult to estimate?  
17 A. Yes.  
18 Q. Are there some instances where the collapse is such that  
19 you will get a return even though you're mining through a  
20 mined out area?  
21 A. It is possible, yes.  
22 Q. But unlikely. I gather from the expression on your face?  
23 A. It's unlikely. Yeah, if it's a collapsed area.  
24 Q. (Mr. Swartz) While we're on the subject of well estimates --  
25 if you're done with this witness, if I could put Mr.

1       Wait back on the stand?

2   MR. MCGLATHLIN: Wait a minute. One question I have in still  
3       dealing with cement. From last month, and we had some  
4       continued over to this month that have been withdrawn,  
5       you're DWE states that cement and cement services were  
6       \$13,000. Now you're at \$8,000. That's \$5,000 dif-  
7       ference. What caused that?

8   THE WITNESS: Well, I tried to talk to people in the field and  
9       just get an idea of -- they're the ones that sign the  
10      tickets. I'm continuously in communication with those  
11      folks so I can, you know, up-date these on a month to  
12      month basis when we do them.

13   MR. MCGLATHLIN: I have a problem with you representing to  
14      us --

15   THE WITNESS: You know, it's hard to get a -- when you're  
16      dealing with a service company and, say, you're planning  
17      on, you know, you have to deal with them four or five  
18      hours in advance. You call them up. They get out there  
19      and, say, the bit quits. Then they're on standby. Okay?  
20      So you've got a whole crew and all the trucks standby.  
21      That ticket could be way high. You know, it could work  
22      just the opposite. They get there in time, they pump the  
23      cement. It's just hard to get a good estimate.

24   MR. MCGLATHLIN: \$5,000 discrepancy is a lot of money.

25   THE WITNESS: Well, you know, I'm not going to argue with you.

1        It probably is. That's just the area that's hard to  
2        pinpoint. I mean, if I could -- if the well would be  
3        drilled and I'll bring you the tickets and say, "Oh,  
4        yeah, this is how much it's going to cost." I'd say it's  
5        pretty good, but it's hard to estimate -- especially  
6        something like this. I mean, you don't know until you  
7        drill the well if you're going to have voids or mine  
8        throughs.

9        MR. MCGLOTHLIN: Well, let's have a scenario here of no voids.  
10        It's a perfect well. What's it going to cost me to  
11        cement that, or what's it going to cost Oxy to cement  
12        that?

13        THE WITNESS: Well, you see I looked at a ticket a couple of  
14        days ago and I think the 9 5/8" was like \$1700. That's  
15        one that went real well. So, with that in mind, you  
16        know, for a particular well you could say, you know,  
17        \$7000 or \$8000, probably --

18        MR. MCGLOTHLIN: Per foot -- can you give me a per foot --

19        THE WITNESS: I'd say for your surface casing -- you know,  
20        this is just figures I've been working with in light of  
21        the questions that the Board has had.

22        MR. MCGLOTHLIN: Mr. Worth, a minute ago, said you put  
23        everything out on a bid basis. So somebody -- a contrac-  
24        tor bid that in at "x" dollars a foot.

25        THE WITNESS: I would say like \$700 for the surface casing --

1           around \$770 a foot. You know, that's just stuff I've  
2           been working with in the last week or two.

3 MR. MCGLOTHLIN: But what about the other casing?

4 THE WITNESS: The 5 1/2" is about \$660 a foot. Like I said,  
5           these are just figures.

6 MR. KELLY: Mr. Chairman.

7 MR. CHAIRMAN: Mr. Kelly.

8 MR. KELLY: let me make a statement to this. What these are,  
9           at this point, this and the other, I guess, that we've  
10          seen today and will see later, are just estimates based  
11          on the best information that you have at that time?

12 THE WITNESS: Right.

13 MR. KELLY: That are prepared from that information, is that  
14          correct?

15 THE WITNESS: Yes.

16 MR. KELLY: What you're saying is that as you continue to  
17          drill wells and continue to develop better information  
18          about what your actual costs are, then the future DWE's  
19          will be more accurate based on a better history of actual  
20          costs? Is that what you're --

21 THE WITNESS: Yes, that's correct. We're trying to, you know,  
22          each month to hone it in as much as possible.

23 MR. KELLY: So the more wells you drill, the more accurate  
24          your estimates are going to be?

25 THE WITNESS: Should be, right.

1 MR. CHAIRMAN: Thank you, Mr. Kelly. Any further questions?

2 MR. SWARTZ: I'd still like -- if you're done with Mark, I'd  
3 like to put Marty back on for a minute on DWE's.

4 MR. CHAIRMAN: Okay.

5 MR. SWARTZ: It's something that we thought might come up, so  
6 we're sort of prepared to talk about it.

7  
8  
9 MARTIN E. WIRTH

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

12  
13 DIRECT EXAMINATION

14  
15 BY MR. SWARTZ:

16 Q. Mr. Wirth, let's assume that on a given unit, someone  
17 elects to participate. Let's say that their interest is  
18 in this particular unit, Unit U-11, and they have a 10%  
19 interest. They tender \$25,926 to participate under the  
20 Board's order in a timely fashion. How does Oxy get  
21 paid? I mean, what happens to that \$25,926?

22 A. If there is no conflict of interest --

23 Q. I'm saying, let's assume there is a conflict.

24 A. Usually we'll have a conflict, that's why we're before  
25 the Bond. That goes into escrow -- the working inter-

1 est, that amount will go into escrow. OXY, USA doesn't  
2 use that money. That goes into your escrow account  
3 monitored by the Commonwealth.

4 Q. Now, we've got this \$25,926 in escrow. I assume, at some  
5 point, Oxy's going to want to get that money out of  
6 escrow?

7 A. That's correct.

8 Q. What do we have to wait for? What does Oxy have to wait  
9 for to try to get their hands on that 10%?

10 A. An order from the Board.

11 Q. In order to get an order from the Board, would you assume  
12 that all of the costs contemplated by the DWE would have  
13 had to have been incurred?

14 A. That's correct.

15 Q. And that you'd have to come in, not with a DWE, but a  
16 cost history on this well and say, this is what we spent  
17 on this well?

18 Actual expenditures would probably be given to the Board  
19 and all parties are reviewed and are happy and all kosher  
20 and ask the Board to release the money.

21 Q. Do you actually keep those kinds of records? I mean,  
22 actual cost records for every well you drill?

23 A. Believe me, for every penny we spend, the accountants  
24 keep a copy.

25 Q. You will be able, at some point in the future, to come

1 in with a computer generated cost history for every well?

2 A. That's correct.

3 Q. That will be tendered to the Board?

4 A. That's correct.

5 Q. That won't be an estimate?

6 A. That will not be an estimate.

7 Q. What happens if the party who paid the money into escrow

8 is objecting to the cost, and your understanding -- the

9 way the Board procedure and the statute is set up?

10 A. If we have not become and we not entered into any joint

11 operating agreement, the Board has the authority to

12 adjudicate any reasonable and necessary costs before the

13 Board. So each party would be coming before you -- one,

14 two, three, or how many times it would take -- to say,

15 "We disagree about these actual costs. We'd like the

16 Board to adjudicate these costs and find what is reason-

17 able and necessary charges."

18 Q. Now, with regard to the future and trying to get money

19 out of escrow, can you tell me whether or not there will

20 be instances where the person who has participated -- who

21 has paid 10% of \$259,000 -- has not paid enough?

22 A. Oh, that would be -- I can almost rest assured there will

23 be quite a bit of that.

24 Q. What are some of the kinds of things that happen when

25 you're drilling a gas well that are not taken into

1 consideration in these DWE's.

2 A: There is many of -- what we do on a DWE is a detail well  
3 estimate of what we think the well would cost to drill  
4 without any unforeseen lost circulation that is going into  
5 the hole. You do not get returns. You have to come out  
6 of the hole, check what the problem is, run back down and  
7 try to solve that problem before you can even drill any  
8 more. Lost circulation or lost tool -- one tool down  
9 that hole, you've got to pull everything out, go in with  
10 an impression block or some sort of finding tool, then  
11 run in with a fish -- you'll hear that term quite a bit  
12 -- fish around in a dark hole with nothing -- you can't  
13 -- there's nobody down there to guide it. You're going  
14 around trying to lock on to, maybe, a cone out of a bit.  
15 A round object in a round hole -- you can just chase this  
16 thing everywhere around. Each minute that you spend  
17 fishing -- you have rig time, you have personnel time, if  
18 you have that cementer sitting by. If you're close to  
19 that cement time, that truck sitting by -- it's costing  
20 up. If that person elected to participate, he is a  
21 partner. He will be expected to pay his fair share. You  
22 could also have, God forbid, unforeseen disasters. As we  
23 see, there is quite a few explosions in the mining  
24 business. Hopefully, we will not have one. They are a  
25 general partner. They have the liability. If there's a

1 \$10,000,000 judgment against Oxy. they will pay 10% of  
2 \$10,000,000.

3 Q. With regard to not having enough money in escrow -- we've  
4 covered that. Just to run this past the Board, because,  
5 maybe, we have haven't thought about this -- if Oxy comes  
6 in here and there's \$25,926 on deposit with regard to  
7 this well, and let's assume the location gets moved, and  
8 the depth isn't as great, you don't need as much casing,  
9 and 10% turns out to be \$20,000 instead of \$25,000. What  
10 do you anticipate the Board is likely to do when Oxy is  
11 trying to get a release of the escrow?

12 A. Well, that money will be going back to the parties that  
13 put into escrow, plus any interest due or anything that's  
14 due. That is controlled. It's not Oxy's to take from  
15 and pull out. That is in there. That is what the law  
16 has provided for to protect their monies and interest.  
17 As a concluding question, is it your understanding that  
18 absent an agreement between the parties with regard to  
19 participation and conflicting interest, monies would have  
20 to be escrowed with regard to participation?

21 That's correct.

22 To get any money out of escrow, requires a Board order,  
23 does it not?

24 That's correct.

25 That's all I have in that respect.

1 MR. CHAIRMAN: Thank you. I would just clarify that, you  
2 know, the Board's concerned on the detailed well es-  
3 timates -- I think we all recognize that they are  
4 estimates. But we do expect them to be your best  
5 estimate -- for concern to those parties, particularly,  
6 that may wish to participate, that they not be driven  
7 away by any artificial escalation of prices and what  
8 have you, there on that side as well. I think you  
9 touched on a number of things after the fact, but I think  
10 our concern is before the fact. The question of all  
11 these is just as I explained to you, to make sure that  
12 there's not prices in here that are just picked out of  
13 the air and plugged in to that. That's why, I think, we  
14 have some of the tougher questions and look for. I think  
15 it helps you in the long run that we pin you down, so to  
16 speak. We realize that it is an estimate and that you  
17 will have to maintain those actual cost figures.

18 QWAPTE: I guess we are --

19 MR. CHAIRMAN: You're struggling for some flexibility on that.

20 QWAPTE: Well, we are and we aren't. I mean, you'll  
21 notice the numbers change and some of the numbers have  
22 actually changed in the downward direction, as Kevin  
23 pointed out. I'm not sure if we weren't being criticized  
24 because the numbers went down. I think you should view  
25 that as, perhaps, a beneficial result. But the numbers

1 will change and you're going to have to deal with that.  
2 We are trying to keep the numbers relatively current.  
3 There's one concern that I have -- this is just a comment  
4 to the Board. I suppose Marty could make it or I could  
5 make it. If a person is making a decision to participate  
6 in one of these wells, and a swing of \$1000 or \$2000 in  
7 costs, one way or the other, is going to make a dif-  
8 ference -- in other words, if the DWE is \$2000 less or  
9 \$5000 less than it might, that person should not be in  
10 this deal. I mean, you lose a tool down a hole, you have  
11 a fire -- I mean, who knows, you know -- and you're a  
12 general partner. I hear you and I believe you when you  
13 tell me that your concern is that if costs -- I mean,  
14 what are we talking about. Let's say the costs are over  
15 on the unit by \$10,000 and somebody wants to participate  
16 -- 10%, that's \$1,000. I mean, if that difference is  
17 going to make a difference in somebody's decision in or  
18 out of this well. As a practical matter, they shouldn't  
19 be in this well. I'm not arguing with the concept that,  
20 you know, we're trying to keep these numbers realistic  
21 and legitimate estimates. But they shouldn't get to the  
22 point or the purpose that you all are concerned about.  
23 If the person's decision -- economic decision -- is that  
24 fine tuned, this is a really, bad thing to do. It's just  
25 my personal view of the matter. I don't know if I'll

1 change your view, but --

2 MR. MASON: Mr. Chairman.

3 MR. CHAIRMAN: Mr. Mason.

4 MR. MASON: In response to that, I think that one of the  
5 biggest issues that faces the petitioners before this  
6 Board, as well as the Board, relating to this is a  
7 question of financial and economic credibility. I think  
8 that one of the things that the Board is very concerned  
9 about is because the scenarios and the mechanisms  
10 involved here where people are putting up money that,  
11 essentially, it's going to be spent by someone they have  
12 no control over. The fact that the only intervening,  
13 supervising party in that process is this Board -- that  
14 we want the people whose interest and whose rights are  
15 being adjudicated or dealt with in this Board, to feel  
16 like that they can rely upon the integrity of the  
17 financial information. That's more my concern than  
18 individual numbers or amounts. Is that what's presented  
19 here, and what we rely on making our decisions, are the  
20 best possible numbers and that the public interest and  
21 the ownership of these interests is well served, both by  
22 you all and us. I think that's what -- I mean, my  
23 perspective is. That's what -- see, I'm as concerned  
24 about what this costs or that costs as much as I am that  
25 everyone can feel comfortable in relying on the fact that

1 the material and the evidence upon which these decisions  
2 are made, is as factually accurate as it can be.

3 MR. SWARTZ: That goal I agree with 100%, Bill. If that's  
4 your goal -- I mean, we'll do whatever. But that, to me,  
5 makes a lot of sense. I subscribe to that view -- that  
6 we need to try to submit the best information we can to  
7 you. What was concerning me was the step beyond that. I  
8 just didn't agree with that principle.

9 MR. MASON: Oh, I understand that.

10 MR. WIRTH: It's a strong argument for a joint, operating  
11 agreement, as we present it to the Board, that we would  
12 like the parties to enter into. That is what a joint,  
13 operating agreement is for and it would save a lot of  
14 time for the Board.

15 MR. MASON: Thank you, Mr. Chairman.

16 MR. CHAIRMAN: Thank you. Any other questions? I have  
17 another question of Mr. Wirth. Would you go back for  
18 this well and clarify on the W. W. Baldwin heirs, since  
19 we had the question come up and I may have cut you short.  
20 I think, for the record, I'd like you to go back and just  
21 clarify whether or not there is any question on notice  
22 for the heirs for this well.

23 MR. SWARTZ: Mr. Bailey, let me just make a statement, then  
24 you can argue with it or agree with it, so that the Board  
25 knows where we stand. It is my understanding that Mr.

1 Bailey is here, and some of his clients are here, and  
2 they are not taking the position that they were entitled  
3 to notice on U-11 and didn't get it. But what they are  
4 saying is they wanted to meet Mr. Worth from Oxy, they  
5 wanted to talk to the Board to indicate that they own  
6 interests and they know they own interests in adjoining  
7 units, and they're expecting to receive notice on those  
8 units.

9 MR. BAILEY: Yes. Let me add, and maybe explain a little bit,  
10 too. Up until, probably, last night or today, we thought  
11 we did own an interest in that tract that was publicized.  
12 Evidently, some of those individuals didn't receive any  
13 written notice, but saw the publication and sort of  
14 scrambled to retain me and to get somebody up here to  
15 just represent their interest. I think I called your  
16 secretary, or something, and told them we'd probably be  
17 here. But, you know, after we got our heads together and  
18 started looking at the actual pieces of property we have  
19 and in the U-11 tract that was publicized, I believe that  
20 the information we have right now is that the property we  
21 have lies right next to this, not within that mapped  
22 area. So as far as this application -- that's why I  
23 wanted to make it clear, I wasn't making any objection or  
24 anything to any development, just that we -- we are  
25 nearby and we'll probably, maybe, be active in the future

1 and maybe participate in helping some of the notice  
2 provisions.

3 MR. CHAIRMAN: Thank you. Mr. Worth, you were talking about  
4 when you had this additional list, plus the 100 you have  
5 now. There, again, we're not talking about this?

6 MR. WIRTH: Not for this particular unit, Mr. Chairman. They  
7 do, as he said, there is tracts of the Baldwin heirs.

8 MR. CHAIRMAN: Thank you. Any other questions. Would you  
9 assert that the notice is proper for this unit?

10 MR. WIRTH: Yes, sir, to the best of my knowledge.

11 MR. CHAIRMAN: Thank you. Any motion?

12 MR. MCGLOTHLIN: I move that we accept the proposal for  
13 petition.

14 MR. KELLY: Second.

15 MR. CHAIRMAN: I have a motion and a second to accept and  
16 approve this petition as presented. All in favor signify  
17 by saying yes. Oppose say no. Unanimous approval.  
18  
19  
20  
21  
22  
23  
24  
25

1 (AFTER A BRIEF RECESS, THE HEARING CONTINUES AS FOLLOWS:)

2  
3 (ITEM 23)

4  
5 MR. CHAIRMAN: Okay. We're back on record. This is a  
6 petition for the establishment of a compulsory pooled  
7 drilling unit from OXY, USA, Inc. This is for Well Z-12.  
8 Docket Number VGOB-0521-126. Are all the parties that  
9 wish to address the Board regarding this -- have they  
10 come come forward?

11 MR. SWARTZ: I think so. Again, Mark Swartz and Tim Scott for  
12 OXY, USA. Marty Worth is at the table again. Before we  
13 start, there was a question raised off the record as to  
14 what might be different about this unit. I think if you  
15 take a look at Exhibit B1 before we start, or as we  
16 start -- not Exhibit B1, but Exhibit B -- you will see  
17 that there are 22 people listed as respondents, and the  
18 mineral ownership category for each one of them, you'll  
19 notice. As surface. It's a fairly unusual situation  
20 where Oxy is seeking to force pool surface owners. The  
21 reason that this has happened, or that Oxy has notified  
22 these people and joined them as respondents, is because  
23 there is currently a lawsuit pending in chancery with  
24 regard -- it's a declaratory judgment action with regard  
25 to ownership that was brought by the surface owners. The



1 Q. Who do you work for?

2 A. OXY. USA, Inc.

3 Q. I would remind you that you're still under oath.

4 A. Okay.

5 Q. Did you prepare the notice of hearing and application  
6 with regard to Unit Z-12?

7 A. Yes, I did.

8 Q. There are 22 folks listed in the notice of hearing?

9 A. That's correct.

10 Q. When I compare Exhibit F, which was filed, to the notice  
11 of hearing list and Exhibit B, I notice that you were  
12 unable to mail notices to some of the 22 people, correct?

13 A. That's correct.

14 Q. Again, would it be safe for the Board to rely on the  
15 fact that if you do not show an address on Exhibit B,  
16 but, rather, show address unknown, that's a list of the  
17 people that you mailed to as opposed to the people you  
18 did not mail to.

19 A. That's correct.

20 Q. With regard to the folks that you mailed to, it's my  
21 understanding that the only one that you do not have a  
22 signed return receipt from is Edith M. Anderson, is that  
23 correct?

24 A. That's correct.

25 Q. Have you made any further efforts to try and track her

1 down? Have you had any success in that respect?

2 A. We recently -- it was marked, returned, address unknown.  
3 it had three notices sent on there. So that was the  
4 latest to try to contact Edith M. Anderson.

5 Q. So, to date, you have been unable to contact her. The  
6 address that you were provided with just is not working?

7 A. That's correct.

8 LADY IN AUDIENCE: Excuse me, but she's deceased.

9 MR. SWARTZ: If you could, maybe, after the hearing, if we  
10 don't get a chance during, tell Mr. Wirth who her heirs  
11 might be so we try to track them down, if you have any  
12 idea.

13 Q. (Mr. Swartz continues.) In addition to the mailings that  
14 we have just discussed -- and the proof of mailings have  
15 been filed as Exhibit F -- did you publish?

16 A. Yes, we did.

17 Q. Where?

18 A. In the Virginia Mountaineer.

19 Q. What date?

20 A. That would be April 25, 1991.

21 Q. With regard to that publication, did you publish the  
22 notice of hearing and the Map A1?

23 A. Yes, we did.

24 Q. With regard to Oxy's standing with regard to this unit,  
25 if you could refer to Exhibit A, and either show or

1 explain to the Board what OXY, USA's interest in this 80  
2 acre drilling unit is?

3 A. OXY, USA has 100% coal bed methane leased, a 100% from  
4 the oil and gas owners and the coal owners. We also have  
5 a operation agreement with Island Creek as to 100% of the  
6 coal leased.

7 Q. Would it be fair to say that the only people you don't  
8 have a lease from, or an agreement with, are the surface  
9 owners?

10 A. That's correct.

11 Q. Those are the people who we joined as respondents?

12 A. That is correct.

13 Q. This plat, Exhibit A, does in fact show that it is an 80  
14 acre unit from the grid?

15 A. Yes, it is.

16 Q. There's a measurement line to east of the -- well, just  
17 inside the east boundary line of the unit, correct?

18 A. That's correct?

19 Q. It shows the dimension, the square, and an 80 acre grid?

20 A. That's correct.

21 Q. Were copies of a consent to stimulate filed with the  
22 Board, under a cover letter dated May 13th, with regard  
23 to this unit?

24 A. Yes, it was.

25 Q. That was -- consent to frack was identified -- consent to

1       stimulate was identified as Exhibit D?

2   A.   Yes, it was.

3   Q.   With regard to this unit, we have also filed a proposed

4       order as Exhibit G, correct?

5   A.   That's correct.

6   Q.   You are not recommending any amendments to the applica-

7       tion or any dismissals of any respondents?

8   A.   No, we're not.

9   Q.   With regard to title and attempting to identify surface

10       owners, could you describe what Oxy did with regard to

11       this unit to ascertain who the surface owners might be

12       and what their address might be?

13   A.   Basically, first of all when the bill of complaint was

14       filed against Oxy and we were served a notice, it did

15       note 7.44 interest under there. It did have the names

16       and addresses -- no addresses, but the names of the

17       parties. In the permitting process, we initially tried

18       to -- if the area is physically going to be disturbed by

19       that surface owner, we notify those and we had addresses

20       at that time. We tried to do a stand-up opinion and we

21       have completed a stand-up opinion as to the surface

22       ownership. That is not a requirement I usually do in

23       pooling applications. A due diligent -- we're reviewing

24       the tax maps and everything -- that's how we identify --

25   Q.   That's how you track the people down that are listed on

1 Exhibit B7

2 A. That's correct.

3 Q. The application, at paragraph D, indicates that a well

4 work permit has already been issued?

5 A. That's correct.

6 Q. The permit number?

7 A. The permit number is 1416.

8 Q. The depth of this proposed well?

9 A. The depth of this proposed well is 1932 feet.

10 Q. This well is proposed to produce coal bed methane gas

11 from what seams?

12 A. The Pottawatomie Number 3 and below the Tiller formation.

13 Q. In Inland Creek's coal lease, and your coal bed methane

14 leases, do they pertain to coal seams below the tiller?

15 A. That's correct.

16 Q. You previously filed Exhibit E, which is the certifica-

17 tion of publication, with the Board in advance of the

18 hearing?

19 A. Yes, we did.

20 MR. WAHLE: That's all I have of Mr. Wirth.

21 MR. CHAIRMAN: Any questions, Members of the Board? Do you

22 have any questions of Mr. Wirth?

23 MR. STREET: Not particularly, but I do have a statement I'd

24 like to make.

25 MR. CHAIRMAN: Would you identify yourself for the record?

1 MR. STREET: My name is James Street.

2 MR. CHAIRMAN: Okay. You can feel free to do that now or  
3 when --

4 MR. STREET: We object to the pooling, or anything that they  
5 do at this well, because we claim the gas rights and  
6 anything else that goes with it. We feel like they are  
7 trespassers on our property. We just oppose anything  
8 that Oxy wants to do with it until it's settled in Court.  
9 We don't think they have a right to do anything until it  
10 is determined in Court who actually owns the gas rights  
11 to this well. That's, really, all I have to say about  
12 it. That's the way we feel and we hope that that's  
13 enough.

14 MR. CHAIRMAN: Okay. You can feel free to sit there and, as  
15 we go through and as they bring other witnesses, you have  
16 call your next witness.

17

18

19

20

MARK B. KAREM

21 A WITNESS who, after having previously been sworn, was  
22 produced and testified as follows:

23

24

25

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Would you state your name again?

A. Mark B. Karem.

Q. Who do you work for?

A. OXY, USA.

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

A. Yes.

Q. Did you prepare a well estimate with regard to this unit, being 2-12?

A. Yes.

Q. On what date?

A. April 17, 1991.

Q. You signed it?

A. Yes.

Q. Did we need to make a change to strike the words sub-surface casing equipment, when they first appear, and substitute 100 barrel tank, for those?

A. Yes.

Q. Does the price remain \$1700 with regard to that tank?

A. Yes.

Q. What is the total amount of your estimate with regard to the cost of drilling and completing this well?

1 A: \$227,878.  
2 Q. Is it your opinion that that sum is a reasonable estimate  
3 as to the probable cost of drilling and completing this  
4 well?  
5 A. Yes.  
6 MR. STREET: Can I ask a question?  
7 MR. CHAIRMAN: Yes, sir.  
8 MR. STREET: Since this well has been in over two months, why  
9 do you have to have an estimate? You should have actual  
10 facts on this one now.  
11 THE WITNESS: Because this estimate entails the cost to  
12 complete the well. We haven't got that far yet. That's  
13 things that we haven't done. It will be a few months  
14 before we get to that point.  
15 MR. CHAIRMAN: I'd ask you to explain that a little further to  
16 him -- what you mean by completing the well.  
17 MR. SWARTZ: To make it real clear, why don't you take the  
18 items which have yet to be done and give him some  
19 examples and, then, tell him what is involved.  
20 THE WITNESS: What's been done is that they've run casing,  
21 they've cased the well, and they've run casing and  
22 cemented. What we have to do next is --  
23 MR. CHAIRMAN: What's cased the well?  
24 THE WITNESS: I'm sorry. They've drilled it to the total  
25 depth as far as, you know, they're --

1 MR. STREET: I understood that.

2 THE WITNESS: Okay. Then, what we're planning on doing next  
3 is, probably, fracture the coal seam, pumping some type  
4 of --

5 MR. STREET: Liquid nitrogen?

6 THE WITNESS: I'm not sure which way we'll go with that. But,  
7 then, once we frack the coal seam, we'll probably come up  
8 the hole and perforate a couple of other coal seams.  
9 We'll have to fracture those.

10 MR. STREET: I have another question. The stuff they'll use  
11 to frack the coal seam -- what happens to that? What do  
12 they do with it? Like the drilling -- when they drilled  
13 the well, the other stuff was put in a bed with a plastic  
14 cover underneath it, which it overflowed and the rest of  
15 it went down the valley -- on their environmental  
16 control, which wasn't really up to par. But, that stuff  
17 -- I just wondered if they will do this correctly. They  
18 haven't done anything so far correctly. Like we've got  
19 land slides up there and soil erosions and rocks in a  
20 crease and all this stuff. They're going to do more of  
21 this stuff. Just how far can they go on this -- on the  
22 environmental issue of it?

23 THE WITNESS: Mr. Street, the materials we use when we frack  
24 the coal seam, we'll pull them back to the surface and  
25 they'll go into surface tanks. So it's not going to be

1       discharged on the property.

2   Q.   (Mr. Swartz continues.) How do you get it from the --

3       after you frack the seam, how do you get it up out of the

4       well and, then, where do you put it?

5   A.   Hopefully, some of them will flow back. Some of them, we

6       might have to pump it out.

7   Q.   So will flow back naturally under the pressure of the

8       gas?

9   A.   Right.

10   Q.   If it doesn't come back naturally, will there be a pump

11       in the bottom of the well?

12   A.   Yes.

13   Q.   After the material that you've used to frack the well --

14       the liquids -- gets pumped out of the bottom of the well,

15       do you expect these wells to make water?

16   A.   Yes.

17   Q.   Is that pump also to pump water?

18   A.   Right.

19   Q.   Are there any requirements with regard to the water that

20       you anticipate you're going to have to pump out of that

21       well with regard to storage or disposal?

22   A.   Yes.

23   Q.   Could you tell us about that?

24   A.   Yeah. I think the DHEC has standards for certain water

25       qualities before it's even -- if it's even land applied,

1       you know, sprayed on the ground. But I would say most  
2       water would probably be, you know, be stored in tanks.  
3 MR. STREET: Most of it? Well, those three wells below this  
4       property -- the water flow is toward these houses that  
5       has wells. All the other stuff they've done up there --  
6       all that grime and everything like that -- it's already  
7       coming down that way. So I just wondered where this  
8       other stuff is going to go.  
9 Q.       (Mr. Swartz continues.) Have you had any complaints from  
10       surface owners with regard to this well that was drilled?  
11 A.       I'm not aware of any -- Z-12.  
12 MR. SWARTZ: Mr. Worth will be back in a minute. I want to  
13       address that with him.  
14 Q.       (Mr. Swartz continues.) Would you be likely to get --  
15 MR. STREET: We have complained since the first time you  
16       pulled the first dozer on our property. But I have never  
17       talked to anybody from Oxy other than the guy that  
18       started putting the stuff in -- the roads -- which damage  
19       started then.  
20 MR. SWARTZ: Who did you complain to?  
21 MR. STREET: Let's see. Ron Dean is his name. We also --  
22 MR. CHAIRMAN: Mr. Street, we'll follow up with you and  
23       address the complaint. I suggest Oxy do that, as well.  
24       Outside this hearing. We'll go ahead with the hearing.  
25       Our own inspector will certainly visit the site and go

1 over any complaints that you have about them.

2 MR. STREET: Well, let's go back to that again. I asked for a  
3 copy of the inspector's report. The first time he came  
4 up here and he was putting the road in. He promised me a  
5 copy of it, but I never received it.

6 MR. CHAIRMAN: We'll see to it you get that.

7 MR. STREET: Okay. I appreciate that.

8 Q. (Mr. Swartz continues.) Mr. Karem, have you reviewed the  
9 well work permit that was issued?

10 A. Yes.

11 Q. And the development plan that went with that?

12 A. Yes.

13 Q. Have you reviewed the application and notice in this  
14 matter?

15 A. Yes.

16 Q. Do you have an opinion as to whether or not Oxy's  
17 proposed development of this unit is a reasonable plan to  
18 develop the coal bed methane gas from the coal seams  
19 below the tiller and within or under Unit 2-12?

20 A. Yes.

21 Q. Do you have an opinion that the development of 2-12, as  
22 proposed by OXY, USA, will protect the correlative rights  
23 -- will serve to protect the correlative rights of the  
24 people within that 80 acre unit?

25 A. Yes.

1 Q- Is it also your opinion that the proposed plan by Oxy  
2 will serve to assist in preventing both economic and  
3 physical waste of coal bed methane from seams below the  
4 tiller seam and within Unit 2-12?

5 A- Yes.

6 MR. SWARTZ: That's all I have.

7 MR. CHAIRMAN: Any questions, Members of the Board, of Mr.  
8 Karem? Mr. Karem, I would ask you to go back to the last  
9 few questions that Mr. Swartz asked you where you said  
10 you did have an opinion about that. Would you affirm  
11 your opinion? Mark, you may want to help him in doing  
12 it.

13 MR. SWARTZ: Okay, I may have unartfully phrased those  
14 questions.

15 Q (MR. SWARTZ continues.) You understand that one of the  
16 purposes of the Virginia Gas and Oil Act and one of the  
17 reasons we're here is to protect correlative rights?

18 A- Right.

19 Q- Can you tell me whether or not Oxy's plan to develop 2-12  
20 is a reasonable method, in your opinion, to protect the  
21 correlative rights of people who have interests within  
22 that 20 acre 2-12 Unit?

23 A- Yes.

24 Q- That's your opinion?

25 A- Yes.

1 Q- Again, with regard to the gas and the folks who have  
2 interests within the 80 acre Unit 2-12. Having reviewed  
3 the well work permit package, the submittal there, and  
4 the application for this hearing, is it your opinion that  
5 compulsory pooling of this unit would serve to avoid  
6 economic waste -- which is drilling a number of wells in  
7 a limited confine -- and physical waste -- which would be  
8 non-development of a resource? Would the compulsory  
9 pooling order in this instance effectuate both of those  
10 purposes with regard to avoiding waste?

11 A. Yes.

12 MR. SWARTZ: That's all I have.

13 MR. CHAIRMAN: Any other questions? Do you have any other  
14 questions? What's your pleasure?

15 MR. MASON: Can I ask you a couple of questions?

16 MR. CHAIRMAN: Mr. Mason,

17 MR. MASON: Mr. Chairman, I mean, you're not here --

18 MR. CHAIRMAN: It's Mr. Street.

19 MR. MASON: Mr. Street, I know you're not here, but, I mean --

20 I'm just going to ask you. As I understand it, someone  
21 said that you have a suit pending, is that correct?

22 MR. STREET: That's right, Uh-huh.

23 MR. MASON: Are you represented by counsel?

24 MR. STREET: Yes, but he wasn't able to be here today.

25 MR. MASON: Okay. But there's a --

1 MR. STREET: I just wanted to put this on record.  
2 MR. MASON: I understand that. But have you, in the course of  
3 talking to him, has he advised you as to the provisions  
4 of the Oil and Gas Act under which this Board operates?  
5 MR. STREET: I'm familiar with it to a certain degree.  
6 MR. MASON: You understand that this Board --  
7 MR. STREET: I just don't think the legislators meant for  
8 these people to come in and run over top of people and do  
9 whatever they want to any time they want to do it. I  
10 disagree with them wholeheartedly there.  
11 MR. MASON: I understand that. Sir?  
12 MR. STREET: I just disagree with the legislation, the law and  
13 oil on that point.  
14 MR. MASON: I understand that. You know, we -- I'm just  
15 trying to -- I want to make sure, though, that you've had  
16 an opportunity to be afforded an understanding with  
17 someone who can explain to you that this Board's author-  
18 ity flows from the legislature and we have a mandate to  
19 act within that. You know, we're not in a position to  
20 sit here and decide whether your claim to the ownership  
21 of this gas is valid or not. We don't have that -- We  
22 appreciate the fact that you are unhappy with the way  
23 this is done and the way this operates. We, of course,  
24 try to afford --  
25 MR. STREET: I am more unhappy with the way Oxy does business

1 more than anything.

2 MR. WASON: Well, I understand that, yes, sir. I just wanted  
3 to make sure, though, that you have had an opportunity to  
4 understand or have legal advice as to this Act and the  
5 power and so forth and you understand your rights and so  
6 forth. Thank you.

7 MR. CHAIRMAN: Mr. McGlothlin.

8 MR. MCGLOTHLIN: Mr. Swartz was going to ask some questions of  
9 Mr. Worth when he got back.

10 MR. CHAIRMAN: I think that was an area, possibly, that I  
11 suggested that they do outside of this.

12 MR. MCGLOTHLIN: Okay.

13 MR. CHAIRMAN: Because it really didn't influence -- yes?

14 MR. SWARTZ: I might just -- if I could make one comment about  
15 this pending lawsuit. Our lessors, who is Oxy's title  
16 and Island Creek's title, is oil and gas lessee and coal  
17 lessee, which our title derives from. Our party is a  
18 defendant. Although they are not here because they are  
19 lessors, they feel as strongly as Mr. Street that they  
20 own the mineral interests that we're talking about. They  
21 are, in fact, parties to that lawsuit. They're also  
22 represented by counsel. Tom Pruitt is their attorney in  
23 that case. So, I mean, there is an action pending with  
24 regard to title of this coal bed methane.

25 MR. CHAIRMAN: Okay. What's your pleasure in this case?

1 MR. EVANS: I'd like to make a motion that we approve Oxy's  
2 petition as requested.

3 MR. KELLY: Second.

4 MR. CHAIRMAN: We have a motion and a second. All in favor  
5 signify by saying yes. Oppose say no. Motion carries.

6 That concludes the items on the agenda today. I would  
7 tell the Board that we hope to have an RFP ready for your  
8 review and approval for the June meeting, which will be,  
9 I believe, June 18th. Yes, June 18th. That will go on  
10 the agenda for next time as well as the other items we  
11 continued today. That concludes today's hearing. Thank  
12 you.

13 (End of proceedings for  
14 May 21, 1991.)  
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1  
2 CERTIFICATE  
3

4 COMMONWEALTH OF VIRGINIA

5 COUNTY OF WASHINGTON  
6

7 I, Cleadya D. Griffin, Notary Public in and for the  
8 Commonwealth of Virginia, at Large, do hereby certify that  
9 the foregoing is a true transcript of the proceedings had in  
10 the matter heard before the Virginia Gas and Oil Board held on  
11 the 21st day of May, 1991; that all of said proceedings were  
12 electronically recorded by Tamara L. White, Notary Public, in  
13 and for the Commonwealth of Virginia, at Large, but were  
14 reduced to writing by me and that said transcript is a true  
15 and correct transcript of the aforesaid to the best of my  
16 ability.

17 I further certify that I am not a relative, counsel or  
18 attorney for either party, or otherwise interested in the  
19 outcome of this action.  
20

21 GIVEN under my hand this 10th day of June, 1991.  
22

23   
24 CLEADY D. GRIFFIN  
25 NOTARY PUBLIC

My commission expires March 19, 1993.