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VIRGINIA OIL AND GAS CONSERVATION BOARD

HEARING OF JUNE 18, 1991

9:00 A. M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER CONFERENCE ROOM
ABINGDON, VIRGINIA

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1 June 18, 1991

2 This matter came to be heard on this the 18th day June,
3 1991, before the Virginia Gas and Oil Board, held at the
4 Southwest Virginia 4-H Center, Abingdon, Va.
5

6 MR. CHAIRMAN: Good morning. My name is Benny Wampler and I
7 am Assistant Director of Mining for the Virginia Depart-
8 ment of Mines, Minerals, and Energy. We welcome you to
9 today's Gas and Oil Board meeting. I'll ask our Board
10 members to introduce themselves, starting to my extreme
11 left.

12 (BOARD MEMBERS INTRODUCED.)
13

14 (ITEM 1)
15

16 MR. CHAIRMAN: The first item on todays agenda is the petition
17 for the establishment of the compulsory pooled drilling
18 unit under 45.1-361.22 from Oxy USA, Inc. This is for
19 proposed well CBM I-Q35. The docket number is VGOB-05211-
20 120.

21 MR. SWARTZ: Mr. Chairman, Oxy appears by its attorneys, Tim
22 Scott and Mark Swartz. As you will recall at the last
23 hearing we realized shortly before the hearing that for
24 some reason notice had not been sent to Ashland and we
25 offered testimony at the hearing but continued the

1 hearing for the purpose of allowing us to give notice to
2 Ashland in allowing Ashland to interpose any objection
3 they might have. Since the notice was given -- and I'll
4 get to that in a moment with Mr. Wirth -- but since the
5 notice was given Ashland has indeed filled an objection
6 and a motion to dismiss -- some objections which I have
7 received and I assume by copy of the letter I got that
8 they were actually filed with you all. I have a couple
9 of matters that I want to cover with Mr. Wirth and Mr.
10 VanGolen this morning, although most of the testimony
11 was offered last time. I would just like to take a few
12 moments to do that and then turn it over to Mr. McGuire,
13 who can then cross-examine Glen if he chooses or Marty
14 and present his objections if that is a procedure that
15 seems to make sense to you all.

16 COURT REPORTER: (Swears witness.)
17
18

19 MARTIN WIRTH

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

DIRECT EXAMINATION

MR. SWARTZ:

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

A. Martin E. Wirth.

Q. Who do you work for?

A. Oxy USA.

Q. Have you testified before this Board before?

A. Yes, I have.

Q. And have your credentials been accepted and have you been allowed to testify?

A. Yes, it has.

Q. There are two areas I want to cover with you. First of all, was there, in fact, a failure to give notice to Ashland before the last hearing on Q-35?

A. That is correct.

Q. And did you remedy that problem subsequent to the hearing?

A. That is correct.

Q. I am showing you a letter dated May 22, 1991, and let me ask you what you did with regard to the notice?

A. I sent a letter certified return receipt to Ashland Explorations, Inc. in care of Mr. Charles Sandle, who is the land manager for Ashland in Ashland, Kentucky advising him that due to an oversight at Oxy USA noticed

1 was not properly given and we requested of the Board and
2 was granted a continuance for their behalf.

3 Q. And the last sentence, in fact, in that letter said,
4 "Ashland may desire to attend and represent its possible
5 interest," is that correct?

6 A. That is correct.

7 Q. What did you sent to Ashland with your May 22nd, 1991
8 letter?

9 A. Notice of the hearing and the application for this well.
10 Q. And the exhibits to the application and notice?

11 A. That's correct.

12 Q. The other matter I would like to cover with you concerns
13 -- first of all, I will ask you whether or not Oxy USA
14 actually has a coalbed methane lease with regard with
15 some of the acreage in unit Q-35?

16 A. Yes, it does.

17 Q. And from whom has Oxy obtained the coalbed methane
18 lease?

19 A. Oxy has obtained coalbed methane leases from Yukon
20 Pocahontas Limited Partnership, et al. Also Alvis C.
21 Stickley estate.

22 Q. And what percentage or portion of the 80 acre unit does
23 Oxy have coalbed methane specific leases on?

24 A. Oxy has approximately 98.75 percent under lease.

25 Q. Under coalbed specific leases?

1 A. Correct.

2 Q. I've taken the plat that was filed in regard to Q-35 and
3 I have colored in pink a portion of it. Is that the
4 portion that is subject to Ashland's oil and gas lease?

5 A. That is correct.

6 Q. Let me show that to the Board. Approximately how many
7 acres is that of the 80 acre unit?

8 A. That is approximately 15 acres.

9 Q. We ask you whether or not Ashland has an oil and gas
10 lease on the entire 80 acre unit?

11 A. No, it does not.

12 MR. SWARTZ: If you could swear Mr. Van Golen for me.

13 MR. CHAIRMAN: Excuse me, Mr. Swartz. Mr. McGuire, do you
14 have any cross-examination for Mr. Wirth before we move
15 forward?

16 MR. MCGUIRE: Let me clear up a matter. In the last six or
17 seven of these hearings we have incorporated by reference
18 earlier portions of the transcript taken in the earlier
19 hearings. If it pleases the Board I can do that again
20 today. If it does not please the Board I would like to
21 cross-examine Mr. Wirth. I understand that Oxy has no
22 position on the matter one way or the other.

23 MR. WAMPLER: What is your pleasure? To accept previous
24 testimony and let him document specifically what tes-
25 timony he wants incorporated or do you want --

1 MR. LEPCHITZ: (Inaudible.)

2 MR. MCGUIRE: Maybe this will be more helpful. The Attorney
3 General's office and the parties are working up an
4 example package for the purposes of appeals of earlier
5 orders. The Virginia Gas and Oil Board office has put
6 together an example package and we are trying to agree
7 upon the contents. That example package will be used for
8 each appeal. I would purpose that we incorporate by
9 reference that example package into this hearing.

10 MR. CHAIRMAN: Do you perceive this as being exactly the same
11 as those earlier ones? Because those were 100 percent
12 ownership --

13 MR. MCGUIRE: Yes, I believe the issues are the same. This
14 involves Ashland's interest under the Stickley lease.
15 One or two of the earlier ones involve the Stickley
16 lease. I have submitted in the earlier applications
17 copies of the Stickley lease. It only varies slightly
18 because some of the earlier hearings were on the Lonn
19 Rogers lease, but the issues are the same. I don't know
20 what Oxy's position is. I don't perceive the issues to
21 be different because we have a partial ownership inter-
22 est.

23 MR. CHAIRMAN: Any comments?

24 (AFTER A BRIEF DISCUSSION OFF THE RECORD, THE HEARING
25 PROCEEDED AS FOLLOWS:)

1 MR. CHAIRMAN: I think the issue here we need to be careful
2 about is that this is not 100 percent ownership and that
3 that in and of itself does make some difference.
4 Particularly as you take this issue forward. I think
5 it's probably best to go ahead on record and have your
6 cross and get it in again, even though it may take a
7 little more time. To make sure we get it fully explored.

8 MR. MASON: The only other thing is, as I understand it, is
9 that you all wanted to incorporate by reference and
10 objections to be included in this package. Is that
11 correct?

12 MR. MCGUIRE: Our objections are laid out. The same objec-
13 tion --

14 MR. MASON: I understand, but the argument and basis for them
15 are included in this package, is that correct?

16 MR. MCGUIRE: That's right and earlier oral arguments and
17 earlier testimony.

18 MR. MASON: I guess -- are the parameters of that package
19 established at this point?

20 MR. MCGUIRE: They are -- I received a letter last week from
21 the Attorney General's office. I have looked at the
22 package and have no problem with it. But the attorneys
23 have not gotten back together and said, "This is the
24 package." We have agreed upon making a package.

25 MR. MASON: My concern is that we are talking about incor-

1 porating something that at this point is not finite. I
2 have a little bit of a procedural problem with that in
3 terms of stipulating to incorporate into the records
4 something that you don't know exactly what the parameters
5 of it are at this point.

6 MR. MCGUIRE: It may be easier and I can do it either way --

7 MR. MASON: I just think we could incorporate by reference the
8 record for all the earlier applications and then, subse-
9 quently, if and when the attorneys agree upon an example
10 package that example package can be used to go up on
11 appeal. And I can name those earlier applications for
12 the Board -- incorporate the record of each of those
13 applications by reference and then allow the attorneys,
14 if they can and I believe that they can, to come up with
15 an example package.

16 MR. WAMPLER: I think as a minimum we would need that for the
17 record, specifically, of what you were referencing and
18 wanted incorporated.

19 MR. MCGUIRE: If the Board pleases -- and I would purpose
20 incorporating by reference the record for forced pooling
21 applications, E-34, E-36, D-36, C-38, D-34, E-35, C-36,
22 A-37, D-35, A-38, S-32, and Q-33.

23 MR. WAMPLER: Is this all specific of the Stictley lease?

24 MR. MCGUIRE: At least two of those involved the Stickley
25 lease. And I would propose offering into evidence a copy

1 of that lease today for the purpose of todays hearing.

2 MR. CHAIRMAN: Any questions, Memabers of the Board?

3 MR. MCGUIRE: Is that acceptable to the Board?

4 MR. MASON: Yes. I would move that we accept that stipula-
5 tion.

6 MR. CHAIRMAN: I have a motion that we accept the stipulation
7 to incorporate these --

8 MR. MCGUIRE: I have very brief cross-examination if that's
9 the case.

10 MR. MCGLOTHLIN: Would we want to accept them all or accept
11 the ones dealing strictly with the Stickley lease?

12 MR. CHAIRMAN: It is my understanding that you're incorporat-
13 ing the arguments for all of these others?

14 MR. MCGUIRE: I am, but --

15 MR. CHAIRMAN: And you are specifically referencing and plan
16 to introduce to the Board the Stickley lease into
17 evidence.

18 MR. MCGUIRE: That's right. And let me explain the reason.
19 The earlier leases that came before the Board were the
20 Rogers leases and the major issues were decided on the
21 Rogers leases. The Stickley leases came later. The
22 major issues have been decided and we incorporated the
23 earlier testimony and arguments by reference.

24 MR. SWARTZ: The only (inaudible) that I would suggest I would
25 like to take Mr. McGuire up on his offer that when we

1 have agreed on a package and the pending appeals that
2 that actual physical package be regarded as the record in
3 lieu of being forced to go back to all of these hearings.
4 I think that's what his has offered and I would like the
5 record --

6 MR. CHAIRMAN: The progression of the record. It wouldn't
7 replace the record.

8 MR. SWARTZ: Apparently, what he has proposed today is because
9 we don't have a final agreement on that exhibit package
10 or that package of accumulated record, that once we have
11 one it will become his factually basis in this hearing on
12 Q-35.

13 MR. MASON: Let me, if I may Mr. Chairman. Let me amend my
14 own motion to be that I move that the Board accept those
15 stipulations subject to the right of Ashland with the
16 consent of any other interested party to substitute an
17 agreeing package of exhibits for those stipulation in the
18 future day. Is that agreeable to Ashland?

19 MR. MCGUIRE: That is.

20 MR. CHAIRMAN: Okay. I have a motion.

21 MR. MCGLOTHLIN: Second.

22 MR. CHAIRMAN: I have a motion that is seconded. All in favor
23 signal by saying yes. (All agreed.) Opposed, say no.

24 (None.)

25 MR. CHAIRMAN: Do you have cross-examination?

1 MR. MCGLOTHLIN: Mr. Chairman, may I ask a question just for
2 staff clarification? When the package is agreed upon is
3 there some stipulation that we need to make at the
4 Department as to who is to answer the appeals -- if
5 that's acceptable the Court.

6 MR. CHAIRMAN: It doesn't have to be filed with the Board for it
7 to be acceptable. That's part of Mr. Mason's motion. So
8 that will all take place as business before the Board.

9 MR. MASON: It would be my understanding that this substan-
10 tiation wouldn't occur, per say. That it would require
11 some motion and the record would reflect the deletion of
12 one and the replacement of the other.

13 MR. CHAIRMAN: Right. Mr. McGuire?

14
15 CROSS-EXAMINATION
16

17 BY MR. MCGUIRE:

18 Q. Mr. Wirth, I understand that Oxy has plans for a pipeline
19 to take this gas out of Buchanan County. Can you tell me
20 what plans Oxy does have?

21 A. I would rather refer the engineering and everything to
22 Mr. VanGolen, if that's all right with you. He has more
23 knowledge in regards to that.

24 MR. MCGUIRE: I have no further cross.

25 (The witness stands aside.)

1 COURT REPORTER: (Swears witness.)

2
3 GLENN VANGOLEN

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

6
7 DIRECT-EXAMINATION

8
9 BY MR. SWARTZ:

10 Q. Do you want to state your name again for us please?

11 A. Glenn VanGolen.

12 Q. Who do you work for?

13 A. Oxy USA.

14 Q.. Your title?

15 A. Coalbed methane project manager.

16 Q. Have you testified before the Board before?

17 A. Yes, I have.

18 Q. Have your credentials and qualifications been
19 accepted and have you been allowed opinions and
20 testimony before the Board?

21 A. Yes, I have.

22 Q. Have you prepared an amended Exhibit C or DWE with
23 regard to well Q-35?

24 A. Yes, I did.

25 MR. SWARTZ; I would like to file ten copies of this.

1 Q. (Mr. McGuire continues.) Is well Q-35 currently drilled?
2 A. Yes. The well has all ready been drilled.
3 Q. Could you tell the Board what you have done in the way of
4 assembling data and in the way of preparing what we have
5 filed today as an amended Exhibit C or DWE, for Q-35?
6 A. What I have gone back and done is put in the actual
7 casing depth, the actual price of material that was pur-
8 chased, the invoices that we have to date. Obviously,
9 they are not all accumulated, some of them have, some of
10 them haven't. Also, in the process of all of that we
11 have started to accumulate a data base on cementing cost,
12 on tubular cost where in the future we can start using
13 average pricing for each of these depths on a (inaudible)
14 basis, so we can more realistically reflect the cost
15 occurred to date or expected cost to be incurred.
16 Q. And have you used the data that you have developed,
17 either actual cost on this particular well which has
18 been drilled to the extent you have invoices that you
19 have been able to capture, or if you don't have the
20 actual invoices the data base on prior wells. Have you
21 used that data to prepare the amended exhibit that you
22 filed with the Board today?
23 A. That is correct.
24 Q. And, obviously, the well has been drilled but there are
25 still a number of cost that have not been incurred as of

1 yet?

2 A. Right. We have drilled the well and set casing. We have
3 not completed the well yet, so the estimate that was
4 prepared is for drilling and completion. Only a portion
5 of that work on that estimate has been completed.

6 Q. And what is the total projected cost of both drilling,
7 which we have some cost on and completing, which we
8 don't have, we haven't done yet -- what is the total cost
9 of those two items on the amended Exhibit C?

10 A. \$237,586.

11 Q. And in your opinion as an engineer is that a reasonable
12 estimate with regard to the probable cost of completing
13 and drilling this well will turn out to be?

14 A. Yes, it is.

15 Q. The well that has been drilled on unit Q-35 is located
16 outside of the drilling site, is it not?

17 A. Yes, it is.

18 Q. Could you explain to the Board why the well Q-35 is
19 located where it is?

20 A. This was an agreed upon location with the shallow coal
21 owner, Jewel Smokeless -- coal operator, excuse me, who
22 has projected mining plans in the area.

23 Q. In what seam would that be?

24 A. That would be for the Raven seam.

25 Q. And was this location agreed upon with the consent of the

1 the shallow coal owner?

2 A. Yes, it was. It was mutually agreed upon for this unit.

3 Q. You have previously testified before this Board and I

4 believe it was quite some time ago and at the point where

5 you have outlined some of the alternatives that were

6 available to Oxy USA in terms of existing pipelines to

7 get gas from (inaudible) wells to market, do you remember

8 that?

9 A. Yes, I do.

10 Q. And the last time I recall that you testified you had not

11 made any final decisions as to where the gas might be

12 going and so forth, correct?

13 A. Correct.

14 Q. Have you come some distance toward making final arrange-

15 ments and could you explain to the Board what decisions

16 have been made, the extent to which arrangements have

17 been made to construct a transmission line, or locate one

18 and a gathering system?

19 A. We worked with Columbia to get an interconnect agreement

20 at the Grant compressor station in West Virginia.

21 Subsequently, we are also working on acquiring the right-

22 of-way for that transmission line. We have authorized

23 and have completed a mill rolling of 235,000 feet of 16

24 inch pipe, which is currently in the yard getting coated.

25 This will be a gathering line which connects a smaller

1 gathering line into the Grant compressor station in West
2 Virginia on the Columbia system. In addition, there is
3 about 40 percent of the gathering lines which will
4 connect our wells into this main line and the right-of-
5 way has been acquired on that. And right-of-way crews
6 are diligently working acquiring the rest.

7 Q. With regard to the main line that interconnect with
8 Columbia what percentage, approximately, of the right-of-
9 ways for that line have been acquired?

10 A. Approximately 50 percent of that main lines right-of-way
11 have been acquired.

12 Q. Have you made any arrangements or contracts or authorized
13 any expenditures with regard to compression to get the
14 gas into the Columbia line?

15 A. We have also submitted an order or authorized a submis-
16 sion of an order for three compressor stations at Grant,
17 which are booster compressor stations. It will take gas
18 from 500 pounds into the Columbia system to pay on the
19 day over 1,000 pounds along with the necessary treating
20 equipment at that station.

21 MR. SWARTZ: That's all I have for Mr. VanGolen in addition to
22 what was offered last time.

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

24 MR. EVANS: Mr. VanGolen, on your detail of estimates how many
25 of these items are outstanding that you don't have

1 final?

2 MR. VANGOLEN: Mr. Evans, let me take it from the top. All of
3 the casing has been completed, the tubing has not been
4 purchased. That is a current estimate of previously
5 purchased materials. The same with the rods. Fortunately,
6 the tubing has been purchased, not the whole hook-up
7 there. The mooring equipment has not been purchased.
8 The electrical line pipe fittings have not been pur-
9 chased. Tank batteries, stock tank separator, meter run,
10 labor trends, that has not been done yet. In the
11 intangible section the contract drilling work has been
12 completed, the rotary day work has been completed. The
13 sub-surface casing equipment* has been installed. Location
14 roads. A small portion of the contract services. The
15 cement has been done. The logging has been done. Neither
16 the perforation, stimulation, equipment rental, or
17 contract hauling has been done. A portion of the
18 miscellaneous incidental has been done.

19 MR. EVANS: Thank you.

20 MR. CHAIRMAN: Other questions?

21
22
23 CROSS-EXAMINATION

24 BY MR MCGUIRE:

25 Q. I just have one question. Mr. Swartz, in his direct

1 helped answer the question I was going to ask. In your
2 DWE how are you spreading out your overhead cost, such as
3 attorney fees? How do you account for that? Is that
4 listed in here?

5 A. It's somewhat buried into our location and roads. Your
6 attorneys fees really come down into several categories.
7 One is obviously the (inaudible) which we are going in
8 right now. That will be a direct charge to the well.
9 Title and maturity of action is on a tract by tract
10 basis, and obviously if a tract services more than one
11 well it will be distributed among those wells. I'm not
12 sure exactly what the status of this particular tract is,
13 the Alvis Stickley tract, but I know it does service
14 eight or nine wells, or projected eight or nine wells.
15 Some where in that area. Once those are completed or we
16 have filed permits on those, those cost will be attri-
17 buted among all those wells.

18 MR. SWARTZ: I might mention an appeal cost.

19 A. (The witness continues.) And an appeal cost is charged
20 directly to the well.

21 MR. MCGUIRE: No further questions.

22 (The Witness stands aside.)

23 MR. EVANS: Mr. Chairman, I have a question.

24 MR. CHAIRMAN: Mr. Evans.

25 MR. EVANS: Mr. McGuire, I'm just making it clear that Ashland

1 has interest in 15 acres of this 80 acre tract, correct?

2 MR. MCGUIRE: That is correct. And when it's my turn I'll

3 offer the lease into evidence.

4 MR. CHAIRMAN: It's your turn.

5 MR. MCGUIRE: Let me, just for the record, object to any

6 testimony that was given at the last hearing because we

7 were not given notice. I'm not sure that anything

8 prejudiced me, but I would just like the objection noted

9 for the record.

10 MR. SWARTZ: Well, I'd like to cure that then. I mean, if

11 that's an objection, a legitimate objection we'll start

12 from scratch today.

13 MR. MCGUIRE: I'm not sure what was said last time. If you

14 can state for the record what was stated I don't know

15 that --

16 MR. SWARTZ: You got the application and we talked about plat,

17 we talked about the original DWE, we talked about the

18 notice. I mean, you have all of the written materials

19 that were the subject of discussion at the last hearing.

20 But I don't want to get into a situation where you can

21 sandbag me with objections. I mean, if you have some

22 problem with the notices that were sent or the DWE that

23 was filed --

24 MR. MCGUIRE: I guess I have some problem, because I didn't

25 get notice. I was sort of surprised when I found out

1 that you had started without me.

2 MR. CHAIRMAN: Excuse me, gentlemen, you're going to have to

3 address the Chair when you do this.

4 MR. MASON: I don't understand. Are you objecting to the

5 granting of the Boards order in your written objection?

6 Are you objecting here to the inadmissability of the

7 evidence that they presented? I'm trying to clarify

8 exactly what is your objection?

9 MR. MCGUIRE: Well, I guess I am objecting to the testimony

10 that has been put in before without giving me the

11 opportunity to cross-examine. If counsel for Oxy could

12 tell me what went in the record I may withdraw my

13 objection. I just don't know what happened last time.

14 MR. CHAIRMAN: Mr. Swartz just said he was not going to

15 attempt to do that and has agreed to go ahead and put on

16 the full record. If you gentlemen want a five minute

17 recess to go over that, we'll do that.

18 MR. MASON: We didn't get a chance to meet before hand. I

19 don't want to burden Oxy's counsel.

20 MR. CHAIRMAN: We'll take a five minute recess and you two

21 talk.

22 MR. MASON: I want to be sure I understand this. You are

23 objecting to the admissability of the testimony based on

24 your lack of notice that we presented last time?

25 MR. MCGUIRE: That's correct.

1 MR. CHAIRMAN: We will take a five minute recess.

2 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)

3 MR. CHAIRMAN: We are back on record with the hearing of VGOB-
4 0521-120.

5 MR. MCGUIRE: I spoke with counsel for Oxy during the recess
6 and he explained to me what he put in at the earlier
7 hearing and it appeared to me to be routine matters and I
8 will withdraw my objection.

9 MR. CHAIRMAN: Grant McGuire withdraws his objection.

10 MR. MCGUIRE: I would like to put into the record the Stickley
11 lease, ten copies of which I'm filing with the Board.
12 What I have attached to the Stickley lease is an assign-
13 ment to Ashland Exploration.

14 MR. CHAIRMAN: Do you have a copy of this, Mr. Swartz?

15 MR. SWARTZ: I had gotten it before.

16 MR. CHAIRMAN: Mr. McGuire, I noticed in flipping through
17 here, the numbering in Exhibit B that's on something,
18 referencing Page 4 -- you may want to clarify for the
19 record and have this introduced as a specific exhibit
20 just so that the record will be clear. You intend to
21 introduce this entire package as one exhibit, is that
22 correct?

23 MR. MCGUIRE: Yes, I do. I would like to introduce for the
24 record the one document which contains within the
25 document an oil and gas lease between the Stickley's and

1 TXO Production Corporation and attach thereto our two
2 exhibits.

3 MR. CHAIRMAN: Okay.

4 MR. MCGUIRE: Also attached to the document is an assignment
5 and bill of sale from TXO Production to Ashland Explora-
6 tion Properties. I would like all of this marked as one
7 exhibit.

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

9 MR. MASON: Yes, sir. This document is being proffered as an
10 exhibit to your written objection?

11 MR. MCGUIRE: It's is being proffered to show chain of title,
12 which I don't believe is in dispute.

13 MR. MASON: I guess what troubles me about that is the fact
14 that there is no reference to it. In this document there
15 is no one here to offer this in evidence other than your
16 proff. I don't want to be overly technical about it.

17 MR. MCGUIRE: Let me explain it this way. It has been
18 referred to -- Ashland's ownership interest has been
19 referred to in the application by Oxy. I don't believe
20 the documents are in dispute. I am offering this for the
21 Court's reference or the Board's reference.

22 MR. MASON: I'm not trying to duly burden this, but if you
23 will, Mr. Chairman, does Oxy object to this?

24 MR. SWARTZ: We have indicated their interest in our applica-
25 tion. I mean I don't think there is a dispute, that

1 little tract that I showed you a moment ago that they
2 have on our gas lease.

3 MR. CHAIRMAN: Do you have any questions?

4 MR. SWARTZ: I'm not sure if Mr. McGuire is finished but --

5 MR. MCGUIRE: I am.

6 MR. SWARTZ: -- I would like to go through his objection
7 briefly and sort of make like a closing argument, I
8 guess. I have made some notes. I will not be labeling
9 this, but we have seen this over and over again and I
10 thought I would remind you of my position on some of
11 these things. They are legal issues that start on Page
12 2 of their objection. Number 1; They say that Oxy has
13 no standing. I would remind the Board that Section 361.2
14 allows any claimant when they are conflicting claims and
15 confer standing on that claim and I think the Board has
16 previously ruled in other cases. I will remind you that
17 we believe we are authorized as a claimant under 361.22.
18 There is also an assertion that 1; that Ashland is the
19 gas and oil owner. Well, as you can see from the plat
20 that they only own or have a claim to gas and oil for,
21 approximately, 15 acres on this 80 acre unit, and Oxy has
22 a lease on virtually all of the rest of it. So I would
23 question that is a true statement. I mean, they own a
24 portion of it, perhaps, but certainly not all of it. In
25 addition, if there is really a legal dispute here as to

1 ownership this is not the appropriate forum. We should
2 be in District Court or in Circuit Court for a legal
3 determination as to ownership. You all know that you
4 don't have the power to do that, you don't undertake to
5 do that. We are simply in no forum for that. With
6 regard to Item 2, Oxy is not a principal or lessee. I
7 would offer simply the same comments that I have had
8 with #1. I think it just repeats that issue. Number 3
9 is an assertion that Oxy has no method to transport
10 coalbed methane gas from the unit. You've heard Mr.
11 VanGolen's testimony this morning. You've heard his
12 testimony in the past. But I think this morning he was
13 able to offer you some concrete evidence of the fact that
14 not only have they had plans, but they are know in the
15 process of implementing those plans and what they have
16 accomplished. So I think, factually, Item 3 is simply
17 not before you. There is not evidence to contradict what
18 Mr. VanGolen has testified to this morning and, in fact,
19 he wasn't crossed on that. Item 4 says, "The unit fails
20 to comply with statewide field rules." Statewide field
21 rules have nothing to do with this. We are operating
22 under the Oakwood Coalbed Gas Field Order that was
23 entered by the Conservation Board and that's what created
24 and established these units, and we are seeking to pool
25 one of those units. Statewide spacing has nothing to do

1 with this at all. #5; "The size and configuration of the
2 unit is not adequate to drain gas." I have two comments
3 in that respect. There was considerable expert testimony
4 from the Conservation Board when Oxy was seeking to
5 establish the Oakwood Coalbed Methane Gas Field, and that
6 testimony addressed drainage issues, unit sizes and so
7 forth. And the predecessor of this Board, I believe, has
8 made a finding when it established the Oakwood Coalbed
9 Gas Field with regard to drainage in this field and it
10 has already been legally determined. The second observa-
11 tion I would make -- there has been no testimony offered
12 at this hearing by any expert witness or at any hearing
13 in the past on any of these Ashland objections that would
14 suggest or tend to offer evidence to suggest or support
15 a contention that these units are not appropriately
16 sized for drainage. And I would say that with regard to
17 Item 5 there has never been any evidence in the record
18 at all to support that assertion. Item 6; "Well is not
19 located in the center." As I am sure you all recall
20 there were drilling windows in the Oakwood order, but the
21 Inspector was given the power to relocate or approve
22 location outside of those windows and that is, frankly,
23 what happened here. You've heard an explanation as to
24 why that happened. You know that the statute requires
25 coalbed methane development to follow to the extent

1 necessary and convenient mine plans and you have from Mr.
2 VanGolen that that is why this well is located where it
3 is. There is an assertion at #7 that our plat fail to
4 comply with your regulations. I don't think it does. I
5 think it complies and I think it gives you the informa-
6 tion that you want. There has been no cross-examination
7 with regard to any deficiencies in the plat. There has
8 never been any evidence in any of these cases that there
9 is something wrong with the plat. You have directed us
10 to size these plats on 80 acres or give dimensions on the
11 plats and we have told you -- some of these were dated a
12 while back -- but other than that that's the only
13 criticism I recall hearing from the Board. Some of the
14 new ones you are getting you see that they are sized at
15 80 acres and we have told that eventually they will all
16 be. But there is simply no evidence in the record to
17 support that assertion with regard to that plat. Item
18 8; They question the accuracy of the survey information.
19 Well, where is the cross-examination with regard to that,
20 where is a witness that they have called to say there is
21 something with our survey. There, again, there is no
22 evidence in the record on Item 8. Item 9; They claim we
23 have failed to list all owners. Well, there is no proof
24 on that issue. No testimony, no challenge, nothing in
25 the record to support that assertion. Item 10; They say

1 we have failed to provide Ashland with any geologic or
2 petroleum engineering data as to the proposed unit. We
3 have given the information that the rules require in our
4 application, which discloses the target formation. The
5 DWE discloses the target formation and it gives the well
6 depth. The estimates that the Board requires us to
7 provide are furnished in the application and we have
8 provided all information we are required by law to
9 provide. Item 11; "Applicant has failed to provide
10 Ashland with any documentation or other evidence as to
11 its request to be the designated operator." Well, we
12 have submitted a DWE, we have submitted an amended DWE
13 now that the well has been drilled. They have had an
14 opportunity to cross-examine Mr. VanGolen. If they had
15 any questions of him with regard to Oxy's ability to
16 operate this unit they could put those questions to him
17 to create a basis in the record that you could make a
18 factual determination. There simply hasn't been any
19 effort on their part to do that. Item 12; They say that
20 Oxy has failed to provide Ashland with documentation or
21 other evidence that it would submit as to conditions for
22 participation. Our application fleshes out the relief
23 that we are seeking. It fleshes out the relief -- says
24 what relief we are seeking with regard to participation,
25 carried interest or leasing, with regard a bonus. It is

1 all in the application we have submitted with regard to
2 this unit as well -- a proposed order which also tells
3 you what we are looking for. They have that information.
4 Besides that fact that with regard to participation there
5 is very little you can do. The statute says what needs
6 to be done. And, obviously, the orders we've been
7 getting from the Board have, in general, follow the
8 statute. And what the relief we request, of course, we
9 intent to make that mirror with what the statute re-
10 quires. There is also a reference to royalty percentages
11 of (inaudible) . I have know idea what we are talking
12 about there. They don't claim to be a mineral owner and
13 how royalty interest could affect them remains a mystery
14 to me. Item 13; They reserve the right to present
15 evidence and cross-examine witnesses as to any matters
16 not fully set forth. Well, that hasn't happened this
17 morning so I don't think we need to concern ourselves
18 with Item 13. Item 14 is this recurring assertion that
19 Code Section 45.1 - 361.22 somehow violates Ashland's due
20 process rights, constitutes a taking of its property and
21 impairment of its contracts rights. Well, they are
22 entitled to notice. At the last hearing when it appeared
23 for some reason that we had not given they notice we
24 continued the hearing to give them notice. We've proved
25 the noticed. This has been published in the newspaper.

1 We haven't heard anything from them to tell us what due
2 process rights that they claim this statute violates.
3 Nothing with regard to their property argument. Nothing
4 with regard to their impairment. I mean, this is just a
5 bald assertion that the provisions of section 361.22 are
6 unconstitutional without any specific indication as to
7 how these impact on them in an unconstitutional way. And
8 my contention is, you have got to make a record and they
9 haven't. The last item, Item 15, they reserve the right
10 to object to any well proposed. Well, we have already
11 drilled the well. And, again, another reference to field
12 rules -- well, the Oakwood field rules apply and I
13 believe we have complied with them. So for the reasons
14 that I have summarized I would suggest that all of the
15 objections should be overruled for either the reason that
16 the statute clearly authorizes what Oxy proposes to do
17 and has done or there is absolutely no factual basis in
18 the record offered by Ashland to support these factual
19 assertions and to give you a basis to even consider
20 these questions. Thank you.

21 MR. MCGUIRE: I have no closing argument. I have been through
22 this before.

23 MR. MASON: Mr. Chairman, can I ask a question?

24 MR. CHAIRMAN: Sure, Mr. Mason.

25 MR. MASON: Mr. McGuire, in this objection any number of these

1 things state that Ashland reserves certain rights that
2 relate to essentially the evidentiary presentation,
3 cross-examination and determination of this Board. As I
4 read this document those reservation are open-ended. Is
5 that your intent?

6 MR. MCGUIRE: Reserves the right to cross-examine at this
7 hearing.

8 MR. MASON: Well, what I am concerned about is that it seems
9 to be that what this says is that even if we make -- you
10 are ascertaining that if we make the determination today
11 and grant the order of Oxy that Ashland is trying to say
12 that they can at some date in the future come in and
13 reopen this determination and proceed to present evidence
14 or to cross-examine previous witnesses. Is that your
15 assertion that you have the right to do that?

16 MR. MCGUIRE: It is not the -- I guess the reservation is that
17 we reserve the right to do so ata hearing before this
18 Board and this is --

19 MR. MASON: I know. But after the determination --

20 MR. MCGUIRE: No, no. That's not how it should be written.

21 Let me explain that early on these --

22 MR. MASON: I understand the stipulation aspects in that there
23 was an intent related to that, but what concerns me is
24 that there is an assertion here that if even if we grant
25 the pooling order that has been requested and Oxy is

1 making the assertion -- excuse me. That Ashland is
2 making the assertion that they have the right in the
3 future by some motion before this Board to reopen that
4 determination.

5 MR. MCGUIRE: I will state for the record that that is not
6 our intent, that we are only asking to have that right
7 at this hearing.

8 MR. MASON: Thank you. Secondly, this is general, if I may.
9 When the Oakwood Field Rules were adopted was Ashland a
10 lessee in this area affected at that time?

11 MR. MCGUIRE: It was.

12 MR. MASON: Did they appear in adoption of those rules?

13 MR. MCGUIRE: I have no knowledge.

14 MR. MASON: To you knowledge they did not object to the
15 spacing or the windows or any of the other matters at
16 that time?

17 MR. MCGUIRE: To my knowledge they did not. That was before I
18 represented Ashland.

19 MR. MASON: I understand. Thank you.

20 MR. CHAIRMAN: Any other questions? We'll take the objection
21 motion to dismiss first. What's the Board's pleasure?
22 That was filed by Ashland Explorations Company Inc.

23 MR. EVANS: Mr. Chairman, I move to deny Ashland's request.

24 MR. CHAIRMAN: I have a motion to deny Ashland's request.

25 MR. MASON: Second.

1 MR. CHAIRMAN: I have a motion and a second. All that favor
2 signify by saying yes. (ALL AFFIRM.)
3 MR. CHAIRMAN: Opposed, say no. (None.) Motions carries.
4 MR. CHAIRMAN: For clarification the intent of the motion is
5 to deny the motion to dismiss and dismiss the objections.
6 MR. MASON: I can't remember. Did we, in fact, approve this
7 pooling application last time or not?
8 MR. CHAIRMAN: No. We have to act on that now.
9 MR. MASON: So would it be appropriate now to move to --
10 MR. CHAIRMAN: It would.
11 MR. MASON: -- approve the pooling application with regard to
12 CBMI-235, is that correct?
13 MR. CHAIRMAN: Refer to the docket number.
14 MR. MASON: Docket #1, sir.
15 MR. CHAIRMAN: We have a motion. Do you want to also include
16 the designated Oxy as the operator?
17 MR. MASON: Yes, sir.
18 MR. CHAIRMAN: And to approve the compulsory pool drilling in
19 it?
20 MR. MASON: Yes, sir.
21 MR. MCGLOTHLIN: Second.
22 MR. CHAIRMAN: Docket number VGLB-0521-120. I have a motion
23 and a second. Any further discussion? All in favor
24 signify by saying yes. (ALL AFFIRM.) Opposed, say no.
25 (None.) Motion carries.

1
2 (ITEM 4, 5 and 6)
3

4 MR. CHAIRMAN: The next item, while Oxy is at the table, is
5 dealing with the issue that Oxy has. I think, Mr.
6 Swartz, do you want to comment to the Board on 130, 131,
7 and 132 for the record please?

8 MR. SWARTZ: Yes, Mr. Chairman. These would be Docket numbers
9 4, 5, and 6 on today's docket, which are VGOB0618-130,
10 131, and 132. Mr. Wirth wrote to you all on May 22
11 indicating that he had reached an agreement with Equi-
12 table Resource Exploration and was requesting -- or was
13 warning you that we were going to request that these be
14 dismissed at this hearing and we are indeed requesting
15 that those three items be dismissed. It would be
16 unnecessary to consider them today. In addition,
17 Consolidated and their counsel have been kind enough to
18 allow us to tackle Item 7 and 8 before they get in to
19 theirs. At least, they were yesterday.

20 MR. JONES: Yes, Mr. Chairman.
21
22
23
24
25

1
2 (ITEM 7)
3

4 MR. CHAIRMAN: Okay. The Board will go to #7 on the docket,
5 the petition for the establishment of compulsory pool
6 drilling unit from Oxy USA. This is coalbed methane well
7 U-10. Docket #VGOB-0618-133.

8 MR. SWARTZ: Again, it will be Tim Scott and Mark Swartz for
9 Oxy. Mr. Chairman, my first witness would be Marty
10 Wirth.
11

12 MARTIN WIRTH

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

16 DIRECT-EXAMINATION
17

18 BY MR. SWARTZ:

19 Q. Marty, I will remind you that you are still under oath.
20 First of all, I would ask you whether or not you caused a
21 notice or a publication to appear in any newspaper with
22 regard to unit U-10?

23 A. Yes, we did.

24 Q. And what newspaper would that have been?

25 A. We published it in the Virginia Mountaineer.

1 Q. And the certificate of publication states that it was
2 publishes on what date?
3 A. 23rd of May.
4 Q. What year?
5 A. 1991.
6 Q. And was there a small map published in the paper?
7 A. That is correct.
8 Q. A copy of the map was attached to the notice of hearing?
9 A. That is correct. Exhibit A-1.
10 Q. And was the notice hearing also published in the news-
11 paper?
12 A. Yes. Full and complete.
13 Q. Were two copies of Exhibit E, the proof of publication,
14 filed with this Board?
15 A. That is correct.
16 Q. In addition to notice by a publication, if you would
17 refer to the notice of hearing, could you tell whether or
18 not you also mailed copies of the notice of hearings in
19 Exhibit A-1 to any people?
20 A. Yes, we did. We mailed via certified return receipt to
21 all respondents listed in the notice of hearing.
22 Q. That you had addresses for?
23 A. That is correct.
24 Q. If we would turn to Exhibit D --
25 MF. SWARTZ: We have an amended Exhibit B that we would like

1 to file with regard to unit U-10.

2 MR. CHAIRMAN: You may want to restate that for the record.
3 You were walking around.

4 MR. SWARTZ CONTINUES: We are filing an amended Exhibit B with
5 you all today and Mr. Wirth will tell you why we are
6 doing that. I think the record should reflect that file
7 while you all are passing it along.

8 Q. (Mr. Swartz continues.) Mr. Wirth, why did you prepare
9 an amended Exhibit B?

10 A. In order to assist the Board I filed the Amended B due to
11 -- I would like to dismiss some of the respondents,
12 because they have executed contracts with Oxy USA and to
13 reflect the proper addresses of some that have moved or
14 returned back to Oxy USA as unclaimed and addresses
15 unknown. Therefore, I am trying to reflect a written
16 also with our oral testimony.

17 Q. Which parties are you showing in Exhibit B that should be
18 dismissed because they have signed leases?

19 A. In the original Exhibit B -- for the record I would like
20 to dismiss David William Loots.

21 Q. Which number is he, Number 1?

22 A. That would be Number 1. Also Number 2, Betty Loots
23 Spencer. Item 5, Brenda C. Young. Delete #7, Patricia
24 L. Hagerman. Delete #10, Virginia V. Bloss. And also
25 #13, Sarah Ann Baldwin Carskey. Said parties have

1 executed an oil and gas lease, coalbed methane, with Cxy
2 USA. And that is reflected in the amended exhibit, which
3 I have.

4 Q. So you have deleted those people that you have identified
5 from the amended exhibit because they no longer need to
6 be respondents?

7 A. That is correct.

8 Q. When you mailed copies of the notice of hearing and map
9 via certified mail have you filed as Exhibit F two copies
10 of your receipts for mailing and the return receipts
11 cards for the Board?

12 A. Yes, sir. On June 6, 1991 I provided proof of mailing
13 and for all of the mailings that we did on the original
14 exhibit.

15 Q. Were there some people that you could not mail to on this
16 unit?

17 A. There were some. The heirs of some of the Baldwin trust.
18 Also, we knew of names, but we could not locate addresses
19 for a Hobart M. Baldwin or Ruth B. Myhall. Of coarse,
20 the estate of W. W. Baldwin.

21 Q. Other than those three that you just identified did you,
22 in fact -- were you able to mail to everyone else?

23 A. Yes, we were.

24 Q. And did you get cards back from everyone except Lenoir
25 Baldwin?

1 A. That is correct. We received all back except for Lenoir
2 Baldwin which was returned as unclaimed, insufficient
3 address. We, again, sent notice the second time. Again,
4 it was returned as unclaimed.

5 Q. Could you briefly describe to the Board what you and
6 other Oxy employees do to attempt to locate and identify
7 people who may have an interest in this tract and to
8 locate their addresses and track them down?

9 A. Initially, we check the county court indices and all the
10 records possible and also check the revenue department
11 for tax assessments, various agencies that are available
12 to us in that county and surrounding counties. We also
13 check phone directories. We have established a relation-
14 ship with most of the local banks, whereas -- at first,
15 initially they were questioning why we wanted to know if
16 they had a customer by this name. But they realized
17 that they were doing due diligence. And we checked with
18 a lot of the local counsels in that area to see if they
19 might know and we do have contacts in that area.

20 Q. Was that done with regard to this unit?

21 A. Correct.

22 Q. Turning to the plat map, Exhibit A, Page 1 that was
23 submitted with the application, if you could hold the
24 plat up and show and maybe circle it with this pen
25 showing the Board the tract or portion of tract where

1 there are outstanding interests that the respondents have
2 been notified?

3 A. The very northeast corner section of the 80 acre unit is
4 subject to the W. W. Baldwin estates oil and gas interest
5 which we are trying to locate any and all parties to
6 that.

7 Q. And what is the acreage that that consist of that is
8 within the 80 acre unit and the percentage of the unit?

9 A. That consist of 1.16 acres or 1.45 percent of the 80 acre
10 unit.

11 Q. What is Oxy's interest or interests in this unit?

12 A. Oxy has acquired coalbed methane lease rights from 100
13 percent of the coal owners and, also, a little over 98
14 percent of the oil and gas owners in this unit.

15 Q. Is the area that you've previously shown the Board on the
16 plat map the unleased area of oil and gas?

17 A. That's correct. At this point and time.

18 Q. Except for that little corner Oxy has all the leases
19 from all the coal owners or oil and gas owners with
20 coalbed specific methane leases?

21 A. Leases or contracts with other companies, yes.

22 Q. Could you tell me what state Oxy is incorporated in?

23 A. Oxy is a Delaware corporation.

24 Q. And has Oxy been authorized to do business in Virginia by
25 the Virginia authorities?

1 A. Yes, it has.

2 Q. And is Oxy registered with the Department of Mines,
3 Minerals and Energy as a oil and gas operator?

4 A. Yes, it has. It has a bond on file for proper filing.

5 MR. SWARTZ: That is all I have of Mr. Wirth.

6 MR. CHAIRMAN: Let me ask if there is anyone here present
7 today that wishes to address the Board regarding this
8 well, CBMU-10, Docket #VGOB-0618-133? The record will
9 show that there is no one here. Any questions, members
10 of the Board? Continue.

11 MR. SWARTZ: I would like to call Mr. VanGolen.

12

13

14

GLENN VANGOLEN

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

17

18

DIRECT-EXAMINATION

19

20 BY MR. SWARTZ:

21 Q. Glenn, I would like to remind you that you are still
22 under oath. Could you state your name for us one more
23 time?

24 A. Glenn VanGolen with Oxy USA.

25 Q. Have you prepared and amended DWE with regard to the

1 well in unit U-107

2 A. Yes, I have.

3 MR. SWARTZ: And we have marked that as Exhibit C amended down

4 at the foot. I would like to file 10 copies of the

5 amended DWE reports.

6 Q. (Mr. Swartz continues.) Mr. VanGolen, who prepared the

7 amended Exhibit C?

8 A. I did.

9 Q. And when was it prepared?

10 A. The 17th.

11 Q. Of what month?

12 A. Of June.

13 Q. What year?

14 A. 1991.

15 Q. Has this well been drilled?

16 A. It has.

17 Q. And it shows a proposed total depth. Is that the actual

18 drilled depth?

19 A. That is the actual drilled depth.

20 Q. So it's been drilled to 1,700 feet?

21 A. Correct.

22 Q. And what is the target formation of the well?

23 A. The Pocahontas #3.

24 Q. In this location and at a depth of 1,700 feet, can you

25 tell me, in your opinion, whether or not the well will be

1 capable of producing from the Pocahontas #3 seam?

2 A. Yes. The #3 seam was at 1,645.

3 Q. With regard to amended Exhibit C concerning unit U-10
4 could you tell the Board what you did in terms of where
5 the pricing information and the footage information where
6 it came from to prepare this estimate?

7 A. The pricing information that was used was the actual cost
8 of material used for the well. Once again the cementing
9 services were used from the overall data base. On the
10 average cost per well again these invoices haven't
11 cleared the account. We have field tickets but that
12 doesn't reflect the actual cost of the well because of
13 discounting. So the data base was used on the average
14 cost of the wells and that is reflected in the estimate.
15 Similar to before the cost that were incurred were
16 similar to the ones that were indicated before. This
17 well was cased and drilled out and is currently waiting
18 completion.

19 Q. With regard to U-10 by way of example, what price per
20 foot were you using for conductor surface casing and for
21 production casing?

22 A. The conductor has been running somewhere around \$15 a
23 foot, surface casing current pricing is \$10.50 a foot,
24 production casing is \$4.75 a foot.

25 Q. And with regard to contract drilling what per foot rate

1 did you use?

2 A. The rate that was contracted for this well was \$19.25 a
3 foot.

4 Q. And what would the drilling day rate be?

5 A. With drill pipe it was \$52.80, without drill pipe it was
6 \$42.

7 Q. When you drill a well is there a bid process for some of
8 the people who provide services, and if so, could you
9 describe that process?

10 A. We have several processes that we go through. We do
11 business all over the country so the national vendors --
12 we go through national discounting receiving regional
13 discounts from the larger contractors. The local
14 contractors -- we go through a bidding process that
15 selects a number of contractors, give them the pertinent
16 information and allow them to submit a bid for the work
17 to be done.

18 Q. Was the drilling on U-10 actually submitted for bid?

19 A. Yes, it was.

20 Q. Can I assume you try to award this to the lowest bidder?

21 A. Most of the time that is correct. We also take into
22 account quality of service.

23 Q. Can you tell me whether or not it is you opinion as an
24 engineer in charge of this project that the cost you
25 have estimated on your amended DWE of \$232,293 is a

1 reasonable estimate to the probable cost for drilling and
2 completing the well on U-10?

3 A. That is correct.

4 Q. I would also ask you whether or not, based on your
5 familiarity of this well, with the unit, with the class
6 of the unit, with the field in general this well is a
7 reasonable method in your opinion to produce the coalbed
8 methane gas line within unit U-10 taking into considera-
9 tion correlative rights, economic wastes, and physical
10 wastes as issues of concern?

11 A. Yes, it is.

12 Q. Have we filed an Exhibit D with the Board in advance of
13 the hearing dealing with consent to stimulate?

14 A. Yes, we have.

15 Q. And does Oxy, in fact, have the consent of the coal
16 operator to stimulate at the Pocahontas #3 seam?

17 A. Yes. We have consent to stimulate all seams below the
18 Tiller.

19 Q. And in asking the Board to approve this order are you
20 limiting the seams that would be targets for production
21 to some horizon or group of horizons in terms of coal
22 seams?

23 A. It's, basically, limited to those seams in the Oakwood
24 Gas Field.

25 Q. Below the Tiller?

1 A. Below the Tiller.

2 MR. CHAIRMAN: Mr. Swartz, do you have a consent to stimulate
3 to introduce to the Board?

4 MR. SWARTZ: I thought it was previously filed with you all,
5 but I do --

6 MR. WIRTH: On June 4, 1991 I submitted consent to stimulate
7 on all well from 130 to 134 on the dockets, two copies.

8 MR. CHAIRMAN: I may have it somewhere else in here. We'll
9 check that.

10 MR. SWARTZ: I have an extra copy, but I don't have ten.

11 MR. CHAIRMAN: Well, if it was filed we should be able to just
12 clarify that it was filed.

13 MR. SWARTZ: I think I have the return receipt.

14 MR. CHAIRMAN: The record will reflect that a consent to
15 stimulate has been filed.

16 MR. SWARTZ: That is all I have of Mr. VanGolen.

17 MR. CHAIRMAN: Any question, Members of the Board?

18 MR. MASON: I have two, if I may?

19 MR. CHAIRMAN: Mr. Mason.

20 MR. MASON: Out of curiosity, Mr. VanGolen, the original well
21 estimate didn't include any 12 inch surface pipe on the
22 second one. I am just curious to to why that was
23 changed.

24 MR. VANGOLEN: Every well, Mr. Mason, requires a conductor
25 pipe to be set. This allows us to have a mechanism to

1 put on a head that diverts the air during drilling
2 process. It's really a question of how much that
3 conductor you have to set. It varies anywhere from 15 to
4 30 feet, depending on how consolidating the surface is in
5 that area.

6 MR. MASON: I understand that but, it wasn't on the original.

7 MR. VANGOLEN: Well, what he had there was instead of 12 and
8 $3/4$ I believe in the original he had 20 feet of 13 and
9 $3/8$. A little ways down the --

10 MR. MASON: Okay. I'm sorry. Thank you. My second question
11 is are any of these services or materials purchased from
12 subsidiaries of Oxidental Petroleum?

13 MR. VANGOLEN: Possible indirectly. Some of the polymers used
14 and chemicals used in the cementing or fracture stimula-
15 tion. I don't know for a fact. It could be supplied by
16 Oxidental. But none of them are purchased directly to my
17 knowledge.

18 MR. MASON: Thank you.

19 MR. SWARTZ: Do you have a comment of that question?

20 MR. WIRTH: If I might clarify the subsidiary of Oxidental
21 Petroleum Corporation has a chemical outfit which might
22 sell to Halliburton, Dowell Well, Slumber Jay. It is
23 always arms length or something like that.

24 MR. CHAIRMAN: Mr. Evans?

25 MR. EVANS: Mr. VanGolen, is this seam fracked?

1 MR. VANGOLEN: It's pre-seamed.

2 MR. WIRTH: Each of the DWE's still reflects three seams to be

3 fracked. Obviously those will be evaluated when we get

4 to that stage of the game.

5 MR. CHAIRMAN: Do you have any other questions?

6 (The witness stands aside.)

7 MR. CHAIRMAN: What is your pleasure?

8 MR. EVANS: Mr. Chairman, I move to grant Oxy's request for

9 pooling.

10 MR. CHAIRMAN: Second?

11 MR. MASON: Second.

12 MR. CHAIRMAN: I have a motion and a second to grant the

13 petition to establish a compulsory pool drilling unit.

14 All in favor signify by saying yes. (ALL AFFIRM.)

15 Opposed say, no. (None.) Motions carries.

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2 (ITEM 8)
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4 MR. CHAIRMAN: The next item on the agenda is the petition for
5 establishment of compulsory pool drilling unit from Oxy
6 USA for CBM V-12. This is Docket #VGOB-0618-134.

7 MR. SWARTZ: Again, Mr. Chairman, Tim Scott and Mark Swartz
8 for Oxy with regard to our application on unit B-12. I
9 would call Mr. Wirth first.

10 MR. CHAIRMAN: Let me make sure, are there any folk here today
11 present that wish to address the Board other than Oxy USA
12 regarding well CBM V-12. This is Docket #VGOB-0618-134.
13 The record will reflect no one here. You may proceed.

14 MR. SWARTZ: Thank you, Mr. Chairman. I call Mr. Wirth again.
15
16

17 MARTIN WIRTH

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

22 DIRECT-EXAMINATION
23

24 BY MR. SWARTZ:

25 Q. Mr. Wirth, I would ask you whether or not the notice of

1 hearing in Exhibit A-1 and the little map with the notice
2 of hearing was published in any newspaper?

3 A. Yes, it was, in the Virginia Mountaineer again.

4 Q. And what date would that have been?

5 A. It was published on May 23, 1991.

6 Q. And in addition to publishing the notice of hearing in
7 Exhibit A-1 did you undertake to notify respondents by
8 any other means?

9 A. Yes, by certified return receipt. We mailed the notice
10 of hearing and the application, complete application to
11 all residence names in this unit.

12 Q. And have two copies of Exhibit F been filed with the
13 Board which is the proof of mailing with regard to the
14 three residence?

15 A. Yes. We filed proof of mailing on June 6, 1991. We are
16 having somewhat of a problem with the United States
17 Postal Service. We did not receive the card back stating
18 that the parties did receive it, but I personally
19 verified with Mr. Rand Sterling, Senior Attorney for
20 Equitable, also, Mr. Rex Edwards, counsel for Columbia
21 and also verified with Garden Realty Corporation and all
22 three have received, but yet the cards at the time of
23 needing to be -- except for Garden Realty did not come
24 back. The Postal Service did find Garden Realty, but for
25 some reason did not return it. We are having quite a

1 difficult time of that.

2 Q. Did you send and file a letter with the Board dated June

3 6, 1991 with regard to your conversations with the people

4 from Equitable and Columbia Natural Resources?

5 A. Yes, I did.

6 Q. And the card that was signed and returned by Garden

7 Realty is part of Exhibit F?

8 A. That's correct.

9 Q. Do you wish to add or dismiss any of these -- any parties

10 or dismiss any of these three parties?

11 A. No, not at this time.

12 Q. With the regard to the plat map could you show the Board

13 what interest is subject to the forced pooling in the

14 sense that the respondents have an interest in the tract?

15 A. It is the eastern portion as you see highlighted in the

16 pink of the 80 acre unit, which represents approximately

17 24.79 percent or 19.8 acres of this unit.

18 Q. What is Oxy's interest in the balance of that unit, Mr.

19 Wirth?

20 A. Oxy has acquired coalbed methane rights, oil and gas

21 lease right from 95.9 percent of the coal owners, with

22 oil and gas rights we have owner/lease for 95.9 percent

23 of the oil and gas owners. The outstanding interest we

24 do not have from Garden Realty. Consol is a lessee of

25 Garden Realty. Columbia National Resources has a

1 conventional oil and gas lease with Buchanan Realty. Oxy
2 has a coalbed methane lease with Buchanan Realty.

3 Q. Could you briefly summarize for the Board the efforts
4 that you and your staff made to -- in the first instance,
5 make a judgement with regard to ownership and then track
6 down the various people that you had identified as having
7 a potential interest in this unit?

8 A. In this unit we were able to verify through the county
9 records and find existing contracts from the parties or
10 outstanding interest from all parties. We, also from
11 various title opinions, verified that the title is
12 correct.

13 Q. And have you listed as respondents all of the people that
14 you identified as potential owners of the resource who
15 you do not have some kind of agreement or lease with?

16 A. That is correct.

17 Q. Can you tell me whether or not you filed a consent to
18 stimulate and statement of no objection to a well work
19 permit with regard to unit V-12 with the Board in advance
20 of the hearing?

21 A. Yes. Again, on June 4, 1991 we submitted a consent to
22 stimulate on all of the wells that are before the Board
23 today.

24 Q. And that consent is from what company?

25 A. That consent is from the coal operator from below the

1 Tiller seam from Island Creek Coal Corporation.

2 Q. In what state is Oxy USA incorporated?

3 A. Oxy USA is a Delaware Corporation.

4 Q. And is Oxy authorized to do business in Commonwealth of
5 Virginia?

6 A. Yes.

7 Q. Is Oxy registered with the Department of Mines, Minerals
8 and Energy?

9 A., Yes, we are.

10 Q. And do you have a blanket bond or bonds on file with the
11 DHME?

12 A. Yes, we have bonds on file.

13 MR. SWARTZ: If there are no questions of Mr. Wirth I will
14 proceed to Mr. VanGolen.

15 MR. CHAIRMAN: Have any questions from the Board?

16 (The witness stands aside.)

17

18 GLENN VANGOLEN

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

21

22 DIRECT-EXAMINATION

23

24 BY MR. SWARTZ:

25 Q. Glenn, I would remind you that you are still under oath.

1 Could you state your name for us again?

2 A. Glenn VanGolen with Oxy USA.

3 Q. Mr. VanGolen, did you prepare an amended DWE with regard

4 to unit V-127

5 A. Yes, I did.

6 Q. I am filing 10 copies of an amended Exhibit C. When was

7 this amended DWE prepared?

8 A. June 17, 1991.

9 Q. Is this well drilled?

10 A. Yes, it is.

11 Q. And what is the total depth of this well?

12 A. The well was drilled at 2,456.

13 Q. Was it drilled with the intention that it would be able

14 to produce from the Pocahontas #3 seam?

15 A. Yes, it was. The Pocahontas #3 is at 2,405.

16 Q. Can you describe briefly for the record, with regard to

17 this particular unit, how you prepared the DWE, general-

18 ly, where the information that you used came from?

19 A. Yes. Similar to before the material cost or the actual

20 cost purchased for the well -- once again this well was

21 drilled and cased. The casing set just above the #3 seam

22 and drilled out and is ready for completion. The

23 information -- this was a rather recent well and it was

24 drilled within the last week and a half or so. So the

25 information obviously hasn't cleared from the accounting

1 records yet.

2 Q. I direct your attention to the -- just a change for a
3 moment -- to the location of this well on the plat. You
4 will notice again that it is outside the drilling window?

5 A. Correct.

6 Q. Could you give the Board any information as to why this
7 location wound up being the agreed on location?

8 A. Once again this is over the active mines, Dominion #6
9 mine of Jewel Smokeless, where they are mining the
10 Kennedy seam. This was the agreed upon location with
11 Jewel Smokeless for this unit.

12 Q. Getting back to the amended DWE, if you would compare
13 that to the original could you tell the Board what the
14 total shown on the amended DWE is and then compare it to
15 what was shown on the original Exhibit C?

16 A. The amended DWE is \$264,109. The originally submitted
17 DWE was \$270,800.

18 Q. Is the amended DWE less or more?

19 A. The amended is less.

20 Q. I will ask you whether or not you have a opinion as an
21 engineer and as the project manager as to whether or not
22 the sum or \$264,109 is in your judgement probable cost to
23 drill and complete the well on unit V-12?

24 A. Yes, it is.

25 Q. And it is your opinion it can be done for that amount?

1 A. Yes, it is.

2 Q. And I would also ask you if it is your opinion that the
3 well which has been drilled on this unit represents a
4 reasonable plan to develop the coalbed methane within
5 and under this unit for the benefit of the owners of the
6 resource?

7 A. Yes, it is.

8 Q. Is it your opinion that this proposed well on this unit
9 would also serve to protect the correlative rights of
10 owners within the unit as well as adjacent to the unit
11 and have the probability of lessening the likelihood of
12 both physical and economical waste?

13 A. Yes, it is. Yes, it does.

14 Q. One thing I'd like to clarify too. You all have looked
15 at the plat. It shows that V-11 looks to be within this
16 unit. Just for clarification, that well is not within
17 the unit. Just for graphic purposes they showed it and
18 the distance from the other well. On this plat it looks
19 to be either the distance shown is 2,380 and if you scale
20 that off that's about 1,800 feet away. There is a broken
21 line there so as not to interfere with the other informa-
22 tion on the plat they have placed it in that spot. But
23 there are not two wells?

24 A. There are not two wells.

25 MR. SWARTZ: That is all I have of Mr. VanGolen.

1 MR. CHAIRMAN: Questions?

2 MR. MCGLOTHLIN: Mr. VanGolen, enlighten me a little bit on
3 the location again in the window. It seem to me out of
4 an 80 acre tract that you could find a suitable location
5 that's within the plat.

6 MR. VANGOLEN: Mr. McGlothlin, we would always like to hope to
7 put it in the middle. We get to the point where, in
8 fact, this well was moved in three different locations.
9 This is the third of -- the one that the coal company
10 would finally agree with. We always try to put it within
11 that window. Either to the point of you can drill the
12 well there or not drill this unit at all.

13 MR. MCGLOTHLIN: Other than Jewel Smokeless were there other
14 circumstances which led to that area?

15 MR. VANGOLEN: Yeah. This is also located near the church
16 camp, the Christ church camp, which comes into effect in
17 this area. We had to stay away from the church camp and
18 stay away from their property. We didn't have to. We
19 chose to.

20 MR. SWARTZ: Let me clarify that for you. Did the camp
21 originally object to the well permit application?

22 MR. WIRTH: Yes. Well, not on this particular well, but
23 they're servicing this area especially this tract. You
24 notice that the Buchanan Realty #14. There's a large
25 youth camp in that area that not only serves as vacation

1 bible school, but also has a meeting place for the Church
2 of Christ. The counsel for the church and the youth camp
3 asked for a meeting and we sat down with all parties and
4 delegates and everything and arranged, at quite a
5 tremendous cost to Oxy USA, to avoid that acreage. And
6 also we had a drilling time frame because of vacation
7 bible school was starting. So we were in and out and in
8 and out and in and out in trying to do our time schedule
9 because of safety purposes with the youth present and
10 everything. Again, not only is one mine works going on,
11 but there is other mine works that may be on top of that.
12 And I know for a fact, personally, that all of these
13 wells in this area was pretty tough to get in the 80 acre
14 unit.

15 MR. VANGOLEN: By no means was this is the most cost effective
16 location. We had to build a substantial amount of road
17 to get to this location.

18 MR. MASON: Mr. VanGolen, with reference to this well and also
19 the 618-133 that we did previously, if Oxy is the
20 designated operator of these wells is it its intent to
21 produce these wells through the pipeline that you all
22 discussed earlier?

23 MR. VANGOLEN: Yes, it is.

24 MR. MASON: So if you all are the operator you all anticipate
25 having the means of moving this gas out of here?

1 MR. VANGOLEN: Yes, we do.

2 MR. MASON: Thank you.

3 MR. SWARTZ: You might clarify, Mr. VanGolen, that we are
4 talking about a transmission line and a gathering
5 system. You might tell the difference in the --

6 MR. MASON: Well, my question just directed it that I was
7 wanted on the record that these wells -- you know, that
8 you all do have a plan, it is part of what you all
9 discussed earlier and as the operator you anticipate
10 using this gathering and transmission system, correct?

11 MR. VANGOLEN: For clarification it's all part of a gathering
12 system going into an interstate transmission line. It is
13 part of that gathering system.

14 MR. CHAIRMAN: Any questions? What's your pleasure?

15 MR. MASON: I move approve the application.

16 MR. EVANS: Second.

17 MR. CHAIRMAN: I have a motion and a second to approve the
18 petition to establish a compulsory pooling drilling unit.

19 All in favor signify by saying yes. (ALL AFFIRM.)

20 Opposed say no. (None.) Motion carries. We will take a
21 ten minute recess before we start the other hearing and
22 give the other folks time to set up.
23
24
25

(ITEM 2)

MR. CHAIRMAN: The next item on the agenda is a petition for the establishment of the production unit known as BUN #1 for the production of sealed coalbed methane gob gas in gob areas from Pocahontas Gas Partnership. This is Docket #VGOB-0618-127. Would all the parties that wish to address the Board come forward to the table at this time please.

MR. JONES: Mr. Chairman, Members of the Board. My name is Jim Jones, an attorney from Abingdon and along with my partner Elizabeth McClanahan we represent Pocahontas Gas Partnership in these applications. This is an exciting new project that we are bringing before the Board today. I think you will find it of great interest and we will try to move along as rapidly as we can. We have a number of our witnesses here at the table and we will introduce them, if it is permissible, at the time that their testimony is given. I am going to ask my partner Elizabeth McClanahan to give a little further opening and then we will proceed into our evidence, if it pleases the Board.

MS. MCCLANAHAN: First of all, we've submitted two applications, one for the BUN #1 unit and one for the BUS #1

1 unit. That is what we have been calling them. We were
2 wondering if we could just submit our evidence on those
3 two units together, if it would please the Board. If
4 not we will do it separately, but I think it would be
5 more efficient if we just talk about them together.

6 MR. CHAIRMAN: If you will carefully point out any distinc-
7 tions and help us keep the record real clear.

8 MS. MCCLANAHAN: The biggest distinctions obviously are with
9 the acreage and our lease hold position in both of those
10 units. We'll keep all that evidence separate for each
11 unit. What we have on the Exhibit to your left here is a
12 topo map with the mine plan on it and both the units
13 designated. The Bun #1 is the north unit. The BUS #1,
14 obviously, the south unit. Pocahontas Gas Partnership is
15 a partnership composed of Consolidation Coal Company and
16 Conoco, Inc. What we propose to do in these two units is
17 seal the area that you see outlined in red on the map,
18 that being one drilling unit created under 45.1360.20.
19 What we would request today is that the Board establish
20 the creation of those two units and then field rules
21 within those units which would allow us to drill as many
22 -- actually, we are not going to be drilling well in
23 these two wells in these two particular units. The VBH's
24 have already been drilled for coal mining purposes. Both
25 of those areas have been completely longwall mined and

1 there is no coal left in either unit. What we propose to
2 do is to convert the VBH's into coalbed methane gob
3 wells and then produce those. The reason we've submitted
4 these two together is because these are the only two
5 units where the entire unit will have been mined out
6 prior to the time that we submit the application for the
7 units. What we would request that the Board do today is
8 establish these two units as they are drawn on the map,
9 allow us to convert as many VBH's as we deem necessary
10 during the course of mining into gob wells and produce
11 those. We would request that the Board have a field rule
12 which says that we can drill as many wells as we want as
13 long as they are not closer than 300 feet to the boundary
14 line of those units. That's in accordance with the
15 statute which requires a 250 foot boundary line and it is
16 also the same as the setback line in the Oakwood Coalbed
17 Gas Field.

18 MR. HASON: Are you telling us that you anticipate or that
19 there is a possibility that you will drill additional
20 wells or the only wells to be converted --

21 MS. MCCLANAHAN: We will only convert VBH's to gob wells in
22 these two units. However, there are more VBH's in these
23 units than the list of eight for the north and the nine
24 for the south.

25 MR. HASON: I understand. In other words all of the holes

1 are to be used are already in existence?

2 MS. MCCLANAHAN: That's correct.

3 MR. MASON: So the only thing you are asking for is the
4 conversion of the vent holes to the wells, the producing
5 wells and the ability to produce them?

6 MS. MCCLANAHAN: Right.

7 MR. MASON: No additional drilling. That is what I am trying
8 to get at?

9 MS. MCCLANAHAN: Right. Correct. And the reason we need it
10 to be done in this particular manner is because it would
11 be administratively more efficient for the Board to allow
12 us to drill as many wells as possible as long as we don't
13 get 300 feet closer to the boundary line, than for us to
14 come back and request location exceptions from statewide
15 spacing every time. In addition, we may not have time to
16 do that because during the mining we may need to vent
17 additional gas. And in order to do that we would
18 obviously have to convert a VVH to a gob well and
19 produce it as quickly as possible in order to keep
20 pressure off the seals that are going to be in place in
21 both of these units. And we think this is in conformity
22 with what the statute allows and that is for safety
23 reasons or to conform with the mine plan. The Board is
24 given the specific authority in Section C of 361.20 to
25 allow the multiply drilling of wells in any one unit.

1 The wells that we have proposed thus far to convert from
2 VBH's to gob wells none of them are closer than 500
3 feet, which is what the statutory rule is at present.
4 However, obviously unless the Board rules on this matter
5 the gas and oil inspector would not be able to issue
6 permits for us to convert any additional VBH's to coalbed
7 methane and that's why we've asked for that particular
8 field rule to be established. In the north unit we
9 control 100 percent of the Pocahontas #3 coal seam,
10 99.035 percent of all other coal seams, 67.243 percent of
11 the oil and gas. And in the south unit we control 100
12 percent of all the coal seams. This is below the Tiller
13 which is included in the application and 90.004 percent
14 oil and gas. The first witness I would like to call is
15 Les Arrington.

16 COURT REPORTER: (Swears witness.)

17
18 LESLEY ARRINGTON

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

21
22 DIRECT EXAMINATION

23
24 BY MS. MCCLANAHAN:

25 Q. Would you please state your full name for the record?

1 A. Lesley K. Arrington.
2 Q. Your address?
3 A. 26 Mountain Top Drive. Princeton, West Virginia.
4 Q. Who are you employed by?
5 A. Consolidation Coal Company.
6 Q. And your position with Consolidation?
7 A. Permit specialist.
8 Q. What do your responsibilities and duties include as
9 permit specialist for Consolidation?
10 A. Assembling oil and gas information into the application
11 and permits, land mapping and gathering title information
12 from title opinions.
13 Q. How long have you worked for Consolidation?
14 A. Thirteen years.
15 Q. In that same position?
16 A. Generally, yes.
17 Q. What is your educational background?
18 A. I have an Associate of Science Degree in Mechanical
19 Engineering and a Bachelor of Science in Civil Engineer-
20 ing Technology.
21 Q. The BUN 1 and BUS 1 units that have been proposed by
22 Pocahontas Gas Partnership in the applications in which
23 we have submitted. What mine do those overlie?
24 A. Consolidation Coal Company #1 mine.
25 Q. Has there been a continuous property acquisition program

1 in the development of this mine?

2 A. Yes.

3 MR. CHAIRMAN: Can I interrupt you for just one second? May I
4 ask you just to facilitate the Board knowing who may be
5 planning to testify about what. Just give us briefly an
6 overview of the witnesses you plan to call and what
7 they'll be testifying about. It might help us if we
8 start trying to ask Mr. Arrington questions or the other
9 witnesses and covering everything.

10 MS. MCCLANAHAN: Okay. Mr. Arrington, as he has testified is
11 the land man and permit specialist for Consolidation
12 Coal Company and is responsible for leasing. So what we
13 plan to use him for is to indicate to you what our
14 percentage of control is in both of these units. Second,
15 we would like for Randy Albert, who is the project
16 manager for Pocahontas Gas Partnership to testify about
17 what this project encompasses. He is also a mining
18 engineer and so would be able to answer any mining
19 engineering questions that you might have. Ken Kormandy,
20 seated between Rany and Les, is a geologist for Con-
21 solidation Coal Company. He will testify about any
22 geological questions that you may have. Those are the
23 only ones that we plan to introduce at this particular
24 time. Unless there may be some questions that may have
25 to be answered by other individuals.

1 Q. (Ms. McClanahan continues.) Les, with regard to the BUS
2 1 and BUS 1 how did you identify to potential owners of
3 the coalbed methane gob gas identified?
4 A. From legal descriptions, title opinions, and field
5 investigations.
6 Q. And those names you have listed on exhibits to both
7 applications, is that correct?
8 A. Yes.
9 Q. On the north could you indicated what your control of the
10 coal estate and your oil and gas estates are?
11 MR. MASON: Excuse me. I was just going to suggest, Mr.
12 Chairman, that for purposes of the record they can't
13 tell -- each time you put on a slide I would suggest that
14 you say there is a slide and what it is so that it will
15 appear in the record.
16 MS. MCCLANAHAN: The first one was an exhibit to the applica-
17 tion so that won't be necessary.
18 Q. (Ms. McClanahan continues.) This one, Les, would you
19 explain what this exhibit is?
20 A. This exhibit is showing our coal control. On there we
21 control 100 percent of Pocahontas #3 seam and at that
22 point we control 99.035 percent of the below Tiller seam
23 and 100 percent of the Pocahontas #3 seam.
24 MR. MCGLOTHLIN: Would that be the same as Exhibit B-1?
25 MS. MCCLANAHAN: Correct. We would introduce this as exhibit

1 B, the first exhibit, being the one that is on the easel.
2 Q. (Ms. McClanahan continues.) In the south could you
3 explain the ownership.
4 A. In the south unit we control 100 percent of the below
5 Tiller seam coal and that's this exhibit.
6 Q. And the oil and gas estate in the south unit?
7 A. In the south unit we control 90.004 percent of the oil
8 and gas estate.
9 Q. And in the north unit what is your percentage of control
10 of the oil and gas estate?
11 A. 67.243 percent.
12 Q. Who are the owners of the coal below the Tiller seam in
13 both of these units?
14 A. In both units? The coal below the Tiller seam in the
15 north unit is owned by the Hue McRay Land Trust and
16 Consolidation Coal Company and Norfolk Southern. In the
17 south unit it is controlled by Consolidation Coal
18 Company, Hue McRay Land Trust and Buckhorn Coal Company.
19 Q. And do you have coal leases from all these parties, is
20 that correct?
21 A. Yes.
22 Q. Does Norfolk Southern Railroad own a portion of one of
23 these units?
24 A. Yes. In the north unit BUN 1 they control 7.51 acres of
25 all seams except the Pocahontas #3 seam, which Consol

1 owes.

2 Q. And that would be less than one percent of the entire, is

3 that correct?

4 A. Yes.

5 Q. Was a notice of hearing for both of these units mailed to

6 all of the parties that are listed in the exhibits to the

7 application?

8 A. Yes.

9 MS. MCCLANAHAN: We would like to introduce the notice of

10 hearing as exhibit C. Actually, that would be D, this

11 would be C, the south unit exhibit. We have hard copies

12 of all these slides. We just thought it would be easier

13 for purposes of discussing them to be able to use slides

14 instead of taping and re-taping on the easel. So we

15 will submit all of those to the Board.

16 MR. CHAIRMAN: For the record the reference to BUN 1 is the

17 north unit, is that correct?

18 MS. MCCLANAHAN: That's correct.

19 MR. CHAIRMAN: And the BUS 1 is the south unit?

20 MS. MCCLANAHAN: That's right.

21 MR. JONES: Buchanan north and Buchanan south.

22 MS. MCCLANAHAN: These are Exhibits D and E. One for the

23 north unit and one for the south unit.

24 MR. CHAIRMAN: Can you please designate whether it's north or

25 south.

1 MS. MCCLANAHAN: D is the north, E is the south.
2 MR. CHAIRMAN: Thank you.
3 MR. MCGLOTHLIN: Mr. Chairman, as bad as I hate to do this can
4 I request that we handle this as the Docket #2 and #3
5 separately. I am getting confused with all the dif-
6 ferent maps and notations. Trying to keep up with what
7 Exhibits go with what -- what docket numbers are what.
8 MR. CHAIRMAN: Do you want to take them one at a time?
9 MR. MCGLOTHLIN: That is what I suggest.
10 MR. JONES: Mr. Chairman, that is fine with us and we would be
11 glad to do it however the Board wishes. Obviously, much
12 of the testimony will be duplicative of each application,
13 but there will be specific testimony applicable to each
14 unit. We can do them one at a time and incorporate the
15 evidence.
16 MR. MASON: What I suggest this? Why don't you deal with the
17 first one, go through it all and then come back and do
18 the third one and just give the specifics of that one
19 that differs from the first one.
20 MR. MCGLOTHLIN: With all the different Exhibits coming in
21 it's difficult to keep them straight.
22 MR. CHAIRMAN: So we are going to be dealing with BUN 1, is
23 that correct?
24 MR. MASON: If that's okay with the rest of the Board.
25 MR. CHAIRMAN: Let me make sure we all are in agreement.

1 you're going to Buchanan north 1, referenced here as BUM
2 1. You'll go through entire exhibits and testimony for
3 that one and then for Buchanan south you will you be
4 going through -- did I understand you correctly to say
5 where the testimony might differ rather than to repeat
6 of all of that. But you would put in the Exhibits for
7 that. Does that make sense?

8 MS. MCCLANAHAN: Do you want us to start all over?

9 MR. CHAIRMAN: I don't think there is any need to start all
10 over. Pick up from here.

11 MS. MCCLANAHAN: We'll just proceed with the north unit from
12 this point on. With regard to the notice of hearing
13 which was submitted as Exhibit D for the north unit,
14 Docket #127. That may help you also to keep these
15 straight.

16 Q. (Ms. McClanahan continues.) Mr. Arrington, will you
17 please state how the notice of hearing of mailed to the
18 parties that were contained in the application?

19 A. Yes. They were mailed by certified mail return receipt
20 requested.

21 Q. And do you have those returned receipts?

22 A. Yes, I have.

23 Q. Have you submitted the originals of those receipts to the
24 gas and oil inspectors office?

25 A. Yes, we have.

1 MS. MCCLANAHAN: Does the Board wish to have copies of those
2 as an exhibit also or do you just need the originals?

3 MR. CHAIRMAN: We have agreed to accept the originals at the
4 inspectors office.

5 MR. FULMER: I verify on record that we did receive them.

6 Q. (Ms. McClanahan continues.) The persons who's names
7 and/or addresses are listed as unknown on the applica-
8 tion, how were those individuals notified?

9 A. By publication in the Bluefield Daily Telegraph, Bristol
10 Herald, and the Virginia Mountaineer. Those publications
11 were the Bluefield Daily telegraph was on May 21, 1991,
12 Virginia Mountaineer on May 23, 1991 and Bristol Herald
13 on June 5, 1991.

14 Q. And do you have the proofs of those publication notices?

15 A. Yes, I do.

16 Q. The proofs of publications will be Exhibits E, F, and G.

17 MR. CHAIRMAN: While he is handing these out, can I ask you to
18 clarify one thing for us? The application, as I under-
19 stand it, is produced from the gob gas of Pocahontas #3,
20 a mined-out seam, sealed area. The application deals
21 with notice of these other seams. They are not mined
22 out nor are you proposing to produce from those other
23 seams. Have you been notified?

24 MS. MCCLANAHAN: Randy?

25 MR. CHAIRMAN: We'll hold the questions.

1 MS. MCCLANAHAN: Thanks. The exhibit that we would like to
2 introduce as Exhibit H is the slide that you can see
3 now. This is the north unit showing coal, oil and gas
4 control.
5 Q. (Ms. McClanahan continues.) Just to clarify this, Mr.
6 Arrington, could you please give us the coal, oil and gas
7 control on this particular unit as it is today?
8 A. As it is today we control 67.,243 percent of the oil and
9 gas. We control 100 percent of the Pocahontas #3 seam
10 and .420 percent of all coal.
11 MR. MASON: What was that last percent?
12 A. (The witness continues.) .420 and that's just a feed
13 tract.
14 Q. Are these the same percentages that were submitted in the
15 application for the north?
16 A. No.
17 Q. What are the differences and why?
18 A. We have a continuing leasing and property acquisition
19 program.
20 Q. And you acquired additional acreage between the date of
21 the filing of the application and today, is that correct?
22 A. Yes.
23 MS. MCCLANAHAN: Okay. We have prepared new Exhibits C and D
24 to the application which we need to submit at this time.
25 Which reflect these new ownership percentages. They're

1 exhibits C and D to the application, but they would be I
2 and J, is that where we are?

3 MR. CHAIRMAN: Amended C and D.

4 Q. (Ms. McClanahan continues.) Mr. Arrington, with regard
5 to the feed tract that is shown on the exhibit that we
6 have before us, you were indicating earlier the Consol
7 owes that particular property in fee, the Pocahontas #3,
8 is that correct?

9 A. Yes.

10 Q. And only a percentage of the remaining of the coal seams
11 below the Tiller on that particular tract?

12 A. Correct.

13 Q. But, with regard to the rest of the unit Consol has what
14 percentage of the coal leased?

15 A. The rest of the coal leased, we have 98.615 percent of it
16 leased.

17 Q. And then what percentage of the oil and gas in the entire
18 has been acquired?

19 A. 67.243 percent.

20 Q. And that percentage is not leased, but owned in fee, is
21 that correct?

22 A. Yes, ma'am.

23 MS. MCCLANAHAN: I just wanted to get that straight. That's
24 all of the questions that we have for Mr. Arrington. If
25 the Board has any questions before we go on?

1 MR. CHAIRMAN: What I plan to do, I will ask the Board if they
2 have any questions and it would be a good time to break
3 for lunch before we bring to other witnesses on and get
4 them back here to finish so you can go straight through
5 then. Is that acceptable to everyone? I think now we've
6 unraveled where we headed with it and everything it would
7 be a good time to break and get lunch behind us. Any
8 questions of this witness? Let me ask one loose ques-
9 tion. Do you have any coalbed methane specific leases?

10 THE WITNESS: We do have but not in these units.

11 MR. CHAIRMAN: Any other questions. Let me again, for the
12 record make sure there is no one here that wishes to
13 address to the Board. I am doing this for purposes to
14 make sure we have a full opportunity to cross-examine a
15 witness. Is there any opposition to this? Any one there
16 that wants to address the Board regarding this petition?

17 MR. SWARTZ: We may eventually want to impress the Board, Mr.
18 Chairman, but I don't plan any cross-examine of the
19 witness. So I'm just sitting here seeing how it goes,
20 but I don't want to be silent and waive the right later,
21 so it's possible we may.

22 (The witness stands aside.)

23 MR. CHAIRMAN: Thank you. Any others? We'll adjourn for
24 lunch. We'll be back here at 12:45.

25 (AFTER THE LUNCHEON RECESS, THE HEARING CONTINUED AS

1 FOLLOWS:)

2 MR. CHAIRMAN: Call your next witness.

3 MS. MCCLANAHAN: Rany Albert.

4 COURT REPORTER: (Swears witness.)

5

6

7

RANDALL ALBERT

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

10

11

DIRECT-EXAMINATION

12

13 BY MS MCCLANAHAN:

14 Q. Randy, would you please state you full name for the
15 record?

16 A. My full name is Randall M. Albert.

17 Q. Your address?

18 A. 2801 Talossa Street, Bluefield, West Virginia.

19 Q. Your profession?

20 A. I am an engineer.

21 Q. Employed by?

22 A. Consolidation Coal Company.

23 Q. And what is your position with Consolidation?

24 A. Project manager of the Pocahontas Gas Partnership.

25 Q. What do your responsibilities include as manager?

1 A. I am responsible for the overall operation of the
2 partnership, which included the gathering, collection of
3 coalbed methane, the supervision design and installation
4 of the systems to bring that methane to market.
5 Q. What is your educational background?
6 A. I have a Bachelor of Science in Mining Engineering from
7 Virginia Polytechnical Institute.
8 Q. You're licensed?
9 A. I am a registered engineer in the Commonwealth of
10 Virginia as well as West Virginia.
11 Q. Could you give us a brief work history?
12 A. I began work for Consolidation Coal Company in 1980. I
13 served one year as Industrial Engineer involved in time
14 and motion studies of underground coal mining activities.
15 I spent four years, from 1981 to 1985 as a Ventilation
16 Engineer for Southern Appalachian Region. I was respon-
17 sible for the ventilation studies of all underground coal
18 mine in the region. In 1985 I became the mine engineer
19 at the Buchanan #1 mine where I was responsible for all
20 engineering duties as well as the degasification program
21 in place since 1984 at the Buchanan mine. I assume my
22 present position as project manager of the Pocahontas Gas
23 Partnership in October of 1990.
24 Q. And are you a member of any professional associations?
25 A. I am a member of the American Institute of Mining

1 Engineers and the Society of Mining Engineers.

2 MS. MCCLANAHAN: I would at this time submit Randy as an
3 expert in the field of mining engineering.

4 MR. CHAIRMAN: Accepted.

5 Q. (Ms. McClanahan continues.) Randy, could you please tell
6 us when Consol began development of Buchanan #1 mine and
7 the Pocahontas #3 seam?

8 A. Consol began development of the Buchanan #1 mine in the
9 spring of 1980.

10 Q. And when was the construction of this facility completed?

11 A. The construction of the facility was completed in 1985.

12 Q. How did Consol become involved in the development of
13 coalbed methane wells and gob well at the Buchanan #1
14 mine?

15 A. Early on Consol realized that the gas content or the
16 methane content at the Pocahontas #3 seam was such a
17 magnitude that we were going to have to have a degasifica-
18 tion program underway to remove the methane ahead of
19 mining. This process was begun in 1984 with the drilling
20 of short, horizontal holes into the coal faces. Also in
21 1984 we began to drill and stimulate vertical wells from
22 the surface into the Pocahontas #3 seam for the sole
23 purpose of removing the methane to enhance the safety of
24 the mine. This practice has evolved over the past seven
25 to where we drill coalbed methane type wells as VBH's

1 under the division of mines permitting regulations and we
2 drill these wells over the center of long wall panels on
3 25 to 30 acre spacings and stimulate them three to five
4 years ahead of mining to remove the methane from the coal
5 seam ahead of mining. At this point I would like to give
6 the Board, if it pleases, a brief description of the long
7 walling method of mining that we have used at Buchanan
8 #1 mine and the creation of these gob areas that brings
9 us here today. If it pleases the Board, it may be
10 better if I come up and try to show that. Though the
11 mining methods are the same in both the same in both the
12 north and south areas, I'll talk about the north areas
13 since that is what we are going through first. We began
14 this reserve of continuous miner units in 1983. This was
15 the area that our initial shafts were located in. 1985
16 we had gotten up into here and began to develop these
17 long wall panels as you can see. All of the coal has
18 been removed from this area except for the development
19 entries. These pillars still remain in place. As we
20 developed these panels in 1985 we began to see the
21 effects of our degasification program and then with the
22 advent of long wall mining we began in 1987, early 1987,
23 we began to see the full the effects of what we had done
24 and were very pleased with those results and continued
25 this program of advanced degasification today. The long

1 walling method that we use. We take a 600 foot base,
2 center to center, which leaves us about a 580 foot width
3 of coal, about 4,000 feet long in the north. That is
4 mined with a -- we'll start a longwall sheering machine
5 that take about a two and a half foot cut back and forth
6 across the place. The immediate roof is supported with
7 hydraulic shields that self-advance along with the pan
8 line and the sheerer as the coal is removed. As the
9 shields advance protecting to area right along the face
10 the roof caves behind the shields creating what is
11 refereed to in the mining area as the gob area. It is
12 from this gob area that a tremendous amount of methane
13 that causes problems is then released. That is why we
14 drill the three holes in advance to degasify the #3 seam,
15 but there were also drilled in a manner that we were able
16 to convert those wells into gob holes to easy the burden
17 of Gob ventilation. That brings us to today. We mined
18 these eight panels all in the same manner. We now have
19 this entire gob area that we have created. We are going
20 to seal it from the mine ventilation system and we are
21 going to product coalbed methane from the sealed gob
22 area.

23 Q. If you look at Exhibit B-1 to the application to the
24 north unit, Randy, that has listed all of the VBH's that
25 you propose to convert and this time to coalbed methane

1 wells? Could you locate those for the Board?

2 A. Of the eight wells that we proposed to convert initially
3 would be a well right here. There would be one per
4 panel, located here, here, here, here, here, here, here,
5 and here. I am going to try to answer a question I think
6 you are going to have is why did we pick those? There is
7 no real scientific reason to be sure. Some of the well
8 along these panels had to be plugged, (inaudible) to
9 overlays with some mining in the Jawbone. We had to
10 plug some of these well to facilitate their mining in
11 the Jawbone seam. So some of the we'l, particularly in
12 the first two panels, are the only well that we still
13 have open. The other reason we use is -- you've got to
14 understand this as new to us, as well. We think that our
15 purest methane will be the area furthest away from the
16 ventilation system. So we pretend to locate them across
17 the back or in the middle of the panel, certainly not
18 toward to front. The other thing I think I need to
19 impress upon you today is this is what we think we need
20 going in. One of the reasons we're asking the Board for
21 flexibility to convert as many of these wells as necess-
22 ary is we really don't know exactly what it is going to
23 take. The thing what we do know is we will have to
24 produce enough of this methane to keep the pressure off
25 of these seals because our number one priority would be

1 the safety of this coal mine. If we begin to leak
2 methane from the gob area into the mine works then we
3 are going to have to produce more methane to lower that
4 pressure. If the Board does not give us the flexibility
5 to do that we would then simply have to rely on the WVH
6 regulations and vent that methane to atmosphere for the
7 safety of the mines.

8 Q. Could you explain, Randy, on an Exhibit which we would
9 like to introduce as Exhibit I, which is a cross-section
10 of the coal seam and how the gob area is produced as a
11 result of the longwall mining?

12 A. Okay. This is a cross section.

13 THE WITNESS: Les, is that the north the south, across the
14 north 1 unit?

15 MR. ARRINGTON: Yes.

16 A. (The witness continues.) What we have done is simply --
17 we are showing the coal that remains in place, as you can
18 see here, and we are depicting the gob area as this
19 rubble zone, which we are showing to be about 300 feet
20 high.

21 Q. How did you compute that 300 foot number?

22 A. That is an empirical number that was arrived on from
23 research that was done in northern West Virginia. So it
24 is not for this area but we think the data is conducive
25 to this area as well as in northern West Virginia

1 regions, most of the same types of formations. That
2 comes from a study we had done to show that we were
3 getting about 60 times the seam height breakage when we
4 were doing longwall mining in northern West Virginia.

5 Q. When you drilled the VBH's what well spacing did you use
6 to drill those initially?

7 A. The VBH's were drilled initially, the wells that were
8 fractured we drilled on about 25 to 30 acre spacing and we
9 then came back in with gob wells on about on what would
10 amount to 12 acre spacing. Roughly, 600 feet apart.

11 Q. Do you expect that you will always be able to convert the
12 VBH's into gob wells at 600 feet spacing?

13 A. Yes.

14 MR. CHAIRMAN: Excuse me, I have a question from one of the
15 Board members. Mr. Evans?

16 MR. EVANS: The data that you speak of from northern West
17 Virginia, have you attempted in any way, shape or form to
18 verify that it is applicable here through drilling or any
19 other method?

20 THE WITNESS: No, we haven't. We have not done any studies in
21 Buchanan County to determine this number, but the geology
22 is much the same. If anything at all in Buchanan County
23 the formations would be a bit stronger, a bit harder, and
24 the number may be some what smaller. But we think
25 longwall mining, mining a 600 foot piece as we are, that

1 is going to be a pretty good number, but we have not done
2 any studies in the Buchanan area to verify that.

3 MR. EVANS: So you are talking strictly of a rubble zone? You
4 are not talking of any bedding plane or small microfrac-
5 tures from subsidence? You are talking about the actual
6 fall area?

7 THE WITNESS: The actual fall area as opposed to the bedding
8 plane separation.

9 Q. (Ms. McClanahan continues.) With regard to the spacing
10 of the VBH's that are to be converted into coalbed
11 methane wells you indicated that in most cases, or in
12 all cases, in the past you have drilled them at least 600
13 feet apart, is that correct?

14 A. That's correct.

15 Q. So none of the ones that would be converted would be
16 closer than that in this particular unit?

17 A. That is correct.

18 Q. However, you do anticipate that in the future you may
19 need wells closer than 600 feet, is that correct?

20 A. That is correct.

21 Q. For what purpose would you need them to be drilled
22 closer than 600 feet?

23 A. For mining safety.

24 Q. What do you expect to be produced from the well that
25 would be converted in this area? Oil or gas?

1 A. Coalbed methane.

2 Q. At what depth has gas production from the pool been found

3 that underlies the BUN 1?

4 A. We have found production from all seam below the Tiller

5 seam as we have drilled these wells.

6 Q. What volume of methane do the coal seams below the Tiller

7 seam contain in this particular area?

8 A. We have a report that was put out by the Division of

9 Mines, Minerals, and Energy that showed the methane

10 content varied with depth, but from the Tiller seam down

11 to the P4 of anywhere from between 350 and 550 cubic feet

12 per ton. The pre seam that we mine in our own data we

13 got data that would show it between 500 and 600 hundreds

14 cubic feet.

15 Q. What do you believe to be the maximum area to be drained

16 by the sealed coalbed methane gob gas efficiently and

17 economically by the wells that are to be converted in the

18 north unit?

19 A. We believe the entire area can be drained. In fact, one

20 thing I would like to point out to the Board, one thing

21 we feel this proposal does is it protects the co-equal

22 and correlative rights of all the owners. Simply because

23 this gob area is tied together at the three seam as well

24 as fracturing above the zones left by the development.

25 It is very well communicated from one panel to the other.

1 We simply, if we chose to do so, could come in here and
2 drain this entire area we believe, maybe not efficiently
3 or economically, but we could drain the entire area out
4 of one well. We could take a much smaller unit size with
5 the one well and run that entire area. We fill that this
6 proposal goes along way in protecting the correlative
7 rights of all the owners.

8 Q. That's a result of this being a sealed area, is that
9 correct?

10 A. That is correct.

11 Q. Will this program, as it is proposed in the application
12 for the north unit, fit into your projected mine plans
13 for this area?

14 A. Yes. We have sealed what is just the gob area created
15 from the mine plane.

16 Q. What is currently with the coalbed methane gas that is
17 being produced by the Buchanan #1 mine in this area?

18 A. It is currently being to the atmosphere for the mines
19 safety.

20 Q. And would this north one proposal eliminate venting and
21 wasting of the gas?

22 A. Yes, it would.

23 MS. MCCLANAHAN: We would propose this as Exhibit J.

24 Q. (Ms. McClanahan continues.) Mr. Albert, could you
25 explain this cross-section?

1 A. Yes. This is a cross section that runs from east to west
2 or if you move along the axis of the longwall panel this
3 is the gobs zone as we are depicting it with the 300
4 foot pipe. The mains being out to the bleeders to the
5 east side and mains to the west side and the mains the
6 east side of the cross-section.

7 MR. MASON: Most of our conversations involving drainage has
8 in the past related to the horizontal basis that the area
9 or pool being drained. It occurs to me -- I don't know
10 that much about all of this, but when this roof fall and
11 this gob occurs does this create -- in each one of these
12 things that you show on this Exhibit I and J that the
13 height of this rubble could be up to the -- what appears
14 to be the Pocahontas #7. Would not these wells drain gas
15 from further up?

16 THE WITNESS: Yes, sir.

17 MR. MASON: As a result of fractures and stuff occurring?

18 THE WITNESS: That is exactly right. Yes, sir.

19 MR. MASON: Do you all have any idea how far up? I mean, on a
20 vertical basis what kind of drainage you're talking
21 about?

22 Q. (Ms. McClanahan continues.) Mr. Albert, would it drain
23 anything above the Tiller seam?

24 A. We have cased -- we are required under the VBH regs to
25 case off any coal seam that we did not control and that

1 was down through the Jawbone. So we have casing actually
2 down to the Tiller -- to the seam next to the Tiller in
3 all cases. But we do believe that we will produce gas
4 induced by the fracturing from the mining up to the
5 Tiller seams -- up to the limit of our casing.

6 MR. EVANS: As a result of this fall?

7 THE WITNESS: As a result of the fall. Naturally, without
8 belaboring the rock mechanics, but we showed this as a
9 rubble zone for 300 feet and as Mr. Evans pointed out we
10 certainly have fractures that extend well above that
11 zone. And that is what creates the permeability to
12 drain the gas from the upper seam.

13 MS. MCCLANAHAN: If I may just add, our application included
14 everything below the Tiller seam and that's what we have
15 leases on, as we have testified to.

16 MR. EVANS: Okay. Well, that is what I am trying to under-
17 stand. Actually, the casing point would not make a whole
18 lot of difference. The gas would migrate down and back
19 up?

20 THE WITNESS: It could, but we don't think we get fracturing
21 quite to that height. When I say we are casing to the
22 Jawbone in the valley floor in our area that is going to
23 be 300 feet or so. We're not getting up the that
24 height.

25 MR. EVANS: What is your angle of draw on the rubble zone?

1 THE WITNESS: We have not done any of our own studies to
2 determine the angle of draw. Les, could you tell me what
3 you have shown as the angle of draw?
4 MR. EVANS: Are you using the standard 28 degrees?
5 MS. MCCLANAHAN: Yes. The standard.
6 MR. EVANS: But you have not done any studies on you own to
7 indicate that it is more or less or whatever else?
8 THE WITNESS: We've done noe of our own studies. We do
9 believe the fracturing effect that takes place does not
10 necessarily follow the angle of draw.
11 MS. MCCLANAHAN: But, instead, do you think it is an inward
12 stress, is that correct? As opposed to an outward
13 stress?
14 THE WITNESS: Yes.
15 MR. MCGLOTHLIN: How do you propose to seal your area?
16 THE WITNESS: The seals in the mines?
17 MR. MCGLOTHLIN: Yes.
18 THE WITNESS: They will be constructed of cinder block and
19 cement. They'll be keyed into the floor and ribs and the
20 roof of the mine. They'll be a design approved by the
21 Mine Safety Health Administration.
22 MR. MCGLOTHLIN: One more question. Are you going to extract
23 the gas in mechanical means or through natural flow?
24 THE WITNESS: At this point we don't know. We are planning to
25 extract it by means of natural flow and just compress it

1 on the surface. It may have to be assisted. That will
2 be determined. We are just now in the process of getting
3 this first area sealed. We plan to run a series of tests
4 after the area is sealed to answer that very question.

5 MR. MCGLOTHLIN: Dealing with the fracture from subsidence
6 could it not, eventually -- the fracture could go to the
7 surface?

8 THE WITNESS: That is a possibility. We have, to date, not
9 seen fractures to the surface.

10 MR. MCGLOTHLIN: If known in the Buchanan County area that
11 there is signs of subsidence on the surface, not par-
12 ticularly with you mining, but with -- and that could be
13 a possibility if you take this mechanically that you
14 could be pulling the gas from the Red Ash or the Jawbone.

15 THE WITNESS: It could happen. If the fracture did extend to
16 that point, to the Red Ash or the Jawbone and we were
17 producing it mechanically that could happen. What I am
18 saying, in the seven years or the four years that I have
19 been longwall mining in Buchanan County we had not had
20 fracture extended service or into and as I told you
21 PerMAX overlays us in mining in the Jawbone above our
22 long walling areas and we have not seen fractures come
23 into the Jawbone area. There might.

24 Q. (Ms. McCalanahan continues.) Mr. Albert, what, if any,
25 communication was seen from one panel to the next in your

1 operation?

2 A. This would be a good point in time to do that. As we
3 mined this first longwall panel we all felt, at Consol,
4 that we would drain a lot of gas from this next panel.
5 But low and behold we had a pretty good surprise when we
6 mined this and moved over here. This panel had just as
7 much gas in it, if not more than the first panel. So we
8 see very little lateral drainage. We see very little
9 drainage from above us from panel to panel. The other
10 thing that we noticed as we got up -- we're adjoined
11 right near by the Beatrice Mine of Island Creek. This
12 was a gob area that has been created by Island Creek
13 through continuous miners in the mid 1960's. Again, we
14 felt as we mined toward this area that we would see a
15 marked reduction in the amount of gob gas that we
16 encountered and it was not there. We see very little
17 lateral drainage from side to side and again we seen no
18 fractures to the surface or any fractures that effected
19 the PerMax mining in the Jawbone.

20 MR. MCGLOTHLIN: Do you plan to frack and stimulate any seams?

21 THE WITNESS: Not within this unit. No, sir.

22 MR. EVANS: I am sitting here and I'm listening and I am
23 somewhat confused. Correct me if I am wrong, but you
24 said you thought it would be extremely possible to drain
25 this entire area from a single well because of the good

1 communications both laterally and horizontally and
2 vertically. And if I understood you correctly, you just
3 a second ago said that no you couldn't do that. Low and
4 behold we had a big surprise because you don't have any
5 lateral transmission.

6 THE WITNESS: I may have left some confusion in your mind
7 when I said that. When this was being mined the only
8 communication we had was through these entries and the
9 ventilation systems. Now that this is going to be sealed
10 this will be communicated still at these entries, many of
11 which are still opened. So that's what I am referring
12 now, that we can produce the entire area. When you have
13 rely just on the communication from panel to panel
14 through the fractures there was very little in the time
15 frame we saw running from panel to panel. And even in
16 the example I gave you in the Beatrice mine.

17 MR. MCGLOTHLIN: So the only place you are going to have
18 communications is on your --

19 THE WITNESS: I believe, based on what I've seen in the past
20 five years that we have been doing this, is any com-
21 munication that we get from panel to panel primarily be
22 at the J seam level.

23 MR. MCCLANAHAN: We don't have any other questions of Mr.
24 Albert unless the Board --

25 MR. MCGLOTHLIN: If you are not going to try to stimulate the

1 other seams why did you list them in your application?

2 THE WITNESS: In our opinion, they have already been stimu-
3 lated from the mining of the #3 seam. As the roof
4 collapsed we believe we precipitated enough fracturing
5 and bed separation at the upper seams to give them
6 permeability to drain the gas. We do have all of these
7 coal seams leased and that is why we listed them in the
8 application. We do plan to plan to produce methane out
9 of those seams.

10 MR. EVANS: One other question, Mr. Chairman. Can a mine make
11 water?

12 THE WITNESS: Yes, sir.

13 MR. EVANS: How much in the gob, do you know?

14 THE WITNESS: I would hesitate to give you a figure on it. I
15 don't know the exact amount.

16 MR. EVANS: Do you anticipate it to be a problem in your
17 development of the gob area for methane? Where do you
18 plan to take your gas from? I mean, how far down are you
19 going to set your -- I assume you are going to perforate
20 casing all of the way down? Is that what you are talking
21 about doing or what?

22 THE WITNESS: No, sir. Most of the holes that we are talking
23 about producing out of-- or all of the holes that we are
24 talking about producing out of are in existence. They
25 are either open holes or they're slotted casing type

1 holes. So the casing is already is in existence in
2 these holes.

3 MR. EVANS: Are any of them cased to the Pocy #3 or are they
4 only cased below the the Tiller and then it is open hole
5 all of the way down?

6 THE WITNESS: Some, and I would have to go well by well to
7 give you an exact figures on it, but some of the wells
8 are cased and cemented back from just below the Jawbone
9 to the surface. And some are cased and cemented back to
10 surface from about 1,000 feet of total depth and from
11 that point down to just above the #4 seam we have slotted
12 9 and 5/8 casing in them. We drilled two different types
13 of wells in that area.

14 MR. EVANS: I guess my question is, do you anticipate water
15 accumulation to be a problem in your production scheme?

16 THE WITNESS: No, sir. Not out of these wells. The mine, as
17 a coal mine goes, the mine is very dry.

18 MR. EVANS: I realize that.

19 THE WITNESS: The gob generates very little water and again I
20 don't know the exact figures so I won't quote on that.

21 MR. EVANS: I realize that, but the coal seem is so deep that
22 most of the strata is fairly well compressed, but when
23 you relieve that stress any vertical fractures that
24 prophagate up to -- that gets to within 400 feet of the
25 surface then you start talking about where you have the

1 potential for significant occurrence of ground water.
2 THE WITNESS: Well, presently we have to -- while we were
3 mining in this area we had to keep the water pumped down
4 to the bleeder entries to maintain -- so that we could
5 travel those entrances. Again, it has not been at levels
6 that are exceeding as coal mines go.
7 MR. EVANS: If you are going to seal the area I assume that it
8 is going to fill up with water.
9 THE WITNESS: At some point in time it probably would.
10 MR. EVANS: Approximately, how much were you pumping?
11 THE WITNESS: How much were we pumping prior to -- while we
12 were mining?
13 MR. EVANS: Uh-huh.
14 THE WITNESS: Less than 100 gallons a minute.
15 MR. EVANS: Is that on a 24 hour a day basis?
16 THE WITNESS: No. That was as needed to keep the bleeders
17 free. To keep the water level down and the bleeders
18 free.
19 MR. EVANS: I'm not trying to -- I'm just asking you ques-
20 tions.
21 THE WITNESS: Again, I don't know the exact figures or I'd
22 gladly give it to you. I couldn't tell you how much
23 water that gob area produced in a 24 hour period. I
24 don't know. Again, it is not an excessive amount of
25 water.

1 MR. CHAIRMAN: Do you draw any distinction between gob gas
2 and coalbed methane gas, other than one is produced
3 through the gob area?

4 THE WITNESS: No, sir. We draw no distinction whatsoever.
5 At least in our opinion gob gas is coalbed methane.

6 Q. (Ms. McClanahan continues.) The operation that you use to
7 produce it, however, is different?

8 A. That is correct.

9 Q. The physical and chemical properties are the same?

10 A. That is correct.

11 MR. CHAIRMAN: Other questions?

12 MR. MCGLOTHLIN: Could this gas be removed under the 80 acre
13 tract besides spacing on wells?

14 THE WITNESS: Yes, sir. Well, I take that back. It could be
15 removed, but again the things that I pointed out just a
16 few minutes ago -- We could come in here and do a one 80
17 acre unit and in my opinion drain this entire area. And
18 if we decided to do that 80 acre unit on 80 that we,
19 Pocahontas Gas, alone control then we could end up
20 feasibly not paying anyone royalty but ourselves. I
21 think that what we have proposed here is will provide the
22 most equitable distribution of the royalties and it
23 conforms to the mine plan.

24 MR. CHAIRMAN: Okay. Do you draw that as your distinction for
25 going with this plan versus going with the Oakwood Field

1 Rules, for example?

2 THE WITNESS: Yes, sir.

3 MR. CHAIRMAN: That's producing from this seal unit, as you
4 represented this does more to protect the correality of
5 rights of all the parties, because it is drawing gas from
6 everywhere in that sealed unit?

7 THE WITNESS: That's correct.

8 MR. CHAIRMAN: And from all seams potentially up to the Tiller
9 seam?

10 THE WITNESS: Yes, sir. That is correct.

11 MS. MCCLANAHAN: If you don't have any other questions, I
12 would like to call Ken Kormendy.

13 MR. CHAIRMAN: I am just giving then time here, let me see.
14 Any others? Okay. Call you next witness.

15 (The witness stands aside.)

16 COURT REPORTER: (Swears witness.)

17

18 KENNETH KORMENDY

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

21

22 DIRECT-EXAMINATION

23

24 BY MS. MCCLANAHAN:

25 Q. Would you please state your name?

1 A. Kenneth J. Kormendy.
2 Q. Your address?
3 A. 750 Tall Oaks Drive, 13500-C, Blacksburg, VA.
4 Q. You are employed by?
5 A. Consolidation Coal Company.
6 Q. And your position with Consol?
7 A. Projects geologist.
8 Q. What are your responsibilities and duties with Consol?
9 A. Basically, project development for pre-mining and during
10 mining geologic sight characterizations.
11 Q. Your educational background?
12 A. I have a Bachelor of Science from Bowling Green State
13 University in Ohio. I obtained and teaching certificate
14 in general earth sciences from Cleveland State. I have a
15 Master of Science in Geology from Kent State, Ohio. And
16 various continuing education courses in mining engineer-
17 ing and environmental science.
18 Q. Do you hold any licenses in your profession?
19 A. I am certified in the Commonwealth of Virginia as a
20 professional Geologist and also certified by the American
21 Institute of Professional Geologist, CPG, Certified
22 Professional Geologist.
23 Q. Could you give us a brief work history?
24 A. I have been with Consolidation Coal for 14 years after I
25 left graduate school and, in fact, the Buchanan area was

1 my prime starting point. I worked in Ohio, Pennsylvania,
2 Virginia, West Virginia, Kentucky, and Tennessee. My
3 prime activities now are in the Eastern Kentucky area
4 developing coal reserves for potential mining right now.

5 Q. And are you the member of any professional associations?

6 A. Yes. I am a member of the American Association of
7 Groundwater Scientist and Engineers, and also currently
8 serve as President of the Virginia section of the
9 American Institute of Professional Geologist.

10 Q. Have you written any articles on coalbed methane gas
11 production or coal geology subjects?

12 A. My thesis was on the release of heavy metals from coal
13 mine overburden, also co-author of sections of our
14 company's standards manual for coal mine exploration.
15 And I have numerous -- I guess they are proprietary
16 within Consol, reports dealing with Buchanan, Kentucky,
17 Tennessee, the states that I have previously mentioned.

18 MS. MCCLANAHAN: I would submit to the Board Ken Kormendy as a
19 expert in geology.

20 Q. (Ms. McClanahan continues.) Mr. Kormendy, could you
21 explain the nature and character of the producing coal
22 seams that are listed in the BUN 1 application?

23 A. What I have done I have a generalized strata column. It
24 might to see -- within the application there are 17 coal
25 seams above the Pocahontas #3 seam that are listed in

1 descending order. There is the Lower Castle, Upper
2 Seaboard, Greasy Creek, Middles Seaboard as we sometimes
3 call it, the Sewell, Lower Seaboard, Upper Horsepen,
4 Middle Horsepen, C Seam, Pocy #11 or the War Creek Seam,
5 the 10, Lower Horsepen, Pocy 9, 8, 7, 6, 5, 4, and then
6 the Pocahontas #3 seam itself.

7 MS. MCCLANAHAN: We would present this strata column exhibit
8 as Exhibit K.

9 Q. (Ms. McClanahan continues.) Can you explain the nature
10 and character of these production seams?

11 A. Most of the coal seams here -- or all of the coal seams
12 that are listed belong to basically three formations.
13 Again, in descending order: the Norton Formation which
14 takes down through the Lower Horsepen, the Lee formation,
15 the 9 and 8 seam and the Pocahontas formation goes from
16 the 7 down past the 3 seam to the Mississippi and beds
17 below. Most of these coal seams above the Pocy #3 seam
18 are very thin. In our coal mining scenario none of
19 these would be economical as producing coal mines. Most
20 of them are less than two feet. The only ones that go
21 above that are the Pocy 11 averages 2.25 feet and the
22 Pocahontas #4 seam averages 2.8 feet thick, while the #3
23 seam comes up with the average of 5.33 feet. The forma-
24 tion, basically, composed of sandstones, shale, sandy
25 shale, under clays, and the coal seams themselves. The

1 sandstones are composed of, basically, what I would call
2 a grey wacky or dirty sand. It is not very clean. It's
3 not a lot of quartz content, but is a very tight sand
4 because of all the other mineral constitutes in there.
5 Sandy shales are light grey to grey, sometimes contain
6 plant fossils. Again, it is very non-porous sediment.
7 And the under clays and shales, again, the underclay
8 usually appear below the coal seams and they can be a
9 very hard clay or sometime a plastic clay. The shales,
10 again -- basically the underclays are non-bedded shale.
11 The shales has little bedding, mostly composed of clay
12 materials.

13 Q. Could you describe the permeability and porosity of the
14 coal seams that are listed below the Tiller?

15 A. What I have done I have drilled probably 250 holes in
16 this area and we really just kind of aqualitative, not
17 running particularly porosity test -- permeability. The
18 formations in this area seem to be very tight, the way
19 they are composed, indurated, the hard compaction of this
20 area. Again, with the clays -- the shales themselves
21 there is no permeability based on just the size comp-
22 arison of the clay materials in there. The sandstones,
23 again, because they are poorly sorted and contain a lot
24 of other materials besides quartz. They are cemented so
25 they are usually pretty tight. We see very little

1 evidence of fracturing. In fact, these drill holes here
2 are -- the hole stays open a long time. When you go back
3 to elog the drill hole a lot of times you have problems
4 with the rocks falling in in Buchanan County. We have
5 not experienced that. Holes keep their integrity for
6 quit awhile.

7 MS. MCCLANAHAN: We have prepared a structure map for the
8 Board which would show you the Pocahontas 3 and the Lower
9 Castle seams, one of those being one of the more shallow
10 and the P3 obviously being a deeper hole to give you an
11 idea of the similarities between the coal seams in this
12 particular area. We would submit this structure map as
13 Exhibit L.

14 Q. (Ms. McClanahan continues.) Mr. Kormendy, would you
15 please explain that to the Board?

16 A. What we have done here for the use of all our drill hole
17 map we put it in the computer and requested a bottom of
18 coal evaluation for this area. It's hard to see. The
19 Lower Castle seam, which is the one that would be the
20 most prominent coal seam below the Tiller is a teal
21 color. The bottom of coal for the 3 seam is in black.
22 What we have a structure contour based on a 20 foot
23 contour elevations and we do this based on mean sea
24 level. So what you see here is the seam as it goes from
25 zero to sea level up. This is not a depth. The 3 seam

1 averages from about 60 feet mean sea level to down here
2 to over 400. You are talking about 1,180 on the Lower
3 Castle seam to much higher 1,200 -- 1,300 feet here.
4 The interval between the two seams is practically 1,000
5 feet. But as you can see the trend of these contour
6 lines are the same. So really the structural context for
7 this area is basically the same for all of the seams. We
8 have all of the seams listed that fall into this same
9 pattern. And what we have here is this area sits on the
10 northern plain of the Dry Fork anticline. The crest of
11 the anticline is far to the south here. The seams
12 themselves in the rock units they trend northeast/
13 southwest and the dip of the coal seams is to the
14 northwest. And it is about 1.2 up here and it goes up to
15 about 1.8 down there. That is a pretty consistent
16 throughout the whole section.

17 Q. Is it your opinion that, at least, one of the coal seams
18 underlying the north unit is capable of producing coalbed
19 methane gas as it's been proposed in the north one
20 application?

21 A. Yes.

22 MS. MCCLANAHAN: That's all our questions for Mr. Kormendy on
23 the north unit unless the Board has any questions.

24 MR. MASON: I guess my major concern is that all this purposes
25 and relates to leases below the Tiller and what I wonder

1 about is how do we know that the gas won't be drained
2 from leases that are not involved in this project and to
3 which you have no rights? And how would those people be
4 compensated? How would you even know if you were
5 draining gas out of their interest? I will let you
6 answer if you would.

7 MR. ALBERT: The deposition of the coals -- naturally, the
8 deeper you get the more gas is there. So when we start
9 talking about the Jawbones and the Kennedy's and those
10 type of seams there is going to be very little methane
11 contained in those coals. There is certainly not going
12 to be -- I can't say there's zero, but based on what's in
13 the 3 seam -- compared to the 3 seam it would be nearly
14 negligible amounts of methane in those coals.

15 MR. MASON: I understand that, but the people that own those
16 might not -- no matter how negligible it is, might feel
17 like that they should be compensated for that. One of
18 our charges is that we protect those correlative rights.
19 How can we do that in this instance?

20 MS. MCCLANAHAN: I think the testimony today has indicated,
21 though, that it's there opinion that we wouldn't be
22 draining any methane above the Tiller seam. In addition,
23 with regard to the protection of those coal seam owners,
24 all of the coal seam owners in this area have been
25 notified. Is that correct?

1 MR. ALBERT: Yes.

2 MS. MCCLANAHAN: They have all been notified to attend this
3 hearing and object if there was any objection to the
4 proposal that's been placed on the ---

5 MR. MASON: I understand that, but I mean -- I'm just inter-
6 ested in -- how do we know that their minerals are not
7 being extracted by this operation and if so how would
8 you know or if not? It seems to me that everything in
9 this whole thing is related to below the Tiller, yet I
10 can't find anything that tell me that that's in a
11 natural demarcation.

12 MR. ALBERT: Again, all seam below the Tiller, at least on
13 our property everything -- the Jawbone outcrops on the
14 property that we have showed you today. The Tiller
15 outcrops on that property. It has been our experience
16 and I think it would be the experience of most experts in
17 this field the coal seams that outcrop above drainage
18 contain very, very little methane in them. I don't
19 think, to my knowledge, no one is producing -- in
20 Buchanan County no one is producing coalbed methane from
21 anything from the Tiller or above, to my knowledge.

22 MS. MCCLANAHAN: The drainage line is actually the natural
23 barrier which makes the difference, is that correct?

24 MR. ALBERT: That is correct.

25 MR. CHAIRMAN: Do you have a question, Mr. Evans?

1 MR. EVANS: Just as a clarification. Generally, that is true.
2 The above drainage seams don't have a problem with
3 methane from a safety standpoint. Therefore, you are
4 going to have a problem, correlative rights wise because
5 there is not a resource there to protect.

6 MR. CHAIRMAN: Do you have a question, Mr. Mason?

7 MR. MASON: No. I would just like for the Board to feel
8 comfortable with the fact that those people's interest
9 have been heard and protected.

10 MS. MCCLANAHAN: In addition, for purposes of allocating
11 royalties the allocation of royalties -- when we filed
12 the first pooling application for both of these units
13 also which you also may or may not be aware of as it was
14 filed yesterday -- we have to have the unit established
15 and then we will forced pool at a later date. But our
16 plan is to pay everyone in this unit based on a surface
17 acreage ownership situation, as opposed to a seam
18 ownership so that everyone would be paid equally. Again,
19 that is a question that should be considered at the
20 forced pooling hearing as opposed to a question that you
21 would need to consider for the establishment of the
22 drilling unit.

23 (The witness stands aside.)

24 MR. CHAIRMAN: Do you have any other witnesses?

25 MS. MCCLANAHAN: No.

1 MR. CHAIRMAN: Mr. Swartz, you indicated that you may want to
2 address the Board regarding this proposal.

3 MR. SWARTZ: (Inaudible.)

4 MR. CHAIRMAN: Are there any other parties present that wish
5 to address the Board regarding this proposal? We'll take
6 a five minute break.

7 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)

8 MR. CHAIRMAN: Mr. Swartz, would you like to address the
9 Board?

10 MR. SWARTZ: If I could just take a moment -- I'm probably
11 going to use the blackboard. I really have three
12 comments I would like to make. First of all, we have
13 given a lot of thought to this kind of development at
14 Oxy and it's exciting. I think the concept that they've
15 come up with it's a good concept. I think that when you
16 have spent the amount of money and time and effort that
17 you see here developing these mine works you have
18 essentially performed a super craft job. You've already
19 spent the money. And it enables you to produce gas and
20 to not take advantage of this resource, having spent the
21 money to get in a configuration where you easily produce
22 it would be a crime. I think, in general, you can under-
23 stand that we are excited about this, we think it is a
24 good idea and we are behind this proposal. I think also
25 another difference that we have not dealt with before

1 that makes this a little simpler to some extent, at least
2 in terms of the confines of the unit, is the unit is
3 defined, I think, as the testimonies indicated where the
4 seals are in place, at least, in terms of the lateral
5 displacement of the unit. And it is fairly easy to find
6 these units. If you will recall from the Oakwood Rules
7 it was more difficult to predict what would drain what
8 and so forth. But I think that is a question that seems
9 to be answered here. You should also recall that the
10 Oakwood Rules specifically exclude gob gas and we have no
11 rules in place and we are sort of starting from scratch
12 here. In addition to saying that we are pleased and
13 happy and excited, the second point I would like to make
14 is I would like to see the Board in whatever kind of an
15 order it is in in this regard is to keep this really
16 simple. And I think you have a opportunity to keep it
17 simply. I think that the way you all ought to think
18 about this is that today you are being asked to create a
19 drilling unit and it happens to be a really big unit.
20 It's 900 acres, I think, plus one of them, but it is a
21 drilling unit. And if they came to you and said, "We
22 want to put one well in the middle of this drilling unit"
23 all you would have in your mind is, "Well, we have got a
24 drilling unit and we are going to have one well." But
25 they are coming and saying, "We already have existing

1 VBH's and we are going to use eight of them." And,
2 really, the way I would suggest to you that you look at
3 this is that all they are doing is coming to you and
4 saying, "Let us create this one super unit, this big unit
5 and under section 45.1 36120 Sub C, let us have multiple
6 wells in the drilling unit." Section C says, "In estab-
7 lishing -- " and I am cutting some words out, but it
8 says, "In establishing or modifying a drilling unit for
9 coalbed methane wells well spacing shall correspond with
10 mine operations" -- and I think Randy has indicated how
11 it corresponds with the panel locations -- "including the
12 drilling of multiple coalbed methane gas wells on each
13 drilling unit." The statute seems to specific -- I mean
14 it says that you can have multiple coalbed methane gas
15 wells on one drilling unit, whereas the rest of the
16 statutes insofar as they deal with wells don't allow
17 that. And so, basically, all of the order, to keep it
18 simple, ought to say is, "We're creating a super drilling
19 unit of some configuration based on your map and you have
20 the ability to have multiple wells on this drilling
21 unit." I think in concept when you create a drilling
22 unit and you allow multiple wells you don't have to deal
23 with statewide spacing. I don't understand how statewide
24 spacings of coalbed methane could effect multiple wells
25 in the unit. Once you create a unit you are dealing with

1 the wells that you are going to permit to be contained
2 within that unit and you don't have to pay any attention
3 at all to statewide spacing. And in addition, I think if
4 you start toying with concepts of spacing wells within
5 one drilling unit you are going to create all kinds of
6 problems and unanswered questions. Normally, you space
7 wells to protect correlative rights. And the testimony
8 that you have heard is that one well could probably,
9 eventually produce all of the gas from this unit because
10 of the drainage, that there is some communication at the
11 head gates and tailgates of these panels. If you set up
12 some kind of field rules -- what are you creating?
13 Little units in here to protect correlative rights? I
14 mean you don't need to do that to protect correlative
15 rights because everyone is going to share -- at least,
16 they are tipping their hand -- I think they will be back
17 with an application that shares on a surface acreage. So
18 there is no reason to implement any field rules or any
19 kind of spacing within the unit because you know what
20 the boundary of the unit is. So keep it as simple as
21 you can, if you do indeed approve the petition to create
22 this super unit that they've asked you to do. Give them
23 the ability to drill multiple wells within the unit to
24 serve their dual purposes. One of which is to produce
25 gas efficiently and the other is to protect mine safety.

1 Those would be the comments that I would have.

2 MR. CHAIRMAN: Thank you, Mr. Swartz. Ms. McClanahan, for

3 clarification just for our benefit and for the record, is

4 it the intent that the taking this sealed gob unit that

5 you have purposed in total area and extending that total

6 area up to the Tiller units and maintaining that total

7 area as gob area?

8 MS. MCCLANAHAN: For what purpose?

9 MR. CHAIRMAN: For the purpose of creating the unit.

10 MS. MCCLANAHAN: For the purpose of creating the unit we

11 would define it as "All seams including Pocahontas #3 and

12 everything up to the Tiller."

13 MR. CHAIRMAN: And it would maintain this total area?

14 MS. MCCLANAHAN: Right.

15 MR. JONES: If we understand you correctly that's right.

16 MR. CHAIRMAN: Well, if you didn't stop at Tiller and you had

17 a football field as an example that, that entire area of

18 the football field would extend all the way to the

19 surface, and we are just using the Tiller as where you

20 are stopping this, is that correct?

21 MR. JONES: That's correct.

22 MR. CHAIRMAN: And you are calling everything below the Tiller

23 for that total area as gob, the gob area? I am asking

24 is that correct and is that what we are being asked to

25 include as the unit?

1 MS. MCCLANAHAN: That's correct. This is the production of
2 gob from everything -- it's actually from the Pocahontas
3 #2 above to the Tiller.

4 MR. CHAIRMAN: Okay. Other questions? Any other parties wish
5 to address the Board in this matter? The record will
6 show that there were none.

7 MR. MCGLOTHLIN: Ms. McClanahan, on your purposed BUN 1 how
8 much of that is underlying the Oakwood coalbed methane
9 pool, now?

10 MS. MCCLANAHAN: I believe all of BUN 1 is in the Oakwood
11 Field. Of course, there is -- you understand that in the
12 Oakwood order there is an exception for the production of
13 gob gas. So that is not actually included within the
14 Oakwood Field, as Mr. Swartz has indicated also.

15 MR. MCGLOTHLIN: And as defined by Mr. Chairman here?

16 MS. MCCLANAHAN: Right.

17 MR. MASON: As I understand it -- I am just trying to visual-
18 ize what you are talking about. As I understand it you
19 are talking about, basically, a geometrical figure, if
20 you will, that starts at the bottom of the Pocahontas #3,
21 goes around the diameters of this unit and goes up to the
22 bottom of the Tiller, is that correct?

23 MS. MCCLANAHAN: Right. It is actually the Pocahontas 2. The
24 Pocahontas #2 seam is just below the 3.

25 MR. MCGLOTHLIN: From the top of the Pocahontas #2 up to the

1 Tiller in whatever feature that is and it would include
2 everything in between, that is all defined as gob?

3 MS. MCCLANAHAN: Right. Let me make sure that I -- you can
4 produce coalbed methane gas from that same area, but this
5 is the production of gob gas from that particular area
6 because all of the coal has already been mined from this
7 area.

8 MR. MASON: Except Pocahontas #3?

9 MS. MCCLANAHAN: Right. All of the minable seams of coal have
10 been mined from the area.

11 MR. MASON: The reason that it becomes important to me and I
12 think to several others is that the exception from the
13 Oakwood Rule applies to the gob.

14 MS. MCCLANAHAN: Right.

15 MR. MASON: And by defining it in this fashion you exempt all
16 the other seams as well as the Pocy #3 from the Oakwood
17 Rules.

18 MS. MCCLANAHAN: Right.

19 MR. MASON: I think we are trying to go the same place.

20 MS. MCCLANAHAN: Right. That's right.

21 MR. MCGLOTHLIN: All I want to know is what were the cor-
22 responding numbers from the official Oakwood map to
23 this?

24 MS. MCCLANAHAN: You mean the coordinants?

25 MR. MCGLOTHLIN: No, the unit numbers.

1 MR. ARRINGTON: I can look on the map and get it.

2 MR. EVANS: Ms. McClanahan, this precludes any coalbed methane
3 within -- any "conventional" coalbed methane well within
4 this unit, is that correct?

5 MS. MCCLANAHAN: That's correct. The reason for that is that
6 you can't produce coalbed methane gas from this area now
7 that the Pocahontas #3 -- it's our opinion -- I believe
8 this is correct and here I am testifying, but that you
9 can't produce coalbed methane once the longwall opera-
10 tion has come through. That is a pre-mining gas produc-
11 tion. This a post-mining gas production.

12 MR. EVANS: In other words the gob effects preclude conven-
13 tional coalbed methane as we've looked at it so far.

14 MR. ALBERT: As the Board understands, to date, conventional
15 coalbed methane production that is correct.

16 MS. MCCLANAHAN: One doesn't necessarily preclude the other.
17 It's just that one comes before the other.

18 MR. EVANS: In this case, once we define all of this as gob
19 there is not such thing as -- even though when you say
20 there are no other minable coal seams -- minable coal
21 seams depend on economics and nothing else. So what's
22 not minable today may be minable ten years from now. So
23 that's -- I don't want to see you put recoverable and
24 minable in there, because that's really a function of
25 economics. Mr. Chairman, I would like to make a request.

1 I would like to request that we go into executive
2 session. I have one question of a legal nature that I
3 need an answer on before I have an idea of what I'm going
4 to do on this.

5 MR. ARRINGTON: Excuse me. The answer to Kevin's question is
6 on Exhibit A. It's on Exhibit A over in the left hand
7 corner. I have the eastern one half of the field shown,
8 the Oakwood Field shown with our units shown. And it
9 includes 20-U through 25-U and U through DD in those
10 examples.

11 MR. CHAIRMAN: Before I get back to the request to go into
12 executive session I'd again the audience, is there
13 anyone here that wishes to address the Board regarding
14 this proposal? Let the record show there is no one
15 present wishing to address the Board. I have a request
16 to go into executive session. It would be under 2.1-344
17 7, under there for consultation for legal counsel. Do I
18 have a second?

19 MR. MASON: Second.

20 MR. CHAIRMAN: All in favor signify by saying yes. (All
21 Affirm.) Opposed say no. (None.) We are now in
22 Executive Session.

23 (THEREUPON, THE BOARD MEMBERS AND THEIR CHAIRMAN RETIRED
24 INTO EXECUTIVE SESSION AT 2:15 P. M. AND AT 2:30 P. M.
25 RETURNED TO OPEN HEARING.)

1 MR. CHAIRMAN: Would someone like to make a motion to come out
2 of executive session?

3 MR. MCGLOTHLIN: I move that we come out of executive session.

4 MR. MASON: I second.

5 MR. CHAIRMAN: I have a motion and a second. All in favor
6 signify by saying yes. (ALL AFFIRM.) Opposed, say no.
7 (None.)

8 MR. CHAIRMAN: I'll ask each member to identify by name and
9 that all we did was discuss with our attorney legal
10 matters regarding this case.

11 MR. MCGLOTHLIN: Kevin McGlothlin, yes.

12 MR. MASON: Phil Mason, yes.

13 MS. ZANDER: Juanita Zander, yes.

14 MR. CHAIRMAN: Benny Wampler, yes.

15 MR. EVANS: Ken Evans, yes.

16 MR. KELLY: Bill Kelly, yes.

17 MR. CHAIRMAN: Thank you. Before we move to a decision on
18 this I'll ask one more time, are there any parties that
19 wish to address the Board regarding this matter? Yes,
20 Mr. Edwards, come forward and state your name.

21 MR. EDWARDS: Mr. Chairman, my name is Michael L. Edwards. I
22 am President of Edwards & Harding Petroleum Company. We
23 are not opposed to this application. However, we would
24 ask that the Board carefully consider any future applica-
25 tions of this type, especially in situations where all of

1 the coals being asked to be included in a gob gas unit
2 are not controlled by the applicant as is the case in
3 this situation. Thank you.

4 MR. CHAIRMAN: Any other parties? If not what is your
5 pleasure Board?

6 MR. MASON: I'd like to make a motion, please. Bearing in
7 mind that the Board notes that the gob areas outside of
8 the Oakwood Rules -- the Board would like to state that
9 the gob is defined in this instance from our view as
10 extending from the top of the Pocahontas #2 seam to the
11 Tiller seam and on that basis I would move that we grant
12 the petition to create the BUN 1 unit as defined in the
13 application, that we approve within that unit production
14 from multiply coalbed methane gob wells on the condition
15 that no well be produced closer than 300 feet to the
16 outside boundaries of the BUN 1 unit.

17 MR. EVANS: Second.

18 MR. CHAIRMAN: I have a motion and a second. Further discus-
19 sion? If not, all in favor signify by saying yes. (ALL
20 AFFIRM.) Opposed say no. (None.) Unanimously approved,
21 thank you.

1
2 (ITEM 3)
3

4 MR. CHAIRMAN: The next item on the agenda is the petition
5 for the establishment of production unit at Buchanan
6 South #1 or BUS 1. It is Docket #VGOB-0618-128. As the
7 record will already reflect we've asked that you now
8 concentrate on any differences primarily that may exist
9 for this versus the other gob area.

10 MS. MCCLANAHAN: I would just request that my opening state-
11 ment be applicable to the BUS 1 unit also, since I have
12 discussed both of them with out thinking that we were
13 going to both together. I would like to call Les
14 Arrington.

15 MR. CHAIRMAN: Let us remind you that you are still under
16 oath.
17

18 LESLEY ARRINGTON

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

22 DIRECT-EXAMINATION
23

24 BY MS. MCCLANAHAN:

25 Q. Mr. Arrington, first of all let me address the Board. I

1 believe with regard to the -- correct me if I am wrong
2 Les, we've already submitted the notices of hearing on
3 the south unit as exhibits previously, Isn't that
4 correct?

5 A. Yes, ma'am.

6 MS. MCCLANAHAN: Had we submitted the new Exhibits C and D,
7 these are replacements, amended Exhibits C and D to the
8 application for the south unit.

9 Q. (Ms. McClanahan continues.) Mr. Arrington, could you
10 please state the percentage of ownership of the coal, oil
11 and gas estates on the BUS 1 for Pocahontas Gas Partner-
12 ship?

13 A. Yes. It's a 90.004 percent.

14 Q. Which estate is that?

15 A. Of the oil and gas.

16 Q. And the coal estate? How much of that is controlled by
17 Pocahontas Gas Partnership in the south unit?

18 A. 100 percent.

19 Q. That's of all coal below the Tiller?

20 A. Yes, ma'am.

21 Q. Are those the same percentages that are listed on the
22 south one unit application as it was submitted?

23 A. No.

24 Q. And what is the reason for the differences?

25 A. New leases and acquisitions.

1 Q. From the date of the filing of the application to today,
2 is that correct?
3 A. Yes.
4 Q. The amended Exhibits C and D that were submitted with
5 the applications did those indicate the differences in
6 lease hold ownership for Pocahontas Gas Partnership?
7 A. Yes.
8 Q. And we also have submitted the return receipts for the
9 notices on all of those.
10 MS. MCCLANAHAN: Is that correct. Mr. Fulmer?
11 MR. FULMER: Yes.
12 Q. (Ms. McClanahan continues.) In the notices of publica-
13 tion were any of those made for the south unit?
14 A. Yes. To the Bluefield Daily Telegraph, to the Bristol
15 Herald, and Virginia Mountaineer.
16 Q. Do you have the dates of those publications?
17 A. Yes. Virginia Mountaineer was May 23, '91. Bluefield
18 Daily Telegraph on May 21, '91. And the Bristol Herald
19 on June 5th, '91
20 MS. MCCLANAHAN: We would like to submit those as Exhibits A,
21 B, and C.
22 MR. FULMER: Mr. Chairman, they will be E, F, and G.
23 MS. MCCLANAHAN: What are A, B, C and D?
24 MR. FULMER: C and D you gave.
25 MS. MCCLANAHAN: Remember you told me the last time that you

1 wanted those to be called amended C and D to the applica-
2 tion?
3 MR. FULMER: Yeah, I know, but you did an exhibit on it in
4 connection to D and E. That's C and D. We've got A, the
5 map.
6 MR. EVANS: A real quick estimation on Exhibits on C and D.
7 Exhibit C, either the amended or the otherwise, coal
8 ownership or gob gas ownership, correct?
9 MS. MCCLANAHAN: Exhibit C and D those are --
10 MR. ARRINGTON: Those are oil and gas ownership.
11 MR. FULMER: And D is adverse --
12 MS. MCCLANAHAN: C is a list of everyone who has a oil and gas
13 or coal ownership interest in the unit. Exhibit D is
14 all of those which Pocahontas Gas Partnership has no
15 interest in. And those are exhibits to the application,
16 not exhibits for the purposes of the hearing. That's the
17 distinction I was making. We have amended Exhibits B-1
18 also which show the difference in oil, gas and coal
19 ownership as they now are.
20 MR. MASON: B-1 is the amended one?
21 MS. MCCLANAHAN: Right. That's a map of the same interests
22 that are on C and D.
23 MR. MASON: Is this to the hearing exhibit or application?
24 MS. MCCLANAHAN: That's the application. Amended Exhibit B-1
25 to the application.

1 MR. CHAIRMAN: And you've updated that to correspond with
2 amended C and D is what you're saying.

3 MS. MCCLANAHAN: Unless anyone has any questions for Mr.
4 Arrington on our leasehold position on this unit I don't
5 have any further questions for him.

6 MR. CHAIRMAN: Any questions from members of the Board?
7 (The witness stands aside.)

8 MR. CHAIRMAN: Call your next witness.

9 MS. MCCLANAHAN: Randy Albert.

10
11
12 RANDALL ALBERT

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

15
16 DIRECT EXAMINATION

17
18 BY MS. MCCLANAHAN:

19 Q. Would any of your testimony that you gave previously for
20 the BUN1 unit be different for the BUS 1 unit, Mr.
21 Albert?

22 A. No, It would not.

23 MS. MCCLANAHAN: I don't have any further question unless the
24 Board has any questions for Mr. Albert. We would request
25 that the record for the BUN 1 be appropriated as the

1 record for the BUS 1.

2 MR. MASON: Mr. Chairman, I just want to ask one other
3 question about the seams above the Tiller. Are there
4 exposed seams on this tract as well?

5 MS. MCCLANAHAN: Yes.

6 MR. MASON: Do the seams above the Tiller outcrop on this unit
7 as well?

8 MR. ALBERT: Yes, sir. That is correct. One thing I would
9 like to add there, if I may, since you brought that back
10 up, when I gave you the example of the Jawbone mining
11 done by PerMac over top of us -- I think another impor-
12 tant thing to keep in your mind about that is to date --
13 at least, through today we have no history that they
14 have ever had any gas come into any of those mines caused
15 by our gob area. So, naturally, a gas would have a
16 tendency to migrate upward first through fractures. So
17 that would lead, at least, me to believe that the
18 fractures aren't there and we would not anticipate any
19 movement downwards from those seams as well.

20 MR. CHAIRMAN: Thank you. Any other questions for Mr. Albert?

21 MS. MCCLANAHAN: No further questions.

22 (The witness stands aside.)

23 MR. CHAIRMAN: You have asked that the Board incorporate the
24 previous testimony of Mr. Albert for the record? Any
25 problem with that members of the Board? Okay. It will

1 be accepted.

2 MS. MCCLANAHAN: Ken Kormendy.

3
4
5 KENNETH KORMENDY

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

8
9 DIRECT-EXAMINATION

10 BY MS. MCCLANAHAN:

11 Q. Mr. Kormendy, would any of your testimony be different
12 for the BUS 1 unit than that you have already given for
13 the BUN 1 unit?

14 A. No, it would be the same.

15 MS. MCCLANAHAN: Then we will also ask that Mr. Kormendy's
16 testimony for the BUN 1 be admitted into the record for
17 the BUS 1 unit.

18 MR. CHAIRMAN: Do you have any problem with that, Members of
19 the Board? It will be accepted as part of the record.
20 Any questions, Members of the Board?

21 (The witness stands aside.)

22 MR. CHAIRMAN: Are there any parties present here today that
23 wish to address the Board regarding BUS 1? This is
24 Docket #VGOB-0618-128. The record will show that there
25 is no one coming forward. If there are no other ques-

1 tions, what's your pleasure, Board?

2 MR. MASON: Would you like me to do it over again or would you
3 like to do it the same way? I would make a motion.
4 Bearing in mind, again, that the Board notes that the gob
5 area is outside of the Oakwood Field Rules and further
6 the Board's conclusion that the gob is defined in this
7 instance of the BUS #1 as set forth in the petition that
8 the gob in that area is defined from the top of the
9 Pocahontas #2 seam to the Tiller seam. I would move
10 that we would grant the petition to create the BUS 1
11 unit, that we approve the production for multiple coalbed
12 methane gob wells within that unit provided that no well
13 be produced closer than 300 feet to the outside perimeter
14 of such unit and that the perimeters be defined as set
15 forth in the application.

16 MR. EVANS: I second.

17 MR. CHAIRMAN: I have a motion and a second. Further discus-
18 sion? All in favor of the motion signify by saying yes.
19 (ALL AFFIRM.) Opposed, say no. (None.) The motion
20 carries unanimously.

21 MR. CHAIRMAN: That concludes the items on today's hearing. I
22 would just tell the Board a couple of things for your
23 information. We have published notice of our decision to
24 extend the Emergency Gas and Oil Regulations. They'll be
25 extended through -- reissued regulations will remain in

1 effect until June 30, 1992 or the date the permanent
2 regulations become effective, whichever occurs first. In
3 addition, the rules and regulations governing conserva-
4 tion of gas and oil resources and well spacing also
5 remain in effect until the permanent Gas and Oil Regula-
6 tions become effective. This extension of the emergency
7 regulation was necessary to give our department adequate
8 time to address the comments that we received on the
9 purposed permanent regulation following the hearing held
10 earlier this year.

11 MR. MASON: Along these regards, it is my understanding that
12 we were to hear from the Treasury Department or from
13 someone in regard to the escrow proposal.

14 MR. CHAIRMAN: That's going to be on the next month's agenda,
15 the July agenda, that will come to the Board with a
16 proposed RFP for your approval.

17 MS. MCCLANAHAN: Mr. Chairman, we have one small administra-
18 tive matter that we need a ruling from the Board on in
19 connection with our permit conversions. The statute
20 45.1-36129 requires for the permit application that we
21 submit a unit map if any approved by the Board.

22 MR. CHAIRMAN: For purposes of today's hearings on BUS 1 and
23 BUN 1?

24 MS. MCCLANAHAN: Yes. So can you please tell us what unit
25 map we need to submit? Which unit map is approved by

1 the Board to be submitted? And could we request -- these
2 are on one inch --
3 MR. ARRINGTON: One inch equals 1,300 feet. That one, that
4 map. And generally the unit map is inched to 400.
5 MS. MCCLANAHAN: Could you please approve that as the unit map
6 that we can send with the notifications of the permits?
7 MR. MASON: Excuse me. I was just going to ask -- Tom, what
8 effect does that have on your -- what do you need before
9 you decided what you are going to get?
10 MR. FULMER: I can't do anything yet anyhow.
11 MR. MASON: I understand that, but is that acceptable?
12 MR. FULMER: The unit map itself doesn't require -- there's
13 not anything in the statute requiring what scale it
14 should be.
15 MS. MCCLANAHAN: The regulation under the conventional
16 requires one inch to 400. That's what we're concerned
17 about because the one inch to 400 map would huge,
18 obviously.
19 MR. CHAIRMAN: I understand.
20 MR. MASON: That's the plat?
21 MS. MCCLANAHAN: Right.
22 MR. MASON: But a unit map is not a plat.
23 MS. MCCLANAHAN: Right. But we are concerned about which map
24 is going to be proper. So if you could just tell us.
25 MR. CHAIRMAN: We approved this Amended Exhibit B-1 with one

1 well and we had a similar one for the Buchanan north, as
2 unit maps. And working that out acceptable to the
3 inspectors office this is what the Board did approve.

4 MS. MCCLANAHAN: All right. Thank you.

5 MR. CHAIRMAN: I have one other item just for the Boards
6 information. We had a request and as a result we are
7 holding a public hearing -- not a hearing. I'm sorry, a
8 public meeting concerning gas well development. Now,
9 this is all gas well development. It's not just coalbed
10 methane gas well development -- in Buchanan County to
11 provide information and give citizens the opportunity to
12 ask questions about natural gas and coalbed methane well
13 development activities in Buchanan County. That will be
14 held at the Keene Mountain Field Office located off of
15 U.S. Route 460 near Oakwood, Virginia. And the meeting
16 would be held at 10:00 on Monday, June 24th, beginning at
17 10:00. Any other items, Members of the Board?

18 MR. MCGLOTHLIN: Do we need to be there or is just come if you
19 want?

20 MR. CHAIRMAN: No. It's just for your information. It's up
21 to you. If not, this hearing is closed. Thank you.

22
23 (End of proceedings for
24 June 18, 1991.)
25

1
2 CERTIFICATE
3

4 COMMONWEALTH OF VIRGINIA

5 COUNTY OF WASHINGTON
6

7 I, Cleadys D. Griffin, Notary Public in and for the
8 Commonwealth of Virginia, at Large, do hereby certify that
9 the foregoing is a true transcript of the proceedings had in
10 the matter held before the Virginia Gas and Oil Board on the
11 18th day of June, 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; that said
14 transcript has been reduced to writing by me and that said
15 transcript is a true and correct transcript of the aforesaid
16 to the best of my 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 12th day of July, 1991.
22

23 
24 CLEADYS D. GRIFFIN
25 NOTARY PUBLIC

My commission expires MARCH 19, 1993.