

**DEPARTMENT OF MINES,
MINERALS & ENERGY**

VIRGINIA GAS AND OIL BOARD

**TRANSCRIPTS FOR CALENDAR
YEAR 1992**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VIRGINIA OIL AND GAS CONSERVATION BOARD

HEARING OF JANUARY 21, 1992

9:00 A. M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER

ABINGDON, VIRGINIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

ITEM

PAGE

I	3
II	4
III, IV, X	19
VI	20

January 21, 1992

This matter came on to be heard on this the 21st day of January, 1992, before the Virginia Gas and Oil Board, at the Southwest Virginia 4-H Center, Abingdon, Virginia, pursuant to Section 45.1-361.19.B and 45.1-361.23.B.

MR. CHAIRMAN: Good morning. My name is Benny Wampler and I'm Assistant Director for Mining for the Virginia Department of Mines, Minerals and Energy and this is a hearing before the Gas and Oil Board. I'll start by asking our Board members to introduce themselves.

(MEMBERS INTRODUCED.)

MR. CHAIRMAN: The first item that we have on the agenda is it says the Board will review final negotiated contracts and select an agent for escrow services. The Department because of scheduling conflicts with the move and the folks with Crest Star Bank and some others that they would have had to interview they just couldn't get the schedule together. So it will be next month before we can come to the Board with that. I had sent to a couple of Board members that requested copies of the proposals to review and I hope that you've had a chance to do that if there is any questions or any discussion on this today. If not, we'll move on to the next item.

MR. MCGLOTHLIN: Are we just going to negotiate with Crest Star or --

1 MR. CHAIRMAN: They'll have to negotiate with Crest Star first
2 and then if they can't -- if there's been any change or
3 they can't come to an agreement they'll go right down the
4 list because they're ranked in order as the proposals
5 were ranked.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ITEM I

1
2
3 MR. CHAIRMAN: Okay. The next item on the agenda, we has a
4 motion of OXY, USA, Incorporated seeking the appointment
5 of the Board work group to consider unitization to the
6 end that the Board recommended the same to the Virginia
7 General Assembly. There is a Docket Number VGOB--
8 91/12/17-0175. We'll ask the parties that want to
9 address the Board regarding this proposal to step
10 forward, please.

11 MR. SWARTZ: Mr. Chairman, my name is Mark Swartz. Howard
12 Salisbury and I are here today representing OXY USA.
13 Based on feed-back that we have received with regard to
14 this motion and some correspondence OXY has decided to
15 withdraw this motion and would request that the Board
16 simply remove it from it's docket.

17 MR. CHAIRMAN: Any comments, members of the Board? Okay. We
18 will consider that withdrawn. Thank you.
19
20
21
22
23
24
25

ITEM II

MR. CHAIRMAN: The next item on the agenda is a reconvening of the hearings on OXY USA, Incorporated's wells CBM W-32, Docket Number VGOB-91/09/24-0142 and T-32 which is VGOB-91/10/15-0154, CBM U-29 which is VGOB-91/12/17-0173 and CBM U-30 which is VGOB-91/12/17-0174 to reconsider previous actions of the Board on the fore mentioned matters.

MR. SWARTZ: Mr. Chairman, I think W-32 is the one with the 460 in the Commonwealth that we were going to adjourn. We have not -- have we reached a final resolution of whether or not we're going to withdraw that one or do we know as of today -- where we had force pool the Commonwealth and had a problem with the consent issue?

MR. WIRTH: Yes, at this time we would like to withdraw that application on the W-32. I'm Martin E. Wirth for OXY.

MR. SWARTZ: There was no order entered on that one. So it should not be a problem. The other three matters that were adjourned all involved a minor child by the name of Matthew Deskins who was a respondent in the forced pooling applications for U-29, U-30 and T-32. I had filed with the Board in advance of the hearing a short memorandum with regard to the guardian ad litem issue and the election issue that the Board raised with regard to

1 these three pooling applications. I don't know if you
2 all have had a chance to review that memorandum. I
3 assume some of you have. I'd like to take just a few
4 moments to go through the basics in terms of what
5 Virginia law apparently requires with regard to dealing
6 with real estate issues concerning minors or other people
7 under disability and then the proposal I have tendered to
8 the Board for your consideration in terms of dealing with
9 this particular child in these three units and perhaps
10 you might regard this -- at least I did in drafting it.
11 I tried to make it as generic as possible so that it
12 would be something that we could use in the future
13 because I'm sure that we will have -- that you will have
14 pooling applications filed by others and that OXY will
15 continue to have situations where there are minor
16 children or other people under disability. I think the
17 first thing which I would like to point out to you which
18 I don't specifically state in my memorandum I think we
19 need to put this in context so we understand why this
20 provision was inserted in the statute. We had talked
21 some previously about a provision in 361.21 which deals
22 with pooling generally which is Section E of 361.21.
23 Section E provides that if a gas or oil owner is a person
24 under disability the applicant for a pooling order may
25 petition the appropriate circuit court to appoint a

1 guardian ad litem pursuant to the provisions of 801-261
2 for purposes of making the election. I think the reason
3 that this provision was inserted in the Virginia Oil and
4 Gas Act once I had a chance to look 801.261 was that
5 801.261 specifies that the people who have the ability to
6 bring a petition on behalf of a minor to deal with real
7 estate or to deal with other issues of a minor's estate
8 and oil and gas owners aren't listed. So there is no
9 statutory authority but for the passage of this provision
10 in this act which would permit an applicant in a pooling
11 hearing to initiate those kinds of proceedings. So I
12 think that this should be simply regarded as a statutory
13 mechanism to allow an oil and gas operator to bring a
14 proceeding to get election issues resolved with regard to
15 pooling orders that might be entered. In reviewing the
16 Virginia Code with regard to statutory mechanisms to deal
17 with real estate interests owned by minors it is apparent
18 that there are two basic choices that you have if you
19 want to affect either by lease or sale or other dispos-
20 ition interests held by minors. One is to commence a law
21 suit, essentially, to commence a chancery action which is
22 obviously the most expensive route that you could take in
23 terms of dealing with this kind of an issue. There is a
24 second method in the same chapter which provides for a
25 summary proceeding. A summary proceeding is simply a

1 motion brought which is returnable in a circuit court in
2 the county where the real estate is which asks the judge
3 to do something specific with regard to a minor's real
4 estate. What would happen here if a summary procedure
5 were followed in terms of dealing with Matthew's interest
6 in any of these three units is you would petition the
7 court to appoint a guardian. There is a mechanism in the
8 Virginia statutes generally that allows that guardian to
9 either be an attorney licensed to practice in the State
10 or the child's natural parent and guardian. In this
11 particular case with regard to Matthew, who as you may or
12 may not recall is ten years old who lives with his
13 mother, we would in all probability be petitioning the
14 court to appoint his mother as his guardian and authorize
15 her to make his elections. One thing that you need to
16 recall with regard to these three applications, Matthew
17 is not a claimant. He is an owner. There will be
18 situations in the future that I think -- and we'll get to
19 that -- that I think perhaps when children have conflict-
20 ing claims as opposed to clearly defined ownership
21 interest there may be reasons to do things a little
22 differently. But Matthew is an owner based on the title
23 work that has been done here. Because of that Marty has
24 indicated to me that OXY will proceed to try and have his
25 mother appointed as his guardian to exercise his election

1 rights. He's in a whole bunch of units and what we will
2 probably do is try and make one trip to the courthouse.
3 To give you some indication -- and this is not -- the
4 costs involved do not permit you to depart from what
5 you're required to do at law, but I think the costs
6 involved in these proceedings and the interests involved
7 and the money involved you need to bear in mind. If you
8 look at the first paragraph -- first couple paragraphs of
9 the memorandum, Matthew's interest in these three units
10 are .0016 percent, .0119 percent, .0025 percent. In the
11 second paragraph, just to give you an example of what
12 kind of money we're talking about here, if he wanted to
13 participate -- if his guardian elected to participate in
14 one of these units -- the one that he has .0016 percent
15 interest in, his participation interest, the cash that he
16 would have to tender to participate is \$3.62. If you
17 start applying those percentages to royalty interests or
18 participation interests you can see we're dealing with a
19 nominal amount of money here. That does not excuse
20 compliance with the law and it does not -- I think we
21 need to find a cost effective method to protect his
22 rights and give him the opportunity to elect. As I see
23 it, to focus on the issue that I think the Board needs to
24 be concerned about is we need to come out of this hearing
25 or come out of the focus that we have on what do we do

1 with regard to minor children with a method that allows
2 minor children either by their guardian or by virtue of
3 the fact that their election right is delayed until the
4 reach majority that allows minor children to effectively
5 elect. It does absolutely no good -- and I think this is
6 why you sent us back to the drawing board to come back to
7 you. It does no good to tell a minor child in a pooling
8 order that he has thirty days to elect if he's ten years
9 old because he can't make an effective election as a
10 child unless he has a guardian appointed. So it isn't
11 going to happen. I mean, that's fruitless to do some-
12 thing like that. One of the things that we need to
13 consider and it's one of the options that I have in my
14 proposal is if we have minors we need to be flexible
15 enough so that we can take different situations into
16 account. The situation that we have here is an ownership
17 interest. We're going to proceed to get a guardian
18 appointed and deal with those elections on a timely
19 fashion. What if you have a situation where we're
20 pooling someone who is seventeen and a half and it's
21 going to cost \$1,000 or \$1,500 to have a guardian
22 appointed? If there is no urgency and if moneys are
23 going to be in escrow, why can't we wait until that child
24 is eighteen years old and give him the opportunity to
25 elect on this -- waiting six months and give that child

1 an opportunity to make an effective election. In other
2 words, delay for the minor the election until such time
3 as he reaches majority and give him a period of time
4 after he reaches majority to do that. I think we also
5 need to have available to the parents since it is
6 available under the statute the opportunity to bring a
7 motion on their own behalf. I mean, in theory when
8 people receive notices -- when the parents get a notice
9 for a minor child in a unit the parents could go down
10 that day or the next day or the next week before the
11 hearing is set and have a guardian appointed or have
12 themselves appointed as a guardian and appear at the
13 hearing and make the election subsequently. So es-
14 sentially the last provision -- or the last part of the
15 memorandum that I have submitted to you is simply a
16 proposed paragraph which I would suggest you consider and
17 that if you feel it addresses the concerns that we all
18 should have with regard to providing for a mechanism that
19 minors or their guardians can make an effective election
20 that you simply insert it the orders - the standard form
21 order that we have submitted in the past and that is now,
22 I understand, currently in use at least with regard to
23 OXY's applications as Paragraph 9.4, Option 4, under
24 election rights which specifically deals with election
25 rights of minor children. It has three alternatives

1 which are in the disjunctive which are in the very
2 beginning. One is simply a recognition of the statutory
3 option under 361.21.E which would allow OXY to file a
4 petition or the minor by his next friend or attorney
5 which would be his parents or an attorney to file his own
6 petition or if neither one of those things happen to
7 defer the period of time within which the minor child has
8 to make an election to after the date on which he reaches
9 -- to thirty days after the date on which he reaches
10 majority. The last page, Page 6, deals with escrow
11 because again, going back to the two situations we're
12 going to have -- in Matthew's case we have an ownership
13 situation. I would recommend to the Board and I have put
14 this in the order that even where you have an ownership
15 and it's not a claimant situation that there should be a
16 mechanism that those funds are escrowed until such time
17 as a guardian is appointed and the court orders what is
18 to do done with those funds. I don't want to be in a
19 situation where OXY is sending checks to minor children
20 and that was why that was put in here. If we have a
21 conflicting claim situation the money is going to be
22 escrowed under the statute no matter what and we don't
23 need to address that in an order, but that is something
24 you need to think about. There is also some language in
25 here which courts move slower than almost anything else

1 known to man and there is some direction in here to the
2 judge to encourage him if and when he appoints a guardian
3 to try and get that guardian to make an election within
4 sixty days of his appointment so that things occur and
5 happen in somewhat of a timely fashion and that also the
6 court in entering an order approving the guardian's
7 recommendation that the minor lease, that the minor
8 participate or the minor be carried, that in any order
9 entered by the court the court in Matthew's case because
10 he's entitled to these funds actually provide in it's
11 order to whom the Board should disburse the escrowed
12 funds so that if we get in a situation where the owner
13 gas operator is paying the money as directed by the
14 circuit court on behalf of children who do not have
15 conflicting claims but have ownership interests. That in
16 a nut shell is why I am proposing this and what I am
17 proposing to you with regard to these three pooling
18 applications. Marty Wirth is here should you have any
19 questions for him. Obviously, I'm here if you have any
20 questions for me.

21 MR. CHAIRMAN: Thank you, Mr. Swartz. Any questions, members
22 of the Board? Are there any other folks that are here in
23 the audience that wish to address the Board regarding
24 this matter? Let the record show that there's none
25 identifying themselves.

1 MR. MCGLOTHLIN: Mr Chairman, I move that this meeting
2 be recessed and that the Board immediately reconvene in
3 executive closed meeting for the purpose of consultation
4 with legal counsel and/or briefly by staff members and
5 attorneys pertaining to actual and/or potential litiga-
6 tion and other legal matters within the jurisdiction of
7 the Board as permitted in Section A, Paragraph 7, Section
8 2.1-344 of the Code of Virginia. This motion is made
9 with respect to the matters identified as agenda Item II.

10 MR. CHAIRMAN: We have a motion to go into executive session.

11 MR. EVANS: Second.

12 MR. CHAIRMAN: All in favor signify by saying yes. (ALL
13 AFFIRM.) Opposed say no. (NONE.) We are in executive
14 session.

15 (THEREUPON, THE BOARD WENT INTO EXECUTIVE SESSION, AND
16 RECONVENED THE OPEN MEETING AT 10:20 A. M.)

17 MR. CHAIRMAN: Whereas the Virginia Gas and Oil Board is
18 convened in executive session on this date pursuant to
19 the affirmative recorded vote and in accordance with the
20 provisions of the Virginia Freedom of Information Act and
21 whereas Section 2.1-344.1 of the Code of Virginia
22 requires certification by this Virginia Gas and Oil Board
23 that such executive meeting was conducted in conformity
24 with Virginia law, now therefore it be resolved that the
25 Virginia Gas and Oil Board hereby certifies that to the

1 best of each member's knowledge only public business
2 matters lawfully exempted from open meetings requirements
3 by the Virginia law were discussed in the executive
4 meeting to which this certification resolution applies
5 and only such business matters as were identified in
6 the motion convening the executive meeting were heard,
7 discussed or considered by the Virginia Gas and Oil
8 Board. I would as an affirmative vote from each member.
9 (ROLL CALLED AND ALL AFFIRM.)

10 MR. EVANS: Mr. Chairman, I would like to make a motion.

11 MR. CHAIRMAN: Mr. Evans.

12 MR. EVANS: It is the opinion of the Board that Virginia Code
13 Section 261.21.E applies to minors and provides a
14 mechanism through which applicant may proceed. A lack of
15 proper notice constitutes a defect in the application and
16 therefore, the applications are incomplete. OXY USA,
17 Incorporated will have sixty days to provide this Board
18 with a copy of the order of the court appointing a
19 guardian ad litem together with proof of proper notice
20 or the petitions will be denied without prejudice.

21 MR. MCGLOTHLIN: Second.

22 MR. CHAIRMAN: I have a motion and a second. Any further
23 discussion? All in favor signify by saying yes. (ALL
24 AFFIRM.) Opposed say no. (NONE.) The motion carries.

25 MR. SWARTZ: If I might ask who it is, if anyone, that we

1 failed to give proper notice to? I really don't under-
2 stand.

3 MR. CHAIRMAN: The Board with it's motion and decision is that
4 the minor Matthew Deskins without having a guardian, we
5 couldn't accept that as having had notice.

6 MR. SWARTZ: Well, the statutes in Chapter 8 say that you can
7 sue a minor by suing him and the suit can proceed. I
8 mean, you give notice to a minor just like you do to an
9 adult. Maybe I'll ask you to reconsider. But this is --
10 the statutes in the Code clearly show you just sue a
11 minor like you sue anybody else. You just join them.
12 Then the question becomes what can you do if they're
13 before the court or before the Board. But you can
14 commence a law suit against a child. You can give
15 notice. I mean, it's just -- it's really a basic
16 principle that you can do that. Well, you've made your
17 decision but --

18 MR. CHAIRMAN: I think the concern of the Board has been the
19 rights of the minor and the minor in these cases is being
20 required to make decisions, election decisions.

21 MR. SWARTZ: They're not required to do anything. What I'm
22 proposing is that a minor doesn't have to do anything
23 unless he has a guardian to do it for him or until he
24 reaches eighteen. I mean, the problem is not how do you
25 sue a minor or how do you bring a minor before an

1 administrative body. It's how do you get the minor to do
2 something effective once they're before the body. Maybe
3 you need to check with counsel further, but if you want
4 to sue a minor child you serve a summons of complaint on
5 a minor child just like you serve it on an adult and you
6 have a law suit going. I mean, there is no difference.
7 There's just no different mechanism at all. To suggest
8 that we did not give notice to the child who received a
9 notice which he's mother signed for -- I mean, I
10 can't --

11 MR. CHAIRMAN: That's acknowledged that that did occur. As
12 was stated in the motion and decision, the Board's
13 interpretation of 361.21.E is that before -- it says
14 specifically, "Should a gas or oil owner be a person
15 under disability and the Board determined that to be or
16 minor child, if you would, the applicant for a pooling
17 order may petition the appropriate circuit court to
18 appoint a guardian ad litem pursuant to the provision of
19 810.261 for purposes of making the election provided for
20 by this section.

21 MR. SWARTZ: I understand, but the motion dismissed all three
22 of these petitions with the stated reason that improper
23 notice was given. That's what I understand.

24 MR. CHAIRMAN: No, it did not. It said after sixty days then
25 they would be denied for that reason.

1 MR. WIRTH: Mr. Chairman, if you'll remember way back when
2 initiated it was because of a permit -- was condition as
3 to file the forced pooling within thirty days and if
4 you'll remember there is 11 heirs in this thing and there
5 was kind of a rush and now we've delayed so far. But on
6 the Board's motion we served notice for petition and I
7 believe proper notice has been served as counsel stated.

8 MR. SWARTZ: Well, maybe we'll just file a motion to re-
9 consider and I'll file a brief on how you notice or
10 commence a proceeding against a minor. We are more than
11 willing to proceed to have a guardian for him, but I
12 believe proper notice has been given to this child
13 sufficient to commence this and I'm concerned these
14 things are going to get dismissed out from under us
15 before we can get a summary proceeding. The section
16 simply addresses how a child makes an election. It
17 doesn't say how you commence a proceeding. I can't cure
18 a notice defect by bringing a summary proceeding. Maybe
19 I'm missing a step here. If the notice is a problem, if
20 that's your conclusion, I can't fix that by bringing a
21 summary proceeding. Either there's an acknowledgement
22 that you serve a minor like you serve an adult which I
23 believe is just absolutely clear or you don't. And if
24 it's the Board's position that you cannot file a pooling
25 application and notify a minor as you notify an adult

1 then all three of these had defective notice -- I guess
2 what you're suggesting is that if I have a guardian
3 appointed then I can renotify the guardian? Okay. We'll
4 give it some thought and probably file a motion to
5 reconsider, I guess.

6 MR. CHAIRMAN: Thank you.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ITEM III, IV & V

1
2
3 MR. CHAIRMAN: The next item on the Board's agenda - the next
4 three items have been withdrawn. They are Docket Number
5 VGOB-91/12/17-0164, 0167, 0168.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ITEM VI

MR. CHAIRMAN: That takes us to Item VI for the establishment of a compulsory pooled drilling unit under 45.1-361.22 from Pocahontas Gas Partnerships for the NELW9 located on the Keen Mountain Quadrangle. This is Docket Number VGOB-91/12/17-0169. I will ask the parties that wish to address the Board in this matter to come forward, please.

MS. McCLANNAHAN: Mr. Chairman, I'm Elizabeth McClannahan with Penn Stuart, Eskridge and Jones and I represent Pocahontas Gas Partnership. The application before the Board is for the forced pooling in the interest in the Northeast longwall unit which has been previously approved by the Board as a drilling unit. It's shown on the map as a portion of the BUNE1 field gob unit. The Northeast Longwall 9 Unit is 161.1 acres. There are five tracts which make up that 161.1 acres and the unleased interest or shall we say the interest that we wish to force pool include Island Creek Coal Company and OXY USA, Inc. Island Creek has a .60 acre tract of coal lying beneath the Tiller Seam lease from C. L. Ritter and OXY has a coalbed methane lease from C. L. Ritter and Yukon-Pocahontas on three tracts, an 11 acre, a .60 acre and a 9 acre tract. In addition we have included Cabbot Oil and Gas Corporation as a conflicting claimant interest to

1 be force pooled. What we're asking that the Board do is
2 under the unit order which the Board has entered -- I
3 suppose I should say the order has been granted. The
4 order may not have yet been entered. The Board indicated
5 that we that we could drill a minimum of four wells in
6 the Northeast Longwall 9 Unit and as many additional
7 wells as the Inspector saw fit for purposes of mine
8 safety and ventilation. What we're requesting the Board
9 to do today is to approve the drilling -- actually the
10 conversion of four vertical ventilation holes to coalbed
11 methane wells. These four wells are already in the
12 ground as VVHs and have been permitted as VVHs. We've
13 submitted the conversion permits. One of those four has
14 been approved. The other three are submitted and are
15 just awaiting some small technical changes. What we're
16 asking the Board to do is approve the cost on those four
17 wells which are shown on the detailed well estimates
18 that are included in the application and then for any
19 additional wells that we may drill in accordance with the
20 unit order we would come back to the Board at that time
21 and ask the Board to approve any additional well cost
22 based on drainage testimony or detailed well estimates
23 that we would have at that particular time so that the
24 Board could decide whether operators who were participat-
25 ing earlier could make a different election or would even

1 have the option to make an election and also whether
2 those costs would be allocated to those people at the
3 time. In addition, we're actually only asking that 43.4
4 percent of the cost of those four wells be attributed to
5 the owners who are in the panel unit because, as you
6 know, this panel unit is overlain by the sealed gob unit.
7 So the question becomes whether you allocate costs all to
8 the people in the panel unit or to the people in the
9 sealed gob unit and what happens when you convert. So
10 what we've done and our testimony will show is that we
11 have allocated the costs of the wells to the people in
12 the panel units and the sealed gob unit according to the
13 production that would be allocated to those two different
14 units. Mr. Morgan will later testify that the production
15 from the panel unit which would include frack gas, active
16 gas, and horizontal gas is 43.4 percent and therefore,
17 we're asking for the cost on 43.4 percent of those four
18 wells. The first witness that I would like to call is
19 Les Arrington.

20 CLERK: (Swears witness.)

21
22 LESLEY K. ARRINGTON

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

DIRECT EXAMINATION

BY MS. McCLANNAHAN:

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

A. Lesley K. Arrington.

Q. And your address?

A. P. O. Box 398, Pocahontas, Virginia.

Q. And by whom are you employed?

A. Consol Incorporated.

Q. And your position with Consol?

A. I work as a permit specialist for Pocahontas Gas Partnership.

Q. What are your responsibilities and duties as a permit specialist?

A. Collecting and assembling data for permits and applications and I also do land mapping.

Q. Could you state your educational background?

A. Yes. I have a Bachelor of Science degree in civil engineering technology from Bluefield State.

Q. Have you given notice as required by Virginia Code Section 45.1-361.19 to each person or entity identified on Exhibit C of the forced pooling application as a potential owner of the methane gas underlying the unit?

A. Yes, I have. And that is shown as Exhibit 1.

MS. McCLANNAHAN: Those have been previously submitted also to

1 the Department, I believe, but we would introduce the
2 first notice as Exhibit 1.

3 (Original Notice marked as Exhibit 1.)

4 Q. (Ms. McClannahan continues.) How did you send the notice
5 of hearing?

6 A. By certified mail, return receipt requested.

7 Q. Have you submitted those return receipts to the Board
8 also?

9 A. Yes.

10 Q. And those copies are also in the exhibit booklet, is that
11 correct?

12 A. Yes, they are.

13 MS. McCLANNAHAN: We would submit those as Exhibits 2 and 3.
14 Actually it would just be Exhibit 2, all of them to-
15 gether.

16 (Copies of Return Receipts marked as
17 Exhibit 2.)

18 Q. (Ms. McClannahan continues.) Were there any persons
19 whose names and/or addresses were unknown in the North-
20 east Longwall 9 Unit?

21 A. No. However, it was still published in the Bluefield
22 Daily Telegraph, Bristol Herald, and the Virginia
23 Mountaineer.

24 Q. How were the persons involved in the Northeast Longwall 9
25 Unit notified of the continuation of the hearing from the

1 December 19th, 1991 date?

2 A. They were notified by first class U. S. mail.

3 Q. And did you also publish those continuations?

4 A. Yes, I did.

5 Q. And have you submitted those proofs of publication to the

6 Board?

7 A. Yes, I have.

8 MS. McCLANNAHAN: We have also included copies of those in the

9 exhibits and would submit those as Exhibit 3.)

10 (Continuation Notices marked as Exhibit 3.)

11 Q. (Ms. McClannahan continues.) Have you filed permits to

12 convert the vertical ventilation holes that are in the

13 Northeast Longwall 9?

14 A. Yes, I have.

15 Q. And were any objections to the permit applications made

16 by coal owners or operators?

17 A. No.

18 Q. Wasn't there one objection that was made but was later

19 withdrawn?

20 A. Oh, yes, correct.

21 Q. Has the drilling permit been previously refused to PGP on

22 any of the tracts that make up this unit?

23 A. No.

24 Q. What percentage of the coal rights in the tracts that

25 comprise the Northwest Longwall 9 has Pocahontas Gas

1 Partnership leased?

2 A. For the Pocahontas #3 seam we have 100 percent -- I'm
3 sorry, 99.6276 percent of the Pocahontas #3 seam and
4 87.2129 percent of all coal below drainage.

5 Q. What percentage of the oil and gas rights in the tracts
6 that comprise the Northeast Longwall 9 has PGP leased?

7 A. We have leased 54.3141 percent.

8 Q. And what percentage of the oil and gas estate does PGP
9 own?

10 A. 32.8988 percent.

11 Q. Have you obtained coalbed methane gas leases on any
12 portion of the acreage?

13 A. Yes, we have.

14 Q. What percentage is that?

15 A. 87.2129 percent.

16 Q. Could you please state the owners and their percentage of
17 ownership in the respective tracts for the Northeast
18 Longwall 9 in which Pocahontas has no interest?

19 A. Yes, I can. We have no interest in Yukon/Pocahontas in
20 the coal tract of Yukon/Pocahontas Coal, Salyers Pocahon-
21 tas Coal Company, Buchanan Coal Company, Georgia-Pacific
22 Corporation. That is the above drainage. That's 11
23 acres in a 9 acre tract. C. L. Ritter we have .6 acres
24 of which we have only the Pocahontas #3 seam. Jewel
25 Smokeless has all three of those tracts above drainage --

1 Tiller and above, I'm sorry. The oil and gas also in
2 those tracts is leased to Cabbot Oil and Gas Corporation
3 and in those three tracts mentioned OXY USA has a coalbed
4 methane lease and I think I missed one, a 9 acre tract --
5 no, I didn't. An 11 acre tract and a 9 acre tract and a
6 .60 acre tract which belongs to C. L. Ritter Lumber.

7 MS. McCLANNAHAN: Those are all the questions I have for Mr.
8 Arrington.

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

10 (Witness stands aside.)

11 MS. McCLANNAHAN: I would like to call Bill Gillenwater.

12 CLERK: (Swears witness.)

13
14 WILLIAM DALTON GILLENWATER

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

17
18 DIRECT EXAMINATION

19
20 BY MS. McCLANNAHAN:

21 Q. Will you please state your full name for the record?

22 A. William Dalton Gillenwater.

23 Q. And your address?

24 A. P. O. Box 578, Pocahontas, Virginia.

25 Q. By whom are you employed?

1 A. Consol, Inc.
2 Q. And your position with Consol?
3 A. District land manager.
4 Q. What is your employment history with Consol?
5 A. I've been with Consol for thirteen years, eight years in
6 the capacity of district land manager.
7 Q. With regard to the coal lease hold interests that are
8 listed on the Northeast Longwall 9 application did you
9 make an offer regarding an assignment as a lease hold
10 interest for OXY and Island Creek Coal Company?
11 A. Yes, I did. We're in the process doing a property
12 exchange which would involve the assignment of these
13 properties.
14 Q. And by what method did you make this contact with those
15 companies?
16 A. It's been verbal.
17 Q. Have you been able to come to an agreement as to the
18 proposed acreage as of today?
19 A. Not as of today.
20 Q. Were there any unknown owners or owners whose addresses
21 were unknown?
22 A. No.
23 MS. McCLANNAHAN: Those are all the questions I have for Mr.
24 Gillenwater.
25 MR. CHAIRMAN: Any questions, members of the Board? Okay.

1 (Witness stands aside.)

2 MS. McCLANNAHAN: I'd like to call Randy Albert.

3 CLERK: (Swears witness.)

4
5 RANDALL M. ALBERT

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

8
9 DIRECT EXAMINATION

10
11 BY MS. McCLANNAHAN:

12 Q. Mr. Albert, would you please state your full name for the
13 record?

14 A. Randall Mark Albert.

15 Q. And your address?

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

17 Q. And by whom are you employed?

18 A. I'm employed by Consolidation Coal Company.

19 Q. And your position with Consol?

20 A. I'm the project manager of the Pocahontas Gas Partner-
21 ship.

22 Q. What are your responsibilities and duties as project
23 manager?

24 A. I'm responsible for the over all operation of the
25 Pocahontas Gas Partnership.

1 Q. And your educational background?

2 A. I have a Bachelor of Science degree in Mining Engineering
3 from Virginia Poly-Tech Institute and State University.

4 Q. Do you hold any licenses in the Commonwealth of Virginia?

5 A. Yes. I'm a licensed professional engineer in the
6 Commonwealth of Virginia.

7 Q. Could you please give a brief work history?

8 A. Yes. I've been employed by Consolidation Coal Company
9 since June of 1980. I've held various engineering
10 positions. For the past year and a half I have been the
11 project manager of the Pocahontas Gas Partnership.

12 Q. Are you a member of any professional associations?

13 A. Yes. I am a member of the Society of Mining Engineers.

14 Q. Have you ever been qualified as an expert witness in
15 mining engineering before the Virginia Gas and Oil Board?

16 A. Yes, I have.

17 MS. McCLANNAHAN: We would submit Mr. Albert as an expert in
18 mining engineering.

19 Q. (Ms. McClannahan continues.) Have well work permits been
20 submitted for the Northeast Longwall 9 Unit?

21 A. Yes, they have.

22 Q. And have any of those been approved?

23 A. Yes. One permit has been approved, the conversion of
24 vertical ventilation hole #67 as CBM PGP 67.

25 Q. And when were the vertical ventilation holes drilled that

1 are listed in the Northeast Longwall 9?

2 A. The wells were drilled in 1990.

3 Q. And by whom were those wells drilled?

4 A. The wells were drilled by Pocahontas Gas Partnership.

5 Q. You have indicated in the forced pooling application that

6 the mineral and lease hold owners for the Northeast

7 Longwall 9 which are not leased or assigned to PGP are

8 Yukon/Pocahontas Coal Company, Salyers/Pocahontas,

9 Buchanan Coal, Georgia-Pacific, Big Vain, C. L. Ritter,

10 Island Creek, Cabbot and OKY. Is that still correct?

11 A. Yes. However, we have revised Exhibit C and D regarding

12 additional coal acreage owned by Jewel Smokeless Coal

13 Company. Revised copies of Exhibit C and D were deliver-

14 ed to Jewel Smokeless on January 6th, 1992.

15 Q. And those revised exhibits are Exhibit 9 in the booklet

16 that the Board has. We would introduce those as Exhibit

17 5.

18 (Revised Exhibits C and D marked as Exhibit 5.)

19 Q. (Ms. McClannahan continues.) Why was this revision

20 necessary?

21 A. The revision was necessary due to an error in the coal

22 acreage as we originally had it mapped.

23 Q. Jewel Smokeless does not own any interest in the North-

24 east Longwall 9 below drainage, is that correct?

25 A. That is correct.

1 Q. And you're only force pooling coal below drainage, is
2 that right?

3 A. That is correct.

4 Q. Is Pocahontas Gas Partnership the owner of the drilling
5 rights underlying the mineral tracts that are to be
6 encompassed by this unit?

7 A. Yes, we are.

8 Q. Have you received any written responses to the forced
9 pooling application that were mailed?

10 A. No, we haven't.

11 Q. Does the plat attached to the forced pooling application
12 filed by PGP indicate the acreage to be embraced within
13 the Northeast Longwall 9 as it was approved by the Board
14 at its November 19th, 1991 hearing?

15 A. Yes, it does.

16 Q. Does the plat attached to the forced pooling application
17 filed by PGP indicate the shape of the acreage embraced
18 within the Northeast Longwall 9?

19 A. Yes, it does.

20 Q. Does the unit follow the boundary lines of the longwall
21 panel area that comprises the Northeast Longwall 9?

22 A. Yes, it does.

23 Q. Does the plat attached to the forced pooling application
24 filed by PGP indicate the area within which the wells
25 will be converted?

1 A. Yes, it does.

2 Q. And what are those four well numbers?

3 A. The four well numbers are #64, 65, 66 and 67.

4 Q. Does the drilling unit proposed embrace two or more
5 separately owned tracts?

6 A. Yes, it does.

7 Q. Are the costs and expenses for the wells 64 through 67
8 set forth on the detailed well estimates that are
9 attached to the forced pooling application as Exhibit F
10 through I?

11 A. Yes, they are.

12 Q. Have there been any revisions to the DWES for the wells
13 that comprise the Northeast Longwall 9?

14 A. Yes. For a portion of the DWES the revised DWES were
15 previously submitted to the gas and oil inspector.

16 Q. And why were those revisions necessary?

17 A. They were necessary due to some errors that were made in
18 the compiling of the information for the DWES.

19 Q. Do the exhibits as they've been submitted now reflect the
20 cost of drilling the wells to total depth and completed
21 for production costs?

22 A. Yes, they do.

23 Q. How did you calculate the costs that are listed in the
24 detailed well estimates that you're submitting?

25 A. For the most part the DWES reflect actual cost as

- 1 incurred by Pocahontas Gas Partnership for drilling. The
2 only estimated costs would be those for which we did not
3 have a invoice on hand for.
- 4 Q. Are you requesting that the Board pool the interest of
5 the mineral owners in the drilling unit designated on the
6 plat for the Northeast Longwall 9?
- 7 A. Yes, I am.
- 8 Q. Are you requesting that PGP be designated the well
9 operator?
- 10 A. Yes, I am.
- 11 Q. Are you requesting that the Board prescribe the time and
12 manner in which the other mineral owners may elect to
13 participate in the operation of the wells?
- 14 A. Yes, we are.
- 15 Q. And that participating mineral owners bear the reasonable
16 cost and expenses connected to the wells in the portion
17 which the acreage they own has to the total acreage in
18 the Northeast Longwall 9?
- 19 A. That is correct.
- 20 Q. And that the Board make provision for the payment of all
21 reasonable costs of the operation including a reasonable
22 supervision fee by all mineral owners who elect to be
23 participating owners?
- 24 A. That is correct.
- 25 Q. And that the Board provide alternatives to mineral owners

1 who do not elect to be participating owners in accordance
2 with Virginia Code annotated Section 45.1-361.217

3 A. Yes.

4 MS. McCLANNAHAN: That's all the questions I have for Mr.
5 Albert.

6 MR. CHAIRMAN: Any questions, members of the Board?

7 (Witness stands aside.)

8 MS. McCLANNAHAN: I'd like to call Claude Morgan as the next
9 witness.

10 CLERK: (Swears witness.)

11
12 CLAUDE MORGAN

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

15
16 DIRECT EXAMINATION

17
18 BY MS. McCLANNAHAN:

19 Q. Mr. Morgan, could you state your full name for the Board?

20 A. Claude Dale Morgan.

21 Q. And your address?

22 A. 2322 Fairfield Avenue, Bluefield, West Virginia.

23 Q. And by whom are you employed?

24 A. Consolidation Coal Company.

25 Q. And your position with Consol?

1 A. Regional manager of engineering and environmental
2 affairs.

3 Q. Your responsibilities and duties with Consol as regional
4 manager?

5 A. Over view of all the engineering functions in this region
6 of Consolidation Coal Company along with assistance on
7 the Pocahontas Gas Partnership and over sight of all
8 environmental matters concerning this region.

9 Q. What is your educational background?

10 A. I have a Bachelor of Science in Civil Engineering.

11 Q. And could you please give a brief work history?

12 A. I started work with Consolidation Coal Company in 1973
13 in designing construction. I was responsible for
14 designing construction of surface facilities. I later
15 became supervisor of environmental quality control and
16 then in 1984 I became regional manager in engineering and
17 environmental affairs.

18 Q. Have you ever been qualified as an expert witness in
19 engineering before this Board?

20 A. Yes, I have.

21 MS. McCLANNAHAN: I would submit Mr. Morgan as an expert in
22 engineering.

23 Q. (Ms. McClannahan continues.) With regard to the costs
24 that are listed on the DWES that you have submitted for
25 the wells in the Northeast Longwall 9 Unit how do you get

1 those to allocate the costs among the owners in this
2 unit?

3 A. Since the four wells proposed in this NELW9 unit would
4 also serve the sealed gob unit which will come at the
5 end of the mining of this unit we propose to proportion
6 the cost of these four wells between this unit and the
7 sealed gob unit -- so it will be serving both units. We
8 have proposed to proportion this cost on the basis of the
9 estimated production from each unit for there four wells.

10 Q. For how many wells do you propose to charge the unit
11 owners?

12 A. Four.

13 Q. Do you propose to charge the unit owners for additional
14 wells that will be drilled within this unit as they have
15 been allowed by the Board in its previous unit order?

16 A. We are proposing that the Board approve the four wells
17 that we have proposed here. If later wells or additional
18 expenses are required, then PGP at that time would
19 request the Board to approve any additional costs which
20 would be on the basis of additional DWES, additional
21 drainage testimony, additional safety precautions, and/or
22 economic testimony supporting any additional requests.

23 MS. McCLANAHAN: With regard to Exhibit 12 which is in the
24 booklet that we've given the Board we would submit that
25 as Exhibit 6.

(Production Allocation marked as Exhibit 6.)

1
2 Q. (Ms. McClannahan continues.) Mr. Morgan, could you
3 explain how we intend to allocate the 43.4 percent of the
4 cost of the four wells to the Northeast Longwall 9 Unit
5 owners?

6 A. The 43.4 percent would be applied to the total cost of
7 the four wells. That resulting dollar amount would be
8 divided by net acre over the entire unit acreage.

9 Q. And how did you calculate that these panel unit owners
10 should be charged with 43.4 percent of the costs?

11 A. That reflects the percentage of the total production out
12 of the area drained by these four wells. It is a
13 proportion of 800 million cubic feet during the life of
14 any NELW9 which includes the frack well production, short
15 hole production, and active gob production. That 800
16 million cubic feet number is divided by the total
17 production out of the area which is the sum of the 800
18 plus the billion, 45 million cubic feet estimated
19 production out of this area of the sealed gob. The
20 resulting proportion is 43.4 percent.

21 Q. How did you determine what the estimated frack, active
22 gob, and horizontal gas production would be for this
23 particular unit?

24 A. We utilized our experience with production from wells
25 over our Buchanan property, utilized the average product-

1 ion numbers which were given during the unit hearing, and
2 from that basis with three and a half years of estimated
3 frack production and then the horizontal production. The
4 frack production was estimated at 85,000 cubic feet per
5 day over three and a half years. The horizontal product-
6 ion as explained in the unit hearing was based on our
7 historical drainage of 15 million cubic feet per 1,000
8 foot of longwall. That combined with our estimated
9 production of gob for the remaining one and a half years
10 of life gave us an 800 million cubic feet of production
11 out of that longwall panel.

12 Q. And how did you estimate the sealed gob production from
13 that entire unit?

14 A. The entire sealed gob unit as been presented to the
15 Board as BUNE1 has a total production projected net of
16 9.1 billion cubic feet. We took the area of this panel,
17 divided it by the total sealed gob area to get a percent-
18 age of the sealed gob production applicable to this area
19 served by these four wells.

20 Q. Could you please describe how you will assess each owner
21 in each kind of unit with this particular amount of well
22 cost in relation to these total production numbers that
23 you have for gas in the two units?

24 A. In NELW9 unit we will take the 43.4 percent proportioned,
25 take that percentage of the total costs for the unit

which I believe was \$968,168. That proportion brings that number to \$419,655.34. The \$419,655.34 will be divided by the total acreage within the NELW9 unit to get a rate per acre allocable to any particular property owner who may choose to participate or become a carrier.

MS. McCLANNAHAN: Those are all the questions I have for Mr. Morgan.

MR. CHAIRMAN: Any questions, members of the Board?

MR. EVANS: Surface acres, correct?

MR. MORGAN: Surface acres, yes, sir.

MR. EVANS: Thank you.

MR. CHAIRMAN: Other questions?

MS. McCLANNAHAN: He is also our last witness.

(Witness stands aside.)

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

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Ms. McClannahan, Jewel Smokeless Corporation, December 6th, 1991, what am I looking at here? I thought Mr. Arrington said there's no --

MS. McCLANNAHAN: I'm not sure what you're looking at, but we originally filed the application -- Les, correct me if I'm wrong. Les does the application filings. But I believe when Les mailed the applications he had Jewel Smokeless showing as a coal owner on the coal ownership exhibit. We later determined that they don't have any

1 below drainage coal in this particular unit. Therefore,
2 they should be noticed as a coal owner, but they wouldn't
3 have any interests to be forced pooled.

4 MR. ARRINGTON: Tiller and above.

5 MR. EVANS: Okay. I was just asking the question.

6 MS. McCLANNAHAN: Do you have an objection or something?

7 MR. EVANS: Well --

8 MS. McCLANNAHAN: Okay. Could I have a copy?

9 MR. FULMER: Let me explain this. The objection they have
10 submitted on December 16th claims ownership, a certain
11 interest or alludes to the fact that they claim ownership
12 or certain interest below the Tiller at that time. They
13 objected basically on some -- the drilling of the
14 vertical ventilation because they wasn't noticed at the
15 time but it's not within the Board's privy at this
16 particular time. It may be within --

17 MR. CHAIRMAN: December 6th, right?

18 MR. FULMER: Right. That's the December 6th letter. The
19 reason that the Board has that objection in front of them
20 is because it alludes to the fact that they do have
21 interest and that objection has not been withdrawn and
22 that's why it's presented to the Board.

23 MR. CHAIRMAN: Is there anyone here present today from Jewel
24 Smokeless Corporation or Oakwood Red Ash Corporation or
25 any other member that wishes to address the Board in this

1 matter?

2 MR. SWARTZ: I basically have comments focusing on essentially
3 one issue and that is the definition of a unit is the
4 amount of acres that support one well and how many wells
5 is the Board prepared to pass the cost along in any given
6 unit. I think that's an issue that you need to consider.
7 There has been an allocation proposal suggested, but I
8 think it skips a step in the analysis. The first
9 question ought to be how many wells are necessary to
10 drain this unit as a unit. And if you have answered that
11 question then I think you can feel comfortable deciding
12 how much costs are going to be passed along. There are
13 approximately 160 acres in this unit. There is at least
14 testimony that (Inaudible.) one well drains 80 acres.
15 To allocate costs between this kind of unit and then
16 another kind of unit by simply saying we think the
17 production plan will be the following and would only take
18 44 or 43.4 percent of its costs at this point and
19 allocate it to this unit. What happens five years from
20 now if it turns out that the production received by this
21 unit is 34 percent and they've contributed 44 percent
22 of the cost? You need to take, I believe, the unit costs
23 on unit basis and not make some assumption that something
24 is going to happen in the future that cost can be
25 factored or adjusted. The cost assigned to this unit

1 ought to be a cost that are reasonable in terms of
2 produce and producing. In addition, the proposed order I
3 believe assigned 300 and 200 percent in terms of election
4 rights and I think you need to follow the statute. There
5 seems to be an additional percentage in there that your
6 attorney needs to look at that. But our primary concern
7 is what is an appropriate number of wells. You can
8 produce gas obviously from 500 VVHs if you want to and
9 allocate that production back to the owner. The question
10 isn't how many wells can you produce or how many VVHs can
11 you produce. The question is how many are required to
12 drain the unit at a cost effective cost. Thank you.

13 MR. CHAIRMAN: Are there any others that wish to address the
14 Board? I think that's a very appropriate question to
15 ask so I'll ask it. How many wells would be necessary
16 to drain the unit?

17 MS. McCLANAHAN: Mr. Chairman, first of all let me give you
18 the legal answer for that and then I'll let Mr. Morgan
19 answer. At the unit hearing I think the Board has
20 already determined that a minimum of four wells would be
21 appropriate to drain this unit and that additional wells
22 may be necessary. And the forced pooling hearing is not
23 the place to determine the proper number of wells to
24 efficiently drain the unit because, in fact, the Board
25 has already entered an order saying that a minimum of

1 four wells would properly drain the unit. Certainly this
2 is the forum to determine what costs would be assessed
3 against the owners who are in that unit and we are
4 suggesting that 43.4 percent of the cost is appropriate
5 based on the production of those wells from that unit
6 which would include frack, active and horizontal gas. If
7 the answer is any different from that from an engineering
8 standpoint then Mr. Morgan, perhaps you should address
9 that.

10 MR. MORGAN: Well, as we have proposed -- we have proposed
11 that you approve this percentage of the costs of four
12 wells. If you apply this .43 to that 4, that is 1.6
13 wells in this 160 acres. I'm showing 800 million cubic
14 feet of drainage out of these 1.6 wells and I would
15 submit that that is comparable to any 80 acre unit well
16 that you have approved here before.

17 MR. CHAIRMAN: Other questions, members of the Board? What's
18 your pleasure?

19 MR. EVANS: Mr. Chairman, I would like to make a motion.

20 MR. CHAIRMAN: Mr. Evans.

21 MR. EVANS: That we grant the petition for forced pooling in
22 this matter.

23 MR. KELLY: Second.

24 MR. CHAIRMAN: I have a motion and a second. Any further
25 discussion? All in favor signify by saying yes. (ALL

1 AFFIRM.) All opposed say no. (NONE.) The motion
2 carries. Thank you.

3 MS. McCLANNAHAN: Also I have drafted a proposed order to
4 assist the Attorney General and I even made ten copies of
5 it.

6 (AFTER A BRIEF PERIOD OFF THE RECORD, THE HEARING
7 CONTINUED AS FOLLOWS:)

8 MS. McCLANNAHAN: I guess you have to determine about our
9 continuance.

10 MR. CHAIRMAN: Let me get everybody back to order here and see
11 what we have left on the docket. What about VII and
12 VIII?

13 MS. McCLANNAHAN: You required that we withdraw those if we
14 couldn't hear them today and we're trying to work out a
15 deal on the X with one of the other unit owners. So we
16 have withdrawn both VII and VIII pursuant to your
17 instruction that if we couldn't hear them today they had
18 to be withdrawn.

19 MR. CHAIRMAN: Okay.

20 MS. McCLANNAHAN: And then IX is the one that we've requested
21 a continuance on.

22 MR. CHAIRMAN: Let me explain to the Board what we did hear.
23 We had a request for continuance on Item IX, Docket
24 Number VGOB-92/01/21-080. The request for continuance
25 was not granted because the request for continuance was

1 not received the required number of days -- ten days
2 prior to the Board hearing. And we're following as we've
3 said before by expectancy of the Board's procedural rules.
4 So any request for continuance has to be ten days in
5 advance of the hearing. Now, what you are allowed to do
6 is ask the Board to withdraw that here and we'll hear if
7 there are objections to that. Do you wish to withdraw
8 that petition or continue it?

9 MS. McCLANNAHAN: We would like to continue that to the
10 February docket.

11 MS. McCLANNAHAN: And we have given notice. We published
12 notices and also there were three individual land owners
13 who had filed objections and we gave them personal notice
14 and then we also notified the major land owners in that
15 area by mail. Don Johnson filed an objection on behalf
16 of one party and we tele-faxed him notice the day that we
17 requested a continuance.

18 MR. McGLOTHLIN: What day did you request a continuance?

19 MS. McCLANNAHAN: I believe it was Thursday.

20 MR. McGLOTHLIN: Is this the one that was published in
21 yesterday's paper?

22 MS. McCLANNAHAN: Yes.

23 MR. CHAIRMAN: Is there anyone here that objects to a
24 continuance? The record will show no one objects. Does
25 any member of the Board have a question --

1 MR. MCGLOTHLIN: I object.
2 MR. CHAIRMAN: You object?
3 MR. MCGLOTHLIN: Yes.
4 MR. CHAIRMAN: Any further discussion?
5 MR. EVANS: Yeah, I've got one. Kevin, is the reason you
6 objected just on principle or --
7 MR. MCGLOTHLIN: On proper notice.
8 MR. EVANS: Okay. We've got a situation where do we wait
9 until this comes up on the docket and then -- if there
10 are objection parties and they're not here today, what do
11 we -- how do we go about doing this?
12 MR. FULMER: PGP could withdraw and resubmit or reapply.
13 MS. McCLANNAHAN: We obviously will get everyone notice -- if
14 the Board approves this continuance then we would give
15 everybody certified mail notice of the revised applica-
16 tion immediately so that they would have adequate notice
17 for next month's hearing. We wouldn't rely on our
18 notice from last month to be notice for next month's
19 hearing.
20 MR. FULMER: Mr. Chairman, I would have to go back on the
21 regulations. The regulations say that once a hearing is
22 held that if there is continuance there is no additional
23 requirement for additional notice as in regulation. And
24 in the Board's regulation as far as that point it's
25 clarified.

1 MS. McCLANNAHAN: I was just offering that as an extra
2 precaution. We also not required to give anybody actual
3 notice of a request for a continuance to each one of the
4 land owners, but we did that in order to assure that
5 everyone received notice.

6 MR. CHAIRMAN: Does that cure your concern, Kevin, if they
7 notice --

8 MR. MCGLOTHLIN: My concern is that we have corporations out
9 here not adhering to our regulations and I think some-
10 where we have to draw the line. I mean --

11 MR. CHAIRMAN: I drew it, I think, when I refused to grant the
12 continuance until the -- if we had parties here that
13 hadn't been -- I mean, that the intent because we had
14 passed the ten day deadline which we had set as a Board
15 as the line we weren't going to cross to allow continu-
16 ances. And the purpose of that was so that parties would
17 be on notice and people would have an opportunity to know
18 that a continuance had been granted. In this case having
19 come here today and having no objection to continuance
20 from the public, so to speak, and a willingness to
21 publish notice of continuance to the next hearing.

22 MR. MCGLOTHLIN: I will stipulate on a continuance that notice
23 be -- that PGP notify all parties interested in this
24 matter by certified mail, return receipt requested.

25 MR. CHAIRMAN: Any other discussion on that? Item X was VGOB-

1 92/01/21-0181.

2 MR. FULMER: That one has been withdrawn.

3 MR. CHAIRMAN: That one was withdrawn.

4 MR. FULMER: Item VII and VIII are the remaining --

5 MR. CHAIRMAN: VII and VIII were withdrawn. That concludes
6 today unless there is any other business before the
7 Board.

8 MR. McGLOTHLIN: Mr. Chairman, I would like -- since we have a
9 slow day now -- to bring up the RFP. If I can be
10 enlightened a little bit more on that.

11 MR. FULMER: Mr. Chairman, there is a couple of people out
12 here on Item VII.

13 MR. CHAIRMAN: I'm sorry.

14 MR. FULMER: On Item VII they're curious as to why it was
15 withdrawn. It's some of the people that were involved in
16 Item VII and would like to have some kind of explanation
17 as to why it was withdrawn.

18 MS. McCLANNAHAN: The Board indicated that if were not
19 prepared to have that hearing today that it would have to
20 be withdrawn. So we have withdrawn it. We're working
21 with another one of the land owners who's in that
22 particular unit.

23 LADY IN AUDIENCE: So we will get another punch?

24 MS. McCLANNAHAN: That's exactly right.

25 MR. CHAIRMAN: On the RFP request, he's withdrawn it because

1 as I said because of the schedule of the staff moving to
2 a new facility they haven't had an opportunity to meet
3 with the offerors. So that concludes today's hearing.
4 Thank you.

5
6 (End of Proceedings for
7 January 21, 1992.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2 CERTIFICATE
3

4 COMMONWEALTH OF VIRGINIA

5 COUNTY OF WASHINGTON
6

7 I, Tamara L. White, Notary Public in and for the Common-
8 wealth of Virginia, at Large, do hereby certify that the
9 foregoing proceedings of the Virginia Gas and Oil Board
10 meeting held on January 21, 1992 at the Southwest Virginia 4-H
11 Center, Abingdon, Virginia, were taken by me and that the
12 foregoing is a true and correct transcript of the proceedings
13 had as aforesaid to the best of my ability.

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

18 GIVEN under my hand this 7th day of February, 1992.
19

20 Tamara L. White
21 TAMARA L. WHITE
22 NOTARY PUBLIC
23

24 My commission expires January 21, 1992.
25