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VIRGINIA GAS AND OIL CONSERVATION BOARD

HEARING OF DECEMBER 21, 1993

9:00 A. M.

IN THE CONFERENCE ROOM

4-H CENTER

ABINGDON, VIRGINIA

I N D E X

ITEM NUMBER

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December 21, 1993

This matter came on to be heard on this the 21st day of December, 1993 before the Virginia Gas and Oil Board in the Dickenson Conference Center Room at the Southwest Virginia 4-H Center, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

MR. CHAIRMAN: Good morning. My name is Benny Wampler. I'm Deputy Director for Regulatory Services with the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'll ask Zane and all the Board members to introduce themselves.

(MEMBERS INTRODUCED.)

MR. CHAIRMAN: I'd like to recognize Dave Stewart with the Bureau of Land Management and Dave, if you would, introduce the folks that are with you today.

MR. STEWART: This is Tim Mathey. He's in our Milwaukee District Office. And Ken Adams and he's with our Jackson District Office. And the reason why we're here is Section 1339 of the Energy Bill requires the Department of Interior to propagate regulations to implement the development of coal bed methane where there is a conflict and that's -- Virginia took the lead in doing this and the reason we're here is to see how you guys are doing things. Thank you.

MR. CHAIRMAN: Thank you and welcome.

ITEM 2

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3 MR. CHAIRMAN: On the Agenda today, the second item, the
4 petition for appeal from Ratliff Gas Company, Incorporated,
5 from the decision of the Gas and Oil Director.
6 There was a request to continue that and that request
7 was granted. So we have two items on today's agenda.
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ITEM 1

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3 MR. CHAIRMAN: The first one being the petition from
4 Equitable Resources Exploration for voluntary transfer
5 of right to operate known as -- operate the unit known
6 as VP 133805. Would ask the parties that wish to
7 address the Board in this matter to come forward at
8 this time and introduce themselves please.

9 MR. KAISER: Mr. Chairman and Members of the Board, Jim
10 Kaiser on behalf of Equitable Resources and Rand
11 Sterling of Equitable Resources.

12 MR. CHAIRMAN: Are there any others. (Pause.) Let the
13 record show there are none. You may proceed.

14 MR. KAISER: As you stated, Mr. Chairman, this is a -- we
15 come before the Board seeking a voluntary transfer the
16 right to operate a unit previously established -- where
17 the unit operator previously established by Board order
18 was A&R. Attached to the application you'll find a
19 written approval from the existing unit operator from
20 A&R, copy of certified well plat that the former Board
21 ordered that was issued February 22, 1990. The permit
22 issued to EREX pursuant to a transfer of permit rights
23 and a schedule showing the ownership and eminent
24 interest of the parties. The relief we are seeking is
25 a transfer the right to operate from A&R to Equitable

1 Resources.

2 MR. CHAIRMAN: Do you have any witnesses? Any other
3 evidence that you wish --

4 MR. KAISER: We'd be available, obviously, for any questions
5 that the Chairman or the Board Members might have, but
6 we feel that the exhibits attached to the application
7 speak for themselves.

8 MR. CHAIRMAN: Do you have any clarification or change to
9 your application itself?

10 MR. KAISER: Yes. We do have one matter that I alerted Ms.
11 Riggs on under the relief requested, Page 3 of the
12 application, number four, request as an applicant as a
13 party authorized to drill and operate such well; the
14 well has already been drilled. That was drilled in
15 1990. We're just requesting the Board to transfer the
16 right to operate the well from A&R to EREX.

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

18 MR. MCGLOTHLIN: Mr. Chairman?

19 MR. CHAIRMAN: Mr. McGlothlin.

20 MR. MCGLOTHLIN: Mr. Kaiser, your authorization from A&R;
21 who is that -- who authorized that?

22 MR. KAISER: That was Mr. Gregory Hudson, Vice President.
23 Do you have a copy of that, Mr. McGlothlin?

24 MR. MCGLOTHLIN: I'm sure it's in here. (Pause.) Okay.
25 Thank you.

1 MR. KAISER: There are no changes to the unit operations
2 anticipated.

3 MR. CHAIRMAN: And this is following this letter of trans-
4 fer, November 25th, 1991, is that correct?

5 MR. KAISER: Right.

6 MR. CHAIRMAN: You're just now effectively doing that with
7 the Board to change the Board's order?

8 MR. KAISER: Correct. Tom Fulmer notified us of the need to
9 do this.

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

11 MR. EVANS: Mr. Chairman, there's been no other changes;
12 simply a transfer of operating?

13 MR. KAISER: Correct.

14 MR. EVANS: Mr. Chairman, I move that we approve the
15 petition as submitted.

16 MR. MCGLOTHLIN: Second.

17 MR. CHAIRMAN: Have a motion to approve and a second.
18 Further discussion? All in favor signify by saying
19 yes. (ALL AFFIRM.) Opposed by saying no. (NONE.)
20 Unanimous approval.

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ITEM 3

MR. CHAIRMAN: The next item on the Agenda is a petition from Pocahontas Gas Partnership for entry of a supplemental order for unit PKE 26 located on the Keen Mountain and Jewell Ridge Quadrangles. This is Docket Number VGOB-93/12/21-0422. I'd ask the parties that wish to address the Board in this matter to come forward at this time. It might interest you gentlemen if you're interested in staying around, I don't know if you plan to leave, but I intend for a few minutes when we finish the hearing today to just conclude the hearing but have the Board members if they're willing to make themselves available to the Bureau of Land Management just to have an open discussion. And you folks are welcome to sit in and participate in that if you'd like.

MR. STERLING: Mr. Wampler?

MR. CHAIRMAN: Yes, sir.

MR. STERLING: I'd like to mention to the folks at the BLM that we do have a number of items that were submitted for the January document that do involve coal bed methane. If they're able to return, there will be a significant number of items of interest at that time.

MR. CHAIRMAN: I had already told them that last month and this month were not good indicators of our typical work

1 load. Okay. We'd ask the parties that wish to address
2 the Board in this matter to identify themselves at this
3 time.

4 MS. MCCLANAHAN: I'm Elizabeth McClanahan, Penn, Stuart,
5 Eskridge & Jones, representing Pocahontas Gas Partner-
6 ship.

7 MR. CHAIRMAN: Are there any others? (Pause.) Record will
8 show there are none. You may proceed.

9 COURT REPORTER: (Swears witness.)

10
11 LESLIE ARRINGTON

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

14
15 DIRECT EXAMINATION

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17 BY MS. MCCLANAHAN:

18 Q. Les, would you please state your full name and address
19 for the record?

20 A. Leslie K. Arrington, 26 Mountain Top Drive, Princeton,
21 West Virginia.

22 Q. Could you identify the exhibit that's marked as Exhibit
23 1?

24 A. Yes. That's my work history.

25 MS. MCCLANAHAN: Mr. Chairman, I move the introduction of

1 Exhibit 1.

2 MR. CHAIRMAN: It's accepted.

3 Q. (Ms. McClanahan continues.) Have you previously quali-
4 fied as an expert witness before the Gas and Oil Board?

5 A. Yes, I have.

6 Q. Have you given notice as required by Section 45.1-
7 361.19 of the Virginia Code to each person or entity
8 that's identified on Exhibit C1 of the motion for entry
9 of supplemental order?

10 A. Yes, I have.

11 Q. And is that hearing notice the one that is shown in
12 Exhibit 2?

13 A. Yes, it is.

14 MS. MCCLANAHAN: Mr. Chairman, I move the introduction of
15 Exhibit 2.

16 MR. CHAIRMAN: Any questions?

17 Q. (Ms. McClanahan continues.) Is this note the notice of
18 hearing that was mailed to every party that's listed on
19 Exhibit C1?

20 A. Yes, it was.

21 Q. And was this notice sent by certified mail, returned
22 receipt requested?

23 A. Yes, it was. Copies are Exhibit 3.

24 MS. MCCLANAHAN: Mr. Chairman, I'd move the introduction of
25 Exhibit 3.

1 MR. CHAIRMAN: Any questions on Exhibit 2 or 3? (Pause.)

2 They're both accepted. You may proceed.

3 Q. (Ms. McClanahan continues.) Were there any persons
4 whose names and/or addresses that were unknown?

5 A. No. However, it was still published in the Bluefield
6 Daily Telegraph on November the 24th.

7 Q. Have the proofs of publication been previously sub-
8 mitted to the Board?

9 A. Yes, they have.

10 Q. What percentage of the oil and gas rights in the tracts
11 that comprise the PKE 26 unit does PGP control?

12 A. 99.5878 percent.

13 Q. Are the unleased owners and the lease hold owners
14 listed on Exhibit D1 of the PKE 26 unit motion for
15 entry of supplemental order application with their
16 percentages of ownership and the respective tracts?

17 A. Yes, it is.

18 Q. And is the information on Exhibit C1 and D1 still
19 correct?

20 A. No.

21 Q. What changes have been made?

22 A. The R.M. Elkins was listed incorrectly. It should have
23 been Reserved Coal Properties. We have purchased that
24 property. And there was some small percentage correc-
25 tions made.

1 Q. Are those reflected in Exhibits C1 and D1 and Exhibit
2 4?

3 A. Yes, they are.

4 Q. And does Exhibit 5 show more precisely the changes
5 which were made for the parties?

6 A. Yes, it does.

7 Q. Could you look at Exhibit 5 and explain that to the
8 Board?

9 A. Yes. Exhibit #5 shows the oil and gas tracts that the
10 percentages -- acreage and percentages have changed and
11 that was due to a east/west shift of the unit line that
12 we had previously missed.

13 MS. MCCLANAHAN: Mr. Chairman, I move the introduction of
14 Exhibits 4 and 5.

15 MR. CHAIRMAN: Any questions, members of the Board?
16 (Pause.) They're accepted.

17 Q. (Ms. McClanahan continues.) Is this the same unit for
18 which a force pooling order was entered under Docket
19 Number VGOB-92-08/18-0247?

20 A. Yes, it is.

21 Q. And were the parties listed on Exhibit D of the PKE 26
22 Order notified of their right to make elections in that
23 unit?

24 A. Yes, they were.

25 Q. Did any of the parties make an election?

1 A. No.

2 Q. Was the order mailed within seven days of receipt to
3 all the parties effected by the order?

4 A. Yes, it was.

5 Q. And did PGP submit an affidavit of mailing to the Board
6 as required in that order?

7 A. Yes, we did.

8 Q. Has the period for elections under PKE 26 order
9 expired?

10 A. Yes.

11 Q. Did PGP file the affidavit of elections and the sup-
12 plemental order regarding elections required by the
13 regulation?

14 A. No, we did not. That's when we discovered that we had
15 a problem there and filed to make this supplemental
16 order.

17 Q. Are there any additional owners that were not included
18 in the PKE 26 order?

19 A. No.

20 Q. Are you requesting that the Board provide that all
21 elections previously made under the PKE 26 order will
22 be incorporated into the motion for entry of supple-
23 mental order regarding elections for the unit including
24 the acreage and percentage revision of the tracts as
25 they're reflected on Exhibit C1 and D1 which is Exhibit

1 4?

2 A. Yes, we are.

3 MS. MCCLANAHAN: Those are all the questions I have for Mr.
4 Arrington.

5 MR. CHAIRMAN: Would you discuss then -- do an overview of
6 the relief sought for the Board?

7 MS. MCCLANAHAN: I will. If the Board recalls, originally
8 these motions for entry -- or the entry of supplemental
9 orders can be done by the Chairman as long as there are
10 no changes between the date of the hearing and the date
11 of the entry of that supplemental order. And in this
12 particular case, my client realized that there was a
13 change in ownership percentages among the people that
14 are involved in the unit. So that no other parties are
15 effected, but just within the unit itself the per-
16 centage of ownership changes needed to be made. In
17 addition, Reserved Coal Properties purchased R.M.
18 Elkins' portion of that unit so that change needed to
19 be made also. Since those were not reflected on the
20 date of the hearing and at the date of the force
21 pooling then we needed to come back before the Board to
22 request that we be allowed to enter this supplemental
23 order and have the elections that were previously made
24 under that force pooling order be in effect.

25 MR. CHAIRMAN: Any questions of the witness, Members of the

1 Board?

2 MR. HARRIS: Did I hear you make a comment, Mr. Arrington,
3 about the change in a boundary?

4 MR. ARRINGTON: Unit boundary. When we previously plotted
5 it, we done it by hand and plotted on a topographic map
6 while we've since gone to a computer system and noticed
7 once we overlaid it on top of the Oakwood field, the
8 east/west line did not match exactly the way it should.
9 So that was the change we made.

10 MR. MCGLOTHLIN: Mr. Chairman?

11 MR. CHAIRMAN: Mr. McGlothlin.

12 MR. MCGLOTHLIN: Mr. Arrington, has any gas been extracted
13 and sold from this well?

14 MR. ARRINGTON: Yes.

15 MR. MCGLOTHLIN: How does that effect the change in the
16 boundary?

17 MR. ARRINGTON: We discovered this error and it was suspend-
18 ed. The account was suspended. So it's been all
19 escrowed right out at this point.

20 MR. MCGLOTHLIN: That's PGP escrow?

21 MR. ARRINGTON: Yes.

22 MR. MCGLOTHLIN: How do you anticipate going back to the
23 owners now and catching up or making the differences?

24 MR. ARRINGTON: We'll do it according to our acreage and
25 percentages we have now.

1 MR. MCGLOTHLIN: Somebody's going to lose a little bit and
2 somebody's going to gain a little bit?

3 MR. ARRINGTON: Correct.

4 MR. MCGLOTHLIN: Okay. Thank you.

5 MR. FULMER: Mr. Chairman, I would like to make a correc-
6 tion. I think Les said this was an Oakwood --

7 MR. ARRINGTON: It's not an Oakwood.

8 MR. FULMER: It's Pilgrims Knob.

9 MR. ARRINGTON: Right. Pilgrims Knob.

10 MR. FULMER: It's a conventional well.

11 MR. ARRINGTON: Conventional well. But a few of the lines
12 should match to the Oakwood field and that's the
13 reason --

14 MR. CHAIRMAN: Ms. McClanahan or Mr. Arrington, have any, in
15 your professional opinion or legal opinion, do you
16 believe that any of the changes you've proposed herein
17 effect the elections that the parties have previously
18 made because you've asked us to incorporate all prior
19 elections into this order?

20 MS. MCCLANAHAN: Well, they were all given notice again of
21 this supplemental order -- modification. So I believe
22 that legally they had the option of coming here today
23 and indicating to the Board that they wanted to make a
24 different election. And as a result of none of them
25 being here, I believe it's legally valid to presume

1 that their original elections should apply.

2 MS. RIGGS: You're not reopening the election period by
3 virtue of your motion? You're not seeking to reopen
4 it or extend the election period?

5 MS. MCCLANAHAN: Right, right.

6 MS. RIGGS: You're looking to bind them to their current
7 election?

8 MS. MCCLANAHAN: Right.

9 MR. MCGLOTHLIN: Mr. Chairman?

10 MR. CHAIRMAN: Mr. McGlothlin.

11 MR. MCGLOTHLIN: Ms. McClanahan, did you have any indication
12 that the people involved might have been here had we
13 not had inclement weather?

14 MS. MCCLANAHAN: I received no phone calls, but Mr. Arring-
15 ton can --

16 MR. ARRINGTON: No. Some of them don't even accept their
17 certified mail.

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

19 MR. CHAIRMAN: Would you review for the Board the actual
20 changes just to do an overview so that we can judge the
21 impact on the prior elections?

22 MS. MCCLANAHAN: Exhibit 5 is the best overview of those
23 changes. You'll see Les has those divided between what
24 the acreage and percentage amounts were under the
25 original Docket Number and then what they show for this

1 particular Docket Number. So the difference is between
2 those for the oil and gas tracts and the coal tracts.
3 You see there where it's 247 --

4 MR. CHAIRMAN: I understand.

5 MS. MCCLANAHAN: -- that was the original Docket Number. So
6 for Yukon Pocahontas Coal it was originally 51 acres
7 and then now is 47.04. And the percentage change is
8 from 28.33 to 26.1333. And then on down those columns.

9 MS. RIGGS: And the only one that's due to a transfer was
10 the Elkins and Reserve Coal, the rest were the boundary
11 change -- as a result of the boundary change?

12 MR. ARRINGTON: Yes.

13 MR. MCGLOTHLIN: Mr. Chairman?

14 MR. CHAIRMAN: Mr. McGlothlin.

15 MR. MCGLOTHLIN: Mr. Arrington, the Elkins tract was nine
16 acres, yet Mr. Horton, David Horton tract expanded by
17 almost 30 acres.

18 MR. ARRINGTON: There were two large -- PJ Brown heirs and
19 the David Horton tract were two large tracts and that
20 line moved east/west on their tracts virtually, and the
21 Elkins tract was also included in that. If you'll look
22 at the Exhibit B of the application.

23 MR. MCGLOTHLIN: Basically, the PJ Brown heirs lost 19 and
24 you picked up another nine off the M.L. Elkins. Is
25 that where you're coming up with your 29 acres dif-

1 ference?

2 MR. ARRINGTON: Do what now?

3 MR. MCGLOTHLIN: From what the PJ Brown heirs lost and the

4 Elkins lost is the difference?

5 MR. ARRINGTON: That's right.

6 MS. MCCLANAHAN: One thing that might be of interest is how

7 many of these people who are listed on here that even

8 had an election to make in this process. Les, can you

9 go down this list and --

10 MR. ARRINGTON: The ones that had election made were --

11 there were five PJ Brown heirs and they have a .016

12 acres out of the PJ Brown total; each one of them does.

13 MR. CHAIRMAN: You're referring to --

14 MR. ARRINGTON: The ones that have an election.

15 MR. CHAIRMAN: -- under Exhibit 4, Exhibit D1? Is that

16 correct?

17 MS. MCCLANAHAN: Right.

18 MR. ARRINGTON: Exhibit D1, yes. They have a very small

19 percentage in this unit. And then it was Coles Chapel

20 and their acreage did not change in the unit.

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

22 MR. MCGLOTHLIN: Just one more, Mr. Chairman. Mr. Ar-

23 rington, did any of the adjustments in this tract

24 elect to participate prior?

25 MR. ARRINGTON: No.

1 MR. CHAIRMAN: Anything further? (Pause.) Do you have
2 anything further, Ms. McClanahan?

3 MS. MCCLANAHAN: No, sir.

4 MR. MCGLOTHLIN: Mr. Chairman?

5 MR. CHAIRMAN: Mr. McGlothlin.

6 MR. MCGLOTHLIN: I move that we accept the petition as
7 submitted.

8 MR. CHAIRMAN: Motion to approve?

9 MR. KELLY: Second.

10 MR. CHAIRMAN: Motion and second. Further discussion?

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

12 Opposed say no. (NONE.) Unanimous approval.

13 That concludes the agenda items today. Anything
14 further anyone? (Pause.) If not, this hearing is
15 closed.

16 (End of Proceedings for
17 December 21, 1993.)
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CERTIFICATE

COMMONWEALTH OF VIRGINIA

COUNTY OF WASHINGTON

I, Marsha D. Sharp, Notary Public in and for the Commonwealth of Virginia, at Large, do hereby certify that the foregoing proceedings of the Virginia Gas and Oil Board meeting held on December 21, 1993 in the Conference Room at the 4-H Center, Abingdon, Virginia, were taken by me and that the foregoing is a true and correct transcript of the proceedings had as aforesaid to the best of my ability.

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

GIVEN under my hand this 4th day of January, 1994.

MARSHA D. SHARP
NOTARY PUBLIC

My commission expires February 28, 1995.