

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 BOARD

HEARING OF MARCH 15, 1994

9:00 A. M.

AT THE 4-H CENTER, HILLMAN HWY.

ABINGDON, VIRGINIA

March 15, 1994

This matter came on to be heard before the Virginia Gas and Oil Board on this the 15th day of March, 1994 in the Dickenson Conference Center at 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. WAMPLER: Good morning. My name is Benny Wampler. I'm Deputy Director for the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. Starting with Mr. Mason I'll have the Board members introduce themselves.

(MEMBERS INTRODUCED.)

MR. CHAIRMAN: The first item on the agenda is we're having a public meeting on the Virginia Gas and Oil Board permanent public participation guidelines. This regulations how the Department or Boards will respond to petitions for rule making, how the Department will maintain a regulatory mailing list, how the Department and Boards will notify and include interested parties in the regulatory development process and how the Department and Board will comply with the requirements for adopting regulations in the administrative process act. There were no substantive changes made to the proposed regulations. The only changes made were to reiterate changes

1 made by the administrative process act by the 1993
2 General Assembly. Specifically the regulations include
3 the statutory requirement that public commentators receive
4 a summary of public comments at least five days before
5 final adoption of the regulation. In addition, the
6 regulation verifies that the promulgating authority must
7 respond to any petitioner within 180 days. Is there
8 anyone that wants to address the Board in this matter?
9 Do any of the Board members have any questions? If not,
10 we'll entertain a motion to adopt.

11 MR. MCGLOTHLIN: Mr. Chairman, I move that we adopt the
12 rules as presented.

13 MR. MASON: Second.

14 MR. CHAIRMAN: A motion and a second. Any further discussion?
15 All in favor signify by saying yes. (ALL AFFIRM.)
16 Opposed say no. (NONE.) It's a unanimous approval.
17 Thank you.

ITEM I

1
2
3 MR. CHAIRMAN: The next item on today's agenda is that the
4 Board by its own motion will consider an application to
5 withdraw funds from escrow pertaining to the V-2525
6 pooled unit, docket number VGOB-93/02/16-0335, in regard
7 to the interest held by Michael C. Robinette and Shelia
8 H. Robinette. Ms. Riggs has prepared an application for
9 withdrawal of funds and presented it to the Board.

10 Sandra, do you have anything you would like to say?

11 MS. RIGGS: I think the letter is pretty self explanatory.
12 The Robinettes were originally listed as un-locatables,
13 subsequently contacted the office and made their where-
14 abouts known. An amended supplemental order was filed by
15 the operator which left us then in the position of having
16 moneys possibly in escrow that would have otherwise been
17 distributed directly. This being the first time that
18 we've considered an application with withdrawal of funds
19 I thought it advisable to put the process before the
20 Board so the Board could look at the application and
21 hopefully if it approves the form of the application that
22 this process can be used in the future. This week I got
23 another request very similar to this. So this is a
24 process we're going to see continually as people are
25 located or become known and need to get those moneys out

1 of escrow. This is a conventional well. So we don't
2 have the conflicting claims situation. I think the
3 application is pretty straight forward. It just recites
4 the history and moves for withdrawal of any funds that
5 are there and instructions to the escrow agent that he is
6 authorized to disburse those funds and that subsequent to
7 that the operator will pay any future moneys direct.

8 MR. CHAIRMAN: Does anyone have any comments or wish to
9 address the Board in this matter? Do the Board members
10 have any questions?

11 MS. RIGGS: The only other thing that you might want to
12 consider is whether you want to bring each and every one
13 of these back before the Board on its docket or whether
14 you want to delegate authority similar to what you did
15 in the supplemental order for entry of these when there
16 are routine situations were un-locatables that are
17 unknown have become known to the Board through an amended
18 supplemental order.

19 MR. MCGLOTHLIN: I would think that they needed to come to us
20 each time since we're dealing with the escrow account.

21 MR. KELLY: Have we only had a couple of these or --

22 MS. RIGGS: This is the first one and there's one more
23 pending.

24 MR. CHAIRMAN: This is the first one and one more coming up.

25 MR. KELLY: So you would anticipate that to increase in the

1 future, I would imagine?

2 MR. CHAIRMAN: Yes.

3 MS. RIGGS: And that's why we would like just to develop a
4 form so that it's consistent in every situation and we
5 don't have to reinvent the wheel each time and the
6 operators sort of know what the process would be so that
7 when these unknowns become known or the un-locatables
8 become locatable that they can amend their supplemental
9 order and there's a process where the Board then will
10 process through the application because most of these
11 will probably be pro se who aren't represented by counsel
12 and will need assistance either through the Board or
13 through the operator to make this process happen.

14 MR. KELLY: And these are situations that are classified as
15 deemed to have leased?

16 MS. RIGGS: Usually that's the case because under the statute
17 an unknown or un-locatable is deemed to leased. That's
18 specifically spelled out in the statute.

19 MR. EVANS: I would still like to have them come back before
20 the Board, the same as Kevin.

21 MR. KELLY: I think I would agree at least for the time being,
22 you know, see how it's going to work.

23 MR. EVANS: See what, if any, problems might develop. On the
24 first one it's hard to make a decision on or foreseeing
25 anything that can come up. So let's get a few of

1 these --

2 MR. CHAIRMAN: We'll be happy to do that.

3 MS. RIGGS: Uh-huh.

4 MR. KELLY: I can foresee it becoming a routine matter. You

5 might want to change that at some point.

6 MR. CHAIRMAN: Any problem with the form of the order?

7 MR. EVANS: No.

8 MR. FULMER: Mr. Chairman, for a matter of administrative

9 purposes I would like to make a suggestion as to the

10 check when it's distributed, that there be a time limit

11 on the check when the escrow agent has to issue that

12 check. The reason being is that it's kind of open ended

13 and we'll keep getting calls and calls about the check

14 and -- I mean, 30 days or whatever the Board would

15 suggest.

16 MR. EVANS: 30 days within issuance of the order?

17 MS. RIGGS: I think that's plenty reasonable. It's just a

18 matter of the escrow agent receiving the order and

19 cutting the check.

20 MR. EVANS: I wouldn't think that it would take that long, but

21 just for whatever --

22 MS. RIGGS: These don't have to be recorded. So they would be

23 processed -- just processed through for payment once the

24 order is sent out.

25 MR. FULMER: That was another question I was going to ask. Do

1 we need to file this against the order?

2 MS. RIGGS: And record it?

3 MR. FULMER: Yeah.

4 MS. RIGGS: I wouldn't think so because it doesn't change
5 anything in the unit. It merely deals with an interest
6 within the unit. The amended supplemental order will
7 have already been recorded which would record the change
8 in the location or the identification of the party. So
9 that's already taken care of as far as public notice is
10 concerned.

11 MR. EVANS: This is just a disbursement.

12 MR. CHAIRMAN: Any other questions or comments?

13 MR. EVANS: I move that we accept this form and the
14 application for withdrawal with the stipulation to the
15 Tazwell National Bank that the check will be issued
16 within 30 days of the filing of this order.

17 MR. MCGLOTHLIN: Second.

18 MR. CHAIRMAN: Motion and a second. Further discussion?
19 If not, all in favor signify by saying yes. (ALL
20 AFFIRM.) Opposed say no. (NONE.) It's a unanimous
21 approval. Thank you.

22

23

24

25

ITEM II

1
2
3 MR. CHAIRMAN: The next item on today's agenda is a petition
4 from Buchanan Production Company for pooling of a
5 drilling unit under 45.1-361.22 for unit 0-4 in the
6 Oakwood Coalbed Methane Field. This is docket number
7 VGOB/94/03/15-0437. We'd ask the parties that wish to
8 address the Board in this matter to come forward at this
9 time. (Pause.)

10 MR. SWARTZ: Mr. Chairman, I'm Mark Swartz and I'm appearing
11 here on behalf of the applicant and the designated
12 operator. That would be Buchanan Production Company and
13 Consol, Inc.

14 MR. CHAIRMAN: For the record I'll ask again, is there anyone
15 else that wishes to address the Board in this matter?
16 The record will show there are none. You may proceed.

17 MR. SWARTZ: This unit, as you've probably figured out in the
18 last few times that we've been before the Board. Les and
19 Consol are doing a fair amount of clean-up work and this
20 a continuing effort in that regard, cleaning up interests
21 and plats and so forth. Unit 0-4 which is the subject of
22 this docket today was initially pooled -- in September of
23 1992 it was docket number VGOB/92/09/15-0257. There was
24 a return trip to the Board with regard to this unit in
25 May of 1993. The docket number at that point was

1 VGOB/93/05/18-0374. When we were here in May of 1993
2 there was simply one change made. You may remember the
3 Big Prater Church. It turned out not to have a fee
4 interest and Norfolk & Southern did. That was the only
5 adjustment that was made in April. The reason we are
6 here today -- or actually collection of reasons are
7 listed in the application at Paragraph 2-J. I'm going to
8 cover those briefly before we get started with Les'
9 testimony. There are five reasons listed there. As I go
10 through this it would be at Page 2 of the application
11 starting at the bottom there, J and there are five sub
12 parts. In addition, when Les and I were going through
13 the application to prepare for the hearing it came to
14 our attention that we have one of the same minor children
15 that we dealt with in P-4 which we were here on last
16 month in two of the tracts. We will also be asking to
17 implement the kind of procedure for elections for that
18 minor child that we have requested previously in the
19 Deskins situation which I think was the first one.
20 Exhibit 9 which I have given to the Board today is a
21 portion of an order that was entered with regard to
22 Matthew Deskins who was a minor that was in four or five
23 units a couple of years ago. And we would be requesting
24 ultimately that this order incorporate that kind of
25 election option for the minor who we'll identify in a

1 minute. To kind of go through the reasons why we're here
2 and focus on the issues so that you have some sense of
3 what we're going to be talking about today I'll just go
4 briefly through the reasons which you have listed at
5 Subparagraph J for you. First of all, there is a revised
6 plat that has been filed and you can tell by looking at
7 the revised plat which tracts have been affected because
8 the new tracts all have a decimal. The initial plat was
9 1, 2, 3 and now if you look at the revised plat you'll
10 see that there is a 1.2, 1.3, 1.4, 7.1 and so forth. So
11 the tracts that have been revised or changed can be
12 pretty readily identified as having that decimal or point
13 related to them. We have named as respondents on this
14 petition, as is our ordinary practice, all people whose
15 interest would be affected by a Board order on this
16 application. So if people have been previously pooled --
17 and frankly this is true of most of these people -- most
18 of the people listed in the notice and as respondents
19 here were, in fact, previously pooled -- certainly if an
20 estate was pooled the estate was pooled although the
21 people may not have been identified. So we have named as
22 respondents everyone whose interest would be affected,
23 meaning that the percentage would change up or down by
24 the revised plat. In general and if you look at the
25 legend to the revised plat we have not listed as a

1 respondent Island Creek Coal Company who owns several
2 tracts in fee here and we have also not listed as
3 respondents people that we have obtained leases from.
4 There was no reason to pool them. But other than that
5 anyone whose interest would be affected has been named as
6 a respondent. The second reason we're here is kind of a
7 generalized reason, but it is to identify, notice and
8 pool heirs who were listed as unknown in the first
9 application and/or persons for whom we did not have
10 addresses. In general we're going to be looking at the
11 Emiline Anderson, the Yates and some similar families
12 that we saw the last time we were here in February to
13 clean that up. Then a wrinkle that's peculiar to this
14 that I don't think you've seen before, for some reason or
15 other -- well, in one of the tracts, Tract 9.1, the
16 Pocahontas #3 Seam is owned by Island Creek Coal Company.
17 The rest of the coal in Tract 9.1 that would be relevant
18 to this application that would be the rest of the coal
19 above the Pocahontas #3 Seam but below the Tiller seam is
20 owned by Albert and Shirley Horne. In fact, they own fee
21 with the exception of the Pocahontas #3 Seam. There
22 needs to be a provision in this order that would be
23 provide for the escrow of short hole production from the
24 Pocahontas #3 Seam because we would have a conflicting
25 claim between Island Creek Coal Company which owns the

1 coal in the P3 Seam and the gas and oil owner which would
2 be the Hornes visa vi that seam. Once this panel is
3 mined into gobs there would no longer be a conflicting
4 claim because the coalbed methane in the Pocahontas #3
5 seam would be gone at that point. There would no longer
6 be a conflicting claim. So at that point the order would
7 need to provide that when it converts from a short hole
8 to a gob situation that the funds would not longer need
9 to be escrowed and that they could be paid directly to
10 Albert and Shirley Horne. That's something peculiar to
11 this unit. There are other units in which this will be a
12 problem, but I think this is the first time you've seen
13 this. The next -- I have no understanding of why this
14 may have happened, but for some reason or other in the
15 supplemental order that was filed with regard to this
16 unit there were people who owned fee who were identified
17 as people whose interests needed to be escrowed and this
18 is an effort to clean that up as well. I mean, we had to
19 come here anyway but we're trying to deal with every
20 problem that we have identified. The next and last item
21 is -- and we'll talk about this toward the end, Les and
22 I, and Exhibit 8 which I have given to you pertains to
23 this. The fifth thing that we need to consider today is
24 how to handle changes of mine plan. The mine plan with
25 regard to this unit since it was initially pooled has

1 changed to some extent and will be implemented slightly
2 differently than the mine plan that was presented to the
3 Board when it was initially pooled. If you look at
4 Exhibit 8 it's essentially an affidavit, but if you skip
5 to the last page which is in Exhibit (B) you'll see the
6 unit which is outlined in a dark block and then you'll
7 see an X through a portion of the longwall panel -- the
8 northern part of Longwall Panel 1-Development West.
9 When this was initially pooled by OXY that Xed out
10 portion was included and it was contemplated that it
11 would be mined. Since the sale of Island Creek to Consol
12 -- I frankly don't know if this change was under contem-
13 plation before that occurred. But certainly since that
14 sales occurred the mine plan with regard to this panel
15 has changed and the very northern portion will not be
16 mined. When we were here -- just to give you some sense
17 of where this is heading so you can be thinking about it
18 and then we'll come back to it. When the Oakwood II
19 Field Rules were developed there was a concern that we
20 spent a fair amount talking about. What do you do in
21 establishing field rules to entertain the possibility or,
22 in fact, the likelihood that mine plans will change from
23 time to time? When the field rules were adopted there
24 was a requirement -- well, there was a formula set forth
25 with regard to the Oakwood II Field Rules that set forth

1 how royalty was to be paid, how costs and so forth were
2 to be allocated. That order -- the Oakwood II order
3 required that before an operator pay royalty or other
4 payments with regard to production from a unit that the
5 operator, in fact, file the mine plan that was being used
6 to make the calculation. So this Exhibit 8 is a suggest-
7 ion that I am making to the Board as to how to handle
8 changes of mine plans -- and not in this particular case
9 because we're here. We have other reasons to here today.
10 But to kind of give you some warning, as Sandy was giving
11 you warning with regard to escrow this morning, in the
12 future with regard to units that do not require a return
13 trip to the Board because we've got to revise a plat with
14 regard to ownership or that we've located people and
15 we've got other problems it would be our desire and
16 expectation that to follow the terms of the original
17 order in Oakwood II and, of course, the orders that have
18 been issued in units under that, we would simply file an
19 affidavit changing the mine plan which would include the
20 kind of information that you see in this affidavit which
21 I tried to tailor to this unit so you could get some
22 sense of what will be coming down here. And essentially
23 you would get the change of percentage. In other words,
24 the percentage of production or cost from the panel going
25 to be allocated to the unit which is show on Exhibit A to

1 the affidavit and then you get the changed mine plan so
2 there was something of record with the Board and the
3 Inspector so that if people wanted to understand the
4 calculations of royalty and other payments there will be
5 something lodged of record that would readily disclose
6 how that was being done. And the last thing, as I
7 mentioned, we need to deal with the interest of a minor
8 child. The minor here is Carrie Anderson. She was also
9 in unit P-4. In this particular unit she has an interest
10 in Tracts 6 and 17 which are listed in Exhibit B. I need
11 to warn you that the bound volume of exhibits that Les
12 gave you this morning has an Amended Exhibit B in it
13 which is behind tab six. If you're going to be looking
14 at Exhibit B you probably need to look at that the
15 Exhibit B that is the bound volume of exhibits because it
16 amends the one that was filed with the application. But
17 those are the collection of reasons why we are here. I'd
18 like to get to Les' testimony if I might.

19 COURT REPORTER: (Swears witness.)
20
21

22 LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

1
2
3 BY MR. SWARTZ:

4 Q. Could you state your name for us?

5 A. Leslie K. Arrington.

6 Q. And who do you work for?

7 A. Consol, Inc.

8 Q. What do you do for them?

9 A. Permit specialist.

10 Q. With regard to the notice of hearing and the application
11 and the exhibits that have been filed concerning this
12 pooling hearing regarding 0-4 did you prepare all of
13 those documents?

14 A. Yes, I did.

15 Q. Did you, in fact, sign the notice of hearing and the
16 application?

17 A. Yes, I did.

18 Q. Have you submitted and signed an affidavit of due
19 diligence?

20 A. Yes, I have.

21 Q. Buchanan Production Company is the applicant here, is
22 that correct?

23 A. Yes.

24 Q. And Buchanan Production Company is a Virginia general
25 partnership?

1 A. Yes.

2 Q. Are the two partners in Buchanan Production Appalachian
3 Operators, Inc. and Appalachian Methane?

4 A. Yes.

5 Q. Are both of those corporate partners wholly owned
6 indirect subsidiaries of Consol, Inc.?

7 A. Yes.

8 Q. Is Buchanan Production Company authorized to do business
9 in Virginia?

10 A. Yes, it is.

11 Q. Has a designated operator already been established by the
12 Board for this unit?

13 A. Yes, it has.

14 Q. And who is that?

15 A. Consol.

16 Q. Is Consol a Delaware corporation authorized to do
17 business in the Commonwealth?

18 A. Yes, it is.

19 Q. Has Consol registered with the DMME and does it have a
20 blanket bond on file as required by law?

21 A. Yes, it does.

22 Q. Are you requesting that Consol, Inc. continue to be the
23 designated operator?

24 A. Yes, we are.

25 Q. Has Buchanan Production Company delegated certain

1 authority and responsibilities to Consol, Inc.?

2 A. Yes, it has.

3 Q. Behind tab seven in the bound volume of exhibits have you
4 submitted to the Board three documents which disclose
5 that delegation of authority or the selection of Consol,
6 Inc. as professional manager and then the further
7 delegation of authority by Consol to certain specific
8 people?

9 A. Yes, it has.

10 Q. Under that delegation is Claude Morgan the general
11 manager?

12 A. Yes.

13 Q. And William Gillenwater is the land manager?

14 A. Yes.

15 Q. And Randy Albert is the regulatory manager?

16 A. Yes.

17 Q. With regard to the notice of hearing have you listed in
18 that notice of hearing that was filed and published the
19 names of all respondents whose interests in this unit are
20 sought to be affected by this application?

21 A. Yes, we did.

22 Q. In the Amended Exhibit B have you listed addresses for
23 each of the respondents named in the notice to the extent
24 that you have their address?

25 A. Yes, we did.

1 Q. Do you desire to amend to add any respondents today?
2 A. No.
3 Q. Do you wish to dismiss any respondents?
4 A. Yes, we do.
5 Q. And who would that be?
6 A. It's June Anderson of the W.M. Anderson heirs. That
7 interest has been leased.
8 Q. Did you mail by certified mail both a copy of the
9 application and the notice of hearing as required by
10 Section 45.1-361.19 to all respondents for whom you had
11 addresses?
12 A. Yes, we did.
13 Q. Have you submitted proofs with regard to that mail and
14 the status of that mailing to the Board and to the
15 Inspector's office?
16 A. Yes, we have.
17 Q. And that would be behind tab two or Exhibit 2 in the
18 bound volume of exhibits?
19 A. Yes, it is.
20 Q. And from reviewing that exhibit you can tell when the
21 information was mailed and whether or not the return
22 receipt was signed, the date it was signed, whether or
23 not the mail came back, whether or not it was unclaimed?
24 A. Yes, you can.
25 Q. Is there an entry with regard to every person --

1 A. Yes.

2 Q. -- so you know their status?

3 A. Yes, there is.

4 Q. Did you publish the notice with regard to this hearing?

5 A. Yes, we did in the Bluefield Daily Telegraph on February

6 19th, 1994.

7 Q. Behind tab three or Exhibit 3 in the bound volume there

8 is the proof of publication, correct?

9 A. Yes, it is.

10 Q. With regard to the interest of Buchanan Production

11 Company here and with regard to the extent of the

12 interest sought to be pooled can we tell from a review of

13 a portion of Exhibit A as to what the status of leased

14 and unleased interest in the unit is?

15 A. Yes, you can at Exhibit 4.

16 Q. In the bound volume?

17 A. Yes.

18 Q. Do we have it in the bound volume because it's been

19 amended?

20 A. Yes, it has. That was to reflect the change with the

21 June Anderson lease.

22 Q. So the percentage of interests that need to be pooled

23 have gone down slightly?

24 A. Yes, it has.

25 Q. What is the percent of coal that is under lease?

1 A. The percentage of coal that's under lease is 98.2225.
2 Q. And the coal interest that would be affected by this
3 pooling application is in what percentage?
4 A. Of coal interest?
5 Q. That needs to be pooled?
6 A. It would be the remainder of that interest.
7 Q. And the oil and gas interest which needs to be pooled is
8 roughly what?
9 A. 49.1725.
10 Q. So roughly half has been leased and half needs to be
11 pooled?
12 A. Yes.
13 MR. MCGLOTHLIN: Mr. Arrington, on your Exhibit A, Page 2, on
14 the coal interest to be pooled you have 4.1195 percent?
15 THE WITNESS: Yes. On some of the tracts we have a coal lease
16 only. We do not have a coalbed methane lease from the
17 coal owner.
18 MR. MCGLOTHLIN: I don't understand. Why the difference?
19 There's almost a two percentage difference in your
20 testimony and what's on the document.
21 THE WITNESS: Correct. We have a coal lease from the coal
22 owner but we do not have a coalbed methane lease from the
23 coal owner.
24 Q. (Mr. Swartz continues.) Are you saying that roughly you
25 have 96 percent of the coalbed methane leased from coal

1 owners whereas you have two percent more of the coal
2 leased?
3 A. Coal leased.
4 Q. Obviously judging from Exhibit A, Page 2, you have leased
5 a significant portion of both the coal and oil and gas
6 claims here, correct?
7 A. Yes, we have.
8 Q. Could you tell the Board the terms on which you have in
9 general obtained those leases and the terms that you have
10 offered to other people who have elected or chosen not to
11 lease at this point?
12 A. Yes. It's a dollar per acre with a one-eighth royalty on
13 a five year term.
14 Q. Is that dollar per acre a rental?
15 A. Rental only.
16 Q. How is it payable?
17 A. On an annual basis.
18 Q. Does it continue after production commences or does it
19 cease once production commences and royalty begins to be
20 paid?
21 A. It ceases.
22 Q. Would you recommend those terms to the Board with regard
23 to persons who might be deemed to lease under a Board
24 order?
25 A. Yes, we would.

1 Q. Now, this 0-4 unit is in the Oakwood Coalbed Gas Field
2 II, right?
3 A. Yes, it is.
4 Q. And it's going to start off as short hole production, is
5 that correct?
6 A. Yes, it will.
7 Q. And eventually there will be gob production?
8 A. Yes, it will.
9 Q. In the application there is an Exhibit D, correct?
10 A. Yes, there is.
11 Q. Does that show the unit over the relevant mine plan?
12 A. Yes, it does.
13 Q. Exhibit D that was in the application is the same as the
14 Exhibit D that's a next to my Exhibit 8 with regard to
15 change of mine plan?
16 A. Yes, it is.
17 Q. There is a line on Exhibit D running from east to west
18 toward the north end of 1-Development West. Do you see
19 that?
20 A. Yes, I do.
21 Q. Is that a demarkation between -- that indicates that
22 north of that line the coal will not be mined as part of
23 the panel and south of it it will?
24 A. Correct. Yes.
25 Q. Does Exhibit E which is the next page in the application

1 give the percentage with regard to 0-4's interest in that
2 panel under the revised mine plan?
3 A. Yes, it does.
4 Q. And what would that percentage be?
5 A. 7.437 percent.
6 Q. And that percentage has gone down somewhat by reason of
7 the change of mine plan, correct?
8 A. Yes, it has.
9 Q. This is an 80 acre unit?
10 A. Yes, it is.
11 Q. And you're seeking to produce all coal seams below the
12 Tiller?
13 A. Yes, we are.
14 Q. At least from a gob production standpoint?
15 A. Gob, yes.
16 Q. Now, with regard to the ownership of the Pocahontas #3
17 Seam could you tell the Board what the status of the
18 ownership of the Pocahontas #3 Seam and other coal is
19 within unit 0-4? What I'm focusing on is the Albert
20 Horne situation.
21 A. We own the Pocahontas #3 Seam and Albert Horne has all
22 other coal except the Pocahontas #3 Seam and the oil and
23 gas
24 Q. He also owns the oil and gas?
25 A. Yes.

1 Q. What would your request to the Board be with regard to
2 how to deal with short hole production and gob production
3 under the Horne tract which is Tract 9.1? In other
4 words, does there need to be an escrow provision for some
5 period of time and then can that change?
6 A. Yes. There needs to be an escrow provision set up to
7 where the funds attributable to the short hole production
8 can be escrowed.
9 Q. Once short hole production ceases and gob production
10 begins could that escrow situation stop and could Mr.
11 Horne and his wife be paid directly?
12 A. Yes.
13 Q. And the order should so state?
14 A. Yes, it should.
15 MR. CHAIRMAN: Could you clarify why that that would change at
16 that point?
17 THE WITNESS: Once it goes into active gob, at that point they
18 own the oil and gas and all coal above the Pocahontas #3
19 Seam.
20 MR. EVANS: There's no conflicting claim?
21 THE WITNESS: The Pocahontas #3 Seam is gone at that point.
22 MR. SWARTZ: I think he's asking a different question.
23 Q. (Mr. Swartz continues.) Do you feel comfortable telling
24 the Board on behalf of Island Creek that they are not
25 going to assert a conflicting claim once the P3 Seam is

1 mined?

2 A. That is true.

3 Q. I mean, that's your understanding of their position?

4 A. Uh-huh.

5 Q. How many wells are contemplated to be within Unit 0-4 at
6 this point?

7 A. One.

8 Q. Has a Revised Exhibit C which is a DWE -- a well estimate
9 -- been prepared?

10 A. Yes, it has.

11 Q. And did you prepare that?

12 A. Yes, I did.

13 Q. What are the total estimated costs with regard to Unit
14 0-4?

15 A. \$183,394.10.

16 Q. Was the initial estimated cost when this unit was
17 initially pooled \$245,225?

18 A. Yes, it was.

19 Q. So your's has gone down significantly?

20 A. Yes, it has.

21 Q. You have also revised panel costs, have you not?

22 A. Yes, we have.

23 Q. And those are reflected at Exhibit F?

24 A. Yes, they are.

25 Q. With regard to Unit 0-4 on Exhibit F you simply track the

1 DWE costs at the top, correct?

2 A. Correct.

3 Q. And then you total the panel costs?

4 A. Correct.

5 Q. And then there is a proration of those costs based on an

6 acreage basis using the percentage from Exhibit E to

7 allocate a cost figure to people who might want to

8 participate in Unit C-4, is that correct?

9 A. Yes, we have.

10 Q. What would be the costs allocated for participation or

11 carried interest purposes?

12 A. \$63,572.62.

13 Q. Obviously those would be less than were originally

14 contemplated?

15 A. Yes, it was.

16 Q. For two reasons, one; the estimated costs have declined

17 and the interest of this unit in the panel has also?

18 A. Yes, it has.

19 MR. CHAIRMAN: I have a question. Have all of the changes

20 that have been made by the amendments to the various

21 exhibits in this document that you have presented here

22 today been reflected in this exhibits in Exhibit E in the

23 application itself?

24 THE WITNESS: Yes. You're talking about the percentage

25 changes?

1 MR. CHAIRMAN: Yes.

2 THE WITNESS: Yes. Yes, they are all reflected in those
3 numbers.

4 MR. SWARTZ: I don't know what that question meant. So I'm
5 not sure what your answer means.

6 Q. (Mr. Swartz continues.) If there is not an amended
7 exhibit -- let me ask you this. If there is not an
8 amended exhibit in the bound collection of exhibits are
9 you standing by the numbers in the exhibits filed with
10 the original application?

11 A. Yes.

12 MR. SWARTZ: Is that the question, Mr. Chairman?

13 MR. CHAIRMAN: That was what I was getting at.

14 MR. SWARTZ: Okay.

15 MR. EVANS: Unless there's something to the contrary in the
16 handout that you gave us this morning, what's in the
17 application is true and correct?

18 THE WITNESS: Correct.

19 MR. CHAIRMAN: I understand, Mark. Lawyers like to ask it
20 their way. He understood it. He answered it.

21 MR. SWARTZ: Yeah. Okay.

22 Q. (Mr. Swartz continues.) Just a couple of general
23 questions. The plan of development which is disclosed
24 by the mine plan and the unit and the well that's
25 contemplated here, is it in your judgement or your

1 opinion a reasonable plan to develop the coalbed methane
2 within this unit via short hole and active gob produc-
3 tion?

4 A. Yes, it is.

5 Q. Is it your view that the proposed well will contribute to
6 the protection of correlative rights of the owners of the
7 methane within and under this unit and lessen the
8 likelihood of both physical and economic waste?

9 A. Yes, it would.

10 Q. Is the DWE in your view a reasonable estimate of the
11 costs to be encountered?

12 A. Yes.

13 Q. Do you have any explanation for why your estimate is
14 roughly \$60,000 less than the original estimate?

15 A. Yes. There was quite a bit of title work involved in
16 that that we did not have.

17 Q. That you did not encounter?

18 A. That we didn't. No.

19 Q. We have talked about your recommendations with regard to
20 Tract 9.1, the Horne tract, and the need for escrow for
21 some period of time. Could you refresh the Board's
22 recollection -- I know we talked about Carrie Anderson
23 and the contacts that your company had with her family on
24 P-4 last month. Would you for the record in this
25 situation kind of bring us up to date of where we stand

1 with Carrie and her parents?

2 A. Yes. We're still waiting on a decision from her parents
3 to the appointment of a guardian.

4 Q. Has there been at least some expression of interest in
5 pursuing a lease once a guardian is appointed?

6 A. Yes.

7 Q. Would you recommend to the Board that the format for
8 dealing with elections by minor children that's proposed
9 in Exhibit 9 which was what we used in the Deskins
10 situation be the method that they employ here to deal
11 with Carrie Anderson's election rights?

12 A. Yes, we do.

13 Q. In the future, turning to Exhibit 8, obviously -- if we
14 look at Exhibit D to the original application this change
15 that we see here in the percentages with regard to Unit
16 0-4 there will be a percentage change with regard to
17 another seven unit at least, perhaps another nine units,
18 correct?

19 A. Correct.

20 Q. And in some of those other nine units that will be
21 effected by the percentage change are there units where
22 there is no reason to come back to the Board but for the
23 fact that there is a mine plan change?

24 A. That is correct.

25 Q. Is it your intention at this point to file supplemental

1 mine plans with the Board and the Gas and Oil Inspector
2 on these other units via an affidavit?

3 A. Yes, it is.

4 Q. Is it your understanding that before any operator can pay
5 whether it's royalties, whether it's participation
6 interest or carried interest, a current mine plan must be
7 on file with both the Board and the Gas and Oil Inspector?
8

9 A. Yes, it is.

10 Q. Would it be your recommendation to the Board that this
11 procedure to utilize affidavits for filing in advance or
12 payment be something that be used to deal with changes in
13 mine plan?

14 A. Yes, it would.

15 Q. Are there other situations that are coming where you know
16 that mine plans are being changed or there is a contem-
17 plation that they will be changed beyond just this one
18 panel?

19 A. No.

20 Q. Would you expect, though, that is something that's going
21 to happen from time to time?

22 A. Yes, I would.

23 Q. With regard to the change of mine plan here, when you
24 change a mine plan it does not affect the division of
25 interest of the claimants in the unit?

1 A. That is correct.

2 Q. It simply changes the formula whereby production is
3 allocated from the panel to the unit, correct?

4 A. That is correct.

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

6 MR. CHAIRMAN: Questions, members of the Board?

7 MR. MCGLOTHLIN: Mr. Arrington, has the change in the mine
8 plan been filed with the Department of Mines, Minerals
9 and Energy -- the mining part of that?

10 THE WITNESS: Yes.

11 MR. MCGLOTHLIN: Has that been approved?

12 MR. SWARTZ: Claude is here. I'm not sure you would have to
13 file this change. I mean, you have a mine plan. Claude,
14 would you come up here. I'm not sure that this would
15 require a change.

16 COURT REPORTER: (Swears witness.)

17

18 CLAUDE MORGAN

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. Could you state your name for us?

1 A. Claude Morgan.
2 Q. Who do you work for?
3 A. Consol, Inc.
4 Q. And what's your title?
5 A. Manager of gas projects.
6 Q. Before you were manager of gas projects were you involved
7 in the mining operations of Consol, Inc.?
8 A. Yes, I was. I was original manager in engineering for
9 the southern Appalachia region of Consolidation Coal
10 Company.
11 Q. You were in the audience and I'm sure heard Kevin's
12 question. If you could respond to that for me?
13 A. There is not an approval of the mine plan per say that is
14 filed. There's an approval of the ventilation require-
15 ments as the one that is submitted. You simply submit
16 your projections showing how you're going to mine and how
17 you are going to ventilate it, but there is not an
18 approval required of the area that you're going to be
19 mining, per say.
20 MR. MCGLOTHLIN: But you do notify the Division when you
21 change your operation?
22 MR. MORGAN: We do submit changes in mine plans, yes.
23 Q. (Mr. Swartz continues.) And then there would be a filing
24 with the Division on a historical basis to show what
25 was mined on a periodic basis so that ultimately they

1 would have a progress map that would show the change,
2 correct?
3 A. That's true.
4 Q. I guess to come to what I think the initial question was,
5 can you tell the Board whether or not it would be
6 necessary to affirmatively seek to change a mining plan
7 to begin mining this panel further south as is shown on
8 Exhibit D?
9 A. What that actually is -- that is actually the stopping
10 point for the longwall. And to stop a longwall short
11 would not necessarily require a submittal of change in
12 mine plan.
13 MR. McGLOTHLIN: Thank you.
14 MR. CHAIRMAN: Other questions?
15 MR. EVANS: As long as you're up here, Claude, 0-1, 0-2 and 0-
16 3, do you foresee barrier blocks being left at the north
17 end of those panels also?
18 THE WITNESS: We customarily leave about a 300 foot barrier
19 block.
20 MR. EVANS: So those will change also?
21 THE WITNESS: In the future submittals, yes, probably.
22 MR. EVANS: What's the time? It looks like you're pretty much
23 ready to go -- is this panel being --
24 THE WITNESS: That panel has started.
25 MR. EVANS: So there is active production?

1 THE WITNESS: Yes.

2 MR. EVANS: I was going to say if you're not you should be
3 mining it already. What's the expected mine-out on that
4 panel? How far along are you, I guess? When do you
5 foresee a move?

6 THE WITNESS: Probably September.

7 MR. EVANS: So this escrow that you're asking for on short
8 hole production will be for a relatively short period of
9 time?

10 THE WITNESS: It will be gone -- at the end of the mining of
11 that panel that escrow will be gone for that portion.

12 MR. EVANS: Or the escrow will still be there. There just
13 won't be any more money coming into it?

14 THE WITNESS: Right.

15 MR. CHAIRMAN: Other questions?

16 MS. RIGGS: Just so that I understand for purposes of the
17 order, the impact of the shortening of the longwall panel
18 will not change the division of interest. It will merely
19 impact on the allocation with affects the estimate cost
20 of production?

21 MR. SWARTZ: And revenue. Yes.

22 MS. RIGGS: So there would probably be a downward adjustment
23 in the estimated cost of production would be the practi-
24 cal impact as we saw in this unit?

25 MR. SWARTZ: Well, there will be. There will be a downward

1 cost associated with participating for two reasons. One,
2 the DWE is about \$60,000 less and the percentage has gone
3 down by roughly three percent. I think it went from
4 roughly ten to seven something.

5 MS. RIGGS: Well, you've amended your DWE in this particular
6 case, but those that you are proposing to do by way of
7 an amendment of the mine plan without having to come back
8 before the Board, how would those DWEs be adjusted?

9 MR. SWARTZ: Well, there has been one adjustment. I'm pretty
10 sure that P-4 which we were here on last month -- Les,
11 did you adjust P-4 downward?

12 MR. ARRINGTON: Yes, we did.

13 MR. SWARTZ: So as we have come back to the Board and there
14 has been a new DWE -- if we had to come back let's say on
15 R-4 when we came back O-4's number would be different.
16 We're revising them down. We are not going to make
17 return trips -- you can jump in and correct me if I'm
18 wrong. But my understanding is that we are not going to
19 make return trips on units that we don't have to re-pool
20 for some reason with regard to the cost issue.

21 MS. RIGGS: Do you know whether in those that you anticipate
22 not having to come back at this point there were any
23 participants or carried interests?

24 MR. SWARTZ: There were none. It's very rare that the people
25 have participated or have been carried. There are a few

1 situations, but until recently there were none except for
2 Ashland. As we do need to come back and the costs
3 change, to the extent there has been a Board order
4 changing those costs, these panel numbers will reflect
5 your approved cost number as this one does with regard to
6 P-4.

7 MS. RIGGS: But in that instance since there's no change in
8 the division of interest there wouldn't be a new election
9 based upon the new DWE. So the impact of that adjustment
10 would be --

11 MR. SWARTZ: It depends. I mean, in this unit we've got a
12 ton of respondents who are going to be afforded a second
13 shot at electing. So they're going to get a second
14 opportunity to elect at a lower number.

15 MS. RIGGS: Right.

16 MR. SWARTZ: With just a straight change of mine plan that is
17 not going to happen, Sandy.

18 MS. RIGGS: Okay.

19 MR. CHAIRMAN: Other questions? Do you have anything further?

20 MR. SWARTZ: No.

21 MR. CHAIRMAN: Anyone present today have anything that they
22 wish to address in this matter? The record will show
23 there are none. Do we have a motion?

24 MR. KELLY: I'd move the application be approved as submitted.

25 MR. CHAIRMAN: A motion to approve.

1 MR. MCGLOTHLIN: Second.

2 MR. CHAIRMAN: A motion and a second. Further discussion?

3 MR. EVANS: Yes. I'd like to kind of -- rather than do this
4 blanket, kind of break these out on a one, two, three,
5 four, five basis, if that's okay.

6 MR. CHAIRMAN: No problem.

7 MR. EVANS: The only reason I say that is the idea of the
8 affidavit being filed in leu of coming back here and
9 whatever else --

10 MR. CHAIRMAN: I'm sure that would help clarify the order.

11 MR. SWARTZ: If I might interrupt, we're not asking you and I
12 don't think we asked you in our application to approve
13 this procedure. We're kind of playing a card and saying
14 this is how we would like to proceed. I am not seeking a
15 ruling from this Board today one way or the other on an
16 affidavit. If you feel you want to do something like
17 that great. But I don't --

18 MR. EVANS: That was my clarification.

19 MR. CHAIRMAN: Are you okay now with that stipulation?

20 MR. SWARTZ: Yes. I did not ask for that relief in my five
21 things.

22 MR. EVANS: Right, but I thought you might have asked for it
23 by showing up here today and submitting it.

24 MR. SWARTZ: I just felt that this was something that you can
25 see there are nine other units and we wanted to warn you

1 that this was kind of our feeling. If you've got some
2 blast of opposition we think --

3 MR. EVANS: So you're not really asking for this?

4 MR. SWARTZ: No. You can do whatever you want or nothing in
5 that respect.

6 MR. EVANS: In that case that was the only clarification or
7 discussion that I had.

8 MR. CHAIRMAN: Anything further? If not, all in favor signify
9 by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)
10 Unanimous approval. Thank you.

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

(ITEM III)

VIRGINIA OIL AND GAS BOARD

HEARING OF MARCH 15, 1994

9:00 A. M.

AT THE 4-H CENTER, HILLMAN HWY.

ABINGDON, VIRGINIA

ITEM III

1
2
3 MR. CHAIRMAN: The next item on the agenda a petition for
4 Equitable Resources Exploration and this is for field
5 rule changes. We'd ask all the parties that wish to
6 address the Board in this matter to come forward at this
7 time. We'll take a ten minute break and let them get set
8 up.

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

10 MR. CHAIRMAN: This is docket number VGOB-94/02/15-0435. We'd
11 ask the parties that wish to address the Board in this
12 matter to come forward and identify yourselves, please.

13 MS. MCCLANNAHAN: Elizabeth McClannahan for Equitable
14 Resources.

15 MR. SWARTZ: Mark Swartz for Columbia Natural Resources.

16 MR. LEPSHITZ: Mike Lepshitz for Westmoreland Coal.

17 MR. CHAIRMAN: You all might want to move up closer to be sure
18 you can hear what's going on. (Pause.) I don't think
19 you'll be bashful about it, but I would ask that any
20 point in time as we go along that if you need to interr-
21 upt and ask a question to feel free to do that. Eliza-
22 beth, you may proceed.

23 MS. MCCLANNAHAN: Just to kind of give you a background on
24 exactly what we're going to do here today prior to the
25 time that I call witnesses, it might be important first

1 to look at Exhibit C-1 that we have over here on the
2 wall. Exhibit C-1 is the same map as our C with some
3 additional information imposed on it. I'm not sure you
4 can see these boundaries. The green area here is the
5 Nora Field which everybody is familiar with, I think.
6 The blue is the Oakwood Field and then this boundary here
7 which we've drawn in blue and red is in this area and
8 that's the proposed Roaring Fork Field. What we are
9 proposing for this particular field are 80 acre units.
10 If you'll remember we came to the Board in October and
11 requested to force pool and form provisional units of
12 18.03 acres. Actually we came to the Board and requested
13 statewide spacing units. The Board rules that those
14 could only be made as provisional units because it wanted
15 to wait until we had more information after drilling
16 these wells to determine what kind of permanent field
17 rules to put into place. This was at the object of
18 Columbia and on the Board's decision. So at that time
19 and in the order that has been proposed for those units
20 the Board has requested that Equitable come back to it
21 after it had some additional information, submit that
22 information to it so that it could then determine what
23 field rules should be put in place. Of course, the
24 reason for putting into place some field rules as early
25 in the project as possible are also obvious to the Board,

1 correlative rights being the key element to imposing
2 field rules at this particular time. What we intend to
3 show the Board today is that Equitable has drilled
4 approximately 200 coalbed methane wells in the Common-
5 wealth of Virginia in it's six year history of coalbed
6 methane production. And during that history of product-
7 ion it has compared those numbers to the production
8 information that it has received from the eight wells
9 that have been drilled in the proposed Roaring Fork
10 Field. In addition we intend to show the Board the gas
11 content in the coal seams which we are producing from in
12 the Roaring Fork Field and compare that information also
13 to the Nora Field where we have drilled the approximately
14 200 wells. With that information we intend to show the
15 Board that the Roaring Fork Field contains approximately
16 twice the coal thicknesses as that in the Nora Field.
17 The gas content of the Roaring Fork Field, however, is
18 approximately half of that in the Nora Field. The early
19 statistics that we have from vent testing data show one-
20 third less production in the Roaring Fork Field as
21 opposed to the Nora Field. I'm sure everyone remembers
22 that the Nora Field presently has 60 acre unit sizes and
23 the Oakwood Field has 80 acre unit sizes. In comparing
24 the production from the Nora Field to the Roaring Fork
25 Field we have determined that 80 acre units are the

1 appropriate size and will protect correlative rights in
2 that field as the Board has previously requested that we
3 provide to it. The first witness I would like to call is
4 Glen Phillips.

5 COURT REPORTER: (Swears witness.)

6
7 GLEN PHILLIPS

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

10
11 DIRECT EXAMINATION

12
13 BY MS. MCCLANNAHAN:

14 Q. Glen, could you please state your name and address for
15 the record?

16 A. I'm Glen Phillips. I live here in Abingdon.

17 Q. What is your profession?

18 A. I'm a land surveyor.

19 Q. And you are employed by?

20 A. Glen F. Phillips & Company, P.C. here in Abingdon.

21 Q. What is your position there?

22 A. I'm the president. We're a small surveying and mapping
23 firm here in Abingdon.

24 Q. What are your responsibilities and duties as president of
25 that company?

1 A. I oversee the day to day activities of the corporation.
2 Q. Your educational background?
3 A. I have a BS in civil engineering technology from Blue-
4 field State College.
5 Q. Do you hold any licenses?
6 A. I'm licensed as a land surveyor by West Virginia,
7 Virginia and Kentucky.
8 Q. Could you state your work background?
9 A. I began surveying as a U.S. Army artillery survey
10 specialist. I surveyed in Vietnam. I've spent most of
11 my career in the coal industry with various coal compani-
12 es. I've been employed by Pocahontas Land Corporation.
13 I've been assistant property manager for Clinchfield.
14 I've been vice-president of land for ANR Coal. Our small
15 firm was established about seven years ago. So I've been
16 involved with this work for the last seven years or so.
17 Q. Mr. Phillips, did you certify the map that's submitted as
18 Exhibit A to the amended Roaring Fork Field rules
19 application that's been filed by Equitable?
20 A. Yes, I did.
21 Q. Did you supervise the preparation of this map?
22 A. Yes, I did.
23 Q. Is the map an accurate depiction of the proposed drilling
24 units in Roaring Fork Field boundaries?
25 A. Yes, it is.

1 Q. Could you please explain how the map was prepared?

2 A. Since the Nora Field was already in place we were
3 constrained by its boundaries and we began at the south
4 west corner of the Nora Field. The point of beginning
5 then has a west longitude of 82.35 and a north latitude
6 of 36.55. Given that point we calculated the state plane
7 coordinate of that latitude and longitude using North
8 American Date, 1927 as required by the regulations and
9 then we took the boundary along the south boundary -- the
10 southern boundary of the Nora Field to the point of
11 longitude 82 degrees at 15 minutes. Then we went
12 southwardly to the bottom of the St. Paul, Coeburn, Wise,
13 Norton and Appalachia quads and intersected that into the
14 Virginia/Kentucky line. Then we took the boundary north
15 eastwardly to its intersection with the west boundary of
16 the Nora Field and then southwardly back to the point of
17 beginning. In regard to the units given the 80 acre unit
18 sizes we chose to begin the coalbed methane units just
19 west of the southwest corner of the Nora Field again.
20 Given this true north barridian, again being the western
21 boundary of the Nora Field in this point of beginning in
22 all of the 80 acre units follow logically. That map was
23 then superimposed on the composite seven and a half
24 minutes -- the composite of seven and a half minute
25 quads.

1 MS. McCLANNAHAN: Thanks Glen. I don't have any further
2 questions of Mr. Phillips.
3 MR. CHAIRMAN: Questions, members of the Board? Mr. Swartz?
4 MR. SWARTZ: No, sir.
5 MR. CHAIRMAN: Mr. Lepshitz?
6 MR. LEPSHITZ: No, sir.
7 (Witness stands aside.)
8 MR. CHAIRMAN: You may call your next witness.
9 MS. McCLANNAHAN: Lester Zitchus.
10 COURT REPORTER: (Swears witness.)
11

12 LESTER ZITCHUS

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. Would you state your full name and address for the
20 record?
21 A. My name is Lester Zitchus and I live in Kingsport,
22 Tennessee.
23 Q. And your profession?
24 A. Land man.
25 Q. And you are employed by whom?

1 A. Equitable Resources.
2 Q. With Equitable Resources what is your position?
3 A. I'm the land manager.
4 Q. And what are your responsibilities and duties as land
5 manager?
6 A. To oversee most all the land activities that are conduct-
7 ed with that division.
8 Q. Your educational background?
9 A. I have a Minerals Land Management degree from the
10 University of Evansville, Indiana.
11 Q. And your work background?
12 A. Approximately seven years in the Appalachian region in
13 the land business.
14 Q. Are you a member of any professional associations?
15 A. Yes. I'm a registered land professional with the
16 American Association of Professional Land Men.
17 MS. McCLANNAHAN: Mr. Chairman, I submit Mr. Zitchus as an
18 expert witness.
19 MR. CHAIRMAN: Any objections?
20 MR. LEPSHITZ: An expert with regard to what?
21 MS. McCLANNAHAN: Land matters.
22 MR. LEPSHITZ: You need to be more specific. What, in
23 leasing?
24 MS. McCLANNAHAN: With regard to any land management matters
25 which would include leasing.

1 MR. CHAIRMAN: Any other questions? Okay. You may proceed.

2 Q. (Ms. McClannahan continues.) Has Equitable given notice
3 to each person or entity identified on Exhibit B of the
4 proposed Roaring Fork coalbed methane gas application and
5 the amended application as a potential owner of the
6 coalbed methane gas underlying the field?

7 A. Yes, it has.

8 Q. Did Equitable publish the notice to the original applica-
9 tion in the Bristol Herald Courier paper on January 23rd,
10 1994?

11 A. Yes, it did.

12 Q. Did EREX publish notice of the amended application in the
13 Bristol Herald Courier, Kingsport Time News, The Post,
14 Clinch Valley Times and the Coal Field Progress?

15 A. Yes, it did.

16 Q. When were these notices published?

17 A. On February 16th and February 17th of 1994.

18 Q. Were copies of the proofs of publication previously
19 submitted to the Board?

20 A. Yes, they were.

21 Q. Did EREX also notify by certified mail the parties listed
22 on Exhibit B about the hearing continuance from February
23 15th to March 15th?

24 A. Yes, it did.

25 Q. Were copies of the returned receipts from the mailing of

1 the application, the continuance notice and the amended
2 application also previously submitted to the Board?
3 A. Yes, they were.
4 Q. Does Equitable control the right to produce oil, gas and
5 coalbed methane gas on approximately 100,000 acres and
6 oil and gas on an additional approximate 10,000 acres?
7 A. Yes, it does.
8 Q. What percentage of the field does this represent?
9 A. Approximately 62 percent.
10 Q. Will each of the parties within the units in Roaring Fork
11 participate in the 80 acres units on a surface acreage
12 basis as you've proposed?
13 A. Yes, they will.
14 Q. Does the map attached to the field rules application
15 filed by Equitable indicate the size and shape of the
16 drilling units to be formed within the proposed Roaring
17 Fork field as shown on Exhibits A and C of the amended
18 application?
19 A. Yes.
20 Q. Are these units in the form of a square containing 80
21 acres each?
22 A. Yes, they are.
23 Q. Are you requesting that the Board establish the proposed
24 Roaring Fork coalbed methane gas field for the protection
25 coalbed methane gas as shown on Exhibit A of the field

1 rules application?

2 A. Yes, we are.

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

4 Lester.

5 MR. CHAIRMAN: Questions, members of the Board?

6 MR. McGLOTHLIN: I didn't catch your last name.

7 THE WITNESS: Zitchus.

8 MR. McGLOTHLIN: Mr. Zitchus, how many acres are we talking

9 about in this field?

10 THE WITNESS: In the total field?

11 MR. McGLOTHLIN: Yes, sir.

12 THE WITNESS: Approximately 174,000 give or take some.

13 MS. McCLANNAHAN: It's actually 176,400.

14 MR. McGLOTHLIN: And your Exhibit B is the complete owner of

15 the coalbed methane gas?

16 MS. McCLANNAHAN: Let me just make -- we don't know who the

17 owners --

18 MR. McGLOTHLIN: No. The question is to Mr. Zitchus. He

19 testified that he notified the owners. I want to --

20 MS. McCLANNAHAN: Potential owners.

21 MR. McGLOTHLIN: Well, what about the surface owners, are they

22 not potential owners of the coalbed methane?

23 MS. McCLANNAHAN: No.

24 MR. McGLOTHLIN: Excuse me. Would you answer the question,

25 please?

1 THE WITNESS: No, they're not.
2 MR. MCGLOTHLIN: How do you qualify that answer?
3 THE WITNESS: I don't believe that they have standing as a
4 potential claimant.
5 MS. MCCLANNHAN: The statute requires that all mineral owners
6 be notified.
7 MR. MCGLOTHLIN: Excuse me. I'm asking Mr. Zitchus the
8 question.
9 MS. MCCLANNAHAN: I'm sorry, Mr. McGlothlin, but this is a
10 legal matter.
11 MR. MCGLOTHLIN: He testified that these were the owners and I
12 want to see where his justification's coming from.
13 THE WITNESS: Could you please restate the question?
14 MR. MCGLOTHLIN: How do you justify that these are the owners
15 -- or all the owners and potential owners of the coalbed
16 methane gas? (Pause.) Mr. Chairman, would you direct
17 the witness to answer the question, please?
18 MR. CHAIRMAN: I think he's just trying to get some clarification.
19 tion.
20 MS. MCCLANNAHAN: Maybe I can help him by asking him some
21 questions.
22 MR. MCGLOTHLIN: He testified that he was an expert witness in
23 this and let him answer the question.
24 THE WITNESS: How do we justify that we notified all the
25 appropriate owners?

1 MR. MCGLOTHLIN: How do you justify that everyone you have
2 listed as owners and potential owners are all the owners
3 of coalbed methane?

4 MR. ARRINGTON: Excuse me. That was not the question that was
5 asked of Mr. Zitchus. The question that was asked was
6 does EREX have a right to control through leasehold
7 rights and ownership --

8 MR. MCGLOTHLIN: And he testified that Exhibit B was the
9 owners and potential owners -- all the owners and
10 potential owners of the coalbed methane.

11 THE WITNESS: I didn't testify that they were all the owners.
12 on Exhibit B. They were the majority owners and maybe I
13 can clarify a little bit.

14 MR. MCGLOTHLIN: You testified that you noticed the owners and
15 potential owners.

16 THE WITNESS: Listed on Exhibit B.

17 MR. MCGLOTHLIN: I want to know how do you know that these are
18 all the owners -- I'm trying to get a notification thing
19 here.

20 THE WITNESS: The question that Elizabeth asked me was did we
21 notify all those potential owners on Exhibit B and I said
22 yes. She didn't ask me if they were all the owners in
23 the field. We did not specifically notify every owner in
24 the field.

25 MR. MCGLOTHLIN: Your Exhibit B says owners and potential

1 owners.

2 THE WITNESS: Right.

3 MR. MCGLOTHLIN: So I'm trying to qualify how you've come
4 about getting owners and potential owners? How did you
5 determine that these were the owners and potential
6 owners and has anybody been left off?

7 THE WITNESS: We reviewed title opinions in addition to taking
8 a list of the major mineral owners within the field. We
9 also reviewed the DMLR records for coal mining owners and
10 lessees. We also through advertising in the papers --
11 the various papers that we advertised in -- hoped to
12 catch anybody that was left off of that.

13 MR. MCGLOTHLIN: Have you personally have -- to make it easy
14 on you. Do you personally have knowledge that there has
15 been title research done on all 146,400 acres?

16 THE WITNESS: No, there hasn't.

17 MR. MCGLOTHLIN: So you don't know who the owners or potential
18 owners of the coalbed methane are?

19 THE WITNESS: On all 176,000, no, I don't.

20 MR. MCGLOTHLIN: Okay. Thank you.

21 MR. CHAIRMAN: Other questions?

22 MR. MASON: What are you reading?

23 THE WITNESS: Huh?

24 MR. MASON: What is that?

25 THE WITNESS: Just my personal notes.

1 MR. MASON: Did you prepare those yourself?
2 THE WITNESS: Yes.
3 MR. CHAIRMAN: Other questions? Mr. Swartz?
4 MR. SWARTZ: I don't have any questions.
5 MR. CHAIRMAN: Mr. Lepshitz?
6 MR. LEPSHITZ: I have none at this time.
7 MR. CHAIRMAN: You may proceed.
8 MS. McCLANNAHAN: If I could make a comment to this notice
9 issue. That's why we published in several papers. The
10 statute only requires that we publish in one paper.
11 That's why we picked several different papers to publish.
12 Certainly the Board in the past with regard to field
13 rules has not required that title work be done on 176,400
14 acres. But if the Board feels like that's necessary in
15 this particular case then obviously no field rules would
16 ever be adopted in the Commonwealth of Virginia because
17 it would be too costly and burdensome to do title work on
18 176,400 acres. In having reviewed all the quads where
19 wells have been drilled and the majority of property
20 owners in those areas the title opinions for properties
21 that they control and the DMLR records it was Equitable's
22 conclusion that this was as much due diligence as could
23 be possibly done on 176,400 acres. And it's certainly
24 more work than has been done on prior field rules that
25 have been submitted to this Board and approved.

1 MR. SWARTZ: I'd like to respond.

2 MR. CHAIRMAN: Mr. Swartz.

3 MR. SWARTZ: 361.19 as it is referenced in 361.20 does create
4 a problem for operators who want to petition the Board
5 for field rules in that a literal reading of those
6 sections seems to require as Mr. McGlothlin was suggest-
7 ing that you literally do title on the entire acreage
8 that you're seeking to make subject to a field rules
9 issue proposal. I agree with Elizabeth that that is such
10 an onerous burden that unless there is some reasonable
11 way to overcome that title requirement and mailing
12 requirement you just never would have field rules. I
13 mean, nobody could afford to come before you to do it.
14 But I would differ with her comments -- I mean, if the
15 Board feels that -- and we've done this in the past. If
16 the Board feels that it is appropriate to have field
17 rules here in the Roaring Fork unit the Board is not
18 constrained by the notice requirements that private
19 parties and operators are and the Board can cure the
20 notice problem in the event -- if there is a notice
21 problem. In the event that you want to proceed to making
22 field rules by simply noticing this on your motion and
23 publish it which we have done when we amended the Oakwood
24 orders. The Board did that and part of the reason you
25 did it was because of the notice problems. So I don't

1 think that this is an all or nothing proposition. I
2 mean, if the evidence is such that the Board feels that
3 field rules are appropriate and that they make sense from
4 a development standpoint, a correlative rights stand-
5 point, from a waste standpoint I think the Board has an
6 ability to solve a proceeding notice problem and move
7 forward. I certainly feel that this notice issue that
8 has surfaced here terminates the inquiry. I think it can
9 solved if the Board wants to move forward.

10 MR. CHAIRMAN: Thank you.

11 MR. MASON: Elizabeth, the notice that you published in the
12 papers, do you have a copy of one of those? Is it in any
13 of the material? I guess specifically what I'm asking is
14 did it include a map?

15 MS. McCLANNAHAN: Yes.

16 MR. MASON: I guess the questions I have in terms of published
17 notice is it -- I mean, was it the type of published
18 notice that would be sufficient to give someone who had
19 an interest in this area knowledge of it because the
20 meets and bounds descriptions like in this application
21 are very difficult for people to understand.

22 MS. McCLANNAHAN: We've submitted copies of all these to the
23 Board previously --

24 MR. MASON: I understand that.

25 MS. McCLANNAHAN: But I'll be glad to let you look at my file.

1 They all had maps. Now, obviously we don't have control
2 over how they look in the paper. Some of them look a lot
3 better than others. I'll be glad to just you look at my
4 file.

5 MR. MASON: Thank you. If, in fact, the reality is that we're
6 relying on published notice -- Tom's got his.

7 MR. FULMER: I can get mine out.

8 MS. McCLANNHAN: I have mine.

9 MR. MASON: I'm just curious that they would be sufficient to
10 give someone actual knowledge of what was involved.

11 MS. McCLANNAHAN: (Pause.) Of course, it lists all the
12 counties.

13 MR. MASON: Okay. That's fine.

14 MS. McCLANNAHAN: That one is not as good but we submitted the
15 same map.

16 MR. MASON: (Pause.) I think a reasonable person could figure
17 out if they had property within that area. Thank you.

18 MR. LEPSHITZ: As a point of clarification, in examining
19 Exhibit B Westmoreland Coal Company is listed as a gas
20 and oil owner and a coal lessee. And point of fact,
21 Westmoreland fits the category one and two. One is a
22 coal, oil and gas owner as an oil and gas owner as well
23 as a coal lessee. We have notice. We're not concerned
24 about that, but our status is multi-dimensional in this
25 particular issue.

1 MR. CHAIRMAN: All right. Thank you. Anything further? YOU
2 may proceed.

3 COURT REPORTER: (Swears witness.)
4

5 ROBERT A. DAHLIN, II

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

13 A. My name is Robert A. Dahlin, II.

14 Q. And your address?

15 A. I live in Kingsport, Tennessee.

16 Q. Your profession?

17 A. I'm employed by EREX as an operations specialist and my
18 background is in geology.

19 Q. And what are your responsibilities and duties as opera-
20 tions specialist?

21 A. I'm involved with all development in Virginia.

22 Q. In the development of coalbed methane?

23 A. Including coalbed methane, yes, ma'am.

24 Q. And your educational background?

25 A. I received a BS degree from West Virginia University in

1 1975. I've been working as a professional geologist
2 since then, first with Kentucky West Virginia Gas Company
3 and Philadelphia Oil. I worked for a consulting engineer
4 in the coal fields in West Virginia for about five years
5 and then for independent drilling contractors since then
6 and for EREX for the past five years.

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

8 A. I'm a member of the SPE, Society of Petroleum Engineers.

9 Q. Have you been previously qualified as an expert witness
10 before the Gas and Oil Board in geology?

11 A. Yes, ma'am, I have.

12 MS. McCLANNAHAN: Mr. Chairman, I submit Mr. Dahlin as an
13 expert witness in geology.

14 MR. CHAIRMAN: Any objections? Okay. You may proceed.

15 Q. (Ms. McClannahan continues.) Mr. Dahlin, could you
16 please describe Exhibit C-1 for the Board?

17 A. Okay. As Elizabeth explained earlier, this is the area
18 of the Nora coalbed methane field as it abuts the
19 proposed Roaring Fork Field. It also has some structural
20 features on here which define the field. All of this is
21 on the Pine Mountain thrust sheet. The field here and
22 west is west of the Glay Morgan fault structurally. It's
23 a strike slip fault. Separating the strata here or
24 isolating the two fields, this is the Powell Valley
25 anticline, major outcropping of all strata down past the

1 Weir including all coal seams. And this is the strati-
2 graphic cross section that correlates to A prime to A
3 here with each of these wells being these along the
4 line. This defines the coal seams that are present in
5 the wells through the cross section.

6 MS. McCLANNAHAN: Mr. Chairman, I would move the introduce of
7 Exhibit C-1 and D.

8 MR. CHAIRMAN: Exhibit C-1 and D. Any objections? Okay.
9 They're accepted without objection.

10 Q. (Ms. McClannahan continues.) Bob, could you please
11 describe the Roaring Fork Field area structurally and
12 geologically?

13 A. I believe I basically gave you the outline structurally.
14 It's bounded between the Glay Morgan fault to the east,
15 the Powell Valley anticline to the south, the Pine
16 Mountain thrust to the northwest. Stratigraphically or
17 geologically it includes sandstone, shells and coals from
18 Pennsylvanian H sequence. That's indicated here from the
19 -- in order the Lee, Norton and Wise formations.

20 Q. Is there greater structural deformation in the Roaring
21 Folk Field as opposed to the Nora Field?

22 A. Generally speaking the structures are broader. Larger
23 structures are present in the Roaring Fork Field.

24 Q. Is the acreage that's covered by this proposed Roaring
25 Fork Field underlain by at least one coalbed capable of

1 producing coalbed methane gas?

2 A. Yes, ma'am, it is.

3 Q. With regard to the coal seams listed on Exhibit D what
4 are the differences between the coal seams in the Nora
5 Field and the proposed Roaring Fork Field?

6 A. Two major differences occur approximately at the boundary
7 of the fields. This blue line -- I don't know if
8 everybody can see this blue line. It's a lot easier to
9 see here, but those are the same points. Two major
10 things happen approximately in that area. We have by
11 virtue some sand erosion at time of deposition, a loss of
12 some un-named B, Horsepin, Lower Horsepin. Various seams
13 are cut out by sand as they go west into the Roaring
14 Fork Field. The other major distinction in the coal
15 sequence itself is the addition by virtue of greater
16 depth of burial in this interval here which is basically
17 from the Norton to the Rocky Fork. Those seams in the
18 Nora Field are outcropping, sometimes being stripped.
19 For instance, at about this area there are at like only
20 200 foot depth of burial which gives us this sequence
21 here that are potentially producible in the Roaring Fork
22 Field as opposed to the Nora Field. We've lost approxi-
23 mately forty inches of coal here out of the typically
24 producible 120 inches in the Nora Field. We have gained
25 about 200 inches on average here in the Roaring Fork

1 Field. The net result is in the Nora Field we've
2 produced from approximately 120 inches and potentially
3 will produce from 280 inches in Roaring Fork.

4 Q. Are there similarities in the nature and quality of the
5 coal seams ranking within the field?

6 A. Yes, ma'am. They're similar of varying impurities or
7 purities. They're all medium to low grade bituminous
8 coal.

9 Q. With regard to the additional potentially producible coal
10 seams that are present in the Roaring Fork Field that you
11 just described which of those are present in the Roaring
12 Fork that are not present in the Nora Field, specifically
13 which seams?

14 A. Of potential producability would be the Norton, Dor-
15 chester, Lyons, Blair, Clintwood's A and B, and the
16 Rocky Fork.

17 Q. Is the Splash Dam also an additional seam?

18 A. Yeah. I could have missed the Splash Dam there. I'm
19 sorry.

20 Q. You indicated previously that there are a total of 280
21 inches of potentially producible coal in the proposed
22 Roaring Fork Field. Is that right?

23 A. That's right.

24 Q. Is that more than twice the inches of potentially
25 producible coal seams that are available in the Nora

1 Field?

2 A. On average that is correct.

3 Q. And the depths of the potentially producible seams are

4 2,000 to 3,000 feet?

5 A. Yes, ma'am. On rare occasion as you approach the

6 Kentucky line you may get a little bit deeper than that,

7 but that's approximately right.

8 Q. How many feet of stratigraphic coal section do these

9 producible coal seams represent?

10 A. Between 1,500 and 2,000 feet.

11 Q. What drilling window is proposed by Equitable in Roaring

12 Fork in the 80 acre unit?

13 A. We propose a 300 foot set back in the 80 acre unit.

14 Q. Equitable has previously drilled wells in the proposed

15 Roaring Fork Field on statewide spacing and provisional

16 units, is that right?

17 A. Yes, ma'am, we have.

18 Q. Will some of those wells require location exceptions if

19 these field rules are adopted?

20 A. Yes. They would require a location exception.

21 Q. Can you explain why they would require location except-

22 ions if the field rules were adopted?

23 A. The coal wells we've drilled to date have been twin

24 wells. They've been drilled on existing conventional

25 locations. They were not laid out in accordance with any

1 predetermined grid. They therefore fall within the
2 window we propose.

3 Q. What was the purpose of drilling these as twins to your
4 conventional wells?

5 A. In accommodation of the coal companies in order to not
6 impact the coal to any greater degree than necessary we
7 have tried to work with them and drill on existing sites
8 where the coal has already been penetrated.

9 Q. Are the wells that will require location exceptions
10 3097, 3099, 3100, 3101, 2627 and 3006?

11 A. I believe those are the wells.

12 Q. Is EREX requesting that the Inspector be able to grant
13 well location exceptions for all wells now or hereafter
14 drilled in any 80 acre drilling unit in Roaring Fork as
15 provided in the Gas and Oil Act?

16 A. Yes, ma'am, we would ask that.

17 Q. Is EREX also requesting that the Board on a case by case
18 basis authorize the drilling of increased density wells
19 under the Act?

20 A. Yes, ma'am.

21 Q. Will this proposed program fit into the projected mine
22 plans in this area?

23 A. We feel it will. We've developed in coordination with
24 the coal companies and with their impute. Yes, ma'am.

25 Q. Will the implementation of the proposed field rules

1 protect the correlative rights of the mineral owners as
2 well as prevent waste?
3 A. Yes, ma'am, it would.
4 Q. Did the Board by virtue of its orders granting provision-
5 al units only require that we return for field rules in
6 this particular area?
7 A. Yes, ma'am. As you described earlier we came before the
8 Board under statewide spacing criteria and at that point
9 we were granted provisional units with the assumption
10 that we would be back at some later date to propose some
11 way to compensate all of the potential owners in between
12 these wells as we have them spaced.
13 Q. In your opinion with this application accomplish a fair
14 royalty distribution between the potential owners of the
15 coalbed methane?
16 A. Yes, ma'am.
17 Q. And in your opinion will this application allow the Board
18 to fulfill its obligations by protecting correlative
19 rights and providing for an equitable distribution of
20 royalties to the coalbed methane gas owners?
21 A. Yes, ma'am, it would.
22 MS. MCCLANNAHAN: Those are all the questions I have for Mr.
23 Dahlin. I do have the Board's copies of Exhibit C-1
24 here.
25 MR. CHAIRMAN: Any questions, members of the Board?

1 MR. MASON: On your application where we're talking about
2 defining the pool, you have a language that tracks the
3 statute which is coalbed -- if you look at the definition
4 in the statute of what coalbed methane is it says,
5 "Including natural gas produced from coalbeds and rock
6 strata associated there with."

7 MR. DAHLIN: Yes, sir.

8 MR. MASON: In your application you add to that, "Strata
9 correlative to the coal seams and coalbeds." What does
10 that mean?

11 MR. DAHLIN: Well, as you can see, none of these individual
12 seams are laterally homogeneous. All we're trying to say
13 is that as the coal's grade in quality and various
14 characteristics that whatever is correlative to that
15 point that we are allowed to produce from those zones.

16 MR. MASON: Is that broader than the definition in the Code?
17 It appears to be. It's in the definitions.

18 MR. DAHLIN: It would appear to expound on that definition.

19 MR. MASON: And then it goes on to say, "In all zones in
20 communication there with."

21 MR. DAHLIN: Well, that's also in the definition, all the
22 coalbed methane is the coals and associated strata. I
23 believe that's one in the same.

24 MR. MASON: Do you mean all zones in communication with the
25 correlative strata or with the coal seams?

1 MR. DAHLIN: I believe we're saying the same thing, aren't we?

2 MR. MASON: What do you mean? There's a big difference if you

3 say any -- if you're talking about associated -- you're

4 talking about these correlative stratas which would be

5 outside of the direct coal seams and you're talking about

6 any zone that's in communication with one of those other

7 stratas. It seems to me that expands it a great deal.

8 MR. DAHLIN: I don't believe it does. I believe the defini-

9 tion of CBM is the broader.

10 MS. McCLANNAHAN: I'm just showing him the definition from the

11 statute. He doesn't have it here in front of him.

12 MR. DAHLIN: I don't see the distinction. If you could be

13 more specific I'll try to answer it. The correlative --

14 the correlation issue is one only of lateral extent.

15 We're still in the same sequence. We're still in the

16 coal seams and associated strata. That's not any broader

17 than -- that's nothing different than where the coal seam

18 was or is in a different quality. I don't think we're

19 saying anything more than the definition.

20 MR. MASON: I guess my concern is this. Why do you feel it

21 necessary to use language that appears -- I mean, the

22 definition that's in the Code is the definition of what

23 this Board has the power to create in coalbed methane

24 poolings. What I'm concerning about is why you feel it

25 incumbent in this petition to expand on that definition.

1 It seems to me to be an attempt to expand the size or the
2 definition of this pool beyond what the Code allows us to
3 do.

4 MS. McCLANNAHAN: You may want to look at what the previous
5 Board orders on coalbed methane gas have --

6 MR. MASON: That was my next question. Is this consistent
7 with the Nora order?

8 MS. McCLANNAHAN: I believe this tracks the language of the
9 previous orders that have been entered. It says lists
10 all the seams and then it says and various unnamed coal
11 seams or pools and all zones in communication there with
12 and all productive extensions thereof underlying the
13 unit.

14 MR. MASON: That was adopted prior to the adoption of this Oil
15 and Gas Act.

16 MS. McCLANNAHAN: No.

17 MR. MASON: What's the date on that order?

18 MS. McCLANNAHAN: The date of the coalbed methane gas
19 definition is 1991, isn't it?

20 MR. MASON: July, 1991?

21 MS. McCLANNAHAN: The date of this order is November of 1991.

22 MR. McGLOTHLIN: Which order?

23 MS. McCLANNAHAN: This is the Northeast Longwall 1 through 10.
24 The Oakwood II order says various unnamed seams and
25 associated strata.

1 MR. MASON: Right.

2 MS. McCLANNAHAN: Well, no --

3 MR. MASON: I'm fairly certain it does because I remember
4 talking about it.

5 MS. McCLANNAHAN: No, it doesn't

6 MS. RIGGS: I would suspect that the order tracked the
7 application that were being -- the language probably came
8 out of the application because the Board voted on the
9 application as presented.

10 MR. MASON: I understand, but that one just refers to the coal
11 seams and the associated rock strata.

12 MS. McCLANNAHAN: No. It actually says --

13 MR. MASON: The Oakwood order?

14 MS. McCLANNAHAN: Yes. The statute says associated rock
15 strata. The Oakwood II says various other unnamed seams
16 and associated strata. The Oakwood --

17 MR. MASON: Let me ask you this. Do you have a problem with
18 having this just read unnamed coal seams, coalbeds, pools
19 and rock strata associated there with?

20 MR. DAHLIN: No, we don't.

21 MS. McCLANNAHAN: No.

22 MR. MASON: Thank you.

23 MR. CHAIRMAN: Any other questions?

24 MR. KELLY: I have several things. I don't know which
25 witnesses you would want to call, Elizabeth, but I have

1 just a few questions relating to the unit size and
2 reservoir, etcetera. Would that be to you, Bob?

3 MR. DAHLIN: We do have another engineer that's going to
4 testify.

5 MR. KELLY: I can withhold that then until that time.

6 MR. EVANS: Bob, just for my own gratification and edifica-
7 tion, this Glay Morgan fault is -- is this the surface
8 expression of that fault?

9 MR. DAHLIN: Yes, sir. It does extend down to the Powell
10 Valley. It's fairly exclusive. I mean, it fairly well
11 defines and bounds.

12 MR. EVANS: Okay. 268 shows a definitive upturning. You've
13 got this shown as a definite upturn and cropping and some
14 difference. I guess my question is, you know, at the
15 Glay Morgan fault is that -- I noticed that on either
16 side of that fault you have some -- it looks like a
17 little bit of vertical displacement and most of the seams
18 are still continuous. There's no real difference in that
19 stratigraphy on either side of that fault whereas between
20 268 and 37 which shows -- assuming this is other faults
21 here?

22 MR. DAHLIN: Yeah. There are many more faults in there.

23 MR. EVANS: I was going to say that that's a marked difference
24 as far as the stratigraphy goes.

25 MR. DAHLIN: There is no basic depositional difference there.

1 It's more or less an optical illusion, if you would.

2 There's topographic considerations taken into consider-
3 ation here since the cross section was leveled or the
4 data was based on the Rocky Fork coal.

5 MR. EVANS: That's what I was going to ask. What reference
6 did you use to --

7 MR. DAHLIN: We zeroed everything on the Rocky Fork. The
8 basic topographical changes happen at the Glay Morgan
9 fault. The surface outcroppings happened east of there
10 and those seams are still present but would be in outcrop
11 or exposed and therefore not potentially producible as a
12 coalbed methane target.

13 MR. EVANS: I understand. I was just looking --

14 MR. DAHLIN: It's just a datum type of thing.

15 MR. EVANS: Just in looking at your map there, the way that
16 shows for four cross sections, the way that shows is
17 you've got the Glay Morgan fault as your basic de-
18 markation, but that really doesn't jive with what your
19 logs show.

20 MR. DAHLIN: Well, we didn't mean to say that the extent of
21 the coal was prohibited by it. The Glay Morgan fault is
22 a straight slips fault. There isn't a huge over-thrust-
23 ing like there is in the Pine Mountain.

24 MR. EVANS: Not a lot of vertical displacement, horizontal
25 displacement?

1 MR. DAHLIN: Right. It's displacement and isolation -- it's
2 moving and at that approximate place a lot of other
3 things happen. Like I described, the lower sequences are
4 cut out by those big sands as we go west. Generally at
5 that location those seams start to outcrop and again
6 topography isn't really reflected here. But those things
7 happen generally at that location.

8 MR. EVANS: Okay. I've got one other question. This is kind
9 of an arching cross section, I guess. You've got a basic
10 east west line up to about WS91 and then if you want to
11 call it that, a north south line from WS91 down to 35.
12 Is that a fair representation of what you've got, that
13 being a turning point from the east west versus a more
14 north south?

15 MR. DAHLIN: Well, mostly in a controlled situation early on
16 in looking at the logs and what not we were trying to get
17 a representative feel for what was going to go on with
18 the wells we had drilled and the control that we had.
19 That's how we -- we could have easily made cross sections
20 here, but this is just to represent the cross section
21 through the center of our control.

22 MR. EVANS: Okay. Thank you.

23 MR. CHAIRMAN: Other questions? Mr. Swartz, do you have any
24 questions of this witness?

25 MR. SWARTZ: I don't know if Bob is the right witness for

1 these questions but I do have some questions concerning
2 gas content, assumptions with regard to reserves,
3 economic unit drainage issues, that kind of stuff. Are
4 you the right guy to ask?

5 MS. MCCLANNAHAN: Martin is actually.

6 MR. DAHLIN: It may be a combination after Martin gives his
7 testimony, but he's got those specific things.

8 MR. SWARTZ: Okay. I'll hold and wait for him.

9 MR. CHAIRMAN: Any questions?

10 MR. LOTHTON: Can I ask a question?

11 MR. CHAIRMAN: Just state your name for the record.

12 MR. LOTHTON: My name is Ed Rothton. I just want to make sure
13 I understood my rights. You said the coals that are
14 productive in the Nora Field or absence in Wise County?

15 MR. DAHLIN: No. The net effect of what has happened -- you
16 can't see it from where you're sitting back there. But
17 the main thing that's happened -- too many things have
18 happened. These lower sequences specifically the unnamed
19 B, Horsepin, Middle Horsepin, the C seam, unnamed C, it
20 changes.

21 MR. EVANS: What you call?

22 MR. DAHLIN: What you call where the sand is. But a major
23 thing happens in this section and on the average we're
24 loosing some net amount of coal as we got west attribut-
25 able to these specific seams. We have averaged it and

1 feel it's going to be on the average of 40 inches as we
2 go west. 40 inches is a loss attributable only to
3 these --

4 MR. EVANS: Lower seams?

5 MR. DAHLIN: -- the lower seams. We on average in Nora have
6 120 inches we work with. We're loosing that amount.
7 That's what I went about they aren't present. Everything
8 else is -- the sequence is present. You know that they
9 may come and go. They're not laterally homogeneous. But
10 that major thing happens as well as the addition of these
11 potentially producible zones due to depth of burial.

12 MR. LOTHTON: Is the War Creek present in Wise County or is
13 that not a factor in production?

14 MR. DAHLIN: It's present in both places.

15 MR. LOTHTON: And the number you said for Wise County -- I
16 wasn't sure whether it was 240 or 280.

17 MR. DAHLIN: 280 on average.

18 MR. LEPSHITZ: Is there some kind of limit on the coal thick-
19 ness that you perforate or do you perforate all coal?

20 MR. DAHLIN: Mark has some testimony here, too. We, of
21 course, have natural shows. We have the log expression.
22 We have the gas entry indications for temperature. We
23 have various factors that go into the selection, in the
24 design of the fracking.

25 MR. LOTHTON: I think what I was trying to ask was do you

1 perforate like six inch coal or do you need the thicker
2 one or --

3 MR. DAHLIN: Well, I don't pick the perforations. I'll let
4 Martin answer that question.

5 MR. LOTHTON: I don't have any further questions.

6 MR. CHAIRMAN: Mr. Lepshitz, do you have any?

7 MR. LEPSHITZ: What is the lowest coal seam you all will
8 produce from? You mentioned the Dorchester. Is that
9 the lower?

10 MR. DAHLIN: Oh, no. That's the very upper sequence. We'll
11 produce from anything down to the Red Rock which would
12 include all of this sequence. The Dorchester curves
13 here. You've probably seen some here recently because
14 we've been experiencing natural shows on your side of the
15 field at that level. That's high up in the sequence.
16 We've got much more we're dealing with than that.

17 MR. EVANS: Are you saying basically the top of Blue Stone?

18 MR. DAHLIN: Yes, sir.

19 MR. EVANS: Is that what I understand is red and green shell?

20 MR. DAHLIN: Yes, sir.

21 MR. EVANS: Thank you.

22 MR. LEPSHITZ: You indicate that you have reviewed your
23 developmental plans with all the coal companies operating
24 in the area. Who did you review this with at Westmore-
25 land and when?

1 MR. DAHLIN: I don't believe I can tell you all the people at
2 your firm we've dealt with. And I don't attend each and
3 every meeting. The wells are proposed to --
4 MR. LEPSHITZ: What you've reviewed then is a well by well
5 basis?
6 MR. DAHLIN: And some of the other meetings. I know the
7 programs in general. I know the specific issues. I
8 don't know all the issues, haven't been in every meeting.
9 MR. LEPSHITZ: Do you typically deal with our technical
10 services manager Mr. Henderson?
11 MR. DAHLIN: Through our land department.
12 MR. LEPSHITZ: Through your land department?
13 MR. DAHLIN: Uh-huh.
14 MR. LEPSHITZ: So when you saw that you've reviewed it with
15 everyone you're not exactly sure what or how much has
16 been reviewed with Westmoreland Coal?
17 MR. DAHLIN: In a corporation our size what we do -- you
18 understand that there are certain --
19 MS. MCCLANNAHAN: Excuse me just a moment. Tom O'Neil is
20 here. He's our vice-president of exploration for
21 Equitable. He has a more gullible view of this and could
22 probably more specifically answer who has actually been
23 contacted at Westmoreland.
24 COURT REPORTER: (Swears witness.)
25 MR. MCGLOTHLIN: Excuse me. Mr. Chairman, before we get into

1 another witness may I ask one question, please.

2 MR. LEPSHITZ: I have one other when you finish.

3 MR. MCGLOTHLIN: I just wanted something cleared up. Have we
4 accepted Exhibit D?

5 MR. CHAIRMAN: We accepted Exhibit C-1 and D, yes.

6 MR. MCGLOTHLIN: We accepted D?

7 MR. CHAIRMAN: Yes.

8 MR. O'NEIL: When Bob testified earlier that it was reviewed
9 with the coal companies the main review was with Penn-
10 Virginia. They have contacts directly with Westmoreland.
11 In fact, they own a significant percent of the company.
12 So we did review a significant percent. We did review
13 this with the Penn-Virginia technical people and, in
14 fact, I met with Ron Stucky the day before we submitted
15 this the first and I called Ron myself to talk about it
16 and explained to him what exactly we were trying to do.

17 MR. LEPSHITZ: Please explain to the Board who Ron Stucky is
18 with Westmoreland.

19 MR. O'NEIL: I believe he is the -- he's vice president.

20 MR. PUSKAR: I believe he's in charge of the whole operations
21 in Wise County.

22 MR. LEPSHITZ: And this plan -- this global comprehensive
23 development plan was reviewed with Mr. Stucky?

24 MR. O'NEIL: Yes. I discussed it over the phone and explained
25 to him what we're doing and why we're doing it.

1 MR. LEPSHITZ Has he seen the exhibits and the maps?

2 MR. O'NEIL: He had already talked to some of the people about
3 it and had been talked to by people with Penn-Virginia.
4 To what extent he reviewed it I don't know, but he had
5 been made aware of it not only from people within but
6 also through his connection with Penn-Virginia

7 MR. LEPSHITZ: I have a follow-up for Mr. Dahlin. Mr. Dahlin,
8 you testified before this Gas and Oil Board on October
9 19th, 1993 regarding the six wells that you've previously
10 mentioned. Those wells were at that time labeled
11 exploratory wells, is that correct?

12 MR. DAHLIN: I wouldn't go so far as to say that. We have no
13 production there. As you can see, we've got a lot of
14 control. We're getting into splitting hairs as far as
15 defining whether a well is a developmental well, an
16 exploratory well. If that's your main question -- if you
17 could be more specific then I might be able to answer it.

18 MR. LEPSHITZ: Specifically at that time you responded to a
19 question by Mr. Swartz and your comments was, "Based on
20 our experience in the Nora Field, just to give you some
21 general background, we're still wrestling with the
22 appropriate unit size there. I would like to say that
23 based upon six months -- six months data is not enough.
24 We would not want to be locked into a particular time
25 period to define inappropriate unit size. Therefore,

1 we're asking for this to be based upon statewide spacing
2 until we can determine the appropriateness to come back."

3 MR. DAHLIN: That's correct. There was a question in there,
4 too, that was in response to Mark's question. As it was
5 laid out generally it was further tried to pin it down by
6 saying well, would six months be enough? And you just
7 can't put an absolute number on something like this.

8 MR. LEPSHITZ: Well, what has changed in the last six months
9 that makes you feel comfortable with the data now?

10 MR. DAHLIN: What has changed is the ongoing development
11 without the correlative protection for all the people who
12 may be involved. The other fields that are present and
13 currently being produced from up here were proposed with
14 much less data than what we're proposing in this field,
15 sizing on. We're trying to lay out a plan that is
16 workable with as much information as we have as early as
17 we can get it and that's why we're here.

18 MR. LEPSHITZ: Do your well economies stack up to what you see
19 in the Oakwood Field?

20 MS. McCLANNAHAN: Equitable isn't drilling in the Oakwood
21 Field.

22 MR. LEPSHITZ: In terms of unit size is 80 acres economically
23 going to produce the same relative benefits as 80 acres
24 in the Oakwood Field?

25 MR. DAHLIN: I personally don't have knowledge of the econo-

1 mics in the Oakwood Field.

2 MR. LEPSHITZ: A larger unit size perhaps would produce better
3 at times in terms of gas produced?

4 MR. DAHLIN: From what we've seen so far, based on the
5 information we have and I hope Mark will be able to give
6 us some testimony to further this, we feel 80 acres is
7 just the ultimate size.

8 MR. LEPSHITZ: Is that just based upon the protection of
9 correlative rights or what other factors?

10 MR. DAHLIN: Well, the only thing I've testified on so far has
11 been the geological influence. The relative comparison
12 in the coal thickness overall has been my testimony. You
13 can see some other exhibits up here on the wall that are
14 yet to be addressed.

15 MR. LEPSHITZ: Does coal thickness alone indicate productiv-
16 ity, though?

17 MR. DAHLIN: No, it does not.

18 MS. McCLANNAHAN: We intend to have Martin testify as to gas
19 content and production data from the eight wells that
20 we've drilled.

21 MR. LEPSHITZ: So the fact that you may have a coal thickness
22 that may be substantially different than the Oakwood
23 Field is not necessarily alone sufficient data to base
24 this on?

25 MS. McCLANNAHAN: We're not trying to make that argument

1 either.

2 MR. DAHLIN: No, we're not. The thickness has been the only
3 thing that I've said. The rest of our companies gathers
4 the rest of the data that we have and we've drilled the
5 wells in there so far. I really wish that we could get
6 on with the gas content and that might answer it's
7 relative contribution as compares to coal thickness.

8 MR. LEPSHITZ: Mr. Chairman, I reserve other questions.

9 MR. CHAIRMAN: That's fine. Any other questions of this
10 witness?

11 (Witness stands aside.)

12 MR. CHAIRMAN: You may call your next witness.

13 MS. MCCLANNAHAN: Martin Puskar.

14 COURT REPORTER: (Swears witness.)

15

16 MARTIN PUSKAR

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

19

20 DIRECT EXAMINATION

21

22 BY MS. MCCLANNAHAN:

23 Q. Martin, would you please state your full name and address
24 for the record?

25 A. My name is Martin Puskar. I live in Kingsport, Tennes-

1 ee. I'm a petroleum engineer.

2 Q. By whom are you employed?

3 A. Equitable Resources.

4 Q. And your position there?

5 A. Petroleum engineer.

6 Q. And what are your responsibilities and duties?

7 A. Primarily I'm involved with the drilling and completion

8 of wells within the Roaring Fork Field.

9 Q. What is your educational background?

10 A. I'm a 1980 graduate of Pennsylvania State University with

11 a BS in petroleum engineering.

12 Q. Do you hold any licenses?

13 A. No.

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

15 A. I'm a member of the Society of Petroleum Engineers.

16 Q. Have you previously been qualified as an expert witness

17 before the Gas and Oil Board?

18 A. I have.

19 MS. McCLANNAHAN: I would submit Mr. Puskar as an expert

20 witness in petroleum engineering.

21 MR. CHAIRMAN: Any objections?

22 MR. MCGLOTHLIN: For clarification, what is the significance

23 of belonging to a professional association having to do

24 with the expertise of a witness?

25 MS. McCLANNAHAN: Are you asking me that?

1 MR. McGLOTHLIN: Yes, ma'am. I'm asking anybody that would
2 like to answer it.

3 MS. McCLANNAHAN: The significance of that is that he is with
4 his colleagues from time to time during year and is
5 involved in academic matters with those colleagues with
6 regard to issues that would be of current relevance and
7 also is involved in some education with those kinds of
8 societies. That's relevant.

9 MR. McGLOTHLIN: Does his profession require that he attend or
10 gain further educational experiences through association
11 and/or institutes of higher learning.

12 MS. McCLANNAHAN: Do you mean is continuing education required
13 for a professional engineer?

14 MR. McGLOTHLIN: Yes, ma'am.

15 THE WITNESS: I'm not a professional engineer, but as far as
16 my current status is no, there isn't any continuing
17 education requirements.

18 MR. McGLOTHLIN: So belonging to an association we pay our
19 dues and go to meetings once or twice a year basically?

20 THE WITNESS: Basically yes, plus also you have subscriptions
21 to technical journals and other material that keep you
22 updated on what matters.

23 MR. McGLOTHLIN: Thank you.

24 MS. McCLANNAHAN: Certainly the fact that he belongs to a
25 society of petroleum engineers is not the only reason

1 that I would submit him as an expert witness. The more
2 important thing is his educational experience and his
3 work background as he's described it with Equitable.

4 MR. CHAIRMAN: It's accepted. You may go ahead.

5 Q. (Ms. McClannahan continues.) Martin, have you compared
6 the data from the wells that Equitable has drilled in the
7 Nora Field to the data that you've obtained from the
8 proposed Roaring Fork Field?

9 A. Yes, I have.

10 Q. How many coalbed methane wells approximately has Equit-
11 able drilled in Virginia?

12 A. Practically 200 wells all together.

13 Q. How many years of coalbed methane drilling and production
14 in Virginia has Equitable had?

15 A. Approximately six years.

16 Q. Can you explain what factors that make the proposed
17 Roaring Fork Field separate and distinct from the Nora
18 Field?

19 A. The three main factors that separate the two fields are
20 probably the gas content, the overall thickness of the
21 coal, and the geologic structure of everything involved.

22 Q. What well spacing is presently being employed for the
23 coalbed methane wells that have been drilled within this
24 proposed Roaring Fork Field?

25 A. Currently everything's been drilled on the 500 foot state

1 spacing requirements.

2 MR. EVANS: I have a real quick question. How many wells have
3 been drilled in the proposed to Roaring Fork Field?

4 THE WITNESS: In Roaring Fork there's been eight.

5 MR. EVANS: Thank you.

6 Q. (Ms. McClannahan continues.) Have any other coalbed
7 methane wells been drilled in the proposed Roaring Fork
8 Field besides the wells that have been drilled by
9 Equitable?

10 A. No, not that I'm aware of.

11 Q. Looking at Exhibit C-1 that we've previously submitted to
12 the Board have representative portions of the Roaring
13 Fork Field been tested by the eight wells that you have
14 drilled?

15 A. Yes. It's hard to say but we've probably -- or at least
16 from our standpoint we're looking in the neighborhood of
17 maybe 50 percent of the field is being tested.

18 Q. What information has Equitable obtained about the eight
19 wells that have been drilled in the Roaring Fork Field?

20 A. Primarily the gas contents more than anything are the
21 biggest thing that we've seen and the thicknesses.

22 Q. Looking at Exhibit E that is up here on the wall, could
23 you please explain the gas content information that you
24 have obtained from these wells?

25 A. Exhibit E is basically data from a lot of core data and

1 side wall cores that we have taken and some other
2 information that we've obtained from core samples and
3 everything. Here is basically the Nora Field and you can
4 see the gas contents range anywhere from 180 to over 200
5 standard cubic feet per ton. Whereas in the -- what
6 we've seen so far in the Roaring Fork side of the field,
7 we're anywhere from 38 to 90 and roughly overall the
8 Roaring Fork is probably about half of the gas content
9 compared to at least the Nora.

10 Q. Just so that we make certain that everybody understands,
11 you have the data from the eight wells that have actually
12 been drilled in the Roaring Fork Field and in addition
13 the side wall core data that you've obtained is actually
14 from --

15 A. We've gotten some information from Penn-Virginia core
16 holes and things that we were able to obtain, plus the
17 side wall cores from the eight wells that we have drilled
18 in the area.

19 MR. MCGLOTHLIN: Excuse me. What does the SCF stand for?

20 THE WITNESS: Standard cubic feet.

21 Q. (Ms. McClannahan continues.) So the gas content informa-
22 tion that you're testifying about is not only the eight
23 wells that you've drilled but in addition core holes that
24 Penn-Virginia has drilled throughout the property, is
25 that right?

1 A. Yes.

2 MR. EVANS: Does Penn-Virginia as a normal course of events
3 test strata above the red or green shells for gas
4 content?

5 THE WITNESS: I'm not sure what their typical methods are, no.

6 MR. EVANS: If you're telling us that you got some data from
7 Penn-Virginia I'd list like to know exactly kind of what
8 data that entailed and what form that was in, whether it
9 was -- we're talking about the same intervals here as far
10 as --

11 THE WITNESS: Compared to what was taken as much that was
12 taken, yes, we would try to use all the information
13 available. Basically I think it's everything below the
14 Rocky Fork. I wouldn't think it's anything above that.
15 You know, some of the core holes obviously probably
16 didn't penetrate some of the deeper seams and things like
17 that.

18 MR. EVANS: When you said you used data from another company,
19 another source, I'd just like to know that you got apples
20 and apples.

21 THE WITNESS: Yes. Whatever representative seams were there
22 we tried to get whatever information we could.

23 MR. MASON: In doing these estimates which seams are you
24 basing on as being contributing seams? I mean, are all
25 of these going to be producing or --

1 THE WITNESS: Well, probably not all of them because the gas
2 contents vary quite a bit. They can vary anywhere from
3 15 or 20 standard cubic feet per ton up to probably maybe
4 150. The higher content is obviously what we would try
5 to concentrate on as far as completions and all.

6 MR. MASON: Your projected numbers, are they based on
7 potential contributing seams or the ones that you would
8 actually be producing?

9 THE WITNESS: All these are basically on all the data that we
10 had possible --

11 MR. MASON: So those are all possible contributors --

12 THE WITNESS: Yeah.

13 MR. MASON: -- as opposed to the ones you would actually
14 probably produce?

15 THE WITNESS: We would probably try to get as much as we
16 could.

17 MR. MASON: I understand that. But I mean there's a differ-
18 ence between potential production and the ones you
19 anticipate actually to produce. Some of them probably
20 would not be conversely feasible to produce the seams,
21 would they not?

22 THE WITNESS: Probably not. This early in the development of
23 the field and everything we'll probably look at just
24 about everything in terms of the potential -- especially
25 early on until we can define things better.

1 MR. MASON: Let me ask you this. Based on these 80 acre
2 spacings do you all have an estimate of recoverable
3 reserves in dollars in each projected well in this area?
4 THE WITNESS: That's very subjective depending on gas price --
5 I mean, as far as sales and stuff.
6 MR. MASON: I understand that. What about MCFs?
7 MS. McCLANNAHAN: Mr. Mason, Mr. O'Neil may be able to
8 clarify both these questions for you. Do you mind if we
9 just let him clarify that?
10 MR. O'NEIL: If I go back to the earlier question and try to
11 define what seams would actually produce based on gas
12 content, there's a combination of factors in producing
13 gas from a coal seam. Gas content is the gas that's
14 actually held against the coal in a molecular fashion.
15 There's also the fracture field section of coal which
16 would produce also. So therefore if a coal seam, say,
17 generally has 20 standard cubic feet of gas per ton you
18 wouldn't plan on hitting that seam, but if you drilled a
19 well and you find natural fractures in that intervals of
20 course you would produce it. We have some seams in Nora
21 and the question was brought up early of how many inches
22 do you need. We've got some that -- the way we have our
23 cut off their producing was zero inches of coal as
24 defined by a certain cleanliness. What point is it a
25 coal or what point is a shell? There's a variation

1 there. If you get a natural fracture in that particular
2 spot it may be just a dirtier coal, gas content will be
3 poor, but is economic to produce under that particular
4 interval because of the natural fracture.

5 MR. MASON: I understand that. What I'm interested in is what
6 are the economics? The bottom line of what I want to
7 know is, assuming an 80 acre spacing what do you all
8 estimate to be the dollars recovered per well and how
9 does that -- how does that work as a proportionate of the
10 estimated costs of these wells in terms of whether or not
11 80 acres is a reasonable acreage to make these units? I
12 don't see how you can make that analysis unless you've
13 done some cost analysis of your estimated recovery from
14 each well on an 80 acre spacing as a function of its
15 cost.

16 MR. O'NEIL: I think Martin can answer those better. Again,
17 in relation to dollars dollars is dependant upon price
18 and upon cost?

19 MR. MASON: Oh, I understand that. What I'm concerned about
20 is if we adopt -- we're looking at adopting field rules
21 here that have an effect -- a potential effect on people
22 and by adapting a unit size are we, in fact, creating a
23 situation that's less economically advantageous for the
24 owners in this field as maybe in another field? I mean,
25 does this unit size fit the economics of this area? I

1 think we as a Board have an obligation to make that
2 determination to create a fairly equitable relationship
3 between owners in this area as opposed to owners in other
4 areas where there are other field rules. I haven't heard
5 anything that addresses that issue. I haven't heard
6 anything that would allow me to make the decision as to
7 whether or not an 80 acre spacing in this area is an
8 equitable and fair relationship between what's going to
9 be produced here as a function of cost for the owners of
10 the mineral interests.

11 THE WITNESS: From a standpoint of more or less the reserves
12 in place, as Bob mentioned, we're looking probably in the
13 neighborhood of a total of 280 inches of coal. With the
14 gas contents at roughly 100 standard cubic feet per ton,
15 going through the calculation of changing the inches to
16 feet, multiplying that by the kind of the standard number
17 of 1,800 tons per acre foot of coal and then multiplying
18 that by the gas content you come up with roughly 336
19 million standard cubic feet in an 80 acre unit. We
20 rounded off to about 350 million -- rounded up really --
21 just to try to account for some of the gas that may be in
22 those fractures and in the cleat system that -- a lot of
23 times when a desorption sample is taken you may lose some
24 of that gas and you don't know how much is there. But
25 just in round numbers there's probably in the neighbor-

1 hood of 350 million standard cubic feet. Obviously that
2 can vary from well to well based on the coal and every-
3 thing else.

4 MR. MASON: Sure. I understand that.

5 THE WITNESS: From an economic standpoint our typical corpor-
6 ate goals are a 15 to 20 percent rate of return -- and
7 those kind of parameters that if it's not going to be
8 economic we're not really going to try to invest the
9 money. That 350 million under today's costs and every-
10 thing is economic for us.

11 MR. MASON: What proportion of that would you expect to
12 recover?

13 THE WITNESS: Coalbed methanes have been fairly young. I'd be
14 hard pressed to give you a number. But if it's between
15 50 and 75 percent I'd say we'd be happy.

16 MR. MASON: What would you estimate to be the life of these
17 wells, over what period of time?

18 THE WITNESS: Our economics we base on 30 years. With the
19 desorption of gas and the mechanism involved these wells
20 may last quite a bit longer.

21 MR. CHAIRMAN: Has that been your experience, you think, with
22 coalbed methane wells in Virginia so far, the Nora Field?

23 THE WITNESS: Yeah. In the early years you see an incline in
24 production because of the de-watering and desorption of
25 the gas before they start to decline. So basically

1 that's the trend we've seen in Nora.

2 MR. EVANS: On Exhibit E are those average?

3 THE WITNESS: Yeah, they're average.

4 MR. EVANS: So you've 120 inches of coal or however many

5 inches of coal and that's an average of all --

6 THE WITNESS: Of all the samples that we had.

7 MR. EVANS: So you may take three of those in your actual

8 numbers when you start producing. Any particular one of

9 those numbers are going to be significantly higher on a

10 horizon basis.

11 MS. McCLANNAHAN: Right. In fact, we have an exhibit. Maybe,

12 Martin, if you could get -- well 3099 we have a specific

13 well that we used as an example.

14 MR. EVANS: That is an average based on the whole 120 inches

15 of everything. Some may be three. Some may be 200.

16 MS. McCLANNAHAN: Right. This helps explain how we got to

17 these reserve numbers a little bit better. In fact,

18 Martin, could you just describe that exhibit?

19 THE WITNESS: This is basically a sample of the seams that we

20 deal with in the area and of the data that we've gotten

21 on side wall cores from this particular well. We started

22 from the upper Clintwood on down to the lower Horsepin.

23 Some of the seams we didn't have samples on. As you can

24 see, the gas contents vary considerably, anywhere from 17

25 SCF per ton to 134 through the War Creek and then you

1 have several others that are in the 80 and 90 range and
2 some very smaller values as well. Those are the averag-
3 es.

4 MR. EVANS: That was my question, just what number was I
5 looking at.

6 THE WITNESS: Yeah.

7 MR. CHAIRMAN: Who prepared Exhibit E?

8 THE WITNESS: Between the data and our drafting department, I
9 guess. So that was together.

10 MR. CHAIRMAN: You supplied the data on the averages?

11 THE WITNESS: Yeah.

12 MR. CHAIRMAN: Do you plan to introduce Exhibit E?

13 MS. McCLANNAHAN: Yes. 3099 would be Exhibit F. I would move
14 to introduce both of those

15 MR. CHAIRMAN: Any objection to the introduction of Exhibit E
16 and F? They are accepted. Other questions, members of
17 the Board?

18 MR. MASON: In your opinion based on all the information you
19 have about this and what you understand about the
20 economics of these units is 80 acres the optimum spacing
21 for wells in this field?

22 THE WITNESS: At this time I think it is, yes.

23 MR. MASON: What do you mean by at this time?

24 THE WITNESS: Well, obviously after you get a few years
25 data --

1 MR. MASON: You mean based on available information?

2 THE WITNESS: Yes, based on the data that we've got now

3 mainly because of the lower gas contents and everything

4 and you've got a little bit of different structural

5 geology compared to the other fields and that's where

6 we're at right now.

7 MR. MASON: Do you think it's premature to do it at this time

8 based on the information we have?

9 THE WITNESS: No, not really. I guess time will tell.

10 MR. O'NEIL: I would like to make a statement on that. On the

11 north side we have two wells drilled in Nora without the

12 great amount of technical information that we have from

13 the Roaring Fork side when we submitted those at field

14 wide spacing we drilled 200 wells based on that space.

15 In the Oakwood Field it was done before there was any

16 wells that had been drilled. We have gone through a

17 learning curve with Nora over the last five years as to

18 even what types of information to acquire. By the fact

19 that we've drilled eight wells before hand we've acquired

20 a significant amount of information and believe it's

21 sufficient.

22 MR. MASON: What is your position with --

23 MR. O'NEIL: I'm the vice-president of exploration with

24 Equitable.

25 MR. MASON: I would like to have those comments on the record.

1 MS. McCLANNAHAN: He's been sworn.
2 MR. MASON: Oh, he has?
3 MS. McCLANNAHAN: Yes.
4 MR. MASON: I'm sorry. I apologize.
5 MR. CHAIRMAN: Any other questions, members of the Board?
6 MR. KELLY: I'd just like to expand on the determination
7 process for the 80 acres versus 60. You've said you've
8 got half the gas content of Nora, one-third less produc-
9 tion. Is that deliverability or some kind of a measured
10 over flow or
11 MR. PUSKAR: Yeah. It's basically from the vent tests that
12 we've done after completions in the early time production
13 data --
14 MR. KELLY: So you fracked these wells?
15 MR. PUSKAR: Yes. The early time data in the Nora Field,
16 comparing that to what we've seen in Roaring Fork, we're
17 probably a third of what we saw in Nora. If we were at
18 60 MCF a day in Nora in Roaring Fork we're probably down
19 into the 40 MCF a day range so far.
20 MR. KELLY: Well, it just seems like there's a disproportion-
21 ate situation there as far as picking 80 acres versus 60.
22 MR. PUSKAR: I think part of that comes back to maybe some of
23 the geology of it in that Roaring Fork seems to be a
24 broader type structure thing that we have seen so far.
25 And --

1 MR. DAHLIN: That relates to closure, if I could interject
2 that. There's more gas confined in that same structure.
3 MR. PUSKAR: Yeah. And there may be additional fracturing and
4 everything else, too, but I think the big thing is the
5 structure of it, that you may be able to drain larger
6 areas with one well.
7 MR. KELLY: To that extent why wouldn't you propose 120 acres
8 or 90 acres or 100 acres? I guess what I'm getting at
9 here and I understand that field rules in other areas
10 have been adopted with varying degrees of information,
11 not to the extent you have here. But I guess my basic
12 question is are we ready yet to do this.
13 MR. PUSKAR: One thing that we've got to kind of keep in
14 mind, what we've seen is a lot of these -- we've got the
15 average gas contents and everything. First of all, even
16 from offset wells the coal seams can change dramatically
17 as well as the gas contents. Going any bigger may
18 preclude us from actually draining the right area. You
19 hate to get too big and then you hate to get too small.
20 But I think because of those variations and how quickly a
21 lot of the data from a well to well can change and based,
22 like I said before, on the structural side of things we
23 feel that 80 acres is the best right now.
24 MR. KELLY: So essentially you think it needs to be bigger but
25 not a lot bigger?

1 MR. PUSKAR: Compared to Nora, yeah.

2 MR. KELLY: And you're satisfied that on 80 acre spacing that
3 the economics are good enough to develop a field on that
4 basis?

5 MR. PUSKAR: Right now we do.

6 MR. KELLY: Completion methods are essentially the same as
7 you've been using in Nora?

8 MR. PUSKAR: Pretty much so. Because of the structure and
9 everything we've tried to increase the size of the jobs
10 to extend further on out as well as we've used more sand
11 in the completions thus far than what we typically used
12 in Nora these days. Basically because of the 80 acres
13 and what we think we can get from the 80 acres we've
14 increased the completion sizes.

15 MR. KELLY: I'm not sure really who needs to respond to this.
16 Do you have a concern about the interference with or the
17 possible exclusion of conventional well locations in the
18 area?

19 MR. PUSKAR: What do you mean by exclusion of a conventional
20 well?

21 MR. KELLY: Based on the 2,500 foot --

22 MR. DAHLIN: Currently our entire drilling program right now
23 consists of 20 wells to the -- it's basically of Westmor-
24 eland. We haven't drilled any that haven't been twin
25 well. For purposes of evaluation I would anticipate

1 that that will be in play here for a while.

2 MR. KELLY: Twinning?

3 MR. DAHLIN: Twinning, yes, sir. Therefore -- I mean, we're

4 already on the pad that's drilled for conventional gas.

5 I believe that would -- I can see how any other -- I

6 guess maybe I need to ask a question. What's your

7 concern?

8 MR. KELLY: The 2,500 foot exclusion. I mean, a well is a

9 well is a well.

10 MR. DAHLIN: Oh, okay. Quite honestly I don't --

11 MR. O'NEIL: The fact that we're twinning conventional wells

12 we're trying to drill to the same pillar that has been

13 left. So really a well is a well is a well is not

14 exactly true. It's the pillar that was left by the wells

15 that we drilled through. And our plans are to twin

16 conventional wells.

17 MR. KELLY: As long as you can continue to that you're

18 satisfying that concern with Westmoreland anyway, I

19 suppose.

20 MR. O'NEIL: And we intend to the coal companies on exact

21 locations. It's very important to us that we work well

22 with them and that we choose locations that are workable

23 for us and they don't harm the coal company.

24 MR. KELLY: I guess my -- and it's probably a minimal concern

25 since, I suppose, Equitable is the principle -- not the

1 only operator in this area. But I was thinking along the
2 lines of any other operators which might be proposing
3 conventional wells or other wells of some type that might
4 be affected by field rules in this area. I don't know if
5 that's -- in this particular area, Roaring Fork, probably
6 there is no other operator. Well, I guess Amvest maybe.

7 MS. McCLANNAHAN: We have worked with Amvest also. In fact,
8 someone from their company is here today to make certain
9 that this was taken care of for them.

10 MR. KELLY: The only other question I have that I can think of
11 at this point is -- and it's a question that was posed to
12 me and I'll go ahead and pose it to you all. In the
13 twinning of these wells is there any engineering concern
14 or concern from the standpoint of the proximity of the
15 two well bores in your completion process as far as
16 potential damage to the casing of a conventional well by
17 fracking a twin well that close to it?

18 MR. PUSKAR: There is always that possibility from an en-
19 gineering standpoint. I think an engineer would like to
20 be as far away from another well as possible. From our
21 experiences and from the eight wells that we've drilled
22 so far we've not experienced any difficulties or seen any
23 type of damage to the conventional wells. Typically
24 because they're twins we'll run gyros on the conventional
25 wells just to make sure we know where those well paths

1 are and try to keep good control of drilling process to
2 really try to get as far away from the existing well bore
3 as possible.

4 MR. KELLY: I guess I'm concerned about pressures and the
5 fracturing process more than anything as far as it's
6 effect on surface casing or intermediate strings that --

7 MR. PUSKAR: We have not seen any damage or have run into
8 anything like that yet. What happens when a fracture
9 does run into another well bore I'm not really sure. It
10 very easily may just go right around the casing and keep
11 on extending within the coal seam or whatever. But like
12 I say, we've not seen any difficulties yet.

13 MR. KELLY: Well, they are your wells. I suppose if you had a
14 concern you would address that. But the question was
15 asked to me a couple of weeks ago and I just wanted to
16 get your opinion on it.

17 MS. McCLANNAHAN: In addition, of course, this operational
18 concern is controlled by the permitting process through
19 the Gas and Oil Inspector. And the operations plans that
20 have been submitted for all these wells have taken this
21 safety consideration into effect and all the operations
22 plans were amended to address this concern and approved
23 by the Gas and Oil Inspector.

24 MR. KELLY: Well, the basis for my question, more than
25 anything comes from the fact that some of the original

1 wells drilled in the field used, used casing on the
2 intermediate stream, seven amp, and, of course, it's
3 supposed to be cemented in and to my knowledge, at
4 least all the ones I was involved in or familiar with
5 since then, are, but --

6 MS. MCCLANNAHAN: The ones you drilled?

7 MR. KELLY: I am aware that ANR used a lot of used casing on
8 their first couple programs and the question came up in
9 a conversation I had not too long ago and I just wanted
10 to interject that here and get your comment on it.

11 MR. PUSKAR: Yeah. We definitely try to take that into
12 account as much as we can and, you know, if it's an old
13 well that we're very unsure of what the existing casing
14 stream condition is, you know, obviously we'll try to
15 avoid those and try to stick with the ones that are in
16 good shape and that we feel more comfortable with as
17 far as the integrity of them.

18 MR. KELLY: But you would expect to continue this process at
19 least for some time --

20 MR. DAHLIN: That's the current plan until we can further
21 develop the property. I believe, from the meetings
22 that I've attended and all the input that I've observed
23 that that is what we intend to do here in the near
24 future.

25 MR. KELLY: And that's to accommodate Westmoreland and I

1 assume Westmoreland is satisfied with that.

2 MR. LEPSHITZ: That remains to be seen.

3 MR. O'NEIL: I'd like to make just another comment about the

4 casing. I believe the casing you're talking about, the

5 used casing, is an intermediate stream -- production

6 stream as a four and a half casing within the center of

7 that and separate from that. We have an operations man

8 in Big Stone Gap who was actually involved with running

9 some of that casing. He was working for ANR at the

10 time and now works for us. And he has told me that

11 they pressured tested that. It may have been some used

12 casing, but there was adequate pressure testing done on

13 the casing and it's a high pressure type casing so that

14 along with the cement along the bore hole, it should be

15 adequate, but we do look into those specific instances.

16 MR. KELLY: All right. Yeah, I know a lot of it probably in

17 '80 -- or maybe even --

18 MS. MCCLANNAHAN: Just as a legal matter --

19 MR. KELLY -- but, uh, should be --

20 MS. MCCLANNAHAN: -- these safety concerns and engineering

21 designs are, of course, controlled by the Gas and Oil

22 Inspector on a well-by-well basis. In addition, we

23 can't drill any of these wells without a consent to

24 stimulation from Westmoreland Coal Company. And,

25 third, Westmoreland Coal Company always has the right

1 to object to any particular location of well.

2 MR. CHAIRMAN: Okay. We'll break for lunch and come back at
3 1:00 o'clock.

4 (AFTER A LUNCH BREAK, THE HEARINGS CONTINUED AS
5 FOLLOWS.)

6 MR. CHAIRMAN: Okay. Back on record. Mr. Puskar has just
7 finished his testimony, I suppose. Did you have
8 anything further that he was going to testify on?

9 MS. MCCLANNAHAN: We do, yes.

10 MR. CHAIRMAN: Okay. You want to proceed with that.

11 MR. MASON: Mr. Chairman?

12 MR. CHAIRMAN: Mr. Mason.

13 MR. MASON: I'm not trying to interrupt, but I was just
14 curious; did Mr. Kelly finish his questioning?

15 MR. KELLY: Yes, I've finished for the moment. Thank you.

16 Q. (Ms. McClanahan continues.) Martin, you indicated that
17 you anticipated 350 million cubic feet of gas in each
18 80 acre unit and that's the basis for which you
19 determined that an 80 acre unit was the appropriate
20 size?

21 A. Yes.

22 Q. In arriving at this 80 acre unit size, how did you
23 calculate the projected reserves in place? Could you
24 please explain that just using the flip chart over
25 there.

1 A. Okay. Basically, the bottom line is based on the
2 inches of coal and the gas content. Roughly we had the
3 280 inches of coal and divided by 12 inches of the
4 pood, times the constant of 1,800 tons of coal per acre
5 foot, which is a general term used, times the 80 acres
6 and then multiplied by the 100 standard cubic feet per
7 ton gas content of the field based on the average day
8 that we've seen. And that gives you, roughly, 336
9 million standard cubic feet of gas in place per the 280
10 inches of coal, roughly, that we're going to see in the
11 Roaring Fork field. And that's, you know, basically on
12 the average of the 100 standard cubic feet per ton
13 value that we've come up -- if the -- obviously, if the
14 gas contents in other wells are considerably higher, it
15 would effect this number considerably. We've rounded
16 it up to 350, as I mentioned earlier, just from the
17 standpoint of the gas that may be already in the
18 fractures in the cleat system that gas desorption tests
19 are very difficult to realize mainly because when the
20 cores where taken, there's the time that it takes to
21 get the cores in the sample canisters and everything,
22 there may be a considerable amount of gas lost from the
23 sample itself. Then, during the drilling operations
24 and everything, you may be, you know, several hours or
25 a day or so that the formations are exposed to basical-

1 ly atmospheric pressure that you may have some loss gas
2 from those inherent fractures and cleat system that you
3 would never pick up on the absorption data that we
4 would run. So in some cases the actual gas contents
5 may be considerably higher in some instances. It's
6 very hard to determine how much of that gas is already
7 leaked out of the samples before we get a hold of them,
8 the canisters. That would be the gross in the 80 acres
9 or whatever and even GRI studies indicate that this
10 same similar problem in how do you estimate the
11 possibility of the amount of gas in those fractures and
12 cleats and it's very difficult.

13 MR. EVANS: Mr. Chairman?

14 MR. CHAIRMAN: Mr. Evans.

15 MR. EVANS: Real quick question. That presupposes you
16 produced in all 280 inches which you're probably not
17 going to do, correct?

18 MR. PUSKAR: Probably not. But on the other hand, you
19 hopefully will be producing from those coal seams that
20 have considerably higher gas contents also.

21 MR. EVANS: If 3099 is an example, I would suspect that your
22 three potential candidates there are War Creek, Raven
23 and Kennedy?

24 MR. PUSKAR: Uh-huh. Well, it -- admittedly, we're still
25 early in the development and my guess is we'll probably

1 hit just about all these if we can. And as time goes
2 on, determine whether those are viable seams or not.

3 MR. EVANS: Well, I guess my question is, I see 100 standard
4 cubic feet of ton, I look over there for the eight
5 wells and it look like 80 or 85 would have been a
6 little better number on that. I see 280 inches and you
7 ask -- I know that this will vary some, but I know that
8 you track and perforate for every one of these seams as
9 a matter of standard procedure. You know, so I guess
10 what I'm asking is, I see a 336 number up there that's
11 -- okay, let's say that's ballpark -- what is the low
12 that you would expect? I mean, there has to be a range
13 there somewhere as far as that goes. Have you done any
14 kind of a sensitivity --

15 MR. O'NEILL: May I just make a comment to the way the
16 questions are going? In looking at a single well bore,
17 it's difficult to make approximations for an entire
18 field.

19 MR. EVANS: I agree.

20 MR. O'NEILL: Part of what we're trying to do is compare
21 Nora to Roaring Fork. You know, we've got a lot of
22 wells productive in Nora. And we're kind of -- just a
23 quick ballpark scenario, there's more inches of coal
24 present in Roaring Fork, there's less gas content.
25 Those two kind of make a wash and there's greater

1 structural enhancement at the Roaring Fork site. So,
2 those are kind of -- in looking at approximations,
3 there's a whole number of variables here at any given
4 well bore. And of course the well bore, that 3099, is
5 an eight-inch hole and you're looking at trying to com-
6 pare them across an 80 acre unit. The flexibility --

7 MR. EVANS: Well, I understand --

8 MR. O'NEIL: The flexibilitas are significant and, in fact,
9 in any given 80 acre unit you drill another well, it's
10 going to have different combination of variables or
11 those same variable; coal thickness, the gas contents,
12 fracture content, the permeability. What we're trying
13 to do is make a good approximation as to what this
14 ought to be. And the combination with the correlative
15 rights issue and the mandate from the Board because of
16 the provisional units, that's why we're here.

17 MR. EVANS: Well, what I'm trying to get a handle on is
18 this --

19 MS. MCCLANNAHAN: Is what the range of the approximation is?

20 MR. EVANS: Yeah. What are our parameters here? I mean, if
21 you give me a single number and you don't give me any
22 kind of a range to think about on that, that this could
23 possibly be, you know, 100 percent low or 100 percent
24 high or whatever else and you're asking for 80 acre
25 units and you're asking us to say, "Okay, 80 acres is

1 appropriate." I would like to have a little more than
2 just 280 inches. You know, the rule of thumb type or a
3 quick calculation to say, well, why shouldn't it be a
4 120 acres or 60 acres and we've got eight wells that
5 cover a nice section there, but you're talking about
6 175,000 acres plus. You've got an area that's on the
7 other side of a couple of anticlines. You know, I
8 guess what I'm trying to do is for myself say, "Yeah,
9 this makes sense, or, no, this doesn't make sense and
10 try and get you to educate me as to why these eight
11 wells are representative of 175,000 acres that you're
12 asking us to put a value on as far as a unit size or a
13 field rule that says 80 acres is appropriate. And
14 that's all I'm getting at is to just try and come to
15 myself and say, "Well, yeah, I can see where this at
16 least ties and has something for me to hang my hat on.
17 As far as my own personal looking at this, if you're
18 asking me for 80 acres, you know, I want to have some
19 reason -- I want you to make me believe that 80 acres
20 is appropriate as opposed to 120, 160, 60, or any
21 other number. You know, why 80?

22 MS. MCCLANNAHAN: Well, with regard to this number, I think
23 this obviously is an approximation -- correct me if I'm
24 wrong Tom -- an approximation based on averages for all
25 the wells that have thus far been drilled. Is that

1 correct?

2 MR. O'NEIL: Correct.

3 MS. MCCLANNAHAN: Okay. So, I think what Mr. Evans is
4 requesting is can you give him a range as opposed to an
5 average approximation? Would you have an idea of what
6 the range would be low to high? Is that what you want?

7 MR. EVANS: Yeah. You know, an average tells me a number,
8 but it doesn't tell -- if you give me an in the median,
9 that's something different. I can make a little more
10 sense out of that. But as far as an average goes, you
11 know, if I average 102, I get 51 which is nowhere close
12 to either of the extremes. If you see where I'm coming
13 from --

14 MR. O'NEIL: I do see where you're coming from. And it's
15 difficult to put absolutes on that because -- for
16 instance, just looking at a typical fracture field like
17 Roaring Fork field for instance, or a Nora field, the
18 ranges are incredible. I mean, you may have a conven-
19 tional well with all the conventional horizons and the
20 range may be 25 million cubic feet recoverable. You
21 may have some with a couple of B's per well and there's
22 a wide variety of variables that make up that. Some of
23 the factors in coal bed methane productions are very,
24 very difficult to ascertain. We can drill a well and
25 we can get the thickness of the coal, sure. But,

1 again, that depends partly on how you define coal.
2 What is the absolute density? What's the cleanliness
3 of coal? As I mentioned earlier, if we have production
4 in Nora field from what we all zero inches of coal.
5 Why? Because it was shalier than what our coal cut-off
6 is, therefore, we called it zero inches of coal and
7 there was a natural fracture there that we were able to
8 produce out of it. It's still associated with the coal
9 (Inaudible.) It's difficult to determine the gas in
10 place. We can measure it from a canister here forward
11 and extrapolate backwards. So there's a lot of things
12 that make it difficult to put a range. Again, the
13 geologic variability; you couldn't drill a single well
14 on an 80 acre unit that would be exactly the same. So,
15 it's approximations. We're kind of looking for a good
16 approximation and we're saying the gas contents could
17 be significantly higher than what we're measuring. GRI
18 has said that maybe, based on the methodology that is
19 accomplished, a lot of your gas is lost before you get
20 that gas -- that coal canistered.

21 MR. EVANS: Well, I'm sure. And if you're taking only a
22 coal measure sample, in a lot of cases, you may have a
23 whole lot more gas than that in the fractured sand
24 above it or the shell below it, whatever else happens
25 to be there. Like you say, if you've got a real

1 carbonaceous shell, that's not coal, but it sure can
2 produce for you.

3 MR. O'NEIL: Well, I think -- and, yet, I'm trying to get to
4 the point -- I've given you some sense of our answers
5 coming from. But the eight wells -- if you drew a
6 circle around the eight wells and there's some signi-
7 ficant gaps in between but it covers about half the
8 area. I mean, there's a lot of area untested. Again,
9 we're looking at eight bore holes about this big
10 around. (Indicates.)

11 MR. EVANS: Oh, I'm well aware of what --

12 MR. O'NEIL: I mean, there's a lot of area --

13 MR. EVANS: -- a sampling error can be.

14 MR. O'NEIL: But the question is, what is a reasonable about
15 of bore holes to determine the absolute factors. And,
16 as I said before, it might take multi bore holes in an
17 80 acre unit and you're not going to come up with
18 absolutes; it's going to be an average. So I would
19 say, just off the cuff, as far as a range, I mean, it
20 could go all the way down to zero --

21 MR. EVANS: I understand. That's --

22 MR. O'NEIL: But, we're probably talking about anywhere from
23 250 to 450 and beyond. That's the kind of range we're
24 looking at, but to come up with that -- again, we're
25 trying to come with -- put all the factors together

1 with significantly more data than the other field
2 spacings have had and then come up with a best approx-
3 imation considering the fact, the important fact of
4 correlative rights, considering the provisional units,
5 this is what we come up with.

6 MR. EVANS: Well, see, we as a Board get smarter, too,
7 because our learning curb is the same as yours. What
8 was done, I guess, at sometime in the past, we also
9 learn and we become more educated. You people educate
10 us every time you're here. So, we may ask a little
11 more each time you come because we know that we should
12 and we know that you have the answers and that's all
13 I'm trying to come up with is, hey, make me believe
14 that this is good. It's based on something that's
15 defensible and, you know, that it should be applied to
16 175,000 acres as opposed to a line that you have that
17 goes through. I mean, even if you want to say, "Okay,
18 the (Inaudible) of influence is the main distance
19 between the holes and go ahead and put it out that way
20 as a standard deviation unit or however you want to do
21 it. You've still got a lot of area that you're going
22 to say, "Okay, this is applies to that area also." And
23 that's -- I don't want to end up down the road having a
24 situation were we've chosen an inappropriate size on
25 these units for your benefit, for the public's benefit,

1 for everyone's benefit. It be-whose's to try and
2 really get it right or as close to right as we can so
3 that we're not, like you said earlier, not too small,
4 not too large.

5 MS. MCCLANNAHAN: I think the balancing side of that
6 argument also is that at what point is an appropriate
7 point to say that we have enough information to make
8 this decision across a field because, in the meantime,
9 we're drilling wells on state wide spacing with
10 provisional units that are being implemented by the
11 Board, which puts us in a position of notifying only
12 those people in the provisional unit. Everyone only in
13 the provisional unit has the ability to elect. Up till
14 this point, Equitable in consideration of these
15 correlative rights problems and retroactivity problems
16 has tried to choose well locations so that we would not
17 have a problem with retroactive units at some later
18 time, nor, have a problem with a situation where you
19 drill on a provisional unit and then later the Board
20 say, "No, it should have been 80 -- you should of had
21 an 80 acre unit here and then people outside the circle
22 of a provisional unit, were not notified and were not
23 given a chance to elect. Do they then have a right to
24 elect at the later time, which means they essentially
25 have ridden the well down. They have all the informa-

1 tion to decide whether to participate or not and we've
2 taken all the risks. So, there's a real balancing here
3 between protecting the correlative rights of all the
4 royalty owners as well as giving the operators some
5 incentive to drill wells, which is also your charge, I
6 think as a Board, because there's no incentive to drill
7 wells not knowing who is going to participate and how
8 many people are going to participate at some point in
9 the future. So, you know, both of those issues I think
10 have to be considered and that's why, certainly, after
11 the Board said, "We'll do provisional units and that's
12 all and you guys need to come back to us when you drill
13 more wells." We tried to pick wells that were across
14 the field. We tried to come back to you as soon as we
15 had some information across the field, present that to
16 you so that some reasonable decision could be made as
17 soon as possible to protect all those royalty owners
18 and protect all the working interest owners in the
19 project.

20 MR. EVANS: I can fully understand. I don't disagree with
21 you. I'm just trying to get to the proper balance that
22 you just spoke of.

23 MS. MCCLANNAHAN: Right.

24 MR. DAHLIN: The best survey we've got so far, if you want
25 to talk about statistics, is the comparison between

1 what we see here and what we've already developed in
2 several hundred wells in Nora. And this is what we've
3 done. We've come up with the best fit in weighing the
4 factors that we think contributes to the production of
5 coal bed methane and that's the adjustment that we made
6 and that's why we came up to 80 acres.

7 MR. EVANS: Okay.

8 MS. MCCLANNAHAN: I suppose I don't need to -- go ahead.

9 Were you going to ask --

10 MR. EVANS: I was going to ask, you know, as far as statis-
11 tical --

12 MR. DAHLIN: Well, for instance, you mentioned we're not
13 going to hit the full 280 inches or we don't hit the
14 full 120 -- that's just a straight --

15 MR. EVANS: And that was --

16 MR. DAHLIN: It's just a straight, you know, compare this
17 side to compare this side. We've looked at thickness.
18 We've looked at gas content. We've looked at what we
19 think is going to be the area that drains into because
20 of other structural features. We think they're going
21 to be large features. So, we put those factors in
22 there and let the influence come out as it does and we
23 think it's going to be bigger than 60 and 80's --

24 MR. EVANS: Do you use step regression --

25 MR. DAHLIN: Excuse me?

1 MR. EVANS: Do you use step regression techniques to find
2 the most --

3 MR. DAHLIN: Well, actually, I don't know. I'm just saying
4 we've got this group of sampling over here. I mean,
5 all the information that we do have is in Nora compared
6 to Roaring Fork; other than we do have thicknesses of
7 coals and gas contents. And we know what the general
8 geologic setting is in comparison. That's all we've
9 got. We know what we've got in six years experience
10 and we're pretty happy over there. So we make the
11 comparison and extrapolate over to Roaring Fork and
12 that's where we're at.

13 MR. EVANS: Okay. Well, when you said "statistical anal-
14 ysis." I thought --

15 MR. DAHLIN: Well, I just mean -- that's our pool of
16 information, I guess is what my real statement is.
17 That's the only thing we've got to hang our hats on.

18 MR. EVANS: And the results of these eight wells?

19 MR. DAHLIN: Right. Just a comparison between them.

20 MS. MCCLANNAHAN: The results of approximately in the Nora
21 and eight in the Roaring Fork in addition to the side
22 wall core data from those eight as well as the core
23 hole data from all the Penn-Virginia wells.

24 Q. (Ms. McClanahan continues.) I don't really need to ask
25 this question, I'm sure, but the last question for Mr.

1 Puskar is taking into account Equitable's experience in
2 the Nora field and experience to date in the proposed
3 Roaring Ford field regarding gas content, coal thick-
4 nesses, and menthe testing data, would you recommend 80
5 acre units as the appropriate size in Roaring Fork?
6 A. Yes, I do.
7 MS. MCCLANNAHAN: Those are all the questions I have.
8 MR. CHAIRMAN: Questions, members of the Board?
9 MR. EVANS: I'll ask you one, Martin. Is 80 acres the only
10 size that you would recommend? What's the maximum
11 size you would recommend?
12 MR. PUSKAR: The maximum size, I mean, could be anything,
13 you know, but it basically comes down to, you know,
14 this is what we have now if you want to make it 81
15 acres, fine, but 80 is probably the best we've got at
16 the moment, I think, based on --
17 MR. EVANS: In your opinion, that's the best estimate that
18 you can make based on the available data?
19 MR. PUSKAR: Yes.
20 MR. EVANS: Okay.
21 MR. CHAIRMAN: Other questions, members of the Board? Mr.
22 Swartz?
23 MR. SWARTZ: Yeah, I've got a couple.
24
25

CROSS-EXAMINATION

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

BY MR. SWARTZ:

Q. Is your name Martin or Mark?

A. Martin.

Q. Martin. I think you've indicated over and over again that your assumption with regard to reserves in place is calculated as you've just described it at 336 and you've rounded it up to 350, is that correct?

A. Right.

Q. What is your view of an economic -- I mean, the one that makes economic sense for EREX in terms of recoverable reserves? What are the recoverable reserves need to be for the unit to be economic?

A. Well, obviously, that's going to vary with economics in general as far as the future goes and your projections as far as current gas prices and the cost of operating the wells. Just to more or less break even, probably in the neighborhood of 250 million or 300 million reserves.

Q. On recoverable reserves?

A. Yeah.

Q. You've got 200 wells in the Nora field, I mean, what sense do you have of the -- what would be a number for recoverable reserves in the Nora field that would make a well economically -- are we talking 250 to 300 over

1 there, too, or is --

2 A. Probably, yes. Your gas prices are basically the same
3 so are your -- and your operating costs although in
4 Roaring Fork, you know, it's relatively new area yet
5 for us and a lot of times the operating costs aren't
6 real apparent yet especially for early data.

7 MR. O'NEIL: Might add another comment to that, too.

8 There's a cost factor as related to the topographic
9 relief. The availability of strip jobs or whatever
10 that we can, you know, the location and building costs.
11 Those kind of factors change the economics of what's
12 required, you know, to make a profit. And there is
13 significant topographic difference; deeper well, the
14 more it costs; the more remote, the more it costs. You
15 know, access to pipeline and those kind of things are
16 all factors.

17 Q. (Mr. Swartz continues.) But, Martin, your best
18 estimate today, in terms of the amount of recoverable
19 reserves required in the Roaring Fork field to make a
20 well economic, to repay the cost of drilling and to
21 repay a 15 percent rate of return, pay ongoing operat-
22 ing costs, is somewhere between 250 and 300 million
23 cubic feet of gas?

24 A. Yes.

25 Q. If I understood your testimony correctly, earlier I

1 think you indicated that out of the reserves in place,
2 and let's just go with 350 million, okay, per 80 acre
3 unit?

4 A. Uh-huh.

5 Q. Your estimate was that the recoverability of the
6 reserves in place in the Roaring Fork field would be
7 between 50 and 75 percent, correct?

8 A. Yes, and that could vary considerably. I mean, there
9 is no -- I mean, that's not a definite answer I guess.
10 I mean, there's a lot of variability in that.

11 Q. If we assume 350 million cubic feet as a reserves in
12 place and a recovery rate of 50 percent, we're down to
13 175 million, aren't we?

14 A. Probably.

15 Q. And then these units would not be economic if that
16 happened, right?

17 A. Possibly, yes.

18 MR. O'NEIL: I would like to add another statement. May I?

19 MR. MASON: Mr. Chairman, if he wants to testify, he ought
20 to come here and testify. He's sitting back there. He
21 pipes in every time. He interrupts it. I disapprove
22 of that very, very much.

23 MR. CHAIRMAN: All right. Mr. O'Neil --

24 MR. MASON: I think it's rude.

25 MR. CHAIRMAN: -- we'll ask you to abide by that. Eliza-

1 beth, if you will, if you want to call Mr. O'Neil later
2 to interject, we'll allow you to do that.

3 MS. MCCLANNAHAN: All right.

4 MR. CHAIRMAN: Thank you.

5 Q. (Mr. Swartz continues.) Now, if we took three-quar-
6 ters, which was the high end of recoverability, I mean
7 75 percent, and we took and we call the 350 -- 360 and
8 divided by 4, we'd have 90. And if we subtracted 90
9 from 360, we'd be right at 250 which is kind of the
10 bottom end of your recoverable reserves required to
11 make a unit economic.

12 A. Uh-huh.

13 Q. Would you agree with that kind of analysis of re-
14 coverable reserves and your range of economics, that
15 these 80 acre units would appear to be perhaps a little
16 small?

17 A. From your line of questioning and your analysis of it,
18 it does appear that way. The other thing I think we
19 need to consider is, you know, granted, as I mentioned
20 before, this is on the 100 standard cubic feet per ton.
21 You know, a lot are the GRI studies and a lot of the
22 other studies that have been done on gas contents and
23 everything and as I mentioned earlier, there may be
24 considerably -- the gas contents may be considerably
25 higher in that same realm. I mean, it's an unmeasur-

1 able amount of gas. It may or may not be lost in the
2 gathering of the information. So, there's a wide range
3 of possibilities.

4 Q. Wouldn't you agree, though, that your 336 million
5 dollar number takes the best case scenario of every
6 component to get to the number? You know, the number
7 is never going to be bigger than that given the data
8 that we have today -- that's on the table that we can
9 review?

10 A. Well, I think the number can be considerably bigger
11 than that.

12 Q. But not based on anything you've shown us today. I
13 mean, wouldn't you agree -- let me ask you -- I
14 understood that somebody's testimony, with regard to
15 the gas content that's on the map that's on the left at
16 the bottom --

17 A. Uh-huh.

18 Q. -- that that was an average gas content per inch in the
19 well bore?

20 A. No, it was per ton.

21 Q. Per ton, but it takes all the inches, the coal inches
22 into consideration?

23 A. Takes all that was sampled. I mean, there may be, you
24 know, seams that, either in the core holes or that the
25 wells were drilled, that particular seams were not

1 sampled. So you don't have any data on maybe those
2 particular seams.

3 Q. Okay. But at least what was sampled, that's an average
4 of all the samples -- the seams that were sampled?

5 A. Right.

6 Q. And none of those averages are 100 standard cubic feet
7 per ton; they're all less?

8 A. Yes.

9 Q. And one of them is as low as 38?

10 A. Right.

11 Q. And wouldn't you agree that it would be highly unlikely
12 that you would be producing from the total of 280
13 inches in any well?

14 A. Probably. And it comes back to the other question
15 earlier in that, you know, granted, those are averages
16 and the wells that have the 38 standard cubic feet per
17 ton, like you say, are probably not economic. And
18 we're not going to risk our money on drilling those
19 types of wells. But, on the other hand, the numbers
20 that go into those averages and for particular seams
21 vary considerably even in 3099 where you've got, you
22 know, the lowest I think is 14 all the way up to 134.
23 So, typically, and what we were going to do is, you
24 know, you're going to try to pick your best seams and
25 produce those and hopefully the thicknesses and

1 everything else will change. And the thicknesses will
2 vary considerably throughout the field probably even
3 from off-set to off-set, you know, as far as the degree
4 or the quality of the coal and the gas inherent to it.

5 Q. How do you propose to frack these wells in the Roaring
6 Fork -- I mean, do you have kind of a standard operat-
7 ing procedure that you expect to be followed?

8 A. Pretty much so. What we'll do, based on our experi-
9 ences at Nora, we'll try to adapt the Nora kind of
10 schedule of things to Roaring Fork. Granted, if, you
11 know -- because of the structure of the way Roaring
12 Fork appears to be and the larger units, we'll design
13 our completions to match the larger units. What we've
14 done so far in the field, we have put more sand in our
15 completions and have increased the volumes of the jobs
16 so far. And, you know, it's an ongoing evaluation
17 type thing to where you try to make most economical
18 completions possible.

19 Q. What are your frack links typically in the fracks that
20 you've been doing in the Nora field? Your half links?

21 A. You can make them whatever you want.

22 Q. Well, I mean, I assume you have a standard frack?

23 A. Yeah. And depending on the models and everything, the
24 computer models that you use, you're probably looking
25 600 feet.

- 1 Q. Would you expect that your frack is going to have to
2 change if you're looking at 80 units -- your standard
3 frack, if you're looking at 80 acre units in the
4 Roaring Fork?
- 5 A. I think it'll change to some degree, whether you change
6 it, you know, it'll probably be only a matter of, you
7 know, if you just look at as an arithmetic type thing,
8 probably 15 percent would -- in volume and in size of
9 the job would equate to the 80 acres.
- 10 Q. Okay. Well, what kind of a frack link would you need
11 in your judgement, to drain -- half-link -- would you
12 need to realistically have a shot at draining an 80
13 acre unit?
- 14 A. Probably seven, seven hundred feet or so, roughly.
- 15 Q. So you'd have on the ellipse on the order of 1,400 feet
16 in the long dimension in a unit that's roughly 1,800 in
17 change by 1,800 in change?
- 18 A. Right.
- 19 Q. So you would change your frack program if you had 80
20 acre units is what you're telling us?
- 21 A. Sure.
- 22 Q. Do you know if the wells that have been fracked -- have
23 any of the wells been completed and fracked; the six
24 wells that were pooled in October?
- 25 A. Yeah. Four of them have been drilled and we've fracked

1 the lower seams in all four of them. And they're
2 currently doing vent tests on them.

3 Q. Is there any production at all from any of the wells
4 that were pooled in October at the present time?

5 A. Those would be the six wells?

6 Q. Right.

7 A. Nothing -- just the vent tests that we've got ongoing
8 at the current time.

9 Q. So you don't have any production data from any of the
10 six wells that were pooled in October?

11 A. Very little. Just from the vent testing is all we
12 have.

13 Q. And there are eight holes, I think, that we've been
14 talking about today. What are the other two? Are
15 those --

16 A. Well, there's -- the six -- there were the six provi-
17 sional units. We've drilled four of them, and then
18 there's four additional wells on state wide spacing
19 that were drilled.

20 Q. When was that?

21 A. They have been drilled in the past year.

22 Q. Do you have any production from those wells?

23 A. On one well, we've got that it is producing. The rest
24 of them are currently shut down.

25 Q. And what is that producing?

1 A. I think the last I've seen on it was probably in the
2 neighborhood of 70 to 80 MCF a day.
3 Q. And how long has that been dewatering?
4 A. Oh, maybe a month.
5 Q. Where is that well? Which one is that?
6 A. It's one of the further east wells.
7 Q. Closer to the Nora?
8 A. Yeah. But, I mean, it's still a pretty good ways away
9 from Nora -- anything producing in Nora.
10 Q. One of the things in the application that's been filed
11 for appellant rules is to make the six provisional
12 units that were made or pooled as provisional units in
13 October permanent 80 acre units. Were you aware of
14 that?
15 A. Uh-huh.
16 Q. Would you agree that you don't have enough production
17 from any of those units at this point to make a stand
18 along presentation that they ought to be 80's or 60's
19 or 120's?
20 A. No. I wouldn't -- I mean, other than -- I guess, no,
21 because it's -- the early time data that, you know,
22 we've got, other than the comparison that we've got of
23 this data versus what we've seen in Nora, I mean, and
24 that's -- you know.
25 Q. Did anybody in your company, that you're aware of, sit

1 down with a spreadsheet and say, "This is a typical
2 unit. This is what we expect a typical unit in this
3 proposed field to look like from a reserves in place
4 standpoint and a recoverable reserves standpoint." And
5 then also sit down and spreadsheet, "This is what the
6 typical costs to drill and complete a well will be in
7 Roaring Fork. This is what we anticipate our monthly
8 expenditures to be, our disposal costs, and so forth."
9 And then run the production of an assumed typical unit,
10 versus the cost to drill and complete the unit, versus
11 the cost to operate the unit, and then discount the
12 income stream at some number, assuming the well even
13 cash flowed, to come up with kind of a, you know, an
14 economic scenario that says, you know, if these things
15 happen, this well will pay out and return at some
16 percentage. Did anybody do that?

17 A. Yeah, we do it. Sure.

18 Q. Do you have that kind of an analysis, you know, that
19 you could share with us to say, "This is what we think
20 a typical unit's going to look like, or this is the
21 range of, you know, from good to bad to indifferent
22 that we're expecting to see and these are our an-
23 ticipated costs and these are the numbers associated
24 with it." Can you share that kind of information with
25 us and the Board so we could --

1 MS. MCCLANNAHAN: I believe we've already shared all that
2 information. We've presented all the costs of drilling
3 the wells at the forced pooling hearings. We've
4 presented all the reserves in place testimony at those
5 hearings. We've now presented it again here and we've
6 indicated what our in-house rate of return requirements
7 are and have explained that we've met those.

8 MR. SWARTZ: I guess I'm used -- I have Oil and Gas clients
9 who like have spreadsheets and numbers and, I mean,
10 like they crunch.

11 Q. (Mr. Swartz continues.) Did someone, that you're aware
12 of, sit down and do a model unit analysis and a cost
13 analysis and a rate of return analysis with actual
14 numbers and assumptions with regard of production and
15 volumes and pricing and costs?

16 MS. MCCLANNAHAN: He's already testified that that's exactly
17 what they did and these are the numbers.

18 MR. SWARTZ: Well, we don't have them.

19 MS. MCCLANNAHAN: Yes, we do.

20 MR. SWARTZ: Okay. What's the revenue --

21 MS. MCCLANNAHAN: And I would accept to the fact that any of
22 this particular kind of testimony has ever been given
23 before because the Oakwood field was approved without
24 one model from actual production data, vent testing
25 data or anything else. I mean, I object to this line

1 of questioning because we've already presented this
2 testimony.

3 MR. CHAIRMAN: Sustained.

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

5 MR. CHAIRMAN: Thank you. Mr. Lepshitz.

6 MR. LEPSHITZ: One or two questions, Mr. Chairman.

7
8 CROSS-EXAMINATION
9

10 BY MR. LEPSHITZ:

11 Q. Mr. Puskar, you indicated that you received certain
12 core hole data from Penn-Virginia. How many holes was
13 that?

14 A. I'm not sure exactly how many holes were involved. The
15 geologists were quite a bit involved with that and I'm
16 not sure exactly how many holes and how much data they
17 looked at.

18 Q. Do you know whether or not those holes penetrated each
19 seam that you would anticipate production from?

20 A. I'm not sure if they did or not. And I would probably
21 say they hadn't specially from the deeper seams -- may
22 or may not have encountered all the seams.

23 Q. Deeper seams would include the War Creek?

24 A. Yes.

25 Q. The War Creek is certainly one of the deepest coal

1 seams on the property. How would the depth of cover
2 and pressures effect your ability to produce from this
3 particular seam?

4 A. It may be substantial and that's something we're kind
5 of learning as we go. The further west you go,
6 obviously, you're getting covered by more overburden
7 and it may very well be a significant factor in how the
8 wells are treated and completed.

9 Q. In the exhibits you tendered with regard to, well,
10 3099, you had a number of 134.

11 A. Uh-huh.

12 Q. Over what time period does that number originate?

13 A. That's probably over a -- probably about a 28 to 30 day
14 time frame as from when the core was recovered and
15 canistered and the analysis done over that time period.

16 Q. Would you anticipate that declining?

17 A. In that particular sample?

18 Q. Yes, sir.

19 A. No. Actually, it'll probably get higher.

20 Q. You would anticipate increased production on that
21 depth?

22 A. I don't quite understand.

23 Q. Well, the depth of the War Creek is fairly significant.
24 We've established that it's one of the deeper seams.

25 A. Right.

1 Q. And we've also agreed that that is subject to certain
2 pressures and as a result, assuming you would agree
3 that the cleats in the coal are more tightly bound and
4 that it is certainly less permeable than some of the
5 upper coal seams?

6 A. I can't account for permeability, but it's hard to say
7 what differences, I guess, the overburden and how it
8 may effect the gas content.

9 Q. With regard to time permeable production, let me ask
10 again, would you anticipate production from the deeper
11 seams to increase or decrease?

12 A. Probably increase.

13 Q. Probably increase?

14 A. Yeah.

15 Q. Out of curiosity, do you know the size of the core
16 samples that Penn-Virginia provided to you?

17 A. No, I don't.

18 Q. How would extensive mining in some of the seams, such
19 as the Dorchester or the Blair or the Clintwood, impact
20 your calculations?

21 A. Depending on probably the vicinity of the active mining
22 or whatever, it may help to some degree in that, you
23 know, if you almost get to a gobbed type situation
24 where partial dewatering may have already occurred and
25 the reservoir pressure is -- it may be depleted or

1 whatever to where you're desorbing gas that much sooner
2 and it may, you know, in some instances, it may be a
3 help. Other instances, it may be possibly a hindrance
4 from the standpoint of long-term exposure to an open
5 mine face; some of the gas may deplete out through the
6 mine ventilation system. You know, so you have the
7 possibility for probably both scenarios.

8 Q. Are you aware of any of these mine bullets that may be
9 filled with water?

10 A. When we do our plats and things and our conversations
11 with the coal companies, we are aware that some of them
12 are probably filled with water.

13 Q. How do you intend to address concerns both from a mine
14 safety perspective and from a production perspective
15 with regard to the water in these things?

16 A. From the ones that are already mined?

17 Q. Yes, sir.

18 A. Well, if it's already been mined, then we're bound to
19 set casing through those mine, mine dot areas, and seal
20 them as best we can and the next stream then is also
21 cemented back to surface.

22 Q. You don't anticipate problems with potential mining in
23 lower seams?

24 A. With what regard?

25 Q. Water or other issues, safety issues associated with

1 that?

2 A. Not at this time, I guess.

3 Q. Has that been calculated and considered in your reviews
4 with the coal companies?

5 A. I would say that so far from what we've done, most of
6 these seams are not currently being mined that I'm
7 aware of. What the future holds is unknown to me.
8 Predominantly, I think the deepest coal seam being
9 mined is probably the Dorchester.

10 Q. Dorchester has been extensively mined?

11 A. Yeah. And we've not completed, yet, I don't think any
12 of those, but the lower seams I don't anticipate any
13 problem with them at this time.

14 MR. LEPSHITZ: That's all I have, Mr. Chairman.

15 MR. CHAIRMAN: Questions, members of the Board?

16 MR. MCGLOTHLIN: Mr. Chairman?

17 MR. CHAIRMAN: Mr. McGlothlin.

18

19 CROSS-EXAMINATION

20

21 BY MR. MCGLOTHLIN:

22 Q. Your name again?

23 A. Martin Puskar.

24 Q. Mr. Puskar, we've heard reference to eight wells.
25 Could you identify those eight, please?

1 A. Let's see. I've got them written down here somewhere.
2 (Pause.) Okay. The six provisional units were the
3 DCP's, 3,097, 3,098, 3,099, 3,100, 3,101 and 3,102.
4 Q. How many have been drilled and which ones have been
5 drilled?
6 A. Four have been drilled. 3,097, 3,098, 3,099 and 3,101.
7 Q. Okay. On your exhibit, gas content data from side wall
8 core, you've given us one well. What's the content of
9 the gas in 97 for the War Creek?
10 A. For 3,097?
11 Q. Yes, sir.
12 A. Some of our data -- well, our data indicates that
13 right now it's at 81.
14 Q. The Kennedy for the same well?
15 A. 37?
16 Q. Raven. Same well.
17 A. The Raven wasn't sampled in 3,097.
18 Q. Beckley?
19 A. It was sampled either.
20 Q. Okay. How about 98? What are the same -- the War
21 Creek on the 98?
22 A. On the 98, the War Creek was 113.
23 Q. Raven?
24 A. Raven wasn't sampled in 98.
25 Q. Kennedy?

1 A. 67.
2 Q. Let's jump over to 3,101. War Creek?
3 A. War Creek was 35.
4 Q. Kennedy?
5 A. 73.
6 Q. Raven?
7 A. Wasn't sampled in 3,101.
8 Q. Beckley?
9 A. 39.
10 Q. All right. Out of curiosity, can we go back to the 97,
11 98 and 3,101 on the Blair. Could you give me those
12 figures? 97?
13 A. 97 was 60.
14 Q. 98?
15 A. Wasn't sampled.
16 Q. And 3,101?
17 A. It wasn't sampled either.
18 Q. Okay. With the evidence that you presented with your
19 fee here, you've given us -- seems to be that you gave
20 us the best well?
21 A. It's one of the -- it probably is the best well.
22 Q. Your other wells that you've drilled do not support the
23 data that you have up here.
24 MS. MCCLANNAHAN: He testified these are averages.
25 MR. MCGLOTHLIN: Averages but --

1 MS. MCCLANNAHAN: Right.

2 MR. MCGLOTHLIN: -- yet you gave us the best well for the
3 information. You didn't give us an average of the
4 information. You gave us the best one.

5 Q. (Mr. McGlothlin continues.) Now, what's the average
6 information?

7 A. I've not really done an average for the four wells
8 that --

9 Q. Then how can we determine what the --

10 MS. MCCLANNAHAN: It's an average of all the wells that were
11 drilled not just --

12 MR. MCGLOTHLIN: But you've given us the best well and
13 you've given us the figures for the best well. 3,099
14 seems to be the best on the sampling. Give me the
15 worst well. Which one was the worst well?

16 MS. MCCLANNAHAN: They're all right here on Exhibit E.

17 MR. MCGLOTHLIN: I can't see that over there. And the
18 information that you gave us here isn't worth a dilly
19 squat because you can't read the damn shit. Pardon me.
20 And I'm tired of you all coming here and giving us
21 information that we can't read.

22 MR. PUSKAR: Excuse me, Mr. McGlothlin, but these are just
23 for ready reference. The larger scales are --

24 MR. MCGLOTHLIN: Sir, you're suppose to -- anything that
25 goes on that wall is suppose to be given to us. Ten

1 copies of each to this Board. And I haven't seen them.
2 MS. MCCLANNAHAN: Exhibit E was filed with the application.
3 MR. MCGLOTHLIN: No further questions, Mr. Chairman.
4 MR. CHAIRMAN: Any other questions, members of the Board?
5 MR. MASON: I'd just like to ask one question.
6 MR. CHAIRMAN: Mr. Mason.
7 MR. MASON: When you talk about an average, are you talking
8 about an average of these eight wells?
9 MS. MCCLANNAHAN: Yes, sir.
10 MR. MASON: As opposed to an average of --
11 MS. MCCLANNAHAN: The four wells. Exactly.
12 MR. CHAIRMAN: Anything further? Do you have any other
13 witnesses?
14 MS. MCCLANNAHAN: No, I don't. But Exhibit E, which was
15 filed with the application which you should all have a
16 copy of, has all these average gas content for all
17 eight wells.
18 MR. CHAIRMAN: We have that.
19 MS. MCCLANNAHAN: Okay.
20 MR. CHAIRMAN: Mr. Swartz, do you have anything further?
21 MR. SWARTZ: No.
22 MR. CHAIRMAN: Mr. Lepshitz, do you have anything further?
23 MR. LEPSHITZ: No, sir.
24 MR. MCKINNIS: Mr. Chairman, I'm John McKinnis. I'm
25 appearing here today on behalf of Penn-Virginia. And

1 I'd just like to state that the application is for some
2 176,000 acres. Out of that, I suspect that Penn-
3 Virginia owns at least half or better of that acreage.
4 So not only is it a significant mineral owner in this
5 area, but the largest and perhaps has over 51 percent
6 of the acreage in this area. We want to go on the
7 record as in support of the application. We think it's
8 a prudent development scheme and we think that it's
9 going to be better to have in place a scheme of this
10 nature before there's development of a lot of wells
11 rather than trying to impose one later after a lot of
12 wells have been drilled on some kind of random state
13 wide spacing. So we want to support it and we think
14 it's a good plan.

15 MR. CHAIRMAN: Thank you. Anything further from anyone
16 here?

17 MR. EVANS: Mr. Chairman?

18 MR. CHAIRMAN: Mr. Evans.

19 MR. EVANS: One quick question. When you say you support
20 the plan, do you support the idea behind field rules or
21 do you support 80 acre units or do you support the --

22 MR. MCKINNIS: We're in support of forming the Roaring Fork
23 coal bed methane gas bill of 176,000 acres. We're in
24 support of the 80 acre proposed space entitlement and
25 the set back from the unit lines and so forth.

1 MR. EVANS: So, you know, when you said you were in support,

2 I just wanted you to say what you were in support of.

3 MR. MCKINNIS: Yes. Okay. Thank you.

4 MR. MASON: Mr. Chairman?

5 MR. CHAIRMAN: Mr. Mason.

6 MR. MASON: Yes. I wanted to ask you a couple of questions

7 about this -- we're going back to this notice issue.

8 It really troubles me a great deal. In 2.10 -- you can

9 address this, Elizabeth, to whomever you wish -- it

10 states the applicant has exercised due diligence to

11 locate each of the parties who own or may potentially

12 own an interest in the coal bed methane underlying the

13 lands comprising of Roaring Fork. Based on what was

14 said here earlier, has that in fact been done?

15 MS. MCCLANNAHAN: Yes, sir. I do think that's been done.

16 Certainly, due diligence is a legal interpretation and

17 one which the Board would have to make. But the

18 testimony earlier, and I'm sorry, that witness has

19 left, but I think I can accurately state what his

20 testimony was and that was that we use the Division of

21 Mine Land & Reclamation records. We used title

22 opinions that have been done in this particular area.

23 And we also used the publication notice for --

24 MR. MASON: Okay. I understand that, but this just relates

25 to due diligence to locate each of the parties who own

1 or who may potentially own an interest?

2 MS. MCCLANNAHAN: Well, I certainly think that we were using
3 due diligence by trying to use every available public
4 record as well as every available private record which
5 we have invested money to obtain to list all those
6 owners as well as to locate all owners by publication.

7 MR. MASON: Okay. Are the people, to the best of your
8 knowledge, are the people on Exhibit B every owner or
9 potential owner in this 176,000 acres?

10 MS. MCCLANNAHAN: What is that the answer to that, Ran?

11 MR. STERLING: We're not representing that --

12 MR. MASON: Pardon?

13 MR. STERLING: We're not representing that they are every
14 owner. We're representing that we did the best we
15 could with the available resources.

16 MR. MASON: What does that mean?

17 MR. STERLING: Exactly --

18 MS. MCCLANNAHAN: Without doing title examination work for
19 176,000 acres.

20 MR. STERLING: I think you're well aware of the work that
21 goes into each particular unit. Imagine expanding that
22 to 176,000 acres. It's virtually impossible. So what
23 we're saying is that by the notice that we provided in
24 the newspapers, which went well beyond anything that
25 was required, in four or five different publications,

1 and the DLNR records and our various -- title that was
2 available to us, I think we can very accurately state
3 that we have contacted all of the major owners in the
4 area who would have the sophistication to even come in
5 here and make comments as we have heard today on
6 various questioning. And the Board has, therefore,
7 been fully apprised of the types of questions that
8 would have accrued to any small oil and gas and/or coal
9 bed methane claimant and that's the purpose of this
10 particular type of hearing is to be able to put those
11 issues before the Board so they can examine it. It
12 would be virtually impossible to notify everyone and
13 would cost such a prodigious amount of money that
14 effectively, as Mr. Swartz had previously indicated, it
15 would be impossible. And there would be no such thing
16 as correlative rights. The very thing that you're --
17 that we believe the field rules are intended to protect
18 would be, in fact, violated by the ability of not being
19 able to provide the notice to those very people. So it
20 is a quandary, but you do the very best you can and you
21 notify everyone who has the sophistication and the
22 majority interest that would be effected by these field
23 rules so that they could come forward today.

24 MR. CHAIRMAN: Would you state your name for the record,
25 please?

1 MR. STERLING: My name is Ran Sterling. I'm a senior
2 attorney with Equitable Resources Exploration.

3 MR. MASON: Are you suggesting to me that people who are
4 unsophisticated or are small owners are not entitled to
5 notice?

6 MR. STERLING: Certainly are not and they were given that
7 notice, to the best of our ability, through publication
8 of five newspapers and general circulation throughout
9 the area. Furthermore, I think that those people would
10 look to the Board to address their interest. But they
11 certainly would have had adequate notice to come
12 forward if they so choose. In comparing this
13 notification with others prior to this, we have gone
14 way beyond what anyone has prior to this time ever give
15 notice before. I've never seen notice to this extent
16 in any of the prior publications -- or, excuse me, any
17 of the prior applications. So, we have done the very
18 best that we could and have gone, you know, beyond any
19 previous applications and we've done the best that we
20 could.

21 MR. MASON: Are you familiar with Section 45.1-361.19?

22 MR. STERLING: Yes, we are.

23 MR. MASON: And it says that, "notice by certified mail to
24 each mineral owner?"

25 MR. STERLING: We're aware of that, yes.

1 MR. MASON: In your opinion, as an attorney, have you
2 complied with that?
3 MR. STERLING: We have complied with due diligence and tried
4 to notify everyone --
5 MR. MASON: I asked you a direct question. Would you answer
6 it? Did you comply with it?
7 MR. STERLING: The best of our ability we did, yes.
8 MR. MASON: So you sent certified mail notice to each
9 mineral owner?
10 MR. STERLING: To the people that were listed on Exhibit B,
11 I think is what we've stated.
12 MR. MASON: You know, I don't like you dodging my questions.
13 MR. STERLING: I'm answering to the best of my ability. You
14 know --
15 MR. MASON: Did you seek --
16 MR. STERLING: -- the issues and you may address those each
17 as you choose. We had notified over --
18 MR. MASON: I asked you a question. Did you send certified
19 mail to each mineral owner? Yes or no?
20 MR. STERLING: We provided publication notice to everyone in
21 southwestern Virginia.
22 MR. MASON: You've got a no vote right here and it's yours.
23 And if you think you're smarter than we are, that you
24 can come in here and dictate this kind of stuff to us,
25 you're wrong as far as I'm concerned.

1 MR. STERLING: We're not here to dictate anything, Mr.
2 Mason.
3 MR. MASON: You are.
4 MR. STERLING: We've answered your --
5 MR. MASON: I asked you a direct question and you refused to
6 answer it.
7 MR. STERLING: I told you the notice --
8 MR. MASON: That is an insult to me. It's an insult to this
9 Board and insult to this Code --
10 MR. STERLING: Not so intended.
11 MR. MASON: -- and I don't like it.
12 MR. STERLING: I apologize if you took it that way.
13 MR. MASON: Answer the question.
14 MR. STERLING: The question is regarding notice, correct?
15 MR. MASON: Thank you, Mr. Chairman.
16 MR. CHAIRMAN: Thank you, Mr. Mason. Anything further?
17 (Pause.) Do you have anything further, Elizabeth?
18 MS. MCCLANNAHAN: No.
19 MR. MASON: I move we deny the petition.
20 MR. CHAIRMAN: Motion to deny.
21 MR. MASON: I think it is ill-prepared, ill-presented.
22 There's not sufficient information. I think it's full
23 of discrepancies, and I think the demeanor of the
24 people who presented the evidence do not warrant the
25 decision.

1 MR. EVANS: Mr. Mason?
2 MR. MASON: Sir.
3 MR. EVANS: Is your motion just to flat deny based on the
4 total package or procedural matters of notice?
5 MR. MASON: Yes. I mean, I honestly think, aside from the
6 fact that I'm unhappy this which I should rise above
7 and, in fact, I apologize to you.
8 MR. STERLING: Accepted.
9 MR. MASON: I believe that the only way to do this correctly
10 is on the Board's own motion. I do not think that this
11 notice provision can be complied with without doing it
12 in that way.
13 MR. CHAIRMAN: I agree with that.
14 MR. EVANS: In which case, I will second your motion to deny
15 the petition --
16 MR. MASON: But, I'll amend my motion.
17 MR. EVANS: -- based on the notice with the caveat that the
18 Board schedule this issue for the next meeting on our
19 own motion.
20 MR. MASON: I'll go along with that.
21 MR. CHAIRMAN: You amend that?
22 MR. MASON: Yes, sir.
23 MR. EVANS: In that case, I'll second with that amendment.
24 MR. CHAIRMAN: Is it a denial or is it continued and the
25 Board will bring it forward on its own motion?

1 MR. MASON: What's the pleasure? Either one's acceptable
2 by me.
3 MR. CHAIRMAN: I would say that you're better off with the
4 testimony without having to repeat it and it'll give
5 the Board the option of bringing it forward and
6 requiring additional testimony when it comes back
7 rather than have to repeat it. If we deny it, you've
8 got to start from scratch.
9 MR. MASON: No, I think that's appropriate.
10 MR. MCKINNIS: Mr. Chairman, just a clarification of that.
11 Is the Board able to bring something on its own motion
12 and not notify, subject to the particular statutes
13 that's been indicated, as opposed to the operator is
14 able to do that --
15 MR. MASON: That's correct.
16 MR. MCKINNIS: -- is required to do that?
17 MR. CHAIRMAN: Yes. That's right. Subject to the
18 notification requirements of the Board that are imposed
19 in statute for the Board.
20 MR. MCKINNIS: All right.
21 MR. MASON: Which are only by publication.
22 MR. STERLING: Well, if the Board is going to do that by
23 publication, then haven't we satisfied the same
24 requirement that the Board would be required to do?
25 MR. MASON: But the law doesn't give you the authority to do

1 that.

2 MR. CHAIRMAN: That's the problem and the Board will make
3 every effort to make sure the notice is as clear as we
4 can possibly be about what we're bringing forward, that
5 we've continued this and that we're going to continue
6 to hear testimony at our next meeting. I have a motion
7 and a second. We need to clarify for Kevin what's
8 going on.

9 MR. MCGLOTHLIN: I heard it. Thank you.

10 MR. CHAIRMAN: Okay. Any further discussion? (ALL AFFIRM.)
11 Unanimous approval. We'll continue this at the next
12 hearing.

13 MR. CHAIRMAN: Anything further, members of the Board?

14 MR. STERLING: Mr. Chairman, we have not filed, but we have
15 outstanding a drilling program that we wish to go
16 forward with. One of the requests that we made for
17 relief was that we would have the ability during
18 pendency of this application to go forward with those
19 applications if we so chose. We need some direction of
20 whether or not we're going to be able to have a program
21 at all or not. What type of units that we are going to
22 be able to file with the inspectors office.
23 Effectively, you have left us in limbo. We have no way
24 to go forward with any type of program. So we need
25 some direction from the Board as to what type of

1 application will be acceptable during this interim
2 period and, at the pleasure of the Board, as to how
3 long that period may go. It's uncertain certainly to
4 us, but we have to advise our management if we have in,
5 fact, any basis to go forward at all.

6 MS. MCCLANNAHAN: The concern, I think, is that if on our
7 motion we requested field rules and all the permitting
8 is staid during the pendency of the application. So,
9 certainly, our preference perhaps would be to withdraw
10 the application so that permitting could just be
11 continued on a state wide basis during this interim
12 period.

13 MR. CHAIRMAN: Do you have any applications pending before
14 the inspector at this point in time?

15 MR. STERLING: No. We never held them up pending this
16 hearing.

17 MR. MASON: Mr. Chairman?

18 MR. CHAIRMAN: Mr. Mason.

19 MR. MASON: Would there be any basis for allowing them, on
20 an interim basis, to go forward with that issue?

21 MR. CHAIRMAN: That's what I was trying to see.

22 MR. EVANS: Elizabeth, we understand why -- well, at
23 leastwise I think I understand the state provisions in
24 there, really, if it's just continued on your
25 application, that shuts you out. If we deny, that

1 allows you to go forward.

2 MS. MCCLANNAHAN: Well, or we can withdraw the application
3 also.

4 MR. FULMER: Not do you not only -- because you're still
5 under provisional rules.

6 MR. STERLING: That's the problem you've left us with.
7 You've given us provisional units, you gave us a
8 mandate to come back and we did and now you've
9 continued us again. We would request that if this is
10 the pleasure of the Board, that we'll simply withdraw
11 our application and request that the provisional units
12 be made permanent state wide spacing. We're certainly
13 not going to come back and bear a burden to protect
14 correlative rights or to be concerned where the Board
15 is apparently not willing to act. So, if that's the
16 pleasure of the Board, then we would like to make the
17 provisional units permanent state wide units and we'll
18 go forward on the state wide spacing basis and you all
19 can deal with your concerns about retroactivity,
20 etcetera, at your pleasure whenever. But we have no
21 further data and will have no further data. I'm sorry
22 you consider it to be ill-prepared, but we thought that
23 the Board wanted us to come forward at the earliest
24 opportunity so that we could protect these particular
25 types of interest. If we haven't met our burden, then,

1 you know, that's our lack of doing so, but, you know,
2 we would like to get on with our program. So, I think
3 we have no other basis than to withdraw our applica-
4 tion, go forward with state wide spacing where we'll
5 able, come before the Board with multiplicity of
6 whatever forced poolings are required under state wide
7 spacing. And three, five, ten years from now when you
8 all decide what kind of units you'd like, then we can
9 go back and we can have retroactivity applied and we
10 can keep all the dollars in escrow until that time or
11 we can just act under the other. So --

12 MR. CHAIRMAN: Mr. Sterling, let me just cut you off and
13 tell you I'm taking this just exactly the way Mr. Mason
14 and Mr. McGlothlin took it. So, I think you are being
15 smart with the Board.

16 MR. STERLING: You have left us with no opportunity. I'm
17 just asking for direction for --

18 MR. CHAIRMAN: Well, I'll give you direction. You can apply
19 to the inspector for whatever you want to apply for.

20 MR. STERLING: Okay. And one other question. If you're
21 going to put this on another document, what role would
22 you anticipate that Equitable Resources should play on
23 such a hearing? And what would you like us to further
24 prepare or present to you?

25 MR. CHAIRMAN: It's up to the Board.

1 MR. STERLING: I mean, if we're ill-prepared or this is not
2 sufficient, we'd appreciate some direction on what
3 you'd like us to have with us.

4 MR. EVANS: Well, we realize that we've put you and asked
5 you to come forward. Okay? We also realize that by
6 the language within the statute that you realistically
7 could not and nobody could afford to spend the money to
8 give notice to every mineral owner in 175,000 acres to
9 do what the regulation actually says that you have to
10 do by certified mail. You don't have those resources.
11 You don't have the time. As due diligence with coal
12 bed methane and everything else is proved, we are still
13 amending applications, pooling orders, as due diligence
14 is an ongoing process, it's not a static situation. We
15 have the responsibility to do what it says within this
16 language. The only way that we can get around that
17 notice provision is to take it on our own motion, which
18 relieves you of that responsibility. Now, this is a
19 thirty-day -- it'll be on the docket for our next --
20 the next hearing date; that's a thirty-day delay. As I
21 understand it, this particular issue was continued a
22 couple of times if I'm not mistaken. Is that correct?

23 MS. MCCLANNAHAN: Once.

24 MR. STERLING: Once.

25 MR. EVANS: Okay. Well, I guess what I'm asking is, is

1 thirty days that critical to your program?

2 MR. STERLING: Well, it's uncertain if it will be thirty
3 days at this point.

4 MR. CHAIRMAN: Well, see, your mannerism of saying the
5 Board could take another five to ten years is totally
6 inappropriate. Totally, absolutely, inappropriate,
7 uncalled for.

8 MR. STERLING: Well, I apologize for any inappropriate
9 comment, Mr. Chairman. I'm just trying to get an
10 understanding from the Board as what point in time --
11 you know, we have been accused of being ill-prepared
12 and not well-presented. You know, there was a lot of
13 effort that was put into this by a lot of people. And,
14 you know, they would like some direction on what types
15 of additional information and what time frame that
16 we're looking at.

17 MR. EVANS: I don't think -- I think if we take this on our
18 own motion, that will be -- anybody can walk in here
19 and submit what information they have, if any. You've
20 certainly given us ample -- "everything that you have,"
21 you've given us. And we can't ask you for more than
22 what you've got. What --

23 MR. STERLING: Okay. So you're not looking for us to
24 provide any additional information in thirty days?

25 MR. EVANS: Unless you have some additional information. As

1 I tried to explain before, I think what we're trying to
2 do here is meet our responsibilities -- letter of what
3 this thing -- because we're constrained too. Letter of
4 what this thing says, protect your rights and your
5 opportunity to develop your resource to protect
6 correlative rights and yet to get it as right as we
7 possibly can as far as sizing. And all the other
8 issues that have been brought up, realizing that
9 there's tremendous variation, but we don't -- what
10 we're trying to do is make the best decision we
11 possibly can. We don't want to make it prematurely.
12 We don't want to make it after the fact, too far down
13 the road. There's a real fine line as to how far you
14 go before you haven't acted quick enough, or if you act
15 to quickly, what constraints or what problems does that
16 cause you down the road. All we're trying to do is do
17 the best we possibly can right now. And if thirty days
18 is that critical -- because that's what we're talking
19 about. If thirty days is that critical, I think we're
20 down to the real fine line on timing. I would ask that
21 you bear with us and allow us to cure a problem as we
22 see it, with the regulation, with the language of the
23 regulation. If you have another suggestion as to how
24 -- what curative measures or how we can actually comply
25 with what the mandates of the regulations and laws are

1 on the notice provisions, if you have an out for us,
2 I'll surely listen to your out and see if we can accept
3 it. But as I see it, we're giving everybody an out by
4 saying we'll take it on our own motion because that
5 relieves you of that responsibility that you couldn't
6 meet anyway by your own admission.

7 MR. STERLING: I have nothing on that.

8 MR. EVANS: So, all I'm asking for is if -- thirty days is
9 not that big of a deal. It should not be that critical
10 and if it is, please tell me why.

11 MR. CHAIRMAN: So that the Board knows what the controlling
12 provision is under 45.1-361.20, E and F; under E it
13 says, "The Board may continue a hearing to its next
14 meeting to allow for further investigation and the
15 gathering and taking of additional data and evidence.
16 If at the time of the hearing there is not sufficient
17 evidence for the Board determine field boundaries,
18 drilling units size or shape, or allowable production,
19 the Board may enter a temporary order establishing
20 provisional drilling units, field boundaries and
21 allowable production for the orderly development of the
22 pool pending receipt of the information necessary to
23 determine the ultimate pool boundaries, spacing of the
24 wells for the pool, and allowable production. Upon
25 additional findings of fact, the boundaries of a pool

1 drilling unit for the pool and allowable production may
2 be modified by the Board." In other words, following
3 the next Board meeting, if we can't arrive at a
4 decision, we could establish those provisional units,
5 production, etcetera.

6 MS. MCCLANNAHAN: One -- and then add F

7 MR. CHAIRMAN: Then in F says --

8 MS. MCCLANNAHAN: Right.

9 MR. CHAIRMAN: -- "That unless otherwise provided for by the
10 Board after an application for a hearing to establish
11 or modify drilling units or pool boundaries has been
12 filed, no additional well shall be permitted in the
13 pool until the Board's order establishing or modifying
14 pool or units has been entered." And, of course, it
15 leads off with, "unless otherwise provided for by the
16 Board." So the Board clearly, in both sections of the
17 statute, has discretion.

18 MS. MCCLANNAHAN: That was going to be my question was if
19 the Board has discretion to allow the permitting of
20 wells during this thirty-day period and Equitable needs
21 that. Would the Board be willing to do that today to
22 lift the staid on the permitting of wells within the
23 field for this thirty-day period?

24 MR. EVANS: Let me ask a question. How many wells are we
25 talking about?

1 MS. MCCLANNAHAN: I'm not sure on it. Ask my client that.
2 MR. EVANS: Well, you know, as far as you want a blanket to
3 carte blanche no -- if you have some reasonable -- if
4 we're --
5 MR. STERLING: It would be a small number, Ken. It wouldn't
6 be a big number of wells we would have.
7 MR. EVANS: No more than five?
8 MS. MCCLANNAHAN: Like no more than X, is that what
9 you're --
10 MR. EVANS: If 30 days is really critical to your program.
11 MR. FULMER: Well, in 30 days they can't even get it in.
12 MR. CHAIRMAN: That's why I asked if you had an application
13 into the Inspector to begin with.
14 MR. FULMER: I mean, there's a possibility you could. I
15 mean --
16 MR. DAHLIN: We're sitting on them.
17 MR. EVANS: That's what I was going to say, you may have
18 them ready to go.
19 MS. MCCLANNAHAN: Right.
20 MR. FULMER: It takes 15 days notice.
21 MR. EVANS: Is that okay, Bob?
22 MR. DAHLIN: Fine.
23 MR. EVANS: In that case, Mr. Chairman, we need a motion
24 to that effect?
25 MR. CHAIRMAN: Yes.

1 MR. EVANS: Then I will move that we allow provisional
2 drilling of no more than five wells.
3 MS. McCLANNAHAN: Permitting.
4 MR. EVANS: -- permitting of five wells. I'm sorry.
5 MR. MASON: Ken, I think you ought to phrase in terms of
6 the stays as provided in 361.20 be lifted as to five
7 wells pending the next hearing.
8 MR. EVANS: Okay. That's good language. If that's accept-
9 able to you we'll make that the motion.
10 MR. CHAIRMAN: We have a motion.
11 MR. LEPSHITZ: Mr. Chairman, as a point of clarification, is
12 that leave to file applications or is that a blanket
13 approval of the permit?
14 MR. EVANS: File.
15 MR. CHAIRMAN: The Board doesn't approve. That's simply to
16 file the application.
17 MR. MASON: That's the point of what I meant. All I stated
18 is that the motion lifts the stay imposed by this
19 section pending the continued hearing.
20 MR. EVANS: In that case I'll second your motion.
21 MR. CHAIRMAN: A motion and a second. Further
22 discussion? If not, all in favor signify by saying
23 yes. (ALL AFFIRM.) Opposed say no. (NONE.) The
24 motion carries. Anything further?
25 MR. KELLY: I might also just comment, your comment earlier

1 that you thought you had provided all of the available
2 data and all of the testimony that you had presented
3 today was all you had to present. I might just pose to
4 you that you might consider some of the questions and
5 concerns and misunderstandings and other things that
6 went on here today and see if there is some further
7 clarification or additional information or other data
8 that you might present that you might present that
9 might cover some of those areas and have that ready for
10 the next hearing. That might cover some of the
11 concerns that you've heard expressed here today.

12 MR. CHAIRMAN: I was certainly intending to close along
13 those lines. Obviously the Board has a burden to
14 every effected party, and we consider the operator the
15 effected party as well, to make certain that we base
16 our decisions on sound information, the best informa-
17 tion that we can gather at any given time. We realize
18 that at times on both sides of that coin there can be
19 irritation of time frames and how much pursuit is given
20 to a particular issue and everything else. But the
21 bottom line is this record that we create is an
22 important record and it has to stand the tests of the
23 public, of the courts, and any effected party and we
24 have an absolute burden to make sure that that's as
25 good as we can get it. I would hope that you would

1 take that burden back yourself between now and next
2 meeting and try to come forward with any kind of
3 clarification and additional data, that you have to
4 substantiate that as well as -- Penn-Virginia and the
5 other parties that maybe could get together. You know,
6 if 80 acre field rules are the right thing to do then
7 let's work in concert to establish that fact for the
8 record. With that, thank you.

9
10 (End of Proceedings for
11 March 15, 1994.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE

2
3 COMMONWEALTH OF VIRGINIA

4 COUNTY OF WASHINGTON

5
6 I, Deborah J. Bise, Notary Public in and for the Common-
7 wealth of Virginia, at Large, do hereby certify that the
8 foregoing is a true transcript of the proceedings had in the
9 Virginia Gas and Oil hearing on March 15, 1994; that all of
10 said proceeding was electronically recorded and was reduced to
11 writing by me and that said transcript is true and correct to
12 the best of my ability.

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

16
17 GIVEN under my hand this 1st day of April, 1994.

18
19 Deborah J. Bise
20 DEBORAH J. BISE
21 NOTARY PUBLIC

22 My commission expires September 30, 1996.
23
24
25