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VIRGINIA OIL AND GAS BOARD

HEARING OF JUNE 21, 1994

9:00 A.M.

AT THE 4-H CENTER, HILLMAN HWY.  
ABINGDON, VIRGINIA

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Appalachian Court Reporting Services, Inc.

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INDEX

ITEM

PAGE

I	2
II	16
III	17
IV	69
V	72
X	87
XI	103
XII	115
XIII	125

1  
2  
3  
4  
5  
6  
7  
8  
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10  
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June 21, 1994

This matter came on to be heard on this the 21st day of June, 1994 before the Virginia Gas and Oil Board in the Conference Center at the 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. I'm Bill Wampler and I'm Deputy Director for the Department of Mines, Minerals and Energy and chairman of the Gas and Oil Board. I'll ask the Board members to introduce themselves beginning with Mr. Mason.

(MEMBERS INTRODUCED.)

ITEM I

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3 MR. CHAIRMAN: The first item on today's agenda is a petition  
4 from Equitable Resources Exploration for pooling of a  
5 drilling unit for V-2768, docket number VGOB-94/05/17-  
6 0445. We'd ask the parties that wish to address the  
7 Board in this matter to come forward at this time and  
8 introduce yourselves.

9 MR. KAISER: Mr. Chairman, members of the Board. I'm Jim  
10 Kaiser of the law firm of Hunter, Smith and Davis  
11 representing Equitable Resources Exploration. Our  
12 witnesses in this matter will be Mr. Dennis Baker and Mr.  
13 Bob Dahlin. I'd ask that we swear the witnesses at this  
14 time.

15 COURT REPORTER: (Swears witnesses.)

16 MR. CHAIRMAN: Are there any others here that wish to address  
17 the Board in this case? The record will show there are  
18 none. You may proceed.

19 MR. KAISER: Mr. Chairman, as a way of introduction to this  
20 matter this was originally set on the May docket and Mr.  
21 Roy Addington filed formal objections of which the Board  
22 and Equitable Resources received notice. We have since  
23 been able to negotiate an oil and gas lease with Mr.  
24 Addington and it is my understanding that he sent a  
25 letter to the Board withdrawing his objection to this.

1 As such we will go forward with the force pooling to  
2 force pool Mr. Calhoun's interest which is the only  
3 unleased interest.  
4

5 DENNIS BAKER

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

9 DIRECT EXAMINATION

10  
11 BY MR. KAISER:

12 Q. Mr. Baker, would you state your name and who you're  
13 employed by and in what capacity?

14 A. Dennis Baker. I'm employed by Equitable Resources  
15 Exploration as leasing supervisor.

16 Q. Do your responsibilities include the lands involved here  
17 and in the surrounding area?

18 A. Yes, they do.

19 Q. Are you familiar with Equitable's application for the  
20 establishment of a drilling unit and pooling order for  
21 EREX well V-2768 dated April 15th, 1994?

22 A. Yes.

23 Q. Has Equitable applied for a permit and is a permit now  
24 pending before the DMME?

25 A. Yes. The permit application is dated 4/21/94.

1 Q. Is Equitable seeking to force pool the drilling rights  
2 underlying the drilling and spacing unit as depicted at  
3 Exhibit A of the application?

4 A. Yes.

5 Q. Does Equitable own drilling rights in the units involved  
6 here?

7 A. Yes.

8 Q. Does the proposed unit depicted at Exhibit A include all  
9 acreage within 2,640 feet, that is a 1,320 foot radius,  
10 of proposed well V-2768?

11 A. Yes, sir. It does.

12 Q. What is the interest of Equitable in the unit?

13 A. At the time of application Equitable had 74.15 percent of  
14 the interest leased. As of the time of hearing we have  
15 91.49 percent leased.

16 Q. Are you familiar with the ownership of drilling rights of  
17 parties other than Equitable underlying this unit?

18 A. Yes, I am.

19 Q. Are all unleased parties set out in your amended Exhibit  
20 B?

21 A. Yes, sir.

22 Q. Prior to filing this application were efforts made to  
23 contact each of the respondents and an attempt made to  
24 work out an agreement regarding the development of the  
25 unit involved?

1 A. Yes, they were.

2 Q. Subsequent to the filing of the application have you  
3 continued to attempt to reach an agreement with the  
4 respondents listed at Exhibit B?

5 A. Yes.

6 Q. I think as you've already stated or as we've already  
7 stated, as a result of these efforts have you acquired  
8 other leases from any of these respondents listed at  
9 Exhibit B as unleased owners?

10 A. Yes, we have. I have a revised exhibit.

11 MR. CHAIRMAN: Mr. Fulmer, do you have the letter on file from  
12 Mr. Addington withdrawing his objection? We don't have  
13 that.

14 MR. FULMER: No, I don't.

15 MR. BAKER: The letter that you had sent Mr. Addington he had  
16 written on the bottom of it that he was withdrawing his  
17 objection and it was mailed to your office.

18 MR. FULMER: I don't have it with me, Mr. Chairman.

19 MR. CHAIRMAN: You can go ahead and have testimony as to the  
20 fact that he's now leased and the percentage has changed.  
21 Just cover it that way if you'd like.

22 Q. (Mr. Kaiser continues.) Mr. Baker, have you since the  
23 time of this application been able to obtain an oil and  
24 gas lease from Mr. Roy Addington?

25 A. Yes, we have.

1 Q. Has that changed the percentage of the unit that is now  
2 under lease to Equitable Resources?  
3 A. The percentage that Equitable has leased at present is  
4 91.49 percent.  
5 Q. And the percentage unleased at this time?  
6 A. 8.51 percent.  
7 MR. KAISER: In addition, Mr. Chairman, if we could, as  
8 Exhibit C to this matter I'd like to go ahead and  
9 introduce Mr. Addington's handwritten note to Mr. Fulmer  
10 on a copy of this letter that states that he wishes to  
11 withdraw his objection to the proposed gas well. I only  
12 have one copy at this time.  
13 MR. CHAIRMAN: Just start with Mr. Mason and pass it down.  
14 That will be fine. You may proceed.  
15 Q. (Mr. Kaiser continues.) Mr. Baker, were any efforts made  
16 to determine if the individual respondents were living or  
17 deceased or their whereabouts and if deceased were  
18 efforts made to determine the names and addresses and  
19 whereabouts of the successors to any deceased individual  
20 respondents?  
21 A. Yes, there were.  
22 Q. Were reasonable and diligent efforts made and sources  
23 checked to identify and locate these unknown heirs to  
24 include sources such as deed records, probate records,  
25 accessors records, treasurers records?

1 A. Yes.

2 Q. In your professional opinion was due diligence exercised  
3 to locate each of the respondents named herein?

4 A. Yes.

5 Q. Are the addresses set out in Exhibit B to the application  
6 the last known addresses for the respondents?

7 A. That's correct.

8 Q. With the exception of those parties that you are hereby  
9 dismissing from this proceeding are you requesting this  
10 Board to force pool all other unleased interests listed  
11 at revised Exhibit B?

12 A. Yes.

13 Q. Does Equitable seek to force pool the drilling rights of  
14 each individual respondent if living and if deceased the  
15 unknown successor or successors to any deceased individ-  
16 ual respondent?

17 A. Yes.

18 Q. Is Equitable seeking to force pool the drilling rights of  
19 the person designated as trustee if acting in capacity of  
20 trustee and if not acting in such capacity is Equitable  
21 seeking to force pool the drilling rights of the success-  
22 or of such trustee?

23 A. Yes.

24 Q. Are you familiar with the fair market value of the  
25 drilling rights in the unit here and in the surrounding

1 area?

2 A. Yes, I am.

3 Q. Will you advise the Board as to what those are?

4 A. \$5 per acre consideration, five year term with a one-  
5 eighth royalty.

6 Q. Did you gain you familiarity by acquiring oil and gas  
7 leases and other agreements involving the transfer of  
8 drilling rights in the units involved here and in the  
9 surrounding area?

10 A. Yes.

11 Q. In your opinion do the terms you have testified to  
12 represent the fair market value of and the fair and  
13 reasonable compensation to be paid for drilling rights  
14 within this unit?

15 A. Yes.

16 Q. Based on this testimony and as to respondents who have  
17 not voluntarily agreed to pool do you recommend that the  
18 respondents listed at amended Exhibit B who remain  
19 unleased be allowed the following options with respect to  
20 their ownership interest within the unit: 1) Participa-  
21 tion. 2) A cash bonus of \$5 per net mineral acre plus a  
22 one-eighth of eight-eighths royalty. 3) In lieu of cash  
23 bonus and one-eighth of eight-eighths royalty share in the  
24 operation of the well on a carried basis as a carried  
25 operator under the following conditions: Such carried

1 operator shall be entitled to the share of production  
2 from the tracts pooled accruing to his interest exclusive  
3 of any royalty or overriding royalty reserved in any  
4 leases, assignments thereof or agreements relating  
5 thereto of such tracts, but only after the proceeds  
6 allocable to his share equal A) 300 percent of the share  
7 of such costs allocable to the interest of the carried  
8 operator of a leased tract or portion thereof or B) 200  
9 percent of the share of such costs allocable to the  
10 interest of the carried operator of an unleased tract or  
11 portion thereof?

12 A. That is correct.

13 Q. Do you recommend that the order provide that elections by  
14 a respondent be in writing and sent to the applicant at  
15 Equitable Resources Exploration, 1989 East Stone Drive,  
16 PO Box 1983, Kingsport, Tennessee, 37662-1983, attention  
17 Dennis Baker, regulatory?

18 A. Yes. That's correct.

19 Q. Should this be the address for all communications with  
20 the applicant concerning the force pooling order?

21 A. Yes.

22 Q. Do you recommend that the force pooling order provide  
23 that if no written election is properly made by a  
24 respondent that such respondent shall be deemed to have  
25 elected to a cash royalty option in lieu of participa-

1 tion?

2 A. That's correct.

3 Q. Should the unleased respondents be given 30 days from the  
4 date of the order to file written elections?

5 A. Yes.

6 Q. If an unleased respondent elects to participate should  
7 that respondent be given 45 days to pay the applicant the  
8 respondent's proportionate share of well costs?

9 A. That's correct.

10 Q. Does the applicant expect the party electing to partici-  
11 pate to pay in advance that party's share of completed  
12 well costs?

13 A. Yes.

14 Q. Should the applicant be allowed 60 days following the  
15 recordation date of the order and thereafter annually on  
16 that date until production is achieved to pay or tender  
17 any cash bonus becoming due under the force pooling  
18 order?

19 A. Yes.

20 Q. Do you recommend that the force pooling order provide  
21 that if a respondent elects to participate but fails to  
22 pay respondent's proportionate share of well costs  
23 satisfactory to applicant for payment of well costs the  
24 respondent's election to participate shall be treated as  
25 having been withdrawn and void and such respondent shall

1 be treated just as if no initial election had been filed  
2 under the force pooling order?

3 A. Yes.

4 Q. Do you recommend that the force pooling order provide  
5 that where a respondent elects to participate but  
6 defaults in regard to the payment of well costs any cash  
7 sum becoming payable to such respondent be paid within 60  
8 days after the last date of which such respondent could  
9 have paid or made satisfactory arrangements for the  
10 payment of well costs?

11 A. Yes.

12 Q. Do you recommend that the force pooling order provide  
13 that if a respondent refuses to accept any payment due  
14 including any payment due under said order or any  
15 payment of royalty or cash bonus or said payment cannot  
16 be paid to a party for any reason or there is a title  
17 defect in a respondent's interest that the operator  
18 create an escrow account for the respondent's benefit  
19 until the money can be paid to the party or until the  
20 title defect is cured to the operator's satisfaction?

21 A. Yes.

22 Q. Who should be named the operator under this force pooling  
23 order?

24 A. Equitable Resources Exploration.

25 MR. KAISER: I have no further questions for this witness, Mr.

1 Chairman.

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

3 (Witness stands aside.)

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

5 MR. KAISER: Our next witness is Mr. Dahlin who's already been  
6 sworn.

7

8 ROBERT A. DAHLIN, II

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

11

12 DIRECT EXAMINATION

13

14 BY MR. KAISER:

15 Q. Mr. Dahlin, would you state your name for the record and  
16 who you are employed by and in what capacity?

17 A. My name is Robert A. Dahlin, II and I'm employed by EREX  
18 as an operation specialist.

19 Q. Have you testified before the Virginia Gas and Oil Board  
20 and have your qualifications as an expert witness  
21 previously been accepted by the Board?

22 A. Yes, sir. I have and they have.

23 MR. KAISER: Mr. Chairman, we move that Mr. Dahlin be accepted  
24 as an expert witness.

25 MR. CHAIRMAN: You may proceed.

- 1 Q. (Mr. Kaiser continues.) Do your responsibilities include  
2 the lands involved here and in the surrounding area?
- 3 A. Yes, sir.
- 4 Q. Are you familiar with the proposed exploration and  
5 development of the unit involved here under applicant's  
6 proposed plan of development?
- 7 A. Yes, I am.
- 8 Q. What is the total depth of the proposed initial well  
9 under applicant's plan of development?
- 10 A. 5,385 feet.
- 11 Q. Will this plan include formations consistent with the  
12 well work permit now pending before the DMME dated April  
13 21st, 1994?
- 14 A. Yes, sir.
- 15 Q. Will this be sufficient to penetrate and test the common  
16 sources of supply in the subject formations?
- 17 A. Yes, sir, it would.
- 18 Q. Is the applicant requesting the force pooling of convent-  
19 ional gas reserves not only to include the designated  
20 formations but any other formations excluding coal  
21 formations which may be between those formations design-  
22 ated from the surface to the total depth drilled?
- 23 A. Yes, sir, we are.
- 24 Q. Will the initial well be at a legal location?
- 25 A. It will.

- 1 Q. What are the estimated reserves of the unit?
- 2 A. Approximately 780 cubic foot of gas.
- 3 Q. Are you familiar with the well costs of the proposed
- 4 initial unit well under applicant's plan of development?
- 5 A. Yes, sir.
- 6 Q. Has an AFE been reviewed, signed and submitted to the
- 7 Board?
- 8 A. Yes, sir, it has.
- 9 Q. Was the AFE prepared by an engineering department
- 10 knowledgeable in the preparation of AFEs and knowledge-
- 11 able in regard to well costs in this area?
- 12 A. It was.
- 13 Q. Does this AFE represent a reasonable estimate of the well
- 14 costs for the proposed unit well under applicant's plan
- 15 of development?
- 16 A. Yes, sir.
- 17 Q. Could you please state for the Board both the dry hole
- 18 costs and the completed well costs for V-2768?
- 19 A. The dry hole costs are \$156,250 and the completed well
- 20 costs are \$297,550.
- 21 Q. Do these costs anticipate a multiple completion?
- 22 A. It does.
- 23 Q. Does this AFE include a reasonable charge for supervi-
- 24 sion?
- 25 A. Yes, sir.

1 Q. In your professional opinion, Mr. Dahlin, will the  
2 granting of this application be in the best interest of  
3 conservation, prevention of waste and the protection of  
4 correlative rights?  
5 A. Yes, sir, it would.  
6 MR. KAISER: I have no further questions of this witness at  
7 this time. Mr. Chairman.  
8 MR. CHAIRMAN: Any questions, members of the Board?  
9 (Witness stands aside.)  
10 MR. CHAIRMAN: Do you have anything further?  
11 MR. KAISER: Nothing further, Mr. Chairman.  
12 MR. EVANS: I move that we grant the application as submitted.  
13 MR. KELLY: 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.) Unanimous approval.  
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ITEM II

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3 MR. CHAIRMAN: The next item on the agenda is a petition from  
4 Equitable Resources Exploration for pooling of a drilling  
5 unit for V-2378, docket number VGOB-94/05/17-0446. We'd  
6 ask the parties that wish to address the Board in this  
7 matter to come forward at this time and identify your-  
8 selves, please.

9 MR. KAISER: Mr. Chairman, members of the Board, I'm Jim  
10 Kaiser on behalf of Equitable Resources Exploration.  
11 This was an application for conventional pooling of V-  
12 2378 which was continued from the May docket. At this  
13 time we would make a motion to continue it again until  
14 the July docket.

15 MR. CHAIRMAN: Any questions, members of the Board? Any  
16 objections from anyone to continue this until the July  
17 docket? It will be continued.  
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ITEM III

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3 MR. CHAIRMAN: The next item on the agenda is a petition from  
4 Equitable Resources Exploration for pooling of a coalbed  
5 methane drilling unit for VC-2966. This is docket number  
6 VGOB-94/05/17-0448. We'd ask the parties that wish to  
7 address the Board in this matter to come forward at this  
8 time.

9 MR. KAISER: Mr. Chairman, once again I'm Jim Kaiser on behalf  
10 of Equitable Resources Exploration. By way of explanation,  
11 this is a application for force pooling of a  
12 coalbed methane well that's subject to the field rules  
13 instituted in April of 1989, the Nora Coalbed Methane  
14 field rules. It would be our normal practice in this  
15 instance to request a continuance in this matter. We  
16 were made aware of some information Friday morning about  
17 10:00 on June 17th that clouds the title on this property  
18 and may affect the ownership interest within the unit.  
19 We've got some unusual circumstances in that we attempted  
20 to call the Powers. We knew that there was a good  
21 opportunity -- Mr. Powers had objected. This was  
22 originally on the May docket and the Board continued it  
23 to June to this docket. We knew that there was a good  
24 possibility that Mr. Powers and his family were going to  
25 make a trip all the way from Idaho which I think he told

1           usthis morning it's about 2,600 miles. In light of that  
2           and in order to be courteous obviously to Mr. Powers and  
3           extend our courtesy to him at the Board's discretion I  
4           would move that we allow Mr. Powers to make his objection  
5           and make his record now so that he may or may not have to  
6           come back in the future. But it would be our normal  
7           practice to -- because of the issues affecting the  
8           ownership and the title issues it would be our normal  
9           practice to request a continuance in this matter.

10 MR. CHAIRMAN: Are you prepared to put your case on for the  
11           pooling?

12 MR. KAISER: Yes, we are.

13 MR. CHAIRMAN: Just go ahead and identify yourself for the  
14           record, please.

15 MR. POWERS: Leonard Powers.

16 MRS. POWERS: I'm Angela Powers. We would like to address the  
17           Board today on some concerns that we really have here.  
18           Although we do have some conflicting claims as far as  
19           property ownership, as far as coal ownership. A lot of  
20           things that we've heard is hearsay. So we'd like to get  
21           some of those kinds of things cleared up, too. We would  
22           also like to say that we have to speak on behalf of the  
23           people who actually have some legal claim to the Powers  
24           property which would be effected by this well. A good  
25           number of them are present with us today. We want to

1 speak on behalf of Bonnie Catherine Powers and Edward H.  
2 Kiser, husband and wife. Bonnie is here today. We would  
3 also like to speak on behalf of Teresa Edwards and Rick  
4 Edwards, husband and wife. They are here today. Kevin  
5 Lee Powers, Jr. and Vonda Powers who are not with us  
6 today. Lisa Joe Powers of Lewiston, Idaho. We do have  
7 power of attorney for her to speak on her behalf. Susie  
8 Lee and she is here. Cheryl O'Quinn and Danny O'Quinn,  
9 husband and wife. I'm not sure they made it. No. They  
10 aren't here, I guess. Claudia J. Whitt and Paul Whitt.  
11 Claudia is here. Linda and Bobby Stanley, husband and  
12 wife. They're here. Onie May Kiser and Roy Kiser are  
13 here. And also four heirs of the property, Sandra Kiser,  
14 Johnny Edwards who is here, and for our son, A.J. Powers  
15 who is not present today. One thing we wanted to make  
16 mention was that we have already written a request to the  
17 Board asking that this be denied, that Equitable Resourc-  
18 es be denied any rights concerning our property. We, the  
19 owners of the Powers real estate, urgently request that  
20 the Board not issue an order to pool our rights, interest  
21 and estate mentioned in the well location plat by  
22 Equitable Resources as it was filed for this hearing.  
23 Equitable Resources Exploration is asking that you grant  
24 them permission to drill, develop and produce oil and gas  
25 that does not belong to them. Equitable Resources

1 Exploration alleges to own the right to develop and  
2 produce the oil and gas on our property. We the owners  
3 contend that they do not have the right because we have  
4 not given them the right. They have been asking us to  
5 sign a lease to give them lease rights for a few years  
6 and we have repeatedly refused. Now they are asking you  
7 to give them those rights to our property and we beg that  
8 you rule against such a barbaric violation of our civil  
9 rights because that's what we believe it is. That's what  
10 we believe it to be.

11 MR. CHAIRMAN: We're going to go ahead and start the case and  
12 let them present the evidence they have and then you'll  
13 be able to question each witness. They will be sworn in.  
14 Okay?

15 MRS. POWER: Okay.

16 MR. KAISER: Mr. Chairman, we'll put our testimony on with the  
17 understanding that we may be back here to do this again  
18 because of the information about the change in the degree  
19 of ownership within the unit. I will just make that  
20 statement for the record.

21 MS. RIGGS: I think the way that that has been handled in the  
22 past when there is a change is through a re-pooling  
23 application where you just bring it back up for re-  
24 hearing to adjust the various interests once you get them  
25 tied down. Should the Board go forward today you can

1 always address those through a re-pooling.  
2 MR. CHAIRMAN: If that's all you're effecting is the percent-  
3 age of interest.  
4 MR. KAISER: Should the Board --  
5 MS. RIGGS: Are all the parties claimants? Is it a matter of  
6 not having identified claimants or is it a matter of  
7 adjusting interests amongst claimants?  
8 MR. KAISER: I would say actually it's a matter of both at  
9 this point. I would say the information we have -- we  
10 may not have all the interest owners properly identified.  
11 MS. RIGGS: So that would require a total re-pooling.  
12 MR. KAISER: Uh-huh. In light of that -- I know you want to  
13 provide the Powers with the opportunity to cross-examine  
14 our witnesses, but in light of that we'll go through the  
15 testimony and some of it obviously may need to be changed  
16 at a later date. Our first witness will be Mr. Baker. I  
17 will remind you that you've been sworn.

18  
19 DENNIS BAKER

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

22  
23 DIRECT EXAMINATION

24  
25 BY MR. KAISER:

- 1 Q. Mr. Baker, state your name, who you are employed by and  
2 in what capacity?
- 3 A. Dennis Baker. I'm employed by Equitable Resources  
4 Exploration as a leasing supervisor.
- 5 Q. Could you state your responsibilities with Equitable and  
6 do they involve the lands here and in the surrounding  
7 area?
- 8 A. My responsibilities include the coordination with the  
9 field personnel to identify oil and gas owners, pre-  
10 liminary identification to contact for leasing oil and  
11 gas rights.
- 12 Q. Are you familiar with Equitable's application for the  
13 establishment of a drilling unit and pooling order for  
14 EREX well VC-2966 dated April 15th, 1994?
- 15 A. Yes.
- 16 Q. Has Equitable applied for a permit and is a permit now  
17 pending before the DMNE?
- 18 A. Yes. The date is April 28th, 1994.
- 19 Q. Is Equitable seeking to force pool the drilling rights  
20 underlying the drilling and spacing unit depicted at  
21 Exhibit A to the application?
- 22 A. Yes.
- 23 Q. Does Equitable own drilling rights in the units involved  
24 here?
- 25 A. Yes, we do.

- 1 Q. Will the location proposed for well VC-2966 fall within  
2 the Board's order for the Nora Coalbed field rules dated  
3 March 20th, 1989?
- 4 A. Yes.
- 5 Q. Taking into account the prior qualifications and prior  
6 statements that have been made what is the interest of  
7 Equitable in this unit at the time of application?
- 8 A. 41.49 percent of the gas estate being leased.
- 9 Q. And the coal estate?
- 10 A. We have 100 percent of the coal estate under lease.
- 11 Q. Are you familiar with the ownership of the drilling  
12 rights of parties other than Equitable underlying this  
13 unit?
- 14 A. Yes.
- 15 Q. What percentage of the oil and gas estate remains  
16 unleased at this time?
- 17 A. 58.51 percent.
- 18 Q. Are all unleased parties set out at amended Exhibit B?
- 19 A. Yes.
- 20 Q. Prior to filing the application were efforts made to  
21 contact each of the respondents and an attempt to work  
22 out an agreement regarding the development of the units  
23 involved made?
- 24 A. Yes.
- 25 Q. Subsequent to the filing of the application have you

- 1 continued to attempt to reach an agreement with the  
2 respondents listed at Exhibit B?
- 3 A. Yes, we have.
- 4 Q. As a result of these efforts have you acquired any other  
5 leases from any of these respondents listed at Exhibit B  
6 as unleased owners?
- 7 A. No, we have not.
- 8 Q. Were any efforts made to determine if the individual  
9 respondents were living or deceased or their whereabouts  
10 and if deceased were efforts made to determine the names  
11 and addresses and the whereabouts of the successors to  
12 any deceased individual respondents?
- 13 A. Yes, sir.
- 14 Q. Were reasonable and diligent efforts made and sources  
15 checked to identify and locate these unknown heirs to  
16 include primary sources such as deed records, probate  
17 records, accessors records and treasurers records?
- 18 A. Yes.
- 19 Q. In your professional opinion was due diligence exercised  
20 to locate each of the respondents named herein?
- 21 A. Yes.
- 22 Q. Are the addresses set out in Exhibit B to the application  
23 the last known addresses for the respondents?
- 24 A. Yes.
- 25 Q. With the exception of those parties which you are hereby

1 dismissing from this proceeding are you requesting this  
2 Board to force pool all other unleased interests listed  
3 at Exhibit B?  
4 A. Yes.  
5 Q. Does Equitable seek to force pool the drilling rights of  
6 each individual respondent if living and if deceased the  
7 unknown successor or successors to any deceased individ-  
8 ual respondent?  
9 A. Yes.  
10 Q. Is Equitable seeking to force pool the drilling rights of  
11 the person designated as trustee if acting in capacity of  
12 trustee and if not acting in such capacity is Equitable  
13 seeking to force pool the drilling rights of the success-  
14 or of such trustee?  
15 A. Yes.  
16 Q. Are you familiar with the fair market value of the  
17 drilling rights in the units here and in the surrounding  
18 area?  
19 A. Yes, I am.  
20 Q. Advise the Board as to what those are.  
21 A. \$5 per acre consideration, five year term, one-eighth  
22 royalty.  
23 Q. Did you gain your familiarity by acquiring oil and gas  
24 leases, coalbed methane leases and other agreements  
25 involving the transfer of drilling rights in units

1 involved here and in the surrounding area?

2 A. Yes.

3 Q. In your opinion do the terms you have testified to  
4 represent the fair market value of and a fair and  
5 reasonable compensation to be paid for drilling rights  
6 within this unit?

7 A. Yes.

8 MR. KAISER: At this time with your approval, Mr. Chairman, we  
9 would request that the testimony as to the elections  
10 available to the parties force pooled be incorporated  
11 from the prior hearing, but if the Powers would like us  
12 to go through that again we would be more than happy to  
13 do so.

14 MRS. POWER: Could we ask questions concerning things that he  
15 said right now or should this be done later?

16 MR. CHAIRMAN: We'll do that after the Board has an opportu-  
17 nity to ask questions. He's asking right now if you wish  
18 to have them put further testimony on as to the elections  
19 of the parties that they've leased so far.

20 MR. POWERS: I'd like to ask them where they have the proof  
21 that there's 100 percent ownership of the coal on this  
22 property?

23 MR. KAISER: Well, we can address that at a later time.

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

25 MR. KAISER: I'm not finished with Mr. Baker.

1 MR. CHAIRMAN: I understand. On your question that you asked  
2 about whether or not there was any need to go ahead and  
3 -- you're asking the Board to incorporate prior testimony  
4 and I'm just testing to see if the Board wants to hear it  
5 or if it's okay for you to stipulate.

6 MR. EVANS: It's fine with us if it's fine you all.

7 MS. RIGGS: The hearing that just preceded, they went through  
8 a series of elections that you would be entitled to make  
9 if the Board chose to pool. And what they're saying is  
10 do you want them to repeat all that again or did you hear  
11 it while ago when they did it.

12 MR. CHAIRMAN: That's all. We're just stopping right now.  
13 It's just like a pause before we go on to make sure.  
14 He's asking do you want to --

15 MRS. POWERS: We understand that. That's fine.

16 MR. CHAIRMAN: So you're not requesting him to repeat that  
17 then?

18 MRS. POWERS: No.

19 MR. CHAIRMAN: That will be a part of the record.

20 MRS. POWERS: I have questions, but I don't need to have it  
21 repeated.

22 MR. CHAIRMAN: Mr. Kaiser, you may proceed.

23 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend that  
24 the order provide that elections by a respondent be in  
25 writing and sent to the applicant at Equitable Resources

1 cesExploration, PO Box 1983, Kingsport, Tennessee, 37662-  
2 1983, attention Dennis R. Baker, regulatory?

3 A. Yes.

4 Q. Should this be the address for all communications with  
5 the applicant concerning the force pooling order?

6 A. Yes.

7 Q. Do you recommend that the force pooling order provide  
8 that if a respondent refuses to accept any payment due  
9 including any payment due under said order or any payment  
10 of royalty or cash bonus or any said payment cannot be  
11 paid to a party for any reason or there is a title  
12 defect in the respondent's interest or in the event of  
13 conflicting claims to the coalbed methane that the  
14 operator pay into an escrow account created by the Board  
15 into which all costs or proceeds attributable to the  
16 conflicting interests shall be held for the respondent's  
17 benefit until such funds can be paid to the party by  
18 order of this Board or until the title defect or the  
19 conflicting claim is resolved to the operator's satis-  
20 faction?

21 A. Yes.

22 Q. Who should be named operator under the force pooling  
23 order?

24 A. Equitable Resources Exploration.

25 MR. KAISER: No further questions of this witness at this

1 time, Mr. Chairman.

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

3 MR. EVANS: I have a question. You indicated to begin with  
4 that there's a problem, possibly a cloud on title. What  
5 tracts are we talking about?

6 MR. BAKER: Tract 3.

7 MR. EVANS: Tract 3?

8 MR. BAKER: Uh-huh.

9 MR. EVANS: So that particular problem does not affect any of  
10 the two tracts which you have leased, correct? There's  
11 no problem with those tracts. It's just tract 3.

12 MR. BAKER: Not at this time, I don't believe there is, no.

13 MR. EVANS: Thanks.

14 MR. CHAIRMAN: Any other questions, members of the Board? Mr.  
15 and Mrs. Powers, do you have any questions of this  
16 witness?

17 MRS. POWERS: Yes, I do. You say that you have the right to  
18 drill here and to drill this hole through our property.  
19 I'm wondering where you got those rights, Mr. Baker?

20 MR. BAKER: The oil and gas lease on the drill site tract is  
21 leased to us as well as the coal being designated as  
22 tract one. I believe those oil and gas leases and coal  
23 leases gives us the right to drill where the location is  
24 proposed.

25 MRS. POWERS: And you believe that the people who have leased

1 you the coal and -- it was my understanding from Bob  
2 Howell, one of the agents, that they have leased -- that  
3 Equitable Resources has leased the coal from Clinchfield  
4 Coal Corporation and that because of that that you are  
5 able to take the gas also. They're leasing you the coal  
6 or they're leasing you the gas within the coal. To me  
7 this is like saying if I bought some timber from you and  
8 I find some gold on your property too I can take the  
9 gold, too. We are also contesting the fact that Clinch-  
10 field owns the coal on that property. We don't believe  
11 they do. But even suppose for a minute that they do, we  
12 do not believe this gives them the right to the natural  
13 gas. You can call it the coalbed methane if you want to,  
14 but it's natural gas. That's what it is. We do not  
15 believe that you have the right to take the natural gas  
16 out from under our property because we believe it  
17 belongs to us. Even should it -- should it be ruled that  
18 Clinchfield owns the coal, because I feel that if I  
19 bought something from you specifically and I owned  
20 something on your property specifically it's got to be  
21 specific. I couldn't go off and take the timber and then  
22 I find some gold and take off the gold, too. To me this  
23 is comparable. It's the same thing. I do not believe  
24 you have the right to take the natural gas off of my  
25 property. You can lease their hole and even at this

1 point -- as we've said we're not sure that they even own  
2 the coal in the first place. But even if you did they  
3 would not own the natural gas. Methane is natural gas.  
4 I know you're calling it coalbed methane, but the methane  
5 gas gets there by when the coal gets broken up because  
6 that's the laws of gas. It moves from areas of higher  
7 concentration to areas of lower concentration. So it's  
8 going to be there when you take out the coal, but that  
9 doesn't mean you own it. This is one of the things that  
10 we are definitely urgently requesting, that this be  
11 denied because we really feel that that's taking some-  
12 thing that belongs to us.

13 MR. CHAIRMAN: Mrs. Powers, this is one area that some of  
14 things that you brought I'll ask Sandra Riggs with the  
15 Attorney General's Office to address because it goes  
16 right to the heart of the Virginia Law, I think.

17 MR. POWERS: Another thing I have about the coal, they call it  
18 coalbed methane. Coal is a complex carbon. There's no  
19 simple carbon in it. Methane or natural gas has one to  
20 seven carbons and it's all single bond carbons -- simple  
21 carbon. From C1 to C4 is gas at ordinary temperature.  
22 C5 to C7 is liquid but it's still natural gas. The coal  
23 is all complex carbons. The complex for N carbon double  
24 bonds. There's no way you can get methane out of the  
25 coal unless you have two processes that are not in use in

1 the United States. They were used in Germany during  
2 World War II to make gasoline out of coal and they're  
3 expensive. They're used -- I think (Inaudible) now is  
4 the only one process they're using now. Paper process  
5 and -- they have to power the coal, add carbon oxide and  
6 hydrid in order to get it. According to analysis of the  
7 coal there's no methane in to. When they use their  
8 cracking process they drill into the coal and if there's  
9 no cracks in that coal there will be no gas, only from  
10 the surface -- the crust of the earth. But when they use  
11 a cracking process and go down and crack this coal they  
12 may crack it all the way onto all of our property and the  
13 gas will come through. They use sand and high pressure  
14 to crack it and they can crack that coal --they crack  
15 near the surface and that's where the natural gas is.  
16 It's not in the coal. Coal is formed which I guess you  
17 know  $3 \times 10$  to 8 power 300 million years ago and there's no  
18 simple carbon at all in coal right now. They've been  
19 telling us -- people have been calling us and for years  
20 -- back in the seventies I came back here and they were  
21 trying to buy the gas next to us. They were telling  
22 these people it's old coal gas that's no good or it's  
23 methane. Now they call it coalbed methane. We're  
24 getting all these terms that I've never heard of. I  
25 never heard of coalbed methane until I heard from these

1 people here. They were calling it old coal gas. And we  
2 use to burn it as kids coming up out of the ground and  
3 they said that's no good. Well, coal gas doesn't come  
4 out of the ground. As you know, you make coke from coal  
5 by destructive (Inaudible.) and when you buy a product --  
6 when you get your coke you buy a products or coal gas,  
7 ammonia and coal tar. Ammonia is pure release three and  
8 if you have some natural gas in the coal it would come  
9 out in the simplest one -- the series starts at CH<sub>4</sub>,  
10 methane. I know up to 97 percent of natural gas is  
11 methane. So there's no way you could be pumping coalbed  
12 methane if that's what they want to call it. They're  
13 pumping natural gas. By the cracking process or the  
14 cracking process they're using they can crack the whole  
15 country and take all our gas. We've got a gas well  
16 drilled -- or a test well. They have in there a five  
17 year lease and when they start drilling that lease goes  
18 on forever. So that's not a five year lease. It will go  
19 on as long as there is production or as long as they want  
20 to drill. That's forever. Clinchfield leased off my dad  
21 in 1948 a test well right below a cabin I built. They  
22 drilled 7,000 and some feet and it exploded and burnt the  
23 dirt down. They offered to pump gas into my mother's  
24 house and she wouldn't have it because it scared her to  
25 death to see all these flames burning everything up. And

1 then they canceled this lease. They drilled within a  
2 year's time and they cancelled the lease. I still have  
3 the cancellation with the last payment. My dad didn't  
4 cash it. They leased 280 acres and then 46 acres that is  
5 in my name which is included in this tract. Tract 3 I  
6 believe it is -- or part of it is. So I don't see how  
7 they can justify in leasing just part of a tract or a  
8 part of any land when they're going to use the cracking  
9 process and they're going to be getting the gas out of  
10 all of it. I have enough information on coal, I figure,  
11 to prove that it was stolen after World War II -- I mean  
12 after the Civil War. My grandfather and six of his  
13 uncles fought in the Civil War. I have letters from  
14 attorneys then that stated if grandpa couldn't find the  
15 "bond deed" they called it he would lose his case in  
16 court. They would take his land because they sent in  
17 carpet badgers and they pitched tents up, that he might  
18 get to keep all that he has fenced. Well, he got to keep  
19 all of his land. He couldn't read nor write. My grandma  
20 could read and write. But they did all of this after my  
21 grandma died. They've got grandpa's Xs marked on the  
22 thing and some of them don't make sense. Like I deed you  
23 1,496 today and two days later I bought 1,346 acres of  
24 coal off of you. Now, that doesn't make sense. There  
25 is some more acreage there, but I don't know where it

1 went to. But I need time to do some researching. I did  
2 some researching years ago before I left here when  
3 Clinchfield tried to take my cabin. Clinchfield Coal  
4 Company did. I did it -- E.J. Sutherland was the  
5 attorney for the Clinchfield Coal Company. They claimed  
6 that they own the right of way by my cabin. We did the  
7 research and he decided that they didn't own the right of  
8 way. And he agreed that they didn't. They were going  
9 to build a railroad up by my cabin and make me tear my  
10 cabin down and move it. But when he found out they  
11 didn't own it then he said, "How are we going to get into  
12 Bueque, Virginia?" I told them to go through a tunnel,  
13 to tunnel through the mountain. He said no, they  
14 couldn't do that. But they did. They put a conveyor  
15 belt through the mountain because that was the shortest  
16 way there. They had the railroad up at Indian Creek.  
17 They put a conveyor belt through and took the coal out.

18 MR. CHAIRMAN: Mr. Powers, could you give us your background.  
19 You've testified to the chemical make-up of coal and  
20 the --

21 MR. POWERS: My background?

22 MR. CHAIRMAN: Yes, sir.

23 MR. POWERS: I have a Masters degree with a major in chemist-  
24 ry, physics and economics. I taught chemistry for 24  
25 years. I graduated from East Tennessee State University.

1 I have about 300 semester hours and all of it is in math,  
2 chemistry and physics. I've taught calculus and physics  
3 and chemistry -- I taught chemistry for 24 years and I've  
4 studied the carbon compounds, all of them, hydrocarbons.  
5 I'm very familiar with all of the carbon compounds. Like  
6 the simple carbons in natural gas which has a form of  $C_nH_{2n}$   
7  $2N$  and a simple  $1 CH_4$ , that's methane. I know that more  
8 than 50 percent of natural gas -- up to 97 percent  
9 natural gas is methane. All the research I've done and  
10 studied I know these things. I've been lied to about  
11 them. I've been lied and told it was coal gas, called  
12 coalbed methane. I could find no geologist -- I talked  
13 with a geologist at the University of Idaho, College of  
14 Engineering and Mining. I talked to them in Oklahoma,  
15 the University of Oklahoma. We tried to contact the  
16 University of California and some people there that I had  
17 I taught. I have kids I've taught that have a doctor's  
18 degree in engineering, worked for Standard Oil. They  
19 couldn't give any definition at all for coalbed methane.  
20 They had never heard of it. They have coal out there.  
21 It's something just like the coal with very carbons. And  
22 even when you break it down by making coke -- they use to  
23 have all these coke ovens. I don't know if they still  
24 have them. But it don't give you methane out of that.  
25 They get coal gas which is not a natural gas. They get

1 the pure ammonium out of it, the NH3, and they get the  
2 coal tar. Those are a by-product. I've always thought  
3 about drilling a well on our property and trying to  
4 develop our property because we have the test well and  
5 they have all the coal seams they've gone through. I've  
6 got to get a core check on it. I had a backing person to  
7 do it a few years ago. I waited to wait until my wife  
8 retired and I retired and I would come back and follow it  
9 all the way through and do more research on my grand-  
10 father's property. They tried to steal this property.  
11 My dad remembers some of the things that they did through  
12 the Civil War. They were trying to take his property.

13 MR. CHAIRMAN: Unfortunately a lot of that is called -- I'm  
14 sure you have strong believes in that. There are things  
15 that the Board is not going to be able to consider. I'd  
16 like to ask Sandra Riggs, our attorney, to tell what the  
17 Virginia Law will allow us to consider and what decisions  
18 have already been made for us that we have to work from.  
19 That's out starting point and that's what -- we have to  
20 work with them. Sandra.

21 MS. RIGGS: I don't know if you've had an opportunity to  
22 review the Virginia Gas and Oil Gas which is Chapter  
23 22.1. It was passed by the Legislature. 1990 I think  
24 was the latest version of the Virginia Gas and Oil Act.  
25 We'll be happy to get you a copy of it. But basically

1 what happened was that there had been very little  
2 production of what you're calling coalbed methane gas in  
3 this part of the country because of the dispute between  
4 the conventional gas and oil owner and the coal owner,  
5 both of whom claimed ownership of that gas. It was  
6 hampering progress in terms of developing the resource  
7 from the Commonwealth's point of view. Therefore, the  
8 Legislature passed the Act which said we don't know who  
9 owns it but we want the resource developed. So we're  
10 going to set up a scheme that will allow that to happen  
11 until the courts can decide through the normal judicial  
12 process who owns this mineral resource. The scheme that  
13 they set up created this Board and said that applicants  
14 can come before you and you can create field rules and  
15 take testimony to determine what drainage patterns are  
16 and create drilling units and modify drilling units and  
17 then you can pool interests within those drilling units  
18 for the purpose of producing the conventional gas. And  
19 it differentiates between conventional gas and coalbed  
20 methane gas and it gives definitions of each of those as  
21 to what coalbed methane means. It's a defined term when  
22 it's used in these proceedings and it's defined by ~~the~~  
23 Legislature in the statute. What the Board is allowed to  
24 do then is hear the kinds of applications you're hearing  
25 today and the operator has to name all the parties, the

1 coal, the gas and oil and everybody. And the Board is  
2 not to make title decisions. It has no jurisdiction to  
3 make title decisions. But once it gets all the parties  
4 before it it does have the power to pool those interests  
5 and appoint an operator and allow the production to go  
6 forward until the courts decide who the mineral belongs  
7 to. While that decision is being made all the production  
8 moneys will go into an escrow account which is with  
9 Tazewell National Bank who is the escrow agent appointed  
10 by the Board. Those funds flow in there for the benefit  
11 of the drilling unit and the people within that drilling  
12 unit and are identified and are held there pending a  
13 court order as to who to disburse them to. That's sort  
14 of the scheme that's set up by the statute. What they're  
15 here today saying is we would like to pool this unit  
16 which you have already created when you established the  
17 Nora Coalbed Methane field rules. That was in 1989 that  
18 that action took place, where they took all the testimony  
19 on the drainage patterns and the formations. Those units  
20 have been created for some period of time and they're  
21 seeking to pool one of those units which have already  
22 been created under those field rules by naming all the  
23 parties. Now, what they're saying today is that add-  
24 itional parties have been brought to their attention and  
25 they're probably going to have to amend this application

1 which may shift some interests and so forth. But because  
2 you are here today they wanted you to be able to go on  
3 and put on your testimony to save you a trip back. But  
4 the Board at the end of all of this testimony will be  
5 asked to pool everybody's interest and to escrow the  
6 funds until such time as the court makes the decision.  
7 Now, there are numerous cases pending in Buchanan County  
8 contesting the very issue that you're talking about. But  
9 no decisions have yet been rendered in Virginia. There  
10 have been decisions over this contest, I think, in  
11 Alabama and in Pennsylvania. Some go for the convention-  
12 al gas and oil owners. Others have gone and said it  
13 belongs to the coal owner. Virginia has not made that  
14 decision yet which is why this statute's been created.  
15 Because that is a decision for the courts but the  
16 Legislature wanted developers to be able to proceed to  
17 develop the resource even though that decision hasn't  
18 worked its way through the court system yet. That's sort  
19 of in a thumb nail sketch where we are in Virginia. The  
20 decision on ownership has not been made. It won't be  
21 made by this Board because they don't have the power to  
22 make that decision. But it will be made by the courts on  
23 an appeal of some decision that this Board has made.  
24 Those cases that are pending in Buchanan County are  
25 appeals of orders issued by this Board pooling units

1 where the participants have appealed to the courts to  
2 overturn that order and have challenged the ownership  
3 issue. We had thought that we would have a decision on  
4 that probably a year ago. Those cases have been heard  
5 and tried and we've been waiting for a decision since  
6 about last -- a year ago December. It's almost eighteen  
7 months now we've been waiting for a decision to come  
8 down. But at this point there are just no court deci-  
9 sions to guide us on this ownership issue.

10 MR. POWERS: Could I ask you a question?

11 MS. RIGGS: I will try to answer.

12 MR. POWERS: Why is it then that they have more rights on my  
13 property than I do? Why is it you can't give me the  
14 right to drill on my property?

15 MS. RIGGS: You could have come here just as they are here as  
16 a party in interest and asked the Board to name you the  
17 operator. You could have done that. You have that right  
18 under the law as well.

19 MR. POWERS: How do I go about doing that? That's what I want  
20 to do.

21 MS. RIGGS: The same process -- well, they're here first is  
22 the basic answer. The process is the same. You file an  
23 application with the Board to pool the unit.

24 MR. POWERS: We don't need pooling. We've got our own land.  
25 We've got enough land to drill right in our land without

1 pooling all these -- without having to pool. Why do we  
2 have to pool when we have the right to drill right in  
3 the center of our property and our circle won't even get  
4 outside of our land?

5 MS. RIGGS: I assume you're talking about a circle under  
6 statewide spacing, not the field rules that are in  
7 existence for this area.

8 MR. DAHLIN: If I could, we had a discussion earlier. I think  
9 really his interest is in the conventional reserves as he  
10 indicated to me based on the 7,000 foot hole.

11 MR. POWERS: Well, to me natural gas is natural gas regardless  
12 of where it's found. But it's not in the coal. I know  
13 that. I know they force it into the coalbed by the  
14 cracking process -- by cracking the surface. That's how  
15 they get it in the coal. The coal itself has no natural  
16 gas. I know that. But I'd like to get a petition or  
17 something -- see, never in my life have I ever dreamed  
18 that anybody could take my minerals off my property  
19 without my permission. I never thought -- I'm going to  
20 retire here in a few months and coming back here to spend  
21 some time. My plans were to research this coal field and  
22 prove that I own the coal to the courts. And I can get  
23 Jerry Spence out of Oklahoma to take my case or if I can  
24 get an attorney to represent me then I think we can prove  
25 that we own the coal under my property -- on my grand

1 we'd have to get permission to do would be to drill a  
2 well on our property.

3 MS. RIGGS: Well, you would have to comply with the field  
4 rules that affects your property which are very similar  
5 to -- like if you wanted to build a house you would have  
6 to comply with the building code and so forth.

7 MR. POWERS: I understand that.

8 MS. RIGGS: You would have to superimpose those field rules  
9 over your property and figure out where the unit boundar-  
10 ies fit within your property boundaries.

11 MR. POWERS: That's what we intend to do. We intend to get it  
12 all surveyed and I intend maybe to take a test and get a  
13 surveyor's license and survey it myself.

14 MS. RIGGS: What we're talking about here is the timing issue,  
15 it sounds like to me, where you want to be the operator  
16 of the unit and EREX is here prepared today to go forward  
17 with the unit. The way the law addresses that, any party  
18 that has the qualifying interests within the unit can  
19 come before this Board and ask as long as you file the  
20 application that has the right kind of information.  
21 That is the drilling costs and the proposed operation  
22 plan and you go for a well work permit through the Gas  
23 and Oil Inspector and do all the things you have to do.  
24 You would have the ability to come before this Board and  
25 seek to be operator, too. But they've got the same kind

1 of interest that you have within this unit. I think  
2 their interest is 40 some odd -- what did they say?  
3 About 50 percent of the unit.  
4 MR. POWER: We've got 58 percent.  
5 MS. RIGGS: So you've got two contesting owners within the  
6 unit, each wanting to be operator, and they're here  
7 today. I mean, that's sort of coming down to the bottom  
8 line. But that's --  
9 MRS. POWER: Where we are right now.  
10 MS. RIGGS: Right.  
11 MRS. POWERS: Has anyone contested this act as unconstitution-  
12 al?  
13 MS. RIGGS: That also has been part of the court channels,  
14 yes.  
15 MRS. POWERS: It seems to me like it's definitely  
16 unconstitutional.  
17 MS. RIGGS: It has been contested -- not this act because  
18 every act in every state is different in some respects.  
19 But there are other states that have pooling acts as  
20 well. I mean, Virginia is not unique in that respect.  
21 Those have been constitutionally challenged in other  
22 states as well and I think there have been decisions in  
23 other states. I don't know what those are but --  
24 MRS. POWERS: Are there any pending in this state now?  
25 MS. RIGGS: Yes. Part of the appeals that I referred to that

1 are challenged to the act also include constitutional  
2 challenges.

3 MR. CHAIRMAN: Right.

4 MS. RIGGS: And those are filed in Buchanan County, the ones  
5 that are currently pending.

6 MRS. POWERS: It seems like to me that it's a constitutional  
7 issue. It's violating constitutional rights.

8 MS. RIGGS: Well, from your prospective I think your purpose  
9 for being here today is to make those kinds of objections  
10 and preserve the record so that you can challenge -- you  
11 can carry on with your challenge as well which is part of  
12 the reason why Mr. Wampler asked you to qualify yourself  
13 and asked the court to accept your testimony so that you  
14 build the proper record here so if you choose to do the  
15 same you may.

16 MR. CHAIRMAN: As we were pointing out, a lot of the things  
17 you bring up we're not trying to debate with you. We're  
18 just are not empowered to act on any of those kinds of  
19 things.

20 MRS. POWERS: I understand that. We beg your indulgence  
21 because this is a tedious issue with us. It goes to the  
22 heart.

23 MS. RIGGS: Sure it does.

24 MR. CHAIRMAN: We understand.

25 MRS. POWERS: And we beg your indulgence in our emotional

1 state concerning this because it is very dear to us.  
2 Also as I look at this, even the coalbed methane gas,  
3 I'm curious as to where -- this must have been passed by  
4 the Legislature.

5 MR. CHAIRMAN: It was.

6 MRS. POWERS: And who came up with this definition of coalbed  
7 methane gas which means including natural gas produced  
8 from coalbeds. Coalbeds don't produce gas. It can come  
9 within them, but they don't produce gas.

10 MR. MASON: I just wanted to mention to you if you're going to  
11 do much looking in this area that one of the primary  
12 cases in the area are from a constitutional standpoint is  
13 what is known as the Ohio oil case. That particular case  
14 makes reference to the case that came out of Oxford,  
15 Kansas. But you also might be interested from your part  
16 of the country that there is probably the largest case  
17 right now involving who owns coalbed methane that's  
18 pending in the Southern District of Colorado. It's the  
19 Southern Utts versus Amoco Production Company.

20 MR. POWERS: This definition they gave us for coalbed methane  
21 gas means occasional natural gas produced from coalbeds  
22 and rock strata associated with therein. There's no such  
23 thing as any methane coming from rock strata or from  
24 coalbeds.

25 MR. CHAIRMAN: Mr. Powers, that's in the statute of Virginia

1           and we --

2 MR. POWERS: So that's just a false definition that they're  
3           using there.

4 MR. CHAIRMAN: You would have to contest that in the court of  
5           law or before the General Assembly.

6 MRS. POWERS: I understand that. I'm sorry. We're just  
7           seeing this for the first time.

8 MR. CHAIRMAN: I just want to make sure you understand it.

9 MR. EVANS: Look that over. There's a definition for convent-  
10          ional gas on the back of that, too.

11 MR. POWERS: We've been gone for 29 years and I've paid taxes  
12          on this property since I got off of the service --well,  
13          before I got out of the service. I spent over seven  
14          years in the service. I was in World War II and the  
15          Korea War and before I got out I started paying taxes on  
16          my dad's property before he ever deeded it to us. I've  
17          been paying taxes ever since. Never did I hear of any  
18          information -- I didn't even know there was an oil board  
19          that existed until we got a letter. I was very upset  
20          then. We got a letter in May and they had it scheduled  
21          May 17th. I didn't know what was coming off and didn't  
22          have time to do anything. I still haven't have had time.  
23          I worked Thursday and drove almost 2,500 miles to get  
24          here. This stuff all came up -- I didn't realize  
25          anything could happen like that. I had never heard of

1 it. Just like they tried to take the railroad all the  
2 way over the property and I proved them wrong. They  
3 didn't take it. That was with a Clinchfield attorney.  
4 So much stuff had gone on that I tried to put it out of  
5 my mind. My brother did a research. I have a bunch of  
6 researches that he did on all this property and every-  
7 thing and on the coal and I wanted to continue it. I  
8 wanted time to come down here and stay and be here long  
9 enough to follow-up and I'd like to file a petition or  
10 whatever it is I have to file -- a petition to drill on  
11 my property. And I'm sure if I own the property I don't  
12 have to take a five year lease on it. I should be able  
13 to file a petition as long as I want to drill until I  
14 find out for sure who owns the coal on the property. I  
15 know enough to know that coalbed methane and natural gas  
16 which is the same thing comes from petroleum, not from  
17 the coal unless it came 500 million years ago. I don't  
18 think Clinchfield owned it 500 million years ago. They  
19 might have a deed for it 500 million years ago, but I  
20 don't think they owned it. So much has gone on since the  
21 Civil War with these people that couldn't read and  
22 couldn't write and there are so many deeds -- my grand-  
23 father deeded coal two or three times to the same  
24 person. There is so much conflict in these deeds that  
25 I've got to where I don't believe any of them.

1 MR. CHAIRMAN: Let's take a five minutes recess and we'll chat  
2 with you for a minute.

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

4 MR. CHAIRMAN: We'll continue to take questions from Mr.  
5 Baker's testimony if you have others.

6 MRS. POWERS: Yes. I have a question of Mr. Baker. Actually  
7 it's more or less comments concerning leases. I even do  
8 not feel that we have been given good options for a  
9 lease to sign a lease for Equitable Resources to go ahead  
10 with this well that is so close to us. They sent us one  
11 lease after telling us we're not going to do anything  
12 about your property except -- we're just drilling close  
13 to it, but since we're close to it we have to lease with  
14 you. And then here comes this lease that says all these  
15 things that says they can come on our property, they can  
16 build all these buildings, they can put all these tanks  
17 on it, they can do all this stuff to our property. Bob  
18 Howell calls back and I say, "No way. We're not going to  
19 sign a lease like this. You're just taking over our  
20 property. We're not signing a lease like this." He  
21 says, "Oh, this is just a standard lease. No, we  
22 wouldn't do this. This is a standard lease and this is  
23 the kind they use down in Texas and Oklahoma." And I  
24 said, "Yeah, but you're not dealing with Texas and  
25 Oklahoma. I'm sure you have attorneys and I'm sure they

1 can type up any type of lease that you want and have it  
2 to say what you want it to say. We do not want you to  
3 have total control over our property." He says, "Okay.  
4 We'll fix up a non-surface lease." So we finally get  
5 this lease a few months ago that when you read it says  
6 exactly the same things that the other one says in the  
7 fine print. And you get down to the bottom of it and  
8 it's got little lines at the bottom of the lease just  
9 like these little lines on my paper that is typed written  
10 in. I can't remember all the words, but it says, "This  
11 is a non-surface lease." So here I've got a lease that  
12 tells me two different things. At the bottom of it it  
13 says it's a non-surface lease. Inside the lease itself  
14 it says that they can do all these other things they  
15 already said they could do. So I asked Bob Howell again  
16 when he calls me to see if we got it and we agree with  
17 it. I said, "No. You sent me the same lease except that  
18 at the bottom you have typed in -- over here you say you  
19 can do anything you want to on the surface of our  
20 property and yet down here you say this is a non-surface  
21 lease. You're telling me two things in the same lease."  
22 He also told me to initial it. He said, "Well, initial  
23 it at the bottom where it's typed in." I said, "You  
24 could go to court and say I typed this in. It's just a  
25 regular typewriter." That's all that's typed in. The

1 rest is good print. But this is type written in and he  
2 said to initial it. I said, "If I initial it then that's  
3 going to seem like I did type it in." So it made no  
4 sense to me. I feel that we haven't even been given a  
5 good option to participate in this. I asked him why  
6 can't you type a lease that says exactly what you want it  
7 to say? Why do you have to use a lease that you say is a  
8 standard lease. What is a standard lease? At first he  
9 said, "Well, that is a standard lease that is used in  
10 Oklahoma and Texas because that's what they do." I said,  
11 Why can't you because I can sit down and type up a lease  
12 that stated exactly what I wanted it to say and I'm not  
13 an attorney. So I'm sure you have an attorney that can  
14 do that." They have yet to give us a lease that we can  
15 even consider a good viable option if we wanted to  
16 participate in this, if we wanted to go ahead and lease  
17 it. I don't think they've been fair with us and it makes  
18 me terribly distrustful when they do these kinds of  
19 things to us. I don't have a copy of these leases with  
20 us but I could send a copy to you, Mr. Wampler or  
21 whoever. This is another thing that I am really object-  
22 ing to because it makes me distrustful again of the  
23 whole thing besides feeling that the whole thing is  
24 unconstitutional in the first place. We haven't been  
25 given -- that there is some shady stuff going on here

1 because they're telling me one thing and then they're  
2 putting down something else on a piece of paper. I'm  
3 kind of an honest person myself and I'm above board. I  
4 want everything above board and to stay above board. To  
5 me this isn't. It's not being above board with what's  
6 going on. And they haven't given us a good option yet to  
7 actually join.

8 MR. CHAIRMAN: Do you have a response?

9 MR. BAKER: About the only response would be that our lease  
10 form that we use and have used for a number of years that  
11 is recorded all over Southwest Virginia, there have been  
12 a number of occasions where provisions have been added  
13 which supercedes most of the language in a lease form  
14 depending on what provision it is. A non-surface lease  
15 form does have precedence over the printed standard form.  
16 Having the initials put on it is so that anyone who sees  
17 it knows that the provision was put there and the lessors  
18 by initially the addition approve the addition of the  
19 clause. That's the only purpose for the initials. It's  
20 a non-surface provision that we use and we've added to  
21 leases in the past that have been put of record and take  
22 precedence over the printed form.

23 MRS. POWERS: But to me any time that I've ever had to  
24 initial something -- for instance, if I make a mistake on  
25 a check and I have to correct it I have to initial it to

1 show that I did that. To me this was confusing, that I  
2 would need to initial this. It would almost seem that if  
3 I initialed that it looks like I did the typing because  
4 to me when you initial something that means you did it.

5 MR. POWERS: Could I ask Mr. Baker a question?

6 MR. CHAIRMAN: Let me check with the Board and see if they  
7 have any questions on anything so far. Sure.

8 MR. POWERS: Mr. Baker, if you sent me a standard lease or  
9 somebody sent me a standard lease and I decided to type a  
10 paragraph at the bottom of it and then initial it and  
11 have it notarized and sent it back to you -- I would have  
12 done that -- and maybe you didn't like it, would that  
13 stand up in court?

14 MR. BAKER: There are provisions or spaces on the lease forms  
15 for signatures the lessor and the lessee and prepared by  
16 signatures. In order for any provision to be added to a  
17 lease by the company or the lessor would require approval  
18 by all parties, lessor and lessee. The oil and gas lease  
19 forms that we sent out are not signed by Equitable  
20 management and therefore when they come back if there has  
21 been a provision added by the lessor at some point if  
22 it's not acceptable to us we sent it back to them and try  
23 to renegotiate something different. In this case a non-  
24 surface lease benefits the lessor. We would have no  
25 reason to put it on there if we didn't approve of it.

1 MR. POWERS: That's why I'm asking will that hold up in court?  
2 A different type there all together, my initials on it,  
3 and if you said, "I didn't type that in there" or your  
4 representative said, "I didn't type that in there. They  
5 typed it in, the persons that signed their initials to  
6 it" who are they going to believe? The court is going  
7 to rule with you because all your lease is completely  
8 different typed and I wouldn't have a leg to stand on.

9 MR. BAKER: I would think that if the document was signed by  
10 the company in place of record it was approved and  
11 accepted by both parties. So it would stand up, yes,  
12 sir.

13 MR. MASON: I just don't feel like this is the appropriate  
14 place to debate the legal efficacy of Virginia contract  
15 law. The issues relating to whether or not the applicant  
16 or the objectioners have met their standard's before this  
17 Board. But these issues relate to things that are  
18 matters of individual contracts and so forth that I  
19 really don't think are germane to what we're doing here.  
20 I appreciate the fact that you all felt like -- I think  
21 you've made your point well that you do not feel like  
22 that you have been offered an adequate opportunity to  
23 lease and we understand that. As to the mechanics of  
24 that, I don't know that that's -- we're not in a position  
25 to decide what would be a valid lease and what would not.

1 MRS. POWERS: It seems like that would be something that you  
2 would have to -- it seems that they need to give us a  
3 good option. If we want to participate then it should  
4 be something that gives a good option, that doesn't say  
5 two things at the same time.

6 MR. MASON: I understand that.

7 MR. EVANS: Just as a possibility, you may wish to retain  
8 counselling and write your own lease and send it to  
9 Equitable. I mean, if you don't like what they're  
10 sending you you have the same option to negotiate and say  
11 okay, here. I might suggest that that's a possible  
12 alternative to your dilemma.

13 MR. POWERS: What we want is more time to do these things.  
14 More time to file papers -- to try to get the law and  
15 understand what the law is. We're completely ignorant of  
16 the law. I know it's no excuse. We've been gone for 29  
17 years and all this stuff has happened since.

18 MR. MASON: Let me ask you this. When we started here  
19 Equitable wanted to continue this matter and forwarded  
20 you all an opportunity to be heard. It appears that what  
21 you're saying is that you would like to have this  
22 continued also, is that correct?

23 MR. POWERS: Yes. I would like to have it continued at least  
24 till we can get back here. I retire in six months and  
25 she does, too. That's what we've been waiting on.

1 That's why we wanted to come back and do research on the  
2 whole thing and then we might agree to lease to them. I  
3 don't see the pressure or the importance of drilling one  
4 well here on our property now when they've got millions  
5 of acres to drill on. Why bring up the one? It doesn't  
6 make sense. Why the importance of the time that they  
7 have to drill this well? I know they have other wells  
8 that can be drilled, many of them. It seems like this  
9 one could be postponed. I asked in our writing for at  
10 least six months when we can be back here to represent  
11 ourselves or do so research and maybe one of these days  
12 we might agree with them in the near future after we've  
13 done some research and figure out what it's going to cost  
14 us to develop it. We might find other minerals that we  
15 can develop. Just like I told him, if I find other  
16 minerals and start to develop -- if Clinchfield winds up  
17 taking our gas and taking our coal which they've already  
18 claimed -- they've already claimed our gas and they're  
19 already claiming the oil. Then if we find another  
20 mineral they're going to claim it, too. I can't stop  
21 them. They're going to claim everything. We don't have  
22 anything. What we've waited to retire for all these  
23 years -- I've worked for 53 years. I started working  
24 when I was fourteen in the shipyard during World War II.  
25 I was old enough -- before World War II started I got old

1 enough to go in the service. And during all these years  
2 of working and getting ready to retire to have a happy  
3 life I come back and find out I have nothing to come back  
4 to. They're taking all the gas and the oil and the coal  
5 from underneath our property. I think that's violating  
6 my constitutional rights. I think I have a right to that  
7 property and I have a right to decide -- if they have  
8 bought the coal then I'm okay. If they bought it and  
9 they can prove it I'm okay. I think that I can prove  
10 that they didn't buy it, that they stole the coal. The  
11 same thing, they're stealing the gas, they're going to  
12 steal the oil. If I find other minerals -- I'm almost  
13 sure there's another mineral that I want to mine or check  
14 on. If I find that they will come up with a claim for  
15 that. So what is the purpose of actually owning land if  
16 you don't have any rights?

17 MR. CHAIRMAN: We have two parties here. Of course, you've  
18 got a six month extension request. Do you accept that?

19 MR. DAHLIN: I'd like to make a distinction here that I don't  
20 think Mr. Powers is completely aware of. What we're  
21 asking the Board for here only is to establish this  
22 particular unit which is just a very small piece of the  
23 top of the tract. We're not disputing the ownership.  
24 I'd like to speak a little bit toward the importance of  
25 the well. We are --

1 MR. CHAIRMAN: If you will, state your name for the record.

2 MR. DAHLIN: My name is Robert A. Dahlin, and I'm an  
3 operations specialist and charged with producing gas in  
4 Virginia for our company. It is important that we  
5 continue with our drilling program. This is a signifi-  
6 cant well and one of the better areas we have in the  
7 field. We've got a muriate of problems with coal  
8 companies, other surface property, disputes, what not.  
9 It is a significant well for us. We are trying to get it  
10 drilled. It is not something so urgent that we can't  
11 delay the development of it, but the distinction I want  
12 to make is that this includes only a very small piece of  
13 his property. No other part of his property would be  
14 force pooled here aside from the lease which covers  
15 something else all together. I want him to know that  
16 only this unit would be established today.

17 MR. POWERS: Mr. Chairman, the very small property he calls it  
18 takes 24 of my 46 acres. It would take 24 acres of that  
19 and to me that's not a very small piece of the -- that's  
20 mine in my name only. The rest of the property, 78.3  
21 acres, belongs to the other heirs. So that's actually  
22 cutting my property over half if they take 24 out of my  
23 26 acres. And if I understand tract two is in my name  
24 and if I understand that part it's taking around 24  
25 acres.

1 MR. DAHLIN: And you understand we're not on the surface  
2 again.

3 MR. POWERS: But still that's over half of my 36 acres.

4 MR. CHAIRMAN: Excuse me. Have you all talked about an  
5 extension?

6 MR. KAISER: Yes, we have, Mr. Chairman. First for the  
7 record, I'd like to state that Equitable Resources  
8 Exploration is not seeking any surface rights nor do we  
9 need any surface rights over any of the Powers' property  
10 within this unit. I'd like to get that on the record.  
11 Second of all, after speaking with Mr. Sterling of  
12 Equitable we would like to -- I mis-spoke earlier in  
13 stating that there is problem on the title. The problem  
14 is we're not sure that we have all the interest allocated  
15 exactly. In light of that we would like to continue with  
16 this hearing and should the application be granted then  
17 we would -- when we complete our work as in determining  
18 exactly what the various interests are within the unit we  
19 would come before the Board and seek a modification at  
20 that time. We would not be agreeable to a six month  
21 extension at this time.

22 MR. CHAIRMAN: You would not be?

23 MR. KAISER: We would not be.

24 MRS. POWERS: Mr. Chairman, when he says that it involves such  
25 a small part of our property -- when you start drilling

1 these gas wells and you do the cracking it takes the gas  
2 out from under the whole property. It doesn't just take  
3 it out from under -- you can draw your little squares or  
4 your little circles but you can't keep the gas from  
5 coming from everywhere. When you crack the surface it's  
6 going to come from wherever. So it doesn't just affect  
7 that small bit of your property. It affects your whole  
8 property.

9 MR. CHAIRMAN: We'll just continue with the hearing if that's  
10 okay with the Board. We've got all the parties that have  
11 been noticed and are before us and we'll go forward and  
12 make a decision here based on what we have. You have  
13 requested a continuance of this hearing following the  
14 testimony? I'm just trying to make sure I get everything  
15 we're looking at here on the table.

16 MR. KAISER: Mr. Chairman, at this point we actually would  
17 like to withdraw our request for a continuance and  
18 continue on with our testimony in this matter. And  
19 should our subsequent research reveal that there is some  
20 change in the ownership within the unit as depicted in  
21 the current Exhibit B then we would petition the Board  
22 and come back and modify the percentages of ownership  
23 interests at that time.

24 MR. CHAIRMAN: Any comments or objections, members of the  
25 Board?

1 MR. MASON: I'm just confused. I thought earlier the state-  
2 ment was made that all of the parties having an interest  
3 in these tracts had not been noticed of this hearing.

4 MR. KAISER: That was an incorrect statement. What we have is  
5 the possibility of an undivided interest in a tract.  
6 We've got one person saying that it exists and we've got  
7 another person saying that it does not exist. We were  
8 just made aware of it Friday morning. If that interest  
9 does not exist then we do not have a notice problem. If  
10 it does exist then obviously we would have to notify that  
11 person and come back again.

12 MS. RIGGS: Is this an interest that is of record or something  
13 that has not been of record that's through heirship  
14 research, do you know?

15 MR. KAISER: It is an interest that -- there was an opinion  
16 rendered that showed an individual having an undivided  
17 interest in the tract. Since that time we've become  
18 aware of information that this undivided interest was  
19 taken care of in a divorce decree in another jurisdic-  
20 tion. We have been attempting to get a copy of that  
21 decree to clear that issue up. We've not been able at  
22 this point to obtain that and when we do, depending upon  
23 what that divorce decree says in regards to the undivided  
24 interest in this property, then we would have perfected  
25 notice if the interest no longer exists. If it does



1 development of the units involved here under the appli-  
2 cant's plan of development?  
3 A. I am.  
4 Q. Was is the total depth of the proposed initial well under  
5 the applicant's plan of development?  
6 A. 2,300 feet.  
7 Q. Will that 2,300 feet include formations consistent with  
8 the well work permit now pending before the DMME?  
9 A. Yes, it will.  
10 Q. Will this be sufficient to penetrate and test the common  
11 sources of supply in the subject formations?  
12 A. It will.  
13 Q. What are the estimated reserves of the unit?  
14 A. 350 million cubic foot.  
15 Q. Are you familiar with the well costs for the proposed  
16 initial unit well under applicant's plan of development?  
17 A. I am.  
18 Q. Has an AFE been reviewed and submitted to the Board?  
19 A. Yes, sir, it has.  
20 Q. Was the AFE prepared by an engineering department  
21 knowledgeable in the preparation of AFEs and knowledge-  
22 able in regards to well costs in this area?  
23 A. Yes, sir.  
24 Q. Does this AFE represent a reasonable estimate of the well  
25 costs for the proposed unit well under applicant's plan

1 of development?

2 A. Yes, it does.

3 Q. Would you state for the Board both the dry hole costs and  
4 the completed well costs?

5 A. The dry hole costs are \$70,504. The completed well costs  
6 are \$197,200.

7 Q. Do these costs anticipate a multiple completion?

8 A. Yes, it does.

9 Q. Does the AFE include a reasonable charge for supervision?

10 A. Yes, sir.

11 Q. Mr. Dahlin, in your professional opinion will the  
12 granting of this application be in the best interest of  
13 conservation, prevention of waste and protection of  
14 correlative rights?

15 A. Yes, sir.

16 MR. KAISER: I have no further questions of this witness at  
17 this time, Mr. Chairman.

18 MR. CHAIRMAN: Any questions, members of the Board? Mr. and  
19 Mrs Powers?

20 MRS. POWERS: Could you repeat that last question you asked  
21 him, please?

22 MR. KAISER: Yes, ma'am. I asked him Mr. Dahlin if in his  
23 professional opinion will the granting of this applica-  
24 tion be in the best interest of conservation, prevention  
25 of waste and the protection of correlative rights.

1 MR. DAHLIN: If I could expound on that a little. It is  
2 consistent with our Nora Coalbed rules which were  
3 designed so as not to preclude or leave anyone out of the  
4 development of this mineral. And it's based on the  
5 testimony we gave, based on the drainage of each one of  
6 these "coalbed methane" wells. The size was developed at  
7 that point and was adopted by the Board.

8 MRS. POWERS: So this grid that I was shown, that was develop-  
9 ed by the Gas and Oil Board?

10 MR. CHAIRMAN: That's right.

11 MR. DAHLIN: Yeah. This grid on this plat is one of the small  
12 grids on that larger map.

13 MR. KAISER: And the Board developed those rules after taking  
14 extensive testimony from reservoir engineers and geolog-  
15 ists and various other people that presented testimony as  
16 to drainage.

17 MR. CHAIRMAN: Other questions? Do you have other questions  
18 of this witness?

19 MRS. POWERS: No.

20 (Witness stands aside.)

21 MR. CHAIRMAN: Do you have further witnesses?

22 MR. KAISER: No further witnesses, Mr. Chairman.

23 MR. CHAIRMAN: You have the opportunity now to say anything  
24 you wish to about the application itself.

25 MRS. POWERS: I just wanted to make a closing statement in

1 pretty much restating what I have said already. That is  
2 that I feel that we really haven't been given a viable  
3 option to participate in this because of the conflicting  
4 statements within the leases that have been sent to us  
5 and again, feeling that my constitutional rights are  
6 being violated by even having to appear in a hearing to  
7 see if somebody else can develop something that is mine  
8 already. That's basically what our feelings are.

9 MR. CHAIRMAN: Any questions or comments, members of the  
10 Board? Do we have a motion?

11 MR. KELLY: I would move that the application for pooling  
12 be approved as submitted.

13 MR. EVANS: Second.

14 MR. CHAIRMAN: A motion and a second. Further discussion?  
15 All in favor signify by saying yes. (ALL AFFIRM.)  
16 Opposed say no. (NONE.) The motion carries. The order  
17 itself of the Board will give you an option -- the  
18 election options from the date of the order. It will  
19 give you the time that you can make those decisions.

20 MS. RIGGS: Those are prepared by my office and mailed out.  
21 They're recording in the public records and mailed out  
22 and it's the recording of the order itself that triggers  
23 the time period in which you are offered the options  
24 spelled out in the statute. So it's important when you  
25 get that order that you act within the time set forth in

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the order.

MRS. POWERS: Can you give me some notion as to the length of time we will have to appeal?

MRS. RIGGS: Those are not set by the Gas and Oil Act. Those are set by the Rules of Court under the Administrative Process Act and you generally within 30 days need to give a notice of appeal and file your appeal. But that's not part of the Gas and Oil Act. That's an appeal from an administrative decision under the Administrative Process Act. So you need to --

MRS. POWERS: Who do you make the appeal to?

MS. RIGGS: To the courts. The appeal goes directly to the court in the county where the well will be located. Circuit Court.

MR. POWERS: Can we go to the court and make the appeal before we leave to go back?

MS. RIGGS: No. You'll have to wait until this Board acts by order and if you wish to appeal to the court then you would appeal from that order and that would create the time period.

(AFTER A BRIEF DISCUSSION OFF THE RECORD, THE HEARING CONTINUED AS FOLLOWS:)

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3 ITEM IV

4 MR. CHAIRMAN: The next item on the agenda is the Gas and Oil  
5 Board on its own motion will consider an application to  
6 withdraw funds from escrow pertaining to the V-2431  
7 pooled unit. This is docket number VGOB-92/11/17-0288.  
8 Sandra, I'll let you have the floor.

9 MS. RIGGS: We've had this process occur one time and it's a  
10 situation where we have an unlocatable who has now been  
11 located come forward and it's a conventional gas situa-  
12 tion where there's no longer a need to escrow their  
13 funds with Tazewell National Bank. So they are seeking  
14 through an application for withdrawal of funds to 1)  
15 Identify their location and whereabouts. 2) To take  
16 whatever moneys have now been deposited with the escrow  
17 agent to have them disbursed to them. 3) In the future  
18 to have the operator make the payments directly to them  
19 since their whereabouts are now known. I have the  
20 original of their application. I think you have a copy.  
21 If the Board should act favorably upon their application  
22 there is a place at the bottom for the Board to enter its  
23 order and it would be transmitted to the escrow agent  
24 which would be the escrow agent's instructions to  
25 disburse the funds.

MR. MASON: I just wanted to ask a question. The language in

1 here "any funds attributable to her interest in the  
2 subject drilling as a deemed to have leased party" is  
3 that language something that ties back to the original  
4 Board order?

5 MS. RIGGS: Yes. Under the Board order anybody who fails to  
6 make an election within the period of time established  
7 for the making of elections is a deemed to have leased  
8 party under the Board order.

9 MR. MASON: That's just the language that's used in the order?

10 MR. CHAIRMAN: Right.

11 MS. RIGGS: Right.

12 MR. MASON: Okay. I'm always made nervous by that particular  
13 phrase.

14 MR. CHAIRMAN: It is in the order itself.

15 MR. MASON: It's also in the act. There are those who attach  
16 significance to those orders that I don't share.

17 MR. CHAIRMAN: I understand.

18 MS. RIGGS: I think the feeling of the Board last time was  
19 that these come before the Board each time until you get  
20 a feel for the various scenarios so that you can act on  
21 them. You didn't feel you wanted to delegate authority  
22 just to automatically enter these when we locate people.  
23 So, yes, it does require Board action.

24 MR. EVANS: In that case I make a motion that the application  
25 to withdraw funds from escrow be granted.

1 MR. MASON: Second.

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

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

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

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3 ITEM V

4 MR. CHAIRMAN: The next item on the agenda is a petition from  
5 Virginia Gas Company for modification of a temporary  
6 order for testing of the Price and Little Valley Forma-  
7 tion, docket number VGOB-94/06/21-0449. We'd ask the  
8 parties that wish to address the Board in this matter to  
9 come forward at this time and identify yourselves.

10 MR. EDWARDS: Good morning, Mr. Chairman, members of the  
11 Virginia Gas and Oil Board. My name is Michael L.  
12 Edwards. I'm president of Virginia Gas Company. I've  
13 previously testified before the Board and would request  
14 to be admitted as an expert witness.

15 MR. CHAIRMAN: Are there any other parties that wish to  
16 address the Board in this matter? The record will show  
17 there are none. Mr. Edwards, you may proceed. The Board  
18 has heard your testimony. Be sworn in if you are going  
19 to testify.

20 COURT REPORTER: (Swears witness.)

21 MR. EDWARDS: Mr. Chairman, we are requesting a modification  
22 to the orders concerning the Early Grove Field. As you  
23 all are aware, the original order was effective in August  
24 of 1988 and subsequently modified in July of 1992 to  
25 allow for testing of portions of the Early Grove Field  
for conversion to storage, subsequently modified in

1 August, September and October of 1993 enlarging the  
2 testing area to the entire field and extending the  
3 testing period through November 1st, 1995. In our  
4 current application we're requesting essentially three  
5 things. One, that the testing period be extended to  
6 November 1st, 2000 or for an additional five years.  
7 We're also requesting that the drilling density in the  
8 field be approximately doubled by allowing a second well  
9 in each unit. As part of that, if surface or other  
10 considerations so dictate and if it's necessary that we  
11 have more than two wells in one particular unit and only  
12 one in another unit that the Inspector have the discre-  
13 tion to approve the permit applications for the wells in  
14 question in those cases. We're also requesting that  
15 information regarding injections, withdrawals and  
16 pressures be kept confidential for two years after  
17 completion of the testing period. In my testimony today  
18 I'd like to go through a brief review of the operations  
19 in the field since October, 1993 when I last appeared.  
20 I'd like to also go over briefly a review of the regulat-  
21 ory rescheme as we understand it that will apply to the  
22 field once it's converted to becoming a commercial  
23 storage field. In 1993 a total of 540,00 MCF were  
24 injected into eleven wells. Withdrawals began in  
25 November of 1993. A total of 378,000 MCF were withdrawn

1 in approximately a 160 day period lasting through April,  
2 1994. The average rate of withdrawals was about 2.2  
3 million cubic feet per day. Peak was reached in late  
4 January. In the cold weather that was then prevalent  
5 the field reached a peak of about 3.6 million cubic feet  
6 a day. For comparisons purpose the last heating season  
7 in which the field produced as a conventional field was  
8 1992/1993 in which the field produced approximately  
9 160,000 cubic feet over about a 190 period. So the field  
10 produced at less than one million cubic feet a day in the  
11 1992/1993 period. The availability of peak day supplies  
12 from the Early Grove Field in the winter of 1993/1994  
13 were a critical factor in preventing gas supplies to  
14 Southwest Virginia customers from Roanoke to Castlewood  
15 to Bristol being curtailed in late January. We produced  
16 in that period from a total of eighteen wells including  
17 eleven wells in which gas had been injected during the  
18 summer and seven other wells in which gas had not been  
19 injected. Our injection pressures reached a peak of  
20 approximately 1,300 pounds in October of 1993. We  
21 estimate that the bottom hole pressures on the injection  
22 wells range from 1,100 to slightly over 1,300 pounds.  
23 Injections were resumed in May of 1994 at a rate of  
24 approximately 4.5 million cubic feet per day. We  
25 subsequently upgraded our compression in June of 1994 and

1 the injection rate's been increased to 5.4 million cubic  
2 feet a day in the thirteen wells. We anticipate adding a  
3 second compressor in July/early August of 1994 which will  
4 increase the injection rate to approximately nine million  
5 cubic feet per day using up to seventeen of the existing  
6 twenty-one wells. We expect the injection pressures late  
7 in the summer or early fall to reach or slightly exceed  
8 1,400 PSI. The original reservoir pressures in the field  
9 ranged from 1,400 to 1,500 PSI measured at the surface.  
10 The virgin bottom hole pressures were therefore in the  
11 approximate range of 1,500 to 1,600 pounds. One other  
12 piece of information of note is that this spring we've  
13 established communication between another pair of wells  
14 in addition to the ones we noted last summer. As part of  
15 our process of converting this production field into  
16 Virginia's first commercial storage field we've studied  
17 the regulatory rescheme which is normally applied to  
18 storage operations. Operations of this type are typical-  
19 ly regulated by the Federal Energy Regulatory Commission  
20 for Interstate Commerce and by various State and public  
21 utility regulatory commissions in those cases involving  
22 primarily intrastate transactions. We contacted both the  
23 Virginia State Corporation Commission and the FERC in  
24 1993 to clarify the regulatory situation and were told  
25 that the best arrangement would be to have the Virginia

1 situation we're in in this transitional period is that we  
2 expect to have some regulatory overlaps between the  
3 Corporation Commission and between the Department and  
4 the Gas and Oil Board. There is a number of regulatory  
5 issues there regarding permitting, regarding bonding, all  
6 kinds of different things of that type. And in the  
7 interim while those issues are being addressed we would  
8 like to have the ability to drill additional in-field  
9 wells in the field to test the ability of the reservoirs  
10 to produce at a higher rate and also to extend the period  
11 of testing to the year 2000 which is approximately when  
12 we anticipate the primary native reserves of the field  
13 would have been depleted. We're also requesting that the  
14 volume and pressure information which we're reporting to  
15 the Inspector be held confidential as they normally would  
16 under regulated utility storage operations. That is the  
17 extent of the prepared comments I had. I'd more than  
18 happy to entertain questions from the Board.

19 MR. CHAIRMAN: I have on the confidentiality. Are you  
20 requesting anything different than the confidentiality  
21 provision reported by the statute in 45.1-361.6?

22 MR. EDWARDS: No, sir.

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

24 MR. KELLY: I didn't recall which well you said previously had  
25 communicated, but what are the two recent ones that have

1           communicated?

2 MR. EDWARDS: In June we noticed that there was probable  
3           communication between the Miller #1 and the Duar wells.  
4           This June we noticed -- we don't have absolute conforma-  
5           tion of this. We have indications that there may be  
6           communication between the Gilbert Baker #1 well and the  
7           Manzie Gardner well.

8 MR. EVANS: Which of these are -- on your submission here,  
9           your Exhibit A, can you tell me which wells are which?

10 MR. EDWARDS: The Manzie Gardner well is the EH-105 and the  
11           Gilbert Baker #1 well is the EH-88.

12 MR. MASON: I'm just curious. You characterized this as a  
13           test period. Is there some (Inaudible) to doing that as  
14           opposed to just having it as an operating storage area?

15 MR. EDWARDS: Not really. It is, in fact, a testing process  
16           that we're engaged in. There has not been sufficient  
17           data generated to determine whether or not the field will  
18           perform adequately. We continue to be encouraged by the  
19           results that are being generated by this, but the -- I  
20           don't feel at this time that it's a proven thing.

21 MR. MASON: I was just curious because in terms of extending  
22           it for what -- it will be a total of seven more years?

23 MR. EDWARDS: Five additional years.

24 MR. MASON: But from today it would actually be six, would it  
25           not?

1 MR. EDWARDS: I think under the terms of the order in October  
2 of 1993 we got an additional two years to November 1st of  
3 1995.

4 MR. MASON: I didn't whether there was any importance because  
5 of the length of time involved as to call it a test or  
6 whether from a regulatory standpoint that makes any  
7 difference. As long as it's characterizes as a test,  
8 does that have -- I don't know that. I'm raising the  
9 question solely for my own edification.

10 MR. EDWARDS: We're in a regulatory limbo here and we're  
11 trying to comply with all applicable laws and regula-  
12 tions.

13 MR. EVANS: I would suspect that with the designation of the  
14 test situation depending on what the decision of the  
15 Corporation Commission and everything else is there might  
16 be some changes that are necessitated and if we say it's  
17 not a test period then that may cause some headache. So  
18 I understand the problem with being betwixt and between  
19 on regulatory where you don't know what an agency may or  
20 may not require.

21 MR. MASON: Their primary involvement in this is suppose to be  
22 rate related, is it not?

23 MR. EDWARDS: Our distribution operations are regulated by the  
24 Corporation Commission and their involvement extends to  
25 environmental and safety concerns. Again, I have no idea

1           whether we will end up being regulated by both the DMME  
2           and by the Corporation Commission or whether the Commiss-  
3           ion will exercise primary jurisdiction. Those answers  
4           haven't appeared on my screen yet.

5 MR. MASON: Thank you, Mr. Edwards.

6 MR. CHAIRMAN: Do you anticipate pooling any of these? Do you  
7           believe that any of these wells would require a pooling  
8           application?

9 MR. EDWARDS: Mr. Chairman, I don't believe so. There is a  
10          minuet fractional interest outstanding on one of the  
11          units. Once our -- assuming that our certification  
12          application before the State Corporation Commission is  
13          approved we will have right of eminent domain in the  
14          project area and I would anticipate whatever minor  
15          property issues remain at that time could be handled by  
16          condemnation if necessary. We believe that we will be  
17          able to get 100 percent of the oil and gas estate leased  
18          prior to -- I would hope prior to the end of this year.  
19          What we're down on the gas and oil estate is I think  
20          we've got eight or nine heirs in the Miller estate. We  
21          originally had twenty some odd and we've -- through a  
22          pretty rugged three yards and a cloud of dust type  
23          leasing have been able to get that down to about eight.  
24          We know where they all are. Originally as many as a  
25          dozen of them were unlocatable. We've been able, we

1 think, to locate them all. Most of the outstanding heirs  
2 are in California. I believe four of them are in  
3 California and two are in Texas and then there's one in  
4 Bristol and I believe there's one down in Tennessee. But  
5 I have a -- we may not get all of them. I expect that we  
6 will, though. I'm hoping to be able to avoid the pooling  
7 issue. I know that in the developed portion of the field  
8 I believe we've got at present about 99.7 percent of the  
9 interest under lease. We are continuing to attempt to  
10 make that 100 percent and believe that that is attain-  
11 able.

12 MR. EVANS: Go over again why you would like to drill another  
13 well in each unit.

14 MR. EDWARDS: The main value of a storage reservoir is in  
15 meeting peak day demand. The higher the deliverability  
16 the more applicable it is for commercial operations.

17 MR. EVANS: I understand.

18 MR. EDWARDS: There's a lot of demand for -- for example, this  
19 last winter, there's a lot of demand for peak day  
20 service. There is moderate to zero demand for what's  
21 called base load storage service. We basically have  
22 produced the field in the last withdrawal cycle as a  
23 modified base load field. We're attempting to determine  
24 if it can be developed as a high rate field. The  
25 different -- for example, the most valuable type of

1 storage service is ten day service that in this area is  
2 only at this time available from above ground liquified  
3 natural gas containers. For example, East Tennessee  
4 Natural Gas has one down at Fordtown close to Johnson  
5 City. Roanoke has a smaller tank up there on the north  
6 side of their system. That type of demand can also be  
7 met from salt cavern storage. The next type of service  
8 that's typically offered is anywhere from 45 to 60 day  
9 service and that's typically from conventional depleted  
10 gas fields that have got extremely high porosity and  
11 permeability on the order of -- porosity on the order of  
12 twenty some odd percent and permeability in the darcies.  
13 An example of a field that's used like that is the Loss  
14 Creek storage field up in Harrison and Lewis Counties,  
15 West Virginia. I use to live on top of that field and  
16 had free gas from wells in that. And then you go down --  
17 there's a spectrum from there down. For example, much of  
18 the storage on the East Tennessee system is being met by  
19 the Bear Creek field in Northern Louisiana which is a  
20 50/50 joint venture between Tenico and Southern Natural  
21 Gas. Bear Creek typically offers 150 service which is  
22 better than nothing but it's not as good as the peakier  
23 type -- shorter withdrawal period facilities. That's  
24 where the real value to the residential and commercial  
25 customers is. Most of the increase in demand in the

1 natural gas markets that we're seeing now is in the  
2 residential and commercial sectors. That's a very  
3 difficult type of demand to meet because it is so peaky.

4 MR. EVANS: It's a question of meeting a demand from a --

5 MR. EDWARDS: Yeah. It's not efficient from a conventional  
6 reservoir management point of view.

7 MR. EVANS: Right.

8 MR. EDWARDS: In that situation you typically want to minimize  
9 the number of wells you drill in a reservoir rather than  
10 maximize them. It's a little different.

11 MR. EVANS: I understand.

12 MR. CHAIRMAN: Other questions?

13 MR. KELLY: Are you fully utilizing both reservoirs now, the  
14 Little Valley and the Price?

15 MR. EDWARDS: Probably not. The Price reservoir perhaps more  
16 so than the Little Valley. We began using the Price  
17 reservoir earlier in the process last summer than we did  
18 the Little Valley. So we have a little more information  
19 about it. The Little Valley formation is considerably  
20 more complex than the Price and we don't really have --  
21 we have some tantalizing bits of additional information  
22 but don't really have a handle on the reservoir mechanism  
23 or even the extent of the reservoir. For example, to the  
24 north east of the Sour Beer well, the EH-90, there could  
25 be room for an additional well there. There is also some

1 -- one of the things that we are hoping to do with an in-  
2 field drilling program is to core strategic parts of the  
3 reservoir to set seven inch through the Big Lime or  
4 basically through the Black Water zone and then to move  
5 in a mining core rig -- a long ear rig and take maybe  
6 1,00 feet of continuous core, not on every well but  
7 perhaps on every third or fourth well to try to under-  
8 stand what the rock units are, what the nature of the  
9 fracture network is.

10 MR. KELLY: So do you anticipate completing both zones in the  
11 additional wells you drill?

12 MR. EDWARDS: Possibly.

13 MR. KELLY: Or is that based on maybe what the initial well is  
14 completed in?

15 MR. EDWARDS: Possibly. The information we have developed so  
16 far -- a number of the wells in the field have been duely  
17 completed. A study of the historical records and  
18 subsequent logging, we've come in and relogged most of  
19 the wells in the field this spring, ran temperature logs  
20 and on the ones that are case hole ran spinner surveys.  
21 Most of the information indicates that those wells that  
22 are duely completed, in almost all of them the bulk of  
23 the -- the great majority of the production is either  
24 coming from the Little Valley or from the Price. It's  
25 not -- I think in the Dorton well, EH-98, although it's

1 completed in the Little Valley it appears to primarily to  
2 be a Price producer. There may be some dual completion,  
3 but I would expect that as we develop the field that  
4 we'll isolate zones to an increasing extent.

5 MR. CHAIRMAN: Any other questions? Do you have anything  
6 further?

7 MR. EDWARDS: No, sir.

8 MR. MASON: I move we approve the petition.

9 MR. KELLY: Second.

10 MR. CHAIRMAN: A motion and a second. Before we vote on that,  
11 just a comment. Are we doing this with the understanding  
12 that if there was a pooling necessity that you would come  
13 back to the Board with a pooling?

14 MR. EDWARDS: Yes, sir. Absolutely.

15 MR. CHAIRMAN: Okay. Any further discussion? All in favor  
16 signify by saying yes. (ALL AFFIRM.) Opposed say no.  
17 (NONE.) Unanimous approval. Thank you. We'll adjourn  
18 for lunch and reconvene about 1:15.

19 MR. EDWARDS: Mr. Chairman, we have four additional items on  
20 the docket. We intend to continue them all. We think  
21 we're close to reaching terms with the respective --

22 MR. CHAIRMAN: Tell me which ones those are.

23 MR. EDWARDS: Yes, sir. Item VI, VII, VIII and IX. I don't  
24 know if procedurally we need to --

25 MR. CHAIRMAN: A request for a continuance. Are there any

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objections? No objections. They are continued.

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

ITEM X

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3 MR. CHAIRMAN: The next item on today's agenda is a petition  
4 from Columbia Natural Resources for the creation of a  
5 drilling unit and pooling for unit 821732. This is  
6 docket number VGOB-94/06-21-0454. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward at this time.

9 MR. SWARTZ: Mark Swartz. I'm appearing for the applicant,  
10 Columbia Natural Resources.

11 MR. HYDE: I'm Paul Hyde, director of reservoir engineering  
12 for Columbia Natural Resources.

13 MR. OWENS: I'm Terry Owens, senior abstractor for Columbia  
14 Natural Resources.

15 MR. CHAIRMAN: Any others? The record will show there are  
16 none. You may proceed, Mr. Swartz.

17 MR. SWARTZ: Before we start could we have both of these  
18 gentlemen sworn in?

19 COURT REPORTER: (Swears witnesses.)

20 MR. SWARTZ: This application has two requests for relief in  
21 general. The first is to create a circular pooling unit  
22 which is depicted on Exhibit A. It contains roughly 125  
23 acres. The pooling issues, assuming the unit is created,  
24 there are two tracts. One is this little triangle right  
25 at the top of the circle which is tract two and then off

1 to the side here tract four -- there is one owner in each  
2 tract. There are only two respondents in each of those  
3 two tracts that we could not obtain a lease from. In  
4 terms of the interests that are sought to be affected we  
5 have two respondents, one in each of the two tracts I've  
6 just identified. Columbia Natural Resources has leased  
7 99.8977 percent of the unit and the interest that would  
8 be affected by this force pooling are on the order of .1  
9 percent of the unit and are specifically set forth in  
10 Exhibit B. I'd like to start with Paul Hyde's testimony  
11 and conclude with Terry's.

12  
13 PAUL HYDE

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

16  
17 DIRECT EXAMINATION

18  
19 BY MR. SWARTZ:

20 Q. Terry, would you state your name for us?

21 A. My name is Paul Hyde.

22 Q. You've already given us your title, correct?

23 A. That's correct.

24 Q. And you work for Columbia Natural Resources?

25 A. Yes, I do.

- 1 Q. Have you reviewed the information available with regard  
2 to this well and the field in which it is located so  
3 you'd be in a position to advise the Board with regard to  
4 your opinions concerning the appropriateness of the size  
5 of this unit and with regard to certain production and  
6 economic issues?
- 7 A. Yes, I have.
- 8 Q. Have you testified this Board before?
- 9 A. Yes.
- 10 Q. Has this Board accepted your credentials and testimony as  
11 being an expert able to testify and offer expert opin-  
12 ions?
- 13 A. Yes.
- 14 Q. Is Columbia Natural Resources a Texas corporation?
- 15 A. That's correct.
- 16 Q. Is it authorized to do business in Virginia?
- 17 A. Yes.
- 18 Q. Is Columbia Natural Resources requesting that it be  
19 designated the unit operator for this unit in the event  
20 this application is approved?
- 21 A. Yes, we are.
- 22 Q. Has Columbia Natural Resources registered with the  
23 Department of Mines, Minerals and Energy and does it have  
24 a blanket bond in the Commonwealth as required by law?
- 25 A. Yes.

- 1 Q. Are both of the respondents listed by name in the notice  
2 of hearing?
- 3 A. Yes, they are.
- 4 Q. There are only two respondents who you are seeking to  
5 force pool?
- 6 A. That is correct.
- 7 Q. Do you wish at this time to amend either the notice or  
8 the application to add anyone else?
- 9 A. No.
- 10 Q. Do you wish to dismiss either one of these?
- 11 A. No, we do not.
- 12 Q. There is one amended exhibit that we tendered to the  
13 Board today, correct?
- 14 A. That is correct.
- 15 Q. And that's the drilling costs information exhibit?
- 16 A. Revised AFE, yes.
- 17 Q. What is the reason for the change or reasons?
- 18 A. The original application contained an estimate of the  
19 costs of drilling that well. Due to the time frame we  
20 now have some actual net costs and we've revised that to  
21 reflect the actuals.
- 22 Q. So the amended exhibit reflects -- insofar as it has  
23 changed reflects actual costs?
- 24 A. That is correct.
- 25 Q. And in general it has gone up?

1 A. Yes, it has.  
2 Q. Roughly by what?  
3 A. \$48,000.  
4 Q. Has Columbia Natural Resources exercised due diligence to  
5 identify and locate all persons having record title to  
6 oil, gas and/or coal and having identified those persons  
7 exercised due diligence in trying to locate them?  
8 A. Yes, we have.  
9 Q. Is there, in fact, an affidavit to that effect signed by  
10 Keith Moffet that has been filed in this proceeding?  
11 A. Yes, there is.  
12 Q. With regard to notice and publication were copies of the  
13 notice of hearing and application and various exhibits  
14 mailed as required, return receipt requested, to the  
15 respondents?  
16 A. Yes, they were.  
17 Q. Has proof of mailing and copies of the return receipts  
18 that were signed also been filed with Mr. Fulmer's  
19 office?  
20 A. Yes, they have.  
21 Q. And both respondents, in fact, signed for the mailing, is  
22 that correct?  
23 A. That's correct.  
24 Q. Was there also a publication?  
25 A. Yes. Published in the Bluefield Daily Telegraph on May

1 26th was the notice of hearing and the exhibit that you  
2 have marked Exhibit A.  
3 Q. That's what appeared in the published notice?  
4 A. That's correct.  
5 Q. Subsequent to the publication was a certificate of  
6 publication filed with the DMME?  
7 A. Yes, it was.  
8 Q. With regard to the standing of the applicant has CNR  
9 leased 99.8977 percent of the oil and gas interest in  
10 this proposed unit?  
11 A. Yes, we have.  
12 Q. What is the outstanding interest that is sought to be  
13 pooled by this application?  
14 A. .1023 percent of the unit.  
15 Q. Exhibit A which is the well plat shows the shape and size  
16 of this proposed unit, correct?  
17 A. That is correct.  
18 Q. And it contains what acreage?  
19 A. Slightly over 125 acres.  
20 Q. Is it 125.664?  
21 A. That's correct.  
22 Q. This proposed unit that we're talking about creating  
23 today is not, as far as you know, in any area subject to  
24 field rules, correct?  
25 A. That's correct.

1 Q. Also this proposed unit and proposed well location --  
2 well, it's not a proposed location. It's in existence.  
3 But the well location shown on Exhibit A does not require  
4 a location exception, is that correct?  
5 A. That is correct.  
6 Q. And it complies with the statewide spacing distances?  
7 A. That is correct.  
8 Q. The target formations of this well are which formations?  
9 A. The Burea sandstone and the Devonian shell.  
10 Q. The unleased owners and the two respondents that we're  
11 seeking to force pool are owners in tract two and tract  
12 four, is that correct?  
13 A. That is correct.  
14 Q. Now, we've talked briefly about the fact that Exhibit C,  
15 the AFE, has been amended. When was that exhibit  
16 prepared?  
17 A. It was prepared on June 13th and was signed by Steven E.  
18 Eades who is senior vice-president of operations for  
19 Columbia.  
20 Q. What is the depth of the deepest formation here?  
21 A. The depth to the Devonian shell is 5,440 feet.  
22 Q. Have you reviewed the amended AFE and having done so is  
23 it your opinion that the AFE represents the actual costs  
24 expended or incurred to drill the well and to the extent  
25 any components of the AFE are remain estimates -- that

- 1           those estimates are reasonable?
- 2   A.   That is correct.
- 3   Q.   Exhibit B which is anexed to the application breaks out
- 4       the leased and unleased interests, does it not?
- 5   A.   That's correct.
- 6   Q.   If you look at Page 3 of Exhibit B, sort of at the top,
- 7       you'll notice with regard to tract two there is a not
- 8       leased entry and that is Mr. Clevenger
- 9   A.   That is correct.
- 10  Q.   Then with regard to tract four, at the top of Page 5 in
- 11       tract four, the not leased interest of the other respond-
- 12       ent Billy Stiltner is set forth?
- 13  A.   That's correct.
- 14  Q.   And a division of interest is set forth with regard to
- 15       both of those gentlemen and their undivided interests in
- 16       the tracts that they have an interest in?
- 17  A.   That's right.
- 18  Q.   Then there is a summary at the end of Exhibit B which is
- 19       section III, Page 7, which again shows those divisions of
- 20       interests for the two respondents?
- 21  A.   Yes, it does.
- 22  Q.   Those divisions of interest would be relevant to royalty,
- 23       correct?
- 24  A.   That's right.
- 25  Q.   And also to the extent that the respondents would opt to

1 participate or be carried those divisions of interest  
2 would be used and applied to the AFE cost in terms of  
3 participation and in terms of a carried interest as well?

4 A. That is correct.

5 Q. I know we were here last month -- I think it was last  
6 month -- on another unit in this same general area. But  
7 if you could give us some indication of the history of  
8 history of this field and the production information that  
9 you have relevant to the creation and sizing of this  
10 unit.

11 A. Production from what we call the Haysi Field began in  
12 1972 on a full scale basis. It was minor production  
13 prior to that. We consider it a mature field. The  
14 initial reservoir pressure in the Burea was in the  
15 neighborhood of 900 pounds. Since it has declined in the  
16 more productive area to between 400 and 600 pounds. We  
17 currently have 95 wells producing from the Burea and  
18 eight from the Devonian shell. The Devonian shell is a  
19 fairly new target horizon in the Haysi Field. Average  
20 production for these Burea wells over their life is  
21 projected to be 780 MMCF with a range of 60 to 2,700 MMCF  
22 per well. Because this reservoir pressure has declined  
23 over time the projected production from this well is only  
24 225 MMCF reflecting the poor quality of the reservoir and  
25 the slight loss in pressure. We expect a fracture length

- 1 or half fracture length of 1,000 feet. This is based on  
2 a study that we did last year looking at 25 individually  
3 measured Burea wells, the type of treatment that was done  
4 on the wells, and the calculated fracture length based on  
5 production histories. We feel that although this is only  
6 a drainage area of 72 acres with the fractured nature of  
7 the Burea and Devonian shell that this will allow us to  
8 effectively drain the 125 acres we're asking for on this  
9 unit.
- 10 Q. With regard to well economics have you run any economic  
11 analysis with regard to pay-back and with regard to rate  
12 of return on this particular well that you have estimated  
13 production at .225 BCF?
- 14 A. Yes, we have. And although it's lower than what we  
15 anticipated with our estimates we're expecting a rate of  
16 return of 4.48 percent and a pay-back in approximately  
17 eleven years. This is due to the slightly increased  
18 costs which you have on your exhibit and lower anticipat-  
19 ed reserves.
- 20 Q. The last time we were here I think the anticipated  
21 reserves were on the order of .3 BCF?
- 22 A. That is correct.
- 23 Q. Is it your opinion that the plan to create this unit and  
24 develop the unit by virtue of the well that we've  
25 described and discussed today is a reasonable plan to

- 1           develop the Burea formation and the Devonian shell within  
2           and under this proposed unit for the benefit of the  
3           owners of the oil and gas resources located in those  
4           formations?
- 5   A.    Yes, I do.
- 6   Q.    Is it your opinion that the proposed well and proposed  
7           unit would contribute to the protection of the cor-  
8           relative rights of the owners of this oil and gas in  
9           these formations and would lessen the likelihood of both  
10          physical waste and economic waste?
- 11   A.    Yes, I do.
- 12   Q.    Is the proposed unit an economic unit in the sense that  
13           it is anticipated it will repay it's development costs  
14           together with a reasonable rate of return over the  
15           anticipated life of the well?
- 16   A.    Yes, it is.
- 17   Q.    What is your anticipated life for this well?
- 18   A.    It's anticipated that the economic life of this well for  
19           rate of return calculations is 30 years.
- 20   Q.    Is the proposed unit, the 125 acre unit, of a size which  
21           will permit the estimated recoverable reserves to be  
22           drained by the proposed well over the 30 year economic  
23           life?
- 24   A.    Yes, it is.
- 25   MR. CHAIRMAN: Any questions, members of the Board?

1 MR. MASON: I noticed on this AFE or DWE that one of the  
2 differences was under contract drilling/contract day  
3 work for \$12,094 other?  
4 MR. HYDE: I'm not positive what that is. It's probably some  
5 extra day work was done due to the number of stimulations  
6 that we had to do in the well that wasn't anticipated.  
7 MR. MASON: But you don't know for sure?  
8 MR. HYDE: No, I do not.  
9 MR. MASON: That was an item that wasn't on the original one  
10 at all.  
11 MR. SWARTZ: Was there a problem with the stimulations in this  
12 well?  
13 MR. HYDE: Not that I know of. But sometimes we project two  
14 treatments and it may take three and get extra day work  
15 with that time frame. We can verify that if you'd like  
16 and get back to you.  
17 MR. MASON: It was just an item that wasn't on there and it  
18 composed of about a fourth of the increase and I was  
19 curious as to what it was.  
20 MR. HYDE: That would be my feelings as to what it is.  
21 MR. CHAIRMAN: Other questions?  
22 (Witness stands aside.)  
23 MR. CHAIRMAN: You may proceed, Mr. Swartz.  
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TERRY OWENS

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Terry, would you state your name for the record?

A. Terry Owens.

Q. And you've told us your title before, correct?

A. Yes, sir.

Q. You are an employee of Columbia Natural Resources?

A. Yes.

Q. Terry, part of your responsibility, I take it, is to try to lease up all of the acreage in proposed units?

A. That's correct.

Q. Could you tell the Board what the typical lease terms that you offered to people in this unit and other units in this field have been?

A. Due to the fact that the well was actually in the ground we went out -- I went out locally as well as across the eastern part of the country and offered them a \$2 per acre lease for a period of one year and a standard one-eighth royalty. The lease will stay in effect as long as the well produced oil and/or gas and pay in quantities.

1 Q. Now, you understand that if the Board were to create this  
2 unit and pool the interest of the respondents that they  
3 would make provision in their pooling order for deemed to  
4 have leased terms?  
5 A. Yes.  
6 Q. In other words, if people were deemed to have leased  
7 these would be certain terms that they would be deemed to  
8 have accepted. Would you recommend \$2 per acre rental, a  
9 one-eighth royalty and a one year primary term with a  
10 continuation of the lease term as long as production  
11 continued to the Board for purposes of the order?  
12 A. Yes.  
13 Q. Could you describe briefly your efforts to attempt to  
14 enter into voluntary agreements with each of the two  
15 respondents?  
16 A. In the instance of Mr. Clevenger who lives in California  
17 there was a communication initially from his mother's  
18 house with him and I mailed him some leased by certified  
19 mail. After a period of a week or so we had not received  
20 the green card back and at that point I called him again.  
21 He stated that they did have the notice -- that they had  
22 certified mail at the post office. After some period of  
23 time the mail was returned at which point I called him  
24 and told him I was going to send him out forms by  
25 standard U.S. postage. I never received an answer. In

1 the case of Mr. Stiltner numerous meetings and phone  
2 calls. Probably four to six took place over the tele-  
3 phone, at his mother-in-law's house and at places out on  
4 the road. He drove a coal truck at the time. All of  
5 which he refused to lease.

6 Q. Did you also provide him with a proposed lease or leases?

7 A. Yes. Mr. Stiltner was provided on two separate occasions  
8 lease forms.

9 Q. What is the interest so that we have it on the record of  
10 Mr. Clevenger -- the undivided interest that he has in  
11 tract two?

12 A. Mr. Clevenger owns a one-fifth of one-eleventh interest  
13 and .0026 percent of the drilling unit.

14 Q. And the .0026 percent is in Exhibit B, is it not?

15 A. That's correct, on Page 7.

16 Q. With regard to Mr. Stiltner in tract four what is his  
17 undivided interest in that tract insofar as it forms a  
18 part of this proposed unit?

19 A. His interest is one-third of one-tenth interest and 2.99  
20 percent of the drilling unit or .0996.

21 MR. SWARTZ: That's all I have, Mr. Chairman.

22 MR. CHAIRMAN: Any questions of this witness?

23 (Witness stands aside.)

24 MR. CHAIRMAN: Anything further?

25 MR. SWARTZ: That's it.

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MR. EVANS: I move that we grant the petition.

MR. KELLY: Second.

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

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

Opposed say no. (NONE.) Unanimous approval.

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ITEM XI

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Exploration for pooling of a coalbed methane drilling unit for VC-2942, docket number VGOB-94/06/21-0455. We'd ask the parties that wish to address the Board in this matter to come forward at this time and identify yourselves.

MR. KAISER: Mr. Chairman and members of the Board, I'm Jim Kaiser on behalf of Equitable Resources Exploration. Our witnesses in this matter will be Mr. Dennis Baker and Mr. Bob Dahlin.

MR. CHAIRMAN: Are there any others that wish to address the Board in this matter? The record will show there are none. You may proceed.

MR. KAISER: Mr. Baker will be our first witness. I'll remind him that's he's previously been sworn.

DENNIS BAKER

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

1  
2  
3 DIRECT EXAMINATION

4 BY MR. KAISER:

5 Q. Mr. Baker, would you state who you are employed by and in  
6 what capacity?

7 A. I'm employed by Equitable Resources Exploration as a  
8 leasing supervisor.

9 Q. Do your responsibilities the land involved here and in  
10 the surrounding area?

11 A. That's correct.

12 Q. Are you familiar with Equitable's application for the  
13 establishment of a drilling unit and pooling order for  
14 Equitable Resources Exploration well VC-2942 dated May  
15 20th, 1994?

16 A. Yes.

17 Q. Has EREX applied for a permit and is a permit now pending  
18 before the DMME?

19 A. I believe we have one on file dated 6/20/94.

20 Q. Is Equitable seeking to force pool the drilling rights  
21 underlying the drilling and spacing unit as depicted at  
22 Exhibit A of the application?

23 A. Yes.

24 Q. Does Equitable own drilling rights in the units involved  
25 here?

A. Yes, they do.

1 Q. Is the location proposed for well VC-2942 fall within the  
2 Board's order for the Nora Coalbed field rules dated  
3 March 20th, 1989?  
4 A. Yes.  
5 Q. What is the interest of Equitable in the unit at the time  
6 of application?  
7 A. Currently we have 76.17 percent of the gas estate leased  
8 at this time.  
9 Q. Are you familiar with the ownership of drilling rights of  
10 parties other than Equitable underlying this unit?  
11 A. Yes.  
12 Q. What is the percentage of the unit unleased at this time?  
13 A. Currently there is 23.83 percent unleased at this time.  
14 Q. What is the percentage of the coal estate under lease?  
15 A. We have 100 percent of the coal estate.  
16 Q. Are all unleased parties set out at Exhibit B?  
17 A. Yes.  
18 Q. Prior to filing the application were efforts made to  
19 contact each of the respondents in an attempt to work out  
20 an agreement regarding the development of the units  
21 involved?  
22 A. Yes.  
23 Q. Subsequent to the filing of the application have you  
24 continued to attempt to reach an agreement with respond-  
25 ents listed at Exhibit B?

1 A. Yes.

2 Q. As a result of these efforts have you acquired other  
3 leased from any of these respondents listed at Exhibit B  
4 as unleased parties?

5 A. No, we have not.

6 Q. Were any efforts made to determine if the individual  
7 respondents were living or deceased or their whereabouts  
8 and if deceased were efforts made to determine the names  
9 and addresses and whereabouts of the successors to any  
10 deceased individual respondent?

11 A. Yes.

12 Q. Were reasonable and diligent efforts made and sources  
13 checked to identify and location these unknown heirs to  
14 include sources such as deed records, probate records,  
15 accessors records and treasurers records?

16 A. Yes.

17 Q. In your professional opinion was due diligence exercised  
18 to locate each of the respondents named herein?

19 A. Yes.

20 Q. Are the addresses set out in Exhibit B to the application  
21 the last known addresses for the respondents?

22 A. Yes, they are.

23 Q. With the exception of those parties which you are hereby  
24 dismissing from this proceeding -- which there aren't any  
25 -- are you requesting this Board to force pool all other

1           unleased interests listed at Exhibit B?

2       A.    Yes, we are.

3       Q.    Does Equitable seek to force pool the drilling rights of  
4           each individual respondent if living and if deceased the  
5           unknown successor or successors to any deceased individ-  
6           ual respondent?

7       A.    Yes.

8       Q.    Is Equitable seeking to force pool the drilling rights of  
9           the person designated as trustee if acting in the  
10          capacity of trustee and if not acting in such capacity is  
11          Equitable seeking to force pool the drilling rights of  
12          the successor of such trustee?

13      A.    Yes, we are.

14      Q.    Mr. Baker, are you familiar with the fair market value of  
15           drilling rights in the unit here and in the surrounding  
16           area?

17      A.    Yes, I am.

18      Q.    Would you advise the Board as to what those are?

19      A.    \$5 per acre consideration, five year term with a one-  
20           eighth royalty.

21      Q.    Did you gain your familiarity by acquiring oil and gas  
22           leases, coalbed methane leases and other agreements  
23           involving the transfer of drilling rights in units  
24           involved here and in the surrounding area?

25      A.    Yes, I did.

1 Q. In your opinion do the terms you have testified to  
2 represent the fair market value of and a fair and  
3 reasonable compensation to be paid for drilling rights  
4 within this unit?

5 A. Yes.

6 MR. KAISER: Mr. Chairman, at this point I would ask the Board  
7 to -- I make a motion to include the testimony that was  
8 elicited in VGOB-94/05/17-0445 earlier this morning as to  
9 the elections afforded any force pooling respondents.

10 MR. CHAIRMAN: Without objection we'll accept that.

11 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend the  
12 force pooling order provide if a respondent refuses to  
13 accept any payment due including any payment due under  
14 said order or any payment of royalty or cash bonus or  
15 said payment cannot be paid to a party for any reason or  
16 there is title defect in a respondent's interest or in  
17 the event of conflicting claims to the coalbed methane  
18 that the operator pay into an escrow account created by  
19 this Board into which all costs or proceeds attributable  
20 to conflicting interests shall be held for the respond-  
21 ent's benefit until such funds can be paid to the party  
22 by order of this Board or until the title defect or  
23 conflicting claim is resolved to the operator's satisfac-  
24 tion?

25 A. Yes, I am.

1 Q. Who should be named the operator under the force pooling  
2 order?

3 A. Equitable Resources Exploration.

4 MR. KAISER: I have no further questions of this witness at  
5 this time.

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

7 (Witness stands aside.)

8 MR. CHAIRMAN: You may call your next witness.  
9

10 ROBERT A. DAHLIN, II  
11

12 BY MR. KAISER:

13 Q. Mr. Dahlin, could you please state your name, who you are  
14 employed by and in what capacity?

15 A. Robert A. Dahlin, II. I'm employed as an operations  
16 specialist for EREX.

17 Q. And you've testified before the Virginia Gas and Oil  
18 Board before and have previously been accepted as an  
19 expert witness?

20 A. Yes, sir.

21 Q. Do your responsibilities include the lands involved here  
22 and in the surrounding area?

23 A. Yes, sir, they do.

24 Q. Are you familiar with the proposed exploration and  
25 development of the units involved here under applicant's

1 proposed plan of development?  
2 A. I am.  
3 Q. What is the total depth of the proposed initial well  
4 under the applicant's plan of development?  
5 A. 2,400 feet.  
6 Q. Does this include all formations consistent with the well  
7 work permit dated June 20th, 1994 now pending before  
8 DMME?  
9 A. Yes, sir.  
10 Q. Will this be sufficient to penetrate and test the common  
11 sources of supply in the subject formations?  
12 A. Yes, sir, it will.  
13 Q. What are the estimated reserves of the unit?  
14 A. Approximately 350 million cubic feet.  
15 Q. Are you familiar with the well costs for the proposed  
16 initial unit well under applicant's plan of development?  
17 A. Yes, sir.  
18 Q. Has an AFE been reviewed and submitted to the Board?  
19 A. Yes, sir.  
20 Q. Was the AFE prepared by an engineering department  
21 knowledgeable in the preparation of AFEs and knowledge-  
22 able in regard to well costs in this area?  
23 A. It was.  
24 Q. Does this AFE represent a reasonable estimate of the well  
25 costs of the proposed unit well under applicant's plan of

1 development?

2 A. Yes, sir, it does.

3 Q. Would you please both the dry hole costs and completed  
4 well costs for the Board?

5 A. The dry hole costs are \$69,404 with completed well costs  
6 of \$499,000.

7 Q. Do these costs anticipate a multiple completion?

8 A. Yes, sir.

9 Q. Does the AFE include a reasonable charge for supervision?

10 A. Yes, sir.

11 Q. Mr. Dahlin, in your professional opinion will the  
12 granting of this application be in the best interest of  
13 conservation, prevention of waste and the protection of  
14 correlative rights?

15 A. Yes, sir, it will.

16 MR. KAISER: I have no further questions of this witness, Mr.  
17 Chairman.

18 MR. CHAIRMAN: Do you have permission to frack the coal from  
19 the coal owner?

20 MR. DAHLIN: I assume we do, Mr. Wampler.

21 MR. MASON: Consent to stimulate?

22 MR. CHAIRMAN: Uh-huh. Any other questions, members of the  
23 Board?

24 MR. MASON: Looking at the AFE, this 58.770 acre spacing in  
25 the Nora Field, we've got 3,400 feet of gathering lines.

1           Why is that so --

2 MR. DAHLIN: It's just the way that the trunk lines are laid  
3 out and -- you may have to wrap around them a knob or  
4 something and run it a little longer down through one  
5 area. I'm not personally aware of where this line is  
6 specifically. I've just looked at it in general terms.

7 MR. MASON: Are any of the other units right around this one  
8 developed?

9 MR. DAHLIN: There's only one well to the north east that's  
10 been converted from a conventional well. It's now a  
11 coalbed methane well. It's somewhat of a wild area for  
12 us.

13 MR. MASON: I'm just curious. Normally when you see -- where  
14 you're developing in a field like this you have -- the  
15 lines are not much longer than the units are.

16 MR. DAHLIN: Right. Yeah. This is one of two wells in the  
17 area now.

18 MR. MASON: Also you all are obviously putting pump jacks on  
19 here, aren't you?

20 MR. DAHLIN: Yes, sir, to pump the water.

21 MR. MASON: Is this well going to make a lot of water?

22 MR. DAHLIN: They vary. We have wells that don't make much  
23 water and wells that make a quite a lot, too. It depends  
24 on the structural position of the well. Anticlinal type  
25 wells most often don't have much water associated with

1           them and the ones in the sinclines or down off the  
2           structures do.

3 MR. MASON: Do you have any idea how much water -- I mean,  
4           \$12,500 is pretty much. What size pump is that?

5 MR. DAHLIN: I believe the number is a forty. I'm not real --

6 MR. MASON: I'm more familiar with the pounds. I'm just  
7           curious how much water -- do you all have any idea how  
8           much water this well will make a day?

9 MR. DAHLIN: Well, the only other offset in there is increas-  
10          ing production. It's currently making about 45 MCF and  
11          it's typical to make about ten to twenty barrels of water  
12          a day initially. Usually the gas production will  
13          increase and water production will decrease. We have a  
14          whole wide range of productions.

15 MR. MASON: Is that what these tanks are for is for the water?

16 MR. DAHLIN: Well, some tanks are rentals for the frack jobs  
17          and the tanks on the completion.

18 MR. MASON: That's this tank battery under the tangible?

19 MR. DAHLIN: Yes. That would be for water. Yes.

20 MR. MASON: Do you feel comfortable that the provision is made  
21          for dealing with the amount of water --

22 MR. DAHLIN: Oh, yes. It's typical for what we've got in the  
23          field.

24 MR. MASON: Thank you.

25 MR. CHAIRMAN: Other questions, members of the Board?

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(Witness stands aside.)

MR. CHAIRMAN: Do you have anything further, Mr. Kaiser?

MR. KAISER: Nothing further, Mr. Chairman.

MR. EVANS: I move to grant the petition as submitted.

MR. MASON: Second.

MR. CHAIRMAN: Further discussion? All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)  
Unanimous approval.

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3 ITEM XII

4 MR. CHAIRMAN: The next item on the agenda is a petition from  
5 Equitable Resources Exploration for pooling of a conven-  
6 tional gas drilling unit for V-2364, docket number VGOB-  
7 94/06/21-0456. We'd ask the parties that wish to  
8 address the Board in this matter to come forward at this  
9 time.

10 MR. KAISER: Jim Kaiser on behalf of Equitable Resources  
11 Exploration. Our witnesses in this matter will once  
12 again be Dennis Baker and Bob Dahlin.

13 MR. CHAIRMAN: Are there any others that wish to address the  
14 Board in this matter? The record will show there are  
15 none. You may proceed.

16 DENNIS BAKER

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

19  
20 DIRECT EXAMINATION

21  
22 BY MR. KAISER:

23 Q. Mr. Baker, state who you are employed by and in what  
24 capacity, please.

25 A. Equitable Resources Exploration as a leasing supervisor.

- 1 Q. Do your responsibilities the land involved here and in  
2 the surrounding area?
- 3 A. Yes, they do.
- 4 Q. Are you familiar with Equitable's application for the  
5 establishment of a drilling unit and pooling order for  
6 EREX well V-2364 dated May 20th, 1994?
- 7 A. Yes.
- 8 Q. Has EREX applied for a permit and is a permit now pending  
9 before the DMME?
- 10 A. Yes, it is. I believe it's dated June 2, 1994.
- 11 Q. Is Equitable seeking to force pool the drilling rights  
12 underlying the drilling and spacing unit as depicted at  
13 Exhibit A of the application?
- 14 A. Yes.
- 15 Q. Does Equitable own drilling rights in the units involved  
16 here?
- 17 A. Yes, they do.
- 18 Q. Is the location proposed at Exhibit A include all acreage  
19 within 2,640 foot or that is a 1,320 foot radius of  
20 proposed well V-2364?
- 21 A. Yes.
- 22 Q. What is the interest of Equitable in the unit at the time  
23 of this application?
- 24 A. We currently have 95.39 percent of the interest leased.
- 25 Q. Are you familiar with the ownership of drilling rights of

1 parties other than Equitable underlying this unit?

2 A. Yes, I am.

3 Q. What percentage is unleased at this time?

4 A. The unleased interest in the unit is 4.61 percent.

5 Q. Are all unleased parties set out at Exhibit B?

6 A. Yes, they are.

7 Q. Prior to filing the application were efforts made to

8 contact each of the respondents in an attempt to work out

9 an agreement regarding the development of the units

10 involved?

11 A. Yes, they were.

12 Q. Subsequent to the filing of the application have you

13 continued to attempt to reach an agreement with respond-

14 ents listed at Exhibit B?

15 A. Yes, we have.

16 Q. As a result of these efforts have you acquired other

17 leased from any of these respondents listed at Exhibit B

18 as unleased parties?

19 A. We have not acquired any additional leases. However, we

20 have identified some of the heirs that were shown on the

21 Exhibit B attached with the application. On Page 2, I

22 believe, they were shown as the Caroline L. Davis heirs

23 being unknown. We have since identified those individ-

24 uals and I have a revised exhibit.

25 (PAUSE.)

1 MR. CHAIRMAN: Thank you.

2 Q. (Mr. Kaiser continues.) Were any efforts made to  
3 determine if the individual respondents were living or  
4 deceased or their whereabouts and if deceased were  
5 efforts made to determine the names and addresses and  
6 whereabouts of the successors to any deceased individual  
7 respondent?

8 A. Yes, they were.

9 Q. Were reasonable and diligent efforts made and sources  
10 checked to identify and location these unknown heirs to  
11 include primary sources such as deed records, probate  
12 records, accessors records and treasurers records?

13 A. Yes.

14 Q. In your professional opinion was due diligence exercised  
15 to locate each of the respondents named herein?

16 A. Yes, they were.

17 Q. Are the addresses set out in revised Exhibit B to the  
18 application the last known addresses for the respondents?

19 A. Yes.

20 Q. With the exception of those parties which you are hereby  
21 dismissing from this proceeding are you requesting this  
22 Board to force pool all other unleased interests listed  
23 at Exhibit B?

24 A. Yes, I am.

25 Q. Does Equitable seek to force pool the drilling rights of

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each individual respondent if living and if deceased the unknown successor or successors to any deceased individual respondent?

A. Yes.

Q. Is Equitable seeking to force pool the drilling rights of the person designated as trustee if acting in the capacity of trustee and if not acting in such capacity is Equitable seeking to force pool the drilling rights of the successor of such trustee?

A. Yes.

Q. Are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes, I am.

Q. Would you advise the Board as to what those are?

A. A \$5 per acre consideration, five year term with a one-eighth royalty.

Q. Did you gain your familiarity by acquiring oil and gas leases and other agreements involving the transfer of drilling rights in units involved here and in the surrounding area?

A. Yes.

Q. In your opinion do the terms you have testified to represent the fair market value of and a fair and reasonable compensation to be paid for drilling rights within this unit?

1 A. Yes, I do.

2 MR. KAISER: At this point, Mr. Chairman, I'd once again ask  
3 the Board to incorporate the testimony regarding the  
4 election options available to those respondents force  
5 pooled.

6 MR. CHAIRMAN: They will be incorporated.

7 Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend the  
8 force pooling order provide that if a respondent refuses  
9 to accept any payment due including any payment due under  
10 said order or any payment of royalty or cash bonus or  
11 said payment cannot be made to a party for any reason or  
12 there is title defect in a respondent's interest that the  
13 operator create an escrow account for the respondent's  
14 benefit until the money can be paid to the party by order  
15 of this Board or until the title defect is cured to the  
16 operator's satisfaction?

17 A. Yes.

18 Q. Who should be named the operator under the force pooling  
19 order?

20 A. Equitable Resources Exploration.

21 MR. KAISER: I have no further questions of this witness at  
22 this time.

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

24 (Witness stands aside.)

25 MR. CHAIRMAN: Call your next witness.



1 sources of supply in the subject formations?

2 A. Yes, sir, it will.

3 Q. Is the applicant requesting the force pooling of conven-  
4 tional gas reserves not only to include the designated  
5 formations but any other formations excluding coal  
6 formations which may be between those formations design-  
7 ated from the surface to the total depth drilled?

8 A. Yes, sir.

9 Q. Will the initial well be at a legal location?

10 A. It will.

11 Q. What are the estimated reserves of the unit?

12 A. 350 million cubic feet.

13 Q. Are you familiar with the well costs for the proposed  
14 initial unit well under applicant's plan of development?

15 A. Yes, sir.

16 Q. And has an AFE been reviewed, signed and submitted to the  
17 Board?

18 A. Yes, sir.

19 Q. Was the AFE prepared by an engineering department  
20 knowledgeable in the preparation of AFEs and knowledge-  
21 able in regard to well costs in this area?

22 A. Yes, sir.

23 Q. Does this AFE represent a reasonable estimate of the well  
24 costs for the proposed unit well under applicant's plan  
25 of development?

1 A. It does.

2 Q. Would you please both the dry hole costs and completed  
3 well costs for the Board?

4 A. The dry hole costs are \$125,800 and the completed well  
5 costs are \$241,300.

6 Q. Do these costs anticipate a multiple completion?

7 A. It does.

8 Q. Does this AFE include a reasonable charge for super-  
9 vision?

10 A. Yes, sir.

11 Q. In your professional opinion will the granting of this  
12 application be in the best interest of conservation,  
13 prevention of waste and the protection of correlative  
14 rights?

15 A. Yes, sir, it will.

16 MR. KAISER: I have no further questions of this witness, Mr.  
17 Chairman.

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

19 MR. MASON: On the AFE at the top of the first page where it  
20 says subsidiary working interest, I don't understand  
21 that.

22 MR. DAHLIN: It doesn't have anything to do with it. It's  
23 just an internal number. Really the gross amount is all  
24 we need to present. We don't modify our AFEs for the  
25 hearings to show a different working interest.

1 MR. MASON: On this AFE the cost of the working interest is  
2 the net amount, right? I mean, that's the way this is  
3 done.

4 MR. DAHLIN: That's our participation amount. That's the way  
5 we break it down for the net amount. So really that's  
6 just an internal thing that we could display or could not  
7 display and we just choose not to do two different AFEs  
8 for force pooling wells. The gross amount are the actual  
9 anticipated costs.

10 MR. CHAIRMAN: Other questions?

11 (Witness stands aside.)

12 MR. CHAIRMAN: Do you have anything further, Mr. Kaiser?

13 MR. KAISER: Nothing further, Mr. Chairman.

14 MR. MASON: I move we approve it.

15 MR. EVANS: I'll second it.

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

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

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

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3 ITEM XIII

4 MR. CHAIRMAN: The next item on the today's agenda is a  
5 petition from Equitable Resources Exploration for a well  
6 location exception for VC-3173. This is docket number  
7 VGOB-94/06/21-0457. We'd ask the parties that wish to  
8 address the Board in this matter to come forward at this  
9 time.

10 MR. KAISER: Jim Kaiser on behalf of Equitable Resources  
11 Exploration. Our witnesses in this matter will be Dr.  
12 Don Hall and Bob Dahlin. We'll ask Mr. Hall in and wait  
13 for Mr. Evans to come back.

14 COURT REPORTER: (Swears witness.)

15 (PAUSE.)

16 MR. CHAIRMAN: Are there any other parties that wish to  
17 address the Board in this matter? The record will show  
18 there are none. You may proceed, Mr. Kaiser.

19 DON HALL

20 a witness who, after having been duly sworn, was examined and  
21 testified as follows:  
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1 DIRECT EXAMINATION

2  
3 BY MR. KAISER:

4 Q. Mr. Hall, would you please state your name, who you are  
5 employed by and in what capacity?

6 A. Donald Hall. I'm district land man for Equitable  
7 Resources Exploration.

8 Q. Have your qualifications as an expert witness previously  
9 been accepted by the Board?

10 A. Yes, they have.

11 MR. KAISER: Mr. Chairman, we'd move that Mr. Hall be accepted  
12 as an expert witness in this matter.

13 MR. CHAIRMAN: Okay.

14 Q. (Mr. Kaiser continues.) Do your responsibilities the  
15 land involved here and in the surrounding area?

16 A. Yes, they do.

17 Q. Are you familiar with the application for a location  
18 exception for well VC-3173 and the relief requested?

19 A. Yes, sir.

20 Q. Mr. Hall, have you visited this location and are you  
21 familiar with this location as it may relate to mining  
22 operations, topography and effective land management  
23 practices?

24 A. Yes.

25 Q. Would you indicate for the Board the ownership of the oil

1 and gas underlying well VC-3173?

2 A. Pine Mountain Oil & Gas owns 100 percent.

3 Q. Does EREX have an oil and gas lease covering all these

4 tracts?

5 A. Yes, we do.

6 Q. Of the mineral owners, that being Clinchfield, Pyxes and

7 Pine Mountain, approved the well location site?

8 A. They have.

9 MR. KAISER: We have an exhibit, Mr. Chairman, Exhibit A that

10 will help Mr. Hall elaborate on the reasons for which

11 we're seeking this location exception. I have him pass

12 those out and continue with his testimony.

13 (PAUSE.)

14 Q. (Mr. Kaiser continues.) Mr. Hall, based upon your

15 experience in this area and on your personal site visit

16 would you please elaborate for and explain to the Board

17 why a location exception is needed in this situation?

18 A. The side slopes in the interior window of this which is

19 depicted in green are very steep. They probably average

20 a 65 percent grade within this interior window. In

21 addition to the steep side slopes in the south west

22 corner of this unit there are several homes, trailers,

23 houses and so forth. We have to maintain a minimum of

24 200 foot spacing from those homes. So approximately

25 probably 20 percent of the unit is excluded in that south

1 west corner because of that constraint. The location  
2 itself is on about a 23 degree which equates to a 42  
3 percent slope which is a 42 foot drop in 100 feet which  
4 is fairly steep in itself. But as you get on into the  
5 window it drops off much more sharply. This topographic  
6 depiction here really doesn't do it justice. This, of  
7 course -- the topographic is done by our own photography  
8 and it doesn't always show you the sudden drops. It's  
9 kind of an average as you come down. It's very steep all  
10 within this window. It just doesn't lend itself to  
11 building a good location. If you got on these steep  
12 slopes you would have trouble stabilizing the location.  
13 It could possibly create an erosion problem. The field  
14 slopes would be hard to hold. The location where it is  
15 is, like I said, not that great itself but it's good  
16 enough that you could stabilize the location with your  
17 cutting field slopes. It levels off a little bit behind  
18 those homes in there as you can see by the map not a  
19 great deal. Again, a large portion of that area is  
20 precluded because of the 200 foot set back from the  
21 houses and there's not any reasonable access through  
22 those houses. You'd have to go through their yards,  
23 driveways and so forth if you did access it that way.  
24 The location where it is on the eastern portion of this  
25 unit was a good access into it. We just feel that

1           there's probably no location within this unit that we  
2           could reasonably build and not create a safety problem as  
3           far as the sliding and erosion problems and stabilization  
4           would create some safety problems.  If you drill further  
5           down that slope there would be possible rolling rock or  
6           something into the house.  Basically what I'm saying is  
7           it's just really too steep to build a location on.

8   MR. KAISER:  I have no further questions of this witness at  
9           this time, Mr. Chairman.

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

11   MR. KELLY:  Does this adversely affect any other location?

12   MR. MASON:  Are there any other wells?  Does this show any  
13           other wells?  I'm sorry.

14   MR. HALL:  This map shows the unit for this particular well.  
15           We've got existing wells in the three units across the  
16           bottom and in the units here.  We don't have locations in  
17           these units here yet but we will, I'm sure.

18   MR. KELLY:  You'll have to take that under consideration --  
19           take that into consideration when you propose locations  
20           over here if you run an exception here, I suppose?

21   MR. HALL:  Take it in consideration of what?

22   MR. DAHLIN:  We would look at the other location --

23   MR. HALL:  Right.  You'd still have to maintain the 600 foot  
24           spacing from the well which would put you a little  
25           farther into the window on the adjacent tract.

1 MR. KELLY: That's what I meant.

2 MR. HALL: Yeah.

3 MR. CHAIRMAN: Do you plan to drill that adjacent tract?

4 MR. HALL: I'm sure we do. We don't have anything proposed  
5 for it at the present time, but this whole area's been  
6 drilled pretty extensively at this point. This is the  
7 Crease Fork area, one of our better areas.

8 MR. CHAIRMAN: Other questions, members of the Board?

9 MR. EVANS: I've got one real quick one. In that adjacent  
10 unit to the right -- I guess that's to the east if I'm  
11 reading that right. Have you evaluated that for a  
12 suitable location? I see that there looks like there is  
13 one that's right along that same access road right up on  
14 top.

15 MR. HALL: That's a pipeline running along that access road  
16 which goes on out to another well which is in a unit to  
17 the east of the eastern most units. So we'll have a well  
18 on either side of this unit and eventually come back into  
19 this unit. And that road going on out through there is  
20 access to that other well.

21 MR. MASON: The unit here, here, here, here, here and here --  
22 in other words, all these units around that touch this,  
23 do you have all of them under lease?

24 MR. HALL: Yes. I think the unit to the north east -- I'm not  
25 sure but I believe we had a forced pooling in that unit

1 for some property on the northern end of that unit. The  
2 other units around -- the ones on the east and the south  
3 would all be Pine Mountain and the one on the east --  
4 there is a piece of privately owned oil and gas there  
5 which we also have leased.

6 MR. MASON: Okay. What I'm getting to is that you don't  
7 anticipate that there's anyone else that's adversely  
8 affected by this location?

9 MR. HALL: I don't anticipate it, no.

10 MR. EVANS: In other words, nobody would be upset or would  
11 have a question of losing some of his gas because of this  
12 offset in this unit right here?

13 MR. HALL: I wouldn't anticipate it, no.

14 MR. EVANS: If you have 100 percent then I don't have a  
15 problem with it.

16 MR. CHAIRMAN: Do you have anything further, Mr. Kaiser?

17 MR. KAISER: We have another witness. Mr. Dahlin. Nothing  
18 further of Mr. Hall unless the Board has questions.

19 (Witness stands aside.)

20 MR. CHAIRMAN: Go ahead with your next witness.

21

22

ROBERT A. DAHLIN, II

23

24 BY MR. KAISER:

25

Q. Mr. Dahlin, please state your name, who you are employed

1 by and in what capacity?

2 A. I'm Robert A. Dahlin, II. I'm employed by EREX as an  
3 operations specialist.

4 Q. And do your areas of responsibilities at EREX include the  
5 drilling, completion and production?

6 A. Yes, sir.

7 Q. Mr. Dahlin, are you familiar with the application for the  
8 location exception filed by EREX for well VC-3173?

9 A. Yes, I am.

10 Q. Mr. Dahlin, was it necessary to spot the well at this  
11 location due to topographical considerations and safety  
12 considerations as previously testified to by Mr. Hall?

13 A. That's correct.

14 Q. In the event this location exception is not granted would  
15 you projected the estimated loss of reserves that would  
16 result?

17 A. Approximately 400 million cubic foot of gas.

18 Q. What is the total depth of the proposed initial well  
19 under the applicant's plan of development?

20 A. 2,260 feet.

21 Q. Will this be consistent with the formations included in  
22 the well work permit now pending before the DMME?

23 A. Yes, sir.

24 Q. In your professional opinion will the granting of this  
25 well location exception be in the best interest of

1 protecting coal interest, preventing waste, protecting  
2 correlative rights and maximizing recovery of the gas  
3 reserves underlying VC-3173?  
4 A. Yes, sir.  
5 MR. KAISER: I have no further questions of this witness at  
6 this time, Mr. Chairman.  
7 MR. CHAIRMAN: Questions, members of the Board?  
8 (Witness stands aside.)  
9 MR. CHAIRMAN: You might want to make sure we mark this  
10 exhibit -- the docket number and everything.  
11 MR. FULMER: I did it.  
12 MR. CHAIRMAN: Any questions, members of the Board? Do you  
13 have anything further?  
14 MR. KAISER: Nothing further.  
15 MR. EVANS: I move that we grant the location exception.  
16 MR. KELLY: Second.  
17 MR. CHAIRMAN: A motion and a second. Further discussion?  
18 All in favor signify by saying yes. (ALL AFFIRM.)  
19 Opposed say no. (NONE.) Unanimous approval. Anything  
20 further? Tom, do you have anything?  
21 MR. FULMER: There's one thing I would like to ask the Board.  
22 On these agenda items would you like to have a summary  
23 sent to you? I use to do that but I never got any  
24 comments back and I didn't know if anybody cared for them  
25 or not.

1 MR. MASON: You should accept the fact that anything you do  
2 that isn't criticized was welcomed. Ha, ha.

3 MR. FULMER: Well, I can go at that a different way. Anything  
4 you've said is probably not needed. Okay.

5 MR. CHAIRMAN: Do you think they're helpful?

6 MR. EVANS: Yes. I think they're helpful.

7 MR. CHAIRMAN: Anything further, members of the Board? This  
8 hearing is adjourned. Thank you.

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10 (End of Proceedings for  
11 June 21, 1994.)  
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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 June 21, 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 8th day of June, 1994.

18  
19 Deborah J. Bise  
20 DEBORAH J. BISE  
21 NOTARY PUBLIC

22 My commission expires September 30, 1996.  
23  
24  
25