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4 VIRGINIA OIL AND GAS BOARD  
5

6 HEARING OF MARCH 21, 1995  
7

8 9:00 A.M.  
9

10 AT THE SOUTHWEST VIRGINIA

11 4-H CENTER

12 ABINGDON, VIRGINIA  
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20 Appalachian Court Reporting Services, Inc.

21 P. O. Box 833

22 Abingdon, Virginia

23 (703) 676-2244

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REGS REPORT

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1 March 21, 1995

2 This matter came on to be heard on this the 21st day of  
3 March, 1995 before the Virginia Gas and Oil Board at the  
4 Southwest Virginia 4-H Center, Abingdon, Virginia pursuant  
5 to Section 45.1-361-19.B and 45.1-362.22.B of the Code of  
6 Virginia.

7 MR. WAMPLER: Good morning. My name is Benny Wampler. I'm  
8 Deputy Director for Regulatory Services with the  
9 Virginia Department of Mines, Minerals and Energy and  
10 Chairman of the Gas and Oil Board. As usual, we'll ask  
11 our Board members to introduce themselves starting with  
12 Dennis.

13 (MEMBERS INTRODUCED.)

14 MR. CHAIRMAN: Today the Board is going to receive comments  
15 and recommendations on the Virginia Gas and Oil Board  
16 Regulations, VR4800522.2. Tom Fulmer is going to  
17 present to the Board some comments or overview result-  
18 ing from the Regulatory Work-Group that developed these  
19 regulations for the Board's consideration. The  
20 Regulation review occurred in accordance with Governor  
21 Allen's Executive Order number 1594. Tom, we'll ask  
22 you to go through that with us.

23 MR. FULMER: Thank you, Mr. Chairman. Previously on  
24 September 20th, 1994 we appeared before the Board and  
25 explained Executive Order 1594 and the Department's

1 review of VR 480-05-22.2 Virginia Gas and Oil Board  
2 Regulation. I appear before the Board today to relate  
3 the findings and recommendations of the Regulatory  
4 Working Committee about the regulation. The Division  
5 of Gas and Oil on October 13th, 1994 sent a memo to all  
6 persons who have expressed interests in the Virginia  
7 Gas and Oil Board regulation and requested comments on  
8 the regulation. This included over 500 individuals,  
9 companies, corporations, local Governments and State  
10 agencies. The period for submitting comments was from  
11 October 17th to November 16th. The Division received  
12 two sets of comments from the Virginia Oil and Gas  
13 Association and Virginia Gas Company. Subsequently the  
14 Department sent invitations to individuals in both the  
15 public and private sector and invited them to partici-  
16 pate on the working committee to review the regulation.  
17 This included private citizens, State agencies, legal  
18 profession, coal operators and environmental organiz-  
19 ations. The working committee was organized on January  
20 11th, 1995 and met until the end of February. As I  
21 review the committee's recommendations there will be  
22 sections of the regulation which have been recommended  
23 for change. To be consistent with VR-480-0522.1 of the  
24 Gas and Oil Regulation. I will be pointing out these  
25 sections as we progress. I plan to present the

1 recommendations beginning from Section 1 through the  
2 end of regulation in sequence unless the Board has  
3 another method they would prefer. Changes are shown as  
4 over struck and underlined text. You will also see  
5 that the Code of Virginia has been underlined. This,  
6 however, is not a change or addition but manner in  
7 which regulation is to be submitted to the Virginia  
8 Registry. I will also be using the current numbering  
9 system -- it's in the current regulations in alphabet-  
10 ical listings; not what will be the new numbering  
11 system should the changes be approved. So without any  
12 further adieu I'll begin. Any questions?

13 MR. CHAIRMAN: Go ahead.

14 MR. FULMER: On Page 2 of the definition the committee has  
15 recommended that metes and bounds be deleted. This in  
16 conjunction with the change in requirements for  
17 submittal of plats and proposed units and proposed  
18 field boundaries. This will be discussed with that  
19 section -- the section on over into the regulation.  
20 The committee also recommends a change to the defin-  
21 ition of mine development plan to clarify what is  
22 considered a mine development for the purposes of the  
23 Board. Registration operations plan is recommended for  
24 deletion since the regulations would no longer use the  
25 term. On Page 3, Section 3B.1 the committee recommends

1 that changes be made to reflect the requirements of  
2 statute and to clarify what constitutes the filing  
3 deadline for the purposes of filing petitions under the  
4 Act when the deadline falls on a weekend or holiday.  
5 On Page 3, Section 3B.2 the committee recommended to  
6 clarify the number of copies which needed to be  
7 submitted. Page 3, Section 3D the committee's recomme-  
8 ndation is to delete wording which serves no purpose or  
9 describes internal procedure for compliance of regul-  
10 ation. Page 4, Section 3G the recommendation is to  
11 clarify the option for a person who wishes to appear  
12 before the Board to be represented by counsel should  
13 they not be able to appear for clarification purposes.  
14 Page 4, Section 4A the recommendation is to delete  
15 Section A in it's entirety since it tracks statutory  
16 language. Page 4 and 5, Section 4C the committee  
17 recommended the insertion of language describing what  
18 is to be included in the mail notice to those persons  
19 required to be notified. This recommendation was  
20 derived from discussions in regard to sending the whole  
21 petition which could become voluminous; Listing of all  
22 respondents, notices of mailing, etcetera. Under the  
23 Section 4G the requirement for plat submittal deletes  
24 the requirement for metes and bounds. This requirement  
25 is consistent with the requirements in the Gas and Oil



1 Regulation -- proposed changes in the Oil and Gas  
2 Regulations for plats. The consensus of the work  
3 committee was that the use of metes and bounds serves  
4 to only confuse and is not universal in use. The new  
5 requirement gives the latitude of using the state plane  
6 or latitude and longitude descriptions and also  
7 required certification of the plat. Under Section C11  
8 the committee recommended that the petition notify the  
9 respondents how they may obtain a complete copy of the  
10 petition. On Page 6, Section 4D.5 the committee  
11 recommended language consistent to Section C11 on how  
12 to obtain a copy of the petition. Page 6, Section 4F  
13 the deletion of "in the area" clarifying that the  
14 section only applies to parties named in the order.  
15 Page 6, Section 4G the committee recommended for  
16 formatical changes in the first part of the section and  
17 recommended that the petitioner must notice only those  
18 respondents who would be affected by the proposed  
19 modification. This is more or less a clarification  
20 change. Page 7, Section 5A.5C the committee recommends  
21 language consistent with Section 4. subsection C6 in  
22 the Gas and Oil Regulations regarding use of map  
23 coordinate systems. Page 8, Section 5A.6C is a  
24 recommendation for deletion of metes and bounds for the  
25 units in the proposed field order petition and the



1 addition of language to be consistent with the previous  
2 references to plats and maps. Page 8, Section 5A.12  
3 they recommended deleting in it's entirety "as a  
4 practice all exhibits not required by regulation are  
5 presumed at the time of the hearing." There's a  
6 historical reasoning for that. Most exhibits are  
7 presented at the time of the hearing. Page 8, Section  
8 6A.3, this recommendation specifies what wells would be  
9 considered in a spacing hearing for variances from  
10 Section 45.1-361.17. Applications received after the  
11 date of filing will not be considered in the deliber-  
12 ation of the hearing. Page 8, Section 6A.4 the  
13 recommendation is to delete and add language consistent  
14 with Section 6A.3. Page 9, Section 6A.5 the recommend-  
15 ation is to delete this subsection since this is  
16 required to be placed on the plat at the time of filing  
17 and Section 6A.4 also includes this information. Page  
18 9, Section 6A.9 the recommendation is to delete  
19 entirely since most exhibits are presented at the  
20 hearing. Page 9, Section 7A.7 and 8 the recommendation  
21 is the same as before in regards to locations to make  
22 it consistent with the Gas and Oil Regulations and  
23 other parts of the Board regulation. Page 10, Section  
24 7A.13 and 14 the recommendation is delete subsection 14  
25 and combine it with subsection 13. The reason given is

1 that in most cases the estimate of the production of  
2 the well over it's lifetime is the same as the estimat-  
3 ed reserves. There may be rare occasions where the  
4 well might not be able to produce the estimated  
5 reserves and this may be different from this made to  
6 production. Page 10, Section 7A.18 the recommendation  
7 is to the form to make it consistent. Page 10 and 11,  
8 Section 7C the recommendation is to incorporate  
9 language form and substance of the supplemental order  
10 adopted and approved by the Board at it's October 20th,  
11 1992 hearing held in the Board of Supervisors Room in  
12 Grundy, Virginia. Do you want to add anything to that,  
13 Sandra?

14 MS. RIGGS: It's the form of the supplemental order that all  
15 the operators are currently using and that procedure  
16 that we've been using to document the affidavit of  
17 elections and get them recorded of record and forward  
18 it to the escrow agent so that they can then open up  
19 the escrow account. That procedure will be just  
20 incorporated into the regulations. It's currently  
21 already being used.

22 MR. FULMER: Thank you, Sandra. Page 12, Section 10E, this  
23 recommendation is to add a new Section E which states  
24 that should no one elect to participate the unit  
25 operator will not have an obligation always to report

1 costs. The operator states that his costs is main-  
2 tained on ongoing costs which would will not be  
3 relevant unless there is a participating operator.  
4 This is also in response to a request from the Board  
5 wanting costs to compare for estimated DWE or AFEs.  
6 This does not abridge the Board's authority to request  
7 information. It does, however, request that the  
8 requirement of reporting be taken out of the current  
9 orders issued by the Board. Page 13, Section 11A, the  
10 recommendation is to increase the scope of record  
11 keeping by the unit operator, to include payments to  
12 the escrow agent or of any suspended payments. These  
13 records will be needed at the time of the disposal of  
14 funds generated through the order of the Board. Page  
15 13, Section 12A the recommendation is to modify the  
16 language in A since the language denotes what the Board  
17 cannot do, abridge contractual agreements, etcetera.  
18 It is noted that the sale, assignment or otherwise  
19 conveyance of interests in unit would not change the  
20 allocation of interest on the owner of such interest.  
21 Pages 13, 14 and 15, Section 12B and C the recommend-  
22 ation is to combine B and C into one subsection. The  
23 Board shall have authority to approve all transfers of  
24 operatorship whether voluntary or involuntary prior to  
25 the transfer of ownership of a unit. For voluntary

1 transfer the current unit operator shall file a  
2 notification that it wishes to transfer the operator-  
3 ship and request the Board to amend all orders affected  
4 by the request. In the matter of a request for an  
5 involuntary transfer the Board shall hear the request  
6 for change and the reason why the request is being  
7 made. The request for the change must be accompanied  
8 by a written approval from the existing operator or a  
9 detailed statement of facts which support the request  
10 for removal. This does not abridge the authority of  
11 the Board to act upon it's own motion. It is also  
12 assumed that royalty interests would not be affected by  
13 the transfer. The effect of combining the sections  
14 would delete subsection C of Section 12. Page 16.  
15 Section 13B.8 the recommendation is to delete sub-  
16 section B.8. The language reflects not what is -- the  
17 language reflects not is required but what may be  
18 submitted on a voluntary basis. Page 16, Section 14A.6  
19 the recommendation is to delete subsection A.6 for the  
20 same reasons as previously explained -- consistency.  
21 Page 16, Section 15.B and B1 and 3 recommends adding  
22 language to B to allow flexibility to the Board to the  
23 issue with orders with specific dates of expiration.  
24 In B.1 to delete and add language which tracks the  
25 statutory two year for expiration of permits. The



1 obtaining of a permit would constitute commencement of  
2 activities as to the unit operation. Comments in this  
3 regard reflect that due to administrative procedures,  
4 field development and etcetera that one year as  
5 currently written in the orders was not sufficient  
6 enough time to comply under the order. Subsection B.3  
7 is a recommendation for addition of coalbed methane  
8 claimants to reflect pooling of units under Section  
9 45.1-361.22. Page 17, Section 15.D the recommendation  
10 is to add language reflecting actual time tables that  
11 would be imposed by judicial court appointed on an  
12 appeal by Board order. The basis behind the recommend-  
13 ation is when the operator will need to return to the  
14 Board for an extension of time of the expiration of the  
15 order due to the actions of the Circuit Court upon the  
16 appeal. This was demonstrated when Buchanan Produc-  
17 tion Company had to return to the Board to extend the  
18 expiration of the order due to an appeal by Jewell  
19 Smokeless Coal Corporation. That's just an example.  
20 Page 17, 18, 19 and 20, Sections 16, 17 and 18 the  
21 recommendation is to add language to 17.A which simply  
22 states that in course of an action taken under VR-  
23 4800522.2 Board regulations would be the same procedur-  
24 es under VR-4800522.1 of the Gas and Oil Regulations.  
25 So you don't want to have a repeat in both sets of



1 regulations. The rest of the language would be  
2 deleted. Page 20, Section 19 the recommendation is to  
3 delete the language and insert language to reference  
4 the civil charge procedural rule as adopted by the  
5 Board on May 19th, 1992. Page 23, Section 21 the  
6 recommendation is to delete Section. The current  
7 language tracks the language already in the statute.  
8 This change does not dilute the Board's ability to set  
9 allowables if it so chooses. Page 23, Section 22 the  
10 recommendation is to delete section since it tracks  
11 current statutory language. This neither adds to or  
12 takes away the authority of the Board to regulate  
13 enhance recovery projects. Page 23, Section 23 the  
14 recommendation is to delete this section in it's  
15 entirety. During the 1994 General Assembly Session a  
16 bill was introduced which effectively replaced the  
17 statutory and regulatory responsibilities of storage  
18 fields under preview of the State Corporation Commiss-  
19 ion. This was House Bill #754 for your reference.  
20 Thank you, Mr. Chairman. That's all the recommend-  
21 ations of the committee.

22 MR. CHAIRMAN: Thank you, Tom. For the Board's information,  
23 and, of course, there are some folks here today that  
24 may wish to make recommendations to the Board also.  
25 The Board is not required to take any formation action

1 such as adoption or anything like this. It's just we  
2 would like your concurrence to go forward with these.  
3 If you have any suggestive changes we can discuss those  
4 now. Are there any recommendations that you would have  
5 at this point that may have been missed?

6 MR. EVANS: In Section 10E on Page 12, unless one or more  
7 respondents elect to participate or elect to be a  
8 operator on a carried basis the unit operator shall  
9 have no obligation to report costs after the expiration  
10 of the election period. Could we add language there,  
11 "Unless specifically by the Board or requested by the  
12 Board."? Some qualifier on there that would allow us  
13 to -- Mr. Fulmer's remark that it no way abridged our  
14 authority to do that. I would still like to see that  
15 put in there.

16 MR. CHAIRMAN: Everybody concur with that? All right. Any  
17 other suggested changes? We'll now receive comments  
18 from the members of the public that wish to testify  
19 before the Board on these regulations, if anyone  
20 chooses to do so. We'll just ask you to come forward  
21 and have a seat at the microphone and state your name  
22 and give your comments.

23 MR. FRANKS: This has nothing to do with what you've been  
24 doing over on your regulations except for Page 12 on  
25 the allowable expenses and -- let's see what that is.

1 It's on 10D. The last sentence says, "The unit  
2 operator shall not be entitled to a presumption of  
3 reasonableness of the amount of the costs being  
4 disputed." I have not a dispute because I don't have  
5 enough background to go through all of the document-  
6 ation. But I have made up a little packet here to  
7 show. I'm having great difficulty in getting answers  
8 concerning the expenses and deletions of income to the  
9 people I represent. I want to make sure that the Board  
10 is made aware of this.

11 (AFTER A BRIEF PAUSE, THE HEARING CONTINUED AS  
12 FOLLOWS:)

13 MR. FRANKS: I have a couple of copies in the back of  
14 reports I received from Conico and I also have a  
15 letter included that I received from Conico's office  
16 some time back. Of course, our lease is not with  
17 Conico. It's with Pocahontas Gas Partnership. In his  
18 answers in that letter of May 4th they answered several  
19 of the minor questions that I had. They deferred other  
20 questions back to Consol which is through PGP and back  
21 to Consol in Pittsburgh. And I have been repeatedly  
22 promised answers from them for six to eight months and  
23 nothing has come in. The biggest reason I put this  
24 little copy of the letter in is Page 2 indicating how  
25 this says he determines the cost per MCF of the gas and

1 why there are differences for the same gas from the  
2 same well for the same period to different parties.  
3 And it seems as though it's just a massage of numbers  
4 to throw things around and I get all sorts of answers.  
5 When I go through their receipts you can obtain two or  
6 three different prices for the same gas undivided for  
7 the same month and it's very difficult to determine  
8 what you actually should be getting and shouldn't be  
9 getting. There's also some shortages in the report  
10 when using their -- they have a little note, their  
11 triple seven code is the total volume for the month  
12 from that particular well and I basically use that  
13 number in calculations anywhere I could. In some cases  
14 they don't give you that code. But I've done a lot of  
15 calculations to try to determine that and using that  
16 and the percentage due to the parties I represent is  
17 where I arrive at these shortages. On my Page 2 of the  
18 Franks Estate I give the amount due and the amount  
19 assigned and the assigned is what they have assigned as  
20 the gross for that particular well or pool. And I've  
21 also noted the percentage of deduction they have  
22 attributed to transportation. I think it is very  
23 exorbitant in a lot of cases and there has been no  
24 explanations available and they don't answer questions  
25 concerning that. There's also some errors that have



1           been reported before that have never been corrected or  
2           replied to.

3       MR. CHAIRMAN: Excuse me one second. Does all this relate  
4           to royalty payments?

5       MR. FRANKS: Yes. I limited all of my numbers strictly to  
6           the percent due to the parties I represent on this and  
7           the gross receipt. I have no way of knowing if these  
8           prices are legitimate that they say they receive and  
9           our lease also says it must be at the first  
10          (Inaudible.) sale which they refuse to disclose. And  
11          if you'll notice on Page 3, the percentage of that  
12          gross royalty which is actually paid to the lessors  
13          goes as low as zero percent. There's a couple of pools  
14          at zero for month at 1.2 and 2.6 percent for another  
15          and there is eight that they don't reach 25 percent  
16          yet. I think 75 percent and even 50 percent of the  
17          gross being charged to transportation is extremely  
18          exorbitant. I noticed on your Page 12 you list all the  
19          things they are allowed to charge and one wonders if  
20          they are going beyond that recouping drilling costs or  
21          where they're obtaining all of these high price  
22          numbers.

23       MR. CHAIRMAN: Do you know whether or not under these leases  
24           -- are these voluntary leases?

25       MR. FRANKS: Yes. These are leases prior to the permitting



1 and the Board's involvement. And I also included the  
2 Carl Midkiff property in my report since I represent  
3 him also. That was the method I discovered the first  
4 discrepancy in prices for the same volumes -- even  
5 different volumes for the same month gross in his  
6 report for the same well as for the client's report.  
7 They didn't coincide. They have since straightened  
8 that out on being uniform from there on. Then -- let's  
9 see. It's on Page 2. Page 2 I'll point out on of the  
10 difficulties. You can go through these and you'll get  
11 the same reports for the same month's production in  
12 several different monthly reports. And you have to go  
13 through them all and arrive at a total to know whether  
14 you have anything or not. On this one report there  
15 were three sums submitted and two deductions and  
16 totaling that out they still are short. They also had  
17 some deductions on the Carl Midkiff property that --  
18 they had deductions for production from a well that  
19 particular month that there was no payment made from  
20 which to make the deduction. So it's all in these  
21 letters. It will take a little time to read, which I  
22 don't want to take up everybody's time.

23 MR. CHAIRMAN: Did you have any specific change recommenda-  
24 tion for the regulation itself?

25 MR. FRANKS: I'm trying to find out if the Board has any

1 authority to see that books are made available and  
2 answers to questions made available and that these  
3 charges are proper charges based on your Page 12  
4 presumption.

5 MS. RIGGS: I thought I understood you to say that what  
6 you're -- the calculations that you're talking about  
7 here involve royalty payments being made to you under  
8 private leases not pursuant to Board order.

9 MR. FRANKS: They were prior to. They're being made where  
10 these pools that you have permitted.

11 MS. RIGGS: Are they being made pursuant to the pooling  
12 order or pursuant to voluntary leases you've entered  
13 into with the operator?

14 MR. FRANKS: These were all leases prior to the permitting.

15 MS. RIGGS: Which would be governed by the terms of your  
16 lease.

17 MR. FRANKS: Right. And that was another condition. But we  
18 just simply get no answers. They don't reply. One of  
19 the conditions in our lease is that no taxes due for  
20 gases shall be deducted and this is being made also.  
21 Now, I didn't note that in the letter heading for you  
22 because you're not involved in that. That's strictly a  
23 lease.

24 MS. RIGGS: Well, that's the point I'm trying to make. In  
25 terms of lease disputes the Board doesn't have jurisd-

1           ction to adjudicate disputes that arise pursuant to the  
2           private leases.

3   MR. FRANKS: Yes, ma'am. I understand that.

4   MS. RIGGS: Now, if there's an objection being raised under  
5           a pooling order that the Board has entered pursuant to  
6           an application by the operator there the Board does  
7           have some jurisdiction depending on what the nature of  
8           the dispute is.

9   MR. FRANKS: My point is if they are doing this to specific  
10           leases that have specific conditions laid out what are  
11           they doing to the people who have no contract and no  
12           conditions from which to review?

13   MS. RIGGS: Until somebody comes forward and plays it out I  
14           guess we don't know that.

15   MR. FRANKS: If they're doing this here you know it's the  
16           same reports.

17   MS. RIGGS: This is the first time we've heard a complaint.  
18           Let me put that in. It has not been presented to the  
19           Board at any time. There's never been -- the quest-  
20           ion's never been raised prior to this time to my  
21           knowledge.

22   MR. FRANKS: Well, I've always had excellent dealings with  
23           Pocahontas Gas until Conico became involved. And our  
24           lease agreement specifically denies them the right to  
25           transfer to Conico. But it was done arbitrarily and no

1           reply has been obtained.

2   MS. RIGGS: See, all of those issues are private lease  
3           disputes that you have under the terms of your lease  
4           which the Board would not have jurisdiction over.

5   MR. FRANKS: That's okay. I just want to make the Board  
6           aware of this.

7   MR. CHAIRMAN: Thank you very much. Anyone else wishing to  
8           address the Board on the regulations?

9   MR. GARVIS: I'm a little concerned that the background of  
10           this last conversation is such that perhaps there --  
11           I'm a little at ease to just summarily dismiss that  
12           because obviously one person raises a question there's  
13           a question in my mind if maybe perhaps as there are  
14           trends that are something else that we might want to  
15           take a look at. I think I raised the question last  
16           time in that Section 12.E -- that perhaps maybe we  
17           might want to make a little bit stronger language to  
18           allow -- just to protect the citizens, their ability to  
19           get a full disclosure of what actually the requirements  
20           are, the costs are. Basically just keep everybody  
21           honest.

22   MS. RIGGS: I think what the statute requires in terms of  
23           record keeping is that the Director will make available  
24           to any party any matters that are filed with the  
25           Inspector. Isn't that right?



1 MR. CHAIRMAN: Right.

2 MS. RIGGS: Any reports that have to be filed with the  
3 Inspector are open for inspection by anybody that wants  
4 to go into Tom's office. Now, whether or not that  
5 would answer the kinds of -- production reports I would  
6 think -- Tom, do you want to elaborate on the types of  
7 records that would be maintained in the Inspector's  
8 office that are available for review by anybody that  
9 wishes to review them?

10 MR. FULMER: Any and all production reports on a monthly  
11 basis and annual basis for each and every well by  
12 well. The files are completely open to the drilling  
13 and completion.

14 MR. GARVIS: What about the actual costs, though? Isn't  
15 that the question that this gentleman is raising?

16 MR. FRANKS: Yes, sir.

17 MR. FULMER: Well, the cost that he's talking about is a  
18 derived production cost. He's not talking about the  
19 cost of drilling a well.

20 MR. GARVIS: I understand that.

21 MR. FULMER: So that's a continual thing over a 30 year  
22 period under a lease -- whatever his lease calls for.  
23 And what he's talking about is that bookkeeping that's  
24 occurring as to the payments that he would receive as a  
25 royalty owner. Those are not even -- those are not



1 filed with me, not on a voluntary basis. The require-  
2 ments of the order is they're to report to the escrow  
3 agent. That's under a Board order. So the escrow  
4 agent has that information. And the requirements in F  
5 is the requirements for the operator to maintain those  
6 records. But as far as these types of records on  
7 royalty interest payments and so forth, no, not on a  
8 unit by unit basis. We don't have them. They're not  
9 required to be filed with us. But we do have inform-  
10 ation as to what happened to the well and what product-  
11 ion has occurred from that well.

12 MR. GARVIS: Aren't there two issues here? One is, I guess,  
13 the AFE, to determine if that's been accurate. In  
14 other words, if somebody estimates that this is going  
15 to be whatever cost it is to determine at least there's  
16 a high degree of accuracy to that. Thereby protecting  
17 the citizens. And then following that, as Mr. Franks  
18 brings up, that through the years at least what reports  
19 are rendered to the citizens that they can be legible  
20 under -- at least to some degree of consistency.

21 MR. FRANKS: Mr. Fulmer just brought up something else that  
22 I had forgotten. It's in my letter that I have been  
23 unable to obtain records from the escrow accounts from  
24 wells in conflict. I called the bank and I'm told if I  
25 don't have a specific code which was not listed on any

1 of the permits that they won't give me information and  
2 then after three or four calls I was told they had no  
3 information. And yet these wells are in production.  
4 MS. RIGGS: They would only have a record if there's a  
5 forced pooling order on it. And then what you need is  
6 your VGOB -- the forced pooling order number is what  
7 they're looking for.  
8 MR. FRANKS: Well, isn't it force pooled if it's a conflict-  
9 ing interest anyway?  
10 MS. RIGGS: I would suppose do, but I'd have to know the  
11 VGOB number because they're set up by Board order  
12 numbers.  
13 MR. WAMPLER: Our office should be able to get that informa-  
14 tion for you. We'd certainly be very concerned if we  
15 couldn't obtain information from our escrow agent on a  
16 pooled unit.  
17 MR. FRANKS: I'll be visiting your office.  
18 MR. CHAIRMAN: Okay. Thank you. Dennis, did we get the  
19 question that you raised?  
20 MR. GARVIS: Maybe I'm being a little over concerned. I  
21 don't want to belabor the issue but --  
22 MR. CHAIRMAN: Let me see if I can ask Tom directly here.  
23 Can a member of the public who has had a Board order  
24 pooling a unit and escrowing conflicting claims come to  
25 the office and determine information on file about the

1 cost of drilling the well and the amount that's being  
2 paid out on the periodic basis of payment?

3 MR. FULMER: They can only receive through a request to the  
4 escrow agent of what's been paid into the escrow  
5 account. The cost of drilling a well, unless it's  
6 required by the Board, is not filed with us. It's not  
7 a requirement.

8 MR. LEWIS: Another thing he mentioned there was the  
9 transportation of the gas. You'll never ever get  
10 that.

11 MR. FULMER: Right. That's a contractual agreement. That's  
12 a private contractual agreement on transportation of  
13 gas.

14 MR. LEWIS: I think he thought it wasn't consistent.

15 MR. FRANKS: It's not consistent and it's very exorbitant.  
16 The entire production from the well is exceeded by the  
17 transportation costs.

18 MR. FULMER: Mr. Chairman, if I could refresh your memory a  
19 little bit about the JOAs, the Board discussed this  
20 quite lengthy a couple of years ago about using the JOA  
21 to determine costs and whether JOAs should be conside-  
22 red by the Board as legitimate costs and that they  
23 accept that JOA as the costs. And the Board, I think,  
24 reasonably did not accept that, to allow any person to  
25 come before the Board to dispute any cost or claims

1           that were being made in regards to the cost of trans-  
2           portation and so forth.

3   MR. CHAIRMAN: I think what Mr. Garvis is trying to ask is  
4           how would they have the information available to them  
5           to be able to come to the Board to identify that they  
6           did have a dispute or not. Is that correct, Mr.  
7           Garvis? Is that what we're trying to get out of this?  
8           Is the information available so that someone could  
9           identify if they had a problem with it?

10   MR. GARVIS: Well, it disturbs me that a gentleman that's  
11           representing people and he's not able to get the  
12           information or it appears that it's inconsistent which  
13           raises a question in my mind, the skeptic that I am, is  
14           everybody being honest? As long as everybody is  
15           straight forward and honest the field is balances then  
16           there's no problem. But unfortunately in today's  
17           society that's not quite the case every time. So  
18           therefore we have to unfortunately get involved a  
19           little bit.

20   MR. FRANKS: And when there's a total refusal to communicate  
21           it certainly becomes suspicious.

22   MR. GARVIS: I would agree.

23   MR. CHAIRMAN: Thank you for your patience, sir. Please  
24           identify yourself for us.

25   MR. OWENS: I'm Burl Owens. I didn't see anything in the



1 regulations that -- my wife and I have a problem with  
2 the well that's been on our property since 1987. And I  
3 have some pictures here to show you what we have at the  
4 present time. They were taken in February of this  
5 year. I'd like to pass them around and let you all  
6 look at them.

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

9 MR. LEWIS: Is this an active well?

10 MR. OWENS: No. It's been shut down. I mean, I don't know.  
11 I've never been notified or anything. I don't think  
12 there's been any production from it for two years. It  
13 does have gas pressure on it now.

14 MR. LEWIS: I'd say it's still considered an active well,  
15 though. Wouldn't it be, Tom?

16 MR. FULMER: Uh-huh.

17 MR. OWENS: The reason that I know it has gas pressure on it  
18 now is it has a valve up there. It's not plugged or  
19 anything. You can open the valve and whoosh, the gas  
20 comes out under pressure. And my worry is some kid  
21 might come along sometime and open that valve up and  
22 strike a match and what would you have.

23 MR. CHAIRMAN: So you're concerned from a safety standpoint?

24 MR. OWENS: Yes. That's one of the problems. And it's been  
25 shut down for two years. Is there any statute of limit-

1           ation on a shut down well? It seems to me like that  
2           that would be the way anybody could get around of over  
3           plugging one. It just to say it's shut down and never  
4           do anything about it.

5       MR. FULMER: There's nothing in State statute that puts a  
6           limit on if an operator shall so choose to shut his  
7           well in. The only thing that's required is for them to  
8           report that it's shut in on an annual basis or monthly  
9           basis. We do have bonding that if the well should ever  
10          be abandoned that the well would be plugged and  
11          abandoned reclaimed.

12       MR. OWENS: The other comment is on Page 9 on the bottom of  
13           the page there where it says, "A plat showing the size  
14           and the shape of the proposed unit and boundaries of  
15           tracts within the unit." In my hearing before the  
16           Board previously I didn't understand why you didn't  
17           draw a circle around the well to make a unit size.  
18           I've seen them try to use boundary lines and everything  
19           else and I've seen them use squares and all. I think  
20           the squares are probably a hold over from the old  
21           Section thing that we got from out west where they had  
22           wells. On this well if there had been a circle drawn  
23           it would have been entirely on our property, my wife  
24           and I. If you take and put a square out 20 acres then  
25           it touched one other property owner. Since you can't

1 drill a well within so many feet of an existing well  
2 then that forms a circle around that well and I don't  
3 know why that's not a unit size.

4 MR. CHAIRMAN: Is this well in Lee County?

5 MR. OWENS: Yes. I think this gives the operators or the  
6 lessor, I guess, the option of creating whatever they  
7 want to for a unit size. I think this -- I mean, it  
8 doesn't adhere to what your regulations may be. And I  
9 don't think they should be given that option. If you  
10 put a square around the well at the point of the square  
11 it's many more feet from the well than the sides are.  
12 I argue that it ought to be a circle around the well  
13 that would be a unit. I realize that the geological  
14 formations don't go that way but they don't go by  
15 boundary lines either, I don't think.

16 MS. RIGGS: Well, the statutory scheme that is established  
17 under the Virginia Gas and Oil Act gives this Board  
18 authority to create field rules and field rules are for  
19 the protection of correlative rights, so that everybody  
20 within an area gets their proportionate or fair share  
21 of the gas that underlies the whole area. And when  
22 this Board is asked by an operator to create field  
23 rules for a particular area they generally will come in  
24 with a grid that creates the squares that you're  
25 talking about. And there will be extensive testimony

1 put on before the Board to establish what the proper  
2 size of a drilling unit should be in order to drain the  
3 whole area and give everybody in the area an opportu-  
4 nity to equally share in the resource. Ant that's how  
5 you get the square drilling units that you're referring  
6 to. I don't know if this particular well is in a field  
7 with square unit --

8 MR. FULMER: This area is under provisional Board order and  
9 that was passed on July 27th, 1983. This unit was  
10 formed on those requirements of that provisional order.

11 MS. RIGGS: So is he in a square? Do they have the square  
12 drilling units?

13 MR. FULMER: He's in a unit that conforms to the boundaries.  
14 There is a square type grid for that particular unit,  
15 but the provisional order required that the unit shall  
16 conform to the greatest extent practical to the  
17 boundary lines -- preexisting unit boundary lines to  
18 insure that the greatest extent possible inclusion of  
19 all property owners and to drilling units. That was  
20 the requirement of the provision.

21 MR. OWENS: It was drilled as a gas well. So it was a much  
22 bigger unit. It went with boundary lines.

23 MS. RIGGS: Well, when you talk about the circular unit  
24 you're referring to units that were created without  
25 action by this Board based on the spacing requirements



1           that you're talking about.

2   MR. OWENS:   Yes.

3   MS. RIGGS:   Statewide spacing requirements.

4   MR. OWENS:   My original conflict was this was a shallow well  
5           and Penn-Virginia decided they would put a 40 acre unit  
6           size on it. Their argument was that it was some kind  
7           of abnormality or something that they got when they  
8           drilled. Of course, the real reason was that a 40 acre  
9           unit touched several other areas around it and they  
10          wanted to hold those without paying any lease to them.  
11          They wanted to hold the leases. So the Board finally  
12          -- I appeared before the Board and gave the argument  
13          that it should be a 20 acre unit because it was a  
14          shallow well and after everything was put in escrow and  
15          I finally got a lawyer and we came back it was created  
16          as a 20 acre unit which is proper which was according  
17          to the Board's regulations at that time. I mean, I've  
18          been accused of being square a few times but I don't go  
19          in squares. I'd like to have circles around any well.  
20          I think that that's a more logical unit size than the  
21          square because it just -- if you can't drill well but  
22          so many feet around a unit that forms a circle. So the  
23          unit should be a circular unit.

24   MR. EVANS:   The Board has gone through that back and forth,  
25          the difference between a square and a circle. The

1       problem with the circle is how do you overlap them? If  
2       you just touch them there is somebody in there who's  
3       going to either be losing oil or gas and is not going  
4       to get paid for it. I'll show you what I mean if --

5       MR. OWENS: No, I can see what you mean.

6       MR. EVANS: That was the reason for -- part of the reason  
7       for -- that's what correlative rights means. That's  
8       why the regulations and pooling, field rules -- that's  
9       why all of that was brought into play. It was to  
10      protect those individuals who may not be inside a  
11      circle.

12     MR. OWENS: Being an old Lee Countian I have to be aware  
13     that the original regulations that you've got here --  
14     an old senator from down our way went out to the  
15     Oklahoma and copies their laws. Now, in their strata  
16     and their production of oil is much different than it  
17     is here. We have crevice oil in Lee County. We don't  
18     have big beds of sand down there that you can drill  
19     down to. So it's a very different situation. They  
20     have sections of lands out there that are squares, too,  
21     and we don't have those here. You can't show me any  
22     place in the State of Virginia that has a string of  
23     wells out there with square -- one for every square  
24     out through there.

25     MR. EVANS: If there is a unit created or a grid placed out

1           there there's no requirement that every unit has to be  
2           drilled. And that would be the same for any type of  
3           unit you wanted to create. If somebody wanted to drill  
4           a well they could go ahead and drill a well and if it's  
5           a circular unit that's fine and still leave a lot of  
6           space in between and over a long period of time  
7           possibly drain that same resource.

8   MR. OWENS: But on the other hand the oil's not laying down  
9           there in squares either.

10   MR. EVANS: And it's not laying down there in circles. But  
11           the point is how do we make it fair for everybody?  
12           There's a compromise that has to be made. No system we  
13           have is perfect. If you can come up with one we'd be  
14           more than happy to look at it but each -- a square has  
15           it's draw backs. A rectangle has it's draw backs and a  
16           circle has it draw backs. The idea of these regulat-  
17           ions and this law is to balance those concerns and make  
18           it as fair for as many as possible, not one over the  
19           other. We don't have a perfect system and we haven't  
20           come up with one yet.

21   MR. OWENS: But you do have a regulation that you can't  
22           drill a well within so many feet of a well, is that  
23           right?

24   MS. RIGGS: That's a spacing. That's for conservation  
25           purposes. And we have an opinion out of the Attorney

1 General's Office that that spacing law does not create  
2 drilling units. That's been opined on already. The  
3 method by which you create drilling units is through  
4 the application to the Board for field rules or through  
5 your lease arrangements -- your private lease arrange-  
6 ment. Through voluntary units you can set up drilling  
7 units. But if you come before the Board it will be --  
8 in the absence of any evidence to the contrary operat-  
9 ors often use statewide spacing to create the units,  
10 the circular units you're talking about, especially in  
11 a conventional situation. But the statewide spacing  
12 itself -- the statute on statewide spacing which is  
13 45.1-361.17 does not establish circular drilling units.

14 MR. CHAIRMAN: And that's really what you would have to go  
15 to. We'd have to have a law change to do what you're  
16 saying. You're wanting the Board to decide or you're  
17 just recommending the Board decide to go to circular  
18 units?

19 MR. OWENS: Yes.

20 MR. CHAIRMAN: And the Board doesn't have the authority.  
21 The statute allows units to be sized and established by  
22 the Board.

23 MS. RIGGS: Based on testimony as to actual drainage.  
24 Somebody can come in with an application and put on  
25 their case and ask the Board based on the evidence in



1           that particular case to create a certain size drilling  
2           unit. But just as a uniform rule the Board doesn't  
3           have the authority to say we're going to do one thing  
4           over another. It's driven by the testimony that's  
5           presented to it in the form of an application to the  
6           Board based on the expert testimony that comes forward.  
7   MR. OWENS: The only question I have is -- and you all saw  
8           the pictures that I passed around -- am I required to  
9           live with this the rest of my life and everything if  
10          they say, "Well, we've got this well shut in."  
11   MR. CHAIRMAN: I think the question that you're raising is  
12          is the well abandoned.  
13   MR. OWENS: Whittington has it now and he lives down  
14          Florida. I haven't ever seen him. He's never --  
15   MR. CHAIRMAN: It's not producing and hasn't produced in a  
16          couple of years?  
17   MR. OWENS: In two years I know. Maybe more than that.  
18   MR. CHAIRMAN: There's a provision in the statute that  
19          requires the well to be plugged when the well is  
20          abandoned. There is not a provision that says how long  
21          a well can be non-producing to become abandoned.  
22          That's obviously something that you would have an  
23          avenue to challenge which you're doing in saying this  
24          is a non-producing well. Therefore, it's abandoned.  
25          I'm not trying to put words in your mouth, but you're

1 drawing that conclusion, that it should be declared an  
2 abandoned well since it's not producing?

3 MR. OWENS: Well, I wonder about that. It's got gas. It's  
4 about 4,000 feet from my house and I would even contem-  
5 plate (Inaudible.) myself and operating it as a gas  
6 supply for my home.

7 MR. CHAIRMAN: You're not aware of any plans that the  
8 operator has? You're not in communication with him?

9 MR. OWENS: No. He doesn't -- once they get your name on  
10 that lease you're just like Joe Blow out there. They  
11 don't tell you anything. They inform you. They do as  
12 they please.

13 MR. CHAIRMAN: Do you have a voluntary lease with this well  
14 operator? Do you have a lease that you've signed with  
15 them?

16 MR. OWENS: Not with him. I signed it with Penn-Virginia  
17 and they sold it to -- they sold it to Cane Patch and  
18 then to them. And sometimes I think that that's -- the  
19 sale of a lease from others and everybody gets them out  
20 of the way of any responsibilities some way. They try  
21 to pass it on but the fellow tells me that he's not  
22 responsible for the things that -- in the letter he  
23 told me that.

24 MR. CHAIRMAN: Tom, would you write a letter to Maverick and  
25 ask them to state their intent with this well and copy

1 Mr. Owens with that letter and also any response you  
2 get?

3 MR. FULMER: Yes, sir.

4 MR. CHAIRMAN: Do you have anything else?

5 MR. OWENS: Oh, I just want to find out what a involuntary  
6 transfer is. Maybe that does not apply to me and I  
7 wonder how you get an involuntary transfer.

8 MS. RIGGS: It could be by operation of law. I'm trying to  
9 think of a particular situation. Have we ever had an  
10 involuntary come before the Board?

11 MR. FULMER: No.

12 MS. RIGGS: Usually they're voluntary transfers, but you  
13 could have a situation where pursuant to a law suit or  
14 whatever -- a Court order transferred. You could by  
15 order of a Court, by operation of law they call it, it  
16 could be an involuntary transfer. And that is it's not  
17 by agreement of the two parties but there is an  
18 interceding event that has caused the transfer to  
19 occur.

20 MR. OWENS: This Board's not authorized to make an involun-  
21 tary transfer?

22 MS. RIGGS: We don't make any transfers. It's just a  
23 question of if there has been a pooling application  
24 and a Board order pooling it and we have named as part  
25 of the Board order a particular operator and they want

1 to change operators. They need to come to the Board to  
2 get approval before they can do that.

3 MR. EVANS: We can't force them to do it.

4 MR. OWENS: Thank you.

5 MR. CHAIRMAN: Thank you, Mr. Owens. Anyone else wishing to  
6 address the Board on the regulation? Mr. Owens, Mr.  
7 Franks, thank you both for your time and for your  
8 impute to the Board. We'll take a ten minute recess  
9 right now.

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

12 MR. CHAIRMAN: Unless the Board has anything additional that  
13 will conclude the discussion on the regulations. We'll  
14 move forward with the administrative process act with  
15 those regulations.

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ITEM I

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3 MR. CHAIRMAN: The next item on today's agenda is a petition  
4 from Equitable Resources Exploration for rehearing of  
5 docket number VGOB-93/03/16-0345. It's today's docket  
6 number VGOB-94/08/16-0416. We'd ask the parties that  
7 wish to address the Board in this matter to come  
8 forward at this time.

9 MR. KAISER: Mr. Chairman and members of the Board, Jim  
10 Kaiser on behalf of Equitable Resources Exploration.

11 MR. CHAIRMAN: The record will show there are no others.  
12 You may proceed.

13 MR. KAISER: At this time we'd ask that this matter be  
14 continued one more time. I have a meeting scheduled  
15 with Mr. Yeary tomorrow afternoon. If we're not  
16 successful with that meeting then we do intend to  
17 proceed with a motion for summary judgement and I'll  
18 let you know that because I know the Board has an  
19 interest in this matter. So if we're successful then  
20 we'll be able to go forward with this matter next  
21 month. If we're not and we go back into a litigation  
22 stage with this matter then I think we'll probably  
23 withdraw that next month.

24 MS. RIGGS: Could you not in conjunction with your motion  
25 for summary judgement in the alternative ask the Court

1 to remand it to the Board for rehearing?

2 MR. KAISER: Yes.

3 MS. RIGGS: Ask for a voluntary remand?

4 MR. KAISER: I don't really know what other relief the Court  
5 would provide anyway.

6 MS. RIGGS: Well, it's got to go one way or the other. It's  
7 either got to send it back to the Board to rehear it or  
8 go forward over this procedural problem that we have.

9 MR. KAISER: Right.

10 MS. RIGGS: So you might consider that.

11 MR. KAISER: Although the motion does include also the legal  
12 issues obviously. We'll include that in our request  
13 for relief.

14 MR. CHAIRMAN: Without objection it will be continued to  
15 next month. Thank you.

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ITEM II, III

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3 MR. CHAIRMAN: The next item on the agenda is a petition  
4 from Buchanan Production Company for an order amending  
5 prior order VGOB-92/11/17-0284. This is today's docket  
6 number VGOB-95/03/21-0493. We'd ask the parties that  
7 wish to address the Board in this matter to come  
8 forward at this time.

9 MR. SWARTZ: Mark Swartz appearing for Buchanan Production  
10 Company. Les Arrington is here with me this morning as  
11 well. Item II on your docket today and Item III are  
12 somewhat related. Benny, it might save a little bit of  
13 time if we could also call Item III and Les and I can  
14 try to double up on the testimony.

15 MR. CHAIRMAN: All right. The other item is referred to as  
16 Item III which is a petition from Buchanan Production  
17 Company for an order amending prior order VGOB-93/04/-  
18 20-0352. This is today's docket number VGOB-95/03/21-  
19 0494.

20 MR. SWARTZ: I'm also appearing on Item III on behalf of  
21 Buchanan Production Company.

22 MR. CHAIRMAN: There are no others. You may proceed.

23 MR. SWARTZ: Both of these involve repooling of units that  
24 were previously pooled. The pooling orders, although  
25 one of them was heard late in 1992, the T-17 unit, the

1 pooling order was entered in January of 1993 and the  
2 other one was heard in April of 1993 and the pooling  
3 order was entered in August. The issue that both of  
4 these, T-17 and T-18, units have in common is the  
5 respondent. You'll notice in T-18 there's really only  
6 one respondent. Your notice appearing lists an Ira  
7 Gordon Ratcliff and he's a respondent in both of these  
8 matters that are before the Board this morning. Mr.  
9 Ratcliff, unknown to my client, filed a petition in  
10 bankruptcy prior to -- about a month prior to our  
11 filing the first of these two pooling applications. My  
12 client did not receive notice of that filing. As you  
13 may or may not know, the filing of a petition in  
14 bankruptcy imposes an automatic stay on all litigation,  
15 on all judicial or administrative proceedings. We did  
16 not find out about the bankruptcy until some considerable  
17 period of time had elapsed after the unit had  
18 been pooled -- or both of these units had been pooled.  
19 And the way we found out was my client was out negotiating  
20 with Mr. Ratcliff with regard to putting some  
21 facilities on his surface and in the process of those  
22 negotiations to get a surface rights agreement it was  
23 discovered that he was in bankruptcy and it was  
24 discovered that the bankruptcy preceded the date of the  
25 pooling. In an abundance -- well, Les will testify to



1 this ultimately, but negotiations then occurred between  
2 his bankruptcy counsel, the trustee in bankruptcy in  
3 the Federal District out here -- the Western District.  
4 And this needed to happen before we could file these  
5 repooling applications. Ultimately an agreement was  
6 arranged out that the pooling could proceed and the  
7 stay has been lifted so that we're here not subject to  
8 the automatic stay. Rather than try to reconstitute  
9 these transaction with regard to Mr. Ratcliff we  
10 decided that the most prudent course would be to simply  
11 repool his interest in both of these units now that the  
12 stay has been lifted. So that's one of the reasons --  
13 with regard to T-18 that's the only reason we're here.  
14 With regard to T-17 there was a mistake in the plat  
15 that was used when it was initially pooled. Les has  
16 passed out to you this morning a single sheet of paper  
17 that's not in the bound volume of exhibits that you've  
18 got. That is the plat that was originally used.  
19 We'll get to this later, but essentially what happened  
20 when it was replated and the plat was checked Tract 1  
21 on that original plat moved completely out of the unit,  
22 not by much but if you compare it to the plat that you  
23 have in the application you'll see that it has moved  
24 out of the unit. The result of that was we pooled a  
25 whole much of people that we didn't need to pool. And

1 also, of course, it changed the percentages with regard  
2 to everybody. So with regard to T-17 -- just so you  
3 have some sense of where we're headed on these before  
4 we start the testimony, with regard to T-17 it has to  
5 be pooled because of the bankruptcy repool and also  
6 everybody's percentage of interests have changed. So  
7 we noticed everybody who needed to be pooled in that  
8 unit. They are listed as respondents and they will be  
9 afforded election options and even though it's a  
10 repooling everybody's position has changed. Why don't  
11 we start with -- that line shifted. That line was  
12 wrong. So what was 1A, that tract still stayed in the  
13 unit. Those people did not drop out because that line  
14 on the new map --

15 MR. LEWIS: What about number two?

16 MR. ARRINGTON: It stayed in.

17 MR. SWARTZ: If you look at -- you can see from the current  
18 plat that two stayed in. Les, why don't you raise your  
19 hand and be sworn here.

20 COURT REPORTER: (Swears witness.)

21  
22 LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Would you state your name for us, please?

A. Leslie Arrington.

Q. Who do you work for?

A. Consol.

Q. Is Consol the designated operator of both units T-17 and T-18?

A. Yes, they are.

Q. Did you prepare the notices of hearing and the applications with regard to both of these units?

A. Yes, I did.

Q. And they've been signed by you as well?

A. Yes, they have.

Q. The applicant with regard to both of these applications today is Buchanan Production Company, is that correct?

A. Yes, it is.

Q. Is Buchanan Production Company a Virginia general partnership with two partners, namely Appalachian Operators, Inc. and Appalachian Methane, Inc.?

A. Yes, it is.

Q. Are both of these corporate partners in Buchanan Production Company wholly owned indirect subsidiaries of Consol. Inc.?

1 A. Yes, they are.  
2 Q. Is Buchanan Production Company authorized to do  
3 business in Virginia?  
4 A. Yes, it is.  
5 Q. Do both of these applications request that Consol, Inc.  
6 continue to be the designated unit operator?  
7 A. Yes, they do.  
8 Q. Consol, Inc. is a Delaware corporation and is it  
9 authorized to do business in the Commonwealth?  
10 A. Yes.  
11 Q. Has Consol, Inc. registered with the DMME and does it  
12 have a blanket bond on file as required by law?  
13 A. Yes, it does.  
14 Q. As we noted in the past, the management committee of  
15 Buchanan Production Company has delegated to Consol,  
16 Inc the authority to explore, develop and maintain its  
17 properties. Consol, Inc. has accepted that delegation  
18 and has appointed specific people, namely Claude Morgan  
19 as general manager, William D. Gillenwater as land  
20 manager and Randy Albert as regulatory manager to look  
21 after the affairs of Buchanan Production Company, is  
22 that correct?  
23 A. Yes.  
24 Q. In the bound volume Exhibit 6, 7 and 8 are the written  
25 record of the delegation of authority, the acceptance



1 of that delegation and the appointment of those  
2 individuals?  
3 A. Yes, it is.  
4 Q. With regard now to just T-17 have you listed every  
5 person as a respondent who needs to be pooled in that  
6 unit?  
7 A. Yes, we have.  
8 Q. Does that include everyone in the unit, again with  
9 regard to unit T-17, with whom you do not have a lease  
10 or other voluntary agreement?  
11 A. That's correct.  
12 Q. If we compare the initial pooling of T-17 with the  
13 current pooling and Exhibit B that's before the Board  
14 the people who are listed as respondents today, have  
15 their percentages changed?  
16 A. Yes, it has.  
17 Q. What's the cause of that change of everybody's percent-  
18 age?  
19 A. The biggest change was the replatting of that property  
20 listed on the old plat as Tract 1.  
21 Q. If you could hold up the old plat and point out to the  
22 Board where the platting error had occurred on the  
23 original plat?  
24 A. It would have been originally around and in this area  
25 of Tract 1 shown over on the left hand side of the

1 plat, the western side.

2 Q. When it was replatted did the angle of the lines on 1-A

3 change as well?

4 A. Yes.

5 Q. So the intersection point moved out of the unit?

6 A. Yes.

7 Q. And then the angle which was shown on the original plat

8 became less acute?

9 A. That's correct.

10 Q. So the people who were in original Tract 1-A have

11 remained in the unit?

12 A. Yes.

13 Q. And the people who were in the original Tract 1 have

14 fallen out of the unit?

15 A. That's correct.

16 Q. Does the revised Exhibit B that's contained in the

17 packet of exhibits today actually list -- specifically

18 list the people who were in Tract 1-A who no longer

19 have an interest in the unit?

20 A. 1-A or 1?

21 Q. 1.

22 A. Tract 1, yes.

23 Q. So that at the first page of the three pages of revised

24 Exhibit B that's in this packet you have actually

25 listed the folks who have fallen out of the unit?

1 A. Yes, we have.

2 Q. With regard to tracts at the first page of revised

3 Exhibit B, 4-A, 4-B and 5-A, have you listed all people

4 in those tracts who need to be pooled with whom

5 Buchanan Production Company has not entered into a

6 lease arrangement?

7 A. That's correct. We have.

8 Q. Subsequent to the original pooling of this unit did

9 Buchanan Production Company enter into a number of

10 leases with people who were originally pooled?

11 A. Yes, we have.

12 Q. The list today of people still in this unit with whom

13 you do not have voluntary agreements is much shorter

14 than when this unit was originally pooled?

15 A. That is correct.

16 Q. With regard to Exhibit B-2 what have you done there?

17 A. We've also listed there additional owners since the

18 filing of the application that we have picked up either

19 by lease or ownership.

20 Q. So in B-2 those show people that you've -- at least

21 with regard to the Jessie Childress heirs people that

22 you have obtained leases from and/or purchases their

23 interests?

24 A. That's correct.

25 Q. In addition did you provide -- let me back up. Did you

1 mail a copy of the notice of hearing, the application  
2 and exhibits to all of the respondents by certified  
3 mail?  
4 A. Yes, we did.  
5 Q. As part of Exhibit 2 in the bound materials that you  
6 submitted today is there an affidavit of due diligence  
7 which you have signed?  
8 A. Yes, there is.  
9 Q. And attached to that is there a summary with regard to  
10 the mailing?  
11 A. Yes, it is.  
12 Q. And the mailing occurred or the mail was sent on  
13 February 17th?  
14 A. Yes, it was.  
15 Q. And then the status of the mailing is reported in the  
16 chart in Exhibit 2?  
17 A. Yes, sir, it is.  
18 Q. With regard to Exhibit 3 would you tell me whether or  
19 not you made a publication as required?  
20 A. Yes, we did on February 23rd.  
21 Q. In what newspaper?  
22 A. The Bluefield Daily Telegraph.  
23 Q. And the Exhibit 3 actually includes a copy of what was  
24 published in the newspaper?  
25 A. Yes, it does.



1 Q. With regard to unit T-18 did you mail on February 17th  
2 to the respondents on T-18 as well?  
3 A. Yes, we did.  
4 Q. Did you also publish in the Bluefield Daily Telegraph  
5 on February 23rd with regard to unit T-18?  
6 A. Yes, we did.  
7 Q. Have you submitted your affidavit of due diligence and  
8 proof of mailing with regard to T-18?  
9 A. Yes, we have.  
10 Q. With regard to T-17 and T-18 do you wish to add any  
11 respondents today?  
12 A. No, we do not.  
13 Q. Do you wish to dismiss any?  
14 A. No.  
15 Q. Could you explain to the Board -- although I've given  
16 them an explain but I'm not under oath, could you  
17 explain to the Board how the bankruptcy came to light,  
18 approximately when it had been filed in relation to  
19 these pooling applications, and what the current status  
20 of the bankruptcy proceedings are?  
21 A. Yes. Just prior to the original pooling back November  
22 of 1992 the pooling was originally filed and just prior  
23 to that a bankruptcy was filed. We did not find out  
24 about it until property negotiations were started prior  
25 to us drilling some wells and during our drilling the

1 wells and we discovered the bankruptcy at that time.  
2 Q. And that was some time late last summer, wasn't it?  
3 A. Yes, it was.  
4 Q. What have you accomplished with regard to that bank-  
5 ruptcy proceeding?  
6 A. We have finished negotiating with all parties and we  
7 have arrived at a settlement and the bankruptcy has  
8 been taken care of at this point, stay lifted.  
9 Q. Did those negotiations include discussions and negotia-  
10 tions with the trustee in bankruptcy?  
11 A. Yes, they were.  
12 Q. And has an order been entered by the bankruptcy court  
13 lifting stay with regard to this proceeding?  
14 A. Yes, to my knowledge it has.  
15 MR. EVANS: Do you have a copy of that order?  
16 MR. SWARTZ: No.  
17 MR. CHAIRMAN: Would you present to the Board as follow-up a  
18 copy of that order?  
19 MR. SWARTZ: We tried to get one yesterday and we could not  
20 run it down. So we'll send you a copy.  
21 MR. CHAIRMAN: Thank you.  
22 Q. (Mr. Swartz continues.) Exhibit A, Page 2 of the  
23 exhibit that we normally use to show the applicant's  
24 standing to move for a -- to bring an application for a  
25 pooling order and essentially on both T-17 and T-18 you

1 show that nothing really needs to be pooled with regard  
2 to either of these units, is that correct?

3 A. That's correct.

4 Q. Because everyone who's a respondent had previously been  
5 pooled. In T-17 their interests have changed but they  
6 were pooled?

7 A. That's correct.

8 Q. And in T-18 Mr. Ratcliff was pooled, it was subject to  
9 the stay and that was what that means but he is being  
10 repooled as well?

11 A. That's correct.

12 Q. Both of these units are in the Oakwood Field?

13 A. Yes.

14 Q. You're seeking consistent with those field rules to  
15 pool or to produce from all seams below the Tiller?

16 A. That's correct.

17 Q. You've submitted a AWE with regard to both these  
18 applications as Exhibit C and that was completed by you  
19 on February 16th, 1995, correct?

20 A. Yes, it was.

21 Q. And this estimate shows an estimated cost of \$139,964.-  
22 68, is that correct?

23 A. Yes, it is.

24 Q. Is that a reasonable estimate with regard to the  
25 proposed well in the longwall panel in question?

1 A. Yes, it is.

2 Q. What is the projected depth of the target formation?

3 A. Approximately 2,024 feet.

4 Q. And that would be roughly the depth of the Pocahontas

5 #3 seam?

6 A. Yes, sir.

7 Q. With regard to this longwall in question, One-East, are

8 we talking about short hole production followed by

9 active gob at some point?

10 A. Yes, it is.

11 Q. The longwall panel that's depicted on Exhibit G, Page 1

12 at the end of the application that runs basically east

13 to west is in the VP-8 Mine, is that correct?

14 A. Yes, it is.

15 Q. There is an amended -- there is an Exhibit G attached

16 to the original application and that shows the total

17 panel costs of \$1,842,000 approximately, correct?

18 A. That's correct.

19 Q. And then it shows the participation or the involvement

20 of various Oakwood units in that panel?

21 A. Yes, it does.

22 Q. What is the portion of the panel production and costs

23 that would be allocable to unit T-17?

24 A. The actual cost allocated to T-17 would be \$299,017.77.

25 Q. What percentage does that represent?



1 A. 16.23 percent.

2 Q. With regard to T-18 what is the percentage and what is  
3 the cost?

4 A. The percentage is 2.688 percent of the One-East panel  
5 and actual cost is \$49,521.87. I will note that the  
6 Exhibit G that we have presented in here with the One-  
7 East map on it there is some percentage numbers on  
8 there. Please disregard those percentage numbers.  
9 We've got the wrong percentage numbers on there on the  
10 Exhibit.

11 Q. It's pretty clear that they add up to way over 100  
12 percent, isn't it?

13 A. Yes. I'm not sure what happened on that thing.

14 Q. And only in a partnership can you have more than 100  
15 percent, right?

16 A. That's right.

17 Q. Ha, ha. Does the Exhibit B set forth the allocable  
18 percentage attributable to each named respondent with  
19 regard to both of these units?

20 A. Yes, it does.

21 Q. So in terms of tracking any royalty interest regarding  
22 this panel or calculating their participation or  
23 carried interest costs that percentage is reflected in  
24 Exhibit B and could be used?

25 A. Yes, it is.

1 Q. Have you in fact -- I think you've indicated that  
2 you've leased quite a few folks who were originally  
3 pooled since these units were first pooling in 1993, is  
4 that correct?

5 A. Yes, we have

6 Q. What were the terms of the leases that you offered and  
7 that were accepted by a number of folks?

8 A. It's a dollar per acre rental and a one-eighth royalty,  
9 a five year term.

10 Q. And that rental is payable on an annual basis only  
11 until production commences, is that correct?

12 A. That's correct.

13 Q. And after production commences only the one-eighth  
14 royalty would be paid?

15 A. That's correct.

16 Q. Has production actually commenced with regard to both  
17 of these units?

18 A. Yes, it has.

19 Q. Would you recommend those same lease terms to the Board  
20 that frankly were incorporated in the original order,  
21 that they continue with regard to the election option  
22 and the deemed to have leased situation?

23 A. Yes.

24 Q. Is the plan of development with regard to both of these  
25 units in this longwall panel that's shown on Exhibit G,

1 Page 1, a reasonable plan to develop the coalbed  
2 methane resource within and under this unit for the  
3 benefit of the owners of that resource?

4 A. Yes, it is.

5 Q. Will the proposed well protect the correlative rights  
6 of these owners both within and without this unit and  
7 lessen the likelihood of both physical waste and  
8 economical waste?

9 A. Yes.

10 Q. With regard to T-17 should the Board order repooling  
11 this unit, if it is so ordered, afford the election  
12 option to the respondents listed as continuing to have  
13 a percentage in the unit?

14 A. Yes.

15 Q. So everybody who's being repooled and whose percentage  
16 is changing will have another option to elect to  
17 participate or to be carried?

18 A. That's correct.

19 Q. With regard to T-18 the only person who would be given  
20 -- would it be your recommendation that the only person  
21 who be afforded an election option be Mr. Ratcliff?

22 A. Yes.

23 Q. Everybody else's percentages remain the same?

24 A. That's correct.

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

1 MR. CHAIRMAN: Questions, members of the Board?  
2 MR. EVANS: In unit T-17 has anyone chosen to participate or  
3 to be carried?  
4 THE WITNESS: No, they have not.  
5 MR. CHAIRMAN: Other questions?  
6 MR. SWARTZ: Would the same be true for T-18?  
7 THE WITNESS: That's correct.  
8 MR. LEWIS: Why on this unit are you just paying a dollar an  
9 acre when for another you're paying five dollars?  
10 THE WITNESS: On coalbed methane only.  
11 MR. SWARTZ: If you lease both conventional and coalbed what  
12 is the bonus you've been paying?  
13 THE WITNESS: Five dollars.  
14 MR. CHAIRMAN: Any other questions? Do you have anything  
15 further?  
16 MR. SWARTZ: No.  
17 MR. FULMER: Mr. Chairman, do you want to enter the  
18 exhibits? Put on the record what the exhibits are? I  
19 think the next in line would be Exhibit H.  
20 MR. CHAIRMAN: Are you talking about for T-17?  
21 MR. SWARTZ: The original plat. I guess the reason we  
22 didn't worry about that, Tom, is it's already in the  
23 record. It was just so you guys didn't have to dig  
24 around and find it.  
25 MR. FULMER: We're only dealing with this one.



1 MR. CHAIRMAN: The one for T-17 and T-18. Okay. Do you  
2 have anything further, Mr. Swartz?

3 MR. SWARTZ: No.

4 (Witness stands aside.)

5 MR. EVANS: Mr. Chairman, I move that we grant the petition.

6 MR. LEWIS: I second it.

7 MR. CHAIRMAN: A motion and second to grant the petition.

8 MR. EVANS: Both petitions.

9 MR. CHAIRMAN: Any further discussion? All in favor signify  
10 by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.)  
11 Unanimous approval. Thank you.

12 MR. EVANS: Mr. Chairman, one real quick one, subject to  
13 being provided with a copy of the bankruptcy.

14 MR. CHAIRMAN: Right.

15 MR. SWARTZ: Hopefully we can get it today.

16 MR. EVANS: Fine.  
17  
18  
19  
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1  
2  
3 ITEM IV

4 MR. CHAIRMAN: The next item on today's agenda is a petition  
5 from Equitable Resources Exploration for a modification  
6 of a prior order VGOB-94/07/20-0388, Tract WI-78,  
7 docket number VGOB-95/03/21-0495. We'd ask the parties  
8 that wish to address the Board in this matter to come  
forward at this time.

9 MR. KAISER: Mr. Chairman, members of the Board, Jim Kaiser  
10 on behalf of Equitable Resources Exploration. Our  
11 witnesses in this matter will be Mr. George Heflin and  
12 Mr. Bob Dahlin.

13 MR. CHAIRMAN: The record will show there are no others  
14 appearing. You may proceed.

15 MR. KAISER: I'd ask that the witnesses be sworn in at this  
16 time.

17 COURT REPORTER: (Swears witnesses.)  
18

19 GEORGE B. HEFLIN

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Could you please state your name for the Board, who you're employed by and in what capacity?

A. George B. Heflin. I'm employed by Equitable Resources Exploration as land agent.

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

A. That's correct.

Q. Are you familiar with Equitable's application for modification of a prior order for well number V-2665 issued by the Board on November 25th and recorded in Deed Book 766, Page 398 of the Wise County Circuit Court?

A. Yes, I am.

Q. Is Equitable seeking to force pool the drilling rights underlying the drilling and spacing unit as depicted in Exhibit A of this application?

A. That's correct.

MR. KAISER: Mr. Chairman, if I may stop a moment. I believe in the Board's docket this was listed as VGOB-94/07/20-0388 and I believe that's suppose to be 93/3/20-0388.

MR. CHAIRMAN: That's what's on the exhibits anyway.

1 MR. KAISER: Right.  
2 MR. FULMER: It's suppose to be 93.  
3 MR. CHAIRMAN: Thank you.  
4 Q. (Mr. Kaiser continues.) Has notification been made of  
5 all persons as required by Virginia Code, annotated,  
6 Section 45.1-361.19 and has a copy of the returned  
7 receipts been provided to the Board?  
8 A. Yes, they have.  
9 Q. Does Equitable own drilling rights in the unit involved  
10 here?  
11 A. Yes, we do.  
12 Q. Does the proposed unit depicted Exhibit A include all  
13 acreage within 2,640 feet of proposed well number V-  
14 2665?  
15 A. Yes.  
16 Q. What is the interest of Equitable in the unit?  
17 A. At this time we have 98.14 percent.  
18 Q. Are you familiar with the ownership of the drilling  
19 rights of the parties other than Equitable underlying  
20 the unit?  
21 A. Yes, I am.  
22 Q. And what is that interest?  
23 A. 1.86 percent.  
24 Q. Are all the unleased parties set out at the revised  
25 Exhibit B?



1 A. Yes, they are.

2 Q. Prior to filing this application for modification were  
3 efforts made to contact each of the respondents in  
4 attempt to work out an agreement regarding the develop-  
5 ment of the unit involved here made?

6 A. That's correct.

7 Q. Subsequent to the filing of the application for  
8 modification have you continued to attempt to reach an  
9 agreement with the respondents listed at the revised  
10 Exhibit B?

11 A. Yes, we have.

12 Q. As a result of these efforts have you acquired other  
13 leases from any of these respondents listed at the  
14 original Exhibit B as unleased owners?

15 A. Yes.

16 Q. At this time, as I pass out the revised Exhibit B,  
17 could you go through the exhibit page by page for the  
18 Board and let them know exactly what interest it is  
19 that we're modifying and any additional leases that we  
20 have picked up subsequent to the original force pooling  
21 order?

22 A. Yes, I will. (Pause.) On Page 1 of the Exhibit Tract  
23 5 on the original force pooling, Betty Guibord wasn't  
24 leased and we've since leased that particular tract.  
25 On Tract 6 there's a reduction in percentage in this

1 tract due to the addition of Tract 13. Tract 6 and 7  
2 were both affected by Tract 13's addition. The  
3 original percentages were 1.37 and they're now 1.27 in  
4 Tract 6.

5 Q. But the individuals in Tract 6 are under voluntary  
6 lease with EREX, is that right?

7 A. That's correct.

8 Q. And Mr. Calhoun and Mrs. Calhoun who are interest  
9 owners in Tract 7 received notification of this  
10 hearing, is that correct?

11 A. That's correct. Their percentages also were reduced as  
12 well from 1.09 percent to .37 percent. Tract 13 is a  
13 pretty sizable estate. It was discovered through due  
14 diligence and also through title work that the oil and  
15 gas ownership under that particular portion that was  
16 once considered the Glen Calhoun/Carl Stidum oil and  
17 gas -- we've had to add Tract 13 because of our  
18 findings.

19 Q. Did all unleased parties listed in Exhibit B under  
20 Tract 13 receive notification of this hearing?

21 A. Yes, they have. Since we have filed our application  
22 for force pooling we picked up a few leases on the Day  
23 heirs. On Page 3 we leased Ina and Ricky Willis.  
24 We've also acquired a lease from Gregory Sutphin. On  
25 Page 5 we picked up a lease from Hazel Irwin and also a

1 lease from Ronald and Betty Jean Irwin. We've correct-  
2 ed an interest also on Page 5 under Helen Day. We had  
3 written it down wrong and we corrected it. On Page 6  
4 we picked up a lease from Guy and Helen Bolling. On  
5 Page 7 we have a correction under the Herbert Presley  
6 heirs. We have the correct heir to that heirship  
7 listed as Virginia Presley Moore where we filed the  
8 application we had his children listed.

9 Q. Did you also pick up a lease from a Gay Neal Presley?

10 A. That's correct.

11 MR. CHAIRMAN: For the record, I'm in no way to the best of  
12 my knowledge kin to any of the Wampler heirs as  
13 identified in this petition that I know of.

14 A. (The witness continues.) On Page 10 we picked up a  
15 lease also from the Jackie Chisenhall estate. That's  
16 the major changes in the exhibit at this point.

17 Q. Again, just for the record, at the time of the hearing  
18 here today the percentage of the unit that is under  
19 leased is 98.14 percent?

20 A. That's correct.

21 Q. Mr. Heflin, were any efforts made to determine if the  
22 individual respondents were living or deceased or their  
23 whereabouts and if deceased, were efforts made to  
24 determine the names and addresses and whereabouts of  
25 the successors to any deceased individual respondent?

1 A. Yes, they have.

2 Q. Were reasonable and diligent efforts made and sources  
3 checked to identify and locate unknown heirs to include  
4 primary sources such as deed records, probate records,  
5 assessors records, treasurers records and secondary  
6 sources such as telephone directories, city directori-  
7 es, family and friends?

8 A. Yes, sir.

9 Q. In your professional opinion was due diligence exercis-  
10 ed to locate each of the respondents named herein?

11 A. Yes.

12 Q. And are the addresses set out in the revised Exhibit B  
13 to this application for modification the last known  
14 addresses for the respondents?

15 A. That's correct.

16 Q. And with the exception of those parties which you are  
17 hereby dismissing from this proceeding are you request-  
18 ing this Board to force pool all other unleased  
19 interests listed at the revised Exhibit B?

20 A. Yes, we are.

21 Q. Does Equitable seek to force pool the drilling rights  
22 of each individual respondent if living and if  
23 deceased, the unknown successor or successors to any  
24 deceased individual respondent?

25 A. Yes, we are.



1 Q. Is Equitable seeking to force pool the drilling rights  
2 of the person designated as trustee if acting in  
3 capacity of trustee and if not acting in such capacity  
4 is Equitable seeking to force pool the drilling rights  
5 of the successors of such trustee?  
6 A. That's correct.  
7 Q. Are you familiar with the fair market value of drilling  
8 rights in the unit here and in the surrounding area?  
9 A. Yes, I am.  
10 Q. Could you please advise the Board as to what those are?  
11 A. A five dollar consideration, one-eighth royalty.  
12 Q. And what term is that?  
13 A. A five year term.  
14 Q. Did you gain your familiarity by acquiring oil and gas  
15 leases and other agreements involving the transfer of  
16 drilling rights in the unit involved here and in the  
17 surrounding area?  
18 A. Yes.  
19 Q. In your opinion do the terms you have testified to  
20 represent the fair market value of and the fair and  
21 reasonable compensation to be paid for the drilling  
22 rights within this unit?  
23 A. Yes, they are.  
24 Q. Based on that and as to the respondents who have not  
25 voluntarily agreed to lease do you recommend that the

1 respondents listed at revised Exhibit B who remain  
2 unleased be allowed the following options with respect  
3 to their ownership interests within the unit. 1)  
4 Participation. 2) A cash consideration of five dollars  
5 per net mineral acre plus a one-eighth of eight-eighths  
6 royalty. 3) In lieu of the cash bonus and one-eighth of  
7 eight-eighths royalty share in the operation of the  
8 well on a carried basis as a carried operator under the  
9 following conditions; Such carried operator shall be  
10 entitled to the share of production from the tracts  
11 pooled accruing to his interest exclusive of any  
12 royalty or overriding royalty reserved in any leases,  
13 assignments thereof or agreements relating thereto of  
14 such tracts but only after the proceeds allocable to  
15 his share equal A) 300 percent of the share of such  
16 costs allocable to the interest of the carried operator  
17 of a leased tract or portion thereof or B) 200 percent  
18 of the share of such costs allocable to the interest of  
19 the carried operator of an unleased tract or portion  
20 thereof?

21 A. That's correct.

22 Q. Do you recommend the order provide that the elections  
23 by the respondent be in writing and sent to the  
24 applicant at Equitable Resources Exploration, P.O. Box  
25 1983, Kingsport, Tennessee, attention George Heflin?

1 A. That's correct.

2 Q. And should this be the address for all communications  
3 with the applicant concerning the force pooling order?

4 A. Yes, it should.

5 Q. Do you recommend the pooling order provide that if no  
6 written election is properly made by a respondent then  
7 such respondent shall be deemed to have elected to cash  
8 royalty option in lieu of participation?

9 A. That's correct.

10 Q. Should the unleased parties be given 30 days from the  
11 date of the order to file their written election?

12 A. Yes, they should.

13 Q. If an unleased respondent elects to participate should  
14 that respondent be given 45 days to pay the applicant  
15 for respondent's proportionate share of well costs?

16 A. That's correct.

17 Q. Does the applicant expect the party electing to  
18 participate to pay in advance that party's share of  
19 completed well costs?

20 A. Yes.

21 Q. Should the applicant be allowed 60 days following the  
22 recordation date of the order and thereafter annually  
23 on that date until production is achieved to pay or  
24 tender any cash bonus becoming due under the force  
25 pooling order?

1 A. Yes.

2 Q. Do you recommend that the force pooling order provide

3 that if a respondent elects to participate but fails to

4 pay respondent's proportionate share of well costs

5 satisfactory to applicant for payment of well costs the

6 respondent's election to participate shall be treated

7 as having been withdrawn and void and such respondent

8 should be treated just as if no initial election had

9 been filed under the force pooling order?

10 A. That's correct.

11 Q. Do you recommend the force pooling order provide that

12 where a respondent elects to participate but defaults

13 in regard to the payment of well costs any cash sum

14 becoming payable to such respondent be paid within 60

15 days after the last day on which such respondent could

16 have paid or made satisfactory arrangements for the

17 payment of well costs?

18 A. Yes.

19 Q. Do you recommend the force pooling order provide that

20 if a respondent refuses to accept any payment due,

21 including any payment due under said order or any

22 payment of royalty or cash bonus or said payment cannot

23 be paid to a party for any reason or there is a title

24 defect in the respondent's interest that the operator

25 create an escrow account for the respondent's benefit



till the money can be paid to the party or till the title defect is cured to the operator's satisfaction?

A. That's correct.

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

#### A. Equitable Resources Exploration.

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

MR. CHAIRMAN: Questions, members of the Board?

(Witness stands aside.)

MR. KAISER: Mr. Chairman, our next witness will be Mr. Dahlin.

ROBERT A DAHLIN, II

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

### DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Dahlin, could you please state your name, who you're employed by and in what capacity?

A. My name is Robert A. Dahlin, II and I'm employed by EREX as a production specialist.

Q. Have you testified before the Virginia Gas and Oil

1 Board before and have your qualifications as an expert  
2 witness previously been accepted by the Board?

3 A. Yes, sir, I have.

4 Q. Do your responsibilities include the lands involved  
5 here and in the surrounding area?

6 A. Yes.

7 Q. And are you familiar with the proposed exploration and  
8 development of the unit involved here under applicant's  
9 proposed plan of development?

10 A. Yes, I am.

11 Q. What is the total depth of the initial well that's  
12 drilled in this unit?

13 A. 5,592 feet.

14 Q. And is this sufficient to penetrate and test the common  
15 sources of supply in the subject formations consistent  
16 with the permit?

17 A. Yes, it is.

18 Q. Is the applicant requesting the force pooling of  
19 conventional gas reserves not only to include the  
20 designated formations but any other formations exclud-  
21 ing coal formations which may be between those forma-  
22 tions designated from the surface to the total depth  
23 drilled?

24 A. They are.

25 Q. Was this well at a legal location?

1 A. Yes, it was.

2 Q. What's the estimated reserves of the unit?

3 A. The estimated reserves currently are one million 23,568

4 cubic feet.

5 Q. Are you familiar with the well costs for this proposed

6 initial well?

7 A. Yes, I am.

8 Q. Was an AFE reviewed, signed and submitted to the Board?

9 A. Yes, it was.

10 Q. Was this AFE prepared by an engineering department

11 knowledgeable in the preparation of AFEs and knowledge-

12 able in regards to well costs in this area?

13 A. Yes, it was.

14 Q. Could you please state for the Board both the dry hole

15 costs and the completed well costs for this well?

16 A. This is a completed well and the cost are \$332,949.

17 Q. Did these costs anticipate a multiple completion?

18 A. Yes.

19 Q. Did the AFE include a reasonable charge for supervis-

20 ion?

21 A. Yes.

22 Q. In your professional opinion will the granting of this

23 application be in the best interest of conservation,

24 the prevention of waste and the protection of correlat-

25 ive rights?

1 A. Yes, sir.

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

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

5 MR. FULMER: Repeat the costs.

6 THE WITNESS: The costs that I have in front of me are  
7 \$332,949.

8 MR. CHAIRMAN: Do you know where most of that addition cost  
9 came from?

10 THE WITNESS: Yes, sir. Primarily two or three different  
11 things. The well encountered a substantially larger  
12 Big Lime zone than we had initially expected and there  
13 was very large treatment there. That was --

14 MR. KAISER: So it was a much bigger frack.

15 THE WITNESS: So the cost of frack went from \$25,000 to  
16 \$40,727. The balance of it is in title litigation and  
17 location increases. Location roads and registration  
18 charges that I have in front of me are \$21,423 which  
19 was \$15,000 estimated. I might also point out that  
20 this well was not covered by the Board orders to supply  
21 actual costs. So my costs I have in front of me are  
22 something I did in preparation for this hearing and I  
23 can't vouch for them being complete. They are the  
24 actual costs as of today.

25 MR. CHAIRMAN: That's fine. I just wanted some additional



1 information on that. Thank you. Any other questions  
2 of this witness?  
3 MR. EVANS: Yes, Mr. Chairman, real quick. Did anybody  
4 choose to participate in this well?  
5 THE WITNESS: To my knowledge no, they did not.  
6 MS. RIGGS: In terms of who's going to get the election now,  
7 is everybody whose been added as a part of Tract 13  
8 plus all unleased on Exhibit B or only certain tracts  
9 within Exhibit B where the percentage of interest got  
10 changed by the addition?  
11 MR. KAISER: The latter is true.  
12 MS. RIGGS: Identify for me then who gets the right of  
13 election.  
14 MR. KAISER: Glen and Helen Calhoun and all unleased parties  
15 in Tract 13. Skurupa who is still unleased was  
16 afforded an election under the original pooling order  
17 and had no change in interest in Tract 4.  
18 MS. RIGGS: So that's Tract 7?  
19 MR. KAISER: Uh-huh.  
20 MS. RIGGS: I thought somebody in Tract 6 had a percentage  
21 interest change --  
22 MR. KAISER: They did but they're under voluntary lease.  
23 MS. RIGGS: Okay.  
24 MR. CHAIRMAN: Anything further, members of the Board? Do  
25 you have anything further, Mr. Kaiser?

1 MR. KAISER: No, Mr. Chairman.  
2 (Witness stands aside.)  
3 MR. EVANS: Mr. Chairman, I move we grant the petition.  
4 MR. CHAIRMAN: A motion to approve.  
5 MR. KELLY: Second.  
6 MR. CHAIRMAN: A motion and second. Further discussion?  
7 All in favor signify by saying yes. (ALL AFFIRM.)  
8 Opposed say no. (NONE.) Unanimous approval. Thank  
9 you.  
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1 ITEM V

2  
3 MR. CHAIRMAN: The next item on the agenda is a petition  
4 from Equitable Resources Exploration for a modification  
5 of prior order VGOB-94/05/17-0445. That is today's  
6 docket number VGOB-95/03/21-0496. We'd ask the parties  
7 that wish to address the Board in this matter to come  
8 forward at this time.

9 MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable  
10 Resources Exploration. Once again our witnesses in  
11 this matter will be Mr. George Heflin and Mr. Bob  
12 Dahlin.

13 MR. CHAIRMAN: Your witnesses have previously been sworn.  
14 There are no other parties wishing to address the  
15 Board.  
16

17 GEORGE B. HEFLIN

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

21 DIRECT EXAMINATION

22  
23 BY MR. KAISER:

24 Q. Mr. Heflin, could you please state your name for the  
25 Board, who you're employed by and in what capacity?

1 A. George B. Heflin, Equitable Resources Exploration as a  
2 land agent.  
3 Q. Are you familiar with Equitable's application for the  
4 modification of a prior order issued by the Board on  
5 July 18th, 1994?  
6 A. Yes, I am.  
7 Q. Is Equitable seeking to force pool the drilling rights  
8 underlying the drilling and spacing unit as depicted in  
9 Exhibit A of the application?  
10 A. That's correct.  
11 Q. Has notification been made of all persons as required  
12 by Virginia Code, annotated, Section 45.1-361.19?  
13 A. Yes, it has.  
14 Q. Does Equitable own drilling rights in the unit involved  
15 here?  
16 A. Yes.  
17 Q. Does the proposed unit depicted at Exhibit A include  
18 all acreage within 2,640 feet of proposed well number  
19 V-2768?  
20 A. That's correct.  
21 Q. What is the interest of Equitable in the unit at the  
22 time of hearing?  
23 A. 93.92 percent.  
24 Q. Are you familiar with the ownership of the drilling  
25 rights of the parties other than Equitable underlying



1 the unit?

2 A. That's correct.

3 Q. And what is that interest?

4 A. 6.08 percent.

5 Q. Are all the unleased parties set out at our revised

6 Exhibit B?

7 A. That's correct.

8 Q. Prior to filing this application were efforts made to

9 contact each of the respondents in attempt to work out

10 an agreement regarding the development of the unit

11 involved made?

12 A. Yes, there were.

13 Q. Subsequent to the filing of the application for modifi-

14 cation have you continued to attempt to reach an agree-

15 ment with the respondents listed at the revised Exhibit

16 B?

17 A. Yes, we have.

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

19 leases from any of these respondents listed at the

20 revised Exhibit B as unleased owners?

21 A. That's correct.

22 Q. Could you at this time please point out not only the

23 new additional leases that we have picked up but the

24 additional interest owners that have been identified in

25 Tract 2 and the corrections to interests that we're

1 making in Tract 3? Let me hand this out real quick.

2 A. (Pause.) In Tract 2 on Page 1 of the exhibit we dis-  
3 covered that there is a Larry Wayne Deaton and Elizabeth  
4 Carol Deaton that has an interest in the Addington  
5 tract. At this time we're having a hard time locating  
6 anyone that has knowledge of their whereabouts and are  
7 continuing to try to find them. In Tract 3, the James  
8 M. Day estate. On Page 3 we picked a lease from the  
9 Jackie Chisenhall estate. On Page 6 we've leased Ira  
10 Willis and Ricky Willis along with Gregory Sutphin. On  
11 Page 9 we have leased Guy Bolling and Helen Bolling and  
12 we have made a name correction on the Cynthia Hunt. We  
13 had it incorrect before the original filing. It should  
14 be Cynthia Hunt and Kevin Hunt, not Kevin Wilson. We  
15 made that correction. On Page 10, once again under the  
16 Hubert Presley heirs we put the correct heir to his  
17 estate, being Virginia Presley Moore.

18 Q. Mr. Heflin, were any efforts made to determine if the  
19 individual respondents were living or deceased or their  
20 whereabouts and if deceased, were efforts made to  
21 determine the names and addresses and whereabouts of  
22 the successors to any deceased individual respondents?

23 A. Yes, they were.

24 Q. Were reasonable and diligent efforts made and sources  
25 checked to identify and locate unknown heirs to include

1 primary sources such as deed records, probate records,  
2 assessors records, treasurers records and secondary  
3 sources such as telephone directories, city directori-  
4 es, family and friends?

5 A. That's correct.

6 Q. In your professional opinion was due diligence exercis-  
7 ed to locate each of the respondents named herein?

8 A. Yes, it was.

9 Q. And are the addresses set out in the revised Exhibit B  
10 the last known addresses for the respondents?

11 A. That's correct.

12 Q. And with the exception of those parties which you are  
13 hereby dismissing from this proceeding are you request-  
14 ing this Board to force pool all other unleased  
15 interests listed at the revised Exhibit B?

16 A. That's correct.

17 Q. Does Equitable seek to force pool the drilling rights  
18 of each individual respondent if living and if deceas-  
19 ed, the unknown successor or successors to any deceased  
20 individual respondent?

21 A. Yes, we are.

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

1 of the successors of such trustee?

2 A. Yes.

3 Q. Are you familiar with the fair market value of drilling

4 rights in the unit here and in the surrounding area?

5 A. Yes, I am.

6 Q. Could you please advise the Board as to what those are?

7 A. A five dollar consideration, one-eighth royalty, a five

8 year term.

9 Q. Did you gain your familiarity by acquiring oil and gas

10 leases and other agreements involving the transfer of

11 drilling rights in the unit involved here and in the

12 surrounding area?

13 A. That's correct.

14 Q. And in your opinion do the terms you have testified to

15 represent the fair market value of and the fair and

16 reasonable compensation to be paid for the drilling

17 rights within this unit?

18 A. Yes, it does.

19 MR. KAISER: At this time, Mr. Chairman, I'd ask that the

20 Board allow us to incorporate the testimony regarding

21 elections that was previously made part of the record

22 in VGOB-95/03/21-0495.

23 MR. CHAIRMAN: It's accepted.

24 MR. KAISER: At this time I'd like to identify for Ms. Riggs

25 the parties that will be receiving elections if this



1 application is approved. Of course, the deeds in Tract  
2 2 are unknown and unlocatable at this time. All the  
3 unleased respondents in Tract 3 will be the individuals  
4 receiving their election option under the order if the  
5 application is approved.

6 Q. (Mr. Kaiser continues.) Mr. Heflin, who should be  
7 named the operator under this force pooling order?

8 A. Equitable Resources Exploration.

9 MR. KAISER: Mr. Chairman, I have nothing further of this  
10 witness at this time.

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

12 MR. EVANS: I'll ask it now. Anyone participating thus far

13 THE WITNESS: No, they haven't. They've elected to take the  
14 cash consideration and one-eighth royalty.

15 MR. CHAIRMAN: Other questions?

16 (Witness stands aside.)

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

18 MR. KAISER: Mr. Dahlin, I'll remind you you're under oath.

19  
20 ROBERT A DAHLIN, II

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Dahlin, could you please testify for the Board who you're employed by and in what capacity?

A. I'm employed by ZREX as a production specialist.

Q. And have your qualifications as an expert witness previously been accepted by the Board?

A. Yes, sir.

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

A. Yes, it does.

Q. Are you familiar with the proposed exploration and development of the unit involved here under applicant's proposed plan of development?

A. I am.

Q. This well has not been drilled as of this time, correct?

A. It has not.

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

A. 5,385 feet.

Q. And will this be sufficient to penetrate and test the common sources of supply in the subject formations and will it include the formations consistent with the well

1 work permit now pending before the DMME?

2 A. Yes, it will.

3 Q. Is the applicant requesting the force pooling of  
4 conventional gas reserves not only to include the  
5 designated formations but any other formations exclud-  
6 ing coal formations which may be between those forma-  
7 tions designated from the surface to the total depth  
8 drilled?

9 A. That's true.

10 Q. Will this well be at a legal location?

11 A. Yes, it will.

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

13 A. We anticipate 700 million cubic feet of gas.

14 Q. Are you familiar with the well costs for this proposed  
15 initial unit well under applicant's plan of develop-  
16 ment?

17 A. I am.

18 Q. Has an AFE reviewed, signed and submitted to the Board?

19 A. Yes, it has.

20 Q. Was this 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.

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

1 plan of development?

2 A. Yes, it does.

3 Q. Could you state for the Board at this time both the dry

4 hole costs and the completed well costs?

5 A. Dry hole costs are \$159,250 with completed well cost

6 estimate at \$300,950.

7 Q. Is there a slight variance in those costs figures

8 between the original application and this application?

9 A. I don't believe so. I think those --

10 Q. Those are the figures?

11 A. Yes.

12 Q. Do these costs anticipate a multiple completion?

13 A. It does.

14 Q. Does the AFE include a reasonable charge for super-

15 vision?

16 A. Yes, it does.

17 Q. In your professional opinion will the granting of this

18 application be in the best interest of conservation,

19 the prevention of waste and the protection of correla-

20 tive rights?

21 A. Yes, sir.

22 MR. KAISER: Mr. Chairman, I have no further questions of

23 this witness at this time.

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

25 (Witness stands aside.)



1 MR. EVANS: Mr. Chairman, I move we grant the petition.  
2 MR. CHAIRMAN: A motion to approve.  
3 MR. KELLY: Second.  
4 MR. CHAIRMAN: A motion and second. Further discussion?  
5 All in favor signify by saying yes. (ALL AFFIRM.)  
6 Opposed say no. (NONE.) Unanimous approval. Thank  
7 you.  
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ITEM VI

MR. CHAIRMAN: The last item on today's agenda is a petition from Equitable Resources Exploration for modification of a prior order VGOB-94/09/20-0473. This is today's docket number VGOB-95/03/21-0497. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable Resources Exploration. On this matter we'll have just Mr. Heflin testifying. We are modifying the allocation of interests within one tract. In the future, after discussions with several Board members, particular Attorney Riggs, this is a situation that we can and will handle at the supplement order stage. But since we had submitted the application and had not drafted our Exhibit B we felt a matter that would facilitate us doing that we'll just go forward with just Mr. Heflin's testimony and he'll point out the change of the interests within --the allocation of the interests within that same tract. There will not be any --

MS. RIGGS: So the remedy sought is not a modification of a pooling order but entry of an amended supplemental order?

MR. CHAIRMAN: While you're looking for that the record will

1 show there are no other parties and your witness has  
2 previously been sworn.

3 MR. KAISER: We haven't filed a supplement in this.

4 MR. CHAIRMAN: So you are seeking --

5 MR. KAISER: So we're seeking a modification of a prior  
6 order basically.

7 MS. RIGGS: Okay.

8 MR. KAISER: But there will not be any additional elections.

9 MS. RIGGS: Right. That's why I was saying it would  
10 probably be handled through the supplemental order  
11 instead of a modification of a pooling order since it's  
12 not offering any elections or pooling any additional  
13 parties.

14 MR. KAISER: We thought about withdrawing this one and doing  
15 that, but since we had notified the parties --

16 MS. RIGGS: Well, I think it just goes to the form of the  
17 order which we can still do.

18 MR. KAISER: Right.

19

20 GEORGE B. HEFLIN

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

23

24

25

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Heflin, you are employed by who and in what capacity?

A. Equitable Resources Exploration as a land agent.

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

A. That's correct.

Q. Are you familiar with Equitable's application for modification of a prior order issued by the Board on November 9th, 1994?

A. Yes, I am.

Q. At this time could you please go through our Exhibit B that was submitted with the application and explain for the Board the changes in the allocation of the interests within Tract 6 in this unit?

A. From our initial force pooling in 1994 the changes that you will see on the exhibit start on Page 2. Actually in Tract 4 under the Creed Sexton heirs we've set out the life estate remainderment. On Tract 6, the interest in Tract 6 -- each individual party's interest has changed due to further due diligence and research. We've adjusted everyone's interest within that tract. We've also picked up a few leases as well since the



1 original force pooling. On Page 3 we've leased Richard  
2 Leon Sexton and Shelia Sexton, Timothy Michael Sexton  
3 and Karen Sexton. On Page 4 Janice and Vasilee  
4 Freeman, Dulis Carter and Suzanna Carter. On Page 5  
5 William Roy Carter and wife, Jean Stiffler, David  
6 Carter, Samuel Ray Carter. On Page 6 Lucy Hammett and  
7 her husband David, Larry Carter, Sr. and his wife  
8 Debbie, Lou Carter and Kim Carter. On Page 8 Ula  
9 Sexton Osborne and Bruce Osborne. On Page 9 Cecil  
10 Abner. That's the changes we've made.

11 MR. KAISER: I guess as maybe some clarification of what Ms.  
12 Riggs and I have talked about, under our notice of  
13 publication for these force pooling applications we  
14 published both known and unknown heirs. Pursuant to  
15 that in these situations that have been cropping up  
16 quite frequently where we have a large number heirs in  
17 these estates in these individually owned tracts their  
18 due process rights are protected under that and they  
19 have the chance -- are afforded the chance to come  
20 forward and be afforded an election option. In that  
21 they don't they are deemed to have leased under the  
22 order and it's both of our perception that any allocat-  
23 ion -- just a plain allocation of the interest between  
24 a tract is more suitably handled at the supplemental  
25 order stage. And you may have noticed in the prior two

1       hearings today we have changed the way in which we are  
2       submitting our Exhibit Bs to accommodate that situation  
3       in the future.

4   MR. CHAIRMAN:   More revenue, Tom.

5   MR. FULMER:   Me and Sandra, we've talked about this too  
6       because under -- Mr. Chairman, I'll address it to the  
7       Board. We've talked about the notice issue in regards  
8       to the Board's requirements but also there's a notice  
9       issue in regards to the permit application. And once  
10      they discover these new people they become parties to  
11      the notice of the original permit. The one thing that  
12      we talked about is if this does occur then we would be  
13      looking at -- if they file a petition before the Board  
14      then would that relieve them of going back and giving  
15      notice under the permit if there are gas and oil  
16      royalty interests.

17   MS. RIGGS:   I think it depends on how they got the service  
18      in the first place. You can get service against  
19      unknown and unlocatable people through publication and  
20      once you've perfected that the fact that you later  
21      identify who that person is doesn't reopen the proceed-  
22      ings. And that's why they're able to handle it through  
23      the supplemental instead of coming back with a whole  
24      new pooling because all they are really doing is  
25      identifying somebody they've already previously gotten

1 jurisdiction over, has been subjected prior or original  
2 pooling order and has been afforded a right of election  
3 in their unknown capacity. Now all that's happened is  
4 a name has been associated with the prior unknown heir.  
5 The percentage of interest merely gets changed because  
6 as you continue adding heirs to a tract you're going to  
7 keep diluting down those that were previously known.  
8 So when they change their Exhibit B what they're saying  
9 is they're going to allocate the interest to the  
10 heirship instead of trying to allocate it to every  
11 individual heir and that way it won't change every  
12 time. If they end up with 20 heirs each of them will  
13 get one-twentieth of whatever that percentage was  
14 because you just keep diluting down as you keep  
15 tracking down these heirs. But for our purposes the  
16 process is complete once they accomplish publication.  
17 They get jurisdiction over them under the original  
18 pooling order under the statute. If they aren't  
19 identified within the election period then they're  
20 deemed to have leased whether we know who they are or  
21 not. So it's complete from a pooling prospective. And  
22 all we're really doing through the supplemental order  
23 stage is identifying them for the escrow agent so that  
24 down the road somewhere when it's time to disburse  
25 funds we don't have to go back and repeat the due

1 diligence that they have already done in order to  
2 determine who's entitled to receive the money. So it's  
3 a tracking system.

4 MR. CHAIRMAN: And it's consistent with our supplemental  
5 order procedures of the Board.

6 MS. RIGGS: Exactly.

7 MR. CHAIRMAN: But to get what -- Tom's question went beyond  
8 the responsibilities of the Board and back to the  
9 Director as far as notice on the original permit  
10 application. I guess we can solve that later --

11 MR. FULMER: It mirrors the situation that the Board is  
12 handling is all I was trying to bring out concerning  
13 the situation that occurs over a permit when all these  
14 new heirs or people come up.

15 MR. HEFLIN: In this particular case Mr. Fulmer is talking  
16 about we modified both permits and sent them back in  
17 for his review?

18 MS. RIGGS: What he's saying is that if the process is the  
19 same that that's probably not necessary if you've  
20 already gotten -- afforded due process through your  
21 publication of unknowns and unlocatables up front, that  
22 you're probably going to have to come back through that  
23 process just for purposes of identifying them later  
24 because it doesn't give rise to a new due process.

25 MR. CHAIRMAN: If it did then that would be --



1 MR. KAISER: It would be a different situation.

2 MR. CHAIRMAN: They'd have all the options afforded them  
3 under law. Okay. Anything further?

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

5 MR. CHAIRMAN: Anything further, members of the Board?  
6 (Witness stands aside.)

7 MR. EVANS: Mr. Chairman, I move we grant the petition.

8 MR. KELLY: Second.

9 MR. CHAIRMAN: A motion to approve and a second. Any  
10 further discussion? All in favor signify by saying  
11 yes. (ALL AFFIRM.) Opposed say no. (NONE.) Un-  
12 animous approval. Thank you. Anything further.  
13 members of the Board? That concludes our business.  
14 Thank you.

15  
16 (End of Proceedings for  
17 March 21, 1995.)  
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1  
2 CERTIFICATE  
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4 COMMONWEALTH OF VIRGINIA

5 COUNTY OF WASHINGTON  
6

7 I, Deborah J. Bise, Notary Public in and for the  
8 Commonwealth of Virginia, at Large, do hereby certify that the  
9 foregoing proceedings of the Virginia Gas and Oil Board  
10 meeting held on March 21, 1995 at the Southwest Virginia  
11 4-H Center, Abingdon, Virginia, were taken by me and that the  
12 foregoing is a true and correct transcript of the proceedings  
13 had as aforesaid to the best of my ability.

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

18 GIVEN under my hand this 4th day of March, 1995.  
19

20 Deborah J. Bise  
21 DEBORAH J. BISE  
22 NOTARY PUBLIC  
23

24 My commission expires September 30, 1996.  
25