VIRGINIA GAS AND OIL BOARD

MONTHLY BOARD TRANSCRIPT

AUGUST 1997

VTRGINIA OIL AND GAS BOARD

HEARING OF AUGUST 19, 1997

9:00 A.M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER

HILLMAN HIGHWAY

ABINGDON, VIRGINIA

- -

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INDEX

	Page
Item I	2
Item II	79
Item III	79
Item IV	81
Item V	97
Item VI	137, 146
Item VII	156
Item VIII	166
Item IX	133
Item X	103
Item XI	103
Item XII	179
Item XIII	207
Item XIV	185

August 19, 1997

This matter came on to be heard of this 19th day of August, 1997 before the Virginia Gas and Oil Board at the Southwest Virginia 4-H Center, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

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

MR. BRENT: My name is Mason Brent. I'm from Richmond, Virginia and I represent the gas and oil industry.

MR. LEWIS: Max Lewis, a public member from Buchanan County.

MS. RIGGS: I'm Sandra Riggs with the Office of the Attorney General.

MR. KING: I'm Clyde King, a public representative from Abingdon.

MR. FULMER: Tom Fulmer, Director of the Division of Oil and Gas, Department of Mines, Minerals and Energy.

ITEM I

MR. CHAIRMAN: The first item on today's agenda is a petition from Buchanan Production Company for the creation of a sealed gob drilling unit and pooling for VP8-SGU2 Unit. This is docket number VGOB-97/06/17/-0587. It was continued from July. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. SWARTZ: Mark Swartz on behalf of the applicant.

MR. JOHNSON: Donald R. Johnson. I represent a number of mineral owners and they are listed in the objection which I have filed. I'll be glad to read all their names if the Board so wishes.

MR. CHAIRMAN: We have the listing of that. Thank you. The record will show there are no others. You may begin.

MR. SWARTZ: This application originally came on in June for hearing. Shortly before the hearing date in June the people who Mr. Johnson now represents communicated directly with Mr. Fulmer and the Board and took the position in letters, which I assume are in your packets of information, that the applicant did not under it's leases have the right to voluntarily pool their interests in this sealed gob unit. So when the matter came on for hearing in June in reaction to that,

because we didn't know that before we had filed the pooling application, the applicant sought leave to amend our application to pool those interests. Basically our position then and today is it is really a matter of the pleasure of Mr. Johnson's clients. I mean, if it is their position that their interests in this proposed sealed gob unit are not under lease we will then act accordingly and force pool them. If it is their position that they are subject to the leases that my client has with them then we won't. Their initial reaction, as I've indicated, was that we did not have a right to voluntarily pool the units. As I read the objections that were filed, however, in advance of this hearing by Mr. Johnson it looks to me like he's claiming that the interests are covered by the leases and subject to the leases. So I guess we'll sort of have to see where that goes. But our position is to the extent that there is a claim here that is not leased we really don't feel that we need to pool. And that's the reason for the motion for amendment. So, in any event, that happened on June 17th when this originally came on for hearing. The matter was continued so that official notice of the proposed amendment could be given to these lessors because nobody appeared on their behalf. They didn't come in

person. Mr. Johnson hadn't been retained as yet. As you'll recall, we didn't have a July quorum and so that's why it's been a two month delay. Also in the interim and in your paper work you should have a written motion I orally moved in June but I subsequently filed a written motion to amend, directed that to Mr. Johnson and there were a couple of revised exhibits that accompanied that. Basically it changes the interests that are being pooled and it changes the people that are being pooled. So there's a revised Exhibit #A, Page 2, which we'll talk about later and a revised Exhibit #B-3. The last comment I would have before I get into the testimony from Les Arrington and Claude Morgan would be you'll recall -- and we talked about this before -- when we create a sealed gob unit we really need to do two things. We need to create a unit which is described in the maps because sealed gob is not subject to any of the field rules here. So we need to literally a sealed gob drilling unit. so that's one of the things we want to do today. Then the other thing is having created that unit and assuming that it's agreeable to you all we need to pool the unit. So it's a little different than the typical application. With that introduction I'd like to have my witnesses sworn and start with Les.

COURT REPORTER: (Swears witnesses.)

MR. JOHNSON: Mr. Wampler, I think that the Board needs to decide if -- Mr. Swartz wants me to decide whether or not my clients need to be pooled. He wants me to make that determination. He's the one that's moving for it. If he's moving for it I'd like to know that and if the Board is going to -- and the Board should either rule that the pooling application is amended or the Board should rule that it's not, that the amendment is not being accepted. The request is very unusual in that the operator and applicant here suggest to the Board -- first it suggests to the Board that my clients are subject to it's coalbed methane lease and therefore they feel my clients do not need to be pooled. Then when my clients say, "Hey, wait a minute. Contractually you can't do this." then they come back and say, "Wait a minute. We'll just pool you." I think that the applicant needs to decide which route the applicant wishes to take and the Board needs to rule on that whether we're proceeding under the application or the amended application before we begin the proceeding. And I so move.

MR. SWARTZ: One thing that you might wonder, as the testimony goes on you will see that the people who have hired Mr. Johnson and are objecting to this unit are in

other sealed gob units and have never objected before. They've gotten the same notice. We've filed the same procedure and we've never heard one word of complaint from them in the past. They are currently getting royalties from other sealed gob units. So a legitimate question might be well, why is this a problem now? The problem is that Mr. Johnson's clients and another group of lessors have commenced an action in the United States District Court -- the Federal Court system in Abingdon with regard to a collection of leases. And my view is this is just a bunch of posturing with regard to that case. To answer Attorney Johnson's specific question, my view is that I have unequivocal letters directed to the applicant from his clients saying you don't have the right to pool us. My response to that was to move to amend to pool them. So my position today is they have told me -- my client in no uncertain terms that their interests under the lease cannot be pooled voluntarily. Our reaction to that is to move to force pool them. So that's where I'm coming from today. I am simply pointing out that we are getting inconsistent paperwork from Mr. Johnson and his clients.

MR. CHAIRMAN: The Board has before it an amended application. And that's the one that you say you're going

forward with today?

MR. SWARTZ: Correct.

MR. CHAIRMAN: To force pool --

MR. SWARTZ: Correct.

MR. JOHNSON: Just for clarification then, in other words, the Board is granting Mr. Swartz' motion to amend the application and to force pool my clients. Is that where we're at?

MR. CHAIRMAN: The applicant has that option. He's exercised that option and the Board accepts that.

MR. JOHNSON: If he's telling the Board he's exercised the option and the Board accepts that, fine. If he's coming in here and saying, "I don't know which way to go but ask Mr. Johnson which way I ought to go." I don't think we should be placed in that position. But I am very happy for Mr. Swartz to move to amend and allow the proceeding to go on that basis. I would also comment that the motive of my clients and Mr. Swartz' statement as to the motive or his opinion of it -- and certainly I don't believe that this Board ought to look at whether or not there is other litigation pending, who filed it, where it's at, when it was filed or what my clients have done in the past. This is the application in front of the Board and I ask the Board to rule on this application and not based upon what my clients

may have done in the past or what Mr. Swartz says is their motive.

MR. CHAIRMAN: That's all the Board will consider, is the application.

MR. JOHNSON: Thank you.

MR. CHAIRMAN: And the application before us is an amended application. Mr. Swartz, you may continue.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

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

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol.

Q. Do you have a title?

A. Permit specialist.

Q. Who is the applicant in this proceeding today?

A. Buchanan Production Company.

Q. Is Buchanan Production Company requesting the creation of a sealed gob unit and pooling of certain people

within that unit?

A. Yes, we are.

Q. Did you prepare the application and the notice and the exhibits that have been tendered to the Board?

A. Yes, I did.

Q. Are you, in fact, the person who signed them?

A. Yes, I did.

Q. Have there been any revisions or modifications to the exhibits and the documents that were originally filed?

A. Yes.

Q. Could you summarize those for the Board so that they're aware of them?

A. Yes. In the exhibit package that I've passed out it would be Exhibit #5 and #6 revised to reflect the interests of the objections that have been filed.

Q. Let's turn to revised Exhibit #A, Page 2, which is Exhibit #5 in the yellow book. When this unit -- when the application was originally filed was the percentage to be pooled the less than one percent number?

A. Yes, it was.

Q. Originally when this application was filed you were seeking to pool .73135 percent?

A. Yes, we were.

Q. And then when we amended the application to pool people that we believed originally to be lessors what changes

occurred in terms of the percentages that we're now asking to be pooled?

A. The percentage now that we're asking to pool is 72.64526 percent of the coal interest and 64.40712 percent of the oil and gas interest.

Q. Then with regard to the revised exhibit which is behind Tab 6 in the yellow book, what revisions have been made to Exhibit #B-3?

A. That exhibit has also been revised to reflect the interests of the objecting parties. It's starting to be listed on Page 5.

Q. At Page 5 of revised Exhibit #B-3 you've got something called an addendum to Exhibit #b-3, lessors to be force pooled?

A. That is correct.

Q. And essentially is that a listing of Mr. Johnson's clients?

A. Yes, it is.

Q. Buchanan Production Company is the applicant here. Is that a Virginia general partnership?

A. Yes, it is.

Q. Are the partners in Buchanan Production Company two corporations by the name of Appalachian Operators, Inc. and Appalachian Methane, Inc.?

A. Yes, it is.

Q. Are both of those corporate partners wholely owned indirect subsidiaries of MCN Corporation?
A. Yes, they are.
Q. Is Buchanan Production authorized to do business in the Commonwealth?
A. Yes, it is.
Q. Who are you seeking to have appointed designated operator?
A. Consol.
Q. Consol is a corporation, is it not?
A. Yes, it is.
Q. Is it authorized to do business in the Commonwealth?
A. Yes, it is.
Q. Has it registered with the DMME and does Consol have a blanket bond on file with regard to wells?
A. Yes, it does.
Q. Has there been a delegation of authority from Buchanan Production Company, the applicant, to Consol, Inc.?
A. Yes, there is.
Q. Are there exhibits that you've filed today with regard to that delegation?
A. Yes, there is, at Exhibits #2, #3 and #4.
Q. Essentially what has Buchanan Production Company delegated to Consol, Inc. to do for it?
A. To act as general manager, professional manager.

Claude Morgan is general manager. William Gillenwater is land manager. Randy Albert is regulatory manager.

Q. In Exhibit #B-3 have you listed the names of everyone that you are seeking to force pool today?

A. Yes, we have.

Q. And that includes the revision of the lessors?

A. Yes.

Q. Have you caused a copy of the amended notice and the application and exhibits to be mailed to all of the people listed on Exhibit #B-3?

A. Yes, we have.

Q. Have you filed proof of mailing?

A. Yes, we have.

Q. Have some of those people been notified by notifying Mr. Johnson?

A. Yes, they have.

Q. Do you wish to add any respondents today to the list in revised Exhibit #B-3?

A. No, we do not.

Q. Do you wish to dismiss any?

A. No, we do not.

Q. Was there a publication with regard to this application?

A. Yes, there was. It was published in the Bluefield Daily Telegraph on May 22nd and May 31st.

Q. What was published?
A. The original notice and the revised notice of hearing.
Q. Have you filed copies of the newspaper certification with regard to publications?
A. Yes, we have, which a copy is also behind Exhibit #1.
Q. If you would turn to the map which is at the end of your application, is the map Exhibit #A that was attached to the application an outline of the proposed seal gob unit?
A. Yes.
Q. Does it show the Oakwood Units, the 80 acre grid?
A. Yes, it does.
Q. Just for purposes of locating it, correct?
A. Correct.
Q. Does it also show certain CBM wells and certain VVHs that are located within the proposed unit?
A. Yes, it does.
Q. The circle with a white center, what does that depict?
A. Those are VVHs that we plan or are presently working on converting to CBMs.
Q. And the solid black dots are what?
A. Those are existing CBMs.
Q. And the total between conversions and existing CBMs shown on Exhibit #A is how many wells?
A. 13.

Q. How many longwall panels are within this proposed sealed gob unit?
A. 13.
Q. So essentially you're proposing one well per panel?
A. Yes.
Q. Has that been your practice in the past?
A. Yes, it has.
Q. Have you estimated costs with regard to the wells -- the 13 wells that you propose to utilize within this unit?
A. Yes, we have. It's approximately $135,841.20.
Q. Per well?
A. Per well.
Q. And the total well costs then for the entire proposed sealed gob unit is what?
A. $1,765,935.60.
Q. Has there been some costs incurred with regard to sealing this proposed sealed gob unit and separating it from the mine?
A. Yes, there has. Approximately $85,000.
Q. So certain entries have been sealed to cause this to be isolated?
A. That's correct.
Q. When we were last here we had indicated to the Board that the seals were in place in June?

A. That's correct.
Q. And we requested that we be allowed to produce from this unit?
A. Yes.
Q. And a temporary order was going?
A. Yes, it was.
MR. SWARTZ: Let me shift for a moment to Mr. Morgan, if I might. Obviously you can cross-examine. But at least it makes a little more sense.
MR. JOHNSON: Whatever makes it flow better.

(Witness stands aside.)

CLAUDE MORGAN

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Claude, could you state your full name for us?
A. Claude Dale Morgan.
Q. Who do you work for?
A. Consol, Inc.
Q. Do you have a title?
A. Manager of gas projects.

Q. Could you describe for the Board the kinds of considerations and factors that Consol, Inc. takes into consideration in forming a proposed unit such as this? If you might, also point out to the Board how it fits in with other units that are in the immediate vicinity?

MR. SWARTZ: Do we have copies of that map?

MR. ARRINGTON: Yes. I'll hand them out. (Pause.)

A. (The witness continues.) If you would, look at the map that's been handed out to you, the are which we are seeking to pool is the area designated in the upper middle portion of the map that's designated VP8-SGU2. It's outlined in a faint red line surrounding 13 longwall panels. These 13 longwall panels have been mined out. Mining is no longer taking place in this area. This area has been sealed underground with the construction of seals across the mine entries connecting this area to the rest of the mine. This area has been sealed from the ventilation stream of the rest of the mine.

Q. What mine is this in?

A. This is the VP8 Mine.

Q. Okay.

A. The sealing of this area has, in effect, created one large pool which absent any considerations for pressure build-up and leakage into the mine could conceivably be

drained by one well. But one well is not the most efficient way to drain this area. What we are proposing to do here is for conservation of the gas and also to protect the correlative rights of everyone in this area. The mining of this area by the longwall panels and the pressuring of the strata above, connecting that area into the mine and the connection within the mines then through the mining of the coal has created, in effect, a tank of gas. The concept that we're utilizing here is nothing that's new to this Board. On this map if you would look starting in the lower right-hand corner there is some area that of 1,069.85 acres labeled VP6-SGU. This area was approved for this same type of drainage in 1992 by this Board. If you look immediately north of that area there is another area of the same sort of drainage of some 634 acres. It is labeled VP8-SGU1. This was approved in 1995 by this Board. If you look over in the far upper left-hand corner you'll see an area there designated VP3-SGU, 1,868 acres. This area was approved by the Board with an order issued in 1994. The same type of drainage concerns, same correlative rights issues, same pooling issues. We're not here to reinvent the wheel today. We are here to do something that testimony has been given time and again that this is the most efficient

and proper way of drainage of this methane. There are other sealed areas that have been approved for Pocahontas Gas Partnership immediately to the east of this area, again under the same rational. This is a conservation issue. Our alternative collection of this gas out of this sealed area is to vent it to the atmosphere. If we cannot establish a unit that protects the correlative rights of the people involved here then we are faced with venting this gas to the atmosphere because we have to maintain a lower pressure behind the seals underground to prevent migration of this methane out into the active part of the mine.

Q. If you look below the VP-8 sealed gob unit 2, the proposed unit today, if you look below there are mine works depicted?

A. That's right.

Q. Is the black mine works that have been completed in VP-8 and the blue mine works that are projected and not complete as yet?

A. That is true.

Q. So there is ongoing mining in the unsealed areas to the south of this proposed unit?

A. That is true.

Q. And there are miners in there today?

A. Yes, there are.

Q Within this VP-8 sealed gob unit 2 there are many, many small dots, correct?
A. That is true.
Q. What do those represent?
A. Red dots represent either permitted coalbed methane wells that were utilized during the active phase of the mining or ventilation holes that have been identified and work as proceeding on permitting as CBM wells.
Q. What are the black dots?
A. The black dots are vertical ventilation holes that were drilled in the earlier years of mining prior to the capture of the methane. We are evaluating those at this time to see if any of those warrant production as well.
Q. It appears that there's something on the order of 80 to 100 wells in this unit?
A. That would be close. I counted just a minute ago. There's 32 permitted coalbed methane wells capable of being utilized from this unit. There looks to be that at least that many or more ventilation holes.
Q. So out of that fairly large number available holes how many is it that you're proposing to use to produce this unit?
A. We think we need one well per panel. That's what our history is showing us in the other areas where we have

produced sealed gobs. So we're proposing 13 wells per panel that we are proposing to -- there's 13 wells, excuse me, in the unit or one per panel that we're proposing to utilize and that we are proposing to allocate the costs for. We may, in fact, and probably will utilize additional wells as necessary to keep the pressure off the seals underground but we are not proposing to allocate any costs to any additional wells other than those 13.

Q. That are represented in the application?

A. That's right.

Q. The mining that's depicted on this map that we've been talking about, that mining is occurring in what coal seam?

A. The Pocahontas #3 Seam.

Q. And in terms of the container that you're seeking to pool that we are addressing here, from what horizon to what horizon is this unit going to create?

A. We are seeking to pool the seams that exist from below the Tiller Seam down to the Pocahontas #3 Seam.

Q. So that's the vertical extent of the pool?

A. That is true.

Q. And the horizontal extent underground is depicted on this map?

A. That is true.

Q. And essentially you have tried to butt this up against other mine works?

A. It has been butted up against other mine works. If you look at the immediate western boundary that boundary coincides with the boundary of the VP-3 sealed gob unit. The northern boundary corresponds with the barrier that was left between the VP-1 Mine and the VP-8 Mine. The eastern boundary is the barrier between the Beatrice Mine and the VP-8 Mine. The southern boundary is the area of the seals that were constructed underground.

Q. Is the intention here to try to configure these sealed gob units so that no one is left out in terms of royalty interests?

A. That is the concept behind the forming of these units.

Q. And similarly, if you look down at the right-hand corner, the units have been butted up one against the other as well?

A. That is true.

Q. For that reason?

A. That is true.

Q. Mr. Morgan, do you believe -- or is it your opinion that the plan that you have described for development of the creation of this sealed gob unit and the development of methane from this unit, do you believe

that that is a reasonable plan to develop the coalbed methane resources for the benefit of all owners?

A. I do.

Q. Does this plan and concept that you've described today contribute to conservation, prevent waste and protect correlative rights in your opinion?

A. It does.

Q. Were these seals, in fact, completed in June?

A. Yes, they were.

Q. Are we requesting that any order enter in the event the application is approved be effective as of June 17th?

A. Yes.

(Witness stand aside.)

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Mr. Arrington, obviously a good bit of this unit is leased?

A. Yes, it is.

Q. With regard to lease terms could you tell the Board the

terms that are generally being offered by the applicant and that you would recommend to the Board in the event that this application is approved and deemed to have leased provisions becomes necessary?

A. For a CBM lease it's generally a dollar per acre, one-eighth royalty with a five year paid up term.

Q. And the rental is for what period of time?

A. For five years.

Q. If production commences what happens to the well?

A. It ceases.

Q. Did you prepare the DWE estimate here?

A. Yes, I did.

MR. CHAIRMAN: While he's looking, are you asking for the $85,000 cost for sealing to be included in the total cost?

THE WITNESS: Yes.

Q. (Mr. Swartz continues.) In fact, the total cost between the 13 wells and the sealing cost is what?

A. $1,850,935.60.

MR. SWARTZ: I think that's all I have on direct.

MR. CHAIRMAN: All right. Mr. Johnson.

CROSS-EXAMINATION

BY MR. JOHNSON:

Q. Mr. Arrington, with regard to my client, Yukon Pocahontas Coal Company, Georgia-Pacific Corporation, Buchanan Coal Company and Salyers Pocahontas Coal Company, those parties have entered into a coalbed methane lease with Island Creek Coal Company, is that correct, dated February 20th, 1989?

A. I don't have that with me. So I can't give you the dates.

Q. You don't have the leases with you?

A. No.

Q. When you put together your original list of leased interests you apparently must have realized that those entities had leases?

A. Certainly.

Q. The terms of those leases with regard to pooling of oil and gas, specifically the lease that I'm talking about, does that lease allow for the pooling of oil and gas?

A. We felt that it did.

Q. Do you recall that there was a limitation in the pooling provision in the lease of which I speak which limits the size of any unit to 160 acres with a tolerance of 10 percent?

A. As far as the exact terms of the lease, I do see that in the lease terms, yes.

Q. So the actual lease itself allowed pooling but only on the basis of 160 acres plus the tolerance --

MR. SWARTZ: I'm going to object to that. If you want to get into the lease term offer it into evidence because you're only referring to part of it.

MR. CHAIRMAN: I uphold that.

MR. JOHNSON: I would like to ask Mr. Arrington if he can identify this as the coalbed methane lease upon which he initially listed my clients as lessors.

MR. ARRINGTON: And it is.

MR. JOHNSON: And because Mr. Swartz asked me to have the entire document introduced I move to introduce this as an exhibit to this proceeding on behalf of my clients who are the lessors of this lease.

MR. SWARTZ: I really was only interested in Paragraph 18, but if you want to put the whole thing that's fine with me.

MR. JOHNSON: That's what apparently you asked me to do.

MR. CHAIRMAN: It's accepted.

MR. JOHNSON: Can we identify this as Respondent's Exhibit #1?

MR. CHAIRMAN: That's fine.

Q. (Mr. Johnson continues.) My clients, some who may be

successors, have a coal lease dated August 8th, 1989. The lessors; Jessie Marie Popts, W. Kent Popts, Nancy B. Ellis, Waldin T. Ellis, John W. Popts, Jr., Linda L. Popts, Virginia Lee Burns, Lucille Vickers, Hugh Cline, Nancy Cline, Carl Macafey, Julie Macafey, Fred H. Combs, II, Ellen M. Combs, Marion S. Combs, Fredrick H. Combs, II, Marion S. Combs, widow, Martha E. Combs, Helen C. Johnson, Carol C. Ervin and John C. Ervin, III and Levisa Coal Company, a limited partnership. The lessee in that lease is OXY, USA, Inc. Are you familiar with this lease, Mr. Arrington?

A. In the total package, no, I'm not. Just to know that we do have a lease with them.

Q. Are you familiar with the provision in the lease that limits the unit size to 250 acres with a tolerance of ten percent?

A. Yes, we are.

MR. JOHNSON: I'd like to move to introduce this as Respondent's Exhibit #2.

Q. (Mr. Johnson continues.) I would ask Mr. Arrington if that is a copy of the lease?

A. It appears to be.

MR. CHAIRMAN: It's accepted. Also, just for the record, the Board in accepting these will also clarify that it will not rule on any terms or provisions of any private

leases.

Q. (Mr. Johnson continues.) If you feel I need to address these questions to Mr. Morgan let me know.

A. All right.

Q. You submitted a plat which has been marked Exhibit #A to the coalbed methane unit application here. I believe you testified that the wells that were solid had been permitted, is that correct?

A. That's correct. They have been. And we have submitted two additional ones to be permitted. To date they have not been -- the two additional VVHs to be submitted later on.

Q. I'll show you this plat. The dots on the plat that are solid you say have permits with the Gas and Oil Division, is that correct?

A. Yes, they do.

Q. And the ones that have a little blank in the center, those are VVHs that you say that Consol intends to later permit with the Division?

A. That's correct. They are.

Q. Can you explain to me why the wells that are identified as Q13A-284 and R13E-286B and S13A-287 have no permits filed with the Division?

A. To my knowledge they do have. I don't have a listing here to give you that information.

Q. Can you explain why they're not available at the Division?

MR. SWARTZ: His opinion as to what records the Division may or may not have is completely irrelevant. Call somebody from the Division.

MR. CHAIRMAN: I'm going to overrule and let him answer.

Q. (Mr. Johnson continues.) It's Q13A-284, R13E-286B and S13A-287.

A. 287?

Q. Yes, sir.

A. Is there file number 484. If you like, I have the permit number also.

Q. What is that?

A. 1920. R13E is their file number 493, permit number 1942. Q13A is their file number 533, permit number 2021.

Q. Thank you for that information. In the handout that you have is there an exhibit here which has the costs list or is it with the application itself?

A. The application.

Q. I did find Exhibit #G here which shows that the total cost of the 13 wells is 1,765,935, is that correct?

A. Yes.

Q. And the cost for sealing is $85,000?

A. Yes, it is.

Q. Is it not true that if anyone wished to participate in these wells that your company would request of them their percentage of the 1.765 million dollars, correct?

A. Actually it would be their percentage of 1,850,935.60.

Q. So this is, in fact, one gigantic unit for which there is one well cost? As far as the unit is concerned there's only one cost?

A. One total cost. That's correct.

Q. And with regard to the sealing you're also asking that that be added, the sealing cost which you estimate at $85,000? That that be added to bring the total unit cost to 1.85 million dollars?

A. Yes, we did.

Q. Has the sealing already occurred in the mine?

A. Yes, it has.

Q. Can you tell me or do you know if any coalbed methane wells have actually been drilled into the unit area which were ever productive?

A. Yes.

Q. Produced coalbed methane?

A. Yes, they have.

Q. How many wells were drilled into the unit which were at one time productive?

A. The total wells are shown on the exhibit that we passed out. It's somewhere in the neighborhood -- I think Mr.

Morgan counted them and there was 30 some.

Q. What happened to those wells? Do those wells still exist?

A. They do still exist. For some reason or another we're not using those at this time.

Q. When I look at this massive grid it appears that those wells are all over the spectrum of the total 1,700 plus acres, is that correct?

A. That's correct.

Q. What was done to the wells when the mining proceeded under the area?

A. I don't understand your question.

Q. What happened to the well? You said they were productive and now they're not productive. What happened to them? What did you do? Did you plug them, shut them off, open them?

A. The majority of those wells are shut in at this time. We will only use those wells for mine safety.

Q. The 13 wells that you're proposing, is there any reason why the gob unit area is limited to those 13 wells?

A. We're only asking for cost for those 13 wells. Now, should we find that we can use additional wells we will produce those additional wells, but we are only requesting cost for what we have found to be one well per longwall panel. So we're only asking for one well

per panel. Now, should we find that we can produce out of several wells per panel we'll do that, but we're only asking for costs for one well per panel.

Q. Of the 13 wells which of the 13 wells, if you know, have been drilled prior to the mining operation coming into the area?

A. I can't answer that. I don't know.

Q. You don't know?

MR. SWARTZ: I'm sure Mr. Morgan can tell you.

MR. CHAIRMAN: Mr. Morgan, do you want to go ahead and answer that?

MR. MORGAN: Do you want me to answer the question or are you going to wait?

MR. JOHNSON: I think I want to talk to Mr. Morgan separately. I'll ask him after I get through here.

MR. CHAIRMAN: That's fine.

MR. JOHNSON: I'll just defer that question.

Q. (Mr. Johnson continues.) These costs that are shown, I believe, at your Exhibit #C?

A. Yes.

Q. Are these estimated costs or average costs? How did you arrive at them?

A. Those are average costs. Those are the costs that are actually being charged in the field today. The numbers that I used for those costs are the average of those 13

wells.

Q. Do you know -- I know Mr. Morgan may be able to answer this question. But is there anything peculiar or different about the 13 wells as opposed to the other 30 or more that are in this unit area?

A. None that I know of.

Q. The costs that you got for location, title, etcetera which is $37,500 per well, can you explain to the Board and to me what that consists of and how you arrived at that particular item?

A. Again, it's the average cost. That cost includes a cost for our title work on each tract within that unit. It includes construction of the site, graveling of the site, and anything associated with those three items.

Q. Title work. What was the other?

A. Construction of the site.

Q. Title work, construction of the site and graveling?

A. That's correct.

Q. That's under -- that's all listed as local, title, etcetera?

A. That's correct.

Q. And sort of everything else? Would that be a good way of explaining that, everything else you that think ought to be included other than these actual physical costs?

A. That's correct.
Q. Do you know whether or not any of the 13 wells that are in this proposed area are perforated for purposes of extraction of gas from seams other than the Pocahontas #3?
A. No, I do not.
Q. Is it possible that they are or is it not likely?
MR. SWARTZ: I'm going to object to that. Possibility is really not something we're interested in.
MR. CHAIRMAN: Sustained.
Q. (Mr. Johnson continues.) Do you know whether or not any of them are perforated?
MR. SWARTZ: He's already testified he doesn't know. Asked and answered.
MR. JOHNSON: Thank you, Mr. Swartz.
Q. (Mr. Johnson continues.) What is your position as to how your company would deal with the unleased owners that I represent in terms of whether or not their funds would be escrowed or disbursed? Can you answer that question?
MR. SWARTZ: Excuse me. Did you say the unleased owners you represent?
MR. JOHNSON: The unleased as you're proposing them to be.
MR. SWARTZ: Oh, okay.
MR. JOHNSON: There are some leases there I handed out

there, Mr. Swartz, in case you missed that.

Q. (Mr. Johnson continues.) But the ones that you're saying are unleased now that are all of a sudden unleased, how do you propose to deal with them in terms of disbursement of revenues?

A. They would be dealt with just the same as we deal with any other force pooled interests. Should it be a fee owner, they would be paid directly. Should it be a conflicting interest, then it will be sent to the escrow agent.

Q. Mr. Arrington, I think you came up with a rental and a royalty calculation that you thought was representative of the interest with in the unit, is that correct?

A. Yes, we did.

Q. I believe you testified that it was a dollar an acre?

A. Rental.

Q. Rental. And a royalty of one-eighth?

A. That's correct.

Q. Is that dollar per acre rental and royalty of one-eighth representative of the two coal leases that you just identified and that were marked as Respondent's Exhibit #1 and Respondent's Exhibit #2?

MR. SWARTZ: I think you mis-spoke. Those are not coal leases.

MR. JOHNSON: Excuse me.

Q. (Mr. Johnson continues.) Coalbed methane leases.
A. To that question, I'm not knowledgeable of the specific terms of what's in those two leases.
Q. Don't those two leases cover the substantial majority of this unit?
A. They do cover a good percentage of it.
Q. What percentage?
A. 70 percent approximately.
Q. And you're telling me that when you testify to the Board as what the average cost was that you didn't look at it -- didn't consider it?
A. What I testified to was what we're offering within the field which is a one-eighth royalty and a dollar per acre, five year term.
Q. When you say "the field" of what are you speaking?
A. The Oakwood Field.
Q. The Oakwood Field. That's your entire field -- in other words, that's your "standard" offer?
A. Our standard lease offer.
Q. And that's not representative of what your offer was on these leases, is that correct?
A. No, sir. It was not.
Q. One thing that I just want to clarify for myself. Mr. Swartz asked you about who the operators were and I think you named two companies whose first name began

with Appalachian?

A. Yes, sir. Appalachian Operators and Appalachian Methane.

Q. As I understood Buchanan Production Company historically, the partners were Consolidation Coal Company and Consol, Inc., is that correct?

A. Who, Buchanan Production?

Q. Yes, sir.

A. No.

Q. Are the partners of Buchanan Production Company now Appalachian Operators and Appalachian Methane?

A. Yes, they are.

Q. Have there been prior general partners to this partnership or have the names just been changed?

A. I really don't understand your question. Appalachian Operators and Appalachian Methane are partners to Buchanan Production Company.

Q. Are there other partners in Buchanan Production Company?

A. To my knowledge -- I have no further knowledge of that.

Q. I made the statement to you that it was my understanding in the past that the partners were Consolidation Coal Company and Consol, Inc. I'm just asking you whether or not those parties use to be general partners of a partnership called Buchanan Production Company?

A. Buchanan Production Company is a general partnership of Appalachian Operators and Appalachian Methane. Consol, Inc. is the operator for Buchanan Production Company.

Q. Has Consol, Inc. ever been a general partner of Buchanan Production Company?

MR. SWARTZ: As far as you know.

MR. ARRINGTON: I'm not sure.

MR. SWARTZ: Well, tell him that.

A. (The witness continues.) I'm not sure.

Q. Has Consolidation Coal Company ever been, to the best of your knowledge, a general partner of Buchanan Production Company?

A. No.

Q. Are Appalachian Operators or Appalachian Methane subsidiaries of Consolidation Coal Company or Consol, Inc.?

A. No.

Q. Are either of these companies in any way related to Island Creek Coal Company? I'm talking about Appalachian Operators?

A. I don't know.

Q. Are you employed by Buchanan Production Company or Consol, Inc.?

A. Consol, Inc.

Q. In arriving at the total cost for the well -- these

costs that were listed in the schedules that you and I have discussed -- was any consideration made in your calculations with regard to the benefit of coal mining to be derived from the formation of the sealed gob unit in terms of what costs were charged?

A. No.

Q. Was any consideration made with regard to the fact that the wells pre-existed the formation of the sealed gob unit? In other words, that are already there, that are in existence?

A. No. There wasn't.

Q. Was any consideration of the use of the wells made prior to the proposed formation of the gob unit in calculating the cost other than to use their exact operating costs or exact drilling costs?

A. No.

Q. Can you explain to the Board how you arrived at the cost for sealing at $85,000?

A. That cost was -- the mining operation gave me that cost.

Q. Did they give you anything to back it up other than they told you it was $85,000?

A. I didn't request anything.

Q. So you don't know where this number came from other than that you were given it by a coal company?

A. By the mining operations, that's correct.
Q. They didn't provide you with any invoices, they didn't provide you with any cost for material, cost for labor, any breakdown at all?
A. That was the mining operation and I didn't request their information. I just asked them what their cost was.
Q. And in arriving at this dollar number that you want this Board to approve you just took their word for it, is that correct?
A. Yes, I did.
MR. JOHNSON: I believe that's all the questions I have of Mr. Arrington.
MR. CHAIRMAN: Do any Board members have questions of Mr. Arrington at this time?

(Witness stands aside.)

MR. CHAIRMAN: Go ahead with Mr. Morgan.

CLAUDE MORGAN

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

CROSS-EXAMINATION

BY MR. JOHNSON:

Q. Mr. Morgan, I believe it's accurate to state that you are a mining engineer, is that correct?

A. No, sir. I am a registered civil engineer.

Q. But it also correct to say that at one point in time you were the chief mining engineer for Consol, Inc.'s Bluefield office, is that correct?

A. I was the manager of engineering.

Q. Manager of engineering. And your coal operation authority in terms of managing in engineering in Bluefield extended to the Buchanan County Pocahontas #3 coal mine that was operated by Consolidation Coal Company?

A. Yes.

Q. How long were you in the position of director of engineering at the Bluefield office?

A. From December, 1983 to February of 1992.

Q. That was nine years approximately?

A. Yes, sir.

Q. And since that time you're now doing coalbed methane work, is that correct?

A. Yes.

Q. The number which we've been discussing, the $85,000

ber that Mr. Arrington said he had gotten from the mining operation, do you have any idea where that comes from or how that's calculated?

A. That is materials and labors expended and the construction of the sealed gob unit.

Q. Did you have any involvement in coming up -- did you determine this $85,000 number?

A. No, I did not.

Q. Did you review or investigate how this $85,000 number was arrived at?

A. I did not.

Q. Do you know who at Island Creek Coal Company or Consolidation Coal Company would have been responsible for coming up with this $85,000 number that Mr. Arrington has used in his calculations?

A. The number was provided by the engineering department at Oakwood.

Q. Who at the engineering department at Oakwood?

A. The manager of engineering, Bill Fertall.

Q. Give me his name again, sir.

A. Bill Fertall.

Q. How do you spell his last name?

A. F-E-R-T-A-L-L.

Q. Thank you. With regard to this unit area, you testified that there were a number of wells in existence in

the total unit?

A. Yes.

Q. And you showed us this diagram and it's got a lot of little dots on it representing wells?

A. Yes.

Q. How many wells were drilled into this unit area prior to the mining which were, in fact, coalbed methane wells?

A. All of the wells were drilled prior to the mining but they did not produce until mining took place.

Q. Were any of the wells drilled into this unit area ever productive -- ever produce any gas which was to sold?

A. Yes.

Q. Which ones?

A. Counting from the left starting with the wells in the eighth panel, eight through twelve, I guess it is.

Q. Counting from the left.

A. Counting the mined longwall panels. You will see a panel that has S13A, R13B -- it may not be able to look at on those small scales.

Q. I sure can't read it. Old age has set in on me.

A. The last five panels had coalbed methane production.

Q. That's the panels from the left -- going left to right?

A. The last five panels counting back to the right.

Q. How many coalbed methane wells were productive in that

ar

A. It's possible with the exception of the one there, R15C which was not mined through, and without looking at the records I would assume that all of those were productive.

Q. All the ones that have the little red dots?

A. Yes, sir.

Q. And then you get over and go past the five panels and you've got a lot of dots but there's been no production?

A. That's true.

Q. Now, you have picked out -- Consol, Inc. or whoever is doing this picked out 13 wells. The ones that Mr. Arrington says and the map says are already permitted happen to be on the right-hand side -- looking towards the north they're on the right-hand side of the proposed sealed gob area, is that correct?

A. Yes.

Q. And the wells that have not been permitted are on the left-hand side that you're proposing to use?

A. That is right.

Q. Of the wells on the right-hand side that are permitted how many of those wells and can you identify the wells that have actually produced coalbed methane gas for commercial production?

A. As I said, I would have to look at the records to be sure but I would believe that with the possible exception of R15C all of those probably.

Q. They've all been in production before?

A. Yes, sir.

Q. And they've all been parts of units before?

A. Yes.

Q. And they've all had costs assessed to them before as part of the unit proposal?

A. No.

Q. Why do you say no? That's a leading question. Why do you say no?

A. These are voluntary units. They did not require any pooling or any allocation of costs.

Q. All these were voluntary units?

A. With the exception, I believe, of S15.

Q. You said S15?

A. Yes. That would be in the far lower right-hand corner. (Pause.) I've been told I'm wrong. We have --

Q. How many have been pooled?

A. Nine total units.

Q. There are nine total units?

A. Uh-huh.

Q. And those nine units have been pooled, you said, or not? How many have been voluntarily pooled and how

many have force pooled?

A. Nine of them been pooled.

Q. None of them have been pooled?

A. Nine.

Q. Nine. Okay. I guess that would be at the left-hand side of the page looking at the map -- or the right-hand side? Excuse me.

A. Yes.

Q. Mr. Swartz indicated I misspoke. The right-hand side of the page, those have all be unitized?

A. Unitized is -- they were force pooled.

Q. Force pooled. Let's use that word. Excuse me. So you force pooled all of those units and you submitted costs for well -- you have to submit well costs when you propose a unit. You submitted costs for all those wells in all those units, is that right?

A. Yes, sir.

Q. And then you're asking that this gob unit also bear those same costs again?

A. No, not the same costs. I would have to back up and look at the forced poolings on these, but we routinely force pooled a percentage of wells within a unit and not necessarily all of them. In some units we do them all. It's a case by case basis based on the economics of production for the unit. In this instance, as I

said, there are 32 wells located here. We are allocating the cost of 13 existing wells and several more that we may hook up but we're only allocating the cost of 13.

Q. But at least with regard to the -- of the 13 wells that are on the right-hand side of the page -- here's the map and here's the right-hand side of the page. On the right-hand side of the page, those wells were drilled and were productive wells before this coal mine came underneath here and disrupted their production?

A. No, sir. The coal mining didn't disrupt their production.

Q. They had been producing continuously?

A. There was no production from these wells prior to coal mining.

Q. I thought you told me that there had been production from the wells -- some of these wells that are on the right-hand side of the page?

A. There has been.

Q. It's been put into pipe and sold?

A. Yes.

Q. And of the wells that are on the right-hand side of the page can you tell me in those three grid units how many of those wells have been productive and gas has been sold off of?

A. I think I answered that before.
Q. All of them?
A. I would assume all of them with the exception of maybe R15C.
Q. Then the operator is coming back and saying to this Board, "Let's pool them and let's add their well costs into this gigantic pool." Into this one big unit let's add the well costs back in for wells we've already put into production and have already produced gas. Let's put those in -- throw these back in to this unit.
A. No. We're saying let's allocate a portion of our expenses in this area to this unit. There's 30 some wells here already. There are others that we're evaluating. We are proposing to allocate the cost of 13. The wells have not lived out their useful lives. Had this area not been sealed then they would have continued to have produced over their useful lives. These wells still have a useful live that's been cut short by the sealing -- as far as the Oakwood II Order was concerned has been cut short by the sealing of the actual gob of the sealed gob area.
Q. What cuts it short?
A. They are no longer capable of producing under Oakwood II Field Rules. It has now become a sealed gob unit --

or has to be treated as a sealed gob which does not come under Oakwood II Field Rules.

Q. What field rules exist for this?

A. There are no field rules.

Q. But before the mine was sealed there were field rules, in your opinion, that applied to these wells?

A. Oakwood II Field Rules applied to the production from this area prior to sealing.

Q. I believe you made the statement that one well would drain the entire area?

A. In theory.

Q. In theory?

A. With no consideration --

Q. And now you're thinking that 13 wells will do a better job?

A. Yes.

Q. And all the wells that were drilled in here that were permitted -- all of those wells could drain gas if they were hooked up?

A. And they may. We have not plugged these wells. We will utilize the wells necessary to maintain the pressure underground to keep the pressure off the seals and maximize the production of the methane out of the area without having to vent.

Q. What is the status of the wells that are on the left-

hand side, which I believe if my Buchanan County geography is right, is to the west of the wells that we've been discussing? What's the status of those wells?

A. Are you referring to the black dots?

Q. Yeah. The ones that are in units that are to the left of the ones that we've been discussing.

A. Those are presently being evaluated to determine the wells that should be produced.

Q. And there are other wells within the area -- if I look at this other map, there's a bunch of black dots there, is that correct?

A. Yes. Those are the dots I was referring to.

Q. So you all are picking out -- your company is picking out four wells to evaluate at the present time?

A. No, no. We're evaluating 15 to 20 of these black dots. As of the time of this application and as of right now I could not identify the specific wells that we would want to permit. They are being evaluated. They are being monitored for quantity and quality to determine which wells would most efficiently produce the unit.

Q. Are any of the wells currently in this gob unit producing gas now?

A. Yes.

Q. Are those the wells that are on the right-hand side of

the page?

A. Yes.

Q. You're producing those wells and at the same time the other wells haven't been completed, don't have permits? I'm talking about the ones on the left side of the page.

A. That's right.

Q. The wells that are currently producing gas, have those wells been perforated above the Pocahontas #3 coal seam for gas production?

A. They are producing from above the Pocahontas #3 coal seam.

Q. Did you perforate the wells -- the well bores at those various intervals lying above the Pocahontas #3 coal seam?

A. Several of the wells had no casing from an area below the Tiller down to the seam.

Q. There was no casing?

A. No.

Q. How many of them have casing?

A. I can't answer that without looking at the specifics.

Q. So the answer is you don't know?

A. The answer is I could back up and look at the records and tell you which ones have casings and which ones were drilled open hole from below the Tiller down.

C You've got some wells that have no casing and could only be -- the opening is only at the level at or near the Pocahontas #3?

A. No.

MR. SWARTZ: No, no, no.

Q. (Mr. Johnson continues.) Explain to me where the gas goes from, how it gets into the well bore with and without casing.

A. We are pooling and we expect to be producing from coal seams existing below the Tiller Seam down to and including the Pocahontas #3 Seam.

MR. SWARTZ: How many feet is that roughly?

THE WITNESS: 1,600 feet.

Q. (Mr. Johnson continues.) When the wells were drilled, the ones that are currently productive, you're tell me that some of them may have casing and perforations down to the Pokie 3 and some don't?

MR. SWARTZ: I'm going to object to that. He's testified that some of them are cased. He's never said any of them are perforated.

MR. CHAIRMAN: Sustained.

Q. (Mr. Johnson continues.) Have any of them been perforated, Mr. Morgan?

A. Your definition of perforation -- I'm not sure what your definition of perforation is.

Q. An attempt to extract gas --

MR. SWARTZ: Let him finish his answer, please.

MR. JOHNSON: Okay.

A. (The witness continues.) There was two systems utilized here and up to a certain time OXY who was operating this prior to us drilled and installed casing with a portion of it being slotted. After a certain time frame -- and I'm not sure without looking as to when it occurred -- the insulation of casing other than what was needed for protection stream was stopped and it was produced as an open hole from a zone some 50 feet below the Tiller down to the Pocahontas #3 Seam.

Q. Has there been any fracturing or stimulation done on an of the wells that are on the right-hand side of the page?

A. There has been no fracturing or stimulation as you consider from (Inaudible.)

Q. Has there been any fracture or stimulation of any sort in coal seams or strata lying above the Pocahontas #3 in any of the wells?

A. Fracturing that has occurred from the longwall panel.

MS. McCLANNAHAN: Mr. Chairman, could you ask Mr. Morgan to speak up. We're having a hard time hearing him.

MR. CHAIRMAN: The acoustics in here are terrible. Maybe if you can move up as much as you can. The fan is

directly behind us and it's so hard to hear. We'll all try to speak up a little bit.

MS. McCLANNAHAN: Thank you.

Q. (Mr. Johnson continues.) From what you said I believe it's fair to say that there's been no chemical treatment, any explosions or anything like that done to the coal seams lying above the Pokey 3?

A. True.

Q. What testing has Consolidation Coal Company made in Buchanan County to justify the formation of a gob unit?

A. I don't know of any testing that was done. We definitely have several years of experience in producing from sealed gob areas.

Q. Before Consolidation Coal Company or Island Creek Coal Company -- any of the major players in Buchanan County sealed any of these gob units what testing or justification was used for this concept of sealed gob unit?

A. That was the decision to go with the sealed gob unit. It was gained from the knowledge of what exists underground in the mined areas and what occurs above a longwall panel.

Q. What occurs above a longwall panel that makes a sealed gob unit something you feel is justified -- and you used the word "correlative rights" repeatedly in your direct. What events occur above Pocahontas #3 that

justify your opinion that correlative rights are being protected?

A. The protection of correlative rights is generated from the standpoint of that it is sealed and all of the area becomes connected as a large reservoir. The thing that creates the reservoir is the longwall mining of the coal which allows the rock strata above to settle and fracture along with the overlying coal seams to produce the coalbed methane into that fractured zone.

Q. How does the gas migrate into the zone where the well bores are located? How does it migrate?

A. Through fractures.

Q. From where?

A. Out of the coal seams.

Q. What is the angle of draw of the fractures created by the coal seam?

A. I don't know that I can speak to an angle of draw of fractures.

Q. Fractures, are they all vertical or do they go out in a fan like fashion or cone shaped fashion from where the mining actually occurs or is it just simply a vertical fracture?

A. There is an angle of draw associated with subsidence. I have not seen anything that relates that angle of draw to the actual fracturing that takes place.

What's the angle of draw that is typically expressed for purposes of coal mining and subsidence with regard to Pocahontas #3 coal mining?

A. 15 degrees.

Q. 15 degrees. And how deep is this coal mine?

A. From the valley bottom approximately 1,400 feet.

Q. 1,400 feet. With regard to this fracturing above, I assume the gas comes from the above, is that correct? It comes from the coal seams above and migrates down through these fractures into the gob area, is that correct? Is that what you're telling us?

MR. SWARTZ: Gas is lighter than air. I mean, it doesn't migrate down. Don, please.

MR. CHAIRMAN: Mark.

MR. SWARTZ: I'm sorry.

A. (The witness continues.) The coalbed methane is coming from the overlaying seams as well as the remnants of the Pocahontas #3 that (Inaudible.)

Q. The only area that's got a seal -- the only seam that's being sealed is the Pocahontas #3, is that correct?

A. That is true.

Q. Is there any sealing done or any other seam lying above the Pocahontas #3 in this gob area?

A. No.

Q. Is there any way to protect or to prevent the gas from

adjoining the gas surrounding this gob unit from above from migrating into it?

A. I don't believe that the pressuring is extending out beyond the boundaries as we have established.

Q. Upon what do you base that opinion?

A. Based upon if you look at where the mining actually took place and a complete seam removal took place there's very little chance for that to happen outside of that well.

Q. But you also stated that the fractures aren't vertical. There is some horizontal tilt to these fractures. They are not straight up and down?

A. I didn't say that.

Q. What did you say with regard to how the fractures --

A. You asked me about an angle of draw. I said there was an angle of draw associated with subsidence. I do not know how that fit into the extent of the fractures. I'd expect that to be something less.

Q. Something less. Have you done any studies that confirm what that fracturing is? Have there been any studies done?

A. No, not that I've done or not that I've reviewed.

Q. To the best of your knowledge has any coal operator or oil and gas operator presented to this Board any empirical data which supports the need or the justifi-

ation for the formation of a sealed gob unit, and if so, when and what?

A. There's been numerous applications made before this Board.

Q. I know that. I'm asking you has there been any empirical data submitted to justify the formation of a sealed gob unit other than it was an administrative nightmare and it might be good and so it was a good idea?

A. No, sir. That is not what has ever been presented or approved by this Board. It was approved based on testimony given that to the best of our beliefs and from our knowledge from working in this area that this represents the most efficient, the best protection of correlative rights, and conserves the gas.

Q. Other than the opinions that you say were expressed was there any empirical data ever submitted to this Board to justify the formation of a sealed gob unit? In other words, some sort of study, some sort of testing that's been done. What justifies it other than it's an administrative problem?

A. I don't recall anybody ever presenting anything to the Board as a justification for a sealed gob unit that was an administrative problem. The testimony for creation of these units has always been that this is the

creation of the best units for protection of correlative rights and conservation of the gas.

Q. Mr. Morgan, do you believe that you have attended all of the meetings that were held here to form sealed gob units or testified in them?

A. No, I have not.

Q. How many have you testified in yourself?

A. Four or five.

Q. What other operators have acquired sealed gob unit authorization from this Board other than Buchanan Production Company?

A. Define the term operator.

Q. Applicant. Who applied for them?

A. Pocahontas Gas Partnership and Buchanan Production Company.

Q. And all of those companies are in way or another related to Consolidation Coal Company, is that correct, at the present time?

A. No, sir.

Q. Which ones are not related to Consolidation Coal Company?

A. Buchanan Production is not.

Q. Which ones are not related to Consol, Inc.?

MR. SWARTZ: When you say related do you mean by owned by the same people?

MR. JOHNSON: Owned by or affiliated with. Let's use that word. Affiliated with.

A. (The witness continues.) Pocahontas Gas Partnership is a partnership with Consolidation Coal Company as a partner. Consol, Inc. is an affiliate of Consolidation Coal Company. Consol, Inc. is the operator of Buchanan Production Company.

Q. Looking at the plat for this project, the sealed gob area, I believe the scale of the plat is one inch equals 1,000, is that correct?

A. That's right.

Q. The two dots on the map which are in the far left-hand corner, CBM 010-188B and CBM R9-170, those two dots are less than 2,000 feet apart, is that correct?

A. I can't say that but it looks close. It could be more. I can't say without a scale.

Q. Have you got your plat there with you?

A. Yes.

Q. You think those are about 2,000 feet apart?

A. It looks like it.

Q. Looking to your right on that plat, the wells CBM R12-253 and CBM R12-A256 and R13-E2868 and S13-A287, those are all within 2,000 feet of each other?

A. Excuse me. You said -- okay. S13-A287. It looks like they're all within 2,000 feet of one another.

Q. And there's another well up there, Q13-A234, and it's within 2,000 feet of CBM R12-A256, is that correct?
A. It looks like it would be.
Q. The testimony that you gave with regard to how these units were abutting -- the only sealed gob unit that abutts this sealed gob unit is the one lying to the west, is that correct?
A. That's correct.
Q. So there are no sealed gob units to the north, to the south or to the east immediately joining this sealed gob area?
A. The Beatrice Mine has field rules that have been established for the production of sealed gob unit.
Q. Is there a unit there?
A. Yes, there are.
Q. I'm talking about immediately adjoining this property. It appears the only sealed gob unit that immediately adjoins the proposed sealed gob unit is the one lying to the west and a little to the north.
MR. SWARTZ: He's answered by telling you the Beatrice Mine is to the east and there has been field rules adopted for the production of sealed gob from that mine and it abuts this unit. That's what he tried to tell you.
Q. (Mr. Johnson continues.) Explain that to me, Mr. Morgan. Is there a sealed gob unit in this Beatrice

immediately adjoining this proposed unit?

A. Field rules were set up for the Beatrice Mine area to establish production from the sealed gob with an allowable production for 80 acres.

Q. Is that currently -- is that Beatrice Mine field rule unit currently in operation?

A. I think there is one well in operation in that area.

Q. How close is it to this proposed sealed gob unit?

A. It's some distance away.

Q. More than --

A. We're not operating -- not the operator of that unit.

Q. How is a vertical ventilation hole converted to a coalbed methane well? What actually has to happen?

A. It's a submission of necessary permit forms and then the surface connections with a gathering system.

Q. So all you have to do is put something on top basically and collect the gas and put it into a pipe? Is that all really needs to be done after you get the permit? You just hook it up?

A. Basically.

Q. Are there any ventilation holes currently venting gas into the atmosphere in this particular gob unit?

A. Yes.

Q. How many?

A. I can't tell you the exact number, but several of those

are.

Q. Several of them are?

A. Several of them are. Those are ones that we are evaluating for production.

Q. How long have these vent holes been venting gas?

A. That's on an as needed basis for the mining company.

Q. When was the first vent hole drilled?

A. I don't know those dates. It predated our acquisition.

Q. When was the first mining conducted in the sealed gob unit area?

A. I don't know that date.

Q. Can you guess for us in terms of years or months?

A. Several years.

Q. Several years. When was the last coal mining done in the sealed gob unit area, if you know?

A. It was, I believe, 1994.

Q. What has been going on between 1994 and the present time with regard to the production of gas from this area since the last coal was extracted?

A. We've continued to produce gas under the Oakwood II Field Rules out of the red dots.

Q. And then the black dots some of it's just been venting, is that correct?

A. That's correct.

Q. What is the benefit to -- how operates the coal mine

underneath this?

A. Island Creek.

Q. This area right now is part of the Island Creek operation. Is it VP-8?

A. Yes.

Q. And it's part of that operation at the present time, is that correct?

A. That is correct.

Q. What's the projected life of the mine, if you know?

A. I think there's -- it's in excess of eight years. I'm not sure the exact number of years.

Q. You think it's at least eight years?

A. Yes.

Q. What is done to seal the mine? How do you do that? Tell the Board how that's done?

A. To seal the mine?

Q. Yes, sir. Or to seal this gob area. What is done to do that?

A. It's construction of concrete well heads across each entry.

Q. How many entries are there in this sealed gob area?

A. I'd have to count them.

MR. SWARTZ: Well, they're shown on the map, right?

THE WITNESS: Yes.

A. (The witness continues.) You have four entries on each

of those developments plus the bleeder entries is another four entries.

Q. Mr. Morgan, do you basically seal these off and then abandon the area effectively? Is that what you do in terms of underground mining, just seal it off and you no longer enter the area?

A. That's true.

Q. You said something about pressure. Is there any testing or pressure gauge or anything like that that you look at underground to make sure that you don't have some real problem in there?

A. Yes. It's monitored for pressure.

Q. Who does that?

A. There is a read out at the -- we call it our command center which is gas operations command center where we monitor the conditions underground as well at the well head.

Q. So I assume that if pressure builds up you might want to release and if the pressure is down you might want to turn another well or consider doing that. Is that how you would attempt to regulate this actual area?

A. If I understood what you said I think it would be just the opposite. If the pressure starts to build we would either vent --

Q. You would just vent?

A. Or produce more gas.
Q. Would you vent from these 13 holes or would you vent from other holes?
A. It depends on the conditions and the quality of the gas.
Q. Does your company intend to maintain vent holes which will never be hooked up? In other words, they'll be safety valves of sorts within this area?
A. Probably.
Q. Is there any sort of structures or equipment or anything of value that's going to be left within the area that is sealed off or is everything removed from that area?
A. Are you talking underground?
Q. Yes, sir.
A. Everything that is salvageable is removed from that area.
Q. If you were to visit the area could you even walk through it at the present time? If it wasn't sealed could you get in there or has it all collapsed?
A. If it wasn't sealed you could get around the perimeter of it.
Q. But you couldn't get into the center part of it?
A. Right.
Q. What sort of inspection -- if an area is not sealed

like this what sort of inspection would be required while the mining operation is active?

A. There would be a ventilation stream that would be required to circulate around and through the area and where that came back into the main entries of the mine would require monitoring of the methane content in the plugs.

Q. So when you seal the area off you don't have to ventilate it and you don't have to test for methane content flowing through the area?

A. No. There's still testing of methane content in the entries adjacent to the seals because you've always have some amount of seepage.

Q. But the testing is not as extensive as it would be if the area had not been sealed?

A. It's a continuous monitoring. It's not something that you can physically measure every hour or anything of that sort.

Q. What is the reason that Consolidation Coal Company or Island Creek would want to seal an area underground in a longwall mine?

A. It improves the ventilation of the mine.

Q. Has your company done any cost estimates as to the amount saved by this improved ventilation?

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

Q. Not that you're aware of. What reduction of inspections occurs because of this seal? Do you have to inspect the area if it's not sealed more than you would if it is sealed?

A. Not necessarily. You still have to walk the seals and inspect the seals.

Q. This also improves the underground safety of the mine, is that correct? It makes it safer to have a seal?

A. If the pressure is maintained properly behind the seals.

Q. Do you know whether or not any of the benefits of this sealing to the coal operator were included, subtracted, discounted, however you want to say it with regard to the estimate that Mr. Arrington produced? Were these taken into account, any benefits?

A. There was no subtraction of benefits from those estimates. But, again, I would point out that those estimates only include a small percentage of the wells and the actual costs that have been spent in this area and that will probably be utilized for production in this area.

Q. Right now you've got intentions to just use 13 wells?

A. No, sir.

Q. That's what your application says.

A. It's our intentions to allocate the costs of 13 wells.

In all likelihood we will produce from more than 13 wells.

Q. And some of those wells were actual CBM wells which produce gas and some of the wells -- and all of the wells have either been a CBM well producing gas or a vertical ventilation hole which was or is being used to extract gas from this area?

A. That's true.

MR. JOHNSON: I've got no further questions.

(Witness stands aside.)

MR. CHAIRMAN: We're going to take a five minute recess before you redirect.

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

MR. CHAIRMAN: We're back on record. Ready for redirect.

MR. SWARTZ: Three quick topics starting with Les.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Some of these 80 acre units were voluntary units in the past and some of them were pooled units, is that correct?

A. That's correct.

Q. With regard to the units that were pooled by Board order there would have been a cost allocation, right?

A. That's correct.

Q. Did anyone participate in any of those units?

A. To my knowledge, no, they did not.

Q. So the operator and the applicant here have not received any contribution at all to costs before today?

A. That's correct.

Q. Are the costs that we're talking about costs associated with the new venture, the sealed gob unit?

A. Yes, it would be.

MR. SWARTZ: Mr. Morgan, you were asked questions about possible benefits that a sealed gob unit might mean to mining operations by Mr. Johnson. Do you recall that?

MR. MORGAN: Yes.

CLAUDE MORGAN

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

REDIRECT EXAMINATION

BY MR. SWARTZ:

Q. My question for you is are there benefits to the gas operator and the gas owners that flow from or derive from creating a sealed gob unit as opposed to leaving these areas in communication with the mine?

A. Yes.

Q. What would those be?

A. The sealing of the area from the mine in many of the holes that have been vented in the past because of quality will improve quality from those holes to the extent that they can be produced and captured due to the removal of the mine air from the area.

Q. Is the quality -- probably you're talking about oxygen?

A. Yes.

Q. Where does the oxygen come from when the area is not sealed?

A. From the mine ventilation air that's forcing through the area. It also results in a potential to improve quantity in addition to that that was being lost

because of quality. There was gas that is being lost into the ventilation stream as it circulated through there that will not now be lost and will be held within the sealed area for production.

Q. The last area I want to redirect on, the little map that you've made reference to which has all of the black and red dots?

A. Yes.

Q. Can you tell me whether or not Island Creek as the coal lessee and coal operator would have consented to the location of all of those holes?

A. They have.

MR. SWARTZ: That's all I have.

(Witness stands aside.)

LESLIE K. ARRINGTON

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

RECROSS-EXAMINATION

BY MR. JOHNSON:

Q. You stated, Mr. Arrington, in response to Mr. Swartz' question that there was no contribution made to the cost of the well. Can you tell me and tell the Board

what contribution to the cost of the well is made by the sale of gas from a well?

A. I don't understand your question.

Q. You said there was no contribution made to the cost of the well because there was no participation. Now, you also by that are telling this Board that even though your client takes 80 to 87 and a half percent of the value of the gas as royalty, that that cannot be in any way associated or go to offset the cost of drilling the well?

MR. SWARTZ: I object to that as argumentative.

MR. CHAIRMAN: Sustained.

MR. JOHNSON: I've got no more argument on that.

(Witness stands aside.)

CLAUDE MORGAN

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

RECROSS-EXAMINATION

BY MR. JOHNSON:

Q. Mr. Morgan, have any studies been made by your company or others which empirically and quantitatively define the improvement in quality or quantity of gas as a

result of sealing off an area and producing gas?

A. In fact, we have been studying this area for the last two months.

Q. For the last what?

A. For the last two months.

Q. Two months. What's been the result of that study?

A. Several of the vent holes that were producing had a quality that would not have been sufficient to put in the gas line have improved the quality to the point to where we are considering that now for potential collection.

Q. Has the quality of the gas coming from wells that were previously in production -- has the quality of those wells ever been tested or is there any need for that testing?

A. Wells that have previously produced?

Q. Yes, sir.

A. Yes. Those are tested.

Q. Is the quality of those improved by sealing the gob area?

A. I haven't looked at that but historically we have seen improvement in wells that were already producing.

Q. Other than the testing that you mentioned that you've been conducting for two months has there been any other testing that proves the point about the quality and

quantity that you're aware of?

A. Only our history and operation of the other sealed areas.

MR. JOHNSON: I have no further questions.

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

MR. KING: Mr. Chairman, I have a question. In the past have we not been told that once a mine is -- when we took that visit up there and you were showing us where they were mining underneath and you drilled in there. After you seal those off the methane is stronger then than before?

MR. MORGAN: That's what I was referring to as the sealing of the mine will improve the quality of the methane to the point that methane that was being venting may now be captured.

MR. KING: If this sealed gob unit is approved what's the length of time that you figure it will produce?

MR. MORGAN: I would anticipate from declines we've seen in other areas that it would produce for the next 15 to 20 years.

MR. KING: 15 to 20 years?

MR. MORGAN: Yes, sir.

MR. KING: And if it's not approved then you'll start having to vent the methane because of high build up and it will cause some problems where you are mining?

MR. MORGAN: That's possible. That's true.

MR. KING: Mr. Chairman, I move we approve the application.

MR. CHAIRMAN: A motion to approve. Further questions?

MR. BRENT: I have a question for Mr. Johnson. Mr. Johnson, do you or your clients have a problem with the one dollar an acre, one-eighth royalty as the value?

MR. JOHNSON: I think that if you look at the leases that have been introduced you will find that that is not the royalty on one of the leases and it is not the rental on either of the leases. The lease -- it is my belief that the one-eighth and the dollar figure that is constantly battered about in front of this Board is simply what the operator would like the average Joe Blow to give them. The clients I represent own very large tracts of land and they obtain substantially more.

MR. SWARTZ: To respond to that, Mr. Morgan, isn't it true that the royalty on both of the leases that cover all of Mr. Johnson's clients is currently a one-eighth royalty?

MR. MORGAN: It is.

MR. SWARTZ: Can I have those leases, Mr. Johnson?

MR. JOHNSON: Sure.

MR. SWARTZ: The Yukon-Pocahontas lease started out as a one-sixteenth royalty, didn't it?

MR. MORGAN: Yes, it did.

MR. SWARTZ: And it was ultimately amended and it became a one-eighth?

MR. MORGAN: Yes, it did.

MR. SWARTZ: If we look at the CBM lease with Yukon-Pocahontas it was for a three year term originally?

MR. MORGAN: Yes.

MR. SWARTZ: And I can't find any term that required the payment of a bonus that was actually set forth in the Yukon lease.

MR. MORGAN: I'm not aware of it either.

MR. SWARTZ: I mean, there may have been one paid but the lease doesn't state one?

MR. MORGAN: That's right.

MR. SWARTZ: With regard to the Popst/Levisa lease, that started out as one-eighth and continues to be one-eighth?

MR. MORGAN: That's true.

MR. SWARTZ: And it had what term?

MR. MORGAN: Five years.

MR. SWARTZ: Just what Mr. Arrington has testified to this morning?

MR. MORGAN: Yes.

MR. SWARTZ: Is there an expression of a delay rental payment in the Popst/Levisa lease?

MR. MORGAN: I'm not aware of it.

MR. SWARTZ: But it's possible one was paid?

MR. MORGAN: It's possible one was paid.

MR. SWARTZ: That's all I have.

MR. CHAIRMAN: Just to clarify again, Mr. Johnson didn't offer any witness. The Board allowed him to introduce those for the record. The Board will not consider these private leases in it's deliberation.

MR. SWARTZ: Except I think that this is a pertinent question with regard to lease terms and I felt that --

MR. CHAIRMAN: Right. I understand.

MR. JOHNSON: I think it's obvious -- if it's obvious to me it would be obvious to anybody that when somebody comes in and starts talking about one-eighth and one dollar that they're not talking about leasing large tracts of land. They're talking about leasing small tracts of land. It doesn't take an oil and gas expert or an oil and gas land man to tell anybody that. But I hope that answers your question.

MR. CHAIRMAN: Well, the one-eighth royalty is in the law.

MR. JOHNSON: Yes, it is. I don't know why but it is.

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

(Witness stands aside.)

MR. CHAIRMAN: We have a motion to approve.

MR. BRENT: I second it.

MR. CHAIRMAN: A second. Any further discussion? All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) It's approved.

ITEM II and III

MR. CHAIRMAN: The next item on the agenda is a petition from Pocahontas Gas Partnership for the pooling of a coalbed methane unit identified as V-38. This is docket number VGOB-97/06/17-0588. This was continued from July. We'd ask the parties that wish to address the Board in this matter to come forward.

MR. SWARTZ: I have some good news. There's a mistake. Items II and III were actually dismissed or were suppose to be dismissed because we did, in fact, obtain a lease and they shouldn't be on the docket.

MR. CHAIRMAN: I have the letter.

MR. FULMER: The Board has to rule on it.

MR. SWARTZ: I thought we -- oh, we didn't meet in July. That's right.

MR. CHAIRMAN: So we have the letters of that effect. We just need to take care of them.

MR. SWARTZ: With regard to II and III then I previously requested they be dismissed because we've obtained the leases.

MR. CHAIRMAN: That's also docket number VGOB-97/06/17-0589. So both 0588 and 0589 have been requested to be dismissed?

MR. SWARTZ: Yes.

MR. CHAIRMAN: We dismiss Items II and III.

ITEM IV

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Energy Company for the pooling of a coalbed methane unit identified as VC-3621. This is docket number VGOB-97/07/15-0591. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

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

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

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

COURT REPORTER: (Swears witnesses.)

MR. KAISER: The first witness in this matter will be Mr. Baker.

DENNIS R. BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Baker, would you please state your full name for the record, who you're employed by and in what capacity?

A. My name is Dennis R. Baker. I'm employed by Equitable Resources Energy Company as senior landsman.

Q. And do your responsibilities include the land involved here and in the surrounding area and have your qualifications as an expert witness on land matters been previously accepted by the Board?

A. Yes.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and seeking a pooling order for well VC-3621 which was dated June 11th, 1997?

A. Yes, I am.

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

A. Yes, sir.

Q. Does Equitable own drilling rights in the unit involved here?

A. Yes, we do.

Q. Is the location proposed for well VC-3621 fall within

the Board's order of the Nora Coalbed Field Rules dated March 20th, 1989?

A. Yes, it does.

Q. At this time could you state the interest of Equitable in the gas estate within the unit?

A. At the time of application the interest leased is 94.06 percent. The unleased portion is 5.94 percent at the time of application.

Q. Mr. Baker, I'm now distributing a revised Exhibit #B for well VC-3621. Can you tell the Board what the revised exhibit represents?

MR. CHAIRMAN: Just let me remind everyone to speak up as much as we can because this fan kicks on unbearably.

A. (The witness continues.) Through correspondence received from attorney Hugh Cline giving some current addresses prior to the July hearing which was continued we've inserted the addresses for those individuals and we have also corrected some of the gas and coal estate owner, being Pittston Company as owner and the gas estate being in care of Pine Mountain Oil and Gas and the coal being in care of Clinchfield Coal.

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

A. Yes, I am.

Q. Could you state those for the Board at this time?

A. At the time of the application the interest of -- I'm sorry. At the time of the hearing the interest is 94.06 percent lease and 5.94 percent unleased. The coal estate being the same percentages, 94.06 percent leased and 5.94 percent unleased.

Q. Are all the unleased parties set out in the revised Exhibit #B?

A. Yes, they are.

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

A. Yes, it was.

Q. Subsequent to the filing of the application have you continued to attempt to reach an agreement with the respondents listed in revised Exhibit #B?

A. Yes, we have.

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

A. Yes.

Q. Were reasonable and diligent efforts made and sources checked to identify and locate any unknown heirs

including primary sources such as deed records, probate records, assessors records, treasurers records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes.

Q. Mr. Baker, in your professional opinion was due diligence exercised to locate each of the respondents named herein?

A. Yes, it was.

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

A. Yes, it is.

Q. Are you requesting this Board to force pool all unleased interests listed in revised Exhibit #B?

A. Yes.

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

A. Yes.

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

successor of such trustee?

A. Yes.

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

A. I am.

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

A. A five dollar per acre consideration, five year term, one-eighth royalty.

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

A. Yes.

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

A. Yes, it is.

Q. As to respondents who have not voluntarily agreed to lease do you recommend that the respondents listed in revised Exhibit #B who remain unleased be allowed the following options with respect to their ownership interests within the unit; 1) Participation. 2) A cash bonus of five dollars per net mineral acre plus a one-

eighth of eight-eighths royalty. 3) In lieu of a cash bonus and one-eighth of eight-eighths royalty share in the operation of the well on a carried basis as a carried operator under the following conditions; Such carried operator shall be entitled to the share of production from the tracts pooled accruing to his interest exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto of such tracts but only after the proceeds allocable to his share equal A) 300 percent of the share of such costs allocable to the interest of the carried operator of a leased tract or portion thereof, or, B) 200 percent of the share of such costs allocable to the interest of a carried operator of an unleased tract or portion thereof?

A. That is correct.

Q. Do you recommend that the order provide that elections by a respondent be in writing and sent to the applicant at Equitable Resources Energy Company, Eastern Region, PO Box 1983, Kingsport, Tennessee, 37662-1983, attention Dennis Baker, regulatory?

A. Yes.

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

A. Correct.

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

A. Yes.

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

A. That's correct.

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

A. Yes.

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

A. Yes.

MR. KAISER: At this point, Mr. Chairman, I've got -- we're going to request a change in the testimony and language in previous orders to provide that based on a situation that's occurring with my client where we previously had asked that any bonus or delay rental payments be made within 60 days of the date of the Board order. I've talked with Sandra Riggs about this. We're going to request that that be changed to 60 days following the

recording of the supplemental order because we've gotten in situations, particularly in the conflicting claimant situation with the escrow, where we're sending these peoples checks to be escrowed and the bank is sending them back to us because we don't have --

MR. CHAIRMAN: Supplemental order.

MR. KAISER: -- any mechanism yet in which to put that in place.

MR. CHAIRMAN: Okay.

Q. (Mr. Kaiser continues.) So I'm going to ask, Mr. Baker, should the applicant be allowed 60 days following the recordation date of the supplemental order and thereafter annually on that date until production is achieved to pay or tender any cash bonus becoming due under the force pooling order?

A. That's correct.

Q. Do you recommend the force pooling order provide that if a respondent elects to participate but fails to pay respondent's proportionate share of well costs satisfactory to the applicant for payment of well costs then the applicant's election to participate shall be treated as having been withdrawn and void and such respondent should be just as if no initial election had been filed under the order?

A. Yes.

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

A. Yes.

Q. Do you recommend the force pooling order provide that if a respondent refuses to accept any payment due, including any payment due under the order or any payment of royalty or cash bonus or said payment cannot be paid to a party for any reason or there is a title defect in the respondent's interest or in the event of a conflicting claim to the coalbed methane that the operator pay into an escrow account created by this Board into which all costs or proceeds attributable to the conflicting interests shall be held for the respondent's benefit until such funds can be paid to the party either by order of the Board or until the title defect or conflicting claim is resolved to the operator's satisfaction?

A. Yes.

Q. Mr. Baker, who should be named the operator under the force pooling order?

A. Equitable Resources Energy Company.

MR. KAISER: That's all I have of this witness at this time, Mr. Chairman.

MR. CHAIRMAN: I have a couple of questions. One, on the letter that you referenced that you received from Mr. Cline that the Board has a copy of, is the -- I'm on Page 6 of 21 of the revised exhibit. Is the Juanita Bartlett and Jackson Bartlett the Juanita Ramsey Bartlett that's referred to in that letter?

MR. BAKER: I believe it is.

MR. CHAIRMAN: It appears in at least two places. (Pause.) While you're looking I'll tell you all three of the problems I have with that. I couldn't find Center -- on Page 6 of 21 it's Louvern and his letter says Lavern Ramsey Viers. I don't know if that's represented as one in the same or --

MR. BAKER: On Page 6 the Louvern Ramsey Viers and Wessle Viers is the spelling -- and he spelt his name -- that we have received from talking with those people.

MR. CHAIRMAN: His letter, though, lists a different address -- I mean, a different spelling and everything. So following his letter you talked with them and got this?

MR. BAKER: Yes, sir.

MR. CHAIRMAN: Okay. You've got the correct spelling and

correct address?

MR. BAKER: Yes, sir.

MR. CHAIRMAN: In both cases, for Bartlett and Viers?

MR. BAKER: Yes.

MR. CHAIRMAN: Center's probably in here but I couldn't find it. Can you help me?

MR. BAKER: We show under Fayetta Center was a daughter of John D. Ramsey Potter, Ashcant, Kentucky and we show on Page 6 of 21 under the John D. Potter heirs Belvin Potter, widower, and Fayetta Center and Jerry Center.

MR. CHAIRMAN: So it's spelled C there instead of S?

MR. BAKER: Yes.

MR. CHAIRMAN: The other question I have is on the 60 days following the supplemental order, we need something that would cause the supplemental order to be filed. Otherwise, we're kind of leaving that loop. If you never filed one then you'd never have to -- we need some mechanism here.

MS. RIGGS: To tie it to the entry of the order but expand your period of time.

MR. KAISER: You want to tie it to the Board order?

MS. RIGGS: The Board order is a certainty.

MR. CHAIRMAN: I think it would have to be.

MR. KAISER: Okay. You're saying if we get a voluntary unit between the time --

MR. CHAIRMAN: Well, I was just tied it to -- so that you've got a triggering device.

MR. KAISER: We have to file a supplemental within 45 days of the expiration of the election period.

MS. RIGGS: But that doesn't always happen if this Board accepts that.

MR. KAISER: I can rephrase the question and go 120 days from the entry of the Board order if that's acceptable.

MR. CHAIRMAN: Okay.

MR. KAISER: That would be fine with us. That was the two options we were looking at.

MR. CHAIRMAN: I think that's better because you've got a trail you could follow that way.

Q. (Mr. Kaiser continues.) Mr. Baker, let me go back and rephrase that question to get that into the record. Should the applicant be allowed 120 days following the recordation date of the Board order and thereafter annually on that date until production is achieved to pay or tender any cash bonus becoming due under the force pooling order?

A. Yes.

Q. And that testimony is in lieu of previous testimony where we asked that the payment for bonus be tied to 60 days following the recording of the supplemental order?

A. Yes. That's correct.

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

(Witness stands aside.)

MR. CHAIRMAN: You may call your next witness.

ROBERT A. DAHLIN, II

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

DIRECT EXAMINATION

BY MR. KAISER:

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

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

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

A. Yes.

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 the applicant's proposed plan of development?

A. Yes.

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

A. 2,295 feet.

Q. Will this be sufficient to penetrate and test the common sources of supply in the subject formations?

A. Yes, it will.

Q. What are the estimated reserves of this unit?

A. 500 million cubic feet.

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

A. Yes, I am.

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

A. It has.

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

A. Yes.

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

A. Yes.

Q. Would you state for the Board both the dry hole costs and completed well costs for VC-3621?

A. The dry hole costs are $76,648, a completed well cost of $182,700.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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

A. Yes, it would.

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

MR. CHAIRMAN: Questions, members of the Board?

(Witness stands aside.)

MR. KAISER: Mr. Chairman, we'd ask that the application be approved as submitted.

MR. LEWIS: I make a motion that we approve the application.

MR. BRENT: I second the motion.

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

ITEM V

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources for the pooling of a conventional gas well identified as V-3686. This is docket number VGOB-97/07/15-0592. 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 Energy Company. Our witnesses in this matter will once again be Mr. Baker and Mr. Dahlin.

MR. CHAIRMAN: The record will show there are no others. You may go ahead.

DENNIS R. BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Baker, could you again state your full name for the Board, who you're employed by and in what capacity?

A. My name is Dennis R. Baker. I'm employed by Equitable Resources Energy Company as senior landsman.

Q. And do your responsibilities include the land involved here and in the surrounding area?
A. Yes, they do.
Q. Have your qualifications as an expert witness on land matters been previously accepted by the Board?
A. Yes.
Q. Are you familiar with Equitable's application for the establishment of a drilling unit and seeking a pooling order for well V-3686 dated June 11th, 1997?
A. Yes, I am.
Q. Does Equitable own drilling rights in the unit involved here?
A. Yes, we do.
Q. Does the proposed unit depicted at Exhibit #A to the application include all acreage within 2,500 feet of the proposed well V-3686?
A. Yes, it does.
A. Yes, it does.
Q. What is the interest of Equitable within the unit?
A. At the time of application the interest leased wa 92.16 percent.
Q. Are you familiar with the ownership of drilling rights of parties other than Equitable underlying the unit?
A. Yes, I am.
Q. Subsequent to the filing of this application on June

11th have you picked up additional leases?

A. Yes, we have. The interest leased at the time of the hearing is 99.07 percent. The unleased portion being .93 percent.

Q. Would you state those again, Mr. Baker, both the leased and unleased percentages at the time of today's hearing?

A. The leased portion at the time of the hearing is 99.07 percent. The unleased portion at the time of the hearing is .93 percent.

Q. Are all the unleased parties set out in revised Exhibit #B?

A. Yes, they are.

Q. You previously testified that efforts made to contact each of the respondents both before and after the filing of the application?

A. Yes.

Q. Were efforts made to determine if the individual respondents were living or deceased or their whereabouts and if deceased were efforts made to determine the names and addresses and whereabouts of the successor to any deceased respondent?

A. Yes.

Q. Were reasonable and diligent efforts made and sources checked to identify and locate any unknown heirs

including primary sources such as deed records, probate records, assessors records, treasurers records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes.

Q. Mr. Baker, in your professional opinion was due diligence exercised to locate each of the respondents named herein?

A. Yes, it was.

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

A. Yes, it is.

Q. Are you requesting this Board to force pool all unleased interests listed in revised Exhibit #B?

A. Yes.

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

A. Yes, I am.

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

A. Yes.

Q. A five dollar per acre consideration, a five year term, one-eighth royalty.

Q. Did you gain this familiarity by acquiring oil and gas leases and other agreements involving the transfer of

drilling rights in the unit involved here and in the surrounding area?

A. Yes, I did.

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

A. Yes, it is.

MR. KAISER: At this time, Mr. Chairman and Board members, I would ask that Mr. Baker's testimony provided earlier in VGOB-97/07/15-0591 regarding the election options provided the unleased parties and pursuant to those election options the time that they are given to elect and pay any participation costs and the operator's time to pay a cash bonus be incorporated.

MR. CHAIRMAN: It's granted.

Q. (Mr. Kaiser continues.) Do you recommend the force pooling order provide that if a respondent refuses to accept any payment due, including any payment due under said order or any payment of royalty or cash bonus or said payment cannot be paid to a party for any reason or there is a title defect in the respondent's interest that the operator pay into an escrow account for the respondent's benefit until the money can be paid to the party or until the title defect is cured to the

operator's satisfaction?

A. That's correct.

Q. Mr. Baker, who should be named the operator under the order?

A. Equitable Resources Energy Company.

MR. KAISER: That's all I have of this witness at this time, Mr. Chairman.

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

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

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

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

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

A. That's correct.

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

A. Yes.

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

A. Yes, I am.

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

A. 4,900 feet.

Q. Will this be sufficient to penetrate and test the common sources of supply in the subject formations?

A. Yes.

Q. Is the applicant requesting the force pooling of conventional gas reserves not only to include the designated formations but any other formations excluding coal formations which may between those formations designated from the surface to the total depth drilled?

A. We are.

Q. Will this well be at a legal location?

A. Yes.

Q. What are the estimated reserves of this unit?

A. 600 million cubic feet.

Q. Are you familiar with the well costs for the proposed well under the plan of development?

A. Yes.

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

A. It has.

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

A. Yes.

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

A. Yes.

Q. Would you state for the Board both the dry hole costs and completed well costs for V-3686?

A. The dry hole costs are $156,600 and a completed well cost of $282,600.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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

A. Yes.

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

MR. CHAIRMAN: Mr. Dahlin, do you have other wells in the Flat Gap area?

MR. DAHLIN: We do.

MR. CHAIRMAN: Are these costs consistent with the costs of actual experience there?

MR. DAHLIN: It's a relatively new area for us. We don't have the amount of history that we do in other more developed parts of the field but they're consistent with our other development, yes.

MR. CHAIRMAN: Are the other wells in that area 4,900 feet deep or somewhere in that neighborhood? In the zone that you're producing from -- maybe I'm asking it wrong.

MR. DAHLIN: We go to several horizons in the Devonian Shell. We have -- it's a common zone that correlates to something below the Burea and the more conventional areas. This is in part of the area where we bought ANR properties. It's a shell horizon.

MR. KAISER: Mr. Dahlin, do you propose to produce from subject formations via the drilling of 3686 including but not limited to all Devonian Shells including the Base Lee Sands, Raven Cliff, Maxum, Big Lime, Borden,

Coffee Shell, Burea, Devonian Shells?

MR. DAHLIN: That's accurate. Yes.

MR. KAISER: And that's consistent with the application as submitted?

MR. DAHLIN: Yes.

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

MR. BRENT: What did you say your production projection is?

MR. DAHLIN: 600 million cubic feet.

MR. LEWIS: What's the elevation of this well?

MR. DAHLIN: The elevation is 1,946. There's really quite a bit of topography in this area that does change the depth relative to the surface.

MR. LEWIS: Yeah. That's what I meant.

MR. CHAIRMAN: It changes costs, too.

MR. DAHLIN: It sure does. Quite commonly over in this area our location costs end up being a much higher percentage of a total well cost and as well, the reclamation.

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

(Witness stands aside.)

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

MR. KAISER: No, Mr. Chairman. We would ask that the application be approved as submitted.

MR. BRENT: I move that it be so.

MR. LEWIS: I second it.

MR. CHAIRMAN: A motion and second for approval. Any further discussion? All in favor signify by saying yes. (ALL AFFIRM.) Opposed say no. (NONE.) Unanimous approval. Thank you.

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

ITEM X and XI

MR. CHAIRMAN: We're here ready to go. We're back on record. I'm going to go ahead and call the petition from Buchanan Production Company for the pooling of a coalbed methane unit identified as O-13. This is docket number VGOB-97/08/19-0597. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. SWARTZ: Mark Swartz on behalf of the applicant.

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

MR. BRAGG: Mr. Chairman, Mike Bragg representing Mac-Construction.

MR. CHAIRMAN: I'm sorry.

MR. SWARTZ: If Mr. Bragg does not have an objection I would think that it would make sense to hear O-14 at the same time. Both units involve MacConstruction as the only respondent.

MR. BRAGG: No objection to that at all.

MR. CHAIRMAN: I need to call that docket number. We'll also call a petition from Buchanan Production Company for the pooling of a coalbed methane unit identified as O-14. This is docket number VGOB-97/08/19/-0598.

MR. SWARTZ: I'll give Les a minute to pass out the exhibits

here. (Pause.)

MR. CHAIRMAN: Both witnesses have previously been sworn. I will note that for the record and remind them they're under oath.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Mr. Chairman reminded you you're still under oath. Do you acknowledge that?

A. Yes.

Q. You need to state your name for the record again.

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol, Inc.

Q. What is your job title?

A. Permit specialist.

Q. With regard to the pooling applications today for units 013 and 014 did you prepare the notices, the applications and the exhibits?

A. Yes, I did.

Q. And did you, in fact, sign those?
A. Yes, I did.
Q. Did you prepare the cost estimates with regard to both?
A. Yes, I did.
Q. Who is the applicant with regard to both of these units?
A. Buchanan Production.
Q. Is Buchanan Production a Virginia general partnership?
A. Yes, it is.
Q. Are the partners in Buchanan Production -- the two general partners Appalachian Methane, Inc and Appalachian Operators, Inc.?
A. Yes, it is.
Q. Are those two partners in Buchanan Production wholely owned indirect subsidiaries of MCN Corporation?
A. Yes, it is.
Q. Who is the applicant requesting be appointed designated operator?
A. Consol, Inc.
Q. Does Consol, Inc. have a relationship with the applicant with regard to these properties and these leases?
A. Yes, it does.
Q. Are there any exhibits that you've tendered to the Board with regard to that relationship?
A. Yes. Exhibits #4, #5 and #6 which list the profess-

ional manager, the management committee and management resolution.

Q. And that would be true with regard to both of these units and both exhibit packets?

A. That's correct.

Q. In essence, is it true that Buchanan Production Company has delegated the management responsibility for these assets to Consol, Inc.?

A. Yes, it has.

Q. Is Consol, Inc. a Delaware corporation?

A. Yes, it is.

Q. Has it qualified to do business in the Commonwealth?

A. Yes.

Q. Does Consol, Inc. have a blanket bond on file and has it registered with the DMME?

A. Yes, it has.

Q. Who is the respondent with regard to both of these applications?

A. MacConstruction.

Q. Did you notify Mac?

A. Yes, we did.

Q. How did you do that?

A. By certified mail, return receipt requested which is behind Exhibit #2.

Q. Did you also publish?

A. Yes, we did in the Bluefield Daily Telegraph on July 23rd.

Q. And published the notice in the Bluefield Daily Telegraph?

A. Yes.

Q. Let's start with 013. If you would turn to the plat which is the well location plat, do you see that?

A. Yes.

Q. You see that I've outlined in blue here something that I've written "Mac's surface". Is that the surface lands within this unit that Mac --

A. Yes.

Q. So if we were to show this to the Board the surface lands of MacConstruction that are within the unit 013 are tracts 1B and 1C sort of at the top of the well site?

A. That's correct. It is.

Q. And those surface tracts comprise 24.2750 percent of the surface?

A. That is correct. Yes.

Q. Behind this map you have a well plat legend?

A. Yes.

Q. And in that you set forth the coal, oil and gas owners and the various lessees and their interests?

A. That's correct. We have.

Q. Record title in this instance with regard to unit 013 discloses of record that Mac has what kind of an interest?

A. Surface ownership only.

Q. Turning now to 014, the same kind of examination of the well plat, is the Mac surface in the very upper left hand corner?

A. Yes, it is. Tract 1B.

Q. Where I've kind of highlighted it?

A. Yes.

Q. So it just catches the very upper corner?

A. Yes, it does.

Q. What is the percentage of Mac's surface ownership?

A. 1.4375 percent.

Q. With regard to 014 from a record title standpoint what is it that the courthouse records show that Mac owns?

A. Surface only.

Q. Have you attached an Exhibit #B3 with regard to both of these units, 013 and 014, that sets forth Mac's interest in the entire unit and Mac's interest in various panels affected by the units?

A. Yes, we have.

Q. With regard to 013 there are three panels?

A. Yes, there is.

Q. Affecting the unit?

Q. And there's a division of interest set forth for each one of those?

A. That's correct.

Q. With regard to 014 we have the same situation?

A. That's right.

Q. Have you also tendered an Exhibit #E with regard to each of these units which describes the escrow that would be required?

A. Yes, I have. It reflects that they would be a conflicting owner with the record mineral owner.

Q. Would you agree that normally we would not notify surface owners?

A. That's correct. We would not.

Q. But because of our prior contact with MacConstruction, particularly with regard to unit N13, we anticipated that they would indicate that they were claimants in these units?

A. That's correct.

Q. So that's why we've done this?

A. That's correct.

Q. What kind of production is it that you would anticipate from -- are we talking frack production, active gob production?

A. Active gob production.

Q. There's an Exhibit #G attached to both of the applications and it's basically the same?

A. That's correct.

Q. Does it show longwall panels under these units?

A. Yes, it does.

Q. Have those panels been mined as shown on Exhibit #G?

A. Yes, they have.

Q. Your cost estimate for the 013 unit is what?

A. $135,801.70 per well.

Q. Have you then translated that into allocated costs?

A. Yes. Exhibit #G, Page 1.

Q. For 013 what would the allocated cost be?

A. Allocated cost for 013 is $176,121.73.

Q. And that's for all three panels?

A. Yes.

Q. With regard to 014 what are the allocated costs?

A. $176,904.25.

Q. And that's because the percentages in the division of interest in the two units is slightly different?

A. Yes. That's correct.

Q. Is the pooling allocation for production from all seams below the Tiller down to and including the Pocahontas #3 seam?

A. Yes, it is.

Q. And the application, in effect -- although is says

Oakwood I and II is, in effect, for active gob production from an unsealed area in a mine?

A. That's correct.

Q. In terms of the deemed to have leased provision can you tell the Board what the typical lease terms Buchanan Production is offering in the Oakwood Field for coalbed methane?

A. One-eighth royalty, a dollar per acre rental, a five year term.

Q. The dollar per acre rental, does that have any relationship to whether or not production is occurring?

A. Yes. It will stop once production begins.

Q. If you don't know the answer to this question just tell me and I will ask Claude. Do you know whether or not there are wells currently hooked up to produce from these two units pending the approval of these applications?

A. They are presently permitted and pipeline is laid for them awaiting the outcome of this.

Q. So presumably once we have orders you can begin marketing this gas?

A. Yes, we can.

Q. Other than MacConstruction do you have leases from 100 percent of the other owners of this unit?

A. Yes, we do.

Q And that's disclosed on your Exhibit #A, Page 2?
A. Yes, it is.
Q. The last question I would have, do you recommend to the Board that Consol, Inc. be allowed to develop the active gob under these two units as is requested in these applications because it is a reasonable means of extracting coalbed methane and a reasonable means to share the proceeds from that production with all of the royalty owners?
A. Yes, it is.
MR. SWARTZ: That's all I have.
MR. CHAIRMAN: Mr. Bragg.

CROSS-EXAMINATION

BY MR. BRAGG:
Q. Mr. Arrington, you have testified that according to the courthouse records that Mac's ownership is surface only?
A. Yes, I have.
Q. Is that based on your investigation of the records?
A. Title work -- title from counsel, yes.
Q. Who is the counsel who did title work?
A. Right off hand I can't answer that. I'm not sure who done it.

Q. Do you have that title opinion present?
A. No, I do not.
Q. You're not offering your own opinion as to the status of Mac's ownership of surface and/or methane gas or other gases below that surface based upon your examination of the records, are you?
A. Not my records from title work.
Q. And you don't remember who did that?
A. No. I don't have that with me.
Q. How long ago was that done?
A. I can't answer that. I don't know.
Q. Do you know from that title report by the person you can't remember at sometime that you can't recall whether there was any expression of opinion as to whether MacConstruction owned any of the rock strata that lay below the surface and lay between the various coal seams?
A. The title work shows who the mineral owners are.
Q. To repeat my question, does the title opinion express any opinion as to whether Mac would own the rock strata that lays between coal seams?
A. I'm not sure.
Q. According to the title work that was done who owns the fee title to the gas?
A. Yukon-Pocahontas.

Q. Is it Yukon-Pocahontas only?
A. No. There are several owners within that group.
Q. In fact, Yukon-Pocahontas owns an undivided interest in minerals, is that correct?
A. I believe that's correct.
Q. Also Georgia-Pacific Corporation owns an undivided interest in minerals?
A. That's correct. It is a group of owners.
Q. Salyers Pocahontas Coal Company owns an undivided interest in minerals?
A. I think that's correct.
Q. And Buchanan Coal Company owns an undivided interest in the minerals?
A. That's correct.
Q. If you will refer to your Exhibit #B and #E, do you disclose in your petition that the undivided interest in the gas is either owned by Georgia-Pacific Corporation, Salyers Pocahontas Coal Company or Buchanan Coal Company?
A. No. It reflects Yukon-Pocahontas of which -- that's who we do all our dealings with.
Q. Did you send notice to Georgia-Pacific, Salyers Pocahontas or Buchanan Coal?
A. I sent notice to Yukon-Pocahontas who acts as an agent.
Q. Do you have anything of record that you could submit to

this Board wherein Georgia-Pacific, Salyers Pocahontas or Buchanan Coal Company authorizes you to send notice to them through Yukon-Pocahontas?

A. I don't have anything here.

MR. SWARTZ: Well, we might. The lease from this morning's festivities probably has that provision in it if the Board still has it.

Q. (Mr. Bragg continues.) Do you know of anything in writing gives you that direction?

A. I would assume it's in our lease. That's how we've been doing business.

Q. Do you have a copy of the notice that you sent to Yukon-Pocahontas?

A. I think if you will look under Exhibit #2 you will see in there that Yukon-Pocahontas was sent a copy of this by certified mail.

Q. I'm asking about the actual notice that you sent to Yukon-Pocahontas?

A. Again, if you'll look under Exhibit #2 there is a copy of the information that I sent to them. They received their copy on July 21st.

Q. You're referring to the return receipt attached to your Exhibit #2?

A. That's correct.

Q. Which shows that it is addressed to Yukon-Pocahontas

Coal Compar

A. That's correct. It was.

Q. There's nothing on that returned receipt that indicates that it was addressed to Salyers Pocahontas, Georgia-Pacific Corporation or Buchanan Coal Company in care of Yukon-Pocahontas, isn't that correct?

A. That's correct.

Q. Now, it's my understanding that Buchanan Production Company claims to be a lessee of the coalbed methane?

A. That's correct. We are.

Q. Is that by virtue of a lease from Yukon-Pocahontas Coal Company, Georgia-Pacific Corporation, Salyers Pocahontas Coal Company and Buchanan Coal Company?

A. That's correct. It is.

Q. Is Buchanan Production Company the named lessee of that lease?

A. Actually in the lease itself it's Island Creek Coal Company.

Q. Later that lease was assigned by Island Creek to OXY, is that correct?

A. I think that's correct.

Q. And then OXY in two different assignments assigned interest in the lease to Appalachian Methane, Inc. and Appalachian Operators, Inc., is that correct?

A. That's probably correct. Yes.

Q. Is there only one lease wherein Buchanan Production claims interest in leased coalbed methane from those named lessors or is there another lease from them?

A. The coalbed methane lease?

Q. Yes.

A. That's the only one I know of.

MR. BRAGG: If I may have Ms. McClannahan to pass something out to the Board. (Pause.)

Q. (Mr. Bragg continues.) Mr. Arrington, was a law suit filed in Federal Court in June against Appalachian Methane, Appalachian Operators, Consolidation Coal Company, Conico Inc., Pocahontas Gas Partnership by a number of plaintiffs including Yukon-Pocahontas Coal Company, Georgia-Pacific Corporation, Salyers Pocahontas Coal Company and Buchanan Coal Company?

A. I'll have to defer that question to Mr. Morgan.

Q. Do you know whether it was or not?

A. There was a suit filed, yes.

Q. And amongst the things that are claimed in that suit are -- the various defendants which included Appalachian Methane, Appalachian Operators, OXY USA, Island Creek as well as Consolidation Coal Company, Conico Inc. and Pocahontas Gas Partnership are not properly paying royalties under their gas leases, is that not correct?

A. I couldn't tell you what's in that suit. At this time I haven't reviewed it or worked with that at all yet.

Q. Has there been some talk around the company regarding this suit being filed?

A. Other than I know it's been filed.

Q. Have you been advised that among the claims that are being made is that the various defendants failed to properly account for deductions for royalty payments, improperly computed and overcharged costs for gathering and compressions into trunk line, deducted costs not agreed to or anticipated, deducted severance taxes, delayed royalty payments, failed to pay interest under delayed or withheld payments, sold gas to an affiliate at low market prices, failed to pay shut in well payments, and other matters?

A. Again, my answer is going to be the same thing. I defer that to Mr. Morgan.

Q. And I believe you testified that the wells on this property if the Board grants the force pooling is ready to be marketed?

A. Yes, it is.

Q. How would that be marketed?

A. I don't understand your question.

Q. How would you market it? Is it going to be put into a gathering line?

A. Yes, it is.
Q. What gathering line would that be?
A. It's our system that we have in place at this time in the Oakwood Gathering System.
Q. Would that include Cardinal States?
A. Yes, it would.
Q. And is there also not a count of the Federal law suit that alleges that there is --
MR. SWARTZ: I'm going to object to continuing to examining this witness with regard to this law suit when he has testified on several occasions he has not read the complaint.
MR. CHAIRMAN: Sustained.
MR. BRAGG: Mr. Chairman, with due respect, if this company is sued for multi-million dollars for essentially what appears to be defrauding the lessors and Mr. Arrington, a very responsible person in this company, responsible for coming to this Board asking for force poolings is not aware of it then I submit that that speaks volumes in terms of this company's attitude.
MR. SWARTZ: I am also going to interject that people sue people all of the time for hideous things and it's what the proof is in the putting and ultimately they prevail. So, yes, there is a law suit. There's some pretty serious allegations about a month old and we'll

see who wi-

Q. (Mr. Bragg continues.) Mr. Arrington, what is the relationship of Consol, Inc. to Consolidation Coal Company?

A. Consol, Inc. is a parent company.

Q. Consol, Inc. is the parent of Consolidation Coal Company?

A. Yes.

Q. What is the relationship to Conico?

MR. SWARTZ: Of what?

MR. BRAGG: Between Consol, Inc. and Conico.

A. (The witness continues.) Other than being subsidiaries of Dupont.

Q. Is Conico an affiliated company with Consol, Inc.?

A. Subsidiaries of Dupont. Is that what you're looking for?

Q. Is Consol, Inc. a subsidiary of Dupont?

A. Yes.

Q. Is Conico also a subsidiary of Dupont?

A. Yes.

Q. Is there any relationship between Consol, Inc., Consolidation Coal Company or Conico with MCN in terms of shared ownership, subsidiary or affiliated companies?

A. I'll defer that to Claude.

Q. I'm sorry?
A. I'll defer that to Claude Morgan.
Q. Are you familiar with the lay of the land and what is on this property included in these two units, 013 and 014?
A. In what respect?
Q. Have you been on the property and examined it?
A. To be on the property -- I've been in the area.
Q. Do you know whether there are any live streams that originate within those two units and flow into Webb Branch?
A. There's a possibility.
MR. BRAGG: I believe that's all I have for this witness.
MR. CHAIRMAN: Mr. Swartz, call your next witness.
MR. SWARTZ: I'm done.
MR. CHAIRMAN: You're through?
MR. SWARTZ: Right.
MR. CHAIRMAN: Any questions, members of the Board?
(Witness stands aside.)
MR. BRAGG: If he has rested --
MR. CHAIRMAN: He has rested.
MR. BRAGG: Then I would like to ask a few questions of Mr. Morgan as my witness.
MR. CHAIRMAN: I'm first seeing if the Board has any questions of the witness. I'm making sure of that.

CLAUDE MORGAN

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

CROSS-EXAMINATION

BY MR. BRAGG:

Q. Mr. Morgan, do you know what relationship, if any, between Consol, Inc. and Consolidation Coal Company and Conico has with MCN?

A. Consolidation Coal Company or Conico have no relationship with MCN. Conico is the operator of the Cardinal States System.

Q. Mr. Morgan, are you aware of the law suit I asked Mr. Arrington about?

A. Yes, I'm aware of a law suit.

Q. Have you read it?

A. Yes, I have.

Q. Did I fairly summarize the claims being made against the defendants in my questions to Mr. Arrington?

A. It sounded like you were reading the claims.

Q. Have you physically been on the surface of Unit 013 and 014?

A. I have not.
Q. Do you know based upon the engineering that's been done whether there is a live stream that originates within either or both of those units?
A. I do not know that.
Q. Has there been any geologist or hydrological studies concerning the ground water and the head waters of Webb Branch and then ultimately Levisa River that's affected within these units?
A. There is a ground water study that was done that is part of the permit applications for the wells.
Q. Do you know what it indicates in terms of depth of the ground water and any live streams that originate within those two units?
A. I am not familiar with it.
Q. Does Consol, Inc. and/or Buchanan Production have any plan formulated or in place to protect the ground water and to protect any live streams that do originate within those units?
MR. SWARTZ: I'm going to object to these questions as being permitting issues more appropriately dealt with in the form before the Virginia Division of Gas and Oil.
MR. CHAIRMAN: Sustained.
Q. (Mr. Bragg continues.) Mr. Morgan, has there been any environmental impact study done within these two units?

A. I'm not aware of any.

Q. Has there been any attempt to determine any species of flora or faunae within any live streams that would originate within those units?

MR. SWARTZ: Same objection.

MR. CHAIRMAN: Sustained.

MR. BRAGG: May I have just one moment?

MR. CHAIRMAN: Sure.

MR. BRAGG: (Pause.) That's all the questions I have.

MR. SWARTZ: I would like to straighten out a couple of ownership issues with Mr. Morgan.

MR. CHAIRMAN: You may redirect.

REDIRECT EXAMINATION

BY MR. SWARTZ:

Q. Mr. Morgan, we seem to have questions all the time about who owns who and who's related to whom, right?

A. Right.

Q. Do you believe that you have an understanding of the corporate ownership of the players here?

A. Yes.

Q. Who is the parent directly or indirectly of Appalachian Methane, Inc. and Appalachian Operators, Inc.?

A. MCN Corporation.

Q. Who is the parent of Oakwood Gathering Inc.?

A. MCN Corporation.

Q. Who are the owners of Cardinal States Gathering Company?

A. 50 percent owned by Oakwood Gathering, Inc. and 50 percent owned by Pocahontas Gas Partnership.

Q. Who are the partners in Pocahontas Gas Partnership?

A. Conico, Inc. and Consolidation Coal Company.

Q. Who is the parent of Consolidation Coal Company?

A. Consol Energy Group.

Q. Who is the parent of Consol, Inc.?

A. Consol Energy.

Q. Consol Energy Group is owned in part by Dupont?

A. 50 percent owned by Dupont.

Q. Who is the other 50 percent owner?

A. (Inaudible.) of Germany.

MR. SWARTZ: That's all I have.

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

MR. KING: Mr. Chairman, I have a question. This looks like a serious law suit in the Federal Court. Does that have anything to do with permitting or pooling? Does that affect it at all?

MR. CHAIRMAN: I'll let our legal advisor answer that.

MS. RIGGS: I don't think that law suit was moved into evidence. I don't know what the purpose of passing it

was other than to raise allegations with respect to payment of moneys due under leases. Is that -- voluntary leases, I think, is what I heard.

MR. BRAGG: Yes. And if I omitted I would move that it be admitted as an exhibit.

MS. RIGGS: Maybe counsel can tell us what relevance it has because I don't know exactly what purpose it's being admitted to for to know whether it has anything to do with this case or not.

MR. BRAGG: If I may, the first thing I would say is I'm sure the Board remembers the controversy relating to the force pooling application of Buchanan Production regarding unit N-13 which adjoins unit O-13 on which is located MacConstruction's asphalt production plant and it's unpermitted well, a well that we believe is grandfathered and doesn't have to be permitted which they were producing prior to the enactment of the statute. At that time MacConstruction was asking that if the unit was going to be force pooled that they be allowed to be the operator. One of the concerns expressed by the Board was that MacConstruction was a small company with no experience in terms of producing commercially whereas Buchanan Production was a big company with a lot of money and a lot of experience. For that reason we think the fact that parties who have

voluntarily leased their gas interests to these companies and their related companies are suing them for multi-million dollars saying, "You're not paying us our appropriate royalties that we're due. Not only are you just shorting us but you are overcharging us with expenses." In other words, they are accused of intentionally manipulating expenses. They are charged with conspiring to increase the transportation costs in terms of transportation through the Cardinal States line. They are accused of selling to related companies at a low market price and therefore depriving the owners of their royalties that should be due to them. And we believe that that has a lot of context on whether this company should be allowed until those questions are resolved. If they are innocent then they can show themselves innocent, but until then we would ask the Board to establish a moratorium generally but specifically in this case since this is what we're here on to say no more force pooling applications, no more giving this company not only the power over the voluntary lessors and people voluntarily brought in until they show that they can be trusted. Until they can show that their hands are clean we would submit that they should not be allowed to force pool anyone else until that is resolved.

BRENT: Mr. Bragg, it sounds like you're asking us to assume they are guilty until proven innocent. Is that right?

MR. BRAGG: No, I'm not. No, I'm not.

MR. BRENT: Should we not assume that they are innocent until proven guilty?

MR. BRAGG: In the first place, those are not criminal charges against them. So there is no presumption of innocence if that is what you're thinking.

MR. SWARTZ: I guess my question is where is our answer that we filed in this law suit? We're on the compliant. We filed an answer.

MS. McCLANNAHAN: What day did you file it?

MR. SWARTZ: It was mailed last week.

MR. BRAGG: Well, I checked with the Clerk's Office on Friday of last week and there was no answer filed.

MR. SWARTZ: Maybe you should have checked this morning.

MS. McCLANNAHAN: As of August 14th there was nothing filed.

MR. SWARTZ: It's been filed.

MR. BRAGG: But again, Mr. Swartz, it's --

MS. RIGGS: I guess I was asked with respect to what the legalities of this are, you know, if what he is saying is that an allegation in a law suit without evidence of the truth of those allegations should form some basis for this Board to make decisions with respect to the

competence, I guess, of the operator is what he's saying it goes to then I would say that it's going to require more than allegations. There's going to require some proof of allegations. Now, those sound to me like they are disputes under private contractual arrangements between the parties that this Board has no jurisdiction to adjudicate. They are in the proper forum which is the Circuit Court or Federal Court or where ever the law suit was brought. And they are to be adjudicated. I don't think that this Board can assume jurisdiction over those issues. I haven't seen any proof put on. All I've heard is the allegations of the named plaintiffs. And I assume there is an answer which would likewise deny all those allegations. So that's where you are with respect to the law suit. It is what it says it is. It was filed by the named plaintiffs in that court and it will be adjudicated there.

MR. BRAGG: If I may, I'm not asking the Board to assume that the allegations are true.

MR. SWARTZ: Then you ought to throw it in the trash can. What's it here for?

MR. BRAGG: What I'm asking the Board to do -- as a Board into which the trust not only of the gas operators btu of the citizens of Buchanan County and the Commonwealth

of Virginia have been placed to make important decisions on who is going to be allowed to produce gas to take into consideration whether the fact that a law suit has recently been filed and obviously hasn't been developed -- and we are not involved in that law suit, but I am suggesting that that is a factor that this Board to which there is this trust placed for the common will to take into consideration and determine whether -- is it something that you can put on hold applications, and specifically this application, until that decision is made.

MS. RIGGS: The plaintiffs to this law suit are parties within this unit, are they not?

MR. SWARTZ: Some of them are.

MR. BRAGG: I would submit that one is. Three should be parties to this suit by statute which specifically says that all owners of the coal and gas shall be notified. Those three have not been notified.

MS. RIGGS: Of the ones that are named and notified whether by agent or otherwise, they're not objecting to Consol being the operator of this unit as best I understand. Is that --

MR. SWARTZ: Correct. And you'll notice this morning that their lawyer wasn't objecting on these either. I mean, they were all here. Don Johnson was representing

probably half of these people this morning from this law suit.

MR. KING: Mr. Chairman, my question -- Mike, I swore when I took oath to take this office that I would protect the rights of all people in this Commonwealth. It would appear to me -- I'm not an attorney but I do think that there is a suit filed that the outcome of the suit would affect if we did grant the pooling to allow the company to go on and do some pooling and eventually some of these people are going to benefit from it rather than completely stop and have nothing go into a pool. As we heard earlier today, if gas is bottled in an area it's going to have to go someplace. So I would think that what this Board would do as far as pooling would not have anything to do until this suit would be adjudicated. I certainly want to do everything I can for all of the citizens of this Commonwealth.

MR. CHAIRMAN: Any other questions or comments, members of the Board? As to 013 and 014 do I have a motion?

MR. BRENT: I move that we grant the pooling application for 013 and 014.

MR. KING: Second.

MR. CHAIRMAN: A motion and second. Further discussion? All in favor signify by saying yes. (SOME AFFIRM.) Opposed say no. (ONE ABSTAINS.)

ITEM VI

MR. CHAIRMAN: I'm going back to Item VI. The next item on the agenda is a petition for Equitable Resources Energy Company for the pooling of a coalbed methane unit identified as VC-2975. This is docket number VGOB-97/07/15-0593. 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 for Equitable. If I may, at this time I would first like to apologize for the fact that we were late getting back. We hit traffic and slow service at the Hardware Company.

MR. CHAIRMAN: No problem.

MR. KAISER: Second of all, since PGP and Jill only have on hearing she asked if I would have any objection to them going ahead and we can do all of what we have let which is everything that's left in succession. So if the Board does not object we do not object to allowing her to proceed with that.

MR. CHAIRMAN: Okay.

ITEM IX

MR. CHAIRMAN: I'm going back and unravel here. Instead of calling 0593 I'm now going to call a petition from Pocahontas Gas Partnership for the pooling of a coalbed methane unit identified as FF-22. This is docket number VGOB-07/07/15-0596. We'd ask the parties that wish to address the Board in this matter to come forward at this time. This is Item IX in your note-book. The record will show there are no others. You may proceed.

MS. HARRISON: Mr. Chairman and members of the Board, my name is Jill Harrison. I practice here in Abingdon with Penn, Stuart and Eskridge. I am here today representing Pocahontas Gas Partnership on it's force pooling application for the FF-22 unit. My witness today will be Leslie K. Arrington. He's already been sworn for other matters.

MR. CHAIRMAN: I'd just remind him he's under oath.

MR. ARRINGTON: Okay.

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

BY MS. HARRISON:

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

A. Leslie K. Arrington.

Q. If you would, in the blue book that has been passed out to the members of the Board would please identify the exhibit that has been marked for identification as Exhibit #1?

A. Yes. That's my work resume and educational background.

Q. Does it properly reflect your educational background, work history and qualifications?

A. Yes, it does.

MS. HARRISON: Mr. Chairman, I would ask that Exhibit #1 be introduced into evidence.

MR. CHAIRMAN: It's admitted.

Q. (Ms. Harrison continues.) And you have qualified before as an expert witness before the Board, is that correct?

A. Yes, I have.

Q. For the FF-22 unit have you given notice of the application that was required by Virginia Code, annotated, 45.1-361.19?

A. Yes, I have by certified mail, return receipt requested.

Q. If you would, identify Exhibit #2 in the book that's provided to the Board?

A. That was the notice that was or would have been mailed to the individuals within the unit.

Q. Is that a copy of the hearing notice?

A. Yes.

MS. HARRISON: Mr. Chairman, I would ask that Exhibit #2 be admitted into evidence.

MR. CHAIRMAN: It's admitted.

Q. (Ms. Harrison continues.) You also have the returned receipts for the mailings that were done, is that correct?

A. Yes, I do behind Exhibit #3.

Q. That's a copy of the due diligence affidavit, certification of mailing and a copy of the returned receipts?

A. Yes.

MS. HARRISON: Mr. Chairman, I would ask that Exhibit #3 be admitted into evidence.

MR. CHAIRMAN: It's admitted.

Q. (Ms. Harrison continues.) Did you publish this notice of hearing?

A. Yes, I did in the Bluefield Daily Telegraph on June 19th, 1997 which a copy is behind Exhibit #4.

MS. HARRISON: Mr. Chairman, I would ask that Exhibit #4 be admitted into evidence.

MR. CHAIRMAN: It's admitted

Q. (Ms. Harrison continues.) In the FF-22 unit what percentage of the coal, oil and gas and coalbed methane rights does Pocahontas Gas Partnership control?

A. 100 percent of the Pocahontas #3 Seam and 100 percent of the coalbed methane gas estate and 98.30986 percent of the oil and gas interest.

Q. The percentages that you've just identified, are these the same ownership control percentages that were listed in the original application?

A. Yes, it is.

Q. So nothing has changed since that time?

A. That's correct.

Q. The plat and the acreage totals that are shown on Exhibit #B of the application, do those reflect the relative contributions that each tract is expected to make to the FF-22 unit?

A. Yes, it does.

Q. On your Exhibit #B-3 to the application, does that indicate or identify the unleased owners and their interest in this unit?

A. Yes, it does.

Q. On Exhibit #E is that an identification of the conflicting claimants and the interests that are to be escrowed in this unit?

A. Yes, it is.
Q. With regard to the unleased owners that are identified on those exhibits, has Pocahontas Gas Partnership attempted to lease that interest or contact them in order to obtain a lease of their interests?
A. Yes -- well, from a check of the courthouse records we could find no leads leading us to who these heirs are.
Q. So these are essentially heirs and successors and assigns of unknown parties?
A. That's correct.
Q. What are the primary terms and the delay rental payments for the oil and gas and the coalbed methane leases that you have acquired for this unit?
A. For this unit a coalbed methane lease of one-eighth royalty, a dollar per acre, a five year term.
A. Are you at this time requesting that the Board pool the interests of the parties that are shown on Exhibit #B of the application for this unit?
A. Yes, we are.
Q. Have any well work permits been issued for the FF-22 unit?
A. Yes, it has on August 15th, 1996, permit number 3171.
Q. What type of well permit was issued?
A. Coalbed methane.
Q. And has that well been drilled?

A. Yes, it has.
Q. Has it been placed into production?
A. No, it has not. It's ready for production.
Q. Have you received any written responses from the owners of the tract within this unit to the notice that you sent out for the force pooling application?
A. No, we have not.
Q. The plat that is attached to the force pooling application, does that indicate the acreage and the shape of the acreage to be embraced by this unit?
A. Yes, it does.
Q. Does the unit follow the boundary lines of the Oakwood I Field 80 acre unit that's designated as FF-22 on what's shown as Exhibit #A to the application?
A. Yes, it does.
Q. The plat that is attached to the force pooling application, does it also show the area within which the well will be drilled?
A. Yes, it does.
Q. Does the drilling unit embrace two or more separately owned tracts?
A. Yes.
Q. The Exhibit #C which is the detailed well estimate that is attached to the application, are the costs and expenses for the well as set forth on that document?

A. Yes, it is.
Q. Does this exhibit reflect the estimate cost of drilling to the total well depth and completed for production costs?
A. Yes, it does.
Q. How did you calculate the costs that are shown on this DWE?
A. Actually they were prepared from our field averages that we are being charged today.
Q. So they're based on actual costs that you've incurred previously?
A. Yes.
Q. How do you propose to allocate those wells costs between the owners of the unit?
A. It will be their actual percentage within the unit multiplied by the actual cost of the DWE.
Q. Have there been any changes to the DWE since this application was filed?
A. No, there have not.
Q. Are you at this time asking the Board to designate Pocahontas Gas Partnership as the operator of unit FF-22?
A. Yes, we are.
Q. Are you requesting the relief sought in Paragraph 4 of your application in accordance with Virginia Code,

annotated, 45.1-361.19?

A. Yes, we are.

MS. HARRISON: Mr. Chairman, I have no further questions of Mr. Arrington at this time.

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

(Witness stands aside.)

MS. HARRISON: If there are no questions, Mr. Chairman, we would ask that the Board grant our request as set forth in the force pooling application.

MR. KING: I so move, Mr. Chairman.

MR. CHAIRMAN: A motion to approve.

MR. BRENT: Second.

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

MS. HARRISON: Thank you very much.

MR. CHAIRMAN: We'll take a five minute break while they get set up here.

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

ITEM VI

MR. CHAIRMAN: The next item is a petition from Equitable Resources Energy Company for the pooling of a coalbed methane unit identified as VC-2975. This is docket number VGOB-97/07/15/-0593. We'd ask all the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser on behalf of Equitable Resources Energy Company. Our witnesses in this matter will once again be Mr. Dennis Baker and Mr. Bob Dahlin who have previously been sworn.

DENNIS R. BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Baker, could you again state your full name for the Board, who you're employed by and in what capacity?

A. Dennis R. Baker. I'm employed by Equitable Resources Energy Company as senior landsman.

And do your responsibilities include the land involved here and in the surrounding area?

A. Yes, they do.

Q. Have your qualifications as an expert witness on land matters been previously accepted by the Board?

A. Yes.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and seeking a pooling order for well VC-2975 dated June 11th, 1997?

A. Yes, I am.

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

A. Yes, it is.

Q. Does Equitable own drilling rights involved in the unit here?

A. Yes, we do.

Q. Does the location proposed for well VC-2975 fall within the Board's order for the Nora Coalbed Field Rules?

A. Yes, it does.

Q. Could you please state for the Board the interest of Equitable at the time of the application in the gas estate?

A. At the time of the application the interest leased was 91.7 percent.

Q. And at the time of hearing in the gas estate?
A. There has not been any change. The ownership is 91.7 percent.
Q. Are you familiar with the ownership of drilling rights of parties other than Equitable underlying the unit?
A. Yes.
Q. Could you state those for the Board, please?
A. The interest of unleased at the time of the application was 8.3 percent. The same percentage at the time of the hearing, 8.3.
Q. And that is in both the gas estate and the coal estate?
A. The coal estate is leased 100 percent.
Q. In light of this testimony could you state for the Board the reason that we submitted the revised exhibit?
A. The exhibit for the gas estate as well as coal estate shows the Pittston Company with the two entities, Pine Mountain Oil and Gas being the care of gas estate interest and the coal is Clinchfield Coal Company.
Q. So it's strictly (Inaudible.)
A. Yes.
Q. Are all the unleased parties set out in revised Exhibit #B?
A. Yes, they are.
Q. Prior to filing the application were efforts made to contact each of the respondents and an attempt made to

work out an agreement regarding the development of the unit?

A. Yes, it was.

Q. Subsequent to the filing of the application have you continued to attempt to reach an agreement with the respondents listed in revised Exhibit #B?

A. Yes.

Q. Were efforts made to determine if the individual respondents were living or deceased or their where-abouts and if deceased were efforts made to determine the names and addresses and whereabouts of the success-or to any deceased respondent?

A. Yes.

Q. Were reasonable and diligent efforts made and sources checked to identify and locate any unknown heirs including primary sources such as deed records, probate records, assessors records, treasurers records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes.

Q. Mr. Baker, in your professional opinion was due diligence exercised to locate and attempt to lease each of the respondents named herein?

A. Yes, it was.

Q. Are the addresses set out in revised Exhibit #B to the

application the last known addresses for the respondents?

A. Yes.

Q. Are you requesting this Board to force pool all unleased interests listed in revised Exhibit #B?

A. Yes.

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

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

A. Yes, we are.

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

A. Yes, I am.

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

A. Yes.

Q. A five dollar per acre consideration, a five year term, one-eighth royalty.

Q. Did you gain this familiarity by acquiring oil and gas leases, coalbed methane leases and other agreements

involving the transfer of drilling rights in the unit involved here and in the surrounding area?

A. Yes, I did.

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

A. Yes, it is.

MR. KAISER: At this time, Mr. Chairman, if I could based upon Mr. Baker's previous testimony provided earlier in VGOB-97/07/15-0591 regarding the election options afforded the unleased parties and their duties under the order pursuant to those election options we would like to incorporate that testimony.

MR. CHAIRMAN: It will be incorporated.

Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend the force pooling order provide that if a respondent refuses to accept any payment due, including any payment due under said order or any payment of royalty or cash bonus or said payment cannot be paid to a party for any reason or there is a title defect in the respondent's interest or in the event of a conflicting claim to the coalbed methane that the operator pay into an escrow account created by this Board into which all costs or proceeds attributable to the conflicting

interest shall be held for the respondent's benefit until such funds can be paid to the party either by order of this Board or until the title defect or conflicting claim is resolved to the operator's satisfaction?

A. Yes, I do.

Q. Mr. Baker, who should be named the operator under the order?

A. Equitable Resources Energy Company.

MR. KAISER: That's all I have of this witness at this time, Mr. Chairman.

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

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

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

A. My name is Robert A. Dahlin, II. I'm employed by EREC

as a production specialist.

Q. And your qualifications have previously been accepted by the Gas and Oil Board as an expert witness in production and operations?

A. Yes.

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

A. Yes, they do.

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

A. Yes, I am.

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

A. 2,280 feet.

Q. Does the applicant plan to produce from the subject formations including but not limited to all Pennsylvanian aged coals from the top of the Raven including all splits to the top of the Green and Red Shells including but not limited to the Raven, Jaw Bone, Upper Horse Pen, Middle Horse Pen, War Creek, Bekley, Lower Horse Pen, Poco-8, Poco-4, Poco-3, Poco-1 and any other unnamed coal seams or associated formations known as the Nora Coalbed Gas Field?

A. That would be correct.

Q. What are the estimated reserves of the unit?
A. 300 million cubic feet.
Q. Are you familiar with the well costs for the proposed well under the plan of development?
A. Yes.
Q. Has an AFE been reviewed, signed and submitted to the Board?
A. Yes.
Q. Was this AFE prepared by an engineering department knowledge in the preparation of AFEs and knowledgeable in regard to well costs in this area?
A. Yes, it was.
Q. Does this AFE represent a reasonable estimate of the well costs for the proposed unit well under the applicant's plan of development?
A. Yes.
Q. Would you state for the Board both the dry hole costs and completed well costs for VC-2975?
A. The dry hole costs are $63,495 and completed well costs are $163,900.
Q. Do these costs anticipate a multiple completion?
A. Yes.
Q. Does the AFE include a reasonable charge for supervision?
A. Yes.

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

A. Yes.

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

MR. CHAIRMAN: Questions, members of the Board?

(Witness stands aside.)

MR. LEWIS: I make a motion to grant the application.

MR. CHAIRMAN: A motion to approve.

MR. BRENT: Second.

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

ITEM VII

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Energy Company for the pooling of a coalbed methane unit identified as VC-3424. This is docket number VGOB-97/07/15-0594. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser once again on behalf of Equitable Resources Energy Company. Our witnesses in this matter will again be Mr. Dennis Baker and Mr. Bob Dahlin who have previously been sworn.

DENNIS R. BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Baker, are you employed by Equitable as senior landsman and do you responsibilities include the land involved here and in the surrounding area?

A. Yes, they do.

Q. Have your qualifications as an expert witness on land matters been previously accepted by the Board?

A. Yes.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and pooling order for well VC-3424 dated June 11th, 1997?

A. Yes, I am.

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

A. Yes, it is.

Q. Does Equitable own drilling rights involved in the unit here?

A. Yes, we do.

Q. Does the location proposed for well VC-3424 fall within the Board's order for the Roaring Fork Coalbed Gas Field?

A. Yes, it does.

Q. Could you please state for the Board the interest of Equitable at the time of the application in the gas estate?

A. At the time of the application the interest leased was 90.05 percent.

Q. What is the interest of Equitable in the coal estate at the time of application?

A. 100 percent.
Q. Are you familiar with the ownership of drilling rights of parties other than Equitable underlying the unit?
A. Yes, I am.
Q. What is the percentage of interest under lease to Equitable in the gas estate currently at the time of hearing?
A. At the time of hearing the interest leased to Equitable is 98.36 percent.
Q. What is the percentage of interest unleased at the time of hearing?
A. The unleased percentage is 1.64 percent.
Q. Does the revised Exhibit #B that I handed out reflect the additional leases that were picked up?
A. Yes, it does.
Q. Would you identify that, please, for the Board?
A. Identified on the revised exhibit, Page 1, Tract 3 shown as Marilyn Wampler.
Q. So that leaves the only unleased tract within the unit as Tract 7?
A. Tract 7. That's correct.
Q. Are all the unleased parties set out in the revised Exhibit #B?
A. Yes, they are.
Q. Prior to filing the application were efforts made to

contact each of the respondents and an attempt made to work out an agreement regarding the development of the unit?

A. Yes.

Q. Subsequent to the filing of the application have you continued to attempt to reach an agreement with the respondents listed in revised Exhibit #B?

A. Yes.

Q. Were efforts made to determine if the individual respondents were living or deceased or their whereabouts and if deceased were efforts made to determine the names and addresses and whereabouts of the successor to any deceased individual respondent?

A. Yes.

Q. Were reasonable and diligent efforts made and sources checked to identify and locate any unknown heirs including primary sources such as deed records, probate records, assessors records, treasurers records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes.

Q. Mr. Baker, in your professional opinion was due diligence exercised to locate each of the named respondents?

A. Yes.

Q. Are the addresses set out in revised Exhibit #B to the application the last known addresses for the respondents?
A. Yes.
Q. Are you requesting this Board at this time to force pool all unleased interests listed in revised Exhibit #B?
A. Yes, we are.
Q. Are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?
A. Yes, I am.
Q. Could you advise the Board as to what those are?
A. A five dollar per acre consideration, a five year term, one-eighth royalty.
Q. Did you gain this familiarity by acquiring oil and gas leases, coalbed methane leases and other agreements involving the transfer of drilling rights in the unit involved here and in the surrounding area?
A. Yes, I did.
Q. Mr. Baker, in your professional opinion do the terms you have testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?
A. Yes.
MR. KAISER: At this time, Mr. Chairman, we'd ask again that

the previous testimony provided earlier in VGOB-97/07/15-0591 regarding the election options afforded the unleased parties and their duties under the order pursuant to those election options we would like to incorporate that testimony.

MR. CHAIRMAN: It's granted.

Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend the force pooling order provide that if a respondent refuses to accept any payment due, including any payment due under said order or any payment of royalty or cash bonus or said payment cannot be made to a party for any reason or there is a title defect in the respondent's interest or in the event of a conflicting claim to the coalbed methane that the operator pay into an escrow account created by this Board into which all costs or proceeds attributable to the conflicting interest shall be held for the respondent's benefit until such funds can be paid to the party either by order of this Board or until the title defect or conflicting claim is resolved to the operator's satisfaction?

A. Yes, I do.

Q. Mr. Baker, who should be named the operator under the force pooling order?

A. Equitable Resources Energy Company.

MR. KAISER: That's all I have of this witness at this time, Mr. Chairman.

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

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

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, you are a production specialist EREC and your qualifications as an expert before the Virginia Gas and Oil Board have been accepted on many previous occasions?

A. That's correct.

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

A. Yes.

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

A. Yes, I am.

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

A. 2,160 feet.

Q. Will this be sufficient to produce from the subject formations including but not limited to all Pennsylvanian aged coals below the Norton Seam from the top of the Red and Green Shells including but not limited to the Hagy Splash Dam, Upper Banner, Lower Banner, Kennedy, Raven, Jaw Bone, Tiller, Upper Horse Pen, Pocahontas-4, Pocahontas-3, Pocahontas-1 and any unnamed coal seams, coalbeds, rock strata or other associated formations known as the Roaring Fork Coalbed Gas Field?

A. Yes.

Q. What are the estimated reserves of the unit?

A. 400 million cubic feet.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Yes, it does.

Q. Would you state for the Board both the dry hole costs and completed well costs for VC-2324?

A. The dry hole costs are $58,500 and completed well costs are $166,500.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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

A. Yes.

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

MR. CHAIRMAN: Questions, members of the Board?

MR. FULMER: Mr. Chairman, just as a technical measure, the plat would need to be changed. It still reflects Kenneth Wampler.

MR. CHAIRMAN: That's what I was looking at.

MR. FULMER: It's down in the corner on Tract 30.

MR. KAISER: I've got EREC leased on all mine.

MR. BAKER: He's the dead spouse of Marilyn. If you want it to reflect Marilyn we can.

MR. FULMER: Yeah. It's correct in the record. If you correct in one place you should correct it in the other.

MR. CHAIRMAN: Just submit a revised plat.

MR. KAISER: Okay.

MR. CHAIRMAN: Anything further?

MR. KAISER: Nothing further of these witnesses, Mr. Chairman. I would ask that the application be approved as submitted with the caveat of submitting a corrected plat.

(Witness stands aside.)

MR. LEWIS: I make a motion to grant the application.

MR. BRENT: Second.

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

ITEM VIII

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Energy Company for the pooling of a coalbed methane unit identified as VC-3673. This is docket number VGOB-97/07/15-0595. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser on behalf of Equitable Resources Energy Company. Our witnesses in this matter will once again be Mr. Dennis Baker and Mr. Bob Dahlin who have previously been sworn. I have a revised Exhibit #B which reflects the additional leases we've picked up.

DENNIS R. BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Baker, could you state your name for the record, who you're employed by and in what capacity?

A. Dennis R. Baker. I'm employed by Equitable Resources

Energy Company as senior landsman.

Q. Have your qualifications as an expert witness on land matters been previously accepted by the Board and do your responsibilities include the land involved here and in the surrounding area?

A. Yes.

Q. Are you familiar with Equitable's application for the establishment of a drilling unit and pooling order for EREC well VC-3673 dated June 11th, 1997?

A. Yes.

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

A. Yes, we are.

Q. Does Equitable own drilling rights involved in the unit here?

A. Yes, we do.

Q. What was the interest of Equitable at the time of the application in the gas estate?

A. At the time of the application the interest leased was 98.582 percent.

Q. What was the interest of Equitable in the coal estate at the time of application?

A. The same interest in the coal estate, being 98.582 percent.

Q. And you have since subsequent to the filing of the application acquired additional leases. Could you at this time please state the percentage of the gas estate that is under lease to Equitable at the current time?

A. The leased interest at the time of hearing is 99.7975 percent. The unleased interest at the time of hearing is .2025 percent. Coal estate interest being the same, leased and unleased, 99.7975 leased and .2025 unleased.

Q. Are all the unleased parties set out in the revised Exhibit #B?

A. Yes, they are.

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

A. Yes.

Q. Subsequent to the filing of the application have you continued to attempt to reach an agreement with the respondents listed in revised Exhibit #B?

A. Yes.

Q. Were efforts made to determine if the individual respondents were living or deceased or their whereabouts and if deceased were efforts made to determine the names and addresses and whereabouts of the successor to any deceased individual respondent?

A. Yes.

Q. Were reasonable and diligent efforts made and sources checked to identify and locate any unknown heirs including primary sources such as deed records, probate records, assessors records, treasurers records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes.

Q. Mr. Baker, in your professional opinion was due diligence exercised to locate each of the named respondents?

A. Yes.

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

A. Yes.

Q. Are you requesting this Board at this time to force pool all unleased interests listed in revised Exhibit #B?

A. Yes, we are.

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

A. Yes, I am.

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

A. A five dollar per acre consideration, a five year term,

one-eighth royalty.

Q. Did you gain this familiarity by acquiring oil and gas leases, coalbed methane leases and other agreements involving the transfer of drilling rights in the unit involved here and in the surrounding area?

A. Yes.

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

A. Yes, I do.

MR. KAISER: At this time, Mr. Chairman, we'd ask again that the election testimony be incorporated from the prior item.

MR. CHAIRMAN: It's granted.

Q. (Mr. Kaiser continues.) Mr. Baker, do you recommend the force pooling order provide that if a respondent refuses to accept any payment due, including any payment due under said order or any payment of royalty or cash bonus or said payment cannot be made to a party for any reason or there is a title defect in the respondent's interest or in the event of a conflicting claim to the coalbed methane that the operator pay into an escrow account created by this Board into which all costs or proceeds attributable to the conflicting

interest shall be held for the respondent's benefit until such funds can be paid to the party either by order of this Board or until the title defect or conflicting claim is resolved to the operator's satisfaction?

A. Yes. That's correct.

Q. Mr. Baker, who should be named the operator under the force pooling order?

A. Equitable Resources Energy Company.

MR. KAISER: That's all I have of this witness at this time, Mr. Chairman.

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

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

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 state your name for the record, who you're employed by and in what capacity?

A. My name is Robert A. Dahlin, II. I'm employed by EREC

as a production specialist.

Q. Have your qualifications previously been accepted by the Virginia Gas and Oil Board as an expert witness?

A. Yes.

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

A. Yes.

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

A. Yes, I am.

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

A. 1,843 feet.

Q. Will this be sufficient to enable the operator to produce from the subject formations including but not limited to all Pennsylvanian aged coals from the top of the Raven Cliff and splits to the top of the Green and Red Shells including but not limited to the Raven, Jaw Bone, Upper Horse Pen, Middle Horse Pen, War Creek, Bekley, Lower Horse Pen, Poco-8, Poco-4, Poco-3, Poco-1 and any other unnamed coal seams and other associated formations known as the Nora Coalbed Gas Field?

A. That's right.

Q. What are the estimated reserves of the unit?

A. 300 million cubic feet.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Yes, it does.

Q. Would you state for the Board both the dry hole costs and completed well costs for VC-3673?

A. The dry hole costs are $73,089 and completed well costs are $174,500.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

Q. Mr. Dahlin, in your professional opinion will the

granting of the application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

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

MR. CHAIRMAN: Where is this located? It's in the Vansant Quadrangle, Buchanan County?

THE WITNESS: Right. It's up in the area where we will be coming -- it's in the area where we've been developing towards the OXY side that we've been discussing here in the past few months.

MR. CHAIRMAN: 60 acre or 80 acre?

THE WITNESS: 60.

MR. CHAIRMAN: Is it in the area that's subject to discussion later today? That's the reason I'm saying the 60 acre/80 acre really the whole discussion about?

THE WITNESS: Right. It's in the overlap area.

MR. CHAIRMAN: Which well does it represent in that overlap area since the Board approved it?

THE WITNESS: There's no well numbers indicated on this exhibit.

MR. CHAIRMAN: Are any of the others -- in that area you're pointing, are any of those other wells approved?

MR. KAISER: No. They could be subject to --

MR. CHAIRMAN: Right. What I'm getting at is this is the first well.

MR. KAISER: Right. This is the first well.

MR. CHAIRMAN: That's what I want to make sure of.

MR. FULMER: Mr. Chairman, with that in mind you might want to combine the last item because that's what it concerns.

MR. CHAIRMAN: That's the reason I was getting at that, is whether or not we wouldn't be better just to put this on hold right now and then discuss the last item and then come back and decided this one way or the other.

MR. KAISER: My position would be that even if you were to state -- I think we have good arguments as to why we want to modify the language in that provisional order. But even if you were to make the decision to keep the language the way it is we're still allowed to permit and drill one well. And that would be this one.

MR. DAHLIN: So either way.

MR. LEWIS: In the 80 acre?

MR. KAISER: In the 60 acre.

MR. LEWIS: I mean, if we decided it needed 80?

MR. CHAIRMAN: Well, right now we've given them a provision for 60 based on them drilling one well at a time, reporting back to us the detail of that information, and then us making the decision on how to adjust -- if

that's a good word -- these boundaries where the 60 acre and 80 acre butt against one another.

MR. FULMER: This is a good opening, I guess, but on the last part -- and some of my questions involved the development of the 60/80 unit and the provisional -- how is the production going to be treated from it? How is it going to be allocated out even though it is a provisional order and then that would be subject to the Board's later decision of whether it would be 60 or 80 acres. So that's where I see that this is appropriate.

MR. CHAIRMAN: Of course, his point was we've already granted one. This is the one. That's what I was getting to -- building the testimony toward, is that this the first one. Do you have anything further?

MR. KAISER: No. A point I'll make later but maybe should be made now is given the provisional nature of the order the Board is going to be able to fashion -- that reliefs the spacing in whatever fashion they chose to do.

MR. LEWIS: Is this in Buchanan County?

MR. KAISER: Yes.

MR. LEWIS: You all butt that up against it there?

MR. DAHLIN: We go across the county line adjoining by the other acreage.

MR. CHAIRMAN: They've got Oakwood Field Rules adjoining the

Nora Field Rules. One is 60 acre and the other is 80 acre.

MR. KAISER: Right. We're going to get further into that on Item XIV.

MR. CHAIRMAN: Okay. Do you have a recommendation? You'll amend the file accordingly?

MR. BAKER: Yes.

MR. CHAIRMAN: Anything further?

MR. KAISER: No. Mr. Chairman, we'd ask that the application be approved as submitted in the caveat that an address is added to Larry Lockhart -- a revised Exhibit #B to reflect Larry Lockhart's interest.

MR. KING: I so move.

MR. CHAIRMAN: How was Lockhart noticed? Do you have that?

MR. KAISER: Yes.

MR. CHAIRMAN: You're just not sure whether you've got a leased or unleased party here.

MR. BAKER: I think we have an address for him. It just didn't make it on here because we do show him being a leased interest.

MR. KAISER: Right.

MR. LEWIS: So it's subject to being leased?

MR. CHAIRMAN: They said it was subject to them amending the record to clarify that.

MR. KAISER: Yeah. We'll submit a revised Exhibit #B to

reflect that.

MR. CHAIRMAN: A motion to approve has been made.

MR. BRENT: Second.

MR. CHAIRMAN: Second. Further discussion? All in favor signify by saying yes. (SOME AFFIRM.) Opposed say no. (ONE ABSTAINS.) One abstention. It's approved.

ITEM XII

MR. CHAIRMAN: The next item on the agenda is a petition from Equitable Resources Energy Company for the pooling of a conventional gas unit identified as V-2540. This is docket number VGOB-97/08/19/0599. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. WILHOIT: Mr. Chairman and members of the Board, my name is Tony Wilhoit. I'm here on behalf of Equitable Resources Energy Company for it's application for force pooling order on conventional well V-2540. The two witnesses I have to present to you have been here all day and were sworn in and their qualifications have been accepted. So I'd ask that the --

MR. CHAIRMAN: We'll stipulate that.

MR. WILHOIT: Thank you. I'd first call Dennis Baker.

DENNIS R. BAKER

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

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Baker, are you familiar with Equitable's application for the drilling order for EREC well V-2540?

A. Yes, I am.

Q. Does Equitable own drilling rights involved in the unit here?

A. Yes, we do.

Q. What was the interest of Equitable within the unit?

A. The interest in the unit leased to EREC at time of the application is 86.35 percent.

Q. What was the percentage of unleased ownership?

A. Unleased portion at the time of application is 13.65 percent. And that is also the same percentages for at the time of hearing. There are no new leases.

Q. No revised Exhibit #B?

A. No.

Q. Are all these unleased parties set out on Exhibit #B?

A. Yes, they are.

Q. Have you made diligent efforts to locate all of the respondents listed on Exhibit #B as unleased owners?

A. Yes, we have.

Q. In your opinion was due diligence exercised to locate each of the respondents?

A. Yes.
Q. Are the addresses on Exhibit #B the last known addresses for those respondents?
A. Yes, they are.
Q. Are you asking the Board to force pool all unleased interests listed on Exhibit #B?
A. Yes, I am.
Q. Are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?
A. Yes, I am.
Q. Could you advise the Board as to what those are?
A. A five dollar per acre consideration, a five year term, one-eighth royalty.
Q. Are you asking the Board to issue one of it's standard orders regarding notice, escrowing of funds and the elections due to respondents?
A. Yes, I am.
MR. WILHOIT: Again we would want to incorporate the previous testimony, Mr. Chairman.
MR. CHAIRMAN: It's admitted.
Q. (Mr. Wilhoit continues.) Who should be named the operator under the force pooling order?
A. Equitable Resources Energy Company.
MR. KAISER: That's all I have of this, Mr. Chairman.
MR. CHAIRMAN: Any questions, members of the Board?

(Witness stands aside.)

MR. CHAIRMAN: Call your next witness.

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, you are still under oath. Are you familiar with the proposed exploration and development of the unit involved here under the application?

A. Yes.

Q. What is the total depth that you propose to drill?

A. 5,175 feet.

Q. Will this be accurately test the source of supply that you're looking for?

A. Yes.

Q. Do you want this force pooling application for conventional gas reserves not only to include the designated formations but any other formations excluding coal formations which may be between those designated?

A. That's correct.

Q. Is this a legal location?

A. Yes, it is.
Q. What are the estimated reserves?
A. 600 million cubic feet.
Q. Has an AFE been prepared, reviewed, signed and submitted to the Board?
A. Yes.
Q. What are the dry hole costs?
A. $149,200.
Q. And the completed well cost would be?
A. $275,100.
Q. Is this a multiple completion?
A. Yes.
Q. Does it include a reasonable charge for supervision?
A. Yes.
Q. In your opinion will the granting of this application be in the best interest of conservation, prevention of waste and the protection of correlative rights?
A. Yes.
MR. WILHOIT: That's al I have of this witness.
MR. CHAIRMAN: Any questions, members of the Board?
MR. BRENT: Did you say 600 million?
THE WITNESS: Yes, sir.
MR. CHAIRMAN: What life do you expect that to be?
THE WITNESS: We would expect this one to probably be fully drained before 20 years. It's on the Buck Knob

Anticline. It's highly fractured and it's a very high perlific rate area. It would be a shorter lived, higher production well.

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

(Witness stands aside.)

MR. WILHOIT: We'd ask that the application be approved.

MR. LEWIS: I make a motion to approve the application.

MR. CHAIRMAN: A motion to approve.

MR. BRENT: I second it.

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

MR. WILHOIT: Thank you, Board.

MR. FULMER: Mr. Chairman, if you want to go ahead and take on the last item then I can -- since they're already at the table.

MR. CHAIRMAN: Okay.

MR. CHAIRMAN: The Gas and Oil Board will consider recommendation from staff for further consideration or clarification of the Board's decision for docket number VGOB-93/03/16-0348-02 which was acted on by the Board at it's May hearing. Mr. Fulmer.

MR. FULMER: I'm going to be a little bit brief on this one. My main concern on this order was at the time, since it is a provisional unit, if it went into production, how that production is going to be allocated, whether that production should be escrowed because if the Board should chose to go to a 60 acre versus an 80 acre it is -- then you would have to expand your interest. That was one concern I had. The other concern basically -- I mean, I just want to know how the Board felt on this since I was not here at the time of the hearing. Also the provisional unit I understand is one well and I was trying to figure out what the purpose of just the one well was on a well by well basis if they're determined -- if they're trying to determine the extent of the field. That is almost -- there's two ways to approach this. One is the example that OXY gave when the Oakwood I Field was established. There was a large majority of geological information given plus gas

content figures given and so forth in the absence of drilling wells. The other way you figure out the extent of a field is to drill wells, mostly from the perimeter out. Any my question was what was the intent of the Board at the time that they wanted to allow the provisional order. It needs more clarification than it is anything to myself so I can understand once the Board moves forward with these others.

MR. CHAIRMAN: Did you have testimony you want to present?

MR. KAISER: Yes. We've got witnesses available. I just kind of wanted to -- let me pass this out, too, which the language that we would propose from Paragraph 8 of the provisional order and sort of go through the reasons that we would like that paragraph to be reconsidered.

MR. CHAIRMAN: Tom, let me ask you one thing before we get into this. Is it your opinion that there's enough information out there now that can be brought before the Board to make a decision on whether or not this perimeter area should be 60 acres or 80 acres?

MR. FULMER: Yes. In my opinion, yes, there's information on both the Oakwood side that's available and information of what wells have already been drilled on the other side. So you've got information on both sides and you're looking at a middle section that there -- in

opinion and looking at all the information and data that was done in Oakwood it will not vary that much. I mean, it would not be a drastic change unless there's some kind of structural change that is evident there.

MR. CHAIRMAN: Do you have an opinion regarding which you think it should be based on the information that you have, whether it should be a 60 acre or an 80 acre unit?

MR. FULMER: As of right now the only concrete information that the Division has within the Board's data base is what was presented in the Oakwood case which went into extensively to gas content per acre of coal that exist, the geological structures that the Oakwood I Field was based on -- the Oakwood Field was based on. That information is in the Board's possession that we are a caretaker of.

MR. KING: Where is this exactly, Mr. Chairman?

MR. CHAIRMAN: You have a map there, I believe? Tom had the field rule maps before.

MR. FULMER: I have to apologize. I forgot to bring them. Basically -- well, the area that you're talking about in the original Oakwood order --

MR. CHAIRMAN: Can we help you hold it up and you can talk from up there so people can see it?

MR. FULMER: Is that any better?

MR. CHAIRMAN: Yes.

MR. FULMER: The original Oakwood Field order, if you can remember back, this was the -- I guess it would be the southeast corner basically.

MR. KING: Of Oakwood?

MR. FULMER: Of Oakwood. This right here. This was added on later.

MR. KAISER: Don't forget that Nora predated Oakwood.

MR. FULMER: I'm not going to do that. The Nora Field order came first. It's not shown on here but there was a line over here on this section and it went all the way basically to the West Virginia/Kentucky line. The Oakwood order was a block that was set in here that basically -- this was the western edge of that block and this would have been the southwest point. Subsequently orders -- Pocahontas Gas Partnership, Consol or OXY at the time came in and requested -- what got requested was this extension which went out to here and all the way down to here.

MR. KING: And that's for Oakwood?

MR. FULMER: That was for the Oakwood. Subsequently EREX has been before the Board -- EREC. It's not an X anymore. It's a C. EREC came in and requested that this portion here be put back into the Nora Field and this remain in the Oakwood Field. What I understand,

[illegible] came back in again in May and they requested this area here be put back into the Nora Field. Now, my point is there is information available here. I don't know how much information would be available from EREC on this point. But there was a lot of data given to the geological structures and so forth in this area, the amount of coal that lays in here and the amount of available coal seams for coalbed methane production. My only point is if you did one well and asked for that information and that's what you're going to use to determine this you're not going to be able to do it in any shape or form.

MR. KING: How many acres are involved?

MR. KAISER: It's 1,407 acres.

MR. FULMER: Now, my other point is if you're on a 60 to 80 acre provisional unit there is some escrowing involved in this particular unit. If you escrow it do you escrow that money on a 60 acre basis or do you escrow it on an 80 acre basis? Because if it turns out to be 60 acres and that's what the Board determines it to be, 60 acres, then the interest is going to be divided on 60 acres. If it's determined to be 80 acres then what production has been derived from that well would be on an 80 acre basis but that interest is not reflected in this petition. That's the only clarification from my

point.

MR. KING: Where is it exactly in Buchanan County?

MR. FULMER: What's the landmarks? I don't know what the landmarks would be.

MR. DAHLIN: County line (Inaudible.)

MR. FULMER: This is down in the Hurricane Creek area.

MR. DAHLIN: That's correct.

MR. FULMER: If you're familiar with that. It's Deskins, down in there, I believe.

MR. CHAIRMAN: Thank's Tom. Go ahead. You may go ahead.

MR. KAISER: Mr. Dahlin, do you want to address for the Board what evidence we have presented? I know that we presented some evidence on the first modification back in September and then when we came before the Board the first time on this in May Mr. Fulmer was not here. He had to be elsewhere and hopefully that's the basis of his comment, that there wasn't any evidence on that is the fact that he wasn't here. But maybe he's not looked at the record. If Mr. Dahlin at this time, before I get into the points I would like to make, could address the evidence that was presented at the May hearing or at least rehash it.

MR. DAHLIN: Tom made a couple of statements, I guess, that basically we are in agreement with also. We will take the position that there is sufficient information to

by that we know that 60 acres is the appropriate size. That's what we put on in the testimony when Tom was not here. He made reference to unless there was some structure controlling this and that's what we feel is precisely what's controlling this. We do have the wells drilled now adjoining that to the south that we do have gas contents taken on -- the same data that OXY presented -- and we find a strong correlation between our gas contents and our field and further to the history matching, reservoir simulation and modeling that we have completed that was the basis of my testimony adjoining into the southwest. The only issue -- and what we propose this new wording to accomplish -- is the definition of that particular structure that would make it defined or bounded so that it was an extension of our field. That's why we have now placed these orange dots out here that's in front of you to test the extent of the acreage and the extent of the structure that we feel is there. We feel that the perimeter wells -- we know it's going down structure in that direction. We feel that that's going to be at a low enough structural elevation to define the anticline in that area. That's the only thing that will tell us what the boundary might be on the particular structure that -- like Tom is guessing that might control the

mechanism that produces the methane in here. And that's exactly what we feel. That's why the first well we were talking about earlier is on the crest of that anticline. We also agree that that won't yield enough information to define the boundary. Just as a matter of discussion -- that's why I'm just kind of laying that out and our thought process out in front of Tom here now since he wasn't at the hearing when we did put on the testimony. But, again, to reiterate, I do feel that we have got the most late information and study that is available. We have got our reservoir modeling. Our simulation -- our history matches are great between here on our other structure to the southwest. And our gas content is the same -- in the same range. That was our feeling and wee presented that 60 acres was appropriate. Again, unless you find the boundary by drilling we're not going to have the complete information that you'd need to make a conclusive size on the unit. This is what we worked out to provide the information that would be required.

MR. KAISER: Mr. Chairman and members of the Board, if I might add and make some comments pretty much in congruence with Mr. Fulmer and at the risk of sounding presumptuous which I don't want to sound, I think it may be safe to say -- I'd like to hear your all's

thoughts on this. The Board's goal or charge or task here is to have before it enough technical data in evidence to determine what the proper spacing in this overlay area is, one, and two, just importantly to protect correlative rights of the mineral interest owners within that area. We feel that our proposal will enable the Board to reach both those goals. First of all, as Tom said, if we go on a one well, well by well basis, it's not a prudent or efficient way for us to determine the appropriate spacing within this area and will not provide the Board -- it's redundant essentially. It will not provide the Board with enough technical data to be able to make a prudent and well reasoned decision as to the spacing in that area nor would it obviously serve our purpose because it would essentially take us probably eight or nine years to develop that 1,400 acre area. On the issue of correlative rights, let's keep in mind that the nature of this order -- or the scope of this order is provisional in nature and it's not static or flexible and the Board would be able to -- once this addition technical data is provided we'd be able to shape the relief regarding correlative rights in any manner that they wanted to. I know that in discussion with Equitable's inhouse counsel that the Board has our assurance that should

the -- and obviously even fashion the order to require this, but should the evidence that eventually and finally determines that 60 acres is not the proper spacing and that it's 50 or 70 or 80 that only will Equitable pay the royalties on the different spacing but would pay any areas of overlap from each well -- in other words, from each unit. So that, I feel, would protect the issue of the correlative rights of the mineral interest owners within the 1,400 acre area. So I guess what I'm saying is we feel like our solution or our language or our method of developing this area would serve everybody's goal in the efficient production and conservation and protection of correlative rights.

MR. CHAIRMAN: Are those six wells that you've identified -- and you may have said this and I may have missed it -- are you representing to the Board that once drilled that that would provide the technical information?

MR. DAHLIN: Those wells were laid out in a fashion to define the extent of the structure that we feel is controlling. We had presented two different versions of a subsurface structure map. The drilling of VCP-3431 which is on the very boundary had made us redefine the anticline that we were developing in this area. And we feel that those wells and their pattern should

define the rate of slope on that structure. In other words, to define what producing pool it will be.

MR. KING: Are these squares 60 acre squares?

MR. DAHLIN: Yes.

MR. KING: And then the ones up here that surround it are 80, right?

MR. DAHLIN: That's right.

MR. KING: How do you propose if we did this in 60 acres that you'd panel these little sections?

MR. KAISER: That's what I was addressing in my comment about overlap areas. We'd have to double pay those which we've done in the few instances where we've been in this situation in the past.

MR. KING: I move we approve, Mr. Chairman.

LADY IN AUDIENCE: Mr. Chairman, may I ask as a spectator back here where this area exactly is?

MR. FULMER: It's down near Hurricane Creek.

LADY IN AUDIENCE: And you said it was extending to -- did you say Deskins?

MR. FULMER: No. Down in the Deskins area. Trying to define where this isolated it's down toward Hurricane Creek next to the county line. I'm trying to figure some landmark. That's the only thing I can come up.

LADY IN AUDIENCE: Well, that's what I was interested in, knowing was where did it extend to. Does this extend

to Deskins?

MR. FULMER: No.

LADY IN AUDIENCE: Because if so then I have an obvious interest in it.

MR. FULMER: No.

MR. CHAIRMAN: Mr. King, you're proposing that we accept this modified language as well?

MR. KING: Right.

MR. CHAIRMAN: Tom, you asked that this be brought up. Do you have any questions or anything that you think is unanswered at this point?

MR. FULMER: Well, again, the question I have is if the wells go into production which in some circumstances if you do a testing on it for whatever reason and then it goes into production, if the Board should come back and determine it shouldn't be 60 acres and it should be 80 acres then you run into the different interests and those people haven't been notified in this 60 acres. I mean, you have some people that are unknown. But if you had to expand out to 80 acres --

MS. RIGGS: What would happen at that point is you would have a modification of the drilling unit under 45.1-361.20 and you would have to go through a proceeding to modify the drilling unit and notice the expanded area. And from what I thought I understood is that they would

[illegible] language in the order that would provide that if that were to happen and other people were included that were not originally included that they would pay retroactive back to the time of production for the increased area plus they would pay any overlap where the 60 and 80 acres left a gap. Is that --

MR. KING: That was my understanding.

MR. KAISER: That's accurate, Mr. Chairman.

MR. BRENT: Mr. Chairman, I'm not sure I understand how what they're proposing here today is materially different from what we've passed before. They're talking about seeking permits to drill as many as six wells over a two year period?

MR. CHAIRMAN: Yes.

MR. BRENT: How is that precluded in the orders we've passed before?

MR. KAISER: It's all based upon timing. Do you have a copy of the --

MR. BRENT: I don't have a copy of that.

MR. KAISER: I can go ahead and read it, Mr. Chairman.

MR. CHAIRMAN: That's fine.

MR. KAISER: This is -- Sandra drafted one and then, I think, conferred with Tom and there was a second draft of that. I will read the latest second draft. Paragraph 8 states, "A unit operator may seek a permit

to drill one well to be located within any drilling unit contained within subject lands pursuant to the Nora Field Rules. However, no unit operator shall be entitled to apply for a permit to drill any subsequent well proposed to be located with any other drilling unit lying within subject lands unless and until said unit operator first appears before this Board and presents it's plan of exploration within subject land the total number and location of wells said unit operator proposes to drill within subject land as well as all available technical data and evidence pertaining to subject land including but not limited to said operator's reservoir modeling and structural features underlying subject land's coal thicknesses encountered and gas in place or gas content." We have evidentiary wise -- and I'll let Mr. Dahlin, our operations expert, explain to you what that does to us time wise.

MR. CHAIRMAN: And the difference wise well by well versus six wells.

MR. BRENT: Yeah. That part I understand. I am just not aware of how cumbersome analyzing these well by well is as opposed to six at a time.

MR. DAHLIN: Dennis is our land person that's involved in the coordinating or clearing the locations. He can give some estimate on how long each one of them takes

prepare for drilling. With that ground work then we've got to budget it, work it into our individual yearly drilling program. Once we schedule it it may be in the follow year's program. Then we would have to drill the well, take cores, have the cores taken out and then have desorbtion tests run on them which takes a matter of months. So, you see, just coordinating the first well, the gas desorbtion process you're already looking at probably the following year for the second well. And what really kind of nails us down there is that it doesn't really tell you what the controlling feature was at that point. So you're looking at the following year's drilling program to come back to with the second well. And we feel that that really didn't afford us a way to develop the area very efficiently. So that's basically it in a nut shell. I don't know how long --

MR. BAKER: Right now if we have a well location from the time it is proposed -- from a spot on the map until it's actually permitted and drilled the minimum time frame is about 90 days to 120/150 days if there's any kind of hearings that have to take place, performing the diligence in trying to lease properties, applying for the permit, getting coal approvals through coal companies and things like that, just the time frame

alone is something that -- probably two wells a year is about max under the current time frame. So by having the ability to six you can send six in for coal approval, you can get six of them surveyed and you kind of do everything in a timely manner.

MR. CHAIRMAN: Anything further?

MR. BAKER: Did that answer your question?

MR. BRENT: I think so.

MR. CHAIRMAN: We have a motion. Do we have a second?

MR. BRENT: Tom, did you hear my question to them and their answer to it?

MR. FULMER: What was it?

MR. BRENT: I was simply asking --

MR. FULMER: The one well versus --

MR. BRENT: Six and the timing and how cumbersome it is to report back on one well. Did you hear their response to that?

MR. FULMER: Their's having to do with the drilling program and how it works out. If you going to determine -- if I consider this a very small area to determine bases. But if you're going to determine a structure then you want to determine that structure as quickly as possible because that will determine whether you're going to drill any other wells.

MR. DAHLIN: That's exactly right.

MR. FULMER: It's a -- I don't want to call it an economic thing, but it's either the choice between losing money and making money.

MR. BRENT: So it's your opinion that it's in everyone's best interest to adopt their language for Paragraph 8?

MR. FULMER: No. I'm not going to support what they're saying. My question was if you're going to determine an area I know there's available data already existing that the Board has used in prior instances in the past within the last six or seven years and that data is still there.

MR. CHAIRMAN: To support the 80 acres --

MR. FULMER: To support 80 acre units. Now, that what was what was given. As I understand, Equitable is coming before you wanting 60 acre units and they are saying to you, "We need to drill wells to determine the information that we could give you to say it's 60 acres."

MR. DAHLIN: Could I?

MR. CHAIRMAN: Sure.

MR. DAHLIN: What we have tried to do here with these six wells is lay out an answer for what was the response from the last hearing. The main thing I would like to emphasize -- and this again was at the other hearing, that there's nothing going to happen here but increased and advanced development of this area. We're just

going to develop it on an increased density. So we'll be producing the reserves and the correlative rights and the people whose interests are going to be served will be better served quicker by more wells. I don't really see our problem in defining which of the two is more appropriate if both may be somewhat appropriate.

MR. KAISER: Given the fact that the order is provisional and the Board can fashion whatever spacing they want to.

MR. LEWIS: This is the way I look at it. Mr. Fulmer says there's enough data out there and enough history on these wells that you could have brought it in here and showed us that we should switch these from 80 to 60. But I can't see you just switching back and forth from 60 to 80 and from 80 to 60.

MR. KAISER: Well, they were switched back and forth once.

MR. LEWIS: I know but that --

MR. KAISER: This whole field was in the Nora Field at one time which was established pursuant to technical data.

MR. LEWIS: You just can't switch it back and forth just to suit someone.

MR. KAISER: Well, that's not what we're doing.

MR. DAHLIN: Right. Again, there's nobody being hurt by this. Our information -- I think this is very important. This is state of the art engineering work that

very few of the companies have done. We have history matched actual production, not a calculated in the ground gas content per seam. This is actual producing history that we've got -- not only our company but our support companies, reservoir modeling companies have looked at. They've helped us develop this. We feel that we've got by far way better and more recent data -- and I might add, we've had general discussions with our adjoining friends back here and they don't have a problem with our development in this manner in an escalated rate.

MR. KAISER: And I think we have provided data. I mean, not only the Frying Pan modeling but wells that have been drilled -- the last four or six wells that have been drilled since September on this structure. I'm not once again trying to cast aspersions or enpuen anything, but I think that this data is certainly as complete and as whole as the data that was presented when this part of Nora went from Nora to Oakwood if you review the transcript. And once again, I think the key point is that the Board has the ability to order us to get this data that will enable them make a prudent and rational decision on the spacing in this area and then make us do whatever you think is appropriate. We've represented that we'll protect the correlative rights

and you can order us to do that as far as the payment of royalties in overlap areas and if the size of the units are deemed to be greater than 60. So to use an old popular phrase from the seventies or eighties, "Where's the beef?"

MR. KING: That was part of my motion, Mr. Chairman.

MR. CHAIRMAN: That they cover the overlap area?

MR. KING: Right.

MS. RIGGS: It probably is helpful to review where we are in the context of this particular application. It has come on for hearing and has been heard and voted on once. The provisional nature of the area has already been created. We have gone from 80 acres to 60 acres provisionally. The only issue we're talking about here now is the well by well as opposed to allowing them to develop the structural anticline area by drilling the six wells under the provisional nature of the order together with their agreement that they will protect all correlative rights by paying either way so that nobody is harmed by it. So we're not now talking about 60 versus 80. You've already voted 60 provisionally. We're talking one well versus six wells.

MR. CHAIRMAN: Right.

MR. BRENT: I'm not trying to be an obstructionist. Let me just keep taking a whack at this thing. I want to get

it right eventually.

MR. KAISER: We want to get it right, too. But we have to have enough data, I think, to present to you in order for you to be able to do that.

MR. BRENT: Mr. Chairman, I second Mr. King's motion.

MR. CHAIRMAN: We have a motion and a second. Further discussion? One thing we're discussing is the location of these wells. The one today before is located. What about the other five? Are they located? I know we've got the dot.

MR. KAISER: As of right now those locations -- what we want to do also is test the perimeter of the structure. As to whether or not these locations will be exactly where they are now, I mean some of it may depend upon topography and coal considerations. But it would be our goal to keep them obviously for testing purposes -- to test the extent and the size of the structure to keep them as congruent with what we've got here as possible.

MR. CHAIRMAN: So within the need to do this testing of these six wells you'll stay 100 percent in compliance with the Nora Field Rules?

MR. KAISER: Absolutely.

MR. CHAIRMAN: Further discussion? I have a motion and a second. All in favor signify by saying yes. (SOME

AFFIRM.) Opposed say no. (ONE ABSTAINS.) The motion carries.

MR. KAISER: Thank you.

ITEM XIII

MR. CHAIRMAN: The next item on the agenda is considering a recommendation from staff to dismiss previously issued orders which have expired. Tom will hand out the papers. (Pause.)

MR. FULMER: I've got some extra copies here if anybody wants to get a copy. I hope everybody will share. Mr. Chairman, if you remember last time in June I came before the Board with a spread sheet in regard to Board orders.

MR. CHAIRMAN: Yes.

MR. FULMER: At that time I testified to the Board that I was not 100 percent sure of the accuracy of this document and I will tell you right I'm about 99 percent sure. But we're dealing with quite a few years of records. This is the latest version as of yesterday afternoon. However, I need to go with you on some late items that were submitted. Just to finalize to make it more even, in docket 70, if you go down the list on the first page it will say EH-27 there was no supplement. That supplemental has been filed. On Page 2, under 140 it says no supplemental. That supplemental has been filed. So it is in the process. On Page 4, under 314 it should be EH-14, that supplemental has now been

filed. On Page 5, docket numbers 450, 451, 452, all those have been filed. So they are in the process. Previous to today's hearing in regards to this spread sheet we submitted a letter -- sent out a letter to the unit operators listed in the spread sheet in regards to -- the first letter was in regards to give them notice that the staff was going to come before the Board to ask for dismissal for certain orders and they were asked if they would like to appear to give testimony and so forth on that recommendation from the staff. The second one is a letter that we sent in regards to the failure of the unit operators to supply supplemental orders. That is really not up to date. It's up to the 20th. Today our main purpose is to recommend dismissal orders. To let the Board understand, we have Board orders and supplemental orders that are still in file in the county in the grantor/grantee log against the property. We think it's prudent to go ahead and dismiss those so that they will be off the record and don't show up as being a form of lien against that particular property.

MR. CHAIRMAN: That will be a subsequent order that we would issue to actually dismiss these.

MR. FULMER: Dismiss those orders. So that's why I'm before the Board today on these recommendations. I'll go down

through the list. Of course, the black lines are the ones I've highlighted that are in the -- we're going to recommend be dismissed. The first one is order 15 that was done in 1990. This well was never drilled. So the order was not fulfilled. Order 41 and 42, in one case the well was not drilled. In the second case all the parties have now been leased. Note that that is a conventional gas well versus a coalbed methane well. Order 122 which was for the V-32, that well was not drilled. We're recommending a dismissal on that particular well. On Page 2, Order 144 which was for unit T-7, that well was never drilled. We ask for a dismissal on that particular order. Order 155 which was for W-12, again, that well was not drilled. The order was not fulfilled. Requirements of the order was not fulfilled. Order 173 and 174 for U-29 and U-30 units, there was not a well drilled in those particular units during the time frame of the order. Order 208 for A-38, that well again was not drilled. On Page 3, this particular order is marked here as being dismissed. This particular well or unit was, I think, reapplied for under a different order of the Board and at the time -- I've got a note there, "See Order 458." That was repooled by Equitable at the time. And here we're recommending that that order be dismissed. On

Page 4, Order 322 which was for the V-2692 unit, a conventional well, again all parties were leased under that order. Therefore, it became a voluntary unit. Order 332 which was V-2735, that well was not drilled. Now, you notice in this one I've got dismissed and disbursed. There are moneys in escrow on this particular one. It's a very small amount. It's probably bonuses that was in there. Order 371 which was for the T-289C, the well was not drilled. We're recommending a dismissal on that one. On Page 5, Order 377, here again all parties were leased and it became a voluntary unit. Order 395 for the V-2706, here again all parties were leased. It became a voluntary unit. Orders 405 and 407, these are two Ashland Exploration, wells were not drilled in either case. However, there was a small amount of money deposited for the XXX-34 that the escrow agent is holding. Orders 446 and 447, in the case of 446 all parties have been leased and therefore it's a voluntary unit. In the case of VC-3174 the well was not drilled. Therefore, I'm asking for a dismissal. Order 474 for the VC-3225 the well was not drilled. Therefore, we recommend a dismissal. Order 477 for the V-3193, the well was not drilled. Order 479 for VC-3230, the well was not drilled. Order 492 for VC-3225, again the well was not drilled. So here

a small amount of money was deposited, I guess, in bonus, rentals and so forth for that particular one. Those are the ones that we recommend to the Board for dismissal.

MS. RIGGS: I'd like some clarification because I'll be the one drafting the orders of dismissal. With respect to the conventional units that indicate all parties are leased which means it's a voluntary unit, I am sure the original order did two things. It first created the unit and then it pooled the unit. So what we're dismissing is the pooling only, not the order as relates to the creation of the unit. What we're talking about here is dismissal of the pooling for failure to drill the well within the 365 days time frame, not dismissal of the order as it relates to the creation of the unit itself which formed the basis then of the voluntary unit. With respect to the units where moneys are on deposit with the escrow agent, probably bonuses, are those all conventional units?

MR. FULMER: No. One's a coalbed methane.

MS. RIGGS: How are you going to disburse those moneys? Who are you going to disburse them to? It would seem to me that we could enter an order dismissing the pooling for failure to drill within a time certain but leaving the order alive for purposes of escrow until such time as

the entitlement to the bonus is determined. I don't know how you can disburse at this point or who you would disburse to.

MR. CHAIRMAN: You don't have a basis of who to pay.

MR. KING: You're going to have to find out how you want to do it, that's for sure.

MS. RIGGS: What we're saying is that it's no longer subject to force pooling but as to moneys already earned and in escrow the order would still control the ultimate disbursement. Is that right?

MR. FULMER: Yeah. But I think you're going to have that question for eternity.

MS. RIGGS: Yes. That's very possible.

MR. FULMER: I mean, it's an item.

MR. KING: It is very much money?

MR. FULMER: No.

MR. KAISER: If it's a conventional it could be because of unknown and unlocatables.

MR. BAKER: We have one clarification to Mr. Fulmer's list. That's Page 5, at the top of the page, Order 0377, Equitable Resources Energy Company, well V-1835, in my letter to Mr. Fulmer dated August 4th we recommended that that be retained rather than dismissed and our explanation was that there are two unleased respondents, one of which didn't make a timely election and

did not enter into a voluntary lease and agreement with Equitable Resources Energy Company. Therefore, they're deemed to have leased to Equitable Resources Energy Company and we recommended that he order be retained.

MR. KAISER: You don't have a voluntary unit situation. They're not all leased. There is still one party that is not leased.

MR. BAKER: Yes. So our recommendation was to retain that.

MS. RIGGS: The well was drilled?

MR. BAKER: Yes.

MS. RIGGS: And a supplemental order has been filed?

MR. BAKER: Yes.

MR. FULMER: As I understand it, this one would be an internal escrow.

MS. RIGGS: Are we talking about --

MR. FULMER: This is a conventional well.

MS. RIGGS: -- conventional unit with no unknowns or unlocatables.

MR. FULMER: Right. They have one determined deemed to have leased.

MS. RIGGS: Well, that would be correct because the only thing you escrow in a conventional unit is unknowns and unlocatables. So that would be correct.

MR. CHAIRMAN: Right.

MR. KAISER: Could you dismiss the order?

MS. RIGGS: But you would still have -- the order creates the lease terms. So the order has to stand.

MR. KAISER: It has to stay in effect.

MR. CHAIRMAN: Yeah. We agree with that.

MS. RIGGS: Or the deemed to have leased terms.

MR. CHAIRMAN: If you take the order away you take away the basis for the --

MS. RIGGS: The deemed to have leased. Right. Okay.

MR. CHAIRMAN: Anything further?

MR. FULMER: Just one other thing other than what I've asked for dismissal here that I want to bring to the attention of the Board. In regards to Ashland Exploration, there are several orders here that are still existing for Ashland. Ashland formed a subsidiary group called Blazer Energy and we have transferred all the wells over from Ashland to Blazer Energy.

MS. RIGGS: The permits?

MR. FULMER: The permits. Therefore, the unit operator is not changed. It is still Ashland. There's no petition before the Board -- or it just has come before the Board to change the unit operator from Ashland to Blazer. Now, to complicate matters a little bit further, Blazer Energy has been sold to Eastern States.

MR. CHAIRMAN: We need to set it on the docket.
MR. FULMER: Yeah.
MR. KING: Mr. Chairman, a matter of clarification, those that have been deemed to totally leased, do we have any control over how the money that is in escrow is disbursed?
MS. RIGGS: If it's a conventional drilling unit and they have a deemed to have leased party then unless they're unknown and unlocatable -- if it's unknown and unlocatable their moneys will go into escrow. If they are known and locatable then their moneys get pain in accordance with the deemed to have leased provision. If it's coalbed methane where you have conflicting claims of ownership then you also escrow the conflicting claims until such time as the ownership is determined. So you could have unknowns, unlocatables or conflicting claimants in the escrow. And the way those moneys ultimately get disbursed is either by court order or by agreement between the conflicting claimants, like the 50/50 split we had between Garden Realty and MacRae. So, no, we don't control to whom the money goes. We only disburse in accordance with that determination being presented to us.
MR. KING: Even though it says all parties leased --
MS. RIGGS: Well, that's not a deemed to have leased

situation. That means a voluntary lease executed between the operator and --

MR. KING: Isn't there some money in escrow?

MS. RIGGS: Only if it's coalbed methane conflicting claims.

MR. FULMER: On some of these you do have -- on some of the conventional -- I thought there was conventional --

MS. RIGGS: Bonuses perhaps.

MR. FULMER: Yeah. You had the bonus in there, for example, in the V-2735.

MS. RIGGS: But that would have to be for either an unknown or an unlocatable if it's conventional.

MR. FULMER: But in this case the well was never drilled. So the order became moot.

MS. RIGGS: But the reason the money is in escrow is because we can't find the people to pay it to. If we could locate them then we could disburse. Otherwise, it goes to the State in six years or whatever the statutory period is. But you've got to wait the six years or the statutory period for that to happen. So you can't let the order go away in the meantime.

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

MR. CHAIRMAN: We need a motion to approve dismissals as amended.

MS. RIGGS: Could I make the suggestion that I prepare the orders and bring them back to the Board so that you can

review them and then vote on the orders so that we don't accidentally dismiss something that shouldn't be dismissed?

MR. CHAIRMAN: Let's do that.

MR. KING: That's a good idea.

MR. CHAIRMAN: All right. Thanks, Tom. I've got one other thing here. I'm going to hand out to you a letter I received from Mr. Elsworth who's the president of the Appalachian School of Law. He's invited the Board to meet routinely at the facility there in Buchanan County. Now, we are in the process of scheduling a meeting, as you know, at the Breaks Interstate Park in October and it's strictly up to the Board as to whether or not you want to go over there and look at the facility and try to arrange for the November meeting or something like that, to have it there or the September meeting, however you want to do it and make a decision at that point. But I do need to respond to him and I wanted to make sure I got your opinion on how you wish me to respond.

MR. KAISER: Mr. Chairman, did you say September?

MR. CHAIRMAN: Yes.

MR. KAISER: We've already sent notices out for the September hearing.

MR. CHAIRMAN: Thanks. So it would be November.

MR. LEWIS: I would like to put that in the form of a motion, that we meet there in November.

MR. CHAIRMAN: Go over there in November and then determine from there?

MR. LEWIS: Go from there.

MR. CHAIRMAN: Is that reasonable?

MR. KING: Well, they say it's a beautiful place.

MR. CHAIRMAN: It would be nice to go visit and see. I'll respond in that fashion then. We'll plan a meeting there, Tom, in November. I will send him a letter to that effect. Any other business, members of the Board? The hearing is closed.

(End of Proceedings for August 19, 1997.)

CERTIFICATE

COMMONWEALTH OF VIRGINIA

COUNTY OF WASHINGTON

I, Deborah J. Bise, Notary Public in and for the Commonwealth of Virginia, at Large, do hereby certify that the foregoing proceedings of the Virginia Gas and Oil Board meeting held on August 18th, 1997 at the Southwest Virginia 4-H Center, Hillman Highway, Abingdon, Virginia, were taken by me and that the foregoing is a true and correct transcript of the proceedings had as aforesaid to the best of my ability.

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

GIVEN under my hand this 24th day of September, 1997.

Deborah J Bise

DEBORAH J. BISE
NOTARY PUBLIC

My commission expires September 30, 2000.