

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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5 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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7 VIRGINIA GAS AND OIL BOARD

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22 Reported by:
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4 BENNY WAMPLER: Good morning. My name is Benny
5 Wampler. I'm Deputy Director for the Department of Mines,
6 Minerals and Energy, and Chairman of the Gas and Oil Board.
7 All right. First, I wish everyone a Merry Christmas and a
8 Happy New Year on behalf of the Board; and I'll ask the Board
9 Members to introduce themselves, please, starting with Mr.
10 Brent.

11 MASON BRENT: Good morning. My name is Mason Brent.
12 I'm from Richmond and I represent the Gas and Oil Industry.

13 MAX LEWIS: My name's Max Lewis. I'm from Buchanan
14 County. I represent the citizen's group.

15 SANDRA RIGGS: I'm Sandra Riggs, with the Office of
16 the Attorney General, and I advise the Board.

17 CLYDE KING: I'm Clyde King from Abingdon and I am
18 representing the public. I also wish you a Merry Christmas
19 and a Happy New Year.

20 TOM FULMER: I'm Tom Fulmer, Department of Mines,
21 Minerals and Energy, staff to the Board.

22 BENNY WAMPLER: The first item on today's agenda is
23 one that we've had continued for some time. The Hugh McRae
24 Land Trust and Garden Realty. We would ask the parties that
25 wish to address the Board in this matter to come forward.

1 There are a number of proposed orders that have been noticed
2 and if we have any discussion on that today. We do have a
3 notice of an appeal of a prior order that we're not going to
4 talk about today because it's not noticed. However, there is
5 proposed language that could be considered for the proposed
6 orders that we have noticed here, should we decide to do
7 that. But anyway, we'll ask the parties that wish to address
8 the Board in this matter to come forward. We've asked our
9 escrow agent to appear today, Mr. Ditz. We'd just ask each
10 one to identify yourself, please.

11 DALE DITZ: I am Dale Ditz, Vice President and
12 Regional Trust Officer of First Virginia Bank, Trust and
13 Asset Management Services, representing the bank as the
14 escrow agent.

15 JILL HARRISON: I'm Jill Harrison. I represent Hugh
16 McRae Land Trust and Garden Realty Corporation.

17 MARK SWARTZ: I'm Mark Swartz. I'm here on behalf
18 of Pocahontas Gas Partnership and Buchanan Production
19 Company.

20 BENNY WAMPLER: Mr. Ditz, you...you and I had a
21 conversation late yesterday wherein you informed me that you
22 were not able to reconcile the accounts. So, if you will
23 please discuss that with the Board.

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1 DALE DITZ: Fine, yes. At the meeting last month,
2 both Mr. Swartz and I expressed a fair amount of optimism
3 that with the numbers that we had available, that we would be
4 able to consolidate our reports and have reasonably solid
5 numbers for review at this meeting. They have been very
6 cooperative and I have worked diligently on this and we just
7 simply have not yet been able to reconcile what amounts to
8 basically three (3) different computer systems providing
9 different kinds of information into a report that balances
10 with numbers that we can be comfortable are accurate numbers.
11 I believe we are very close, but just simply as of today, do
12 not have anything that is ready to be presented as a number
13 in any individual unit account for division purposes.

14 BENNY WAMPLER: Do you have everything that you need
15 from the operator to do that?

16 DALE DITZ: We still have some minor differences on
17 some of the numbers that have been provided, but they're very
18 cooperative in working through those. I got one result
19 yesterday and there's nothing of any significance. We're
20 still trying to find one deposit that I'm sure we have
21 somewhere, but I just can't find it. Again, it's partly a
22 concern, or a problem of reconciling prior recording records
23 to a new system with First Virginia having acquired the

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1 former agent and the account systems are similar, but
2 different and they don't...one does not automatically
3 transfer to another. So, it's having to be done manually.

4 BENNY WAMPLER: I'll say to the Board, Mr. Ditz has
5 already heard from me of the displeasure that we didn't have
6 the numbers today obviously and, you know, that we've...we
7 want to do absolutely everything possible to insure that we
8 get those numbers. But certainly, the Board can speak for
9 themselves here today.

10 MASON BRENT: Mr. Ditz, do you have a problem with
11 Human Resources on this?

12 DALE DITZ: Not...not specifically, no. It's
13 understanding how these systems work together. I have been
14 working on this personally to try and, you know, bring one of
15 these matters to a balance, so that I can then assign it to
16 someone else and tell them what to do. I would find it
17 difficult to assign it either to someone in my own office or
18 outside without having my own personal understanding of how
19 the system works and what it is that we need to do. So,
20 that's my main problem. We have...we've had about a week to
21 work with the numbers and I've been working very diligently
22 on it and just have not been able to make the numbers come to
23 a proper balance. I believe that once the first one runs

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1 through and balances, that the rest of them will then follow
2 in quite rapid course. Let me add, too, and this is not by
3 way of justification at all, but with getting close to the
4 end of the year, it may be of some advantage to be able to
5 use year end numbers. We've been using numbers that are
6 not...I mean, they're always changing, but if we can pick a
7 year end number to work from, that may simplify it going
8 forward. It isn't going to do a whole lot for the...for the
9 past, but if we can arrive at a solid balance as of year end
10 and then ask our accounting system to do a better job going
11 forward, I think we have a very much better chance of
12 preventing this from happening again in the future.

13 MASON BRENT: Well, I think, most of us close our
14 books on a monthly basis. So, I don't know that year end is
15 very significant. You said you've only had the numbers for a
16 week to work with.

17 DALE DITZ: Approximately. I mean the final
18 numbers...Consol has been working very closely with us and
19 provided some spreadsheets of reports that were mailed, I
20 think, on the 3rd or the 4th and that we got last week to
21 work on; and I've been working on those, most of that. I was
22 out of my office for two (2) days, too. So, I guess, perhaps
23 it is somewhat a personnel situation. I had three (3) days
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1 really to work on it in detail. I just simply could not
2 arrive at a balance. I'm not...I'm disappointed that I was
3 not able to, but I'm not disappointed that it is not possible
4 to do so. I know that it's there.

5 MASON BRENT: When...when you said you were close,
6 can you define close for me?

7 DALE DITZ: I think the last number that I ran, I
8 was about twenty-eight dollars (\$28) from balancing. Now,
9 I've got to be able to go back in and find that and find out
10 why it didn't balance. I mean, I don't want to give a number
11 even if we're talking hundreds or thousand or hundreds of
12 thousands of dollars, I need to be comfortable that we have
13 an accurate balance and that the system is working.

14 MASON BRENT: And that's balancing one...one
15 account?

16 DALE DITZ: Yes, sir.

17 BENNY WAMPLER: You're reconciling, you're saying
18 from the...having to reconcile the two banking systems as
19 well---?

20 DALE DITZ: Yes.

21 BENNY WAMPLER: ---from the purchase that you...when
22 you acquired it?

23 DALE DITZ: What we have is hard copy records. We
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1 no longer have prior computer records available. We have
2 hard copy records. So, it's a matter of going through
3 manually from records going back into '92 when the accounts
4 were first set up and bringing them forward to a balance.

5 CLYDE KING: Mr. Chairman.

6 BENNY WAMPLER: Mr. King?

7 CLYDE KING: When was the merge with First Virginia
8 with, I guess---?

9 DALE DITZ: Officially, that took place in
10 approximately November of '97, just about a year ago.

11 CLYDE KING: And you're still have a problem keeping
12 the same---?

13 DALE DITZ: Well, we have...again, part of it is the
14 division into the tract accounting that we were never asked
15 to do previously. We've always been accounting on a unit
16 basis and now we're finding through these hearings that those
17 units need to be subdivided down into tracts. We do not have
18 the subdivision and never did have. That's something we need
19 to look at...need to look at as we go forward. We may need
20 to do further subaccounting that was never a part of the
21 original agreement. So, that's what we're working with
22 Consol on now is to get the individual tract information as
23 opposed to the unit information and break it down that way.

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1 The...my part of it is...I mean, Consol can divide the
2 principal amount down, but because of the different deposits
3 and different time frames, the income factor applicable to
4 each of the units within a tract, or a tract within the
5 units. I'm sorry I don't understand all of the terminology a
6 hundred (100) percent yet, is going to be dependent upon when
7 those deposits came in. So, that's what I'm trying to do is
8 reconcile the income and fees to the...really, on a monthly
9 basis, so that it can be subdivided according to the...to the
10 tract within the unit.

11 CLYDE KING: And you're saying that the merge...
12 before the merger, there was not a good accounting or a
13 computerized system involved?

14 DALE DITZ: No, sir, there was. There was a very
15 good computerized accounting system that produced a
16 transactional daily record on hard copy, but when First
17 Virginia acquired Premier, it...First Virginia uses a
18 different computer system. So, once they converted the
19 records, the balances carrying forward, then it was no longer
20 necessary for them, and we had the hard copy records, it was
21 no longer necessary to maintain the foreign computer system
22 on an active basis. So, that computer system is no longer
23 available to us. I'm working now from printed records that

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1 contain all the information, but I can't just push a button
2 and have it recompute something for me. I've got to do that
3 all manually.

4 CLYDE KING: I have a real problem with, you know,
5 if you did the merge in '97, we're talking about a year and a
6 half or so and we had a meeting in October and this Board
7 made a firm promise that we would try to have this thing by
8 November and here we are in December.

9 DALE DITZ: Yes, sir.

10 CLYDE KING: And we still are not able to give these
11 people any...I think we need to pass some motion of this
12 Board that if you can't get it by next month, we are going to
13 have to deal with somebody else. This is ridiculous to wait
14 this long.

15 DALE DITZ: I understand. I'm not at all happy
16 about the delay myself. I mean, it's causing me additional
17 work, too, and I'm going to do it. That's not any...no
18 questions about that.

19 CLYDE KING: These people have appeared before the
20 Board many, many times and Mrs. King, of no relation to me,
21 she...she may not be here that much longer. You know what I
22 mean? And it is just ridiculous that this thing keeps
23 dragging and dragging and dragging.

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1 Mr. Chairman, I move that we just...if they can't
2 come up with something by January, that we find out what we
3 can do through counsel to force to come up with some figures.

4 BENNY WAMPLER: Okay. I have a motion.

5 CLYDE KING: Yes, sir.

6 BENNY WAMPLER: Do I have a second?

7 MASON BRENT: I'll...I'll second that motion in
8 anticipation of some discussion.

9 BENNY WAMPLER: All right. Motion and second. Any
10 discussion?

11 MASON BRENT: Yeah, I'd like to revisit my question
12 on the definition of close. You defined it as twenty-eight
13 dollars (\$28). Can you translate that into time...into a
14 time unit?

15 DALE DITZ: I'm...I don't know how. No. It's
16 simply a matter of going back and, you know, there are either
17 mathematical errors or key entry errors in my adding machine
18 as I was trying to run these balances and I have not located
19 what those errors are yet. It's kind of like reconciling
20 your checkbook at the end of the month. Sometimes it's very
21 easy to find a mistake and other times, you know, it is
22 just...I always find them, but sometimes it takes longer than
23 other times.

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1 MASON BRENT: How much time is being devoted to
2 this...man hours, people hours?

3 DALE DITZ: Since we've gotten these reports, I
4 personally have probably spent nearly forty (40) hours on
5 them. It has not all been office time, obviously.
6 But...because I haven't had that much time in my office, but
7 it's...it's a matter of identifying the records, identifying
8 what each of the entries signifies and then bringing it
9 forward into a balance. I...I wish I could...I really, truly
10 wish I could give a time frame on what I expect and I
11 just...I'm fooling myself and everybody else if I try and be
12 specific. I don't think it is...just simply don't know how
13 it's going to resolve.

14 MASON BRENT: Is there anyone at the bank we can go
15 to help you get this resolved and get us some answers and
16 some results?

17 DALE DITZ: Well, as I said, if I can get the first
18 one to hit a balance, then I'll understand that my process is
19 accurate and correct and it will be a relatively simple
20 matter from there on. Then either my own internal staff, or
21 if we need to go outside and bring somebody in on a temporary
22 basis, I'll be able to properly instruct them on how to go
23 about arriving at a proper balance. Until I get the first
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1 one, I'm not sure that I'm doing it right. I mean, I think I
2 am, but until I can actually see that balance, I may be
3 missing something that I'm just simply not aware of.

4 MASON BRENT: Well, I mean...well, my question is,
5 who can we go to at the bank to help you get over that first
6 hump?

7 DALE DITZ: I'm not sure there's anybody but me
8 initially, because I'm sitting at my adding machine and
9 trying to make this thing balance and I don't know that
10 anybody can actually help me do that. It's working with
11 printed numbers and trying to reconcile against bal...you
12 know, from one balance to another. I can have somebody doing
13 it side by side with me and see if both come to the same
14 balance, but that's...I don't know that's productive.

15 MASON BRENT: Have...have we...Mr. Chairman, have we
16 had any discussions with anybody at the bank?

17 BENNY WAMPLER: Mr. King.

18 MASON BRENT: Other than Mr. King and Mr. Ditz.

19 BENNY WAMPLER: No. No.

20 MASON BRENT: I wonder if it wouldn't be a good idea
21 if we, whether it's part of this motion or whatever, whether
22 we got in touch with, you know, I don't care whether it's a
23 Chairman, or President, or whoever, to convey to them the

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1 urgency that's involved in this issue.

2 BENNY WAMPLER: I'll be happy to do that.

3 MAX LEWIS: Could the operators help you in any way?

4 DALE DITZ: They have helped considerably up to this
5 point and once I reach my balance, I need to go back to them
6 for some further work. They...I have no complaint with them
7 at all. No, I don't think there's anything they can do right
8 now until I confirm that we have a balance. We have a couple
9 of check issues, you know, whether we've got a check or
10 whether we've got it in the right account or not. But those
11 are minor matters and they're being very cooperative on that.
12 I have no call for concern on that.

13 MASON BRENT: The people in my office accuse me of
14 being a "bottle neck" because I have my hands on everything.
15 Do you think that's an issue here?

16 DALE DITZ: The possibility exists, yes. But there
17 again, I don't...part of our problem is that there is nobody
18 who worked on the prior system who is still available to us.
19 So, everyone in our office is working with a foreign system
20 and it's, again, if it were a computer, I know I would be
21 behind the eight ball, because I'm not a computer person.
22 But I'm not using a computer yet. That's what I'm relying on
23 the producers to help us with. But I've got to be able to

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1 give them some numbers to enter into their computer system
2 before we can proceed. No, I don't really think I'm a
3 "bottle neck". I mean, I do have other things that take me
4 away from my office at times, but I'm...I'm dedicating a
5 great deal of time to it to get it resolved.

6 BENNY WAMPLER: Who is the President of the bank?

7 DALE DITZ: The President of the bank is Mike
8 Anzolotti.

9 BENNY WAMPLER: Could you spell that, please?

10 DALE DITZ: Well, let me...let me back up a step.
11 It depends a little bit on which bank you're talking about.
12 We are actually a part of the First Virginia Bank itself in
13 Falls Church is our Trust and Asset Management Services. We
14 are working as an arm of the First Virginia Bank Mountain
15 Empire, which is headquartered much more locally and I'll
16 give you either one of those. You know, we've got a local
17 bank President. We've got a headquarters bank President and
18 I'll be happy to give you either one of those. I'll give you
19 definitive spellings on it separately if you want it.

20 BENNY WAMPLER: Okay.

21 DALE DITZ: Whichever one you want.

22 MASON BRENT: Mr. Chairman, I would like to us go to
23 Falls Church.

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1 BENNY WAMPLER: Falls Church. Okay.

2 DALE DITZ: That's fine. Okay.

3 CLYDE KING: That's the home office, isn't it?

4 DALE DITZ: That's home office, yes. That's

5 actually who pays my pay check.

6 CLYDE KING: That's where we need.

7 MASON BRENT: That's who we want.

8 DALE DITZ: I understand. That's Mike Anzolotti.

9 And I'll try and think how to spell his name. I can get that

10 for you.

11 BENNY WAMPLER: Okay.

12 SANDRA RIGGS: I think it might be helpful to the

13 Board to review the contract with the bank, too, when you---.

14 BENNY WAMPLER: Well, that's what this action---.

15 SANDRA RIGGS: ---consider this in January so that

16 you know what your contractual relationship with the bank

17 looks like.

18 BENNY WAMPLER: That's what this action would do if

19 it were passed would be, as I understand Mr. King's motion,

20 would formally initiate a proceeding under the contract that

21 the department has with the bank. I want to make sure

22 everybody understands that. That's how I would see it.

23 CLYDE KING: Yes, sir.

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1 BENNY WAMPLER: It would be a formal action, putting
2 them on notice.

3 CLYDE KING: Yes, sir.

4 BENNY WAMPLER: Okay.

5 MASON BRENT: Well, and I hope we don't get to that.
6 I hope we have numbers next month.

7 CLYDE KING: We've had...we've talked about it a
8 long time.

9 MASON BRENT: Maybe Mr. Anzolotti can help us get
10 there...can help Mr. Ditz get there.

11 BENNY WAMPLER: Any further discussion?

12 (No audible response.)

13 BENNY WAMPLER: I have a motion and a second. All
14 in favor, signify by saying yes.

15 (All members signify by a yes.)

16 BENNY WAMPLER: Opposed, say no.

17 (No audible response.)

18 BENNY WAMPLER: You shall do that. Mr. Swartz?

19 MARK SWARTZ: I'm not very happy either. You know,
20 the way you get stuff done is to make it a priority. My
21 clients have made this a priority the last three (3) or four
22 (4) months and Mr. Looney and Mr. Arrington have spent a
23 tremendous amount of time on this and that's how you get it

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1 done. I mean, it's a pain. It's...it's...but it's just
2 numbers and, you know, when we left here last month, just to
3 kind of revisit because you guys aren't always here every
4 month, but my client undertook to furnish complete tract by
5 tract within the units data with regard to royalties paid and
6 we weren't sure we'd be able to do it for all six (6) units
7 that we've been talking about the longest, but we were.
8 We've got the South Longwall Eight (8) and the Northeast
9 Longwalls Nine (9) and Ten (10) spreadsheets listed
10 chronologically by tract to the bank on December 4th. We got
11 South Longwall Five (5), Seven (7) and Eight (8) to the bank
12 under cover of a letter December 9th. The bank was...so, you
13 know, that is what we agreed to do last time, and frankly we
14 needed to do this. I asked the bank to give me a net figure
15 on a monthly basis for each unit, you know. They haven't
16 been keeping records by tract. Okay. We'll live with that.
17 We'll try to work around it. And I...you know, and I wrote
18 to them on December 2nd and said, you know, I need that
19 number to integrate into the spreadsheet and I don't have it.
20 You know, we can make this really complicated, or try and,
21 you know, address the kind of data that we've got and come to
22 some kind of reasonable accord. And I...you know, I really
23 feel like we need that net number. You know, we have...we

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1 have reconciled the bank statements that we have received on
2 all six (6) accounts to one missing check that we have now
3 accounted for. So, I mean, as far as we are concerned, you
4 know, there's one deposit that we know we made because they
5 cashed our check that they can't find, and they need to
6 locate that. There's one check that we thought they had
7 received that should have been deposited, we've identified
8 actually came back to us. It's five hundred and some
9 dollars. We need to make sure it gets back in the account.
10 That's it on all of these six (6) units.

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12 In addition, just so there's a record that we know
13 what we need. We do not...our...their records to us stop in
14 October of '97. We have the records were given to the Board,
15 and the records we've given them run through the most recent
16 royalty payments. So, we've runned them up as current as we
17 possibly can, but we can't reconcile from October forward.
18 So, you know, there's where we stand on those six (6) units.

19 We've got another three (3) units that Sandra Riggs has
20 drafted some orders with Benny and you all have entered them;
21 and, you know, we've already started working on those to get
22 the same kind of accounting information. But they're really
23 to me...I mean, I...I...you know, I feel like, you know, the

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1 resources need to be allocated to Dale so that...that they
2 can accomplish this work because it's just numbers. I mean,
3 it's not...it's...it's just man hours, I think, really, and
4 to the extent that, you know, you guys can somehow encourage
5 his company to devote the efforts required to do this, you
6 know, we need to do it. So, I just wanted to voice some
7 level of frustration as well, because I was hoping we would
8 be through these six (6) today and we could move on to the
9 next three (3) and we...you know, we've got a program and
10 we're with it. So, you know, and I feel like we've done
11 everything that is reasonably required of us to get where we
12 need to be. If there's anything else that, you know, that
13 needs to be done in terms of verification, we'll do it, but,
14 I think, at this point we've done everything that we can do
15 without getting some information back.

16 BENNY WAMPLER: Thank you, Mr. Swartz. So, I assure
17 you, we're being as reserved as we can be here because we're
18 obviously very, very frustrated about this. Ms. Harrison?

19 JILL HARRISON: The only request I have is any
20 orders that are entered today, continuing the matter, that
21 they not contain any special findings regarding entitlement
22 because I would have to appeal them without the language that
23 we'll be discussing, I understand, at the January meeting.

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1 BENNY WAMPLER: Well---.

2 SANDRA RIGGS: I don't think that it's anticipated
3 that an order would be entered until we're ready to disburse.
4 So---.

5 JILL HARRISON: I thought you would have to have an
6 order continuing it based on the orders that I've received on
7 the Torch, Consol.

8 SANDRA RIGGS: Those were accounting orders. We've
9 already entered accounting orders in these particular
10 drilling units and that process is going on. I don't think
11 we've ever entered orders of continuance. It's just been
12 carried over and readvertised on the following docket.

13 JILL HARRISON: Well, that's great, then. I won't
14 have to worry about filing any appeals.

15 SANDRA RIGGS: I don't think---.

16 BENNY WAMPLER: Now, what---.

17 SANDRA RIGGS: ---I mean, I don't know what the
18 Board would find.

19 BENNY WAMPLER: ---I would ask is whether or not...
20 and I'm...I guess, I'm asking both of you, whether or not the
21 language that we have before us today, that as I understand
22 it, may take care of the lawsuit, whether or not it would be
23 appropriate to discuss that as it relates to, or would it

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1 accomplish anything as it relates to, those items that are
2 not in fact noticed because we did continue all these items?

3 Is...do you view that as appropriate for discussion?

4 SANDRA RIGGS: I think these...these matters...the
5 six (6) docket numbers have been noticed for hearing and it
6 could be discussed in the context of those six (6). The R-25
7 was not noticed for hearing---

8 BENNY WAMPLER: Right.

9 SANDRA RIGGS: But we could bring it back up on the
10 next docket.

11 JILL HARRISON: All right. And I---

12 BENNY WAMPLER: As...as it relates to these six (6).

13 JILL HARRISON: Right.

14 BENNY WAMPLER: Would it have any purpose?

15 Any...would it serve any purpose to discuss today---

16 JILL HARRISON: It would---

17 BENNY WAMPLER: ---the incorporation of the fact
18 the Board view this favorably for incorporation into the
19 order?

20 JILL HARRISON: Well, if no orders are going to be
21 entered, then it would really just be a discussion for future
22 orders to be entered and that would be fine. I explained to
23 Mr. Wampler on the R-25, since this cannot be noticed until
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1 the January hearing, unfortunately, my time to file the
2 petition for appeal will run before that. So, to protect my
3 client's rights, I will have to file the petition for appeal
4 and then serve the Board and the time will start running on
5 an answer. But hopefully, at the January meeting, this will
6 be taken care of.

7 BENNY WAMPLER: Well, we'll go ahead and discuss
8 this a little bit. Have you seen the language, Mr. Swartz?

9 MARK SWARTZ: Yeah, I got it about ten (10) minutes
10 ago.

11 BENNY WAMPLER: Okay. I...I don't see anything here
12 personally that's inconsistent with what the Board has held
13 all along. But certainly, we'll have an open discussion on
14 this. It has been noticed, but I'll give the Board members
15 time to reflect on that. But it appears certainly that...
16 that...to be consistent, we have never tried to impede
17 any...any separate actions that may be against...against the
18 operator. We've simply dealt with funds that are in escrow
19 and actions that this Board has taken relating to that.

20 MASON BRENT: I thought the order itself was pretty
21 clear on that, but if not---

22 JILL HARRISON: The concern that my client has is
23 because of the definitions that are used of the different

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1 terms and the language regarding what we are saying we're
2 going to release and that's our entitlement. They do not
3 want that language to be considered as an admission, or used
4 as a bar or estoppel, but that's all they're entitled to,
5 period, and that any other claims would be released.

6 BENNY WAMPLER: Mr. Swartz?

7 MARK SWARTZ: My problem all along has been really
8 simple, and that is all that I would like them to tell the
9 Board and the operator is, we agree that the amount of money
10 we're getting out of escrow can correlate to the amount that
11 was paid in, plus interest. And if they don't, if there is
12 some calculation error coming out of escrow, they share it
13 with us, you know. I've never sought some admission on their
14 part that we're paying under the lease terms the right amount
15 of money into escrow. That's a lease dispute, that's a
16 contractual dispute, but what I feel like these people need
17 to share with the escrow agent, and the Board, and the
18 operator, is we agree that the monies that's coming out with
19 reference to what went in has been calculated correctly and
20 if it's not, they need to tell us what's wrong with the
21 number. That's all. Beyond that, I'm not seeking any waiver
22 or any concession or any admission. But I think that
23 rudimentary issue, which thus far I have seen a complete

24

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1 unwillingness to agree to. You know, unless we get that from
2 them...if they need to, as a minimum threshold, acknowledge
3 that the calculation is appropriate before they take the
4 money. Otherwise, we're just all being sand bagged on that
5 matter. Is..you know, and I told you that a number of times.
6 I've filed Affidavits with the Board with regard to the
7 accounting information and beyond that, the number is right
8 in terms of just raw calculation. That this went in and this
9 is what's coming out. Beyond that, we're not asking for
10 anything. I don't really have a problem with this. I would
11 hope that they would acknowledge that, you know, if they get
12 money out of escrow, it's a credit toward what we might
13 ultimately owe them. But, yeah, there's no...no drill here
14 that...you know, there's no agenda other than if our numbers
15 are not appropriately calculated, please tell us how you
16 think they should be done.

17 BENNY WAMPLER: I don't think we really need to get
18 into that today. I understand what you---

19 JILL HARRISON: Well, I'll just add, Mr. Chairman.
20 If you'll refer to page thirty-six (36) and thirty-seven (37)
21 of the September 15th, 1998 transcript. Mr. Swartz made the
22 request, "they agree the deposits that we have represented to
23 have been made, were made, or not made, that we...not that we
24

1 calculated the number right, not the royalty deductions were
2 nothing like that simply on the dates we have represented
3 this was done." And my response was, "We will agree to
4 number one." So, that is part a part of the transcript of
5 September 15th, 1998.

6 MARK SWARTZ: Well, if we're going to start putting
7 language in an order, you know, I think...you know, to
8 incorporate all these discussions we've had...I feel very
9 strongly it needs to include some indication, you know, of
10 the math that's right, coming out of escrow. That's a
11 judgment call you need to make, but what's the point of this
12 if we don't...you know, if we're going to have an argument
13 about that calculation, we need to have it now, so then we
14 can correct it, and we, I'm including all, now.

15 CLYDE KING: How do we know the math is right? Is
16 ...are you saying it's not, Jill?

17 JILL HARRISON: No, sir. I'm saying if---.

18 CLYDE KING: Are you saying that there is a problem
19 with it or is that...then what---?

20 SANDRA RIGGS: Well, when this process is complete
21 and they have the spreadsheets and it...it lists all the
22 principal deposits and how they calculated the interest and
23 the fees, that will be presented, and then they will have an

24

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1 opportunity to review how that number was calculated---.

2 MARK SWARTZ: Right.

3 SANDRA RIGGS: ---and then at that point, I think
4 Mark is saying there has to be a sign off on the numbers,
5 that is, what is in escrow that's attributable to their
6 interest.

7 JILL HARRISON: And I can tell you that at that this
8 point, from the information that has previously been provided
9 by the operator in the accountings, and what was provided at
10 last month hearing, my clients have not seen---.

11 SANDRA RIGGS: Right.

12 JILL HARRISON: ---any reason to argue with the
13 amounts that have said to be deposited. So, we do not
14 anticipate any problems with the information with the
15 possibility, I guess, of the Northeast Longwall Ten (10),
16 because there was such a huge discrepancy between what they
17 said they had deposited and what the bank said they had. So,
18 that's the only one that we foresaw any problem with.

19 CLYDE KING: So, if the bank can come up with the
20 figure that agrees with Mark's figures, then it looks like it
21 ought to be okay?

22 JILL HARRISON: Yes, sir. Absolutely.

23 CLYDE KING: Well, then I think we need to get it on
24

1 with it, Mr. Banker, or Mr...everybody else seems to have got
2 their's ready.

3 BENNY WAMPLER: As to this language in the order
4 that...is there any...does anyone see a problem with it? Any
5 discussion?

6 MASON BRENT: I don't have a problem with it.

7 BENNY WAMPLER: Is there a motion to incorporate it
8 in the orders?

9 CLYDE KING: So moved.

10 MASON BRENT: So moved.

11 BENNY WAMPLER: Second?

12 MAX LEWIS: I second it.

13 BENNY WAMPLER: Second. All in favor, signify by
14 saying yes.

15 (All members signify by a yes.)

16 TOM FULMER: Wait a minute. Who made the motion?

17 MASON BRENT: Take your pick.

18 CLYDE KING: I yield to---.

19 BENNY WAMPLER: Mr. Brent.

20 CLYDE KING: (Inaudible).

21 BENNY WAMPLER: Mr. Lewis seconded it. All in
22 favor, signify by saying yes.

23 (All members signify by a yes.)

24

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1 BENNY WAMPLER: Opposed, say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval. All right.

4 SANDRA RIGGS: Would there...there are a number of
5 other orders that have been entered that have that same
6 definition. Should I inventory all of those and notice them
7 for next month, the ones that you didn't make the motion with
8 respect to today, so you can do the same thing?

9 BENNY WAMPLER: I would think that would be best to
10 do to just get all cleared so we're ready---

11 MASON BRENT: I think based on her...based on Ms.
12 Harrison's...yeah.

13 BENNY WAMPLER: ---because as Mark said, you know,
14 that's...all the others are going to be standing in the
15 balance to get resolved. So---

16 JILL HARRISON: Right. And just so that the Board
17 will know because of the time frames involved, to preserve my
18 client's rights, I filed three (3) notices of appeal
19 yesterday. The others will be due, I believe it's on the
20 23rd. So, I'll have to go ahead and file the other six (6).
21 So, altogether there's going to be ten (10), I guess.

22 SANDRA RIGGS: Yeah. Well, there's two (2) more in
23 the root somewhere, I think.

24

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1 JILL HARRISON: Oh, that's too bad!

2 SANDRA RIGGS: Buzz and Bunn. I think they've
3 already been signed and on.

4 JILL HARRISON: Well, I hate we didn't wait on that
5 then.

6 BENNY WAMPLER: The next item on the agenda is a
7 petition from Pocahontas Gas Partnership for pooling of a
8 sealed gob unit for pooling identified as Buchanan Number #1
9 South SGU. This is docket number GOB-98-11/17-0697,
10 continued from November. We'd ask the parties that wish to
11 address the Board in this matter to come forward at this
12 time.

13 MARK SWARTZ: Mark Swartz and Les Arrington.

14 BENNY WAMPLER: Are there any others?

15 (No audible response.)

16 BENNY WAMPLER: The record will show there are none.
17 You may proceed.

18 (Leslie K. Arrington hands out exhibits.)

19 MARK SWARTZ: While Les is getting the exhibits out,
20 this is a sealed gob unit. It isn't...it needs...we need to
21 petition the Board to create the unit in the first instance,
22 and then...then also pool it, and we've noticed both of those
23 matters for today. This has not been...this is not

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1 modification. This one has not been sealed before. We're
2 not modi...it's the first time it has come on in terms of
3 creating it. It's a...it's a fifteen 1590.4 acre unit. We
4 have been able to lease virtually...virtually all of it. We
5 are seeking to pool less than seven tenths of one percent of
6 the...of the oil and gas estate here. So, you know, their
7 leasing program has been...has been pretty successful. We
8 have..let me pass this out to you while Les is getting the
9 other stuff to you. We've got an additional map exhibit
10 which puts the unit on top of the portion of the Buchanan #1
11 mine that is being sealed and it...it shows that this
12 proposed unit in relation to an adjoining unit to the...or a
13 contiguous to the...it would be the West and to the South.
14 You'll see that entry that kind of comes off at an angle on
15 the Southwest of this proposed unit and it butts up against a
16 portion of a unit that we previously...a sealed gob unit that
17 we previously pooled and created.

18 Les, if you're ready, why don't you be sworn here.

19 (Witness is duly sworn.)

20

21 LESLIE K. ARRINGTON

22 having been duly sworn, was examined and testified as
23 follows:

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1 DIRECT EXAMINATION

2 QUESTIONS BY MR. SWARTZ:

3 Q. State your name for us, please.

4 A. Leslie K. Arrington.

5 Q. Who do you work for?

6 A. Consol.

7 Q. And do you have a title with them?

8 A. A permit specialist.

9 Q. And did you prepare the notice of hearing
10 and the application with regard to this sealed gob unit?

11 A. Yes, I did.

12 Q. Okay. And does this seek to, on the one
13 hand create the unit, and on the other hand pool it?

14 A. Yes, it does.

15 Q. And the map that we've handed out today
16 Exhibit A, which shows the mine works, has the unit been
17 overlaid on top of those mine works?

18 A. Yes, it has.

19 Q. And the entry that goes off to the West
20 abuts what other sealed gob unit?

21 A. That's a sealed gob unit BUS 2.

22 Q. Okay.

23 A. I'm not sure the exact docket number that it
24

1 was pooled up.

2 Q. Right. But the entry would run into that
3 other sealed gob unit?

4 A. Yes, it does.

5 Q. Okay. And have you, in designing the shape
6 of this proposed unit, tried to follow the mine workings?

7 A. Yes, we did.

8 Q. And it's pretty obvious when you look at the
9 map that you've done that?

10 A. Yes.

11 Q. Okay. The black dots on Exhibit A represent
12 what?

13 A. Existing coalbed methane wells.

14 Q. Okay. And...and with regard to this sealed
15 gob unit, are you seeking to utilize thirteen (13) of those
16 existing wells to produce from this sealed gob unit?

17 A. Yes, we are.

18 Q. Okay. And that...and have you attached the
19 well costs with regard to the thirteen (13) wells that you've
20 selected to your application?

21 A. Yes, we did.

22 Q. And are those actual costs?

23 A. As nearly as possible.

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1 Q. Okay. So, you've tried to reconstruct the
2 actual costs of the thirteen (13) wells---

3 A. We---.

4 Q. ---under consideration?

5 A. Yes, we did.

6 Q. Okay. And those...those are a part of
7 the...of the application?

8 A. Yes, they are.

9 Q. And there should be thirteen (13) of them?

10 A. Yes.

11 Q. And that at some point, the third from the
12 last page of the application, you have totaled the costs of
13 the thirteen (13) wells?

14 A. We did.

15 Q. And what is that total cost?

16 A. One million five hundred thirty-eight
17 thousand ten dollars and forty-five cents (\$1,538,010.45).

18 Q. Okay. And does that represent the
19 approximate actual cost of the wells that you plan on using?

20 A. Yes, it does.

21 Q. And in the event that it should become
22 necessary to utilize additional wells, are you representing
23 to the Board that you would not seek to include those in
24

1 allocated costs for participates or carried operators?

2 A. That's true. We will not.

3 Q. Okay. The sealed gob unit in question, are
4 you seeking to produce the unit configured as shown on
5 Exhibit A from the Tiller on down?

6 A. Yes, we are.

7 Q. Okay. And it would be from the gob that was
8 created by the longwall mining that's shown on the various
9 panels depicted on Exhibit A, correct?

10 A. Yes, it is.

11 Q. Okay. Now, this...this area...this fifteen
12 hundred and ninety (1,590) acres has been subjected to other
13 Board orders, correct?

14 A. It has.

15 Q. And if you come in the application, four (4)
16 pages back from the back, have you listed at Exhibit F the
17 orders that this Board has previously entered that will be
18 affected by this order?

19 A. Yes, we have.

20 Q. Okay. So, that...for purposes of Ms. Riggs
21 trying to keep track of this, you've given her your listing
22 of orders affected by this sealed gob unit?

23 A. Yes, we did.

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1 Q. Okay. Have you noticed everyone who
2 have...or owns or claims an interest in this proposed unit,
3 regardless of whether or not you have a lease from them?

4 A. We did. We mailed that by certified mail,
5 return receipt requested originally on October the 15th,
6 1998.

7 Q. And have you done any further mailing with
8 regard to this unit?

9 A. Yes, we did. We mailed a...by regular mail,
10 we mailed a copy of the continuance notice on December the
11 2nd.

12 Q. Okay. And this matter was continued because
13 of a publication problem?

14 A. That's correct. And it was...it was
15 published on November...November the 20th, 1998 in the
16 Bluefield Daily Telegraph.

17 Q. Okay. And have you filed proof of
18 publication with Mr. Fulmer?

19 A. Yes, we have.

20 Q. And it's in the exhibits you gave the Board
21 today as well?

22 A. Yes, it is.

23 Q. And have you also filed a certificate with
24

1 regard to mailings?

2 A. Yes...yes, we have.

3 Q. Okay. And is that in the exhibit packet
4 today as well?

5 A. Yes, it is.

6 Q. And that would show when...to whom it was
7 mailed, when it was mailed and the status of the mail?

8 A. That's correct.

9 Q. The people that you're...or the interest
10 that is sought to be pooled, if you would turn to Exhibit A,
11 page one in the application. I'm sorry Exhibit A, page two.

12 A. Okay.

13 Q. What is the percentage of the coal owners
14 that you...that you have obtained leases from?

15 A. One hundred (100) percent.

16 Q. And with regard to the oil and gas owners,
17 what's the percentage that you've leased?

18 A. 99.30648 percent.

19 Q. And what is the percentage of the oil and
20 gas claims/ownership interest that this application seeks to
21 pool?

22 A. 0.69352 percent.

23 Q. Okay. Less than seven tenths of one
24

1 percent?

2 A. That's correct.

3 Q. Okay. With regard to lease terms and
4 recommending terms to the Board in the event that pooling
5 order is entered, what...what lease terms have you been
6 offering for the leases for most of the leases that you've
7 acquired here?

8 A. For coalbed methane, it's a dollar per acre,
9 with a one-eighth royalty, a five (5) year term.

10 Q. And the...and that one acre or that...the
11 rental payment is...does that continue after production or
12 does that cease at production?

13 A. Ceases at production.

14 Q. Now, would you recommend those terms to the
15 Board in the event a pooling order is entered here to cover
16 the deemed to have lease situation?

17 A. Yes, we would.

18 Q. Have you listed the folks that you seek to
19 pool at Exhibit B-3?

20 A. Yes, we have.

21 Q. Okay. And does Exhibit B list everyone's
22 interest in the unit?

23 A. It does.

24

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1 Q. Okay. So, there's an acreage column and
2 then there is an interest in unit column?

3 A. It is.

4 Q. And that interest in unit column, for the
5 people that are being pooled as well as the folks that
6 you...have leases from, is in fact the number that would be
7 applied to royalty or net income?

8 A. That's correct.

9 Q. To calculate royalty?

10 A. That's correct. Yes, it is.

11 Q. And with regard to the people that you're
12 pooling, that interest in unit percentage would be the number
13 that would be used to calculate a participation share of a
14 carried interest multiplier?

15 A. Yes, it would.

16 Q. Do you wish to add any respondents today?

17 A. No.

18 Q. Do you wish to dismiss any?

19 A. No.

20 Q. Is there a request that's...that...who is it
21 that you're requesting be appointed be operator?

22 A. Pocahontas Gas.

23 Q. Partnership?

24

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1 A. Partnership.

2 Q. Okay. And that's a Virginia General
3 Partnership?

4 A. Yes, it is.

5 Q. Are the two (2) partners Conoco, Inc. and
6 Consolidation Coal Company?

7 A. Yes.

8 Q. Is PGP authorized to do business in
9 Virginia?

10 A. Yes, it is.

11 Q. Does PGP have a blanket bond on file and has
12 it registered with the DMME?

13 A. Yes, it has.

14 Q. When...when were the seals installed and
15 completed here? Well, are they still under---?

16 A. I'm not for sure.

17 Q. Claude, do you know?

18 (Claude Morgan indicates in the negative.)

19 Q. They're not complete yet. Are you
20 requesting that the order state that it be effective as of
21 midnight on the day in which the seals are completed to
22 isolate this sealed gob unit from the rest of the active
23 mine?

24

1 A. (Witness indicates in the affirmative.)

2 Q. Say yes.

3 A. Yes.

4 Q. Okay.

5 (Mark Swartz confers with Claude Morgan.)

6 Q. Could possibly be a month from now. So,
7 we're here a little early. And is it your view and
8 recommendation to the Board that the proposed fifteen hundred
9 and ninety (1,590) acre unit is a...is of a reasonable size,
10 shape, and configuration to produce the sealed gob gas from
11 this area of the Buchanan #1 Mine?

12 A. Yes, it is.

13 Q. And that the plan of development with the
14 thirteen (13) wells and distribution of royalty and so forth
15 as is proposed in your application, that that is a reasonable
16 method to protect the correlative rights of the folks that
17 would be within this unit?

18 A. Yes, it is.

19 Q. The...are you requesting that the only folks
20 who'd be given the election options that are typically
21 provided in the order, are those people that are identified
22 in Exhibit B-3?

23 A. Yes, they are.

24

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1 Q. And lastly, have you tendered to the Board
2 with the application an exhibit which set forth the claims on
3 a per tract basis that need to be escrowed?

4 A. Yes, it does.

5 Q. And is that...are those...are those set
6 forth in Exhibit E?

7 A. Exhibit E. Yes, they are.

8 Q. That's all I have.

9 BENNY WAMPLER: What goes into the selection of the
10 wells? What consideration was given in the selection of the
11 thirteen (13) wells?

12 A. We went through and found the ones basically
13 doing good production.

14 BENNY WAMPLER: And anticipate that that would
15 continue when you seal?

16 A. And just they're doing...and hope they're
17 there.

18 BENNY WAMPLER: Questions from members of the Board?

19 MASON BRENT: You indicated it wouldn't be sealed
20 for another thirty (30) days.

21 MARK SWARTZ: Possibly, yes.

22 MASON BRENT: Is there any inspection process from
23 Mr. Fulmer's office prior to---?

24

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1 BENNY WAMPLER: There is from the Division of Mines,
2 the underground inspectors.

3 MASON BRENT: Okay.

4 BENNY WAMPLER: They can validate for Mr. Fulmer.

5 MASON BRENT: Okay.

6 SANDRA RIGGS: The effective date that production
7 calculation commence, how do we...how do you propose to
8 establish those under the Board order?

9 MARK SWARTZ: Well, if you could provide in the
10 order that the new distributions, which are set forth in
11 Exhibit B, would commence following midnight of the day on
12 which the seals are completed, which is what we've sort done
13 in the past, but we've normally had a specific date.

14 SANDRA RIGGS: And then that the operator is to
15 provide written notice to the operator on the date that that
16 occurs?

17 MARK SWARTZ: Written notice to Mr. Fulmer you mean?

18 SANDRA RIGGS: Not to---?

19 MARK SWARTZ: Right.

20 SANDRA RIGGS: ---the inspector on the date that
21 that's to occur?

22 MARK SWARTZ: Right. That would be...that would be
23 fine. We have no problem with that.

24

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1 BENNY WAMPLER: Any other questions?

2 MARK SWARTZ: One other comment. There is an
3 Exhibit EE to this application, which I don't think you all
4 have seen before, which sets forth a list of folks
5 whose...who have royalty split agreements in place that, you
6 know, would otherwise be subject to escrow just so that you
7 know there's an additional exhibit here.

8 SANDRA RIGGS: Yeah, I saw that. The B-3 are the
9 ones being pooled?

10 MARK SWARTZ: The what?

11 SANDRA RIGGS: The B-3 are the ones being pooled---?

12 MARK SWARTZ: Right.

13 SANDRA RIGGS: ---and B are the ones that are
14 noticed for purposes of creation of the drilling unit?

15 MARK SWARTZ: B is everybody.

16 SANDRA RIGGS: Right.

17 MARK SWARTZ: Yeah. It is, includes...B includes
18 the B-3 people, right.

19 SANDRA RIGGS: Exactly. Okay.

20 BENNY WAMPLER: Restate your question...your request
21 to the Board.

22 MARK SWARTZ: We would request that the Board pool
23 the unit depicted on Exhibit A and described in the
24

1 application, and also create the unit that's...that's
2 described in Exhibit A and also in the application. So, it's
3 created and pooling.

4 BENNY WAMPLER: Other questions from members of the
5 Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have a motion?

8 MASON BRENT: I move that we grant the application,
9 Mr. Chairman.

10 BENNY WAMPLER: Motion to grant. Is there a second?

11 CLYDE KING: I second.

12 BENNY WAMPLER: Second. Any further discussion?

13 TOM FULMER: Mr. Chairman?

14 BENNY WAMPLER: Mr. Fulmer.

15 TOM FULMER: Just for my own clarification on this,
16 and I know you don't like going back in the history and to
17 redo this. I'm assuming if they're going to use the thirteen
18 (13) wells, then they are going to shut in the rest of them?

19 MARK SWARTZ: Not necessarily.

20 BENNY WAMPLER: The thirteen (13) wells that you're
21 applying to the Board are for purposes of what would be
22 actually charged?

23 MARK SWARTZ: Correct.

24

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1 LESLIE K. ARRINGTON: Correct.

2 BENNY WAMPLER: To any participating.

3 TOM FULMER: So, out of a hundred and twenty-five
4 (125) wells, all of them might be open?

5 MARK SWARTZ: Claude, why don't you come up for a
6 minute.

7 (Claude Morgan approaches the Board.)

8 BENNY WAMPLER: Can he be sworn, please?

9 MARK SWARTZ: You need to be sworn here.

10 (Claude Morgan is duly sworn.)

11

12

13

14

15

16 CLAUDE MORGAN

17 having been duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

21 Q. You need to state your name.

22 A. Claude Morgan.

23 Q. Did you hear the question that Mr. Fulmer

24

--

1 put to us?

2 A. Yes, I did.

3 Q. Could you respond?

4 A. Some of the wells that are identified on
5 that map have been plugged in the past, so they're not all
6 open at this time. We have identified thirteen (13) wells to
7 which we would allocate the cost of to the unit. In all
8 likelihood, we will produce more than the thirteen (13). The
9 actual number that we will produce will depend on the
10 pressure that's generated underground in the mine on the
11 seals as it operates. We will operate enough wells to keep
12 the pressure off the seals. We can't forecast that at this
13 time. We have to seal the mine, operate it for a while and
14 see what we need to do to keep that pressure off the seals
15 and keep the gas out of the mines.

16 BENNY WAMPLER: The revenues are paid on---?

17 CLAUDE MORGAN: Total production of all the wells.

18 CLYDE KING: So, you're mining underneath?

19 CLAUDE MORGAN: That area has already been mined and
20 it is going to be sealed off from the rest of the mine.

21 CLYDE KING: Yeah.

22 CLAUDE MORGAN: But the seals are not completely
23 pressure type. If pressure builds up, methane will leak

24

--

1 through into the rest of the mines. So, we have to operate
2 enough wells to keep the pressure off the seals, but we can't
3 operate too many wells to pull air back through because if
4 you pull it back, then you'll do the same thing.

5 BENNY WAMPLER: That's a safety issue.

6 CLAUDE MORGAN: That's right. It becomes a safety
7 issue.

8 BENNY WAMPLER: Any other questions?

9 (No audible response.)

10 BENNY WAMPLER: I have a motion and a second. All
11 in favor, signify by saying yes.

12 (All members signify by a yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. Thank you.

16 MARK SWARTZ: Thank you.

17 BENNY WAMPLER: The next item on the agenda is a
18 petition from Buchanan Production Company for pooling of
19 coalbed methane unit identified as M-9. This is docket
20 number GOB-98-11/17-0698, continued from November.

21 MARK SWARTZ: Mark Swartz appearing for Buchanan
22 Production Company and Les Arrington is also here.

23 BENNY WAMPLER: Are there any others that wish to
24

1 address the Board in this matter?

2 (No audible response.)

3 BENNY WAMPLER: The record will show there are none.

4 You may proceed.

5 MARK SWARTZ: This...the M-9 unit is...is an
6 application to pool both under Oakwood I and Oakwood II
7 initially for frac gas and then ultimately for short hole
8 and/or sealed...and/or active gob production.

9

10 LESLIE K. ARRINGTON

11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Les, I'll just remind you that you're still
16 under oath. You need to state your name again, please.

17 A. Leslie K. Arrington.

18 Q. Who do you work for?

19 A. Consol.

20 Q. Did you prepare the application and the
21 Notice of Hearing---?

22 A. Yes.

23 Q. ---for the M-9 unit?

24

--

1 A. Yes, I did.

2 Q. And did you prepare or supervise the
3 preparation of the exhibits?

4 A. Yes, I did.

5 Q. Is this application an application to pool
6 the unit for...initially for frac production and subsequently
7 for short hole and active gob production?

8 A. Yes. Yes, it is.

9 Q. Okay. And this is a 80 acre unit within the
10 Oakwood Field?

11 A. Yes, it is.

12 Q. And we're talking about gas production from
13 the Tiller on down?

14 A. Yes, we are.

15 Q. Okay. And this over what mine?

16 A. VP #1 mines.

17 Q. And the...there's an exhibit toward the end
18 of the application Exhibit G, page one, which indicates that
19 there are two (2) longwall panels in that mine that would be
20 within this 80 acre unit?

21 A. Yes, it is.

22 Q. And those...those panels are which...which
23 panels?

24

--

1 A. The eleven (11) panel and the twelve (12)
2 panel.

3 Q. Okay. Both again in that VP #1 mine?

4 A. Yes, it is.

5 Q. Okay. And the Exhibit G, page one, actually
6 shows all of the units affected by those longwall panels?

7 A. Yes, it does.

8 Q. And then allocates the acreage of the panel
9 in each of the affected units?

10 A. Yes, it does.

11 Q. The percentage of panel eleven (11) in the
12 M-9 unit is what percent?

13 A. Just a minute. It is ten (10)...I've got to
14 get my glasses out. 10.7053 percent.

15 Q. You need to reach an age where you just give
16 up, you know and you wear them all the time. In the...in the
17 twelve (12) panel, what is the percentage of that panel
18 within the M-9 unit?

19 A. 19.4546 percent.

20 Q. Okay. And if we...if go to the Exhibit B-3,
21 we have three (3) columns with percentages, correct?

22 A. Yes, we do.

23 Q. The first column is entitled interests in
24

1 unit, correct?

2 A. In the...within the 80 acre unit, yes.

3 Q. Okay. And that would be the percentage used
4 during frac production, correct?

5 A. It would be, yes.

6 Q. Okay. And so for royalty or for
7 participation, that...that percentage listed interest and
8 unit on Exhibit B-3 would be the relevant percentage?

9 A. Yes.

10 Q. Once we convert to active gob, then the
11 percentage...they are two percentages because there are two
12 (2) panels. So, the percentage of interest of the various
13 people that are...that are respondents here, listed under the
14 eleven (11) panel, would be the location or the royalty
15 allocation with regard to production from that longwall
16 panel, and then under twelve (12) panel...would also be used
17 for that allocation purpose?

18 A. Uh-huh.

19 Q. Correct?

20 A. Yes.

21 Q. Now, with regard to wells here, do...you've
22 attached some exhibits...C, have you not?

23 A. Yes, we did.

24

--

1 Q. And you're proposing, again with reference
2 to Exhibit G, page one, it looks like there are two (2) wells
3 in the twelve (12) panel and three (3) wells in the eleven
4 (11) panel, correct?

5 A. They...correct, it was.

6 Q. And you have five (5) Exhibit C here?

7 A. Uh-huh. Yes.

8 Q. Are those an estimated costs or actual
9 costs?

10 A. As near as costs as we can come up with,
11 yes.

12 Q. So, you've tried to go to the actual costs
13 that were incurred and determine what those costs were, as
14 best as you can?

15 A. Yes, we did.

16 Q. And each of the wells here...each of the
17 Exhibit C lists a particular well at the top?

18 A. Yes, it does.

19 Q. Okay. And what is the cost of the five (5)
20 wells that you propose to allocate to Exhibit M-9?

21 A. A total cost for five (5) wells...the total
22 cost for the wells in the eleven (11) panel was six hundred
23 and forty-one thousand three hundred ninety-two dollars and
24

1 thirteen cents (\$641,392.13); and for the twelve (12) panel
2 was four hundred and nineteen thousand seven hundred and
3 twenty-eight dollars and ten cents (\$419,728.10); for the
4 total cost being allocated to the M-9 unit of hundred and
5 fifty thousand three hundred and nineteen dollars and sixty-
6 five cents (\$150,319.65).

7 Q. Did you give...did you mail notice to the
8 folks that you addresses for?

9 A. Yes, we did.

10 Q. And have you provided a certificate with
11 regard to mailing in the exhibits we filed today?

12 A. Yes, we did.

13 Q. Okay. And were there some folks for whom
14 you did not have mailing addresses?

15 A. I don't...we had them all.

16 Q. Well, for example, in the heirs section
17 you've listed address unknown.

18 A. That's correct.

19 Q. As a potential problem?

20 A. As a potential problem.

21 Q. Okay. But for everyone that you had an
22 address, you mailed and you filed a proof of mailing?

23 A. Yes, we did.

24

--

1 Q. Okay. Did you also publish?
2 A. Yes, we did. We published this on November
3 the 20th, 1998, in the Bluefield Daily Telegraph.
4 Q. And you published the notice and the map?
5 A. Yes, we did.
6 Q. Okay. And have you filed proof of
7 publication and is it, in fact, set forth in the exhibits you
8 filed today?
9 A. Yes, it is.
10 Q. Okay. And the applicant here is Buchanan
11 Production Company?
12 A. Yes, it is.
13 Q. That's a Virginia General Partnership?
14 A. Yes, it is.
15 Q. It's two (2) partners are Appalachian
16 Operators, Inc. and Appalachian Methane, Inc. which are
17 wholly owned indirect subsidiaries of MCN Corporation?
18 A. Yes, it is.
19 Q. Is BPC authorized to do business in
20 Virginia?
21 A. Yes, it is.
22 Q. Who...who does this application seek to have
23 appointed as designated operator?

24

--

1 A. Consol.

2 Q. Okay. Is Consol, Inc. a Delaware
3 corporation?

4 A. Yes, it is.

5 Q. Is it authorized to do business in
6 Commonwealth, has it registered with the DMME, and does it
7 have a blanket bond on file?

8 A. Yes, it does.

9 Q. Has the management committee of Buchanan
10 Production delegated to Consol essentially the management of
11 its affairs?

12 A. Yes, it has.

13 Q. Okay. And certain folks have been
14 identified within Consol as having the power or authority to
15 manage the affairs of Buchanan Production Company,
16 specifically Mr. Morgan, Mr. Gillenwater and Mr. Albert,
17 correct?

18 A. Yes, they have.

19 Q. Have you filed...previously, we filed proof
20 with regard to the delegation and appointment of those folks,
21 correct?

22 A. Yes, we have.

23 Q. And has anything changed since our last
24

1 filing with the Board?

2 A. No.

3 Q. The interests that we're seeking to pool
4 here, if you'd turn to Exhibit A, page two (2), is 4.5375
5 percent of both the coal owners and the oil and gas owners,
6 correct?

7 A. Yes, it is.

8 Q. And that means pursumably then that you have
9 been able to...that Buchanan Production Company has been able
10 to lease 95.4625 percent?

11 A. Yes, it does.

12 Q. And generally, what have been the terms for
13 coalbed methane that the leases have contained or that have
14 been offered?

15 A. A one-eighth royalty, a dollar per acre
16 rental, with a five (5) year term.

17 Q. And would you recommend those same terms to
18 the Board with regard to deemed to have leased?

19 A. Yes, we would.

20 Q. And again B-3 is the respondents and their
21 respective percentages, depending on the kind of production,
22 correct?

23 A. That's correct.

24

--

1 BENNY WAMPLER: Let me ask you a question, if I can
2 interrupt you there. When you talked about Exhibit A, page
3 two (2) just then, the information that we have today is the
4 information you've put in record where you corrected the coal
5 interest on...from the application?

6 A. Under Exhibit Number Two (2).

7 BENNY WAMPLER: Yes. A, page Two (2). I didn't see
8 any change in...although I had an Exhibit B-3, in B-3, was
9 there a change or did I miss something?

10 A. The...let me look over it just a minute.
11 The only change---

12 MARK SWARTZ: No, he caught that. He's asking about
13 B-3.

14 A. B-3? Is that---

15 BENNY WAMPLER: Yeah. I had B-3...another B-3
16 today.

17 A. No. No.

18 BENNY WAMPLER: I didn't see anything. Okay.

19 Q. The...was there an address change on B-3?

20 A. Yeah, I believe it was. Yes. I can't
21 remember exactly what it was.

22 MARK SWARTZ: Okay. It looks like if you compare
23 the application B-3 to the one that was filed today, Mr.

24

--

1 Ratliff---.

2 BENNY WAMPLER: Harold and Shirley.

3 MARK SWARTZ: ---Harold at G. His address has been
4 updated. Is that your recollection as to the---?

5 A. G.

6 MAX LEWIS: He's deceased, ain't he?

7 LESLIE K. ARRINGTON: I believe. I think...I we
8 found---.

9 BENNY WAMPLER: Well, in the original application
10 you have Harold and then B-3 you have Shirley.

11 MAX LEWIS: Well, he died...he died. I know him.

12 A. Uh-huh. Bob made that change.

13 Q. Okay. But that's the update with
14 regard----?

15 A. Yes.

16 Q. ---Exhibit B-3?

17 A. Yes, it is.

18 BENNY WAMPLER: Okay. All right.

19 MAX LEWIS: Yeah.

20 BENNY WAMPLER: Okay. Thank you.

21 Q. My last question, Mr. Arrington, is---.

22 BOB LOONEY: He...his husband was....I mean, her
23 husband was Ralph---.

24

1 MAX LEWIS: Howard.

2 SANDRA RIGGS: Howard.

3 BOB LOONEY: You know him, Max. Ralph.

4 MAX LEWIS: Howard.

5 BOB LOONEY: Huh? Howard. Howard.

6 MAX LEWIS: That's...yeah. Yeah.

7 BOB LOONEY: He's deceased.

8 MAX LEWIS: Yeah.

9 BENNY WAMPLER: Yeah. We got it.

10 BOB LOONEY: We got the---.

11 MAX LEWIS: He deceased about a year or so ago.

12 LESLIE K. ARRINGTON: Okay.

13 BOB LOONEY: Been less than that, I guess, hadn't

14 it?

15 MAX LEWIS: Yeah, I remember...I went to the

16 funeral.

17 BOB LOONEY: She wrote a letter to us after

18 we...after we had sent the notice out. Okay. We noticed it

19 in Howard.

20 MAX LEWIS: That's right. He's deceased since then.

21 BOB LOONEY: Yeah. Okay.

22 MAX LEWIS: Yeah.

23 Q. My last couple of questions, Mr. Arrington,

24

1 are...do you recommend the development that's contemplated by
2 this application to the Board as a reasonable method to
3 produce the coalbed methane within this eighty (80) acre unit
4 and to protect the correlative rights of this owners of that
5 methane?

6 A. Yes, we do.

7 MARK SWARTZ: That's all I have.

8 BENNY WAMPLER: Questions from members of the Board?

9 (No audible response.)

10 BENNY WAMPLER: Do I have a motion?

11 MASON BRENT: Mr. Chairman, I'd move that we grant
12 the application.

13 BENNY WAMPLER: Is there a second?

14 MAX LEWIS: I second it.

15 BENNY WAMPLER: Motion and second. Any further
16 discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying yes.

19 (All members signify by a yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. The next item is
23 a petition from Pocahontas Gas Company for pooling of a
24

1 coalbed methane unit identified as W-47. This is docket
2 number GOB-98-11/17-0699, continued from November; and we'd
3 ask the parties that wish to address the Board in this matter
4 to come forward at this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington on
6 behalf of Pocahontas Gas Partnership.

7 BENNY WAMPLER: Any others?

8 (No audible response.)

9 BENNY WAMPLER: The record will show there are none.
10 You may proceed.

11 MARK SWARTZ: This is a application to pool under
12 the Oakwood I rules for a frac unit.

13 (Board members talk among themselves while Mark
14 Swartz and Leslie K. Arrington get organized.)

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LESLIE K. ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay. Mr. Arrington, I would remind you that you are under oath.

A. Yes.

Q. You need to state your name, again.

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol.

Q. Okay. Did you prepare the Notice of Hearing and the application with regard to W-47?

A. Yes, I did.

Q. And did you also prepare the exhibits that are under consideration today or supervise their preparation?

A. Yes, I did.

Q. Is the request here that W-47 be pooled under the Oakwood I rules for frac well production?

A. Yes, it is.

Q. And you're proposing at this time one well for this unit?

1 A. That's correct.

2 Q. The...is it an 80 acre unit?

3 A. Yes, it is.

4 Q. Seeking to produce from the Tiller on down?

5 A. Yes, it is.

6 Q. Have you included a Exhibit C that deals
7 with the costs of this well?

8 A. Yes, we have.

9 Q. And what are the total costs?

10 A. Two hundred thirty-seven thousand nine
11 hundred and seventy-nine dollars and ten cents (\$237,979.10).

12 Q. Okay. Has the well been drilled?

13 A. Yes, it has.

14 Q. And again, are we dealing here with actual
15 costs then, as best as you can reconstruct them?

16 A. No. Between the time this one was filed and
17 today, the well has been drilled. So---

18 Q. Okay.

19 A. ---no, it's not.

20 Q. At the time it was filed, it was an
21 estimated cost?

22 A. Yes, it was.

23 Q. Okay. Is it...is it in your opinion a
24

1 reasonable estimate as to what this frac well drilled to
2 depth...total depth of twenty-one hundred and one (2,101)
3 feet is likely to cost?

4 A. Yes, it is.

5 Q. Okay. The...is there an Exhibit B-3 that
6 lists the respondents?

7 A. Yes, it is.

8 Q. Okay. And...and the last, or before this
9 column to the right shows their interest in unit?

10 A. Yes, it does.

11 Q. And that would be the percentage that would
12 be relevant in a frac unit under Oakwood I to their royalty
13 interests, participation costs or carried interest
14 multiplier?

15 A. Yes, it would.

16 Q. Okay. The Exhibit A, page two (2) tell us
17 what...what you've leased so far?

18 A. We've leased one hundred (100) percent of
19 the coal interest and 79.38921 percent of the oil and gas
20 owners.

21 Q. Okay. And what is...what's the interest
22 that you're seeking to pool by this application?

23 A. 20.61079 percent of the oil and gas
24

1 interest.

2 Q. What are the terms...the lease terms that
3 you've offered in the past and would continue to offer to the
4 unleased parties?

5 A. In general, it's one eighth royalty, a
6 dollar per acre rental, with a five (5) year term.

7 Q. And that rental would be payable until
8 production occurred?

9 A. Yes, it is.

10 Q. Okay. And to the extent that any of the
11 respondents might want to lease, those terms would...you
12 would agree to lease on those terms today or tomorrow or
13 whenever?

14 A. Yes, we would.

15 Q. Okay. And would you recommend those same
16 terms to the Board to be included in any order it might issue
17 with regard to deemed to have leased folks?

18 A. Yes, we would.

19 Q. Okay. Do you wish to add any respondents?

20 A. No.

21 Q. Do you wish to dismiss any?

22 A. No.

23 Q. And we previously discussed the fact that
24

1 you've...you have...did you mail to all of the respondents?

2 A. Yes, we did. Originally, we mailed it on
3 October 15th, 1998 and then we later mailed a continuance
4 notice on December the 2nd, '98.

5 Q. And did you publish?

6 A. Yes, we published in the Bluefield Daily
7 Telegraph on November the 20th, 1998.

8 Q. And have you filed both the proof of
9 publication and the proof of mailing with Mr. Fulmer's office
10 and with the Board this morning?

11 A. Yes, we have.

12 Q. Was the...was the problem initially with
13 this unit that although you sent it to be published, it
14 didn't get published?

15 A. That's correct.

16 Q. And that's why we had to continue it?

17 A. (No audible response.)

18 Q. My last questions for you are, is it your
19 recommendation to the Board that they approve this
20 application to develop the coalbed methane gas within unit W-
21 47 through the use of a frac well for all of the owners
22 including the respondents identified at that...at Exhibit B-3
23 as a reasonable method to develop the resource and protect
24

1 the correlative rights of all owners?

2 A. Yes, I do.

3 MARK SWARTZ: That's all I have.

4 BENNY WAMPLER: Questions from members of the Board?

5 (No audible response.)

6 BENNY WAMPLER: Do you have a motion?

7 MAX LEWIS: I make a motion.

8 BENNY WAMPLER: Motion to approve. Is there a
9 second?

10 MASON BRENT: Second.

11 BENNY WAMPLER: Any further discussion?

12 (No audible response.)

13 BENNY WAMPLER: All in favor, signify by saying yes.

14 (All members signify by a yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. Thank you. The
18 next item on the agenda is a petition from Equitable
19 Resources Energy Company.

20 MARK SWARTZ: Could I...we have a request to
21 continue all of the rest of our cases which are, I believe,
22 six (6) or seven (7) in number and maybe...if you wouldn't
23 mind---.

24

--

1 BENNY WAMPLER: All right. We'll listen to that
2 request.

3 MARK SWARTZ: ---and we can just sort of get out of
4 your way here. I had written to Mr. Fulmer with regard to N-
5 46---.

6 BENNY WAMPLER: I have that one.

7 MARK SWARTZ: ---which is docket item six (6) today
8 and the reason we would request a continuance with regard to
9 N-46 is we believe we have a reasonable expectation that we
10 would be able to lease everybody on that unit and we'd like
11 another month to try to do that. We've obtained a lease from
12 the James M. McQuire Trust and we've gotten leases from most
13 of the Mary McNeil heirs. So, we feel like we can...we can
14 make this one go away and would like some time to do that.
15 With regard to seven (7) through twelve (12), two (2), four
16 (4), six (6), units, Mr. Harris Hart, who is an attorney in
17 Tazewell, contacted us around mid-week last week and
18 indicated that he had been retained by Triple M, which is in
19 each of these units and requested that we allow a
20 continuance; and on reflection, we agreed that if he needed
21 until January, we would...we would accommodate him and so we
22 are asking the Board essentially to accommodate Mr. Hart who
23 requested a continuance that we do not object to.

24

--

1 BENNY WAMPLER: All right. For the reasons stated
2 on the record here, dockets number GOB-98-12/15-0701 through
3 0707 are to be continued without objection. No objection to
4 their continuing?

5 (No audible response.)

6 BENNY WAMPLER: Thank you.

7 MARK SWARTZ: Thank you very much and Merry
8 Christmas.

9 BENNY WAMPLER: Merry Christmas.

10 MASON BRENT: Same to you.

11 CLYDE KING: Merry Christmas.

12 CLAUDE MORGAN: Merry Christmas.

13 MARK SWARTZ: Thank you.

14 BENNY WAMPLER: The next item on the agenda is a
15 petition from Equitable Resources Energy Company for pooling
16 of a coalbed methane unit under the Nora Coalbed Gas Field
17 Order and identified as VC-3766. This is docket number GOB-
18 08/18-0677-01; and we'd ask the parties that wish to address
19 the Board in this matter to come forward at this time,
20 please.

21 JIM KISER: Mr. Chairman and members of the Board,
22 Jim Kiser on behalf of Equitable Resources Energy Company.
23 With your permission, which I'll get to here in a minute, my
24

1 only witness in this matter will be Mr. Baker. We'd ask that
2 he be sworn at this time.

3 (Witness was duly sworn.)

4 BENNY WAMPLER: Are there any others that wish to
5 address the Board in this matter?

6 (No audible response.)

7 BENNY WAMPLER: The record will show there are none.
8 You may proceed.

9 JIM KISER: Mr. Chairman and Board members, this is
10 a modification of a prior order issued pooling interest in
11 the unit for VC-3766, which was a hearing held on August the
12 18th of this year with the order issued, or entered September
13 24th and recorded September 29th. Subsequent to the hearing,
14 Equitable had title opinions come in that changed the
15 ownership and depiction of such within the unit. So, we're
16 here today to modify that order and present all those changes
17 to you. Mr. Baker who has given you a revised Exhibit B,
18 which will help as we go through his testimony because there
19 are a number of revisions since the August pooling.

20

21 DENNIS R. BAKER

22 having been duly sworn, was examined and testified as
23 follows:

24

--

1 DIRECT EXAMINATION

2 QUESTIONS BY MR. KISER:

3 Q. Mr. Baker, could you state your name for the
4 Board, who you are employed by and in what capacity?

5 A. My name is Dennis R. Baker. I'm employed by
6 Equitable Resources Energy Company as Senior Landman.

7 Q. And do your responsibilities include the
8 land involved here and in the surrounding area?

9 A. Yes, they do.

10 Q. And are you familiar with Equitable's
11 application for well VC-3766, which was dated and filed
12 November 9th, 1998?

13 A. Yes, I am.

14 Q. And is Equitable seeking to force pool the
15 drilling rights underlying the unit as depicted at Exhibit A,
16 that being the plat...the revised plat to the application and
17 to modify the prior order issued by the Board?

18 A. Yes.

19 Q. And does this location for the well fall
20 within the Board's order for the Nora Field?

21 A. Yes, it does.

22 Q. Okay. Now, is this a modification of a
23 order for interest pooled on August the 18th, 1998?

24

1 A. Yes, it is.

2 Q. And subsequent to this August hearing, did
3 you receive title opinions that changed the ownership within
4 the unit?

5 A. Yes.

6 Q. Okay. Let's...now, if everybody will go to
7 their Exhibit B. If you would, Mr. Baker, if you could go
8 through this unit on a tract by tract basis and point out the
9 changes that have occurred in congruence with the title
10 opinions.

11 A. Okay. On the Exhibit B that I passed out,
12 Tract Number Three (3), the ownership originally was shown to
13 be Bascom Funk. We've added Donald and Sharon Funk as
14 remainder interest, and Bascom's interest goes to a life
15 estate.

16 Tract Number Four (4), we've added the remainder
17 interest of Danna Ray Mullins and Shannon Mullins. They're
18 remainder interests. Danny Ray Hamilton's interest goes to a
19 life estate.

20 Tract Number Six (6), previously the owner was
21 listed as a Phyllis Ring. Title opinion indicated that
22 Phyllis's property was situated outside the unit and Lillian
23 Burk was now...was the owner of the property that fell inside
24

1 the unit. She is also a leased interest.

2 Tract Number Seven (7), the change in this
3 particular tract, the interest contributing to the unit
4 parcel increased. That is a reflection of Tract Number Eight
5 (8) on Exhibit A. It decreased in size, which increased the
6 acreage of Tract Number Seven (7).

7 Tract Number Eight (8), the owners...the new owners
8 are the F. C. and Inez Richardson heirs.

9 Q. That was in the August pooling that was
10 shown as W. C. Oddle unknown heirs?

11 A. Yes.

12 Q. Okay.

13 A. W. S. Oddle, I believe. But yes.

14 Q. W. S.

15 A. That was the previous owner. And on Tract
16 Number...on page five (5) of the Exhibit B, Tract Number
17 Twelve (12) Big Caney Water Corporation. This particular
18 property on the...on the Exhibit A is shown at about nine
19 o'clock, which comes out of parcel number three (3) and that
20 interest would...has been reduced slightly by the interest of
21 Tract Twelve (12) contributes.

22 Q. The interest in Tract Three (3) is reduced
23 by the Big Caney interest---?

24

--

1 A. Yes.

2 Q. ---which is a pump station?

3 A. Yes.

4 JIM KISER: Mr. Chairman, we might want to stop here
5 and see if anybody has got any questions before we go on.

6 MASON BRENT: How does the...the 12/14 revised
7 Exhibit B differ from the 10/30/98 revised?

8 JIM KISER: We're going to get to that. It shows
9 the additional leases we picked up since we filed the
10 application in November.

11 BENNY WAMPLER: Any other questions or discussion on
12 Exhibit B that we've discussed?

13 (No audible response.)

14 BENNY WAMPLER: Okay. Proceed.

15 Q. Okay. Now, Mr. Baker, prior to...or
16 subsequent to the filing of the application on November 9th,
17 did you continue to attempt to reach an agreement with any
18 unleased respondents listed at Revised Exhibit B?

19 A. Yes, we have.

20 Q. And as a result of those efforts, have you
21 been able to pick up any additional leases?

22 A. Yes, we have.

23 Q. Could you note those for the Board at this
24

1 time?

2 A. Yes. Tract Number Six (6) is now a leased
3 interest.

4 On Tract Number Eight (8), which is on page two
5 (2), third...let's see, under Tract Number Eight (8), the
6 third person, Betty and Charles Foster are now a leased
7 interest. Elaine and Derek Kennedy are now a leased
8 interest. Nancy and James Whitt are now a leased interest.
9 Randall and Dorothy Hobbs are now a leased interest. Darrell
10 Richardson is a leased interest. Top of page three (3),
11 Renee Richardson is now a leased interest. Third name from
12 the top, Patty Hawks and Terry Hawks are now a leased
13 interest.

14 On page four (4), last name for Tract Number Eight,
15 (8) Rita and Bob Ferrell are now a leased interest. Directly
16 above those, we have addresses for two (2) unknown
17 individuals and a change of address for Timothy Asbury. The
18 unknowns, Scott and Tony, we now have addresses for those and
19 have been in contact with those individuals.

20 Q. Okay. Mr. Baker, so, at this time, what is
21 the interest in the gas estate that is leased and unleased?

22 A. Currently, the interest leased in the unit
23 is 68.14 percent. The unleased interest is 31.86 percent.

24

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1 Q. And the coal estate is a hundred (100)
2 percent leased?

3 A. Yes, that's correct.

4 Q. Okay. And you just...I think there's
5 evidence in the record now, particularly with the large list
6 of the S. C. Richardson heirs, which were formally the W. C.
7 Oddle unknown heirs that you made...made diligent efforts to
8 check sources to identify and locate unknown heirs including
9 deed records, probate records, assessor's records,
10 treasurer's records and secondary sources such as telephone
11 directories, city directories, family and friends.

12 A. Yes, we did.

13 Q. In your professional opinion, was due
14 diligence exercise to locate...exercised to locate each of
15 the respondents named in your Revised Exhibit B?

16 A. Yes, it was.

17 Q. And are the addresses set out in the Revised
18 Exhibit B to the application the last known addresses for the
19 respondents?

20 A. Yes.

21 Q. Are you requesting this Board to force pool
22 all unleased interest listed at the Revised Exhibit B, dated
23 12/14/1998?

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1 A. Yes.

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

5 A. Yes, I am.

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

8 A. Yes. A five dollar (\$5) per acre
9 consideration, a five (5) year term, one eighth of eight-
10 eighths royalty.

11 Q. And did you gain this familiarity by
12 acquiring oil and gas leases, coalbed methane leases and
13 other agreements involving the transfer of drilling rights in
14 the unit involved here and in the surrounding area?

15 A. Yes.

16 Q. And in your opinion, do the terms you have
17 testified to represent the fair market value of and the fair
18 and reasonable compensation to be paid for drilling rights
19 within this unit?

20 A. Yes.

21 JIM KISER: At this time, Mr. Chairman, we'd ask
22 that the testimony that was taken in docket number 98-08/18-
23 0677 on August the 18th regarding election options available
24

1 to those respondents who remain unleased and their different
2 time periods in which to make those elections be incorporated
3 in this hearing.

4 BENNY WAMPLER: That will be incorporated.

5 Q. Mr. Baker, as far as an escrow account to be
6 created by the Board, do we have conflicting claimant
7 situation here in regards to the coalbed methane?

8 A. Yes, we do.

9 Q. So, you'd ask that the Board create that
10 escrow account?

11 A. Yes.

12 Q. And who should be named the operator under
13 the force pooling order?

14 A. Equitable Resources Energy Company.

15 JIM KISER: Nothing further of this witness at this
16 time, Mr. Chairman.

17 BENNY WAMPLER: Any questions from members of the
18 Board?

19 MASON BRENT: What's the estimated production of
20 this well?

21 JIM KISER: Three hundred and fifty million
22 (350,000,000) cubic feet. And we'll...if we don't have any
23 more questions of Mr. Baker, Mr. Dahlin's testimony

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1 regarding...we'd ask that Mr. Dahlin's testimony once again
2 regarding docket number 98-08/18-0677 in regards to the total
3 depth of the well and the estimated reserves, completed well
4 costs and anything else that he testified to, and was
5 included in the order entered on September 24th for this
6 well, be incorporated. Nothing has changed there at all and
7 he was involved in a...at a office well review meeting today
8 and was not able to make it. I did ask Ms. Riggs if that
9 would be okay and she said it would be.

10 BENNY WAMPLER: I think it would probably just be
11 sufficient to show there's no change in any of that previous
12 testimony.

13 JIM KISER: Testimony. Okay.

14 BENNY WAMPLER: Any other questions?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 JIM KISER: Mr. Chairman, we'd ask that the
18 application be approved as submitted.

19 SANDRA RIGGS: I had...I had one question with
20 respect to the impact on the escrow accounts. The tracts
21 have remained the same, but some parties have dropped out and
22 some new parties have been added. If we start commingling
23 escrow under this modification with the old escrow

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1 account---.

2 JIM KISER: It will create problems.

3 BENNY WAMPLER: When you start to pay it out---.

4 SANDRA RIGGS: We are going to run into the same
5 disbursement problem we ran into before.

6 BENNY WAMPLER: From an accounting stand point.

7 JIM KISER: Is there any way we can delete the old
8 account? I mean, there's nothing in there yet.

9 A. I don't...I don't believe there is anything
10 in there.

11 SANDRA RIGGS: Well, if there's nothing in there, it
12 won't be a problem because---.

13 A. May be some bonus.

14 BENNY WAMPLER: This record would suffice to show
15 that there was nothing...you know, you need to---.

16 SANDRA RIGGS: Are you sure?

17 JIM KISER: Well, are you sure there's nothing in
18 there?

19 A. There may have been some bonus paid based on
20 the old order.

21 BENNY WAMPLER: Need some way to modify the
22 accounting.

23 SANDRA RIGGS: Well, one way is to return any monies
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1 on deposit to the operator and have them allocate and
2 redeposit in accordance with the new order.

3 BENNY WAMPLER: Is that suitable?

4 JIM KISER: That's...I think that will be fine with
5 us, wouldn't it?

6 A. Sure.

7 JIM KISER: It would be the easiest solution and
8 everything.

9 CLYDE KING: Does that need to be made a part of the
10 motion---?

11 BENNY WAMPLER: Yes.

12 CLYDE KING: ---to approve?

13 BENNY WAMPLER: Yes.

14 JIM KISER: Yeah, I think that would be the easiest
15 solution.

16 CLYDE KING: I move we approve with alteration
17 suggested by Mr. Kiser in the escrow account.

18 MASON BRENT: Second.

19 BENNY WAMPLER: Motion and second. Any further
20 discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying yes.

23 (All members signify by a yes.)

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1 BENNY WAMPLER: Opposed, say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval. Thank you very
4 much.

5 JIM KISER: Thank you very much. Merry Christmas to
6 everybody.

7 (Everybody says Merry Christmas.)

8 BENNY WAMPLER: Before we adjourn, I have one other
9 thing I want to talk to you about. Well, make it two. One,
10 is just to verify that you received the correspondence from
11 Dishner on the Virginia Freedom of Information Act.

12 (Everyone indicates yes.)

13 BENNY WAMPLER: Okay. The other is to discuss with
14 you, as I told you I would, potential work committee members
15 for the regulations regarding escrow. I suggest, and
16 certainly feel free to pitch in on this because I want it to
17 be a group that you...you're comfortable with, I suggest that
18 we involve everyone who has...every company that has accounts
19 in escrow. In addition to that, I suggest that we have Mr.
20 J. C. Franks who has appeared before the Board before. He
21 represents a number of folks who have leased interest, but,
22 you know, other things (inaudible), but he seemed to have a
23 good grasp of that. Mrs. Joyce Street is an individual

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1 citizen that lives in Buchanan County who has...seems to have
2 a good understanding of the escrow provisions, the rules and
3 regulations. Mr. Richard Counts, who is an attorney and
4 operator...former attorney, I guess, operator now. Jill
5 Harrison, who was here before. Mark Swartz, as we mentioned.
6 I believe you said---

7 JIM KISER: Yes.

8 BENNY WAMPLER: ---you all were going with George.

9 JIM KISER: Yeah. Has George not called you?

10 BENNY WAMPLER: No, I haven't talked to him.

11 JIM KISER: I told him I volunteered him. He said
12 that was fine. So---

13 BENNY WAMPLER: And Don Johnson who represents Lon
14 Rogers Trust.

15 JIM KISER: Right.

16 BENNY WAMPLER: Are there any others that you think
17 of, or is that a suitable list, and I can leave it to me to
18 maybe add another citizen representative?

19 MASON BRENT: How many is that? How many you got
20 there?

21 BENNY WAMPLER: All total? Five (5)...ten (10).

22 MASON BRENT: Ten (10)?

23 BENNY WAMPLER: Yes, sir.

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1 BENNY WAMPLER: And what...the way we do these
2 meetings, I always try to make sure the people...we have to
3 announce them, that we are going to have them and all, but I
4 try to make sure, you know, people are aware that other folks
5 can come and sit in.

6 MASON BRENT: Uh-huh.

7 BENNY WAMPLER: They're just not at the table, so to
8 speak, and at the end of each meeting, we allow anyone who
9 has anything they want to add, so it's part of the record to
10 make sure that the people that are actually on the committee,
11 so to speak, are hearing other opinions and that we had tried
12 to address those. As to regulation develops, obviously we'll
13 be coming back before the Board on any...you know, any
14 proposal and then once we go for public comment and receive
15 comments in, then we will draft a response that the Board
16 will approve. I want to make sure it is acceptable to the
17 Board, that response, and then that will become part of the
18 ultimate regulation.

19 MASON BRENT: When you say, we, are you part of that
20 process?

21 BENNY WAMPLER: I was asked and I think I got...I
22 don't think I was asked, I think I got tossed in to chair
23 this committee on behalf of the Board and I...we'll make sure
24

1 that gets done. But I'm talking as part of the Board as far
2 as...you all will certainly be welcome and will be noticed of
3 any meeting that we have, and if you have time to attend, I
4 would encourage you to do so.

5 CLYDE KING: Where will they be, Benny?

6 BENNY WAMPLER: I haven't really set it yet.
7 Possibly here. We can have it anywhere. But this location
8 has worked pretty...pretty decent for folks around this area.

9 MASON BRENT: You're welcome to come to Richmond.

10 BENNY WAMPLER: I appreciate that.

11 CLYDE KING: I'll bet that's true.

12 SANDRA RIGGS: I noticed the escrow agent isn't on
13 the...on the group---

14 BENNY WAMPLER: That was the other thing I was going
15 to mention. Obviously, in...from the department standpoint,
16 we would have the escrow agent if...to the extent they're
17 willing to participate. If they're not willing to
18 participate, we will certainly make an effort to have a
19 banking representation on there, which, I believe, will be
20 very important.

21 MASON BRENT: I think that is, too.

22 CLYDE KING: Very much.

23 BENNY WAMPLER: And from a department standpoint,
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1 would probably be Cheryl Cashman or Steve Walls, Sandra
2 Riggs, myself, Tom Fulmer, and from time to time maybe an
3 inspector, depending on what we're dealing with, you know,
4 sit in. But that would be about it. That would take the
5 group to about fifteen (15) in number altogether, which is a
6 sizeable work group. We've got a lot of work to do,
7 obviously. One part of...some key questions, obviously, have
8 come about as a result of our frustrations and dealings with
9 the...with the escrow agent, and I'm sure the escrow agent is
10 frustrated in dealing with the...the handling of the funds as
11 well, as these funds have matured. But to try to get as much
12 information as early as possible on what needs to go in the
13 next RFP, Request for Proposal, so I'm not talking lingo
14 here. Request for Proposal for the escrow agent.

15 CLYDE KING: Yeah.

16 BENNY WAMPLER: Which is something that will go out
17 by June of this...of this coming year, 1999. So, you know,
18 it is going to be really important because, you know, as
19 those funds grow and as we matured and what's needed and
20 everything else. There's a lot of key issues there and some
21 of the big issues are as you get into all of this detailed
22 accounting, who pays for that. There's just a whole lot of
23 those kinds of issues.

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1 SANDRA RIGGS: If there is a transition, as we've
2 heard today from one escrow agent to another, or even buyout
3 of the escrow agent from one banking entity to the other, you
4 know, the continuity of the accounting systems is going to be
5 crucial---

6 BENNY WAMPLER: Yeah.

7 SANDRA RIGGS: ---and what kind of turnover you
8 have, if you appoint a new escrow agent, is going to be
9 crucial and then the other big issue is whether we're going
10 to go to a tract by tract accounting system as opposed to a
11 unit by unit accounting system.

12 BENNY WAMPLER: Uh-huh.

13 TOM FULMER: I wasn't originally aware they had
14 changed that system. They've got a PC base system to begin
15 with and evidently they've changed it.

16 BENNY WAMPLER: Well, it's---

17 TOM FULMER: Or it's a different accounting system.

18 CLYDE KING: Who?

19 SANDRA RIGGS: The bank.

20 TOM FULMER: The bank.

21 CLYDE KING: The new...the new bank?

22 TOM FULMER: They do the PC base system.

23 BENNY WAMPLER: Well, they scrapped that according
24
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1 to their representative---

2 TOM FULMER: Yeah.

3 BENNY WAMPLER: ---today when First Virginia bought
4 it and they had to accommodate First Virginia's automation
5 and he...you know, according to him, he's having to try to
6 reconcile hard copy with automation and he can't ask a
7 question. He has to do it manually. So, I mean, you know,
8 going back to '92, obviously, you know, just recognizing that
9 there are a lot of...a lot of reconciliations that have to go
10 on. It's a manpower issue. That's...that's the one thing we
11 didn't hear that I wish we'd just had a confession. But he
12 just didn't put the manpower to it because that's the bottom
13 line.

14 MASON BRENT: That's evident. Yeah, that was
15 evident.

16 BENNY WAMPLER: Are there any suggestions for any
17 other members? Any on the committee...are you satisfied with
18 that committee?

19 MASON BRENT: I am.

20 BENNY WAMPLER: Is there anything further? Tom, do
21 you have anything?

22 TOM FULMER: No, Benny. I'm fine.

23 BENNY WAMPLER: Well, Merry Christmas to all of you.

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1 We appreciate everything. Happy New Year.

2 MASON BRENT: Merry Christmas to all of you.

3 BENNY WAMPLER: Thank you. We're adjourned.

4

5 STATE OF VIRGINIA,

6 COUNTY OF WASHINGTON, to-wit:

7 I, SONYA MICHELLE BROWN, Court Reporter and Notary
8 Public for the State of Virginia, do hereby certify that the
9 foregoing hearing was recorded by me on a tape recording
10 machine and later transcribed by me personally.

11 Given under my hand and seal on this the 4th day
12 of December, 1998.

13 NOTARY PUBLIC

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15 My commission expires August 31, 2001.

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